2013-2014

SENATE FINANCE

MINUTES

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2013-2014

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Senate Committee on Finance
Tuesday, January 15, 2013, 9:30 AM
643 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 4	UI Fund Solvency & Program Changes.	Rep. Starnes Rep. Warren Rep. Howard Rep. Setzer
SB 6	UI Fund Solvency & Program Changes.	Sen. Brock Sen. Rucho Sen. Rabon

Adjournment

Joint House & Senate Finance Committee
Tuesday, January 15, 2013
Room 643 LOB, 9:30 a.m.

Minutes

The House and Senate Committee on Finance held a joint meeting on Tuesday, January 15, 2013, at 9:30 am in Room 643 of the Legislative Office Building. Thirty-four House members were present and thirty-two Senate members were present. Representative Julia Howard served as Chair to the meeting.

Educational Briefing

Introduction to the Finance Committee

Cindy Avrette, an attorney with the Research Division, was recognized. She introduced the Legislative Finance Team including brief biographical information for each person. Then she explained the finance bills process, from introduction to law; the types of bills heard in the Finance Committee; deadlines; and materials distributed at committee meetings.

North Carolina's Tax Structure

Ms. Avrette explained the General Fund and its sources of revenue. She discussed how revenue sources have changed over the years, and explained suggested changes to make the tax structure less volatile, more current and more stable.

General Fund Revenue Sources: Personal Income Tax

Trina Griffin, an attorney with the Research Division, was recognized. She compared North Carolina's tax structure and rates to surrounding states'. She explained the history of the changes in the personal income tax, the current rates and the current expenditures.

General Fund Revenue Sources: Business Taxes

Jonathan Tart, a fiscal analyst with the Fiscal Research Division, was recognized. He discussed the 2011-2012 collections and how they are divided between the Public School Building Capital Fund and the General Fund. He explained who corporate taxpayers are and how the tax is computed.

Franchise Tax

Mr. Tart reviewed the 2011-2012 collections. He explained the tax was imposed for the privilege of doing business in North Carolina, who pays the tax and the current tax rate ($1.50 per $1,000 with a $35 minimum). He also described the Utility Franchise tax which applies to electric power companies, water utilities and sewer utilities. He explained tax incentives and outlined the primary tax credits available to businesses. There are about $9 billion expenditures in the Revenue Code and a majority of them are set to expire soon.

General Fund Revenue Sources: Sales Tax

Sandra Johnson, a fiscal analyst with the Fiscal Research Division, was recognized. She stated that sales tax make up to 35% of the State's revenue with $5.2 billion collected last year. He explained the history of the sales tax, the tax base and the effect of the internet, and gave a timeline of major changes to the sales tax (exemptions changes, shifts in consumption, and services currently taxed in North Carolina).

General Fund revenue Sources: Other Taxes

Heather Fennell, an attorney with the Research Division, was recognized. She outlined the gross premiums, alcoholic beverages, tobacco, piped natural gas, State privilege and estate taxes.

Dedicated Sources of Revenue

Ms. Fennell briefly discussed the excise tax on motor fuels, the highway use tax, the scrap tire tax, the white goods tax, and excise tax on conveyances. She also explained the history and differences of the highway funds.

Local Government Revenue Sources

Rodney Bizzell, a fiscal analyst with the Fiscal Research Division, was recognized. He explained sources of local revenue (county and municipal), local taxes and fees (property tax, sales tax and other local taxes), and state and local shared revenues. He defined local taxes such as property, local sales tax, utility fees, and sales and services (garbage/recycling, building/permitting and animal tags). He described intergovernmental revenues such as State and county (alcohol taxes, real estate transfer taxes, telecommunications); and State and municipality (gas tax, utility, piped natural gas excise tax, alcohol, and telecommunications).

Dr. Barry Boardman, Fiscal Research Division, was recognized to answer regarding withheld and non-withheld personal income taxes.

The meeting adjourned at 10:42 a.m.

Representative Julia Howard, Presiding Chair
House Finance Committee

DeAnne Mangum
Senate Finance Clerk

Principal Clerk ____
Reading Clerk ____

Corrected #1: Please note that the meeting has moved to room 643.

SENATE
NOTICE OF JOINT COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Tuesday	January 15, 2013	9:30 AM	643 LOB

This is a joint organizational meeting with the House Finance Committee.

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

Principal Clerk ____
Reading Clerk ____

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NORTH CAROLINA GENERAL ASSEMBLY
SENATOR PHILIP E. BERGER
PRESIDENT PRO TEMPORE
NORTH CAROLINA SENATE

January 9, 2013

Senator Bill Rabon
Room 2108 Legislative Building
Raleigh, NC 27601-2808

Senator Bob Rucho
Room 300-A LOB
Raleigh, NC 27603-5925

Dear Chairmen:

Pursuant to G.S. § 120-19.6(a), I hereby authorize the Senate Finance Committee to hold a meeting on Tuesday, January 15, 2013 for organizational purposes only.

Thank you for your service as Chairs of the Senate Finance Committee.

Sincerely,

Phil Berger

Phil Berger

cc: Cindy Avrette

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AGENDA

Joint House & Senate Finance Committee

Tuesday, January 15, 2013
Room 643 LOB
9:30 a.m.

House Co-Chairs

Representative Julia Howard ***Representative David Lewis***
Representative Robert Brawley ***Representative Mitchell Setzer***

Senate Co-Chairs

Senator Bob Rucho ***Senator Bill Rabon***

Call to Order

Educational Briefing

Introduction to the Finance Committee
Cindy Avrette, Research Division

North Carolina's Tax Structure
Cindy Avrette, Research Division

General Fund Revenue Sources: Personal Income Tax
Trina Griffin, Research Division

General Fund Revenue Sources: Businesses Taxes
Jonathan Tart, Fiscal Research Division

General Fund Revenue Sources: Sales Tax
Sandra Johnson, Fiscal Research Division

General Fund Revenue Sources: Other Taxes
Heather Fennell, Research Division

Dedicated Sources of Revenue: Motor Fuel Taxes, Highway Use Tax, Other
Heather Fennell, Research Division

Local Government Revenue Sources
Rodney Bizzell, Fiscal Research Division

Committee Discussion

Adjournment

BRIEFING FOR JOINT HOUSE & SENATE FINANCE COMMITTEES

January 15, 2013
Finance Team

Finance Committee Briefing

- Introduction to Finance
- Overview of North Carolina's Tax Structure
- General Fund Revenue Sources
- Highway & Highway Trust Fund Revenue Sources
- Local Government Revenue Sources

3

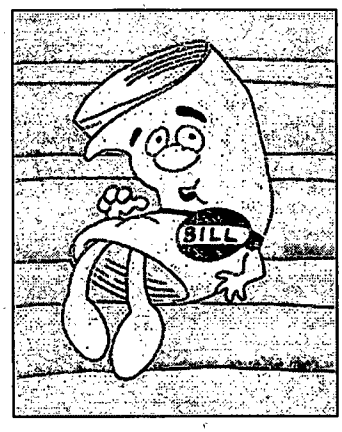
Introduction to Finance

Cindy Avrette, Research Division

Procedural Issues re: Finance Bills

4

- Bills that must be referred to the Finance Committee
- "Crossover deadline"
- Roll call on the calendar



Bills that must be referred to Finance

References to Sources	Bills Referred to Finance ...
☐ Senate Rule 42	☐ State or local debt
☐ *House Rule 38*	☐ State or local taxes
	☐ State or local assessments
	☐ State or local fees
	☐ Raises or reduces revenue to governmental entity

"Crossover Deadline"

- Date that a bill must be received in the other house to be eligible for further consideration
  - Senate Rule 41
  - *House Rule 31.1*
- **EXCEPTION** – Bills that must be referred to the Finance or Appropriations Committee

"Roll Call" or "Material" Bill

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- Article II, Sec. 23 of the NC Constitution

- **Remember the number 3**
  - Three separate votes
  - Three separate days
- State or local indebtedness
- Imposes or increases State or local tax
- Repeals or limits a tax expenditure
- Municipal incorporations, annexations & de-annexations
- Municipal charter revisions

Finance Committee Materials

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Research Division	Fiscal Research
Bill analysis/summary • Current law • Any other information	Fiscal note or memorandum
Prepare changes to the bill as needed or requested • Proposed committee substitute • Amendment	Expenditure & revenue impacts • State • Local
	Implementation costs associated with the bill

Finance Committee Staff

9

Research & Bill Drafting Division
200 LOB; 401 LOB
733-2578; 733-6660

- Cindy Avrette
- Trina Griffin
- Heather Fennell
- Greg Roney
- Judy Collier
- *Dan Ettefagh*
  Bill Drafting

Fiscal Research Division
203 and 206 LOB
733-4910

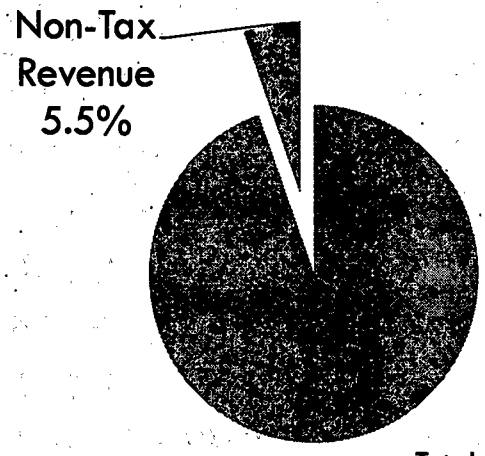
- Rodney Bizzell
- Sandra Johnson
- Jonathan Tart
- Barry Boardman
- Patrick McHugh
- Brian Slivka

10

NC's Tax Structure

Cindy Avrette, Research Division

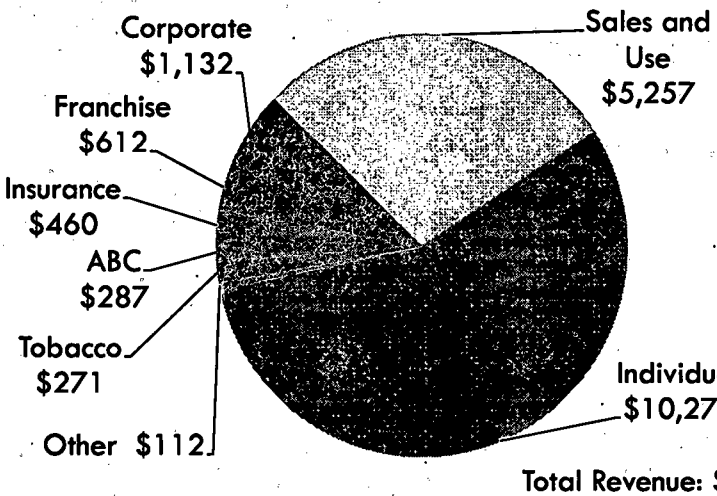
General Fund Revenue by Source, FY 2011-12



Total Revenue: $19.5 Billion

Source: North Carolina General Assembly Fiscal Research Division

General Fund Tax Revenue by Source, $ In Millions, FY 2011-12



Total Revenue: $18.5 Billion

Source: North Carolina General Assembly Fiscal Research Division

NC's Changing Tax Structure

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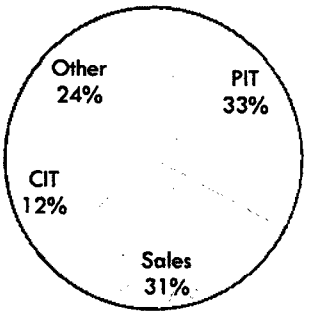
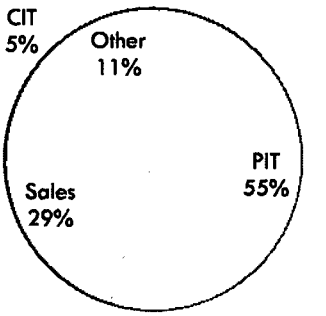
Fiscal Year 1970-71

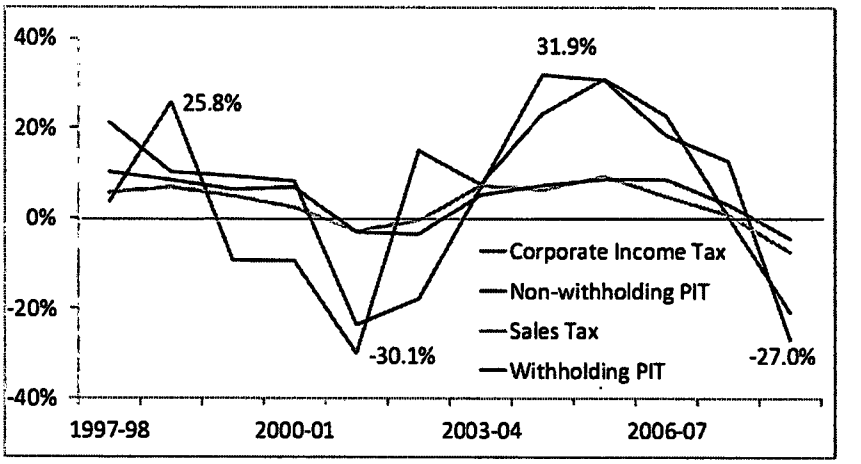


Fiscal Year 2011-12



Growth & Stability

14



20% of General Fund revenue comes from two volatile sources: CIT & non-withholding portion of the PIT

Suggestions for Change

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Findings

- Tax structure too complicated
  - Tax bases too narrow
  - Tax rates too high
- Tax revenues too volatile
- Tax structure does not reflect current economic environment

Goals

- Simplicity
- Economic development & job growth
- Revenue stability
- Tax modernization
  - Broad bases
  - Low rates

Tax Expenditures

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Exemption

Exclusion

Deduction

Allowance

Credit

Refund

Preferential rate

- Spending programs implemented through the tax code
- Key differences between tax expenditures and direct spending
  - Level of scrutiny – Not subject to the annual appropriations process
  - Appear to be tax cuts –Transfer funds through tax subsidies
- Biennial Tax Expenditure Report (2011)
  - 300+ tax expenditures
  - $9.2+ billion

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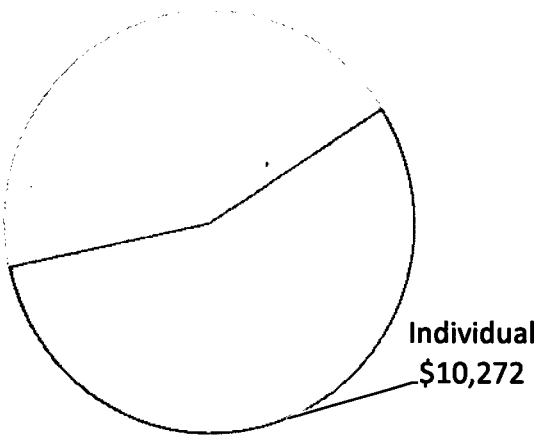
GENERAL FUND REVENUE SOURCES: PERSONAL INCOME TAX

Trina Griffin, Research Division

General Fund Revenue Source: PIT

FY 2011-12



Source: North Carolina General Assembly Fiscal Research Division

Comparison to Other States

Rates

- 30 states have a lower rate than North Carolina
- 1 state has the same highest tax rate
- 11 states have a higher tax rate
- 7 states do not have an income tax

The rest of the story ...

- What are the tax brackets?
- What is the tax base?
- What are the applicable deductions, exemptions, and credits?

Tax Brackets and Rates

- **Prior to 1989**
  - 5 brackets
  - Rates ranging from 3% to 7%
- **1989**
  - 2 brackets
  - Rates of 6% and 7%
- **1991**
  - 3 brackets
  - 6%, 7%, and 7.75%
- **2001-2006**
  - Temporary 4th bracket of 8.25%
  - Extended twice
- **2007**
  - Temporary rate phased down to 8%
- **2008**
  - 3 brackets
  - 6%, 7%, and 7.75%
- **2009 and 2010**
  - Temporary surtax
  - 2% surtax, taxable income exceeds $100K (MFJ)
  - 3% surtax, taxable income exceeds $250K (MFJ)
- **2011**
  - 3 brackets
  - 6%, 7%, and 7.75%

PIT Tax Base

- **1921:** General Assembly enacts 1st State-administered, broad-based income tax
  - **1921-1989:** base increasingly narrowed
- **1989:** General Assembly broadened base by eliminating 30 exclusions & reducing 47 deductions & exemptions to 7; reduced taxes for approximately 65% of the taxpayers
  - **1989-today:** base increasingly narrowed
- **2011:** Currently have >40 adjustments; most recent expenditure = $50,000 business income exemption

2011 PIT Changes

- $50,000 Business Income Deduction
  - Estimated cost = $350M
  - No limit on the size of business
  - Applicable to non-passive income
  - No sunset
- Changed starting point for calculating NC taxable income to federal AGI
  - No change to tax base – all deductions and credits remain

PIT Expenditures

Total **5,011.3***

Expenditures in Excess of $100M	
Standard or Itemized Deduction	2,296.0
Personal Exemption	1,228.2
Govt. Retirement Income (Bailey)	428.8
SS Benefits in Excess of Federal Limit	362.9
$50,000 Business Income Deduction	*350.0*
Credit for Children	151.0
Earned Income Tax Credit	102.5

**in millions; amount reflects sum of expenditures in excess of $100M*

Source: 2011 Tax Expenditure Report, Department of Revenue

GENERAL FUND REVENUE SOURCES: BUSINESS TAXES

Corporate Income and Franchise Tax

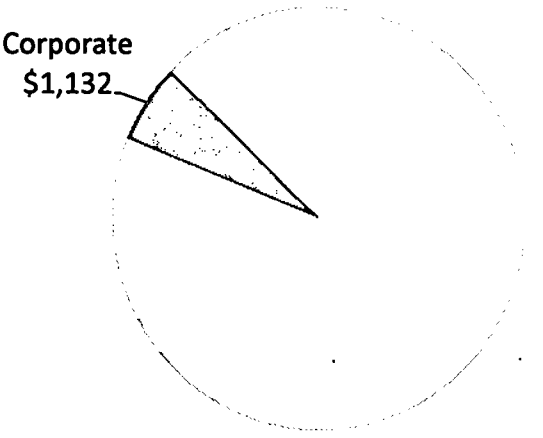
25

Corporate Income Tax

Jonathan Tart, Fiscal Research Division

General Fund Revenue Source: CIT

FY 2011-12



3rd largest in tax collections

7.25% to Public School Building Capital Fund, remainder to General Fund

Source: North Carolina General Assembly Fiscal Research Division

Corporate Income Taxpayers

- 75,000 to 80,000 Taxpayers
- C-corporations with NC taxable income of over $1 million represented 88% of the total corporate income tax revenue, but they made up only 2% of the corporations filing returns
- 60% of total corporate income tax revenue attributable to 200 corporations with NC taxable income of over $10 million

Computing NC Taxable Income

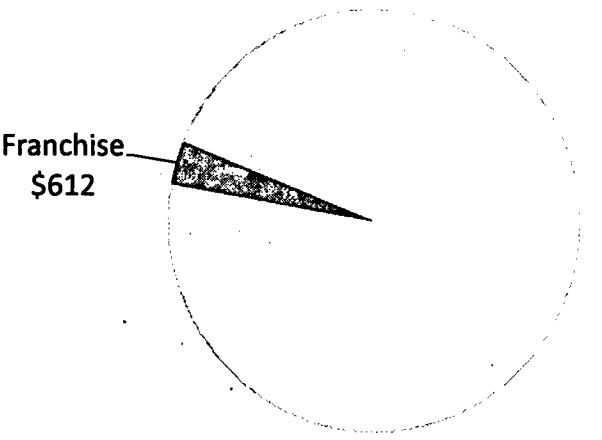
- Federal taxable income is starting point
- Adjust for differences in federal and state law
  - Internal Revenue Code Update
- Apportionment
- NC Taxable Income
- Tax Rate is 6.9%

29

Franchise Tax

Jonathan Tart, Fiscal Research Division

General Fund Revenue Source: Franchise
FY 2011-12



Source: North Carolina General Assembly Fiscal Research Division

Franchise Tax

- Tax imposed for:
  - The privilege of engaging in business
  - The "enjoyment, under the protection of the laws of this State, of the powers, rights, privileges and immunities derived from the State by the form of" the existence of the business structure
  - The benefit and protection received from the government and laws of NC in doing business

Who pays Franchise Tax?

- C corporations
- S corporations
- Limited liability companies (LLC), partnerships, sole proprietorships are exempt from tax
  - $200 annual report filing fee

Tax Base

Tax rate applied to highest of three bases:

- Capital stock, surplus, and undivided profits apportioned to NC using the apportionment percentage determined for income tax
- Book value of NC real and tangible personal property, less outstanding debt created to acquire or improve the real property
- 55% of the appraised value of NC real and tangible personal property

Tax Rate

- $1.50 per $1,000 (.15%)
- $35 minimum tax

Utility Franchise Tax

- Applies instead of the general franchise tax
- Calculated on gross receipts
- Applies to:
  - Electric power company – 3.22% rate
  - Water utility company - 4% rate
  - Sewer utility company – 6%

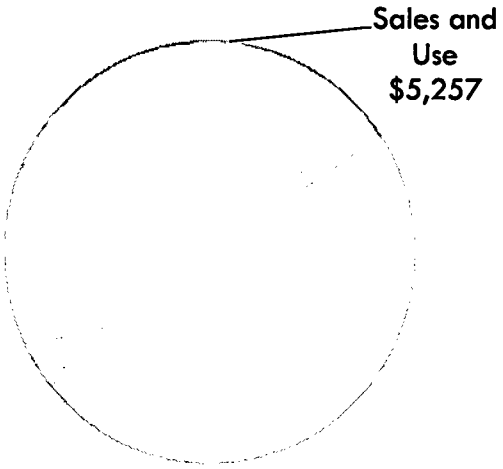
Tax Incentives

- Primary Tax Credits
  - Article 3J Jobs and Investment Credits
  - Research and Development
  - Renewable energy
  - Film production
  - State ports
  - Real property donations

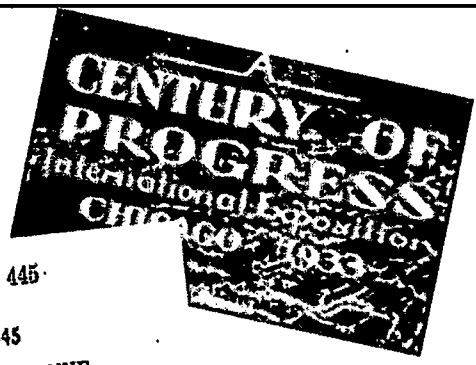
GENERAL FUND REVENUE SOURCES: SALES TAX

Sandra Johnson, Fiscal Research

General Fund Tax Revenue by Source, $ In Millions, FY 2011-12



Source: North Carolina General Assembly Fiscal Research Division



1933—CHAPTER 445

H.B. 120 CHAPTER 445

AN ACT TO RAISE REVENUE.

The General Assembly of North Carolina do enact:

ARTICLE I

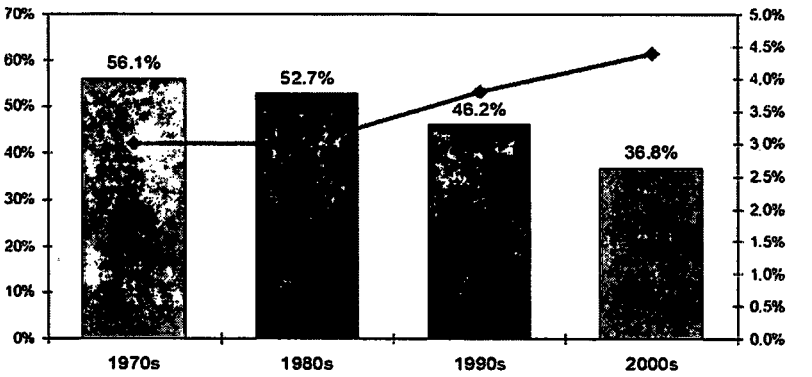
HISTORY

That was then ...

This Is Now....

- 45 states and D.C. have sales tax.
- 33 states have a local sales tax.
- Combined state and local rates range from 4.35% (Hawaii) to 9.45% (Tennessee).
- North Carolina
  - State 4.75%
  - Local 2.0%-2.5%

The Sales Tax Base



Due to shifts in consumption and an eroded base, the State rate has increased from 3% to 4.75%. Despite the rate increase, sales tax as a share of GF revenue has declined.

The Beginning ...

- Created in 1933
- 3% on sale of tangible personal property
- Exemptions:
  - Sales to Federal or State governments.
  - "Primary and essential articles of food"
  - Items taxed under another statute
  - Public school books
  - Certain sales of farm, mineral, and forest products.
- Gross receipts tax on amusements enacted in 1933 at same rate as retail sales of merchandise – 3%

… The Middle …

1933-1960	1961-1980	1981-2000	2001-2012
Exempt prescription drugs	Exemptions expanded	Rate increased from 3% to 4.25%	Streamlined Sales Tax Agreement
Exempt fuel sold to farmers	1%/$80 cap on mill machinery	Sales tax expenditures as econ dev tool	
Exempt food	Tax food	Exempt food	

… Today

1951	2013
32 sales tax exemptions	59 sales tax exemptions
Sales to non-profit, religious, and charitable organizations	26 types of organizations eligible for sales tax refunds
Sales of gasoline or other motor fuels	Total expenditures $3.1B
Public school books	Three largest expenditures: $1.3B
Sales of mill machinery	Food
Food	Prescription
	Nonprofit refunds

Shift in Consumption

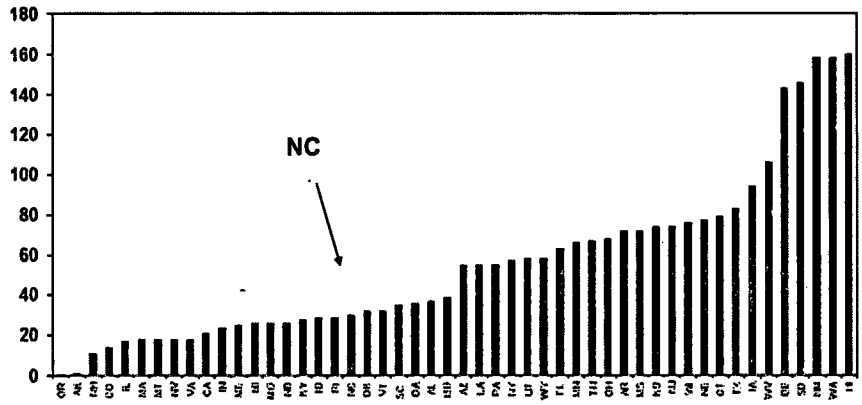
	1979 Percent	2007 Percent
Total Expenditures	100.0	100.0
Durable Goods	13.4	11.1
Nondurable Goods	39.1	29.2
Services	47.4	59.7

Source: Dr. Roby Sawyers, NC State University, "Principles of Sound Tax Policy – How Does the NC Sales Tax Measure Up?" November 17, 2009.

Services Currently Taxed in NC

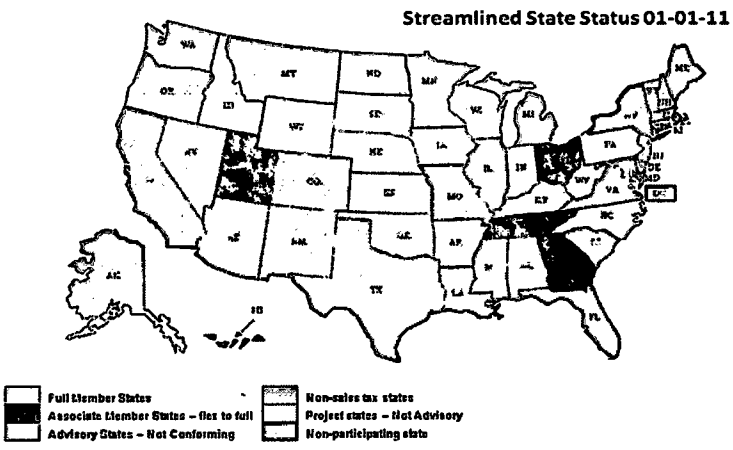
- Certain Utilities
  - Telecommunications
  - Electricity
  - Heating Oil
- Video Programming
  - Cable TV
  - Direct Satellite TV
- Personal Services
  - Laundry & dry cleaning
  - Diaper service
  - 900 numbers
  - Tuxedo rental
- Business Services
  - Graphic design
  - Photocopying & Printing
  - Photo finishing

Taxation of Services, by State



Source: Federation of Tax Administrators, 2007 Survey

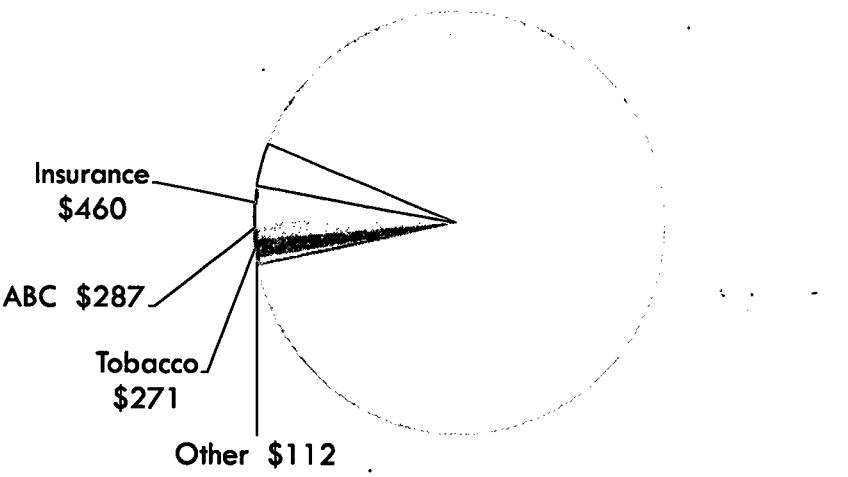
Online Purchases



GENERAL FUND REVENUE SOURCES: OTHER TAXES

Heather Fennell, Research Division

General Fund Tax Revenue by Source, $ In Millions, FY 2011-12



Source: North Carolina General Assembly Fiscal Research Division

Gross Premiums Tax

- Imposed on gross premiums covering all persons, property and risk.
- Rates:
  - 2.5% on gross premiums of workers' compensation policies.
  - 1.9% on gross premiums of all other insurance policies – including health policies.
- Additional Rate for Property Coverage – 0.74%
  - 10% of automobile physical damage coverage.
  - 100% of all other property coverage.

Alcoholic Beverage Taxes

- Rates:
  - Beer – 61.71¢ per gallon.
  - Unfortified wine – 26.34¢ per liter.
  - Fortified wine – 29.34¢ per liter.
  - Spirituous liquor – 30% of:
    - Distiller's price + ABC freight and bailment charges + local ABC markup.

Tobacco – Cigarettes and OTP.

Cigarettes:

- Rate - 2.25¢ per cigarette, 45¢ per pack.
- Discount – 2% for filing timely report.
- Proceeds – General Fund.

Other tobacco products (OTP):

- Rate - 12.8% of the cost of the product.
- Discount – 2% for filing timely report.
- Proceeds – 3% of cost of product – GF. Remainder - Cancer Fund.

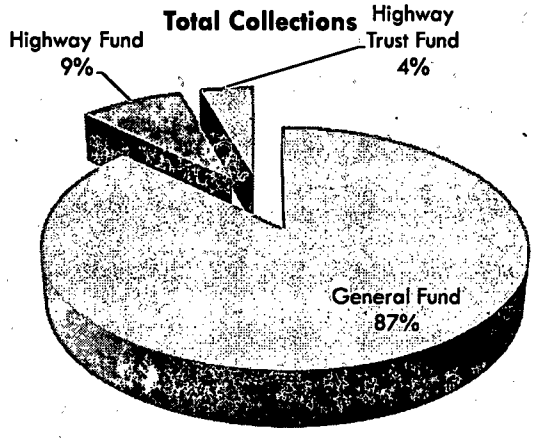
Other Taxes

- Piped Natural Gas:
  - Excise tax in lieu of sales tax. Tax rate base on monthly term volumes of piped natural gas received by the end-use.
- State Privilege Taxes:
  - Amusements, motion picture shows, professionals, installment paper dealers, loan agencies, banks, newsprint publishers.
- Estate Tax:
  - For estates over $1 million. Graduated rates from 0.8% to 16%.

DEDICATED SOURCES OF REVENUE

Excise Tax on Motor Fuels; Highway Use Tax; Other

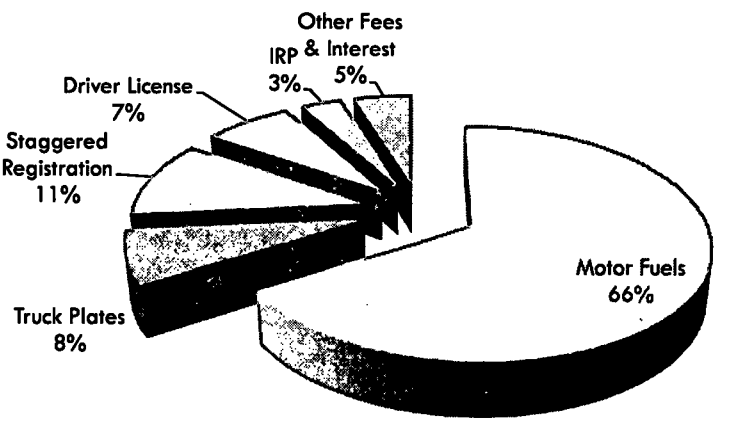
State Tax Collections 2009-2010



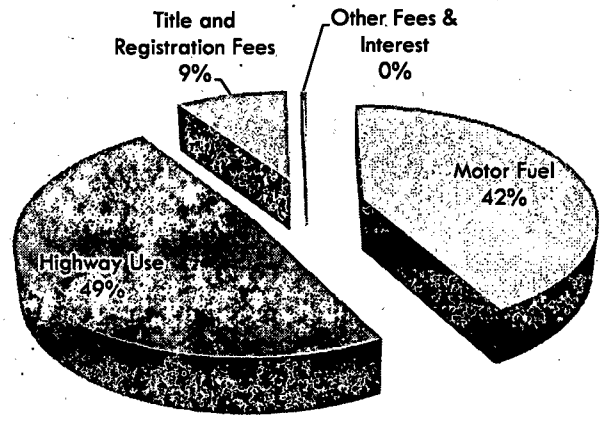
Highway Fund/ Highway Trust Fund

- **Highway Fund** - Maintain State's public roads and operations of DOT
  - Road Maintenance
  - DMV and Highway Patrol
  - Powell Bill/Secondary Roads
- **Highway Trust Fund** - Design and build public roads
  - Road Construction: Interstate, Urban Loops, Secondary Roads, Aid to Municipalities
  - Other: Match Federal Aid, Administration, NC Turnpike Administration Gap Funding, Mobility Fund

NC Highway Fund Tax Collections



NC Highway Trust Fund Tax Collections



Motor Fuels Excise Tax
37.5¢ per gallon

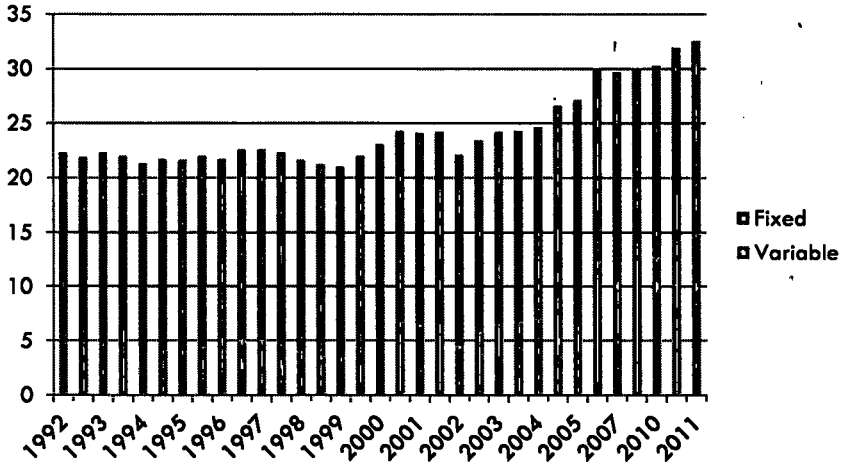
Components

- Flat rate – 17.5¢ per gallon.
- Variable wholesale component – Higher of 3.5¢ per gallon **or** 7% of the average wholesale price of fuel for the applicable base period.
- Cap on variable rate at 20¢ per gallon.

Distribution

- ½ ¢ per gallon to Underground Storage Tank Cleanup Funds and Water and Air Quality Account, then:
- 75% to Highway Fund.
- 25% to Highway Trust Fund.

Motor Fuels Excise Tax-Components



Highway Use Tax

Sale

- 3% of retail value.
- $1,000 max for commercial and $1,500 recreational vehicles, no cap for other vehicles.
- Exemptions.

Lease

- 3% of long term lease.

Other Dedicated Tax Revenue

- Scrap Tire
  - 2% on new tires. 1% on tires less than 20 inches.
- White Goods
  - $3 for white goods.
- Dry-Clean Solvent
  - Range $1.35 - $10 per gallon for type of solvent.
- Excise Tax on Conveyances
  - $1 per $500 of value.

LOCAL GOVERNMENT REVENUE SOURCES

Rodney Bizzell, Fiscal Research

Sources of Local Revenue

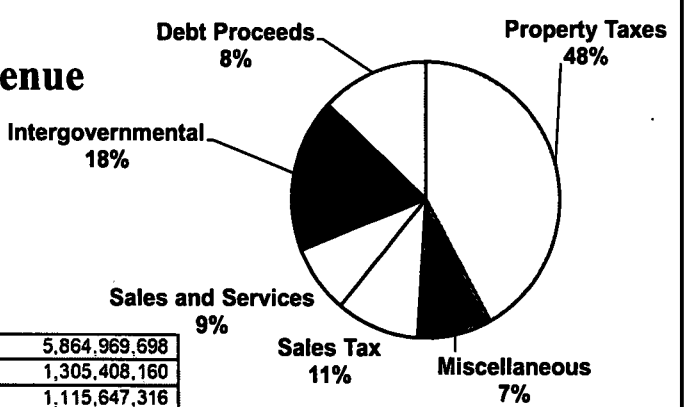
65

- Sources of Local Revenue
  - County
  - Municipal
- Local Taxes and Fees
  - Property Tax
  - Sales Tax
  - Other Local Taxes and Fees
- State and Local Shared Revenues

Sources of Local Revenue: County

66

2010-11 County Revenue by Source



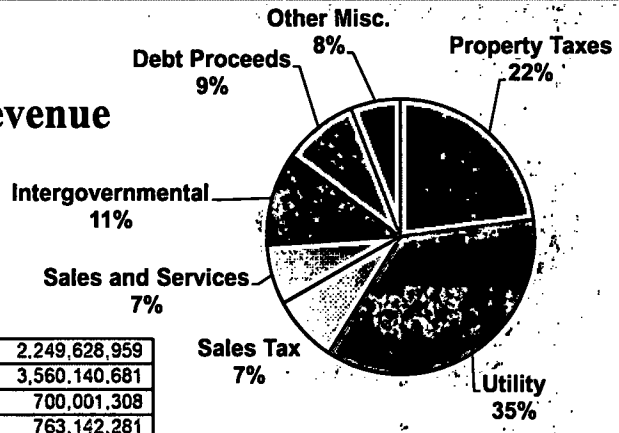
Property Taxes	5,864,969,698
Sales Tax	1,305,408,160
Sales and Services	1,115,647,316
Intergovernmental	2,167,017,275
Debt Proceeds	1,035,050,772
Other Misc.	850,579,212
TOTAL	12,338,672,433

Source: Dept. of State Treasurer

Sources of Local Revenue: Municipal

67

2010-11 Municipal Revenue by Source



Property Taxes	2,249,628,959
Utility	3,560,140,681
Sales Tax	700,001,308
Sales and Services	763,142,281
Intergovernmental	1,161,441,559
Debt Proceeds	935,826,858
Other Misc.	835,505,604
TOTAL	10,205,687,250

Source: Dept. of State Treasurer

Local Taxes: Property Tax

68

- Authorized as local revenue source in 1921.
- Most stable local revenue source.
- Classes of property must be taxed uniformly.
- Only the General Assembly has authority to exempt classes of property.
- Real property must be revalued at least every 8 years.
- Each county or municipality determines the property tax rate annually

Local Taxes: Sales Tax

69

- Same Base as State Rate
  - Article 39 (1971) – one cent, point of collection
  - Article 40 (1983) – ½ cent, population
  - Article 42 (1985) – ½ cent, population
  - Article 44 (2002) – ½ cent, repealed
  - Article 46 (2007) – ¼ cent (county only)
- Distribution to municipalities based on either ad valorem or population
- Food Tax – 2%

Utility Fees

70

- Water and Sewer
- Electricity Charges
  - "Electricities" purchase power from utility companies and distribute and sell it to homes and businesses.
- Gas Charges
  - Gas cities purchase natural gas from private utilities for resale.
- Stormwater Fees
  - Larger cities have established stormwater programs in response to federal requirements.

Sales and Services

71

- Building Permits
- Inspection Fees
- Garbage/Recycling Fees
- Ambulance and Rescue Charges
- Animal Tags
- Parks and Recreation Fees

Local Debt

72

- General Obligation Bonds
- Revenue and Special Obligation Bonds
- Bond Anticipation Notes
- Installment Purchase Agreements
- Certificates of Participation (COPS)
- Local Government Commission approves local debt authorizations.
- Bond rating agencies evaluate capacity and willingness of issuer to repay debt.

Other Local Revenues

73

- Privilege License Taxes
  - Imposed on the privilege of engaging in certain occupations
- Motor Vehicle License Tax
  - All municipalities are authorized to levy a tax of $5 per vehicle. The General Assembly has authorized amounts up to $30.
- Special Assessments
  - Levied against property to pay for public improvements that benefit that property (e.g., streets, sidewalks, water systems, storm sewer and beach-erosion control.)
- Profits from ABC Stores
  - Approximately 80% of net profits are distributed to local units.
- Investment Earnings
- Taxes Permitted by Local Act
  - Occupancy Taxes
  - Meals Taxes

Intergovernmental Revenues

74

State and County Shared Revenues

- Beer and Wine Tax - Shared only for the types of beverages allowed in the county.
  - Distribution is based on the type of beverage.
- Real Estate Transfer Tax
  - $1.00 tax for each $500.00 in value transferred.
  - Also known as the Deed Tax. County Retains 50%+.
- Telecommunications and Video Programming
  - Combined sales tax rate applies to telecommunications and video programming services; local distribution applies.

Intergovernmental Revenues

75

State and Municipal Shared Revenues

- Gasoline Tax – 1 ¾ cents per gallon distributed through Powell Bill Funds. Restricted Use.
- Utility Franchise Tax - 3.22%
- Excise Tax on Piped Natural Gas
  - Municipalities receive half of tax collected within boundaries.
- Beer and Wine Tax – municipalities receive per capita share of taxes if sales are allowed within jurisdiction.
- Telecommunications and Video Programming

Finance Committee Staff

76

Research & Bill Drafting Division
300 LOB, 401 LOB
733-2578, 733-6660

- Cindy Avrette
- Trina Griffin
- Heather Fennell
- Greg Roney
- Judy Collier
- *Dan Ettefagh*
  Bill Drafting

Fiscal Research Division
203 and 206 LOB
733-4910

- Rodney Bizzell
- Sandra Johnson
- Jonathan Tart
- Barry Boardman
- Patrick McHugh
- Brian Slivka

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Joint House & Senate Finance
Name of Committee

January 15, 2013
Date

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CHRIS McClure	Brook Pierce
Mitch Leonard	SEANC
Bill McAfee	Treasurer's Office
Johanna Reese	NCACC
George Smith	Nexsen Pruet
Shirley Martin	Nexsen Pruet
Liz Taylor	Kochenek Law Group
Tom Dixon	NCDOR
Michael Hamer	NC DOR

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January 15, 2013 — **Date**

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Cedric Johnson	BTC
Mildred Spearman	NCAOC
Casandra Skinner	NCACC
Ha Nguyen	NCCOB
[illegible]	R. Lindsay Associates
Cameron Huie	Moore & Van Allen
Will Culpepper	MVL
Seth Pelner	DOT
Rhea Taute	NCACC
Tom Bacon	EDF, NCSEA

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	MWC
Tim KENT	NC Beer & Wine
Ed Turlington	Balfour
John Hardin	MP's
Chuck ALLEN	US AIRWAYS
	MCAM/ARC
JOHN MARTH	MWC LLC
	TWC
B. Brassell	NC Retail Assn/Lg - Nesbitt
Chris Fitzsimon	NC Policy Watch

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Jim Hobbs	HANC
David Heinen	NC Center for Nonprofits
Crystal Collins	NCTA
Rachel Beaudin	NCDPI
Wendy Kelly	Policy Group
Cady Thomas	NC AR
Daniel Baum	Trontman Saunders
Daniel Ambum	NCRMA
Elise McDowell	Truthout Sacde
Doug Howey	NCRCM
Paul Meyer	NCCM

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Joint House & Senate Finance — January 15, 2013

Name of Committee — **Date**

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NAME	FIRM OR AGENCY AND ADDRESS
[signature]	NSS
[signature]	NSS
Kara Weishaar	Smith Anderson
Marci Wilding	Norant Health
Elliot Case	
Allison Walker	Nelson Mullins
John Shaw	PCS
[signature]	ASN
Alex Badger	CSS
Cathy Hand	NCHA
JOE CANIER	NELSON MULLINS

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Joint House & Senate Finance — January 15, 2013

Name of Committee — **Date**

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Jake Cashion	NC Chamber
Rob Lamm	RLA
Neldin Nanny	Nexsen Pruet
John Poteat	NCBA
Sharon Miller	CUCA
Andy Chase	KMA
J Thomas Mann	EWM
Kevin Bolton	LCA
Doug Lassiter	NCSTA
Fred Baggett	Bonc; Asso.
Tim McDowell	NCICU

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Joint House & Senate Finance — January 15, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Fred Baggett	City of High Point
Will Pauly - THC	NCHFA
[signature]	CAHP

Senate Finance Committee
Wednesday, February 6, 2013
Room 544 LOB, 1:00 p.m.

Minutes

The Senate Committee on Finance met on Wednesday, February 6, 2013, at 1:00 p.m. in room 544 of the Legislative Office Building. Ross Strickland of Salemburg, Mark Moser of Wilmington and Alex Brown of Cary served as pages. Senator Rucho served as Chair to the meeting.

H.B. 4 – UI Fund Solvency & Program Changes

Representative Howard was recognized to explain the bill, which makes several changes to the State unemployment insurance program to accelerate the repayment of the $2.5 billion advance the State borrowed from the federal government to pay unemployment insurance benefits. Ms. Cindy Avrette, an attorney with the Research Division, was recognized to explain the trust fund balances through the years. Senator Woodward was recognized to offer an amendment which formulates an increased benefit amount. He moved to adopt the amendment. Representative Howard asked the Committee to oppose the amendment. The motion failed. David Clegg, Assistant Secretary to the Division of Employment Security, was recognized to answer questions. Senator Nesbitt was recognized to offer an amendment which would increase the weekly benefit amount, move the effective date in order to pay the debt off six months later, and prevent the federal benefit to the State from disappearing. Representative Howard pointed out that the amendment would cost the State additional monies and requested that the Committee vote down the amendment. Senator Nesbitt moved to adopt the amendment and the motion failed. Senator Rabon moved for a favorable report for the bill and the motion carried. A copy of the bill, the summary, the fiscal note and the amendments is attached.

S.B. 6 – UI Fund Changes

The bill was removed from the agenda due to time constraints.

The meeting adjourned at 2:27 p.m.

Bob Rucho

Senator Bob Rucho, Presiding Chair
Senate Finance Committee

DeAnne Mangum

DeAnne Mangum
Senate Finance Clerk

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	February 6, 2013	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	
SB 6	UI Fund Solvency & Program Changes.	Senator Brock Senator Rucho Senator Rabon

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Wednesday, February 06, 2013

Senator Rabon,
submits the following with recommendations as to passage:

FAVORABLE

HB **4** **(CS#1)** UI Fund Solvency & Program Changes.

Draft Number:	None
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Senator Robert Rucho will handle HB 4

CMR14-V-3

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Wednesday, February 06, 2013

Senator Rabon,
submits the following with recommendations as to passage:

FAVORABLE

HB **4** **(CS#1)** UI Fund Solvency & Program Changes.

Draft Number:	None
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Senator Robert Rucho will handle HB 4

HOUSE BILL 4*
Corrected Copy 1/31/13
Committee Substitute Favorable 1/31/13

Short Title: UI Fund Solvency & Program Changes. (Public)

Sponsors:

Referred to:

January 30, 2013

A BILL TO BE ENTITLED

AN ACT TO ADDRESS THE UNEMPLOYMENT INSURANCE DEBT AND TO FOCUS NORTH CAROLINA'S UNEMPLOYMENT INSURANCE PROGRAM ON PUTTING CLAIMANTS BACK TO WORK.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 96-5(c), (d), (e), (f), and (g) are repealed.

SECTION 1.(b) Article 1 of Chapter 96 of the General Statutes, as amended by subsection (a) of this section, reads as rewritten:

"Article 1.

"~~Division of Employment Security.~~Definitions and Funds.

"**§ 96-1. ~~Title.~~Title and definitions.**

(a) Title. – This Chapter shall be known and may be cited as the "Employment Security Law." ~~Any reference to the Unemployment Compensation Commission shall be deemed a reference to the Department of Commerce, Division of Employment Security (DES), and all powers, duties, funds, records, etc., of the Unemployment Compensation Commission and the Employment Security Commission are transferred to the DES.~~

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

(1) Agricultural labor. – Defined in section 3306 of the Code.

(2) Average weekly insured wage. – The weekly rate obtained by dividing the total wages reported by all insured employers for a calendar year by the average monthly number of individuals in insured employment during that year and then dividing that quotient by 52.

(3) Base period. – The first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year.

(4) Benefit. – Compensation payable to an individual with respect to the individual's unemployment.

(5) Benefit year. – The fifty-two-week period beginning with the first day of a week with respect to which an individual first files a valid claim for benefits and registers for work. If the individual is payroll attached, the benefit year begins on the Sunday preceding the payroll week ending date. If the individual is not payroll attached, the benefit year begins on the Sunday of the calendar week with respect to which the individual filed a valid claim for benefits and registered for work.

(6) Code. – Defined in G.S. 105-228.90.

(7) Computation date. – August 1 of each year.
(8) Department. – The North Carolina Department of Commerce.
(9) Division. – The Department's Division of Employment Security.
(10) Employee. – Defined in section 3306 of the Code.
(11) Employer or employing unit. – Any of the following:
a. An employer as defined in section 3306 of the Code.
b. A State or local governmental unit required to provide unemployment compensation coverage to its employees under section 3309 of the Code.
c. A nonprofit organization required to provide unemployment compensation coverage to its employees under section 3309 of the Code.
d. An Indian tribe required to provide unemployment compensation coverage to its employees under section 3309 of the Code.
(12) Employment. – Defined in section 3306 of the Code, with the following additions and exclusions:
a. Additions. – The term includes service to a governmental unit, a nonprofit organization, or an Indian tribe as described in 3306(c)(7) and 3306(c)(8) of the Code.
b. Exclusions. – The term excludes all of the following:
1. Service performed by an independent contractor.
2. Service performed for a governmental entity or nonprofit organization under 3309(b) and 3309(c) of the Code.
3. Service by one or more of the following individuals if the individual is authorized to exercise independent judgment and control over the performance of the work and is compensated solely by way of commission:
A. A real estate broker, as defined in G.S. 93A-2.
B. A securities salesman, as defined in G.S. 78A-2.
(13) Employment security law. – A law enacted by this State or any other state or territory or by the federal government providing for the payment of unemployment insurance benefits.
(14) Employment service company. – A person that contracts with a client or customer to supply an individual to perform employment services for the client or customer and that both under contract and in fact meets all of the following conditions:
a. Negotiates with the client or customer on such matters as time, place, and type of work, working conditions, quality, and price of the employment services.
b. Determines the assignment of an individual to the client or customer, even if the individual retains the right to refuse a specific assignment.
c. Hires and terminates an individual supplied.
d. Sets the rate of pay for the individual supplied.
e. Pays the individual supplied.
(15) Federal Unemployment Tax Act (FUTA). – Chapter 23 of the Code.
(16) Full-time student. – Defined in section 3306 of the Code.
(17) Governmental unit. – The term includes all of the following:
a. The State, a county, or a municipality, or any department, agency, or other instrumentality of one of these entities.
b. The State Board of Education, the Board of Trustees of The University of North Carolina, the board of trustees of other

institutions and agencies supported and under the control of the State, a local board of education, or another entity that pays a teacher at a public school or educational institution.

c. A special district, an authority, or another entity exercising governmental authority.

d. An alcoholic beverage control board, an airport authority, a housing authority, a regional authority, or another governmental authority created pursuant to an act of the General Assembly.

(18) Immediate family. – An individual's spouse, child, grandchild, parent, and grandparent, whether the relationship is a biological, step-, half-, or in-law relationship.

(19) Independent contractor. – An individual who contracts to do work for a person and is not subject to that person's control or direction with respect to the manner in which the details of the work are to be performed or what the individual must do as the work progresses.

(20) Indian tribe. – Defined in section 3306 of the Code.

(21) Nonprofit organization. – A religious, charitable, educational, or other organization that is exempt from federal income tax and described in section 501(c)(3) of the Code.

(22) Person. – An individual, a firm, a partnership, an association, a corporation, whether foreign or domestic, a limited liability company, or any other organization or group acting as a unit.

(23) Secretary. – The Secretary of the Department of Commerce or the Secretary's designee.

(24) Taxable wages. – The amount determined under G.S. 96-9.3.

(25) Unemployed. – Defined in G.S. 96-15.01.

(26) Unemployment Trust Fund. – The federal fund established pursuant to section 904 of the Social Security Act, as amended.

(27) United States. – Defined in section 3306 of the Code.

(28) Wages. – Defined in section 3306 of the Code, except that no amount is excluded as provided under subdivision (b)(1) of that section.

...

"**§ 96-4.1. Funds used in administering the unemployment compensation laws.**

Four funds are established to administer this Chapter. The State Treasurer is responsible for investing all revenue received by the funds as provided in G.S. 147-69.2 and G.S. 147-69.3. Interest and other investment income earned by a fund accrues to it. Payments from a fund may be made only upon the warrant of the Secretary of Commerce.

The four funds are:

(1) The Employment Security Administration Fund established under G.S. 96-5.

(2) The Supplemental Employment Security Administration Fund established under G.S. 96-5.1.

(3) The Unemployment Insurance Fund established under G.S. 96-6.

(4) The Unemployment Insurance Reserve Fund established under G.S. 96-6.1.

"**§ 96-5. Employment Security Administration Fund.**

(a) ~~Special Fund.~~ Fund Established. – ~~There is hereby created in the State treasury a special fund to be known as the~~ The Employment Security Administration Fund is created as a special revenue fund. ~~Fund. All moneys which are deposited or paid into this fund shall be continuously available to the Secretary for expenditure in accordance with the provisions of this Chapter, and shall not lapse at any time or be transferred to any other fund. The Employment Security Administration Fund, except as otherwise provided in this Chapter, shall be subject to the provisions of the State Budget Act (Chapter 143C of the General Statutes) and~~

~~the Personnel Act (G.S. 126-1 et seq.). All moneys in this fund which are received from the federal government or any agency thereof or which are appropriated by this State for the purpose described in G.S. 96-20 shall be expended solely for the purposes and in the amounts found necessary by the Secretary of Labor for the proper and efficient administration of this Chapter.~~ The fund ~~shall consist~~consists of the following:

(1) ~~all moneys~~Moneys appropriated by this ~~State, all moneys~~State.

(2) Moneys received from the United States ~~of America, or any agency thereof, including the Secretary of Labor, and all moneys received from any other~~ or another source for ~~such purpose,~~ the administration of this Chapter.

(3) ~~and shall also include any moneys~~ Moneys received from any agency of the United States or any other state as compensation for services or facilities supplied to ~~such agency, any amounts~~ the agency or state.

(4) Moneys received pursuant to any surety bond or insurance policy or from other sources for losses sustained by the Employment Security Administration Fund or by reason of damage to equipment or supplies purchased from moneys in ~~such fund, and~~ the fund.

(5) ~~proceeds~~ Proceeds realized from the sale or disposition of ~~any such~~ equipment or supplies purchased from moneys in the fund. ~~which may no longer be necessary for the proper administration of this Chapter: Provided, any interest collected on contributions and/or penalties collected pursuant to this Chapter shall be paid into the Special Employment Security Administration Fund created by subsection (c) of this section. All moneys in this fund shall be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as is provided by law for other special funds in the State treasury, and shall be maintained in a separate account on the books of the State treasury. The State Treasurer shall be liable on his official bond for the faithful performance of his duties in connection with the Employment Security Administration Fund provided for under this Chapter. Such liability on the official bond shall be effective immediately upon the enactment of this provision, and such liability shall exist in addition to any liability upon any separate bond existent on the effective date of this provision, or which may be given in the future. All sums recovered on any surety bond for losses sustained by the Employment Security Administration Fund shall be deposited in said fund.~~

(b) Use of Fund. – Moneys in the Employment Security Administration Fund may be used by the Division only to administer this Chapter. Moneys received in the fund from a source other than an appropriation by the General Assembly are appropriated for the purpose of administering this Chapter. The Secretary is authorized to requisition and receive from the State's account in the Unemployment Trust Fund any moneys standing to the State's credit that are permitted by federal law to be used for administering this Chapter and to expend the moneys for this purpose, without regard to a determination of necessity by a federal agency.

~~Replacement of Funds Lost or Improperly Expended. If any moneys received from the Secretary of Labor under Title III of the Social Security Act, or any unencumbered balances in the Employment Security Administration Fund or any moneys granted to this State pursuant to the provisions of the Wagner-Peyser Act, or any moneys made available by this State or its political subdivisions and matched by such moneys granted to this State pursuant to the provisions of the Wagner-Peyser Act, are found by the Secretary of Labor, because of any action or contingency, to have been lost or expended for purposes other than, or in amounts in excess of those found necessary by the Secretary of Labor for the proper administration of this Chapter, it is the policy of this State that such moneys, not available from the Special Employment Security Administration Fund established by subsection (c) of this section, shall~~

~~be replaced by moneys appropriated for such purpose from the general funds of this State to the Employment Security Administration Fund for expenditure as provided in subsection (a) of this section. Upon receipt of notice of such a finding by the Secretary of Labor, the Division shall promptly pay from the Special Employment Security Administration Fund such sum if available in such fund; if not available, it shall promptly report the amount required for such replacement to the Governor and the Governor shall, at the earliest opportunity, submit to the legislature a request for the appropriation of such amount.~~

"**§ 96-5.1. Supplemental Employment Security Administration Fund.**

(a) Fund Established. – The Supplemental Employment Security Administration Fund is created as a special revenue fund. The fund consists of all interest paid under this Chapter by employers on overdue contributions and any appropriations made to the fund by the General Assembly.

(b) Use of Funds. – Moneys in the Supplemental Employment Security Administration Fund may be used by the Division only for one or more of the purposes listed below and may not be used in lieu of federal funds made available to the Division for the administration of this Chapter:

(1) The payment of costs and charges of administration that the Secretary of Labor determines are not eligible for payment from or were improperly paid from the Employment Security Administration Fund. The Supplemental Employment Security Administration Fund must reimburse the Employment Security Administration Fund for the amount of any improper payment. If the balance in the Supplemental Fund is insufficient, the Secretary must notify the Governor, who must request an appropriation for that purpose.

(2) The temporary stabilization of federal funds cash flow.

(3) Security for loans from the Unemployment Trust Fund.

(4) The refund of an overpayment of interest previously credited to the fund. If an employer takes credit for a previous overpayment of interest when remitting contributions, the amount of credit taken for the overpayment of interest must be reimbursed to the Unemployment Insurance Fund.

"**§ 96-6. Unemployment Insurance Fund.**

(a) Establishment and ~~Control.~~ Use. – The Unemployment Insurance Fund is established as an enterprise fund. ~~There is hereby established as a special fund, separate and apart from all public moneys or funds of this State, an Unemployment Insurance Fund, which shall be administered by the Division's Employment Insurance Section~~ The Division must administer the fund exclusively for the purposes of this Chapter. No money in the fund may be used, directly or indirectly, to pay interest on an advance received from the Unemployment Trust Fund.

This fund ~~shall consist of:~~consists of the following sources of revenue:

(1) ~~All contributions~~ Contributions collected under this ~~Chapter, together with any interest earned upon any moneys in the fund;~~Chapter.

(2) ~~Any property~~ Property or securities acquired through the use of moneys belonging to the ~~fund;~~fund.

(3) ~~All~~ Interest and investment earnings ~~of such property or securities;~~ of the fund.

(4) ~~Any moneys~~ Moneys received from ~~the federal unemployment~~ this State's account in the ~~unemployment trust fund~~ Unemployment Trust Fund in accordance with Title XII of the Social Security ~~Act~~ Act, as ~~amended;~~amended.

(5) ~~All moneys~~ Moneys credited to this State's account in the Unemployment Trust Fund pursuant to section 903 of Title IX of the Social Security Act, as ~~amended, (U.S.C.A. Title 42, sec. 1103 (a));~~amended.

(6) ~~All moneys~~ Moneys paid to this State pursuant to section 204 of the Federal-State Extended Unemployment Compensation Act of ~~1970;~~1970.

(7) Reimbursement payments in lieu of contributions.

(8) Amounts transferred from the Unemployment Insurance Reserve Fund.

~~All moneys in the fund shall be commingled and undivided.~~

(b) ~~Accounts and Deposit.~~ Accounts. ~~The State Treasurer shall be ex officio the treasurer and custodian of the fund who shall disburse such fund in accordance with the directions of the Secretary and in accordance with such regulations as the Division shall prescribe.~~ The State Treasurer ~~shall~~ must maintain within the fund three separate accounts:

(1) A clearing ~~account,~~account.

(2) An unemployment trust fund ~~account, and~~account.

(3) A benefit account.

(b1) Clearing Account. – ~~All~~ The Division must credit moneys payable to the Unemployment Insurance Fund ~~fund, upon receipt thereof by the Division, shall be forwarded immediately to the treasurer who shall immediately deposit them in~~ to the clearing account. ~~Refunds payable pursuant to G.S. 96-10 may be paid from the clearing account upon warrants issued upon the treasurer as provided in G.S. 143B-426.40G under the requisition of the Division. After clearance thereof, all other~~ The Controller must ~~moneys in the clearing account shall be~~ immediately ~~deposited~~ deposit amounts in the clearing account with the secretary of the treasury of the United States ~~of America~~ to the credit of the account of this State in the ~~unemployment trust fund, established and maintained pursuant to section 904 of the Social Security Act, as amended, any provision of law in this State relating to the deposit, administration, release, or disbursement of moneys in the possession or custody of this State to the contrary notwithstanding.~~ Unemployment Trust Fund. ~~The benefit account shall consist of all moneys requisitioned from this State's account in the unemployment trust fund. Moneys in the clearing and benefit accounts may be deposited by the treasurer, under the direction of the Secretary, in any bank or public depository in which general funds of the State may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund. The State Treasurer shall be liable on his official bond for the faithful performance of his duties in connection with the unemployment insurance fund provided for under this Chapter. Such liability on the official bond shall be effective immediately upon the enactment of this provision, and such liability shall exist in addition to any liability upon any separate bond existent on the effective date of this provision, or which may be given in the future. All sums recovered on any surety bond for losses sustained by the unemployment insurance fund shall be deposited in said fund.~~

(b2) Unemployment Trust Fund Account. – The unemployment trust fund account consists of moneys requisitioned from the State's account in the Unemployment Trust Fund to make refunds of overpayments of contributions. To obtain funds needed to make refunds, the Controller must requisition the amount needed from the Unemployment Trust Fund and credit the amount received to this account.

(c) Benefit Account. – The benefit account consists of moneys requisitioned from the State's account in the Unemployment Trust Fund to pay benefits. To obtain funds to pay benefits under this Chapter, the Controller must requisition the amount needed from the State's account in the Unemployment Trust Fund and credit the amount received to this account. Warrants for the payment of benefits are payable from this account. Amounts in the benefit account that are not needed to pay the benefits for which they were requisitioned may be applied to the payment of benefits for succeeding periods or, in the discretion of the Controller, deposited to the credit of the State's account in the Unemployment Trust Fund. ~~Moneys shall be requisitioned from this State's account in the unemployment trust fund solely for the payment of benefits (including extended benefits) and in accordance with regulations prescribed by the Secretary. The Division shall, from time to time, requisition from the unemployment trust fund~~

~~such amounts, not exceeding the accounts standing to its account therein, as it deems necessary for the payment of benefits for a reasonable future period. Upon receipt thereof the treasurer shall deposit such moneys in the benefit account and shall pay all warrants drawn thereon as provided in G.S. 143B-426.40G and requisitioned by the Division for the payment of benefits solely from such benefit account. Expenditures of such moneys in the benefit account and refunds from the clearing account shall not be subject to approval of the Budget Bureau or any provisions of law requiring specific appropriations or other formal release by State officers of money in their custody. All warrants issued upon the treasurer for the payment of benefits and refunds shall be issued as provided in G.S. 143B-426.40G as requisitioned by the Secretary, the Assistant Secretary, or a duly authorized agent of the Division for that purpose. Any balance of moneys requisitioned from the unemployment trust fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits during succeeding periods, or, in the discretion of the Division, shall be redeposited with the Secretary of the Treasury of the United States of America, to the credit of this State's account in the unemployment trust fund, as provided in subsection (b) of this section.~~

(d) ~~Management of Funds upon~~ Discontinuance of Unemployment Trust Fund. – ~~The provisions of subsections (a), (b), and (c), to the extent that they relate to the unemployment trust fund, shall be operative only so long as such unemployment trust fund continues to exist, and so long as the Secretary of the Treasury of the United States of America continues to maintain for this State a separate book account of all funds deposited therein by this State for benefit purposes, together with this State's proportionate share of the earnings of such unemployment trust fund, from which no other state is permitted to make withdrawals. If and when such unemployment trust fund ceases to exist, or such separate book account is no longer maintained, all moneys, properties, or securities therein belonging to the Unemployment Insurance Fund of this State shall be transferred to the treasurer of the Unemployment Insurance Fund, who shall hold, invest, transfer, sell, deposit, and release such moneys, properties, or securities in a manner approved by the Secretary of the Department of Commerce, in accordance with the provisions of this Chapter: Provided, that such moneys shall be invested in the following readily marketable classes of securities: Bonds or other interest-bearing obligations of the United States of America or such investments as are now permitted by law for sinking funds of the State of North Carolina; and provided further, that such investment shall at all times be so made that all the assets of the fund shall always be readily convertible into cash when needed for the payment of benefits. The treasurer shall dispose of securities or other properties belonging to the Unemployment Insurance Fund only under the direction of the Secretary of the Department of Commerce.~~If the Unemployment Trust Fund or the State's account within the federal Fund ceases to exist, the credit balance of the State's account in that Fund must be transferred to the Unemployment Insurance Fund and credited to the benefit account.

~~(e) Benefits shall be deemed to be due and payable under this Chapter only to the extent provided in this Chapter and to the extent that moneys are available therefor to the credit of the Unemployment Insurance Fund, and neither the State nor the Division shall be liable for any amount in excess of such sums.~~

~~(f) Any interest required to be paid on advances under Title XII of the Social Security Actshall be paidin a timely manner and shall not be paid, directly or indirectly, from amounts in the Unemployment Insurance Fund.~~

"**§ 96-6.1. Unemployment Insurance Reserve Fund.**

(a) Establishment and Use. – The Unemployment Insurance Reserve Fund is established as a special revenue fund. The Fund consists of the revenues derived from the surtax imposed under G.S. 96-9.7. Moneys in the Fund may be used only for the following purposes:

(1) Interest payments required on advances under Title XII of the Social Security Act.
(2) Principal payments on advances under Title XII of the Social Security Act.
(3) Transfers to the Unemployment Insurance Fund for payment of benefits.
(4) Administrative costs for the collection of the surtax.
(5) Refunds of the surtax.

(b) Fund Capped. – The balance in the Unemployment Insurance Reserve Fund on January 1 of any year may not exceed the greater of fifty million dollars ($50,000,000) or the amount of interest paid the previous September on advances under Title XII of the Social Security Act. Any amount in the fund that exceeds the cap must be transferred to the Unemployment Insurance Fund.

...."

SECTION 2.(a) The following statutes are repealed: G.S. 96-8, 96-9, 96-11, 96-12, 96-12.1, 96-13, and 96-14.

SECTION 2.(b) Article 2 of Chapter 96 of the General Statutes, as amended by subsection (a) of this section, reads as rewritten:

"Article 2.

"~~Unemployment Insurance Division.~~Contributions and Payments by Employers.

...

"**§ 96-9.1. Purpose.**

The purpose of this Article is to provide revenue to finance the unemployment benefits allowed under this Chapter and to do so in as simple a manner as possible by imposing a State unemployment tax that is similar to the federal unemployment tax imposed under FUTA. All employers that are liable for the federal unemployment tax on wages paid for services performed in this State and all employers that are required by FUTA to be given a state reimbursement option are liable for a State unemployment tax on wages. Revenue from this tax, referred to as a contribution, is credited to the Unemployment Insurance Fund established in G.S. 96-6.

"**§ 96-9.2. Required contributions to the Unemployment Insurance Fund.**

(a) Required Contribution. – An employer is required to make a contribution in each calendar year to the Unemployment Insurance Fund in an amount equal to the applicable percentage of the taxable wages the employer pays its employees during the year for services performed in this State. An employer may not deduct the contributions due in whole or in part from the remuneration of the individuals employed.

The applicable percentage for an employer is considered the employer's contribution rate and is determined by the employer's base rate and the balance in the Unemployment Insurance Fund as of the computation date. Taxable wages are determined in accordance with G.S. 96-9.3. An employer's base rate is either the standard beginning rate or an experience rating. An employer's experience rating is computed as a reserve ratio in accordance with G.S. 96-9.4. An employer's reserve ratio percentage (ERRP) is the employer's reserve ratio multiplied by sixty-eight hundredths. A positive ERRP produces a lower contribution rate, and a negative ERRP produces a higher contribution rate.

(b) Standard Beginning Rate. – The standard beginning rate applies to an employer until the employer's account has been chargeable with benefits for at least 12 calendar months ending July 31 immediately preceding the computation date. An employer's account has been chargeable with benefits for at least 12 calendar months if the employer has reported wages paid in four completed calendar quarters and these quarters are in two consecutive calendar years.

(c) Contribution Rate. – The contribution rate for an employer is determined in accordance with the table set out below and then rounded to the nearest one-hundredth percent (0.01%), subject to the minimum and maximum contribution rates. The minimum contribution

rate is six-hundredths of one percent (0.06%). The maximum contribution rate is five and seventy-six hundredths percent (5.76%). "Total insured wages" are the total wages reported by all insured employers for the 12-month period ending on July 31 preceding the computation date.

Employer's Base Rate	UI Trust Fund Balance as Percentage of Total Insured Wages	Contribution Rate
Standard Beginning Rate	All balances	1%
Experience Rating	Less than or equal to 1%	2.9% minus ERRP
	Greater than 1% but less than or equal to 1.25%	2.4% minus ERRP
	Greater than 1.25%	1.9% minus ERRP

(d) Notification of Contribution Rate. – The Division must notify an employer of the employer's contribution rate for a calendar year by January 1 of that year. The contribution rate becomes final unless the employer files an application for review and redetermination prior to May 1 following the effective date of the contribution rate. The Division may redetermine the contribution rate on its own motion within the same time period.

(e) Voluntary Contribution. – An employer that is subject to this section may make a voluntary contribution to the Unemployment Insurance Fund in addition to its required contribution. A voluntary contribution is credited to the employer's account. A voluntary contribution made by an employer within 30 days after the date on an annual notice of its contribution rate is considered to have been made as of the previous July 31.

"**§ 96-9.3. Determination of taxable wages.**

(a) Determination. – The Division must determine the taxable wages for each calendar year. An employer is not liable for contributions on wages paid to an employee in excess of taxable wages. The taxable wages of an employee is an amount equal to the greater of the following:

(1) The federal taxable wages set in section 3306 of the Code.

(2) Fifty percent (50%) of the average yearly insured wage, rounded to the nearest multiple of one hundred dollars ($100.00). The average yearly insured wage is the average weekly wage on the computation date multiplied by 52.

(b) Wages Included. – The following wages are included in determining whether the amount of wages paid to an individual in a single calendar year exceeds taxable wages:

(1) Wages paid to an individual in this State by an employer that made contributions in another state upon the wages paid to the individual because the work was performed in the other state.

(2) Wages paid by a successor employer to an individual when all of the following apply:

a. The individual was an employee of the predecessor and was taken over as an employee by the successor as a part of the organization acquired.

b. The predecessor employer paid contributions on the wages paid to the individual while in the predecessor's employ during the year of acquisition.

c. The account of the predecessor is transferred to the successor.

"**§ 96-9.4. Determination of employer's reserve ratio.**

(a) Account Balance. – The Division must determine the balance of an employer's account on the computation date by subtracting the total amount of all benefits charged to the employer's account for all past periods from the total of all contributions and other amounts credited to the employer for those periods. If the Division finds that an employer failed to file a

report or finds that a report filed by an employer is incorrect or insufficient, the Division must determine the employer's account balance based upon the best information available to it and must notify the employer that it will use this balance to determine the employer's reserve ratio unless the employer provides additional information within 15 days of the date of the notice.

(b) Reserve Ratio. – The Division must determine an employer's reserve ratio, which is used to determine the employer's contribution rate. The employer's reserve ratio is the quotient obtained by dividing the employer's account balance on the computation date by the total taxable payroll of the employer for the 36 calendar month period ending June 30 preceding the computation date, expressed as a percentage.

"**§ 96-9.5. Performance of services in this State.**

A service is performed in this State if it meets one or more of the following descriptions:

(1) The service is localized in this State. Service is localized in this State if it meets one of the following conditions:
   a. It is performed entirely within the State.
   b. It is performed both within and without the State, but the service performed without the State is incidental to the individual's service within the State. For example, the individual's service without the State is temporary or transitory in nature or consists of isolated transactions.

(2) The service is not localized in any state but some of the service is performed in this State, and one or more of the following applies:
   a. The base of operations is in this State.
   b. There is no base of operations and the place from which the service is directed or controlled is in this State.
   c. The service is not performed in any state that has a base of operations or a place from which the service is directed or controlled and the individual who performs the service is a resident of this State.

(3) The service, wherever performed, is within the United States or Canada and both of the following apply:
   a. The service is not covered under the employment security law of any other state or Canada.
   b. The place from which the service is directed or controlled is in this State.

(4) The service is performed outside the United States or Canada by a citizen of the United States in the employ of an American employer and at least one of the following applies. For purposes of this subdivision, the term "American employer" has the same meaning as defined in section 3306 of the Code.
   a. The employer's principal place of business in the United States is located in this State.
   b. The employer has no place of business in the United States, but the employer is one of the following:
      1. An individual who is a resident of this State.
      2. A corporation that is organized under the laws of this State.
      3. A partnership or a trust and more of its partners or trustees are residents of this State than of any other state.
      4. A limited liability company and more of its members are residents of this State than of any other state.
   c. The employer has elected coverage in this State in accordance with G.S. 96-9.9.

d. The employer has not elected coverage in any state and the employee has filed a claim for benefits under the law of this State based on the service provided to the employer.

"**§ 96-9.6. Election to reimburse Unemployment Insurance Fund in lieu of contributions.**

(a) Applicability. – This section applies to a governmental entity, a nonprofit organization, and an Indian tribe that is required by section 3309 of the Code to have a reimbursement option. Each of these employers must finance benefits under the contributions method imposed under G.S. 96-9.2 unless the employer elects to finance benefits by making reimbursable payments to the Division for the Unemployment Insurance Fund.

(b) Election. – An employer may make an election under this section by filing a written notice of its election with the Division at least 30 days before the January 1 effective date of the election. An Indian tribe may make separate elections for itself and each subdivision, subsidiary, or business enterprise wholly owned by the tribe. A new employer may make an election under this section by filing a written notice of its election within 30 days after the employer receives notification from the Division that it is eligible to make an election under this section.

An election is valid for a minimum of four years and is binding until the employer files a notice terminating its election. An employer must file a written notice of termination with the Division at least 30 days before the January 1 effective date of the termination. The Division must notify an employer of a determination of the effective date of an election the employer makes and of any termination of the election. These determinations are subject to reconsideration, appeal, and review. An employer that makes the election allowed by this section may not deduct any amount due under this section from the remuneration of the individuals it employs.

(c) Reimbursable Amount. – An employer must reimburse the Unemployment Insurance Fund for the amount of benefits that are paid to an individual for weeks of unemployment that begin within a benefit year established during the effective period of the employer's election and are attributable to service that is covered by section 3309 of the Code and was performed in the employ of the employer. For regular benefits, the reimbursable amount is the amount of regular benefits paid. For extended benefits, the reimbursable amount is the amount not reimbursed by the federal government.

(d) Account. – The Division must establish a separate account for each reimbursing employer. The Division must credit payments made by the employer to the account. The Division must charge to the account benefits that are paid by the Unemployment Insurance Fund to individuals for weeks of unemployment that begin within a benefit year established during the effective period of the election and are attributable to service in the employ of the employer. All benefits paid must be charged to the employer's account except benefits paid through error.

The Division must furnish an employer with a statement of all credits and charges made to its account as of the computation date prior to January 1 of the succeeding year. The Division may, in its sole discretion, provide a reimbursing employer with informational bills or lists of charges on a basis more frequent than yearly if the Division finds it is in the best interest of the Division and the affected employer to do so.

(e) Annual Reconciliation. – A reimbursing employer must maintain an account balance equal to one percent (1%) of its taxable wages. The Division must determine the balance of each employer's account on the computation date. If there is a deficit in the account, the Division must bill the employer for the amount necessary to bring its account to one percent (1%) of its taxable wages for the preceding calendar year. The Division must send a bill as soon as practical. Payment is due within 30 days from the date a bill is mailed. Amounts unpaid by the due date accrue interest and penalties in the same manner as past-due contributions and are subject to the same collection remedies provided under G.S. 96-10 for past-due contributions.

(f) Quarterly Wage Reports. – A reimbursing employer must submit quarterly wage reports to the Division on or before the last day of the month following the close of the calendar quarter in which the wages are paid. During the first four quarters following an election to be a reimbursing employer, the employer must submit an advance payment with its quarterly report. The amount of the advance payment is equal to one percent (1%) of the taxable wages reported on the quarterly wage report. The Division must remit the payments to the Unemployment Insurance Fund and credit the payments to the employer's account.

(g) Change in Election. – The Division must close the account of an employer that has been paying contributions under G.S. 96-9.2 and that elects to change to a reimbursement basis under this section. A closed account may not be used in any future computation of a contribution rate. The Division must close the account of an employer that terminates its election to reimburse the Unemployment Insurance Fund in lieu of making contributions. An employer that terminates its election under this section is subject to the standard beginning rate.

(h) Noncompliance by Indian Tribes. – An Indian tribe that makes an election under this section and then fails to comply with this section is subject to the following consequences:

(1) An employer that fails to pay an amount due within 90 days after receiving a bill and has not paid this liability as of the computation date loses the option to make reimbursable payments in lieu of contributions for the following calendar year. An employer that loses the option to make reimbursable payments in lieu of contributions for a calendar year regains that option for the following calendar year if it pays its outstanding liability and makes all contributions during the year for which the option was lost.

(2) Services performed for an employer that fails to make payments, including interest and penalties, required under this section after all collection activities considered necessary by the Division have been exhausted, are no longer treated as "employment" for the purpose of coverage under this Chapter. An employer that has lost coverage regains coverage under this Chapter for services performed if the Division determines that all contributions, payments in lieu of contributions, penalties, and interest have been paid. The Division must notify the Internal Revenue Service and the United States Department of Labor of any termination or reinstatement of coverage pursuant to this subsection.

(i) Transition. – This subsection provides a transitional adjustment period for an employer that elected to be a reimbursing employer prior to January 1, 2013, and was not required to submit an advance payment with its first four quarterly reports equal to one percent (1%) of its reported taxable wages. This subsection expires January 1, 2016.

(1) Governmental entities. – An employer that is a State or local governmental unit must reimburse the Division in the amount required by subsection (c) of this section for benefits paid on its behalf, as determined on the computation date in 2013, but it does not have to reconcile its account balance, as required under subsection (e) of this section, until 2014. If the employer's account balance on the computation date in 2014 does not equal one percent (1%) of its taxable wages reported for the 2013 calendar year, the Division will bill the employer for the deficiency.

(2) Nonprofit organization. – An employer that is a nonprofit organization may not secure its election to reimburse in lieu of paying contributions by posting a surety bond or a line of credit after July 1, 2013. An employer whose election is secured by a surety bond or line of credit is not required to begin making quarterly advance payments until the quarter following the quarter that its surety bond or line of credit expires and is not required to meet the

annual reconciliation requirement until the employer has made at least four quarterly payments.

"**§ 96-9.7. Surtax for the Unemployment Insurance Reserve Fund.**

(a) Surtax Imposed. – A surtax is imposed on an employer who is required to make a contribution to the Unemployment Insurance Fund equal to twenty percent (20%) of the contribution due under G.S. 96-9.2. Except as provided in this section, the surtax is collected and administered in the same manner as contributions. Surtaxes collected under this section must be credited to the Unemployment Insurance Reserve Fund established under G.S. 96-6. Interest collected on unpaid surtaxes imposed by this section must be credited to the Supplemental Employment Security Administration Fund. Penalties collected on unpaid surtaxes imposed by this section must be credited to the Civil Penalty and Forfeiture Fund established in G.S. 115C-457.1.

(b) Suspension of Tax. – The tax does not apply in a calendar year if, as of the preceding August 1 computation date, the amount in the State's account in the Unemployment Trust Fund equals or exceeds one billion dollars ($1,000,000,000).

"**§ 96-9.8. Voluntary election to pay contributions.**

(a) When Allowed. – An employer may elect to be subject to the contribution requirement imposed by G.S. 96-9.2 and thereby provide benefit coverage for its employees as follows:

(1) An employer that is not otherwise liable for contributions under G.S. 96-9.2 may elect to pay contributions to the same extent as an employer that is liable for those contributions.

(2) An employer that pays for services that are not otherwise subject to the contribution requirement may elect to pay contributions on those services performed by individuals in its employ in one or more distinct establishments or places of business.

(3) An employer that employs the services of an individual who resides within this State but performs the services entirely without the State may elect to have the individual's service constitute employment subject to contributions if no contributions are required or paid with respect to the services under an employment security law of any other state or of the federal government.

(b) Election. – To make an election under this section, an employer must file an application with the Division. An election is effective on the date stated by the Division in a letter approving the election. An election is irrevocable for the two-year period beginning on the effective date.

(c) Termination. – The Division may, on its own motion, terminate coverage of an employer who has become subject to this Chapter solely by electing coverage under this section. This termination may occur within the two-year minimum election period. The Division must give the employer 30 days written notice of a decision to terminate an election. The notice must be mailed to the employer's last known address. An employer that elects coverage under this section may, subsequent to the two-year minimum election period, terminate the election by filing a notice of termination with the Division. The notice must be given prior to the first day of March following the first day of January of the calendar year for which the employer wishes to cease coverage under this section."

SECTION 3.(a) Chapter 96 of the General Statutes is amended by inserting a new Article 2A immediately before G.S. 96-10 to read:

"Article 2A.

Administration and Collection of Contributions."

SECTION 3.(b) Article 2A of Chapter 96 of the General Statutes, as created in subsection (a) of this section, is amended by adding the following new sections to read:

"Article 2A.

"Administration and Collection of Contributions.

"**§ 96-9.15. Report and payment.**

(a) Report and Payment. – Contributions are payable to the Division when a report is due. A report is due on or before the last day of the month following the close of the calendar quarter in which the wages are paid. The Division must remit the contributions to the Unemployment Insurance Fund. If the amount of the contributions shown to be due after all credits is less than five dollars ($5.00), no payment need be made.

(b) Overpayment. – If an employer remits an amount in excess of the amount of contributions due, including any applicable penalty and interest, the excess amount remitted is considered an overpayment. The Division must refund an overpayment unless the amount of the overpayment is less than five dollars ($5.00). Overpayments of less than five dollars ($5.00) may be refunded only upon receipt of a written demand for the refund from the employer within the time allowed under G.S. 96-10(e).

(c) Method of Payment. – An employer may pay contributions by electronic funds transfer. When an electronic funds transfer cannot be completed due to insufficient funds or the nonexistence of an account of the transferor, the Division may assess a penalty equal to ten percent (10%) of the amount of the transfer, subject to a minimum of one dollar ($1.00) and a maximum of one thousand dollars ($1,000). The Division may waive this penalty for good cause shown.

The Division may allow an employer to pay contributions by credit card. An employer that pays by credit card must include an amount equal to any fee charged by the Division for the use of the card. A payment of taxes that is made by credit card and is not honored by the card issuer does not relieve the employer of the obligation to pay the taxes.

An employer that does not pay by electronic funds transfer or by credit card must pay by check or cash. A check must be drawn on a United States bank and cash must be in currency of the United States.

(d) Form of Report. – An employer must complete the tax form prescribed by the Division. An employer or an agent of an employer that reports wages for at least 25 employees must file the portion of the "Employer's Quarterly Tax and Wage Report" that contains the name, social security number, and gross wages of each employee in a format prescribed by the Division. For failure of an employer to comply with this subsection, the Division must assess a penalty of twenty-five dollars ($25.00). For failure of an agent of an employer to comply with this subsection, the Division may deny the agent the right to report wages and file reports for that employer for a period of one year following the calendar quarter in which the agent filed the improper report. The Division may reduce or waive a penalty for good cause shown.

(e) Jeopardy Assessment. – The Secretary may immediately assess and collect a contribution the Secretary finds is due from an employer if the Secretary determines that collection of the tax is in jeopardy and immediate assessment and collection are necessary in order to protect the interest of the State and the Unemployment Insurance Fund.

(f) Domestic Employer Exception. – The Division may authorize an employer of domestic service employees to file an annual report and to file that report by telephone. An annual report allowed under this subsection is due on or before the last day of the month following the close of the calendar year in which the wages are paid. A domestic service employer that files a report by telephone must contact either the tax auditor assigned to the employer's account or the Employment Insurance Section in Raleigh and report the required information to that auditor or to that section by the date the report is due.

...

"**§ 96-10.1. Compromise of liability.**

(a) Authority. – The Secretary may compromise an employer's liability under this Article when the Secretary determines that the compromise is in the best interest of the State and makes one or more of the following findings:

(1) There is a reasonable doubt as to the amount of the liability of the employer under the law and the facts.

(2) The employer is insolvent and the Secretary probably could not otherwise collect an amount equal to, or in excess of, the amount offered in compromise. An employer is considered insolvent only in one of the following circumstances:

a. It is plain and indisputable that the employer is clearly insolvent and will remain so in the reasonable future.

b. The employer has been determined to be insolvent in a judicial proceeding.

(3) Collection of a greater amount than that offered in compromise is improbable, and the funds or a substantial portion of the funds offered in the settlement come from sources from which the Secretary could not otherwise collect.

(b) Written Statement. – When the Secretary compromises an employer's liability under this section and the amount of the liability is at least one thousand dollars ($1,000), the Secretary must make a written statement that sets out the amount of the liability, the amount accepted under the compromise, a summary of the facts concerning the liability, and the findings on which the compromise is based. The Secretary must sign the statement and keep a record of the statement."

SECTION 4. Chapter 96 of the General Statutes is amended by inserting a new Article 2B to read:

"Article 2B.

"Administration of Employer Accounts.

"**§ 96-11.1. Employer accounts.**

The Division must maintain a separate account for each employer. The Division must credit the employer's account with all contributions paid by the employer or on the employer's behalf and must charge the employer's account for benefits as provided in this Chapter. The Division must prepare an annual statement of all charges and credits made to the employer's account during the 12 months preceding the computation date. The Division must send the statement to the employer when the Division notifies the employer of the employer's contribution rate for the succeeding calendar year. The Division may provide a statement of charges and credits more frequently upon a request by the employer.

"**§ 96-11.2. Allocation of charges to base period employers.**

Benefits paid to an individual are charged to an employer's account when the individual's benefit year has expired. Benefits paid to an individual must be allocated to the account of each base period employer in the proportion that the base period wages paid to the individual in a calendar quarter by each base period employer bears to the total wages paid to the individual in that quarter by all base period employers. The amount allocated to an employer that pays contributions is multiplied by one hundred twenty percent (120%) and charged to that employer's account. The amount allocated to an employer that elects to reimburse the Unemployment Insurance Fund in lieu of paying contributions is the amount of benefits charged to that employer's account.

"**§ 96-11.3. Noncharging of benefits.**

(a) To Specific Employer. – Benefits paid to an individual under a claim filed for a period occurring after the date of the individual's separation from employment may not be charged to the account of the employer by whom the individual was employed at the time of the separation if the separation is due to one of the reasons listed below and the employer promptly notifies the Division, in accordance with rules adopted by the Division, of the reason:

(1) The individual left work without good cause attributable to the employer.

(2) The employer discharged the individual for misconduct in connection with the work.

(3) The employer discharged the individual solely for a bona fide inability to do the work for which the individual was hired and the individual's period of employment was 100 days or less.

(4) The separation is a disqualifying separation under G.S. 96-14.7.

(b) To Any Base Period Employer. – Benefits paid to an individual may not be charged to the account of an employer of the individual if the benefits paid meet any of the following descriptions:

(1) They were paid to an individual who is attending a vocational school or training program approved by the Division.

(2) They were paid to an individual for unemployment due directly to a major natural disaster declared by the President pursuant to the Disaster Relief Act of 1970, and the individual receiving the benefits would have been eligible for disaster unemployment assistance under this federal act if the individual had not received benefits under this Chapter.

(3) They were paid to an individual who left work for good cause under G.S. 96-14.8.

(4) They were paid as a result of a decision by the Division and the decision is ultimately reversed upon final adjudication.

(c) Current Employer. – At the request of the employer, no benefit charges may be made to the account of an employer that has furnished work to an individual who, because of the loss of employment with one or more other employers, is eligible for partial benefits while still being furnished work by the employer on substantially the same basis and substantially the same wages as had been made available to the individual during the individual's base period. This prohibition applies regardless of whether the employments were simultaneous or successive. A request made under this subsection must be filed in accordance with rules adopted by the Division.

"**§ 96-11.4. No relief for errors resulting from noncompliance.**

(a) Charges for Errors. – An employer's account may not be relieved of charges relating to benefits paid erroneously from the Unemployment Insurance Fund if the Division determines that both of the following apply:

(1) The erroneous payment was made because the employer, or the agent of the employer, was at fault for failing to respond timely or adequately to a written request from the Division for information relating to the claim for unemployment compensation. An erroneous payment is one that would not have been made but for the failure of the employer or the employer's agent to respond to the Division's request for information related to that claim.

(2) The employer or agent has a pattern of failing to respond timely or adequately to requests from the Division for information relating to claims for unemployment compensation. In determining whether the employer or agent has a pattern of failing to respond timely or adequately, the Division must consider the number of documented instances of that employer's or agent's failures to respond in relation to the total requests made to that employer or agent. An employer or agent may not be determined to have a pattern of failing to respond if the number of failures during the year prior to the request is less than two percent (2%) of the total requests made to that employer or agent.

(b) Appeals. – An employer may appeal a determination by the Division prohibiting the relief of charges under this section in the same manner as other determinations by the Division with respect to the charging of employer accounts.

(c) Applicability. – This section applies to erroneous payments established on or after October 21, 2013.

"**§ 96-11.5. Contributions credited to wrong account.**

(a) Refund of Contributions Credited to Wrong Account. – When contributions are credited to the wrong account, the erroneous credit may be adjusted only by refunding the employer who made the payment that was credited in error. This applies regardless of whether the employer to whom the payment was credited in error is a related entity of the employer to whom the payment should have been credited. An employer whose payment is credited to the wrong account may request a refund of the amount erroneously credited by filing a request for refund within five years of the last day of the calendar year in which the erroneous credit occurred.

(b) Effect on Contribution Rate. – Failure of the Division to credit the correct account for contributions does not affect the contribution rate determined under G.S. 96-9.2 for either the employer whose account should have been credited for the contributions or the employer whose account was credited, and it does not affect the liability of an employer for contributions determined under those rates. No prior contribution rate for either of the employers may be adjusted even though the contribution rates were based on incorrect amounts in their account. An employer is liable for contributions determined under those rates for the five calendar years preceding the year in which the error is determined. This applies regardless of whether the employer acted in good faith.

"**§ 96-11.6. Interest on Unemployment Insurance Fund allocated among employers' accounts.**

The Division must determine the ratio of the credit balance in each employer's account to the total of the credit balances in all employers' accounts as of the computation date. The Division must allocate an amount equal to the interest credited to this State's account in the Unemployment Trust Fund for the four completed calendar quarters preceding the computation date on a pro rata basis to these accounts. The amount must be prorated to an employer's account in the same ratio that the credit balance in the employer's account bears to the total of the credit balances in all the accounts. Voluntary contributions made by an employer after July 31 of a year are not considered a part of the employer's account balance used in determining the allocation under this section until the computation date in the following year.

"**§ 96-11.7. Acquisition of employer and transfer of account to another employer.**

(a) Mandatory Transfer. – When an employer acquires all of the organization, trade, or business of another employer, the account of the predecessor must be transferred as of the date of the acquisition to the successor employer for use in the determination of the successor's contribution rate. This mandatory transfer does not apply when there is no common ownership between the predecessor and the successor and the successor acquired the assets of the predecessor in a sale in bankruptcy. In this circumstance, the successor's contribution rate is determined without regard to the predecessor's contribution rate.

(b) Consent. – When a distinct and severable portion of an employer's organization, trade, or business is transferred to a successor employer and the successor employer continues to operate the acquired organization, trade, or business, the portion of the account of the transferring employer that related to the transferred business may, with the approval of the Division, be transferred by mutual consent from the transferring employer to the successor employer. A successor employer that is a related entity of the transferring employer is eligible for a transfer from the transferring employer's account only to the extent permitted by rules adopted by the Division. No transfer may be made to the account of an employer that has ceased to be an employer under G.S. 96-11.9.

If a transfer of part or all of an account is allowed but is not mandatory, the successor employer requesting the transfer may make a request for transfer by filing an application for transfer with the Division within two years after the date the business was transferred or the

date of notification by the Division of the right to request an account transfer, whichever is later. If the application is approved and the application was filed within 60 days after notification from the Division of the right to request a transfer, the transfer is effective as of the date the business was transferred. If the application is approved and the application was filed later than 60 days after notification from the Division, the effective date of the transfer is the first day of the calendar quarter in which the application was filed.

If the effective date of a transfer of an account under this subsection is after the computation date in a calendar year, the Division must recalculate the contribution rate for the transferring employer and the successor employer based on their account balances on the effective date of the account transfer. The recalculated contribution rate applies for the calendar year beginning after the computation date.

(c) Employer Number. – A new employer shall not be assigned a discrete employer number when there is an acquisition or change in the form or organization of an existing business enterprise, or severable portion thereof, and there is a continuity of control of the business enterprise. That new employer shall continue to be the same employer for the purposes of this Chapter as before the acquisition or change in form. The following assumptions apply in this subsection:

(1) "Control of the business enterprise" may occur by means of ownership of the organization conducting the business enterprise, ownership of assets necessary to conduct the business enterprise, security arrangements or lease arrangements covering assets necessary to conduct the business enterprise, or a contract when the ownership, stated arrangements, or contract provide for or allow direction of the internal affairs or conduct of the business enterprise.

(2) A "continuity of control" will exist if one or more persons, entities, or other organizations controlling the business enterprise remain in control of the business enterprise after an acquisition or change in form. Evidence of continuity of control includes changes of an individual proprietorship to a corporation, partnership, limited liability company, association, or estate; a partnership to an individual proprietorship, corporation, limited liability company, association, estate, or the addition, deletion, or change of partners; a limited liability company to an individual proprietorship, partnership, corporation, association, estate, or to another limited liability company; a corporation to an individual proprietorship partnership, limited liability company, association, estate, or to another corporation or from any form to another form.

(d) Contribution Rate. – Notwithstanding the other provisions in this section, when an account is transferred in its entirety to a successor employer, the transferring employer's contribution rate is the standard beginning rate.

Notwithstanding the other provisions in this section, if a successor employer to whom an account is transferred was an employer as of the date of the business transfer, the account transfer does not affect the successor employer's contribution rate for the calendar year in which the business was transferred. If the successor employer was not an employer as of the date of the business transfer, the successor employer's contribution rate for the year in which the business transfer occurs is the standard beginning rate unless one of the following applies:

(1) The account transfer is a mandatory transfer, in which case the contribution rate of the successor employer is the contribution rate of the transferring employer.

(2) The account transfer is by consent and the successor employer filed an application within 60 days of the business transfer, in which case the contribution rate of the successor employer is the contribution rate of the

transferring employer. If the business was transferred from more than one employer and the transferring employers had different contribution rates, the contribution rate of the successor employer is the rate calculated as of the effective date of the account transfers.

(e) Liability for Contributions. – An employer that, by operation of law, purchase, or otherwise is the successor to an employer liable for contributions becomes liable for contributions on the day of the succession. This provision does not affect the successor's liability as otherwise prescribed by law for unpaid contributions due from the predecessor.

(f) Deceased or Insolvent Employer. – When the organization, trade, or business of a deceased person or of an insolvent debtor is taken over and operated by an administrator, executor, receiver, or trustee in bankruptcy, the new employer automatically succeeds to the account and contribution rate of the deceased person or insolvent debtor without the necessity of filing an application for the transfer of the account.

"**§ 96-11.8. Closure of account.**

(a) Account Closed. – When an employer ceases to be an employer under G.S. 96-11.9, the employer's account must be closed and may not be used in any future computation of the employer's contribution rate. An employer has no right or claim to any amounts paid by the employer into the Unemployment Insurance Fund.

(b) Exception for Active Duty. – If the Division finds that an employer's business is closed solely because one or more of its owners, officers, or partners or its majority stockholder enters into the Armed Forces of the United States, an ally, or the United Nations, the employer's account may not be terminated. If the business resumes within two years after the discharge or release of the affected individual from active duty in the Armed Forces of the United States, the employer's account is considered to have been chargeable with benefits throughout more than 13 consecutive calendar months ending July 31 immediately preceding the computation date. This subsection applies only to an employer that makes contributions under G.S. 96-9.2. This subsection does not apply to an employer that makes payments in lieu of contributions under G.S. 96-9.6.

"**§ 96-11.9. Termination of coverage.**

(a) By Law. – An employer that has not paid wages for two consecutive calendar years ceases to be an employer liable for contributions under this Chapter.

(b) By Application. – An employer may file an application with the Division to terminate coverage. An application for termination must be filed prior to March 1 of the calendar year for which the employer wishes to cease coverage. The Division may terminate coverage if it finds that the employer was not liable for contributions during the preceding calendar year. Termination of coverage under this subsection is effective as of January 1 of the calendar year in which the application is granted.

(c) After Reactivation. – If the Division reactivates the account of an employer that has been closed, the employer may file an application with the Division to terminate coverage. The application must be filed within 120 days after the Division notifies the employer of the reactivation of the employer's account. The Division may terminate coverage if it finds that the employer was not liable for contributions during the preceding calendar year. Termination of coverage under this subsection is effective as of January 1 of the calendar year in which the application is granted. An employer's protest of liability upon reactivation is considered an application for termination.

(d) After Discovery. – When the Division discovers that an employer is liable for contributions for a period of more than two years, the employer may file an application with the Division to terminate coverage. The application must be filed within 90 days after the Division notifies the employer of the discovered liability. The Division may terminate coverage if it finds that the employer was not liable for contributions during the preceding calendar year. An employer's protest of liability upon discovery is considered an application for termination. An

employer is not eligible for termination of liability under this subsection if the employer willfully attempted to defeat or evade the payment of contributions."

SECTION 5. Article 9 of Chapter 96 of the General Statutes is amended by adding a new Article to read:

"Article 2C.

"Benefits Payable for Unemployment Compensation.

"**§ 96-14.1. Unemployment benefits.**

(a) Purpose. – The purpose of this Article is to provide temporary unemployment benefits as required by federal law to an individual who is unemployed through no fault on the part of the individual and who is able, available, and actively seeking work.

(b) Valid Claim. – To obtain benefits, an individual must file a valid claim for unemployment benefits and register for work. An individual must serve a one-week waiting period for each claim filed. A valid claim is one that meets the employment and wage standards in this subsection for the individual's base period. A valid claim for a second benefit year is one that meets the employment and wage standards in this subsection since the beginning date of the prior benefit year and before the date the new benefit claim is filed.

(1) Employment. – The individual has been paid wages in at least two quarters of the individual's base period.

(2) Wages. – The individual has been paid wages totaling at least six times the average weekly insured wage during the individual's base period. If an individual lacks sufficient base period wages, then the wage standard for that individual is determined using the last four completed calendar quarters immediately preceding the first day of the individual's benefit year. This alternative base period may not be used by an individual in making a claim for benefits in the next benefit year.

(c) Qualification Determination. – An individual's qualification for benefits is determined based on the reason for separation from employment from the individual's bona fide employer. The individual's bona fide employer is the most recent employer for whom the individual began employment for an indefinite duration or a duration of more than 30 consecutive calendar days, regardless of whether work was performed on all of those days. An individual who is disqualified has no right to benefits.

(d) Eligibility for Benefits. – The Division must calculate a weekly benefit amount and determine the duration of benefits for an individual who files a valid claim and qualifies for benefits. To receive the weekly benefit amount, the Division must find that the individual meets the work search eligibility requirements for each week of the benefit period. An individual who fails to meet the work search requirements for a given week is ineligible to receive a benefit until the condition causing the ineligibility ceases to exist.

(c) Federal Restrictions. – Benefits are not payable for services performed by the following individuals, to the extent prohibited by section 3304 of the Code:

(1) Instructional, research, or principal administrative employees of educational institutions.

(2) Professional athletes.

(3) Aliens.

"**§ 96-14.2. Weekly benefit amount.**

(a) Weekly Benefit Amount. – The weekly benefit amount for an individual who is totally unemployed is an amount equal to the wages paid to the individual in the last two completed quarters of the individual's base period divided by 52 and rounded to the next lower whole dollar. If this amount is less than fifteen dollars ($15.00), the individual is not eligible for benefits. The weekly benefit amount may not exceed three hundred fifty dollars ($350.00).

(b) Partial Weekly Benefit Amount. – The weekly benefit amount for an individual who is partially unemployed or part-totally employed is the amount the individual would receive

under subsection (a) of this section if the individual were totally unemployed, reduced by the amount of any wages the individual receives in the benefit week in excess of twenty percent (20%) of the benefit amount applicable to total unemployment. If the amount so calculated is not a whole dollar, the amount must be rounded to the next lower whole dollar. Payments received by an individual under a supplemental benefit plan do not affect the computation of the individual's partial weekly benefit.

(c) Retirement Reduction. – The amount of benefits payable to an individual must be reduced as provided in section 3304(a)(15) of the Code.

(d) Income Tax Withholding. – An individual may elect to have federal income tax deducted and withheld from the individual's unemployment benefits in the amount specified in section 3402 of the Code. An individual may elect to have State income tax deducted and withheld from the individual's unemployment benefits in an amount determined by the individual. The individual may change a previously elected withholding status. The amounts deducted and withheld from unemployment benefits remain in the Unemployment Insurance Fund until transferred to the appropriate taxing authority as a payment of income tax. The Division must advise an individual in writing at the time the individual files a claim for unemployment benefits that the benefits paid are subject to federal and State income tax, that requirements exist pertaining to estimated tax payments, and that the individual may elect to have the amounts withheld.

"**§ 96-14.3. Minimum and maximum duration of benefits.**

The minimum and maximum number of weeks an individual is allowed to receive unemployment benefits depends on the seasonal adjusted statewide unemployment rate that applies to the six-month base period in which the claim is filed. One six-month base period begins on January 1 and one six-month base period begins on July 1. For the base period that begins January 1, the seasonal adjusted unemployment rate for the State for the preceding month of October applies. For the base period that begins July 1, the seasonal adjusted unemployment rate for the State for the preceding month of April applies. The Division must use the most recent seasonal adjusted unemployment rate determined by the U.S. Department of Labor, Bureau of Labor Statistics, and not the rate as revised in the annual benchmark. The number of weeks allowed for an individual is determined in accordance with G.S. 96-14.4.

Seasonal Adjusted Unemployment Rate	Minimum Number of Weeks	Maximum Number of Weeks
Less than or equal to 5.5%	5	12
Greater than 5.5% up to 6%	6	13
Greater than 6% up to 6.5%	7	14
Greater than 6.5% up to 7%	8	15
Greater than 7% up to 7.5%	9	16
Greater than 7.5% up to 8%	10	17
Greater than 8% up to 8.5%	11	18
Greater than 8.5% up to 9%	12	19
Greater than 9%	13	20

"**§ 96-14.4. Duration of benefits for individual claimant.**

(a) Total Benefit Amount. – The total amount of benefits paid to an individual may not exceed the individual's total benefit amount. The total benefit amount for an individual is determined as follows:

(1) Divide the individual's base-period wages by the average of the wages paid to the individual in the last two completed quarters of the base period.

(2) Multiply the quotient by eight and two-thirds.

(3) Round the product to the nearest whole number.

(4) Multiply the resulting amount by the individual's weekly benefit amount as determined under G.S. 96-14.2.

(b) Duration. – The number of weeks an individual may receive benefits varies depending on the seasonal adjusted statewide unemployment rate that applies at the time the regular unemployment claim is filed. The total benefits paid to an individual may not be less than the individual's average weekly benefit amount multiplied by the minimum number of weeks allowed in accordance with G.S. 96-14.3. The total benefits paid to an individual may not exceed the lesser of the following:

(1) The individual's average weekly benefit amount multiplied by the maximum number of weeks allowed in accordance with G.S. 96-14.3.

(2) The individual's total benefit amount, as calculated under subsection (a) of this section.

"**§ 96-14.5. Disqualification for good cause not attributable to the employer.**

(a) Determination. – The Division must determine the reason for an individual's separation from work. An individual does not have a right to benefits and is disqualified from receiving benefits if the Division determines that the individual left work for a reason other than good cause attributable to the employer. When an individual leaves work, the burden of showing good cause attributable to the employer rests on the individual and the burden may not be shifted to the employer.

(b) Reduced Work Hours. – When an individual leaves work due solely to a unilateral and permanent reduction in work hours of more than fifty percent (50%) of the customary scheduled full-time work hours in the establishment, plant, or industry in which the individual was employed, the leaving is presumed to be good cause attributable to the employer. The employer may rebut the presumption if the reduction is temporary or was occasioned by malfeasance, misfeasance, or nonfeasance on the part of the individual.

(c) Reduced Rate of Pay. – When an individual leaves work due solely to a unilateral and permanent reduction in the individual's rate of pay of more than fifteen percent (15%), the leaving is presumed to be good cause attributable to the employer. The employer may rebut the presumption if the reduction is temporary or was occasioned by malfeasance, misfeasance, or nonfeasance on the part of the individual.

"**§ 96-14.6. Disqualification for misconduct.**

(a) Disqualification. – An individual who the Division determines is unemployed for misconduct connected with the work is disqualified for benefits. The period of disqualification begins with the first day of the first week the individual files a claim for benefits after the misconduct occurs.

(b) Misconduct. – Misconduct connected with the work is either of the following:

(1) Conduct evincing a willful or wanton disregard of the employer's interest as is found in deliberate violation or disregard of standards of behavior that the employer has the right to expect of an employee or has explained orally or in writing to an employee.

(2) Conduct evincing carelessness or negligence of such degree or recurrence as to manifest an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer.

(c) Examples. – The following examples are prima facie evidence of misconduct that may be rebutted by the individual making a claim for benefits:

(1) Violation of the employer's written alcohol or illegal drug policy.

(2) Reporting to work significantly impaired by alcohol or illegal drugs.

(3) Consumption of alcohol or illegal drugs on the employer's premises.

(4) Conviction by a court of competent jurisdiction for manufacturing, selling, or distributing a controlled substance punishable under G.S. 90-95(a)(1) or G.S. 90-95(a)(2) if the offense is related to or connected with an employee's work for the employer or is in violation of a reasonable work rule or policy.

(5) Termination or suspension from employment after arrest or conviction for an offense involving violence, sex crimes, or illegal drugs if the offense is related to or connected with the employee's work for an employer or is in violation of a reasonable work rule or policy.

(6) Any physical violence whatsoever related to the employee's work for an employer, including physical violence directed at supervisors, subordinates, coworkers, vendors, customers, or the general public.

(7) Inappropriate comments or behavior toward supervisors, subordinates, coworkers, vendors, customers, or to the general public relating to any federally protected characteristic that creates a hostile work environment.

(8) Theft in connection with the employment.

(9) Forging or falsifying any document or data related to employment, including a previously submitted application for employment.

(10) Violation of an employer's written absenteeism policy.

(11) Refusal to perform reasonably assigned work tasks or failure to adequately perform employment duties as evidenced by no fewer than three written reprimands in the 12 months immediately preceding the employee's termination.

"**§ 96-14.7. Other reasons to be disqualified from receiving benefits.**

(a) Failure to Supply Necessary License. – An individual is disqualified for benefits if the Division determines that the individual is unemployed for failure to possess a license, certificate, permit, bond, or surety that is necessary for the performance of the individual's employment if it was the individual's responsibility to supply the necessary documents and the individual's inability to do so was within the individual's control. The period of disqualification begins with the first day of the first week the individual files a claim for benefits after the individual's failure occurs.

(b) Labor Dispute. – An individual is disqualified for benefits if the Division determines the individual's total or partial unemployment is caused by a labor dispute in active progress at the factory, establishment, or other premises at which the individual is or was last employed or by a labor dispute at another place within this State that is owned or operated by the employer that owns or operates the factory, establishment, or other premises at which the individual is or was last employed and that supplies materials or services necessary to the continued and usual operation of the premises at which the individual is or was last employed. An individual disqualified under the provisions of this subsection continues to be disqualified after the labor dispute has ceased to be in active progress for the period of time that is reasonably necessary and required to physically resume operations in the method of operating in use at the plant, factory, or establishment.

"**§ 96-14.8. Military spouse relocation and domestic violence are good causes for leaving.**

An individual is not disqualified for benefits for leaving work for one of the reasons listed in this section. Benefits paid on the basis of this section are not chargeable to the employer's account.

(1) Military spouse relocation. – Leaving work to accompany the individual's spouse to a new place of residence because the spouse has been reassigned from one military assignment to another.

(2) Domestic violence. – Leaving work for reasons of domestic violence if the individual reasonably believes that the individual's continued employment would jeopardize the safety of the individual or of any member of the individual's immediate family. For purposes of this subdivision, an individual is a victim of domestic violence if one or more of the following applies:

a. The individual has been adjudged an aggrieved party as set forth by Chapter 50B of the General Statutes.

b. There is evidence of domestic violence, sexual offense, or stalking. Evidence of domestic violence, sexual offense, or stalking may include any one or more of the following:

1. Law enforcement, court, or federal agency records or files.

2. Documentation from a domestic violence or sexual assault program if the individual is alleged to be a victim of domestic violence or sexual assault.

3. Documentation from a religious, medical, or other professional from whom the individual has sought assistance in dealing with the alleged domestic violence, sexual abuse, or stalking.

c. The individual has been granted program participant status pursuant to G.S. 15C-4 as the result of domestic violence committed upon the individual or upon a minor child with or in the custody of the individual by another individual who has or has had a familial relationship with the individual or minor child.

"**§ 96-14.9. Weekly certification.**

(a) Requirements. – An individual's eligibility for a weekly benefit amount is determined on a week-to-week basis. An individual must meet all of the requirements of this section for each weekly benefit period. An individual who fails to meet one or more of the requirements is ineligible to receive benefits until the condition causing the ineligibility ceases to exist.

(1) File a claim for benefits.

(2) Report at an employment office as requested by the Division.

(3) Meet the work search requirements of subsection (b) of this section.

(b) Work Search Requirements. – The Division must find that the individual meets all of the following work search requirements:

(1) The individual is able to work.

(2) The individual is available to work.

(3) The individual is actively seeking work.

(4) The individual accepts suitable work when offered.

(c) Able to Work. – An individual is not able to work during any week that the individual is receiving or is applying for benefits under any other state or federal law based on the individual's temporary total or permanent total disability.

(d) Available to Work. – An individual is not available to work during any week that one or more of the following applies:

(1) The individual tests positive for a controlled substance. An individual tests positive for a controlled substance if all of the conditions of this subdivision apply. An employer must report an individual's positive test for a controlled substance to the Division.

a. The test is a controlled substance examination administered under Article 20 of Chapter 95 of the General Statutes.

b. The test is required as a condition of hire for a job.

c. The job would be suitable work for the individual.

(2) The individual is incarcerated or has received notice to report to or is otherwise detained in a state or federal jail or penal institution. This subdivision does not apply to an individual who is incarcerated solely on a weekend in a county jail and who is otherwise available for work.

(3) The individual is an alien and is not in satisfactory immigration status under the laws administered by the United States Department of Justice, Immigration and Naturalization Service.

(4) The individual is on disciplinary suspension for more than 30 days based on acts or omissions that constitute fault on the part of the employee and are connected with the work.

(e) Actively Seeking Work. – The Division's determination of whether an individual is actively seeking work is based upon the following:

(1) The individual is registered for employment services, as required by the Division.

(2) The individual has engaged in an active search for employment that is appropriate in light of the employment available in the labor market and the individual's skills and capabilities.

(3) The individual has sought work on at least two different days during the week and made at least two job contacts with potential employers.

(4) The individual has maintained a record of the individual's work search efforts. The record must include the potential employers contacted, the method of contact, and the date contacted. The individual must provide the record to the Division upon request.

(f) Suitable Work. – The Division's determination of whether an employment offer is suitable must vary based upon the individual's length of unemployment as follows:

(1) During the first 10 weeks of a benefit period, the Division may consider all of the following:

a. The degree of risk involved to the individual's health, safety, and morals.

b. The individual's physical fitness and prior training and experience.

c. The individual's prospects for securing local work in the individual's customary occupation.

d. The distance of the available work from the individual's residence.

e. The individual's prior earnings.

(2) During the remaining weeks of a benefit period, the Division must consider any employment offer paying one hundred twenty percent (120%) of the individual's weekly benefit amount to be suitable work.

(g) Job Attachment. – An individual who is partially unemployed and for whom the employer has filed an attached claim for benefits has satisfied the work search requirements for any given week in the benefit period associated with the attached claim if the Division determines the individual is available for work with the employer that filed the attached claim.

(h) Job Training. – An individual has satisfied the work search requirements for any given week if the Division determines for that week that one or more of the following applies:

(1) Trade Jobs for Success. – The individual is participating in the Trade Jobs for Success initiative under G.S. 143B-438.16.

(2) Reemployment services. – The individual is participating in the reemployment services as directed by the Division and is actively seeking work in a manner consistent with the planned reemployment services. The Division must refer an individual to reemployment services if the Division finds that the individual would likely exhaust regular benefits and need reemployment services to make a successful transition to new employment.

(3) Vocational school or training program. – The individual is attending a vocational school or training program approved by the Division.

(i) Federal Labor Standards. – An otherwise eligible individual may not be denied benefits for a given week if the Division determines the individual refused to accept new work for one or more of the following reasons:

(1) The position offered is vacant due directly to a strike, lockout, or other labor dispute.

(2) The remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.

(3) The individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization as a condition of employment.

(j) Trade Act of 1974. – An otherwise eligible individual may not be denied benefits for any week because the individual is in training approved under section 236(a)(1) of the Trade Act of 1974, nor may the individual be denied benefits by reason of leaving work to enter such training, provided the work left is not suitable employment, or because of the application to any such week in training of provisions in this law or of any applicable federal unemployment compensation law, relating to availability for work, active search for work, or refusal to accept work. For purposes of this subsection, the term "suitable employment" means with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment, as defined for purposes of the Trade Act of 1974, and wages for such work at not less than eighty percent (80%) of the individual's average weekly wage as determined for the purposes of the Trade Act of 1974.

"**§ 96-14.10. Disciplinary suspension.**

The disciplinary suspension of an employee for 30 or fewer consecutive calendar days does not constitute good cause for leaving work. An individual who is on suspension is not available for work and is not eligible for benefits for any week during any part of the disciplinary suspension. If the disciplinary suspension exceeds 30 days, the individual is considered to have been discharged from work because of the acts or omissions that caused the suspension and the issue is whether the discharge was for disqualifying reasons. During the period of suspension up to 30 days, the individual is considered to be attached to the employer's payroll, and the issue of separation from work is held in abeyance until a claim is filed for a week to which this section does not apply.

"**§ 96-14.11. Disqualification for the remaining weeks of the benefit period.**

(a) Duration. – An individual may be disqualified from receiving benefits for the remaining weeks of the claim's duration if one or more subsections of this section apply. The period of disqualification under this section begins with the first day of the first week after the disqualifying act occurs.

(b) Suitable Work. – An individual is disqualified for any remaining benefits if the Division determines that the individual has failed, without good cause, to do one or more of the following:

(1) Apply for available suitable work when so directed by the employment office of the Division.

(2) Accept suitable work when offered.

(3) Return to the individual's customary self-employment when so directed by the Division.

(c) Recall After Layoff. – An individual is disqualified for any remaining benefits if it is determined by the Division that the individual is, at the time a claim is filed, unemployed because the individual, without good cause attributable to the employer and after receiving notice from the employer, refused to return to work for an employer under one or more of the following circumstances:

(1) The individual was recalled within four weeks after a layoff. As used in this subdivision, the term "layoff" means a temporary separation from work due to no work available for the individual at the time of separation from work and the individual is retained on the employer's payroll and is a continuing employee subject to recall by the employer.

(2) The individual was recalled in a week in which the work search requirements were satisfied under G.S. 96-14.7(g) due to job attachment.

"**§ 96-14.12. Limitations on company officers and spouses.**

(a) Disqualification for Benefits. – An individual is disqualified for benefits if the Division determines either of the following:

(1) The individual is customarily self-employed and can reasonably return to self-employment.

(2) The individual or the individual's spouse is unemployed because the individual's ownership share of the employer was voluntarily sold and, at the time of the sale, one or more of the following applied:

a. The employer was a corporation and the individual held five percent (5%) or more of the outstanding shares of the voting stock of the corporation.

b. The employer was a partnership, limited or general, and the individual was a limited or general partner.

c. The employer was a limited liability company and the individual was a member.

d. The employer was a proprietorship, and the individual was the proprietor.

(b) Duration of Benefits. – This subsection applies to an individual and the spouse of an individual who is unemployed based on services performed for a corporation in which the individual held five percent (5%) or more of the outstanding shares of the voting stock of the corporation. The maximum number of weeks an individual or an individual's spouse may receive benefits is limited to the lesser of six weeks or the applicable weeks determined under G.S. 96-14.4.

"**§ 96-14.13. Limitation on benefits due to lump sum payments.**

An individual is disqualified from receiving benefits for any week for which the individual receives any sum from the employer pursuant to an order of a court, the National Labor Relations Board, or another adjudicative agency or by private agreement, consent, or arbitration for loss of pay by reason of discharge. When the employer pays a lump sum that covers a period of more than one week, the amount paid is allocated to the weeks in the period on a pro rata basis as determined by the Division. If the amount prorated to a week would, if it had been earned by the individual during that week of unemployment, have resulted in a reduced benefit payment as provided in G.S. 96-14.2, the individual is entitled to receive the reduced payment if the individual is otherwise eligible for benefits.

Benefits paid for weeks of unemployment for which back pay awards or other similar compensation are made constitutes an overpayment of benefits. The employer must deduct the overpayment from the award prior to payment to the employee and must send the overpayment to the Division within five days of the payment for application against the overpayment. Overpayments not remitted to the Division are subject to the same collection procedures as contributions. The removal of charges made against the employer's account as a result of the previously paid benefits applies to the calendar year in which the Division receives the overpayment."

SECTION 6. G.S. 96-12.01 is recodified as G.S. 96-14.14 and G.S. 96-14.14(a), as recodified by this section, reads as rewritten:

"(a) Extended benefits payable under sub-subdivision (a1)(4)a. of this section shall be paid ~~under this Chapter as provided in this section.~~as required under the Federal-State Extended Unemployment Compensation Act of 1970. Extended benefits payable under sub-subdivision (a1)(4)a. of this section are not required under federal law and may be paid only if the federal government funds one hundred percent (100%) of the costs of providing them. Extended benefits are payable in the manner prescribed by this section."

SECTION 7.(a) Chapter 96 of the General Statutes is amended by inserting a new Article 2D immediately before G.S. 96-15:

"Article 2D.

Administration of Benefits."

SECTION 7.(b) Article 2D of Chapter 96 of the General Statutes, as created in subsection (a) of this section, reads as rewritten:

"Article 2D.

"Administration of Benefits.

"§ 96-15. Claims for benefits.

(a) ~~Filing.~~Generally. – Claims for benefits ~~shall~~ must be made in accordance with ~~such regulations as the Division may prescribe.~~rules adopted by the Division. ~~Employers may file claims for employees through the use of automation in the case of partial unemployment. Each employing unit shall post and maintain in places readily accessible to individuals performing services for it printed statements, concerning benefit rights, claims for benefits, and such other matters relating to the administration of this Chapter as the Division may direct. Each employing unit shall supply to such individuals copies of such printed statements or other materials relating to claims for benefits as the Division may direct. Such~~ An employer must provide individuals providing services for it access to information concerning the unemployment compensation program. The Division must supply an employer with any printed statements and other materials ~~shall be supplied by the Division~~that the Division requires an employer to provide to individuals ~~to each employing unit~~ without cost to the ~~employing unit.~~employer.

(a1) Attached Claims. – An employer may file claims for employees through the use of automation in the case of partial unemployment. An employer may file an attached claim for an employee only once during a calendar year, and the period of partial unemployment for which the claim is filed may not exceed six weeks. To file an attached claim, an employer must pay the Division an amount equal to the full cost of unemployment benefits payable to the employee under the attached claim at the time the attached claim is filed. The Division must credit the amounts paid to the Unemployment Insurance Fund.

An employer may file an attached claim under this subsection only if the employer has a positive credit balance in its account as determined under Article 2B of this Chapter. If an employer does not have a positive credit balance in its account, the employer must remit to the Division an amount equal to the amount necessary to bring the employer's negative credit balance to at least zero at the time the employer files the attached claim.

(b) ...

(2) Adjudication. – When a protest is made by the claimant to the initial or monetary determination, or a question or issue is raised or presented as to the eligibility of a ~~claimant under G.S. 96-13,~~claimant, or whether any disqualification should be ~~imposed under G.S. 96-14,~~ imposed, or benefits denied or adjusted pursuant to G.S. 96-18, the matter shall be referred to an adjudicator. The adjudicator may consider any matter, document or statement deemed to be pertinent to the issues, including telephone conversations, and after such consideration shall render a conclusion as to the claimant's benefit entitlements. The adjudicator shall notify the claimant and all other interested parties of the conclusion reached. The conclusion of

the adjudicator shall be deemed the final decision of the Division unless within 30 days after the date of notification or mailing of the conclusion, whichever is earlier, a written appeal is filed pursuant to rules adopted by the Division. The Division shall be deemed an interested party for such purposes and may remove to itself or transfer to an appeals referee the proceedings involving any claim pending before an adjudicator.

Provided, any interested employer shall be allowed 10 days from the delivery of the notice of the filing of a claim against the employer's account to protest the claim and have the claim referred to an adjudicator for a decision on the question or issue raised. A copy of the notice of the filing shall be sent contemporaneously to the employer by telefacsimile transmission if a fax number is on file. Provided further, no question or issue may be raised or presented by the Division as to the eligibility of a ~~claimant under G.S. 96-13,~~ claimant, or whether any disqualification should be ~~imposed under G.S. 96-14,~~ imposed, after 45 days from the first day of the first week after the question or issue occurs with respect to which week an individual filed a claim for benefits. None of the provisions of this subsection shall have the force and effect nor shall the same be construed or interested as repealing any other provisions of G.S. 96-18.

An employer shall receive written notice of the employer's appeal rights and any forms that are required to allow the employer to protest the claim. The forms shall include a section referencing the appropriate rules pertaining to appeals and the instructions on how to appeal.

...

"**§ 96-15.01. Establishing a benefit year.**

(a) Initial Unemployment. – An individual is unemployed for the purpose of establishing a benefit year if one of the following conditions is met:

(1) Payroll attachment. – The individual has payroll attachment but because of lack of work during the payroll week for which the individual is requesting the establishment of a benefit year, the individual worked less than the equivalent of three customary scheduled full-time days in the establishment, plant, or industry in which the individual has payroll attachment as a regular employee.

(2) No payroll attachment. – The individual has no payroll attachment on the date the individual files a claim for unemployment benefits.

(b) Unemployed. – For benefit weeks within an established benefit year, a claimant is unemployed as provided in this subsection:

(1) Totally unemployed. – The claimant's earnings for the week, including payments in subsection (c) of this section, would not reduce the claimant's weekly benefit amount as calculated in G.S. 96-14.2.

(2) Partially unemployed. – The claimant is payroll attached and both of the following apply:

a. The claimant worked less than three customary scheduled full-time days in the establishment, plant, or industry in which the claimant is employed because of lack of work during the payroll week for which the claimant is requesting benefits.

b. The claimant's earnings for the payroll week for which the claimant is requesting benefits, including payments in subsection (c) of this section, would qualify the claimant for a reduced weekly benefit amount as calculated in G.S. 96-14.2.

(3) Part-totally unemployed. – The claimant has no payroll attachment during all or part of the week, and the claimant's earnings for odd jobs or subsidiary work would qualify the claimant for a reduced weekly benefit amount as calculated in G.S. 96-14.2.

(c) Separation Payments. – An individual is not unemployed if, with respect to the entire calendar week, the individual receives or will receive as a result of the individual's separation from work remuneration in one or more of the forms listed in this subsection. If the remuneration is given in a lump sum, the amount must be allocated on a weekly basis as if it had been earned by the individual during a week of employment. An individual may be unemployed, as provided in subsection (b) of this section, if the individual is receiving payment applicable to less than the entire week.

(1) Wages in lieu of notice.
(2) Accrued vacation pay.
(3) Terminal leave pay.
(4) Severance pay.
(5) Separation pay.
(6) Dismissal payments or wages by whatever name.

(d) Substitute School Personnel. – An individual that performs service in a school as a substitute is not unemployed for days or weeks when the individual is not called to work unless the individual was employed as a full-time substitute during the period of time for which the individual is requesting benefits. For purposes of this subsection, a full-time substitute is an employee that works for more than 30 hours a week for the school on a continual basis for a period of six months or more.

...

"**§ 96-18.1. Attachment and garnishment of fraudulent overpayment.**

(a) Applicability. – This section applies to an individual who has been provided notice of a determination or an appeals decision finding that the individual, or another individual acting in the individual's behalf and with the individual's knowledge, has knowingly done one or more of the following to obtain or increase a benefit or other payment under this Chapter:

(1) Made a false statement or misrepresentation.
(2) Failed to disclose a material fact.

(b) Attachment and Garnishment. – Intangible property that belongs to an individual, is owed to an individual, or has been transferred by an individual under circumstances that would permit it to be levied upon if it were tangible property is subject to attachment and garnishment in payment of a fraudulent overpayment that is due from the individual and is collectible under this Article. Intangible personal property includes bank deposits, rent, salaries, wages, property held in the Escheat Fund, and any other property incapable of manual levy or delivery.

A person who is in possession of intangible property that is subject to attachment and garnishment is the garnishee and is liable for the amount the individual owes. The liability applies only to the amount of the individual's property in the garnishee's possession, reduced by any amount the individual owes the garnishee.

The Secretary may submit to a financial institution, as defined in G.S. 53B-2, information that identifies an individual who owes a fraudulent overpayment that is collectible under this section and the amount of the overpayment. The Secretary may submit the information on a quarterly basis or, with the agreement of the financial institution, on a more frequent basis. A financial institution that receives the information must determine the amount, if any, of intangible property it holds that belongs to the individual and must inform the Secretary of its determination. The Secretary must reimburse a financial institution for its costs in providing the information, not to exceed the amount payable to the financial institution under G.S. 110-139 for providing information for use in locating a noncustodial parent.

No more than ten percent (10%) of an individual's wages or salary is subject to attachment and garnishment. The wages or salary of an employee of the United States, the State, or a political subdivision of the State are subject to attachment and garnishment.

(c) Notice. – Before the Secretary attaches and garnishes intangible property in payment of a fraudulent overpayment, the Secretary must send the garnishee a notice of garnishment. The notice must be sent either in person, by certified mail with a return receipt requested, or with the agreement of the garnishee, by electronic means. The notice must contain all of the following information:

(1) The individual's name.
(2) The individual's social security number or federal identification number.
(3) The amount of fraudulent overpaid benefits the individual owes.
(4) An explanation of the liability of a garnishee for fraudulent overpayment of unemployment insurance benefits owed by an overpaid individual.
(5) An explanation of the garnishee's responsibility concerning the notice.

(d) Action. – A garnishee must comply with a notice of garnishment or file a written response to the notice within the time set in this subsection. A garnishee that is a financial institution must comply or file a response within 20 days after receiving a notice of garnishment. All other garnishees must comply or file a response within 30 days after receiving a notice of garnishment. A written response must explain why the garnishee is not subject to garnishment and attachment.

Upon receipt of a written response, the Department must contact the garnishee and schedule a conference to discuss the response or inform the garnishee of the Department's position concerning the response. If the Department does not agree with the garnishee on the garnishee's liability, the Department may proceed to enforce the garnishee's liability for the fraudulent overpayment of unemployment benefits by civil action."

SECTION 8. G.S. 96-24 reads as rewritten:

"**§ 96-24. Local offices; cooperation with United States service; financial aid from United States.**

(a) Agreement. – The ~~Employment Security Section~~ Department of Commerce is authorized to enter into agreement with the governing authorities of any municipality, county, township, or school corporation in the State for such period of time as may be deemed desirable for the purpose of establishing and maintaining local free employment offices, and for the extension of vocational guidance in cooperation with the United States Employment Service, and under and by virtue of any such agreement as aforesaid to pay, from any funds appropriated by the State for the purposes of this Article, any part or the whole of the salaries, expenses or rent, maintenance, and equipment of offices and other expenses.

(b) Location. – The Department of Commerce must take into consideration all of the following factors when determining the appropriate number and location of local offices:

(1) Location of the population served.
(2) Staff availability.
(3) Proximity of local offices to each other.
(4) Use of automation products to provide services.
(5) Services and procedural efficiencies.
(6) Any other factors the Division considers necessary in determining the appropriate number and location of local offices."

SECTION 9.(a) G.S. 58-89A-120 reads as rewritten:

"**§ 58-89A-120. Unemployment taxes; payroll.**

A licensee is the employer of an assigned employee for purposes of Chapters 95, 96 and 105 of the General Statutes. Nothing in this section shall otherwise affect the levy and collection of unemployment insurance contributions or the assignment of discrete employer ~~numbers pursuant to G.S. 96-9(c)(4) and the definitions set forth in G.S. 96-8(4), 96-8(5), and~~

~~96-8(6).~~ numbers under the Employment Security Law. The Department of Commerce, Division of Employment Security (DES), shall cooperate with the Commissioner in the investigation of applicants and licensees and shall provide the Commissioner with access to all relevant records and data in the custody of the DES."

SECTION 9.(b) G.S. 96-4 reads as rewritten:

"**§ 96-4. Administration; powers and duties of the Assistant Secretary; Board of Review.**

...

(b) Board of Review. – The Governor shall appoint a three-person Board of Review to determine appeals policies and procedures and to hear appeals arising from the decisions and determinations of the ~~Employment Security Section and the Employment Insurance Section.~~ Division. The Board of Review shall be comprised of one member representing employers, one member representing employees, and one member representing the general public. Members of the Board of Review are subject to confirmation by the General Assembly and shall serve four-year terms. The member appointed to represent the general public shall serve as chair of the Board of Review and shall be a licensed attorney. The annual salaries of the Board of Review shall be set by the General Assembly in the current Operations Appropriations Act. The Board of Review shall exercise its decision-making processes independent of the Governor, the General Assembly, the Department, and the Division.

...

(i) Records and Reports. –

(1) Each ~~employing unit~~ employer shall keep true and accurate employment records, containing such information as the Division may prescribe. The records shall be open to inspection and be subject to being copied by the Division or its authorized representatives at any reasonable time and as often as may be necessary. ~~Any employing unit~~ An employer doing business in North Carolina shall make available in this State to the Division, such information with respect to ~~persons, firms, or other employing units~~ persons performing services for it which the Secretary deems necessary in connection with the administration of this Chapter. The Division may require from ~~any employing unit~~an employer any sworn or unsworn reports, with respect to persons employed by it, which the Secretary deems necessary for the effective administration of this ~~Chapter.~~Chapter, including the employer's quarterly tax and wage report containing the name, social security number, and gross wages of persons employed during that quarter.

(2) If the Division finds that any employer has failed to file any report or return required by this Chapter or any regulation made pursuant hereto, or has filed a report which the Division finds incorrect or insufficient, the Division may make an estimate of the information required from such employer on the basis of the best evidence reasonably available to it at the time, and make, upon the basis of such estimate, a report or return on behalf of such employer, and the report or return so made shall be deemed to be prima facie correct, and the Division may make an assessment based upon such report and proceed to collect contributions due thereon in the manner as set forth in G.S. 96-10(b) of this Chapter: Provided, however, that no such report or return shall be made until the employer has first been given at least 10 days' notice by registered mail to the last known address of such employer: Provided further, that no such report or return shall be used as a basis in determining whether ~~such employing unit~~a person is an employer within the meaning of this Chapter.

...

(p) Reciprocal Arrangements. –

(1) The Secretary is hereby authorized to enter into reciprocal arrangements with appropriate and duly authorized agencies of other states or of the federal government, or both, whereby:

a. Services performed by an individual for ~~a single employing unit~~ an employer for which services are customarily performed in more than one state shall be deemed to be services performed entirely within any one of the states

1. In which any part of such individual's service is performed or
2. In which such individual has his residence or
3. In which the ~~employing unit~~ employer maintains a place of business, provided there is in effect, as to such services, an election by the ~~employing unit,~~ employer, approved by the agency charged with the administration of such state's employment security law, pursuant to which the services performed by such individual for ~~such employing unit~~ the employer are deemed to be performed entirely within such state.

...

(2) Reimbursements paid from the fund pursuant to subparagraphs b and c of subdivision (1) of this subsection shall be deemed to be ~~benefits for the purpose of G.S. 96-6, 96-9, 96-12 and 96-12.01.~~ benefits. The Division is authorized to make to other states or federal agencies and to receive from such other state or federal agencies, reimbursements from or to the fund, in accordance with arrangements entered into pursuant to subdivision (1) of this subsection.

...

(q) The Division after due notice shall have the right and power to hold and conduct hearings for the purpose of determining the rights, status and liabilities of ~~any "employing unit" or "employer" as said terms are defined by G.S. 96-8(4) and 96-8(5) and subdivisions thereunder.~~ an employer. The ~~Division~~ Board of Review shall have the power and authority to determine any and all questions and issues of fact or questions of law that may arise under the Employment Security Law that may affect the rights, liabilities and status of ~~any employing unit or~~ an employer ~~as heretofore defined by the Employment Security Law~~ including the right to determine the amount of contributions, if any, which may be due the Division by any employer. Hearings may be before the Board of Review ~~or the Division~~ and shall be held in the central office of the ~~Division~~ Board of Review or at any other designated place within the State. They shall be open to the public and shall consist of a review of the evidence taken by a hearing officer designated by the Board of Review and a determination of the law applicable to that evidence. The ~~Division~~ Board of Review shall provide for the taking of evidence by a hearing ~~officer.~~ officer employed in the capacity of an attorney by the Department. Such hearing officer shall have the same power to issue subpoenas, administer oaths, conduct hearings and take evidence as is possessed by the ~~Division~~ Board of Review and such hearings shall be recorded, and he shall transmit all testimony and records of such hearings to the Board ~~of Review or Division~~ for its determination. All such hearings conducted by such hearing officer shall be scheduled and held in any county in this State in which the ~~employing unit or employer either~~ employer resides, maintains a place of business, or conducts business; however, the Board of Review ~~or Division~~ may require additional testimony at any hearings held by it at its office. From all decisions or determinations made by the ~~Assistant Secretary or the~~ Board of Review, any party affected thereby shall be entitled to an appeal to the superior court. Before a party shall be allowed to appeal, the party shall within 10 days after notice of such decision or determination, file with the Board of Review exceptions to the decision or the determination,

which exceptions will state the grounds of objection to the decision or determination. If any one of the exceptions shall be overruled then the party may appeal from the order overruling the exceptions, and shall, within 10 days after the decision overruling the exceptions, give notice of his appeal. When an exception is made to the facts as found by the Board of Review, the appeal shall be to the superior court in term time but the decision or determination of the ~~Division~~ Board of Review upon such review in the superior court shall be conclusive and binding as to all questions of fact supported by any competent evidence. When an exception is made to any rulings of law, as determined by the Board of Review, the appeal shall be to the judge of the superior court at chambers. The party appealing shall, within 10 days after the notice of appeal has been served, file with the Board of Review exceptions to the decision or determination overruling the exception which statement shall assign the errors complained of and the grounds of the appeal. Upon the filing of such statement the Board of Review shall, within 30 days, transmit all the papers and evidence considered by it, together with the assignments of errors filed by the appellant to a judge of the superior court holding court or residing in some district in which such appellant either resides, maintains a place of business or conducts business, or, unless the appellant objects after being given reasonable opportunity to object, to a judge of the Superior Court of Wake County: Provided, however, the 30-day period specified herein may be extended by agreement of parties.

(r) The cause shall be entitled "State of North Carolina on Relationship of the ~~Division of Employment Security,~~ Board of Review, Department of Commerce, of North Carolina against (here insert name of appellant)," and if there are exceptions to any facts found by the Board of Review, it shall be placed on the civil issue docket of such court and shall have precedence over other civil actions except those described in G.S. 96-10(b), and such cause shall be tried under such rules and regulations as are prescribed for the trial of other civil causes. By consent of all parties the appeal may be held and determined at chambers before any judge of a district in which the appellant either resides, maintains a place of business or conducts business, or said appeal may be heard before any judge holding court therein, or in any district in which the appellant either resides, maintains a place of business or conducts business. Either party may appeal to the appellate division from the judgment of the superior court under the same rules and regulations as are prescribed by law for appeals, except that if an appeal shall be taken on behalf of the Department of Commerce, it shall not be required to give any undertaking or make any deposit to secure the cost of such appeal and such court may advance the cause on its docket so as to give the same a speedy hearing.

(s) The decision or determination of the ~~Division~~ Board of Review when docketed in the office of the clerk of the superior court of any county and when properly indexed and cross-indexed shall have the same force and effect as a judgment rendered by the superior court, and if it shall be adjudged in the decision or determination of the ~~Division~~ Board of Review that any employer is indebted to the Division for contributions, penalties and interest or either of the same, then said judgment shall constitute a lien upon any realty owned by said employer in the county only from the date of docketing of such decision or determination in the office of the clerk of the superior court and upon personalty owned by said employer in said county only from the date of levy on such personalty, and upon the execution thereon no homestead or personal property exemptions shall be allowed; provided, that nothing herein shall affect any rights accruing to the Division under G.S. 96-10. The provisions of this section, however, shall not have the effect of releasing any liens for contributions, penalties or interest, or either of the same, imposed by other law, nor shall they have the effect of postponing the payment of said contributions, penalties or interest, or depriving the Division of Employment Security of any priority in order of payment provided in any other statute under which payment of the said contributions, penalties and interest or either of the same may be required. The superior court or any appellate court shall have full power and authority to issue any and all executions, orders, decrees, or writs that may be necessary to carry out the terms of said

decision or determination of the Division or to collect any amount of contribution, penalty or interest adjudged to be due the Division by said decision or determination. In case of an appeal from any decision or determination of the Division to the superior court or from any judgment of the superior court to the appellate division all proceedings to enforce said judgment, decision, or determination shall be stayed until final determination of such appeal but no proceedings for the collection of any amount of contribution, penalty or interest due on same shall be suspended or stayed unless the employer or party adjudged to pay the same shall file with the clerk of the superior court a bond in such amount not exceeding double the amount of contribution, penalty, interest or amount due and with such sureties as the clerk of the superior court deems necessary conditioned upon the payment of the contribution, penalty, interest or amount due when the appeal shall be finally decided or terminated.

...

(u) Notices of hearing shall be issued by the Division or its authorized representative and sent by registered mail, return receipt requested, to the last known address of ~~any employing unit,~~ employer, employers, persons, or firms involved. The notice shall be sent at least 15 days prior to the hearing date and shall contain notification of the place, date, hour, and purpose of the hearing. Subpoenas for witnesses to appear at any hearing shall be issued by the Division or its authorized representative and shall order the witness to appear at the time, date and place shown thereon. Any bond or other undertaking required to be given in order to suspend or stay any execution shall be given payable to the Department of Commerce. Any such bond or other undertaking may be forfeited or sued upon as are any other undertakings payable to the State.

...

(x) Confidentiality of Records, Reports, and Information Obtained from Claimants, Employers, and Units of Government. – Disclosure and redisclosure of confidential information shall be consistent with 20 C.F.R. Part 603 and any written guidance promulgated and issued by the U.S. Department of Labor consistent with this regulation and any successor regulation. To the extent a disclosure or redisclosure of confidential information is permitted or required by this federal regulation, the Department's authority to disclose or redisclose the information includes the following:

(1) Confidentiality of Information Contained in Records and Reports. – (i) Except as hereinafter otherwise provided, it shall be unlawful for any person to obtain, disclose, or use, or to authorize or permit the use of any information which is obtained from ~~any employing unit,~~ an employer, individual, or unit of government pursuant to the administration of this Chapter or G.S. 108A-29. (ii) Any claimant or employer or their legal representatives shall be supplied with information from the records of the Division to the extent necessary for the proper presentation of claims or defenses in any proceeding under this Chapter. Notwithstanding any other provision of law, any claimant may be supplied, subject to restrictions as the Division may by regulation prescribe, with any information contained in his payment record or on his most recent monetary determination, and any individual, as well as any interested employer, may be supplied with information as to the individual's potential benefit rights from claim records. (iii) Subject to restrictions as the Secretary may by regulation provide, information from the records of the Division may be made available to any agency or public official for any purpose for which disclosure is required by statute or regulation. (iv) The Division may, in its sole discretion, permit the use of information in its possession by public officials in the performance of their public duties. (v) The Division shall release the payment and the amount of unemployment compensation benefits upon receipt of a subpoena

in a proceeding involving child support. (vi) The Division shall furnish to the State Controller any information the State Controller needs to prepare and publish a comprehensive annual financial report of the State or to track debtors of the State. (vii) The Secretary may disclose or authorize redisclosure of any confidential information to an individual, agency, or entity, public or private, consistent with the requirements enumerated in 20 C.F.R. Part 603 or any successor regulation and any written guidance promulgated and issued by the U.S. Department of Labor consistent with 20 C.F.R. Part 603.

(2) Job Service Information. – (i) Except as hereinafter otherwise provided it is unlawful for any person to disclose any information obtained by the Division from workers, employers, applicants, or other persons or groups of persons in the course of administering the State Public Employment Service Program. Provided, however, that if all interested parties waive in writing the right to hold such information confidential, the information may be disclosed and used but only for those purposes that the parties and the Division have agreed upon in writing. (ii) The Division shall make public, through the newspapers and any other suitable media, information as to job openings and available applicants for the purpose of supplying the demand for workers and employment. (iii) The Labor Market Information Unit shall collect, collate, and publish statistical and other information relating to the work under the Division's jurisdiction; investigate economic developments, and the extent and causes of unemployment and its remedies with the view of preparing for the information of the General Assembly such facts as in the Division's opinion may make further legislation desirable. (iv) Except as provided by rules adopted by the Division, any information published pursuant to this subdivision shall not be published in any manner revealing the identity of the applicant or the ~~employing unit.~~employer.

...

(6) Nothing in this subsection (t) shall operate to relieve any claimant or ~~employing unit~~ employer from disclosing any information required by this Chapter or by regulations promulgated thereunder.

...."

SECTION 9.(c) G.S. 96-16 reads as rewritten:

"**§ 96-16. Seasonal pursuits.**

(a) A seasonal pursuit is one which, because of seasonal conditions making it impracticable or impossible to do otherwise, customarily carries on production operations only within a regularly recurring active period or periods of less than an aggregate of 36 weeks in a calendar year. No pursuit shall be deemed seasonal unless and until so found by the Division; except that ~~from March 27, 1953,~~ any successor under ~~G.S. 96-8(5)b~~ G.S. 96-11.6 to a seasonal pursuit shall be deemed seasonal unless such successor shall within 120 days after the acquisition request cancellation of the determination of status of such seasonal pursuit; provided further that this provision shall not be applicable to pending cases nor retroactive in effect.

...

(f) ...

(3) The maximum amount of benefits which a seasonal worker shall be eligible to receive based on seasonal wages shall be an amount, adjusted to the nearest multiple of one dollar ($1.00), determined by multiplying the maximum benefits payable in his benefit year, as provided in ~~G.S. 96-12(d)~~

~~of this Chapter,~~ G.S. 96-14.4, by the percentage obtained by dividing the seasonal wages in his base period by all of his base period wages.

(4) The maximum amount of benefits which a seasonal worker shall be eligible to receive based on nonseasonal wages shall be an amount, adjusted to the nearest multiple of one dollar ($1.00), determined by multiplying the maximum benefits payable in his benefit year, as provided in ~~G.S. 96-12(d) of this Chapter,~~ G.S. 96-14.4, by the percentage obtained by dividing the nonseasonal wages in his base period by all of his base period wages.

(5) In no case shall a seasonal worker be eligible to receive a total amount of benefits in a benefit year in excess of the maximum benefits payable for such benefit year, as provided in ~~G.S. 96-12(d) of this Chapter.~~G.S. 96-14.4.

(g) (1) All benefits paid to a seasonal worker based on seasonal wages shall be ~~charged, as prescribed in G.S. 96-9(c)(2) of this Chapter,~~charged against the account of his base period employer or employers who paid him such seasonal wages, and for the purpose of this paragraph such seasonal wages shall be deemed to constitute all of his base period wages.

(2) All benefits paid to a seasonal worker based on nonseasonal wages shall be ~~charged, as prescribed in G.S. 96-9(c)(2) of this Chapter,~~ charged against the account of his base period employer or employers who paid him such nonseasonal wages, and for the purpose of this paragraph such nonseasonal wages shall be deemed to constitute all of his base period wages.

...."

SECTION 9.(d) G.S. 96-18(g) reads as rewritten:

"(g) ...

(3) The Division may collect the overpayments provided for in this subsection by one or more of the following procedures as the Division may, except as provided herein, in its sole discretion choose:

...

c. Any person who has been found by the Division to have been overpaid under subparagraph ~~(1)~~ (2) above due to fraudulent nondisclosure or misrepresentation shall be liable to have ~~such~~ the sums deducted from future benefits payable to ~~him~~ the person under this Chapter. The amount deducted may be up to one hundred percent (100%) of that person's weekly benefit amount.

d. Any person who has been found by the Division to have been overpaid under subparagraph (2) above due to nonfraudulent reasons shall be liable to have ~~such~~ the sums deducted from future benefits payable to ~~him~~ the person under this Chapter ~~in such amounts as the Division may by regulation prescribe~~ but ~~no such benefit payable~~ the amount deducted for any week shall be reduced by no more than fifty percent (50%) of that person's weekly benefit amount.

...."

SECTION 9.(e) G.S. 97-29(i) reads as rewritten:

"**§ 97-29. Rates and duration of compensation for total incapacity.**

(i) Notwithstanding any other provision of this Article, on July 1 of each year, a maximum weekly benefit amount shall be computed. The amount of this maximum weekly benefit shall be derived by obtaining the average weekly insured ~~wage in accordance with G.S. 96-8(22),~~ wage, as defined in G.S. 96-1, by multiplying such average weekly insured wage by 1.10, and by rounding such figure to its nearest multiple of two dollars ($2.00), and this said maximum weekly benefit shall be applicable to all injuries and claims arising on and after January 1 following such computation. Such maximum weekly benefit shall apply to all

provisions of this Chapter and shall be adjusted July 1 and effective January 1 of each year as herein provided."

SECTION 10. Chapter 120 of the General Statutes is amended by adding a new Article to read:

"Article 12R.

"Joint Legislative Oversight Committee on Unemployment Insurance.

"**§ 120-70.155. Creation and membership.**

(a) The Joint Legislative Oversight Committee on Unemployment Insurance is established. The Committee consists of eight members appointed as follows:

(1) Four members of the House of Representatives appointed by the Speaker of the House of Representatives.

(2) Four members of the Senate appointed by the President Pro Tempore of the Senate.

(b) The members serve for a term of two years. Members may complete a term of service on the Committee even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Committee. A member continues to serve until a successor is appointed. A vacancy shall be filled by the officer who made the original appointment.

"**§ 120-70.156. Purpose and powers of Committee.**

(a) Purpose. – The Joint Legislative Oversight Committee on Unemployment Insurance is directed to study and review all unemployment insurance matters, workforce development programs, and reemployment assistance efforts of the State. The following duties and powers, which are enumerated by way of illustration, shall be liberally construed to provide maximum review by the Committee of these matters:

(1) Study the unemployment insurance laws of North Carolina and the administration of those laws.

(2) Review the State's unemployment insurance laws to determine which laws need clarification, technical amendment, repeal, or other change to make the laws concise, intelligible, and easy to administer.

(3) Monitor the payment of the debt owed by the Unemployment Trust Fund to the federal government.

(4) Review and determine the adequacy of the balances in the Unemployment Trust Fund and the Unemployment Insurance Reserve Fund.

(5) Study the workforce development programs and reemployment assistance efforts of the Division of Workforce Solutions of the Department of Commerce.

(6) Call upon the Department of Commerce to cooperate with it in the study of the unemployment insurance laws and the workforce development efforts of the State.

(b) The Committee may report its findings and recommendations to any regular session of the General Assembly. A report to the General Assembly may contain any legislation needed to implement a recommendation of the Committee.

"**§ 20-70.157. Organization of Committee.**

The Speaker of the House of Representatives shall designate one representative as cochair, and the President Pro Tempore of the Senate shall designate one senator as cochair. The Joint Legislative Oversight Committee on Unemployment Insurance may meet upon the joint call of the cochairs. A quorum of the Committee is five members.

The Committee may meet in the Legislative Building or the Legislative Office Building. While in the discharge of its official duties, the Committee has the powers of a joint committee under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Legislative Services

Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. The House of Representatives and the Senate's Directors of Legislative Assistants shall assign clerical staff to the Committee, and the expenses relating to the clerical employees shall be borne by the Committee. The Committee may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02. Members of the Committee shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

"**§ 20-170.158. Sunset.**

This Article expires July 1, 2023."

SECTION 12. This act becomes effective July 1, 2013. Changes made by this act to unemployment benefits apply to claims for benefits filed on or after July 1, 2013. Changes made by this act to require an account balance by an employer that is a governmental entity or a nonprofit organization and that elects to finance benefits by making reimbursable payments in lieu of contributions apply to advance payments payable for calendar quarters beginning on or after July 1, 2013. Changes made by this act to the determination and application of the contribution rate apply to contributions payable for calendar quarters beginning on or after January 1, 2014.

Bullet Summary of House Bill 4, 3rd edition & Senate Bill 6, PCS
UI Fund Solvency & Program Changes

Fund Changes	
Employment Security Reserve Fund	Restrict uses. Cap fund at $50 million or the amount of interest paid the previous year; excess transferred to UI Fund.
Worker Training Trust Fund & Training and Employment Account[1]	Eliminate these accounts. Transfer any balance in these accounts to the UI Fund.
Special Employment Security Administration Fund[2]	Appropriate $10 million of the $16 million balance to the UI Fund.
Financing Change	
SUTA Changes	Increase the minimum and maximum contribution rate by .06. Move to a formula, as opposed to tax tables.
20% surcharge	Trigger "off" surcharge when UI Fund equals or exceeds $1 billion. Does not apply to reimbursing employers.
Reimbursable Entities	Require governmental employers that elect to reimburse benefits paid to maintain an account balance equal to 1% of taxable wages. Treat all nonprofits the same: require 1% reserve if choose to reimburse; remove options of surety bond and other special payments.
Benefit Changes	
Benefits Duration	Reduce maximum duration of benefits from 13 to 26 weeks to 13 to 20 weeks. This range would vary based on total unemployment. With 5.5% unemployment or less, the range would be 5 to 12 weeks.
Calculation of WBA	Base on average of last two quarters worked, rather than high quarter.
Maximum WBA	Statutorily set amount of $350, rather than formula (current amount is $535).
Program Changes	
Partial weekly benefit	Disregard 20% of WBA, rather than 10% of AWW in highest quarter of base period.
Waiting week	Require waiting week for all new claims. Remove all waivers of the waiting week.
Extended base period	Repeal.
Extended benefit triggers	Retain the two OPTIONAL triggers but only when 100% federally funded.
Attached claims	Must have positive-credit balance. Reimburse. Limited to one time per employee for no more than 6 weeks.
Disqualification	Disqualification based on each application for UI.
ıbstantial fault and ıod cause provisions	Retain domestic violence and spousal relocation due to military reassignment. Eliminate substantial fault.

[1] Senate Bill 6, PCS.
[2] Senate Bill 6, PCS.

	Eliminate most other good cause provisions, unless federally required.
Suitable work	Define suitable work as any work after 10 weeks of UI benefits.

Cumulative Fiscal Impact of Individual UI Changes by Year ($millions)

Note: Interactions between benefit and tax changes are dynamic. Analysis of corresponding impacts should be considered rough approximations.

Year		Maximum Duration of Benefits	Weekly Benefit Amount (Based on 2 most recent quarters	MWBA ($350)	FUTA Credit Reductions	SUTA Rate Changes	Gov't 1% Reserve	Total
2013	Dollar Impact	53.5	123.1	45.8	240.0	1.9	114.8	579.1
	Percent of total	9.2%	21.3%	7.9%	41.4%	0.3%	19.8%	100%
2014	Dollar Impact	251.0	513.6	186.4	480.0	7.0	135.0	1,573.0
	Percent of total	16.0%	32.7%	11.9%	30.5%	0.4%	8.6%	100%
2015	Dollar Impact	456.0	806.2	301.1	800.0	17.8	135.0	2,516.0
	Percent of total	18.1%	32.0%	12.0%	31.8%	0.7%	5.4%	100%
2016	Dollar Impact	813.0	1,096.6	583.8	800.0	20.1	135.0	3,448.5
	Percent of total	23.6%	31.8%	16.9%	23.2%	0.6%	3.9%	100%
2017	Dollar Impact	950.8	1,114.1	645.8	800.0	24.0	135.0	3,669.7
	Percent of total	25.9%	30.4%	17.6%	21.8%	0.7%	3.7%	100%

Notes Individual impacts are estimated based on relative impacts of separate simulations. Actual impacts may vary when benefit and tax changes are combined.

Simulations are provided by the Upjohn Institute and utilize the Benefit Financing Model provided by the US Dept of Labor. Results are based on assumptions for economic variables provided by Global Insight.

Assumes effective date of July 1, 2013 for all benefit changes.

HOUSE BILL 4:
UI Fund Solvency & Program Changes

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	February 5, 2013
Introduced by:	Reps. Howard, Warren, Starnes, Setzer	**Prepared by:**	Cindy Avrette
Analysis of:	Third Edition		Committee Counsel

[As introduced, this bill was identical to Senate Bill 6, as introduced by Sens. Rucho, Rabon, Brock, which is currently in Senate Finance. The bill is a recommendation of the Revenue Laws Study Committee. House Bill 4 does not contain the appropriation provisions from the original bill. These provisions are in the PCS for Senate Bill 6.]

SUMMARY: ***House Bill 4 would make the following changes to the State unemployment insurance program (UI) to accelerate[1] the repayment of the $2.5 billion advance the State borrowed from the federal government to pay UI benefits:***

- ***Effective January 1, 2014, the bill would make the following tax rate changes: increase the minimum State unemployment tax (SUTA) rates from 0% to .06%, increase maximum SUTA tax rate from 5.7% to 5.76%; and compute SUTA tax rates based on a formula.***
- ***Effective July 1, 2013, the bill would establish a new trigger for the collection and suspension of the surtax, which is equal to 20% of an employer's SUTA liability.***
- ***Effective July 1, 2013, the bill would require a 1% reserve from all governmental entity and nonprofit employers that elect to finance benefits through reimbursement, and disallow refunds.***
- ***Effective, July 1, 2013, the bill would restrict the use of revenues in the Employment Security Commission Reserve Fund and the Special Employment Security Administration Fund.***
- ***Effective July 1, 2013, the bill would make the following benefit changes: reduce the maximum duration of regular benefits from 26 weeks to 20 weeks and tie the duration of benefits to the seasonal adjusted unemployment rate; reduce the maximum weekly benefit amount (WBA) from $535 to $350; and change the calculation of the WBA from a formula based on the high quarter wage in the claimant's base period to the average of the last two quarters of that period.***
- ***Effective July 1, 2013, the bill would restrict the optional triggers for the availability of extended benefits to those times when the benefits would be 100% federally funded. It does not change the mandatory trigger for extended benefits.***
- ***Effective July 1, 2013, the bill would make the following programmatic changes: require a waiting week for each new benefit claim; repeal substantial fault; eliminate most good cause provisions for leaving work; and redefine suitable work as any work paying 120% of weekly benefit amount after 10 weeks of benefits.***
- ***The bill would establish a Joint Legislative Oversight Committee on Unemployment Insurance.***

[1] Simulations prepared by the Upjohn Institute suggest the UI Fund would have a positive credit balance in 2018 if the State did not change its laws and relied solely on federal tax increases for the payment of the debt. A simulation based on the changes proposed in the bill suggests the UI Fund would have a positive credit balance in 2015.

BACKGROUND: The Unemployment Compensation Program is a Federal-state partnership created by the federal Social Security Act of 1935 and the Federal Unemployment Tax Act (FUTA). The purpose of the UI program is to provide economic stability to both the unemployed individual and the surrounding community. Federal law requires states to offer temporary unemployment compensation benefits to individuals who lose a job through no fault of their own and are able, available, and actively seeking work. States may design their own UI program so long as the program meets minimal federal coverage and benefit requirements. Employers pay both a federal and state unemployment tax to fund the program. No part of either tax may be deducted from an employee's wages.

The FUTA tax rate is 6% and is applied to a $7,000 taxable wage base. Employers are allowed a credit of up to 5.4% if a state's UI program complies with federal law and regulations, for an effective FUTA tax rate of 0.6% or $42 per employee. This amount is credited to the federal treasury and used to offset the costs of administering the states' UI programs.

If a state does not have sufficient revenues in its Unemployment Trust Fund to pay benefits, the federal unemployment account provides an automatic advance or loan to the state.[2] North Carolina received its first advance in February 2009. The State currently owes the federal unemployment account $2.5 billion.[3] To ensure repayment of the advance, the FUTA tax credit is reduced by 0.3% each year[4] until the debt is repaid; all of the revenue generated by the credit reduction is applied to the principal of the outstanding loan balance. The revenue cannot be used to pay the interest on the debt.[5]

The FUTA tax rate in North Carolina is currently $84 per employee.[6] Under this repayment method, the State is expected to have a positive balance in its Trust Fund account in 2018. Under the current repayment schedule, the FUTA tax rate is anticipated to be $105 per employee in 2014, $126 in 2015, $147 in 2016, $168 in 2017, and $189 in 2018 before returning to $42 in 2019.

CURRENT LAW: Chapter 96 of the General Statutes creates North Carolina's current UI program. The UI program provides coverage and benefits to the employees of private employers, State and local governments, Indian tribes, and nonprofit organizations.

Article 2 of Chapter 96 contains the financing system for UI. Under that system, private employers must pay a SUTA tax, or contribution, on the taxable wages of each of their employees. The taxable wage base in North Carolina is equal to 50% of the average yearly insured wage[7]. The taxable wage base for 2013 is $20,900.[8] Employers that are governmental or nonprofit organizations must be given the election to finance benefits by making reimbursement payments to the Division in lieu of paying a contribution.

The SUTA contribution rates vary from 0% to 5.7%. The revenue from the contribution is credited to the Unemployment Insurance Fund and used only to fund benefits. An employer's SUTA contribution rate is based on an experience-rated system. The Division of Employment Security, Department of Commerce (Division) annually computes an employer's experience rating based on the contribution credits made to and benefits charges made against the employer's account. A positive experience rating

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[2] As of January 3, 2013, 20 states have an outstanding state loan from the Federal Unemployment Account.
[3] NC's debt is the 3rd largest behind California at $10.3 billion and New York at $3.5 billion.
[4] The credit reduction begins when a state has an outstanding federal loan balance 2 consecutive Januarys. The indebtedness must be eliminated by November 10th to restore the full credit for the succeeding calendar year.
[5] North Carolina has used revenue in the Employment Security Commission Reserve Fund to pay the interest payments. Interest payments are due on September 30th of each year. The interest rate is determined annually. The interest rate for 2012 was 2.9%. The interest rate for 2013 is 2.6%.
[6] The FUTA tax credit was reduced from 5.4% to 5.1% in 2012 and to 4.8% in 2013.
[7] The average yearly insured wage = average weekly wage on August 1st divided by 52.
[8] Compared to the surrounding states of AL, FL, GA, KY, MS, SC, TN, and VA, North Carolina has the highest taxable wage base. The taxable wage base in most states is in the range of $8,000-$9,000. Data from Upjohn Institute.

produces a lower SUTA contribution rate and a negative experience rating produces a higher SUTA contribution rate.

An employer who has a SUTA tax liability must also pay surtax equal to 20% of the SUTA contribution liability. The revenue from the surtax is credited to the Employment Security Commission Reserve Fund. The revenue from the surtax may be used for various purposes. It has been used to pay the interest on the outstanding advance and to supplement federal grants from US Department of Labor (US DOL) for local Employment Security Commission offices.

Article 2 of Chapter 96 also contains the benefit system for UI. An employee with an attachment to the workforce, as evidenced by sufficient earnings and duration of employment in a 15-month base period, is entitled to some UI benefits if the employee loses a job through no fault on the part of the employee. The UI system imposes a two-year disqualification for UI benefits if the Division determines an individual lost a job for reasons of misconduct[9] and it imposes lesser periods of disqualification for an individual who lost a job for reasons of substantial fault.[10] The current UI program also allows benefits to employees who leave a job for certain causes unrelated to the job such as relocation of a spouse or health of a relative.

An individual who qualifies for UI benefits is eligible for a weekly benefit amount (WBA). The individual's eligibility is determined on a week-by-week basis. To receive a weekly benefit, an individual must be able to work, available to work, and actively seeking work. An individual who is determined to be ineligible for failure to meet one or more of these work search requirements does not receive a benefit for that week. However, the individual remains eligible for benefits in the remaining weeks if the individual meets the requirements.

In addition to UI benefits for an employee who lost a job, an employee may collect UI benefits while remaining on an employer's payroll. An individual who is payroll attached is considered unemployed when the individual works less than the equivalent of three customary scheduled full-time days in the job in which the individual has payroll attachment as a regular employee. An individual who is payroll attached does not have to meet the work search requirements to be eligible to receive benefits. The individual must be able and available to return to work when recalled by the employer. Historically, attached claims account for approximately half of UI claims, although the percentage declined to 40-45% during the recent recession.

An individual's WBA is 50% of the high-quarter wages paid to the individual in the base period, not to exceed the maximum WBA. The maximum WBA is 66 2/3% of the average weekly insured wages. The Division calculates the maximum WBA on August 1st of each year. The maximum WBA for the period August 1, 2012, through July 31, 2013, is $535.

The number of weeks an individual may receive UI benefits is derived from a fraction of the individual's base period wages, with a minimum number of 13 weeks and a maximum number of 26 weeks. In addition to the regular benefit period, which is fully funded by SUTA revenue, the State may be entitled to 13 weeks of extended benefits if the unemployment rate in the State is higher than its two-year average. In some instances of very high unemployment the number of weeks of extended benefits may be as great as 20 weeks. Generally, the federal government pays 50% of the costs of providing extended benefits. During the Great Recession, the federal government fully funded the State's extended benefits.

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[9] The two-year period may be reduced if the individual returns to work for at least five weeks, is paid cumulative wages of at least 10 times the individual's WBA, subsequently becomes unemployed through no fault, and meets the work search requirements.

[10] An individual found to be in substantial fault is disqualified for a period of nine weeks. The Division may increase or decrease this number of weeks based on aggravating or mitigating circumstances. An employer's account is not charged for benefits paid due to substantial fault.

The federal funding for these benefits comes from direct appropriations, not from FUTA revenues. North Carolina triggered "off" extended benefits in May of 2012.

At times, including the recent Great Recession, Congress enacts temporary legislation providing additional weeks of Emergency Unemployment Compensation (EUC). At one point, EUC provided up to 53 weeks of additional benefits. Today, the number of weeks provided through EUC is up to 47. Congress recently extended the time for providing EUC from January 2, 2013, to January 1, 2014. A state does not have to participate in the EUC. To participate in the EUC, a state signs an agreement with the US DOL. A state may terminate the agreement with 30 days' written notice to US DOL. To participate in the current agreement, a state must not reduce the way it calculates benefits in such a way that the average weekly benefit would be less than the average weekly benefit provided by the state in June of 2010. In North Carolina today, an individual may be eligible for up to 73 weeks of benefits.[11]

SECTION-BY-SECTION BILL ANALYSIS: The policy changes to the UI program in House Bill 4 would accelerate the repayment of the State's $2.5 billion to the federal unemployment account by approximately three years. The accelerated repayment means the FUTA tax rate borne by NC employers would return to 0.6% in 2016 as opposed to 2019.

SECTION 1: FUND CHANGES

Substantively, section 1 restricts the use of revenue in the Employment Security Administration Reserve Fund (renamed the Unemployment Insurance Reserve Fund) to the payment of benefits, interest payment on federal advances used to pay benefits, and principal payment on federal advances used to pay benefits. Under current law, revenues in the fund may be used to fund local offices. Section 1 also caps the balance in the Fund on January 1 of any year to the greater of $50 million or the amount of interest paid the previous September on federal advances. Any amount in the Fund that exceeds this cap is transferred to the Unemployment Insurance Fund. The amount of interest paid in September 2012 on federal advances was $83.9 million.

Section 1 restricts the use of revenue in the Special Employment Security Administration Fund (renamed the Supplemental Employment Security Administration Fund). Under current law, revenues in the fund may be used for improvements to buildings, the enhancement of the work environment in buildings used by the Division of Employment Security, the acquisition of real estate, buildings, and equipment required for the expeditious handling of Division business, and the temporary stabilization of federal funds cash flow. The bill limits the use of money to the temporary stabilization of federal funds and to payment of costs determined by US DOL to be ineligible for payment from the Employment Security Administration Fund. The restrictions imposed by the bill on the use of money in this fund effectively limits the funds available to administer the State's UI program to the grant monies allocated to the State by US DOL.

Administratively, section 1 moves the definitions from Article 2 of Chapter 96 to Article 1 because the definitions apply throughout the Chapter. The bill puts the definitions in alphabetical order, it cross-references many definitions to their meaning under FUTA, and it removes definitions that are not needed. It renames the four funds used to administer the UI program to more clearly reflect their purpose and it removes antiquated and redundant language:

- Unemployment Insurance Fund. – The revenue for this fund consists of SUTA contributions and it is used to pay benefits. Contributions credited to the Unemployment Insurance Fund are transferred daily to the State's account in the Unemployment Trust Fund. The Trust Fund is held in the federal treasury. Money in the State's account is requisitioned by the State as needed to pay benefits. As the

[11] 26 weeks of regular benefits, plus 47 weeks of EUC.

money is requisitioned, it is transferred to the State's Unemployment Insurance Fund to pay benefits. If the State's account in the Unemployment Trust Fund is not sufficient to meet the requisitioned amount needed to pay benefits, then the State receives an advance from the federal unemployment account.

- Unemployment Insurance Reserve Fund. – The revenue for this fund consists of surtax revenue and its use is limited by this bill to the payment of benefits and to payment of interest and principal on federal advances.
- Employment Security Administration Fund. – The revenue for this fund consists primarily of grant money allocated to the State from US DOL for the administration of the State's UI program.
- Supplemental Employment Security Administration Fund. – The revenue for this fund consists primarily of interest paid by employers on past due contributions and its use is limited by this bill to payment of costs determined by US DOL to be ineligible for payment from the Employment Security Administration Fund, temporary stabilization of federal funds cash flow, security for advances, and the repayment of an overpayment of interest previously credited to this fund.

SECTION 2: SUTA CONTRIBUTION AND SURTAX CHANGES RESERVE REQUIREMENTS FOR REIMBURSABLE EMPLOYERS

Substantively, Section 2 does the following:

- Replaces the current tax schedules with a formula.
- Increases the minimum and maximum SUTA contribution rates.
- Changes the trigger that suspends the collection of the surtax.
- Simplifies the reimbursement option for employers that are governmental and nonprofit organization by treating them uniformly. Uniformity means that all of them are required to maintain a reserve account equal to 1% of the taxable wages paid by them to their employees.

Section 2 repeals the current set of stepped tax schedules that determine an employer's SUTA contribution rate and replaces the schedules with an equation based on a reserve ratio. The change results in smoother movement between experience ratings and improves the responsiveness of the system. The contribution rate may change under the equation depending on the balance in the State's account in the federal Unemployment Trust Fund on August 1st. If the amount in the Trust Fund is less than or equal to 1% of the total wages reported by all insured employers in the State for the 12-month period ending on July 31st, then the contribution rate is 2.9% minus the employer's reserve ratio percentage (ERRP). The amount in the Trust Fund is currently less than 1% of total wages.

If the amount in the Trust Fund is greater than 1% of total insured wages but less than or equal to 1.25%, then the contribution rate is reduced to 2.4% minus the ERRP. If the amount in the Trust Fund is greater than 1.25% of total insured wages, then the contribution rate may decline to 1.9% minus the ERRP. The ERRP is the employer's reserve ratio based on the employer's experience rating. The bill does not change how an employer's experience rating is determined. The move from the stepped tax schedules to an equation may result in minor contribution changes for employers between the minimum and maximum contribution rates. The increase in contributions required from employers currently at the minimum and maximum contribution rates is attributable to the increase in the minimum and maximum rates.

Section 2 increases the minimum and maximum contribution rates; it does not change the standard beginning rate of 1%. It increases the minimum contribution rate from 0% to .06%. North Carolina is the only state with a 0% minimum tax rate. Approximately 20% of North Carolina's employers have no

SUTA tax liability. Since the surtax is a percentage of SUTA liability, these employers do not have a surtax liability. Under the bill, these employers will pay some SUTA tax and consequently the surtax.[12] The bill increases the maximum contribution rate from 5.7% to 5.76%. Approximately 10% of North Carolina employers pay SUTA at the maximum rate.

Section 2 changes the trigger for determining when the surtax must be collected. Under current law, the trigger is based upon how much is in the Employment Security Commission Reserve Fund (Reserve Fund). If the amount in the Reserve Fund equals or exceeds $163,349,000 on August 1st, the collection of the surtax is suspended for the succeeding calendar year. This dollar amount represented 1% of taxable wages in 1984.[13] The bill changes the trigger from an amount in the Reserve Fund to an amount in the State's account in the Unemployment Trust Fund: the surtax would be suspended when the amount in the Trust Fund equals or exceeds $1 billion.

Section 2 simplifies the provisions applicable to employers that must be given the option to reimburse the Unemployment Insurance Fund for benefits paid on their behalf as opposed to paying contributions.[14] Under current law, most nonprofit organizations and all Indian tribes and subsidiaries of an Indian tribe that make this election must maintain a reserve account equal to 1% of the taxable wages paid to its employees. The bill imposes this same 1% reserve requirement on governmental entities, as well as all nonprofit organizations.

For governmental entities, the change essentially ensures that the funds are available in the employer's account to pay unemployment benefits when the benefits are paid. The change represents a one-time cash flow expenditure for governmental entities because not only will these entities have to pay the full reimbursement cost of benefits paid to claimants in 2012 in January of 2014, they will also have to make advance payments for the four calendar quarters beginning with the quarter that begins July 1, 2013, to build the 1% reserve. The largest quarterly advance will likely be the one made for the first quarter of the calendar year, payable in April 2014. Thereafter, governmental entities will have an annual reconciliation to maintain the 1% balance in their reserve account. The Division will determine the amount necessary to maintain the appropriate reserve balance on August 1st of each year.

Most nonprofit organizations currently maintain a 1% balance in their reserve accounts. However, some are allowed to post a surety bond or have a line of credit in lieu of the 1% reserve. This change may represent a similar cash flow issue for these nonprofits. Currently, the bonds and lines of credit are allowed for two-year periods. Effective July 1, 2013, the bill prevents a nonprofit organization from submitting a line of credit or a surety bond to secure its reimbursing election. The bill does allow current lines of credit or surety bond contracts to expire in their normal course.

Administratively, Section 2 simplifies the statutes by adopting the relevant provisions of federal law. The bill does not change coverage of employers subject to the UI program.

SECTION 3: ADMINISTRATION AND COLLECTION OF CONTRIBUTIONS

Substantively, Section 3 allows the Secretary of Commerce to compromise an employer's liability under the same limited circumstances that the Secretary of Revenue has to compromise a tax liability. When the Secretary compromises an employer's liability and the liability is at least $1,000, the Secretary must make a written statement that sets out the amount of the liability, the amount accepted under the compromise, a summary of the facts concerning the liability, and the findings on which the compromise is based.

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[12] With a taxable wage base of $20,900, an employer's SUTA tax liability with a .06% rate would be $12.54 per employee and the surtax liability would be $2.51.

[13] The surtax last triggered on in 2005 and has been collected since then.

[14] FUTA requires states to give governmental and nonprofit employers a reimbursement option.

Administratively, Section 3 consolidates the provisions concerning the administration and collection of contributions in one Article. It does not change the current law.

SECTION 4: ADMINISTRATION OF EMPLOYER ACCOUNTS

Substantively, Section 4 greatly reduces the number of reasons for which an employer may be relieved from having benefits charged against the employer's account. This change conforms to the benefit changes made in Section 5, and more fully explained in that section of the summary.

Section 4 also amends the penalty enacted last session that prohibits the release of charges when an overpayment is made to a claimant because the employer failed to respond timely to a request for information concerning the claim. To comply with federal law, a state must impose this penalty as part of its UI program, effective on or before October 21, 2013. The penalty applies to employers that have exhibited a pattern of failing to respond. Section 4 defines a "pattern of failing" by providing that a pattern cannot be found unless the employer failures during the year prior to the request is less than 2% of the total requests made to that employer. It also moves the effective date of this provision from October 1, 2013, to October 21, 2013, the date required by federal law.

Administratively, Section 4 consolidates the provisions concerning how and when contributions are credited to an employer's account and how and when benefit charges are credited against an employer's account. It also requires an employer with 25 or more employees to file the Quarterly Tax and Wage Report electronically. Under current law, the electronic filing requirement applies to an employer with 100 or more employees.

SECTION 5: PAYMENT OF BENEFITS

Substantively, Section 5 does the following:

- Requires a waiting week for each claim filed.
- Eliminates and modifies many of the reasons for which a claimant may qualify for benefits and changes the terms of the disqualification.
- Changes the calculation for how an individual's WBA is determined; reduces the maximum WBA to a statutorily set amount of $350; and changes the calculation for an individual's partial WBA.
- Reduces the maximum duration of regular UI benefits and limits the applicability of optional extended benefits.
- Redefines "suitable work".
- Places additional benefit limitations on company officers and spouses of company officers.

Waiting week.

To obtain benefits, an individual must file a valid claim for unemployment benefits and register for work. The bill requires an individual to wait a week for each claim filed before receiving a benefit. Under current law, the waiting week is limited to one per benefit year. A valid claim is one that meets certain employment and wage standards. The bill does not change those standards:

- An individual must have been paid wages in at least two quarters of the base period.
- An individual must have been wages totaling at least six times the average weekly insured wage during the base period, which is the first four of the last five completed calendar quarters. If the individual does not have sufficient base period wages, the alternative base period is the last four completed quarters.

Qualification changes.

For an individual that files a valid claim, the Division must determine whether the individual qualifies for benefits. Qualification for benefits is determined based on the reason for separation from employment. The bill makes the following qualification changes:

- Reduced work hours. – An individual may qualify for benefits if the individual's work hours have been reduced by more than 50% as part of a unilateral and permanent reduction of work hours. Under current law the reduction in work hours need only be 20%.[15]
- Disciplinary suspension. – An individual may qualify for benefits if the individual has been placed on disciplinary suspension for more than 30 consecutive days. Under current law the suspension need only be for 10 consecutive days. The issue becomes whether the reason for suspension is a disqualifying reason for benefits.
- Good cause.[16] – The bill eliminates all but two of the reasons for which an individual could voluntarily quit work and still qualify for UI benefits. Those two reasons are domestic violence and military spousal relocation.[17] The reasons eliminated include: bankruptcy; impending closure; spousal relocation; disability or other health concern, whether or not it is related to work; disability or health concern of minor child, aged or disabled parent, or disabled immediate family member; inability to accept work during a particular shift because of concerns related to child care, elder care, or care of a disabled family member.
- Substantial fault.[18] – The bill eliminates substantial fault. Under substantial fault, an individual may qualify for a reduced number of weeks of UI benefits if the reason for separation included fault on the part of the individual, but the fault did not rise to the level of misconduct. Under the bill, an individual would either qualify for benefits, or not qualify; there would be no qualifying for a reduced number of weeks of benefits.

In addition to the reasons given above for disqualification of benefits, an individual may be disqualified for leaving work without good cause attributable to the employer, for misconduct, or for failing to secure the necessary licenses, permit, bond, or surety required for the job. The length of the disqualification period may be two years, or it may be less. The current law gives the Division a lot of discretion in defining the length of the disqualification. The bill would remove this discretion. An individual would either qualify for the full duration of benefits, or not qualify for the benefits at all. And if an individual is disqualified for benefits, the disqualification only applies to that claim.

Weekly benefit amount.

The Division must determine the WBA and the duration of benefits a qualifying individual is entitled to receive. The bill makes the following changes in the calculation of the WBA:

- Changes the calculation of the WBA from 50% of the individual's high-quarter wages in the base period, not to exceed the maximum WBA, to 50% of the individual's average weekly wage in the last two quarters of the base period. [19] North Carolina's average weekly benefit (AWB) for 2011

[15] The bill does not change the 15% reduction of work pay as a reason for qualifying for benefits if the reduction is part of a unilateral and permanent reduction of work pay.
[16] Benefits not charged to employer's account.
[17] An individual that qualifies for benefits under this section would still need to meet the work search requirements to be eligible for a benefit.
[18] Benefits not charged to employer's account.
[19] The methods states use to determine WBA vary greatly. At least half of the states use the high-quarter method. Other methods used include: multi-quarter, annual wage, average weekly wage formula.

was $291.[20] The Upjohn Institute report noted that wages for the two quarters immediately preceding unemployment were typically 66.4% of the high-quarter wages. Based on that assumption, this change is expected to reduce aggregate UI benefits by 33.6%. The actual number of claimants impacted is indeterminable; it would impact any individual whose quarterly wages are reduced in the two quarters preceding an unemployment claim.

- Sets the maximum WBA in statute at $350.[21] Currently, the Division calculates the maximum WBA annually based on 66 2/3% of the average weekly insured wages on August 1; the maximum WBA in the State today is $535.[22] An estimated 21.7% of weekly claims checks exceed $350; of those, approximately 17% are at the maximum amount. North Carolina's maximum WBA is 70% higher than the average of the following eight states compared in the Upjohn Institute report for 2011: AL ($265), FL ($275), GA ($330), KY ($415), MS ($235), SC ($326), TN ($275), and VA ($378).
- Changes the base for determination of the disregard for partial earnings from 10% of the individual's AWW in the high-quarter to 20% of the individual's WBA.

Duration of regular benefits.

The duration of regular benefits in North Carolina ranges from 13 weeks to 26 weeks[23], depending upon the total benefit amount the individual is entitled to receive. The bill ties the duration of regular benefits to the seasonal adjusted statewide unemployment rate, as determined by the US DOL. The duration could change twice a year: January 1 and July 1. The bill also reduces the maximum number of weeks from 26 to 20.[24] Based on these two changes, the duration of benefits would vary as follows:

Seasonal adjusted UI rate	Minimum number of weeks	Maximum number of weeks
Less than or equal to 5.5%	5	12
Greater than 5.5% up to 6%	6	13
Greater than 6% up to 6.5%	7	14
Greater than 6.5% up to 7%	8	15
Greater than 7% up to 7.5%	9	16
Greater than 7.5% up to 8%	10	17
Greater than 8% up to 8.5%	11	18
Greater than 8.5% up to 9%	12	19
Greater than 9%	13	20

[20] That amount was slightly higher than the AWB in the surrounding states of AL ($204), FL ($232), GA ($268), KY ($287), MS ($191), SC ($238), TN ($238), and VA.
[21] An individual annual wages would need to be $36,400 to qualify for a maximum benefit of $350.
[22] An individual's annual salary would need to be $55,640 to receive the maximum benefit of $535.
[23] The average duration of regular UI benefits in December 2012 was 16.3 weeks. The exhaustion rate for North Carolina for the 3rd quarter of 2012 was 54.2%. The highest exhaustion rate was 63.9% in the 2nd quarter of 2010 and the lowest was 12.5% in the 1st quarter of 1989.
[24] Upjohn Institute reports that from 2006-2011, 43% of claimants exhausted their maximum eligibility of 26 weeks. During that time period, 43% of claimants would have been affected by a reduction in the number of weeks.

Weekly certification.

Once an individual qualifies for UI benefits, the individual must meet weekly work search eligibility requirements to receive the benefit. The individual must submit a certification each week attesting that the individual meets the work search requirements. If an individual does not meet the eligibility requirements, the individual is ineligible to receive a benefit until the reason for the ineligibility ceases to exist. The work search requirements are that the individual must be able to work, available to work, actively seeking work, and accepting suitable work. The Department of Commerce has made some administrative changes in this area, and the bill makes some statutory changes in it.

Last biennium[25], the General Assembly enacted legislation to place the Employment Security Commission as a division under the Department of Commerce. Through the merger process, the Division of Employment Security and the Division of Workforce Solutions have agreed in a Memorandum of Understanding (MOU) executed in November 2012 as to how each division will support the common goal of serving UI claimants who are in need of financial and job-seeking assistance. As part of that MOU, claimants will be encouraged to file UI claims remotely. The Division of Workforce Solutions will be the lead division that assists UI claimants with job search, retraining, and other support. As part of the re-employment goals, new UI claimants will be required to have an in-individual interview with someone from the Division of Workforce Solutions within the first four weeks of receiving an initial UI benefit. The purpose of the individual visit is to verify the claimant's work search, schedule claimants to participate in an employability assistance process, and identify those claimants that need subsequent on site employability interviews. If an individual fails to come, the individual's UI benefit may be stopped.

The bill makes the following statutory changes in the work search requirements:

- It defines "suitable work" as any job paying 120% of the individual's WBA after the first 10 weeks of benefits.
- It eliminates the part-time suitable work exception. Under current law, if an individual is unemployed from a part-time job, the individual is not required to accept full-time employment.
- Under current law, an individual is considered to meet the work search requirements if the individual is in school. The bill restricts this provision by limiting it to enrollment in a training program approved by the Division, as required under FUTA.

Lastly, the bill places additional benefit restrictions on company officers and spouses of company officers. Under current law, an individual is disqualified from receiving benefits if the individual is self-employed and can reasonably return to work. Also, an individual or the individual's spouse is disqualified from receiving benefits if the individual is unemployed because the individual's ownership share of the employer was voluntarily sold and the individual held 5% or more of the outstanding shares of voting stock, or was a partner, or was the sole proprietor. Under the bill, a corporate officer that qualifies for benefits would be limited in the duration of benefits to six weeks.

Administratively, Section 5 consolidates the provisions concerning benefits in one Article. Except as otherwise noted in the summary, it does not intend to change the other provisions of current law.

SECTION 6: EXTENDED BENEFITS

Under federal law, a state must offer extended benefits during times of high unemployment in the state.[26] Extended benefits are typically funded 50% by the State and 50% by the federal government.

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[25] SL 2011-145 and SL 2011-401.

[26] North Carolina "triggered off" extended benefits in May 2012.

Federal law sets one definition of high unemployment that a State must follow. It also provides optional definitions that may trigger extended benefits earlier than the mandatory definition. North Carolina's current law includes both the required trigger and the optional triggers.

The duration of extended benefits is typically equal to 50% of the total amount of regular benefits. By limiting the number of weeks of regular benefits, the bill indirectly reduces the number of extended benefits an individual may receive. Section 7 of the bill would also make one other change to the applicability of extended benefits in North Carolina by providing that the optional triggers would not "trigger on" unless the federal government has agreed to pay 100% of those extended benefits.

SECTION 7: ADMINISTRATION OF BENEFITS

Substantively, Section 7 does two things:

- It changes the administration of UI benefits by limiting the ability of employers to file attached claims on behalf of their employees.
- It authorizes the Division to collect fraudulent overpayments through attachment and garnishment.

Under current law, an employer may file a claim for an employee that it intends to keep on its payroll. That employee must be able to work for the employer and available to return to work for that employer whenever that employer calls the individual back to work. Otherwise, the employee does not have to meet the weekly certification requirements of engaging in work search efforts.

Historically, attached claims account for approximately half of UI claims, although the percentage declined to 40-45% during the recent recession. Although it is difficult to determine what employers file attached claims, it appears that those most likely to do are the employers engaged in manufacturing and construction. It also appears that a large amount of the current indebtedness can be attributed to employers who have reached the maximum contribution rate and that those employers may be largely related to manufacturing and construction. With the current limitations on the computer capabilities at the Division, a more accurate analysis is not available.

Some attached claims are filed for one or more weeks of unemployment. Under the regulations previously issued by the Employment Security Commission[27], an employer that files attached claims for one or more weeks must furnish the Division with a definite date when work will become available for the claimant. This period may not extend for more than six weeks unless the time period is extended by the local office.

Other attached claims are filed for days within a week. For example, an individual employed by a company that builds roads may file attached claims for employees when the weather outside prohibits work for less than three customary scheduled full-time days during the work week. This unemployment is known as partially unemployed. Under current law, an individual who is partially unemployed must serve one waiting week per benefit year. Under the bill, a claimant must serve a waiting week for each claim. That change effectively eliminates partially unemployed claims.

Under the bill, only certain employers will be allowed to file attached claims, and there are restrictions on how those claims are processed:

- Only employers that have a positive account balance would be allowed to file attached claims. If an employer that wished to file an attached claim had a negative account balance, the employer

[27] Regulation 10.15 and 10.16.

would have to make a voluntary contribution to the Unemployment Insurance Fund in an amount sufficient to bring its account balance to zero or better.

- An employer would have to immediately reimburse the Unemployment Insurance Fund for the full cost of UI benefits paid to the employee through the attached claim.
- An employer could only file an attached claim once a year for each employee, and the duration of the attached claim could not extend beyond six weeks.

Section 7 adds attachment and garnishment to the collection tools available to the Division to recover fraudulent overpayments. The Division requested this ability. A fraudulent overpayment is one that is made based on a finding that the claimant, or another individual acting in the claimant's behalf and with the claimant's knowledge, has knowingly made a false statement or representation or failed to disclose a material fact for the purpose of obtaining or increasing an unemployment benefit.

Administratively, Section 7 consolidates the provisions governing the administration of UI benefits in one Article.

SECTION 8: LOCAL OFFICES

The US DOL allocates grant money to the State to administer the UI program. Some of this grant money may be used to operate local offices. The State has historically appropriated money from the Employment Security Administration Reserve Fund to finance additional local offices. The amount appropriated in the past to fund local offices has been $19.5 million. North Carolina currently operates 90 local offices. By comparison, South Carolina operates 56 and Virginia operates 39. Section 1 of the bill restricts the use of the money in the Unemployment Insurance Reserve Fund so that continued appropriations may not be made from that fund to finance local offices. The restriction may result in the consolidation of local offices. Section 8 of the bill sets general parameters the Department of Commerce must consider as it determines the appropriate number and location of local offices.

SECTION 9: CONFORMING CHANGES

Section 9 makes conforming changes to other statutes.

SECTION 10: JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON UNEMPLOYMENT INSURANCE

Section 10 establishes a Joint Legislative Oversight Committee on Unemployment Insurance. The Committee consists of eight members, four appointed by the Speaker of the House of Representatives and four appointed by the President Pro Tempore of the Senate. The Committee expires in 10 years. The Committee is authorized to do the following:

- Study the unemployment insurance laws and the administration of those laws.
- Review the State's unemployment insurance laws to determine which laws need clarification, technical amendment, repeal or other change to make the laws concise, intelligible, and easy to administer.
- Monitor the payment of the debt owed by the Unemployment Insurance Trust Fund to the federal unemployment account.
- Review and determine the adequacy of the balances in the Unemployment Trust Fund and the Unemployment Insurance Reserve Fund.
- Study the workforce development programs and reemployment assistance efforts of the Department of Commerce.

SECTION 12: EFFECTIVE DATE[28]

The bill would become effective July 1, 2013. Changes made by the act to unemployment benefits apply to claims for benefits filed on or after July 1, 2013.[29] Changes made by the act to require an account balance by an employer that is a governmental entity or a nonprofit organization and that elects to finance benefits by making reimbursement payments in lieu of contributions apply to advance payments payable for calendar quarters beginning on or after July 1, 2013. Changes made by the act to the determination and application of the contribution rate apply to contributions payable for calendar quarters beginning on or after January 1, 2014.

[28] The bill section numbers inadvertently omitted a Section 11.

[29] Congress extended the Emergency Unemployment Compensation program (EUC) from January 2, 2013, to January 1, 2014, in the *American Taxpayer Relief Act of 2012.* The program provides claimants up to 47 additional weeks of benefits, financed by an appropriation from the federal government. A state's participation in the program is optional. North Carolina is currently a party to the agreement. The State can terminate the agreement with 30 days' notice. To participate in the agreement, a state cannot change the mathematical formula used to determine weekly benefit amounts in a manner that will result in the average WBA being less than the average WBA was in June 2010. The bill would violate this "non-reduction" rule, effective July 1, 2013.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: January 30, 2013

TO: House Finance Committee

FROM: Rodney Bizzell, Aubrey Incorvaia and Kristin Walker
Fiscal Research Division

RE: UI Fund Solvency and Program Changes

FISCAL IMPACT ($millions)					
	Yes (X)	No ( )	No Estimate Available ( )		
	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
REVENUES:					
UI Trust Fund	*See Assumptions and Methodology*				
UI Reserve Fund	*See Assumptions and Methodology*				
EXPENDITURES:					
General Fund	$40.8	$13.6			
Highway Fund	$1.2	$0.4			
Receipts	$8.6	$2.9			
State Subtotal	$50.6	$16.9			
Local Gov	$50.8	$17.0			
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Department of Commerce; Local Governments; Nonprofits participating as reimbursing entities.					

EFFECTIVE DATE: Tax Changes Effective January 1, 2014. Benefit Changes and Reserve Funding Requirements Effective July 1, 2013.

BILL SUMMARY: See Research Division Outline Chart

ASSUMPTIONS AND METHODOLOGY:

Unemployment Insurance (UI) Trust Fund

The UI Trust Fund is the source of funds used to pay unemployment benefits. Revenues for the Fund come from employer taxes and interest earned on balances. During economic downturns, the Fund is forced to borrow from the Federal Treasury to pay benefits if the balance in the Fund is not sufficient to pay unemployment benefits. Because of the high levels of unemployment experienced during the Great Recession, the Fund was forced to borrow, resulting in a current debt of $2.5 billion.

Simulation Model

The US Department of Labor maintains a model for states to use to simulate changes to UI programs and determine the impact on the UI Trust Fund through 2021. This model was used by the W.E. Upjohn Institute to estimate the impact of the proposed legislation on the State's UI Trust Fund. The model is not designed to simulate all of the changes in the proposal. Therefore, the results do not represent the total impact of the proposal; however, the major changes in the proposal are included in the simulation and are listed below. The impact of other changes in the proposal are discussed later in the memo.

- Reduction in maximum weekly benefit from two-thirds of average weekly wage to $350
- Reduction in maximum duration of benefits from 26 weeks to a sliding scale ranging from 12 to 20 weeks based on the seasonally adjusted total unemployment rate.
- Weekly benefit amount based on most recent two quarters as opposed to high quarter wages.
- State Unemployment Tax (SUTA) rate tables changed to linear formula with triggered reductions based on UI Trust Fund balance as percentage of total insured wages.

Federal UI Tax (FUTA) Credit Reductions

The simulation incorporates the FUTA credit reductions that occur annually until the debt is paid. The credit reductions are decreases in the credit amount that the federal government allows against the federal unemployment taxes (FUTA) paid by employers. When states are in full compliance with USDOL guidelines, a credit of 5.4% is allowed against the 6.0% percent FUTA tax, resulting in an effective FUTA rate of 0.6% on a $7,000 taxable wage base, or $42 per employee. When a state has an outstanding UI debt for two consecutive Januaries, USDOL reduces the credit each year by 0.3%, or $21 per employee with wages of $7,000 or more. For tax year 2013, the FUTA credit reduction will be 0.6%, resulting in a total effective tax rate of 1.2%, and will increase by 0.3% for each year in which the State UI Trust Fund carries a negative balance.

Economic Variables
The simulation incorporates several economic assumptions used to determine the amount of benefits paid and taxes collected each year. Economic variables for labor force growth, wage growth, total unemployment rate and insured unemployment rate were obtained from Global Insight. The variables project a slowly improving economy with total unemployment improving from 9.32% in 2013 to 6.14 % in 2021.

Simulation Results
The simulation provides outputs for the UI Trust Fund balance for each year. Results indicate that the UI Trust Fund would have a positive balance beginning in 2015 and that a balance of $2.2 billion would be achieved by the year 2021 if the proposal is implemented.

State and Local Government Reserve Requirements
Part 3 of the proposed legislation requires that state and local governments maintain a 1% reserve fund in addition to reimbursing the State for benefits charged to the entities. The governmental units would begin paying into a reserve fund on a quarterly basis effective July 1, 2013. A quarterly assessment of 1% of taxable payroll would be assessed, with a final reconciliation payment due in January 2015. Benefits charged on behalf of governmental units would be charged against the 1% reserve, requiring additional payments to maintain the 1% reserve. As payments are made into the reserve, they would be swept to the Federal Treasury and credited to the UI Trust Fund.

FRD estimated the impact on the UI Trust fund of the reserve requirements by obtaining taxable payroll data from the NC Division of Employment Security. The total amount of taxable wages for State and local governments is approximately $13.5 billion. The reserve requirements represent 1% of this amount, or $135 million. This amount would be paid over a 1.5-year period beginning in July 2013 and ending in January 2015. It is expected that the majority of this amount would be received during fiscal year 2013-14. The first quarter calendar year payments are highest because taxable wages ($20,900 for 2013) begin to be exhausted in subsequent quarters. For purposes of this fiscal memo, it is assumed that 75% of reserve requirements will be achieved in FY 2013-14, with the remainder in FY 2014-15.

The State portion of taxable wages was estimated by Fiscal Research as $67.5 million. Of this amount, $11.5 million is related to receipt-supported positions and $1.6 million is assigned to the Highway Fund, resulting in a net General Fund cost of $54.4 million. This amount includes the cost associated with State-funded teacher positions.

Because this estimate is based on budgeted FTE's (full-time equivalents), it does not fully account for part-time positions, but does include vacancies. For example, two half-time positions would be counted as one FTE; therefore the taxable wage would be calculated as if it is one employee.

The remainder of the $135.3 million in estimated reserve requirements, or $67.8 million, is attributable to local governments. 75% of this amount is assumed to be paid in FY 2013-14, with the remainder paid in FY 2014-15.

Table 1 below includes the impact of the changes included in the Upjohn simulation, the State and local reserve requirement, the FUTA contributions and the total impact on the UI Trust Fund for each year.

Table 1. Unemployment Insurance Trust Fund Projection

Calendar Year	Annual FUTA Per Employee with $7,000 wage base	Local and State Governments 1% Reserve Requirement	UI Trust Fund Balance per Upjohn Simulation*	Total UI Trust Fund Balance
2013	$84	$0	-$1,979,040,000	-1,979,040,000
2014	$105	$101,400,000	-$1,039,251,000	-937,851,000
2015	$126	$33,900,000	$31,961,000	167,261,000
2016	$42	$0	$788,634,000	923,934,000
2017	$42	$0	$1,299,829,000	1,435,129,000
2018	$42	$0	$1,722,516,000	1,857,816,000
2019	$42	$0	$1,945,499,000	2,080,799,000
2020	$42	$0	$2,042,186,000	2,177,486,000
2021	$42	$0	$2,130,556,000	$2,265,856,000

***Upjohn Simulation dated January 3, 2013.**

Other Changes

Several additional changes in the proposal are described here. While the USDOL model does not allow for simulation of these changes, the nature of the changes and potential impacts are discussed below.

Nonprofits

Currently, nonprofits are required to maintain a 1% reserve or provide a surety bond ensure payment of 1% of taxable payroll if the nonprofit is unable to pay benefits. While most nonprofits elect to use the 1% reserve, a small number of nonprofits post a surety bond. The change from surety bond to a reserve fund for these entities will result in a small increase in the UI Trust Fund.

Attached Claims

Under current law, employers may file UI claims for employees if the employees remain attached to the employer and there is an expectation that the employee will return to work within 6 weeks. There is no requirement that the employee search for work during this period. The proposal would

only allow for attached claims if the employer has a positive UI balance; that is, benefits charged to the employer do not exceed UI taxes paid by the employer. Positive balance employers may elect to use attached claims only if they reimburse the UI Trust fund for the cost of benefits paid to employees.

It is expected that very few employers would utilize the attached claims process under the proposal. Employees laid off by employers, even if for a temporary period, would be able to file a UI claim and receive benefits; however, the requirements for receiving benefits would apply, including searching for work. It is not known how the elimination of attached claims would affect the number of workers filing for benefits. Unemployed workers who would have previously received benefits under the attached claims process may elect to file for benefits on their own. Because of the administrative burden on the employee, and the desire in many cases to return to work with the current employer, it is expected that this change would result in fewer UI claims and a reduction in benefits paid.

Other UI System Modifications
This proposal modifies additional components of the UI system, which were not modeled by the Upjohn Institute, but which are considered to likely have a positive impact on the Trust Fund. Such modifications include narrowing qualifications for benefit eligibility, suitable work, and good cause (see Research Outline for additional context).

Reserve Fund Limitations
The Reserve Fund is funded by a 20% surtax on State UI Taxes (SUTA). Under current law, the surtax is triggered when the balance in the Reserve Fund falls below $163 million. Under the proposal, the surtax would be charged until the UI Trust Fund has a balance of $1 billion. In addition, the Reserve will only be used for the following activities: principal payment of federal UI advances, interest payment on federal UI debt, UI benefit payments, administrative costs for surtax collection, and tax refunds. The fund would be capped at $50 million, or the amount used to pay interest in the previous year, whichever is greater.

SOURCES OF DATA: W.E. Upjohn Institute; NC Division of Employment Security; IHS Global Insight

TECHNICAL CONSIDERATIONS: None

Failed

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 4*

AMENDMENT NO. 1
(to be filled in by Principal Clerk)

H4-ATMx-17 [v.1]

Comm. Sub. [YES]
Amends Title [NO]
Third Edition

Date Feb. 6 ,2013

Senator Woodard

moves to amend the bill on page 39, line 10, by rewriting the line to read:

"**SECTION 12.(a)** G.S. 96-14.2(a), as enacted by this act, reads as rewritten;

'(a) Weekly Benefit Amount. – The weekly benefit amount for an individual who is totally unemployed is an amount equal to the wages paid to the individual in the last two completed quarters of the individual's base period divided by 52 and rounded to the next lower whole dollar. If this amount is less than fifteen dollars ($15.00), the individual is not eligible for benefits. The weekly benefit amount may not exceed ~~three hundred fifty dollars ($350.00).~~the maximum weekly benefit amount.

The Division must calculate the maximum weekly benefit amount each August 1. The maximum weekly benefit amount is sixty-six and two-thirds percent (66 2/3%) of the average weekly insured wage. If this amount is not a whole dollar, the Division must round the amount to the next lower whole dollar. The maximum weekly benefit amount set on August 1 of a year applies to an individual whose benefit year begins on or after that date and before August 1 of the following year.'

SECTION 12.(b) G.S. 96-14.4, as enacted by this act, reads as rewritten:

'**§ 96-14.4. Duration of ~~benefits for individual claimant.~~benefits.**

(a) Total Benefit Amount. ~~– The total amount of benefits paid to an individual may not exceed the individual's total benefit amount.~~ The total benefit amount for an individual is determined as follows:

(1) Divide the individual's base-period wages by the average of the wages paid to the individual in the last two completed quarters of the base period.
(2) Multiply the quotient by eight and two-thirds.
(3) Round the product to the nearest whole number.
(4) Multiply the resulting amount by the individual's weekly benefit amount as determined under G.S. 96-14.2.

(b) Duration. – ~~The number of weeks an individual may receive benefits varies depending on the seasonal adjusted statewide unemployment rate that applies at the time the regular unemployment claim is filed. The total benefits paid to an individual may not be less than the individual's average weekly benefit amount multiplied by the minimum number of weeks allowed in accordance with G.S. 96-14.3. The total benefits paid to an individual may not exceed the lesser of the following:~~ The total regular benefits paid to an individual may not be less than the minimum total benefit and may not exceed the lesser of the maximum total

benefit or the individual's total benefit amount. The minimum total benefit for an individual is 13 times the individual's weekly benefit amount. The maximum total benefit for an individual is 26 times the individual's weekly benefit amount.

~~(1) The individual's average weekly benefit amount multiplied by the maximum number of weeks allowed in accordance with G.S. 96-14.3.~~

~~(2) The individual's total benefit amount, as calculated under subsection (a) of this section.~~'

SECTION 12.(c) G.S. 96-14.3, as enacted by this act, is repealed.

SECTION 12.(d) This section becomes effective January 1 of the first year when the federal unemployment tax under Sections 3303 and 3304 of the Internal Revenue Code of 1986 on employers is no longer increased to repay any outstanding balance owed for advances to pay unemployment benefits. The changes to unemployment benefits made by this section apply to claims for benefits filed on or after that date.

SECTION 13. Except as otherwise provided, this act becomes effective July 1, 2013. Changes made by this act".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED X TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 4*

AMENDMENT NO. 2
(to be filled in by Principal Clerk)

H4-ATMx-12 [v.1]

Comm. Sub. [YES]
Amends Title [NO]
Third Edition

Date Feb. 6, ,2013

Senator Nesbitt

moves to amend the bill on page 20, lines 45-49, by rewriting the lines to read:

"(a) Weekly Benefit Amount. – The weekly benefit amount for an individual who is totally unemployed is the amount of the high quarter wages paid to the individual in the individual's base period, divided by 26 and rounded to the next lower whole dollar. If this amount is less than fifteen dollars ($15.00), the individual is not eligible for benefits.

The weekly benefit amount may not exceed the maximum weekly benefit amount. The Division must calculate the maximum weekly benefit amount each August 1. The maximum weekly benefit amount is sixty-six and two-thirds percent (66 2/3%) of the average weekly insured wage. If this amount is not a whole dollar, the Division must round the amount to the next lower whole dollar. The maximum weekly benefit amount set on August 1 of a year applies to an individual whose benefit year begins on or after that date and before August 1 of the following year.";

And on page 21, lines 46 and 47, by rewriting the lines to read:

"(1) Divide the individual's base-period wages by the individual's high-quarter wages.";

And on page 39, line 10, by rewriting the line to read:

"**SECTION 12.(a)** G.S. 96-14.2(a), as enacted by this act, reads as rewritten:

'(a) Weekly Benefit Amount. – The weekly benefit amount for an individual who is totally unemployed is an amount equal to the wages paid to the individual in the last two completed quarters of the individual's base period divided by 52 and rounded to the next lower whole dollar. If this amount is less than fifteen dollars ($15.00), the individual is not eligible for benefits. The weekly benefit amount may not exceed three hundred fifty dollars ($350.00).~~the amount of the high quarter wages paid to the individual in the individual's base period, divided by 26 and rounded to the next lower whole dollar. If this amount is less than fifteen dollars ($15.00), the individual is not eligible for benefits.~~

~~The weekly benefit amount may not exceed the maximum weekly benefit amount. The Division must calculate the maximum weekly benefit amount each August 1. The maximum weekly benefit amount is sixty-six and two-thirds percent (66 2/3%) of the average weekly insured wage. If this amount is not a whole dollar, the Division must round the amount to the next lower whole dollar. The maximum weekly benefit amount set on August 1 of a year~~

~~applies to an individual whose benefit year begins on or after that date and before August 1 of the following year.~~'

SECTION 12.(b) G.S. 96-14.4(a)(1), as enacted by this act, reads as rewritten:

'(1) Divide the individual's base-period wages by the ~~individual's high quarter wages.~~average of the wages paid to the individual in the last two completed quarters of the base period.'

SECTION 12.(c) This section becomes effective January 1, 2014, and applies to claims for benefits filed on or after that date.

SECTION 13. Except as otherwise provided, this act becomes effective July 1, 2013. Changes made by this act".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S D

SENATE BILL 6*
PROPOSED COMMITTEE SUBSTITUTE S6-PCS35033-RB-2

Short Title: UI Fund Changes. (Public)

Sponsors:

Referred to:

January 31, 2013

A BILL TO BE ENTITLED

AN ACT TO TRANSFER FUNDS TO THE UNEMPLOYMENT INSURANCE FUND TO MAKE PRINCIPAL PAYMENTS ON THE TWO AND ONE-HALF BILLION DOLLAR ADVANCE MADE BY THE FEDERAL GOVERNMENT TO THE UNEMPLOYMENT INSURANCE FUND TO PAY UNEMPLOYMENT COMPENSATION BENEFITS.

The General Assembly of North Carolina enacts:

SECTION 1. The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Commerce, shall transfer and allocate to the Unemployment Insurance Fund any unencumbered cash balance as of June 30, 2013, of each of the following special funds within the Department and then close each of these special funds:

(1) Worker Training Trust Fund (Special Fund Code 64654-6400).

(2) Training and Employment Account (Special Fund Code 64655-6601).

SECTION 2. There is appropriated from the Special Employment Security Administration Fund to the Unemployment Insurance Fund the sum of ten million dollars ($10,000,000) for the 2013-2014 fiscal year to be used to make principal payments on advances made by the federal government under Title XII of the Social Security Act to the Unemployment Insurance Fund to pay unemployment compensation benefits.

SECTION 3. This act becomes effective July 1, 2013.

SENATE BILL 6:
UI Fund Changes

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	February 6, 2013
Introduced by:	Sens. Rucho, Rabon, Brock	**Prepared by:**	Cindy Avrette Committee Counsel
Analysis of:	PCS to First Edition S6-CSRB-2		

[As introduced, this bill was identical to H4, as introduced by Reps. Howard, Warren, Starnes, Setzer, which is currently in Senate Finance. The bill is a recommendation of the Revenue Laws Study Committee. House Bill 4, 3rd Edition, contains the substantive provisions of the Revenue Laws Study Committee recommendation; it does not contain the appropriation provisions. The PCS for Senate Bill 6 contains the appropriation provisions from the original study committee recommendation. The appropriation provisions must be re-referred to the Committee on Appropriations.]

SUMMARY: ***The proposed committee substitute for Senate Bill 6 would transfer more than $17 million from three funds and accounts to the Unemployment Insurance Fund to make principal payments on the $2.5 billion advance made by the federal government to the Unemployment Insurance Fund to pay unemployment compensation benefits. The programmatic changes in the original bill are in House Bill 4, 3rd edition.***

BILL ANALYSIS: The proposed committee substitute for Senate Bill 6 would close two accounts that have not been utilized and transfer the balance of those accounts to the Unemployment Insurance Fund. All monies in that fund are swept daily into the State's account in the federal Unemployment Trust Fund and used to make principal payments on the advance made by the federal government to the account to pay unemployment compensation benefits. Senate Bill 6 would also transfer $10 million from the Special Employment Security Administration Fund to the Unemployment Insurance Fund for the same purpose.

EFFECTIVE DATE: The bill would become effective July 1, 2013.

BACKGROUND: If a state does not have sufficient revenues in its Unemployment Trust Fund to pay benefits, the federal unemployment account provides an automatic advance or loan to the state.[1] North Carolina received its first advance in February 2009. The State currently owes the federal unemployment account $2.5 billion.[2]

The General Assembly created the Worker Training Trust Fund in 1987. It is funded from interest earned on the Employment Security Reserve Fund and monies in the Fund have historically been used for Worker Training Programs at the community colleges. House Bill 4 removes this funding source by providing that all interest earned on the Reserve Fund accrues to it. The money in the Reserve Fund, as amended by House Bill 4, may be used only to fund unemployment compensation benefits and principal and interest payments on advances made by the federal government to the Unemployment Insurance Fund. There is approximately $6 million in this account. Senate Bill 6 would close this fund and remit the unencumbered balance to the Unemployment Insurance Fund.

[1] As of January 3, 2013, 20 states have an outstanding state loan from the Federal Unemployment Account.
[2] NC's debt is the 3rd largest behind California at $10.3 billion and New York at $3.5 billion.

O. Walker Reagan
Director

Research Division
(919) 733-2578

The General Assembly created the Training and Employment Account in 1991 to capture a mandatory training and reemployment contribution that was levied on employers. Eighty percent of the contributions were allocated to community college training programs and the remaining 20% were allocated to the Employment Security Commission for employment services and administrative expenses. The contributions that funded the account have not been collected since 2005.[3] There is approximately $688,000 in this account. Senate Bill 6 would close this fund and remit the unencumbered balance to the Unemployment Insurance Fund.

The Special Employment Security Administration Fund is funded primarily by interest and penalty[4] payments employers make on past due contributions. Under current law the monies in the Fund may be used to finance improvements to buildings, acquisition of property, and the temporary stabilization of federal funds cash flow. House Bill 4 restricts the use of the fund to the administration of the unemployment insurance program, the temporary stabilization of federal funds cash flow, and security for loans from the Unemployment Trust Fund. There is approximately $16 million[5] in the Fund. Senate Bill 6 would transfer $10 million of this amount to the Unemployment Insurance Fund.

[3] S.L. 1999-321 created the contribution rate and account with a sunset of January 1, 2002. S.L. 2001-424 extended the sunset until January 1, 2006.

[4] Since 2006, the Division of Employment Security has transferred the funds it receives attributable to penalties to the Fines and Forfeitures Account.

[5] Some portion of this amount may be attributed to penalties paid to the Fund prior to 2006.

GENERAL ASSEMBLY OF NORTH CAROLINA

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: February 6, 2013

TO: Senate Finance Committee

FROM: Aubrey Incorvaia
Fiscal Research Division

RE: PCS to First Edition S6-CSRB-2, UI Fund Changes

FISCAL IMPACT

☑ Yes ☐ No ☑ No Estimate Available

State Impact	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
Special Fund Revenues:					
Unemployment Insurance Fund	17,070,015				
Special Fund Expenditures:					
Worker Training Trust Fund	6,381,187				
Training & Employment Account	688,828				
Special Employment Security Administration Fund	10,000,000				
NET STATE IMPACT	$0	$0.0	$0.0	$0.0	$0.0

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Commerce Division of Employment Security

EFFECTIVE DATE: July 1, 2013

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY:

Proposed Committee Substitute (PCS) to Senate Bill (SB) 6 requires the Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Commerce to transfer cash balances to the Unemployment Insurance Fund from the Worker Training Trust Fund and the Training and Employment Account and then close these funds. The

Special Employment Security Administration Fund will also transfer $10 million to the Unemployment Insurance Fund.

ASSUMPTIONS AND METHODOLOGY:

PCS to SB 6 requires unencumbered cash balances from three special funds to be put toward repayment of the $2.5 billion advance the State borrowed from the federal government to pay unemployment insurance benefits. Effective July 1, 2013, the amount generated by transferring the following funds within Commerce's Division of Employment Security is estimated to be $17.1 M:

- Worker Training Trust Fund –These funds have historically been used for Worker Training Programs. This fund was created in 1987 from interest earned by the Employment Security Reserve Fund. As of June 30, 2013, the unencumbered cash balance is estimated to be $6.4 M and will be available for transfer to the Unemployment Insurance Fund.
- Training & Employment Account – Historically, these funds have been used for Community College training programs and Employment Security employment services. The contribution that supported these programs sunset on January 1, 2011, and no further appropriations were made. As of June 30, 2013, the unencumbered cash balance is estimated to be $0.7 M and is available for transfer to the Unemployment Insurance Fund.
- Special Employment Security Administration Fund – These funds come from the collection of penalties & interest. PCS to SB 6 transfers $10 M of the fund's cash balance to the Unemployment Insurance Fund. The cash balance as of December 31, 2012 is $16.1 M. It is assumed that these funds will remain unencumbered through the end of Fiscal Year 2012-2013.

SOURCES OF DATA: North Carolina Accounting System

TECHNICAL CONSIDERATIONS: None

VISITOR REGISTRATION SHEET

Senate Finance Committee — February 6, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
A Bruce Clarke	CAI / ECNC RALEIGH
Jacob Yanicco	Sen. Brown's Office
Robb Brown	Walgreens Raleigh
Dana Psomas	Walgreens Charlotte
Sally West	Walgreens
Jessica Puckett-Beasley	Walgreens
Steven Webb	NCHBA
John Pollard	NCBA
Cody Hand	NCHA
Dana Fenton	CLT
Doug Kostka	NCSTA

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Senate Finance Committee — February 6, 2013

Name of Committee — **Date**

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Elise McDowell	Troutman Sanders
Bob Hall	McGuire Woods
Casey Wentz	Sen. Barringer
Andy Willard	UNC-CH
Sarah Sanders	NS
Keith Mentz	FMC
TJ Bryfce	Nexsen Pruet
Steve Brewer	CTL
Tommy Roberson	TWC
George Smith	Nexsen Pruet
William Jones	Jordan Price

VISITOR REGISTRATION SHEET

Senate Finance Committee — February 6, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Heather Barnett	Ward & Smith
Allison Waller	Nelson Mullins
J Goodman	NC Chamber

VISITOR REGISTRATION SHEET

Senate Finance Committee — February 6, 2013

Name of Committee — **Date**

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NAME	FIRM OR AGENCY AND ADDRESS
Bonner Stiller	n/a
Christian Stiller	N/A
Elizabeth Bise	Brooks Pierce
Kara Weisheaar	Smith Anderson
McNeil Cronin	Smith Anderson
Keeli Mehra	Duke Energy
Ken Melton	K.M.A.
Patrick Bufflin	NCAEC
Scott Costner	SSGNC
Andrew Blackburn	SSGNC
Kristen Lassen	SSGNC

VISITOR REGISTRATION SHEET

Senate Finance Committee — **Name of Committee**

February 6, 2013 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
MaryBe McMillan	NC AFL-CIO
Bill Rowe	NC Justice Center
Mike Okun	NC State AFL-CIO
Mildred Spearman	NCDOC
Kim Connell	NCBA
Susanna Dwin	Williams Mullen
John Hardy	MFS
Kay Emanuel	School of Government
Breeden Blackwell	Cape Fear Valley Med. Ctr.
Daniel Van Liere	Vibrant Health
Townes Maxwell	Public Sector Group

VISITOR REGISTRATION SHEET

Senate Finance Committee — February 6, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

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Jay Joiner	Sound Tracs
Gene Ainsworth	A & A
Will Colclasser	NVA
Jake Cashion	NC Chamber
Sarah Hardin	CTL
Whitney Christensen	NCRLA
Matt Viohl	CW Consulting
Alex Badger	CSS
Jackson Court	NSS
Jack Cozort	NSS
Solari	DST

VISITOR REGISTRATION SHEET

Senate Finance Committee — February 6, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Suzanne Beasley	SEANC
Chuck Stone	SEANC
LEW Ebert	NC Chamber
Gary Salamido	NC Chamber
Kerri Burgo	NLWC
Paul Noyes	NCLM
Keith Richardson	City of Charlotte
Chip Killian	Nelson Mullins
Dwayne Greene	News 14 Carolina
Dominic Palujak	NCAR
Cady Thomas	"

VISITOR REGISTRATION SHEET

Senate Finance Committee
Name of Committee

February 6, 2013
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Doug Misken	PSG
Connie Wilson	ECNC

PAGES ATTENDING

COMMITTEE: Finance ROOM: 544

DATE: 2/6/13 TIME: 1 pm

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

Page Name	Hometown	Sponsoring Senator
1 Ross Strickland	Salemburg	Brent Jackson
2 Mark Moser	Wilmington	Tom Goolsby
3 Alex Brocon	Cary	Barringer
4		
5		
6		
7		
8		
9		
10		

Do not add names below the grid.

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

Committee Sergeants at Arms

NAME OF COMMITTEE Senate Finance

DATE: 2/6/13 **Room:** 544

House Sgt-At Arms:

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

Senate Sgt-At Arms:

1. **Name:** Leslie Wright
2. **Name:** Anderson Meadows
3. **Name:** Donna Blake
4. **Name:** Justin Owens
5. **Name:** Billy Fritscher

Senate Committee on Finance
Wednesday, February 13, 2013, 1:00 PM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 76	Domestic Energy Jobs Act.	Senator Brock Senator Newton Senator Rucho

Adjournment

Senate Finance Committee
Tuesday, February 13, 2013
Room 544 LOB, 1:00 p.m.

Minutes

The Senate Committee on Finance met on Tuesday, February 13, 2013, at 1:00 p.m. in room 544 of the Legislative Office Building. Josiah Nazzaro of Oak Island, Ian West of Wilson and Razi Lane of Edenton served as pages. Senator Rabon served as Chair to the meeting.

S.B. 76 – Domestic Energy Jobs Act

Senator Newton was recognized to explain the bill and moved to adopt the proposed committee substitute (PCS) for discussion. The motion carried. The PCS would modify provisions related to oil and gas exploration and development activities in the State, including the use of horizontal drilling and hydraulic fracturing treatments for that purpose; impose a tax for the severance of energy minerals from the soil or water of the State and make associated changes. It also appropriates monies to the Department of Environment and Natural Resources to operate the Mining and Energy Commission and for related expenditures; assign future revenue from offshore energy production; encourage the Governor to develop a regional compact for offshore energy exploration; amend the Energy policy Act (renamed as the Energy Policy and Jobs Act) and the Energy Policy Council (reconstituted as the Energy Jobs Council); and direct the Medical Care Commission to adopt rules authorizing facilities licensed by the Department of Health and Human Services to use compressed natural gas as an emergency fuel. Heather Fennell, an attorney with the Research Division, was recognized to explain Section 5, the tax portion of the bill (severance tax rates, caps and penalties; and limiting local governments to only imposing property tax, but not privilege, license, income or franchise). Senator Rucho was recognized to offer a clarifying tax amendment which Ms. Fennell explained. Jennifer McGuiness, an attorney with the Research Division, was recognized to discuss impact fees. Senator Tillman moved to adopt the amendment and the motion carried. Senator Brock moved to adopt the PCS as amended with a referral to the Senate Commerce Committee. The motion carried. A copy of the PCS, the summary, the fiscal note and the amendment is attached.

The meeting adjourned at 1:37 p.m.

Senator Bill Rabon, Presiding Chair
Senate Finance Committee

DeAnne Mangum
Senate Finance Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Thursday, February 14, 2013

Senator Rabon,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

SB **76** Domestic Energy Jobs Act.

Draft Number:	S76-PCS75047-RIf-1
Sequential Referral:	Commerce
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Senator E.S. Newton will handle SB 76

Principal Clerk
Reading Clerk

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	February 13, 2013	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	
SB 76	Domestic Energy Jobs Act.	Senator Brock Senator Newton Senator Rucho

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S D

SENATE BILL 76
PROPOSED COMMITTEE SUBSTITUTE S76-CSRIf-1 [v.1]

2/12/2013 5:24:51 PM

Short Title: Domestic Energy Jobs Act. (Public)

Sponsors:

Referred to:

February 12, 2013

A BILL TO BE ENTITLED

AN ACT TO (1) AUTHORIZE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO ISSUE PERMITS ON OR AFTER MARCH 1, 2015, FOR OIL AND GAS EXPLORATION AND DEVELOPMENT ACTIVITIES IN THE STATE, INCLUDING THE USE OF HORIZONTAL DRILLING AND HYDRAULIC FRACTURING TREATMENTS FOR THAT PURPOSE; (2) DIRECT THE MINING AND ENERGY COMMISSION TO STUDY DEVELOPMENT OF A COMPREHENSIVE ENVIRONMENTAL PERMIT FOR OIL AND GAS EXPLORATION AND DEVELOPMENT ACTIVITIES USING HORIZONTAL DRILLING AND HYDRAULIC FRACTURING TREATMENTS; (3) MODIFY APPOINTMENTS TO THE MINING AND ENERGY COMMISSION; (4) MODIFY PROVISIONS IN THE OIL AND GAS CONSERVATION ACT CONCERNING THE MINING AND ENERGY COMMISSION'S AUTHORITY TO SET "ALLOWABLES"; (5) ELIMINATE THE REGISTRATION REQUIREMENTS FOR PERSONS CONDUCTING LANDMEN ACTIVITIES IN THE STATE; (6) AMEND THE STATUTE GOVERNING SUBSURFACE INJECTION OF FLUID; (7) PROVIDE A TAX FOR THE SEVERANCE OF ENERGY MINERALS FROM THE SOIL OR WATER OF THE STATE, REPEAL OUTDATED OIL AND GAS TAX STATUTES, AND AUTHORIZE THE SUSPENSION OF PERMITS FOR FAILURE TO FILE A RETURN FOR SEVERANCE TAXES; (8) APPROPRIATE MONIES FROM THE MINERAL INTEREST FUND TO THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO OPERATE THE MINING AND ENERGY COMMISSION AND FOR RELATED EXPENDITURES; (9) ASSIGN FUTURE REVENUE FROM ENERGY EXPLORATION, DEVELOPMENT, AND PRODUCTION OF ENERGY RESOURCES IN ORDER TO PROTECT AND PRESERVE THE STATE'S NATURAL RESOURCES, CULTURAL HERITAGE, AND QUALITY OF LIFE; (9) ENCOURAGE THE GOVERNOR TO DEVELOP THE REGIONAL INTERSTATE OFFSHORE ENERGY POLICY COMPACT; (10) AMEND THE ENERGY POLICY ACT OF 1975 AND THE ENERGY POLICY COUNCIL; AND (11) DIRECT THE MEDICAL CARE COMMISSION TO ADOPT RULES AUTHORIZING FACILITIES LICENSED BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO USE COMPRESSED NATURAL GAS AS AN EMERGENCY FUEL.

The General Assembly of North Carolina enacts:

PART I. ISSUANCE OF PERMITS

SECTION 1.(a) Effective March 1, 2015, the Department of Environment and Natural Resources and the Mining and Energy Commission are authorized to issue permits for oil and gas exploration and development activities using horizontal drilling and hydraulic fracturing treatments in the State pursuant to G.S. 113-395.

SECTION 1.(b) Section 3(d) of S.L. 2012-143 is repealed.

SECTION 1.(c) The Mining and Energy Commission, with the assistance of the Department of Environment and Natural Resources, shall study development of a coordinated permitting program for oil and gas exploration and development activities using horizontal drilling and hydraulic fracturing treatments in order that a single comprehensive environmental permit may be issued to a permit applicant to govern the applicant's exploration and development activities at a site, including, but not limited to, regulation of the following matters: well construction, siting, and closure requirements; hydraulic fracturing treatments, including subsurface injection of fluids for that purpose; water quality, including stormwater control, and management of water resources; management of waste; and regulation of air emissions. The Department of Environment and Natural Resources shall seek any approvals necessary from the United States Environmental Protection Agency for a coordinated permitting program to allow issuance of a single comprehensive environmental permit for oil and gas exploration and development activities using horizontal drilling and hydraulic fracturing treatments. The Mining and Energy Commission shall report its findings and recommendations to the Environmental Review Commission and the Joint Legislative Commission on Energy Policy on or before October 1, 2013.

PART II. MINING AND ENERGY COMMISSION APPOINTMENT MODIFICATIONS

SECTION 2.(a) G.S. 143B-239.2 reads as rewritten:

"**§ 143B-293.2. North Carolina Mining and Energy Commission – members; selection; removal; compensation; quorum; services.**

(a) Members Selection. – The North Carolina Mining and Energy Commission shall consist of ~~15~~ 13 members appointed as follows:

(1) The Chair of the North Carolina State University Minerals Research Laboratory Advisory Committee, or the Chair's designee, ex officio.

~~(2) The State Geologist, or the State Geologist's designee, ex officio.~~

~~(3) The Assistant Secretary of Energy for the Department of Commerce, ex officio.~~

(4) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who is a member of a nongovernmental conservation interest.

(5) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives ~~who~~ who, at the time of initial appointment, is an elected official of a municipal government located in ~~the Triassic Basin of North Carolina.~~ a region of North Carolina that has oil and gas potential. A person serving in this seat may complete a term on the Commission even if they are no longer serving as an elected official of a municipal government, and may be reappointed to a second term.

(6) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who is a representative of the mining industry.

(7) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who shall be a geologist with experience in oil and gas exploration and development.

(8) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who is a member of a nongovernmental conservation interest.

(9) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate ~~who~~ who, at the time of initial appointment, is a member of a county board of commissioners of a county located in ~~the Triassic Basin of North Carolina.~~a region of North Carolina that has oil and gas potential. A person serving in this seat may complete a term on the Commission even if they are no longer serving as county commissioner, and may be reappointed to a second term.

(10) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who is a representative of the mining industry.

(11) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who shall be an engineer with experience in oil and gas exploration and development.

(12) One appointed by the Governor who shall be a representative of a publicly traded natural gas company.

(13) One appointed by the Governor who shall be a licensed attorney with experience in legal matters associated with oil and gas exploration and development.

(14) One appointed by the Governor who is a member of the Environmental Management Commission.~~Commission and knowledgeable in the principles of water and air resources management.~~

(15) One appointed by the Governor who is a member of the Commission for Public Health.~~Health and knowledgeable in the principles of waste management.~~

...."

SECTION 2.(b) The term of the member serving pursuant to subdivision (14) of G.S. 143B-293.2(a), as amended by Section 2(a) of this act, shall terminate immediately should that individual's membership on the Environmental Management Commission terminate. The term of the member serving pursuant to subdivision (15) of G.S. 143B-293.2(a), as amended by Section 2(a) of this act, shall terminate immediately should that individual's membership on the Commission for Public Health terminate.

PART III. MISCELLANEOUS MODIFICATIONS TO THE OIL AND GAS CONSERVATION ACT: ALLOWABLES AND REPEAL OF LANDMEN REGISTRY.

SECTION 3.(a) G.S. 113-394 reads as rewritten:

"§ 113-394. Limitations on production; allocating and prorating "allowables."

(a) ~~Whenever the total amount of oil, including condensate, which all the pools in the State can produce, exceeds the amount reasonably required to meet the reasonable market demand for oil, including condensate, produced in this State, then the~~The Commission ~~shall~~ may limit the total amount of oil, including condensate, which may be produced in the State by fixing an amount which shall be designated "allowable" for ~~this State, which will not exceed the reasonable market demand for oil, including condensate, produced in this~~ the State. The Commission ~~shall~~ may then allocate or distribute the "allowable" for the State among the pools on a reasonable basis and in such manner as to avoid undue discrimination, and so that waste will be prevented. In allocating the "allowable" for the State, and in fixing "allowables" for pools producing oil or hydrocarbons forming condensate, or both oil and such hydrocarbons, the Commission ~~shall~~ may take into account the producing conditions and other relevant facts with respect to such pools, including the separate needs for oil, gas and condensate, and ~~shall~~

may formulate rules setting forth standards or a program for the distribution of the "allowable" for the State, and ~~shall~~ distribute the "allowable" for the State in accordance with such standards or program, and where conditions in one pool or area are substantially similar to those in another pool or area, then the same standards or programs shall be applied to such pools and areas so that as far as practicable a uniform program will be followed; provided, however, the Commission shall allow the production of a sufficient amount of natural gas from any pool to supply adequately the reasonable market demand for such gas for light and fuel purposes if such production can be obtained without waste, and the condensate "allowable" for such pool shall not be less than the total amount of condensate produced or obtained in connection with the production of the gas "allowable" for light and fuel purposes, and provided further that, if the amount allocated to pool as its share of the "allowable" for the State is in excess of the amount which the pool should produce to prevent waste, then the Commission shall fix the "allowable" for the pool so that waste will be prevented.

~~(b) The Commission shall not be required to determine the reasonable market demand applicable to any single pool except in relation to all pools producing oil of similar kind and quality and in relation to the demand applicable to the State, and in relation to the effect of limiting the production of pools in the State.~~ In allocating "allowables" to pools, the Commission shall not be bound by nominations or desires of purchasers to purchase oil from particular fields or areas, and the Commission shall allocate the "allowable" for the State in such manner as will prevent undue discrimination against any pool or area in favor of another or others which would result from selective buying or nominating by purchasers of oil, as such term "selective buying or nominating" is understood in the oil business.

(c) Whenever the Commission limits the total amount of oil or gas which may be produced in any pool in this State to an amount less than that which the pool could produce if no restrictions were imposed (which limitation may be imposed either incidental to, or without, a limitation of the total amount of oil or gas which may be produced in the State), the Commission shall prorate or distribute the "allowable" production among the producers in the pool on a reasonable basis, and so that each producer will have the opportunity to produce or receive his just and equitable share, as such share is set forth in subsection G.S. 113-392(d), subject to the reasonable necessities for the prevention of waste.

(d) Whenever ~~the total amount of gas which can be produced from any pool in this State exceeds the amount of gas reasonably required to meet the reasonable market demand therefrom,~~ the Commission ~~shall limit~~ limits the total amount of gas which may be produced from ~~such pool. The~~ a pool, the Commission shall then allocate or distribute the allowable production among the developed areas in the pool on a reasonable basis, so that each producer will have the opportunity to produce his just and equitable share, as such share is set forth in subsection G.S. 113-392(d), whether the restriction for the pool as a whole is accomplished by order or by the automatic operation of the prohibitory provisions of this law. As far as applicable, the provisions of subsection (a) of this section shall be followed in allocating any "allowable" of gas for the State.

(e) After the effective date of any rule or order of the Commission fixing the "allowable" production of oil or gas, or both, or condensate, no person shall produce from any well, lease, or property more than the "allowable" production which is fixed, nor shall such amount be produced in a different manner than that which may be authorized."

SECTION 3.(b) G.S. 113-425 is repealed.

PART IV. AMEND STATUTE GOVERNING SUBSURFACE FLUID INJECTION

SECTION 4. G.S. 143-214.2 reads as rewritten:

"**§ 143-214.2. Prohibited discharges.**

(a) The discharge of any radiological, chemical or biological warfare agent or high-level radioactive waste to the waters of the State is prohibited.

(b) The discharge of any wastes to the subsurface or groundwaters of the State by means of wells is prohibited. This section shall not be construed to prohibit (i) the operation of closed-loop groundwater remediation systems in accordance with G.S. 143-215.1A or (ii) injection of ~~hydraulic fracturing~~ fluid ~~for~~ associated with the ~~exploration~~ exploration, production, or development of natural gas resources.

(c) Unless permitted by a rule of the Commission, the discharge of wastes, including thermal discharges, to the open waters of the Atlantic Ocean over which the State has jurisdiction are prohibited."

PART V. SEVERANCE TAXES

SECTION 5.(a) Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 5I.
"Severance Tax.

"**§ 105-187.71. Definitions.**

The following definitions apply in this Article:

(1) Casinghead gas. – Gas or vapor indigenous to an oil stratum and produced from the stratum with oil.
(2) Condensate. – Liquid hydrocarbon that is or can be recovered from gas by a separator or other means.
(3) Energy mineral. – All forms of natural gas, oil, and related condensates.
(4) First purchaser. – A person who purchases an energy mineral from a producer.
(5) Gas. – All natural gas, including casinghead gas, and all other hydrocarbons not defined as oil or condensates.
(6) MCF. – One thousand cubic feet of natural gas.
(7) Oil. – Crude petroleum oil, and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods, and which are not the result of condensation of gas after it leaves the reservoir.
(8) Owner. – An owner of a landowner's royalty interest, of an overriding royalty, of profits and working interests, or any combination thereof in energy minerals. The term does not include an owner of federal, state, or local governmental royalty interest.
(9) Person. – Defined in G.S. 105-228.90.
(10) Producer. – A person who takes an energy mineral from the soil or water in this State.
(11) Return. – Any report or statement required to be filed under this Article to determine the tax due.
(12) Royalty interest. – An interest in mineral rights in a producing leasehold in the State. A royalty interest does not include the interest of a person having only the management and operation of a well.
(13) Secretary. – The Secretary of Revenue.
(14) Severance. – The extraction or other removal of an energy mineral from the soil or water of this State.
(15) Severed. – The point at which the energy mineral has been separated from the soil or water of this State.
(16) Standard barrel of oil. – A barrel of oil containing forty-two gallons.

(17) Taxpayer. – Any person required to pay the severance tax levied by this Article.

"**§ 105-187.72. Tax on severance of energy minerals.**

(a) Purpose. – An excise tax, to be termed a "severance tax," is levied on the privilege of engaging in the severance of energy minerals from the soil or water of this State. The purpose of the tax is to provide revenue to administer and enforce the provisions of this Article, to administer the State's natural gas and oil reclamation regulatory program, to meet the environmental and resource management needs of this State, and to reclaim land affected by exploration for, drilling for, and production of natural gas and oil. The severance tax is imposed upon all energy minerals severed when sold or consumed, whichever occurs first.

(b) Calculation of Tax. – The amount of the severance tax shall be determined as follows:

(1) Condensates. – The applicable percentage rate of tax multiplied by the market value per each barrel of oil equivalents (BOE) of the condensates sold.

(2) Gas. – The applicable percentage rate of tax multiplied by the market value per each MCF of the gas sold.

(3) Oil. – The applicable percentage rate of tax multiplied by the market value per each standard barrel of the oil sold.

(c) Rate of Tax, Condensates. – The applicable percentage rate of the severance tax on condensates shall be determined in accordance with the following schedule:

(1) For condensates sold from a well in calendar year 2015, 2016, or 2017, the rate of tax shall be one percent (1%).

(2) For condensates sold from a well in calendar year 2018 or 2019, the rate of tax shall be two and one-half percent (2.5%).

(3) For condensates sold from a well in calendar year 2020 and thereafter, the rate of tax shall be six percent (6%).

(d) Rate of Tax, Gas. – The applicable percentage rate of the severance tax on gas shall be calculated for each sale of gas. The rate will be the sales price of each MCF divided by 100 stated as a percentage, within the following limitations:

(1) For gas sold from a well in calendar year 2015, 2016, or 2017, the rate of tax shall not exceed one percent (1%).

(2) For gas sold from a well in calendar year 2018 or 2019, the rate of tax shall not exceed two and one-half percent (2.5%).

(3) For gas sold from a well in calendar year 2020 and thereafter, the rate of tax shall be at least two and one-half percent (2.5%) and shall not exceed six percent (6%).

(e) Rate of Tax, Oil. – The applicable percentage rate of the severance tax on condensates shall be determined in accordance with the following schedule:

(1) For oil sold from a well in calendar year 2015, 2016, or 2017, the rate of tax shall be one percent (1%).

(2) For oil sold from a well in calendar year 2018 or 2019, the rate of tax shall be two and one-half percent (2.5%).

(3) For oil sold from a well in calendar year 2020 and thereafter, the rate of tax shall be six percent (6%).

(f) Exemption. – The severance of energy minerals from land or water in this State owned legally or beneficially by the producer, which energy minerals are used on the land from which they are taken by the producer as part of the improvement of or use in the producer's homestead is exempt from the severance tax. To claim the exemption allowed by this subsection, the taxpayer shall provide any information required by the Secretary. Every taxpayer claiming the exemption under this subsection shall maintain and make available for

inspection by the Secretary any records the Secretary considers necessary to determine and verify the amount of the exemption or special rate of tax to which the taxpayer is entitled. The burden of proving eligibility for the exemption and the amount of the exemption shall rest upon the taxpayer, and no exemption shall be allowed to a taxpayer that fails to maintain adequate records or to make them available for inspection.

"**§ 105-187.73. Market value.**

(a) Market Value. – For the calculation of the severance tax, market value is the following:

(1) Condensates. – The market value of condensates is the total actual gross price in U.S. dollars paid by the first purchaser of condensates at the mouth of the well from which it was produced.

(2) Gas. – The market value of gas is the total actual gross price in U.S. dollars paid by the first purchaser at the mouth of the well from which the gas is produced as adjusted in this section. The market value of gas at the mouth of the well shall be determined by subtracting the producer's actual marketing costs from the producer's total gross cash receipts from the sale of the gas.

(3) Oil. – The market value of oil is the total actual gross price in U.S. dollars paid by the first purchaser of the oil at the mouth of the well from which it was produced.

(b) Marketing Costs. – Marketing costs are the costs incurred by the producer to get the gas from the mouth of the well to the market. Marketing costs do not include costs for which a producer receives a cost reimbursement from the gas purchaser. Marketing costs do not include costs incurred in producing the gas, costs incurred in normal lease separation of the oil or condensate from the gas, or insurance premiums on the marketing facility. Marketing costs include all of the following:

(1) Costs for compressing the gas sold.

(2) Costs for dehydrating the gas sold.

(3) Costs for sweetening the gas sold.

(4) Costs for delivering the gas to the purchaser.

(5) Costs for gathering the gas sold.

(c) Records. – In order to be eligible to subtract the marketing costs from the producer's gross receipts for purposes of calculating the market value of gas, the producer shall provide any information required by the Secretary. Every producer subtracting the marketing costs as permitted under this section shall maintain and make available for inspection by the Secretary of Revenue any records the Secretary considers necessary to determine and verify the amount of the marketing costs the producer is eligible to subtract. The burden of proving eligibility for subtracting the marketing costs and the amount of the marketing costs to be subtracted shall rest upon the producer, and no subtraction of marketing costs shall be allowed to a producer that fails to maintain adequate records or to make them available for inspection.

"**§ 105-187.74. Returns and payment of tax.**

(a) General. – Severance taxes are payable when a return is due. A return is due quarterly or monthly as specified in this section. A return must be filed by the producer of the energy mineral with the Secretary on a form prescribed by the Secretary and in the manner required by the Secretary. A return must be signed by the taxpayer or the taxpayer's agent.

(b) Payment. – A producer of energy minerals shall pay the tax for all owners of the energy minerals. The producer shall withhold from any payment due owners the proportionate tax due for remittance to the Secretary.

(c) Quarterly. – A taxpayer who is consistently liable for less than one thousand dollars ($1,000) a month in severance taxes must file a return and pay the taxes due on a quarterly basis. A quarterly return covers a calendar quarter and is due by the last day of the month following the end of the quarter.

(d) Monthly. – A taxpayer who is consistently liable for at least one thousand dollars ($1,000) a month in severances taxes must file a return and pay the taxes due on a monthly basis. A monthly return is due by the 20th day of the month following the calendar month covered by the return.

(e) Category. – The Secretary must monitor the amount of severance taxes paid by a taxpayer or estimate the amount of taxes to be paid by a new taxpayer and must direct each taxpayer to pay tax and file returns as required by this section. In determining the amount of taxes due from a taxpayer, the Secretary must consider the total amount due from all places of business owned or operated by the same person as the amount due from that person. A taxpayer must file a return and pay tax in accordance with the Secretary's direction.

(f) Information on Return. – The amount of tax due and any other information required by the Secretary must be included on the return. Returns that do not contain the required information will not be accepted. When an unacceptable return is submitted, the Secretary will require a corrected return to be filed. The return must contain the following information concerning energy minerals produced during the month being reported:

(1) The gross amount of energy minerals produced that are subject to the tax imposed by this Article.

(2) The leases from which the energy minerals were produced.

(3) The names and addresses of the first purchasers of the energy minerals.

"**§ 105-187.75. Bond or letter of credit required.**

A producer must file with the Secretary a bond or an irrevocable letter of credit if the producer fails to file a return required under this Article. A bond or an irrevocable letter of credit must be conditioned upon compliance with the requirements of this Article, be payable to the State, and be in the form required by the Secretary. The amount of the bond or irrevocable letter of credit is two times the applicant's average expected monthly tax liability under this Article, as determined by the Secretary. When notified to do so by the Secretary, a person that is required to file a bond or an irrevocable letter of credit must file the bond or irrevocable letter of credit in the amount required by the Secretary within 30 days after receiving the notice from the Secretary.

"**§ 105-187.76. Allocation of revenue.**

The Secretary shall allocate the tax levied in this Article as follows:

(1) Twenty-five percent (25%), not to exceed one million dollars ($1,000,000) per year, to the Department of Environment and Natural Resources for purposes of administering its duties and responsibilities under Article 27 of Chapter 113 of the General Statutes.

(2) After allocation pursuant to subsection (a) of this section, the Secretary shall allocate:

a. Fifty percent (50%) to the General Fund.

b. Fifty percent (50%) to the Onshore Energy Management Fund until the Fund reaches ten million dollars ($10,000,000). The Onshore Energy Management Fund is an interest-bearing special revenue fund to be established within the State treasury. This fund shall be used only for emergency preparation, emergency response, emergency environmental protection, or mitigation associated with a release of liquid hydrocarbons or associated fluids directly related to onshore energy exploration, development, production, or transmission. Once the fund balance reaches the amount of ten million dollars ($10,000,000), funds over that amount shall be allocated to the General Fund. If monies are withdrawn from the Onshore Energy Emergency Fund to carry out the provisions in this sub-subdivision, revenues generated by the tax levied in this Article shall be deposited

in the Onshore Energy Emergency Fund until a total of ten million dollars ($10,000,000) is reestablished.

"**§ 105-187.77. Liability of producer for tax.**

The tax imposed by this Article is the primary liability of the producer except as provided in this section. A first purchaser may not take delivery of energy minerals from a producer unless the producer furnishes the purchaser with a taxpayer identification number assigned by the Secretary. A first purchaser failing to secure the producer's taxpayer number, either from the producer or the Secretary, will be liable for any tax, penalty, and interest due on the energy minerals purchased from the producer.

"**§ 105-187.78. Royalty owner's records.**

The owner of a royalty interest shall keep both of the following:

(1) A record of all money received as royalty from each producing leasehold in the State.

(2) A copy of all settlement sheets furnished by a purchaser or operator or other statement showing the amount of energy minerals for which a royalty was received and the amount of severance tax deducted.

"**§ 105-187.79. Permits suspended for failure to report.**

If an entity fails to file any report or return or to pay any tax or fee required by this Article for 90 days after it is due, the Secretary shall inform the Secretary of Environment and Natural Resources of this failure. The Secretary of Environment and Natural Resources shall suspend permits for oil and gas exploration using horizontal drilling and hydraulic fracturing under G.S. 113-395 of any entity that fails to file a return under this Article. The Secretary of Environment and Natural Resources shall immediately notify by mail an entity of a suspension under this section.

"**§ 105-187.80. No local taxation.**

A county, city, town, or municipality of the State of North Carolina shall not establish, levy, impose, or collect, as a condition of doing business or otherwise, any tax, fee, license, or charge whatsoever, directly or indirectly, on or with respect to the severing, production, treating, processing, ownership, sale, storage, purchase, marketing, or transportation on any energy minerals produced in the State of North Carolina and on which severance taxes are due or have been paid to the State of North Carolina, or upon the business of severing, producing, treating, processing, owning, selling, buying, storing, marketing, or transporting such energy minerals, or upon the ownership, operation, or maintenance of plants, facilities, machinery, pipelines, gathering lines, or any equipment whatsoever, which are, or may be, necessary or convenient to the severing, production, treating, processing, ownership, storage, sale, purchase, marketing, or transportation of such energy minerals."

SECTION 5.(b) G.S. 105-259(b) is amended by adding a new subdivision to read:

"(44) To furnish to the Department of Environment and Natural Resources the name, address, tax year end, and account and identification numbers of an entity liable for severance tax to enable the Secretary of Environment and Natural Resources to notify the entity that the Department of Environment and Natural Resources shall suspend permits of the entity for oil and gas exploration using horizontal drilling and hydraulic fracturing under G.S. 113-395."

SECTION 5.(c) G.S. 113-387 and G.S. 113-388 are repealed.

PART VI. APPROPRIATION FROM MINERAL INTEREST FUND FOR OPERATION OF MEC

SECTION 6. There is appropriated from the Mineral Interest Fund to the Department of Environment and Natural Resources the sum of twenty-two thousand nine hundred dollars ($22,900) for the 2012-2013 fiscal year to be used to operate the Mining and

Energy Commission and for payment of expenditures related to the Commission's implementation of legislative mandates to the Commission, including the hiring of temporary or contract employees to assist with policy development and rule making.

PART VII. REVENUE FROM OFFSHORE ENERGY PRODUCTION

SECTION 7. Chapter 113B of the General Statutes is amended by adding a new Article to read:

"Article 3.

"Revenues from Offshore Energy Production.

"**§ 113B-30. Allocation of revenues from offshore energy production; creation of Offshore Energy Management Fund.**

(a) Any revenues and royalties paid to the State as a result of offshore leasing, exploration, development, and production of all energy resources shall be deposited in the Offshore Emergency Fund until the Fund reaches fifty million dollars ($50,000,000). The Offshore Energy Management Fund is an interest-bearing special revenue fund to be established within the State treasury. This fund shall be used only for emergency preparation, emergency response, emergency environmental protection, or mitigation associated with a release of liquid hydrocarbons or associated fluids directly related to offshore energy exploration, development, production, or transmission. Once the fund balance reaches the amount of fifty million dollars ($50,000,000), the funds shall be used as provided in subsection (b) of this section. If monies are withdrawn from this fund to carry out the provisions in this section, all revenues and royalties paid to the State as a result of offshore leasing, exploration, development, and production of all energy resources shall be deposited in the fund until a total of fifty million dollars ($50,000,000) is reestablished. Once the fund balance reaches the amount of fifty million dollars ($50,000,000), the funds shall be used as provided in subsection (b) of this section.

(b) Any revenues and royalties paid to the State as a result of offshore leasing, exploration, development, and production of all energy resources in excess of the amount needed to establish the fund created in subsection (a) of this section are annually appropriated and shall be used for the following purposes:

(1) Thirty percent (30%) of such revenues and royalties shall be credited to the General Fund.

(2) Ten percent (10%) of such revenues and royalties shall be credited to the North Carolina Highway Trust Fund established under G.S. 136-176.

(3) Ten percent (10%) of such revenues and royalties shall be transferred to the Community Colleges System Office to establish and manage a fund for curriculum development and implementation as well as financial assistance for students attending community college to receive vocational training through this curriculum in fields directly related to energy exploration and development and related energy infrastructure.

(4) Ten percent (10%) of such revenues and royalties shall be transferred to the Board of Governors of The University of North Carolina System to establish and manage research and development funds for programs directly related to energy research and development.

(5) Thirty percent (30%) of such revenues and royalties shall be transferred to the Department of Environment and Natural Resources for conservation, protection, and mitigation, including, but not limited to, beach and inlet management projects, dredging operations, channel navigation and maintenance, public beach and water access, water quality management, and habitat restoration.

(6) Eight percent (8%) of such revenues and royalties shall be transferred to the State Ports Authority for expansion and maintenance of State Port infrastructure associated with energy-related commerce.

(7) Two percent (2%) of such revenues and royalties shall be transferred to the Department of Commerce for recruitment of energy-related industries to the State."

PART VIII. REGIONAL INTERSTATE OFFSHORE ENERGY POLICY COMPACT

SECTION 8.(a) Development of Regional Interstate Offshore Energy Policy Compact. – The Governor is strongly encouraged to commence negotiations on the development of a regional energy compact with the governors of South Carolina and Virginia in order to develop a unified regional strategy for the exploration, development, and production of all commercially viable federal and state offshore energy resources within the three-state region. The Governor shall develop recommendations for the General Assembly to consider for the development of a statutory regional compact, and these recommendations shall reflect the collective agreement of all three governors in the three-state region in order to provide common language for consideration by each state's General Assembly. During the development of these compact recommendations, the Governor or the Governor's designee is authorized to work directly with each of the three states' Congressional delegations, the United States Department of the Interior, the United States Environmental Protection Agency, and other appropriate federal agencies on behalf of the State of North Carolina to develop appropriate strategies to be considered in the development of the three-state compact for increasing domestic energy exploration, development, and production within each state in the three-state region and their adjacent state and federal waters. The compact negotiations and recommendations shall address at least all of the following:

(1) Ensure a timely review and consideration of permits and proposals at both the state and federal level for both state and federal waters adjacent to each state in the three-state region for seismic and other marine geophysical exploration to identify and quantify natural gas and related hydrocarbon resources along the continental margin.

(2) Amend the 2012 to 2017 Five Year Leasing Plan of the United States Department of the Interior to include leasing federal waters adjacent to the State and the three-state region for the exploration, quantification, and development of natural gas and related hydrocarbon energy resources.

(3) Advocate proactively with each state's Congressional delegation and appropriate federal agencies to ensure direct sharing of royalties and revenues related to energy leasing, exploration, development, and production of all offshore energy resources in federal waters adjacent to the State and the three-state region.

(4) Request the United States Department of the Interior to reinstate the federal Offshore Policy Committee with new members and new alternate members to be nominated by the governor of the state represented on the Offshore Policy Committee and appointed by the Secretary of the Interior, six of whom are to be one member and one alternate member each from North Carolina, Virginia, and South Carolina.

(5) Request the United States Department of the Interior to immediately move forward with permitting geological and geophysical data acquisition activities associated with oil and gas exploration in the Mid- and South Atlantic Planning Areas of the Atlantic Outer Continental Shelf immediately as outlined in Alternative A of the Bureau of Ocean Energy Management's

Draft Programmatic Environmental Impact Statement entitled "Atlantic OCS Proposed Geological and Geophysical Activities" published in 2012.

SECTION 8.(b) No later than three months after the effective date of this act, and at least every three months thereafter, the Governor or the Governor's designee shall report to the General Assembly on the progress of the Governor and others in complying with the requirements under this section, to include providing copies of correspondence and other relevant materials to or from the Office of the Governor when the correspondence or materials pertain to the subject under this section or to any requirement under this section. The Governor shall report the Governor's final recommendations for the three-state energy compact to the Joint Energy Oversight Committee no later than March 1, 2014.

SECTION 8.(c) In addition to the provisions in Sections 8(a) and 8(b) of this act, the Governor is encouraged to join the Governors of Alaska, Texas, Louisiana, Mississippi, Alabama, South Carolina, and Virginia and any others who may sign on to the Outer Continental Shelf Governors Coalition announced on May 3, 2011, to promote a constructive dialogue among the coastal state governors and the federal government on offshore energy issues important to the future of North Carolina and the United States. The Governor is authorized to expend funds related to membership in the Coalition.

SECTION 8.(d) The Governor is also encouraged to write letters to the North Carolina Congressional delegation, the governors of South Carolina and Virginia, the legislative bodies of South Carolina and Virginia, the Secretary of the United States Department of the Interior, and the President of the United States, urging their support of the recommendations set forth in subdivision (1) through (5) of Section 8(a) of this act.

SECTION 8.(e) Upon ratification, the Secretary of State shall furnish certified copies of this act to each member of the North Carolina Congressional delegation, the governors of South Carolina and Virginia, the legislative bodies of South Carolina and Virginia, the Secretary of the United States Department of the Interior, and the President of the United States.

PART IX. ENERGY POLICY ACT AND ENERGY POLICY COUNCIL AMENDMENTS

SECTION 9.(a) The title of Chapter 113B of the General Statutes reads as rewritten:

"**North Carolina Energy Policy ~~Act of 1975.~~and Jobs Act.**"

SECTION 9.(b) The title of Article 1 of Chapter 113B of the General Statutes reads as rewritten:

"Article 1.

Energy ~~Policy~~ Jobs Council."

SECTION 9.(c) G.S. 113B-1 reads as rewritten:

"**§ 113B-1. Legislative findings and purpose.**

Upon investigation the General Assembly hereby finds that:

(1) Energy is essential to the health, safety and welfare of the people of this State and to the workings of the State ~~economy;~~economy.

~~(2) Growth in the consumption of energy resources is in some part due to wasteful, uneconomic and inefficient uses of energy and a continuation of this trend will adversely affect the future social, economic and environmental development of North Carolina;~~

~~(3)~~ It is ~~the responsibility of State government to encourage~~in the State's best interest to support the development of a reliable and adequate supply of energy for North Carolina ~~at a level consistent with such energy needs required for the protection of public health and safety, and for the promotion of the general welfare; and~~that is secure, stable, and predictable in order to

facilitate economic growth, job creation, and expansion of business and industry opportunities.

(3a) It is in the State's best interest to support the exploration, development, and production of domestic energy supplies, preferably from the resources within the State or region and most certainly from within the country.

(3b) It is the duty of State government to protect and preserve the State's natural resources, cultural heritage, and quality of life and, above all, the public health and safety of its residents during the exploration, development, and production of domestic energy resources.

(4) The State ~~has not provided~~must provide the basis for development of a long-range unified energy policy to encompass comprehensive energy resource planning and efficient management of ~~the rate of consumption of~~ existing energy resources in relation to economic growth, to effectively meet an energy crisis, to encourage development of alternative sources of ~~energy,~~energy that are capable of achieving a positive benefit-to-cost ratio, and to ~~prudently conserve~~ ensure efficient utilization of energy resources in a manner consistent with assuring a reliable and adequate supply of energy for North ~~Carolina.~~Carolina, including active support and collaboration with the federal government to ensure access to the nation's energy resources located on the outer continental shelf directly adjacent to the State's coastal waters.

(5) It is the expressed intent of this Chapter to provide for development of such a unified domestic energy policy for the State of North ~~Carolina.~~Carolina as part of a nationwide effort for increased domestic energy production in the interest of national security and economic growth and stability."

SECTION 9.(d) G.S. 113B-2 reads as rewritten:

"**§ 113B-2. Creation of Energy ~~Policy~~ Jobs Council; purpose of Council.**

(a) ~~There~~ The Energy Jobs Council is ~~hereby~~ created ~~a council~~ to advise and make recommendations on increasing domestic energy ~~policy~~ exploration, development, and production within the State and region to promote economic growth and job creation to the Governor and the General ~~Assembly to be known as the Energy Policy~~Assembly. The Energy Jobs Council ~~which~~ shall be located within the Department of ~~Commerce.~~Environment and Natural Resources.

~~(b)~~ Except as otherwise provided in this Chapter, the powers, duties and functions of the Energy ~~Policy~~ Jobs Council shall be as prescribed by the Secretary of ~~Commerce.~~Environment and Natural Resources.

(c) The Energy ~~Policy~~ Jobs Council shall serve as the central energy policy planning body of the State and shall communicate and cooperate with federal, State, regional and local bodies and agencies to the end of effecting a coordinated energy policy."

SECTION 9.(e) G.S. 113B-3 reads as rewritten:

"**§ 113B-3. Composition of Council; appointments; terms of members; qualifications.**

(a) The Energy ~~Policy~~ Jobs Council shall consist of ~~16~~ 13 members to be appointed as follows:

~~(1) Two members of the North Carolina House of Representatives to be appointed by the Speaker of the House of Representatives;~~

~~(2) Two members of the North Carolina Senate to be appointed by the President Pro Tempore of the Senate;~~

(2a) The Secretary of Environment and Natural Resources.

(2b) The Secretary of Commerce.

(3) ~~Twelve~~ Eleven public members who are citizens of the State of North ~~Carolina to be appointed by the Governor. The Governor shall designate one~~

~~of the public members as chair of the Council.~~Carolina and who are appointed in accordance with subsection (c) of this section.

~~(b)~~ Appointments to the Energy ~~Policy~~ Jobs Council shall be made by ~~July 15, 2009,~~ July 1, 2013. ~~and each such appointee shall serve until January 31, 2011. Thereafter,~~ the ~~appointed members of the General Assembly shall serve two-year terms, and the appointed public members shall serve four-year terms. A member of the Energy Policy Council shall continue to serve until his successor is duly appointed, but such holdover shall not affect the expiration date of such succeeding term.~~ The terms of office of members of the Council are three years. The terms of members appointed under subdivisions (1), (4), and (6) of subsection (c) of this section shall expire on June 30 of years evenly divisible by three. The terms of members appointed under subdivisions (2), (5), (8), and (10) of subsection (c) of this section shall expire on June 30 of years that precede by one year those years that are evenly divisible by three. The terms of members appointed under subdivisions (3), (7), (11), and (12) of subsection (c) of this section shall expire on June 30 of years that follow by one year those years that are evenly divisible by three. Appointments made by the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall be allowed when the General Assembly is not in session.

(c) The public members of the Energy ~~Policy~~ Jobs Council shall have the ~~following qualifications:~~qualifications and shall be appointed as follows:

(1) One member shall be ~~experienced in the electric power industry;~~a representative of an investor-owned electric public utility, to be appointed by the Governor.

(2) One member shall ~~be experienced in the natural gas industry;~~have experience in natural gas and associated hydrocarbon exploration, development, and production, to be appointed by the Governor.

(2a) ~~One member shall be experienced in energy policy matters;~~

(3) One member shall be ~~experienced in alternative fuels and biofuels;~~a representative of an investor-owned natural gas public utility, to be appointed by the Speaker of the House of Representatives.

(4) One member shall be ~~experienced in energy efficient building design or construction;~~an energy economist or a person with experience in the financing or business development of an energy-related business, to be appointed by the President Pro Tempore of the Senate.

~~(5)~~ One member shall ~~be experienced in environmental protection;~~have experience in energy policy, to be appointed by the President Pro Tempore of the Senate.

~~(6)~~ One member ~~who is engaged in a business providing renewable energy or other energy services;~~shall be an industrial energy consumer, to be appointed by the Speaker of the House of Representatives.

~~(7)~~ One member shall be knowledgeable of alternative and renewable sources of ~~energy;~~energy, to be appointed by the Governor.

~~(8)~~ One member ~~who, at the time of appointment, is a county commissioner; or elected municipal officer; provided, the member's term on the Council shall expire immediately in the event that he or she vacates office as a county commissioner or municipal officer;~~shall have experience in trucking, rail, or shipping transportation, to be appointed by the Speaker of the House of Representatives.

(9) Repealed by Session Laws 2009-446, s. 4, effective August 7, 2009.

(10) ~~One member shall be knowledgeable in the finance, business development, or technology development of energy related business;~~One member shall

have experience in energy research and development, to be appointed by the President Pro Tempore of the Senate.

~~(11)~~ ~~One member shall be experienced in low-income energy policy matters or low-income residential weatherization.~~One member shall have experience in environmental management, appointed by the Speaker of the House of Representatives.

(12) ~~One member shall be experienced in the petroleum industry.~~One member shall have experience in the biofuels industry, to be appointed by the President Pro Tempore of the Senate."

SECTION 9.(f) G.S. 113B-4 reads as rewritten:

"**§ 113B-4. Chairman of Council; replacement; reimbursement of members.**

(a) ~~On August 15, 2009, on January 31, 2011, and every four years thereafter, the Governor shall appoint a chair of the Council.~~ The Council shall elect one of its members to serve as chair. The chair shall serve for a term of two years and may serve no more than two terms in total.

(b) In case of a vacancy in the membership on the Energy ~~Policy~~Jobs Council prior to the expiration of a member's term, a successor shall be appointed within 30 days of such vacancy for the remainder of the unexpired term by the appropriate official pursuant to the provisions of G.S. 113B-3.

(c) Members of the Energy ~~Policy~~ Jobs Council shall be reimbursed for their services pursuant to the provisions of G.S. 138-5."

SECTION 9.(g) G.S. 113B-5 reads as rewritten:

"**§ 113B-5. Organization of the Council; adoption of rules of procedure therefor.**

(a) To facilitate the work of the Energy ~~Policy~~ Jobs Council and for administrative purposes, the chairman of the Energy ~~Policy~~ Jobs Council, with the consent and approval of the members, may organize the work of the Council so as to carry out the provisions of this Chapter and to insure the efficient operation of the Council.

(b) The Energy ~~Policy~~ Jobs Council shall adopt its own rules of procedure and shall meet regularly at such times and in such places as it may deem necessary to carry out its functions.

(c) The Energy ~~Policy~~ Jobs Council is authorized to create such advisory committees as will be needed to assist the Council in its efforts and to assure adequate citizen-consumer input into those efforts. Members of advisory committees shall be appointed by the Council for terms not to exceed the expiration date of terms of then present public members of the Council."

SECTION 9.(h) G.S. 113B-6 reads as rewritten:

"**§ 113B-6. General duties and responsibilities.**

The goal of the Energy Jobs Council is to identify and utilize all domestic energy resources in order to ensure a secure, stable, and predictable energy supply and to protect the economy of the State, promote job creation, and expand business and industry opportunities while ensuring the protection and preservation of the State's natural resources, cultural heritage, and quality of life. The Energy ~~Policy~~Jobs Council ~~shall~~ may delegate its duties where appropriate to the Division of Energy, Mineral, and Land Resources of the Department of Environment and Natural Resources. The Council shall provide oversight and approval to the duties delegated to the Division. The Energy Jobs Council shall have the following general duties and responsibilities:

(1) To develop and recommend to the Governor and the General Assembly a comprehensive ~~long-range~~ State energy policy that addresses requirements in the short term (10 years), in the midterm (25 years), and in the long term (50 years) to achieve maximum effective management and use of present and future sources of energy, such policy to include but not be limited to energy efficiency, renewable and alternative sources of energy, research and

development into alternative energy technologies, and improvements to the State's energy infrastructure and energy ~~economy;~~economy, including smart grid and domestic energy resources that shall include at least natural gas, coal, hydroelectric power, solar, wind, nuclear energy, and biomass. For utilities regulated under Chapter 62 of the General Statutes, the policy developed under this subdivision shall be consistent with the analysis and plan developed under G.S. 62-110.1(c).

(2) To conduct an ongoing assessment of the opportunities and constraints presented by various uses of all forms of energy to facilitate the expansion of the domestic energy supply and to encourage the efficient use of all such energy forms in a manner consistent with State energy ~~policy;~~policy.

(3) To continually review and coordinate all State government research, education and management programs relating to energy ~~matters and~~matters, to continually educate and inform the general public regarding such energy ~~matters;~~matters, and to actively engage in discussions with the federal government, its agencies, and its leaders to identify opportunities to increase domestic energy supply within North Carolina and its adjacent offshore waters.

(4) To recommend to the Governor and to the General Assembly needed energy legislation and rule making, and to recommend for implementation such modifications of energy policy, ~~plans~~ plans, and programs as the Council considers necessary and desirable."

SECTION 9.(i) G.S. 113B-7 reads as rewritten:

"**§ 113B-7. Energy Efficiency Program; components.**

(a) The Energy ~~Policy~~ Jobs Council shall prepare a recommended Energy Efficiency Program for transmittal to the Governor, the initial plan to be completed by January 30, 1976.

(b) The Energy Efficiency Program shall be designed to assure the public health and safety of the people of North Carolina and to encourage and promote conservation of energy through reducing wasteful, inefficient or uneconomical uses of energy resources.

(c) The Energy Efficiency Program shall include but not be limited to the following recommendations:

(1) Recommendations to the Building Code Council for lighting, insulation, climate control systems and other building design and construction standards which increase the efficient use of energy and are economically feasible to implement;

(2) Recommendations to the Building Code Council for per unit energy requirement allotments based upon square footage for various classes of buildings which would reduce energy consumption, yet are both technically and economically feasible and not injurious to public health and safety;

(3) Recommendations for minimum levels of operating efficiency for all appliances whose use requires a significant amount of energy based upon both technical and economic feasibility considerations;

(4) Recommendations for State government purchases of supplies, vehicles and equipment and such operating practices as will make possible more efficient use of energy;

(5) Recommendations on energy conservation policies, programs and procedures for local units of government;

(6) Any other recommendations which the Energy ~~Policy~~ Jobs Council considers to be a significant part of a statewide conservation effort and which include provisions for sufficient incentives to further energy conservation;

(7) An economic and environmental impact analysis of the recommended program.

(d) In addition to specific conservation recommendations, the Energy Efficiency Program shall contain proposals for implementation of such recommendations as can be carried out by executive order. Upon completion of a draft recommended program, the Council shall arrange for its distribution to interested parties and shall make the program available to the public and the Council further shall set a date for public hearing on said program.

(e) Upon completion of the Energy Efficiency Program, the Council shall transmit said program, to be known as the State Energy Efficiency Program, to the Governor for approval or disapproval. Upon approval, the Governor shall assign administrative responsibility for such implementation as can be carried out by executive order to appropriate agencies of State government, and submit to the General Assembly such proposals which require legislative action for implementation. The Governor shall have the authority to accept, administer, and enforce federal programs, program measures and permissive delegations of authority delegated to the Governor by the President of the United States, Congress, or the United States Department of Energy, on behalf of the State of North Carolina, which pertain to the conservation of energy resources.

(f) The Governor shall transmit the approved Energy Efficiency Program to the President Pro Tempore of the Senate, to the Speaker of the House of Representatives, to the heads of all State agencies and shall further seek to publicize such plan and make it available to all units of local government and to the public at large.

(g) At least every two years and whenever such changes take place as would significantly affect energy supply or demand in North Carolina, the Energy ~~Policy~~ Jobs Council shall review and, if necessary, revise the Energy Efficiency Program, transmitting such revised plan to the Governor pursuant to the procedures contained in subsections (e) and (f) of this section."

SECTION 9.(j) G.S. 113B-8(a) reads as rewritten:

"**§ 113B-8. Energy Management Plan; components.**

(a) The Energy ~~Policy~~ Jobs Council shall prepare a recommended Energy Management Plan for transmittal to the Governor, the initial plan to be completed by June 30, 1976."

SECTION 9.(k) G.S. 113B-9 reads as rewritten:

"**§ 113B-9. Emergency Energy Program; components.**

(a) The Energy ~~Policy~~ Jobs Council shall, in accordance with the provisions of this Article, develop contingency and emergency plans to deal with possible shortages of energy to protect public health, safety and welfare, such plans to be compiled into an Emergency Energy Program.

(b) ~~Within four months of July 1, 1975:~~ If required for an update of the program provided under subsection (j) of this section:

(1) Each electric utility and natural gas utility in the State shall prepare and submit to the Energy ~~Policy~~ Jobs Council a proposed emergency curtailment plan setting forth proposals for identifying priority loads or users in the event of the declaration of an energy crisis pursuant to G.S. 113B-20, and proposals for supply allocation to such priority loads or users. Utilities regulated under Chapter 62 of the General Statutes may satisfy this requirement by submitting the General Load Reduction and System Restoration Plan that is prepared annually for the Utilities Commission.

(2) Each major oil producer doing business in this State as determined by the Energy ~~Policy~~ Jobs Council shall prepare and submit to the Energy ~~Policy~~ Jobs Council an analysis of how any national supply curtailment pursuant to federal regulations shall affect the supply for North Carolina and how

priority users will be determined and available supplies allocated to such users.

(c) The Energy ~~Policy~~ Jobs Council shall encourage the preparation of joint emergency curtailment plans and analyses. If such cooperative plans and analyses are developed between two or more utilities, major producers or by an association of such companies, the joint plans or analyses may be submitted to the Energy ~~Policy~~ Jobs Council in lieu of information required pursuant to subsection (b) of this section.

(d) The Energy ~~Policy~~ Jobs Council shall collect from all relevant governmental agencies any existing contingency plans for dealing with sudden energy shortages or information related thereto.

(e) The Energy ~~Policy~~ Jobs Council shall hold one or more public hearings, investigate and review the plans submitted pursuant to this section, and, within nine months after July 1, 1975, the Energy ~~Policy~~ Jobs Council shall approve and recommend to the Governor guidelines for emergency curtailment to be known as the Emergency Energy Program and to be implemented upon adoption by the Governor after the declaration of an energy crisis and pursuant to G.S. 113B-20 and 113B-23. Said program shall be based upon the plans presented to the Energy ~~Policy~~ Jobs Council, upon independent analysis and study by the Council, and upon information provided at the hearing or hearings, provided, however, that they are consistent with such federal programs and regulations as are already in effect at that time.

(f) The Emergency Energy Program shall provide for the maintenance of essential services, the protection of public health, safety, and welfare, and the maintenance of a sound basic State economy. For utilities regulated under Chapter 62 of the General Statutes, the program shall be consistent with the General Load Reduction and System Restoration Plan that is prepared annually for the Utilities Commission. Provisions also shall be made in said program to differentiate curtailment of energy consumption by users on the basis of ability to accommodate such curtailments, and shall also include, but not be limited to, the following:

(1) A variety of strategies and staged conservation measures of increasing intensity and authority to reduce energy use during an energy crisis, as defined in G.S. 113B-20 and guidelines and criteria for allocation of energy sources to priority users. The program shall contain alternative conservation actions and allocation plans to reasonably meet various foreseeable shortage circumstances and to allow a choice of appropriate responses;

(2) Evidence that the program is consistent with requirements of federal emergency energy conservation and allocation laws and regulations;

(3) Proposals to assist such individuals, institutions, agriculture and businesses which have engaged in energy saving measures;

(g) The Energy ~~Policy~~ Jobs Council shall carry out such investigations and studies as are necessary to determine if and when potentially serious shortages of energy are likely to affect North Carolina and the Council shall make recommendations to the Governor concerning administrative and legislative actions required to avert such shortages, such recommendations to be included as a section of the Emergency Energy Program.

(h) In addition to the above information and recommendations, the program shall contain proposals for implementation of such recommendations which include procedures, rules and regulations and agency administrative responsibilities for implementation, and shall further contain procedures for fair and equitable review of complaints and requests for special exemptions from emergency conservation measures or emergency allocations. Upon completion of a draft recommended plan, the Council shall arrange for its distribution to interested parties and shall make such plan available to the public and the Council further shall set a date for public hearing on said plan.

(i) Upon completion of the Emergency Energy Allocation Program, the Council and the Governor shall follow the procedures as outlined in G.S. 113B-7(e) and (f).

(j) The Council shall update the Emergency Energy Allocation Program ~~said program~~ upon ~~a~~ finding ~~by it~~ that an update is ~~justified and~~justified. The Council shall follow the procedures for adoption pursuant to G.S. 113B-7(e) and (f).

(k) The Governor shall have the authority to accept, administer and enforce federal programs, program measures and permissive delegations of authority delegated to the Governor by the President of the United States, Congress, or the United States Department of Energy, on behalf of the State of North Carolina, which pertain to actions necessary to deal with an actual or impending energy shortage."

SECTION 9.(l) G.S. 113B-11 reads as rewritten:

"**§ 113B-11. Powers and authority.**

(a) The Energy ~~Policy~~ Jobs Council is authorized to secure directly from any officer, office, department, commission, board, bureau, institution and other agency of the State and its political subdivisions any information it deems necessary to carry out its functions; and all such officers and agencies shall cooperate with the Council and, to the extent permitted by law, furnish such information to the Council as it may request.

...

~~(e)~~ Staff support required by the Council shall be supplied by the Division of Energy, Mineral, and Land Resources of the Department of Environment and Natural Resources. ~~The Department of Commerce shall provide the staffing capability to the Energy Policy Jobs Council so as to fully and effectively develop recommendations for a comprehensive State energy policy as contained in the provisions of this Article.~~ The Department of Commerce and the Utilities Commission ~~is~~ are hereby authorized to make ~~its~~ their staff available to the Council to assist in the development of a State energy policy."

SECTION 9.(m) G.S. 113B-12 reads as rewritten:

"**§ 113B-12. Annual reports; contents.**

(a) ~~Beginning January 1, 1977, and every year~~Every two years ~~thereafter,~~ the Energy ~~Policy~~ Jobs Council shall transmit to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Environmental Review Commission, the Joint Legislative Commission on Energy Policy, and the chairman of the Utilities Commission ~~Commission and the appropriate chairmen of the House and Senate committees concerned with energy matters,~~ a comprehensive report providing a general overview of energy conditions in the State. ~~On January 1, 1976, the Energy Policy Council shall transmit a progress report to the public officials named above.~~

(b) The report shall include, but not be limited to, the following:

(1) An overview of statewide growth and development as they relate to future requirements for energy, including patterns of urban and metropolitan expansion, shifts in transportation modes, modifications in building types and design, and other trends and factors which, as determined by the Council, will significantly affect energy needs;

(2) The level of statewide and multi-county regional energy demand for a five, 10- and 20-year forecast period which, in the judgment of the Council, can reasonably be met, with proposals as to possible energy supply sources;

(3) An assessment of growth trends in energy consumption and production and an identification of potential adverse social, economic, or environmental impacts which might be imposed by continuation of the present trends, including energy costs to consumers, significant increases in air, water, and other forms of pollution, threats to public health and safety, and loss of scenic and natural areas;

(4) An analysis of the role of energy efficiency, renewable energy, improvements to the State's energy infrastructure, and other means in meeting the State's current and projected energy demand;

(6) Recommendations to the Governor and the General Assembly for additional administrative and legislative actions on energy matters;

(7) A summary of the Council's activities since ~~its inception,~~the last report, a description of major plans developed by the Council, an assessment of plan implementation, and a review of Council plans and programs for the coming biennium."

SECTION 9.(n) G.S. 113B-21(a) reads as rewritten:

"(a) ~~There is hereby created~~Upon the declaration of an energy crisis by the Governor, a Legislative Committee on Energy Crisis Management shall be created to consist of the Speaker, ~~as chairman,~~ the Speaker pro tempore of the House of ~~Representatives and~~Representatives, the President ~~pro tempore~~ Pro Tempore of the Senate, and the majority leader of the Senate. The Lieutenant Governor shall serve as chair, and shall be a nonvoting ex officio member, provided, however, that ~~he~~ the chair shall vote to break a tie."

SECTION 9.(o) G.S. 113B-23 reads as rewritten:

"**§ 113B-23. Administration of plans and procedures.**

(a) Upon the declaration of an energy crisis, pursuant to G.S. 113B-20, the Energy ~~Policy~~ Jobs Council shall become the emergency energy coordinating body for the State and shall carry out the following duties:

(1) Identify and determine the nature and severity of expected energy shortages;

(2) Provide for daily communications with and gather information from significant energy producers, distributors, transporters and major consumers, as determined by the Energy ~~Policy~~ Jobs Council, to carry out its responsibilities pursuant to this section;

(3) Provide data, carry out continuing assessments of the crisis situation, and make recommendations to the Governor and to the Legislative Committee on Energy Crisis Management for further action.

(b) Upon the declaration of an energy crisis, the Governor shall order the Energy ~~Policy~~ Jobs Council, the Utilities Commission, the Attorney General and other appropriate State and local agencies to implement and enforce the Emergency Energy Program pursuant to G.S. 113B-9 and any emergency rules, orders or regulations approved pursuant to G.S. 113B-22.

(c) Upon the declaration of an energy crisis, the Governor may employ such measures and give such direction to State and local offices and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of this Article and with emergency rules, orders and regulations issued pursuant to G.S. 113B-22."

SECTION 9.(p) G.S. 113B-24(c) reads as rewritten:

"(c) The provisions of this Article or any rules, orders or regulations promulgated pursuant to G.S. 113B-22 may be enforced by bringing an action to enjoin such acts or practices as may be in violation and, upon a proper showing, a temporary restraining order or a preliminary or permanent injunction shall be issued. The relief sought may include a mandatory injunction commanding any person to comply with any such order, rule or regulation and restitution of money received in violation of any such order, rule or regulation. The Attorney General shall bring any action under this subsection upon the request of the Governor, the Legislative Committee on Energy Crisis Management, the Energy ~~Policy~~ Jobs Council, or upon his direction if he deems such action advisable and in the public interest. The Attorney General may institute such action in the Superior Court of Wake County, or, in his discretion, in the superior court of the county in which the acts or practices constituting a violation occurred, are occurring or may occur."

SECTION 9.(q) G.S. 114-4.2D reads as rewritten:

"§ 114-4.2D. Employment of attorney for Energy ~~Policy~~ Jobs Council of the Department of Environment and Natural Resources and the Energy Efficiency Program of the Department of Commerce.

The Attorney General shall assign an attorney to work full time with the Energy ~~Policy~~ Jobs Council of the Department of Environment and Natural Resources and the Energy Efficiency Program of the Department of Commerce. Such attorney shall be subject to all provisions of Chapter 126 of the General Statutes relating to the State Personnel System. Such attorney shall also perform such additional duties as may be assigned by the Attorney General."

SECTION 9.(r) G.S. 143-58.5(c) reads as rewritten:

"(c) The Fund shall be used to offset the incremental fuel cost of biodiesel and biodiesel blend fuel with a minimum biodiesel concentration of B-20 for use in State vehicles, for the purchase of ethanol fuel with a minimum ethanol concentration of E-85 for use in State vehicles, the incremental vehicle cost of purchasing AFVs, for the development of related refueling infrastructure, for the costs of administering the Fund, and for projects approved by the Energy ~~Policy~~ Jobs Council."

SECTION 9.(s) G.S. 143-345.13 reads as rewritten:

"§ 143-345.13. Reporting of stocks of coal and petroleum fuels.

The Department of Administration may, with the prior express approval of the Energy ~~Policy~~ Jobs Council and the Governor, require that all coal and petroleum suppliers in North Carolina supplying coal, motor gasoline, middle distillates, residual oils, and propane for resale within the State, file with the Department of Administration, on forms prepared by the Department, accurate reports as to the stocks of coal and petroleum products and storage capacities maintained by the supplier, including the supplier's current inventory and stock of coal, motor gasoline, middle distillates, residual oils and propane, the expected time such supplies will last under ordinary distribution demand and the schedule for receiving additional or replacement stocks. The reports and the information contained therein shall be proprietary information available only to regular employees of the Department of Administration, except that aggregate tables or schedules consolidating information from the reports may be released if they do not reveal individual report data for any named supplier. It is further the intent of this section that no information shall be required from coal and petroleum suppliers, that is, at the time the reports are requested, already on file with any agency, commission, or department of State government.

It is the intent of this section that the reports be filed only at such times as the Energy ~~Policy~~ Jobs Council and the Governor determine that an energy crisis as defined in G.S. 113B-20 exists or may be imminent.

If any petroleum or coal supplier fails to file the accurate reports as may be required by this section for more than 10 days after the date on which any such report is due, the Secretary of Administration is authorized and empowered to petition the district court, Division of the General Court of Justice, in the county in which the principal office or place of business of the supplier is located, for a mandatory injunction compelling the supplier to file the report."

SECTION 9.(t) Article 7 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 31. Energy Jobs Council.

"§ 143B-281.1. Energy Jobs Council – transfer.

The Energy Jobs Council, as established by Chapter 113B of the General Statutes and other applicable laws of this State, is hereby transferred to the Department of Environment and Natural Resources by a Type II transfer as defined in G.S. 143A-6."

SECTION 9.(u) Notwithstanding G.S. 113B-3 or any other law to the contrary, the terms of all members of the Energy Policy Council serving as of the effective date of this act shall expire on the effective date of this act or on June 30, 2013, whichever comes first. Initial

appointments shall be made pursuant to subsection (c) of G.S. 113B-3, as amended by Section 9(e) of this act, no later than July 1, 2013.

SECTION 9.(v) The Revisor of Statutes shall make the conforming statutory changes necessary to reflect the transfers under this section. The Revisor of Statutes may correct any reference in the General Statutes to the statutes that are recodified by this section and make any other conforming changes necessitated by this section.

PART X. MODIFY ELECTRICAL REQUIREMENTS RULE TO ALLOW HOSPITALS TO USE COMPRESSED NATURAL GAS AS EMERGENCY FUEL

SECTION 10.(a) Definitions. – "Electrical Requirements Rule" means 10A NCAC 13B .6227 (Licensing of Hospitals: Electrical Requirements) for purposes of this section and its implementation.

SECTION 10.(b) Electrical Requirements Rule. – Until the effective date of the revised permanent rule that the Medical Care Commission is required to adopt pursuant to Section 10(c) of this act, the Commission and the Department of Health and Human Services shall implement the Electrical Requirements Rule, as provided in Section 10(c) of this act.

SECTION 10.(c) Implementation. – Notwithstanding subdivision (2) of subsection (f) of the Electrical Requirements Rule, the Commission shall authorize facilities licensed by the Department to use bi-fuel generators that operate with both liquid fuel and natural gas (methane) that is not stored on the site, provided that the natural gas is delivered via pipe or pipeline by a natural gas utility. These bi-fuel generators shall be exempt from liquid fuel capacity standards established by the Commission. Bi-fuel generators that operate on both liquid and other gaseous fuels, including propane and butane, that are stored on the site shall also be authorized provided that the combined capacity of both liquid and gaseous fuels meet minimum on-site fuel requirements established by the Commission. The Commission may adopt rules to require a licensed facility with a bi-fuel generator to develop a contingency plan for liquid fuel delivery onto the site in the event of a natural gas (methane) supply disruption.

SECTION 10.(d) Additional Rule-making Authority. – The Commission shall adopt a rule to replace the Electrical Requirements Rule. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 10(c) of this act. Rules adopted pursuant to this section are not subject to G.S. 150B-21.9 through G.S. 150B-21.14. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 10.(e) Effective Date. – Subsection (b) of this section expires when permanent rules to replace subsection (b) of this section have become effective, as provided by subsection (c) of this section.

PART XI. EFFECTIVE DATE

SECTION 11. Section 1(b) of this act becomes effective March 1, 2015. Section 3.(b) of this act is effective when it becomes law and applies retroactively to October 1, 2012. Sections 5(a) through 5(c) of this act are effective for energy minerals sold on or after March 1, 2015, except that G.S. 105-187.76, as enacted by Section 5(a) of this act, becomes effective only if authorized by the General Assembly in the Current Operations and Capital Improvements Appropriations Act of 2013. G.S. 113B-30, enacted by Section 7 of this act, becomes effective only if authorized by the General Assembly in the Current Operations and Capital Improvements Appropriations Act of 2013. The first report due pursuant to G.S. 113B-12, as amended by Section 9(m) of this act, shall be transmitted on or before January 1, 2014. Except as otherwise provided, the remainder of this act is effective when it becomes law.

SENATE BILL 76:
Domestic Energy Jobs Act

2013-2014 General Assembly

Committee:	Senate Ref to Finance. If fav, re-ref to Commerce	**Date:**	February 12, 2013
Introduced by:	Sens. Newton, Rucho, Brock	**Prepared by:**	Jennifer McGinnis Staff Attorney and Heather Fennell Committee Counsel
Analysis of:	PCS to First Edition S76-CSRIf-1		

SUMMARY: ***The Proposed Committee Substitute (PCS) for Senate Bill 76 would modify provisions related to oil and gas exploration and development activities in the State, including the use of horizontal drilling and hydraulic fracturing treatments for that purpose; impose a tax for the severance of energy minerals from the soil or water of the State and make associated changes; appropriate monies to the Department of Environment and Natural Resources to operate the Mining and Energy Commission and for related expenditures; assign future revenue from offshore energy production; encourage the Governor to develop a regional compact for offshore energy exploration; amend the Energy Policy Act (renamed as the Energy Policy and Jobs Act) and the Energy Policy Council (reconstituted as the Energy Jobs Council); and direct the Medical Care Commission to adopt rules authorizing facilities licensed by the Department of Health and Human Services to use compressed natural gas as an emergency fuel.***

CHANGES MADE BY PCS TO 1ST ED.: The PCS would (1) modify the two appointments to the Mining and Energy Commission involving elected local officials (see Sec. 2.(a)), and (2) modify a statute that governs subsurface injection of fluids (see new Sec. 4).

CURRENT LAW AND BACKGROUND: In 2012, the General Assembly enacted legislation that directed various State agencies to develop a modern regulatory program for the management of oil and gas exploration and development activities in the State, including the use of horizontal drilling and hydraulic fracturing for that purpose (S.L. 2012-143 (S820, "Clean Energy and Economic Security Act")). Specifically, the act gave the Mining and Energy Commission (MEC) the authority to adopt rules necessary to administer the State's Oil and Gas Conservation Act and to make determinations and issue orders accordingly. MEC and other entities were specifically directed to adopt rules no later than October 1, 2014.

The act also amended several statutes that had historically prohibited the processes of horizontal drilling and hydraulic fracturing in order to authorize these processes, but prohibited issuance of permits for these activities until such time as the General Assembly took subsequent legislative action to allow issuance of permits.

BILL ANALYSIS:

PART I. Issuance of Permits

Section 1.(a) of the PCS would authorize issuance of permits for oil and gas exploration and development activities using horizontal drilling and hydraulic fracturing treatments in the State by the the Department of Environment and Natural Resources (DENR) and MEC, effective March 1, 2015.

Section 1.(b) of the PCS, which would become effective March 1, 2015, would repeal Section 3.(d) of the Clean Energy and Economic Security Act, which provides:

> "The issuance of permits for oil and gas exploration and development activities using horizontal drilling and hydraulic fracturing treatments in the State... shall be prohibited in order to allow the Mining and Energy Commission sufficient time for development of a modern regulatory program for the management of oil and gas exploration and development in the State and the use of horizontal drilling and hydraulic fracturing treatments for that purpose, and for adoption of appropriate environmental standards applicable to these activities. No agency of the State, including the Department of Environment and Natural Resources, the Environmental Management Commission, the Commission on Public Health, or the Mining and Energy Commission, shall issue a permit for oil or gas exploration or development activities using horizontal drilling and hydraulic fracturing treatments until the General Assembly takes legislative action to allow the issuance of such permits."

Section 1.(b) of the PCS would require MEC to study development of a coordinated permitting program for oil and gas exploration and development activities using horizontal drilling and hydraulic fracturing treatments in order that a single comprehensive environmental permit could be issued that would govern all of an applicant's exploration and development activities. MEC must report its findings and recommendations to the Environmental Review Commission and the Joint Legislative Commission on Energy Policy on or before October 1, 2013.

PART II. Mining and Energy Commission Appointment Modifications

Section 2.(a) of the PCS would eliminate two ex officio members of MEC, the State Geologist and the Assistant Secretary of Energy for the Department of Commerce. In addition, the provision modifies: (1) two positions designated for elected officials of local governments, to provide that they may continue to serve as a member of MEC even if they are no longer serving as a local elected official; and (2) the positions designated for the Environmental Management Commission and the Commission for Public Health to eliminate specific knowledge requirements as to principles of water and air resources management, and principles of waste management, respectively.

Section 2.(b) of the PCS would provide that the membership of persons serving in the positions designated for the Environmental Management Commission or the Commission for Public Health terminate immediately should those persons' membership in their respective commission terminate.

PART III. Miscellaneous Modifications to the Oil and Gas Conservation Act: "Allowables" and Repeal of Landmen Registry

Section 3.(a) of the PCS would eliminate language under existing law that would require MEC to limit the total amount of oil and gas produced in the State if the total amount of oil and gas that can be produced from all pools in the State exceeds the amount reasonably required to meet the reasonable market demand in the State. Instead, the PCS would allow MEC to fix an amount that may be produced (an "allowable"), and would allow MEC to formulate rules accordingly.

Section 3.(b) of the PCS would repeal the landmen registry enacted in 2012 as part of the Clean Energy and Economic Security Act. The 2012 provision required DENR to establish and maintain a registry of landmen operating in this State. Under the statute "landman" is defined as a person that, in the course and scope of the person's business, does any of the following: (1) acquires or manages oil or gas interests; (2) performs title or contract functions related to the exploration, exploitation, or disposition of oil, gas; (3) negotiates for the acquisition or divestiture of oil, gas, including the acquisition or divestiture of land or oil, gas, for a pipeline; or (4) negotiates business agreements that provide for the exploration for or development of oil, gas. The statute also authorizes DENR to deny registration to an applicant, reprimand a registrant, suspend or revoke a registration, or impose a civil penalty on a

registrant if the Department determines that the applicant or registrant does any of the following: (1) fraudulently or deceptively obtains, or attempts to obtain, a registration; (2) uses or attempts to use an expired, suspended, or revoked registration; (3) falsely represents oneself as a registered landman; (4) engages in any other fraud, deception, misrepresentation, or knowing omission of material facts related to oil or gas interests; or (5) had a similar registration or license denied, suspended, or revoked in another state or jurisdiction. The PCS would repeal the provision retroactively to the date it originally became effective, October 1, 2012.

PART IV. Amend Statute Governing Subsurface Fluid Injection

Section 3.(b) of the PCS would amend a statute that prohibits the discharge of any wastes to the subsurface or groundwaters of the State by means of wells. In 2012, as part of the Clean Energy and Economic Security Act, the statute was modified to exempt injections of hydraulic fracturing fluid associated with exploration or development of natural gas resources. That language would be modified under the PCS to exempt "fluid associated with exploration, production, or development of natural gas resources."

PART V. Severance Taxes

Section 5 of the PCS would repeal North Carolina's current severance tax and levies a new severance tax on the removal of energy minerals from the soil and water of the State. The current State severance tax was enacted in 1945 and has not been modified since 1973. No tax is currently collected. The current tax is five mills on each barrel of oil (the equivalent of .5¢ per barrel of oil) and one-half mill on each 1000 cubic feet of gas (the equivalent of .05¢ per 1000 cubic feet of gas). The new severance tax would add condensates to the tax base, raise the tax rate on oil, and create a floating tax rate for gas.

Energy minerals are defined in the PCS to include all forms of natural gas, oil, and related condensates. Thirty one states, including North Carolina, currently impose some form of severance taxes on the extraction of oil and gas. Of the 31 states, 23 states impose a tax as a percentage of the value of the resource extracted, 3 states impose a tax per standard unit of the resource extracted, and 5 states impose a tax that is a combination of the two methods.

Rate of Tax – The rate of the severance tax varies by type of mineral extracted.

Type	Year	Amount
Condensates	2015, 2016, 2017	1% of market value
	2018, 2019	2.5% of market value
	2020 and thereafter	6% of market value
Gas		Rate floats with market price. Tax rate calculated on each transaction. Rate is sales price per 1,000 cubic feet of gas, divided by 100, stated as a percentage.[1] The tax rate is subject to the following limits:
	2015, 2016, 2017	Not to exceed 1%
	2018, 2019	Not to exceed 2.5%
	2020 and thereafter	At least 2.5% but not to exceed 6%
Oil	2015, 2016, 2017	1% of market value
	2018, 2019	2.5% of market value
	2020 and thereafter	6% of market value

[1] For example, the price of natural gas was $3.35 in Nov 2012. 3.35/100 stated as a percentage is 3.35%. According to the US Energy Information Administration (an agency within the US Department of Energy), the price of natural gas over the past 5 years has ranged from $1.89 per MCF to $10.79 per MCF, which would result in a tax rate ranging from 1.89% to 10.79%, subject to the statutory rate limits.

Tax Base, Market value – The tax rate would be applied to the market value of the mineral sold. For condensates and oil, the market rate is the total actual gross price paid by the first purchaser of the condensate or oil.

For gas, the market value is the actual gross price paid minus marketing costs. As defined in the PCS, marketing costs do not include costs for which a producer receives a reimbursement, production costs, or insurance premiums. Marketing costs include:

- Costs for compressing the gas sold.
- Costs for dehydrating the gas sold.
- Costs for sweetening the gas sold.
- Costs for delivering the gas to the purchaser.
- Costs for gathering the gas sold.

Administration – The tax would be the liability of the producer of the gas. The producer is the entity that extracts the mineral from the soil or the water of the State. Returns and taxes are due on either a monthly or quarterly basis, depending on the tax liability of the producer. A bond or letter of credit would be required for producers that fail to file a return or make a payment of tax due.

Allocation of Revenue – The revenue received from severance taxes would be allocated in the following manner:

- First 25%, up to $1 million each year to DENR to administer its duties under Article 27 of Chapter 113, the Oil and Gas Conservation Act.
- Of the remaining revenue:
    - 50% to General Fund.
    - 50% to Onshore Emergency Management Fund to reach and maintain a balance of $10 million. Once the Fund balance is reached, revenues would be directed to General Fund. The Onshore Emergency Management Fund must be used for emergency preparation, emergency response, emergency environmental protection, or mitigation associated with onshore energy.

Permit Suspension – Permits for oil and gas exploration using horizontal drilling or hydraulic fracturing would be suspended for any producer that fails to file a return or make a payment for severance taxes.

No Local Taxes – Local governments would not be authorized to impose any additional taxes on the severance of energy minerals in the State.

The provisions concerning the severance tax would be effective for energy minerals sold on or after March 1, 2015, except that the provision concerning the allocation of revenue becomes effective only if authorized by the General Assembly in the Current Operations and Capital Improvements Appropriations Act of 2013.

PART VI. Appropriation from Mineral Interest Fund for Operation of MEC

Section 6 of the PCS would appropriate $22,900 from the Mineral Interest Fund to DENR for the 2012-2013 fiscal year to be used to operate MEC and for payment of expenditures related to the MEC's implementation of legislative mandates, including the hiring of temporary or contract employees to assist with policy development and rule making.

PART VII. Revenue from Offshore Energy Production

Section 7 of the PCS would require that any revenues or royalties paid to the State from offshore leasing, exploration, development, and production of energy would be deposited in an interest-bearing special revenue fund to be established within the State treasury until the fund reaches $50 million. The fund could be used only for emergency preparation, emergency response, emergency environmental protection, or mitigation associated with a release of liquid hydrocarbons or associated fluids directly related to offshore energy exploration, development, production, or transmission. At any point the fund exceeds $50 million (allowing use and replenishment up to that amount for the specified purposes) the revenues or royalties paid to the State from offshore leasing, exploration, development, and production of energy would be directed to the General Fund, the Highway Trust Fund, the Community Colleges System Office and the Board of Governors of The University of North Carolina System for certain programs, DENR, the State Ports Authority, and the Department of Commerce for certain purposes).

This provision becomes effective only if authorized by the General Assembly in the Current Operations and Capital Improvements Appropriations Act of 2013.

PART VIII. Regional Interstate Offshore Energy Policy Compact

Section 8 of the PCS would strongly encourage the Governor to develop a compact with the governors of South Carolina and Virginia to develop a regional strategy for exploration of offshore energy resources. The PCS provides that the compact negotiations and recommendations should address at least all of the following:

- Timely review and consideration of state and federal permits and proposals for seismic and other marine geophysical exploration to identify and quantify natural gas and related hydrocarbon resources along the continental margin.
- Amendment of the 2012 to 2017 Five Year Leasing Plan of the United States Department of the Interior (DOI) to include leasing federal waters adjacent to the State and the three-state region for the exploration, quantification, and development of natural gas and related hydrocarbon energy resources.
- Proactive advocacy with federal officials to ensure direct sharing of royalties and revenues related to energy leasing, exploration, development, and production of all offshore energy resources in federal waters adjacent to the State and the three-state region.
- Request that DOI: (1) reinstate and reappoint the federal Offshore Policy Committee; and (2) immediately move forward with permitting geological and geophysical data acquisition activities associated with oil and gas exploration in the Mid- and South Atlantic Planning Areas of the Atlantic Outer Continental Shelf as outlined in Alternative A of the Bureau of Ocean Energy Management's Draft Programmatic Environmental Impact Statement entitled "Atlantic OCS Proposed Geological and Geophysical Activities" published in 2012.

The Governor would also be encouraged to work with the states' Congressional delegations and applicable federal agencies to develop strategies for increasing domestic energy supply. The Governor is directed to develop recommendations for the General Assembly's consideration in enacting a regional compact, and report to the General Assembly periodically on the progress of the matter.

In addition, the PCS would encourage the Governor to join the Governors of Alaska, Texas, Louisiana, Mississippi, Alabama, South Carolina, and Virginia and any others who may sign on to the Outer Continental Shelf Governors Coalition announced on May 3, 2011, to promote a constructive dialogue among the coastal state governors and the federal government concerning offshore energy issues. The Governor would be authorized to expend funds related to membership in the Coalition.

PART IX. Energy Policy Act and Energy Policy Council Amendments

Section 9 of the PCS would retitle the Energy Policy Act as the Energy Policy and Jobs Act (Act), and rename the Energy Policy Council as the Energy Jobs Council (Council). The PCS would transfer the Energy Jobs Council from the Department of Commerce to DENR, and designate that staff support would be supplied by the Division of Energy, Mineral, and Land Resources of DENR.

The Council would be reconstituted with new membership requirements, and the number of appointments would be reduced from 16 to 13. Under the PCS the terms of the current members of the Energy Policy Council would terminate when the bill became law or on June 30, 2013, whichever comes first, and new appointments would be made no later than July 1, 2013.

The purpose of the reconstituted council would be to advise and make recommendations to increase domestic energy exploration, development, and production within the State and region in order to promote economic growth and jobs. The goal of the Energy Jobs Council would be to identify and utilize domestic energy sources to ensure a secure, stable, and predictable energy supply, and for other purposes. The duties of the Council would be amended to include the following:

- Develop and recommend a comprehensive State energy policy that addresses requirements in the short term (10 years), in the midterm (25 years), and in the long term (50 years) to achieve maximum effective management and use of present and future sources of domestic energy resources, including smart grid and domestic energy resources such as natural gas, coal, hydroelectric power, solar, wind, nuclear energy, and biomass.
- Conduct ongoing assessments of opportunities and constraints presented by uses of all forms of energy to facilitate the expansion of the domestic energy supply.
- Actively engage in discussions with the federal government, its agencies, and its leaders to identify opportunities to increase domestic energy supply within North Carolina and its adjacent offshore waters.

PART X. Modify Electrical Requirements Rule to Allow Hospitals to Use Compressed Natural Gas as Emergency Fuel

Section 10 of the PCS would direct the Medical Care Commission to adopt a rule to replace the "Electrical Requirements Rule" (10A NCAC 13B .6227(f)(2), "Licensing of Hospitals: Electrical Requirements"), which currently provides that facilities licensed by the Department of Health and Human Services must provide emergency electrical to the facilities with **fuel that is stored on site** in sufficient quantity to provide for not less than 24 hours of operation. The PCS would require replacement of this rule to allow such facilities to use bi-fuel generators that operate with both liquid fuel and natural gas (methane) **that is not stored on the site**, provided that the natural gas is delivered via pipe or pipeline by a natural gas utility. These bi-fuel generators would be exempt from liquid fuel capacity standards established by the Medical Care Commission. Bi-fuel generators that operate on both liquid and other gaseous fuels, including propane and butane, that are stored on the site would also be authorized, provided that the combined capacity of both liquid and gaseous fuels meet minimum on-site fuel requirements established by the Commission. Further, the Medical Care Commission would be authorized to adopt rules to require a licensed facility with a bi-fuel generator to develop a contingency plan for liquid fuel delivery onto the site in the event of a natural gas (methane) supply disruption.

PART XI. Effective Date

Except as otherwise noted, the provisions of the PCS would become effective when the bill becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: 02/13/2013

TO: Senate Finance Committee

FROM: Patrick McHugh and Jennifer Hoffmann
Fiscal Research Division

RE: PCS to SB 76

FISCAL IMPACT

($ in millions)

☐ Yes ☐ No ☑ No Estimate Available

State Impact	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
General Fund Revenues:	not available	not available	not available	not available	not available
General Fund Expenditures*	0.2	0.2	0.2	0.2	0.2
Special Fund Revenues:*					
Special Fund Expenditures:					
State Positions:					
NET STATE IMPACT	**Not Available**	**Not Available**	**Not Available**	**Not Available**	**Not Available**

* Section 6 of the PCS also appropriates $22,900 from the Mineral Interest Fund to DENR for the 2012-13 fiscal year to be used for expenses related to the Commission's implementation of legislative directives.

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: The Departments of Environment and Natural Resources, Commerce and Revenue. Also affected are the Community Colleges System Office, the University of North Carolina, the Department of Transportation and the State Ports.

EFFECTIVE DATE March 1, 2015

TECHNICAL CONSIDERATIONS: None

BILL SUMMARY: The Proposed Committee Substitute (PCS) for Senate Bill 76 would modify provisions related to oil and gas exploration and development activities in the State, including the

use of horizontal drilling and hydraulic fracturing treatments for that purpose; impose a tax for the severance of energy minerals from the soil or water of the State and make associated changes; appropriate monies to the Department of Environment and Natural Resources to operate the Mining and Energy Commission and for related expenditures; assign future revenue from offshore energy production; encourage the Governor to develop a regional compact for offshore energy exploration; amend the Energy Policy Act (renamed as the Energy Policy and Jobs Act) and the Energy Policy Council (reconstituted as the Energy Jobs Council); and direct the Medical Care Commission to adopt rules authorizing facilities licensed by the Department of Health and Human Services to use compressed natural gas as an emergency fuel.

ASSUMPTIONS AND METHODOLOGY:

Section 1(a) and (b): Repeals the prohibition of the issuance of permits for oil and gas exploration using horizontal drilling and hydraulic fracturing treatments in the State that was imposed in Section 3.(d) of S.L. 2012-143, and authorizes the Department of Environment and Natural Resources (DENR) to issue such permits effective March 1, 2015.

> No Fiscal Estimate Available: The North Carolina Mining and Energy Commission (MEC) has been charged with developing a modern regulatory program for the management of oil and gas exploration and development activities in North Carolina, including the use of horizontal drilling and hydraulic fracturing. The MEC has been meeting since September 2012 to develop the rules necessary for issuance of permits for horizontal drilling and hydraulic fracturing. According to DENR, until these rules are formalized, they cannot estimate the amount of time necessary to review and approve such permits and conduct the compliance and enforcement activities associated with the permits. Further, because North Carolina is a relative newcomer to this field, DENR does not know the number of entities that may be seeking these permits. Without knowing what the rules will say or the number of entities interested in seeking permits for oil and gas exploration, DENR was unable to provide a fiscal estimate.

Section 1.(c): Requires the Mining and Energy Commission, with assistance from DENR, to study the development of a coordinated permitting program for oil and gas exploration and development activities using horizontal drilling and hydraulic fracturing to develop a single comprehensive environmental permit to govern well construction, siting, and closure requirements; hydraulic fracturing treatments; water quality and management of water resources; management of waste and regulation of air emissions.

> No Fiscal impact: The study places additional responsibilities on the MEC to explore the development of a comprehensive environmental permit. DENR received a recurring appropriation of $250,000 and 3 staff positions in FY 2012-13 to provide staff to the Commission. According to DENR, the MEC is already intending to create such a permitting program to the extent allowable by federal law and as a result no additional staff will be necessary to complete the study.

Section 2.(a): Amends the composition of the Energy Mining Commission by reducing the number of members from 15 to 13.

No Fiscal impact: There is no fiscal impact of reducing the Commission membership by two. The Commission has met five times since it was established in August 2012. Fourteen members attended the first three meetings, 12 attended the fourth meeting and 11 attended the fifth meeting. There are currently two vacancies on the Commission.

Section 3.(a): Amends existing law that requires the MEC to limit the total amount of oil and gas produced in the State if the total amount produced exceeds the amount reasonably required to meet market demand and instead authorizes the Commission to determine the amount (an "allowable") of oil that may be produced in the state.

No Fiscal Impact. Under existing law, the Mining and Energy Commission is already tasked when determining the "allowable."

Section 3.(b): Repeals the requirement for the Department of Environment and Natural Resources, in consultation with the Consumer Protection Division of North Carolina Department of Justice, to establish and maintain a registry of landmen operating in the State.

No fiscal impact.

Section 4: Amends existing law to exempt "fluid associated with exploration, production, or development of natural gas resources" from the prohibition of discharging any wastes to subsurface or groundwater of the State by means of wells.

No fiscal impact.

Section 5: Repeals North Carolina's current severance tax and levies a new severance tax on the removal of energy minerals from the soil and water of the State. The new severance tax would add condensates to the tax base, raise the tax rate on oil, and create a floating tax rate for gas.

The revenue generated by the severance tax would be allocated in the following manner:

- First 25%, up to $1 million each year allocated to DENR to administer its duties under Article 27 of Chapter 113 of the Oil and Gas Conservation Act
- Remaining revenue would be allocated in the following manner:
    - 50% to the General Fund
    - 50% to Onshore Emergency Management Fund to reach and maintain a balance of $10 million. Once the Fund balance is reached, revenues would be directed to the General Fund.

Section 5 also prohibits local governments from imposing any additional taxes on the severance of energy minerals in the State.

No fiscal estimate available: It is not possible to reasonably estimate the fiscal impact of the severance tax to be created by this provision for the following reasons:

- Absence of historical data from North Carolina: While there is potential for natural gas exploration and extraction in North Carolina, there is no historical data on natural gas extraction that could serve as the foundation for a rigorous projection of future activity.
- Uncertain volume of recoverable natural gas in North Carolina: At the current time, substantial uncertainty remains as to the amount of recoverable natural gas in North Carolina. In the absence of proven reserve levels, it is not possible to project the volume of gas that will be extracted in each of the next five years.
- Uncertainty in future price of natural gas driving uncertainty in levels of new exploration: Levels of future exploration is largely determined by the price of natural gas. The price of natural gas has been extremely volatile in recent years. As new extraction technologies have provided access to previously unrecoverable reservoirs, the price of natural gas has declined sharply in last several years. Since hitting a high above $11 per 1000 cubic feet in mid-2008, natural gas prices have fallen precipitously and stayed below $5 per 1000 cubic feet since early 2010.[1] Mirroring this decline in prices, the number of natural drilling rigs in operation in the United States has fallen as well. For the week ending on February 1st, 2013 there were 428 natural gas drilling rigs in operation in the United States, down from a high of 1606 in September of 2008.[2] Given recent volatility in the price of natural gas, and the level of natural gas exploration, it is not possible to project the pace at which natural gas exploration and development would proceed in North Carolina over the next five years.

Section 6: Appropriates $22,900 from the Mineral Interest Fund, a special revenue fund in the Department of Environment and Natural Resources, to the Department for the 2012-13 fiscal year to be used to offset expenses of the Mining and Energy Commission related to implementing the legislative mandates of the Commission.

Fiscal impact: Reduces the Mining Interest Fund by $22,900 and increases the Department's General Fund in a like amount.

Section 7: Requires that any revenues or royalties paid to the State from offshore leasing, exploration, development, and production of energy would be deposited in an account to be used for emergency preparation, emergency response, and environmental mitigation associated with the release of liquid hydrocarbons or associated fluids directly related to energy exploration or production. Once this fund reaches $50 million, any additional revenues or royalties will be directed to the General Fund.

No fiscal estimate available: The licensing of offshore energy production, and the sharing of attendant revenues between the states, is determined by the Federal Government. As there is currently no revenue sharing agreement in place, and it is unclear whether any such agreement will be enacted in the next five years, it is not possible to reasonably project the

[1] Moody's Analytics. 02/08/13. "Natural Gas: Henry Hub." Accessed at http://www.economy.com/

[2] Energy Solutions Inc. 02/01/13. "Natural Gas Drilling Rig Count Statistics: Baker Hughes Weekly Rig Count." Accessed at http://www.energysolutionsinc.com/naturalgas/Rig-Count-Statistics-29.htm

revenues that North Carolina could realize from offshore energy exploration and production.

Section 8: Encourages the Governor to develop a compact with the governors of Virginia and South Carolina to develop a regional strategy for the exploration of offshore energy resources.

No fiscal impact.

Section 9: Amends the "North Carolina Energy Policy Act of 1975" by renaming the Act to the North Carolina Energy Policy and Jobs Act" and by expanding the findings and purpose. Also renames the "Energy Policy Council" to the "Energy Jobs Council," expands its purposes to include advising on domestic energy exploration, development and production within the State, reduces membership from 16 members to 13, resets of the memberships qualification and terms and transfers the Council from the Department of Commerce to DENR as a Type II transfer. Clarifies that utilities regulated under Chapter 62 of the General Statutes may satisfy the required emergency curtailment plan by submitting the General Load Reduction and System Restoration Plan that is prepared annually for the Utilities Commission. This section makes numerous other changes such as expanding on the types of energy policy on which reports are required as well as reducing the frequency of certain reporting requirements.

Fiscal impact: The Department of Commerce reports that transferring the Energy Policy Council (EPC) to DENR will have no fiscal impact on Commerce's budget or staff because the EPC has been dormant for at least two years and therefore no time or resources have been devoted to staffing the Council. Any reports required of the EPC have been produced through an Energy Conservation Think Tank outside of state government.

By reconstituting and expanding the duties and responsibilities of Council it is anticipated that the Council will become an active advisory council which will rely upon the Division of Energy, Mineral and Land Resources (DEMLR) to which the Council can delegate its duties when appropriate. Expanded responsibilities include 1) developing a comprehensive State energy policy that addresses effective management and use of present and future sources of energy to include among other things natural gas, coal, hydroelectric power, solar, wind, nuclear energy and biomass; 2) facilitating the expansion of domestic energy supply, 3) actively engaging in discussions with the federal government, its agencies, and its leaders to identify opportunities to increase domestic energy supply with NC and its adjacent offshore waters, and 4) recommending needed energy rule making.

As a result additional staff support is anticipated to staff the Council. DENR suggested that as many as six staff members would be needed to support the work of the Council, the same number the Department requested to staff the MEC. This fiscal note agrees that additional staff expertise will be necessary; however, the department has not submitted sufficient justification to support the need for six new positions. This fiscal note recommends a recurring appropriation of $200,000 to be provided to DENR so that the DEMLR can provide the necessary expertise to the Council either through permanent positions or a contract for outside expertise. These funds would also support the operating costs of the Council and any necessary research and/or studies.

Section 10: Directs the Medical Care Commission adopt a rule to replace the "Electoral Requirement Rule" (10A NCAC 13B .6227(f)(2), "Licensing of Hospitals: Electoral Requirements"), which currently provides that facilities listed by the Department of Health and Human Services must provide emergency electrical to the facilities with fuel that is stored on site in sufficient quantity to provide for not less than 24 hours of operation. This section directs that a rule be created whereby the requirement for emergency electrical would be satisfied by bi-fuel generators that are connected via pipeline to a natural gas utility.

No fiscal impact.

TECHNICAL CONSIDERATIONS: None

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 76

1

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S76-ATD-3 [v.4]

Comm. Sub. [YES]
Amends Title [NO]
First Edition

Date Feb. 13 ,2013

PCS to

Senator Rucho

moves to amend the bill on page 9, lines 26-36, by rewriting the lines to read:
"A city or county may not impose a franchise, privilege, license, income or excise tax on the severing, production, treating, processing, ownership, sale, storage, purchase, marketing, or transportation on any energy minerals produced in the State, or upon the business of severing, producing, treating, processing, owning, selling, buying, storing, marketing, or transporting such energy minerals, or upon the ownership, operation, or maintenance of plants, facilities, machinery, pipelines, and gathering lines related to the severing, production, treating, processing, ownership, storage, sale, purchase, marketing, or transportation of energy minerals. This section does not preclude the taxation of the property in accordance with Article 11 of this Chapter.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED √ FAILED _____ TABLED _____

PAGES ATTENDING

COMMITTEE: Finance ROOM: 544

DATE: 2-13 TIME: 1 PM

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

	Page Name	Hometown	Sponsoring Senator
1	Josiah NAZZARO ~~Josiah Nazzaro~~	Oak Island	~~Raben~~ Sen Raben
2	~~Ian~~ West ~~Ian West~~	Wilson	Sen Newton
3	Razi Lane ~~Razi Lane~~	Edenton ~~Edenton~~	Sen. Jenkins ~~Jenkins~~
4			
5			
6	Sgt at Arms		
7			Phil King
8		Ron Spann	Anderson Meadows
9		Steve Wilson	Bob Myrick
10		Billy Fritcher	

Do not add names below the grid.

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

VISITOR REGISTRATION SHEET

Senate Finance Committee — February 13, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Chris Stone	
Grant Fitzgerald	
Casey E Wentz	Barringer
Nancy Thompson	Weyerhaeuser
Johanna Reese	NCACC
Paul Meyer	NCLM
George Smith	Nexsen Pruet
TJ Boulware	Nexsen Pruet
Molly Diggins	Sierra Club
Ashley Wagoner	
Susan M. Wagoner	Constituent

VISITOR REGISTRATION SHEET

Senate Finance Committee — February 13, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Butch Gunnells	NC Bev A
Elizabeth Quets	Environment North Carolina
[signature]	Misc. Chamber
Doug Rammel	Citizen
CP Downs	The Insider
Jacob Yanter	Sen Brown
PAIGE WORSHAM	LRS

VISITOR REGISTRATION SHEET

Senate Finance Committee — February 13, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Alex Badger	CSS
Tracy Davis	DENR
Jean Garman	AARP
Carin Baker	UNC Chapel Hill
Mitch Leonard	SEANC
Chuck Stone	SEANC
Tom Bean	NCSEA, EDF, NCWF
Mary Maude Ashley	SELC
Brooks Rainey Pearson	SELC
Nadia L. Luhr	NCCN
Kay Emanuel	School of Government

VISITOR REGISTRATION SHEET

Senate Finance Committee — **Name of Committee**

February 13, 2013 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
BRUCE THOMPSON	PARKER POE
	MWC
JOHN SHAW	SELF
TOM DIXON	NCDOR
Jay Joiner	SoundTrack
Bob Schaefer	NCFA
Michael Hauser	NC DOR
Will Culpepper	MVA
Dan Conrad	NCUC
Dan Crawford	NCLCV
Matt Vigil	CW Consulting

VISITOR REGISTRATION SHEET

Senate Finance Committee — February 13, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Chris Kelly	Nelson Mullins
Dave Simpson	CAUC
David Elmore	MVA Public Affairs
Tommy Sevier	Marcus Van Allen Rose Wilson
Bee Weatherington	API - NC
Jaz Tunnell	PNG
Brent Lane	UNC-CH
Nelson Cooper	NCS
Taylore Woods	UNC-CH
Gregg Thompson	NFIB
Joy Stem	NCAA

VISITOR REGISTRATION SHEET

Senate Finance Committee — February 13, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
John Mudrinski	NFO

VISITOR REGISTRATION SHEET

Senate Finance Committee — February 13, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
[signature]	MMA
[signature]	Duke Energy
[signature]	NCPC
[signature]	NCIC
J GOODMAN	KC CHAMBER
[signature]	RLA
[signature]	NCFB
[signature]	NERVA
DANIEL BAUM	TROUTMAN SANDERS
Will Morgan	TNC
[signature]	PPAG
[signature]	[signature]

VISITOR REGISTRATION SHEET

Senate Finance Committee
Name of Committee

February 13, 2013
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Kyle Hack	Sen. Hunt's office
Gary Harris	NC Petroleum Mktrs
Sarah Seats	NP
Canaan Huie	MVA
Wendy Kay	Public Group
[illegible]	Hawthorn
Doug Lassiter	NCSTA
Doug Miskew	PSG
Townes Maxwell	PSG
Cameron Moore	BASF

VISITOR REGISTRATION SHEET

Senate Finance Committee — February 13, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Andy Chase	KMA
Estherine Davis	ED & A, Inc.
JEFF BARNHART	MWC
Norm Sloan	USA
Susana Dew	Williams Mullen
Erin Wynia	NCLM
[illegible]	KLG
Brent Wa[illegible]	Rucho
Dana Fenton	CCT
Amy McConkey	NC Bev Assn
Henry Hutaff	Coca Cola Consolidated

VISITOR REGISTRATION SHEET

Senate Finance Committee — February 13, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Kerri Barco	NWC
Bo Heath	McGuireWoods
Steve Brewer	CTL
Sarah Hardin	CTL
Elise McDowell	Troutman Sanders
Daniel Bain	Troutman Sanders
Bill Mackaway	PSNC Energy
Lew Ebert	NC Chamber
Patrick Buffkin	NLAGC
Beatrice Williams	CUCA
Chris Bowman	CAPA

Senate Finance Committee
Wednesday, February 27, 2013
Room 544 LOB, 1:00 p.m.

Minutes

The Senate Committee on Finance met on Wednesday, February 27, 2013, at 1:00 p.m. in room 544 of the Legislative Office Building. Max Shafer of Warsaw, Conor Applegate of Mooresville and Austin Jones of Clinton served as pages. Senator Rucho served as Chair to the meeting.

H.B. 77 – Board of Law Examiners/Update Expense Law

Representative Blust was recognized to explain the bill. It would delete an obsolete provision for a $50 payment to members of the Board of Law Examiners and clarifies the payment of expenses for travel and subsistence while engage in duties assigned to the member. Senator Tillman moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 56 – Wallace/Satellite Annexations

Senator Jackson was recognized to explain the bill which expands an exemption from certain standards for voluntary satellite annexations applicable to the Town of Wallace. Previously, the exemption applied only to the property on which the Vidant Family Medicine facility is located, but S.B. 56 would make it applicable to other properties. Senator Brock moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 84 – Cancel Aircraft Lien w/Surety Bond Deposit

Senator Clodfelter was recognized to explain the bill which provides for the cancellation of an aircraft labor or storage lien upon payment of a bond. Senator Clodfelter offered a technical amendment and moved for it adoption. The motion carried. Senator moved to report the bill favorably as amended and the motion carried. A copy of the bill, the summary and the amendment is attached.

S.B. 97 – Property Tax/Deannexation

Senator Goolsby was recognized to explain the bill. Senator Brock moved to adopt the proposed committee substitute (PCS) for discussion and the motion carried. The PCs would authorize the governing body of any municipality to release any property tax for property that was within the corporate limits of the municipality for less than six months, and for which no notice has been sent to the taxpayer. Senator Newton moved for a favorable report and the motion carried. A copy of the PCS and the summary is attached.

H.B. 82 – IRC Update

Representative Howard was recognized to explain the bill. It would do the following:

- Update from January 1, 2012, to January 2, 2013, the reference to the Internal Revenue Code used in determining certain State tax provisions, thereby incorporating and conforming to many of the provisions contained in the American Taxpayer Relief Act of 2012 (ATRA) to the extent North Carolina law tracks those provisions, including1:
    - 15-year depreciation schedule for leasehold, restaurant, and retail property
    - Modified limitations on itemized deductions
    - Student loan interest deduction
    - Income exclusion for employer-provided educational assistance programs

- "Decouple" from ATRA enhancements or extensions to the following provisions for the 2013 tax year:
    - Bonus depreciation
    - Section 179 expensing (for 2012 and 2013)
    - Qualified tuition and expenses deduction
    - Mortgage insurance premium as interest deduction
    - Income exclusion for discharge of residence indebtedness
    - Income exclusion for IRA distributions to charity by a person who has attained age 70.5.
- Adjust the following three tax credits that were enhanced by ATRA to achieve revenue neutrality:
    - Work Opportunity credit
    - Earned Income credit
    - Adoption credit

Jonathan Tart, a fiscal analyst with the Fiscal Research Division, was recognized to answer questions. Senator Apodaca moved for a favorable report and the motion carried. A copy of the bill, the summary and the fiscal note is attached.

S.B. 81 – Charlotte Regional Airport Authority

Senator Rucho was recognized to explain the bill and moved to adopt the PCS for discussion. The motion carried. The PCS creates the Charlotte Regional Airport Authority and transfers the ownership and management of the Charlotte Douglas International Airport form the City of Charlotte to the Authority. It also provides that the Authority may use the powers of eminent domain if agreed upon by a majority of the locally appointed members of the Authority. The restrictions that the powers of eminent domain may only be used for purposes necessary for the operation of the airport and not for such uses as hotels, motels, restaurants, or industrial parks remains in the bill. Gerry Cohen, staff attorney, was recognized to further explain the PCS and answer

questions. Senator Rucho offered an amendment and requested that Ms. Avrette explain it. The amendment quantifies the real property to be transferred to the Authority and outlines the Authority's rights, duties and obligations in any commercial or development agreements that are in effect at the time of the transfer. Senator Rucho moved to adopt the amendment and the motion carried. Dana Fenton, representing the City of Charlotte, was recognized to speak in opposition to the bill. A copy of his remarks is attached. Senator Apodaca moved to report the PCS favorably as amended and the motion carried. A copy of the PCS, the summary and the amendment is attached.

The meeting adjourned at 2:04 p.m.

Bob Rucho

Senator Bob Rucho, Presiding Chair
Senate Finance Committee

DeAnne Mangum

DeAnne Mangum
Senate Finance Clerk

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	February 27, 2013	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	
HB 77	Board of Law Examiners/Update Expense Law.	Representative Blust
HB 82	Internal Revenue Code Update.	Representative Howard
SB 56	Wallace/Satellite Annexations.	Senator Jackson
SB 81	Charlotte Regional Airport Authority.	Senator Rucho
SB 84	Cancel Aircraft Lien W/Surety Bond Deposit.	Senator Clodfelter
SB 97	Property Tax/Deannexation.	Senator Goolsby

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

Senate Committee on Finance
Wednesday, February 27, 2013, 1:00 PM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 77	Board of Law Examiners/ Update Expense Law.	Rep. Blust
HB 82	Internal Revenue Code Update.	Rep. Howard
SB 56	Wallace/Satellite Annexations.	Sen. Jackson
SB 81	Charlotte Regional Airport Authority.	Sen. Rucho
SB 84	Cancel Aircraft Lien W/Surety Bond Deposit.	Sen. Clodfelter
SB 97	Property Tax/Deannexation.	Sen. Goolsby

Adjournment

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Thursday, February 28, 2013

Senator Rucho,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

SB **97** Property Tax/Deannexation.

Draft Number:	S97-PCS75090-TD-1
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Senator Thomas Goolsby will handle SB 97

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Wednesday, February 27, 2013

Senator Rucho,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

SB **84** Cancel Aircraft Lien W/Surety Bond Deposit.

Draft Number:	S84-PCS85052-TD-2
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Senator Daniel Clodfelter will handle SB 84

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Wednesday, February 27, 2013

Senator Rucho,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2

SB **81** **(CS#1)** Charlotte Regional Airport Authority.

Draft Number:	S81-PCS15084-RBx-4
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Senator Robert Rucho will handle SB 81

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Wednesday, February 27, 2013

Senator Rabon,
submits the following with recommendations as to passage:

FAVORABLE

HB	**77**		Board of Law Examiners/Update Expense Law.
			Draft Number: None
			Sequential Referral: None
			Recommended Referral: None
			Long Title Amended: No
HB	**82**	**(CS#1)**	Internal Revenue Code Update.
			Draft Number: None
			Sequential Referral: None
			Recommended Referral: None
			Long Title Amended: No
SB	**56**		Wallace/Satellite Annexations.
			Draft Number: None
			Sequential Referral: None
			Recommended Referral: None
			Long Title Amended: No

TOTAL REPORTED: 3

Senator Tom Apodaca will handle HB 77
Senator Robert Rucho will handle HB 82
Senator W. Jackson will handle SB 56

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H 1

HOUSE BILL 77*

Short Title:	Board of Law Examiners/Update Expense Law.	(Public)
Sponsors:	Representative Blust (Primary Sponsor). *For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*	
Referred to:	Finance.	

February 7, 2013

A BILL TO BE ENTITLED

AN ACT TO DELETE A PROVISION FOR A FIFTY-DOLLAR PAYMENT TO MEMBERS OF THE BOARD OF LAW EXAMINERS THAT HAS NOT BEEN PAID SINCE THE 1970S AND TO CLARIFY A PROVISION RELATING TO EXPENSES OF THAT BOARD, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 84-26 reads as rewritten:

"**§ 84-26. ~~Pay~~ Expenses of Board of Law Examiners.**

~~Each~~ Notwithstanding G.S. 93B-5(b), each member of the Board of Law Examiners shall receive ~~the sum of fifty dollars ($50.00) for his services in connection with each examination and shall receive his~~ the member's actual expenses of travel and subsistence while engaged in duties assigned to ~~him, provided~~ the member; provided, however, that for transportation by the use of private automobile the expense of ~~travel~~that transportation shall be the same as paid other boards and commissions by the State."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 77:
Board of Law Examiners/Update Expense Law

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	February 27, 2013
Introduced by:	Rep. Blust	**Prepared by:**	Heather Fennell Committee Counsel
Analysis of:	First Edition		

SUMMARY: ***House Bill 77 would delete an obsolete provision for a $50 payment to members of the Board of Law Examiners and clarifies the payment of expenses for travel and subsistence while engaged in duties assigned to the member. House Bill 77 is a recommendation by the General Statutes Commission.***

[As introduced, this bill was identical to S74, as introduced by Sen. Hartsell, which is currently in Senate Finance.]

CURRENT LAW: G.S. 84-26 allows a $50 payment to members of the Board of Law Examiners for services in connection with each examination and allows actual expenses of travel and subsistence, other than transportation by private car, while engaged in duties assigned to the member. Transportation by use of private car is the same as paid other boards. The transportation by private car for other boards is the business standard rate set by the Internal Revenue Service. As of January 1, 2013, the standard rate is 56.5¢ per mile.

G.S. § 93B-5(b) provides for the reimbursement of travel expenses incurred by board members of occupational licensing boards. Board members are reimbursed for travel expenses subject to statutory maximums, unless approved by the Director of the Budget. The Director of the Budget establishes uniform standards and criteria under which actual expenses in excess of the travel allowance may be authorized.

BILL ANALYSIS: House Bill 77 updates G.S. 84-26 by deleting an obsolete provision for a $50 payment to members of the Board of Law Examiners, clarifying that G.S. 93B-5(b) does not apply to the members, and making other conforming changes.

EFFECTIVE DATE: House Bill 77 would become effective when it becomes law.

BACKGROUND: The $50 payment to members of the Board of Law Examiners has not been paid since before 1973 and is obsolete. The General Statutes Commission recommends deleting the provision for a $50 payment and clarifying that G.S. 93B-5(b) does not apply to the actual expenses of travel and subsistence of members of the Board of Law Examiners.

Greg Roney, counsel to House Finance, substantially contributed to this summary.

GENERAL STATUTES COMMISSION
300 N. Salisbury Street, Suite 545
Raleigh, NC 27603-5925
Tel. 919-733-2578 Fax 919-715-5460

Floyd M. Lewis
Revisor of Statutes

P. Bly Hall
Assistant Revisor of Statutes

MEMORANDUM
February 26, 2013

TO: Senate Committee on Finance
FROM: General Statutes Commission
RE: HB 77 (Board of Law Examiners/Update Expense Law)

This bill deletes a provision in G.S. 84-26 for a fifty dollar ($50.00) payment to members of the Board of Law Examiners "for ... services in connection with each examination" that the General Statutes Commission is informed has not been paid since before 1973. The Board of Law Examiners asked the General Statutes Commission to recommend legislation removing the provision for the fifty dollar payment.

In addition, the bill clarifies the relationship between G.S. 84-26 and G.S. 93B-5(b) (which deals generically with occupational licensing boards) with respect to payment of expenses and updates the catchline.

SENATE BILL 56

Short Title:	Wallace/Satellite Annexations.	(Local)
Sponsors:	Senator Jackson (Primary Sponsor).	
Referred to:	State and Local Government.	

February 6, 2013

A BILL TO BE ENTITLED

AN ACT AMENDING A LOCAL ACT FOR THE TOWN OF WALLACE THAT REMOVED CERTAIN RESTRICTIONS ON SATELLITE ANNEXATIONS FOR THE TOWN.

The General Assembly of North Carolina enacts:

SECTION 1. S.L. 2012-118 reads as rewritten:

"**SECTION 1.** G.S. 160A-58.1(b) reads as rewritten:

"(b) A noncontiguous area proposed for annexation must meet all of the following standards:

(1) The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.

(2) No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city, except as set forth in subsection (b2) of this section.

(3) The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.

(4) Repealed.

(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

This subdivision does not apply to the Cities of Belmont, Claremont, Concord, Conover, Durham, Elizabeth City, Gastonia, Greenville, Hickory, Kannapolis, Locust, Marion, Mount Airy, Mount Holly, New Bern, Newton, Oxford, Randleman, Roanoke Rapids, Rockingham, Sanford, Salisbury, Southport, Statesville, and Washington and the Towns of Ahoskie, Angier, Apex, Ayden, Benson, Bladenboro, Bridgeton, Burgaw, Calabash, Catawba, Clayton, Columbia, Columbus, Cramerton, Creswell, Dallas, Dobson, Four Oaks, Fuquay-Varina, Garner, Godwin, Granite Quarry, Green Level, Grimesland, Holly Ridge, Holly Springs, Huntersville, Jamestown, Kenansville, Kenly, Knightdale, Landis, Leland, Lillington, Louisburg, Maggie Valley, Maiden, Mayodan, Middlesex, Midland, Mocksville, Morrisville, Mount Pleasant, Nashville, Oak Island, Pembroke, Pine Level, Princeton, Ranlo, Richlands, Rolesville, Rutherfordton, Shallotte, Smithfield, Spencer, Stem, Stovall, Surf City, Swansboro, Taylorsville,

Troutman, Troy, Wallace, Warsaw, Watha, Waynesville, Weldon, Wendell, Windsor, Yadkinville, and Zebulon."

"~~**SECTION 2.** This act applies only to the annexation of the property on which the Vidant Family Medicine facility is located.~~

"**SECTION 3.** This act applies to the Town of Wallace only."

SECTION 2. This act is effective when it becomes law.

SENATE BILL 56:
Wallace/Satellite Annexations

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	February 27, 2013
Introduced by:	Sen. Jackson	**Prepared by:**	Heather Fennell Committee Counsel
Analysis of:	First Edition		

SUMMARY: ***Senate Bill 56 expands an exemption from certain standards for voluntary satellite annexations applicable to the Town of Wallace. Previously, the exemption applied only to the property on which the Vidant Family Medicine facility is located, but Senate Bill 56 would make it applicable to other properties.***

CURRENT LAW: G.S. 160A-58.1 governs voluntary municipal annexation of noncontiguous property (known as voluntary satellite annexation). If all property owners in a satellite area petition a municipality for voluntary annexation of the noncontiguous property, the municipality may annex the property, if it meets all of the following five standards:

1. The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. **If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.**
5. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.[1]

Session Law 2012-118 exempts the Town of Wallace from the fourth standard for voluntary satellite annexation for certain described property.

BILL ANALYSIS: Senate Bill 56 expands the Town of Wallace's exemption from the fourth standard from voluntary satellite annexation by repealing the restriction applying the authority to only certain described property.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: The General Assembly has exempted at least 16 other municipalities from the fourth standard.

Giles Perry, counsel to House Government, substantially contributed to this summary.

[1] The Town of Wallace is exempt from this standard. S.L. 2004-57.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 84

AMENDMENT NO. 1
(to be filled in by
Principal Clerk)

S84-ATD-11 [v.1]

Comm. Sub. [NO]
Amends Title [NO]
First Edition

Date Feb 27 ,2013

Senator Clodfelter

moves to amend the bill on page 1, line 30, by replacing the phrase "this Article" with the phrase "Article 5 of Chapter 44A of the General Statutes".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED X FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S 1

SENATE BILL 84

Short Title:	Cancel Aircraft Lien W/Surety Bond Deposit.	(Public)
Sponsors:	Senator Clodfelter (Primary Sponsor).	
Referred to:	Finance.	

February 14, 2013

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE CANCELLATION OF AN AIRCRAFT LABOR AND STORAGE LIEN WHEN A SURETY BOND IN AN AMOUNT EQUAL TO ONE AND ONE-FOURTH TIMES THE AMOUNT OF THE LIEN CLAIMED IS DEPOSITED WITH THE CLERK OF COURT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 44A-75 reads as rewritten:

"**§ 44A-75. Termination of a lien on an aircraft.**

(a) Termination by Payment of Amount Owed. – Any lien under this Article shall be terminated upon receipt by the lienor of the full amount owed for the labor, skill, or materials on the aircraft, and for storage of the aircraft, which amount shall not be limited to any amount shown on the notice of lien filed under G.S. 44A-60, if a notice of lien has been filed by the lienor. Upon receipt of the amount owed, the lienor or the lienor's agent shall release the aircraft to the owner, if the aircraft is in the possession of the lienor, and shall, within 20 days following a request in writing by the aircraft owner, file with the clerk of court a notice of satisfaction of lien, if a notice of lien has been filed by the lienor. A notice of satisfaction of lien shall state that the amount owed for the lienor's expenditure of labor, skill, or materials on the aircraft, and for the storage of the aircraft, has been paid and the lien against the aircraft has been terminated. The notice of satisfaction of lien shall be sworn to or affirmed, and subscribed by the lienor or by someone on the lienor's behalf having personal knowledge of the facts. Upon the filing of a notice of satisfaction of lien, the clerk of court shall make an entry of acknowledgment of satisfaction in the index.

(b) Termination by Deposit of Surety Bond. – Any lien under this Article shall be terminated by the clerk of court whenever a surety bond in a sum equal to one and one-fourth times the amount of the lien claimed against the aircraft and conditioned upon the payment of the amount finally determined to be due in satisfaction of the lien is deposited with the clerk of court. When a deposit that satisfies this subsection is made, the lienor or the lienor's agent shall release the aircraft to the owner, if the aircraft is in the possession of the lienor."

SECTION 2. This act is effective when it becomes law and applies to liens perfected under this Article on or after that date.

SENATE BILL 84:
Cancel Aircraft Lien W/Surety Bond Deposit

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	February 27, 2013
Introduced by:	Sen. Clodfelter	**Prepared by:**	Heather Fennell
Analysis of:	First Edition		Committee Counsel

SUMMARY: ***Senate Bill 84 provides for the cancellation of an aircraft labor or storage lien upon payment of a bond.***

CURRENT LAW: Chapter 44A of the General Statutes provides for statutory liens and charges. Article 1 of the Chapter provides for possessory liens on personal property other than aircraft.

Federal law, through the Federal Aviation Authority (FAA) governs how title to aircraft are registered and transferred. To comply with requirements in federal law regarding the perfection of security interests in aircraft, Article 5 of Chapter 44A of the General Statutes was enacted in 2006 to create a process for filing and enforcing statutory liens for unpaid labor, skill, or materials on an aircraft.

Under Article 1 of Chapter 44A, the owner of personal property subject to a lien may file a bond to recover possession of the property. The owner may then dispute the amount owed in a subsequent proceeding and recover the bond if the full amount is not found to be owed. Under Article 5 of Chapter 44A, there is not a similar provision to recover possession of aircraft upon payment of a bond.

BILL ANALYSIS: Senate Bill 84 provides for the cancellation of an aircraft labor or storage lien upon payment of a bond. The surety bond must be equal to 125% of the amount of the lien claimed on the aircraft. Once a surety bond is filed, the lienor must release the aircraft to the owner.

EFFECTIVE DATE: This act is effective when it becomes law and applies to liens perfected on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 97
PROPOSED COMMITTEE SUBSTITUTE S97-CSTD-1 [v.4]
2/26/2013 1:47:16 PM

Short Title: Property Tax/Deannexation. (Public)

Sponsors:

Referred to:

February 19, 2013

A BILL TO BE ENTITLED

AN ACT TO REQUIRE RELEASE OF PROPERTY TAXES IN ANY AREA THAT WAS PART OF A MUNICIPALITY FOR SIX MONTHS OR LESS AND THEN DEANNEXED.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-380 is amended by adding a new subsection to read:

"(e) The governing body of a municipality shall release any tax levied under this Subchapter, without application from the taxpayer being required, on property that was within the corporate limits of the municipality for six months or less prior to deannexation from the municipality, and for which no notice of the tax has yet been sent to the taxpayer. The release shall be made in accordance with the provisions of this Article."

SECTION 2. This act is effective when it becomes law and expires July 1, 2016.

SENATE BILL 97:
Property Tax/Deannexation

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	February 27, 2013
Introduced by:	Sen. Goolsby	**Prepared by:**	Heather Fennell
Analysis of:	PCS to First Edition S97-CSTD-1		Committee Counsel

SUMMARY: ***The proposed committee substitute for Senate Bill 97 would authorize the governing body of any municipality to release any property tax for property that was within the corporate limits of the municipality for less than six months, and for which no notice has been sent to the taxpayer.***

The PCS makes technical changes and provides a sunset for this provision.

CURRENT LAW: Property taxes are levied on a fiscal year basis with each fiscal year beginning on July 1 and ending the following June 30. Property added through annexation is subject to prorated property taxes as provided in G.S. 160A-58.10. Only full calendar months are considered for the purposes of prorating the property taxes. Therefore, for property annexed as of January 1 of a given year would be subject to 5 months of property taxes.

G.S. 105-380 prohibits the governing body of any taxing unit from releasing, refunding, or compromising any property taxes within its jurisdiction.

BILL ANALYSIS: The proposed committee substitute for Senate Bill 97 would authorize the governing body of any municipality to release any property tax for property that was within the corporate limits of the municipality for less than six months, and for which no notice has been sent to the taxpayer.

EFFECTIVE DATE: This act is effective when it becomes law, and expires July 1, 2016.

BACKGROUND: In May 2009, Wilmington voted to annex an area commonly known as "Monkey Junction." Originally scheduled to be annexed in June 2010, the effective date of the annexation was delayed due to litigation and did not become effective until July 1, 2012. S.L. 2012-3, effective July 1, 2012, deannexed the Monkey Junction area.

Under current law, the area annexed on January 1, 2012, and deannexed July 1, 2012, would be subject to 5 months of taxes for the tax year that began on July 1, 2011.

The City of Wilmington has indicated tax bills for property in the Monkey Junction area that was deannexed have not been sent, and no taxes have been collected from the area.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H 2

HOUSE BILL 82*
Committee Substitute Favorable 2/13/13

Short Title: IRC Update. (Public)

Sponsors:

Referred to:

February 11, 2013

A BILL TO BE ENTITLED

AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE AND TO DECOUPLE FROM CERTAIN PROVISIONS OF THE FEDERAL AMERICAN TAXPAYER RELIEF ACT OF 2012.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-228.90(b)(1b) reads as rewritten:

"(1b) Code. – The Internal Revenue Code as enacted as of ~~January 1, 2012,~~ January 2, 2013, including any provisions enacted as of that date that become effective either before or after that date."

SECTION 2.(a) G.S. 105-130.5(a)(15b) reads as rewritten:

"(15b) For taxable years 2010 through ~~2012,~~2013, eighty-five percent (85%) of the amount allowed as a special accelerated depreciation deduction under section 168(k) or 168(n) of the Code for property placed in service during the taxable year. In addition, for taxable year 2010, a taxpayer who placed property in service during the 2009 taxable year and whose North Carolina taxable income for the 2009 taxable year reflected a special accelerated depreciation deduction allowed for the property under section 168(k) of the Code must add eighty-five percent (85%) of the amount of the special accelerated depreciation deduction. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes."

SECTION 2.(b) G.S. 105-130.5(b)(21b) reads as rewritten:

"(21b) An amount equal to twenty percent (20%) of the amount added to federal taxable income as accelerated depreciation under subdivision (a)(15b) of this section. For the amount added to taxable income in the 2010 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2011. For the amount added to taxable income in the 2011 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2012. For the amount added to taxable income in the 2012 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2013. For the amount added to taxable income in the 2013 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2014."

SECTION 2.(c) G.S. 105-134.6(c)(8b) reads as rewritten:

"(8b) For taxable years 2010 through ~~2012,~~2013, eighty-five percent (85%) of the amount allowed as a special accelerated depreciation deduction under section 168(k) or 168(n) of the Code for property placed in service during the taxable year. In addition, for taxable year 2010, a taxpayer who placed property in service during the 2009 taxable year and whose North Carolina taxable income for the 2009 taxable year reflected a special accelerated depreciation deduction allowed for the property under section 168(k) of the Code must add eighty-five percent (85%) of the amount of the special accelerated depreciation deduction. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes."

SECTION 2.(d) G.S. 105-134.6(b)(17b) reads as rewritten:

"(17b) An amount equal to twenty percent (20%) of the amount added to federal taxable income as accelerated depreciation under subdivision (c)(8b) of this section. For the amount added to taxable income in the 2010 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2011. For the amount added to taxable income in the 2011 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2012. For the amount added to ~~taxable~~ adjusted gross income in the 2012 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2013. For the amount added to adjusted gross income in the 2013 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2014."

SECTION 3.(a) G.S. 105-130.5(a) is amended by adding a new subdivision to read:

"(23a) For taxable years 2012 and 2013, eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code for property placed in service in taxable year 2012 or 2013 exceeds the amount that would have been allowed for the respective taxable year under section 179 of the Code as of May 1, 2010. For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 2, 2013. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes."

SECTION 3.(b) G.S. 105-130.5(b) is amended by adding a new subdivision to read:

"(26a) An amount equal to twenty percent (20%) of the amount added to federal taxable income under subdivision (a)(23a) of this section. For the amount added to taxable income in the 2012 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2013. For the amount added to taxable income in the 2013 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2014."

SECTION 3.(c) G.S. 105-134.6(c) is amended by adding a new subdivision to read:

"(15a) For taxable years 2012 and 2013, eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code for property placed in service in taxable year 2012 or 2013 exceeds the amount that would have been allowed for the respective taxable year under section

179 of the Code as of May 1, 2010. For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 2, 2013. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes."

SECTION 3.(d) G.S. 105-134.6(b) is amended by adding a new subdivision to read:

"(21a) An amount equal to twenty percent (20%) of the amount added to adjusted gross income under subdivision (c)(15a) of this section. For the amount added to adjusted gross income in the 2012 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2013. For the amount added to adjusted gross income in the 2013 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2014."

SECTION 4. G.S. 105-129.16G reads as rewritten:

"**§ 105-129.16G. (Expiring for taxable years beginning on or after January 1, 2014) Work Opportunity Tax Credit.**

(a) Credit. – A taxpayer who is allowed a federal tax credit under Part IV, Subpart F of the Code for the taxable year is allowed a credit against the tax imposed by this Part. The credit is equal to ~~six percent (6%)~~ a percentage of the amount of credit allowed under the Code for wages paid during the taxable year for positions located in this State. A position is located in this State if more than fifty percent (50%) of the employee's duties are performed in the State. The percentage is as follows:

(1) For taxable year 2013, three percent (3%).

(2) For all other taxable years, six percent (6%).

...."

SECTION 5.(a) G.S. 105-134.6(c) is amended by adding a new subdivision to read:

"(16) For taxable year 2013, the amount of the taxpayer's deduction for qualified tuition and related expenses under section 222 of the Code. The purpose of this subdivision is to decouple from the extension of the federal deduction under section 207 of the American Taxpayer Relief Act of 2012."

SECTION 5.(b) G.S. 105-134.6(d)(2) reads as rewritten:

"(2) The taxpayer may deduct the amount by which the taxpayer's deductions allowed under the Code were reduced, and the amount of the taxpayer's deductions that were not allowed, because the taxpayer elected a federal tax credit in lieu of a deduction. This deduction is not allowed in the following circumstances:

a. ~~only to the extent that~~ If a similar credit is ~~not~~ allowed by this Chapter for the amount.

b. For taxable year 2013, if the taxpayer elected to claim the Hope scholarship credit, the Lifetime Learning credit, or the American Opportunity tax credit under section 25A of the Code in lieu of a deduction for qualified tuition and expenses under section 222 of the Code."

SECTION 6.(a) G.S. 105-134.6(c) is amended by adding a new subdivision to read:

"(17) For taxable year 2013, the amount excluded from the taxpayer's gross income for a qualified charitable distribution from an individual retirement plan by a person who has attained age 70 1/2 under section 408(d)(8) of the Code. The purpose of this subdivision is to decouple from the extension of

the income exclusion under section 208 of the American Taxpayer Relief Act of 2012."

SECTION 6.(b) G.S. 105-134.6(d) is amended by adding a new subdivision to read:

"(23) For taxable year 2013, the taxpayer may deduct the amount that would have been allowed as a charitable deduction under section 170 of the Code had the taxpayer not elected to take the income exclusion under 408(d)(8) of the Code."

SECTION 7. G.S. 105-134.6(c) is amended by adding a new subdivision to read:

"(18) For taxable year 2013, the amount excluded from the taxpayer's gross income for the discharge of qualified principal residence indebtedness under section 108 of the Code. The purpose of this subdivision is to decouple from the extension of the income exclusion under section 202 of the American Taxpayer Relief Act of 2012."

SECTION 8. G.S. 105-134.6(c) is amended by adding a new subdivision to read:

"(19) For taxable year 2013, the amount of the taxpayer's deduction for mortgage insurance premiums as qualified residence interest under section 163 of the Code. The purpose of this subdivision is to decouple from the extension of the income exclusion under section 204 of the American Taxpayer Relief Act of 2012."

SECTION 9. G.S. 105-151.31 reads as rewritten:

"**§ 105-151.31. (Repealed for taxable years beginning on or after January 1, 2014) Earned income tax credit.**

(a) Credit. – An individual who claims for the taxable year an earned income tax credit under section 32 of the Code is allowed a credit against the tax imposed by this Part equal to ~~five percent (5%)~~a percentage of the amount of credit the individual qualified for under section 32 of the Code. A nonresident or part-year resident who claims the credit allowed by this section must reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. The percentage is as follows:

(1) For taxable year 2013, four and one-half percent (4.5%).

(2) For all other taxable years, five percent (5%).

...."

SECTION 10. G.S. 105-151.32 reads as rewritten:

"**§ 105-151.32. Credit for adoption expenses.**

(a) Credit. – An individual who is allowed a federal adoption tax credit under section ~~23~~36C of the Code for the taxable year is allowed a credit against the tax imposed by this Part. The credit is equal to ~~fifty percent (50%)~~ a percentage of the amount of credit allowed under section ~~23~~36C of the Code. The percentage is as follows:

(1) For taxable year 2013, thirty percent (30%).

(2) For all other taxable years, fifty percent (50%).

...."

SECTION 11. Except as otherwise provided, this act is effective when it becomes law and applies to the estates of decedents dying on or after January 1, 2012. Notwithstanding Section 1 of this act, any amendments to the Internal Revenue Code enacted after January 1, 2012, that increase North Carolina taxable income for the 2012 taxable year become effective for taxable years beginning on or after January 1, 2013.

HOUSE BILL 82: IRC Update

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	February 27, 2013
Introduced by:	Rep. Howard	**Prepared by:**	Trina Griffin
Analysis of:	Second Edition		Committee Counsel

SUMMARY: House Bill 82 would do the following:

- ***Update from January 1, 2012, to January 2, 2013, the reference to the Internal Revenue Code used in determining certain State tax provisions, thereby incorporating and conforming to many of the provisions contained in the American Taxpayer Relief Act of 2012 (ATRA) to the extent North Carolina law tracks those provisions, including[1]:***
  - ***15-year depreciation schedule for leasehold, restaurant, and retail property***
  - ***Modified limitations on itemized deductions***
  - ***Student loan interest deduction***
  - ***Income exclusion for employer-provided educational assistance programs***
- ***"Decouple" from ATRA enhancements or extensions to the following provisions for the 2013 tax year:***
  - ***Bonus depreciation***
  - ***Section 179 expensing (for 2012 and 2013)***
  - ***Qualified tuition and expenses deduction***
  - ***Mortgage insurance premium as interest deduction***
  - ***Income exclusion for discharge of residence indebtedness***
  - ***Income exclusion for IRA distributions to charity by a person who has attained age 70.5.***
- ***Adjust the following three tax credits that were enhanced by ATRA to achieve revenue neutrality:***
  - ***Work Opportunity credit***
  - ***Earned Income credit***
  - ***Adoption credit***

[As introduced, this bill was identical to S64, as introduced by Sens. Rucho, Rabin, Rabon, which is currently in Senate Finance.]

CURRENT LAW: North Carolina's tax law tracks many provisions of the federal Internal Revenue Code by reference to the Code.[2] The General Assembly determines each year whether to update its reference to the Code.[3] Updating the reference makes recent amendments to the Code applicable to the

[1]The legislation made many other changes that are not discussed in this Analysis because they either had no or minimal impact on North Carolina taxable income.

[2]North Carolina first began referencing the Internal Revenue Code in 1967, the year it changed its taxation of corporate income to a percentage of federal taxable income.

[3]The North Carolina Constitution imposes an obstacle to a statute that automatically adopts any changes in federal tax law. Article V, Section 2(1) of the Constitution provides in pertinent part that the "power of taxation ... shall never be surrendered, suspended, or contracted away." Relying on this provision, the North Carolina court decisions on delegation of

State to the extent that State law previously tracked federal law. The General Assembly's decision whether to conform to federal changes is based on the fiscal, practical, and policy implications of the federal changes and is normally enacted in the following year, rather than in the same year the federal changes are made. Maintaining conformity with federal tax law simplifies tax reporting because a taxpayer will not need to account for differing federal and State treatment of the same asset. The current reference to the Code is January 1, 2012.

BACKGROUND: On January 2, 2013, the American Taxpayer Relief Act of 2012 (ATRA) was signed into law[4] and made substantial changes to the tax code. ATRA was intended to avert the anticipated "fiscal cliff" due to the sunset provisions scheduled to take effect in 2013 that would have ended the Bush-era tax cuts contained in the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) and the Jobs and Growth Tax Relief Reconciliation Act of 2003 (JGTRRA), which were temporarily extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (2010 Tax Relief Act).

BILL ANALYSIS:

Update IRC Reference Date

Section 1 of the bill would update the reference to the Code from January 1, 2012 to January 2, 2013, the date that ATRA became law. In doing so, North Carolina would conform to the following provisions:

- 2-year extension of the 15-year depreciation schedule for leasehold, restaurant, and retail property.[5]
- Permanent repeal of the limitation on itemized deductions for filers with incomes below $300,000 (MFJ) and application of the limitation for filers with incomes over $300,000.[6]
- Permanent increased phaseout ranges and elimination of the 60-month rule for the student loan interest deduction.[7]
- Permanent income exclusion for employer-provided educational assistance programs.[8]

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legislative power to administrative agencies, and an analysis of the few federal cases on this issue, the Attorney General's Office concluded in a memorandum issued in 1977 to the Director of the Tax Research Division of the Department of Revenue that a "statute which adopts by reference future amendments to the Internal Revenue Code would ... be invalidated as an unconstitutional delegation of legislative power."

[4] P.L. 112-240.

[5] If the provision had not been extended, this property would have been subject to a 39-year recovery period.

[6] Generally, taxpayers itemize deductions if their total deductions are more than the standard deduction amount. Since 1991, the amount of itemized deductions a taxpayer may claim has been reduced by 3% of the amount by which the taxpayer's AGI is above a certain amount. This limitation is known as the Pease limitation. EGTRRA repealed the Pease limitation on itemized deductions for 2010. The 2010 Tax Relief Act extended the repeal through 2012. ATRA permanently repeals the Pease limitation on incomes at or below $250,000 for individual filers and $300,000 for MFJ for tax years beginning after December 31, 2012. ATRA reinstates the limitations for individual filers over $250,000 and for MFJ with AGI over $300,000 beginning in 2013. The deduction phaseout will equal 3% of the taxpayer's AGI over that threshold, although the total phaseout is capped at 80% of the total deductions claimed. If ATRA had not been enacted, the applicable threshold for 2013, as adjusted for inflation, would have been $178,150 for MFJ filers.

[7] Certain individuals who have paid interest on qualified education loans may claim an above-the-line deduction for interest expenses up to $2,500. Prior to 2001, this benefit was only allowed for 60 months and phased-out for taxpayers with income between $40,000 and $55,000 ($60,000 and $75,000 for joint filers). EGTRRA eliminated the 60-month rule and increased the income phase-out range from $40,000-$55,000 to $50,000-$65,000 ($100,000 and $130,000 for joint filers), with adjustments for inflation. ATRA permanently extends these changes for taxable years beginning after December 31, 2012.

[8] An employee may exclude from gross income up to $5,250 for income and employment tax purposes of employer-provided education assistance. Prior to 2001, this incentive was temporary and only applied to undergraduate courses. EGTRRA

Bonus Depreciation

Section 2 of the bill would not conform to the one-year extension of the 50% bonus depreciation provision for property placed in service before January 1, 2014. The bill would "decouple" in the same manner that has been done in the past. A taxpayer would be required to add back 85% of the accelerated depreciation amount in the year it is claimed for federal purposes with a corresponding 20% deduction over the next five years. The taxpayer would be deducting the same amount of an asset's basis under State law as under federal law, it is just that the timing of the deduction differs. If North Carolina were to conform to this provision, the cost would be approximately $140 million in FY 12-13 and $141 in FY 13-14.

Explained. – Businesses may depreciate the cost of a new asset[9] over a period of time, usually five to 15 years. Bonus depreciation allows a business to claim more of a deduction up front and spread the remainder out over the normal depreciation schedule.

Federal Background. – Since 2002, businesses have been authorized to take an additional depreciation deduction on depreciable property ranging from 30% to 100%, known as "bonus depreciation." Most recently, the 2010 Tax Relief Act authorized 100% bonus depreciation for investments placed in service after September 8, 2010, and before January 1, 2012. It also provided 50% bonus depreciation for qualified property placed in service after December 31, 2012, and before January 1, 2013. ATRA extends the 50% bonus depreciation provision for one year.

North Carolina Background. – Since 2002 and through 2012, North Carolina has decoupled from the federal bonus depreciation provisions in the same manner as under this bill.

Section 179 Expensing

Section 3 of the bill would not conform to the enhanced section 179 expensing provision for 2012 and 2013. Therefore, for North Carolina purposes, a taxpayer would be subject to the deduction and investment limits that would have been in place at the federal level if ATRA had not been enacted: $125,000 and $500,000 for 2012; $25,000 and $200,000 for 2013.

The bill further provides that the property's basis will be the same for federal and State purposes and treats the difference in the same manner as State tax law has historically treated the bonus depreciation: A taxpayer would add back 85% of the additional expensing taken under federal law in 2012 and 2013 and would deduct 20% of this amount over the succeeding five years. Full conformity to the section 179 expense deduction would be $38 million in FY 12-13 and $22 million in FY 13-14.

Explained. – Section 179 of the Code allows the expensing of the purchase price of some business assets[10] in the year of purchase rather than taking depreciation[11] throughout the life of the asset. In other words, expensing trades a smaller yearly deduction over time for a larger deduction in year one. Use of the allowance has two components: a deduction limit and a phaseout threshold. The deduction limit is the maximum amount of the deduction that the taxpayer may elect to take. The phaseout threshold is the maximum amount that can be spent on equipment before the deduction begins to be reduced. The deduction is reduced, dollar for dollar, by the amount that exceeds the threshold. Prior to 2010, section 179 was commonly thought to apply to small businesses because of

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expanded this provision to graduate education. ATRA makes these changes permanent for taxable years beginning after December 31, 2012.

[9] One important difference between bonus depreciation and section 179 expensing is that bonus depreciation applies only to new equipment, while section 179 expensing may apply to new and used equipment.

[10] The business asset must be newly purchased tangible personal property that is used more than 50% for business purposes and is eligible to be depreciated under the Code. The newly purchased property may be new or used equipment.

[11] Generally, taxpayers take the Section 179 expensing deduction first and claim bonus depreciation on any remaining basis.

its maximum deduction and investment limits.[12] However, the enhancements made by the Small Business Jobs Act of 2010 (2010 Jobs Act) were the most expansive ever enacted and those limits have been extended under ATRA.

Federal Background. – The 2010 Jobs Act increased the deduction limit for tax years 2010 and 2011 from $250,000 to $500,000 and increased the phaseout from $800,000 to $2 million. The 2010 Jobs Act also broadened the definition of qualified property to include qualified leasehold improvement property, qualified restaurant property, and qualified retail improvement property, and computer software. These enhancements were set to expire for the 2012 taxable year with the limits reverting to prior levels of $25,000 and $200,000.

The 2010 Tax Relief Act did not extend the types of property that qualify for the deduction beyond the 2011 taxable year, but it increased the limits for taxable year 2012 to $125,000, adjusted for inflation ($139,000) and $500,000. Under the 2010 Tax Relief Act, the deduction limits were set to revert to their prior levels of $25,000 and $200,000 in 2013.

ATRA increases the section 179 limitations for tax years 2012 and 2013 to the same limitations that applied to 2010 and 2011 and extends the qualified real property allowance through 2013. Qualified property generally consists of qualified leasehold property, restaurant property, and retail improvement property. Taxpayers can deduct up to $500,000 of section 179 property for tax years beginning in 2012 and 2013 with a $2 million phaseout. If ATRA had not been enacted, the federal limits under section 179 would have been $125,000 and $500,000 for 2012 and $25,000 and $200,000 for 2013.

The special rule allowing off-the-shelf computer software to be subject to section 179 expensing was scheduled to expire for software placed in service after 2012. ATRA extended the expensing of such software for another year. Thus, off-the-shelf software placed in service in 2013 is subject to the section 179 expensing election.

North Carolina Background. – Prior to 2010, North Carolina typically conformed to the enhanced section 179 expense deduction provisions. However, given the expansive nature of the enhancements made by the 2010 Jobs Act, North Carolina decoupled by maintaining the limits of $250,000 and $800,000 for taxable years 2010 and 2011. North Carolina conformed to the expanded definition of qualified property in 2011. North Carolina conformed to the $125,000/$500,000 limits for 2012 as originally scheduled under the 2010 Tax Relief Act.

Work Opportunity Tax Credit

Section 4 of the bill would conform to the extension of the work opportunity tax credit under ATRA, but it would adjust the North Carolina credit amount from 6% to 3% for the 2013 tax year to achieve revenue neutrality.

Explained. – The federal work opportunity tax credit is available to employers that hire individuals from the targeted groups listed below. The amount of the credit is generally 40% of the qualified worker's first-year wages up to $6,000.[13] The targeted groups are:

- Qualified individuals in families receiving certain government benefits, including Title IV-A social security benefits (aid for dependent children) or food stamps

[12] Prior to the Emergency Economic Stabilization Act of 2008 (EESA), deduction limit was $125,000 with a phase-out beginning at $500,000.

[13] $3,000 for summer youths and $12,000, $14,000, or $24,000 for qualified veterans, providing certain requirements are met. For long-term family aid recipients, the credit is equal to 40% of the first $10,000 in qualified first year wages and 50% of the first $10,000 of qualified second-year wages.

- Qualified individuals who receive supplemental social security income or long-term family assistance
- Veterans who are members of families receiving food stamps, who have service-connected disabilities, or who are unemployed
- Designated community residents
- Vocational rehabilitation referrals certified to have physical or mental disabilities
- Qualified summer youth employees who live in empowerment zones, enterprise communities, or renewal communities
- Ex-felons hired no more than one year after the later of their conviction or release from prison

Federal Background. – The credit was scheduled to terminate in 2012 for wages paid to all targeted individuals, except for qualified veterans. The credit as it applies to wages paid for qualified veterans was scheduled to terminate in 2013. ATRA extended the credit for all groups for two-years through 2013.

North Carolina Background. – North Carolina provides a State income tax credit to a taxpayer who is allowed a work opportunity tax credit under the Internal Revenue Code. The amount of the credit is equal to 6% of the amount of credit allowed under the Code.[14] The credit is set to expire January 1, 2014.

Deduction for Qualified Tuition and Related Expenses

Section 5 of the bill would not conform to the federal enhancements of the qualified tuition and expenses deduction. A taxpayer would be required to add back the amount of the deduction taken at the federal level for purposes of determining North Carolina taxable income. If North Carolina were to conform to this provision, the cost would be approximately $6 million in FY 13-14.

Explained. – Subject to income limitations, a taxpayer may take an above-the-line deduction for qualified education expenses paid during the year for the taxpayer or the taxpayer's spouse or dependents. Generally, any accredited public, nonprofit, or proprietary post-secondary institution is an eligible educational institution. The maximum deduction is $4,000 for an individual whose adjusted gross income for the tax year does not exceed $65,000 ($130,000 for MFJ filers), or $2,000 for other individuals whose adjusted gross income does not exceed $80,000 ($160,000 for MFJ filers).

Federal Background. – This deduction was established under EGTRRA and scheduled to expire in 2006. It was subsequently extended through 2011. ATRA extends the deduction for two more years through 2013.

North Carolina Background. – North Carolina has previously conformed to this provision.

Section 5(b) disallows, for tax year 2013, the State deduction for taxpayers who opted to claim the Hope scholarship credit, the Lifetime Learning credit, or the American Opportunity tax credit in lieu of the federal deduction for tuition and fees.

At the federal level, a taxpayer may opt to claim one of the three above-named credits in lieu of the deduction for tuition and fees. A taxpayer who does so is eligible to claim a deduction on the North Carolina tax return for the tuition and fees deduction they forfeited on the federal return that they would have otherwise been entitled to claim had they not chosen to take one of the federal credits. By disallowing the State deduction, taxpayers are treated similarly regardless of whether they elected the

[14] The credit may be claimed against the franchise tax or the income tax. The taxpayer must elect the tax against which a credit will be claimed when filing the return; the election is binding. The credit allowed may not exceed 50% of the tax against which it is claimed. Any unused portion of the credit may be carried forward for five years.

federal credit or the federal deduction. Otherwise, a taxpayer who claims the federal deduction would get no State tax benefit (to the extent this bill requires an addback for that deduction) while those who claim the federal credit would be entitled to the State tax deduction.

Income Exclusion for Distributions from IRAs to Charity

Section 6 of the bill would not conform to the extension of the income exclusion for a qualified charitable distribution from an individual retirement plan by a person who has attained the age of 70½. It would require a taxpayer to add back the amount excluded at the federal level for purposes of determining North Carolina taxable income. If North Carolina were to conform to this provision, the cost would be approximately $3 million in FY 13-14.

Explained. – Generally, a taxpayer must include in gross income distributions made from a traditional or Roth IRA account except to the extent they represent a return of nondeductible contributions or are rolled over into another qualified retirement plan.

Federal Background. – Since 2006,[15] taxpayers age 70½ or older may contribute up to $100,000 from their IRA account to a charity tax-free. This income exclusion was set to expire for distributions made in tax years beginning after December 31, 2011. ATRA extends the availability of this exclusion for two years for distributions made in tax years beginning in 2012 and 2013.

North Carolina Background. – North Carolina has previously conformed to this provision.

Section 6(b) would allow a taxpayer age 70½ or older to take a charitable deduction for the donation of an IRA distribution to charity to the extent the taxpayer was required to add back the amount excluded from gross income at the federal level.

At the federal level, a taxpayer may not get a double benefit for donating an IRA distribution to charity by both excluding it from income and taking the charitable deduction. A taxpayer may elect one but not both. If a taxpayer elects to take the 170 charitable deduction at the federal level, the deduction would flow through for North Carolina purposes.[16] However, if a taxpayer elects the income exclusion, there would be no benefit at the State level because, under this act, a taxpayer would be required to add that amount back. Therefore, this section would allow the taxpayer to take a charitable deduction for that contribution.

Income Exclusion for Discharge of Qualified Principal Residence Indebtedness

Section 7 of the bill would not conform to the extension of the income exclusion for the discharge of qualified principal residence indebtedness. It would require a taxpayer to add back the amount excluded at the federal level for purposes of determining North Carolina taxable income. If North Carolina were to conform to this provision, the cost would be approximately $8 million in FY 13-14.

Explained. – Taxpayers are generally required to recognize income from the discharge of indebtedness. An exception from this rule is for the discharge of qualified principal residence indebtedness, which has been excludible from gross income on a temporary basis since 2007.[17] The exclusion is limited to $2 million, and applies to indebtedness incurred in the acquisition, construction, or substantial improvement of a principal residence and secured by the residence.

Federal Background. – This exclusion was scheduled to expire for debt discharged after December 31, 2012, but was extended for one year under ATRA.

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[15] This exclusion was originally authorized by the Pension Protection Act of 2006. The law was extended through 2009 by the Emergency Economic Stabilization Act of 2008, and through 2011, by the 2010 Tax Relief Act.
[16] Nonitemizers may take the credit under G.S. 105-151.26.
[17] This exclusion was originally authorized in the Mortgage Debt Relief Act of 2007.

North Carolina Background. – North Carolina has previously conformed to this provision.

Deduction for Mortgage Insurance Premiums as Interest

Section 8 of the bill would not conform to the extension of the deduction for mortgage insurance premiums as interest. It would require taxpayers to add back the amount they took as a deduction at the federal level for purposes of determining North Carolina taxable income. If North Carolina were to conform to this provision, the cost would be approximately $6 million in FY 13-14.

Explained. – Generally, taxpayers may not deduct any interest paid or accrued during the tax year that is considered personal interest. This restriction does not apply to certain types of interest, including qualified residence interest. Qualified residence interest includes interest on home acquisition indebtedness of up to $1 million and interest on home equity indebtedness of up to $100,000. In the case of a home acquisition loan, an individual who cannot pay the entire down payment amount may be required to purchase mortgage insurance.

Federal Background. –Since 2006, premiums paid for qualified mortgage insurance in connection with acquisition indebtedness for a qualified residence are treated as qualified residence interest and are deductible.[18] The treatment of qualified mortgage insurance as qualified residence interest was set to expire for amounts paid or accrued after December 31, 2011. ATRA extends the availability of the deduction for two years through 2013.

North Carolina Background. – North Carolina has previously conformed to this provision.

Earned Income Tax Credit

Section 9 of the bill would conform to changes made under ATRA to the earned income tax credit, but it would adjust the North Carolina credit amount from 5% to 4.5% for the 2013 tax year to achieve revenue neutrality.

Explained. – The EITC is a refundable tax credit for working low to moderate income families that varies depending on the number of the taxpayer's qualifying children.

Federal Background. –EGTRRA made a number of changes to simplify the credit and to reduce the marriage penalty experienced by married taxpayers claiming the credit. The American Recovery and Reinvestment Act of 2009 (ARRA) increased the credit amount from 40% to 45% of a family's first $12,570 of earned income for families with three or more children and the beginning point of the phase-out range for married coupled filing a joint return by $1,880. The enhancements were set to expire for the 2011 taxable year. The 2010 Tax Relief Act extended the enhancements through the 2011 and 2012 taxable years. ATRA extends for five additional years, through 2017, the expansions that increased the EITC for families with three or more children and increased the phase-out range for all married couples filing a joint return.

North Carolina Background. – North Carolina provides a State income tax credit to a taxpayer who is eligible for the federal EITC. The amount of the credit is equal to 5% of the amount of credit allowed under the Code. The credit is set to expire January 1, 2014. North Carolina conformed to the EGTRRA enhancements to the federal credit in 2001 and to the extension of those enhancements under the 2010 Tax Relief Act.

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[18] The deduction is subject to a phaseout. For every $1,000, or fraction thereof, by which the taxpayer's AGI exceeds $100,000, the amount of mortgage insurance premiums treated as interest is reduced by 10%.

Adoption Credit

Section 10 of the bill would conform to changes made under ATRA to the adoption credit, but it would adjust the North Carolina credit amount from 50% to 30% for the 2013 tax year to achieve revenue neutrality.

Explained. – Taxpayers who adopt children can receive a tax credit for adoption expenses. Qualified adoption expenses include adoption fees, court costs, attorney fees, and other expenses related directly to the legal adoption of an eligible child. A taxpayer may also exclude from income adoption expenses paid by an employer.

Federal Background. –EGTRRA increased the credit from $5,000[19] to $10,000, and provided a $10,000 income exclusion for employer-assistance programs. The Patient Protection and Affordable Care Act of 2010 extended these benefits to 2011 and made the credit refundable. The 2010 Tax Relief Act extended the enhancements made by EGTRRA for one year. ATRA made permanent the increased adoption credit amount and the exclusion for employer-assistance programs as enacted in EGTRRA. Therefore, the adoption credit and income exclusion maximum amounts are $10,000, adjusted for inflation, with an income phase-out range between $150,000 and $190,000, adjusted for inflation

North Carolina Background. – North Carolina provides a State income tax credit to a taxpayer who is eligible for the federal adoption credit. The amount of the credit is equal to 50% of the amount of credit allowed under the Code. The credit is set to expire January 1, 2014. North Carolina conformed to the EGTRRA enhancements to the federal credit in 2001 and to the extension of those enhancements under the 2010 Tax Relief Act.

[19] $6,000 for a special needs child.

IRC Update

Federal Provision	Decouple/Conform		Cost to Conform		2 FY Total
	For tax year 2012	For tax year 2013	FY12-13	FY13-14	
BUSINESS-RELATED PROVISIONS					
Bonus Depreciation	(No 2012 law change)	Decouple			
Enhanced Section 179 Expensing	Decouple	Decouple			
15-year depreciation schedule for leasehold, restaurant, and retail property	Conform	Conform	-2	-3	
Work Opportunity Tax Credit	Conform	Conform & Adjust	-1		
INDIVIDUAL-RELATED PROVISIONS					
Limitation on Itemized Deductions	(No 2012 law change)	Conform	-1	-3	
Education-Related Expenses					
• Qualified Tuition & Expenses Deduction	Conform	Decouple	-3		
• Student Loan Interest Deduction	Conform	Conform	-3	-6	
• Income Exclusion for Employer-Provided Education Assistance	Conform	Conform	-3	-6	
Residence-related Benefits					
• Mortgage Insurance premium as interest	Conform	Decouple	-5		
• Income exclusion for discharge of residence indebtedness	(No 2012 law change)	Decouple	-2		
Tax-free distribution from IRAs to charity/age 70.5 or older	Conform	Decouple	-4		
Earned Income Tax Credit	(No 2012 law change)	Conform & Adjust			
Adoption Tax Credit	(No 2012 law change)	Conform & Adjust			
			-24	-18	-42

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Fiscal Note

BILL NUMBER: House Bill 82 (First Edition)

SHORT TITLE: IRC Update.

SPONSOR(S): Representative Howard

FISCAL IMPACT
($ in millions)

State Impact	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17
General Fund Revenues:					
Decouple from Bonus depreciation	0.0	0.0	0.0	0.0	0.0
Decouple from Section 179 expensing	0.0	0.0	0.0	0.0	0.0
Repeal limitation on itemized deductions for AGI below a certain amount	(1.0)	(3.0)	(3.0)	(3.0)	(4.0)
Enhancements to earned income tax credit. Reduce credit percentage for 2013	0.0	0.0	0.0	0.0	0.0
Tuition Expense. Decouple for 2013	(3.0)	0.0	0.0	0.0	0.0
Student Loan Interest Deduction	(3.0)	(6.0)	(6.0)	(6.0)	(7.0)
Income Exclusion for Employer-Provided Educational Assistance	(3.0)	(6.0)	(7.0)	(7.0)	(8.0)
15 year depreciation schedule for leasehold, restaurant, and retail improvements	(2.0)	(3.0)	(3.0)	(3.0)	(3.0)
Enhancements to adoption tax credit. Reduce credit percentage for 2013	0.0	0.0	0.0	0.0	0.0
Enhancements to work opportunity tax credit. Reduce credit percentage for 2013	(1.0)	0.0	0.0	0.0	0.0
Allow mortgage insurance premium deduction as interest. Decouple for 2013	(5.0)	0.0	0.0	0.0	0.0
Income exclusion for cancellation of residence indebtedness. Decouple for 2013	(2.0)	0.0	0.0	0.0	0.0
Tax free distribution from IRAs to charity for individuals age 70.5 or older. Decouple for 2013	(4.0)	0.0	0.0	0.0	0.0
NET STATE IMPACT	($24.0)	($18.0)	($19.0)	($19.0)	($22.0)

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue

EFFECTIVE DATE: Various effective dates apply. See bill for details.

TECHNICAL CONSIDERATIONS: None

BILL SUMMARY:

House Bill 82 would do the following:

- Update from January 1, 2012, to January 2, 2013, the reference to the Internal Revenue Code used in determining certain State tax provisions, thereby incorporating and conforming to many of the provisions contained in the American Taxpayer Relief Act of 2012 (ATRA) to the extent North Carolina law tracks those provisions, including[1]:
    - 15-year depreciation schedule for leasehold, restaurant, and retail property
    - Modified limitations on itemized deductions
    - Student loan interest deduction
    - Income exclusion for employer-provided educational assistance programs
- "Decouple" from ATRA enhancements or extensions to the following provisions for the 2013 tax year:
    - Bonus depreciation
    - Section 179 expensing
    - Qualified tuition and expenses deduction
    - Mortgage insurance premium as interest deduction
    - Income exclusion for discharge of residence indebtedness
    - Income exclusion for IRA distributions to charity by a person who has attained age 70.5.
- Adjust the following three tax credits that were enhanced by ATRA to achieve revenue neutrality:
    - Work Opportunity credit
    - Earned Income credit
    - Adoption credit

Source: Committee Counsel, Research Division

ASSUMPTIONS AND METHODOLOGY:

The fiscal impact to the General Fund from conformity with the Internal Revenue Code is based on the US Joint Committee on Taxation (JCT) estimates on changes to federal taxes. The methodology used begins with these JCT estimates, which are calculated by federal fiscal year. Since the federal fiscal year ends 9/30 and the state's fiscal year ends 6/30, Fiscal Research adjusts these numbers to an approximate state fiscal year tax impact. Then, the next step is to prorate the national numbers to the state impact. This adjustment involved two steps: accounting for the relative size of the state based on federal tax collections and then adjusting for the difference in federal and state marginal tax rates. Once North Carolina's share of the JCT estimates were determined, state tax liability changes were estimated and allocated to the appropriate fiscal year.

[1]The legislation made many other changes that are not discussed in this Analysis because they either had no or minimal impact on North Carolina taxable income.

The bill decouples from bonus depreciation and enhanced Section 179 expensing and consequently, there is no fiscal impact. Specifically, the bill provides that for North Carolina purposes, the taxpayer must add back 85% of the bonus depreciation and enhanced Section 179 expense deduction in the year claimed for federal tax purposes, and then deduct 20% of this amount, plus the normal depreciation amount, over the next five years. Fiscal Research ran depreciation simulations to establish that the deduction allowed net of the add-back adjustment combined with normal depreciation results in approximately the same amount of deduction the taxpayer would otherwise be entitled to in the absence of bonus depreciation and an enhanced Section 179 deduction.

Although the bill conforms to federal enhancements of the earned income tax credit, the adoption tax credit, and the work opportunity tax credit for 2013, there is no fiscal impact associated with this conformity. Each of these North Carolina credits is a percentage of the corresponding federal credit. The bill lowers the credit percentage by an amount that offsets the fiscal impact associated with conforming to the enhancements enacted by the federal legislation. To determine that the provision would not have an impact, Fiscal Research identified the fiscal year cost associated with each tax credit under current law from the Tax Expenditure Report published by the Department of Revenue. The cost under current law was divided by the estimated total cost of the credit as enhanced by the federal legislation. Last, the ratio derived was multiplied by the credit percentage under current law and the product was compared to the credit percentage in the proposed bill.

The bill decouples from four other provisions for the 2013 tax year, but conforms to these provisions for the 2012 tax year. The bill requires taxpayers to include 100% of the deduction or income exclusion taken for federal tax purposes in calculating North Carolina taxable income. Therefore, there is no fiscal impact associated with the decoupling from these provisions.

- Education expense deduction for tuition
- Income exclusion for discharge of residence indebtedness
- Premiums for mortgage insurance deductible as mortgage interest
- Tax free distribution from IRAs to charity for individuals age 70.5 or older

The chart on the following page summarizes the effective dates for decoupling or conformity to specific federal provisions grouped by business-related provisions and individual-related provisions, and shows the two-year combined fiscal impact.

Federal Provision	Decouple/Conform ($Millions)		Cost to Conform		2 FY Total
	For tax year 2012	For tax year 2013	FY12-13	FY13-14	
BUSINESS-RELATED PROVISIONS					
Bonus Depreciation	(No 2012 law change)	Decouple	0	0	0
Enhanced Section 179 Expensing	Decouple	Decouple	0	0	0
15-year depreciation schedule for leasehold, restaurant, and retail property	Conform	Conform	-2	-3	-5
Work Opportunity Tax Credit	Conform	Conform & Adjust	-1	0	-1
INDIVIDUAL-RELATED PROVISIONS					
Limitation on Itemized Deductions	(No 2012 law change)	Conform	-1	-3	-4
Education-Related Expenses					
• *Qualified Tuition & Expenses Deduction*	Conform	Decouple	-3	0	-3
• *Student Loan Interest Deduction*	Conform	Conform	-3	-6	-9
• *Income Exclusion for Employer-Provided Education Assistance*	Conform	Conform	-3	-6	-9
Residence-related Benefits					
• *Mortgage Insurance premium as interest*	Conform	Decouple	-5	0	-5
• *Income exclusion for discharge of residence indebtedness*	(No 2012 law change)	Decouple	-2	0	-2
Tax-free distribution from IRAs to charity/age 70.5 or older	Conform	Decouple	-4	0	-4
Earned Income Tax Credit	(No 2012 law change)	Conform & Adjust	0	0	0
Adoption Tax Credit	(No 2012 law change)	Conform & Adjust	0	0	0
			$-24	$-18	$-42

SOURCES OF DATA: NC Department of Revenue, US Joint Committee on Taxation

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Jonathan Tart

APPROVED BY:

Mark Trogdon, Director
Fiscal Research Division

DATE: February 12, 2013

Signed Copy Located in the NCGA Principal Clerk's Offices

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 81

Rules and Operations of the Senate Committee Substitute Adopted 2/20/13
Corrected Copy 2/21/13
PROPOSED COMMITTEE SUBSTITUTE S81-CSRBx-3 [v.2]
2/27/2013 6:56:49 AM

Short Title: Charlotte Regional Airport Authority. (Local)

Sponsors:

Referred to:

February 14, 2013

A BILL TO BE ENTITLED

AN ACT TO CREATE THE CHARLOTTE REGIONAL AIRPORT AUTHORITY.

The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known and may be cited as the "Charlotte Regional Airport Authority Act."

SECTION 2. There is hereby created the Charlotte Regional Airport Authority, which shall be a body corporate and politic, having the powers, authority, and jurisdiction hereinafter enumerated and such other and additional powers and authority as shall be conferred upon it by future acts of the General Assembly.

SECTION 3. Unless the context requires otherwise, the following definitions apply throughout this act to the defined words and phrases and their cognates:

(1) Airport facilities. – Airport facilities of all kinds, including, but not limited to, landing fields, hangars, fixed base operations, shops, restaurants and catering facilities, terminals, buildings, automobile parking facilities, and all other facilities necessary, beneficial, and/or helpful for the landing, taking off, operating, servicing, repairing, and parking of aircraft, the loading, unloading, and handling of cargo and mail, express and freight, and the accommodation, convenience, and comfort of crews and passengers, together with related transportation facilities, all necessary, beneficial, and/or helpful appurtenances, machinery, and equipment, and all lands, properties, rights, easements, and franchises relating thereto and considered necessary, beneficial, and/or helpful by the Authority in connection therewith.

(2) Authority. – The Charlotte Regional Airport Authority created by this act or, if such Authority is abolished, the authority, board, body, commission, or other entity succeeding to the principal functions thereof.

(3) Member. – An individual who is appointed to the Authority, as provided by this act.

SECTION 4.(a) The Authority shall consist of 13 members. The appointing authorities are encouraged to appoint members who, when practical, have experience in aviation, logistics, construction and/or facilities management, law, accounting, and/or finance, except the appointing authorities under subdivisions (1) through (8) of this subsection may only appoint persons who have experience in aviation, transportation logistics, construction, and/or facilities management. The 13 members shall be appointed as follows:

(1) One shall be a registered voter of the City of Charlotte appointed by the Charlotte City Council.
(2) One shall be a registered voter of the City of Charlotte appointed by the Mayor of the City of Charlotte.
(3) One shall be a registered voter of the County of Mecklenburg appointed by the Board of Commissioners of Mecklenburg County.
(4) One shall be a registered voter of the County of Cabarrus appointed by the Board of Commissioners of Cabarrus County.
(5) One shall be a registered voter of the County of Gaston appointed by the Board of Commissioners of Gaston County.
(6) One shall be a registered voter of the County of Iredell appointed by the Board of Commissioners of Iredell County.
(7) One shall be a registered voter of the County of Lincoln appointed by the Board of Commissioners of Lincoln County.
(8) One shall be a registered voter of the County of Union appointed by the Board of Commissioners of Union County.
(9) One shall be (i) a registered voter in the State of North Carolina, (ii) a resident of the County of Mecklenburg, and (iii) appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives.
(10) One shall be (i) a registered voter in the State of North Carolina, (ii) a resident of the County of Mecklenburg, and (iii) appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate.
(11) One shall be (i) a registered voter in the State of North Carolina, (ii) a resident of the County of Mecklenburg, and (iii) appointed by the Governor of the State of North Carolina.
(12) Two at-large members who shall be appointed by a majority vote of the other 11 members.

SECTION 4.(b) Members of the Authority shall serve four-year terms and may serve up to a total of two successive four-year terms. A member may not be reappointed to the Authority except after a lapse of four years following the most recent term served. In the event a member is appointed to fill an unexpired term, and at least two years of the unexpired term remain to be served, such appointment shall be counted in applying the two-term limit, otherwise it shall not be counted.

SECTION 4.(c) Any vacancy occurring among the membership of the Authority shall be filled within 60 days after notice thereof by appointment of the appointing authority of a member to serve for the remainder of the unexpired term.

SECTION 4.(d) Members of the Authority and their successors shall take and subscribe to an oath of office before an officer authorized to administer oaths, which oath shall be filed with the Authority.

SECTION 4.(e) Any member of the Authority may be suspended or removed from office by that member's appointing authority for cause affecting that member's duties and responsibilities as a member; for misfeasance, malfeasance, or nonfeasance in office; or for conduct tending to undermine any decisions of the Authority, or conduct exposing the Authority to liability for damages.

SECTION 4.(f) Members of the Authority shall not be personally liable, in any manner, for their acts or omissions as members of the Authority, except for malfeasance.

SECTION 4.(g) Each member may continue to serve until a successor has been duly appointed and qualified, but not for more than 60 days.

SECTION 4.(h) In order to ensure that the terms of all members of the Authority do not expire at the same time, the initial terms of the members of the Authority appointed by the Counties of Cabarrus, Gaston, Iredell, Lincoln, Mecklenburg, Union, and one of the two at-large members shall be for two years.

SECTION 5.(a) The organization and business of the Authority shall be conducted as provided in this act.

SECTION 5.(b) Members of the Authority shall constitute the governing board of the Authority and may, among other things and from time to time, adopt suitable bylaws not inconsistent with the provisions of this act.

SECTION 5.(c) The Authority shall appoint from its members a chair, vice-chair, and such other officers as it may from time to time deem necessary, beneficial, and/or helpful for the orderly conduct of its business. The term of office of the chair and vice-chair is one year.

SECTION 5.(d) Each member of the Authority, including the chair, shall have one vote. A majority of the members of the Authority shall constitute a quorum, and, unless otherwise provided in this act, all actions of the Authority shall be determined by a majority vote of all the members, that is seven votes in favor.

SECTION 5.(e) The Authority shall hold meetings at least monthly at such times and places as it from time to time may designate and at such other times on the call of the chair or by seven members of the Authority. Notice of meetings shall be provided as required by Article 33C of Chapter 143 of the General Statutes. A monthly meeting of the Authority may be cancelled if it is determined by the chair or seven members that such meeting is not required.

SECTION 5.(f) Members may receive payment or reimbursement for travel, lodging, and meal expenses incurred in transacting business on behalf of the Authority. Members may also receive free parking at any airport owned, leased, subleased, or controlled by the Authority, which members may use for official purposes during the respective member's term of office.

SECTION 5.(g) The fiscal year of the Authority shall begin on July 1 and end on June 30. On or before May 15 of each year, the Authority shall prepare and adopt a proposed budget for the next ensuing fiscal year and deliver copies of such proposed budget to the Cabarrus, Gaston, Iredell, Lincoln, Mecklenburg, and Union County Boards of Commissioners and the Charlotte City Council.

SECTION 5.(h) All meetings and closed sessions of the Authority shall be conducted in accordance with Article 33C of Chapter 143 of the General Statutes, as it may be amended or in accordance with any successor statute.

SECTION 6.(a) The Authority shall constitute a body, both corporate and politic, and shall have the power and authority to do the following:

(1) Adopt and from time to time revise an official seal.

(2) Maintain an office or offices at such place or places as it may designate within Mecklenburg County only.

(3) Purchase, acquire, develop, establish, construct, own, control, lease, equip, improve, administer, maintain, operate, and/or regulate airports and/or landing fields for the use of airplanes and other aircraft and all facilities incidental thereto, within the limits of Mecklenburg County; and for any of such purposes, purchase, acquire, own, develop, hold, lease, sublease, and operate real and/or personal property.

(4) Purchase real and personal property.

(5) Sue and be sued in the name of the Authority, to acquire by purchase or otherwise and to hold lands for the purpose of constructing, maintaining, and/or operating any airport within the limits of said counties, and to make

such contracts and to hold such personal property as may be necessary, beneficial, and/or helpful for the exercise of the powers of the Authority.

(6) Charge and collect fees, royalties, rents, and/or other charges, including fuel flowage fees, for the use and/or occupancy of property owned, leased, subleased, or otherwise controlled or operated by the Authority or for services rendered in the operation thereof.

(7) Make all reasonable rules, regulations, and policies as it may from time to time deem to be necessary, beneficial, or helpful for the proper maintenance, use, occupancy, operation, and/or control of any airport or airport facility owned, leased, subleased, or controlled by the Authority; provide and enforce civil and criminal penalties for the violation of such rules, regulations, and/or policies; provided that such rules, regulations, policies, and penalties are not in conflict with any applicable law, rule, or regulation of the State of North Carolina, the United States, or any agency, department, or subdivision of either of them, including the rules and regulations of the Federal Aviation Administration.

(8) Sell, exchange, lease, sublease, or otherwise dispose of any property real or personal, belonging to the Authority, or grant easements over, through, under, or across any real property belonging to the Authority, or donate to another governmental entity within this State or to the United States any surplus, obsolete, or unused personal property; provided that Article 12 of Chapter 160A of the General Statutes does not apply and is not applicable to any such sale, exchange, lease, sublease, grant, donation, or other disposition.

(9) Purchase such insurance and insurance coverages as the Authority may from time to time deem to be necessary, beneficial, or helpful.

(10) Deposit, invest, and/or reinvest any of its funds as provided by the Local Government Finance Act for the deposit or investment of unit funds.

(11) Issue revenue bonds and/or refunding bonds pursuant to the Local Government Revenue Bond Act.

(12) Purchase any of its outstanding bonds or notes.

(13) Operate, own, lease, sublease, control, regulate, and/or grant to others the right to operate on any airport premises restaurants, snack bars and vending machines, food and beverage dispensing outlets, rental car services, catering services, novelty shops, insurance sales, advertising media, merchandising outlets, motels, hotels, barber shops, automobile parking and storage facilities, automobile service stations, garage service facilities, motion picture shows, personal service establishments, and/or all other types of facilities as may be directly or indirectly related to the maintenance and/or furnishing of the public commercial and/or general aviation airport facilities.

(14) Accept grants of money and/or materials or property of any kind for any existing or future airport facilities from the State of North Carolina, the United States, or any agency, department, or subdivision of either of them, including the Federal Aviation Administration, or from any private agency, entity, or individual, upon such terms and conditions as may be imposed, and enter into contracts and grants agreements with the Federal Aviation Administration, or any successor or successors thereof, and/or with the State of North Carolina or any of its agencies, departments, or subdivisions in the capacity of sponsor or cosponsor of any airport development project involving the acquisition, construction, development, reconstruction,

improvement, extension, enlargement, or equipment of any existing or future airport facilities.

(15) Employ and fix the compensation of an airport director, who shall serve at the pleasure of the Authority and who shall manage the affairs of the Authority under the supervision of the Authority.

(16) Employ, or provide for the employment of such employees, including law enforcement officers, as the Authority may from time to time deem to be necessary, beneficial, or helpful. All such employees shall be employees at will, and no such employee shall have a defined or definite term of employment, an expectation of continued employment, or an expectation of continued indefinite employment.

(17) Employ, hire, retain, or contract with such accountants, auditors, agents, design professionals, attorneys, and other persons and entities whose services may from time to time be deemed by the Authority to be necessary, beneficial, or helpful.

(18) Make or cause to be made such surveys, investigations, studies, borings, maps, plans, drawings, and/or estimates of cost and revenues as the Authority may from time to time deem necessary, beneficial, or helpful and prepare and adopt a comprehensive plan or plans for the location, construction, improvement, and development of any project.

(19) Undertake and/or enter into leases, subleases, agreements, easements, and contracts, and/or grant concessions, with respect to alternative energy, energy conservation, energy reduction, and/or renewable energy activities, programs, projects, and/or ventures, and the administration, construction, development, enlargement, equipment, improvement, maintenance, management, operation, regulation, and/or repair thereof.

(20) Exercise all of the powers conferred by Chapter 63 of the General Statutes or any successor Chapter or law.

SECTION 6.(b) The Authority has the same exemptions with respect to payment of taxes and license fees as provided for municipal corporations by the laws of the State of North Carolina.

SECTION 7.(a) The Authority is hereby authorized and empowered to acquire from the County of Mecklenburg and the City of Charlotte, by agreement therewith, and such County and City may grant and convey, either by gift or for such consideration as allowed by federal law and as it may be deemed wise, any real and/or personal property which it now owns or may hereafter acquire and which may be necessary, beneficial, or helpful for the construction, development, operation, and/or maintenance of any airport or facilities of same located in the County of Mecklenburg. If the airport ceases to operate or if the Authority is dissolved, any applicable real property of the County of Mecklenburg or the City of Charlotte conveyed or transferred to the Authority under this act shall revert to the grantor.

SECTION 7.(b) The City of Charlotte shall transfer to the Authority within 90 days after enactment of this act all its right, title, and interest to the Charlotte Douglas International Airport, except if approval of a federal agency or a current bondholder is required, then within 90 days of that approval. This transfer includes all property, real or personal, tangible or intangible, and includes all liabilities.

SECTION 7.(c) Property needed by the Authority for any airport, landing field, or facility may be acquired by the Authority by gift, devise, or purchase. Aviation easements needed by the Authority for any airport, landing field, or facility may likewise be acquired by gift, devise, or purchase. The power of eminent domain may be used by the Authority, pursuant to Article 3 of Chapter 40A of the General Statutes, but only for public use for an airport purpose, and any eminent domain proceeding must be authorized by a majority of the local

government appointee members of the Authority, as provided in Section 4(a)(1) through (8) of this act. In no case, however, may the power of eminent domain be used for purposes not necessary for the operation of the airport, and more specifically no property may be acquired by eminent domain for such uses as hotels, motels, restaurants, or industrial parks. For purpose of Chapter 40A of the General Statutes, the authority is a public condemnor under G.S. 40A-3(c).

SECTION 7.(d) Any lands acquired, owned, controlled, or occupied by the Authority shall and/or are hereby declared to be acquired, owned, controlled, and occupied for a public purpose.

SECTION 7.(e) The Authority is not authorized to levy any tax.

SECTION 7.(f) Any claim by the City of Charlotte on account of acquisition of property by the Authority is extinguished.

SECTION 8. The Authority shall make annual reports to the Cabarrus, Gaston, Iredell, Lincoln, Mecklenburg, and Union County Boards of Commissioners and the Charlotte City Council setting forth a summary of its general operations and transactions conducted by it pursuant to this act. The Authority shall be regarded as the corporate instrumentality and agent for Cabarrus, Gaston, Iredell, Lincoln, Mecklenburg, and Union Counties and the City of Charlotte for the purpose of developing aviation facilities in the Counties of Cabarrus, Gaston, Iredell, Lincoln, Mecklenburg, and Union, but it shall have no power to pledge the credit of the Counties of Cabarrus, Gaston, Iredell, Lincoln, Mecklenburg, and Union or the City of Charlotte, or to impose any obligation upon those counties, or the City of Charlotte, except and when such power is expressly granted by statute.

SECTION 9. All rights, powers, and authority given to the counties and/or municipalities by the statutes of North Carolina, which may now be in effect or which may be enacted in the future, relating to the development, operation, maintenance, regulation, and/or control of municipal or other governmental airports, and the regulations of aircraft are hereby vested in the Authority.

SECTION 10. The Authority is hereby expressly authorized to make and enter into contracts, leases, subleases, conveyances, and other agreements with any political subdivision, agency, department, or instrumentality of this State; any agency, department, or subdivision of the United States; or any other legal entity or person for the purpose of carrying out the provisions of this act.

SECTION 11. The powers of the Authority created by this act shall be construed liberally in favor of the Authority. No listing of powers included in this act is intended to be exclusive or restrictive, and the specific mention of, or failure to mention, particular powers in this act shall not be construed as limiting in any way the general powers of the Authority as stated in Section 6(a) of this act. It is the intent of this act to grant the Authority full power and right to exercise all authority necessary for the effective operation and conduct of the Authority. It is further intended that the Authority should have all implied powers necessary or incidental to carrying out the expressed powers and the expressed purposes for which the Authority is created. The fact that this act specifically states that the Authority possesses a certain power does not mean that the Authority must exercise such power unless this act specifically so requires.

SECTION 12. G.S. 66-58(a) shall not apply to the Charlotte Regional Airport Authority or a lessee or sublessee of the Charlotte Regional Airport Authority.

SECTION 13. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

SECTION 14. This act is effective when it becomes law.

SENATE BILL 81:
Charlotte Regional Airport Authority

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	February 27, 2013
Introduced by:	Sen. Rucho	**Prepared by:**	Cindy Avrette Committee Counsel
Analysis of:	PCS to Third Edition S81-CSRBx-3		

SUMMARY: ***Senate Bill 81[1] creates the Charlotte Regional Airport Authority and transfers the ownership and management of the Charlotte Douglas International Airport from the City of Charlotte to the Authority.***

The proposed committee substitute rewrites Section 7.(c) to provide that the Authority may use the powers of eminent domain if agreed upon by a majority of the locally appointed members of the Authority. The restrictions that the powers of eminent domain may only be used for purposes necessary for the operation of the airport and not for such uses as hotels, motels, restaurants, or industrial parks remains in the bill.

CURRENT LAW: The Charlotte Douglas International Airport (CLT) has been owned and operated by the City of Charlotte since 1935. It ranks as the world's sixth busiest airport in operations. US Airways operates its largest hub at CLT. The City of Charlotte has outstanding more than $800 million of Airport Revenue Bonds.

BILL ANALYSIS: Senate Bill 81 creates the Charlotte Regional Airport Authority and a 13-member Board to manage the airport. Eight of the 13 Board members are appointed locally: two by the City of Charlotte and one by Mecklenburg, Cabarrus, Gaston, Iredell, Lincoln, and Union counties. Three members are appointed at the State level: one by the Governor and two by the General Assembly.[2] The remaining two members are appointed by the other 11 members of the Authority. The Authority has the power and authority to own and manage the airport, including the power to charge fees and issue bonds. The Authority does not have the power to tax. The Authority has the same exemptions with respect to payment of taxes and license fees as provided for a municipal corporation. The Authority has the powers of eminent domain, as provided under Article 3 of Chapter 40A of the General Statutes.[3] The power of eminent domain may only be used for purposes necessary to the operation of the airport and may only be exercised upon a majority vote of the eight locally appointed Board members.

The bill requires the City of Charlotte to transfer to the Authority, within 90 days after enactment of the bill, all its right, title, and interest to the Charlotte Douglas International Airport, except if approval of a federal agency or a current bondholder is required, then within 90 days of that approval. This transfer includes all property, real or personal, tangible or intangible, and includes all liabilities.

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[1] As introduced, this bill was identical to H104, as introduced by Reps. W. Brawley, Moffitt, Torbett, Samuelson, which is currently in House Transportation, if favorable, Finance.

[2] The General Assembly has created many airport authorities, including the Piedmont Triad and RDU. To my knowledge, there is not another airport authority in the State with gubernatorial or legislative appointments. The Centennial Authority, created to operate the PNC Arena in Raleigh, has legislative appointments.

[3] In the 3rd edition of the bill, the powers of eminent domain could only be used if required by federal law.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: An airport authority is often the preferred method of ownership for public airports in this country because its leadership may focus on airport issues and the airport staff may be less subject to political interference. The Piedmont Triad International Airport and Raleigh Durham International Airport are both owned and managed by an Authority. The Fayetteville Regional Airport is owned and operated by the City of Fayetteville. Nationally, the airports in Chicago and Atlanta are city-owned and managed.

One of the issues in transferring the ownership and operation of CLT from the City of Charlotte to a newly created airport authority is the existence of $800 million in Airport Revenue Bonds issued by the city. In reviewing the Bond Order, there does not appear to be a provision allowing for the transfer or assigning of airport assets. Without such a provision, the bondholders would need to consent to the assignment of the assets and liabilities, as proposed in the legislation. Gaining bondholder consent is practically impossible given the amount of the bonds outstanding. It would require substantial cost and effort to identify the bondholders; and once identified, it is unknown whether the bondholders would consent to such a change.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 81

AMENDMENT NO. 1
(to be filled in by Principal Clerk)

S81-ARB-23 [v.2]

Comm. Sub. [YES]
Amends Title [NO]
S81-CSRBx-3

Date Feb 27 ,2013

Senator Rucho

moves to amend the bill on page 5, lines 44 and 45, by rewriting the lines to read:
"then within 90 days of that approval. This transfer includes all property, real or personal, tangible or intangible, and includes all liabilities, leases, license, options to purchase, and other encumbrances on the airport property, whether or not those encumbrances are recorded. Upon transfer of the airport property, the Authority assumes all rights, duties, and obligations of the City of Charlotte in any commercial or development agreements pertaining to or related to the airport property that are in effect at the time of the transfer.".

SIGNED R A Rucho
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED X FAILED _____ TABLED _____

Testimony of Dana Fenton, Legislative Liaison for City of Charlotte
SB 81 - Charlotte Regional Airport Authority

Mr Chairman, Senator Rucho, Committee members, my name is Dana Fenton. I am the legislative liaison for the City of Charlotte. I am here today on behalf of Mayor and Council of the City of Charlotte who unanimously agree that a comprehensive study of SB 81 should be undertaken to ensure that no unintended consequences flow from the legislation.

The City of Charlotte has operated Charlotte Douglas International Airport (CLT) since 1936. CLT has a $12 billion annual economic impact upon our region and is the sixth busiest airport in the world in operations. The cost per enplanement is the lowest among large hub airports in this country. By all measures City stewardship of CLT has been very successful.

The City is positioning CLT for an even larger impact upon our region. A new intermodal rail facility is under construction and is projected to have an economic impact of $7.6 billion over the next 20 years. The City has been working with the FAA to obtain approval of an alternative financing option to construct and commission a new airport control tower three years earlier than currently programmed by the FAA. Last June, our City Council approved a five year capital improvements plan for the airport that calls for more than $1 billion to improve airfield, terminal complex, general aviation and cargo facilities.

Our Mayor and Council understand that they are stewards of a tremendous asset, and that the success of CLT is due in large part to effective management at the airport and visionary leadership of previous Mayors and Councils. The City takes its responsibilities as the airport sponsor seriously by taking proactive steps to improve safety and security and financial record keeping at the airport, and rigorously following all other federal standards as a condition for the grant of federal funds for the airport.

While our Mayor and Council see no compelling reason to even consider transferring CLT to an independent authority, they are willing to commission a study to determine the best course of governance for the airport going forward. On Monday evening Council directed the City Manager to develop the framework for such a study and report back to Council next Monday evening for approval to move forward. The City Manager has already reached out to critical airport stakeholders including the new US Airways/American Airlines, Norfolk Southern Railways, our business community, and the Mecklenburg Delegation to the General Assembly to get such a study rolling to that it can be complete before the General Assembly adjourns in June.

In addition this study will look at the financial ramifications of the contemplated transfer of CLT from city control to an independent authority. The airport has benefitted from the synergies of being a part of city government by utilizing central services to keep their costs low such as risk management, information technology, and employee health insurance programs. The study will also take a look at issues concerning outstanding airport improvement bonds issued by the City and how any such transfer can be accomplished without without impacting the City's financial standing, bond holders, and the contemplated airport authority.

In summary, Mayor and Council understand that everybody has an interest in seeing this asset grow. Contemplating a change in governance of an asset of this magnitude is a very serious matter. If there is to be a change in governance, then it is incumbent upon all stakeholders including the General Assembly to understand the direct and indirect impacts before undertaking such a change. Accordingly a comprehensive study that includes input from airport and community stakeholders is needed.

PAGES ATTENDING

COMMITTEE: Finance ROOM: 544

DATE: 2-27 TIME: 1 pm

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

Page Name	Hometown	Sponsoring Senator
1 Max Shafer	Warsaw	Berger
2 Conor Applegate	Mooresville	Curtis
3 Austin Jones	Clinton	Berger
4		
5		
6		
7		
8		
9		
10		

Do not add names below the grid.

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

SENATE SERGEANT-AT-ARMS

COMMITTEE: **SENATE FINANCE**

DATE: 02/27/2013 ROOM: 544

1. ANDERSON MEADOWS
2. CANTON LEWIS
3. BILLY FRITSCHER
4. _____
5. _____
6. _____

VISITOR REGISTRATION SHEET

Senate Finance Committee — February 27, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Kay Emanuel	NC School of Gov't
Jake Lahoe	DST
Julie White	NCMMC
Paul Hofheimer	Fulpen Inc
Carson Dunn	Moore & Van Allen
Gary Salamido	NC Chamber
J Goodman	NC CHAMBER
Kerri Bruce	NLWC
[illegible]	NWC
Mildred Spearman	NCAOC
Lori Ann Adams	NAFA

VISITOR REGISTRATION SHEET

Senate Finance Committee — **Name of Committee**

February 27, 2013 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Andy Dulin	City of Charlotte
Shiela Fletcher	D.D. Cloud Farms
Chuck Allen	US. Airways
Cedric Johnson	BTC
Chuck Stone	SEANC
Mitch Leonard	SEANC
Lonnie Collins	NC DOR
Jeff Hopkins	Charlotte Lobo
Steve Brewer	CTL
Sarah Hardin	CTL
Rick Zechini	Williams Mullen

VISITOR REGISTRATION SHEET

Senate Finance Committee — **Name of Committee**

February 27, 2013 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
JASON SOPER	NCDOT
William James	Jordan Price
Matt Vichl	CW Consulting
Sarah Preston	ACLU-NC
DAVID BARNES	Electricities
[illegible]	[illegible]
Steven Wells	NCLM
Keith Richardson	City of Charlotte
Lauren Absher	
Elise McDowell	Thomas Secrest
Vance Hallaman	NCDST

VISITOR REGISTRATION SHEET

Senate Finance Committee — **Name of Committee**

February 27, 2013 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Joy Chaudhuri	DST
Heather Strickland	DST
Bill McKee	DST
TYLER NEWMAN	CITY OF WILMINGTON
Durwood Laughinghouse	DS
Hank Lyle	MWC
Will Grathan	MWC
George Smith	Nexsen Pruet
TJ Brabee	Nexsen Pruet
Sarah Swan	ARP
Corey Wentz	Barringer

VISITOR REGISTRATION SHEET

Senate Finance Committee — February 27, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Linzi Sheldon	WSOC-TV Charlotte
JIM Morrill	CHAR OBSERVER
Kevin Maul	Star News
Dan Way	Carolina Journal
Tom Howe	UNC-TV

Senate Committee on Finance
Wednesday, March 20, 2013, 1:00 PM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 8	Increase Fine for Vehicle Removal.	Sen. Meredith
SB 71	Amend Irrigation Contractors Licensing Laws.	Sen. Tucker
SB 152	Correct Tech. Error in Burgaw Occupancy Tax.	Sen. Rabon
SB 172	Modify Jacksonville Occupancy Tax.	Sen. Brown
SB 177	Hookerton/Maysville Satellite Annexations.	Sen. D. Davis Sen. Brown
SB 207	Maintaining Water & Sewer Fiscal Health.	Sen. Tucker

Adjournment

Senate Finance Committee
Wednesday, March 20, 2013
Room 544 LOB, 1:00 p.m.

Minutes

The Senate Committee on Finance met on Wednesday, March 20, 2013, at 1:00 p.m. in room 544 of the Legislative Office Building. McCain Kerr of Monroe, Shelby Layton of Fayetteville and Garrett Chavis of Raleigh served as pages. Senator Rucho served as Chair to the meeting.

S.B. 152 – Correct Tech. Error in Burgaw Occupancy Tax

Senator Rabon was recognized to explain the bill. It would modify the composition of the Tourism Development Authority for the Town of Burgaw. Senator Brown moved for a favorable report and the motion carried. A copy of the bill, the summary and the fiscal note is attached.

S.B. 172 – Modify Jacksonville Occupancy Tax.

Senator Brown was recognized to explain the bill which changes the occupancy tax distribution formula so that the City of Jacksonville can use two-thirds of the proceeds for tourism-related expenditures for ten years. Senator Jenkins moved for a favorable report and the motion carried. A copy of the bill, the summary and the fiscal note is attached.

S.B. 177 – Hookerton/Maysville Satellite Annexations

Senator Don Davis was recognized to explain the bill which exempts the Towns of Hookerton and Maysville from the 10% area cap on voluntary satellite annexations. Senator Brown moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 8 – Increase Fine for Vehicle Removal

Senator Meredith was recognized to explain the bill. It would increase the fine for removal of vehicles from private lots to $150 from $100. Senator Newton moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 71 – Amend Irrigation Contractors Licensing Laws

Senator Tucker was recognized to explain the bill and moved to adopt the proposed committee substitute (PCS) for discussion. The motion carried. The PCS makes the following changes to the statutes that regulate irrigation contractors:

- Makes clarifying changes to exemptions from regulation and adds an exemption for persons entering into subcontracts with licensed irrigation contractors, as long as the licensee does the actual irrigation work.
- Adds provisions to allow licensing of business entities, nonresident individuals, and foreign entities.
- Provides for suspension, rather than forfeiture, of license for failure to obtain continuing education units. Licensee has 60 days to complete continuing education, request reinstatement, and pay a reinstatement fee.
- Authorizes business entity or foreign entity license fee of $100 and reinstatement fee of $250.
- Authorizes the Board to assess costs in a proceeding against an applicant or licensee found to be in violation of the Chapter.

The PCS also removes a provision that would allow certain entities with 10 years of experience to be licensed without an examination.

Heather Fennell, a staff attorney with the Research Division, was recognized to further explain the bill and answer questions. Senator Curtis moved to report the PCS favorably and the motion carried. A copy of the PCS, the summary and the amendment is attached.

S.B. 207 – Maintaining Water & Sewer Fiscal Health

Senator Tucker was recognized to explain the bill. It authorizes the Local Government Commission to intervene and assume financial control of water or sewer enterprise systems that are not financially self-sustaining and are a financial burden to the unit of local government. Vance Holloman, Deputy State Treasurer and staff to the Local Government Commission was recognized to further explain the bill and answer questions. Senator Tucker was recognized to offer a technical amendment and moved for its adoption. The motion carried. Senator Woodard moved for a favorable report as amended and the motion carried. A copy of the bill, the summary, and the amendment is attached.

The meeting adjourned at 1:22 p.m.

Senator Bob Rucho, Presiding Chair
Senate Finance Committee

DeAnne Mangum
Senate Finance Clerk

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	March 20, 2013	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	
SB 8	Increase Fine for Vehicle Removal.	Senator Meredith
SB 71	Amend Irrigation Contractors Licensing Laws.	Senator Tucker
SB 152	Correct Tech. Error in Burgaw Occupancy Tax.	Senator Rabon
SB 172	Modify Jacksonville Occupancy Tax.	Senator Brown
SB 177	Hookerton/Maysville Satellite Annexations.	Senator D. Davis Senator Brown
SB 207	Maintaining Water & Sewer Fiscal Health.	Senator Tucker

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Wednesday, March 20, 2013

Senator Rucho,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2

SB	71	(CS#1)	Amend Irrigation Contractors Licensing Laws.	
			Draft Number:	S71-PCS35186-TDf-3
			Sequential Referral:	None
			Recommended Referral:	None
			Long Title Amended:	Yes

TOTAL REPORTED: 1

Senator Tommy Tucker will handle SB 71

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Wednesday, March 20, 2013

Senator Rucho,
submits the following with recommendations as to passage:

FAVORABLE

SB **8** Increase Fine for Vehicle Removal.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

SB **152** Correct Tech. Error in Burgaw Occupancy Tax.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

SB **172** Modify Jacksonville Occupancy Tax.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

SB **177** Hookerton/Maysville Satellite Annexations.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

FAVORABLE, AS AMENDED

SB **207** Maintaining Water & Sewer Fiscal Health.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED: 5

Senator Wesley Meredith will handle SB 8
Senator William Rabon will handle SB 152
Senator Harry Brown will handle SB 172
Senator Donald Davis will handle SB 177
Senator Tommy Tucker will handle SB 207

SENATE BILL 152

Short Title:	Correct Tech. Error in Burgaw Occupancy Tax.	(Local)
Sponsors:	Senator Rabon (Primary Sponsor).	
Referred to:	Finance.	

March 4, 2013

A BILL TO BE ENTITLED

AN ACT TO CORRECT A TECHNICAL ERROR IN THE AUTHORIZATION FOR THE TOWN OF BURGAW TO IMPOSE AN OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2(a) of S.L. 2006-167 reads as rewritten:

"**SECTION 2.** Tourism Development Authority. – (a) Appointment and Membership. – When the Board of Commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating the Burgaw Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members shall be individuals who are affiliated with businesses that collect the tax in the town and at least ~~three-fourths~~one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in the town. The Board of Commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for the Town of Burgaw shall be the ex officio finance officer of the Authority."

SECTION 2. This act is effective when it becomes law.

SENATE BILL 152:
Correct Tech. Error in Burgaw Occupancy Tax

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	March 18, 2013
Introduced by:	Sen. Rabon	**Prepared by:**	Kelly Quick
Analysis of:	First Edition		Research Assistant

SUMMARY: ***House Bill 205 modifies the composition of the Tourism Development Authority for the Town of Burgaw.***

[As introduced, this bill was identical to H205, as introduced by Rep. Millis, which is currently in House Finance.]

CURRENT LAW: Session Law 2006-167 authorized the Town of Burgaw to levy a room occupancy tax at a rate of 3% and established a Tourism Development Authority to promote travel and tourism in Burgaw using the proceeds from the occupancy tax. The law requires one-third of the Tourism Development Authority members to be individuals who are affiliated with businesses that collect the tax in the town and at least three-fourths of the members to be individuals who are currently active in the promotion of travel and tourism in the town. Prior to 2005, this composition of members was required by the House Finance Occupancy Tax Guidelines. In 2005, the House Finance chairs changed the percentage of members that must be currently active in the promotion of travel and tourism from three-fourths to one-half.

BILL ANALYSIS: House Bill 205 modifies the composition of the Tourism Development Authority for the Town of Burgaw by reducing from three-fourths to one-half the number of members who must be active in the promotion of travel and tourism in the town. This change conforms to the House Finance Guidelines for Occupancy Tax.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: Since 1983, the General Assembly has authorized many units of local government to levy a room occupancy tax. In 1997, the General Assembly enacted uniform municipal and county administrative provisions for occupancy tax legislation – G.S. 153A-155 and G.S. 160A-215. These provisions provide uniformity in the areas of levy, administration, collection, repeal, and penalties.

UNIFORM OCCUPANCY TAX PROVISIONS
Rate – The county tax rate cannot exceed 6% and the city tax rate, when combined with the county rate, cannot exceed 6%.
Use – Two-thirds of the proceeds must be used to promote travel and tourism and the remainder must be used for tourism related expenditures.
Definitions The term "net proceeds", "promote travel and tourism", and "tourism related expenditures" are defined terms.
Administration – The net revenues must be administered by a local tourism development authority that has the authority to determine how the tax proceeds will be used, is created by a local ordinance, and at least ½ of the members must be currently active in the promotion of travel and tourism in the county and 1/3 of the members must be affiliated with organizations that collect the tax.
Costs of Collection – The taxing authority may retain from the revenues its actual costs of collection, not to exceed 3% of the first $500,000 collected each year plus 1% of the remainder collected each year.

O. Walker Reagan
Director

S152-SMTH-9 E1 -V4

Research Division
(919) 733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Fiscal Note

BILL NUMBER: Senate Bill 152 (First Edition)

SHORT TITLE: Correct Tech. Error in Burgaw Occupancy Tax.

SPONSOR(S): Senator Rabon

FISCAL IMPACT

($ in millions)

☐ Yes ☑ No ☐ No Estimate Available

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
Local Impact					
Revenues:					
Expenditures:					
NET LOCAL IMPACT	**$0.0**	**$0.0**	**$0.0**	**$0.0**	**$0.0**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:
Burgaw Tourism Development Authority

EFFECTIVE DATE This act is effective when it becomes law.

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY:

Senate Bill 152 amends Section 2(a) of SL 2006-167 to require membership on the Burgaw Tourism Development Authority be comprised of individuals who are affiliated with businesses that collect a room occupancy tax in the Town of Burgaw and at least one-half (was, three-fourths) of the members be individuals who are currently active in the promotion of travel and tourism in the town.

ASSUMPTIONS AND METHODOLOGY:

The proposed change is technical and has no fiscal impact.

SOURCES OF DATA:

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Brian Slivka

APPROVED BY:

Mark Trogdon, Director
Fiscal Research Division

DATE: March 19, 2013

Signed Copy Located in the NCGA Principal Clerk's Offices

SENATE BILL 172

Short Title:	Modify Jacksonville Occupancy Tax.	(Local)
Sponsors:	Senator Brown (Primary Sponsor).	
Referred to:	Finance.	

March 5, 2013

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE USE OF OCCUPANCY TAX PROCEEDS FOR THE CITY OF JACKSONVILLE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1.1(d) of S.L. 2009-429 reads as rewritten:

"**SECTION 1.1.(d)** Distribution and Use of Tax Revenue. – The City of Jacksonville shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Jacksonville Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection for tourism-related expenditures and shall use the remainder to promote travel and tourism in ~~Jacksonville and shall use the remainder for tourism-related expenditures.~~Jacksonville."

SECTION 2. This act becomes effective July 1, 2013, and expires July 1, 2023.

SENATE BILL 172:
Modify Jacksonville Occupancy Tax

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	March 19, 2013
Introduced by:	Sen. Brown	**Prepared by:**	Kelly Quick
Analysis of:	First Edition		Research Assistant

SUMMARY: ***Senate Bill 172 changes the occupancy tax distribution formula so that the City of Jacksonville can use two-thirds of the proceeds for tourism-related expenditures for ten years.***

CURRENT LAW: Session Law 2009-429 authorized the City of Jacksonville to levy a room occupancy tax of up to 3%. The proceeds must be remitted to a city Tourism Development Authority (TDA), which must use at least two-thirds of the proceeds to promote travel and tourism and the remainder for tourism-related expenditures. In addition, Jacksonville is located in Onslow County, which has authority to levy a 3% occupancy tax. The proceeds of the county tax are deposited in the county's general fund and may only be used to further the development of travel, tourism, and conventions in the county.

BILL ANALYSIS: Senate Bill 172 changes the occupancy tax distribution formula so that the City of Jacksonville can use two-thirds of the proceeds for tourism-related expenditures for ten years. Normally the distribution formula allows for two-thirds of the proceeds to be used for the promotion of travel and tourism.

EFFECTIVE DATE: This act is effective July 1, 2013, and expires July 1, 2023.

BACKGROUND: Since 1983, the General Assembly has authorized many units of local government to levy a room occupancy tax. In several instances, the General Assembly has authorized both a county and a city within that county to impose an occupancy tax. The rate of tax, the use of the tax proceeds, the administration of the tax, and the body with the authority to determine how the tax proceeds will be spent vary considerably. Over the past several years, there has been a greater effort to make the occupancy taxes uniform. In 1997, the General Assembly enacted uniform municipal and county administrative provisions for occupancy tax legislation – G.S. 153A-155 and G.S. 160A-215. These provisions provide uniformity in the areas of levy, administration, collection, repeal, and penalties.

UNIFORM OCCUPANCY TAX PROVISIONS
Rate – The county tax rate cannot exceed 6% and the city tax rate, when combined with the county rate, cannot exceed 6%.
Use – Two-thirds of the proceeds must be used to promote travel and tourism and the remainder must be used for tourism related expenditures.
Definitions The term "net proceeds", "promote travel and tourism", and "tourism related expenditures" are defined terms.
Administration – The net revenues must be administered by a local tourism development authority that has the authority to determine how the tax proceeds will be used, is created by a local ordinance, and at least 1/2 of the members must be currently active in the promotion of travel and tourism in the county and 1/3 of the members must be affiliated with organizations that collect the tax.
Costs of Collection – The taxing authority may retain from the revenues its actual costs of collection, not to exceed 3% of the first $500,000 collected each year plus 1% of the remainder collected each year.

O. Walker Reagan
Director

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GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Fiscal Note

BILL NUMBER: Senate Bill 172 (First Edition)

SHORT TITLE: Modify Jacksonville Occupancy Tax.

SPONSOR(S): Senator Brown

FISCAL IMPACT

($ in millions)

☐ Yes ☑ No ☐ No Estimate Available

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
Local Impact					
Revenues:					
Expenditures:					
NET LOCAL IMPACT	**$0.0**	**$0.0**	**$0.0**	**$0.0**	**$0.0**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:
Jacksonville Tourism Development authority

EFFECTIVE DATE This act becomes effective July 1, 2013, and expires July 1, 2023.

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY:

Senate Bill 172 amends Section 1.1(d) of SL 2009-429 to require the Jacksonville Tourism Development Authority to use at least two-thirds of the occupancy tax funds remitted to it for tourism-related expenditures (was to promote travel and tourism in Jacksonville) and the remainder to promote travel and tourism in Jacksonville (was remainder for tourism-related expenditures). The bill is effective on July 1, 2013 and expires on July 1, 2023.

ASSUMPTIONS AND METHODOLOGY:

Senate Bill 172 alters how the Jacksonville Tourism Authority may use their occupancy tax collections. There is no fiscal impact as a result of these changes.

SOURCES OF DATA:

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Brian Slivka

APPROVED BY:

Mark Trogdon, Director
Fiscal Research Division

DATE: March 19, 2013

Signed Copy Located in the NCGA Principal Clerk's Offices

SENATE BILL 177

Short Title:	Hookerton/Maysville Satellite Annexations.	(Local)
Sponsors:	Senators D. Davis and Brown (Primary Sponsors).	
Referred to:	State and Local Government.	

March 5, 2013

A BILL TO BE ENTITLED

AN ACT TO REMOVE CERTAIN RESTRICTIONS ON SATELLITE ANNEXATIONS FOR THE TOWNS OF HOOKERTON AND MAYSVILLE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-58.1(b)(5) reads as rewritten:

"(b) A noncontiguous area proposed for annexation must meet all of the following standards:

...

(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

This subdivision does not apply to the Cities of Belmont, Claremont, Concord, Conover, Durham, Elizabeth City, Gastonia, Greenville, Hickory, Kannapolis, Locust, Marion, Mount Airy, Mount Holly, New Bern, Newton, Oxford, Randleman, Roanoke Rapids, Rockingham, Sanford, Salisbury, Southport, Statesville, and Washington and the Towns of Ahoskie, Angier, Apex, Ayden, Benson, Bladenboro, Bridgeton, Burgaw, Calabash, Catawba, Clayton, Columbia, Columbus, Cramerton, Creswell, Dallas, Dobson, Four Oaks, Fuquay-Varina, Garner, Godwin, Granite Quarry, Green Level, Grimesland, Holly Ridge, Holly Springs, Hookerton, Huntersville, Jamestown, Kenansville, Kenly, Knightdale, Landis, Leland, Lillington, Louisburg, Maggie Valley, Maiden, Mayodan, Maysville, Middlesex, Midland, Mocksville, Morrisville, Mount Pleasant, Nashville, Oak Island, Ocean Isle Beach, Pembroke, Pine Level, Princeton, Ranlo, Richlands, Rolesville, Rutherfordton, Shallotte, Smithfield, Spencer, Stem, Stovall, Surf City, Swansboro, Taylorsville, Troutman, Troy, Wallace, Warsaw, Watha, Waynesville, Weldon, Wendell, Windsor, Yadkinville, and Zebulon."

SECTION 2. This act is effective when it becomes law.

SENATE BILL 177:
Hookerton/Maysville Satellite Annexations

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	March 19, 2013
Introduced by:	Sens. D. Davis, Brown	**Prepared by:**	Judy Collier
Analysis of:	First Edition		Research Assistant

SUMMARY: Senate Bill 177 exempts the Towns of Hookerton and Maysville from the 10% area cap on voluntary satellite annexations. SB 177 received a favorable report from Senate State and Local Government Committee on March 12, 2013.

CURRENT LAW: G.S. 160A-58.1 governs the voluntary annexation by a municipality of noncontiguous property. All property owners in the satellite area[1] may petition a municipality for voluntary annexation of the noncontiguous property if it meets all of the following five standards:

1. The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
5. **The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.**

BILL ANALYSIS: Senate Bill 177 adds the Towns of Hookerton and Maysville to the following list of municipalities for which the fifth requirement stated above has been eliminated:

Cities of Belmont, Claremont, Concord, Conover, Durham, Elizabeth City, Gastonia, Greenville, Hickory, Kannapolis, Locust, Marion, Mount Airy, Mount Holly, New Bern, Newton, Oxford, Randleman, Roanoke Rapids, Rockingham, Sanford, Salisbury, Southport, Statesville, and Washington and the **Towns of** Ahoskie, Angier, Apex, Ayden, Benson, Bladenboro, Bridgeton, Burgaw, Calabash, Catawba, Clayton, Columbia, Columbus, Cramerton, Creswell, Dallas, Dobson, Four Oaks, Fuquay-Varina, Garner, Godwin, Granite Quarry, Green Level, Grimesland, Holly Ridge, Holly Springs, Huntersville, Jamestown, Kenansville, Kenly, Knightdale, Landis, Leland, Lillington, Louisburg, Maggie Valley, Maiden, Mayodan, Middlesex, Midland, Mocksville, Morrisville, Mount Pleasant, Nashville, Oak Island, Ocean Isle Beach, Pembroke, Pine Level, Princeton, Ranlo, Richlands, Rolesville, Rutherfordton, Shallotte, Smithfield, Spencer, Stem, Stovall, Surf City, Swansboro, Taylorsville, Troutman, Troy, Wallace, Warsaw, Watha, Waynesville, Weldon, Wendell, Windsor, Yadkinville, and Zebulon.

EFFECTIVE DATE: This act is effective when it becomes law.

[1] G.S. 160A-58.4 provides that satellite corporate limits cannot be considered a part of a municipality's corporate limits for purposes of its ETJ. Therefore, satellite annexations have no effect upon a municipality's ETJ.

O. Walker Reagan
Director

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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S 1

SENATE BILL 8

Short Title:	Increase Fine for Vehicle Removal.	(Public)
Sponsors:	Senators Meredith (Primary Sponsor); Clark and Jenkins.	
Referred to:	Finance.	

January 31, 2013

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE FINE FOR THE REMOVAL OF UNAUTHORIZED VEHICLES FROM PRIVATE LOTS PURSUANT TO G.S. 20-219.2.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-219.2(b) reads as rewritten:

"**§ 20-219.2. Removal of unauthorized vehicles from private lots.**

...

(b) Any person violating any of the provisions of this section shall be guilty of an infraction and upon conviction shall be only penalized not ~~more~~less than ~~one hundred dollars ($100.00)~~one hundred fifty dollars ($150.00) in the discretion of the court.

...."

SECTION 2. This act becomes effective December 1, 2013, and applies to offenses committed on or after that date.

SENATE BILL 8:
Increase Fine for Vehicle Removal

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	March 20, 2013
Introduced by:	Sen. Meredith	**Prepared by:**	Heather Fennell
Analysis of:	First Edition		Committee Counsel

SUMMARY: ***Senate Bill 8 would increase the fine for removal of vehicles from private lots to $150 from $100.***

CURRENT LAW: G.S. 20-219.2 only applies to the Counties of Craven, Cumberland, Dare, Forsyth, Gaston, Guilford, Mecklenburg, New Hanover, Orange, Richmond, Robeson, Wake, Wilson, and municipalities in those counties, and to the Cities of Durham, Jacksonville, Charlotte and Fayetteville. G.S. 20-219.2 provides it is unlawful for any person, other than the owner or lessee of a privately owned or leased parking space, to park a vehicle in the space without the express permission of the owner or lessee of the space. Towing from private lots is permitted within the following limitations:

- The space or lot must be clearly marked with a 24x24 sign stating that unauthorized parking is prohibited and providing the name of the lot or space owner, and the name and phone number of the towing company.
- Vehicles towed may be removed to a place of storage upon written request of the owner or lessee of the parking space. The place of storage must be within 15 miles, if a storage facility is available within 15 miles. For other vehicles, the vehicle may not be transported more than 25 miles for storage. The owner of the vehicle is liable for removal and storage charges.
- Persons who tow or store vehicles must inform the owner in writing at the time of retrieval that the owner has the right to pay the amount of the lien asserted, request immediate possession, and contest the lien for towing charges. Persons who tow or store vehicles are prohibited from requiring vehicle owners to sign waivers of rights when retrieving vehicles, other than a form acknowledging the release and receipt of the vehicle.
- Any person who removes a vehicle is not liable for damages for the removal of the vehicle. However, any person who intentionally or negligently damages a vehicle when removing it or intentionally or negligently inflicts injury upon a person in the removal of a vehicle may be liable for damages.

A person who violates this section shall be guilty of an infraction and upon conviction, shall be fined not more than $100 in the discretion of the court.[1] In addition to G.S. 20-219.2, cities and counties may regulate towing by ordinance under their general police power.

BILL ANALYSIS: Senate Bill 8 would increase the fine for removal of vehicles from private lots to $150 from $100.

EFFECTIVE DATE: This act becomes effective December 1, 2013, and applies to offenses on or after that date.

[1] The fine for removal of unauthorized vehicles was increased to $100 from $10 in S.L. 2010-134. At that time a violation of G.S. 20-219.2 was reduced to an infraction from a Class 3 misdemeanor.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 71
Commerce Committee Substitute Adopted 2/26/13
PROPOSED COMMITTEE SUBSTITUTE S71-CSTDf-3 [v.3]

3/19/2013 4:17:23 PM

Short Title: Amend Irrigation Contractors Licensing Laws. (Public)

Sponsors:

Referred to:

February 11, 2013

A BILL TO BE ENTITLED

AN ACT AMENDING THE LAWS REGULATING IRRIGATION CONTRACTORS TO PROVIDE SUBSTANTIVE REQUIREMENTS FOR LICENSING CORPORATIONS, TO PROVIDE FOR THE ISSUANCE OF LICENSES TO NONRESIDENTS, TO CLARIFY THE FEE STRUCTURE, AND TO MAKE OTHER CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 89G-1 reads as rewritten:

"**§ 89G-1. Definitions.**

The following definitions apply in this Chapter:

(1) Board. – The North Carolina Irrigation Contractors' Licensing Board.

(1a) Business entity. – A corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity that is not an individual or a foreign entity.

(1b) Foreign corporation. – Defined in G.S. 55-1-40.

(1c) Foreign entity. – A foreign corporation, a foreign limited liability company, or a foreign partnership.

(1d) Foreign limited liability company. – Defined in G.S. 57C-1-03.

(1e) Foreign partnership. – One of the following that does not have a permanent place of business in this State:

a. A foreign limited partnership as defined in G.S. 59-102.

b. A general partnership formed under the laws of a jurisdiction other than this State.

(2) Irrigation construction or irrigation contracting. – The act of providing services as an irrigation contractor for compensation or other consideration.

(3) Irrigation contractor. – Any person who, for compensation or other consideration, constructs, installs, expands, services, or repairs irrigation systems.

(4) Irrigation system. – All piping, fittings, sprinklers, drip tubing, valves, control wiring of 30 volts or less, and associated components installed for the delivery and application of water for the purpose of irrigation that are downstream of a well, pond or other surface water, potable water or groundwater source, or grey water source and downstream of a backflow prevention assembly. Surface water, potable water or groundwater sources, water taps, utility piping, water service lines, water meters, backflow

prevention assemblies, stormwater systems that service only the interior of a structure, and sanitary drainage systems are not part of an irrigation system.

(4a) Nonresident individual. – An individual who is not a resident of this State.

(5) Person. – An individual, firm, partnership, association, corporation, or other legal entity."

SECTION 2. G.S. 89G-3 reads as rewritten:

"**§ 89G-3. Exemptions.**

The provisions ~~in~~ of this Chapter shall not apply to:

(1) Any federal or State agency or any political subdivision performing irrigation construction or irrigation contracting work on public ~~property.~~property and using its own employees.

(2) Any property owner who performs irrigation construction ~~or contracting~~ work on his or her own property.

(3) A landscape architect registered under Chapter 89A of the General Statutes.

(4) A professional engineer licensed under Chapter 89C of the General Statutes.

(5) Any irrigation construction or irrigation contracting work where the price of all contracts for labor, material, and other items for a given jobsite is less than two thousand five hundred dollars ($2,500).

(6) Any person performing irrigation construction or irrigation contracting work for temporary irrigation to establish vegetative cover for erosion control.

(7) Any person performing irrigation construction or irrigation contracting work to control dust on commercial construction sites or mining operations.

(8) Any person performing irrigation construction or irrigation contracting work for use in agricultural production, farming, or ranching, including land application of animal wastewater.

(9) Any person performing irrigation construction or irrigation contracting work for use in commercial sod production.

(10) Any person performing irrigation construction or irrigation contracting work for use in the commercial production of horticultural crops, including nursery and greenhouse operators.

(11) A general contractor licensed under Article 1 of Chapter 87 of the General ~~Statutes.~~Statutes who possesses a classification under G.S. 87-10(b) as a building contractor, a residential contractor, or a public utilities contractor when the contractor uses the contractor's own employees to perform irrigation construction or irrigation contracting work. A public utilities contractor exempted by this subdivision may perform only the activities described in G.S. 87-10(b)(3)a.

(12) A wastewater contractor certified under Article 5 of Chapter 90A of the General Statutes who performs only the construction of or repair to a wastewater dispersal system.

~~(13) A public utility contractor licensed under Article 1 of Chapter 87 of the General Statutes.~~

(14) A plumbing contractor licensed under Article 2 of Chapter 87 of the General Statutes who performs only the following work: installation, repairs, or maintenance of water mains, water taps, service lines, water meters, or backflow prevention assemblies supplying water for irrigation systems; or repairs to an irrigation system.

(15) Any person performing irrigation construction or irrigation contracting work for a golf course.

(16) Any ~~person~~full-time employee of a homeowners association maintaining or repairing an irrigation system owned by the homeowners association of a

planned community and located within the planned community's common elements as defined in G.S. 47F-1-103.

(17) Any person who can document 10 years in business as an irrigation contractor as of January 1, 2009, can document competency in the practice of irrigation construction or irrigation contracting, as determined by the North Carolina Irrigation Contractors' Licensing Board, and meets all other requirements and qualifications for licensure may be issued an irrigation contractor's license under Chapter 89G of the General Statutes, without the requirement of examination, provided that the person submits an application for licensure to the Board prior to October 1, 2012.

(18) Any unlicensed person or entity who enters into a subcontract with a North Carolina licensed irrigation contractor, where the irrigation work is performed entirely by the North Carolina licensed irrigation contractor in accordance with this Chapter."

SECTION 3. G.S. 89G-5(11) reads as rewritten:

"**§ 89G-5. Powers and duties.**

The Board shall have the following powers and duties:

...

(11) To require licensees to file and maintain an adequate surety ~~bond.~~bond or letter of credit.

...."

SECTION 4. Chapter 89G of the General Statutes is amended by adding a new section to read:

"**§ 89G-6.1. Licensing of business entities, nonresident individuals, and foreign entities.**

(a) The Board may issue a license in the name of a business entity if the business entity pays the license fee required by G.S. 89G-10 and one of the following applies:

(1) For a corporation, one or more officers or full-time employees empowered to act for the corporation are individuals licensed under this Chapter, and only the individuals licensed under this Chapter execute contracts for irrigation construction and irrigation contracting.

(2) For a limited liability company, one or more managers or executives as defined in G.S. 57C-1-03 or full-time employees empowered to act for the company are individuals licensed under this Chapter, and only the individuals licensed under this Chapter execute contracts for irrigation construction and irrigation contracting.

(3) For a partnership, one or more general partners or full-time employees empowered to act for the partnership are individuals licensed under this Chapter, and only the individuals licensed under this Chapter execute contracts for irrigation construction and irrigation contracting.

(4) For a business entity using an assumed name or designated trade name, the owner or one or more full-time employees empowered to act for the owner are individuals licensed under this Chapter, and only the individuals licensed under this Chapter execute contracts for irrigation construction and irrigation contracting.

(b) The Board may issue a license to a nonresident individual who meets the requirements for licensure under this Chapter. A nonresident individual licensed under this Chapter may qualify as the licensed individual under subdivisions (1), (2), and (3) of subsection (a) of this section.

(c) The Board may issue a license in the name of a foreign entity if the following apply:

(1) For a foreign corporation, the corporation has obtained a certificate of authority from the Secretary of State pursuant to Article 15 of Chapter 55 of

the General Statutes and complies with the requirements of subdivision (1) of subsection (a) of this section.

(2) For a foreign limited liability company, the company has obtained a certificate of authority from the Secretary of State pursuant to Article 7 of Chapter 57C of the General Statutes and complies with the requirements of subdivision (2) of subsection (a) of this section.

(3) For a foreign partnership, the partnership complies with the requirements of subdivision (3) of subsection (a) of this section.

(d) When the Board issues a license to a business entity or a foreign entity under this section, the Board shall indicate on the license the name and license number of the individual licensee required under subsection (a) of this section. The individual licensee required under subsection (a) of this section shall exercise direct supervision over a contract by a business entity or a foreign entity for irrigation construction or irrigation contracting until the contract is completed.

(e) A business entity or foreign entity licensed under this section shall provide written notice to the Board if the individual licensee required under subsection (a) of this section ceases to be an officer, full-time employee, manager, executive, general partner, or owner of the business entity or foreign entity. The business entity or foreign entity must satisfy the requirements of subsection (a) of this section within 90 days of the effective date of the notice required under this subsection. The Board shall suspend the license of a business entity or foreign entity licensed under this section that fails after 90 days to satisfy the requirements of subsection (a) of this section."

SECTION 5. G.S. 89G-9 reads as rewritten:

"**§ 89G-9. License renewal and continuing education.**

(a) Every license issued under this Chapter shall be renewed on or before December 31 of each year. Any person who desires to continue to practice irrigation contracting or irrigation construction shall apply for license renewal and shall submit the required fees. Licenses that are not renewed shall be automatically revoked. A license may be renewed at any time within one year after its expiration, if: (i) the applicant pays the required renewal fee and late renewal fee; (ii) the Board finds that the applicant has not used the license in a manner inconsistent with the provisions of this Chapter or engaged in the practice of irrigation construction or contracting after notice of revocation; and (iii) the applicant is otherwise eligible for licensure under the provisions of this Chapter. When necessary, the Board may require a licensee to demonstrate continued competence as a condition of license renewal.

(b) As a condition of license renewal, ~~a~~ an individual licensee shall meet continuing education requirements set by the Board. Each individual licensee shall complete 10 continuing education units per year. ~~Failure to obtain continuing education units shall result in the forfeiture of a license.~~

(c) The Board shall suspend an individual licensee's license for 60 days for failure to obtain continuing education units required by subsection (b) of this section. The Board shall suspend a business entity's or a foreign entity's license for 60 days for failure by the individual licensee required under G.S. 89G-6.1(a) to obtain continuing education units required by subsection (b) of this section. Upon completion of the required continuing education and payment of the reinstatement fee, the Board shall reinstate the license. Failure by an individual licensee to meet the education requirements, to request a reinstatement of the license, or to pay the reinstatement fee within the time provided shall result in the revocation of the license. Upon ~~forfeiture, a person~~revocation, an individual shall be required to submit a new application and retake the examination as provided in this Chapter."

SECTION 6. G.S. 89G-10(a) reads as rewritten:

"(a) The Board may impose the following fees not to exceed the amounts listed below:

(1) Application fee $100.00

(2)	Examination fee	200.00
(3)	~~License~~ Individual license fee and individual license renewal fee	100.00
(3a)	Business entity or foreign entity license fee and business entity or foreign entity license renewal fee	100.00
(4)	Late renewal fee	50.00
(5)	License by reciprocity	250.00
(6)	~~Corporate license~~Reinstatement fee	~~100.00~~250.00
(7)	Duplicate license	25.00."

SECTION 7. G.S. 89G-11 reads as rewritten:

"**§ 89G-11. Disciplinary action.**

(a) The Board may deny, restrict, suspend, or revoke a license or refuse to issue or renew a license if a licensee or applicant:

(1) Employs the use of fraud, deceit, or misrepresentation in obtaining or attempting to obtain a license or the renewal of a license.

(2) Practices or attempts to practice irrigation construction or contracting by fraudulent misrepresentation.

(3) Commits an act of gross malpractice or incompetence as determined by the Board.

(4) Has been convicted of or pled guilty or no contest to a crime that indicates that the person is unfit or incompetent to practice as an irrigation contractor or that indicates that the person has deceived or defrauded the public.

(5) Has been declared incompetent by a court of competent jurisdiction.

(6) Has willfully violated any provision in this Chapter or any rules adopted by the Board.

(7) Uses or attempts to use the seal in a fraudulent or unauthorized manner.

(8) Fails to file the required surety bond or letter of credit or to keep the bond or letter of credit in force.

(b) The Board may assess costs, including reasonable attorneys' fees and investigatory costs, in a proceeding under this section against an applicant or licensee found to be in violation of this Chapter."

SECTION 8. The Revisor of Statutes shall change the phrase "irrigation construction or contracting" to "irrigation construction or irrigation contracting" wherever it appears in Chapter 89G of the General Statutes.

SECTION 9. This act becomes effective October 1, 2013.

SENATE BILL 71:
Amend Irrigation Contractors Licensing Laws

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	March 20, 2013
Introduced by:	Sen. Tucker	**Prepared by:**	Heather Fennell
Analysis of:	PCS to Second Edition S71-CSTDf-3		Committee Counsel

SUMMARY: ***The Proposed Committee Substitute for Senate Bill 71 makes the following changes to the statutes that regulate irrigation contractors:***

- ***Makes clarifying changes to exemptions from regulation and adds an exemption for persons entering into subcontracts with licensed irrigation contractors, as long as the licensee does the actual irrigation work.***
- ***Adds provisions to allow licensing of business entities, nonresident individuals, and foreign entities.***
- ***Provides for suspension, rather than forfeiture, of license for failure to obtain continuing education units. Licensee has 60 days to complete continuing education, request reinstatement, and pay a reinstatement fee.***
- ***Authorizes business entity or foreign entity license fee of $100 and reinstatement fee of $250.***
- ***Authorizes the Board to assess costs in a proceeding against an applicant or licensee found to be in violation of the Chapter.***

The PCS removes a provision that would allow certain entities with 10 years of experience to be licensed without an examination. This provision was enacted in S.L. 2012-194 and can be found in G.S. 89G-3(17) on page 3, lines 5-12 of the PCS.

CURRENT LAW: Chapter 89G of the General Statutes provides for licensing and regulation of persons practicing irrigation contracting in North Carolina. The provisions were originally enacted in 2008 (S.L. 2008-177) and went into effect January 1, 2009. The North Carolina Irrigation Contractors' Licensing Board has the authority to administer and enforce the provisions of the Chapter.

BILL ANALYSIS: The PCS for Senate Bill 71 makes the following changes to Chapter 89G:

Exemptions. G.S. 89G-3 lists persons/entities that are exempt from regulation as irrigation contractors. The PCS makes clarifying changes to some of the existing exemptions and adds a new exemption for any unlicensed person or entity who enters into a subcontract with a licensed irrigation contractor, as long as the irrigation work is performed entirely by the licensed irrigation contractor.

Licensing of business entities, nonresident individuals, and foreign entities. The PCS adds a new section G.S. 89G-6.1 to Chapter 89G, which provides for licensing of:

- Nonresident individuals – individuals who are not residents of this State. These individuals may be licensed as long as they meet all requirements for licensure.

- Business entities – corporations, limited liability companies, partnerships, or business entities using an assumed name or designated trade name.
- Foreign entities – foreign corporations or foreign limited liability companies that have obtained a certificate of authority from the Secretary of State or foreign partnerships.

For business and foreign entities, one or more individuals empowered to act for the entity must be licensed under Chapter 89G, and only the licensed individual is authorized to execute contracts for irrigation contracting. The individual licensee is required to exercise direct supervision over a contract until it is completed. If the individual licensee ceases to be an officer, employee, manager, executive, partner, or owner, the entity must provide written notice to the Board and replace that individual within 90 days. If the entity fails to do so within 90 days, the Board is required to suspend the license.

Suspension for failure to obtain continuing education. Currently, when a licensee fails to obtain required continuing education units, the license is forfeited. The PCS provides for a 60-day suspension following failure to obtain continuing education units. The licensee then has 60 days to obtain the continuing education units, request reinstatement, and pay a reinstatement fee of $250. If the licensee fails to do so within the 60-day period, the license is revoked.

Fees. The PCS authorizes a business entity or foreign entity license and renewal fee of $100. It also authorizes a $250 reinstatement fee.

Cost assessment for violations. The PCS authorizes the Board to assess costs, including reasonable attorney fees and investigatory costs, against an applicant or licensee that is found to be in violation of the provisions of Chapter 89G.

EFFECTIVE DATE: This act becomes effective October 1, 2013.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Fiscal Note

BILL NUMBER: Senate Bill 71 (Second Edition)

SHORT TITLE: Amend Irrigation Contractors Licensing Laws.

SPONSOR(S): Senator Tucker

FISCAL IMPACT

($ in dollars)

☑ Yes ☐ No ☐ No Estimate Available

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
North Carolina Irrigation Contractors' Licensing Board					
Revenues:	50,000	50,000	50,000	50,000	50,000
NET IMPACT	**$50,000**	**$50,000**	**$50,000**	**$50,000**	**$50,000**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Irrigation Contractors' Licensing Board

EFFECTIVE DATE: Sections 9(a) and 9(b) of this act are effective when this act becomes law. The remainder of this act becomes effective October 1, 2013.

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY:

Senate Bill 71 (Second Edition) amends GS 89G-1 by adding definitions to the Irrigation Contractors statute for the following terms: business entity, foreign corporation, foreign entity, foreign limited liability company, foreign partnership, and nonresident individual.

It amends GS 89G-3 (providing exemptions from the provisions of GS Chapter 89G, Irrigation Contractors) to clarify that the licensure exemption for any federal, state, or local government performing irrigation construction or contracting work on public property only applies if the work is done by employees of those entities. The bill further amends GS 89G-3 to clarify that the exemption applies to a general contractor classified under GS 87-10(b) as a building contractor, a residential contractor, or a public utilities contractor when the contractor uses the contractor's own employees to perform work. It limits exempted public utilities contractors to performing only the activities described in GS 87-10(b)(3)a.

The bill clarifies that the exemption applies to a full-time employee of a homeowners' association who maintains or repairs an irrigation system owned by the association and located within the planned community's common elements as defined in GS 47F-1-103.

Senate Bill 71 (Second Edition) adds an exemption for any unlicensed person or entity who subcontracts with a North Carolina licensed irrigation contractor where the work is entirely performed by the licensed contractor in accordance with the provisions of GS Chapter 89G.

It amends GS 89G-5(11) to clarify that the NC Irrigation Contractors' Licensing Board (Board) has the power to require licensees to file and maintain an adequate surety bond or letter of credit (was, surety bond).

The bill enacts new GS 89G-6.1 to allow the Board to issue a license in the name of a corporation, limited liability company, partnership, or for a business entity using an assumed or designated trade name if the respective conditions are met. And it sets forth additional details and requirements for licensing of nonresident individuals and foreign entities.

The bill amends GS 89G-9 to require the Board to suspend a licensee's license for 60 days for failure to obtain the required ten continuing education units per year (penalty was forfeiture of the license). It also provides for reinstatement of the license upon completion of the required continuing education and payment of the reinstatement fee. Specifies that failure to (1) meet the education requirements, (2) request reinstatement, or (3) pay the fee will result in license forfeiture.

The bill clarifies the fees schedule in GS 89G-10(a) and deletes the fee for corporate license and adds a fee of $250 as a reinstatement fee.

It enacts new GS 89G-11(b), allowing the Board to assess costs for disciplinary proceedings, including investigatory costs, against an applicant or licensee.

Senate Bill 71 (Second Edition) makes other conforming changes. It clarifies the term irrigation construction or irrigation contracting throughout, and directs the Revisor of Statutes to make conforming statutory changes as necessary. It adds a section to allow certain irrigation contractors who meet specified conditions related to years of experience and who submit an application for licensure before October 1, 2013, to receive a license without taking the examination. The bill directs the Board to notify the North Carolina Cooperative Extension of the exemption from the exam requirement for experienced irrigation contractors as quickly as is practical upon the effective date of this section.

Except as otherwise indicated, this act is effective October 1, 2013.

ASSUMPTIONS AND METHODOLOGY:

G.S. 89G-9(b) currently states that failure to obtain continuing education units shall result in the forfeiture of a license. Senate Bill 71 would eliminate that language and allow for the Board to

suspend a license for 60 days for failure to obtain continuing education units. Then, upon completion of the required continuing education and payment of the reinstatement fee, the Board shall reinstate the license. Failure to meet the education requirements, to request a reinstatement of the license, or to pay the reinstatement fee would result in forfeiture of the license.

The North Carolina Irrigation Contractors' Licensing Board estimates approximately five licensees per year might fall under the conditions set above. Rather than paying a $100.00 Application Fee and a $200.00 Examination Fee to regain their license, licensees would be able to pay the $250.00 reinstatement fee. This would eliminate needing to retake the examination, but would still require the licensee to complete the required continuing education units.

Also, the bill would allow the Board to issue a license in the name of a corporation, limited liability company, partnership, or in an assumed or designated trade name if specific conditions are met. While there was a Corporate License Fee set in G.S. 89G-10(a), nowhere in the statutes was the Board given the ability to license a business entity. The North Carolina Irrigation Contractors' Licensing Board estimates approximately 500 business entities, which would be eligible to be licensed under Senate Bill 71, would opt to have their business entity licensed. Those 500 business entities would pay a $100.00 licensure fee, yielding a $50,000 yearly increase in fee collections.

SOURCES OF DATA:

North Carolina Irrigation Contractors' Licensing Board

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Brian Slivka

APPROVED BY:

Mark Trogdon, Director
Fiscal Research Division

DATE: March 19, 2013

Signed Copy Located in the NCGA Principal Clerk's Offices

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. 1

H. B. No. _____ DATE _____

S. B. No. 207 Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Tucker
Sen.)

moves to amend the bill on page 1, line 14

( ) WHICH CHANGES THE TITLE

by inserting the following immediately after the word "revenue":

"from operations".

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S 1

SENATE BILL 207*

Short Title:	Maintaining Water & Sewer Fiscal Health.	(Public)
Sponsors:	Senators Tucker (Primary Sponsor); and J. Davis.	
Referred to:	Finance.	

March 7, 2013

A BILL TO BE ENTITLED

AN ACT TO PROTECT THE FISCAL HEALTH OF NORTH CAROLINA'S WATER AND SEWER SYSTEMS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 159-181 is amended by adding a new subsection to read as follows:

"(d) The Local Government Commission shall have authority to impound the books and records associated with the water and/or sewer enterprise system of any unit of local government or public authority, assume full control of all its affairs, or take any lesser actions deemed necessary by the Commission when, for three consecutive fiscal years, the audited financial statements of the unit or public authority demonstrate that the unit or public authority meets any one of the following three criteria: (i) the enterprise system experienced negative working capital; (ii) the enterprise system experienced a quick ratio of less than 1.0; or (iii) the unit or public authority experienced a net loss of revenue in the enterprise system using the modified accrual budgetary basis of accounting. Before the Commission assumes full control of an enterprise system as described in this subsection, it must find that the impact of items (i) through (iii) threatens the financial stability of the unit or public authority, and that the unit or public authority has failed to make corrective changes in its operation of the enterprise system after having received notice and warning from the Commission. The notice and warning may occur prior to the expiration of the three-year period. When the Commission takes action under this section, the Commission is vested with the powers of the governing board as the Commission shall deem necessary, which may include all powers of the governing board as to the operation of the enterprise system, including, but not limited to, setting rates, negotiating contracts, collecting payments that are due, suspending service to nonpaying customers, resolving disputes with third parties, and transferring the ownership of the enterprise system. For purposes of this subsection, the term "working capital" means current assets, such as cash, inventory, and accounts receivable, less current liabilities, determined in accordance with generally accepted accounting principles, and the phrase "quick ratio of less than 1.0" means that the ratio of liquid assets, cash and receivables, to current liabilities is less than 1.0."

SECTION 2. This act becomes effective July 1, 2013.

SENATE BILL 207:
Maintaining Water & Sewer Fiscal Health

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	March 15, 2013
Introduced by:	Sen. Tucker	**Prepared by:**	Cindy Avrette
Analysis of:	First Edition		Committee Counsel

SUMMARY: ***Senate Bill 207[1] authorizes the Local Government Commission to intervene and assume financial control of water or sewer enterprise systems that are not financially self-sustaining and are a financial burden to the unit of local government. The bill is a recommendation of the Local Government Commission.***

CURRENT LAW: The Local Government Commission (LGC) has the authority to assume full control of the financial affairs of a unit of local government[2] or a public authority[3] in the following two circumstances:

- The entity has defaulted on a debt obligation or will default if its financial policies and practices are not improved.
- The entity persists, after notice and warning from the LGC, in willfully or negligently failing or refusing to comply with provisions of the Local Government Finance Act.

In assuming control over the financial affairs, the LGC is vested with the powers of the governing board as to the levying of taxes, the expenditure of money, the adoption of budgets, and all other financial powers conferred by law. The LGC has needed to use this authority five times, four of which were related in part or totally to problems with water and sewer operations. The General Assembly created the LGC in 1931 to provide assistance to local governments and public authorities in North Carolina. It is staffed by the Department of State Treasurer and approves the issuance of debt for all units of local government and assists those units with fiscal management.

BILL ANALYSIS: Senate Bill 207 would authorize the LGC to intervene in the financial affairs of a water or sewer enterprise system when warranted. Under current law, the LGC may not intervene until the financial situation of the enterprise has adversely affected the financial well-being of the local unit or public authority itself to the point that the unit has or will default on its debt or has repeatedly violated General Statutes Chapter 159.

The LCG could impound the books and records associated with a water or sewer enterprise system and take remedial financial actions when, for three consecutive years, the audited financial statements associated with the enterprise system demonstrate one or more of the following:

---

[1] This bill is identical to S259, as introduced by Sen. Bingham, which is currently in Senate Finance, and to H238, as introduced by Reps. Cleveland, Dockham, which is currently in House Government.

[2] A unit of local government is a municipal corporation that is not subject to the State Budget Act and that has the power to levy taxes. It includes a county, city, town, sanitary district and water and sewer district.

[3] A public authority is a municipal corporation who's budgeting and accounting system is not fully a part of the budgeting and accounting system of a unit of local government. Examples of a public authority include housing authorities, water and sewer authorities and multi county public health and mental health authorities.

- The enterprise system experienced negative working capital. The term "working capital" means current assets less current liabilities determined in accordance with generally accepted accounting principles.
- The enterprise system experienced a quick ratio of less than 1.0. The phrase "quick ratio of less than 1.0" means that the ratio of liquid assets to current liabilities is less than 1.0. Liquid assets include cash and accounts receivable, not inventory.
- The unit or public authority experienced a net loss of revenue in the enterprise system using the modified accrual budgetary basis of accounting.

The LGC could assume full control of the financial affairs of a water or sewer enterprise system if it finds that the impact of the three conditions outlined above threaten the financial stability of the local governmental unit or public authority and the unit or public authority has failed to make corrective changes in its operation of the enterprise system after having received notice and warning from the LGC. When the LGC intervenes, it is vested with the powers of the governing body as to the operation of the enterprise system. Those powers include the ability to set rates, negotiate contracts, collect payments due, suspend service to nonpaying customers, resolve disputes with third parties, and transfer ownership of the system.

There are currently fewer than 20 water or sewer enterprises that may meet the three conditions in the bill that would allow the LGC to intervene.

EFFECTIVE DATE: The bill would become effective July 1, 2013.

BACKGROUND: Cities, counties, and special purpose districts[4] are the primary providers of water and sewer service in this State. Local governments provide water to 86% of residents who are served by piped water. Fifty percent of residents receive centralized sewer service and local governments are the primary provider of this service.[5] Local governments provide this service as a public enterprise for which a fee or charge is imposed to cover the cost of providing the service, including capital costs. The challenge of financing water and sewer services, especially the capital costs associated with those services, has increased in recent years as grants and low interest loans from the federal[6] and State governments have decreased and the need for additional water and sewer facilities and the costs of maintaining and replacing old infrastructure increases.

[4] Namely water and/or sewer authorities and sanitary districts.
[5] Based on the US EPA Database for the fourth quarter of fiscal year 2003 cited in the County & Municipal Government in North Carolina Article 38, *Local Government Water & Wastewater Enterprises,* by Jeffrey A. Hughes and David M. Lawrence, published June 4, 2007.
[6] In 1977, federal grants accounted for 60% of the annual capital expenditures for water and sewer. In 2000, they accounted for 15%. Based on reports to Congress cited in the County & Municipal Government in North Carolina Article 38, *Local Government Water & Wastewater Enterprises,* by Jeffrey A. Hughes and David M. Lawrence, published June 4, 2007.

SENATE SERGEANT-AT-ARMS

COMMITTEE: Senate Finance

DATE: 3/20/13 ROOM: 544

1. Anderson Meadows
2. Ed Kesler
3. Justin Owens
4. Steve Wilson
5. Billy Fritschner
6. _____

McCain Kerr ("Car")
- Tucker
- Monroe

Shelby Layton
- Clark
- Fayetteville

Garrett Chavis
- Raleigh
- Berger

Senate Pages

VISITOR REGISTRATION SHEET

Senate Finance Committee — March 20, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Wendy Monroe	UNCW
William Jones	[illegible]
Wendy Kelly	[illegible]
Susanna Davis	Williams Mullen
Chuck Allen	US Airways
Dean Plunkett	DP
Canaan Idris	MVA
June M. Kimmich	LWV - PO Box 595 Dobson, NC
Ellen McDowell	Tobacco Trade
Andy Chase	KMA
Lucille Howard	LWV

VISITOR REGISTRATION SHEET

Senate Finance Committee — March 20, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Guna Kammareddi	LWV
Mary Klenz	League of Woman Voters Charlotte Mecklenburg
Mitch Leonard	SEANC
Henry Jones	Jordan Price
Daniel VanLiere	Vidant Health
Vicki Boyer	League of Women Voters
Doug Heron	WM
Heather Barrett	IN&S
Dana Fanjon	CLT
Mehalick	DST
Sarah Sadler	MP

VISITOR REGISTRATION SHEET

Senate Finance Committee — March 20, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Andy Ellen	NCRMA
Bo Bosco	NCRMA

VISITOR REGISTRATION SHEET

Senate Finance Committee — March 20, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Casey Wentz	Sen. Barringer
Tom Friedman	S+P
Vance Holloman	NC DOT
Bill McRae	NC DOT
Drew Carlton	
Neal Robbins	DENR
Carr McLamb	DENR
Whitney Christensen	NCRLA
	Misc - NCTIA-NCMA
Solari	DOT
Dave Simpson	CABC

VISITOR REGISTRATION SHEET

Senate Finance Committee — March 20, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Steven Webb	NCHBA
Allen Hardison	CRSWOMA
Daniel Ambrose	NCRMA
David McGowan	NCAR

1-2

Senate Committee on Finance
Tuesday, March 26, 2013, 1:00 PM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 159	Require Certain General Reappraisals.	Senator Tarte Senator Rucho
SB 268	Sunset Beach/Canal Dredging/Maintenance Fee.	Senator Rabon

Adjournment

Senate Finance Committee
Tuesday, March 26, 2013
Room 544 LOB, 1:00 p.m.

Minutes

The Senate Committee on Finance met on Tuesday, March 26, 2013, at 1:00 p.m. in room 544 of the Legislative Office Building. Dee Anthony of Wake Forest, Sarah Finney of Monroe, Jackson Yelverton of Eureka, Jenna Johnson of Benson, Mattie Tart of Benson, Spencer Hutcheson of Durham and Davis Culton of Durham served as pages. Senator Rucho served as Chair to the meeting.

S.B. 159 – Require Certain General Reappraisals

Senator Tarte was recognized to explain the bill which would require counties to retroactively change appraisals valued during the county's last general reappraisal if certain conditions are met. Dan Ettefagh, a staff attorney with the Bill Drafting Division, was recognized for further explanation and to answer questions. Senator McKissick moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 268 – Sunset Beach/Canal Dredging/Maintenance Fee

Senator Rabon was recognized to explain the bill which would allow the Town of Sunset Beach to impose a canal dredging and maintenance fee. Senator Jenkins moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

The meeting adjourned at 1:20 p.m.

Senator Bob Rucho, Presiding Chair
Senate Finance Committee

DeAnne Mangum
Senate Finance Clerk

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Tuesday	March 26, 2013	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	
SB 159	Require Certain General Reappraisals.	Senator Tarte Dan
		Senator Rucho
SB 268	Sunset Beach/Canal Dredging/Maintenance Fee.	Senator Rabon Judy

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Tuesday, March 26, 2013

Senator Rucho,
submits the following with recommendations as to passage:

FAVORABLE

SB **159** Require Certain General Reappraisals.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

SB **268** **(CS#1)** Sunset Beach/Canal Dredging/Maintenance Fee.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED: 2

Senator Jeffery Tarte will handle SB 159
Senator William Rabon will handle SB 268

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S 1

SENATE BILL 159*

Short Title:	Require Certain General Reappraisals.	(Public)
Sponsors:	Senators Tarte, Rucho (Primary Sponsors); Ford and Goolsby.	
Referred to:	Finance.	

March 5, 2013

A BILL TO BE ENTITLED

AN ACT TO CORRECT GENERAL REAPPRAISALS RESULTING IN PROPERTY VALUES THAT DO NOT COMPLY WITH THE REQUIREMENTS OF NORTH CAROLINA LAW BY SETTING FORTH THE STEPS REQUIRED TO BRING THE GENERAL REAPPRAISAL INTO COMPLIANCE WITH THE APPLICABLE PROPERTY TAX MANDATES.

Whereas, the Great Recession has had deleterious effects on the economy and, especially, on the housing market; and

Whereas, valuation data for a calendar year is used to determine market value for a general reappraisal as of January 1 of the following year; and

Whereas, there were a total of 3,825,637 foreclosure filings during the 2010 calendar year and 2.23% of all households were in some stage of foreclosure during 2010; and

Whereas, annual analysis of the housing market in North Carolina in 2011 shows tax assessments in nearly half of the counties in the State were higher, on average, than actual market values; and

Whereas, the General Assembly has previously required accelerated general reappraisals when sales values deviated too much from assessed values, but such countywide analyses can fail to properly account for pockets of improperly valued properties or where properties have values that offset improperly valued properties located elsewhere within the county; and

Whereas, these unique and extraordinary conditions have increased the difficulty of accurately appraising real property for tax purposes and increased the number of actual errors in conducting reappraisals; and

Whereas, independent, corroborating evidence shows instances of high degrees of inequity in valuations among like properties of a type that is not acceptable by widely accepted mass appraisal standards; and

Whereas, independent, corroborating evidence shows, among other things, that there exist concrete examples of erroneous valuations, for example, that resulted both from the values accepted as initial values and from other inequities produced during the property tax appeals process; and

Whereas, these examples prove the existence of errors that give rise to significant issues that must be addressed to resolve inequities among like and similar properties; and

Whereas, the General Assembly recognizes that the confluence of these issues arising during the time when general reappraisals of real property were occurring has resulted not only in a higher risk but in a higher incidence of assessed values failing to accurately and fairly reflect true market values; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 105-287, G.S. 105-325, or any other provision of law restricting the time for which a change in appraisal or valuation may be made, a board of county commissioners shall undertake the measures required by this act if all of the following conditions are met:

(1) The county has independent, corroborating evidence that the majority of commercial neighborhoods in the county possess significant issues of inequity.

(2) The county has independent, corroborating evidence that, for residential neighborhoods, instances of inequity or erroneous data had a significant impact on the valuation of the neighborhood as a whole.

(3) The county's last general reappraisal was performed for the 2008 tax year, 2009 tax year, 2010 tax year, 2011 tax year, or 2012 tax year.

(4) The independent, corroborating evidence resulted from a review performed by a qualified appraisal company selected and retained by the county and registered with the Department of Revenue and had a sample size of no less than 375 properties, the relevant characteristics of which were reviewed on location at the property.

SECTION 2. If all of the conditions of Section 1 of this act are met, a board of county commissioners shall either (i) conduct a reappraisal, using no less than one person certified by the Department of Revenue for mass valuations per 4,250 parcels, pursuant to G.S. 105-286 within 18 months, applicable to all tax years from and including the tax year when the last general reappraisal was performed pursuant to G.S. 105-286 or (ii) have a qualified appraisal company conduct a total review of all the values in the county by neighborhoods and make recommendations as to the true value of the properties as of January 1 of the year of the last general reappraisal performed pursuant to G.S. 105-286. After the reappraisal or review required by this section is complete, the board of county commissioners shall make any change on the abstracts and tax records to ensure that the assessed values of incorrectly appraised properties in the county reflect the true values of those properties effective for the year of the last general reappraisal performed pursuant to G.S. 105-286 and shall apply the adjusted values for those properties for each tax year until the next general reappraisal for real property is performed by the county pursuant to G.S. 105-286, unless those adjusted values are changed in accordance with G.S. 105-287. In making changes to the abstracts and tax records mandated by this act, the board of county commissioners shall make adjustments for previous errors, prioritized as follows:

(1) Adjustments to parcels with errors that resulted in the parcels having a significantly overstated value.

(2) Adjustments to parcels with errors that resulted in the parcels having a significantly understated value.

(3) Adjustments to parcels with errors that resulted in the parcels having an overstated value.

(4) Adjustments to parcels with errors that resulted in the parcels having an understated value.

In instances of parcels with errors that resulted in an overpayment of taxes, the governing board shall require that notice of refund and the refund amount be sent to the owner of record as of the date the payment was made.

SECTION 3. Interest on taxes paid on parcels with errors that resulted in the parcels having an overstated value shall be calculated as if there was an order of the county board of equalization and review reducing the valuation of property pursuant to G.S. 105-360(e). Additional taxes levied on parcels as a result of errors causing the parcels to

have an understated value shall be treated as taxes on discovered property pursuant to G.S. 105-312.

SECTION 4. This act is effective when it becomes law. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

SENATE BILL 159:
Require Certain General Reappraisals

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	March 25, 2013
Introduced by:	Sens. Tarte, Rucho	**Prepared by:**	Dan Ettefagh Committee Counsel
Analysis of:	First Edition		

SUMMARY: ***This bill would require counties to retroactively change appraisals valued during the county's last general reappraisal if certain conditions are met.***

[As introduced, this bill was identical to H200, as introduced by Reps. W. Brawley, Cotham, which is currently in House Government, if favorable, Regulatory Reform, if favorable, Finance.]

CURRENT LAW: Under current law, the value of real property must be appraised as of January 1 by the county at least once every 8 years. Unless another standard applies for limited circumstances, the value to be determined is the true value of the property, or the price at which the property would change hands between a willing and financially able buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of all the uses to which the property is adapted and capable of being used. With limited exceptions, this value must be used by the county until the county conducts its next general reappraisal, and property tax appraisals may not be changed for tax years other than the current tax year (retroactive changes), regardless of whether such changes are sought by the taxpayer from the assessor, the board of equalization and review, or the board of county commissioners.[1] While G.S. 105-381 permits refunds or releases (which could result from lowered appraisals) if the tax in question was levied illegally or due to clerical error and while G.S. 105-394 permits retroactive changes to property tax records to correct "immaterial irregularities" in the listing, appraisal, levy, or collection process, neither provision likely authorizes retroactive changes to appraisals based on the alleged misjudgments of market value by the county.[2]

BILL ANALYSIS: This bill would supersede the time limitations disallowing retroactive changes where the following conditions are met:

- The county has evidence that the majority of commercial neighborhoods possess significant issues of inequity.
- The county has evidence that instances of inequity or erroneous data had significant impact on the valuation of residential neighborhoods in the county.

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[1] (See G.S. 105-287(c) (any change in appraisals made in non-general-revaluation years may take effect in the current tax year only and not retroactively; G.S. 105-296(i) (changes made informally by the assessor prior to the first meeting of the Bd of E&R may affect only current-year appraisals); G.S. 105-322 (authorizes board of E&R to make changes as permitted by G.S. 105-287 and as needed to resolve timely filed appeals of current year's appraisals); G.S. 105-325 (authorizes board of county commissioners to make changes only to current-year appraisals).

[2] Neither provision has been the subject of much litigation. The leading cases are *Ammons v. Wake County*, 127 N.C. App. 426 (1997), which makes clear that a misjudgment of market value under G.S. 105-381 cannot justify a refund under the "clerical error" standard but does not address the "levied illegally" standard, and *In re: Morgan*, 362 N.C. 339 (2008), which deals with immaterial irregularities. An argument that a misjudgment of market value was either an illegal tax or an immaterial irregularity would render the appeal deadline created by G.S. 105-322 unnecessary, and courts strive to avoid interpreting a statute in a manner that eliminates the relevance of another statute.

- The county's last general reappraisal was performed in one of the years when the economic downturn most severely affected home prices (2008-2012).
- The county's evidence (i) resulted from a review performed by an appraisal service retained and selected by the county and registered with the Department of Revenue and (ii) resulted from a sample size of not less than 375 properties that were examined on site.

If all of the conditions are met, the county must undertake one of the two following options:

- The county must conduct a general reappraisal pursuant to G.S. 105-286 within 18 months with at least 1 appraiser certified by the Department for mass valuations per 4,250 parcels.
- The county must have a qualified appraisal service expand the county's evidence of inequity to cover the entire county.

Once one of the two options has been completed, the county must change the abstracts and tax records so that the assessed value reflects the true value for each tax year until the next general reappraisal required by G.S. 105-286. In making these changes, the county must prioritize significantly overvalued parcels first, significantly undervalued parcels second, other overvalued parcels third, and other undervalued parcels last, and, in making refunds, the governing board of the county (and city, where applicable), must direct that a notice of refund and the refund amount be sent to the owner of record as of the date the payment was made. For overvalued parcels, the county would be required to repay the overpayment with interest in the same manner as if the Board of Equalization and Review reduced a valuation on property resulting in an overpayment under G.S. 105-360. The interest rate for overpayments is 2% for the period 1/6 to 2/1 and is .75% for the period 2/1 until paid. For undervalued parcels, the additional taxes would be treated as taxes on discovered properties pursuant to G.S. 105-312, on which interest does not begin to accrue until the next calendar date of delinquency, which would be January 6th.

EFFECTIVE DATE: This bill would be effective when it becomes law and the provisions of the bill are severable.

BACKGROUND: In 2011, Mecklenburg County conducted a general reappraisal, which has been a source of controversy and debate. In response to a significantly higher rate of appeal and public criticism, the county commissioned a review of the reappraisal data. The resulting report indicated that many of the neighborhoods throughout the county had valuations that had either major or minor issues affecting the calculation.[3]

The report is available online at the following website:

http://charmeck.org/mecklenburg/county/AssessorsOffice/Pages/RevaluationReview.aspx

The bill seeks to provide a remedy by conforming the previously established valuations to true or market values as of the date for which the reappraisal was to be effective coupled with a retroactive adjustment to tax liabilities. Laws amending property tax statutes must adhere to two North Carolina Constitutional provisions:

- Art. II, Sec. 24 of the NC Constitution prohibits local bills that "extend the time for the levy or collection of taxes or otherwise relieving any collector of tax from the due performance of his official duties."

[3] For example, in the neighborhood review, the report indicated major or minor issues in 49 of 150 neighborhoods, and in the land increase neighborhood review, the report indicated major or minor issues in 38 of 52 neighborhoods.

- Art. V, Sec. 2 of the NC Constitution requires that any "classification" of property for tax purposes "be made by general law uniformly applicable in every county, city, and town."

North Carolina courts have not addressed the question of whether a bill permitting or ordering the retroactive changing of property tax assessments in some (but not all) counties would violate either of these constitutional provisions. Although the bill addresses primarily a local issue and Mecklenburg County is the only county known to meet all of the conditions set forth in the bill, any county that conducted a revaluation between 2008 and 2012 can meet the bill conditions. A taxpayer or a county in the State may have standing to challenge a law that violated a Constitutional provision. It is unknown whether a court would find the bill to be local in nature or non-uniform.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S 2

SENATE BILL 268
State and Local Government Committee Substitute Adopted 3/20/13

Short Title: Sunset Beach/Canal Dredging/Maintenance Fee. (Local)

Sponsors:

Referred to:

March 13, 2013

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE TOWN OF SUNSET BEACH TO IMPOSE A CANAL DREDGING AND MAINTENANCE FEE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 7 of S.L. 2004-104, as amended by S.L. 2005-47, S.L. 2005-90, and S.L. 2011-108, reads as rewritten:

"**SECTION 7.** This act applies only within the municipal boundaries of the Towns of Emerald Isle, Holden Beach, Ocean Isle Beach, ~~and Southern Shores.~~Southern Shores, and Sunset Beach."

SECTION 2. Section 2(a) of S.L. 2011-108 reads as rewritten:

"**SECTION 2.(a)** This section applies only to the ~~Town~~ Towns of Southern Shores and Sunset Beach."

SECTION 3. This act is effective when it becomes law.

SENATE BILL 268:
Sunset Beach/Canal Dredging/Maintenance Fee

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	March 25, 2013
Introduced by:	Sen. Rabon	**Prepared by:**	Judy Collier
Analysis of:	Second Edition		Research Assistant

SUMMARY: ***Senate Bill 268 would allow the Town of Sunset Beach to impose a canal dredging and maintenance fee.***

The Proposed Committee Substitute (PCS) to the first edition of the bill received a favorable report from Senate State and Local Government Committee on March 20, 2013. The PCS was technical, adding Sunset Beach to the towns affected by changes made in Section 2 of SL 2011-108.

CURRENT LAW: The General Assembly authorized the Town of Ocean Isle Beach to create a fee-supported canal dredging district in 2004.[1] The General Assembly granted similar authority to the Towns of Emerald Isle and Holden Beach in 2005.[2] Finally, the General Assembly gave the Town of Southern Shores the authority to impose a canal dredging and maintenance fee in 2011.[3]

BILL ANALYSIS: Senate Bill 268 would allow the Town of Sunset Beach to do all of the following:

- Create a fee-supported canal dredging and maintenance district for all properties that are contiguous to a canal within its corporate limits.
- Impose annual fees for the dredging and maintenance of canals, both natural and concrete, on or before July 1 of each year. The fees may not exceed the cost of providing for the dredging and maintenance of the canals. The fees must be imposed on owners that could or do benefit from water access through the canal system within the municipality's corporate limits. The fees may be imposed on the property tax bill and collected in the same manner as ad valorem taxes.
- Abolish the district when there is no longer the need for it.
- Establish a capital reserve fund. If a capital reserve fund is established to build up funds to provide the service, the Town may delay providing the service until sufficient funds have accumulated (but not for longer than five years).

EFFECTIVE DATE: The act is effective when it becomes law.

Giles Perry and Brad Krehely, counsel to Senate State and Local Government Committee; and Cindy Avrette and Greg Roney, counsel to House and Senate Finance Committees, contributed to this summary.

[1] S.L. 2004-104.
[2] S.L. 2005-47 and S.L. 2005-90.
[3] S.L. 2011-108.

O. Walker Reagan
Director

Research Division
(919) 733-2578

SENATE PAGES ATTENDING

COMMITTEE: Finance ROOM: 1 PM

DATE: 3-26 TIME: 5:44

PLEASE PRINT LEGIBLY!!!!!!!!!!!!!

Page Name	Hometown	Sponsoring Senator
1 Lee Anthony	Wake Forest	Hunt
2 Sarah Finney	Monroe	Tucker
3 Jackson Yelverton	~~Eureka~~ Eureka	Pate
4 Jenna Johnson	Benson	Rabin
5 Mattie Tart	Benson	Rabin
6 Spence Hutcheson	Durham	McKissick
7 Davis Cutton	Durham	Woodard
8		
9		
10		

Do not add names below the grid.

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

SENATE SERGEANT-AT-ARMS

COMMITTEE: **SENATE FINANCE**

DATE: 03/26/13 ROOM: 544

1. STEVE WILSON
2. ANDERSON MEADOWS
3. JUSTIN OWENS
4. _____
5. _____
6. _____

VISITOR REGISTRATION SHEET

Senate Finance Committee — March 26, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Karl Knapp	NCLM
CASANDRA SKINNER	NCACC
Julia Adams	The Arc of NC
JAKE PARKER	NCFB
Morgan Bass	GW OFFICE
Dana Hunter	Gov Office
Lacy Shelton	—
Bob Lawrence	PLA

VISITOR REGISTRATION SHEET

Senate Finance Committee — March 26, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
[signature]	22208 Country Club Circle Cornelius, NC 28031
Phyllis B. Deaton	17233 Belle Isle Dr. Cornelius, N.C. 28031
Bob Deaton	17233 Belle Isle Dr. Cornelius, N.C. 28031
Richard Giroux	17307 Belle Isle Dr Cornelius NC 28031
Will Grafham	MWC
Paul Mordaunt	Infotech Inc.
Steven Webb	NCHBA
Cady Thomas	NCBA
George Smith	NP
David Baker	NCDOR
STEVE PEGGEEN	NCDOR
[signature]	MWC
[signature]	DTS

VISITOR REGISTRATION SHEET

Senate Finance Committee — March 26, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
William C. Sykes	Citizens of the State
Canaan White	MVA
Bob Barton	Resident Henderson County
Tom Denham	Citizens Revaluation Advisory Com. Chr.
Ronald Kelley	Citizen of State of NC
Susanna Davis	Williams Mullen
Carr McLamb	DENR
Daniel Baum	Troutman Sanders
Townes Maxwell	PSG
Doug Misken	PSG
Weldon Nance	Nance, Price

VISITOR REGISTRATION SHEET

Senate Finance Committee — March 26, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Heather Barnett	W&J
Joe Donovan	SCNC
Lonnie Oneris	FSP
Susan Vick	FSP

Senate Finance Committee
Wednesday, March 27, 2013
Room 544 LOB, 1:00 p.m.

Minutes

The Senate Committee on Finance met on Wednesday, March 27, 2013, at 1:00 p.m. in room 544 of the Legislative Office Building. Nick Thomas of Gaston, Regan Booth of Fai9rview, Jenna Johnson of Benson, Mattie Tart of Benson and Matt Taylor of Wilson served as pages. Senator Rabon served as Chair to the meeting.

S.B. 363 – Business Tax Reduction and Reforms

Senator Brock was recognized to explain the bill which was on the agenda for discussion only. It simplifies the privilege tax laws applicable to businesses by eliminating the myriad of current local and State privilege license taxes and treating all business entities with limited liability the same. Jonathan Tart, an analyst with the Fiscal Research Division, was recognized to answer questions. Cindy Avrette, a staff attorney with the Research Division, was recognized to further explain the bill and answer questions. Mark Prak, a local attorney, was recognized to speak in favor of the bill, stating that it would eliminate confusing licensure rules. Karl Knapp, a lobbyist with the League of Municipalities was recognized to speak in opposition to the bill since it is a local revenue source. Andy Ellen, a lobbyist with the Retail Merchants Association, was recognized to speak in favor of the bill. Sam Taylor, a lobbyist for NC Life Sciences, was recognized. He appreciates the proposed reforms but had reservations about the ability of global companies being limited in fund raising prior to creating products. A copy of the bill, the summary and the fiscal note is attached.

The meeting adjourned at 1:55 p.m.

Senator Bill Rabon, Presiding Chair
Senate Finance Committee

DeAnne Mangum
Senate Finance Clerk

Principal Clerk
Reading Clerk

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	March 27, 2013	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
SB 363	Business Tax Reduction and Reforms.	Senator Brock

S363 - Business Tax Reduction and Reforms - FOR DISCUSSION ONLY

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

Senate Committee on Finance
Wednesday, March 27, 2013, 1:00 PM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 363	Business Tax Reduction and Reforms.	Senator Brock

FOR DISCUSSION ONLY

Adjournment

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S 1

SENATE BILL 363

Short Title:	Business Tax Reduction and Reforms.	(Public)
Sponsors:	Senators Brock (Primary Sponsor); Hise, Rabin, and Rucho.	
Referred to:	Finance.	

March 20, 2013

A BILL TO BE ENTITLED

AN ACT TO REDUCE AND SIMPLIFY BUSINESS TAXES AND TO TAX ALL BUSINESS ENTITIES WITH LIMITED LIABILITY PROTECTION THE SAME.

The General Assembly of North Carolina enacts:

PART I. GENERAL FINDINGS AND INTENT

SECTION 1.(a) The General Assembly of North Carolina finds the following:

(1) North Carolina's franchise tax is imposed on corporations for the privilege of engaging in business in this State in a form of ownership that limits the liability of individual owners of the business.

(2) North Carolina's franchise tax was enacted in the early years of the 20th century when the corporate form of ownership was the form of ownership that conferred the privilege of limited liability for its owners.

(3) Today many forms of business entities enjoy the privilege of limited liability, but they are not subject to the corporate franchise tax.

(4) Businesses in North Carolina are subject to a myriad of different State, county, and municipal privilege taxes.

(5) North Carolina relies increasingly on volatile income taxes for its General Fund revenues.

(6) Franchise taxes and sales tax are more stable forms of revenue.

(7) North Carolina's personal income tax rates and corporate income tax rates are among the highest in our surrounding states.

SECTION 1.(b) It is the intent of this legislation to do the following:

(1) Eliminate the myriad of different State, county, and municipal privilege taxes imposed on businesses.

(2) Simplify the process of tax preparation and tax administration.

(3) Replace the current franchise tax on corporations with a business privilege tax on all forms of limited liability business entities.

SECTION 1.(c) It is the intent of the North Carolina General Assembly to do the following:

(1) Implement comprehensive tax reform.

(2) Restructure North Carolina's General Fund tax revenues to rely more heavily on stable sources of revenue.

(3) Phase out the State's reliance on income taxes.

(4) Increase the State's reliance on consumption taxes by expanding the sales tax base to include services.

(5) Exempt businesses that pay the franchise tax from the sales tax base expansion to business services.

PART II. SIMPLIFY BUSINESS TAXES BY REPEALING ARCHAIC STATE AND LOCAL PRIVILEGE TAXES

SECTION 2.(a) G.S. 105-33(b), 105-41, 105-83, 105-88, 105-102.3, 105-102.6, 105-103, 105-105, 105-106, 105-108, and 105-109 are repealed.

SECTION 2.(b) G.S. 153A-152 reads as rewritten:

"**§ 153A-152. ~~Privilege~~ No general authority for privilege license taxes.**

~~(a) Authority. A county may levy privilege license taxes on trades, occupations, professions, businesses, and franchises to the extent authorized by Article 2 of Chapter 105 of the General Statutes and any other acts of the General Assembly. A county may levy privilege license taxes to the extent formerly authorized by the following sections of Article 2 of Chapter 105 of the General Statutes before they were repealed:~~

~~G.S. 105-50~~	~~Pawnbrokers.~~
~~G.S. 105-53~~	~~Peddlers, itinerant merchants, and specialty market operators.~~
~~G.S. 105-55~~	~~Installing elevators and automatic sprinkler systems.~~
~~G.S. 105-58~~	~~Fortune tellers, palmists, etc.~~
~~G.S. 105-65~~	~~Music machines.~~
~~G.S. 105-66.1~~	~~Electronic video games.~~
~~G.S. 105-80~~	~~Firearms dealers and dealers in other weapons.~~
~~G.S. 105-89~~	~~Automobiles, wholesale supply dealers and service stations.~~
~~G.S. 105-89.1~~	~~Motorcycle dealers.~~
~~G.S. 105-90~~	~~Emigrant and employment agents.~~
~~G.S. 105-102.5~~	~~General business license.~~

~~(b) Telecommunications Restriction. A county may not impose a license, franchise, or privilege tax on a company taxed under G.S. 105-164.4(a) (4c).~~ A county may not levy a privilege license tax on a trade, occupation, profession, business, or franchise carried on within the county unless a statute or an act of the General Assembly authorizes the county to do so."

SECTION 2.(c) G.S. 160A-211 reads as rewritten:

"**§ 160A-211. ~~Privilege~~ No general authority for privilege license taxes.**

~~(a) Authority. Except as otherwise provided by law, a city shall have power to levy privilege license taxes on all trades, occupations, professions, businesses, and franchises carried on within the city. A city may levy privilege license taxes on the businesses that were formerly taxed by the State under the following sections of Article 2 of Chapter 105 of the General Statutes only to the extent the sections authorized cities to tax the businesses before the sections were repealed:~~

~~G.S. 105-36~~	~~Amusements Manufacturing, selling, leasing, or distributing moving picture films.~~
~~G.S. 105-36.1~~	~~Amusements Outdoor theatres.~~
~~G.S. 105-37~~	~~Amusements Moving pictures Admission.~~
~~G.S. 105-42~~	~~Private detectives and investigators.~~
~~G.S. 105-45~~	~~Collecting agencies.~~
~~G.S. 105-46~~	~~Undertakers and retail dealers in coffins.~~
~~G.S. 105-50~~	~~Pawnbrokers.~~
~~G.S. 105-51.1~~	~~Alarm systems.~~
~~G.S. 105-53~~	~~Peddlers, itinerant merchants, and specialty market operators.~~

~~G.S. 105-54~~	~~Contractors and construction companies.~~
~~G.S. 105-55~~	~~Installing elevators and automatic sprinkler systems.~~
~~G.S. 105-61~~	~~Hotels, motels, tourist courts and tourist homes.~~
~~G.S. 105-62~~	~~Restaurants.~~
~~G.S. 105-65~~	~~Music machines.~~
~~G.S. 105-65.1~~	~~Merchandising dispensers and weighing machines.~~
~~G.S. 105-66.1~~	~~Electronic video games.~~
~~G.S. 105-74~~	~~Pressing clubs, dry cleaning plants, and hat blockers.~~
~~G.S. 105-77~~	~~Tobacco warehouses.~~
~~G.S. 105-80~~	~~Firearms dealers and dealers in other weapons.~~
~~G.S. 105-85~~	~~Laundries.~~
~~G.S. 105-86~~	~~Outdoor advertising.~~
~~G.S. 105-89~~	~~Automobiles, wholesale supply dealers, and service stations.~~
~~G.S. 105-89.1~~	~~Motorcycle dealers.~~
~~G.S. 105-90~~	~~Emigrant and employment agents.~~
~~G.S. 105-91~~	~~Plumbers, heating contractors, and electricians.~~
~~G.S. 105-97~~	~~Manufacturers of ice cream.~~
~~G.S. 105-98~~	~~Branch or chain stores.~~
~~G.S. 105-99~~	~~Wholesale distributors of motor fuels.~~
~~G.S. 105-102.1~~	~~Certain cooperative associations.~~
~~G.S. 105-102.5~~	~~General business license.~~

~~(b) Barbershop and Salon Restriction. A privilege license tax levied by a city on a barbershop or a beauty salon may not exceed two dollars and fifty cents ($2.50) for each barber, manicurist, cosmetologist, beautician, or other operator employed in the barbershop or beauty salon.~~

~~(c) Prohibition. A city may not impose a license, franchise, or privilege tax on a person engaged in any of the businesses listed in this subsection. These businesses are subject to a State tax for which the city receives a share of the tax revenue.~~

~~(1) Supplying piped natural gas taxed under Article 5E of Chapter 105 of the General Statutes.~~

~~(2) Providing telecommunications service taxed under G.S. 105-164.4(a)(4c).~~

~~(3) Providing video programming taxed under G.S. 105-164.4(a)(6).~~

~~(d) Repealed by Session Laws 2006-151, s. 12, effective January 1, 2007.~~A city may not levy a privilege license tax on a trade, occupation, profession, business, or franchise carried on within the city unless a statute or an act of the General Assembly authorizes the city to do so."

SECTION 2.(d) This section becomes effective January 1, 2015. Subsections (b) and (c) of this section apply to taxes imposed for fiscal years beginning on or after that date. Subsection (a) of this section applies to taxes imposed under repealed Article 2 of Chapter 105 of the General Statutes as follows:

(1) For taxes payable under G.S. 105-41, 105-88, or 105-102.3, the section applies to taxes imposed under those statutes for taxable years beginning on or after July 1, 2015.

(2) For taxes payable under G.S. 105-83, the section applies to obligations dealt in, bought, or discounted on or after January 1, 2015.

PART III. REPEAL FRANCHISE TAX AND REPLACE IT WITH A MORE SIMPLE BUSINESS PRIVILEGE TAX APPLICABLE TO ALL BUSINESSES WITH LIMITED LIABILITY.

SECTION 3.(a) The title of Article 3 of Chapter 105 of the General Statutes reads as rewritten:

"Article 3.

~~Franchise Tax.~~Business Privilege Tax."

SECTION 3.(b) G.S. 105-114, 105-114.1, 105-120.2, 105-121.1, 105-122, 105-122.1, 105-125, 105-127, 105-128, and 105-129 are repealed.

SECTION 3.(c) Article 3 of Chapter 105 of the General Statutes is amended by adding the following new sections to read:

"**§ 105-114.2. Definitions.**

The following definitions apply in this Article:

(1) Affiliate. – A business entity under common ownership with another business entity.

(2) Affiliated group. – Defined in section 1504 of the Code.

(3) Business entity. – Any of the following:

a. A domestic corporation organized under Chapter 55 of the General Statutes or a foreign corporation that has received a certificate of authority under that Chapter authorizing it to do business in this State.

b. An electric membership corporation organized under Chapter 117 of the General Statutes.

c. A domestic limited liability company formed under Chapter 57C of the General Statutes or a foreign limited liability company that has received a certificate of authority under that Chapter authorizing it to do business in this State.

d. A domestic limited partnership formed under Article 5 of Chapter 59 of the General Statutes or a foreign limited partnership that has received a certificate of authority under that Article authorizing it to do business in this State.

e. A domestic limited liability partnership registered under Article 3B of Chapter 59 of the General Statutes or a foreign limited liability partnership registered under Article 4A of that Chapter.

f. A domestic or foreign limited liability limited partnership registered under G.S. 59-210.

g. Any other business whose form of organization confers limited liability on one or more of its owners.

(4) Capital interest. – The right of a business entity that is not a corporation to receive a percentage of the business entity's assets upon dissolution after payments to creditors.

(5) City. – Defined in G.S. 105-228.90.

(6) Code. – Defined in G.S. 105-228.90.

(7) Doing business. – Each and every act, power, or privilege exercised or enjoyed in this State, as an incident to, or by virtue of the powers and privileges granted by the laws of this State.

(8) Holding company. – A business entity that receives during its taxable year more than eighty percent (80%) of its gross income from one or more business entities with which it has common ownership.

(9) Ownership. – The direct or indirect control of more than fifty percent (50%) of the outstanding voting stock or voting capital interests of a business entity. Ownership of voting stock is determined by reference to the constructive ownership rules for stock under section 318 of the Code. Ownership of capital interests is determined by reference to the constructive

ownership rules for partnerships, estates, and trusts in section 318(a)(2)(A) and (B) of the Code with the following modifications:

a. The term "capital interest" is substituted for "stock" each place it appears.

b. A noncorporate limited liability company and any noncorporate entity other than a partnership, estate, or trust is treated as a partnership. A noncorporate entity does not include a human being. A noncorporate limited liability company is a limited liability company that does not elect to be taxed as a corporation under the Code.

c. The operating rule of section 318(a)(5) of the Code applies without regard to section 318(a)(5)(C).

(10) Parent. – A business entity that has ownership of another business entity.

(11) Secretary. – Defined in G.S. 105-228.90.

(12) Subsidiary. – A business entity under the ownership of another business entity.

(13) Taxable year. – Defined in section 441(b) of the Code.

"**§ 105-114.3. Nature of tax.**

This Article imposes a privilege tax on a business entity for the privilege of doing business in this State in an organizational form that confers limited liability on one or more owners of the entity. The tax is an accrued tax and is imposed for the exercise of this privilege during the period covered by a tax return. Payment of the tax imposed by this Article is a condition precedent to the right to do business in this State and, for a business entity that is organized or formed in this State, to the right to continue in the entity's organizational form. When a noncorporate business entity is doing business in this State, each owner of the noncorporate business entity is doing business in this State.

"**§ 105-114.4. Business privilege tax imposed.**

An annual privilege tax is imposed on a business entity doing business in this State at the rate of one dollar and thirty-five cents ($1.35) per one thousand dollars ($1,000) of the business entity's adjusted net worth tax base, determined in accordance with G.S. 105-114.5. The tax payable by a business entity may not be less than five hundred dollars ($500.00). The tax payable by a business entity other than a corporation may not be more than five thousand dollars ($5,000). The tax payable by a holding company may not be more than seventy-five thousand dollars ($75,000). The tax imposed by this section does not apply to a company that is subject to tax under G.S. 105-116 unless the tax imposed under G.S. 105-116 is less than the tax imposed under this section.

After the end of the taxable year in which a business entity is dissolved, the entity is no longer subject to the tax levied in this Article unless the Secretary finds that the entity has engaged in business activities in this State not appropriate to winding up and liquidating its business.

"**§ 105-114.5. Adjusted net worth tax base.**

The net worth of a business entity is the entity's total assets less its total liabilities, computed in accordance with generally accepted accounting principles as of the end of the entity's taxable year. If the entity does not maintain its books and records in accordance with generally accepted accounting principles, then its net worth is computed in accordance with the accounting method used by the entity for federal tax purposes so long as the method fairly reflects the entity's net worth for purposes of the tax levied by this section. A business entity's net worth is subject to the following adjustments:

(1) A deduction for accumulated depreciation and amortization is determined in accordance with the method used for federal tax purposes.

(2) An addition for indebtedness the business entity owes to a parent, a subsidiary, or an affiliate. The amount added back to the business entity's net worth may be further adjusted as follows:

a. If part of the capital of the creditor business entity is capital borrowed from a source other than a parent, a subsidiary, or an affiliate, the debtor business entity may deduct a proportionate part of the indebtedness based on the ratio of the borrowed capital of the creditor business entity to the total assets of the creditor business entity.

b. If part of the capital of the creditor business entity consists of indebtedness owed to a parent, a subsidiary, or an affiliate that is directly traceable to capital borrowed from a source other than a parent, a subsidiary, or an affiliate, the debtor business entity may deduct a proportionate part of the indebtedness based on the ratio of the borrowed capital of the creditor business entity to the total assets of the creditor business entity.

c. If the creditor business entity is taxable under this Article, the creditor business entity may deduct the indebtedness from its net worth to the extent the debtor business entity was not allowed to deduct the indebtedness.

(3) A corporation may deduct the cost of treasury stock.

"**§ 105-114.6. Exclusions in calculating tax.**

(a) Disregarded LLC. – A single member limited liability company whose single member is a corporation is disregarded under this Article if it is disregarded for federal income tax purposes. The corporation that is the single member of the disregarded limited liability company must include the net worth and property of the disregarded limited liability company in the corporation's tax base.

(b) No Tax Tiering. – A noncorporate business entity's ownership interest in another noncorporate business entity that is taxable under this Article is excluded in determining the owner's net worth under G.S. 105-114.5.

(c) Investment Companies. – The following exclusions apply to investment companies in determining their tax liability under this Article:

(1) A regulated investment company may deduct the value of its investments in stocks, bonds, debentures, or other securities or evidences of debt. A regulated investment company is an entity that qualifies as a regulated investment company under section 851 of the Code.

(2) A REIT may deduct the value of its investments in real property, unless the REIT is a captive REIT. The terms "REIT" and "captive REIT" have the same meanings as defined in G.S. 105-130.12.

(3) A venture capital company may deduct the value of its capital under management. A venture capital company is an entity whose purpose is to provide financing for start-up businesses and that obtains the capital it uses to provide financing only from investors who are accredited investors under 17 C.F.R. § 230.215 or are institutional investors.

(d) Short Year Adjustment. – A business entity that changes its taxable year and files a "short period" income tax return may deduct from its tax liability computed on an annual basis the amount of tax previously paid that is applicable to the period subsequent to the beginning of the new taxable year.

"**§ 105-114.7. Determination of ownership after certain transfers.**

(a) Transfers by Corporations. – Ownership of the capital interests in a noncorporate business entity is determined as of the last day of the business entity's taxable year. If a

noncorporate business entity and a corporation or an affiliated group have engaged in a pattern of transferring assets between them with the result that each did not own the capital interest on the last day of its taxable year, the ownership of the capital interests in the noncorporate business entity must be determined as of the last day of the corporation's or group of corporations' taxable year.

(b) Tax-Free Distribution. – If a noncorporate business entity receives from a person a tax-free contribution of assets under section 721 of the Code within 120 days after making a tax-free distribution of assets to that person under section 732 of the Code with the result that the business entity did not own the capital interests on the last day of its taxable year, the assets that were distributed tax-free are considered owned by the business entity as of the last day of its taxable year.

"**§ 105-114.8. Apportionment by multistate business entities.**

A business entity that is doing business in this State and in one or more other states must apportion its net worth to this State. A corporation that is subject to income tax under Article 4 of this Chapter must use the fraction it applies in apportioning its income under that Article. A business entity that is not subject to income tax under Article 4 of this Chapter must apportion its net worth by using the fraction it would be required to apply in apportioning its income if it were subject to that Article. A business entity that believes this apportionment method subjects a greater portion of its net worth to tax under this section than is attributable to its business in this State may make a written request to the Secretary for permission to use an alternative method of apportionment, in the same manner as provided in G.S. 105-130.4(t1).

"**§ 105-114.9. Return and payment.**

The tax imposed by G.S. 105-114.4 is due when a return is due. A return is due on or before the fifteenth day of the fourth month following the end of the business entity's income year. A taxpayer may ask the Secretary for an extension of time to file a return under G.S. 105-263. A business entity must file a return under affirmation with the Secretary at the place and in the manner prescribed by the Secretary. The return must be signed by the president, vice president, treasurer, or chief financial officer of the business entity.

...

"**§ 105-125.1. Exempt business entities.**

A business entity listed in this section is exempt from the privilege tax imposed by this Article unless it has unrelated business income. A business entity that is listed in this section and has unrelated business income is subject to the tax imposed by this Article on its adjusted net worth or property attributable to its unrelated business income. Upon request of the Secretary, an exempt business entity must establish its claim for exemption in writing. The exempt entities are:

(1) A business entity exempt from federal income tax under the Code.

(2) An insurance company subject to tax under Article 8B of this Chapter.

(3) A single member limited liability company that is disregarded for federal income tax purposes if the single member is a corporation and the disregarded limited liability company's net worth is included in that of its single member.

(4) A real estate mortgage investment conduit as defined in section 860D of the Code."

SECTION 3.(d) This act is effective for taxable years beginning on or after January 1, 2015, and for which taxes are due on or after that date.

PART IV. REDUCE ANNUAL REPORT FILING FEES FOR UNINCORPORATED BUSINESSES WITH LIMITED LIABILITY

SECTION 4.(a) G.S. 57C-1-22(a)(25) reads as rewritten:

"(a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to the Secretary of State for filing:

Document	Fee
...	
(25) Annual report (paper)	~~200.00~~25.00
(25a) Annual report (electronic)	18.00
...."	

SECTION 4.(b) G.S. 59-35.2(a)(18) reads as rewritten:

"(a) The Secretary of State shall collect the following fees when the documents described in this subsection are submitted by a partnership to the Secretary of State for filing:

Document	Fee
...	
(18) Annual report (paper)	~~200.00~~25.00
(18a) Annual report (electronic)	18.00
...."	

SECTION 4.(c) G.S. 59-1106(a)(22) reads as rewritten:

"(a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to the Secretary of State for filing:

Document	Fee
...	
(22) Annual report for a limited liability limited partnership (paper)	~~200.00~~25.00
(22a) Annual report for a limited liability limited partnership (electronic)	18.00
...."	

SECTION 4.(d) G.S. 105-122.1 is repealed.

SECTION 4.(e) This section becomes effective January 1, 2015, and applies to annual reports due on or after January 1, 2015.

PART V. PRIVILEGE TAX CONFORMING CHANGES

SECTION 5.(a) G.S. 93-12(12) and G.S. 105-259(b)(4) are repealed.

SECTION 5.(b) G.S. 53-165 reads as rewritten:

"**§ 53-165. Definitions.**

The following definitions apply in this Article:

~~(a)~~(1) ~~"Amount of the loan" shall mean the~~ Amount of the loan. – The aggregate of the cash advance and the charges authorized by G.S. 53-173 and G.S. 53-176.

~~(b)~~(2) ~~"Borrower" shall mean any~~ Borrower. – A person who borrows money ~~from any licensee or who pays or obligates himself to pay any money~~ from, pays or is obligated to pay money to, or otherwise furnishes any valuable consideration to any licensee for any act of the licensee as a licensee.

~~(c)~~(3) ~~"Cash advance" shall mean the~~ Cash advance. – The amount of cash or its equivalent ~~that the~~ a borrower actually receives or is paid out at ~~his discretion or on his behalf.~~the discretion of the borrower or on behalf of the borrower.

~~(d)~~(4) ~~"Commission" shall mean the~~ Commission. – The State Banking Commission.

~~(e)~~(5) ~~"Commissioner" shall mean the~~ Commissioner. – The Commissioner of Banks.

~~(f)~~(6) ~~"Deputy commissioner" shall mean the~~ Deputy commissioner. – The deputy commissioner of banks.

(7) Installment paper dealer. – A person who buys or discounts notes or other evidences of debt secured, at the time the debt is incurred, by personal property located in this State.

~~(g)~~(8) ~~"License" shall mean the~~ License. – The certificate issued by the Commissioner under the authority of this Article to conduct a consumer finance business.

~~(h)~~(9) ~~"Licensee" shall mean a~~ Licensee. – A person to whom one or more licenses have been issued.

~~(i)~~(10) ~~"Loanable assets" shall mean cash or bank deposits or installment loans made as a licensee pursuant to this Article or installment loans made as a licensee pursuant to the Article which this Article supersedes or such other loans payable on an installment basis as the Commissioner of Banks may approve, or any combination of two or more thereof.~~Loanable assets. – Cash, bank deposits, installment loans, or any combination of these.

~~(j)~~(11) ~~"Person" shall include any person,~~ Person. – An individual, a firm, a partnership, ~~association or corporation.~~ an association, a limited liability company, a corporation, or another group acting as a unit."

SECTION 5.(c) G.S. 53-172(a) reads as rewritten:

"(a) No licensee shall conduct the business of making loans under this Article within any office, suite, room, or place of business in which any other business is solicited or transacted. The business of making loans includes acting as an installment paper dealer and collecting a loan made by a government regulated lender.

~~Installment paper dealers as defined in G.S. 105-83, and the collection by a licensee of loans legally made in North Carolina, or another state by another government regulated lender or lending agency, shall not be considered as being any other business within the meaning of this section.~~"

SECTION 5.(d) G.S. 53-191 reads as rewritten:

"**§ 53-191. Businesses exempted.**

~~Nothing in this~~ This Article ~~shall be construed to~~ does not apply to any ~~person, firm or corporation~~ person doing business under the authority of any law of this State or of the United States relating to banks, trust companies, savings and loan associations, cooperative credit unions, agricultural credit corporations or associations organized under the laws of North Carolina, production credit associations organized under the ~~act of Congress known as the~~ federal Farm Credit Act of 1933, pawnbrokers lending or advancing money on specific articles of personal property, industrial banks, ~~the business of negotiating~~ businesses that negotiate or solicit loans on real estate as ~~defined in G.S. 105-41,~~ agent for another for compensation, ~~nor to~~ or installment paper dealers ~~as defined in G.S. 105-83 other than persons, firms and corporations~~ other than persons engaged in the business of accepting fees for endorsing or otherwise securing loans or contracts for the repayment of loans."

SECTION 5.(e) G.S. 95-47.2(d)(3)c. reads as rewritten:

"(d) Upon the receipt of an application for a license the Commissioner:

...

(3) Upon completion of the investigation, or 60 days after the application was received, whichever is later, but in no case more than 75 days after the application was received, shall determine whether or not a license should be issued. The license shall be denied for any of the following reasons:

...

c. If the employment agency will be operated on the same premises as ~~a loan agency (as defined in G.S. 105-88) or collection agency (as defined in G.S. 58-70-15).~~ any of the following:

1. A business that makes loans and takes as security for repayment of the loans an assignment of wages or any other type of security.
2. A check cashing business regulated under Article 22 of Chapter 53 of the General Statutes.
3. A pawnbroker business regulated under Chapter 91A of the General Statutes.
4. A collection agency as defined in G.S. 58-70-15."

SECTION 5.(f) G.S. 105-130.6A(a)(2) reads as rewritten:

"(a) Definitions. – The provisions of G.S. 105-130.6 govern the determination of whether a corporation is a subsidiary or an affiliate of another corporation. In addition, the following definitions apply in this section:

...

(2) Bank holding company. – A holding company with an affiliate that is ~~subject to the privilege tax on banks levied in G.S. 105-102.3~~engaged in the business of banking.

...."

SECTION 5.(g) This section becomes effective January 1, 2015.

PART VI. FRANCHISE TAX CONFORMING CHANGES

SECTION 6.(a) G.S. 105-116 reads as rewritten:

"**§ 105-116. ~~Franchise or privilege~~ Privilege tax on electric power, water, and sewerage companies.**

(a) Tax. – An annual ~~franchise or~~ privilege tax is imposed on the following:

(1) An electric power company engaged in the business of furnishing electricity, electric lights, current, or power.

(2), (2a) Repealed by Session Laws 1998-22, s. 2, effective July 1, 1999.

(3) A water company engaged in owning or operating a water system subject to regulation by the North Carolina Utilities Commission.

(4) A public sewerage company engaged in owning or operating a public sewerage system.

(a1) Rate. – The tax on an electric power company is three and twenty-two hundredths percent (3.22%) of the company's taxable gross receipts from the business of furnishing electricity, electric lights, current, or power. The tax on a water company is four percent (4%) of the company's taxable gross receipts from owning or operating a water system subject to regulation by the North Carolina Utilities Commission. The tax on a public sewerage company is six percent (6%) of the company's taxable gross receipts from owning or operating a public sewerage company. A company's taxable gross receipts are its gross receipts from business inside the State less the amount of gross receipts from sales reported under subdivision (b)(2). A company that engages in more than one business taxed under this section shall pay tax on each business.

(b) Report and Payment. – The tax imposed by this section is payable quarterly or monthly as specified in this subsection. A return is due quarterly.

A water company or public sewerage company must pay tax quarterly when filing a return. An electric power company must pay tax in accordance with the schedule and requirements that apply to payments of sales and use tax under G.S. 105-164.16 and must file a return quarterly.

A quarterly return covers a calendar quarter and is due by the last day of the month that follows the quarter covered by the return. A taxpayer must submit a return on a form provided by the Secretary. The return must include the taxpayer's gross receipts from all property it owned or operated during the reporting period in connection with its business taxed under this

section. A taxpayer must report its gross receipts on an accrual basis. A return must contain the following information:

(1) The taxpayer's gross receipts for the reporting period from business inside and outside this State, stated separately.

(2) The taxpayer's gross receipts from commodities or services described in subsection (a) that are sold to a vendee subject to the tax levied by this section or to a joint agency established under Chapter 159B of the General Statutes or a city having an ownership share in a project established under that Chapter.

(3) The amount of and price paid by the taxpayer for commodities or services described in subsection (a) that are purchased from others engaged in business in this State and the name of each vendor.

(4) For an electric power company the entity's gross receipts from the sale within each city of the commodities and services described in ~~subsection (a).~~ subsection (a) of this section.

(c) Repealed by Session Laws 1998-22, s. 2, effective July 1, 1999.

(d) Distribution. – Part of the taxes imposed by this section on electric power companies is distributed to cities under G.S. 105-116.1. If a taxpayer's return does not state the taxpayer's taxable gross receipts derived within a city, the Secretary must determine a practical method of allocating part of the taxpayer's taxable gross receipts to the city.

(e) Local Tax. – The following restrictions apply to local taxes on an electric power company that is subject to tax under this section:

(1) So long as there is a distribution to cities from the tax imposed by this section, no city shall impose or collect any greater franchise, privilege or license taxes, in the aggregate, on the businesses taxed under this section, than was imposed and collected on or before January 1, 1947.

~~(e1)~~(2) An electric power company ~~engaged in the business of furnishing electricity, electric lights, current, or power~~ that collects ~~the annual franchise or privilege~~ tax pursuant to subsection (a) of this section and remits the tax collected to the Secretary ~~shall not be~~ is not subject to any additional franchise or privilege tax imposed upon it by any city or county.

(f) Repealed by Session Laws 1998-22, s. 2, effective July 1, 1999."

SECTION 6.(b) G.S. 105-120.2 reads as rewritten:

"**§ 105-120.2. ~~Franchise or privilege~~ Privilege tax on holding companies.**

...

(b) ~~(1) Every~~ A corporation taxed under this section shall annually pay to the Secretary of Revenue, at the time the report and statement are due, a ~~franchise or~~ privilege ~~tax, which is hereby levied, at~~ tax at the rate of ~~one dollar and fifty cents ($1.50)~~ one dollar and thirty-five cents ($1.35) per one thousand dollars ($1,000) of the amount determined under subsection (a) of this section, but in no case shall the tax be more than seventy-five thousand dollars ($75,000) nor less than ~~thirty-five dollars ($35.00).~~ five hundred dollars ($500.00).

~~(2) Notwithstanding the provisions of subdivision (1) of this subsection, if the tax produced pursuant to application of this paragraph (2) exceeds the tax produced pursuant to application of subdivision (1), then the tax shall be levied at the rate of one dollar and fifty cents ($1.50) per one thousand dollars ($1,000) on the greater of the amounts of~~

~~a. Fifty-five percent (55%) of the appraised value as determined for ad valorem taxation of all the real and tangible personal property in this State of each such corporation plus the total appraised value of~~

~~intangible property returned for taxation of intangible personal property as computed under G.S. 105-122(d); or~~

~~b. The total actual investment in tangible property in this State of such corporation as computed under G.S. 105-122(d).~~

...."

SECTION 6.(c) G.S. 105-129.27(b) reads as rewritten:

"(b) Taxes Credited. – The credit provided in this section is allowed against the ~~franchise~~ privilege tax levied in Article 3 of this Chapter and the income tax levied in Part 1 of Article 4 of this Chapter. Any other nonrefundable credits allowed the owner are subtracted before the credit allowed by this section."

SECTION 6.(d) G.S. 105-129.41(a1) reads as rewritten:

"(a1) Tax Election. – The credit allowed in this section is allowed against the ~~franchise~~ privilege tax levied in Article 3 of this Chapter, the income taxes levied in Article 4 of this Chapter, or the gross premiums tax levied in Article 8B of this Chapter. The taxpayer must elect the tax against which the credit will be claimed when filing the return on which the first installment of the credit is claimed. This election is binding. Any carryforwards of the credit must be claimed against the same tax."

SECTION 6.(e) G.S. 105-129.96(b) reads as rewritten:

"(b) Taxes Credited. – The credit provided in this section is allowed against the ~~franchise~~ privilege tax levied in Article 3 of this Chapter or the income taxes levied in Article 4 of this Chapter. The taxpayer must elect the tax against which a credit will be claimed when filing the return on which the first installment of the credit is claimed. This election is binding. The credit may not exceed fifty percent (50%) of the tax against which it is applied. Any unused portion of a credit may be carried forward for the succeeding 10 years. Any carryforwards of a credit must be claimed against the same tax."

SECTION 6.(f) G.S. 105-130.6A(h) reads as rewritten:

"(h) Limitation on Credits. – The credits provided in this section are allowed against the tax levied in this Part and the ~~franchise~~ privilege tax levied in Article 3 of this Chapter. A taxpayer may claim a credit against only one of the taxes against which it is allowed. Each taxpayer must elect the tax against which the credit will be taken when filing the return on which the first installment of the credit is claimed. This election is binding. All installments and carryforwards of the credit must be taken against the same tax.

In order for a member of an affiliated group to take a credit, each member of the affiliated group that is required to file a return under this Part or under Article 3 of this Chapter must attach a schedule to its return that shows for every member of the group the amount of the credit taken by it, the tax against which it is taken, and the amount of the resulting tax. In addition, each member must provide any other documentation required by the Secretary.

A credit allowed in this section may not exceed the amount of tax against which it is taken for the taxable year reduced by the sum of all credits allowable, except tax payments made by or on behalf of the taxpayer. Any unused portion of the credit may be carried forward to succeeding taxable years."

SECTION 6.(g) G.S. 105-230 reads as rewritten:

"**§ 105-230. ~~Charter suspended for failure to report.~~Suspension of business entity's right to do business for noncompliance.**

(a) Suspension. ~~If a corporation or a limited liability company fails to file any~~ Failure of a business entity, as defined in G.S. 105-114.2, to file a report or return or to pay ~~any~~ a tax or fee required by this Subchapter for 90 days after it is ~~due, the Secretary shall inform the Secretary of State of this failure. The Secretary of State shall~~ due is grounds to suspend the business entity's articles of incorporation, articles of organization, ~~or~~ certificate of authority, ~~as appropriate, of the corporation or limited liability company. The Secretary of State shall immediately notify by mail every domestic or foreign corporation or limited liability company~~

~~so suspended of its suspension.~~ or certificate of registration, as appropriate. The Secretary must notify the Secretary of State when a business entity's authority to transact business is subject to suspension. The Secretary of State must then immediately suspend the business entity's articles of incorporation or other authority to transact business and must notify the business entity by mail of the suspension. The powers, privileges, and franchises conferred upon the ~~corporation or limited liability company by the articles of incorporation, the articles of organization, or the certificate of authority~~ business entity by its articles of incorporation or other authority to transact business terminate upon suspension.

(b) Effect. – Any act performed or attempted to be performed during the period ~~of suspension~~ the business entity's authority to transact business is suspended under this section is invalid and of no effect, unless the Secretary of State reinstates the ~~corporation or limited liability company~~ business entity's authority pursuant to G.S. 105-232."

SECTION 6.(h) G.S. 105-232 reads as rewritten:

"**§ 105-232. ~~Rights restored; receivership and liquidation.~~Procedure for reinstatement after suspension of business entity's authority to do business for noncompliance.**

~~(a) Any corporation or limited liability company whose articles of incorporation, articles of organization, or certificate of authority to do business in this State has been suspended by the Secretary of State under G.S. 105-230, that complies with all the requirements of this Subchapter and pays all State taxes, fees, or penalties due from it (which total amount due may be computed, for years prior and subsequent to the suspension, in the same manner as if the suspension had not taken place), and pays to the Secretary of Revenue a fee of twenty-five dollars ($25.00) to cover the cost of reinstatement, is entitled to exercise again its rights, privileges, and franchises in this State. The Secretary of Revenue shall notify the Secretary of State of this compliance and the Secretary of State shall reinstate the corporation or limited liability company by appropriate entry upon the records of the office of the Secretary of State. Upon entry of reinstatement, it relates back to and takes effect as of the date of the suspension by the Secretary of State and the corporation or limited liability company resumes carrying on its business as if the suspension had never occurred, subject to the rights of any person who reasonably relied, to that person's prejudice, upon the suspension. The Secretary of State shall immediately notify by mail the corporation or limited liability company of the reinstatement.~~The suspension under G.S. 105-230 of the authority of a business entity to transact business terminates when the business entity resolves the noncompliance that resulted in the suspension and pays a reinstatement fee of fifty dollars ($50.00) to the Secretary of Revenue. The Secretary of Revenue must notify the Secretary of State when a business entity whose authority is suspended resolves the noncompliance. The Secretary of State must then immediately reinstate the business entity's authority and must notify the business entity by mail of the reinstatement. Reinstatement of a business entity's authority to do business relates back to and takes effect as of the date of the suspension, subject to the rights of a person who reasonably relied to that person's prejudice on the suspension.

~~(b) When the articles of incorporation, articles of organization, or certificate of authority to do business in this State has been suspended by the Secretary of State under G.S. 105-230, and the corporation or limited liability company has ceased to operate as a going concern, if there remains property held in the name of the corporation or limited liability company or undisposed of at the time of the suspension, or there remain future interests that may accrue to the corporation, the limited liability company, or its successors, members, or stockholders, any interested party may apply to the superior court for the appointment of a receiver. Application for the receiver may be made in a civil action to which all stockholders, members, or their representatives or next of kin shall be made parties. Stockholders or members whose whereabouts are unknown, unknown stockholders or members, unknown heirs and next of kin of deceased stockholders, members, creditors, dealers, and other interested persons may~~

~~be served by publication. A guardian ad litem may be appointed for any stockholders, members, or their representatives who are infants or incompetent. The receiver shall enter into a bond if the court requires one and shall give notice to creditors by publication or otherwise as the court may prescribe. Any creditor who fails to file a claim with the receiver within the time set shall be barred of the right to participate in the distribution of the assets. The receiver may (i) sell the property interests of the corporation or limited liability company upon such terms and in such manner as the court may order, (ii) apply the proceeds to the payment of any debts of the corporation or limited liability company, and (iii) distribute the remainder among the stockholders, the members, or their representatives in proportion to their interests in the property interests. Shares due to any stockholder or member who is unknown or whose whereabouts are unknown shall be paid into the office of the clerk of the superior court, to be disbursed according to law. In the event the records of the corporation or limited liability company are lost or do not reflect the owners of the property interests, the court shall determine the owners from the best evidence available, and the receiver shall be protected in acting in accordance with the court's finding. This proceeding is authorized for the sole purpose of providing a procedure for disposing of the assets of the corporation or limited liability company by the payment of its debts and by the transfer to its stockholders, its members, or their representatives their proportionate shares of its assets."~~

SECTION 6.(i) This section becomes effective for taxable years beginning on or after January 1, 2014.

PART VII. SAVINGS CLAUSE AND EFFECTIVE DATE

SECTION 7.(a) This act does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this act before the effective date of its amendment or repeal, nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal.

SECTION 7.(b) Except as otherwise provided, this act is effective when it becomes law.

SENATE BILL 363:
Business Tax Reduction and Reforms

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	March 22, 2013
Introduced by:	Sen. Brock	**Prepared by:**	Cindy Avrette
Analysis of:	First Edition		Committee Counsel

SUMMARY: Senate Bill 363 simplifies the privilege tax laws applicable to businesses by eliminating the myriad of current local and State privilege license taxes and treating all business entities with limited liability the same.

CURRENT LAW: Senate Bill 363 makes significant changes in three general areas of taxation:

Local privilege taxes

Counties have no general authority to impose these taxes but are authorized by Article 2 to levy some specific taxes. Cities have general authority to impose privilege license taxes unless limited by Article 2.[1] In recent years, some cities have used the general authority under G.S. 160A-211 to impose a gross receipts privilege tax on businesses and professions for which it is not restricted by general law.[2] The result is a taxing system with arbitrary distinctions between businesses, inconsistent application across the State, and in some instances double taxation because there is no statutory obligation to apportion gross receipts. In 2008, licensed home inspectors requested legislation to be taxed under the $50 State privilege license tax so that cities would be prohibited from imposing local privilege license taxes on them.

State privilege taxes

The General Assembly repealed about 30 State privilege license taxes in 1996. The tax on 11 named professionals was retained because of the fiscal impact of its repeal.[3] The other privilege taxes were retained because they have a gross receipts or other variable element (amusements, circuses, installment paper dealers, banks), were related to a tax that is retained (loan agencies), or were enacted for a regulatory purpose (newsprint publications).

State franchise tax

The franchise tax is one of the State's oldest taxes. In 1849 it was calculated as a tax on the capital stock of a corporation. In 1933, the rate was set at $1.50 per $1,000 and the rate remains the same today. The rate is applied to the highest of three tax bases: net worth apportioned to the State; 55% of the appraised value of property in the State subject to local taxation; and the book value of real and tangible personal property.

The general franchise tax[4] applies only to C-corporations, S-corporations, electric membership corporations, and limited liability companies that elect to be taxed as a corporation under the Internal Revenue Code. The tax does not apply to other limited liability companies, limited liability partnerships, limited partnerships,

[1] When the General Assembly repealed 30 privilege license statutes in 1996, it retained the local restrictions in those statutes. Today, counties and cities must abide by the restrictions of "Schedule B", even though the text is not available in the statutes.
[2] Approximately 300 cities levy privilege taxes; the taxes are a significant revenue source for about seven cities (Charlotte, Raleigh, Greensboro, Durham, High Point, Lumberton, and Hickory).
[3] In 1996, there fiscal impact would have been a reduction in General Fund revenues of $3 million.
[4] There is a utility franchise tax applicable to electric power companies, water utility companies, and sewer utility companies. The bill does not address the utility franchise tax.

partnerships, sole proprietors, or insurance companies[5]. North Carolina first authorized limited liability companies in 1989. In return for not being subject to the franchise tax, limited liability companies pay an annual report fee of $200.[6] Corporations pay an annual report fee of $25 for a paper report and $18 for an electronic report.

BILL ANALYSIS: Part II of the bill repeals the remaining State privilege license taxes except those imposed on live entertainment activities, movies, and amusements. It also repeals the general authority that allows cities and counties to impose local privilege license taxes.

Part III of the bill replaces the current franchise tax with a privilege license tax applicable to all business entities that enjoy limited liability protections. The key differences between the current franchise tax and the proposed privilege tax are as follows:

Current Franchise Tax	Proposed Privilege Tax
Applies to C-corporations, S-corporations, electric membership corporations	Applies to C-corporations, S-corporations, electric membership corporations, limited liability companies, limited partnerships, limited liability partnerships, limited liability limited partnerships, and any other business whose form of organization confers limited liability
Tax base is the highest of net worth, 55% of appraised value, or book value	Tax base is adjusted net worth. Adjusted net worth is defined as total assets less total liabilities, computed in accordance with GAAP, or in accordance with an accounting method used by the entity for federal tax purposes.
Multiple tax base adjustments, including adjustments for definite and accrued liabilities and reserves for various types of equipment (air-cleaning, sewage, and recycling)	Limits adjustments to accumulated depreciation and amortization, intercompany indebtedness, and cost of treasury stock. Expands the adjustment allowed for intercompany indebtedness to include intercompany debt that is traceable to an unrelated entity; current law restricts adjustment for intercompany indebtedness to debt between parent, subsidiary, and affiliate.
Tax rate of $1.50 per $1,000	Tax rate of $1.35 per $1,000
Minimum tax of $35	Minimum tax of $500
Maximum tax for holding companies of $75,000	Maximum tax for holding companies unchanged. Maximum tax for LLCs is $5,000.

Part IV of the bill reduces the annual report filing fee for limited liability companies to the same fees applicable to C-corporations and S-corporations: $25 for paper reports and $18 for electronic reports. Parts V and VI of the bill make statutory conforming changes.

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[5] Insurance companies pay a gross premiums tax under Article 8B in lieu of franchise and income taxes. This bill does not change the taxes applicable to insurance companies.

[6] G.S. 105-122.1 provides a credit against the franchise tax liability for additional annual report fees paid by a LLC that pays franchise tax because it elects to be treated as a C-corporation for income tax purposes.

EFFECTIVE DATE: The franchise tax and State privilege license tax changes in the bill become effective for taxable years beginning on or after January 1, 2015, and for which taxes are due on or after that date. The repeal of local governments to impose privilege taxes is effective for taxable years beginning on or after July 1, 2015.

BACKGROUND: Privilege taxes levied under Article 2 of Chapter 105 are imposed for the privilege of carrying on the business, exercising the privilege, or doing the act named. In 1995, the Revenue Laws Study Committee found that the privilege license tax structure was outmoded, inefficient, and not designed on proper principles of taxation such as tax fairness, ability to pay, responsiveness to growth, or administrative cost. Chapter 14 of the 1996 Session Laws, Second Extra Session, repealed most of the State privilege license taxes imposed under Article 2 of Chapter 105 of the General Statutes. The Revenue Laws Study Committee has studied the elimination of the remaining State privilege license taxes and reform of the provisions governing local privilege license taxes, but no statutory changes have been enacted since that time. The result is a system of taxation that applies only to a limited portion of businesses or the work force and that has a different and inconsistent tax rate for each different class of business. Consequently, the tax has become more of a nuisance tax than a properly designed source of revenue.

Likewise, the franchise taxes levied under Article 3 are levied for the privilege of engaging in the business or doing the act named. It was imposed on corporations for the privilege of limited liability long before alternative business organization models were created that conferred limited liability. Several tax reform studies in North Carolina over the past 20 years have recommended expanding the franchise tax to include all forms of business entities that enjoy limited liability.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Fiscal Note

BILL NUMBER: Senate Bill 363 (First Edition)

SHORT TITLE: Business Tax Reduction and Reforms.

SPONSOR(S): Senator Brock

FISCAL IMPACT
($ in millions)

State Impact	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
General Fund Revenues:					
Eliminate State Privilege Taxes	0.0	(27.3)	(35.8)	(37.2)	(38.7)
Replace Business Franchise Tax with Business Privilege Tax	0.0	51.0	53.6	56.3	59.1
Reduce Annual Report Fees for Unincorporated Entities with Limited Liability	0.0	(27.0)	(28.1)	(29.2)	(30.4)
STATE IMPACT	$0.0	($3.3)	($10.3)	($10.1)	($10.0)
Local Revenues:					
Eliminate Local Franchise Authority on Businesses		(75.0)	(75.0)	(77.0)	(79.0)
LOCAL IMPACT	$0.0	($75.0)	($75.0)	($77.0)	($79.0)

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue

EFFECTIVE DATE: Various effective dates apply. See bill for details.

TECHNICAL CONSIDERATIONS: None

BILL SUMMARY:

Repeal State and Local Privilege Taxes:

Under current law, North Carolina levies privilege taxes on attorneys and other professionals, banks, loan agencies, and installment paper dealers. Additionally, local governments are authorized to levy certain local privilege license taxes. The bill would eliminate State privilege taxes on those businesses, and eliminate the general authority of local governments to levy privilege license taxes.

Repeal Franchise Tax and Replace It with a Business Privilege Tax Applicable to All Businesses with Limited Liability:

Under current law, a business franchise tax is levied on C and S corporations at the rate of $1.50 per $1,000 of the largest value of three alternate bases, with a minimum tax of $35. The three bases are:

1. The amount of the capital stock, surplus, and undivided profits (net worth base) apportionable to the State
2. The book value of real and tangible personal property
3. 55% of the appraised value of property in the State subject to local taxation

The bill would replace the present business franchise tax with a new business privilege tax. The business privilege tax is a simplified version of the business franchise tax that eliminates bases 2 and 3 from the calculation of the tax, and makes adjustments to base 1 to better align with accounting records maintained by businesses based on Generally Accepted Accounting Principles. Additionally, all businesses with limited liability are subject to the tax instead of just corporations. The tax rate for the business privilege tax is $1.35 per $1,000. However, the tax liability for businesses other than corporations cannot be greater than $5,000. The minimum business privilege tax is $500.

Reduce Annual Report Filing Fees for Unincorporated Businesses with Limited Liability to Equal Report Filing Fees for Corporations

Under current law, businesses with limited liability protection are required to file an annual report with the Secretary of State and pay a filing fee. For corporations, the filing fee is $25 if a paper report is filed or $18 if an electronic return is filed. For Limited Liability Companies (LLCs) and business types other than corporations, the fee is $200. The fee is in lieu of the business franchise tax. The bill would make the annual report fee for these businesses the same as it is for corporations.

ASSUMPTIONS AND METHODOLOGY:

Eliminate State and Local Privilege Taxes:

The fiscal impact is based on the amount collected from these taxes compiled by the Department of Revenue.

Repeal Franchise Tax And Replace It With A Business Privilege Tax Applicable to All Businesses With Limited Liability:

The fiscal impact is based on tax return data from the current business franchise tax on corporations. First, Fiscal Research analyzed the differences between the calculation of the business franchise tax and the calculation of the proposed business privilege tax. Next, Fiscal Research used the franchise tax data to estimate what corporations would have paid under the business privilege tax by making adjustments to the franchise tax data based on the differences in

the calculation of the two taxes. To estimate the impact of the business privilege tax on unincorporated entities such as LLCs and Limited Liability Partnerships (LLPs) that are not subject to the franchise tax, Fiscal Research estimated the number of new taxpayers based on data obtained from the Secretary of State. Next, Fiscal Research reviewed IRS Statistics on Income to calculate a ratio comparing the size of LLCs and other unincorporated entity types to S corporations based on total assets. This factor was applied to the business privilege tax liability per S corporation and multiplied by the estimated number of new taxpayers.

Reduce Annual Report Filing Fees for Unincorporated Businesses

The fiscal impact is based on data obtained from the Secretary of State regarding current annual report fees collected from unincorporated businesses. These collections were adjusted proportionally based on the proposed reduction in the annual report filing fee to calculate the fiscal impact.

SOURCES OF DATA: NC Department of Revenue, NC Secretary of State, Internal Revenue Service

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Jonathan Tart

APPROVED BY: Mark Trogdon, Director
Fiscal Research Division

DATE: March 26, 2013

Signed Copy Located in the NCGA Principal Clerk's Offices

Sgt at Arms

Ken Kirby

Justin Owens

Anderson Meadows

Steve Wilson

SENATE PAGES ATTENDING

COMMITTEE: Finance ROOM: 544

DATE: 3-27 TIME: 1 pm

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

Page Name	Hometown	Sponsoring Senator
1 [redacted]	[redacted]	[redacted]
2 Nick Thomas	Gaston	Harrington
3. Regan Booth	Fairview	Nesbitt
4 Jenna Johnson	Benson	Rabin
5 Mattie Tart	Benson	Rabin
6 Matt Taylor	Wilson	Newton
7		
8		
9		
10		

Do not add names below the grid.

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

VISITOR REGISTRATION SHEET

Senate Finance Committee — March 27, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Tommy Dexter	Moore & Van Allen
Amy McConkey	NC Beverage Assoc
Wendi Kerr	PolicyGroup
[illegible]	NCMBA
[illegible]	NCICU
Jeff Rapp	City of Belmont Lake
Griffin Hall	City of Charlotte
Allison Waller	Nelson Mullins
Cameron Hanley	MVA
[illegible]	CSS
CS Hollis	TSS

VISITOR REGISTRATION SHEET

Senate Finance Committee — March 27, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Daniel Amburn	NCRMA
Nathan Batts	NCBA
Laura Gunter	NCBIO
Jennifer Mally	NCBIO
Tim Kent	NC Beer & Wine
John McMillan	MFS
John Hamilton	MFS
JAKE PARKER	NCFB
BILL TAYLOR	City Councilman, Morehead City
Rick Zechini	Williams Mullen
Susanna Davis	"

VISITOR REGISTRATION SHEET

Senate Finance Committee — March 27, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Cady Thomas	NCAR
[illegible]	UR
Angel [illegible]	CR
David Hemen	NCCN
Kara Weishaar	Smith Anderson
Doug Miskuly	PSG
Townes Maxwell	PSG
Lori Bush	Town of Cary
Canaan Hine	MVA
Gwendolyn B. Venn	Town of Magnolia
Lana Hygh	Town of Cary

Name	Firm
Connie Wilson	AFLAC
Ashley Perkinson	Perkinson Law
Deb Hunter	NCDTA

VISITOR REGISTRATION SHEET

Senate Finance Committee — March 27, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Betsy Bailey	PENC
Mike Forte	Boiling Spring Lakes
Jonathan Bulbaker	Bulbaker + Assoc.
[illegible]	WM
Sabra Faires	SF
Chip Killian	Nelson Mullins
JE Hobbs	HANC
Crystal Collins	NC Trucking Assn.
Mitch Leonard	SEANC
Chuck Stone	SEANC
Jay Joiner	Sound Tools

VISITOR REGISTRATION SHEET

Senate Finance Committee — March 27, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Will Culpepper	MVA
Kelli Kukuna	Duke Energy
Gene Ainsworth	A & A
Jimmy Broughton	Womble Carlyle
Matthew Jones	CW Group
Benton Albritton	ABC of the Carolinas
Mary Badger	CSS
Wilson Jones	Jordan Price
Henry Jones	" "
Andy Chase	KMA
[illegible]	Hackney - Schedule 16-18
Dawn Proctor	United Board of NC
Lydia Daniel	Morganton, NC
Brandon Reed	NCAEC

VISITOR REGISTRATION SHEET

Senate Finance Committee — March 27, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Steve Webb	NCHBA
Lisa Martin	NCHBA
Jackson Cockrell	NSS
Jack Gozzi	NSS
Melissa Frank	NCACC
Cassandra Skinner	NCACC
Karl Knapp	NCLM
Dana Fenton	City of Charlotte
Hank Guess	Hickory
Tom Carruthers	Greensboro
[illegible]	NCMMC
[illegible]	NCDA

Senate Committee on Finance
Tuesday, April 2, 2013, 1:00 PM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 58	Increase Funding for Dredging.	Senator Brown

Adjournment

Senate Finance Committee
Tuesday, April 2, 2013
Room 544 LOB, 1:00 p.m.

Minutes

The Senate Committee on Finance met on Tuesday, April 2, 2013, at 1:00 p.m. in room 544 of the Legislative Office Building. Courtney Baptiste of Chapel Hill, Sam Jones of Winston-Salem, Alec Harbin of Gastonia, Haley Ashley and Caroline Kerns of Burlington served as pages. Senator Rabon served as Chair to the meeting.

S.B. 58 – Increase Funding for Dredging

Senator Brown was recognized to explain the bill which was on the agenda for discussion only. Senator Wade moved to adopt the proposed committee substitute (PCS) for discussion. The motion carried. The PCS would increase vessel numbering and titling fees to provide additional funding for the dredging of the State's shallow draft inlets. Tom Reeder, Direct of the NC Division of Water Resources, was recognized to support the bill warning that if inlets shoal in, the federal government pulls the navigational buoys. Jeff Hudson, a staff attorney with the Research Division, was recognized to answer questions. Jim Hardin, Grady-White Boats, was recognized. He agreed that the State needs safe inlets, but was worried that the increase will put North Carolina's fees at the top of other Southern states. Connie Wilson, a lobbyist with the Topsoil Shoreline Protection Committee, was recognized to speak in favor of the bill. A copy of the bill, the summary and the fiscal note is attached.

The meeting adjourned at 1:46 p.m.

Senator Bill Rabon, Presiding Chair
Senate Finance Committee

DeAnne Mangum
Senate Finance Clerk

DeAnne Mangum (Finance CA)

n: Janet Black (Senate LA Director)
t: Monday, April 01, 2013 02:37 PM
To: Sen. Harry Brown
Cc: Darryl Black (Sen. Harry Brown); Elise McDowell (Sen. Harry Brown)
Subject: <NCGA> Senate Finance Committee Meeting Notice for Tuesday, April 02, 2013 at 1:00 PM - CORRECTED #1

Principal Clerk ____
Reading Clerk ____

Corrected #1:

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

Senate Committee on Finance will meet at the following time:

DAY	DATE	TIME	ROOM
Tuesday	April 2, 2013	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
SB 58	Increase Funding for Dredging.	Senator Brown

For Discussion Only

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S D

SENATE BILL 58

Agriculture/Environment/Natural Resources Committee Substitute Adopted 3/5/13
PROPOSED COMMITTEE SUBSTITUTE S58-CSSBxf-3 [v.4]
3/28/2013 12:52:46 PM

Short Title: Increase Funding for Dredging. (Public)

Sponsors:

Referred to:

February 6, 2013

A BILL TO BE ENTITLED

AN ACT TO PROVIDE ADDITIONAL FUNDING FOR DREDGING OF THE STATE'S SHALLOW DRAFT NAVIGATION CHANNELS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 75A-3 reads as rewritten:

"**§ 75A-3. Wildlife Resources Commission to administer Chapter; Vessel Committee; funds for administration.**

(a) The Commission shall enforce and administer the provisions of this Chapter.

(b) The chair of the Commission shall designate from among the members of the Commission three members who shall serve as the Vessel Committee of the Commission, and who shall, in their activities with the Commission, place special emphasis on the administration and enforcement of this Chapter.

(c) The Boating Account is established within the Wildlife Resources Fund created under G.S. 143-250. Interest and other investment income earned by the Account accrues to the Account. All moneys collected pursuant to the numbering and titling provisions of this Chapter shall be credited to this Account. Motor fuel excise tax revenue is credited to the Account under G.S. 105-449.126. The Commission shall use revenue in the Account, subject to the Executive Budget Act and the Personnel Act, for the administration and enforcement of this Chapter; for activities relating to boating and water safety including education and waterway marking and improvement; and for boating access area acquisition, development, and maintenance. The Commission shall use at least three dollars ($3.00) of each one-year certificate of number fee and at least nine dollars ($9.00) of each three-year certificate of number fee collected under the numbering provisions of G.S. 75A-5 for boating access area acquisition, development, and maintenance. The Commission shall transfer on a quarterly basis at least fifty percent (50%) of each one-year certificate of number fee and at least fifty percent (50%) of each three-year certificate of number fee collected under the numbering provisions of G.S. 75A-5 to the Shallow Draft Navigation Channel Dredging Fund established by G.S. 143-215.73F."

SECTION 2. G.S. 75A-5 reads as rewritten:

"**§ 75A-5. Application for certificate of ~~number and fees;~~number; fees; reciprocity; change of ownership; conformity with federal regulations; records; award of certificates; renewal of certificates; transfer of partial interest; destroyed or junked vessels; abandonment; change of address; duplicate certificates; display.**

(a) Application for Certificate of ~~Number and Fees.~~Number. – The owner of each vessel requiring numbering by this State shall file an application for a certificate of number with the Commission. The Commission shall furnish application forms and shall prescribe the information contained in the application form. The application shall be signed by the owner of the vessel or the owner's agent and shall be accompanied by a ~~fee. The fee is fifteen dollars ($15.00) for a one-year period or forty dollars ($40.00) for a three-year period.~~fee, as set out in subsection (a1) of this section. The fee does not apply to vessels owned and operated by nonprofit rescue squads if they are operated exclusively for rescue purposes, including rescue training. The owner shall have the option of selecting a one-year numbering period or a three-year numbering period. Upon receipt of the application in approved form, the Commission shall enter the application in its records and issue the owner a certificate of number stating the identification number awarded to the vessel and the name and address of the owner, and a validation decal indicating the expiration date of the certificate of number. The owner shall paint on or attach to each side of the bow of the vessel the identification number in such manner as may be prescribed by rules of the Commission in order that it may be clearly visible. The identification number shall be maintained in legible condition. The validation decal shall be displayed on the starboard bow of the vessel immediately following the number. The certificate of number shall be pocket size and shall be available for inspection on the vessel for which the certificate is issued at all times the vessel is in operation. Any person charged with failing to so carry a certificate of number shall not be convicted if the person produces in court a certificate of number previously issued to the owner that was valid at the time of the alleged violation.

(a1) Fees. – The fees for certificates of number are as set out in this subsection:

(1) The fee for a certificate of number for a one-year period is:

a. Fifteen dollars ($15.00) for a vessel that is less than 14 feet in length.

b. Twenty-five dollars ($25.00) for a vessel that is 14 feet or more in length but less than 20 feet in length.

c. Fifty dollars ($50.00) for a vessel that is 20 feet or more in length but less than 26 feet in length.

d. One hundred dollars ($100.00) for a vessel that is 26 feet or more in length but less than 40 feet in length.

e. One hundred fifty dollars ($150.00) for a vessel that is more than 40 feet in length.

(2) The fee for a certificate of number for a three-year period is:

a. Forty-five dollars ($45.00) for a vessel that is less than 14 feet in length.

b. Seventy-five dollars ($75.00) for a vessel that is 14 feet or more in length but less than 20 feet in length.

c. One hundred fifty dollars ($150.00) for a vessel that is 20 feet or more in length but less than 26 feet in length.

d. Three hundred dollars ($300.00) for a vessel that is 26 feet or more in length but less than 40 feet in length.

e. Four hundred fifty dollars ($450.00) for a vessel that is more than 40 feet in length.

(b) Reciprocity. – The owner of any vessel already covered by a number in full force and effect pursuant to federal law or a federally approved numbering system of another state shall record the identification number prior to operating the vessel on the waters of this State in excess of the 90-day reciprocity period provided for in G.S. 75A-7(a)(1). The recordation shall be made pursuant to subsection (a) of this section, except that no additional or substitute identification number shall be issued.

(c) Change of Ownership. – Should the ownership of a vessel change, a new application form with a fee in the amount set in subsection ~~(a)~~(a1) of this section shall be filed with the Commission and a new certificate bearing the same identification number shall be awarded to the new owner in the same manner as an original certificate of number. Possession of the certificate shall in cases involving prosecution for violation of any provision of this Chapter be prima facie evidence that the person whose name appears on the certificate is the owner of the vessel referred to on the certificate.

(d) Conformity With Federal Regulations. – In the event that an agency of the federal government shall have in force an over-all system of identification numbering for vessels within the United States, the numbering system employed pursuant to this Chapter by the Commission shall be in conformity therewith.

(e) Repealed by Session Laws 2006-185, s. 1.

(f) Records. – All records of the Commission made or kept pursuant to this section shall be public records.

(g) Award of Certificates. – Each certificate of number awarded pursuant to this Chapter, unless sooner terminated or discontinued in accordance with the provisions of this Chapter, shall continue in full force and effect to and including the last day of the month during which the certificate was awarded after the lapse of one year in the case of a one-year certificate or three years in the case of a three-year certificate. No person shall willfully remove a validation decal from any vessel during the continuance of its validity or alter, counterfeit, or otherwise tamper with a validation decal attached to any vessel for the purpose of changing or obscuring the indicated date of expiration of the certificate of number of the vessel.

(h) Renewal of Certificates. – An owner of a vessel awarded a certificate of number pursuant to this Chapter shall renew the certificate on or before the first day of the month after which the certificate expires; otherwise, the certificate shall lapse and be void until such time as it may thereafter be renewed. Application for renewal shall be submitted on a form approved by the Commission and shall be accompanied by a fee in the amount set in subsection ~~(a)~~(a1) of this section. ~~No fee is required for a period of one year for renewal of certificates of number that have been previously issued to commercial fishing vessels as defined in G.S. 75A-5.1, upon compliance with all of the requirements of that section.~~

(i) Transfer of Partial Interest. – The owner shall furnish the Commission notice of the transfer of any part of the owner's interest other than the creation of a security interest in a vessel numbered in this State pursuant to subsections (a) and (b) of this section within 15 days of the transfer. A transfer of partial interest in a vessel shall not affect the owner's right to operate the vessel, nor shall a transfer of partial interest in a vessel terminate the certificate of number.

(i1) Destroyed or Junked Vessels. – The owner of any destroyed or junked vessel shall furnish the Commission notice of the destruction or junking of that vessel within 15 days of its occurrence. Destruction or junking terminates the certificate of number and renders the hull identification number invalid for that vessel.

(i2) Abandonment. – A person may acquire ownership of an abandoned vessel by providing proof to the Commission that the lawful owner has actually abandoned the vessel. The Commission shall adopt rules by which a person seeking to acquire ownership may demonstrate that the vessel is actually abandoned. At a minimum, the rules shall provide for a reasonable attempt to locate the lawful owner and, if the owner is located, notice by the claimant of an intention to claim ownership of the vessel.

(j) Change of Address. – Whenever any person, after applying for or obtaining the certificate of number of a vessel, moves from the address shown in the application or upon the certificate of number, that person shall notify the Commission of the change of address within 30 days of moving in a form acceptable to the Commission.

(j1) Duplicate Certificates. – The Commission shall issue a duplicate certificate of number for a vessel upon application by the person entitled to hold the certificate, if the Commission is satisfied that the original certificate of number has been lost, stolen, mutilated, or destroyed, or has become illegible. The Commission shall charge a fee of five dollars ($5.00) for issuance of each duplicate certificate.

(k) Display. – No number other than the identification number set forth in the certificate of number or granted reciprocity pursuant to this Chapter shall be painted, attached, or otherwise displayed on either side of the bow of a vessel, except the validation decal required by subsection (a) of this section.

(l) Repealed by Session Laws 2006-185, s. 1."

SECTION 3. G.S. 75A-5.1 is repealed.

SECTION 4. G.S. 75A-7 reads as rewritten:

"**§ 75A-7. Exemption from numbering requirements.**

(a) A vessel shall not be required to be numbered under this Chapter if it is:

(1) A vessel that is required to be awarded an identification number pursuant to federal law or a federally approved numbering system of another state, and for which an identification number has been so awarded: Provided, that any such vessel shall not have been within this State for a period in excess of 90 consecutive days.

(2) A vessel from a country other than the United States temporarily using the waters of this State.

(3) A vessel whose owner is the United States, a state or a subdivision thereof.

(4) A ship's lifeboat.

~~(5) A vessel that has a valid marine document issued by the federal Bureau of Customs or any federal agency successor thereto.~~

(6) A sailboat of not more than 14 feet on the load water line (LWL).

(7) A vessel with no means of propulsion other than drifting or manual paddling, poling, or rowing.

(b) The Commission is hereby empowered to permit the voluntary numbering of vessels owned by the United States, a state or a subdivision thereof.

(c) Those vessels owned by the United States, a state or a subdivision thereof and those owned by nonprofit rescue squads may be assigned a certificate of number bearing no expiration date but which shall be stamped with the word "permanent" and shall not be renewable so long as the vessel remains the property of the governmental entity or nonprofit rescue squad. If the ownership of any such vessel is transferred from one governmental entity to another or to a nonprofit rescue squad or if a vessel owned by a nonprofit rescue squad is transferred to another nonprofit rescue squad or governmental entity, the Commission shall issue a new permanent certificate of number, displaying the same identification number, without charge to the successor entity. When any such vessel is sold to a private owner or is otherwise transferred to private ownership, the applicable certificate of number shall be deemed to have expired immediately prior to the transfer. Prior to further use on the waters of this State, the new owner shall obtain a certificate of number pursuant to the provisions of this Chapter. The provisions of this subsection applicable to a vessel owned by a nonprofit rescue squad apply only to a vessel operated exclusively for rescue purposes, including rescue training."

SECTION 5. G.S. 75A-34 reads as rewritten:

"**§ 75A-34. Who may apply for certificate of title; authority of employees of Commission.**

(a) Any owner of a motorized vessel or sailboat 14 feet or longer or any personal watercraft, as defined in G.S. 75A-13.3(a), that is applying for a certificate of number for the first time in this State pursuant to G.S. 75A-5(a), and any new owner of a motorized vessel or sailboat 14 feet or longer or any personal watercraft to whom ownership is being transferred under G.S. 75A-5(c) shall apply to the Commission for a certificate of title for that vessel. Any

other vessel may be titled in this State at the owner's option. A vessel may not be titled in this State if it is titled in another state, unless the current title is surrendered along with the application for a certificate of title in this State. The Commission shall issue a certificate of title upon reasonable evidence of ownership, which may be established by affidavit, bill of sale, manufacturer's statement of origin, certificate of title in this State, certificate of number or title from another state, or other document satisfactory to the Commission. Only one certificate of title may be issued for any vessel in this State. A vessel may not be titled in this State if it is documented with the United States Coast ~~Guard.~~Guard, unless the documentation has expired or been deleted by the United States Coast Guard. The Commission shall issue a certificate of title upon receipt of a completed application, along with the appropriate fee and reasonable evidence of ownership. The Commission shall require a manufacturer's statement of origin for all new vessels being issued a certificate of number and a certificate of title for the first time. The Commission may request a pencil tracing of the hull identification number (serial number) for vessels being transferred, in order to positively identify the vessel before issuance of a certificate of title for that vessel.

(b) Employees of the Commission are vested with the power to administer oaths and to take acknowledgements and affidavits incidental to the administration and enforcement of this section. They shall receive no compensation for these services."

SECTION 6. G.S. 75A-38 reads as rewritten:

"**§ 75A-38. Commission's records; fees.**

(a) The Commission shall maintain a record of any title it issues.

(b) The Commission shall charge a fee of ~~twenty dollars ($20.00)~~thirty dollars ($30.00) to issue a new or transfer certificate of title. The Commission shall transfer on a quarterly basis at least ten dollars ($10.00) of each new or transfer certificate of title to the Shallow Draft Navigation Channel Dredging Fund established by G.S. 143-215.73F. The Commission shall charge a fee of ten dollars ($10.00) for each duplicate title it issues and for the recording of a supplemental lien."

SECTION 7. Article 21 of Chapter 143 of the General Statutes is amended by adding a new Part to read:

"Part 8B. Shallow Draft Navigation Channel Dredging Fund.

"**§ 143-215.73F. Shallow Draft Navigation Channel Dredging Fund.**

The Shallow Draft Navigation Channel Dredging Fund is established as a special revenue fund. The Fund consists of fees credited to it under G.S. 75A-3 and G.S. 75A-38. Revenue in the Fund may only be used to provide the State's share of the costs associated with any dredging project designed to keep a shallow draft navigation channel located in State waters navigable and safe. Any project funded by revenue from the Fund must be cost-shared with non-State dollars on a one-to-one basis. For purposes of this section, "shallow draft navigation channel" means (i) a waterway connection, with a maximum depth of 14 feet, between the Atlantic Ocean and a bay or the Atlantic Intracoastal Waterway; (ii) a river entrance to the Atlantic Ocean through which tidal and other currents flow; or (iii) other interior coastal waterways."

SECTION 8. Nothing in this act shall affect the validity, term, or cost of any certificate of number or certificate of title issued prior to July 1, 2013.

SECTION 9. This act becomes effective July 1, 2013.

SENATE BILL 58:
Increase Funding for Dredging

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	April 2, 2013
Introduced by:	Senator Brown	**Prepared by:**	Jeff Hudson
Analysis of:	Second Edition		Staff Attorney

SUMMARY: ***Senate Bill 58 would increase vessel numbering and titling fees to provide additional funding for the dredging of the State's shallow draft inlets.***

CURRENT LAW:

Under G.S. 75A-4, every watercraft or vessel used on the waters of the State must obtain and display identification numbers provided by the Wildlife Resources Commission (WRC). There are several types of vessels that are exempt from this requirement, including sailboats of 14 feet in length or less; vessels with no means of propulsion other than drifting or manual paddling, poling, or rowing; and vessels that are covered by documentation issued by the federal government. The fees for vessel numbering are $15.00 for a one-year period and $40.00 for a three-year period.

Under G.S. 75A-34, the owner of a motorized vessel or sailboat 14 feet or longer or any personal watercraft that is applying for a certificate of number for the first time, or any new owner of such vessel to whom ownership is being transferred, must obtain a certificate of title for the vessel from the WRC. The fee for vessel titling is $20.00.

G.S. 75A-3 establishes the Boating Account within the Wildlife Resources Fund. All funds collected for the numbering and titling of vessels are credited to the Account, as is a portion of the motor fuel excise tax. Funds in the Account are used by the WRC to administer and enforce the boating laws of the State; for activities relating to boating and water safety, including education and waterway marking and improvement; and for boating access area acquisition, development, and maintenance. The WRC must use at least $3.00 of each one-year certificate of number fee and at least $9.00 of each three-year certificate of number fee for boating access area acquisition, development, and maintenance.

BILL ANALYSIS:

Senate Bill 58 would change vessel numbering and titling fees and requirements as follows:

Vessel Numbering Fee for a One-Year Period

Current Law	Senate Bill 58
$15.00	• $15.00 for a vessel that is less than 14 feet in length. • $25.00 for a vessel that is 14 feet or more in length but less than 20 feet in length. • $50.00 for a vessel that is 20 feet or more in length but less than 26 feet in length. • $100.00 for a vessel that is 26 feet or more in length but less than 40 feet in length. • $150.00 for a vessel that is more than 40 feet in length.

Senate Bill 58 would also direct the WRC to transfer at least 50% of each one-year certificate of number fee to the Shallow Draft Inlet Dredging Fund.

Vessel Numbering Fee for a Three-Year Period

Current Law	Senate Bill 58
$40.00	• $45.00 for a vessel that is less than 14 feet in length. • $75.00 for a vessel that is 14 feet or more in length but less than 20 feet in length. • $150.00 for a vessel that is 20 feet or more in length but less than 26 feet in length. • $300.00 for a vessel that is 26 feet or more in length but less than 40 feet in length. • $450.00 for a vessel that is more than 40 feet in length.

Senate Bill 58 would also direct the WRC to transfer at least 50% of each three-year certificate of number fee to the Shallow Draft Inlet Dredging Fund.

Exemption from Numbering Requirements

Senate Bill 58 would repeal the exemption from numbering requirements for vessels that are covered by documentation issued by the federal government.

Note: The Proposed Committee Substitute for S58 would also repeal the exemption from payment of numbering fees by commercial fishing vessels.

Vessel Titling

Senate Bill 58 would increase the vessel titling fee from $20.00 to $30.00. It would also direct the WRC to transfer at least $10.00 of each new or transfer certificate of title to the Shallow Draft Inlet Dredging Fund.

Shallow Draft Inlet Dredging Fund

Senate Bill 58 would establish the Shallow Draft Inlet Dredging Fund, which would consist of fees credited to it from the numbering and titling of vessels. Revenue from the Fund may only be used to provide the State's share of the costs associated with any dredging project designed to keep a shallow draft inlet located in State waters navigable and safe. Any project funded by revenue from the Fund must be cost shared with non-State dollars on a one-to-one basis.

Note: The Proposed Committee Substitute for S58 would change the term "shallow draft inlet" to "shallow draft navigation channel" throughout the bill and add further clarifying language to the definition of the term.

EFFECTIVE DATE: This act would become effective July 1, 2013.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: April 2, 2013

TO: Finance Committee Chairs

FROM: Jennifer Hoffmann, Fiscal Research Division

RE: PCS for SB 58

FISCAL IMPACT

($ in millions)

☑ Yes ☐ No ☐ No Estimate Available

State Impact	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
Special Fund Revenues	10.0	11.7	12.9	12.9	12.9
Special Fund Expenditures	(10.0)	(11.7)	(12.9)	(12.9)	(12.9)
Temporary Positions		3	4	4	4
NET STATE IMPACT	$ -	$ -	$ -	$ -	$ -

Local Impact	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
Revenues					
Expenditures	See Assumptions and Methodology				
NET LOCAL IMPACT	$ -	$ -	$ -	$ -	$ -

PRINCIPAL DEPARTMENT(S) & PROGRAM AFFECTED: Wildlife Resources Commission and Department of Environment and Natural Resources

EFFECTIVE DATE: July 1, 2013

TECHNICAL CONSIDERATIONS: None

BILL SUMMARY: Senate Bill 58 increases vessel registration and titling fees to provide additional funding for the dredging of the State's shallow draft inlets. It also repeals the North Carolina exemption from registration requirements for vessels that are covered by documentation

issued by the federal government. The PCS for SB58 also repeals the exemption from payment of the registration fees by commercial fishing vessels.

ASSUMPTIONS AND METHODOLOGY:
For purpose of estimating the amount of the revenue generated by the increase in registration and titling fees, the following assumptions were used:

1. The total number of active vessel registrations and title transactions does not change. This is supported by the stable number of registrations (and funds generated) over the past several years.

2. The increase in registration fees will cause 50% of boat owners each year to change their current behavior of purchasing three-year licenses to purchasing one-year licenses. The only exception to this assumption is for the owners of vessels under 14 feet whose behavior is assumed not to change due to the small increase in the three-year registration fee associated with the smallest boats. The staff of the Wildlife Resources Commission believes the increase will cause 100% of boat owners to switch to one-year licenses. The last time registration fees were increased in 2007[1] the Commission reported that sales of one-year registrations increased by 127%. The vast majority (92%) of boat owners however, still purchase three-year registrations. The graduated fee increases in this bill are more significant than the previous increase so it is anticipated that a larger number of boat owners will switch. However, this note assumes 50% of the three-year purchasers will continue with the three-year registration each year due to its convenience.

REVENUES:
SB 58 changes the vessel registration fees by moving from a flat fee of $15 per vessel per year (or $40 for a three-year registration) to a graduated fee structure based on vessel length (see Table 1). The bill retains the option to purchase a three-year registration, but it removes the $5 discount for the multi-year registration. The cost of three-year registration is now three times the amount of a one-year registration.

Table 1:

Current Fee	Senate Bill 58 Proposed Registration Fees
$15.00	• $15.00 for a vessel that is less than 14 ft in length
	• $25.00 for a vessel that is 14 ft or more in length but less than 20 ft in length
	• $50.00 for a vessel that is 20 ft or more in length but less that n 26 ft in length
	• $100.00 for a vessel that is 26 ft or more in length but less than 40 ft in length
	• $150.00 for a vessel that is more than 40 ft in length

In calendar year 2012, the Wildlife Resources Commission reported a total of 25,735 vessel title transactions and a total of 358,790 active boat registrations. The number of one-year and three-year registrations by vessel length can be found below in Table 2.

[1] S.L. 2007-485 increased one-year registrations from $10 to $15 and three-year registrations from $25 to $40.

Table 2:

North Carolina Active Vessel Registrations and Title Transactions in 2012			
Vessel Length	Active Registrations*	1-Year Registrations	3-Year Registrations*
boats less than 14'	73,756	7,420	22,632
boats less than 20'	182,523	13,889	58,997
boats less than 26'	91,135	6,535	29,855
boats less than 40'	10,862	935	3,429
boats greater than 40'	514	57	193
Total Registrations	**358,790**	**28,836**	**115,106**
Vessel Title Transactions	24,853		

*Active registrations includes each year of three-year registrations. The number of three-year registrations shown on the table is the actual number of three-year registrations issued in 2012. This fiscal note assumes that number of three-year registrations issued each year remains constant. The actual number of active registrations varies from year to year.

Due to the anticipated switch from three-year registrations to one-year, the full effect of the fee increase will not be realized until the third year of implementation. **In year three, the estimated total amount of revenue generated is approximately $12.1 million** (see Table 3), which the bill proposes to be split evenly between the Boating Account administered by the Wildlife Resources Commission and the Shallow Draft Navigation Channel Dredging Fund administered by the Division of Water Resources. Table 4 illustrates the impact of the change in boat owner purchasing behavior on revenues generated. In year one the total amount of revenue generated is $9.3 million and the total amount in year two is $11 million.

Table 3:

North Carolina Vessel Registration and Titling Fees Projected Revenue from Proposed New Fee Structure Based Vessel Length			
Vessel Length	Active Registrations	Proposed 1-Year Registration Fee	Projected Net Revenue
boats less than 14'	73,756	$15	$ 1,106,340
boats less than 20'	182,523	$25	$ 4,563,075
boats less than 26'	91,135	$50	$ 4,556,750
boats less than 40'	10,862	$100	$ 1,086,200
boats greater than 40'	514	$150	$ 77,100
Registration Revenue			**$ 11,389,465**
	Title Transactions	Proposed New Fee	
Title Revenue	24,853	$30	**$ 745,590**
Total Combined Revenue			**$ 12,135,055**

Table 4

Projected Revenue Based on New Fee Structure and Boat Owner Switch to One-Year Registrations							
		Year 1		Year 2		Year 3	
Vessel Length		# of 1 year registrations	# of 3 year registrations	# of 1 year registrations	# of 3 year registrations	# of 1 year registrations	# of 3 year registrations
boats less than 14' *		7,420	22,632	7,420	22,632	7,420	22,632
boats less than 20'		43,388	29,499	72,887	29,499	93,880	29,499
boats less than 26'		21,463	14,928	36,391	14,928	44,171	14,928
boats less than 40'		2,650	1,715	4,365	1,715	6,320	1,715
boats greater than 40'		154	97	251	97	416	97
Proposed 1-Yr Registration Fee	**Proposed 3-Yr Registration Fee**	**Registration Revenue Generated in the First Three Years**					
$15	$45	111,300	1,018,440	111,300	1,018,440	111,300	1,018,440
$25	$75	1,084,700	2,212,425	1,822,175	2,212,425	2,347,000	2,212,425
$50	$150	1,073,150	2,239,200	1,819,550	2,239,200	2,208,550	2,239,200
$100	$300	265,000	514,500	436,500	514,500	632,000	514,500
$150	$450	23,025	43,425	37,650	43,425	62,400	43,425
		2,557,175	6,027,990	4,227,175	6,027,990	5,361,250	6,027,990
Total Registration Revenue by Year			$ 8,585,165		$10,255,165		$11,389,240
Title Transactions	**Proposed New Title Fee**	**Year 1**		**Year 2**		**Year 3**	
24,853	$30		$ 745,590		$ 745,590		$ 745,590
Total Combined Revenue			$ 9,330,755		$11,000,755		$12,134,830

* Assumes that owners of boats less than 14 feet won't change behavior because one-year registration fee does not change and the $5 increase in three-year registration fee is not significant enough to cause owners to switch to one-year

SB 58 also repeals the exemption from registration requirements for vessels that are covered by documentation issued by the federal government, and the PCS repeals the exemption from payment of the registration fees by commercial fishing vessels.

Documented vessels[2]: Currently, vessels that are required to be documented with the federal government are exempt from North Carolina's registration requirement. Vessels requiring documentation are those of five net tons or more used in fishing activities on navigable waters of the U.S. This roughly equates to a vessel 26 feet in length or longer. Because NC does not register these vessels it is difficult to know how many additional vessels could be subject to the registration requirement. Of the 355,434 documented vessels contained in the US Coast Guard database, a total of 5,200 vessels had NC listed both as a home port as well as the address of the vessel owner. This note assumes that these vessels would be subject to the proposed registration fees. It also assumes that half of these vessels fall between 26 feet and 40 feet in length, and that remaining half are larger than 40 feet. Based on these assumptions, **a total of $650,000 in additional revenue is estimated to be generated on annual basis from repealing the documentation exemption.** [2,600 vessels between 26'- 40' x $100 = $260,000; 2,600 vessels greater than 40' x $150 = 390,000; $260,000 + $390,000=$650,000]

[2] The following states require documented vessels to be registered: Maryland, Georgia, Florida, Louisiana (except for commercial fishing vessels), Texas (except for commercial fishing vessels), Tennessee and Missouri.

Commercial fishing vessels: Currently, commercial fishermen are required to obtain a commercial fishing vessel registration from the Division of Marine Fisheries (DMF) and to pay annual registration fees to the Division based on vessel length (see Table 5). Commercial fishermen are also required to register their vessels with the Wildlife Resources Commission. They are, however, exempt from paying the WRC registration fee if they hold a valid commercial fishing vessel registration through the DMF.

Table 5:

Commercial Fishing Vessel Registration Fees (G.S. 113-168.6)
• $1 per foot for a vessel up to 18 Ft
• $1.50 per foot for a vessel that is over 18 feet but not over 38 feet in length
• $3.00 per foot for a vessel over 38 feet but not over 50 feet in length.
• $6.00 per foot for a vessel that is over 50 feet in length

WRC reports that a total of 2,173 commercial fishing vessels were given 1 year free registration renewals in FY 2011-12. Making these vessels subject to the new graduated fee structure would generate a total of **$90,305 on an annual basis.**

TOTAL REVENUE:

Table 6 shows the total estimated revenue to be generated from the fee increases and removal of certain exemptions in SB58. All revenue will initially be deposited into the Wildlife Resources Commission's Boating Account. On a quarterly basis, 50% of all funds deposited in the Account will be transferred to the Shallow Draft Navigation Channel Fund created by SB 58, which will be administered by the Division of Water Resources (DWR) in the Department of Environment and Natural Resources.

Fifty percent of the funds that remain in the Boating Account will be used by WRC for the following purposes: 1) administration of the registration and titling system, 2) enforcement of boating laws, 3) activities related to boating and water safety including education and waterway marking and improvement, and 4) boating access area acquisition, development and maintenance.

Funds transferred to the Shallow Draft Navigation Dredging Channel Fund will used to provide the State's share of the costs associated with any dredging project designed to keep a shallow draft inlet located in State waters navigable and safe. Any project funded by revenue from the Fund must be cost shared with non-State dollars on a one-to-one basis.

Table 6

Projected Revenue Based on New Fee Structure for Vessel Registration, Title Fee Increases and Repeal of Exemptions for Documented and Commercial Fishing Vessels					
	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
Graduated Registration Fees ($)	8,585,165	10,255,165	11,389,240	11,389,240	11,389,240
Title Fees ($)	745,590	745,590	745,590	745,590	745,590
Addition of Documented Vessels ($)	650,000	650,000	650,000	650,000	650,000
Addition of Commercial Fishing Vessels ($)	90,305	90,305	90,305	90,305	90,305
Total	**$ 10,071,060**	**$ 11,741,060**	**$ 12,875,135**	**$ 12,875,135**	**$ 12,875,135**
Use of Funds Generated					
WRC's Boating Account	$ 5,035,530	$ 5,870,530	$ 6,437,568	$ 6,437,568	$ 6,437,568
DWR's Dredging Fund	$ 5,035,530	$ 5,870,530	$ 6,437,568	$ 6,437,568	$ 6,437,568

EXPENDITURES: The changes proposed in SB58 combined with the estimated increase in the number of one-year registrations issued will require additional resources starting in the second year of implementation for the Customer Support Unit which is charged with administering the vessel registration and titling program. There is no increase in administrative costs in the first year because the number of boats owners who need to renew their registrations does not change, only the type of registration purchased changes.

Based on an increase in postage/labor, forms/envelopes, and phone calls, the WRC estimates that its fulfillment costs will increase by $157,550 and three temporary employees in 2015, and an additional increase of $157,550 and one more temporary employee in 2016 (see Table 7 below). These estimates are based on WRC's assumption that 100% of all boat owners will switch to one-year registrations.

Table 7

Customer Service Unit's Administrative Costs								
					Difference			
Year	Number of Registrations	Number of Phone Calls	Total Fulfillment Cost**	Current Full-Time Salary Costs	Additional Fulfillment Costs	Additional Temporary Salary Cost***	FTE	Additional Revenue Needed
2013-14	145,000	90,000	$198,650	$622,077	$0	$0		**$0**
2014-15	260,000	129,600	$356,200	$622,077	$157,550	$77,376	3	**$234,929**
2015-16	375,000	169,776	$513,750	$622,077	$157,550	$103,168	4	**$260,722**

**Costs are projected using current market prices for forms and envelopes/postal rates.

***Based on hiring temporary employees at an estimated rate of $13.00 (includes salary, FICA, and Temp. Solutions Fee).

Because this Fiscal Memo assumes that 50% of boat owners who currently purchase three-year registrations will continue to purchase three-year registrations, the annual number of registrations processed by the Customer Service Unit's is less than WRC's estimate by 27% in FY 2014-15 and 38% in FY 2015-16, which results in a smaller increase in administrative costs (see Table 8 below).

Table 8		
Comparison of Administrative Costs		
	FY 2014-15	**FY 2015-16**
WRC's Est of Total Annual Registrations	258,798	358,790
FTE	3.0	4.0
Total Additional Costs	234,929	260,722
FRD's Est of Total Annual Registrations	190,185	221,078
FTE	2.2	2.5
Total Additional Costs	171,498	198,938

SOURCES OF DATA: Wildlife Resources Commission

TECHNICAL CONSIDERATIONS: None

SENATE PAGES ATTENDING

COMMITTEE: Finance **ROOM:** 544

DATE: 4-2 **TIME:** 1 pm

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

Page Name	Hometown	Sponsoring Senator
1 Courtney ~~Baptiste~~ Baptiste	Chapel Hill	Kinnard
2 Sam Jones	Winston-Salem	Brunstetter
3 Alec ~~Harbin~~ Harbin	gaston	harrington
4 Haley ~~Ashley~~ Ashley	Burlington	Gunn
5 Caroline Kerns	Burlington	Gunn
6		
7		
8		
9		
10		

Do not add names below the grid.

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

VISITOR REGISTRATION SHEET

Senate Finance Committee — April 2, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Johanna Reese	NCACC
[illegible]	NCACC
Kathy Hawkins	Duke
Kelli Iwuana	Duke Energy
Bill Scoggin	TIS
Benton Albritton	ABC
Lu-Ann Tayman	CSS
Bill Creech	N/A
Rob Hamme	RLA
John Delgrosso	Bockelkor & Assoc.
Hallie Willis	Sen. McLaurin

VISITOR REGISTRATION SHEET

Senate Finance Committee — April 2, 2013

Name of Committee — **Date**

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NAME	FIRM OR AGENCY AND ADDRESS
Matt Vinh	CW Consult
Alex Bass	CSS
Will Grantham	NWC
Jack Cozort	NSS
Carol Burry	self
Connie Wilson	Topsail
[illegible]	TWC
Dana Fenton	CCT
Butch Gunnells	NCBA
Lloyd Scher	Studio Charlotte
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VISITOR REGISTRATION SHEET

Senate Finance Committee — April 2, 2013

Name of Committee — **Date**

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NAME	FIRM OR AGENCY AND ADDRESS
JE Hobbs	HANC
Amy McConkey	NC Bev Assoc

VISITOR REGISTRATION SHEET

Senate Finance Committee — April 2, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Steven Weiss	NCAWC
Lisa Martin	NCAWC
Carr McLamb	DENR
Caman Hardy	MVA
Dick Hamilton	NCWF
T REEDER	NC DWR
Tommy Clark	NCWRC
Lisa Hocutt	NCWRC
Chris Hardaker	NCWRC
CHRIS Wilkerson	NCWRA
Don Collins	

VISITOR REGISTRATION SHEET

Senate Finance Committee — April 2, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Mel Broughton	personal Raleigh N.C.
JIM HARDIN	GRADY-WHITE BOATS GREENVILLE NC
EMIL Garlick	reporter UNC TV
Pam Myers	NCLM
Erin Wynia	NCLM
Andy Chase	KMA

Senate Committee on Finance
Wednesday, April 3, 2013, 1:00 PM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 394	Lower Tax Rates for a Stronger NC Economy.	Senator Clodfelter Senator Hartsell Senator Jenkins Senator Meredith

For discussion only

Adjournment

Senate Finance Committee
Wednesday, April 3, 2013
Room 544 LOB, 1:00 p.m.

Minutes

The Senate Committee on Finance met on Wednesday, April 3, 2013, at 1:00 p.m. in room 544 of the Legislative Office Building. Griffin Matsno of Cary, Sam Jones of Winston Salem, Elizabeth Fischer of Charlotte, Ciaira Metz of Mooresville, Gina Higgins of Wendell and Prokash Kadiri of Concord served as pages. Senator Rucho served as Chair to the meeting.

S.B. 394 – Lower Tax Rates for a Stronger NC Economy

Senator Hartsell and Senator Clodfelter were recognized to explain the bill which was on the agenda for discussion only. Senator Tucker moved to adopt the proposed committee substitute (PCS) for discussion. The motion carried. The bill makes substantial changes to the tax code by lowering all of the major rates and by broadening the base. The PCS's primary changes include addressing the local distribution of revenues and moving to a single sales factor apportionment formula for corporate income and franchise tax. Alexandra Sirota, Director of the Budget & Tax Center, was recognized. She appreciated the comprehensive approach to updating the tax code, but had concerns about increased taxing of the poor. A copy of her remarks is attached. Gary Salamido, NC Chamber, and Andy Ellen, lobbyist for the Retail Merchants Association, were recognized to speak in favor of the bill. A copy of the PCS, the summary, the fiscal information and power point presentation is attached.

The meeting adjourned at 2:01 p.m.

Senator Bob Rucho, Presiding Chair
Senate Finance Committee

DeAnne Mangum
Senate Finance Clerk

Principal Clerk
Reading Clerk

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	April 3, 2013	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
SB 394	Lower Tax Rates for a Stronger NC Economy.	Senator Clodfelter Senator Hartsell Senator Jenkins Senator Meredith

FOR DISCUSSION ONLY

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S D

SENATE BILL 394
Corrected Copy 3/27/13
PROPOSED COMMITTEE SUBSTITUTE S394-CSSVx-9 [v.4]
4/2/2013 7:59:38 PM

Short Title: Lower Tax Rates for a Stronger NC Economy. (Public)

Sponsors:

Referred to:

March 25, 2013

A BILL TO BE ENTITLED

AN ACT TO ADOPT A BIPARTISAN TAX REFORM PLAN TO PROMOTE ECONOMIC DEVELOPMENT IN NORTH CAROLINA BY ESTABLISHING A SOUND STATE TAX STRUCTURE THAT REVISES THE EXISTING STRUCTURE ON A REVENUE-NEUTRAL BASIS, LOWERS ALL MAJOR TAX RATES, TAXES ALL INCOME AT THE SAME RATE, AND MAKES THE STRUCTURE SIMPLER, FAIRER, AND CONSISTENT WITH THE MODERN ECONOMY, AS RECOMMENDED BY PAST TAX STUDIES.

The General Assembly of North Carolina enacts:

PART I. GENERAL FINDINGS AND PURPOSE

SECTION 1.(a) The General Assembly of North Carolina finds the following:

(1) North Carolina's current tax structure has not been comprehensively revised since the Great Depression. The tax structure adopted then, while amended extensively over the years in a piecemeal fashion, no longer reflects North Carolina's 21st Century economy.

(2) Over the years, the multiplication of credits, allowances, special rates, and exemptions has progressively narrowed the base of the State's individual and corporate income taxes, with the result that the rates for those income taxes are now among the highest in our region and among our peer states.

(3) North Carolina's current tax structure undermines the State's competitive position and acts as a deterrent to new business investment and the creation of new jobs.

(4) The State's reliance on temporary and expedient tax changes to meet budget shortfalls has created a tax structure that is unpredictable for taxpayers and a revenue stream that is unstable for the State.

SECTION 1.(b) It is the intent of this legislation to promote economic development by establishing broader tax bases and lowering tax rates in a comprehensive manner, as recommended by numerous study committees charged with developing a 21st Century tax policy for the State. Adoption of a modern tax structure will accomplish the following objectives:

(1) Make North Carolina's tax system more competitive relative to our peer states.

(2) Conform North Carolina's tax system to the current economy and not that of the 1933 economy.

(3) Stabilize North Carolina's tax base and provide a reliable revenue stream for the future.

(4) Make North Carolina's tax system fairer so that individual taxpayers and business taxpayers who are in very similar circumstances to one another are treated in roughly the same way by the tax system.

(5) Balance North Carolina's tax revenues among the different types of taxes and the different groups of taxpayers on a revenue-neutral basis. The consensus forecasted amounts for fiscal year 2014-2015 are used to establish the revenue-neutrality of the tax changes in this legislation.

SECTION 1.(c) This section is effective when it becomes law.

PART II. REDUCE INDIVIDUAL INCOME TAX RATES AND BROADEN TAX BASE

SECTION 2.(a) The following statutes are recodified as indicated:

Current Statute	Recodified Statute
G.S. 105-133	G.S. 105-153.1
G.S. 105-134	G.S. 105-153.2
G.S. 105-134.1	G.S. 105-153.3
G.S. 105-134.5	G.S. 105-153.4
G.S. 105-151	G.S. 105-153.9
G.S. 105-152	G.S. 105-153.8

SECTION 2.(b) The following statutes are repealed:

G.S. 105-134.2
G.S. 105-134.3
G.S. 105-134.6
G.S. 105-134.7
G.S. 105-134.8
G.S. 105-151.11
G.S. 105-151.18
G.S. 105-151.20
G.S. 105-151.21
G.S. 105-151.24
G.S. 105-151.26
G.S. 105-151.33

SECTION 2.(c) G.S. 105-134.1, recodified by this act as G.S. 105-153.3, reads as rewritten:

"**§ 105-153.3. Definitions.**

The following definitions apply in this Part:

(1) Adjusted gross income. – Defined in section 62 of the Code.

(1a) Code. – Defined in G.S. 105-228.90.

(2) Department. – The Department of Revenue.

~~(3) Educational institution. – An educational institution that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on.~~

(4) Fiscal year. – Defined in section 441(e) of the Code.

(5) Gross income. – Defined in section 61 of the Code.

(6) Head of household. – Defined in section 2(b) of the Code.

(7) Individual. – A human being.

(7a) Limited liability company. – Either a domestic limited liability company organized under Chapter 57C of the General Statutes or a foreign limited

liability company authorized by that Chapter to transact business in this State that is classified for federal income tax purposes as a partnership. As applied to a limited liability company that is a partnership under this Part, the term "partner" means a member of the limited liability company.

(7b) Repealed by Session Laws 1998-98, s. 9, effective August 14, 1998.

(8) Married individual. – An individual who is married and is considered married as provided in section 7703 of the Code.

(9) Nonresident individual. – An individual who is not a resident of this State.

(10) North Carolina taxable income. – Defined in ~~G.S. 105-134.5.~~G.S. 105-153.4.

(10a) Partnership. – A domestic partnership, a foreign partnership, or a limited liability company.

(11) Person. – Defined in G.S. 105-228.90.

(12) Resident. – An individual who is domiciled in this State at any time during the taxable year or who resides in this State during the taxable year for other than a temporary or transitory purpose. In the absence of convincing proof to the contrary, an individual who is present within the State for more than 183 days during the taxable year is presumed to be a resident, but the absence of an individual from the state for more than 183 days raises no presumption that the individual is not a resident. A resident who removes from the State during a taxable year is considered a resident until he has both established a definite domicile elsewhere and abandoned any domicile in this State. The fact of marriage does not raise any presumption as to domicile or residence.

~~(13) Retirement benefits. – Amounts paid to a former employee or the beneficiary of a former employee under a written retirement plan established by the employer to provide payments to an employee or the beneficiary of an employee after the end of the employee's employment with the employer where the right to receive the payments is based upon the employment relationship. With respect to a self-employed individual or the beneficiary of a self-employed individual, the term means amounts paid to the individual or beneficiary of the individual under a written retirement plan established by the individual to provide payments to the individual or the beneficiary of the individual after the end of the self-employment. In addition, the term includes amounts received from an individual retirement account described in section 408 of the Code or from an individual retirement annuity described in section 408 of the Code. For the purpose of this subdivision, the term "employee" includes a volunteer worker.~~

(14) S Corporation. – Defined in G.S. 105-131(b).

(15) Secretary. – The Secretary of Revenue.

(16) Repealed by Session Laws 2011-145, s. 31A.1(a), effective for taxable years beginning on or after January 1, 2012.

(17) Taxable year. – Defined in section 441(b) of the Code.

(18) Taxpayer. – An individual subject to the tax imposed by this Part.

(19) This State. – The State of North Carolina."

SECTION 2.(d) G.S. 105-134.5, recodified by this act as G.S. 105-153.4, reads as rewritten:

"**§ 105-153.4. North Carolina taxable income defined.**

(a) Residents. – For an individual who is a resident of this State, the term "North Carolina taxable income" means the taxpayer's adjusted gross income as modified in ~~G.S. 105-134.6.~~G.S. 105-153.5.

(b) Nonresidents. – For a nonresident individual, the term "North Carolina taxable income" means the taxpayer's adjusted gross income as modified in ~~G.S. 105-134.6,~~

G.S. 105-153.5, multiplied by a fraction the denominator of which is the taxpayer's gross income as modified in ~~G.S. 105-134.6,~~ G.S. 105-153.5, and the numerator of which is the amount of that gross income, as modified, that is derived from North Carolina sources and is attributable to the ownership of any interest in real or tangible personal property in this State, is derived from a business, trade, profession, or occupation carried on in this State, or is derived from gambling activities in this State.

(c) Part-year Residents. – If an individual was a resident of this State for only part of the taxable year, having moved into or removed from the State during the year, the term "North Carolina taxable income" has the same meaning as in subsection (b) of this section except that the numerator includes adjusted gross income, as modified under ~~G.S. 105-134.6,~~ G.S. 105-153.5, derived from all sources during the period the individual was a resident.

(d) S Corporations and Partnerships. – In order to calculate the numerator of the fraction provided in subsection (b) of this section, the amount of a shareholder's pro rata share of S Corporation income that is includable in the numerator is the shareholder's pro rata share of the S Corporation's income attributable to the State, as defined in G.S. 105-131(b)(4). In order to calculate the numerator of the fraction provided in subsection (b) of this section for a member of a partnership or other unincorporated business that has one or more nonresident members and operates in one or more other states, the amount of the member's distributive share of income of the business that is includable in the numerator is determined by multiplying the total net income of the business by the ratio ascertained under the provisions of G.S. 105-130.4. As used in this subsection, total net income means the entire gross income of the business less all expenses, taxes, interest, and other deductions allowable under the Code that were incurred in the operation of the business.

(e) Tax Year. – A taxpayer must compute North Carolina taxable income on the basis of the taxable year used in computing the taxpayer's income tax liability under the Code."

SECTION 2.(e) Part 2 of Article 4 of Chapter 105 of the General Statutes is amended by adding the following new sections to read:

"**§ 105-153.5. Modifications to adjusted gross income.**

(a) Deductions. – In calculating North Carolina taxable income, a taxpayer must deduct from the taxpayer's adjusted gross income any of the following items that are included in the taxpayer's adjusted gross income:

(1) Interest upon the obligations of any of the following:
  a. The United States or its possessions.
  b. This State, a political subdivision of this State, or a commission, an authority, or another agency of this State or of a political subdivision of this State.

(2) Gain from the disposition of obligations issued before July 1, 1995, to the extent the gain is exempt from tax under the laws of this State.

(3) Amounts received from retirement annuities or pensions paid under the provisions of the Railroad Retirement Act of 1937.

(4) Refunds of State, local, and foreign income taxes included in the taxpayer's gross income.

(5) The amount received during the taxable year from one or more State, local, or federal government retirement plans to the extent the amount is exempt from tax under this Part pursuant to a court order in settlement of any of the following cases:
  a. Bailey v. State, 92 CVS 10221, 94 CVS 6904, 95 CVS 6625, 95 CVS 8230.
  b. Emory v. State, 98 CVS 0738.
  c. Patton v. State, 95 CVS 04346.

(6) Income that meets both of the following requirements:

a. Is earned or received by an enrolled member of a federally recognized Indian tribe.

b. Is derived from activities on a federally recognized Indian reservation while the member resides on the reservation. Income from intangibles having a situs on the reservation and retirement income associated with activities on the reservation are considered income derived from activities on the reservation.

(7) The amount by which the basis of property under this Article exceeds the basis of the property under the Code, in the year the taxpayer disposes of the property.

(8) The amount paid to the taxpayer by the State under G.S. 148-84 as compensation for pecuniary loss suffered by reason of erroneous conviction and imprisonment.

(9) The amount allowed as a deduction under G.S. 105-153.6 as a result of an add-back for federal accelerated depreciation and expensing.

(b) Additions. – In calculating North Carolina taxable income, a taxpayer must add to the taxpayer's adjusted gross income any of the following items that are not included in the taxpayer's adjusted gross income:

(1) Interest upon the obligations of states other than this State, political subdivisions of those states, and agencies of those states and their political subdivisions.

(2) The amount by which a shareholder's share of S Corporation income is reduced under section 1366(f)(2) of the Code for the taxable year by the amount of built-in gains tax imposed on the S Corporation under section 1374 of the Code.

(3) The amount by which the basis of property under the Code exceeds the basis of the property under this Article, in the year the taxpayer disposes of the property.

(4) The amount excluded from gross income under section 199 of the Code.

(5) The amount required to be added under G.S. 105-153.6 when the State decouples from federal accelerated depreciation and expensing.

"**§ 105-153.6. Adjustments when State decouples from federal accelerated depreciation and expensing.**

(a) Special Accelerated Depreciation. – A taxpayer who places property in service during a taxable year listed in the table below and who takes a special accelerated depreciation deduction for that property under section 168(k) or 168(n) of the Code must add to the taxpayer's federal taxable income or adjusted gross income, as appropriate, eighty-five percent (85%) of the amount taken for that year under those Code provisions. For taxable years before 2013, the taxpayer must add the amount to the taxpayer's federal taxable income. For taxable year 2013 and after, the taxpayer must add the amount to the taxpayer's adjusted gross income.

A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income. The table below indicates the applicable five-year period.

Taxable Year of 85% Add-Back	**Five Taxable Years of 20% Deduction**
2010	2011 through 2015
2011	2012 through 2016
2012	2013 through 2017
2013	2014 through 2018

(b) 2009 Depreciation Exception. – A taxpayer who placed property in service during the 2009 taxable year and whose North Carolina taxable income for the 2009 taxable year

reflected a special accelerated depreciation deduction allowed for the property under section 168(k) of the Code must add eighty-five percent (85%) of the amount of the special accelerated depreciation deduction to its federal taxable income for the 2010 taxable year. A taxpayer is allowed to deduct this add-back under subsection (a) of this section as if it were for property placed in service in 2010.

(c) Section 179 Expense. – For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 1, 2011. A taxpayer who places section 179 property in service during a taxable year listed in the table below must add to the taxpayer's federal taxable income or adjusted gross income as appropriate, eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code exceeds the amount that would have been allowed for that taxable year under section 179 of the Code as of May 1, 2010. For taxable years before 2013, the taxpayer must add the amount to the taxpayer's federal taxable income. For taxable year 2013 and after, the taxpayer must add the amount to the taxpayer's adjusted gross income.

A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income. The table in subsection (a) of this section indicates the applicable five-year period.

(d) Asset Basis. – The adjustments made in this section do not result in a difference in basis of the affected assets for State and federal income tax purposes.

"**§ 105-153.7. Individual income tax imposed.**

(a) Tax. – A tax is imposed for each taxable year on the North Carolina taxable income of an individual. The tax is six percent (6%) of the taxpayer's North Carolina taxable income that exceeds the zero tax bracket for the taxpayer's filing status. For purposes of Section 2 of Article V of the North Carolina Constitution, the zero tax bracket provides an exemption so that only net incomes are taxed.

The zero tax brackets are as follows:

(1) For married individuals who file a joint return under G.S. 105-153.8 and for surviving spouses, as defined in section 2(a) of the Code:

Over	Up To	Rate
0	$11,000	0.0%

(2) For heads of households, as defined in section 2(b) of the Code:

Over	Up To	Rate
0	$8,800	0.0%

(3) For unmarried individuals other than surviving spouses and heads of households:

Over	Up To	Rate
0	$5,500	0.0%

(4) For married individuals who do not file a joint return under G.S. 105-153.7:

Over	Up To	Rate
0	$5,500	0.0%

(b) Indexed Brackets. – For taxable years beginning on or after January 1, 2016, the "Up To" zero tax bracket maximums that are set out in subsection (a) of this section are indexed for the taxable year in accordance with the cost-of-living adjustment used under section 1 of the Code to index the federal rate brackets for that taxable year. The indexed zero tax brackets determined under this subsection apply in lieu of the zero tax brackets set out in subsection (a) of this section. The Secretary must publish the zero tax brackets set under this subsection.

(c) Withholding Tables. – The Secretary may provide tables that compute the amount of tax due for a taxable year under this Part. The tables do not apply to an individual who files a return under section 443(a)(1) of the Code for a period of less than 12 months due to a change in the individual's annual accounting period, or to an estate or trust."

SECTION 2.(f) G.S. 105-152 and G.S. 105-151, recodified by this act as G.S. 105-153.8 and G.S. 105-153.9, read as rewritten:

"**§ 105-153.8. Income tax returns.**

(a) Who Must File. – The following individuals ~~shall~~ must file with the Secretary an income tax return under affirmation:

(1) Every resident ~~required to file an income tax return for the taxable year under the Code and every~~ whose North Carolina taxable income exceeds the zero tax bracket amount under G.S. 105-153.7.

(1a) Every nonresident individual who ~~(i) derived~~meets all of the following requirements:

a. Receives during the taxable year gross income that is derived from North Carolina sources ~~during the taxable year~~and is attributable to the ownership of any interest in real or tangible personal property in this ~~State or~~State, is derived from a business, trade, profession, or occupation carried on in this ~~State and (ii) is~~State, or is derived from gambling activities in this State.

b. Is required to file an income tax return for the taxable year under the Code.

(2) Repealed by Session Laws 1991 (Reg. Sess., 1992), c. 930, s. 1.

(3) Any individual whom the Secretary believes to be liable for a tax under this Part, when so notified by the Secretary and requested to file a return.

(b) Taxpayer Deceased or Unable to Make Return. – If ~~the~~ a taxpayer is unable to file ~~the~~ an income tax return, ~~the return shall be filed by~~ a duly authorized agent of the taxpayer or ~~by~~ a guardian or other person charged with the care of the person or property of the ~~taxpayer.~~taxpayer must file the return. If an individual who was required to file an income tax return for the taxable year while living has died before making the return, the administrator or executor of the estate ~~shall~~ must file the return in the decedent's name and behalf, and the tax ~~shall be levied upon and collected from~~is payable by the estate.

(c) Information Required With Return. – The income tax return ~~shall~~ must show the ~~taxable income and adjustments~~adjusted gross income and modifications required by this ~~Part~~ Part, and any other information the Secretary requires. The Secretary may require some or all individuals required to file an income tax return to attach to the return a copy of their federal income tax return for the taxable year. The Secretary may require a taxpayer to provide the Department with copies of any other return the taxpayer has filed with the Internal Revenue Service and to verify any information in the return.

(d) Secretary May Require Additional Information. – When the Secretary has reason to believe that any taxpayer conducts a trade or business in a way that directly or indirectly distorts the taxpayer's ~~taxable income~~adjusted gross income or North Carolina taxable income, the Secretary may require any additional information for the proper computation of the taxpayer's ~~taxable income~~adjusted gross income and North Carolina taxable income. In computing the taxpayer's ~~taxable income~~adjusted gross income and North Carolina taxable income, the Secretary ~~shall~~ must consider the fair profit that would normally arise from the conduct of the trade or business.

(e) Joint Returns. – A husband and wife whose ~~federal taxable income~~adjusted gross income is determined on a joint federal return ~~shall~~ must file a single income tax return jointly if each spouse either is a resident of this State or has North Carolina taxable income and may file a single income tax return jointly if one spouse is not a resident and has no North Carolina taxable income. Except as otherwise provided in this Part, a wife and husband filing jointly are treated as one taxpayer for the purpose of determining the tax imposed by this Part. A husband and wife filing jointly are jointly and severally liable for the tax imposed by this Part reduced by the sum of all credits allowable including tax payments made by or on behalf of the husband

and wife. However, if a spouse qualifies for relief of liability for federal tax attributable to a substantial understatement by the other spouse pursuant to section 6015 of the Code, that spouse is not liable for the corresponding tax imposed by this Part attributable to the same substantial understatement by the other spouse. A wife and husband filing jointly have expressly agreed that if the amount of the payments made by them with respect to the taxes for which they are liable, including withheld and estimated taxes, exceeds the total of the taxes due, refund of the excess may be made payable to both spouses jointly or, if either is deceased, to the survivor alone.

(f) Repealed by Session Laws 1991.

"**§ 105-153.9. Tax credits for income taxes paid to other states by individuals.**

(a) An individual who is a resident of this State is allowed a credit against the taxes imposed by this Part for income taxes imposed by and paid to another state or country on income taxed under this Part, subject to the following conditions:

(1) The credit is allowed only for taxes paid to another state or country on income that is derived from sources within that state or country ~~that~~ and is taxed under its laws irrespective of the residence or domicile of the recipient, except that whenever a taxpayer who is ~~deemed to be~~ considered a resident of this State under ~~the provisions of~~ this Part is ~~deemed also to be~~ considered a resident of another state or country under the laws of that state or country, the Secretary may allow a credit against the taxes imposed by this Part for taxes imposed by and paid to the other state or country on income taxed under this Part.

(2) The fraction of the adjusted gross income, as ~~calculated under the Code and adjusted as provided in G.S. 105-134.6 and G.S. 105-134.7,~~ modified in G.S. 105-153.5, that is subject to income tax in another state or country shall be ascertained, and the North Carolina net income tax before credit under this section shall be multiplied by that fraction. The credit allowed is either the product thus calculated or the income tax actually paid the other state or country, whichever is smaller.

(3) Receipts showing the payment of income taxes to another state or country and a true copy of a return or returns upon the basis of which the taxes are assessed shall be filed with the Secretary when the credit is claimed. If credit is claimed on account of a deficiency assessment, a true copy of the notice assessing or proposing to assess the deficiency, as well as a receipt showing the payment of the deficiency, shall be filed.

(b) If any taxes paid to another state or country for which a taxpayer has been allowed a credit under this section are at any time credited or refunded to the taxpayer, a tax equal to that portion of the credit allowed for the taxes so credited or refunded is due and payable from the taxpayer and is subject to the penalties and interest provided in Subchapter I of this Chapter."

SECTION 2.(g) Part 2 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-153.10. Other tax credits.**

(a) Personal Credit. – A taxpayer is allowed a credit against the tax imposed by this Part for the taxable year equal to the taxpayer's adjusted gross income less the zero tax bracket amount set in G.S. 105-153.7 for the taxpayer's filing status, multiplied by six-tenths of one percent (0.6%). The tax is subject to a minimum and a maximum amount. The minimum credit is two hundred dollars ($200.00) and the maximum credit is eight hundred dollars ($800.00).

(b) Children. – A taxpayer who is allowed a federal child tax credit under section 24 of the Code for the taxable year is allowed a credit against the tax imposed by this Part for the taxable year for each dependent child for whom the taxpayer is allowed the federal credit. The

amount of credit allowed is equal to the amount listed in the table below based on the taxpayer's adjusted gross income.

Filing Status	AGI	Credit Amount
Married, filing jointly	Less than $110,000	$450.00
	$110,000-$200,000	$200.00
	Greater than $200,000	0
Head of Household	Less than $88,000	$450.00
	$88,000-$160,000	$200.00
	Greater than $160,000	0
Single	Less than $55,000	$450.00
	$55,000-$100,000	$200.00
	Greater than $100,000	0
Married, filing separately	Less than $55,000	$450.00
	$55,000-$100,000	$200.00
	Greater than $100,000	0

(c) Charitable Contributions. – A taxpayer who makes charitable contributions during the taxable year that are deductible under section 170 of the Code is allowed a credit against the tax imposed by this Part for the taxable year. The credit is six percent (6.0%) of the amount deductible under section 170 of the Code, not to exceed six hundred dollars ($600.00).

(d) Limitations. – A credit allowed under this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer. A nonresident or part-year resident who claims a credit allowed by this section must reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-153.4(b) or (c), as appropriate."

SECTION 2.(h) Notwithstanding the provisions of G.S. 105-163.15, no addition to tax may be made under that statute for a taxable year beginning on or after January 1, 2015, and before January 1, 2016, with respect to any underpayment of individual income tax to the extent the underpayment was created or increased by this section.

SECTION 2.(i) This section becomes effective for taxable years beginning on or after January 1, 2015.

PART III. REDUCE CORPORATE INCOME TAX RATE AND BROADEN THE TAX BASE

SECTION 3.(a) G.S. 105-130.3 reads as rewritten:

"**§ 105-130.3. Corporations.**

A tax is imposed on the State net income of every C Corporation doing business in this State. An S Corporation is not subject to the tax levied in this section. The tax is a percentage of the taxpayer's State net ~~income computed as follows:~~income. The percentage rate is the rate set in G.S. 105-153.7 for the individual income tax.

~~Income Years Beginning~~	~~Tax~~
~~In 1997~~	~~7.5%~~
~~In 1998~~	~~7.25%~~
~~In 1999~~	~~7%~~
~~After 1999~~	~~6.9%.~~"

SECTION 3.(b) It is the intent of the General Assembly to transition from an apportionment factor formula that double-weights sales to an apportionment formula whose only factor is sales. The act begins this transition by replacing the current 50% sales factor with

a 75% sales factor. As State revenues increase, the General Assembly intends to complete the transition.

SECTION 3.(c) G.S. 105-130.4(i) reads as rewritten:

"(i) All apportionable income of corporations other than public utilities, excluded corporations, and qualified capital intensive corporations shall be apportioned to this State by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus ~~twice~~ six times the sales factor, and the denominator of which is ~~four.~~ eight. If the sales factor does not exist, the denominator of the fraction is the number of existing factors and if the sales factor exists but the payroll factor or the property factor does not exist, the denominator of the fraction is the number of existing factors plus ~~one.~~ five."

SECTION 3.(d) G.S. 105-130.5(a) is amended by adding the following new subdivisions to read:

"(a) The following additions to federal taxable income shall be made in determining State net income:

...

(2a) That portion of a financial institution's interest expense that is allocable to interest income exempt from taxation under this Part. The allocable portion of the interest expense is the portion for which a deduction would be disallowed pursuant to section 265(b) of the Code if the interest were earned on a tax-exempt obligation as defined in section 265(b) of the Code.

...

(24) The amount required to be added under G.S. 105-130.5B when the State decouples from federal accelerated depreciation and expensing."

SECTION 3.(e) G.S. 105-130.5(b) is amended by adding a new subdivision to read:

"(b) The following deductions from federal taxable income shall be made in determining State net income:

...

(27) The amount allowed as a deduction under G.S. 105-130.5B as a result of an add-back for federal accelerated depreciation and expensing."

SECTION 3.(f) G.S. 105-130.5(a)(15), (15a), (15b), and (23) are repealed.

SECTION 3.(g) G.S. 105-130.5(b)(1a)b., (7), (19), (21), (21a), (21b), (22), (24), and (26) are repealed.

SECTION 3.(h) Part 1 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-130.5B. Adjustments when State decouples from federal accelerated depreciation and expensing.**

(a) Special Accelerated Depreciation. – A taxpayer that places property in service during a taxable year listed in the table below and who takes a special accelerated depreciation deduction for that property under section 168(k) or 168(n) of the Code must add to the taxpayer's federal taxable income eighty-five percent (85%) of the amount taken for that year under those Code provisions.

A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income. The table below indicates the applicable five-year period.

Taxable Year of 85% Add-Back	Five Taxable Years of 20% Deduction
2010	2011 through 2015
2011	2012 through 2016
2012	2013 through 2017
2013	2014 through 2018

(b) 2009 Depreciation Exception. – A taxpayer that placed property in service during the 2009 taxable year and whose North Carolina taxable income for the 2009 taxable year reflected a special accelerated depreciation deduction allowed for the property under section 168(k) of the Code must add eighty-five percent (85%) of the amount of the special accelerated depreciation deduction to its federal taxable income for the 2010 taxable year. A taxpayer is allowed to deduct this add-back under subsection (a) of this section as if it were for property placed in service in 2010.

(c) Section 179 Expense. – For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 1, 2011. A taxpayer that places section 179 property in service during a taxable year listed in the table below must add to the taxpayer's federal taxable income eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code exceeds the amount that would have been allowed for that taxable year under section 179 of the Code as of May 1, 2010.

A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income. The table in subsection (a) of this section indicates the applicable five-year period.

(d) Asset Basis. – The adjustments made in this section do not result in a difference in basis of the affected assets for State and federal income tax purposes."

SECTION 3.(i) G.S. 105-130.7A reads as rewritten:

"**§ 105-130.7A. Royalty income and interest expense reporting ~~option.~~options.**

(a) Purpose. – Royalty payments received for the use of intangible property in this State are income derived from doing business in this State. This section provides taxpayers with an option concerning the method by which ~~these~~ royalties and interest expense can be reported for taxation when the recipient and the payer are related members. As provided in this section, ~~these~~ royalty payments and interest expenses can be either (i) deducted by the payer and included in the income of the recipient, or (ii) added back to the income of the payer and excluded from the income of the recipient.

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

....

(1b) Interest expense. – An amount directly or indirectly allowed as a deduction under section 163 of the Code.

...

(c) Election. – For the purpose of computing its State net income, a taxpayer must add royalty payments and interest expenses made to, or in connection with transactions with, a related member during the taxable year. This addition is not required for an amount of royalty payments or interest expenses that meets any of the following conditions:

(1) The related member includes the amount as income on a return filed under this Part for the same taxable year that the amount is deducted by the taxpayer, and the related member does not elect to deduct the amount pursuant to G.S. 105-130.5(b)(20).

(2) The taxpayer can establish that the related member during the same taxable year directly or indirectly paid, accrued, or incurred the amount to a person who is not a related member.

(3) The taxpayer can establish that the related member to whom the amount was paid is organized under the laws of a country other than the United States, the country has a comprehensive income tax treaty with the United States, and the country imposes a tax on the royalty income of the related member at a rate that equals or exceeds the rate set in G.S. 105-130.3.

(d) Indirect Transactions. – For the purpose of this section, an indirect transaction or relationship has the same effect as if it were direct."

SECTION 3.(j) The following statutes are repealed:

G.S. 105-130.22	G.S. 105-151.1
G.S. 105-130.25	
G.S. 105-130.34	G.S. 105-151.12
G.S. 105-130.36	G.S. 105-151.13
G.S. 105-130.37	G.S. 105-151.14
G.S. 105-130.43	
G.S. 105-130.44	G.S. 105-151.25

SECTION 3.(k) G.S. 105-130.5(a)(10) and (a)(20) are repealed.

SECTION 3.(l) G.S. 105-129.45 reads as rewritten:

"**§ 105-129.45. Sunset.**

This Article is repealed effective January 1, ~~2015.~~2020. The repeal applies to developments to which federal credits are allocated on or after ~~January 1, 2015.~~the date the Article is repealed."

SECTION 3.(m) G.S. 105-129.51(b) reads as rewritten:

"(b) This Article is repealed for taxable years beginning on or after ~~January 1, 2014.~~January 1, 2020."

SECTION 3.(n) This section becomes effective for taxable years beginning on or after January 1, 2014.

PART IV. REPLACE FRANCHISE TAX WITH A LOWER BUSINESS PRIVILEGE TAX THAT INCLUDES ALL LIMITED LIABILITY ENTITIES

SECTION 4.1.(a) The title of Article 3 of Chapter 105 of the General Statutes reads as rewritten:

"Article 3.
~~Franchise Tax.~~Business Privilege Tax."

SECTION 4.1.(b) G.S. 105-114, 105-114.1, 105-120.2, 105-121.1, 105-122, 105-122.1, 105-125, 105-127, 105-128, and 105-129 are repealed.

SECTION 4.1.(c) Article 3 of Chapter 105 of the General Statutes is amended by adding the following new sections to read:

"**§ 105-114.2. Definitions.**

The following definitions apply in this Article:

(1) Affiliate. – A business entity under common ownership with another business entity.

(2) Affiliated group. – Defined in section 1504 of the Code.

(3) Business entity. – Any of the following:

a. A domestic corporation organized under Chapter 55 of the General Statutes or a foreign corporation that has received a certificate of authority under that Chapter authorizing it to do business in this State.

b. An electric membership corporation organized under Chapter 117 of the General Statutes.

c. A domestic limited liability company formed under Chapter 57C of the General Statutes or a foreign limited liability company that has received a certificate of authority under that Chapter authorizing it to do business in this State.

d. A domestic limited partnership formed under Article 5 of Chapter 59 of the General Statutes or a foreign limited partnership that has received a certificate of authority under that Article authorizing it to do business in this State.

e. A domestic limited liability partnership registered under Article 3B of Chapter 59 of the General Statutes or a foreign limited liability partnership registered under Article 4A of that Chapter.
f. A domestic or foreign limited liability limited partnership registered under G.S. 59-210.
g. Any other business whose form of organization confers limited liability on one or more of its owners.

(4) Capital interest. – The right of a business entity that is not a corporation to receive a percentage of the business entity's assets upon dissolution after payments to creditors.
(5) City. – Defined in G.S. 105-228.90.
(6) Code. – Defined in G.S. 105-228.90.
(7) Doing business. – Each and every act, power, or privilege exercised or enjoyed in this State, as an incident to, or by virtue of the powers and privileges granted by the laws of this State.
(8) Holding company. – A business entity that satisfies at least one of the following conditions:
a. It has no assets other than ownership interests in business entities in which it owns, directly or indirectly, more than fifty percent (50%) of the outstanding voting stock or voting capital interests.
b. It receives during its taxable year more than eighty percent (80%) of its gross income from business entities in which it owns directly or indirectly more than fifty percent (50%) of the outstanding voting stock or voting capital interests.
(9) Ownership. – The direct or indirect control of more than fifty percent (50%) of the outstanding voting stock or voting capital interests of a business entity. Ownership of voting stock is determined by reference to the constructive ownership rules for stock under section 318 of the Code. Ownership of capital interests is determined by reference to the constructive ownership rules for partnerships, estates, and trusts in section 318(a)(2)(A) and (B) of the Code with the following modifications:
a. The term "capital interest" is substituted for "stock" each place it appears.
b. A noncorporate limited liability company and any noncorporate entity other than a partnership, estate, or trust is treated as a partnership. A noncorporate entity does not include a human being. A noncorporate limited liability company is a limited liability company that does not elect to be taxed as a corporation under the Code.
c. The operating rule of section 318(a)(5) of the Code applies without regard to section 318(a)(5)(C).
(10) Parent. – A business entity that has ownership of another business entity.
(11) Secretary. – Defined in G.S. 105-228.90.
(12) Subsidiary. – A business entity under the ownership of another business entity.
(13) Taxable year. – Defined in section 441(b) of the Code.

"**§ 105-114.3. Nature of tax.**

This Article imposes a privilege tax on a business entity for the privilege of doing business in this State in an organizational form that confers limited liability on one or more owners of the entity. The tax is an accrued tax and is imposed for the exercise of this privilege during the period covered by a tax return. Payment of the tax imposed by this Article is a condition

precedent to the right to do business in this State and, for a business entity that is organized or formed in this State, to the right to continue in the entity's organizational form. When a noncorporate business entity is doing business in this State, each owner of the noncorporate business entity is doing business in this State.

"**§ 105-114.4. Business privilege tax imposed.**

(a) Rate. – An annual privilege tax is imposed on a business entity doing business in this State at the rate of one dollar ($1.25) per one thousand dollars ($1,000) of the higher of the business entity's adjusted net worth tax base, determined in accordance with G.S. 105-114.5, and the business entity's investment tax base, determined in accordance with G.S. 105-114.6. The tax payable by a business entity may not be less than two hundred dollars ($200.00). The tax payable by a holding company may not be more than seventy-five thousand dollars ($75,000).

After the end of the taxable year in which a business entity is dissolved, the entity is no longer subject to the tax levied in this Article unless the Secretary finds that the entity has engaged in business activities in this State not appropriate to winding up and liquidating its business.

"**§ 105-114.5. Adjusted net worth tax base.**

The net worth of a business entity is the entity's total assets less its total liabilities, computed in accordance with generally accepted accounting principles as of the end of the entity's taxable year. If the entity does not maintain its books and records in accordance with generally accepted accounting principles, then its net worth is computed in accordance with the accounting method used by the entity for federal tax purposes so long as the method fairly reflects the entity's net worth for purposes of the tax levied by this section. A business entity's net worth is subject to the following adjustments:

(1) A deduction for accumulated depreciation and amortization is determined in accordance with the method used for federal tax purposes.

(2) An addition for indebtedness the business entity owes to a parent, a subsidiary, or an affiliate. The amount added back to the business entity's net worth may be further adjusted as follows:

a. If part of the capital of the creditor business entity is capital borrowed from a source other than a parent, a subsidiary, or an affiliate, the debtor business entity may deduct a proportionate part of the indebtedness based on the ratio of the borrowed capital of the creditor business entity to the total assets of the creditor business entity.

b. If part of the capital of the creditor business entity consists of indebtedness owed to a parent, a subsidiary, or an affiliate that is directly traceable to capital borrowed from a source other than a parent, a subsidiary, or an affiliate, the debtor business entity may deduct a proportionate part of the indebtedness based on the ratio of the borrowed capital of the creditor business entity to the total assets of the creditor business entity.

c. If the creditor business entity is taxable under this Article, the creditor business entity may deduct the indebtedness from its net worth to the extent the debtor business entity was not allowed to deduct the indebtedness.

(3) A corporation may deduct the cost of treasury stock.

"**§ 105-114.6. Investment tax base.**

The investment tax base of a business entity is the entity's investment in real and tangible personal property in this State as of the end of the entity's taxable year. A business entity's

investment in property is the original purchase price of or consideration for the property subject to the following adjustments:

(1) A deduction for depreciation or amortization is determined in accordance with the method used for federal tax purposes.

(2) The addition of improvements to the property.

(3) A deduction for indebtedness on the property or on an improvement to the property.

(4) For a business entity allowed a tax credit under Article 3E of this Chapter, a deduction for the value of the property for which the credit is allowed.

"**§ 105-114.7. Exclusions in calculating tax.**

(a) Disregarded LLC. – A single member limited liability company whose single member is a corporation is disregarded under this Article if it is disregarded for federal income tax purposes. The corporation that is the single member of the disregarded limited liability company must include the net worth and property of the disregarded limited liability company in the corporation's tax base.

(b) No Tax Tiering. – A noncorporate business entity's ownership interest in another noncorporate business entity that is taxable under this Article is excluded in determining the owner's net worth under G.S. 105-114.5.

(c) Investment Companies. – The following exclusions apply to investment companies in determining their tax liability under this Article:

(1) A regulated investment company may deduct the value of its investments in stocks, bonds, debentures, or other securities or evidences of debt. A regulated investment company is an entity that qualifies as a regulated investment company under section 851 of the Code.

(2) A REIT may deduct the value of its investments in real property, unless the REIT is a captive REIT. The terms "REIT" and "captive REIT" have the same meanings as defined in G.S. 105-130.12.

(3) A venture capital company may deduct the value of its capital under management. A venture capital company is an entity whose purpose is to provide financing for start-up businesses and that obtains the capital it uses to provide financing only from investors who are accredited investors under 17 C.F.R. § 230.215 or are institutional investors.

(d) Short Year Adjustment. – A business entity that changes its taxable year and files a "short period" income tax return may deduct from its tax liability computed on an annual basis the amount of tax previously paid that is applicable to the period subsequent to the beginning of the new taxable year.

"**§ 105-114.8. Determination of ownership after certain transfers.**

(a) Transfers by Corporations. – Ownership of the capital interests in a noncorporate business entity is determined as of the last day of the business entity's taxable year. If a noncorporate business entity and a corporation or an affiliated group have engaged in a pattern of transferring assets between them with the result that each did not own the capital interest on the last day of its taxable year, the ownership of the capital interests in the noncorporate business entity must be determined as of the last day of the corporation's or group of corporations' taxable year.

(b) Tax-Free Distribution. – If a noncorporate business entity receives from a person a tax-free contribution of assets under section 721 of the Code within 120 days after making a tax-free distribution of assets to that person under section 732 of the Code with the result that the business entity did not own the capital interests on the last day of its taxable year, the assets that were distributed tax-free are considered owned by the business entity as of the last day of its taxable year.

"**§ 105-114.9. Apportionment by multistate business entities.**

A business entity that is doing business in this State and in one or more other states must apportion its net worth to this State. A corporation that is subject to income tax under Article 4 of this Chapter must use the fraction it applies in apportioning its income under that Article. A business entity that is not subject to income tax under Article 4 of this Chapter must apportion its net worth by using the fraction it would be required to apply in apportioning its income if it were subject to that Article. A business entity that believes this apportionment method subjects a greater portion of its net worth to tax under this section than is attributable to its business in this State may make a written request to the Secretary for permission to use an alternative method of apportionment, in the same manner as provided in G.S. 105-130.4(t1).

"**§ 105-114.10. Return and payment.**

The tax imposed by G.S. 105-114.4 is due when a return is due. A return is due on or before the fifteenth day of the fourth month following the end of the business entity's income year. A taxpayer may ask the Secretary for an extension of time to file a return under G.S. 105-263. A business entity must file a return under affirmation with the Secretary at the place and in the manner prescribed by the Secretary. The return must be signed by the president, vice president, treasurer, or chief financial officer of the business entity.

...

"**§ 105-116.2. Distribution in lieu of local privilege license tax.**

(a) Findings. – The General Assembly finds that the authority formerly given to cities to levy local privilege license taxes led to inequities in taxation among entities engaged in the same business in different locations as well as among entities engaged in different types of business in the same location. The General Assembly further finds that numerous cities rely on local privilege license tax revenue. This section replaces local privilege license tax revenue with a portion of the State business privilege tax.

(b) Distribution. – Each fiscal year the Secretary must distribute to cities the net proceeds of tax collected in the preceding calendar year under G.S. 105-114.4 at the rate of ten cents ($0.10) per one thousand dollars ($1,000). The Secretary must distribute one-fourth of this amount within 75 days after the end of each calendar quarter. The Secretary must distribute the amount on a per capita basis according to the most recent annual population estimates certified by the State Budget Officer. The share of each city is its proportionate per capita share of the amount set in the following table for the city's population category.

City Population	Share of Net Proceeds
Up to 100,000	10%
Over 100,000 but less than 200,000	18%
Over 200,000	72%

(c) Local Revenue. – The General Assembly finds that the revenue distributed under this section is local revenue, not a State expenditure, for the purpose of Section 5(3) of Article III of the North Carolina Constitution. Therefore, the Governor may not reduce or withhold the distribution.

"**§ 105-116.3. Compensating privilege tax on seller that is not a registered retailer.**

(a) Tax. – An annual privilege tax is imposed on a person who sells tangible personal property, digital property, or services at retail to a consumer, as defined in G.S. 105-164.3, and who meets both of the following descriptions:

(1) The person is not registered as a retailer under Article 5 of this Chapter.

(2) The person reported gross sales of at least five million dollars ($5,000,000) on its most recent federal income tax return.

(b) Rate and Scope. – The tax is a percentage of the retailer's gross receipts derived from sales within this State. The percentage rate of the tax is the same as the combined rate under G.S. 105-164.3. This tax is in addition to the tax imposed by G.S. 105-114.4. The tax is payable in the same manner as provided in G.S. 105-114.10.

(c) Noncompliance. – A debt owed to a person that does not comply with this section is not collectible and is not subject to execution under Article 28 of Chapter 1 of the General Statutes or any other provision of law. An assignment of a debt is subject to the collection restrictions imposed by this subsection.

"**§ 105-116.4. Compensating privilege tax on unregulated electric power producer.**

(a) Tax. – An annual privilege tax is imposed on a person that meets all of the following descriptions:

(1) Produces electric power by using the public waters of this State and sells the electric it produces.

(2) Is not subject to regulation by the North Carolina Utilities Commission.

(3) Received at least five million dollars ($5,000,000) in gross receipts during the preceding calendar year from its sales of electric power.

(b) Rate. – The tax is a percentage of the person's gross receipts derived from sales of electric power produced by use of the State's public waters. The percentage rate of the tax is the same as the combined rate under G.S. 105-164.3. This tax is in addition to the tax imposed by G.S. 105-114.4. The tax is payable in the same manner as provided in G.S. 105-114.10.

"**§ 105-125.1. Exempt business entities.**

A business entity listed in this section is exempt from the privilege tax imposed by G.S. 105-114.4 unless it has unrelated business income. A business entity that is listed in this section and has unrelated business income is subject to the tax imposed by G.S. 105-114.4 on its adjusted net worth or property attributable to its unrelated business income. Upon request of the Secretary, an exempt business entity must establish its claim for exemption in writing. The exempt entities are:

(1) A business entity exempt from federal income tax under the Code.

(2) An insurance company subject to tax under Article 8B of this Chapter.

(3) A single member limited liability company that is disregarded for federal income tax purposes if the single member is a corporation and the disregarded limited liability company's net worth and property is included in that of its single member.

(4) A real estate mortgage investment conduit, as defined in section 860D of the Code."

SECTION 4.1.(d) Notwithstanding G.S. 105-116.2, as enacted by this section, for fiscal year 2014-2015, the Secretary must distribute forty-five million dollars ($45,000,000) to cities in accordance with the distribution formula in that statute.

SECTION 4.1.(e) This section is effective for taxable years beginning on or after January 1, 2015, and applies to taxes due in that year or a subsequent year.

SECTION 4.2.(a) G.S. 55-1-22 reads as rewritten:

"**§ 55-1-22. Filing, service, and copying fees.**

(a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to the Secretary for filing:

Document	Fee
...	
(23) Annual report ~~(paper)~~	~~25.00~~No fee
~~(23a) Annual report (electronic)~~	~~18.00~~
...	

(b) The Secretary of State shall collect a fee of ten dollars ($10.00) each time process is served on the Secretary under this Chapter. The party to a proceeding causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.

(c) The Secretary of State shall collect the following fees for copying, comparing, and certifying a copy of any filed document relating to a domestic or foreign corporation:

(1) One dollar ($1.00) a page for copying or comparing a copy to the original.

(2) Fifteen dollars ($15.00) for a paper certificate.
(3) Ten dollars ($10.00) for an electronic certificate.

~~(d) The fee for the annual report in subdivision (23) of this section is nonrefundable.~~"

SECTION 4.2.(b) G.S. 55-16-22 reads as rewritten:

"**§ 55-16-22. Annual report.**

(a) ~~Except as provided in subsections (a1) and (a2) of this section, each domestic corporation and each foreign corporation authorized to transact business in this State shall deliver an annual report to the Secretary of Revenue in paper form or, in the alternative, directly to the Secretary of State in electronic form as prescribed by the Secretary of State under this section.~~Requirement. – The following businesses must file an annual report with the Secretary of State on a form prescribed by the Secretary and in the manner required by the Secretary:

(1) A corporation that is incorporated under this Chapter.
(2) A corporation that has received a certificate of authority under this Chapter authorizing the corporation to transact business in this State.
(3) A company that is an insurance company regulated under Chapter 58 of the General Statutes.

~~(a1) Each insurance company subject to the provisions of Chapter 58 of the General Statutes shall deliver an annual report to the Secretary of State.~~

~~(a2) A domestic corporation governed by Chapter 55B of the General Statutes is exempt from this section.~~

~~(a3) The annual report required by this section shall be in a form jointly prescribed by the Secretary of Revenue and the Secretary of State. The Secretary of Revenue shall provide the form needed to file an annual report. The Secretary of State shall prescribe the form needed to file an annual report electronically and shall provide this form by electronic means. The annual report shall set forth all of the following:~~

~~(1) The name of the corporation and the state or country under whose law it is incorporated.~~
~~(2) The street address, and the mailing address if different from the street address, of the registered office, the county in which its registered office is located, and the name of its registered agent at that office in this State, and a statement of any change of such registered office or registered agent, or both.~~
~~(3) The address and telephone number of its principal office.~~
~~(4) The names, titles, and business addresses of its principal officers.~~
~~(4a) Repealed by Session Laws 1997-475, s. 6.1, effective January 1, 1998.~~
~~(5) A brief description of the nature of its business.~~

~~If the information contained in the most recently filed annual report has not changed, a certification to that effect may be made instead of setting forth the information required by subdivisions (2) through (5) of this subsection.~~

(b) Content. – An annual report must set out the information listed in this subsection. The information must be current as of the date the business completes the report. ~~Information in the annual report must be current as of the date the annual report is executed on behalf of the corporation.~~ If the information set out in the business' most recent annual report has not changed, the business may certify on its annual report that the information has not changed in lieu of restating the information. A business may amend an annual report at any time to correct, update, or augment information included in a prior report.

The following information must be included on the annual report of a business:

(1) Its name.

(2) The state or country under whose law it is incorporated or, if it is an insurance company and is not a corporation, the state or country under whose law it is organized.

(3) The street address of its registered office in this State, the county in which the registered office is located, and the name of the registered agent at the registered office. If the registered office or registered agent differs from the registered office or registered agent listed on the preceding annual report, the report must indicate that the registered office or registered agent has changed. A change in registered office or registered agent that is indicated on an annual report is effective when the report is filed.

(4) The mailing address of its registered office, if the street address of the office is not the mailing address.

(5) The address and telephone number of its principal office.

(6) The name, title, and business address of each of its principal officers.

(7) A brief description of the nature of its business.

(c) Due Date. – An annual report is due by the 15th day of the fourth month following the close of the fiscal year of the business filing the report. An annual report is delinquent if it is not filed within 120 days after it is due.~~eligible to be delivered to the Secretary of Revenue is due by the due date for filing the corporation's income and franchise tax returns. An extension of time to file a return is an extension of time to file an annual report. At the option of the filer, an annual report may be filed directly with the Secretary of State in electronic form. An annual report required to be delivered to the Secretary of State is due by the fifteenth day of the fourth month following the close of the corporation's fiscal year.~~

(d) Incomplete Report. – If the Secretary of State determines that an annual report filed with the Secretary does not contain the information required by this section, the Secretary must send a written notice to the business that the report is incomplete. An annual report that is corrected to contain the information and filed with the Secretary within 30 days of the date of the notice is considered timely filed.~~If an annual report does not contain the information required by this section, the Secretary of State shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for correction. If the report is corrected to contain the information required by this section and delivered to the Secretary of State within 30 days after the effective date of notice, it is deemed to be timely filed.~~

~~(e) Amendments to any previously filed annual report may be filed with the Secretary of State at any time for the purpose of correcting, updating, or augmenting the information contained in the annual report.~~

~~(f) Expired.~~

~~(g) When a statement of change of registered office or registered agent is filed in the annual report, the change shall become effective when the statement is received by the Secretary of State.~~

~~(h) If the Secretary of State does not receive an annual report within 120 days of the date the return is due, the Secretary of State may presume that the annual report is delinquent. This presumption may be rebutted by receipt of the annual report from the Secretary of Revenue or by evidence of delivery presented by the filing corporation.~~"

SECTION 4.2.(c) G.S. 57C-1-22(a)(25) reads as rewritten:

"(a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to the Secretary of State for filing:

Document	Fee
...	
(25) Annual report	~~200.00~~No fee

...."

SECTION 4.2.(d) G.S. 59-35.2(a)(18) reads as rewritten:

"(a) The Secretary of State shall collect the following fees when the documents described in this subsection are submitted by a partnership to the Secretary of State for filing:

Document	Fee
...	
(18) Annual report	~~200.00~~No fee
...."	

SECTION 4.2.(e) G.S. 59-1106(a)(22) reads as rewritten:

"(a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to the Secretary of State for filing:

Document	Fee
...	
(22) Annual report for a limited liability limited partnership	~~200.00~~No fee
...."	

SECTION 4.2.(f) G.S. 105-122.1 is repealed.

SECTION 4.2.(g) G.S. 105-228.90(a) reads as rewritten:

"(a) Scope. – This Article applies to Subchapters I, V, and VIII of this Chapter, ~~to the annual report filing requirements of G.S. 55-16-22,~~ to the primary forest product assessment levied under Article 12 of Chapter 113A of the General Statutes, and to inspection taxes levied under Article 3 of Chapter 119 of the General Statutes."

SECTION 4.2.(h) G.S. 105-256.1 is repealed.

SECTION 4.2.(i) G.S. 105-259(a) reads as rewritten:

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

(1) Employee or officer. – The term includes a former employee, a former officer, and a current or former member of a State board or commission.

(2) Tax information. – Any information from any source concerning the liability of a taxpayer for a tax, as defined in G.S. 105-228.90. The term includes the following:

a. Information contained on a tax return, a tax report, or an application for a license for which a tax is imposed.

b. Information obtained through an audit of a taxpayer or by correspondence with a taxpayer.

c. Information on whether a taxpayer has filed a tax return or a tax report.

d. A list or other compilation of the names, addresses, social security numbers, or similar information concerning taxpayers.

The term does not include ~~(i)~~ statistics classified so that information about specific taxpayers cannot be ~~identified, (ii) an annual report required to be filed under G.S. 55-16-22 or (iii)~~ identified or the amount of tax refunds paid to either a governmental entity listed in G.S. 105-164.14(c) or ~~to~~ a State agency."

SECTION 4.2.(j) This section becomes effective January 1, 2015. Subsection (f) of this section applies to returns due on or after April 15, 2015, for taxable years beginning on or after January 1, 2015. The remaining sections apply to annual reports due on or after January 1, 2015.

PART V. REDUCE SALES TAX RATE AND BROADEN SALES TAX BASE

SECTION 5.1.(a) G.S. 105-164.13(13c), (28), (30), (36), (39), and (50) are repealed.

SECTION 5.1.(b) This section becomes effective July 1, 2013.

SECTION 5.2.(a) The following statutes are repealed:

G.S. 105-33 G.S. 105-103

G.S. 105-33.1	G.S. 105-105
G.S. 105-37.1	G.S. 105-106
G.S. 105-38.1	G.S. 105-108
G.S. 105-40	G.S. 105-109

SECTION 5.2.(b) This section becomes effective January 1, 2014, and applies to receipts from admission tickets sold on or after that date.

SECTION 5.3.(a) G.S. 105-116, 105-116.1, 105-164.21A, and 159B-27(b), (c), (d), and (e) are repealed.

SECTION 5.3.(b) G.S. 105-164.13(44) and Article 5E of Chapter 105 of the General Statutes are repealed.

SECTION 5.3.(c) Pursuant to G.S. 62-31 and G.S. 62-32, the Utilities Commission must lower the rate set for the following utilities:

(1) Electricity to reflect the repeal of G.S. 105-116 and the resulting liability of electric power companies for the tax imposed under G.S. 105-114.4 and for the increase in the rate of tax imposed on sales of electricity under G.S. 105-164.4.

(2) Piped natural gas to reflect the repeal of Article 5E of Chapter 105 of the General Statutes, the repeal of the credit formerly allowed under G.S. 105-122(d1), and the resulting liability of companies for the tax imposed on sales of piped natural gas under G.S. 105-164.4.

SECTION 5.3.(d) Notwithstanding G.S. 160A-211:

(1) No city shall impose or collect any greater franchise, privilege, or license taxes, in the aggregate, on an electric power company that was imposed and collected on or before January 1, 1947.

(2) A city may not levy a license, franchise, or privilege tax on a person engaged in the business of supplying piped natural gas.

SECTION 5.3.(e) This section becomes effective January 1, 2014. Subsection (a) of this section applies to taxes due in the 2014 tax year or a subsequent year. Subsection (b) of this section applies to piped natural gas received on or after January 1, 2014, pursuant to a sale made on or before that date. The remainder of this section is effective when it becomes law.

SECTION 5.4.(a) G.S. 105-164.3 reads as rewritten:

"**§ 105-164.3. Definitions.**

The following definitions apply in this Article:

...

(1c) Alteration, repair, maintenance, cleaning, and installation services. – The term includes the activities listed in this subdivision:

a. Altering tangible personal property by tailoring, monogramming, engraving, or making similar changes to the property.

b. Repairing tangible personal property to restore it to proper working order.

c. Maintaining tangible personal property to keep the property in working order, to avoid breakdown, or to prevent unnecessary repairs.

d. Cleaning tangible personal property.

e. Installing tangible personal property.

...

(2b) Capital equipment. – Equipment that is capitalized by the purchaser for tax purposes under the Code and attachments and repair parts for that equipment.

...

(4a) Combined ~~general~~ rate. – The State's general rate of tax set in G.S. 105-164.4(a) plus the sum of the rates of the local sales and use taxes authorized by Subchapter VIII of this Chapter for every county in this State.

...

(5e) Datacenter equipment. – Capital equipment that is located and used at a datacenter for any of the following:

a. For the provision of a service included in the business of the primary user of the datacenter, including equipment cooling systems for managing the performance of the property, hardware and software for distributed and mainframe computers and servers, data storage devices, network connectivity equipment, and peripheral components and equipment.

b. For the generation, transformation, transmission, distribution, or management of electricity, including exterior substations and other capital equipment used for these purposes.

c. To provide related computer engineering or computer science research.

...

(35) Retailer. – A person engaged in the business of any of the following:

a. Making sales at retail, offering to make sales at retail, or soliciting sales at retail of tangible personal property, digital property, or services for storage, use, or consumption in this State. When the Secretary finds it necessary for the efficient administration of this Article to regard any sales representatives, solicitors, representatives, consignees, peddlers, or truckers as agents of the dealers, distributors, consignors, supervisors, employers, or persons under whom they operate or from whom they obtain the items sold by them regardless of whether they are making sales on their own behalf or on behalf of these dealers, distributors, consignors, supervisors, employers, or persons, the Secretary may so regard them and may regard the dealers, distributors, consignors, supervisors, employers, or persons as "retailers" for the purpose of this Article. A person who sells tangible personal property, other than the person's own household personal property, at a specialty market as defined in G.S. 66-250 is a retailer.

b. Delivering, erecting, installing, or applying tangible personal property for use in this State, regardless of whether the property is permanently affixed to real property or other tangible personal property.

c. Making a remote sale, if one of the conditions listed in G.S. 105-164.8(b) is met.

...

(38b) Service contract. – A warranty agreement, a maintenance agreement, a repair contract, or a similar agreement or contract by which the seller agrees to maintain or repair tangible personal property.

(38d) Short-term lease or rental. – Defined in G.S. 105-187.1."

SECTION 5.4.(b) G.S. 105-164.4 reads as rewritten:

"**§ 105-164.4. ~~Tax imposed on retailers.~~Privilege tax imposed on retailer at various rates.**

(a) Tax Imposed. – A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales of tangible personal property, digital property, and services. The general rate of tax is four and three-quarters percent (4.75%). The general rate

applies to a taxable item unless the item is subject to tax at the combined rate of tax or to a rate of tax that differs from both the general rate and the combined rate. Subsection (b) of this section lists the items that are subject to the general rate. An item taxable under subsection (b) of this section is also subject to local sales and use tax. Subsection (c) of this section lists the items that are subject to the combined rate.

(b) General Rate. – The general rate of tax applies to a retailer's net taxable sales of the following:

(1) Tangible personal property. – Tangible personal property that is not subject to tax under another subsection of this section. If tangible personal property that is leased or rented is subject to a different rate under another subsection of this section, then the rate and the maximum tax, if any, set in the other subsection applies to the lease or rental of the property. A person who leases or rents property must collect the tax imposed by this section on the separate retail sale of the property.

(2) Digital property. – Digital property that is listed in this subdivision, is delivered or accessed electronically, is not considered tangible personal property, and would be taxable under this Article if sold in a tangible medium. The tax applies regardless of whether the purchaser of the item has a right to use it permanently or to use it without making continued payments. The tax does not apply to a service that is taxed under another subdivision of this subsection or to an information service. The following property is subject to tax under this subdivision:

a. An audio work.

b. An audiovisual work.

c. A book, a magazine, a newspaper, a newsletter, a report, or another publication.

d. A photograph or a greeting card.

e. Computer software.

(3) Accommodations. – The rental of an accommodation. These rentals are taxed in accordance with G.S. 105-164.4E.

(4) Prepaid telephone service. – The sale or recharge of prepaid telephone calling service. The tax applies regardless of whether tangible personal property, such as a card or a telephone, is transferred. The tax applies to a service that is sold in conjunction with prepaid wireless calling service. Prepaid telephone calling service is taxable at the point of sale instead of at the point of use and is sourced in accordance with G.S. 105-164.4B. Prepaid telephone calling service taxed under this subdivision is not subject to tax as a telecommunications service.

(5) Tangible personal property services. – Any of the following:

a. A service contract.

b. Alteration, repair, maintenance, cleaning, and installation services.

c. Short-term lease or rental of any of the following:

1. A mini-warehouse or other secure self-storage space.

2. Storage for furs and other clothing not held for sale.

3. Docking or storage for a boat or other watercraft.

4. Storage for an aircraft.

(6) Reserved.

(7) Reserved.

(8) Entertainment and recreation. – Charges for entertainment or recreational activities are taxed in accordance with G.S. 105-164.4F.

(9) Satellite radio. – Satellite digital auto radio service. For services received by a mobile or portable station, the service is sourced to the subscriber's business or home address.

(c) Combined Rate. – The combined rate of tax applies to a retailer's net taxable sales of the following:

(1) Telecommunications. – Providing telecommunications service and ancillary service. These services are taxed in accordance with G.S. 105-164.4C.

(2) Video programming. – Providing video programming to a subscriber in this State.

(3) Liquor. – Spirituous liquor other than mixed beverages. As used in this subdivision, the terms "spirituous liquor" and "mixed beverage" have the meanings provided in G.S. 18B-101.

(d) Manufactured and Modular Home. – The sale of a manufactured home or a modular home is treated as if it were the sale of real property.

~~(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and three-quarters percent (4.75%).~~

~~(1) The general rate of tax applies to the sales price of each item or article of tangible personal property that is sold at retail and is not subject to tax under another subdivision in this section.~~

~~(1a) The rate of two percent (2%) applies to the sales price of each manufactured home sold at retail, including all accessories attached to the manufactured home when it is delivered to the purchaser. The maximum tax is three hundred dollars ($300.00) per article. Each section of a manufactured home that is transported separately to the site where it is to be erected is a separate article.~~

~~(1b) The rate of three percent (3%) applies to the sales price of each aircraft or boat sold at retail, including all accessories attached to the item when it is delivered to the purchaser. The maximum tax is one thousand five hundred dollars ($1,500) per article.~~

~~(1c), (1d) and (1e) Repealed by Session Laws 2005-276, s. 33.4(b), effective January 1, 2006.~~

~~(1f) The rate of two and eighty-three hundredths percent (2.83%) applies to the sales price of electricity that is measured by a separate meter or another separate device and sold to a commercial laundry or to a pressing and dry-cleaning establishment for use in machinery used in the direct performance of the laundering or the pressing and cleaning service.~~

~~a. Repealed by Session Laws 2007-397, s. 10(b), effective October 1, 2007, and applicable to sales occurring on or after that date.~~

~~b. Repealed by Session Laws 2006-66, s. 24.19(a), effective July 1, 2007, and applicable to sales made on or after that date.~~

~~c. Repealed by Session Laws 2007-397, s. 10(b), effective October 1, 2007, and applicable to sales occurring on or after that date.~~

~~(1g) Repealed by Session Laws 2004-110, s. 6.1, effective October 1, 2004, and applicable to sales of electricity made on or after that date.~~

~~(1h) Expired pursuant to Session Laws 2004-110, s. 6.4, effective for sales made on or after October 1, 2007.~~

~~(1i) Repealed by Session Laws 2007-397, s. 10(a), effective October 1, 2007, and applicable to sales occurring on or after that date.~~

~~(1j) Repealed by Session Laws 2007-397, s. 10(f), effective July 1, 2010, and applicable to sales occurring on or after that date.~~

~~a. Sales of electricity to manufacturing industries and manufacturing plants for use in connection with the operation of the industries and plants.~~

~~b. Sales of electricity to farmers to be used by them for any farming purposes other than preparing food, heating dwellings, and other household purposes.~~

~~(2) The applicable percentage rate applies to the gross receipts derived from the lease or rental of tangible personal property by a person who is engaged in the business of leasing or renting tangible personal property, or is a retailer and leases or rents property of the type sold by the retailer. The applicable percentage rate is the rate and the maximum tax, if any, that applies to a sale of the property that is leased or rented. A person who leases or rents property shall also collect the tax imposed by this section on the separate retail sale of the property.~~

~~(3) A tax at the general rate applies to the gross receipts derived from the rental of an accommodation. The tax does not apply to a private residence or cottage that is rented for fewer than 15 days in a calendar year or to an accommodation rented to the same person for a period of 90 or more continuous days.~~

~~Gross receipts derived from the rental of an accommodation include the sales price of the rental of the accommodation. The sales price of the rental of an accommodation is determined as if the rental were a rental of tangible personal property. The sales price of the rental of an accommodation marketed by a facilitator includes charges designated as facilitation fees and any other charges necessary to complete the rental.~~

~~A person who provides an accommodation that is offered for rent is considered a retailer under this Article. A facilitator must report to the retailer with whom it has a contract the sales price a consumer pays to the facilitator for an accommodation rental marketed by the facilitator. A retailer must notify a facilitator when an accommodation rental marketed by the facilitator is completed and, within three business days of receiving the notice, the facilitator must send the retailer the portion of the sales price the facilitator owes the retailer and the tax due on the sales price. A facilitator that does not send the retailer the tax due on the sales price is liable for the amount of tax the facilitator fails to send. A facilitator is not liable for tax sent to a retailer but not remitted by the retailer to the Secretary. Tax payments received by a retailer from a facilitator are held in trust by the retailer for remittance to the Secretary. A retailer that receives a tax payment from a facilitator must remit the amount received to the Secretary. A retailer is not liable for tax due but not received from a facilitator. The requirements imposed by this subdivision on a retailer and a facilitator are considered terms of the contract between the retailer and the facilitator.~~

~~A person who, by written contract, agrees to be the rental agent for the provider of an accommodation is considered a retailer under this Article and is liable for the tax imposed by this subdivision. The liability of a rental agent for the tax imposed by this subdivision relieves the provider of the accommodation from liability. A rental agent includes a real estate broker, as defined in G.S. 93A-2. The following definitions apply in this subdivision:~~

~~a. Accommodation. — A hotel room, a motel room, a residence, a cottage, or a similar lodging facility for occupancy by an individual.~~

~~b. Facilitator. — A person who is not a rental agent and who contracts with a provider of an accommodation to market the accommodation and to accept payment from the consumer for the accommodation.~~

~~(4) Every person engaged in the business of operating a dry cleaning, pressing, or hat blocking establishment, a laundry, or any similar business, engaged in the business of renting clean linen or towels or wearing apparel, or any similar business, or engaged in the business of soliciting cleaning, pressing, hat blocking, laundering or linen rental business for any of these businesses, is considered a retailer under this Article. A tax at the general rate of tax is levied on the gross receipts derived by these retailers from services rendered in engaging in any of the occupations or businesses named in this subdivision. The tax imposed by this subdivision does not apply to receipts derived from coin, token, or card-operated washing machines, extractors, and dryers. The tax imposed by this subdivision does not apply to gross receipts derived from services performed for resale by a retailer that pays the tax on the total gross receipts derived from the services.~~

~~(4a) The rate of three percent (3%) applies to the gross receipts derived from sales of electricity, other than sales of electricity subject to tax under another subdivision in this section. A person who sells electricity is considered a retailer under this Article.~~

~~(4b) A person who sells tangible personal property at a specialty market, other than the person's own household personal property, is considered a retailer under this Article. A tax at the general rate of tax is levied on the sales price of each article sold by the retailer at the specialty market. The term "specialty market" has the same meaning as defined in G.S. 66-250.~~

~~(4c) The combined general rate applies to the gross receipts derived from providing telecommunications service and ancillary service. A person who provides telecommunications service or ancillary service is considered a retailer under this Article. These services are taxed in accordance with G.S. 105-164.4C.~~

~~(4d) The sale or recharge of prepaid telephone calling service is taxable at the general rate of tax. The tax applies regardless of whether tangible personal property, such as a card or a telephone, is transferred. The tax applies to a service that is sold in conjunction with prepaid wireless calling service. Prepaid telephone calling service is taxable at the point of sale instead of at the point of use and is sourced in accordance with G.S. 105-164.4B. Prepaid telephone calling service taxed under this subdivision is not subject to tax as a telecommunications service.~~

~~(5) Repealed by Session Laws 1998-212, s. 29A.1(a), effective May 1, 1999.~~

~~(6) The combined general rate applies to the gross receipts derived from providing video programming to a subscriber in this State. A cable service provider, a direct-to-home satellite service provider, and any other person engaged in the business of providing video programming is considered a retailer under this Article.~~

~~(6a) The general rate applies to the gross receipts derived from providing satellite digital audio radio service. For services received by a mobile or portable station, the service is sourced to the subscriber's business or home address. A person engaged in the business of providing satellite digital audio radio service is a retailer under this Article.~~

~~(6b) The general rate applies to the digital property that is listed in this subdivision, is delivered or accessed electronically, is not considered~~

~~tangible personal property, and would be taxable under this Article if sold in a tangible medium. The tax applies regardless of whether the purchaser of the item has a right to use it permanently or to use it without making continued payments. The tax does not apply to a service that is taxed under another subdivision of this subsection or to an information service. The following property is subject to tax under this subdivision:~~

~~a. An audio work.~~

~~b. An audiovisual work.~~

~~c. A book, a magazine, a newspaper, a newsletter, a report, or another publication.~~

~~d. A photograph or a greeting card.~~

~~(7) The combined general rate applies to the sales price of spirituous liquor other than mixed beverages. As used in this subdivision, the terms "spirituous liquor" and "mixed beverage" have the meanings provided in G.S. 18B-101.~~

~~(8) The rate of two and one-half percent (2.5%) applies to the sales price of each modular home sold at retail, including all accessories attached to the modular home when it is delivered to the purchaser. The sale of a modular home to a modular homebuilder is considered a retail sale. A person who sells a modular home at retail is allowed a credit against the tax imposed by this subdivision for sales or use tax paid to another state on tangible personal property incorporated in the modular home. The retail sale of a modular home occurs when a modular home manufacturer sells a modular home to a modular homebuilder or directly to the end user of the modular home.~~

~~(b) The tax levied in this section shall be collected from the retailer and paid by him at the time and in the manner as hereinafter provided. Provided, however, that any person engaging or continuing in business as a retailer shall pay the tax required on the net taxable sales of such business at the rates specified when proper books are kept showing separately the gross proceeds of taxable and nontaxable sales of tangible personal property in such form as may be accurately and conveniently checked by the Secretary or his duly authorized agent. If such records are not kept separately the tax shall be paid as a retailer on the gross sales of business and the exemptions and exclusions provided by this Article shall not be allowed. The tax levied in this section is in addition to all other taxes whether levied in the form of excise, license or privilege or other taxes.~~

~~(c) Certificate of Registration. Before a person may engage in business as a retailer or a wholesale merchant, the person must obtain a certificate of registration from the Department in accordance with G.S. 105-164.29.~~"

SECTION 5.4.(c) The following statutes are repealed:

G.S. 105-164.3(8e)

G.S. 105-164.13(49)

G.S. 105-164.13(49a)

G.S. 105-164.44G

SECTION 5.4.(d) Article 5 of Chapter 105 of the General Statutes is amended by adding the following new sections to read:

"**§ 105-164.4E. Accommodation rentals.**

(a) Definition. – The following definitions apply in this section:

(1) Accommodation. – A hotel room, a motel room, a residence, a cottage, or a similar lodging facility for occupancy by an individual.

(2) Facilitator. – A person who is not a rental agent and who contracts with a provider of an accommodation to market the accommodation and to accept payment from the consumer for the accommodation.

(3) Rental agent. – The term includes a real estate broker, as defined in G.S. 93A-2.

(b) Tax. – The gross receipts derived from the rental of an accommodation are taxed at the general rate set in G.S. 105-164.4. Gross receipts derived from the rental of an accommodation include the sales price of the rental of the accommodation. The sales price of the rental of an accommodation is determined as if the rental were a rental of tangible personal property. The sales price of the rental of an accommodation marketed by a facilitator includes charges designated as facilitation fees and any other charges necessary to complete the rental.

(c) Facilitator Transactions. – A facilitator must report to the retailer with whom it has a contract the sales price a consumer pays to the facilitator for an accommodation rental marketed by the facilitator. A retailer must notify a facilitator when an accommodation rental marketed by the facilitator is completed and, within three business days of receiving the notice, the facilitator must send the retailer the portion of the sales price the facilitator owes the retailer and the tax due on the sales price. A facilitator that does not send the retailer the tax due on the sales price is liable for the amount of tax the facilitator fails to send. A facilitator is not liable for tax sent to a retailer but not remitted by the retailer to the Secretary. Tax payments received by a retailer from a facilitator are held in trust by the retailer for remittance to the Secretary. A retailer that receives a tax payment from a facilitator must remit the amount received to the Secretary. A retailer is not liable for tax due but not received from a facilitator. The requirements imposed by this section on a retailer and a facilitator are considered terms of the contract between the retailer and the facilitator.

(d) Rental Agent. – A person who, by written contract, agrees to be the rental agent for the provider of an accommodation is considered a retailer under this Article and is liable for the tax imposed by this section. The liability of a rental agent for the tax imposed by this section relieves the provider of the accommodation from liability.

(e) Exemptions. – The tax imposed by this section does not apply to the following:

(1) A private residence or cottage that is rented for fewer than 15 days in a calendar year.

(2) An accommodation supplied to the same person for a period of 90 or more continuous days.

"**§ 105.164.4F. Entertainment and recreation.**

(a) Tax. – Charges for an entertainment or recreational activity listed in this subsection are taxed at the general rate set in G.S. 105-164.4. Charges include admission charges, user charges, registration charges, membership charges, and charges for amenities. Offering an activity listed in this subsection is a service.

(1) Charges for admittance to any of the following entertainment or recreational activities:

a. A live performance or live event of any kind.

b. A movie or another audiovisual work.

c. A museum, a cultural site, a garden, an exhibit, a show, or a similar attraction or a guided tour at any of these attractions.

(2) Charges that enable a consumer to play or participate in, or use property or a facility to play or participate in, any of the entertainment or recreational activities listed in this subdivision. A consumer's play or participation can be in person or online. Charges for online play or participation include charges to acquire virtual goods or attributes.

a. A game.

b. A sport.

c. A fitness activity.

(b) Exclusion for Membership Charges. – The tax imposed by this section does not apply to the portion of a membership charge that meets any of the following descriptions:

(1) It is deductible as a charitable contribution under section 170 of the Code.
(2) It allows access to a dining facility or other property that does not enable the member to play or participate in an entertainment or recreational activity listed in subdivision (a)(2) of this section.

(c) Ticket Resales. – When an admission ticket is resold and the price of the admission ticket is printed on the face of the ticket, the tax does not apply to the face price. When an admission ticket is resold and the price of the admission ticket is not printed on the face of the ticket, the tax applies to the difference between the amount the reseller paid for the ticket and the amount the reseller charges for the ticket."

SECTION 5.4.(e) G.S. 105-164.13 is amended by adding the following new subdivisions to read:

"(60) Any of the following provided for tangible personal property that is exempt from tax under this Article, other than an item exempt from tax under G.S. 105-164.13(32):
a. A service contract.
b. Alteration, repair, maintenance, cleaning, or installation services.
(61) Reserved.
(62) A service provided by a self-employed individual who is 17 years of age or younger.
(63) Admission charges to any of the following recreational or entertainment activities:
a. An event that is held at an elementary or secondary school and is sponsored by the school.
b. A commercial agricultural fair that meets the requirements of G.S. 106-520.1, as determined by the Commissioner of Agriculture.
c. A festival or other recreational or entertainment activity that lasts no more than seven consecutive days and is sponsored by a nonprofit entity that is exempt from tax under Article 4 of this Chapter and uses the entire proceeds of the activity exclusively for the entity's nonprofit purposes. This exemption applies to no more than two activities sponsored by the entity during a calendar year.
(64) Short-term lease or rental of a mini-warehouse or other secure self-storage space by a member of the Armed Forces of the United States."

SECTION 5.4.(f) G.S. 105-187.3(a) reads as rewritten:

"(a) Amount. – The rate of the use tax imposed by this Article is three percent (3%) of the retail value of a motor vehicle for which a certificate of title is issued. The tax is payable as provided in G.S. 105-187.4. ~~The maximum tax is one thousand dollars ($1,000) for each certificate of title issued for a Class A or Class B motor vehicle that is a commercial motor vehicle, as defined in G.S. 20-4.01. The maximum tax is one thousand five hundred dollars ($1,500) for each certificate of title issued for a recreational vehicle that is not subject to the one thousand dollar ($1,000) maximum tax.~~

(b) Retail Value. – The retail value of a motor vehicle for which a certificate of title is issued because of a sale of the motor vehicle by a retailer is the sales price of the motor vehicle, including all accessories attached to the vehicle when it is delivered to the purchaser, adjusted as follows:

(1) Documentation fees and other administrative charges are included in the sales price.
(2) ~~less the~~ The amount of any allowance given by the retailer for a motor vehicle taken in trade as a full or partial payment for the purchased motor ~~vehicle.~~vehicle is not included in the sales price.

The retail value of a motor vehicle for which a certificate of title is issued because of a sale of the motor vehicle by a seller who is not a retailer is the market value of the vehicle, less the amount of any allowance given by the seller for a motor vehicle taken in trade as a full or partial payment for the purchased motor vehicle. A transaction in which two parties exchange motor vehicles is considered a sale regardless of whether either party gives additional consideration as part of the transaction.

The retail value of a motor vehicle for which a certificate of title is issued because of a reason other than the sale of the motor vehicle is the market value of the vehicle. The market value of a vehicle is presumed to be the value of the vehicle set in a schedule of values adopted by the Commissioner.

The retail value of a vehicle for which a certificate of title is issued because of a transfer by a State agency that assists the United States Department of Defense with purchasing, transferring, or titling a vehicle to another State agency, a unit of local government, a volunteer fire department, or a volunteer rescue squad is the sales price paid by the State agency, unit of local government, volunteer fire department, or volunteer rescue squad.

(c) Schedules. – In adopting a schedule of values for motor vehicles, the Commissioner shall adopt a schedule whose values do not exceed the wholesale values of motor vehicles as published in a recognized automotive reference manual."

SECTION 5.4.(g). G.S. 105-187.9(a) reads as rewritten:

"(a) Distribution. – Taxes collected under this Article at the rate of eight percent (8%) shall be credited to the General Fund. ~~Taxes~~ Of the taxes collected under this Article at the rate of three percent ~~(3%)~~(3%), ninety-five percent (95%) shall be credited to the North Carolina Highway Trust ~~Fund.~~Fund and five percent (5%) shall be credited to the General Fund."

SECTION 5.4.(h) This section becomes effective January 1, 2014, and applies to sales made on or after that date and to gross receipts received on or after January 1, 2014, from admissions purchased on or after that date. Gross receipts received on or after January 1, 2014, from admissions purchased before that date are taxable under G.S. 105-37.1 or G.S. 105-38.1, as appropriate.

SECTION 5.5.(a) G.S. 105-164.4(a), as amended by Section 5.4(b) of this act, is further amended by adding the following new subdivisions to read:

"(6) Property care and maintenance services. – Any of the following:

a. Exterminating and controlling birds, mosquitoes, rodents, termites, and other insects and pests.

b. Providing any of the following landscaping services:

1. Installing a tree, shrub, plant, lawn, or garden, either indoors or outdoors, or providing other similar landscape care and maintenance services.

2. Maintaining on a contract basis a tree, shrub, plant, lawn, or garden, either indoors or outdoors.

2. Installing or maintaining a walkway, retaining wall, deck, fence, water feature, or other similar structure to enhance the landscape of an area.

c. Cleaning the interior or exterior of a building or other structure.

d. Cleaning an item, such as a carpet or gutter, that is attached to a structure.

e. Cleaning a driveway, a parking lot, a swimming pool, the grounds at a building or other structure, or another outdoor area.

(7) Security services. – Any of the following:

a. Guard or security patrol service.

b. Armored car service.

c. Remote monitoring of a security alarm system.

d. Locksmith service.
e. Telematic service that provides communication, tracking, and emergency response services to motor vehicle owners."

SECTION 5.5.(b) Part 2 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.12D. Tangible personal property installed by a person who provides a landscaping service.**

A person who provides a landscaping service and who installs a tree, shrub, or other tangible personal property in the course of providing the service may do so as a performance contractor or as an installing retailer. A person who provides a landscaping service as a performance contractor is the consumer of all tangible personal property installed in the course of providing the service. When a person provides a landscaping service as an installing retailer, the purchaser of the service and not the provider of the service is considered the consumer of tangible personal property installed in the course of providing the service.

A person is considered to provide a landscaping service as an installing retailer when the person installs tangible personal property in the course of providing a landscaping service and the person gives the purchaser a bill that separately states the sales price of the tangible personal property that is installed. In this circumstance, tax applies to the sales price of the tangible personal property that is separately stated and to the sales price of any other charges for the service, and the service provider's prior purchase of the separately stated tangible personal property is a purchase for resale. In the absence of a bill that separately states the sales price of tangible personal property that is installed by a person who provides a landscaping service, tax applies to the sales price of the service, and the provider's prior purchase of the tangible personal property that is installed is a purchase for use or consumption."

SECTION 5.5.(c) G.S. 105-164.13 is amended by adding the following subdivisions to read:

"(4h) A service provided to a farmer, as defined in subdivision (1) of this section, to control pests in crops grown for commercial purposes.

...

(61) A property maintenance service described in G.S. 105-164.4(a)(6) that is provided for any of the following:
a. A newly constructed building or other structure.
b. A right-of-way or utility easement."

SECTION 5.5.(d) This section becomes effective July 1, 2014.

SECTION 5.6.(a) G.S. 105-164.13B reads as rewritten:

"**§ 105-164.13B. ~~Food exempt from tax.~~Most food taxable at low rate.**

(a) ~~State Exemption.~~State Tax. – Food is ~~exempt from the taxes imposed by this Article~~ subject to tax at the rate of one percent (1%) unless the food is included in one of the subdivisions in this subsection. The following food items are subject to ~~tax:~~tax at the general rate:

(1) Repealed by Session Laws 2005-276, s. 33.10, effective October 1, 2005.
(2) Dietary supplements.
(3) Food sold through a vending machine.
(4) Prepared food, other than bakery items sold without eating utensils by an artisan bakery. The term "bakery item" includes bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas. An artisan bakery is a bakery that meets all of the following requirements:
a. It derives over eighty percent (80%) of its gross receipts from bakery items.

b. Its annual gross receipts, combined with the gross receipts of all related persons as defined in G.S. 105-163.010, do not exceed one million eight hundred thousand dollars ($1,800,000).

(5) Soft drinks.

(6) Repealed by Session Laws 2003-284, s. 45.6B, effective January 1, 2004.

(7) Candy.

(b) ~~Administration of Local Food Tax.~~Local Tax. – ~~The Secretary must administer local sales and use taxes imposed on food as if they were imposed under this Article. This applies to local taxes on food imposed under Subchapter VIII of this Chapter and under Chapter 1096 of the 1967 Session Laws.~~Food subject to tax under subsection (a) of this section is subject to a local tax at the rate of one percent (1%)."

SECTION 5.6.(b) G.S. 105-469(a) reads as rewritten:

"(a) The Secretary ~~shall~~ must collect and administer a tax levied by a county pursuant to this Article. Notwithstanding G.S. 105-472, ~~As directed by G.S. 105-164.13B, taxes levied by a county on food are administered as if they were levied by the State under Article 5 of this Chapter. The~~ the Secretary must, on a monthly basis, distribute local taxes levied on food taxable at one percent (1%) under G.S. 105-164.13B to the taxing counties as follows:

(1) The Secretary must allocate one-half of the net proceeds on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer. ~~The Secretary must then adjust the amount allocated to each county as provided in G.S. 105-486(b). The Secretary must include one-half of the amount allocated under this subdivision in the distribution made under Article 40 of this Chapter and must include the remaining one-half in the distribution made under Article 42 of this Chapter.~~

(2) The Secretary must allocate the remaining net proceeds ~~proportionately to each taxing county based upon the amount of sales tax on food collected in the taxing county in the 1997-1998 fiscal year under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws relative to the total amount of sales tax on food collected in all taxing counties in the 1997-1998 fiscal year under Article 39 of this Chapter and under Chapter 1096 of the 1967 Session Laws. The Secretary must include the amount allocated under this subdivision in the distribution made under Article 39 of this Chapter.~~to each taxing county based on the county of collection."

SECTION 5.6.(c) This section becomes effective July 1, 2015.

SECTION 5.7.(a) G.S. 105-164.13(1a)b., (4c), and (4d) are repealed.

SECTION 5.7.(b) Article 5F of Chapter 105 of the General Statutes and G.S. 105-164.13(5a) are repealed.

SECTION 5.7.(c) G.S. 105-164.13 reads as rewritten:

"**§ 105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property, digital property, and services are specifically exempted from the tax imposed by this Article:

(1) Any of the following items sold to a farmer for use by the farmer in the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals. A "farmer" includes a dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a farmer of an aquatic species, as defined in G.S. 106-758.

a. Commercial fertilizer, lime, land plaster, plastic mulch, plant bed covers, potting soil, baler twine, and seeds.

b. Farm ~~machinery, attachment and repair parts for farm machinery, and lubricants applied to farm machinery. The term "machinery" includes implements that have moving parts or are operated or drawn by an animal. The term does not include implements operated wholly by hand or~~machinery that is capital equipment, other than a motor ~~vehicles~~vehicle required to be registered under Chapter 20 of the General Statutes.

c. A horse or mule.

d. Fuel.

...

(4f) Sales of the following to a person who is engaged in the commercial logging business:

a. Logging machinery. – ~~Logging machinery is machinery~~ Machinery that is used to harvest raw forest products for transport to first ~~market.~~market and is capital equipment.

~~b. Attachments and repair parts for logging machinery.~~

~~c. Lubricants applied to logging machinery.~~

d. Fuel used to operate logging machinery.

...

(5b) Sales to a telephone company regularly engaged in providing telecommunications service to subscribers on a commercial basis of the following equipment that is capital equipment:

a. ~~central~~ Central office ~~equipment, switchboard~~ equipment.

b. Switchboard ~~equipment, private~~ equipment.

c. Private branch exchange ~~equipment, terminal~~ equipment.

d. Terminal equipment other than public pay telephone terminal ~~equipment, and parts and accessories attached to the~~ equipment.

(5c) Sales to a radio or television company licensed by the Federal Communications Commission of ~~towers, towers~~ and broadcasting ~~equipment, and parts and accessories attached to the equipment to a radio or television company licensed by the Federal Communications Commission.~~equipment that is capital equipment.

(5d) Sales to a cable service provider of broadcasting equipment ~~and parts and accessories attached to the equipment to a cable service provider.~~ that is capital equipment. For the purposes of this subdivision, "broadcasting equipment" does not include cable.

(5e) Sales to a major recycling facility of the following for use in connection with the facility:

a. Cranes, structural steel crane support systems, and foundations related to the cranes and support systems.

b. Port and dock facilities.

c. Rail equipment.

d. Material handling equipment.

(5f) Sales of mill machinery that is capital equipment and is purchased by one of the following:

a. A manufacturer. A manufacturer does not include a delicatessen, café, cafeteria, restaurant, or another similar retailer that is principally engaged in the retail sale of foods prepared by it for consumption on or off its premises.

b. A contractor or subcontractor for use in the performance of a contract with a manufacturer.

c. A subcontractor for use in the performance of a contract with a general contractor that has a contract with a manufacturer.

(5g) Sales of capital equipment that is purchased by one of the following and would be considered mill machinery if purchased by a manufacturing industry or plant and used in manufacturing tangible personal property or in the research and development of tangible personal property manufactured by the industry or plant:

a. A research and development company in the physical, engineering, and life sciences that is included in industry group 54171 of NAICS for use by the company in the research and development of tangible personal property.

b. A software publishing company that is included in industry group 5112 of NAICS for use by the company in the research and development of tangible personal property.

c. An industrial machinery refurbishing company that is included in industry group 811310 of NAICS for use by the company in repairing or refurbishing tangible personal property.

(5h) Sales to a company located at a ports facility for waterborne commerce of capital equipment for use at the facility to unload or process bulk cargo to make the cargo suitable for delivery to and use by a manufacturer.

(5i) Datacenter machinery and equipment exempt from sales and use tax under G.S. 105-164.13E.

...

(10) Sales of the following to commercial laundries or to pressing and dry cleaning establishments:

a. Articles or materials used for the identification of garments being laundered or dry cleaned, wrapping paper, bags, hangers, starch, soaps, detergents, cleaning fluids and other compounds or chemicals applied directly to the garments in the direct performance of the laundering or the pressing and cleaning service.

b. Laundry and dry-cleaning ~~machinery, parts and accessories attached to the machinery, and lubricants applied to the machinery.~~machinery that is capital equipment.

c. ~~Fuel, other than electricity,~~Fuel used in the direct performance of the laundering or the pressing and cleaning service. Electricity qualifies for this exemption only if it is measured by a separate meter or another separate device.

...."

SECTION 5.7.(d) G.S. 105-164.13 reads as rewritten:

"**§ 105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property, digital property, and services are specifically exempted from the tax imposed by this Article:

...

(3) Products of forests and mines in their original ~~or unmanufactured~~ state when such sales are made by the producer in the capacity of producer.

...

(7) Sales of products of waters in their original ~~or unmanufactured~~ state when such sales are made by the producer in the capacity of producer. Fish and seafoods are likewise exempt when sold by the fisherman in that capacity.

...."

SECTION 5.7.(e) Part 3 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.13E. Exemption for datacenter.**

(a) Exemption. – Datacenter equipment is exempt from sales and use tax if it is located and used at a datacenter that meets the requirements of subsection (b), (c), or (d) of this section. Electricity used by a datacenter is exempt from sales and use tax if it is used at a datacenter that meets the requirements of subsection (d) of this section.

(b) All Datacenters. – A datacenter qualifies under this subsection if it has received a written determination from the Secretary of Commerce that it meets all of the following requirements:

(1) The wage standard and health insurance requirements of G.S. 143B-437.08A.

(2) The minimum investment level set in this subdivision for its location. The level of investment must consist of private funds that have been or will be invested in real and tangible property for the datacenter within five years of the date the datacenter's owner makes its first property investment in the datacenter.

a. For a datacenter in a development tier one area, the minimum investment level is one hundred fifty million dollars ($150,000,000).

b. For a datacenter located in a development tier two area or a development tier three area, the minimum investment level is two hundred twenty-five million dollars ($225,000,000).

(c) Second Datacenter. – A datacenter qualifies under this subsection if it is owned by or under common control with the owner of a datacenter that qualified under subsection (b) of this section and it meets all of the following requirements:

(1) The Secretary of Commerce certifies that it meets the same requirements that apply to the first datacenter under subsection (b) of this section except that the minimum investment level is seventy-five million dollars ($75,000,000) and must be made within five years after the first datacenter is placed in service.

(2) The two datacenters are linked through a fiber-optic connection or a similar connection.

(3) The two datacenters are placed in service within five years of each other.

(d) Publishers and Portals. – A datacenter qualifies under this subsection if it meets all of the following requirements:

(1) It is to be used primarily by a business engaged in software publishing included in industry 511210 of NAICS or an Internet activity included in industry 519130 of NAICS.

(2) It is comprised of a structure or series of structures located or to be located on a single parcel of land or on contiguous parcels of land that are commonly owned or owned by affiliation with the operator of the datacenter.

(3) It is located or to be located in a county that was designated an enterprise tier one, two, or three area or a development tier one or two area.

(4) It has received a written determination from the Secretary of Commerce that at least two hundred fifty million dollars ($250,000,000) in private funds has been or will be invested in real property or datacenter property within five years after the commencement of construction of the datacenter.

(e) County Designation. – The enterprise or tier area of a county is determined as of the date the datacenter applies to the Secretary of Commerce for a written determination of whether it meets the requirements of those subsections. A change in a designation after certification by

the Secretary of Commerce does not affect the eligibility of a datacenter for the exemption allowed under this section.

(f) Sunset. – The exemptions provided in subsections (b) and (c) of this section expire for sales occurring on or after July 1, 2015."

SECTION 5.7.(f) This section becomes effective January 1, 2014.

SECTION 5.8.(a) G.S. 105-164.4(a), as amended by Section 5.4(b) of this act, reads as rewritten:

"(a) Tax Imposed. – A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales of tangible personal property, digital property, and services. The general rate of tax is four and ~~three quarters~~ one-half percent ~~(4.75%).~~(4.5%). The general rate applies to a taxable item unless the item is subject to tax at the combined rate of tax or to a rate of tax that differs from both the general rate and the combined rate. Subsection (b) of this section lists the items that are subject to the general rate. An item taxable under subsection (b) of this section is also subject to local sales and use tax. Subsection (c) of this section lists the items that are subject to the combined rate."

SECTION 5.8.(b) This section becomes effective September 1, 2014.

SECTION 5.9.(a) G.S. 105-467(a) reads as rewritten:

"(a) Sales Tax. – The sales tax that may be imposed under this Article is limited to a tax at the rate of one percent (1%) of the ~~transactions listed in this subsection. The sales tax authorized by this Article does not apply to sales that are taxable by the State under G.S. 105-164.4 but are not specifically included in this subsection.~~following:

(1) A retailer's net taxable sales and gross receipts that are ~~The sales price of tangible personal property~~ subject to the general rate of sales tax imposed by the State under ~~G.S. 105-164.4(a)(1) and (a)(4b).~~G.S. 105-164.4.

~~(2) The gross receipts derived from the lease or rental of tangible personal property when the lease or rental of the property is subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(2).~~

~~(3) The gross receipts derived from the rental of any room or other accommodations subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(3).~~

~~(4) The gross receipts derived from services rendered by laundries, dry cleaners, and other businesses subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(4).~~

(5) The sales price of food that is not otherwise exempt from tax pursuant to G.S. 105-164.13 but is exempt from the State sales and use tax pursuant to G.S. 105-164.13B.

(5a) The sales price of a bundled transaction that includes food subject to tax under subdivision (5) of this subsection, if the price of the food exceeds ten percent (10%) of the price of the bundle. A retailer must determine the price of food in a bundled transaction in accordance with G.S. 105-164.4D.

(5b) The sales price of bread, rolls, and buns that are sold at a bakery thrift store and are exempt from State tax under G.S.105-164.13(27a).

~~(6) The sales price of prepaid telephone calling service taxed as tangible personal property under G.S. 105-164.4(a)(4d).~~

~~(7) The gross receipts derived from providing satellite digital audio radio service subject to the general rate of tax under G.S. 105-164.4(a)(6a).~~"

SECTION 5.9.(b) G.S. 105-467(a), as amended by subsection (a) of this section, reads as rewritten:

"(a) Sales Tax. – The sales tax that may be imposed under this Article is limited to a tax at the rate of one percent (1%) of the following:

...

(5) The sales price of food ~~that is not otherwise exempt from tax pursuant to G.S. 105-164.13 but is exempt from the State sales and use tax pursuant to~~ subject to tax under G.S. 105-164.13B.

(5a) The sales price of a bundled transaction that includes food subject to tax under ~~subdivision (5) of this subsection,~~ G.S. 105-164.13B(b) if the price of the food exceeds ten percent (10%) of the price of the bundle. A retailer must determine the price of food in a bundled transaction in accordance with G.S. 105-164.4D.

...."

SECTION 5.9.(c) Subsection (a) of this section becomes effective January 1, 2014. Subsection (b) of this section becomes effective July 1, 2015. This subsection is effective when it becomes law.

SECTION 5.10.(a) G.S. 105-469, as amended by Section 5.6(b) of this act, reads as rewritten:

"**§ 105-469. Secretary to collect and administer local sales and use tax.**

(a) Administration. – The Secretary must collect and administer a tax levied by a county pursuant to this Article. Except as provided in this section, the net proceeds must be allocated as provided in G.S. 105-472.

(a1) Food. ~~Notwithstanding G.S. 105-472, the~~ The Secretary must, on a monthly basis, distribute local taxes levied on food taxable at one percent (1%) under G.S. 105-164.13B to the taxing counties as follows:

(1) The Secretary must allocate one-half of the net proceeds on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer.

(2) The Secretary must allocate the remaining net proceeds to each taxing county based on the county of collection.

(a2) Electricity and Piped Natural Gas. – The Secretary must, on a monthly basis, allocate to each taxing county for which the Secretary collects the tax the net proceeds of the tax collected in that county on electricity and piped natural gas. The term "net proceeds" has the same meaning as defined in G.S. 105-472. The Secretary must divide the amount allocated to each taxing county among the county and its municipalities in accordance with this subsection:

(1) Eighty percent (80%) to the municipalities in proportion to the total amount of ad valorem taxes levied by each on property having a tax situs in the taxing municipality during the fiscal year next preceding the distribution. The provisions in G.S. 105-472(b)(2) for determining the amount of ad valorem taxes by a municipality apply to this distribution.

(2) Twenty percent (20%) to the county.

(b) The Secretary shall require retailers who collect use tax on sales to North Carolina residents to ascertain the county of residence of each buyer and provide that information to the Secretary along with any other information necessary for the Secretary to allocate the use tax proceeds to the correct taxing county."

SECTION 5.10.(b) G.S. 105-486 is amended by adding a new subsection to read:

"(e) Electricity and Piped Natural Gas. – The Secretary must allocate and distribute the net proceeds of the tax collected on electricity and piped natural gas in accordance with G.S. 105-469(a)(2)."

SECTION 5.10.(c) G.S. 105-501 is amended by adding a new subsection to read:

"(c) Electricity and Piped Natural Gas. – The Secretary must allocate and distribute the net proceeds of the tax collected on electricity and piped natural gas in accordance with G.S. 105-469(a)(2). The amounts deductible under subsection (b) of this section may not be deducted from these tax proceeds."

SECTION 5.10.(d) This section becomes effective January 1, 2014.

SECTION 5.11.(a) Section 3 of Chapter 347 of the 1965 Session Laws reads as rewritten:

"Sec. 3. All property owned by Cape Hatteras Electric Membership Corporation ~~and used exclusively for the purpose of said corporation shall be held in the same manner and subject to the same taxes and assessments~~ is exempt from property taxes to the same extent as property owned by any county or municipality of the State so long as ~~said~~ the property is owned by ~~said~~ Cape Hatteras Electric Membership Corporation and is held and used by it solely for the furnishing of electric energy to consumers on Hatteras Island and Ocracoke Island. Cape Hatteras Electric Membership Corporation is subject to any other taxes to the same extent as other electric membership corporations established under Chapter 117 of the General Statutes."

SECTION 5.11.(b) This section becomes effective January 1, 2014.

PART VI. ELIMINATE ARCHAIC BUSINESS PRIVILEGE TAXES

SECTION 6.1.(a) The following statutes are repealed:

G.S. 105-41
G.S. 105-83
G.S. 105-88
G.S. 105-102.3
G.S. 105-102.6

SECTION 6.1.(b) This section becomes effective January 1, 2014, and applies as follows:

(1) For taxes payable under G.S. 105-41, 105-88, or 105-102.3, the section applies to taxes imposed under those statutes for taxable years beginning on or after July 1, 2014.

(2) For taxes payable under G.S. 105-102.6, the section applies to taxes due on or after January 31, 2014.

(3) For taxes payable under G.S. 105-83, the section applies to obligation dealt in, bought, or discounted on or after January 1, 2014.

SECTION 6.2.(a) The title of Article 2C of Chapter 105 of the General Statutes reads as rewritten:

"Article 2C.

Local Alcoholic Beverage ~~License And~~ Licenses and State Excise Taxes."

SECTION 6.2.(b) G.S. 105-113.69 reads as rewritten:

"**§ 105-113.69. ~~License tax; effect~~ Effect of license.**

~~The taxes imposed in Part 3 of this Article are license taxes on the privilege of engaging in the activity authorized by the license.~~ Licenses issued under this Article authorize the licensee to engage in only those activities that are authorized by the corresponding ABC permit. The activities authorized by each retail ABC permit are described in Article 10 of Chapter 18B of the General Statutes and the activities authorized by each commercial ABC permit are described in Article 11 of that Chapter."

SECTION 6.2.(c) G.S. 105-113.70(a) reads as rewritten:

"**§ 105-113.70. Issuance, duration, transfer of license.**

(a) Issuance, Qualifications. – Each person who receives an ABC permit shall obtain the corresponding local license, if any, under this Article. All local licenses are issued by the city or county where the establishment for which the license is sought is located. The information required to be provided and the qualifications for a local license are the same as the information and qualifications required for the corresponding ABC permit. Upon proper ~~application and payment of the prescribed tax,~~ application, issuance of a local license is mandatory if the applicant holds the corresponding ABC permit. No local license may be issued under this Article until the applicant has received from the ABC Commission the applicable permit for that activity, and no county license may be issued for an establishment

located in a city in that county until the applicant has received from the city the applicable license for that activity."

SECTION 6.2.(d) G.S. 105-113.77 reads as rewritten:

"**§ 105-113.77. City beer and wine retail licenses.**

(a) ~~License and Tax.~~ License. – A person holding any of the following retail ABC permits for an establishment located in a city ~~shall~~ must obtain from the city a city license for that activity. ~~The annual tax for each license is as stated.~~

ABC Permit	~~Tax for Corresponding License~~
On-premises malt beverage	~~$15.00~~
Off-premises malt beverage	~~5.00~~
On-premises unfortified wine, on-premises fortified wine, or both	~~15.00~~
Off-premises unfortified wine, off-premises fortified wine, or both	~~10.00~~

~~(b) Tax on Additional License. The tax stated in subsection (a) is the tax for the first license issued to a person. The tax for each additional license of the same type issued to that person for the same year is one hundred ten percent (110%) of the base license tax, that increase to apply progressively for each additional license.~~"

SECTION 6.2.(e) G.S. 105-113.78 reads as rewritten:

"**§ 105-113.78. County beer and wine retail licenses.**

A person holding any of the following retail ABC permits for an establishment located in a county ~~shall~~ must obtain from the county a county license for that activity. ~~The annual tax for each license is as stated.~~

ABC Permit	~~Tax for Corresponding License~~
On-premises malt beverage	~~$25.00~~
Off-premises malt beverage	~~5.00~~
On-premises unfortified wine, on-premises fortified wine, or both	~~25.00~~
Off-premises unfortified wine, off-premises fortified wine, or both	~~25.00~~"

SECTION 6.2.(f) G.S. 105-113.79 reads as rewritten:

"**§ 105-113.79. City wholesaler license.**

A city may require city malt beverage and wine wholesaler licenses for businesses located inside the city, but may not require a license for a business located outside the city, regardless whether that business sells or delivers malt beverages or wine inside the city. ~~The city may charge an annual tax of not more than thirty seven dollars and fifty cents ($37.50) for a city malt beverage wholesaler or a city wine wholesaler license.~~"

SECTION 6.2(g) This section becomes effective January 1, 2014, and applies to taxes for periods beginning on or after May 1, 2014.

SECTION 6.3.(a) G.S. 153A-152 reads as rewritten:

"**§ 153A-152. ~~Privilege~~ No general authority for privilege license taxes.**

~~(a) Authority. A county may levy privilege license taxes on trades, occupations, professions, businesses, and franchises to the extent authorized by Article 2 of Chapter 105 of the General Statutes and any other acts of the General Assembly. A county may levy privilege license taxes to the extent formerly authorized by the following sections of Article 2 of Chapter 105 of the General Statutes before they were repealed:~~

~~G.S. 105-50~~	~~Pawnbrokers.~~
~~G.S. 105-53~~	~~Peddlers, itinerant merchants, and specialty market operators.~~
~~G.S. 105-55~~	~~Installing elevators and automatic sprinkler systems.~~
~~G.S. 105-58~~	~~Fortune tellers, palmists, etc.~~

~~G.S. 105-65~~	~~Music machines.~~
~~G.S. 105-66.1~~	~~Electronic video games.~~
~~G.S. 105-80~~	~~Firearms dealers and dealers in other weapons.~~
~~G.S. 105-89~~	~~Automobiles, wholesale supply dealers and service stations.~~
~~G.S. 105-89.1~~	~~Motorcycle dealers.~~
~~G.S. 105-90~~	~~Emigrant and employment agents.~~
~~G.S. 105-102.5~~	~~General business license.~~

~~(b) Telecommunications Restriction. A county may not impose a license, franchise, or privilege tax on a company taxed under G.S. 105-164.4(a) (4c).~~A county may not levy a privilege license tax on a trade, occupation, profession, business, or franchise carried on within the county unless a statute or an act of the General Assembly authorizes the county to do so."

SECTION 6.3.(b) G.S. 160A-211 reads as rewritten:

"**§ 160A-211. ~~Privilege~~ No general authority for privilege license taxes.**

~~(a) Authority. Except as otherwise provided by law, a city shall have power to levy privilege license taxes on all trades, occupations, professions, businesses, and franchises carried on within the city. A city may levy privilege license taxes on the businesses that were formerly taxed by the State under the following sections of Article 2 of Chapter 105 of the General Statutes only to the extent the sections authorized cities to tax the businesses before the sections were repealed:~~

~~G.S. 105-36~~	~~Amusements — Manufacturing, selling, leasing, or distributing moving picture films.~~
~~G.S. 105-36.1~~	~~Amusements — Outdoor theatres.~~
~~G.S. 105-37~~	~~Amusements — Moving pictures — Admission.~~
~~G.S. 105-42~~	~~Private detectives and investigators.~~
~~G.S. 105-45~~	~~Collecting agencies.~~
~~G.S. 105-46~~	~~Undertakers and retail dealers in coffins.~~
~~G.S. 105-50~~	~~Pawnbrokers.~~
~~G.S. 105-51.1~~	~~Alarm systems.~~
~~G.S. 105-53~~	~~Peddlers, itinerant merchants, and specialty market operators.~~
~~G.S. 105-54~~	~~Contractors and construction companies.~~
~~G.S. 105-55~~	~~Installing elevators and automatic sprinkler systems.~~
~~G.S. 105-61~~	~~Hotels, motels, tourist courts and tourist homes.~~
~~G.S. 105-62~~	~~Restaurants.~~
~~G.S. 105-65~~	~~Music machines.~~
~~G.S. 105-65.1~~	~~Merchandising dispensers and weighing machines.~~
~~G.S. 105-66.1~~	~~Electronic video games.~~
~~G.S. 105-74~~	~~Pressing clubs, dry cleaning plants, and hat blockers.~~
~~G.S. 105-77~~	~~Tobacco warehouses.~~
~~G.S. 105-80~~	~~Firearms dealers and dealers in other weapons.~~
~~G.S. 105-85~~	~~Laundries.~~
~~G.S. 105-86~~	~~Outdoor advertising.~~
~~G.S. 105-89~~	~~Automobiles, wholesale supply dealers, and service stations.~~
~~G.S. 105-89.1~~	~~Motorcycle dealers.~~
~~G.S. 105-90~~	~~Emigrant and employment agents.~~
~~G.S. 105-91~~	~~Plumbers, heating contractors, and electricians.~~
~~G.S. 105-97~~	~~Manufacturers of ice cream.~~
~~G.S. 105-98~~	~~Branch or chain stores.~~
~~G.S. 105-99~~	~~Wholesale distributors of motor fuels.~~

~~G.S. 105-102.1 Certain cooperative associations.~~
~~G.S. 105-102.5 General business license.~~

~~(b) Barbershop and Salon Restriction. A privilege license tax levied by a city on a barbershop or a beauty salon may not exceed two dollars and fifty cents ($2.50) for each barber, manicurist, cosmetologist, beautician, or other operator employed in the barbershop or beauty salon.~~

~~(c) Prohibition. A city may not impose a license, franchise, or privilege tax on a person engaged in any of the businesses listed in this subsection. These businesses are subject to a State tax for which the city receives a share of the tax revenue.~~

~~(1) Supplying piped natural gas taxed under Article 5E of Chapter 105 of the General Statutes.~~

~~(2) Providing telecommunications service taxed under G.S. 105-164.4(a)(4c).~~

~~(3) Providing video programming taxed under G.S. 105-164.4(a)(6).~~

~~(d) Repealed by Session Laws 2006-151, s. 12, effective January 1, 2007.~~A city may not levy a privilege license tax on a trade, occupation, profession, business, or franchise carried on within the city unless a statute or an act of the General Assembly authorizes the city to do so."

SECTION 6.3.(c) This section becomes effective July 1, 2014, and applies to taxes imposed for fiscal years beginning on or after that date.

SECTION 6.4.(a) G.S. 105-113.21 reads as rewritten:

"§ 105-113.21. Discount; refund.

...

~~(a1) Discount. A distributor who files a timely report under G.S. 105-113.18 and who sends a timely payment may deduct from the amount due with the report a discount of two percent (2%). This discount covers expenses incurred in preparing the records and reports required by this Part, and the expense of furnishing a bond.~~

(b) Refund. – A distributor in possession of packages of stale or otherwise unsalable cigarettes upon which the tax has been paid may return the cigarettes to the manufacturer as provided in this subsection and apply to the Secretary for refund of the tax. The application ~~shall~~ must be in the form prescribed by the Secretary and ~~shall~~ must be accompanied by an affidavit from the manufacturer stating the number of cigarettes returned to the manufacturer by the applicant. The Secretary ~~shall~~ must refund the tax ~~paid, less the discount allowed,~~ paid on the unsalable cigarettes. The distributor must return the cigarettes to the manufacturer of the cigarettes or to the affiliated manufacturer who is contracted by the manufacturer of the cigarettes to serve as the manufacturer's agent for the purposes of validating quantities and disposing of unsalable cigarettes."

SECTION 6.4.(b) G.S. 105-113.39 reads as rewritten:

"§ 105-113.39. Discount; refund.

~~(a) Discount. A wholesale dealer or a retail dealer who is primarily liable under G.S. 105-113.35(b) for the excise taxes imposed by this Part, who files a timely report under G.S. 105-113.37, and who sends a timely payment may deduct from the amount due with the report a discount of two percent (2%). This discount covers expenses incurred in preparing the records and reports required by this Part and the expense of furnishing a bond.~~

(b) Refund. – A wholesale dealer or retail dealer who is primarily liable under G.S. 105-113.35(b) for the excise taxes imposed by this Part and is in possession of stale or otherwise unsalable tobacco products upon which the tax has been paid may return the tobacco products to the manufacturer and apply to the Secretary for refund of the tax. The application ~~shall~~ must be in the form prescribed by the Secretary and ~~shall~~ must be accompanied by an affidavit from the manufacturer listing the tobacco products returned to the manufacturer by the applicant. The Secretary ~~shall~~ must refund the tax ~~paid, less the discount allowed,~~ paid on the listed products."

SECTION 6.4.(c) G.S. 105-113.85 is repealed.

SECTION 6.4.(d) This section becomes effective July 1, 2014, and applies to returns filed for periods beginning on or after that date.

PART VII. REPLACE LOCAL DISTRIBUTIONS WITH EXPANDED LOCAL SALES TAX BASE

SECTION 7.1.(a) G.S. 105-113.82 is repealed.

SECTION 7.1.(b) G.S. 108A-93 reads as rewritten:

"**§ 108A-93. Withholding of State moneys from counties failing to pay public assistance costs.**

The Director of the Budget may withhold from any county that does not pay its full share of public assistance costs to the State and has not obtained a loan for repayment under G.S. 108A-89, any State moneys appropriated from the General Fund for public assistance and related administrative costs, or may direct the Secretary of Revenue and State Controller to withhold any tax owed to a county under ~~G.S. 105-113.82,~~ Subchapter VIII of Chapter 105 of the General ~~Statutes,~~ Statutes or Chapter 1096 of the Session Laws of 1967. The Director of the Budget ~~shall~~ must notify the chair of the board of county commissioners of the proposed action prior to the withholding of funds."

SECTION 7.1.(c) This section becomes effective July 1, 2014.

SECTION 7.2.(a) G.S. 105-486(b) is repealed.

SECTION 7.2.(b) This section becomes effective January 1, 2014.

SECTION 7.3.(a) Notwithstanding G.S. 105-523, the amount of a county's hold harmless payment for the 2013-2014 fiscal year is one-half of the amount calculated under that statute.

SECTION 7.3.(b) G.S. 105-523 is repealed.

SECTION 7.3.(c) Subsection (a) of this section becomes effective July 1, 2013. Subsection (b) of this section becomes effective July 1, 2014. This subsection is effective when it becomes law.

SECTION 7.4.(a) G.S. 115C-546.1 reads as rewritten:

"**§ 115C-546.1. Creation of Fund; administration.**

(a) There is created the Public School Building Capital Fund. The Fund shall be used to assist county governments in meeting their public school building capital needs and their equipment needs under their local school technology plans.

~~(b) Each calendar quarter, the Secretary of Revenue shall remit to the State Treasurer for credit to the Public School Building Capital Fund an amount equal to the applicable fraction provided in the table below of the net collections received during the previous quarter by the Department of Revenue under G.S. 105-130.3. All funds deposited in the Public School Building Capital Fund shall be invested as provided in G.S. 147-69.2 and G.S. 147-69.3.~~

~~Period~~	~~Fraction~~
~~10/1/97 to 9/30/98~~	~~One fifteenth (1/15)~~
~~10/1/98 to 9/30/99~~	~~Two twenty ninths (2/29)~~
~~10/1/99 to 9/30/00~~	~~One fourteenth (1/14)~~
~~After 9/30/00~~	~~Five sixty ninths (5/69)~~

(c) The Fund shall be administered by the Department of Public Instruction."

SECTION 7.4.(b) G.S. 115C-546.2(a) is repealed.

SECTION 7.4.(c) This section becomes effective April 1, 2014, and applies to distributions for collections for quarters beginning on or after that date.

PART VIII. TRANSITIONAL PROVISIONS

SECTION 8.(a) G.S. 105-237.1(a) reads as rewritten:

"(a) Authority. – The Secretary may compromise a taxpayer's liability for a tax that is collectible under G.S. 105-241.22 when the Secretary determines that the compromise is in the best interest of the State and makes one or more of the following findings:

...

(6) The taxpayer is a retailer or a consumer under Article 5 of this Chapter, the assessment is for sales or use tax the retailer failed to collect or the consumer failed to pay on an item that first became taxable under that Article on or after January 1, 2014, and the retailer or consumer made a good faith effort to comply with the sales and use tax laws."

SECTION 8.(b) The Revenue Laws Study Committee is directed to study the fiscal impact of the changes proposed by this act and to recommend to the General Assembly any adjustments needed. The Committee is specifically directed to address the following:

(1) The application of the business privilege tax on related business entities and to recommend to the General Assembly any changes needed to prevent vertical or horizontal pyramiding of the tax.

(2) The amount of additional revenue received by counties and cities as a result of the expansion of the sales tax base in this act and the amount by which local revenue is reduced by the repeal of local privilege license taxes and other taxes.

(3) The reasons for the remaining distributions of State tax revenue to local governments and ways to eliminate as many of these distributions as possible.

SECTION 8.(c) This act does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this act before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal.

SECTION 8.(d) This section is effective when it becomes law. Subsection (a) of this section expires January 1, 2024.

PART IX. PRIVILEGE TAX CONFORMING CHANGES

SECTION 9.(a) G.S. 93-12(12) and G.S. 105-259(b)(4) are repealed.

SECTION 9.(b) G.S. 53-165 reads as rewritten:

"**§ 53-165. Definitions.**

The following definitions apply in this Article:

~~(a)~~(1) ~~"Amount of the loan" shall mean the~~ Amount of the loan. – The aggregate of the cash advance and the charges authorized by G.S. 53-173 and G.S. 53-176.

~~(b)~~(2) ~~"Borrower" shall mean any~~ Borrower. – A person who borrows money ~~from any licensee or who pays or obligates himself to pay any money~~ from, pays or is obligated to pay money to, or otherwise furnishes any valuable consideration to any licensee for any act of the licensee as a licensee.

~~(c)~~(3) ~~"Cash advance" shall mean the~~ Cash advance. – The amount of cash or its equivalent ~~that the~~ a borrower actually receives or is paid out at ~~his discretion or on his behalf.~~ the discretion of the borrower or on behalf of the borrower.

~~(d)~~(4) ~~"Commission" shall mean the~~ Commission. – The State Banking Commission.

~~(e)~~(5) ~~"Commissioner" shall mean the~~ Commissioner. – The Commissioner of Banks.

~~(f)~~(6) ~~"Deputy commissioner" shall mean the~~ Deputy commissioner. – The deputy commissioner of banks.

(7) Installment paper dealer. – A person who buys or discounts notes or other evidences of debt secured, at the time the debt is incurred, by personal property located in this State.

~~(g)~~(8) ~~"License" shall mean the~~ License. – The certificate issued by the Commissioner under the authority of this Article to conduct a consumer finance business.

~~(h)~~(9) ~~"Licensee" shall mean a~~ Licensee. – A person to whom one or more licenses have been issued.

~~(i)~~(10) ~~"Loanable assets" shall mean cash or bank deposits or installment loans made as a licensee pursuant to this Article or installment loans made as a licensee pursuant to the Article which this Article supersedes or such other loans payable on an installment basis as the Commissioner of Banks may approve, or any combination of two or more thereof.~~ Loanable assets. – Cash, bank deposits, installment loans, or any combination of these.

~~(j)~~(11) ~~"Person" shall include any person,~~ Person. – An individual, a firm, a partnership, ~~association or corporation.~~ an association, a limited liability company, a corporation, or another group acting as a unit."

SECTION 9.(c) G.S. 53-172(a) reads as rewritten:

"(a) No licensee shall conduct the business of making loans under this Article within any office, suite, room, or place of business in which any other business is solicited or transacted. The business of making loans includes acting as an installment paper dealer and collecting a loan made by a government regulated lender.

~~Installment paper dealers as defined in G.S. 105-83, and the collection by a licensee of loans legally made in North Carolina, or another state by another government regulated lender or lending agency, shall not be considered as being any other business within the meaning of this section.~~"

SECTION 9.(d) G.S. 53-191 reads as rewritten:

"**§ 53-191. Businesses exempted.**

~~Nothing in this~~ This Article ~~shall be construed to~~ does not apply to any ~~person, firm or corporation~~ person doing business under the authority of any law of this State or of the United States relating to banks, trust companies, savings and loan associations, cooperative credit unions, agricultural credit corporations or associations organized under the laws of North Carolina, production credit associations organized under the ~~act of Congress known as the~~ federal Farm Credit Act of 1933, pawnbrokers lending or advancing money on specific articles of personal property, industrial banks, ~~the business of negotiating~~ businesses that negotiate or solicit loans on real estate as ~~defined in G.S. 105-41,~~ agent for another for compensation, ~~nor to~~ or installment paper dealers ~~as defined in G.S. 105-83 other than persons, firms and corporations~~ other than persons engaged in the business of accepting fees for endorsing or otherwise securing loans or contracts for the repayment of loans."

SECTION 9.(e) G.S. 95-47.2(d)(3)c. reads as rewritten:

"(d) Upon the receipt of an application for a license the Commissioner:

...

(3) Upon completion of the investigation, or 60 days after the application was received, whichever is later, but in no case more than 75 days after the application was received, shall determine whether or not a license should be issued. The license shall be denied for any of the following reasons:

...

c. If the employment agency will be operated on the same premises as a ~~loan agency (as defined in G.S. 105-88) or collection agency (as defined in G.S. 58-70-15).~~any of the following:

1. A business that makes loans and takes as security for repayment of the loans an assignment of wages or any other type of security.
2. A check cashing business regulated under Article 22 of Chapter 53 of the General Statutes.
3. A pawnbroker business regulated under Chapter 91A of the General Statutes.
4. A collection agency, as defined in G.S. 58-70-15."

SECTION 9.(f) G.S. 105-130.6A(a)(2) reads as rewritten:

"(a) Definitions. – The provisions of G.S. 105-130.6 govern the determination of whether a corporation is a subsidiary or an affiliate of another corporation. In addition, the following definitions apply in this section:

...

(2) Bank holding company. – A holding company with an affiliate that is ~~subject to the privilege tax on banks levied in G.S. 105-102.3.~~engaged in the business of banking.

...."

SECTION 9.(g) This section becomes effective January 1, 2014.

PART X. FRANCHISE AND CORPORATE INCOME TAX CONFORMING CHANGES

SECTION 10.(a) G.S. 105-129.27(b) reads as rewritten:

"(b) Taxes Credited. – The credit provided in this section is allowed against the ~~franchise~~ privilege tax levied in Article 3 of this Chapter and the income tax levied in Part 1 of Article 4 of this Chapter. Any other nonrefundable credits allowed the owner are subtracted before the credit allowed by this section."

SECTION 10.(b) G.S. 105-129.41(a1) reads as rewritten:

"(a1) Tax Election. – The credit allowed in this section is allowed against the ~~franchise~~ privilege tax levied in Article 3 of this Chapter, the income taxes levied in Article 4 of this Chapter, or the gross premiums tax levied in Article 8B of this Chapter. The taxpayer must elect the tax against which the credit will be claimed when filing the return on which the first installment of the credit is claimed. This election is binding. Any carryforwards of the credit must be claimed against the same tax."

SECTION 10.(c) G.S. 105-129.50 reads as rewritten:

"**§ 105-129.50. Definitions.**

The definitions in section 41 of the Code apply in this Article. In addition, the following definitions apply in this Article:

(1) Development tier one area. – Defined in G.S. 143B-437.08.

(1a) Establishment. – Defined in 29 C.F.R. § 1904.46, as it existed on January 1, 2002.

(2) Full-time job. – Defined in G.S. 105-129.81.

(3) Reserved.

(4) North Carolina university research expenses. – Any amount the taxpayer paid or incurred to a research university for qualified research performed in this State or basic research performed in this State.

(4a) Participating community college. – A community college, as defined in G.S. 115D-2, that offers an associate in applied science degree in simulation and game development.

(5) Period of measurement. – Defined in the Small Business Size Regulations of the federal Small Business Administration.

(6) Qualified North Carolina research expenses. – Qualified research expenses, other than North Carolina university research expenses, for research performed in this State.

(7) Receipts. – Defined in the Small Business Size Regulations of the federal Small Business Administration.

(8) Related person. – ~~Defined in G.S. 105-163.010.~~A person described in one of the relationships set forth in section 267(b) or 707(b) of the Code.

(9) Research university. – An institution of higher education that meets one or both of the following conditions:

a. It is classified as one of the following in the most recent edition of "A Classification of Institutions of Higher Education", the official report of The Carnegie Foundation for the Advancement of Teaching:

1. Doctoral/Research Universities, Extensive or Intensive.
2. Masters Colleges and Universities, I or II.
3. Baccalaureate Colleges, Liberal Arts or General.

b. It is a constituent institution of The University of North Carolina.

(10) Small business. – A business whose annual receipts, combined with the annual receipts of all related persons, for the applicable period of measurement did not exceed one million dollars ($1,000,000)."

SECTION 10.(d) G.S. 105-129.51 reads as rewritten:

"**§ 105-129.51. ~~Administration;~~ Additional eligibility requirements and sunset.**

(a) Requirements. – A taxpayer is eligible for the credit allowed in this Article if it satisfies the ~~requirements of G.S. 105-129.83(c), (d), (e), and (f) relating to wage standard, health insurance, environmental impact, and safety and health programs, respectively.~~following standards:

(1) Wage. – For research performed at an establishment in a development tier two or development tier three area, the taxpayer must meet the general wage standard or, if applicable, the zone wage standard published by the Secretary of Commerce under G.S. 143B-437.010A. For research performed at an establishment in a development tier one area, no wage standard applies.

(2) Health insurance. – The health insurance standard set in G.S. 143B-437.010A applies to all the jobs at an establishment for which a credit or a carryforward of a credit is claimed under this Article. If a taxpayer qualifies for a credit under this Article and then fails to meet the health insurance standard during a taxable year, the credit expires, and the taxpayer may not take any remaining carryforwards of the credit.

(3) Environmental impact. – The environmental standard set in G.S. 143B-437.010A applies to a taxpayer who claims a credit under this Article. A taxpayer must meet the standard at the time the taxpayer claims the credit.

(4) Employee safety and health. – The employee safety and health standard set in G.S. 143B-437.010A applies to a taxpayer who claims a credit under this Article. A taxpayer must meet the standard at the time the taxpayer claims the credit.

(b) Sunset. – This Article is repealed for taxable years beginning on or after January 1, 2014.

(c) Repealed by Session Laws 2004-124, s. 32D.4, effective for taxable years beginning on or after January 1, 2006."

SECTION 10.(e) G.S. 105-129.96(b) reads as rewritten:

"(b) Taxes Credited. – The credit provided in this section is allowed against the ~~franchise~~ privilege tax levied in Article 3 of this Chapter or the income taxes levied in Article 4 of this Chapter. The taxpayer must elect the tax against which a credit will be claimed when filing the return on which the first installment of the credit is claimed. This election is binding. The credit may not exceed fifty percent (50%) of the tax against which it is applied. Any unused portion of a credit may be carried forward for the succeeding 10 years. Any carryforwards of a credit must be claimed against the same tax."

SECTION 10.(f) G.S. 105-130.6A(a) reads as rewritten:

"(a) Definitions. – The provisions of G.S. 105-130.6 govern the determination of whether a corporation is a subsidiary or an affiliate of another corporation. In addition, the following definitions apply in this section:

(1) Affiliated group. – A group that includes a corporation, all other corporations that are affiliates or subsidiaries of that corporation, and all other corporations that are affiliates or subsidiaries of another corporation in the group.

(2) Bank holding company. – A holding company with an affiliate that is engaged in the banking business.~~subject to the privilege tax on banks levied in G.S. 105-102.3.~~

(3) Dividends. – Dividends received that are not taxed under this Part.

(4) Electric power holding company. – A holding company with an affiliate or a subsidiary that is engaged in the business of producing electric power.~~subject to the franchise tax on electric power companies levied in G.S. 105-116.~~

(5) Expense adjustment. – The adjustment required by G.S. 105-130.5(c)(3) for expenses related to dividends not taxed under this Part.

(6) Holding company. – Defined in ~~G.S. 105-120.2.~~G.S. 105-114.2."

SECTION 10.(g) G.S. 105-130.6A(h) reads as rewritten:

"(h) Limitation on Credits. – The credits provided in this section are allowed against the tax levied in this Part and the ~~franchise~~ privilege tax levied in Article 3 of this Chapter. A taxpayer may claim a credit against only one of the taxes against which it is allowed. Each taxpayer must elect the tax against which the credit will be taken when filing the return on which the first installment of the credit is claimed. This election is binding. All installments and carryforwards of the credit must be taken against the same tax.

In order for a member of an affiliated group to take a credit, each member of the affiliated group that is required to file a return under this Part or under Article 3 of this Chapter must attach a schedule to its return that shows for every member of the group the amount of the credit taken by it, the tax against which it is taken, and the amount of the resulting tax. In addition, each member must provide any other documentation required by the Secretary.

A credit allowed in this section may not exceed the amount of tax against which it is taken for the taxable year reduced by the sum of all credits allowable, except tax payments made by or on behalf of the taxpayer. Any unused portion of the credit may be carried forward to succeeding taxable years."

SECTION 10.(h) G.S. 105-130.9(4) is repealed.

SECTION 10.(i) G.S. 105-230 reads as rewritten:

"**§ 105-230. ~~Charter suspended for failure to report.~~Suspension of business entity's right to do business for noncompliance.**

(a) Suspension. – ~~If a corporation or a limited liability company fails to file any~~ Failure of a business entity, as defined in G.S. 105-114.2, to file a report or return or to pay ~~any~~ a tax or fee required by this Subchapter for 90 days after it is ~~due, the Secretary shall inform the Secretary of State of this failure. The Secretary of State shall~~ due is grounds to suspend the

business entity's articles of incorporation, articles of organization, ~~or~~ certificate of authority, ~~as appropriate, of the corporation or limited liability company. The Secretary of State shall immediately notify by mail every domestic or foreign corporation or limited liability company so suspended of its suspension.~~ or certificate of registration, as appropriate. The Secretary must notify the Secretary of State when a business entity's authority to transact business is subject to suspension. The Secretary of State must then immediately suspend the business entity's articles of incorporation or other authority to transact business and must notify the business entity by mail of the suspension. The powers, privileges, and franchises conferred upon the ~~corporation or limited liability company by the articles of incorporation, the articles of organization, or the certificate of authority~~ business entity by its articles of incorporation or other authority to transact business terminate upon suspension.

(b) Effect. – Any act performed or attempted to be performed during the period ~~of suspension~~ the business entity's authority to transact business is suspended under this section is invalid and of no effect, unless the Secretary of State reinstates the ~~corporation or limited liability company~~ business entity's authority pursuant to G.S. 105-232."

SECTION 10.(j) G.S. 105-232 reads as rewritten:

"**§ 105-232. ~~Rights restored; receivership and liquidation.~~Procedure for reinstatement after suspension of business entity's authority to do business for noncompliance.**

~~(a) Any corporation or limited liability company whose articles of incorporation, articles of organization, or certificate of authority to do business in this State has been suspended by the Secretary of State under G.S. 105-230, that complies with all the requirements of this Subchapter and pays all State taxes, fees, or penalties due from it (which total amount due may be computed, for years prior and subsequent to the suspension, in the same manner as if the suspension had not taken place), and pays to the Secretary of Revenue a fee of twenty-five dollars ($25.00) to cover the cost of reinstatement, is entitled to exercise again its rights, privileges, and franchises in this State. The Secretary of Revenue shall notify the Secretary of State of this compliance and the Secretary of State shall reinstate the corporation or limited liability company by appropriate entry upon the records of the office of the Secretary of State. Upon entry of reinstatement, it relates back to and takes effect as of the date of the suspension by the Secretary of State and the corporation or limited liability company resumes carrying on its business as if the suspension had never occurred, subject to the rights of any person who reasonably relied, to that person's prejudice, upon the suspension. The Secretary of State shall immediately notify by mail the corporation or limited liability company of the reinstatement.~~ The suspension under G.S. 105-230 of the authority of a business entity to transact business terminates when the business entity resolves the noncompliance that resulted in the suspension and pays a reinstatement fee of fifty dollars ($50.00) to the Secretary of Revenue. The Secretary of Revenue must notify the Secretary of State when a business entity whose authority is suspended resolves the noncompliance. The Secretary of State must then immediately reinstate the business entity's authority and must notify the business entity by mail of the reinstatement. Reinstatement of a business entity's authority to do business relates back to and takes effect as of the date of the suspension, subject to the rights of a person who reasonably relied to that person's prejudice on the suspension.

~~(b) When the articles of incorporation, articles of organization, or certificate of authority to do business in this State has been suspended by the Secretary of State under G.S. 105-230, and the corporation or limited liability company has ceased to operate as a going concern, if there remains property held in the name of the corporation or limited liability company or undisposed of at the time of the suspension, or there remain future interests that may accrue to the corporation, the limited liability company, or its successors, members, or stockholders, any interested party may apply to the superior court for the appointment of a receiver. Application for the receiver may be made in a civil action to which all stockholders,~~

~~members, or their representatives or next of kin shall be made parties. Stockholders or members whose whereabouts are unknown, unknown stockholders or members, unknown heirs and next of kin of deceased stockholders, members, creditors, dealers, and other interested persons may be served by publication. A guardian ad litem may be appointed for any stockholders, members, or their representatives who are infants or incompetent. The receiver shall enter into a bond if the court requires one and shall give notice to creditors by publication or otherwise as the court may prescribe. Any creditor who fails to file a claim with the receiver within the time set shall be barred of the right to participate in the distribution of the assets. The receiver may (i) sell the property interests of the corporation or limited liability company upon such terms and in such manner as the court may order, (ii) apply the proceeds to the payment of any debts of the corporation or limited liability company, and (iii) distribute the remainder among the stockholders, the members, or their representatives in proportion to their interests in the property interests. Shares due to any stockholder or member who is unknown or whose whereabouts are unknown shall be paid into the office of the clerk of the superior court, to be disbursed according to law. In the event the records of the corporation or limited liability company are lost or do not reflect the owners of the property interests, the court shall determine the owners from the best evidence available, and the receiver shall be protected in acting in accordance with the court's finding. This proceeding is authorized for the sole purpose of providing a procedure for disposing of the assets of the corporation or limited liability company by the payment of its debts and by the transfer to its stockholders, its members, or their representatives their proportionate shares of its assets."~~

SECTION 10.(k) G.S. 105-259(b)(24), (37), and (38) are repealed.

SECTION 10.(l) G.S. 105-269.13 is repealed.

SECTION 10.(m) Article 10 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-437.08A. Wage, health insurance, and other standards applicable to economic development incentives.**

(a) Wage. – The Department must annually determine the average weekly wage for a calendar year for all insured private employers in each county and in the State and must publish the following wage standards applicable to economic development incentives:

(1) General wage standard. – A job meets the general wage standard if it pays an average weekly wage that is at least equal to the lesser of one hundred ten percent (110%) of the average wage for all insured private employers in the State and ninety percent (90%) of the average wage for all insured private employers in the county.

(2) Zone wage standard. – A job that is located within an urban progress zone or an agrarian growth zone in a development tier two or tier three area satisfies the wage standard if it pays an average weekly wage that is at least equal to ninety percent (90%) of the lesser of the average wage for all insured private employers in the State and the average wage for all insured private employers in the county.

(3) Calculation. – In determining whether an employer meets a wage standard, the employer may include only full-time jobs and must include any jobs that were filled for at least 1,600 hours during the calendar year even if the jobs are not filled at the time the employer applies for or claims an economic incentive benefit. An employer whose taxable year is not a calendar year must use the wage standard for the calendar year in which the taxable year begins. A full-time job is a position that requires at least 1,600 hours of work per year and is intended to be held by one employee during the entire year. A full-time employee is an employee who holds a full-time job.

(b) Health Insurance. – An employer meets the health insurance standard if the employer does all of the following:

(1) Provides health insurance for all of its full-time jobs. A full-time job is a position that requires at least 1,600 hours of work per year and is intended to be held by one employee during the entire year.

(2) Pays at least fifty percent (50%) of the premiums for health care coverage that equals or exceeds the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee pursuant to G.S. 58-50-125.

(c) Environmental Impact. – A person meets the environmental standard if the person has no pending administrative, civil, or criminal enforcement action based on alleged significant violations of any program implemented by an agency of the Department of Environment and Natural Resources and has had no final determination of responsibility for any significant administrative, civil, or criminal violation of any program implemented by an agency of the Department of Environment and Natural Resources within the last five years. A significant violation is a violation or alleged violation that does not satisfy any of the conditions of G.S. 143-215.6B(d). The Secretary of Environment and Natural Resources must notify the Department of Commerce and the Department of Revenue annually of every person that currently has any of these pending actions and every person that has had any of these final determinations within the last five years.

(d) Employee Safety and Health. – An employer meets the employee safety and health standard if the employer has no citations under the Occupational Safety and Health Act that have become a final order within the past three years for willful serious violations or for failing to abate serious violations. As used in this subsection, the term "serious violation" has the same meaning as in G.S. 95-127. The Commissioner of Labor must notify the Department of Commerce and the Department of Revenue annually of every person that has had these citations become final orders within the past three years."

SECTION 10.(n) G.S. 143B-437.01(a) and (a1) read as rewritten:

"(a) Creation and Purpose of Fund. – There is created in the Department of Commerce the Industrial Development Fund to provide funds to assist the local government units of the most economically distressed counties in the State in creating and retaining jobs in certain industries. The Department of Commerce shall adopt rules providing for the administration of the program. Those rules shall include the following provisions, which shall apply to each grant from the fund:

...

(6) The funds shall not be used for any nonmanufacturing project that does not meet the general wage standard set out in ~~G.S. 105-129.4(b).~~G.S. 143B-437.08A.

(a1) Definitions. – The following definitions apply in this section:

(1) Air courier services. – ~~Defined in G.S. 105-129.81.~~The furnishing of air delivery of individually addressed letters and packages for compensation, in interstate commerce, except by the United States Postal Service.

(2) Repealed by Session Laws 2006-252, s. 2.4, effective January 1, 2007.

(2a) Company headquarters. – ~~Defined in G.S. 105-129.81.~~A corporate, subsidiary, or regional managing office, as defined by NAICS in United States industry 551114, that is responsible for strategic or organizational planning and decision making for the business on an international, national, or multistate regional basis.

...

(6) Information technology and services. – ~~Defined in G.S. 105-129.81.~~An industry in one of the following, as defined by NAICS:

a. Data processing industry group 518.
b. Software publishers industry group 5112.
c. Computer systems design and related services industry group 5415.
d. An Internet activity included in industry group 519130.

...

(8) Manufacturing. – ~~Defined in G.S. 105-129.81.~~An industry in manufacturing sectors 31 through 33, as defined by NAICS, but not including quick printing or retail bakeries.
(9) NAICS. – Defined in G.S. 105-228.90.
(10) Warehousing. – ~~Defined in G.S. 105-129.81.~~An industry in warehousing and storage subsector 493 as defined by NAICS.
(11) Wholesale trade. – ~~Defined in G.S. 105-129.81.~~An industry in wholesale trade sector 42 as defined by NAICS."

SECTION 10.(o) This section becomes effective January 1, 2014.

PART XI. INDIVIDUAL INCOME TAX CONFORMING CHANGES

SECTION 11.(a) G.S. 105-131.2 reads as rewritten:

"**§ 105-131.2. Adjustment and characterization of income.**

(a) Adjustment. – Each shareholder's pro rata share of an S Corporation's income is subject to the adjustments provided in ~~G.S. 105-134.6.~~G.S. 105-153.5.

(b) Repealed by Session Laws 1989, c. 728, s. 1.35.

(c) Characterization of Income. – S Corporation items of income, loss, deduction, and credit taken into account by a shareholder pursuant to G.S. 105-131.1(b) are characterized as though received or incurred by the S Corporation and not its shareholder."

SECTION 11.(b) G.S. 105-131.5 reads as rewritten:

"**§ 105-131.5. Part-year resident shareholder.**

If a shareholder of an S Corporation is both a resident and nonresident of this State during any taxable period, the shareholder's pro rata share of the S Corporation's income attributable to the State and income not attributable to the State for the taxable period shall be further prorated between the shareholder's periods of residence and nonresidence, in accordance with the number of days in each period, as provided in ~~G.S. 105-134.5.~~G.S. 105-153.4."

SECTION 11.(c) G.S. 105-131.7(c) reads as rewritten:

"(c) An S Corporation ~~shall~~ must file with the Department, on a form prescribed by the Secretary, the agreement of each nonresident shareholder of the corporation (i) to file a return and make timely payment of all taxes imposed by this State on the shareholder with respect to the income of the S Corporation, and (ii) to be subject to personal jurisdiction in this State for purposes of the collection of any unpaid income tax, together with related interest and penalties, owed by the nonresident shareholder. If the corporation fails to timely file an agreement required by this subsection on behalf of any of its nonresident shareholders, then the corporation ~~shall~~ must at the time specified in subsection (d) of this section pay to the Department on behalf of each nonresident shareholder with respect to whom an agreement has not been timely filed an estimated amount of the tax due the State. The estimated amount of tax due the State ~~shall be~~ is computed at the ~~rates~~ rate levied in ~~G.S. 105-134.2(a)(3)~~ G.S. 105-153.7 on the shareholder's pro rata share of the S Corporation's income attributable to the State reflected on the corporation's return for the taxable period. An S Corporation may recover a payment made pursuant to the preceding sentence from the shareholder on whose behalf the payment was made."

SECTION 11.(d) G.S. 105-131.8(a) reads as rewritten:

"(a) For purposes of ~~G.S. 105-151~~ G.S. 105-153.9 and G.S. 105-160.4, each resident shareholder is considered to have paid a tax imposed on the shareholder in an amount equal to the shareholder's pro rata share of any net income tax paid by the S Corporation to a state that

does not measure the income of S Corporation shareholders by the income of the S Corporation. For purposes of the preceding sentence, the term "net income tax" means any tax imposed on or measured by a corporation's net income."

SECTION 11.(e) G.S. 105-154(d) reads as rewritten:

"(d) Payment of Tax on Behalf of Nonresident Owner or Partner. – If a business conducted in this State is owned by a nonresident individual or by a partnership having one or more nonresident members, the manager of the business ~~shall~~ must report the earnings of the business in this State, the distributive share of the income of each nonresident owner or partner, and any other information required by the Secretary. The manager of the business ~~shall~~ must pay with the return the tax on each nonresident owner or partner's share of the income computed at the rate levied on individuals under ~~G.S. 105-134.2(a)(3).~~ G.S. 105-153.7. The business may deduct the payment for each nonresident owner or partner from the owner or partner's distributive share of the profits of the business in this State. If the nonresident partner is not an individual and the partner has executed an affirmation that the partner will pay the tax with its corporate, partnership, trust, or estate income tax return, the manager of the business is not required to pay the tax on the partner's share. In this case, the manager ~~shall~~ must include a copy of the affirmation with the report required by this subsection."

SECTION 11.(f) G.S. 105-159 reads as rewritten:

"**§ 105-159. Federal corrections.**

If a taxpayer's ~~federal taxable income~~ adjusted gross income or federal tax credit is corrected or otherwise determined by the federal government, the taxpayer must, within six months after being notified of the correction or final determination by the federal government, file an income tax return with the Secretary reflecting the corrected or determined ~~taxable income.~~ adjusted gross income or federal tax credit. The Secretary must propose an assessment for any additional tax due from the taxpayer as provided in Article 9 of this Chapter. The Secretary must refund any overpayment of tax as provided in Article 9 of this Chapter. A taxpayer who fails to comply with this section is subject to the penalties in G.S. 105-236 and forfeits the right to any refund due by reason of the determination."

SECTION 11.(g) G.S. 105-163.1 reads as rewritten:

"**§ 105-163.1. Definitions.**

The following definitions apply in this Article:

...

(6) Individual. – Defined in ~~G.S. 105-134.1.~~G.S. 105-153.3.

...

(13) Wages. – The term has the same meaning as in section 3401 of the Code except it does not include ~~either of the following:~~

~~a. The amount of severance wages paid to an employee during the taxable year that is exempt from State income tax for that taxable year under G.S. 105-134.6(b)(11).~~

~~b.~~ ~~The~~ the amount an employer pays an employee as reimbursement for ordinary and necessary expenses incurred by the employee on behalf of the employer and in the furtherance of the business of the employer.

...."

SECTION 11.(h) G.S. 105-163.22 reads as rewritten:

"**§ 105-163.22. Reciprocity.**

The Secretary may, with the approval of the Attorney General, enter into agreements with the taxing authorities of states having income tax withholding statutes with such agreements to govern the amounts to be withheld from the wages and salaries of residents of such other state or states under the provisions of this Article when such other state or states grant similar treatment to the residents of this State. ~~Such~~ The agreements may provide for recognition of the

anticipated tax credits allowed under the provisions of ~~G.S. 105-151~~ G.S. 105-153.9 in determining the amounts to be withheld."

SECTION 11.(i) Effective for taxable years beginning on or after January 1, 2014, G.S. 105-259(b)(34) and (36) are repealed.

SECTION 11.(j) G.S. 105-277.3(d1) reads as rewritten:

"(d1) ~~Exception for Easements on Qualified~~ Conservation ~~Lands Previously Appraised at Use Value.~~ Exception. – Property that is appraised at its present-use value under G.S. 105-277.4(b) shall continue to qualify for appraisal, assessment, and taxation as provided in G.S. 105-277.2 through G.S. 105-277.7 as long as ~~(i) the property is subject to an enforceable conservation easement that would qualify for the conservation tax credit provided in G.S. 105-130.34 and G.S. 105-151.12, without regard to actual production or income requirements of this section; and (ii) the taxpayer received no more than seventy-five percent (75%) of the fair market value of the donated property interest in compensation.~~ the property is subject to a conservation easement that meets the property eligibility requirements under G.S. 113A-232. Notwithstanding G.S. 105-277.3(b) and (b1), subsequent transfer of the property does not extinguish its present-use value eligibility as long as the property remains subject to ~~an enforceable~~ a qualifying conservation ~~easement that qualifies for the conservation tax credit provided in G.S. 105-130.34 and G.S. 105-151.12.~~ easement. The exception provided in this subsection applies only to that part of the property that is subject to the easement."

SECTION 11.(k) G.S. 105-309(d) reads as rewritten:

"(d) Personal property shall be listed to indicate the township and municipality, if any, in which it is taxable and shall be itemized by the taxpayer in such detail as may be prescribed by an abstract form approved by the Department of Revenue. ~~Personal property shall also be listed to indicate which property, if any, is subject to a tax credit under G.S. 105-151.21.~~

(1) If the assessor considers it necessary to obtain a complete listing of personal property, the assessor may require a taxpayer to submit additional information, inventories, or itemized lists of personal property.

(2) At the request of the assessor, the taxpayer shall furnish any information the taxpayer has with respect to the true value of the personal property the taxpayer is required to list."

SECTION 11.(l) G.S. 105-320(a)(16) is repealed.

SECTION 11.(m) G.S. 110-130.1(a) reads as rewritten:

"(a) All child support collection and paternity determination services provided under this Article to recipients of public assistance shall be made available to any individual not receiving public assistance in accordance with federal law and as contractually authorized by the nonrecipient, upon proper application and payment of a nonrefundable application fee of twenty-five dollars ($25.00). The fee shall be reduced to ten dollars ($10.00) if the individual applying for the services is indigent. An indigent individual is an individual whose gross income does not exceed one hundred percent (100%) of the federal poverty guidelines issued each year in the Federal Register by the U.S. Department of Health and Human Services. For the purposes of this subsection, the term "gross income" has the same meaning as defined in ~~G.S. 105-134.1.~~ section 61 of the Code, and the term "Code" has the same meaning as defined in G.S. 105-228.90.

In the case of an individual who has never received assistance under a State program funded pursuant to Title IV-A of the Social Security Act and for whom the State has collected and disbursed to the family in a federal fiscal year at least five hundred dollars ($500.00) of support, the State shall impose an annual fee of twenty-five dollars ($25.00) for each case in which services are furnished. The child support agency shall retain the fee from support collected on behalf of the individual. However, the child support agency shall not retain the fee from the first five hundred dollars ($500.00) collected. The child support agency shall use the fee to support the ongoing operation of the program."

SECTION 11.(n) G.S. 113-77.9(d) reads as rewritten:

"(d) Acquisition. – The Department of Administration may, pursuant to G.S. 143-341, acquire by purchase, gift, or devise all lands selected by the Trustees for acquisition pursuant to this Article. Title to any land acquired pursuant to this Article shall be vested in the State. A State agency with management responsibility for land acquired pursuant to this Article may enter into a management agreement or lease with a county, city, town, or private nonprofit organization ~~qualified under G.S. 105-151.12 and G.S. 105-130.34 and~~ certified under section 501(c)(3) of the Internal Revenue Code to aid in managing the land. A management agreement or lease shall be executed by the Department of Administration pursuant to G.S. 143-341."

SECTION 11.(o) G.S. 113A-231 reads as rewritten:

"**§ 113A-231. Program to accomplish conservation purposes.**

The Department of Environment and Natural Resources shall develop a nonregulatory program ~~that uses conservation tax credits as a prominent tool~~ to accomplish conservation purposes, including the maintenance of ecological systems. As a part of this program, the Department shall exercise its powers to protect real property and interests in real ~~property:~~ property donated for ~~tax credit under G.S. 105-130.34 or G.S. 105-151.12; conserved with the use of other financial incentives; or, conserved through nonregulatory programs.~~ conservation or conserved by other means. The Department shall call upon the Attorney General for legal assistance in developing and implementing the program."

SECTION 11.(p) G.S. 113A-232 reads as rewritten:

"**§ 113A-232. Conservation Grant Fund.**

(a) Fund Created. – The Conservation Grant Fund is created within the Department of Environment and Natural Resources. The Fund shall be administered by the Department. The purpose of the Fund is to stimulate the use of conservation ~~easements and conservation tax credits,~~ easements, to improve the capacity of private nonprofit land trust organizations to successfully accomplish conservation projects, to better equip real estate related professionals to pursue opportunities for conservation, to increase landowner participation in land and water conservation, and to provide an opportunity to leverage private and other public monies for conservation easements.

(b) Fund Sources. – The Conservation Grant Fund shall consist of any monies appropriated to it by the General Assembly and any monies received from public or private sources. Unexpended monies in the Fund that were appropriated from the General Fund by the General Assembly shall revert at the end of the fiscal year unless the General Assembly otherwise provides. Unexpended monies in the Fund from other sources shall not revert and shall remain available for expenditure in accordance with this Article.

(c) Property Eligibility. – In order for real property or an interest in real property to be the subject of a grant under this Article, the real property or interest in real property must meet all of the following conditions:

(1) ~~possess~~ Possess or have a high potential to possess ecological ~~value, must be~~ value.

(2) Be reasonably ~~restorable, and must qualify for tax credits under G.S. 105-130.34 or G.S. 105-151.12.~~ restorable.

(3) Be useful for one or more of the following purposes:

a. Public beach access or use.

b. Public access to public waters or trails.

c. Fish and wildlife conservation.

d. Forestland or farmland conservation.

e. Watershed protection.

f. Conservation of natural areas as that term is defined in G.S. 113A-164.3(3).

g. Conservation of predominantly natural parkland.

(4) Be donated in perpetuity to and accepted by the State, a local government, or a body that is both organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions under G.S. 105-130.9. Land required to be dedicated pursuant to local governmental regulation or ordinance and dedications made to increase building density levels permitted under a regulation or ordinance do not qualify.

(c1) Grant Eligibility. – State conservation land management agencies, local government conservation land management agencies, and private nonprofit land trust organizations are eligible to receive grants from the Conservation Grant Fund. Private nonprofit land trust organizations must be ~~qualified pursuant to G.S. 105-130.34 and G.S. 105-151.12 and must be~~ certified under section 501(c)(3) of the Internal Revenue ~~Code.~~Code to aid in managing the land.

(d) Use of Revenue. – Revenue in the Conservation Grant Fund may be used only for the following purposes:

(1) The administrative costs of the Department in administering the Fund.
(2) Conservation grants made in accordance with this Article.
(3) To establish an endowment account, the interest from which will be used for a purpose described in G.S. 113A-233(a)."

SECTION 11.(q) G.S. 113A-233 reads as rewritten:

"**§ 113A-233. Uses of a grant from the Conservation Grant Fund.**

(a) Allowable Uses. – A grant from the Conservation Grant Fund may be used only to pay for one or more of the following costs:

(1) Reimbursement for total or partial transaction costs for a donation of real property or an interest in real property from an individual or corporation satisfying either of the following:
  a. Insufficient financial ability to pay all costs or insufficient taxable income to allow these costs to be included in the donated value.
  b. Insufficient tax burdens to allow these costs to be offset by ~~the value of tax credits under G.S. 105-130.34 or G.S. 105-151.12 or by~~ charitable deductions.
(2) Management support, including initial baseline inventory and planning.
(3) Monitoring compliance with conservation easements, the related use of riparian buffers, natural areas, and greenways, and the presence of ecological integrity.
(4) Education on conservation, including information materials intended for landowners and education for staff and volunteers.
(5) Stewardship of land.[1]
(6) Transaction costs for recipients, including legal expenses, closing and title costs, and unusual direct costs, such as overnight travel.
(7) Administrative costs for short-term growth or for building capacity.

(b) Prohibition. – The Fund shall not be used to pay the purchase price of real property or an interest in real property."

SECTION 11.(r) G.S. 113A-256(g) is repealed.

SECTION 11.(s) This section becomes effective January 1, 2015.

PART XII. SALES TAX CONFORMING CHANGES

SECTION 12.1.(a) The following statutes are repealed:

G.S. 106-507
G.S. 106-516
G.S. 106-517

G.S. 106-518
G.S. 106-519
G.S. 106-520
G.S. 140-10.1

SECTION 12.1.(b) G.S. 105-164.9 is repealed.

SECTION 12.1.(c) G.S. 105-164.10 reads as rewritten:

"**§ 105-164.10. Retail bracket system.**

For the convenience of the retailer in collecting the tax due under this Article, the Secretary ~~shall~~ must prescribe tables that compute the tax due on sales by rounding off the amount of tax due to the nearest whole cent. The Secretary ~~shall~~ must issue a separate table for each rate of tax that may apply to a ~~sale, including the general rate established in G.S. 105-164.4, preferential rates, and combined State and local rates. Use of the tables prescribed by the Secretary does not relieve a retailer of liability for the applicable rate of tax due on the gross receipts or net taxable sales of the retailer.~~sale."

SECTION 12.1.(d) G.S. 105-164.44F(a) reads as rewritten:

"(a) Amount. – The Secretary must distribute part of the taxes imposed by ~~G.S. 105-164.4(a)(4c)~~ G.S. 105-164.4 on telecommunications service and ancillary service. The Secretary must make the distribution within 75 days after the end of each calendar quarter. The amount the Secretary must distribute is the following percentages of the net proceeds of the taxes collected during the quarter:

...."

SECTION 12.1.(e) G.S. 105-164.44I(a) reads as rewritten:

"(a) Distribution. – The Secretary must distribute to the counties and cities part of the taxes imposed by ~~G.S. 105-164.4(a)(4c)~~ G.S. 105-164.4 on telecommunications service and ~~G.S. 105-164.4(a)(6) on~~ video programming service. The Secretary must make the distribution within 75 days after the end of each calendar quarter. The amount the Secretary must distribute is the sum of the revenue listed in this subsection. The Secretary must distribute two million dollars ($2,000,000) of this amount in accordance with subsection (b) of this section and the remainder in accordance with subsections (c) and (d) of this section. The revenue to be distributed under this section consists of the following:

...."

SECTION 12.1.(f) G.S. 105-449.106(c) reads as rewritten:

"(c) Special Mobile Equipment. – A person who purchases and uses motor fuel to operate special mobile equipment off-highway may receive a quarterly refund, for the excise tax paid during the preceding quarter, at a rate equal to the flat cents-per-gallon rate plus the variable cents-per-gallon rate in effect during the quarter for which the refund is claimed, less the amount of sales and use tax ~~or privilege tax~~ due on the fuel under this Chapter, as determined in accordance with G.S. 105-449.107(c). An application for a refund must be made in accordance with this Part."

SECTION 12.1.(g) G.S. 105-449.107 reads as rewritten:

"**§ 105-449.107. Annual refunds for off-highway use and use by certain vehicles with power attachments.**

(a) Off-Highway. – A person who purchases and uses motor fuel for a purpose other than to operate a licensed highway vehicle may receive an annual refund for the excise tax the person paid on fuel used during the preceding calendar year. The amount of refund allowed is the amount of the flat cents-per-gallon rate in effect during the year for which the refund is claimed plus the average of the two variable cents-per-gallon rates in effect during that year, less the amount of sales and use tax ~~or privilege tax~~ due on the fuel under this Chapter. An application for a refund allowed under this section must be made in accordance with this Part.

(b) Certain Vehicles. – A person who purchases and uses motor fuel in one of the vehicles listed below may receive an annual refund for the amount of fuel consumed by the vehicle:

(1) A concrete mixing vehicle.
(2) A solid waste compacting vehicle.
(3) A bulk feed vehicle that delivers feed to poultry or livestock and uses a power takeoff to unload the feed.
(4) A vehicle that delivers lime or fertilizer in bulk to farms and uses a power takeoff to unload the lime or fertilizer.
(5) A tank wagon that delivers alternative fuel, as defined in G.S. 105-449.130, or motor fuel or another type of liquid fuel into storage tanks and uses a power takeoff to make the delivery.
(6) A commercial vehicle that delivers and spreads mulch, soils, composts, sand, sawdust, and similar materials and that uses a power takeoff to unload, blow, and spread the materials.
(7) A commercial vehicle that uses a power takeoff to remove and dispose of septage and for which an annual fee is required to be paid to the Department of Environment and Natural Resources under G.S. 130A-291.1.
(8) A sweeper.

The amount of refund allowed is thirty-three and one-third percent (33 1/3%) of the following: the sum of the flat cents-per-gallon rate in effect during the year for which the refund is claimed and the average of the two variable cents-per-gallon rates in effect during that year, less the amount of sales and use tax ~~or privilege tax~~ due on the fuel under this Chapter. An application for a refund allowed under this section must be made in accordance with this Part. This refund is allowed for the amount of fuel consumed by the vehicle in its mixing, compacting, or unloading operations, as distinguished from propelling the vehicle, which amount is considered to be one-third of the amount of fuel consumed by the vehicle.

(c) Sales Tax Amount. – Article 5 of this Chapter determines the amount of sales and use tax to be deducted under this section from a motor fuel excise tax refund. ~~Article 5F of this Chapter determines the amount of privilege tax to be deducted under this section from a motor fuel excise tax refund.~~ The sales price and the cost price of motor fuel to be used in determining the amount to deduct is the average of the wholesale prices used under G.S. 105-449.80 to determine the excise tax rates in effect for the two six-month periods of the year for which the refund is claimed."

SECTION 12.1.(h) This section becomes effective January 1, 2014. Subsections (f) and (g) of this section apply to a claim for refund of taxes paid on motor fuel on or after January 1, 2014.

SECTION 12.2.(a) G.S. 105-164.14(c) reads as rewritten:

"(c) Certain Governmental Entities. – A governmental entity listed in this subsection is allowed an annual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services, other than electricity, telecommunications service, ~~and ancillary service.~~ ancillary service, and piped natural gas. Sales and use tax liability indirectly incurred by a governmental entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the governmental entity and is being erected, altered, or repaired for use by the governmental entity is considered a sales or use tax liability incurred on direct purchases by the governmental entity for the purpose of this subsection. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the governmental entity's fiscal year.

This subsection applies only to the following governmental entities:

...."

SECTION 12.2.(b) This section becomes effective January 1, 2014.

PART XIII. LOCAL GOVERNMENT DISTRIBUTION CONFORMING CHANGES

SECTION 13.(a) G.S. 153A-134 reads as rewritten:

"**§ 153A-134. Regulating and licensing businesses, trades, etc.**

A county may by ordinance, subject to the general law of the State, regulate and license occupations, businesses, trades, professions, and forms of amusement or entertainment and prohibit those that may be inimical to the public health, welfare, safety, order, or convenience. In licensing trades, occupations, and professions, the county may, consistent with the general law of the State, require applicants for licenses to be examined and charge a reasonable fee ~~therefor.~~ for the examination. ~~This~~

This section does not authorize a county to ~~examine~~ do any of the following:

(1) Examine or license a person holding a license issued by an occupational licensing board of this State as to the profession or trade ~~that he~~ the person has been licensed to practice or pursue by the State.

(2) Levy a privilege license tax on an entity that is subject to regulation and license under this section.

~~This section does not impair the county's power to levy privilege license taxes on occupations, businesses, trades, professions, and other activities pursuant to G.S. 153A-152.~~"

SECTION 13.(b) The catch line to G.S. 153A-156 reads as rewritten:

"**§ 153A-156. ~~Gross receipts tax on short-term leases or rentals.~~Motor vehicle gross receipts tax in lieu of property tax.**"

SECTION 13.(c) G.S. 153A-156(a) reads as rewritten:

"(a) ~~As a substitute for and in replacement of the ad valorem tax, which is excluded by G.S. 105-275(42), a~~ A county may levy a gross receipts tax on the gross receipts from the short-term lease or rental of vehicles at retail to the general public. The tax rate shall not exceed one and one-half percent (1.5%) of the gross receipts from ~~such~~ the short-term leases or rentals. Motor vehicles subject to this tax are exempt from property tax under G.S. 105-275, and this tax provides an alternative to the property tax on the motor vehicles."

SECTION 13.(d) G.S. 160A-194 reads as rewritten:

"**§ 160A-194. Regulating and licensing businesses, trades, etc.**

A city may by ordinance, subject to the general law of the State, regulate and license occupations, businesses, trades, professions, and forms of amusement or entertainment and prohibit those that may be inimical to the public health, welfare, safety, order, or convenience. In licensing trades, occupations, and professions, the city may, consistent with the general law of the State, require applicants for licenses to be examined and charge a reasonable fee ~~therefor.~~ for the examination. ~~Nothing in this section shall impair the city's power to levy privilege license taxes on occupations, businesses, trades, professions, and other activities pursuant to G.S. 160A-211.~~

~~Nothing in this section shall~~ This section does not authorize a city to ~~examine~~ do any of the following:

(1) Examine or license a person holding a license issued by an occupational licensing board of this State as to the profession or trade ~~that he~~ the person has been licensed to practice or pursue by the State.

(2) Levy a privilege license tax on an entity that is subject to regulation and license under this section."

SECTION 13.(e) The catch line to G.S. 160A-215.1 reads as rewritten:

"**§ 160A-215.1. ~~Gross receipts tax on short-term leases or rentals.~~Motor vehicle gross receipts tax in lieu of property tax.**"

SECTION 13.(f) G.S. 160A-215.1(a) reads as rewritten:

"(a) ~~As a substitute for and in replacement of the ad valorem tax, which is excluded by G.S. 105-275(42), a~~ A city may levy a gross receipts tax on the gross receipts from the short-term lease or rental of vehicles at retail to the general public. The tax rate shall not exceed one and one-half percent (1.5%) of the gross receipts from ~~such~~ the short-term leases or rentals. ~~This tax on gross receipts is in addition to the privilege taxes authorized by G.S. 160A-211.~~Motor vehicles subject to this tax are exempt from property tax under G.S. 105-275, and this tax provides an alternative to the property tax on the motor vehicles."

SECTION 13.(g) This section becomes effective July 1, 2014.

PART XIV. EFFECTIVE DATE

SECTION 14. Except as otherwise provided, this act is effective when it becomes law.

SENATE BILL 394:
Lower Tax Rates for a Stronger NC Economy

2013-2014 General Assembly

Committee:	Senate Ref to Finance. If fav, re-ref to Appropriations/Base Budget	**Date:**	April 3, 2013
Introduced by:	Sens. Clodfelter, Hartsell, Jenkins, Meredith	**Prepared by:**	Finance Team
Analysis of:	PCS to Second Edition S394-CSSVx-9		

SUMMARY: ***Senate Bill 394 makes substantial changes to the tax code by lowering all of the major rates and by broadening the base. The PCS makes several changes to the bill, but the primary changes include addressing the local distribution of revenues and moving to a single sales factor apportionment formula for corporate income and franchise tax.***

BILL ANALYSIS:

Part I. Statement of Findings and Purpose

These statements explain the reason tax reform is needed and establish economic development as the primary goal of the legislation. The goal is accomplished by applying the basic broad base/low rate principle of tax policy to lower all major tax rates.

Part II. Individual Income Tax

This Part simplifies the calculation and administration of the individual income tax laws. It significantly broadens the base and lowers the rate. Currently, there are three income tax brackets – 6%, 7%, and 7.75%. Under the bill, there would be a flat 6% tax rate on taxable income.[1] It broadens the base by eliminating most of the credits and deductions allowed under current law. It substitutes a zero percent tax bracket in place of personal exemptions and itemized/standard deductions. The only credits against the tax imposed are a personal credit, a credit for children, and a credit for charitable contributions. The key changes may be found in subsections (e) and (g) of this Part.

Bill Section	Brief Description
Section 2(a)	This Part reorganizes the individual income tax Article. In so doing, this subsection recodifies several of the administrative statutes: short title, purpose, definitions, definition of taxable income, credit for income taxes paid to another state (to prevent double taxation), and income tax returns.
Section 2(b)	• Repeals obsolete statutes: 105-134.7, transitional adjustments from 1989 tax law changes; 105-134.8, a hold-over re: inventories from the pre-1989 tax law; and 105-151.20, a tax credit for federal retirees for taxes paid on income for years 1985-1988. • Repeals statutes, whose contents are incorporated into other newly created statutes: 105-134.2, income tax imposed; 105-134.3, year of assessment; and 105-134.6, adjustments to AGI. Those adjustments include the deductibility of Social Security income above the amount allowed to be deducted for federal income tax purposes, the deductibility of retirement income up to $2,000 for private plans

[1] The highest rates in the surrounding states are as follows: GA – 6%; SC – 7%; TN – 0%; VA – 5.75%.

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	and $4,000 for governmental plans, and the deductibility of itemized deductions. • Repeals the following tax credits that do not have a sunset and that are only applicable to individual income tax: child care credit, credit for the disabled, credit for taxes paid on farm machinery, child credit, credit for charitable contributions made by non-itemizers, and credit for education expenses.
Section 2(c)	Repeals the definitions for educational institution and retirement benefits. Current law allows a deduction for interest paid on obligations of a nonprofit educational institution and for a portion of a person's retirement benefits. Both of these deductions are eliminated in the bill.
Section 2(d)	Changes the statutory references to reflect the statutes in the bill.
Section 2(e)	• Makes significant changes to the individual income tax law by greatly reducing the number of adjustments that must be made to determine NC taxable income, by providing a zero percent bracket as a substitute for personal exemptions and standard or itemized deductions, and by imposing a flat tax of 6% on all income above the zero percent tax bracket. • To determine NC taxable income, the only adjustments a person would make to AGI are as follows: o Those required to be made by federal law or North Carolina court order – amounts received under the Railroad Retirement Act, income derived from a federally recognized Indian tribe, and pension income received to the extent the amount is exempt under the ***Bailey*** decision. o Those generally accepted as long-standing practice – interest on federal and State obligations. o Those designed to prevent double taxation – refunds of income taxes. o Those to conform to legislative decisions to decouple from federal income tax law. • The tax brackets eliminate the marriage penalty. • The tax brackets provide a zero percent rate on income up to $11,000 for MFJ, $8,800 for heads of household, and $5,500 for other filers. • The zero percent bracket is indexed each year the same as the federal tax brackets are indexed to prevent "bracket creep" through inflation.
Section 2(f)	Makes technical and conforming changes.
Section 2(g)	Provides the following tax credits: • A personal tax credit of at least $200 is allowed to each taxpayer. The credit may not exceed $800. The amount of the credit is equal to 0.6% of the taxpayer's AGI less the amount of the zero tax bracket. • A child tax credit is allowed to each taxpayer who is allowed a federal child tax credit. The amount of the credit varies from $450 per child to $0 depending upon the taxpayer's AGI. Under current law, the child tax credit is $100 and is available to taxpayers whose AGI is less than $100,000. Under this bill, the credit amount is $450 for taxpayers whose AGI is less than $110,000; $200 for taxpayers whose AGI is between $110,000 and $200,000; and $0 for taxpayers whose AGI is over $200,000. • A tax credit for charitable contributions that may be deducted under federal law. The credit is equal to 6% of the amount deductible under federal law, not to exceed $600.
Section 2(h)	Provides that a taxpayer may not be penalized for the underpayment of income tax

	for the 2015 taxable year to the extent the underpayment is created or increased by this act.
Section 2(i)	Provides the changes to the individual income tax laws become effective for taxable years beginning on or after January 1, 2015.

Part III. Corporate Income Tax

This Part makes two significant policy changes to the corporate income tax laws. First, it sets the corporate income tax rate at the same flat rate imposed on individuals – 6% – to ensure that all business entities are taxed at the same rate, regardless of whether they are organized as corporations, limited liability entities, partnerships, or sole proprietors.[2] Secondly, it moves from an apportionment formula that is based 20% upon sales to one based 75% upon sales.[3] This method of apportionment provides a tax reduction to a corporation with relatively large shares of its nationwide property and payroll in North Carolina but a relatively small share of its nationwide sales in North Carolina. This Part also broadens the corporate tax base by eliminating many deductions and credits and by requiring corporations to report interest expenses as income.

Bill Section	Brief Description
Section 3(a)	Reduces rate from 6.9 to 6%.
Section 3(b)	Signals the intent of the General Assembly to increase the weighting of the sales factor in the apportionment formula until it is the only factor.
Section 3(c)	Increases the weight of the sales factor from 2 (2 of 4) to 6 (6 of 8).
Section 3(d)	Conforms the interest expense deduction for financial institutions to federal law. Adds a cross-reference to the add-backs for accelerated depreciation adjustments.
Section 3(e)	Adds a cross-reference to the deductions for the add-backs for accelerated depreciation adjustments.
Section 3(f)	Repeals add-backs for prior accelerated depreciation because they are obsolete or moved to new 105-130.5B.
Section 3(g)	Repeals the following deductions: • Deduction for interest on obligations of nonprofit educational institution [105-130.5(b)(1a)b]. • Depreciation deductions because obsolete [105-130.5(b)(7) and (21)] or moved to new 105-130.5B [105-130.5(b)(21a), (21b), and (26)]. • Obsolete deductions for payments received as a result of prior hurricanes [105-130.5(b)(19), (22)]. • Deduction for part of proceeds from sale of manufactured home community [105-130.5(b)(24)].
Section 3(h)	Gathers the provisions on add-backs and deductions for accelerated depreciation into a new section for ease of understanding but does not change the substance of the provisions.
Section 3(i)	Expands the royalty reporting option to include interest expense as well as royalty payments.
Section 3(j)	Repeals the credits listed below, which do not have a sunset. The repeal of credits in this section and any other section of the bill does not affect installments or

[2] The rates in the surrounding states are as follows: GA - 6%; SC -5 %; TN – 6.5%; VA - 6%.

[3] Eighteen states, including NC, use a double-weighted sales apportionment formula. At least 15 states use a single sales factor apportionment formula. It appears GA uses single sales; VA, SC, TN, and FL appear to use double-weighted sales. NC enacted single sales factor apportionment for "capital intensive companies" in 2010 at the request of Apple.

	carryforwards of credits for which the taxpayer qualified before the credit was repealed. o Constructing dwelling for handicapped persons (105-130.22 and 105-151.1) o Constructing cogenerating power plant (105-130.25) o Donating real property (105-130.34 and 105-151.12) o Purchasing conservation tillage equipment (105-130.36 and 105-151.13) o Gleaning crops (105-130.37 and 105-151.14) o Savings and loan supervisory fees (105-130.43) o Constructing poultry composting facility (105-130.44 and 105-151.25)
Section 3(k)	• Repeals the add-back for credits as part of simplification (105-130.5(a)(10) • Makes a conforming change to the repeal of the credit for donating to a nonprofit that acquires renewable energy property and repeals the add-back of the credit amount (105-130.5(a)(20))
Section 3(l)	Extends the sunset on the low-income housing credit from 2015 to 2020.
Section 3(m)	Extends the sunset on the research and development credit from 2014 to 2020.
Section 3(n)	Sets tax years beginning on or after January 1, 2014 as the effective date for the changes made in Section 3.

Part IV. Franchise Tax

This Part replaces the current franchise tax with a business privilege license tax applicable to all business entities that enjoy limited liability protections so that all business entities with limited liability are treated the same, regardless of whether they are organized as corporations or limited liability entities. By broadening the tax base to include more business entities, the Part is able to reduce the tax rate. This Part also repeals the annual report filing fee.

Bill Section	Brief Description
Section 4.1(a)	Renames the Franchise Tax the Business Privilege Tax.
Section 4.1(b)	Repeals various franchise tax statutes that are incorporated in the rewritten statutes in Section 4.1(c). G.S. 105-116 and 105-116.1 are repealed in Section 5.3(a) of the bill.
Section 4.1(c)	Modifies the franchise tax to: • Lower the rate from $1.50 to $1.25 per $1,000. • Increase the minimum rate from $35 to $200. • Apply to all entities that enjoy limited liability. • Eliminate the 55% of appraised property base. • Simplify the calculation of the tax by eliminating differences in GAAP accounting and the determination of the net worth base. • Specify when indebtedness owed to a parent, a subsidiary, or an affiliate can be deducted. • Prevent tax tiering by allowing a noncorporate entity to exclude its ownership interest in another noncorporate entity that is subject to the tax (105-114.7(b)). • Provide exclusions for regulated investment companies, REITs, and venture capital companies (105-114.7(c)). • Impose compensating privilege taxes at the State sales tax rate on nonregistered retailers and on nonregulated companies that produce electric power using public waters.

	• Provide revenue to cities each year in lieu of local privilege license taxes in an amount equal to a tax of .10 per $1,000 (approximately $45 million dollars). To make the distribution, cities are grouped in three population categories and varying percentages of the "in lieu" amount are distributed to cities in each category on a per capita basis.
Section 4.1(d)	Sets the initial distribution amount under new 105-116.2, which provides revenue to cities in lieu of local privilege license taxes, at $45 million.
Section 4.1(e)	Sets effective date of franchise tax changes as January 1, 2015 and applies to taxes payable in that year.
Section 4.2(a)	Eliminates the annual report fee for corporations.
Section 4.2(b)	Rewrites the annual report statute to eliminate the role of the Department of Revenue in receiving the annual report or approving the annual report form and reorganizes statute for clarity.
Section 4.2(c)	Eliminates $200 annual report fee for limited liability companies.
Section 4.2(d)	Eliminates $200 annual report fee for limited partnership.
Section 4.2(e)	Eliminates $200 annual report fee for limited liability limited partnership.
Section 4.2(f)	Makes conforming change to repeal the annual report fee credit for LLC taxed as corporation, which is no longer needed if there is no annual report fee.
Section 4.2(g)	Makes conforming change to elimination of annual report fee.
Section 4.2(h)	Makes conforming change to elimination of annual report fee by repealing statute specifying how to account for the fees.
Section 4.2(i)	Deletes reference to annual report fee.
Section 4.2(j)	Sets effective date of repeal of annual report fee at January 1, 2015.

Part V. Sales Tax

This Part begins to balance the State's tax structure to one more equally balanced between sales tax, individual income tax, and business taxes. The State's current tax structure relies heavily upon the individual income tax and 20% of the State's General Fund revenue comes from volatile sources of income, the corporate income tax and the non-withholding portion of the individual income tax. To provide greater stability to the State's revenue structure, this Part shifts a greater share of the revenue stream to a broad-base tax on consumption of both goods and services. As the base is broadened, the bill reduces the State rate from 4.75% to 4%.

Bill Section	Brief Description
Section 5.1(a)	Repeals exemptions for nutritional supplements sold by chiropractors (13c), newspapers (28), vending machine items (30) and (50), advertising supplements (36), and components of free circulation publications (39).
Section 5.1(b)	Sets the effective date for the repeal of these exemptions as July 1, 2013.
Section 5.1(c)	Sets July 1, 2013 as effective date of repeal of exemptions in this section.
Section 5.2(a)	Repeals privilege license taxes on entertainment and all administrative provisions in Article 2 because all of the privilege license taxes have now been repealed.
Section 5.2(b)	Makes repeal of entertainment privilege license taxes effective January 1, 2014.
Section 5.3(a)	Repeals following special taxes and discounts; electricity becomes subject to sales tax at State and local rates: • Franchise taxes on electric power, water, and public sewerage companies (105-116 and 105-116.1). • The 3% sales tax discount for municipalities that sell electricity (105-

	164.21A). • Payments in lieu of franchise taxes required of electric cities and joint power agencies (159B-27(b) through (e)).
Section 5.3(b)	Repeals piped gas excise tax and sales tax exemption for piped gas. Piped gas used in manufacturing is exempt from sales tax under the exemption in 105-164.13(57) for fuel sold to a manufacturer.
Section 5.3(c)	Directs the Utilities Commission to reduce the rates for electricity and piped gas as a result of the repeal of the special taxes on electric power companies and piped gas.
Section 5.3(d)	Preserves the prohibition on local privilege taxes on electric power companies between the date the State franchise tax on these companies is repealed (January 1, 2014) and the date the general authority for cities to impose privilege taxes is repealed (July 1, 2014, under Section 6.3(b) of bill).
Section 5.3(e)	Makes repeal of special taxes on electric companies and piped gas effective January 1, 2014.
Section 5.4(a)	Adds several definitions to the sales tax statutes and makes technical changes to two sales tax definitions. The added definitions are: • Alteration, repair, maintenance, cleaning, and installation services for tangible personal property (new (1c)). The items in this definition become subject to sales tax. • Capital equipment (new (2b)). The substance of this definition is the same as in several existing exclusions or exemptions. • Datacenter equipment (new (5e). The substance of this definition is comprised of the definition in 105-187.51C(a) and 105-164.13(55). • Service contract (new (38b)). These are warranty and maintenance contracts for tangible personal property. • Short-term lease or rental (new 38(d)). Cross-references the definition used in the highway use tax, under which short-term is less than a year. Definition is applied to lease or rental of storage unit by the military. The definitions that are amended to make technical changes are: • Combined general rate (4a). Changes the terminology from combined general rate to combined rate, but substance the same. • Retailer (35). Adds a reference to sellers at flea markets. This provision is currently in 105-164.4(a)(4b).
Section 5.4(b)	• Rewrites the statute that imposes a State sales tax to eliminate preferential rates, incorporate the items to which the base is expanded, and arrange the statute in a logical order. • Eliminates the following preferential rates: o The 2%, $300 cap rate on manufactured homes in current 105-164.4(a)(a1). Under new 105-164.4(a)(d), the sale of a manufactured home will be treated as a sale of real property with the result that the sale of the home is not subject to sales tax but the purchase of the items used in manufacturing the home are subject to sales tax. o The 3%, $1,500 cap rate on boats and aircraft in current 105-164.4(a)(1b). These sales become taxable at the general State and local rate. o The 2.83% rate on electricity sold to laundries in current 105-164.4(a)(1f). These sales become exempt under revised 105-164.13(10) in Section 5.7(c).

	○ The 3% rate on electricity under current 105-164.4(a)(4a); these sales become taxable at the general State and local rate. ○ The 2.5% rate on sales of modular homes in current 105-164.4(a)(8). Under new 105-164.4(d), the sale of a modular home will be treated the same as manufactured home described above. • Expands the base to add the following items, effective January 1, 2014: ○ Computer software that is delivered or accessed electronically (new 105-164.4(b)(2)e.) The digital property category, other than computer software, is currently taxable under 105-164.4(a)(6b). The exemptions for computer software in 105-164.13(43), (43a), and (43b) apply. ○ Service contracts for tangible personal property (new 105-164.4(b)(5)a.) ○ Alteration, repair, maintenance, cleaning, and installation of tangible personal property (new 105-164.4(b)(5)b.) ○ Short-term lease or rental of a mini-warehouse or other self-storage space, clothing storage, boat storage or docking, aircraft storage (new 105-164.4(b)(5)c. ○ Entertainment and recreation – see explanation of new 105-164.4F in Section 5.4(d). • Recodifies but does not change tax on accommodations, prepaid telephone service, satellite radio, telecommunications service and ancillary service, video programming, and liquor.
Section 5.4(c)	Repeals the following sales tax provisions: • Definition of eligible internet datacenter (105-164.3(8e)) because it is incorporated in new 105-164.13E in Section 5.7(e). • Exemption for separately stated installation charges (105-164.13(49)) because installation of tangible personal property is taxable under Section 5.4(b). • Exemption for separately stated delivery charges for direct mail (105-164.13(49a)) to expand base to include all charges for delivering tangible personal property. • Distribution to counties of part of 2.5% State sales tax on modular homes because no longer needed under new 105-164.4(d); local sales tax from items used to construct home will be distributed in usual manner.
Section 5.4(d)	• Sets out the room accommodation sales tax provisions now in 105-164.4(a)(3) in new 105-164.4E but does not change the tax. • Sets out the entertainment and recreation activities included by this bill in the sales tax base in new 105-164.4F. Tax applies to charges, whether designated as admission charges, membership charges, or otherwise, for the following: ○ Live entertainment subject to the 3% privilege license tax in repealed 105-37.1 and to amenities included in the admission price (new 105-164.4F(a)(1)a.). ○ Movies subject to the 1% privilege license tax in repealed 105-38.1(new 105-164.4F(a)(1)b.) . ○ Entry to museums, cultural sites, gardens, exhibits, shows, and similar attractions and to guided tours at these attractions (new 105-164.4F(a)(1)c.) . ○ Participation in games, sports, and fitness activities (new 105-164.4F(a)(2).

	o Tax does not apply to the portion of a membership charge that is deductible as a charitable contribution or is allocable to access to facilities not used for game, sport, or fitness activity. o Calculation of tax when tickets are resold same as under current 105-37.1.
Section 5.4(e)	Sets out following new exemptions from the expanded sales tax base in Section 5.4(d): • Exempts tangible personal property services (service contracts, alteration, repair, maintenance, cleaning, and installation) provided for property, such as farm machinery or mill machinery, that is exempt from sales tax (new 106-164.13(60)). Exemption does not apply to motor vehicles. • Exempts any service provided by a self-employed individual who is less than 18 years old (new 105-164.13(62)). Preserves privilege license tax entertainment exemptions for the following (new 105-164.13(63)): o Events at elementary or secondary schools that are sponsored by the school. College events, such as basketball games, are taxable under the privilege license tax and under the bill. o The State Fair and local agricultural fairs. o Festivals sponsored by nonprofit entities that use the proceeds for their nonprofit purpose. Exempts mini-warehouse storage rentals by members of Armed Forces for periods of less than a year (new 105-164.13(64)).
Section 5.4(f)	Deletes the $1,000 highway use tax cap for Class A and B commercial motor vehicles and the $1,500 cap for recreational vehicles that are not subject to the $1,000 cap. Includes documentation fees and other administrative charges in the retail value of a motor vehicle sold by a dealer.
Section 5.4(g)	Deposits in the General Fund the increased revenue generated by removing the cap on motor vehicles and including documentation fees and administrative charges in retail value.
Section 5.4(h)	Sets January 1, 2014 as the effective date of the changes made by Section 5.4.
Section 5.5(a)	Effective July 1, 2014, further expands the sales tax base by adding the following services: o Property care and maintenance services (new 105-164.4(a)(6)), which consist of: o Extermination and pest control. o Installing trees, shrubs, plants, lawns, or gardens. o Contract maintenance of a tree, shrub, plant, lawn, or garden. o Installing or maintaining walkways, retaining walls, fences, water features, or other structures to enhance the landscape of an area. o Cleaning the inside or outside of a building. o Cleaning driveways, parking lots, swimming pools, or grounds. o Security services (new 105-164.4(a)(7)), which consist of: o Guard or security patrol service. o Armored car service. o Remote monitoring of a security alarm system. o Locksmith service. o Telematic service for motor vehicles.

Section 5.5(b)	Adds new section 105-164.12D that clarifies when a landscaper is a performance contractor and when a landscaper is an installing retailer and the sales tax consequences of each.
Section 5.5(c)	Adds the following new exemptions from the services added to the base by this section: o Extermination and pest control services provided to farmers (new 105-164.13 (4h)). o Property care and maintenance services provided for new construction or for rights-of-way and utility easements (new 105-164.13(61)).
Section 5.5(d)	Sets July 1, 2014 as the effective date for the changes made by Section 5.5.
Section 5.6(a)	Splits the 2% tax on food into a 1% State tax and a 1% local tax. This shifts revenue from the local base to the State base to maintain overall revenue neutrality.
Section 5.6(b)	Changes the method for distributing the local sales tax on food from ½ per capita after applying the sales tax adjustment factor and ½ proportionate share of 1997-98 point of collection revenue to ½ per capita with no sales tax adjustment factor and ½ current point of collection.
Section 5.6(c)	Sets July 1, 2015 as the effective date for the changes made by this section.
Section 5.7	This section repeals the 1%, $80 maximum tax that applies to manufacturers and several other businesses and provides a sales tax exemption for capital equipment that was subject to this tax. Items that were subject to the 1%, $80 tax and are not capital equipment become subject to sales tax at the general rate. The section also revises numerous sales tax exemptions allowed various industries to exempt only capital equipment and to make items used to construct real property taxable.
Section 5.7(a)	Deletes following sales tax exemptions so that structures are treated the same across industries and only capital equipment is exempt: o Grain, feed, or soybean storage facilities, and parts and accessories attached to the facility (105-164.13(1a)b.). o Facilities for housing, raising, or feeding animals or housing equipment for these activities (105-164.13(4c)). o Tobacco sheets, metal flues used in curing tobacco, and bulk tobacco barns and racks (105-164.13(4d)).
Section 5.7(b)	Repeals the 1%, $80 maximum tax that applies to manufacturing equipment and equipment used in a few other industries and repeals the sales tax exemption for items subject to the 1%, $80 tax.
Section 5.7(c)	Revises various sales tax exemptions as follows: o Limits the exemption for farm machinery in 105-164.13(1) to capital equipment and eliminates the exemption for lubricants applied to farm machinery. o Limits the exemption for logging machinery in 105-164.13(4f) to capital equipment and eliminates the exemption for lubricants applied to logging machinery. o Limits the exemption for telephone company equipment in 105-164.13(5b) to capital equipment. o Limits the exemption for broadcasting equipment in 105-164.13(5c) to capital equipment. o Limits the exemption for cable company equipment in 105-164.13(5d) to capital equipment.

	Enacts new exemptions for the following capital equipment previously taxed at 1%, $80: o Specified equipment sold to a major recycling facility (new 105-164.13(5e)). o Manufacturing machinery (new 105-164.13(5f)). o Capital equipment of life sciences research and development company, software publishing company, and industrial refurbisher (new 105-164.13(5g)). o Equipment for unloading or processing bulk cargo at a port (new 105-164.13(5h)). o Datacenter machinery and equipment (new 105-164.13(5i)). Revises the sales tax exemption in 105-164.13(10) for items sold to laundries to limit the exemption to capital equipment, eliminate the exemption for lubricants applied to the equipment, and exempt electricity used by the laundry.
Section 5.7(d)	Revises the sales tax exemptions in 105-164.13(3) and (7) for products of forests, mines, and waters to conform to the sales tax exemption for products of the farm in 105-164.13(4b) by limiting them to products in their original, as opposed to unmanufactured, state.
Section 5.7(e)	Enacts new 105-164.13E that consolidates the datacenter items previously subject to the 1%, $80 tax with those exempt from sales tax under 105-164.13(55). Does not change substance of provisions other than to exempt the items that were previously subject to the 1%, $80 tax.
Section 5.7(f)	Sets January 1, 2014 as the effective date for the changes made by Section 5.7.
Section 5.8	Reduces the State general sales tax rate from 4.75 % to 4.5%, effective September 1, 2014.
Section 5.9	Revises 105-467, the statute that sets the local sales tax base, to reflect the changes made by Section 5.4(b) to 105-164.4, the statute that sets the State sales tax base.
Section 5.9(a)	Eliminates unnecessary cross-references to specific items that are taxable in the State base. The local base remains the same as the State base until July 1, 2015, with the exception of food.
Section 5.9(b)	Revises the description of food effective when the 2% tax on food is split between the State and the local governments effective July 1, 2015.
Section 5.9(c)	Sets the effective dates for the changes made by Section 5.9.
Section 5.10	Sets a method for distributing local sales taxes on electricity and piped natural gas that differs from the regular method to reflect the former distributions to cities of the repealed franchise tax on electric power companies and the repealed excise tax on piped natural gas.
Section 5.10(a)	Allocates revenue from first one cent local sales tax on electricity and piped natural gas to the county of collection, directs 80% of county allocation to cities in the county based on relative property taxes of each city, and directs the remaining 20% to the county.
Section 5.10(b)	Requires revenue from first ½ cent local sales tax on electricity and piped natural gas to be distributed in the same manner as the revenue from the one cent local sales tax on electricity and piped natural gas.
Section 5.10(c)	Requires revenue from second ½ cent local sales tax on electricity and piped natural gas to be distributed in the same manner as the revenue from the one cent local sales tax on electricity and piped natural gas.
Section 5.10(d)	Sets January 1, 2014 as the effective date of the distribution method set out in this

	section.
Section 5.11	Revises a local act concerning the Cape Hatteras Electric Membership Corporation to make it clear that the corporation is to be treated the same as every other electric membership corporation with respect to taxes other than property tax. The change becomes effective January 1, 2014.

Part VI. Privilege License Taxes

This Part eliminates State and local privilege taxes imposed on various business entities. In 1995, the Revenue Laws Study Committee found that the privilege license tax structure was outmoded, inefficient, and not designed on proper principles of taxation such as tax fairness, ability to pay, responsiveness to growth, or administrative cost. Chapter 14 of the 1996 Session Laws, Second Extra Session, repealed most of the State privilege license taxes imposed under Article 2 of Chapter 105 of the General Statutes. The Revenue Laws Study Committee has studied the elimination of the remaining State privilege license taxes and reform of the provisions governing local privilege license taxes several times, but no statutory changes have been enacted since that time. The result is a system of taxation that applies only to a limited portion of businesses or the work force and that has a different and inconsistent tax rate for each different class of business. Consequently, the tax has become more of a nuisance tax than a properly designed source of revenue. The bill also provides a source of replacement revenue for cities from a portion of the new business license tax (*See p. 16, new G.S. 105-116.2*).

Bill Section	Brief Description
Section 6.1(a)	Repeals State privilege license taxes imposed on attorneys and other professionals (105-41), installment paper dealers (105-83), loan agencies (105-88), banks (105-102.3), and newspapers (105-102.6).
Section 6.1(b)	Sets January 1, 2014 as the effective date for repeal of the enumerated privilege license taxes.
Section 6.2	Repeals local alcoholic beverage privilege license taxes imposed in Article 2C of Chapter 105 but retains the requirement to obtain a local license. Taxes apply to holders of State beer and wine permits.
Section 6.2(a)	Deletes reference to local ABC taxes in title to Article 2C.
Section 6.2(b)	Deletes statement of purpose for local ABC license taxes.
Section 6.2(c)	Deletes requirement to pay license tax before obtaining local ABC license.
Section 6.2(d)	Deletes schedule of city beer and wine privilege license taxes.
Section 6.2(e)	Deletes schedule of county beer and wine privilege license taxes.
Section 6.2(f)	Deletes authorization for cities and counties to impose a tax on beer and wine wholesalers.
Section 6.2(g)	Sets May 1 (due date of annual payment of local ABC privilege tax) of 2014 as effective date of repeal.
Section 6.3	Repeals the authority for cities and counties to impose privilege license taxes, effective July 1, 2014.
Section 6.3(a)	Repeals the authority for counties to levy a local privilege license tax on the listed businesses; these businesses were subject to State privilege license taxes imposed until the 1980s. Counties do not have general authority to impose a privilege license tax.
Section 6.3(b)	Repeals the authority for cities to levy a local privilege license tax. Cities now have general authority to do so, subject to a hodgepodge of limitations and restrictions stemming from State privilege license taxes imposed until the 1980s.

Section 6.3(c)	Sets July 1, 2014 as the effective date for repeal of the authority to impose local privilege license taxes.
Section 6.4	Eliminates the discounts now allowed two types of taxpayers when paying their taxes, effective July 1, 2014.
Section 6.4(a)	Repeals the 2% discount allowed to cigarette distributors when paying the cigarette excise tax.
Section 6.4(b)	Repeals the 2% discount allowed to sellers of tobacco products other than cigarettes when paying the excise tax on those products.
Section 6.4(c)	Repeals the 2% discount allowed to beer and wine wholesalers and importers when paying the excise tax on beer and wine.
Section 6.4(d)	Sets July 1, 2014, as the effective date for the repeal of the discounts.

Part VII. Replace Local Distributions with Expanded Local Sales Tax Base

This Part recognizes that the expansion of the sales and use tax base will increase local sales and use tax revenue and eliminate the need for the current level of State tax revenues distributed to local governments. This Part reduces and simplifies the commingling of revenues as far as is practicable.

Bill Section	Brief Description
Section 7.1(a)	Repeals the annual distribution to cities and counties of part of the State excise taxes on beer and wine.
Section 7.1(b)	Deletes a reference to the beer and wine distribution repealed by Section 7.1.
Section 7.1(c)	Sets July 1, 2014 as the effective date of the repeal of the distribution of beer and wine tax revenue. Distribution is made in May of each year.
Section 7.2(a)	Repeals the local "sales tax adjustment" formula by which revenue allocated to a county on a per capita basis from the second half cent tax is increased or decreased based on sales in 1987.
Section 7.2(b)	Sets January 1, 2014 as the effective date of the repeal of the sales tax adjustment formula.
Section 7.3(a)	Reduces the county Medicaid Hold-Harmless by 50% for the 2013-2014 fiscal year.
Section 7.3(b)	Repeals the county Medicaid Hold-Harmless effective for the 2014-2015 fiscal year.
Section 7.3(c)	Sets effective dates of changes made by Section 7.3.
Section 7.4(a)	Repeals the distribution of corporate income tax revenue to the Public School Building Capital Fund. No distribution of corporate income tax has been made to that Fund since the 2008-09 fiscal year.
Section 7.4(b)	Repeals the county distribution method that applies to revenue credited to the Public School Building Capital Fund from corporate income tax revenue.
Section 7.4(c)	Sets effective date for repeal of allocation to Public School Fund. The last distribution is to be made in the final quarter of fiscal year 2013-2014.

Part VIII. Transitional Provisions

Bill Section	Brief Description
Section 8(a)	Gives the Secretary of Revenue the authority to compromise a sales tax liability if the tax is owed on an item or service included by this act in the sales tax base and the person liable for the tax made a good faith effort to comply with the law. Effective for liabilities incurred before January 1, 2024.
Section 8(b)	Directs the Revenue Laws Study Committee to study the fiscal impact of the changes

	made by the act, with particular attention to the application of the expanded State business tax, the impact on local governments, and the remaining methods by which the State shares revenue with local governments.
Section 8(c)	Preserves rights of taxpayers and State under taxes repealed by the act.
Section 8(d)	Makes transitional provisions effective when the bill becomes law and sets an expiration date of January 1, 2024 for the Secretary's authority to compromise a sales tax liability on items made taxable by this act.

Parts IX through XIII. Conforming Changes

These Parts make numerous technical and conforming changes to statutes affected by the substantive changes made in Parts II through VIII of the act. The statutes that require conforming changes are generally set out in their numerical order in Chapter 105.

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Summary	Eff. Date	State $Millions 13-14	14-15	15-16	16-17	Local $Millions 13-14	14-15	15-16	16-17
Business Tax Changes									
Repeal state and local privilege license tax	Various	(50.0)	(51.3)	(52.5)	(53.8)		(75.0)	(75.0)	(75.0)
Expand franchise tax base and reduce rate to $1.25/$1,000	01/01/2015		107.0	108.0	109.9		45.0	45.0	45.0
Expand corporate income tax base and reduce rate to 6%	01/01/2014	(61.0)	(146.0)	(152.2)	(158.6)				
Increase sales factor apportionment from 1/2 to 3/4	01/01/2014	(43.6)	(96.6)	(100.4)	(110.1)				
Repeal ineffective tax credits and extend sunset on others	01/01/2014		(35.6)	(69.0)	(69.0)				
Repeal 1%, $80 excise tax	01/01/2014	(17.4)	(39.2)	(40.2)					
Repeal piped gas excise tax	01/01/2014	(11.4)	(25.6)	(26.0)	(26.7)	(4.9)	(11.0)	(11.2)	(24.9)
Repeal electricity franchise tax	01/01/2014	(78.5)	(157.0)	(157.0)	(160.9)	(93.5)	(187.0)	(187.0)	(191.7)
Repeal discounts	07/01/2014		12.0	12.0	12.0				
Eliminate annual report fees	01/01/2015		(30.0)	(31.2)	(32.4)				
Total Business Tax Changes		(261.9)	(462.2)	(508.5)	(489.6)	(98.4)	(228.0)	(228.2)	(246.6)
Individual Income Tax Changes									
Zero Bracket: MFJ - $11,000; S/MFS - $5,500; HOH - $8,800	01/01/2015		(276.0)	(466.0)	(476.1)				
6.0% Flat Rate									
Eliminate exemptions									
Eliminate standard and itemized deductions									
Eliminate $50,000 business exemption									
Treat retirement benefits same as other income									
Tax Social Security benefits only if taxed by federal government									
Eliminate all Credits, except for the following:									
Child Tax Credit - AGI < $110,000 (MFJ) $450 per child; AGI between $110,000 and $200,000 (MFJ) $200 per child									
Charitable Contributions Credit - 6.0% Rate and $600 Credit Cap ($10,000 in contributions)									
Personal Expense Tax Credit - (AGI - Zero Bracket)*0.6%; Limited to AGI$150,000 (MFJ); $800 (MFJ) Credit Cap and $200 (MFJ) Credit Floor									
Sales Tax Changes									
Repeal vending, newspaper, and various other exemptions	07/01/2013	28.9	31.4	32.2	33.0	12.2	13.2	13.6	13.9
Transfer entertainment from privilege tax and expand to include other recreation charges	07/01/2013	55.0	125.7	133.0	136.2	23.2	52.9	56.0	57.4
Include tangible personal property services	01/01/2014	113.6	261.5	327.9	335.8	47.8	110.1	138.1	141.4
Include real property care and maintenance services	07/01/2014	0.0	179.7	195.4	200.1	0.0	75.7	82.3	84.2
Limit equipment exemptions to capital equipment	01/01/2014	3.3	7.7	7.9	8.1	1.4	3.2	3.3	3.4
Remove vehicle caps, include doc fees in vehicle pricing	01/01/2014	16.9	39.0	40.0	41.0				
Modify other exemptions and rates for consistency	01/01/2014	6.7	15.3	15.7	16.1	3.4	7.8	8.0	8.2
Subtotal Sales Tax Changes		224.5	660.4	752.1	770.2	88.0	263.0	301.2	308.4
Eliminate electricity preferential rate	01/01/2014	86.6	169.1	171.0	170.8	99.0	222.4	228.0	228.0
Include piped natural gas	01/01/2014	32.0	68.5	69.9	71.6	13.5	30.3	31.1	31.8
Reduce State Sales Tax Rate To 4.5%	09/01/2014		(270.4)	(366.3)	(382.6)				
Total Sales Tax Changes		343.1	627.7	626.8	630.0	200.4	515.7	560.3	568.3
State/Local Distribution Changes									
Tax Food at 1% in State and local base instead of 2% in local	07/01/2015		0.0	145.1	148.6		0.0	(145.1)	(148.6)
Repeal distribution to Public School Capital Fund	04/01/2014	0.0	85.5	89.0	92.6	0.0	(85.5)	(89.0)	(92.6)
Repeal distribution of State excise tax on beer and wine	07/01/2014		36.8	37.8	37.8		(36.8)	(37.8)	(37.8)
Repeal distribution on modular homes	01/01/2014								
Repeal Medicaid hold-harmless	07/01/2013	22.0	47.8	49.0	60.8	(22.0)	(47.8)	(49.0)	(60.8)
Total State/Local Distribution Changes		22.0	170.1	320.9	339.7	(22.0)	(170.1)	(320.9)	(339.7)
Reserves									
Implementation and Transitional Adjustments		(40.0)							
Reserve (FY 15-16)		(26.7)							
Total Reserves		(66.7)							
Total All Changes		36.5	59.5	(26.7)	4.1	80.0	117.6	11.2	(18.0)

2014 Estimated Impact of Individual Income Tax Proposal

TOTAL RETURNS

Federal AGI[1]	Total Returns	Current - Returns with Tax Due	Proposal - Returns with Tax Due	Change in Returns with Tax Due	Current - Revenue ($Millions)	Proposal - Revenue ($Millions)	Change - Revenue ($Millions)	Current - Average Tax Due	Proposal - Average Tax Due	Change - Average Tax Due	Percent Change
Infinity (-) < 9,999	665,646	204,197	75,665	(128,532)	29.0	11.3	(17.68)	43	17	(27)	-61.1%
9,999 < 19,999	526,951	360,352	276,987	(83,365)	130.2	102.7	(27.56)	247	195	(52)	-21.2%
19,999 < 29,999	637,908	571,329	508,231	(63,098)	468.3	363.5	(104.84)	734	570	(164)	-22.4%
29,999 < 39,999	689,369	644,250	650,292	6,042	871.6	729.1	(142.45)	1,264	1,058	(207)	-16.3%
39,999 < 49,999	316,249	290,391	308,892	18,501	518.9	483.2	(35.71)	1,641	1,528	(113)	-6.9%
49,999 < 59,999	232,238	215,818	228,369	12,551	483.1	461.1	(21.93)	2,080	1,986	(94)	-4.5%
59,999 < 69,999	197,592	185,824	195,291	9,467	500.1	479.6	(20.46)	2,531	2,427	(104)	-4.1%
69,999 < 79,999	166,804	157,890	165,231	7,341	501.7	492.0	(9.70)	3,008	2,950	(58)	-1.9%
79,999 < 99,999	253,423	244,721	252,341	7,620	945.1	951.6	6.48	3,729	3,755	26	0.7%
99,999 < 199,999	537,776	530,777	537,112	6,335	3,472.4	3,498.0	25.61	6,457	6,505	48	0.7%
199,999 < 499,999	124,187	123,370	124,088	718	1,910.5	1,903.1	(7.44)	15,384	15,324	(60)	-0.4%
499,999 < 999,999	15,318	15,155	15,318	163	644.0	599.3	(44.65)	42,042	39,127	(2,915)	-6.9%
999,999 < Infinity	7,795	7,665	7,795	130	1,561.3	1,511.5	(49.73)	200,291	193,912	(6,379)	-3.2%
TOTAL	4,371,256	3,551,739	3,345,612	(206,127)	12,036.15	11,586.10	(450.05)	3,389	3,463	74	2.2%

Zero Bracket: MFJ - $11,000; S/MFS - $5,500; HOH - $8,800
6.0% Flat Rate

Eliminate Exemptions
Eliminate Standard and Itemized Deductions
Eliminate $50,000 Business Exemption
Eliminate Other Retirement Benefits Deduction
Tax Social Security Income and Railroad Retirement Benefits the same as the Federal Governmen

Eliminate all Credits, except for the following:
Child Tax Credit - AGI < $110,000[2] (MFJ) $450 per child; AGI between $110,000 and $200,000 (MFJ) $200 per child
Charitable Contributions Credit - 6.0% Rate and $600 Credit Cap ($10,000 in contributions)
Personal Expense Tax Credit - (AGI - Zero Bracket)*0.6%; Limited to AGI<$150,000 (MFJ); $800 (MFJ) Credit Cap and $200 (MFJ) Credit Floo

1/ Federal AGI is prorated to capture only portion that is North Carolina income
2/ $110,000 is the level of phase-out for the current Federal Child Credit

SINGLE

Federal AGI[1]	Total Returns	Current - Returns with Tax Due	Proposal - Returns with Tax Due	Change in Returns with Tax Due	Current - Revenue ($Millions)	Proposal - Revenue ($Millions)	Change - Revenue ($Millions)	Current - Average Tax Due	Proposal - Average Tax Due	Change - Average Tax Due	Percent Change
Infinity (-) < 9,999	420,712	169,207	72,894	(96,313)	22.78	6.65	(16.13)	54	16	(38)	-70.8%
9,999 < 19,999	244,793	207,234	220,784	13,550	93.62	90.45	(3.17)	382	369	(13)	-3.4%
19,999 < 29,999	260,230	239,620	251,460	11,840	261.48	250.72	(10.76)	1,005	963	(41)	-4.1%
29,999 < 39,999	319,456	306,192	315,407	9,215	509.07	464.54	(44.53)	1,594	1,454	(139)	-8.7%
39,999 < 49,999	142,208	134,128	140,166	6,038	282.58	270.00	(12.58)	1,987	1,899	(88)	-4.5%
49,999 < 59,999	90,240	85,423	89,392	3,969	222.37	216.03	(6.34)	2,464	2,394	(70)	-2.9%
59,999 < 69,999	63,228	60,202	62,761	2,559	187.66	182.60	(5.06)	2,968	2,888	(80)	-2.7%
69,999 < 79,999	49,309	47,385	49,103	1,718	173.52	176.05	2.53	3,519	3,570	51	1.5%
79,999 < 99,999	54,682	52,929	54,626	1,697	231.19	253.51	22.32	4,228	4,636	408	9.7%
99,999 < 199,999	66,898	65,812	66,849	1,037	455.32	476.02	20.70	6,806	7,116	309	4.5%
199,999 < 499,999	12,517	12,395	12,505	110	203.75	199.95	(3.80)	16,278	15,974	(304)	-1.9%
499,999 < 999,999	1,752	1,709	1,752	43	73.73	69.48	(4.25)	42,083	39,658	(2,425)	-5.8%
999,999 < Infinity	1,301	1,264	1,301	37	267.81	273.38	5.57	205,849	210,134	4,284	2.1%
TOTAL	1,727,326	1,383,500	1,339,000	(44,500)	2,984.88	2,929.37	(55.51)	2,157	2,188	30	1.4%

MARRIED FILING JOINTLY

Federal AGI[1]	Total Returns	Current - Returns with Tax Due	Proposal - Returns with Tax Due	Change in Returns with Tax Due	Current - Revenue ($Millions)	Proposal - Revenue ($Millions)	Change - Revenue ($Millions)	Current - Average Tax Due	Proposal - Average Tax Due	Change - Average Tax Due	Percent Change
Infinity (-) < 9,999	99,030	23,004	318	(22,686)	4.70	3.83	(0.87)	47	39	(9)	-18.4%
9,999 < 19,999	83,806	32,728	18,441	(14,287)	5.47	3.12	(2.35)	65	37	(28)	-42.9%
19,999 < 29,999	126,548	92,378	74,276	(18,102)	45.64	34.45	(11.19)	361	272	(88)	-24.5%
29,999 < 39,999	167,171	140,596	140,465	(131)	128.69	107.45	(21.24)	770	643	(127)	-16.5%
39,999 < 49,999	118,384	102,194	113,469	11,275	142.01	138.09	(3.92)	1,200	1,166	(33)	-2.8%
49,999 < 59,999	113,604	102,608	110,744	8,136	196.12	190.88	(5.24)	1,726	1,680	(46)	-2.7%
59,999 < 69,999	117,263	108,907	115,490	6,583	264.52	255.28	(9.24)	2,256	2,177	(79)	-3.5%
69,999 < 79,999	109,155	102,363	107,817	5,454	300.62	290.94	(9.68)	2,754	2,665	(89)	-3.2%
79,999 < 99,999	190,491	183,662	189,477	5,815	679.65	665.32	(14.33)	3,568	3,493	(75)	-2.1%
99,999 < 199,999	463,033	457,237	462,429	5,192	2,966.26	2,968.82	2.56	6,406	6,412	6	0.1%
199,999 < 499,999	110,012	109,344	109,929	585	1,680.89	1,677.23	(3.66)	15,279	15,246	(33)	-0.2%
499,999 < 999,999	13,348	13,231	13,348	117	561.11	521.42	(39.69)	42,037	39,064	(2,973)	-7.1%
999,999 < Infinity	6,215	6,144	6,215	71	1,210.73	1,144.29	(66.44)	194,808	184,117	(10,691)	-5.5%
TOTAL	1,718,060	1,474,396	1,462,418	(11,978)	8,186.41	8,001.13	(185.28)	5,552	5,471	(81)	-1.5%

MARRIED FILING SEPARATELY

Infinity (-) < 9,999	19,335	5,703	2,405	(3,298)	0.98	0.65	(0.33)	51	34	(17)	-33.8%
9,999 < 19,999	13,318	11,004	11,184	180	4.61	4.22	(0.39)	346	317	(29)	-8.4%
19,999 < 29,999	16,338	15,056	15,456	400	14.55	13.12	(1.43)	891	803	(88)	-9.8%
29,999 < 39,999	17,627	16,641	17,397	756	24.65	22.53	(2.12)	1,398	1,278	(120)	-8.6%
39,999 < 49,999	9,349	8,805	9,264	459	16.80	16.18	(0.62)	1,797	1,731	(66)	-3.7%
49,999 < 59,999	5,605	5,347	5,561	214	12.98	12.75	(0.23)	2,316	2,274	(41)	-1.8%
59,999 < 69,999	3,662	3,520	3,654	134	10.46	10.47	0.01	2,856	2,860	3	0.1%
69,999 < 79,999	2,124	2,018	2,107	89	7.13	7.43	0.30	3,357	3,497	140	4.2%
79,999 < 99,999	2,372	2,305	2,372	67	9.62	10.94	1.32	4,056	4,613	557	13.7%
99,999 < 199,999	3,389	3,316	3,385	69	22.22	24.65	2.43	6,557	7,273	716	10.9%
199,999 < 499,999	857	841	853	12	12.91	13.19	0.28	15,064	15,388	324	2.1%
499,999 < 999,999	87	87	87	0	3.22	3.15	(0.07)	37,011	36,260	(751)	-2.0%
999,999 < Infinity	206	184	206	22	69.94	82.52	12.58	339,515	400,579	61,064	18.0%
TOTAL	94,269	74,827	73,931	(896)	210.07	221.80	11.73	2,807	3,000	193	6.9%

HEAD OF HOUSEHOLD

Infinity (-) < 9,999	126,569	6,283	48	(6,235)	0.49	0.14	(0.35)	4	1	(3)	-71.5%
9,999 < 19,999	185,034	109,386	26,578	(82,808)	26.53	4.88	(21.65)	143	26	(117)	-81.6%
19,999 < 29,999	234,792	224,275	167,039	(57,236)	146.63	65.17	(81.46)	625	278	(347)	-55.6%
29,999 < 39,999	185,115	180,821	177,023	(3,798)	209.18	134.62	(74.56)	1,130	727	(403)	-35.6%
39,999 < 49,999	46,308	45,264	45,993	729	77.50	58.90	(18.60)	1,674	1,272	(402)	-24.0%
49,999 < 59,999	22,789	22,440	22,672	232	51.59	41.47	(10.12)	2,264	1,820	(444)	-19.6%
59,999 < 69,999	13,439	13,195	13,386	191	37.45	31.28	(6.17)	2,787	2,327	(459)	-16.5%
69,999 < 79,999	6,216	6,124	6,204	80	20.47	17.62	(2.85)	3,293	2,835	(459)	-13.9%
79,999 < 99,999	5,878	5,825	5,866	41	24.63	21.80	(2.83)	4,190	3,709	(481)	-11.5%
99,999 < 199,999	4,456	4,412	4,449	37	28.61	28.54	(0.07)	6,421	6,405	(15)	-0.2%
199,999 < 499,999	801	790	801	11	12.98	12.73	(0.25)	16,205	15,891	(314)	-1.9%
499,999 < 999,999	131	128	131	3	5.94	5.29	(0.65)	45,344	40,389	(4,954)	-10.9%
999,999 < Infinity	73	73	73	0	12.79	11.35	(1.44)	175,205	155,488	(19,717)	-11.3%
TOTAL	831,601	619,016	470,263	(148,753)	654.79	433.79	(221.00)	1,058	922	(135)	-12.8%

SENATE BILL 394

Lower Tax Rates for a Stronger NC Economy

Bipartisan Plan for Economic Growth

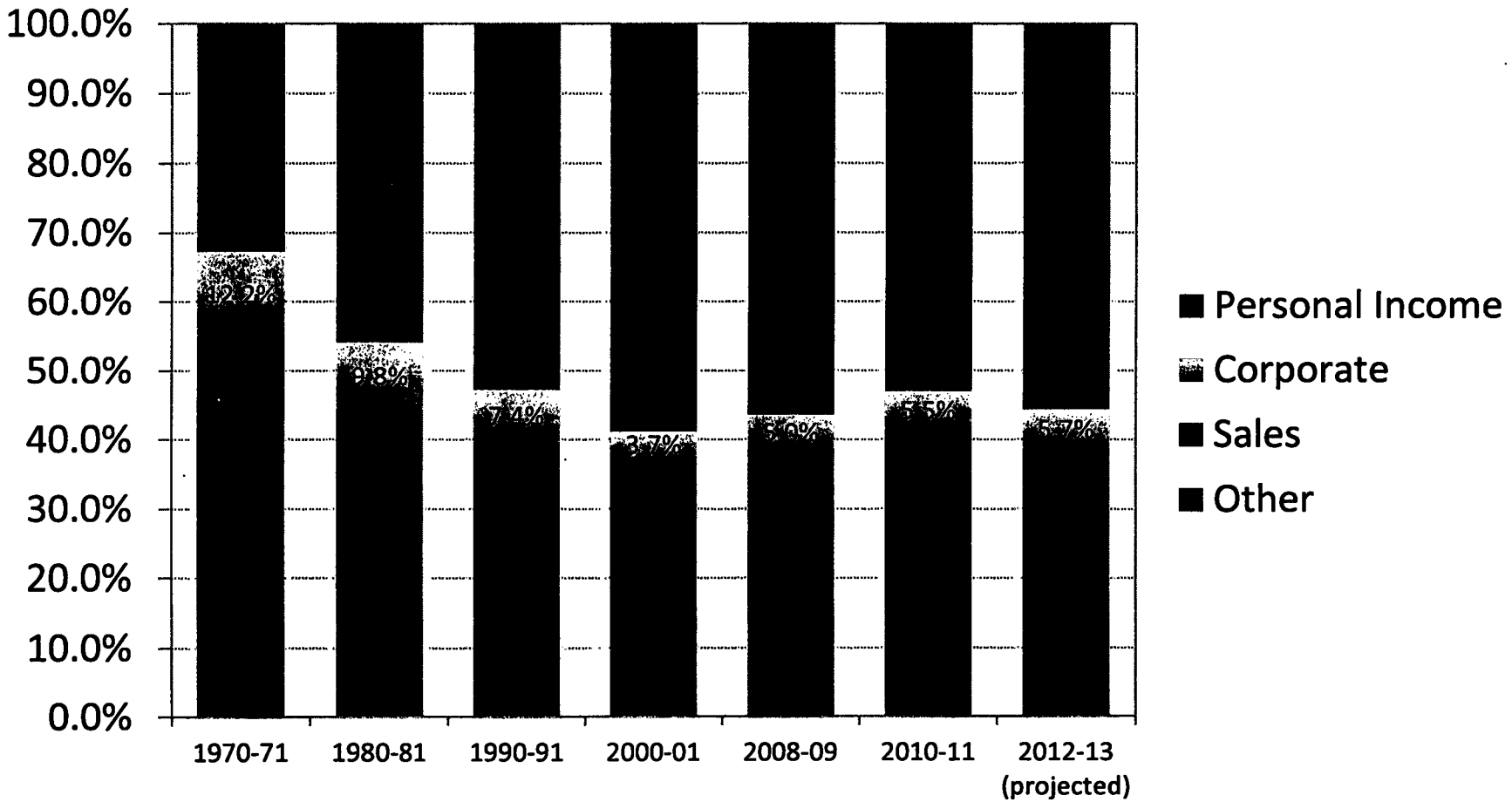
- Lower every major tax rate
- Make tax rates more competitive with neighboring states
- Make tax system simpler, fairer
- Eliminate clutter of rates, exemptions
- Provide stable revenue stream
- Disentangle State revenue from local revenue
- Keep changes revenue-neutral

SO WHAT'S WRONG WITH THE REVENUE SYSTEM WE HAVE NOW?

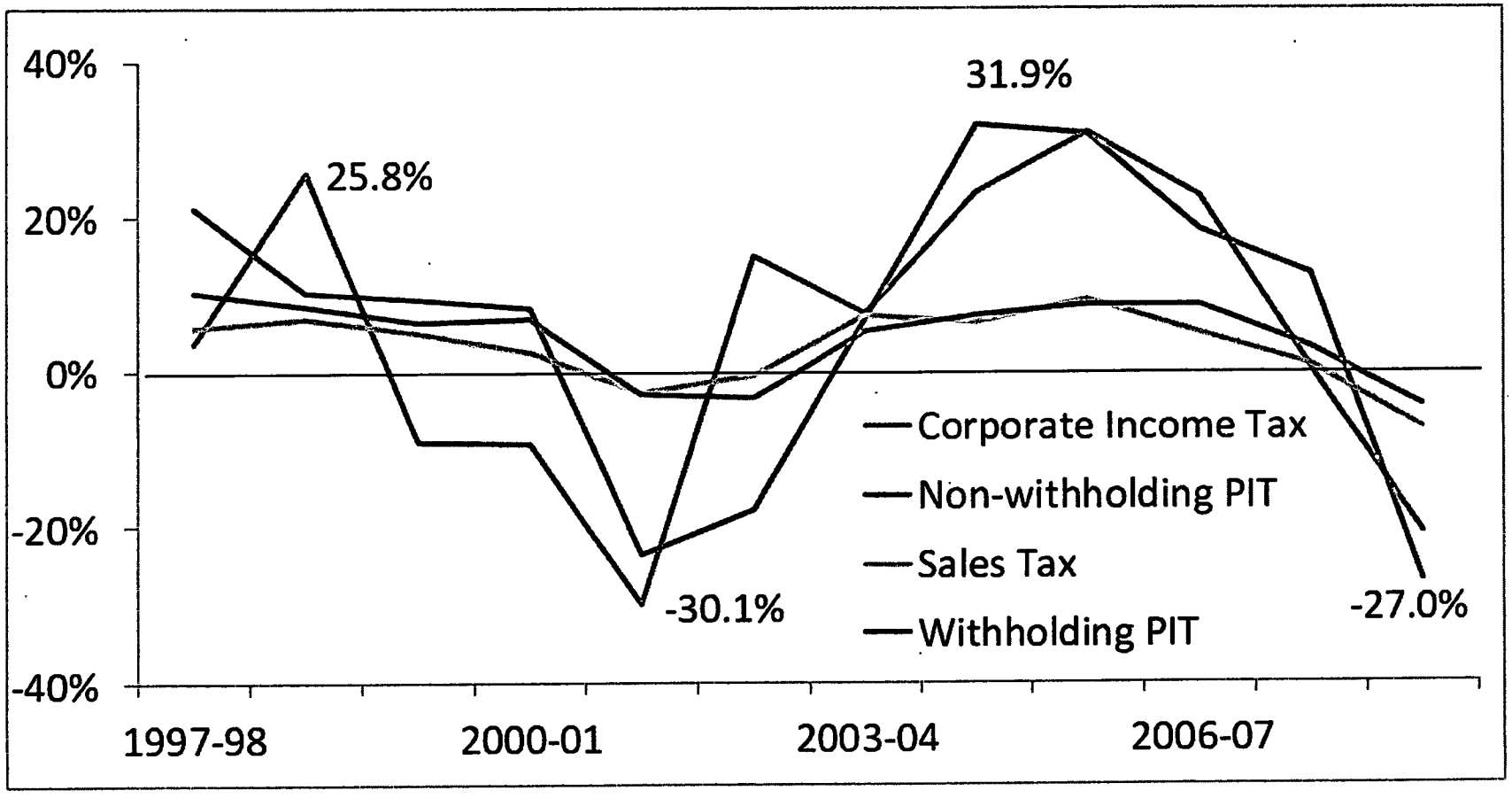
STEVE MEYERS' VIEW

MAINE SUNDAY TELEGRAM
SUNDAY, JULY 26, 2009

North Carolina Tax Structure
(1970 – 2013)

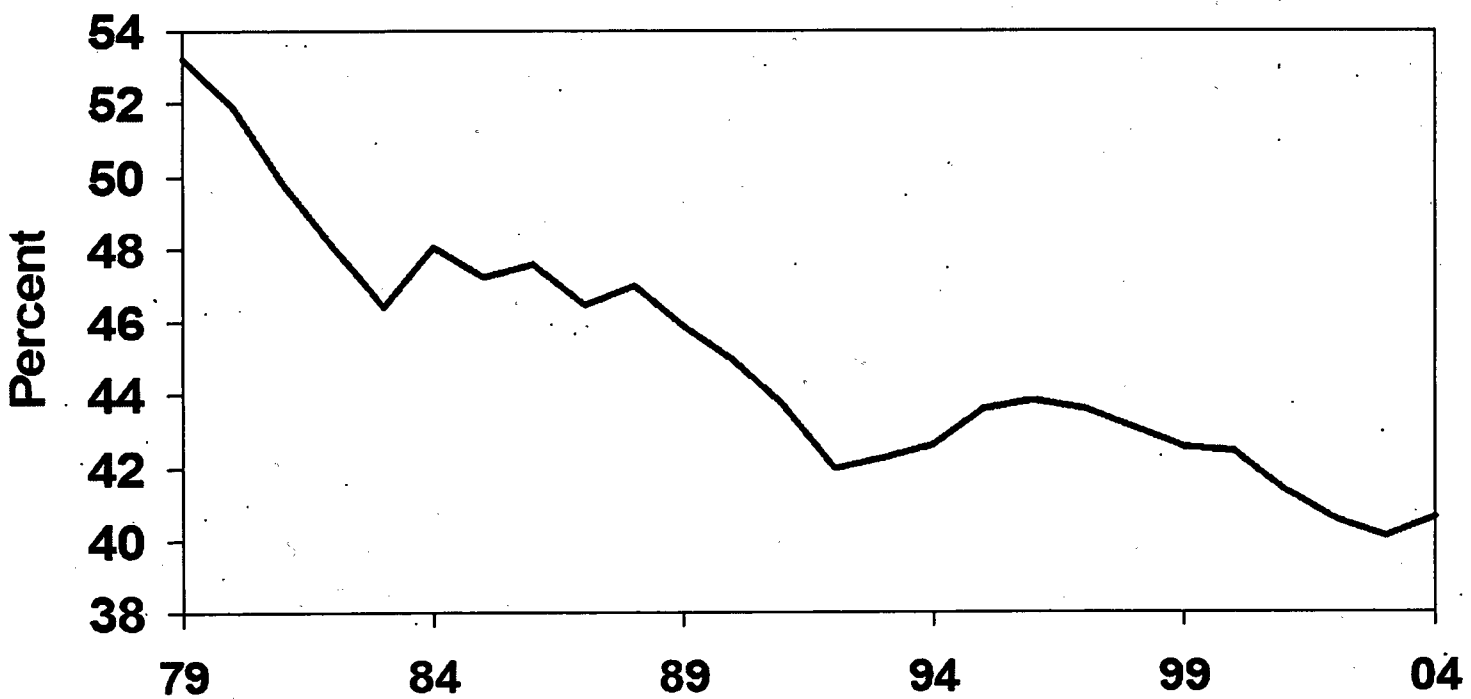


Growth & Stability

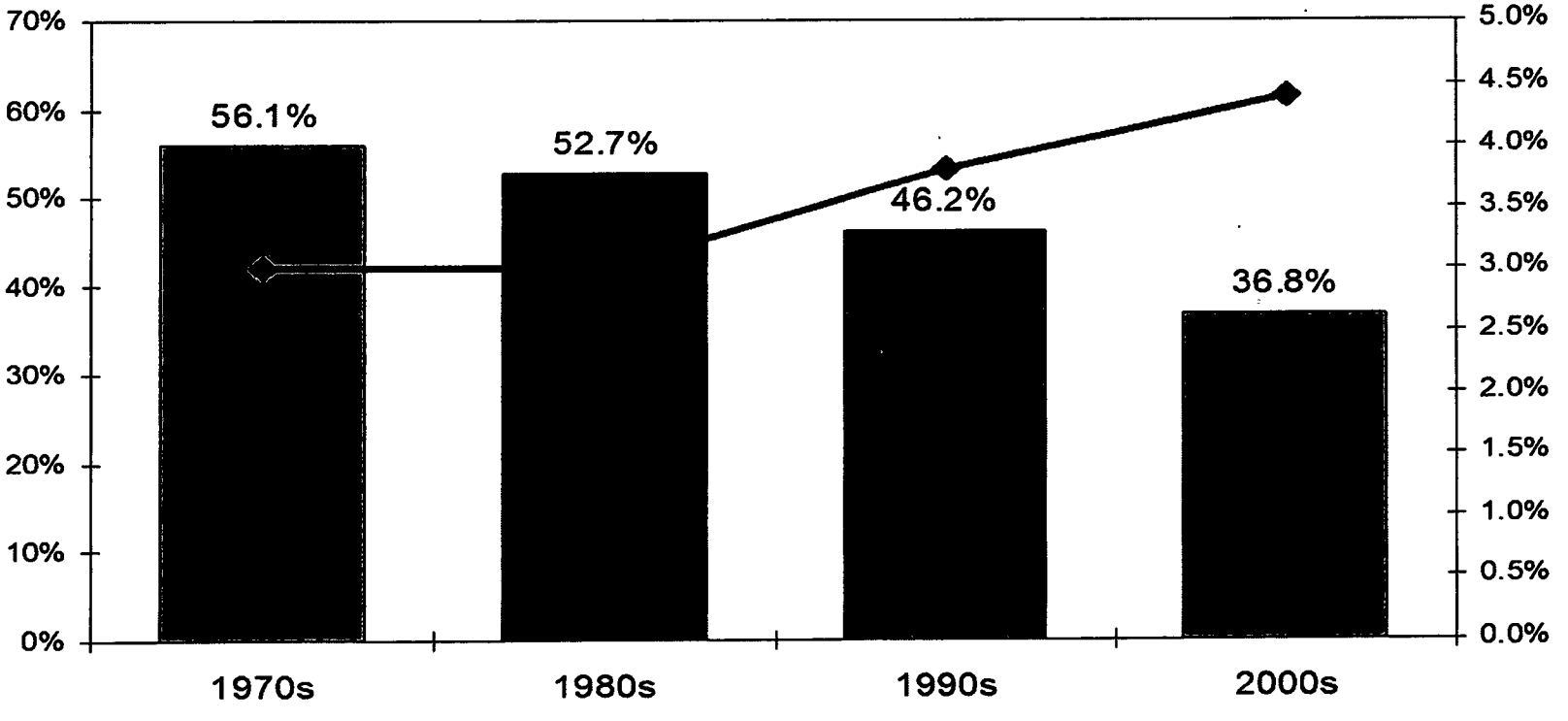


20% of General Fund revenue comes from two volatile sources: CIT & non-withholding portion of the PIT

Sales Tax Base Is Shrinking as Percentage of Total Economy

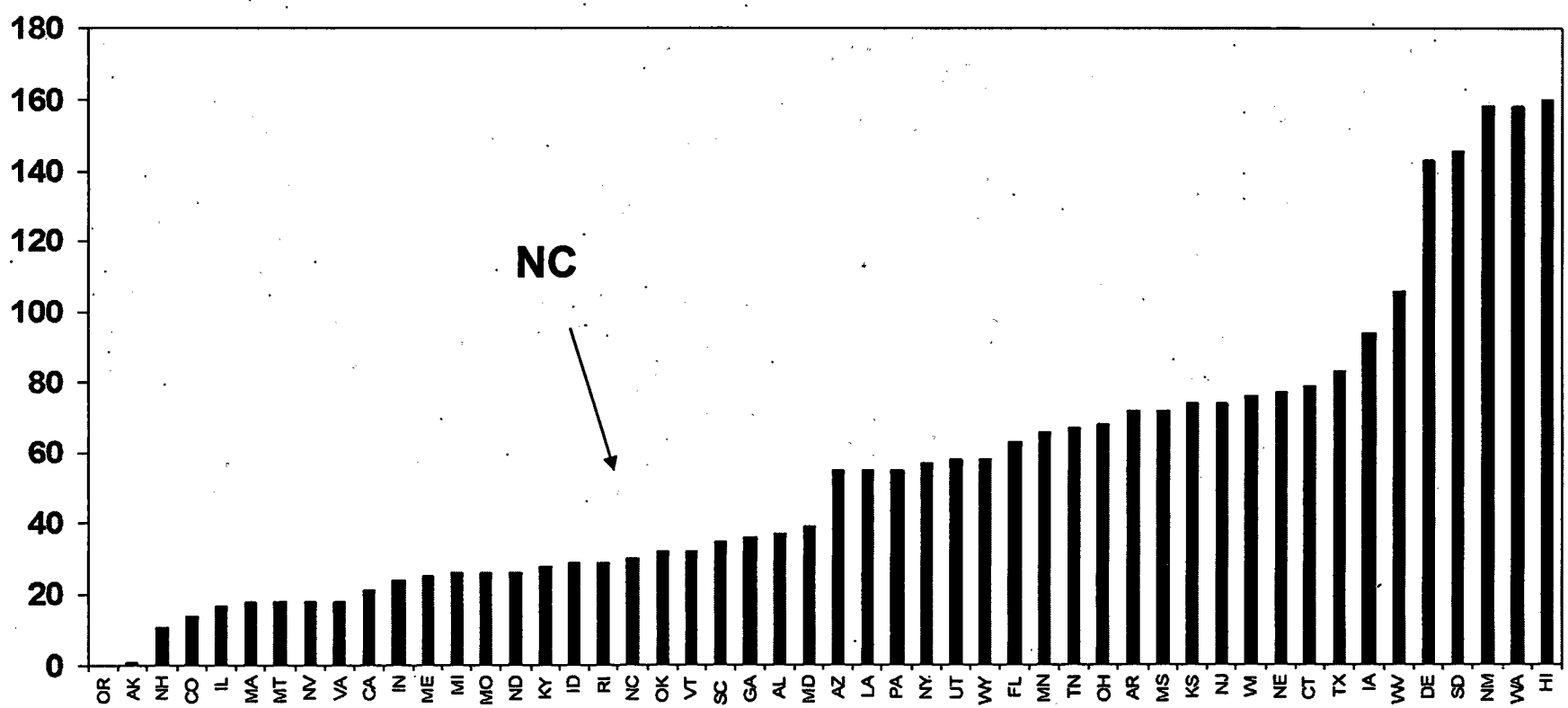


The Sales Tax Base



Due to shifts in consumption and an eroded base, the State rate has increased from 3% to 4.75%. Despite the rate increase, sales tax as a share of GF revenue has declined.

Taxation of Services, by State



Source: Federation of Tax Administrators, 2007 Survey

Tax Rates

Tax	Current Rate	SB 394 Rate	Decrease
Individual Income	6, 7, & 7.75%	6%	23%
Corporate Income	6.90%	6%	13%
Franchise	$1.50/1000	$1.25/1000	16.70%
State Sales	4.75%	4.50%	5%

Rates Compared to Other States

Tax	Current	SB 394	GA	SC	TN	VA
Individual Income	6, 7, & 7.75	6	1 to 6	3 to 7	No general	2 to 5.75
Corporate Income	6.9	6	6	5	6.5	6
Franchise	1.50/1000	1.25/1000	$10 to 5000	1.00/1000	2.50/1000	No general
State Sales	4.75	4.5	4	6	7	4

Individual Income Tax Highlights

- Establishes flat 6% rate
- Replaces standard deduction and exemptions with zero bracket amount
- Eliminates all credits except:
  - Child credit – increased to $200 or $450
  - Charitable contribution credit, capped at $600
- Replaces other credits and deductions with personal expense credit available to everyone
- Eliminates most deductions
- Taxes Social Security income only if taxed by federal government

Business Tax Highlights

- Lowers corporate tax rate to 6% - same as individual rate
- Increases sales factor weighting from 2x to 6x – first step in transition to single factor sales
- Includes all limited liability entities in business privilege tax – replacement for franchise tax
- Repeals local privilege license taxes
- Repeals $1%, $80 excise tax on manufacturers and a few other businesses and enacts sales tax exemption for the capital equipment that was subject to that tax
- Allows Article 3J and most tax credits to sunset
- Eliminates annual report fees

Sales Tax Changes: Expand Base

- Repeal vending and various other exemptions
- Include tangible personal property services
  - Service contracts
  - Alteration, repair, maintenance, cleaning, and installation
- Include entertainment and recreation
  - Live entertainment, movies formerly taxed under privilege license tax
  - Charges for museums, cultural sites, exhibits, shows, similar attractions
  - Charges to play or participate in a game, sport, or fitness activity
- Include storage
  - Short-term self-rental space, short-term clothing, boat, aircraft storage
- Include real property care and maintenance services
  - Extermination and pest control services
  - Landscaping services other than for new construction, utility easement
  - Cleaning
- Include security services
  - Guard and armored car services, alarm system monitoring
  - Locksmith services, telematic motor vehicle services

Local Revenue Impacts

Increases

- Distribution of State business privilege tax
- Expand sales tax base:
  - Electricity and piped gas
  - Tangible personal property services
  - Entertainment, recreation
  - Real property care and maintenance services
  - Eliminate exemptions

Decreases

- Local privilege license tax
- Distributions of State tax:
  - Franchise tax on electricity
  - Piped gas excise tax
  - Beer and wine excise tax
  - Corporate income tax
  - Modular home sales tax
- Medicaid hold-harmless
- 1% Sales Tax on Food

Just the Facts:

Key Concerns with Senate Bill 394

BUDGET & TAX CENTER FACT SHEET

April, 2013

The first legislation of the 2013 legislative session to overhaul the state's tax code—Senate Bill 394, entitled "Lower Tax Rates for a Stronger NC Economy"— was filed by Senators Clodfelter, Hartsell, Jenkins and Meredith in March. This bill proposes changes to the personal, corporate, franchise and sales taxes, with the overall goal of achieving revenue neutrality by eliminating exemptions and loopholes and lowering all rates.

Here are some of our key concerns with this legislation:

The bottom 80 percent of taxpayers would pay slightly more on average in taxes while the top 1 percent would get a tax cut.

Primarily because the plan relies on a broader sales tax to make up for the revenue lost from the personal and corporate income tax changes (as well as other business tax changes), the bottom 80% of taxpayers would actually pay slightly more on average while the top 1% would see a tax cut on average under the plan.

Of those in the top 1 percent of taxpayers, 87 percent would receive a tax cut while just 35 percent of those in the bottom 20 percent would see their tax contributions reduced as a result of personal income tax changes. Overall, the bottom 80 percent of taxpayers would experience a slight tax increase, failing to address the already upside-down nature of the tax system.

A zero tax bracket is no substitute for a refundable Earned Income Tax Credit.

A zero tax bracket benefits all taxpayers, providing a costly way to reach low- and moderate-income families. The slight cut in the sales tax rate and the 0% bracket are not enough to offset the greater reliance on the sales tax to make up for lost revenue from personal income tax changes. Maintaining a refundable Earned Income Tax Credit would be the best way to ensure low- and moderate-income working families are not negatively impacted under the plan.

Cutting the personal income tax rate is unlikely to generate improved economic growth.

Adopting a flat rate and cutting the personal income tax rate is unlikely to generate improved economic growth as promised in the bill title and preface. Research shows that such an approach has not delivered returns to the states that have pursued such an approach. The loss of a progressive rate structure can hinder the ability of the tax system to grow with the economy and thus for the state to adequately meet long-term investment needs in key areas.

Opportunities exist to improve this legislation.

The legislation includes a number of base-broadening measures which represent positive steps towards reform. Moreover, there are ways in which the impact on low- and middle-income taxpayers can be addressed through less costly tax changes. We welcome the opportunity to work with bill sponsors and others on tax reform.

For more information, contact: **Alexandra Sirota** • Budget & Tax Center • alexandra@ncjustice.org • **(919) 861-1468**

NORTH CAROLINA JUSTICE CENTER • P.O. Box 28068 • Raleigh, NC 27611-8068 • (919)856-2570 • www.ncjustice.org

Senate Finance Committee – Wednesday, April 3, 2013
SB 394

2 MINUTE TIME LIMIT –PLEASE NOTE

Name	Organization	Email or phone number
Alexandra Sirota	NC Budget & Tax Center	
Gary Salamida		

Testimony on Senate Bill 394
Alexandra Forter Sirota, Budget & Tax Center

- Thank you Mr. Chair and members of the committee. My name is Alexandra Sirota and I am Director at the Budget & Tax Center.

- We are grateful for the chance to make comments on this bill. I would like to start by saying how appreciative we are of the comprehensive approach taken with this legislation and the clear effort that was taken to address the upside-down nature of the tax system.

- We have produced a more complete analysis of this legislation that we will hand around to everyone. But there are three main points of concern that we have with Senate Bill 394 that I would like to highlight in my brief remarks.

- First, the bottom 80 percent of taxpayers would pay slightly more on average in overall taxes while the top 1 percent would get a tax cut. Primarily because the plan relies on a broader sales tax to make up for the revenue lost from the personal and corporate income tax changes (as well as other business tax changes), the bottom 80% of taxpayers receive just 4% of the overall tax cut while the top 1 percent receive 20%. 87 percent of those taxpayers in the top 1 percent would receive a tax cut.

- Second, the slight cut in the sales tax rate and the 0% bracket are not enough to offset this impact. Moreover, a zero tax bracket benefits all taxpayers providing a costly way to reach low- and moderate-income families. Maintaining a refundable Earned Income Tax Credit would be the best way to ensure low- and moderate-income working families are not negatively impacted under the plan.

- Finally, the adoption of a flat rate and cut in the personal income tax rate is unlikely to generate improved economic growth as promised in the bill title and preface. Research has shown that such an approach has not delivered returns to the states that have pursued such an approach. Furthermore, the loss of a progressive rate structure can hinder the ability of the tax system to grow with the economy and would erode resources for schools, health care and other services.

- There are good provisions in this legislation that seek to broaden the base of various taxes. However, overall, these provisions are not sufficient to fully address the problems with our state's tax system that it is upside-down and inadequate.

- We welcome the opportunity to work with the bill sponsors, members of this committee and other legislators to address these concerns with the legislation.

SENATE PAGES ATTENDING

COMMITTEE: Finance ROOM: 544

DATE: 4-3 TIME: 1 pm

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

Page Name	Hometown	Sponsoring Senator
1 Griffin Matsho	Cary	Barringer
2 Sam Jones	Winston Salem	Bonnstetter
3 Elizabeth Fisher	Charlotte	Rucho
4 Ciaira Metz	Mooresville	Brock
5 Gina Higgins	Wendell	Hunt
6 Prakash Kadiri	Concord, NC	Hartsell
7		
8		
9		
10		

Do not add names below the grid.

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

SENATE SERGEANT-AT-ARMS

COMMITTEE: **SENATE FINANCE**

DATE: 04/03/13 ROOM: 544

1. ANDERSON MEADOWS
2. ERNIE SHERRELL
3. DONNA BLAKE
4. ED KESLER
5. _____
6. _____

VISITOR REGISTRATION SHEET

Senate Finance Committee — April 3, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Molly Parker	StateNews
[illegible]	SOS
Nikki McDougald	Carolina Justice Policy Center
Fred Baggett	city of H. St Patrol
Edgar Miller	CTNC
Casey Wentz	Barringer Staff
JACK COZORT	NSS
Bob Oast	City of Asheville
JACKSON COZORT	NSS
[illegible]	N.C.I.B.
DANIEL BLUM	TROUTMAN SANDERS

VISITOR REGISTRATION SHEET

Senate Finance Committee — April 3, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Hollin Robinson	NCRMA
Cady Thomas	NCAR
Steven Webb	NCBA
Lisa Martin	NCBA
Mike Carpenter	NCBA
Mitch Leonard	SEANC
Lo Hubert	LYPC
Betsy Bailey	PBNC
David Crawford	A/I NC
Alexandra Sirota	Budget & Tax Center
Bill Rowe	NC Justice Center

VISITOR REGISTRATION SHEET

Senate Finance Committee — April 3, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Will Pauy-thier	NCHFA
Haley Haynes	SOS
Michelle Frazier	MFS
Will Culpepper	NMVA
Cedric Johnson	BTC
Sharon Miller	CUCA
Beatrice Williams	CUCA
Jim Landers	NCDCI/NCCR
Evelyn Hawthorne	ETHOS
Sabra Faires	citizen
Lacy Hunt	NCICM

VISITOR REGISTRATION SHEET

Senate Finance Committee — April 3, 2013

Name of Committee — **Date**

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NAME	FIRM OR AGENCY AND ADDRESS
Andy Chase	KMA
Eric Hardy	City of Asheville
Stephen Shoaf	City of Asheville
Heather Barnett	Ward & Smith
Angie Harris	Ward & Smith
Canaan Thiel	MVA
MAURICE R. SMITH	LGFCU
Linwood A Jones	LGFCU
Joe Mecca	Coastal Federal Credit Union
Ron McRae	NCCUL
ERICA HINTON	LGFCU

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Senate Finance Committee — April 3, 2013

Name of Committee — **Date**

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NAME	FIRM OR AGENCY AND ADDRESS
Crystal Collins	NC Trucking Assn
Mary Bone	AARP-NC
David Baker	NCDOR
Julie White	NCMMC
Chris Volanis	Carolinas Golf Course Superintendents
Hal Reed	Builders Assn
Jonathan Barbaker	Barbaker + Assoc
John Deligarno	Barbaker + Assoc
Michael Hunsucker	
Bill Holman	TCF
Hope Badgett	CSS

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Senate Finance Committee — April 3, 2013

Name of Committee — **Date**

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NAME	FIRM OR AGENCY AND ADDRESS
Sammy Johnson	TWC
Allison Waller	Nelson Mullins
Matthew Bales	NC chamber
Thomas Moore	FWW
Kelli Collins	Duke Energy
L C [illegible]	NCMA
Dave Simpkins	CAPC
Henry [illegible]	Jordan Price et al
Jacob Tanico	Sen. Brown
Liz Johnson	Town of Morrisville
Rachel Blank	UNC BUG
Gary Salamido	NC Chamber
Susan Valliant	NW

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Senate Finance Committee — April 3, 2013

Name of Committee — **Date**

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NAME	FIRM OR AGENCY AND ADDRESS
Daniel Auburn	NCRMA
Mary Catherine Green	NC Beer & Wine
Tim KENT	NC Beer & Wine
Rick Zechini	Williams Mullen
JAKE PARKER	NFB
[illegible]	WM
Richard Conlon	[illegible]
[illegible]	[illegible]
Susanna Davis	WM
[illegible]	NCBA
Chip Killian	nelson mullins

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Senate Finance Committee — April 3, 2013

Name of Committee — **Date**

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NAME	FIRM OR AGENCY AND ADDRESS
Johanna Reese	NCACC
Rebecca Troutman	NCACC
Steve Brewer	CTL
Sarah Hardin	CTL
Whitney Christensen	NCRLA
Chris McClure	Brooks Pierce
Elizabeth Biser	Brooks Pierce
David Ferrell	ISANC
Dave Fenton	CLT
TYLER NEWMAN	City of Wilmington
Karl Knapp	NCLM
Paul Meyer	NCLM

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Senate Finance Committee — April 3, 2013

Name of Committee — **Date**

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NAME	FIRM OR AGENCY AND ADDRESS
Carr McLamb	DENR
Mani Wold	Novant Health
BJ Miller	CoNE Health
Daniel VanLiere	Vidant Health
Jon Easter	GSK
Moon Bandra	GSK
Gene Ainsworth	A&A
Gary Salamido	NC Chamber
David Heather	NC Center for Nonprofits
[illegible]	[illegible]
[illegible]	[illegible]

VISITOR REGISTRATION SHEET

Senate Finance Committee — April 3, 2013

Name of Committee — **Date**

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NAME	FIRM OR AGENCY AND ADDRESS
Ken Melton	K.M.A.
Cameron Hanby	MCA

Senate Committee on Finance
Tuesday, April 9, 2013, 1:00 PM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 677	Corporate Income Tax Reduction & Reform.	Senator Rucho Senator Rabon

Adjournment

Senate Finance Committee
Tuesday, April 9, 2013
Room 544 LOB, 1:00 p.m.

Minutes

The Senate Committee on Finance met on Tuesday, April 9, 2013, at 1:00 p.m. in room 544 of the Legislative Office Building. Samantha Sparks of Southport, Morgan Bass of Farmville, Sophia Stoddard of Rolesville, and Ruth Smith of Wilmington served as pages. Senator Rabon served as Chair to the meeting.

S.B. 677 – Corporate Income Tax Reduction & Reform

Senator Rucho was recognized to explain the bill. It reduces the corporate income tax rate to 6% over three years, phases-in single sales factor apportionment for multi-state corporations over three years, and reforms the corporate income tax base as follows: 10 follows federal treatment of losses; 2) eliminates special deductions and exclusions allowed in excess of what is allowed for federal purposes; 3) expands the royalty reporting option to include interest expenses as well as royalty payments; and 4) eliminates adjustments for expense related to dividends, deductions for charitable contributions, obsolete deduction, and tax credits that do not have a sunset date. Jonathan Tart, a fiscal analyst with the Fiscal Research Division was recognized to explain the bill's fiscal impact and answer questions. Cindy Avrette, a staff attorney with the Research Division, was recognized to answer questions. Cedric Johnson, a public policy analyst with the Budget and Tax Center, was recognized to speak in opposition to the bill. Businesses want quality of life and an educated workforce before a cut in taxes. No vote was taken on the bill. A copy of the bill, the summary, the fiscal note and a Budget and Tax Center handout is attached.

The meeting adjourned at 1:46 p.m.

Senator Bill Rabon, Presiding Chair
Senate Finance Committee

DeAnne Mangum
Senate Finance Clerk

Principal Clerk
Reading Clerk

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Tuesday	April 9, 2013	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	
SB 677	Corporate Income Tax Reduction & Reform.	Senator Rucho Senator Rabon

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S 1

SENATE BILL 677

Short Title:	Corporate Income Tax Reduction & Reform.	(Public)
Sponsors:	Senators Rucho, Rabon (Primary Sponsors); Brock, Cook, Daniel, Hise, Hunt, Pate, Rabin, and Tarte.	
Referred to:	Finance.	

April 4, 2013

A BILL TO BE ENTITLED

AN ACT TO REFORM THE CORPORATE INCOME TAX AND REDUCE THE CORPORATE INCOME TAX RATE BY MOVING TO SINGLE SALES FACTOR APPORTIONMENT AND ELIMINATING CORPORATE TAX EXPENDITURES.

The General Assembly of North Carolina enacts:

SECTION 1. Effective for taxable years beginning on or after January 1, 2014, G.S. 105-130.3 reads as rewritten:

"**§ 105-130.3. Corporations.**

A tax is imposed on the State net income of every C Corporation doing business in this State. An S Corporation is not subject to the tax levied in this section. The tax is a percentage of the taxpayer's State net income computed as follows:

Income Years Beginning	Tax
~~In 1997~~	~~7.5%~~
~~In 1998~~	~~7.25%~~
~~In 1999~~	~~7%~~
~~After 1999~~	~~6.9%.~~
In 2013	6.9%
In 2014	6.5%
In 2015	6.25%
After 2015	6%."

SECTION 2.(a) Effective for taxable years beginning on or after January 1, 2014, G.S. 105-130.4(i) reads as rewritten:

"(i) All apportionable income of corporations other than public utilities, excluded corporations, and qualified capital intensive corporations shall be apportioned to this State by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus ~~twice~~ three times the sales factor, and the denominator of which is ~~four.~~ five. If the sales factor does not exist, the denominator of the fraction is the number of existing factors and if the sales factor exists but the payroll factor or the property factor does not exist, the denominator of the fraction is the number of existing factors plus ~~one.~~two."

SECTION 2.(b) Effective for taxable years beginning on or after January 1, 2015, G.S. 105-130.4(i), as amended by subsection (a) of this section, reads as rewritten:

"(i) All apportionable income of corporations other than public utilities, excluded corporations, and qualified capital intensive corporations shall be apportioned to this State by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus ~~three~~ five times the sales factor, and the denominator of which is ~~five.~~ seven.

If the sales factor does not exist, the denominator of the fraction is the number of existing factors and if the sales factor exists but the payroll factor or the property factor does not exist, the denominator of the fraction is the number of existing factors plus ~~two.~~four."

SECTION 2.(c) Effective for taxable years beginning on or after January 1, 2016, G.S. 105-130.4(i), as amended by subsection (b) of this section reads as rewritten:

"(i) All apportionable income of corporations other than public ~~utilities, excluded corporations, and qualified capital intensive corporations~~ utilities shall be apportioned to this State by multiplying the income by ~~a fraction, the numerator of which is the property factor plus the payroll factor plus five times the sales factor, and the denominator of which is seven.~~ the sales factor as determined under subsection (l) of this section.~~If the sales factor does not exist, the denominator of the fraction is the number of existing factors and if the sales factor exists but the payroll factor or the property factor does not exist, the denominator of the fraction is the number of existing factors plus four.~~"

SECTION 2.(d) Effective for taxable years beginning on or after January 1, 2016, G.S. 105-130.4(a)(4), (r), and (s1) are repealed.

SECTION 3. Effective for taxable years beginning on or after January 1, 2014, G.S. 105-130.5, as amended by S.L. 2013-10, reads as rewritten:

"§ 105-130.5. Adjustments to federal taxable income in determining State net income.

(a) The following additions to federal taxable income shall be made in determining State net income:

(1) Taxes based on or measured by net income by whatever name called and excess profits taxes.

(2) Interest paid in connection with income exempt from taxation under this Part.

(3) The contributions deduction allowed by the Code.

(4) Interest income earned on bonds and other obligations of other states or their political subdivisions, less allowable amortization on any bond acquired on or after January 1, 1963.

(5) The amount by which gains have been offset by the capital loss carryover allowed under the Code. All gains recognized on the sale or other disposition of assets must be included in determining State net income or loss in the year of disposition.

~~(6) Any amount allowed as a net operating loss deduction under the Code.~~

(7) Repealed by Session Laws 2001-327, s. 3(a), effective for taxable years beginning on or after January 1, 2001.

(8) Repealed by Session Laws 1987, c. 778, s. 2.

(9) Payments to or charges by a parent, subsidiary or affiliated corporation in excess of fair compensation in all intercompany transactions of any kind whatsoever pursuant to the Revenue Laws of this State.

(10) The total amounts allowed under this Chapter during the taxable year as a credit against the taxpayer's income tax. This subdivision does not apply to a credit allowed under G.S. 105-130.47. A corporation that apportions part of its income to this State shall make the addition required by this subdivision after it determines the amount of its income that is apportioned and allocated to this State and shall not apply to a credit taken under this Chapter the apportionment factor used by it in determining the amount of its apportioned income.

(11) The amount by which the percentage depletion allowance allowed by sections 613 and 613A of the Code for mines, oil and gas wells, and other natural deposits exceeds the cost depletion allowance for these items under the Code, except as otherwise provided herein. This subdivision does not

apply to depletion deductions for clay, gravel, phosphate rock, lime, shells, stone, sand, feldspar, gemstones, mica, talc, lithium compounds, tungsten, coal, peat, olivine, pyrophyllite, and other solid minerals or rare earths extracted from the soil or waters of this State. Corporations required to apportion income to North Carolina shall first add to federal taxable income the amount of all percentage depletion in excess of cost depletion that was subtracted from the corporation's gross income in computing its federal income taxes and shall then subtract from the taxable income apportioned to North Carolina the amount by which the percentage depletion allowance allowed by sections 613 and 613A of the Code for solid minerals or rare earths extracted from the soil or waters of this State exceeds the cost depletion allowance for these items.

(12) The amount allowed under the Code for depreciation or as an expense in lieu of depreciation for a utility plant acquired by a natural gas local distribution company, to the extent the plant is included in the company's rate base at zero cost in accordance with G.S. 62-158.

(13) Repealed by Session Laws 2001-427, s. 4(b), effective for taxable years beginning on or after January 1, 2002.

(14) Royalty payments and interest expenses required to be added by G.S. 105-130.7A, to the extent deducted in calculating federal taxable income.

~~(15) For taxable years 2002-2005, the applicable percentage of the amount allowed as a special accelerated depreciation deduction under section 168(k) or section 1400L of the Code, as set out in the table below. In addition, a taxpayer who was allowed a special accelerated depreciation deduction under section 168(k) or section 1400L of the Code in a taxable year beginning before January 1, 2002, and whose North Carolina taxable income in that earlier year reflected that accelerated depreciation deduction must add to federal taxable income in the taxpayer's first taxable year beginning on or after January 1, 2002, an amount equal to the amount of the deduction allowed in the earlier taxable year. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes. The applicable percentage is as follows:~~

~~Taxable Year~~	~~Percentage~~
~~2002~~	~~100%~~
~~2003~~	~~70%~~
~~2004~~	~~70%~~
~~2005~~	~~0%~~

~~(15a) The applicable percentage of the amount allowed as a special accelerated depreciation deduction under section 168(k) or 168(n) of the Code for property placed in service after December 31, 2007, but before January 1, 2010. The applicable percentage under this subdivision is eighty-five percent (85%).~~

~~In addition, a taxpayer who was allowed a special accelerated depreciation deduction in taxable year 2007 or 2008 for property placed in service during that year, and whose North Carolina taxable income for that year reflected that accelerated depreciation deduction must make the adjustments set out below. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes.~~

~~a. A taxpayer must add to federal taxable income in the taxpayer's 2008 taxable year an amount equal to the applicable percentage of the~~

~~accelerated depreciation deduction reflected in the taxpayer's 2007 North Carolina taxable income.~~

~~b. A taxpayer must add to federal taxable income in the taxpayer's 2009 taxable year an amount equal to the applicable percentage of the accelerated depreciation deduction reflected in the taxpayer's 2008 North Carolina taxable income.~~

~~(15b) For taxable years 2010 through 2013, eighty five percent (85%) of the amount allowed as a special accelerated depreciation deduction under section 168(k) or 168(n) of the Code for property placed in service during the taxable year. In addition, for taxable year 2010, a taxpayer who placed property in service during the 2009 taxable year and whose North Carolina taxable income for the 2009 taxable year reflected a special accelerated depreciation deduction allowed for the property under section 168(k) of the Code must add eighty five percent (85%) of the amount of the special accelerated depreciation deduction. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes.~~

(16) The amount excluded from gross income under Subchapter R of Chapter 1 of the Code.

(17) The amount excluded from gross income under section 199 of the Code.

(18) Repealed by Session Laws 2006-220, s. 1, effective for taxable years beginning on and after January 1, 2007.

(19) The dividend paid deduction allowed under the Code to a captive REIT, as defined in G.S. 105-130.12.

(20) The amount of a donation made to a nonprofit organization or a unit of State or local government for which a credit is claimed under G.S. 105-129.16H.

(21) The amount of income deferred under section 108(i)(1) of the Code from the discharge of indebtedness in connection with a reacquisition of an applicable debt instrument.

(22) The amount allowed as a deduction under section 163(e)(5)(F) of the Code for an original issue discount on an applicable high yield discount obligation.

~~(23) For taxable years 2010 and 2011, eighty five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code for property placed in service in taxable year 2010 or 2011 exceeds the amount that would have been allowed for the respective taxable year under section 179 of the Code as of May 1, 2010. For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 1, 2011. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes.~~

~~(23a) For taxable years 2012 and 2013, eighty five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code for property placed in service in taxable year 2012 or 2013 exceeds the amount that would have been allowed for the respective taxable year under section 179 of the Code as of May 1, 2010. For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 2, 2013. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes.~~

(24) The amount required to be added under G.S. 105-130.5B when the State decouples from federal accelerated depreciation and expensing.

(b) The following deductions from federal taxable income shall be made in determining State net income:

(1) Interest upon the obligations of the United States or its possessions, to the extent included in federal taxable income: Provided, interest upon the obligations of the United States shall not be an allowable deduction unless interest upon obligations of the State of North Carolina or any of its political subdivisions is exempt from income taxes imposed by the United States.

(1a) Interest upon the obligations of any of the following, net of related expenses, to the extent included in federal taxable income:

a. This State, a political subdivision of this State, or a commission, an authority, or another agency of this State or of a political subdivision of this State.

b. A nonprofit educational institution organized or chartered under the laws of this State.

(2) Payments received from a parent, subsidiary or affiliated corporation in excess of fair compensation in intercompany transactions which in the determination of the net income or net loss of such corporation were not allowed as a deduction under the Revenue Laws of this State.

(3) Repealed by Session Laws 2003-349, s. 1.1, effective January 1, 2003.

(3a) Dividends treated as received from sources outside the United States as determined under section 862 of the Code, net of related expenses, to the extent included in federal taxable income. Notwithstanding the proviso in subdivision (c)(3) of this section, the netting of related expenses shall be calculated in accordance with subdivision (c)(3) of this section and G.S. 105-130.6A.

(3b) Any amount included in federal taxable income under section 78 or section 951 of the Code, net of related expenses.

~~(4) Losses in the nature of net economic losses sustained by the corporation in any or all of the 15 preceding years pursuant to the provisions of G.S. 105-130.8. A corporation required to allocate and apportion its net income under the provisions of G.S. 105-130.4 shall deduct its allocable net economic loss only from total income allocable to this State pursuant to the provisions of G.S. 105-130.8.~~

~~(5) Contributions or gifts made by any corporation within the income year to the extent provided under G.S. 105-130.9.~~

~~(6) Amortization in excess of depreciation allowed under the Code on the cost of any sewage or waste treatment plant, and facilities or equipment used for purposes of recycling or resource recovery of or from solid waste, or for purposes of reducing the volume of hazardous waste generated as provided in G.S. 105-130.10.~~

~~(7) Depreciation of emergency facilities acquired prior to January 1, 1955. Any corporation shall be permitted to depreciate any emergency facility, as such is defined in section 168 of the Code, over its useful life, provided such facility was acquired prior to January 1, 1955, and no amortization has been claimed on such facility for State income tax purposes.~~

~~(8) The amount of losses realized on the sale or other disposition of assets not allowed under section 1211(a) of the Code. All losses recognized on the sale or other disposition of assets must be included in determining State net income or loss in the year of disposition.~~

(9) With respect to a shareholder of a regulated investment company, the portion of undistributed capital gains of such regulated investment company

included in such shareholder's federal taxable income and on which the federal tax paid by the regulated investment company is allowed as a credit or refund to the shareholder under section 852 of the Code.

(10) Repealed by Session Laws 1987, c. 778, s. 2.

(11) If a deduction for an ordinary and necessary business expense was required to be reduced or was not allowed under the Code because the corporation claimed a federal tax credit against its federal income tax liability for the income year in lieu of a deduction, the amount by which the deduction was reduced and the amount of the deduction that was disallowed. This deduction is allowed only to the extent that a similar credit is not allowed by this Chapter for the amount.

~~(12) Reasonable expenses, in excess of deductions allowed under the Code, paid for reforestation and cultivation of commercially grown trees; provided, that this deduction shall be allowed only to those corporations in which the real owners of all the shares of such corporation are natural persons actively engaged in the commercial growing of trees, or the spouse, siblings, or parents of such persons. Provided, further, that in no case shall a corporation be allowed a deduction for the same reforestation or cultivation expenditure more than once.~~

~~(13) The eligible income of an international banking facility to the extent included in determining federal taxable income, determined as follows:~~

~~a. "International banking facility" shall have the same meaning as is set forth in the laws of the United States or regulations of the board of governors of the federal reserve system.~~

~~b. The eligible income of an international banking facility for the taxable year shall be an amount obtained by multiplying State taxable income as determined under G.S. 105-130.3 (determined without regard to eligible income of an international banking facility and allocation and apportionment, if applicable) for such year by a fraction, the denominator of which shall be the gross receipts for such year derived by the bank from all sources, and the numerator of which shall be the adjusted gross receipts for such year derived by the international banking facility from:~~

~~1. Making, arranging for, placing or servicing loans to foreign persons substantially all the proceeds of which are for use outside the United States;~~

~~2. Making or placing deposits with foreign persons which are banks or foreign branches of banks (including foreign subsidiaries or foreign branches of the taxpayer) or with other international banking facilities; or~~

~~3. Entering into foreign exchange trading or hedging transactions related to any of the transactions described in this paragraph.~~

~~c. The adjusted gross receipts shall be determined by multiplying the gross receipts of the international banking facility by a fraction the numerator of which is the average amount for the taxable year of all assets of the international banking facility which are employed outside the United States and the denominator of which is the average amount for the taxable year of all assets of the international banking facility.~~

~~d. For the purposes of this subsection the term "foreign person" means:~~

~~1. An individual who is not a resident of the United States;~~
~~2. A foreign corporation, a foreign partnership or a foreign trust, as defined in section 7701 of the Code, other than a domestic branch thereof;~~
~~3. A foreign branch of a domestic corporation (including the taxpayer);~~
~~4. A foreign government or an international organization or an agency of either, or~~
~~5. An international banking facility.~~

~~For purposes of this paragraph, the terms "foreign" and "domestic" shall have the same meaning as set forth in section 7701 of the Code.~~

(14) The amount by which the basis of a depreciable asset is required to be reduced under the Code for federal tax purposes because of a tax credit allowed against the corporation's federal income tax liability or because of a grant allowed under section 1603 of the American Recovery and Reinvestment Tax Act of 2009, P.L. 111-3. This deduction may be claimed only in the year in which the Code requires that the asset's basis be reduced. In computing gain or loss on the asset's disposition, this deduction shall be considered as depreciation.

~~(15) The amount paid during the income year, pursuant to 7 U.S.C. § 1445-2, as marketing assessments on tobacco grown by the corporation in North Carolina.~~

(16) The amount of natural gas expansion surcharges collected by a natural gas local distribution company under G.S. 62-158.

(17) To the extent included in federal taxable income, 911 charges imposed under G.S. 62A-43 and remitted to the 911 Fund under that section.

~~(18) Interest, investment earnings, and gains of a trust, the settlors of which are two or more manufacturers that signed a settlement agreement with this State to settle existing and potential claims of the State against the manufacturers for damages attributable to a product of the manufacturers, if the trust meets all of the following conditions:~~

~~a. The purpose of the trust is to address adverse economic consequences resulting from a decline in demand of the manufactured product potentially expected to occur because of market restrictions and other provisions in the settlement agreement.~~
~~b. A court of this State approves and retains jurisdiction over the trust.~~
~~c. Certain portions of the distributions from the trust are made in accordance with certifications that meet the criteria in the agreement creating the trust and are provided by a nonprofit entity, the governing board of which includes State officials.~~

~~(19) To the extent included in federal taxable income, the amount paid to the taxpayer during the taxable year from the Hurricane Floyd Reserve Fund in the Office of State Budget and Management for hurricane relief or assistance, but not including payments for goods or services provided by the taxpayer.~~

(20) Royalty payments and interest expenses received from a related member who added the payments to income under G.S. 105-130.7A for the same taxable year.

~~(21) In each of the taxpayer's first five taxable years beginning on or after January 1, 2005, an amount equal to twenty percent (20%) of the amount~~

~~added to taxable income in a previous year as accelerated depreciation under subdivision (a)(15) of this section.~~

~~(21a) An amount equal to twenty percent (20%) of the amount added to federal taxable income as accelerated depreciation under subdivision (a)(15a) of this section. For a taxpayer who made the addition for accelerated depreciation in the 2008 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2009. For a taxpayer who made the addition for accelerated depreciation in the 2009 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2010.~~

~~(21b) An amount equal to twenty percent (20%) of the amount added to federal taxable income as accelerated depreciation under subdivision (a)(15b) of this section. For the amount added to taxable income in the 2010 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2011. For the amount added to taxable income in the 2011 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2012. For the amount added to taxable income in the 2012 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2013. For the amount added to taxable income in the 2013 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2014.~~

~~(22) To the extent included in federal taxable income, the amount paid to the taxpayer during the taxable year from the Disaster Relief Reserve Fund in the Office of State Budget and Management for hurricane relief or assistance, but not including payments for goods or services provided by the taxpayer.~~

(23) A dividend received from a captive REIT, as defined in G.S. 105-130.12.

~~(24) Five percent (5%) of the gross purchase price of a qualified sale of a manufactured home community. A qualified sale is a transfer of land comprising a manufactured home community in a single purchase to a group composed of a majority of the manufactured home community leaseholders or to a nonprofit organization that represents such a group. To be eligible for this deduction, a taxpayer must give notice of the sale to the North Carolina Housing Finance Agency under G.S. 42-14.3.~~

(25) The amount added to federal taxable income as deferred income under section 108(i)(1) of the Code. This deduction applies to taxable years beginning on or after January 1, 2014.

~~(26) An amount equal to twenty percent (20%) of the amount added to federal taxable income under subdivision (a)(23) of this section. For the amount added to taxable income in the 2010 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2011. For the amount added to taxable income in the 2011 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2012.~~

~~(26a) An amount equal to twenty percent (20%) of the amount added to federal taxable income under subdivision (a)(23a) of this section. For the amount added to taxable income in the 2012 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2013. For the amount added to taxable income in the 2013 taxable~~

~~year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2014.~~

(27) The amount allowed as a deduction under G.S. 105-130.5B as a result of an add-back for federal accelerated depreciation and expensing.

(c) The following other adjustments to federal taxable income shall be made in determining State net income:

(1) In determining State net income, no deduction shall be allowed for annual amortization of bond premiums applicable to any bond acquired prior to January 1, 1963. The amount of premium paid on any such bond shall be deductible only in the year of sale or other disposition.

(2) Federal taxable income must be increased or decreased to account for any difference in the amount of depreciation, amortization, or gains or losses applicable to property which has been depreciated or amortized by use of a different basis or rate for State income tax purposes than used for federal income tax purposes prior to the effective date of this Part.

(3) No deduction is allowed for any direct or indirect expenses related to income not taxed under this Part; provided, no adjustment shall be made under this subsection for adjustments addressed in G.S. 105-130.5(a) and (b). ~~G.S. 105-130.6A applies to the adjustment for expenses related to dividends received that are not taxed under this Part.~~

(4) The taxpayer shall add to federal taxable income the amount of any recovery during the taxable year not included in federal taxable income, to the extent the taxpayer's deduction of the recovered amount in a prior taxable year reduced the taxpayer's tax imposed by this Part but, due to differences between the Code and this Part, did not reduce the amount of the taxpayer's tax imposed by the Code. The taxpayer may deduct from federal taxable income the amount of any recovery during the taxable year included in federal taxable income under section 111 of the Code, to the extent the taxpayer's deduction of the recovered amount in a prior taxable year reduced the taxpayer's tax imposed by the Code but, due to differences between the Code and this Part, did not reduce the amount of the taxpayer's tax imposed by this Part.

(5) A savings and loan association may deduct interest earned on deposits at the Federal Home Loan Bank of Atlanta, or its successor, to the extent included in federal taxable income.

(d) Repealed by Session Laws 1987, c. 778, s. 3.

(e) Notwithstanding any other provision of this section, any recapture of depreciation required under the Code must be included in a corporation's State net income to the extent required for federal income tax purposes.

(f) Expired."

SECTION 4. Effective for taxable years beginning on or after January 1, 2014, Part 1 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-130.5B. Adjustments when State decouples from federal accelerated depreciation and expensing.**

(a) Special Accelerated Depreciation. – A taxpayer who places property in service during a taxable year listed in the table below and who takes a special accelerated depreciation deduction for that property under section 168(k) or 168(n) of the Code must add to the taxpayer's federal taxable income eighty-five percent (85%) of the amount taken for that year under those Code provisions.

A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income. The table below indicates the applicable five-year period.

Taxable Year of 85% Add-Back	Five Taxable Years of 20% Deduction
2010	2011 through 2015
2011	2012 through 2016
2012	2013 through 2017
2013	2014 through 2018

(b) 2009 Depreciation Exception. – A taxpayer who placed property in service during the 2009 taxable year and whose North Carolina taxable income for the 2009 taxable year reflected a special accelerated depreciation deduction allowed for the property under section 168(k) of the Code must add eighty-five percent (85%) of the amount of the special accelerated depreciation deduction to its federal taxable income for the 2010 taxable year. A taxpayer is allowed to deduct this add-back under subsection (a) of this section as if it were for property placed in service in 2010.

(c) Section 179 Expense. – For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 1, 2011. A taxpayer who places section 179 property in service during a taxable year in subsection (a) of this section must add to the taxpayer's federal taxable income eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code exceeds the amount that would have been allowed for that taxable year under section 179 of the Code as of May 1, 2010.

A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income. The table in subsection (a) of this section indicates the applicable five-year period.

(d) Asset Basis. – The adjustments made in this section do not result in a difference in basis of the affected assets for State and federal income tax purposes."

SECTION 5. Effective for taxable years beginning on or after January 1, 2014, G.S. 105-130.7A reads as rewritten:

"**§ 105-130.7A. Royalty income and interest expense reporting ~~option.~~options.**

(a) Purpose. – Royalty payments received for the use of intangible property in this State are income derived from doing business in this State. This section provides taxpayers with an option concerning the method by which ~~these~~ royalties and interest expenses can be reported for taxation when the recipient and the payer are related members. As provided in this section, ~~these~~ royalty payments and interest expenses can be either (i) deducted by the payer and included in the income of the recipient, or (ii) added back to the income of the payer and excluded from the income of the recipient.

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

...

(1b) Interest expense. – An amount directly or indirectly allowed as a deduction under section 163 of the Code.

...

(c) Election. – For the purpose of computing its State net income, a taxpayer must add royalty payments and interest expenses made to, or in connection with transactions with, a related member during the taxable year. This addition is not required for an amount of royalty payments or interest expenses that meets any of the following conditions:

(1) The related member includes the amount as income on a return filed under this Part for the same taxable year that the amount is deducted by the taxpayer, and the related member does not elect to deduct the amount pursuant to G.S. 105-130.5(b)(20).

(2) The taxpayer can establish that the related member during the same taxable year directly or indirectly paid, accrued, or incurred the amount to a person who is not a related member.

(3) The taxpayer can establish that the related member to whom the amount was paid is organized under the laws of a country other than the United States, the country has a comprehensive income tax treaty with the United States, and the country imposes a tax on the royalty income of the related member at a rate that equals or exceeds the rate set in G.S. 105-130.3.

(d) Indirect Transactions. – For the purpose of this section, an indirect transaction or relationship has the same effect as if it were direct."

SECTION 6.(a) Article 3C (Tax Incentives for Recycling Facilities) and Article 3K (Tax Incentives for Railroad Intermodal Facilities) of Chapter 105 of the General Statutes are repealed.

SECTION 6.(b) The following statutes are repealed:

G.S. 105-130.6A	(Adjustments for expenses related to dividends)
G.S. 105-130.8	(Net economic loss)
G.S. 105-130.9	(Contributions)
G.S. 105-130.10	(Amortization of air-cleaning devices, waste treatment facilities, and recycling facilities)
G.S. 105-130.10A	(Amortization of equipment mandated by OSHA)
G.S. 105-130.22	(Tax credit for construction of dwelling units for handicapped person)
G.S. 105-151.1	
G.S. 105-130.25	(Credit against corporate income tax for construction of cogenerating power plants)
G.S. 105-130.34	(Credit for certain real property donations)
G.S. 105-151.12	
G.S. 105-130.36	(Credit for conservation tillage equipment)
G.S. 105-151.13	
G.S. 105-130.37	(Credit for gleaned crop)
G.S. 105-151.14	
G.S. 105-130.39	(Credit for certain telephone subscriber line charges)
G.S. 105-130.43	(Credit for savings and loan supervisory fees)
G.S. 105-130.44	(Credit for construction of poultry composting facility)
G.S. 105-151.25	

SECTION 6.(c) This section is effective for taxable years beginning on or after January 1, 2014.

SECTION 7.(a) G.S. 105-259(b)(24), (37), and (38) are repealed.

SECTION 7.(b) Article 10 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-437.08A. Wage, health insurance, and other standards applicable to economic development incentives.**

(a) Wage. – The Department must annually determine the average weekly wage for a calendar year for all insured private employers in each county and in the State and must publish the following wage standards applicable to economic development incentives:

(1) General wage standard. – A job meets the general wage standard if it pays an average weekly wage that is at least equal to the lesser of one hundred ten percent (110%) of the average wage for all insured private employers in the State and ninety percent (90%) of the average wage for all insured private employers in the county.

(2) Zone wage standard. – A job that is located within an urban progress zone or an agrarian growth zone in a development tier two or tier three area satisfies the wage standard if it pays an average weekly wage that is at least equal to ninety percent (90%) of the lesser of the average wage for all insured private employers in the State and the average wage for all insured private employers in the county.

(3) Calculation. – In determining whether an employer meets a wage standard, the employer may include only full-time jobs and must include any jobs that were filled for at least 1,600 hours during the calendar year even if the jobs are not filled at the time the employer applies for or claims an economic incentive benefit. An employer whose taxable year is not a calendar year must use the wage standard for the calendar year in which the taxable year begins. A full-time job is a position that requires at least 1,600 hours of work per year and is intended to be held by one employee during the entire year. A full-time employee is an employee who holds a full-time job.

(b) Health Insurance. – An employer meets the health insurance standard if the employer does all of the following:

(1) Provides health insurance for all of its full-time jobs. A full-time job is a position that requires at least 1,600 hours of work per year and is intended to be held by one employee during the entire year.

(2) Pays at least fifty percent (50%) of the premiums for health care coverage that equals or exceeds the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee pursuant to G.S. 58-50-125.

(c) Environmental Impact. – A person meets the environmental standard if the person has no pending administrative, civil, or criminal enforcement action based on alleged significant violations of any program implemented by an agency of the Department of Environment and Natural Resources and has had no final determination of responsibility for any significant administrative, civil, or criminal violation of any program implemented by an agency of the Department of Environment and Natural Resources within the last five years. A significant violation is a violation or alleged violation that does not satisfy any of the conditions of G.S. 143-215.6B(d). The Secretary of Environment and Natural Resources must notify the Department of Commerce and the Department of Revenue annually of every person that currently has any of these pending actions and every person that has had any of these final determinations within the last five years.

(d) Employee Safety and Health. – An employer meets the employee safety and health standard if the employer has no citations under the Occupational Safety and Health Act that have become a final order within the past three years for willful serious violations or for failing to abate serious violations. As used in this subsection, the term "serious violation" has the same meaning as in G.S. 95-127. The Commissioner of Labor must notify the Department of Commerce and the Department of Revenue annually of every person that has had these citations become final orders within the past three years."

SECTION 7.(c) G.S. 143B-437.01(a) and (a1) read as rewritten:

"(a) Creation and Purpose of Fund. – There is created in the Department of Commerce the Industrial Development Fund to provide funds to assist the local government units of the most economically distressed counties in the State in creating and retaining jobs in certain industries. The Department of Commerce shall adopt rules providing for the administration of the program. Those rules shall include the following provisions, which shall apply to each grant from the fund:

...

(6) The funds shall not be used for any nonmanufacturing project that does not meet the general wage standard set out in ~~G.S. 105-129.4(b).~~G.S. 143B-437.08A.

(a1) Definitions. – The following definitions apply in this section:

(1) Air courier services. – ~~Defined in G.S. 105-129.81.~~The furnishing of air delivery of individually addressed letters and packages for compensation, in interstate commerce, except by the United States Postal Service.

(2) Repealed by Session Laws 2006-252, s. 2.4, effective January 1, 2007.

(2a) Company headquarters. – ~~Defined in G.S. 105-129.81.~~A corporate, subsidiary, or regional managing office, as defined by NAICS in United States industry 551114, that is responsible for strategic or organizational planning and decision making for the business on an international, national, or multistate regional basis.

...

(6) Information technology and services. – ~~Defined in G.S. 105-129.81.~~An industry in one of the following:

a. Internet service providers, Web search portals, and data processing subsector 518, as defined by NAICS.

b. Software publishers industry group 5112, as defined by NAICS.

c. Computer systems design and related services industry group 5415, as defined by NAICS.

...

(8) Manufacturing. – ~~Defined in G.S. 105-129.81.~~An industry in manufacturing sectors 31 through 33, as defined by NAICS, but not including quick printing or retail bakeries.

(9) NAICS. – Defined in G.S. 105-228.90.

(10) Warehousing. – ~~Defined in G.S. 105-129.81.~~An industry in warehousing and storage subsector 493, as defined by NAICS.

(11) Wholesale trade. – ~~Defined in G.S. 105-129.81.~~An industry in wholesale trade sector 42, as defined by NAICS."

SECTION 7.(d) This section becomes effective January 1, 2014.

SECTION 8. Except as otherwise provided, this act becomes effective for taxable years beginning on or after January 1, 2014.

SENATE BILL 677:
Corporate Income Tax Reduction & Reform

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	April 5, 2013
Introduced by:	Sens. Rucho, Rabon	**Prepared by:**	Cindy Avrette Committee Counsel
Analysis of:	First Edition		

SUMMARY: ***Senate Bill 677 reduces the corporate income tax rate to 6% over three years, phases-in single sales factor apportionment for multi-state corporations over three years, and reforms the corporate income tax base as follows:***

- ***Follows federal treatment of losses.***
- ***Eliminates special deductions and exclusions allowed in excess of what is allowed for federal purposes.***
- ***Expands the royalty reporting option to include interest expenses as well as royalty payments.***
- ***Eliminates adjustments for expenses related to dividends, deductions for charitable contributions, obsolete deductions, and tax credits that do not have a sunset date.***

CURRENT LAW AND BILL ANALYSIS: Senate Bill 677 reduces and reforms the corporate income tax rate and base as follows:

Corporate rate reduction. – Section 1 reduces the corporate income tax rate from 6.9% to 6%[1] over three years, beginning in the 2014 taxable year:

- In 2014, the tax rate is 6.5%.
- In 2015, the tax rate is 6.25%.
- After 2015, the tax rate is 6%.

Single sales factor apportionment formula. – Section 2 phases-in a single sales factor apportionment formula over three years, beginning in the 2014 taxable year:

- In 2014, increases the weight of the sales factor from two to three.
- In 2015, increases the weight of the sales factor from three to five.
- After 2015, the apportionment formula is based only upon sales.

A corporation that does business in more than one state must pay income tax to each of the states in which it has nexus. The U.S. Supreme Court cases have upheld the right of states to tax the income of multistate corporations so long as the income is fairly sourced to the taxing state. The conventional method used by states to source income has been the apportionment formula, which is used to derive an apportionment percentage. Generally speaking, a taxpayer multiplies its taxable income by its apportionment percentage to determine the amount of its income sourced to a state. The state's corporate income tax rate is applied to the corporation's income apportionable to that state.

Most states use an apportionment formula based on or substantially similar to the Uniform Division of Income for Tax Purposes Act (UDITPA).[2] The UDITPA formula is a composite of three factors: a property factor, a payroll factor, and a sales factor. The property factor represents the ratio of the taxpayer's real and tangible personal property in the taxing state to its real and tangible personal property everywhere.

[1] Corporate tax rate in surrounding states: SC is 5%, GA is %, VA is %, and TN is %.
[2] UDITPA dates back to 1957.

O. Walker Reagan
Director

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Likewise, the payroll factor and the sales factor represent a ratio of the taxpayer's payroll and sales in the taxing state to its payroll and sales everywhere. Under UDITPA, the sum of the three factors is divided by three, resulting in a taxpayer's apportionment percentage.

North Carolina shifted to a double-weighted sales factor apportionment formula in 1988 at the request of RJR Nabisco.[3] A double-weighted sales factor tends to favor home-state industries that have a concentration of their total facilities in a state but sell their products all over the country. Under North Carolina's current apportionment formula, the payroll and property factors are each weighted 25% and the sales factor is weighted at 50%; the sum of the four factors is divided by four. Eighteen states currently use a double-weighted sales factor.[4]

This section creates a single sales factor apportionment formula. Under the single sales factor formula, the total allocation of a corporation's nationwide profits to North Carolina is solely based on where the corporation's sales occur. This method of apportionment provides a tax reduction to a corporation with relatively large shares of its nationwide property and payroll in North Carolina but a relatively small share of its nationwide sales in North Carolina. In 2009, North Carolina provided single sales factor apportionment formula for capital intensive corporations at the request of Apple.[5] Fifteen states currently use a single sales factor apportionment formula.

Capital gain or loss. – Section 3[6] repeals the different treatment North Carolina tax law provides for capital gains and losses. For State tax purposes, all gains or losses recognized on the sale or other disposition of an asset must be included in determining State net income or loss in the year of disposition. For federal tax purposes, a gain may be offset by a capital loss carryover and a capital loss may be carried back two years and carried forward for five years. To the extent North Carolina income tax law conforms to federal law, tax administration and compliance are simplified because the taxpayer is required to make fewer adjustments to taxable income in order to calculate State net income.

Net economic loss. – Sections 3 and 6[7] repeal North Carolina's net economic loss (NEL) deduction and instead piggybacks the federal law that allows a net operating loss (NOL) deduction. Generally, NOLs are more favorable to the taxpayer than NELs:

- How to apply the loss: A NEL must first be offset by any nontaxable income. A NOL does not.
- When to use the loss: A NEL may be carried forward for 15 years. It may not be carried back. A NOL may be carried back for two years and carried forward for 20 years.

To the extent North Carolina income tax law conforms to federal law, tax administration and compliance are simplified because the taxpayer is required to make fewer adjustments to taxable income in order to calculate State net income. Other states with a corporate income tax appear to allow a deduction for NOLs; about half of those states do not allow a carryback for NOLs.

Expenses related to dividends. – Sections 3 and 6[8] repeal the adjustments and caps allowed to corporations for expenses related to deductible dividends received from subsidiaries. Under current law, the caps on the amount of related expenses that must be netted from deductible dividends are as follows:

---

[3] RJR Nabisco had plans for a large automated bakery in the Garner area. After the change was adopted, RJR Nabisco was bought out and forced to cut back on capital expenditures. The company never built the plant.
[4] Surrounding states: SC, VA, GA, and TN have double-weighted sales apportionment formulas.
[5] Apple built its East Coast data center in Maiden, NC. To receive the single sales factor apportionment formula, it had to invest at least $1 billion in the infrastructure hub and employs at least 50 full-time employees.
[6] G.S. 105-130.5(b)(8) and G.S. 105-130.8. Technical correction: The corresponding add-back in G.S. 105-130.5(a)(5) should also have been repealed.
[7] G.S. 105-130.5(a)(6), (b)(4), and G.S. 105-130.8.

- Most companies. – 15% of dividends.
- Bank holding companies. – 20% of dividends. The additional tax that a bank holding company and its related companies must pay as a result of the expense netting is subject to a maximum of $11 million per corporate family. Bank holding companies also received a tax credit. For bank corporate families that reach the $11 million maximum, the credit is $2 million. For other bank corporate families, the credit is equal to the amount of tax reduction that would result if bank holding companies were subject to a 15% cap rather than a 20% cap. The credit may be taken against income tax or franchise tax and must be taken over four tax years.
- Electric power holding companies. – 15% of total interest expenses. Electric power holding companies also receive a credit equal to one-half of the additional tax that each must pay as a result of the expense netting. The credit is taken it h following year. The credit may be taken against income tax or franchise tax. As an alternative, an electric power holding company may elect to allocate the credit among the members of its affiliated group. If the company makes this election, then the credit is taken over four tax years.

Prior to 2001, a corporation could deduct from taxable income all dividends received from corporations in which it owned more than 50% of the outstanding voting stock. In 2001, North Carolina began piggybacking the federal dividends received deduction; the State expected the tax law change to generate approximately $32.8 million. The change generated revenue because it meant taxpayers could no longer deduct the expenses related to the untaxed income. However, the new law had a greater than expected impact, especially on bank holding companies and electric power holding companies.[9] In response to this impact, the 2002 General Assembly limited the additional tax liability imposed on subsidiary dividends by enacting the adjustments and caps repealed by this bill.[10]

Other changes. – The bill makes the following changes to the corporate income tax base:

Bill Section	Brief Description
Sections 3 and 5	Expands the royalty reporting option[11] to include interest expenses. For purposes of computing its State net income, a taxpayer must include royalty payments made to, or in connection with transactions with, a related member. A royalty is an amount paid for a copyright, patent, or trademark.[12] The bill further expands the payment option to include interest expenses. An interest expense is an amount directly or indirectly allowed as a deduction under section 163 of the Code. *105-130.5(a)(14); 105-130.5(b)(20); 105-130.7A*
Sections 3 and 4	Gathers the provisions on add-backs and deductions for accelerated depreciation into a new section for ease of understanding but does not change the substance of the provisions. Repeals add-backs for prior accelerated depreciation because they are obsolete or moved to new 105-130.5B. *105-130.5(a)(15), (15a), (15b), (23), (23a), (24); 105-130.5(b)(21), (21a), (21b),*

[8] G.S. 105-130.5(c)(3) and G.S. 105-130.6A. Technical correction: A conforming change needs to be made to G.S. 105-130.5(b)(3a) to remove a reference to G.S. 105-130.6A.

[9] Federal law requires banks and electric power companies to have multiple subsidiaries.

[10] S.L. 2001-327 changed the treatment of subsidiary dividends to federal law; S.L. 2002-136 provided limits on the potential tax liability.

[11] In cases where the recipient and the payer are related, they have an option on how the income is reported to North Carolina. Either the payer can deduct the North Carolina royalty payments on its North Carolina return and the recipient can include them on its North Carolina return, or the payer can add them to its North Carolina income and the recipient can deduct them on its North Carolina return.

[12] S.L. 2001-327 clarified the tax treatment of trademarks. S.L. 2006-66 expanded the reporting option to patents and copyrights.

	(22), (26), (26a), (27); G.S. 105-130.5B
Bill Section	**Brief Description**
Sections 3 and 6	Repeals the deduction allowed for charitable contributions. *105-130.5(b)(5); 105-130.9*
Sections 3 and 6	Repeals deductions that allow amortization in excess of deprecation allowed under the Code on the cost of sewage or waste treatment plants, facilities used for recycling, and equipment mandated by OSHA. To the extent North Carolina income tax law conforms to federal law, tax administration and compliance are simplified. *105-130.5(b)(6), 105-130.10, 105-130.10A*
Section 3	Repeals provisions that allow for greater deductions than allowed under the Code for expenses for reforestation and eligible income of an international banking facility. To the extent North Carolina income tax law conforms to federal law, tax administration and compliance are simplified. *105-130.5(b)(8), (12), and (13)*
Section 3	Repeals an obsolete special depreciation provision for an emergency facilities acquired prior to January 1, 1955 and obsolete deductions re: payments received for disaster assistance. *105-130.5(b)(7), (19) and (22)*
Section 3	Repeals deduction for amounts paid as marketing assessments on tobacco grown in North Carolina. To the extent North Carolina income tax law conforms to federal law, tax administration and compliance are simplified. *105-130.5(b)(15)*
Section 3	Repeals deduction for interest, investment earnings, and gains of a trust created by a court in this State to receive funds from two more manufacturers of the Master Settlement Agreement. *105-130.5(b)(18)*
Section 3	Repeals deduction for part of proceeds from sale of manufactured home community. The deduction is scheduled to sunset in 2015. The bill sunsets the deduction one year early. *105-130.5(b)(24)*
Section 6	Repeals the credits listed below, which do not have a sunset. The repeal of credits in this section and any other section of the bill does not affect installments or carry-forwards of credits for which the taxpayer qualified before the credit was repealed. o Constructing dwelling for handicapped persons (105-130.22 and 105-151.1) o Constructing cogenerating power plant (105-130.25) o Donating real property (105-130.34 and 105-151.12) o Purchasing conservation tillage equipment (105-130.36 and 105-151.13) o Gleaning crops (105-130.37 and 105-151.14) o Telephone subscriber fees (105-130.39) o Savings and loan supervisory fees (105-130.43) o Constructing poultry composting facility (105-130.44 and 105-151.25)

Section 7 makes conforming changes to other statutes that are affected by the changes made in this bill.

EFFECTIVE DATE: The bill becomes effective for taxable years beginning on or after January 1, 2014.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Fiscal Note

BILL NUMBER: Senate Bill 677 (First Edition)

SHORT TITLE: Corporate Income Tax Reduction & Reform.

SPONSOR(S): Senators Rucho and Rabon

Please see the fiscal impact table on the following page.

FISCAL IMPACT
($ in millions)

State Impact	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
General Fund Revenues:					
Reduce corporate tax rate from 6.9% to 6.5% in 2014, to 6.25% in 2015, to 6% in 2016 and after	(28.6)	(83.9)	(131.2)	(162.0)	(169.3)
Increase sales factor apportionment for corporate income tax from 1/2 to 3/5 in 2014, to 5/7 in 2015, and to 100% in 2016	(13.1)	(44.8)	(103.1)	(152.9)	(158.6)
Increase sales factor apportionment for franchise tax from 1/2 to 3/5 in 2014, to 5/7 in 2015, and to 100% in 2016	(4.4)	(14.9)	(34.3)	(50.9)	(52.8)
Conform with federal treatment of losses	(4.2)	(9.4)	(9.8)	(10.2)	(10.6)
Eliminate contributions deduction	3.8	8.5	8.8	9.2	9.6
Eliminate cap on adjustments for expenses related to dividends	6.3	14.2	14.7	15.3	15.9
Eliminate credit for donating real property for conservation purposes	6.8	15.3	15.9	16.5	17.2
Eliminate miscellaneous tax credits, deductions, and exclusions from income	1.8	4.0	4.0	4.0	4.0
STATE IMPACT	**($31.6)**	**($111.0)**	**($235.0)**	**($331.0)**	**($344.6)**
Local Revenues:					
Public School Building Capital Fund	(1.6)	(6.7)	(14.9)	(20.8)	(21.9)
LOCAL IMPACT	**($1.6)**	**($6.7)**	**($14.9)**	**($20.8)**	**($21.9)**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue

EFFECTIVE DATE: 2014 tax year

TECHNICAL CONSIDERATIONS: None

BILL SUMMARY:

The following is a concise summary of the provisions in this bill. For a more detailed summary, please see the summary prepared by Committee Counsel, Research Division.

Reduce corporate income tax rate over three years from 6.9%:

- 2014 6.5%
- 2015 6.25%
- 2016 and after 6%

Phase in single sales factor apportionment over three years

Multistate businesses apportion income and the franchise tax base to the state using a formula that is the total of the following ratios divided by four: the ratio of payroll in the state to total payroll; the ratio of tangible property in the state to total tangible property; and two times the ratio of sales in the state to total sales. The bill increases the weight of the sales factor in the apportionment formula in 2014 and 2015 and eliminates the property and payroll factor for tax years 2016 and after:

- 2014 triple-weighted sales
- 2015 five times-weighted sales
- 2016 single sales factor

Eliminate the following adjustments, deductions, and credits, effective 2014

- Adjustments for expenses related to dividends: Corporations are required to attribute a portion of their expenses to dividends not taxed. Under current law, the amount of expenses required to be attributed for bank holding companies and electric power holding companies is subject to certain caps. The bill would eliminate this tax preference.
- Charitable contributions deduction: In general, corporations are allowed to deduct charitable contributions up to a maximum of 5% net income. The bill would eliminate the deduction for charitable contributions.
- Tax credits eliminated for expenses incurred for the following:
    - Construction of dwelling units for handicapped persons
    - Construction of cogenerating power plants
    - Construction of poultry composing facility
    - Real property donations for conservation purposes
    - Conservation tillage equipment
    - Gleaned crop
    - Telephone subscriber line charges
    - Savings & Loan supervisory fees

Conform more closely to federal law

- Follow federal treatment of losses. The bill would conform to the federal net operating loss. Under current law, corporations are allowed a net economic loss instead of a net operating loss. The differences between the net economic loss and the net operating loss are that the net economic loss has to be offset by income not taxed and it can only be carried forward to offset income in future tax years. The net operating loss does not have the same limitation and can be carried back and used to offset income in prior years, generally for two years. Additionally, the bill would conform to the federal treatment of capital losses. Under current law, capital losses must be recognized in the year that they are incurred. For federal tax purposes, capital losses in excess of capital gains can generally be carried back two years and forward five years.

- Eliminate the following special deductions and income exclusions allowed in excess of what is allowed for federal purposes:

    - Expenses for reforestation and cultivation of commercially grown trees
    - Income exclusion for an international banking facility
    - Marketing assessments on tobacco
    - Deduction for amortization in excess of depreciation allowed under the Code for air-cleaning devices, waste treatment facilities, and recycling facilities (105-130.10)
    - Deduction for amortization in excess of depreciation allowed under the Code for equipment mandated by OSHA (105-130.10A)
    - Deduction for sale of a manufactured home community to manufactured home owners

Reporting option for intercompany interest expense paid to affiliate

Under current law, related companies with intercompany royalty payments can elect for either the payer or the recipient of the royalty payment to report the royalty income for North Carolina tax purposes. The proposal would expand this reporting option to include interest payments between related members.

Repeal obsolete provisions

- Deduction for payments received from Hurricane Floyd Reserve Fund
- Deduction for payments received from Disaster Relief Reserve Fund
- Special Depreciation Provision for emergency facilities acquired prior to January 1, 1955

ASSUMPTIONS AND METHODOLOGY: The estimate for the impact of the reduction to the corporate tax rate is based on the consensus revenue forecast. To calculate the impact of the transition to single sales factor apportionment, Fiscal Research developed a query of corporate income and franchise tax return data and analyzed what taxpayers would have paid if income and the franchise tax base was apportioned using only the sales factor instead of the current apportionment formula. The impact to conform to the federal treatment of losses, to eliminate the

cap on the adjustment for expenses related to dividends, to repeal the credit for donations of real property, and to eliminate miscellaneous tax credits, deductions, and exclusions from income is based on tax expenditure statistics compiled by the Department of Revenue. The fiscal impact associated with the reporting option for interest expenses between related members is unknown. Fiscal Research made timing adjustments to align the impacts with the State's fiscal year. The local impact is based on the reduction in corporate tax collections that would be transferred to the Public School Building Capital Fund. Under G.S. 115C-546.4, 5/69 of corporate income tax is transferred to this fund.

SOURCES OF DATA: NC Department of Revenue

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Jonathan Tart

APPROVED BY:

Mark Trogdon, Director
Fiscal Research Division

DATE: April 9, 2013

Official
Fiscal Research Division
Publication

Signed Copy Located in the NCGA Principal Clerk's Offices

Senate Bill 677:

Corporate Income Tax Cuts Unlikely to Promote Growth

BUDGET & TAX CENTER FACT SHEET

April, 2013

Senate Bill 677 filed by Senators Rucho and Rabon last week would cut corporate income taxes. The bill would cut the corporate income tax rate to 6 percent from 6.9 percent. It also would change the formula used to determine a multi-state corporation's income tax in North Carolina to a single sales factor formula.

Here are three key concerns with this legislation:

Corporate income tax cuts don't pay for themselves and will put at risk key investments
Due to balanced budget requirements, North Carolina will not reap any short-term benefits from corporate tax cuts. Every dollar given away in a tax cut has to be made up for with a tax increase on another business or individual or with a cut to state services. At best, any benefit from a tax cut will be offset dollar for dollar, and result in no net economic stimulus in the short-term.

If lawmakers cut investments in education, transportation or public safety, all of which are building blocks of a strong economy over the long haul, then North Carolina's economic future could be compromised. Businesses themselves could be directly harmed since a well-educated, highly productive workforce, access to markets and suppliers, sound infrastructure, and high quality of life for employees are more important to corporate leaders than state taxes, according to numerous surveys, studies and popular rankings of "business friendly" states.

A small share of North Carolina's businesses will benefit, and some are based out-of-state
The proposed cut in the corporate income tax rate would mostly benefit a relatively small share of profitable corporations, many of which are multi-state corporations headquartered outside of North Carolina. The more than 70 percent of C corporations filing tax returns in the state with net taxable incomes of zero or less and the much larger share of the state's businesses set up as pass-through entities would not benefit from the corporate income tax cut.

The proposals to change the formula used to determine how much state corporate income tax would also benefit a relatively small share of the state's businesses. While these multi-state corporations may be headquartered in North Carolina, the evidence shows that a single sales factor system would fail to produce growth, be a revenue-loser for the state, and pick winners and losers among businesses.

Corporations are Unlikely to Expand or Relocate Because of State Income Tax Cuts
Regardless of whether a corporation is headquartered in North Carolina or not, there is little reason to believe that cutting corporate income taxes will result in substantial investment in North Carolina or relocation of headquarters to the state. State and local taxes are typically only 2 percent or less of business costs—expenses for labor, property, equipment, and transportation are much more substantial.

For more information, contact: **Alexandra Sirota** • Budget & Tax Center • alexandra@ncjustice.org • **(919) 861-1468**
NORTH CAROLINA JUSTICE CENTER • P.O. Box 28068 • Raleigh, NC 27611-8068 • (919)856-2570 • www.ncjustice.org

SENATE PAGES ATTENDING

COMMITTEE: Finance ROOM: ~~400~~ 544

DATE: 4-9 TIME: 1 pm

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

Page Name	Hometown	Sponsoring Senator
1 Samantha Sparks	Southport	Rabon
2 Morgan Bass	Farmville	Davis D.
3 Sophia Stoddard	Rolesville	Barefoot
4 Ruth Smith	Wilmington	Goolsby
5		
6		
7		
8		
9		
10		

Do not add names below the grid.

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

Sgt at Arms

Anderson Meadows

Ernie Sherrell

Justin Owens

Steve Wilson

VISITOR REGISTRATION SHEET

Senate Finance Committee — April 9, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Karen Ray	NCMA
Butch Gunnells	NC Bev A
Henry Hunter	N.C.B.A.
Mike Carpenter	NCHBA
Lica Martin	NCHBA
Steven Webb	NCHBA
Loulou Hawthorne	CHSR
Timothy Gundlach	NCSA
Alexandra Sirota	NC BTC

VISITOR REGISTRATION SHEET

Senate Finance Committee — April 9, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Kathryn Traxler	Metro Mayors
Sarah Wolf	MWC LLC
	NCRMA
DAVID WARD	LOWE'S
	Lowe's
	NCACC
	NCACC
Crystal Colucci	NC Trucking Assn
TOM BEAN	NCSEA, NCWF EDF
Mitch Leonard	SELNC

VISITOR REGISTRATION SHEET

Senate Finance Committee — April 9, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Mia Bailey	Electri Cities
Angela Dunston	SoS
Cedric Johnson	BTC
Bill Rowe	NCJC
Matt Wolfe	PPAB
David Heinen	NC Center for Nonprofits
Edgar Miller	CTNC
David Crawford	AIANC
Susanna Dano	Williams Mullen
Jaz Tunnell	PNG
Eric H. Bennett	EHI

VISITOR REGISTRATION SHEET

Senate Finance Committee — April 9, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Betsy Bailey	PEAK
Jim Adler	NC CPA ASSN.
Becki Gray	317
[illegible]	NFIB
Donna Powell	NCDOR
Michael Hauser	
Mark Shelburne	NCHFA
Emily Sutton	
Sabra Faires	citizen
Karl Knapp	NCLM
Pam Magee	NCLM

VISITOR REGISTRATION SHEET

Senate Finance Committee — April 9, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Allison Waller	Nelson Mullins
Sarah Hardin	CTL
Whitney Christensen	NCRLA
Gene Ainsworth	A & A
[illegible]	[illegible]
Rob Lamm	RLA
Will Culpepper	MVA
Heather Barnett	Ward & Smith
JARED KORVER	ERNST & YOUNG
Matt Gentile	EY
[illegible]	NCMMC

Name	Organization
Martha A McConnell	Carolinas HealthCare Sys.
Elizabeth Pearson	NCRMA
Jodi Maynard	GRMS
KAREN GILLESPIE	BMS
Joyce Peters	CSS
Gretchen Kelly	FirstHealth
Cary Hand	NCHA
Chris Killian	nelson mullins
Bob Schwartz	NCAEC
DANIEL VANLIERE	VIDANT HEALTH
Dan Gaither	

VISITOR REGISTRATION SHEET

Senate Finance Committee — April 9, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Sarah Sanders	NP
Jay Stem	
Paul Fogleman	Imbus
Tim Kent	NC Beer & Wine
CB NOBLE	WM
Ryan Arnold	NC Bar Assn
Ken Melton	K.M.A.
John DelGrosso	Brubaker & Assoc.
Kay Emanuel	School of Government
Kara Weishaar	Smith Anderson
Mary Harden	GSK

VISITOR REGISTRATION SHEET

Senate Finance Committee — April 9, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Kelli Kulma	Duke Energy
LC Rengnam	CSS
Gary Salamido	NC Chamber
[illegible]	NS
Brent Hamond	NCMA
Dallas Woodhouse	AFP
Donald Bryson	AFP
Bill McGee	DS Treas
David McGee	NCAE
J Goodman	NC Chamber
Tim Maxwell	NCICU

VISITOR REGISTRATION SHEET

Senate Finance Committee — April 9, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Canaan Dunie	MVA
[illegible]	[illegible]
Andy Chase	KMA
Alex Bodger	CSS
Matt Viola	CW Consult
Dustin Hale	Sen. Brown
David Farrell	ISANC
[illegible]	NCAOA
Cody Thomas	NCAR
Solari	DST
Doug Mosier	PSG

Name	Organization
Wendy Kelly	Big Bend

Senate Committee on Finance
Wednesday, April 10, 2013, 1:00 PM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 193	Expand Uses for Meck Ct/Charlotte Local Taxes.	Rep. Samuelson Rep. W. Brawley Rep. Carney Rep. Earle
SB 6	UI Fund Solvency & Program Changes.	Sen. Rucho Sen. Rabon Sen. Brock
SB 290	Waynesville Annexation.	Sen. J. Davis
SB 337	NC Public Charter School Board.	Sen. Tillman Sen. Soucek

Adjournment

Senate Finance Committee
Wednesday, April 10, 2013
Room 544 LOB, 1:00 p.m.

Minutes

The Senate Committee on Finance met on Wednesday, April 10, 2013, at 1:00 p.m. in room 544 of the Legislative Office Building. Chandria Boykin of Winterville, Jamar Jones of Snow Hill, Lillie Gardner of Stantonsburg, Bobby Evans of Snow Hill and Morgan Bass of Farmville served as pages. Senator Rucho served as Chair to the meeting.

H.B. – 193 – Expand Uses for Meck Ct/Charlotte Local Taxes

Senator Clodfelter requested that the record show that he abstained from discussion and voting on this bill. Representative Samuelson was recognized to explain the bill. It would expand the permissible uses of the proceeds of the 3% occupancy tax and 1% prepared food and beverage tax in Mecklenburg County and the City of Charlotte to include professional sports facilities. Currently, the proceeds are designated only for purposes related to the Charlotte Convention Center facilities. Senator Tillman moved for a favorable report and the motion carried. A copy of the bill, the summary, and the fiscal note is attached.

S.B. 337 – NC Public Charter School Board

Senator Tillman was recognized to explain the bill which creates a new North Carolina Public Charter Schools Board to approve and monitor charter schools and makes other changes to the charter school laws. Cindy Avrette, a staff attorney with the Research Division, was recognized for further explanation. Senator Wade moved for a favorable report and the motion carried. A copy of the bill, the summary, and the fiscal note is attached.

S.B. 290 – Waynesville Annexation

Senator Jim Davis was recognized to explain the bill which is a local bill that annexes the unincorporated community of Lake Junaluska Assembly into the Town of Waynesville. Buddy Young, Director of Public Works – Lake Junaluska, was recognized to answer questions. Senator Cook moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 6 – UI Fund Changes

Senator Rabon assumed the Chair's responsibilities. Senator Rucho was recognized to explain the bill. Senator Newton moved to adopt the proposed committee substitute (PCS) for discussion. The PCS was recommended by the Revenue Laws Study Committee. The bill contains both programmatic changes and appropriation provisions

to enable the State to more quickly retire the $2.6 billion advance the State has borrowed from the federal government to pay unemployment insurance benefits. The PCS would transfer more than $17 million from three funds and accounts to the Unemployment Insurance Fund to make principal payments on the $2.6 billion advance. Senator Hise moved for a favorable report and the motion carried. A copy of the PCS, the summary and the fiscal note is attached.

The meeting adjourned at 1:28 p.m.

Senator Bob Rucho, Presiding Chair
Senate Finance Committee

DeAnne Mangum
Senate Finance Clerk

Principal Clerk ____
Reading Clerk ____

Corrected #1: S523 has been removed from the agenda.

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	April 10, 2013	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	
HB 193	Expand Uses for Meck Ct/Charlotte Local Taxes.	Representative Samuelson Representative W. Brawley Representative Carney Representative Earle
SB 6	UI Fund Solvency & Program Changes. PCS	Senator Rucho Senator Rabon Senator Brock
SB 290	Waynesville Annexation.	Senator J. Davis
SB 337	NC Public Charter School Board.	Senator Tillman Senator Soucek

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Thursday, April 11, 2013

Senator Rabon,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

SB 6 UI Fund Solvency & Program Changes.

Draft Number:	S6-PCS35033-RB-2
Sequential Referral:	None
Recommended Referral:	Appropriations/Base Budget
Long Title Amended:	Yes

TOTAL REPORTED: 1

Senator Robert Rucho will handle SB 6

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Wednesday, April 10, 2013

Senator Rucho,
submits the following with recommendations as to passage:

FAVORABLE

HB **193** **(CS#1)** Expand Uses for Meck Ct/Charlotte Local Taxes.

Draft Number:	None
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

SB **290** **(CS#1)** Waynesville Annexation.

Draft Number:	None
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

SB **337** **(CS#1)** NC Public Charter School Board.

Draft Number:	None
Sequential Referral:	Appropriations/Base Budget
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 3

Senator Robert Rucho will handle HB 193
Senator James Davis will handle SB 290
Senator Jerry Tillman will handle SB 337

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	April 10, 2013	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	
HB 193	Expand Uses for Meck Ct/Charlotte Local Taxes.	Representative Samuelson Representative W. Brawley Representative Carney Representative Earle
SB 6	UI Fund Solvency & Program Changes. PCS	Senator Rucho Senator Rabon Senator Brock
SB 290	Waynesville Annexation.	Senator J. Davis
SB 337	NC Public Charter School Board.	Senator Tillman Senator Soucek
SB 523	Returns W/Refunds Filed Late Penalty.	Senator Rucho Senator Rabon Senator Rabin

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

HOUSE BILL 193
Committee Substitute Favorable 3/26/13

Short Title: Expand Uses for Meck Ct/Charlotte Local Taxes. (Local)

Sponsors:

Referred to:

March 4, 2013

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE PERMISSIBLE USES OF THE LOCAL MECKLENBURG COUNTY AND CITY OF CHARLOTTE LOCAL TAXES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 9(a) of Part IV of Chapter 908 of the 1983 Session Laws, as amended by Chapters 821 and 922 of the 1989 Session Laws, Section 2 of S.L. 2001-402, Section 1 of S.L. 2011-160, and Section 69 of S.L. 2012-194, reads as rewritten:

"Sec. 9.(a) Distribution and Use of Proceeds. – The local administrative authority, acting on its own behalf or as agent for each taxing entity, shall distribute the proceeds of the taxes levied in this Part as provided in this subsection. The distribution shall be made by the 20th day of each month following the month in which the tax is collected.

...

(2) Distribution to Charlotte for ~~Convention Center~~ Facilities. – After deducting the amount provided above, the local administrative authority shall transfer an amount equal to three percent (3%) of the gross occupancy receipts and the entire net proceeds of the prepared food and beverage tax to the City of Charlotte. The net proceeds transferred to the City of Charlotte pursuant to this subdivision shall be applied in accordance with the following priorities. No application of any net proceeds to any class of the priorities set forth below in this subdivision shall be made until, with respect to each preceding class of priorities, either all payments for the current fiscal year have been provided for in full or no such payments are required for the current fiscal year.

...

d. To pay costs of acquiring, constructing, financing, renovating, maintaining, and controlling traffic for a professional sports facility located in the City of Charlotte. A "professional sports facility" is a stadium, ballpark, or similar public place that has a seating capacity of at least 60,000 that is used for professional sporting events and may include ancillary, associated facilities. Article 8 of Chapter 143 of the General Statutes does not apply to the expenditure of proceeds for a professional sports facility by a private entity that is the owner or primary tenant of the facility.

e. To pay costs of acquiring, constructing, financing, renovating, and maintaining amateur sports facilities, including ancillary, associated facilities, located in the City of Charlotte.

...."

SECTION 2. Article II of Chapter 5 of the Charter of the City of Charlotte is amended by adding the following new section:

"Section 5.24. **Limitation.** The Charlotte Regional Visitors Authority has no power or duties with respect to City-owned improvements or equipment in a privately owned professional sports facility. This limitation does not apply to services or activities that a private entity that is the owner or primary tenant of a professional sports facility contracts with the Authority to provide. For purposes of this section, a professional sports facility is defined in Section 9(a)(2)d. of Part IV of Chapter 908 of the 1983 Session Laws, as amended."

SECTION 3. This act is effective when it becomes law.

HOUSE BILL 193:
Expand Uses for Meck Ct/Charlotte Local Taxes

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	April 10, 2013
Introduced by:	Reps. Samuelson, W. Brawley, Carney, Earle	**Prepared by:**	Trina Griffin Committee Counsel
Analysis of:	Second Edition		

SUMMARY: ***House Bill 193 would expand the permissible uses of the proceeds of the 3% occupancy tax and 1% prepared food and beverage tax in Mecklenburg County and the City of Charlotte to include professional sports facilities. Currently, the proceeds are designated only for purposes related to the Charlotte Convention Center facilities.***

CURRENT LAW: In 1989, the General Assembly authorized Mecklenburg County to levy a 3% occupancy tax[1] and a 1% prepared food and beverage tax.[2] The proceeds from the 3% occupancy tax and 1% prepared food and beverage tax are currently authorized only for uses related to the Charlotte Convention Center. These uses include:

- Financing for new convention center facilities and expansion of existing convention center facilities, which may include off-street parking for use in conjunction with the facilities.
- Any other costs of incurring, constructing, maintaining, operating, marketing, and promoting new or existing convention center facilities.

The Charlotte Regional Visitors Authority[3] is a 13-member body responsible for operating the auditorium-coliseum-convention center-baseball stadium, having full and complete control over granting and denying the use of the facilities, and for advertising and promoting the facilities.

BILL ANALYSIS: House Bill 193 does three things:

- Eliminates the restriction that the tax proceeds be used only for Charlotte Convention Center facilities and authorizes, but does not require, two additional uses for the proceeds:
  - Acquiring, constructing, financing, renovating, maintaining, and controlling traffic for a professional sports facility located in the City of Charlotte. The bill defines a "professional sports facility" as "a stadium, ballpark, or other similar public place that has a seating capacity of at least 60,000 and that is used for professional sporting events. The facility may include ancillary, associated facilities.
  - Acquiring, constructing, financing, renovating, and maintaining amateur sports facilities, including ancillary, associated facilities, located in the City of Charlotte.

However, the City of Charlotte may not use the proceeds for a professional sports facility until all payments for the current fiscal year have been provided for in full (or no payments are required) for the

[1] Mecklenburg County's total occupancy tax rate is 8%.

[2] The prepared food and beverage tax sunsets the later of July 1, 2031 or the July 1 following the final satisfaction of debt instruments issued for the financing of the Charlotte Convention Center or the final satisfaction of debt instruments issued for expansion of the facilities.

[3] Formerly known as the Auditorium-Coliseum Convention Center Authority.

repayment of debt service, marketing and promotion, and any other costs of maintaining and operating the convention center.

- Exempts the expenditure of proceeds for a professional sports facility by a private entity that is the owner or primary tenant of the facility from the public contract and bidding requirements of Article 8 of Chapter 143.
- Provides that the Charlotte Regional Visitors Authority has no power or duty with respect to City-owned improvements in a privately-owned professional sports facility unless the private entity that owns or is the primary tenant of the facility specifically contracts with the Authority.

EFFECTIVE DATE: This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Fiscal Note

BILL NUMBER: House Bill 193 (Second Edition)

SHORT TITLE: Expand Uses for Meck Ct/Charlotte Local Taxes.

SPONSOR(S): Representatives Earle, Carney, Samuelson, and W. Brawley

FISCAL IMPACT
($ in millions)

☐ Yes ☑ No ☐ No Estimate Available

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
Local Impact					
Revenues:					
Expenditures:					
NET LOCAL IMPACT	**$0.0**	**$0.0**	**$0.0**	**$0.0**	**$0.0**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:
City of Charlotte, Mecklenburg County

EFFECTIVE DATE This act is effective when it becomes law.

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY:

House Bill 193 (Second Edition) amends Section 9(a) of Part IV of SL 1983-908, as amended, to expand the uses of the Mecklenburg County occupancy tax and meals tax revenue. It provides that a 3% portion of the occupancy tax and the 1% meals tax is distributed to Charlotte for facilities, eliminating the restriction that the collected tax was to be used solely for Convention Center facilities. The bill adds new subsections (d) and (e) to specify additional uses for the collected tax include (1) paying costs for constructing, renovating, and maintaining public places that can seat 60,000 or more and are used for professional sporting events and (2) to pay costs of constructing, renovating, and maintaining amateur sports facilities, including ancillary, associated facilities located in the City of Charlotte.

ASSUMPTIONS AND METHODOLOGY:

House Bill 193 (Second Edition) would have no fiscal impact, but would allow additional uses for a 3% portion of the occupancy tax already being collected and the 1% meals tax. The total revenue

that could be redirected for qualified uses under the bill is approximately $31 million annually. Approximately $11 million of this amount is generated by the occupancy tax, while the remainder ($20 million) is generated by the meals tax.

SOURCES OF DATA: NC Dept. of Revenue, *Statistical Abstract of NC Taxes*

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Brian Slivka

APPROVED BY:

Mark Trogdon, Director
Fiscal Research Division

DATE: April 9, 2013

Signed Copy Located in the NCGA Principal Clerk's Offices

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S 2

SENATE BILL 337
Education/Higher Education Committee Substitute Adopted 4/3/13

Short Title: NC Public Charter School Board. (Public)

Sponsors:

Referred to:

March 19, 2013

A BILL TO BE ENTITLED

AN ACT TO CREATE THE NORTH CAROLINA PUBLIC CHARTER SCHOOLS BOARD AND MAKE OTHER CHANGES TO CHARTER SCHOOL LAWS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Article 16 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-238.29A1. North Carolina Public Charter Schools Board established.**

(a) Creation. – There is created the North Carolina Public Charter Schools Board, hereinafter referred to in this Part as the Charter Board. The Charter Board shall be located administratively within the Department of Public Instruction but shall exercise its powers and duties independently of the State Board of Education and Department of Public Instruction, except as provided in this section.

(b) Purpose. – The purpose of the Charter Board is to authorize and oversee high-quality public charter schools throughout the State, consistent with the purposes of this Part, and to exercise authority for approval of any charter applicant.

(c) Membership. – The State Superintendent of Public Instruction shall be the secretary of the Charter Board and a nonvoting member. The Charter Board shall consist of the following 11 voting members:

(1) Three members appointed by the Governor.

(2) Three members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, in accordance with G.S. 120-121.

(3) Three members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, in accordance with G.S. 120-121.

(4) The State Treasurer or the Treasurer's designee.

(5) The Lieutenant Governor or the Lieutenant Governor's designee.

(d) Qualifications of Members. – Members appointed to the Charter Board shall collectively possess strong experience and expertise in public and nonprofit governance, management and finance, public school leadership, assessment, curriculum and instruction, public charter schools, and public education law. All appointed members of the Charter Board shall have demonstrated an understanding of and a commitment to charter schools as a strategy for strengthening public education.

(e) Terms of Office and Vacancy Appointments. – Appointed members shall serve four-year terms of office beginning on July 1. No appointed member shall serve more than

eight consecutive years. Vacancy appointments shall be made by the appointing authority for the remainder of the term of office.

(f) Officers. – The Charter Board shall annually elect a chair and a vice-chair from among its membership. In the absence of the chair, the vice-chair shall preside over the Charter Board's meetings. A majority of the Charter Board constitutes a quorum. The Charter Board shall adopt rules to govern its proceedings.

(g) Meetings. – Meetings of the Charter Board shall be held upon the call of the chair or the vice-chair with the approval of the chair.

(h) Expenses. – Members of the Charter Board shall be reimbursed for travel and subsistence expenses at the rates allowed to State officers and employees by G.S. 138-6(a).

(i) Removal. – Any appointed member of the Charter Board may be removed by a vote of at least two-thirds of the members of the Charter Board at any duly held meeting for any cause that renders the member incapable or unfit to discharge the duties of the office.

(j) Office of Charter Schools. – The Office of Charter Schools shall be the principal administrative unit under the direction of the Charter Board. The Department of Public Instruction shall provide staff, offices, office equipment, and meeting space to the Charter Board and Office of Charter Schools.

(k) Powers and Duties. – The Charter Board shall have the following duties:

(1) To provide technical assistance, through the Office of Charter Schools and the Department of Public Instruction, to charter school applicants and to charter schools that are approved under this Part.

(2) To adopt rules in accordance with Article 2A of Chapter 150B of the General Statutes regarding all aspects of charter school operation, including time lines, standards, and criteria for acceptance and approval of applications, monitoring of charter schools, and grounds for revocation of charters.

(3) To oversee the process for accepting and approving applications for charters and to make final approval of charter applications.

(4) To oversee the process for monitoring the operation of charter schools with the assistance and counsel of staff from the Department of Public Instruction.

(5) To take any actions regarding a charter school, including renewals of charters, nonrenewals of charters, and revocation of charters.

(6) To undertake any duties and responsibilities consistent with the above powers and duties and incident thereto.

(l) The State Board shall have the authority to veto by a three-fourths vote any action adopted by vote of the Charter Board if the State Board's veto vote is taken within 45 days of the date the Charter Board voted to adopt the action."

SECTION 1.(b) G.S. 115C-238.29B reads as rewritten:

"**§ 115C-238.29B. Eligible applicants; contents of applications; submission of applications for approval.**

(a) Any ~~person, group of persons, or~~ nonprofit corporation seeking to establish a charter school may apply to the Charter Board to establish a charter school. If the applicant seeks to convert a public school to a charter school, the application shall include a statement signed by a majority of the teachers and instructional support personnel currently employed at the school indicating that they favor the conversion and evidence that a significant number of parents of children enrolled in the school favor conversion.

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

(1) A description of a program that implements one or more of the purposes in G.S. 115C-238.29A.

(2) A description of student achievement goals for the school's educational program and the method of demonstrating that students have attained the skills and knowledge specified for those student achievement goals.

(3) The governance structure of the school including the names of the ~~proposed~~ initial members of the board of directors of the nonprofit, tax-exempt corporation and the process to be followed by the school to ensure parental involvement.

(3a) The local school administrative unit in which the school will be located.

(4) Admission policies and procedures.

(5) A proposed budget for the school and evidence that the financial plan for the school is economically sound.

(6) Requirements and procedures for program and financial audits.

(7) A description of how the school will comply with G.S. 115C-238.29F.

(8) Types and amounts of insurance coverage, including bonding insurance for the principal officers of the school, to be obtained by the charter school.

(9) The term of the charter.

(10) The qualifications required for individuals employed by the school.

(11) The procedures by which students can be excluded from the charter school and returned to a public school. Notwithstanding any law to the contrary, any local board may refuse to admit any student who is suspended or expelled from a charter school due to actions that would lead to suspension or expulsion from a public school under G.S. 115C-390.5 through G.S. 115C-390.11 until the period of suspension or expulsion has expired.

(12) The number of students to be served, which number shall be at least 65, and the minimum number of teachers to be employed at the school, which number shall be at least three. However, the charter school may serve fewer than 65 students or employ fewer than three teachers if the application contains a compelling reason, such as the school would serve a geographically remote and small student population.

(13) Information regarding the facilities to be used by the school and the manner in which administrative services of the school are to be provided.

(14) Repealed by Session Laws 1997-430, s. 1.

~~(c) An applicant shall submit the application to a chartering entity for preliminary approval. A chartering entity may be:~~

~~(1) The local board of education of the local school administrative unit in which the charter school will be located;~~

~~(2) The board of trustees of a constituent institution of The University of North Carolina, so long as the constituent institution is involved in the planning, operation, or evaluation of the charter school; or~~

~~(3) The State Board of Education.~~

~~Regardless of which chartering entity receives the application for preliminary approval, the State Board of Education shall have final approval of the charter school.~~

~~Notwithstanding the provisions of this subsection, if the State Board of Education finds that an applicant (i) submitted an application to a local board of education and received final approval from the State Board of Education, but (ii) is unable to find a suitable location within that local school administrative unit to operate, the State Board of Education may authorize the charter school to operate within an adjacent local school administrative unit for one year only. The charter school cannot operate for more than one year unless it reapplies, in accordance with subdivision (1), (2), or (3) of this subsection, and receives final approval from the State Board of Education.~~

~~(d) Unless an applicant submits its application under subsection (c) of this section to the local board of education of the local school administrative unit in which the charter school will be located, the applicant shall submit a copy of its application to that local board within seven days of its submission under subsection (c) of this section. The local board may offer any information or comment concerning the application it considers appropriate to the chartering entity. The local board shall deliver this information to the chartering entity no later than January 1 of the next calendar year. The applicant shall not be required to obtain or deliver this information to the chartering entity on behalf of the local board. The State Board shall consider any information or comment it receives from a local board and shall consider the impact on the local school administrative unit's ability to provide a sound basic education to its students when determining whether to grant preliminary and final approval of the charter school.~~

(e) The Charter Board shall establish reasonable fees for initial and renewal charter applications in accordance with Article 2A of Chapter 150B of the General Statutes. The fees collected under this section shall be placed in a special fund to be designated the "Charter Application Fund" and shall be used under the supervision and direction of the Charter Board for the administration of this Part. No application fee shall be refunded in the event the application is rejected or the charter is revoked."

SECTION 1.(c) G.S. 115C-238.29C is repealed.

SECTION 1.(d) G.S. 115C-238.29D reads as rewritten:

"**§ 115C-238.29D. Final approval of applications for charter schools.**

(a) The ~~State~~ Charter Board may grant ~~final~~ approval of an application if it finds (i) that the application meets the requirements set out in this Part ~~or~~and such other requirements as may be adopted by the ~~State Board of Education~~ Charter Board, (ii) that the applicant has the ability to operate the school and would be likely to operate the school in an educationally and economically sound manner, and (iii) that granting the application would achieve one or more of the purposes set out in G.S. 115C-238.29A. ~~The State Board shall act by March 15 of a calendar year on all applications and appeals it receives prior to February 15 of that calendar year.~~In reviewing applications for the establishment of charter schools within a local school administrative unit, the Charter Board is encouraged to give preference to applications that demonstrate the capability to provide comprehensive learning experiences to students identified by the applicants as at risk of academic failure.

(b) Repealed by Session Laws 2011-164, s. 2(a), effective July 1, 2011.

(c) The ~~State~~ Charter Board ~~of Education~~ may authorize a school before the applicant has secured its space, equipment, facilities, and personnel if the applicant indicates the authority is necessary for it to raise working capital. ~~The State Board~~Funds shall not ~~allocate any funds~~be allocated to the school until the school has obtained space.

(d) The ~~State~~ Charter Board ~~of Education~~ may grant the initial charter for a period not to exceed 10 years and may renew the charter upon the request of the ~~chartering entity~~charter school for subsequent periods not to exceed 10 years each. The ~~State~~ Charter Board ~~of Education~~ shall review the operations of each charter school at least once every five years to ensure that the school is meeting the expected academic, financial, and governance standards.

A material revision of the provisions of a charter application shall be made only upon the approval of the ~~State Board of Education.~~Charter Board.

It shall not be considered a material revision of a charter application and shall not require the prior approval of the ~~State~~ Charter Board for a charter school to increase its enrollment during the charter school's second year of operation and annually thereafter (i) by up to twenty percent (20%) of the school's previous year's enrollment or (ii) in accordance with planned growth as authorized in the charter. Other enrollment growth shall be considered a material revision of the charter application, and the ~~State~~ Charter Board may approve such additional enrollment growth of greater than twenty percent (20%) only if the ~~State~~ Charter Board finds ~~that:~~all of the following:

(1) The actual enrollment of the charter school is within ten percent (10%) of its maximum authorized ~~enrollment;~~enrollment.

(2) The charter school has commitments for ninety percent (90%) of the requested maximum ~~growth;~~growth.

~~(3) The board of education of the local school administrative unit in which the charter school is located has had an opportunity to be heard by the State Board of Education on any adverse impact the proposed growth would have on the unit's ability to provide a sound basic education to its students;~~

(4) The charter school is not currently identified as ~~low-performing;~~low-performing.

(5) The charter school meets generally accepted standards of fiscal ~~management; and~~management.

(6) It is otherwise appropriate to approve the enrollment growth."

SECTION 1.(e) G.S. 115C-238.29E reads as rewritten:

"**§ 115C-238.29E. Charter school operation.**

(a) A charter school that is approved by the State shall be a public school within the local school administrative unit in which it is located. ~~It shall be accountable to the local board of education if it applied for and received preliminary approval from that local board for purposes of ensuring compliance with applicable laws and the provisions of its charter.~~ All ~~other~~ charter schools shall be accountable to the ~~State~~ Charter Board for ensuring compliance with applicable laws and the provisions of their ~~charters, except that any of these charter schools may agree to be accountable to the local board of the school administrative unit in which the charter school is located rather than to the State Board.~~charters.

(b) A charter school shall be operated by a private nonprofit corporation that shall have received federal tax-exempt status no later than 24 months following final approval of the application.

(c) A charter school shall operate under the written charter signed by the ~~entity to which it is accountable under subsection (a) of this section~~ Charter Board and the applicant. A charter school is not required to enter into any other contract. The charter shall incorporate the information provided in the application, as modified during the charter approval process, and any terms and conditions imposed on the charter school by the ~~State~~ Charter Board ~~of Education~~. No other terms may be imposed on the charter school as a condition for receipt of local funds.

(d) The board of directors of the charter school shall decide matters related to the operation of the school, including budgeting, curriculum, and operating procedures.

(e) A charter school's specific location shall not be prescribed or limited by a local board or other authority except a zoning authority. The school may lease space from a local board of education or as is otherwise lawful in the local school administrative unit in which the charter school is located. If a charter school leases space from a sectarian organization, the charter school classes and students shall be physically separated from any parochial students, and there shall be no religious artifacts, symbols, iconography, or materials on display in the charter school's entrance, classrooms, or hallways. Furthermore, if a charter school leases space from a sectarian organization, the charter school shall not use the name of that organization in the name of the charter school.

~~At~~ Notwithstanding any other law, and at the request of the charter school, the local board of education of the local school administrative unit in which the charter school will be located shall lease any available building or land to the charter school for one dollar ($1.00) per year unless the board demonstrates that the lease is not economically or practically feasible or that the local board does not have adequate classroom space to meet its enrollment needs. ~~Notwithstanding any other law, a local board of education may provide a school facility to a charter school free of charge; however,~~ If the local board of education provides the school

facility to a charter school for one dollar ($1.00) per year, the charter school is responsible for the maintenance of and insurance for the school facility.

(f) Except as provided in this Part and pursuant to the provisions of its charter, a charter school is exempt from statutes and rules applicable to a local board of education or local school administrative unit."

SECTION 1.(f) G.S. 115C-238.29F reads as rewritten:

"**§ 115C-238.29F. General requirements.**

(a) Health and Safety Standards. – A charter school shall meet the same health and safety requirements required of a local school administrative unit. The Department of Public Instruction shall ensure that charter schools provide parents and guardians with information about meningococcal meningitis and influenza and their vaccines at the beginning of every school year. This information shall include the causes, symptoms, and how meningococcal meningitis and influenza are spread and the places where parents and guardians may obtain additional information and vaccinations for their children.

The Department of Public Instruction shall also ensure that charter schools provide parents and guardians with information about cervical cancer, cervical dysplasia, human papillomavirus, and the vaccines available to prevent these diseases. This information shall be provided at the beginning of the school year to parents of children entering grades five ~~though~~ through 12. This information shall include the causes and symptoms of these diseases, how they are transmitted, how they may be prevented by vaccination, including the benefits and possible side effects of vaccination, and the places where parents and guardians may obtain additional information and vaccinations for their children.

The Department of Public Instruction shall also ensure that charter schools provide students in grades nine through 12 with information annually on the manner in which a parent may lawfully abandon a newborn baby with a responsible person, in accordance with G.S. 7B-500.

The Department of Public Instruction shall also ensure that the guidelines for individual diabetes care plans adopted by the State Board of Education under G.S. 115C-12(31) are implemented in charter schools in which students with diabetes are enrolled and that charter schools otherwise comply with the provisions of G.S. 115C-375.3.

(b) School Nonsectarian. – A charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations and shall not charge tuition or fees, except that a charter school may charge any fees that are charged by the local school administrative unit in which the charter school is located. A charter school shall not be affiliated with a nonpublic sectarian school or a religious institution.

(c) Civil Liability and Insurance. –

(1) The board of directors of a charter school may sue and be sued. The ~~State~~ Charter Board ~~of Education~~ shall adopt rules to establish reasonable amounts and types of liability insurance that the board of directors shall be required by the charter to obtain. The board of directors shall obtain at least the amount of and types of insurance required by these rules to be included in the charter. Any sovereign immunity of the charter school, of the organization that operates the charter school, or its members, officers, or directors, or of the employees of the charter school or the organization that operates the charter school, is waived to the extent of indemnification by insurance.

(2) No civil liability shall attach to ~~any chartering entity,~~the Charter Board, to the State Board of Education, or to any of their members or employees, individually or collectively, for any acts or omissions of the charter school.

(d) Instructional Program. –

(1) The school shall provide instruction each year for at least 185 days or 1,025 hours over nine calendar months.

(2) The school shall design its programs to at least meet the student performance standards adopted by the State Board of Education and the student performance standards contained in the charter.

(3) A charter school shall conduct the student assessments required ~~for charter schools~~ by the State Board of Education.

(4) The school is subject to and shall comply with Article 9 of Chapter 115C of the General Statutes and The Individuals with Disabilities Education Improvements Act, 20 U.S.C. § 1400, et seq., (2004), as amended.~~shall comply with policies adopted by the State Board of Education for charter schools relating to the education of children with disabilities.~~

(5) The school is subject to and shall comply with Article 27 of Chapter 115C of the General Statutes, except that a charter school may also exclude a student from the charter school and return that student to another school in the local school administrative unit in accordance with the terms of its ~~charter.~~charter after due process.

(d1) Reading Proficiency and Student Promotion. –

(1) Students in the third grade shall be retained if the student fails to demonstrate reading proficiency by reading at or above the third grade level as demonstrated by the results of the State-approved standardized test of reading comprehension administered to third grade students. The charter school shall provide reading interventions to retained students to remediate reading deficiency, which may include 90 minutes of daily, uninterrupted, evidence-based reading instruction, accelerated reading classes, transition classes containing third and fourth grade students, and summer reading camps.

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

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

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

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

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

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

(3) The charter school shall provide notice to parents and guardians when a student is not reading at grade level. The notice shall state that if the student's reading deficiency is not remediated by the end of third grade, the student shall be retained unless he or she is exempt from mandatory retention for good cause. Notice shall also be provided to parents and guardians of any student who is to be retained under this subsection of the reason the student is not eligible for a good cause exemption, as well as a

description of proposed reading interventions that will be provided to the student to remediate identified areas of reading deficiency.

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

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

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

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

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

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

(e) Employees. –

(1) An employee of a charter school is not an employee of the local school administrative unit in which the charter school is located. The charter school's board of directors shall employ and contract with necessary teachers to perform the particular service for which they are employed in the ~~school; at least seventy-five percent (75%) of these teachers in grades kindergarten through five, at least fifty percent (50%) of these teachers in grades six through eight, and at least fifty percent (50%) of these teachers in grades nine through 12 shall hold teacher certificates. All teachers in grades six through 12 who are teaching in the core subject areas of mathematics, science, social studies, and language arts shall be college graduates.~~school. The board also may employ necessary employees who are not required to hold teacher ~~certificates~~ licenses to perform duties other than teaching and may contract for other services. The board may discharge teachers and noncertificated employees.

(2) No local board of education shall require any employee of the local school administrative unit to be employed in a charter school.

(3) If a teacher employed by a local school administrative unit makes a written request for a leave of absence to teach at a charter school, the local school administrative unit shall grant the leave for one year. For the initial year of a charter school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 45 days before the teacher would otherwise have to report for duty. After the initial year of a charter school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 90 days before the teacher would otherwise have to report for duty. A local board of education is not required to grant a request for a leave of absence or a request to extend or renew a leave of absence for a teacher who previously has received a leave of absence from that school board under this subdivision. A teacher who has career status under G.S. 115C-325 prior to receiving a leave of absence to teach at a charter school may return to a public school in the local school administrative unit with career status at the end of the leave of

absence or upon the end of employment at the charter school if an appropriate position is available. If an appropriate position is unavailable, the teacher's name shall be placed on a list of available teachers and that teacher shall have priority on all positions for which that teacher is qualified in accordance with G.S. 115C-325(e)(2).

(4) The employees of the charter school shall be deemed employees of the local school administrative unit for purposes of providing certain State-funded employee benefits, including membership in the Teachers' and State Employees' Retirement System and the State Health Plan for Teachers and State Employees. The State Board of Education provides funds to charter schools, and the Charter Board approves the original members of the boards of directors of the charter schools, has the authority to grant, supervise, and revoke charters, and demands full accountability from charter schools for school finances and student performance. Accordingly, it is the determination of the General Assembly that charter schools are public schools and that the employees of charter schools are public school employees. Employees of a charter school whose board of directors elects to become a participating employer under G.S. 135-5.3 are "teachers" for the purpose of membership in the North Carolina Teachers' and State Employees' Retirement System. In no event shall anything contained in this Part require the North Carolina Teachers' and State Employees' Retirement System to accept employees of a private employer as members or participants of the System.

(5) Education employee associations shall have equal access to charter school employees as provided in G.S. 115C-335.9.

(6) Each charter school board of directors shall adopt a policy on whether and under what circumstances an applicant for employment shall be required to be checked for a criminal history before the applicant is given an unconditional job offer. Each charter school board of directors shall apply its policy uniformly in requiring applicants for employment to be checked for a criminal history. A charter school board of directors that requires a criminal history check for an applicant may employ an applicant conditionally while the board is checking the person's criminal history and making a decision based on the results of the check.

(f) Accountability. –

(1) The school is subject to the financial audits, the audit procedures, and the audit requirements adopted by the ~~State~~ Charter Board ~~of Education~~ for charter schools. These audit requirements may include the requirements of the School Budget and Fiscal Control Act.

(2) The school shall comply with the reporting requirements established by the State Board of Education in the Uniform Education Reporting ~~System.~~System, except that reports shall be made to the Charter Board as well as the State Board of Education.

(3) The school shall report at least annually to the ~~chartering entity and the State~~Charter Board ~~of Education~~ the information required by the ~~chartering entity or the State~~Charter Board.

(g) Admission Requirements. –

(1) Any child who is qualified under the laws of this State for admission to a public school is qualified for admission to a charter school.

(2) No local board of education shall require any student enrolled in the local school administrative unit to attend a charter school.

(3) Admission to a charter school shall not be determined according to the school attendance area in which a student resides, except that any local school administrative unit in which a public school converts to a charter school shall give admission preference to students who reside within the former attendance area of that school.

(4) Admission to a charter school shall not be determined according to the local school administrative unit in which a student resides.

(5) A charter school shall not discriminate against any student on the basis of ethnicity, national origin, gender, or disability. Except as otherwise provided by law or the mission of the school as set out in the charter, the school shall not limit admission to students on the basis of intellectual ability, measures of achievement or aptitude, athletic ability, disability, race, creed, gender, national origin, religion, or ancestry. The charter school may give enrollment priority to siblings of currently enrolled students who were admitted to the charter school in a previous year and to children of the school's principal, teachers, and teacher assistants. In addition, and only for its first year of operation, the charter school may give enrollment priority to children of the initial members of the charter school's board of directors, so long as (i) these children are limited to no more than ten percent (10%) of the school's total enrollment or to 20 students, whichever is less, and (ii) the charter school is not a former public or private school. If multiple ~~birth~~ siblings apply for admission to a charter school and a lottery is needed under G.S. 115C-238.29F(g)(6), the charter school shall enter one surname into the lottery to represent all of the multiple ~~birth~~ siblings. If that surname of the multiple ~~birth~~ siblings is selected, then all of the multiple ~~birth~~ siblings shall be admitted. Within one year after the charter school begins operation, the population of the school shall make efforts to reasonably reflect the racial and ethnic composition of the general population residing within the local school administrative unit in which the school is located or the racial and ethnic composition of the special population that the school seeks to serve residing within the local school administrative unit in which the school is located. The school shall be subject to any court-ordered desegregation plan in effect for the local school administrative unit.

(6) During each period of enrollment, the charter school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In this case, students shall be accepted by lot. Once enrolled, students are not required to reapply in subsequent enrollment periods.

(7) Notwithstanding any law to the contrary, a charter school may refuse admission to any student who has been expelled or suspended from a public school under G.S. 115C-390.5 through G.S. 115C-390.11 until the period of suspension or expulsion has expired.

(h) Transportation. – The charter school may provide transportation for students enrolled at the school. The charter school shall develop a transportation plan so that transportation is not a barrier to any student who resides in the local school administrative unit in which the school is located. The charter school is not required to provide transportation to any student who lives within one and one-half miles of the school. At the request of the charter school and if the local board of the local school administrative unit in which the charter school is located operates a school bus system, then that local board may contract with the charter school to provide transportation in accordance with the charter school's transportation plan to students who reside in the local school administrative unit and who reside at least one and

one-half miles of the charter school. A local board may charge the charter school a reasonable charge that is sufficient to cover the cost of providing this transportation. Furthermore, a local board may refuse to provide transportation under this subsection if it demonstrates there is no available space on buses it intends to operate during the term of the contract or it would not be practically feasible to provide this transportation.

(i) Assets. – Upon dissolution of the charter school or upon the nonrenewal of the charter, all net assets of the charter school purchased with public funds shall be deemed the property of the ~~local school administrative unit in which the charter school is located.~~State and shall be returned to the General Fund.

(j) Driving Eligibility Certificates. – In accordance with rules adopted by the State Board of Education, the designee of the school's board of directors shall do all of the following:

(1) Sign driving eligibility certificates that meet the conditions established in G.S. 20-11.

(2) Obtain the necessary written, irrevocable consent from parents, guardians, or emancipated juveniles, as appropriate, in order to disclose information to the Division of Motor Vehicles.

(3) Notify the Division of Motor Vehicles when a student who holds a driving eligibility certificate no longer meets its conditions.

(k) The Display of the United States and North Carolina Flags and the Recitation of the Pledge of Allegiance. – A charter school shall (i) display the United States and North Carolina flags in each classroom when available, (ii) require the recitation of the Pledge of Allegiance on a daily basis, and (iii) provide age-appropriate instruction on the meaning and historical origins of the flag and the Pledge of Allegiance. A charter school shall not compel any person to stand, salute the flag, or recite the Pledge of Allegiance. If flags are donated or are otherwise available, flags shall be displayed in each classroom.

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

SECTION 1.(g) G.S. 115C-238.29G reads as rewritten:

"**§ 115C-238.29G. Causes for nonrenewal or termination; disputes.**

(a) The ~~State Board of Education, or a chartering entity subject to the approval of the State Board of Education,~~Charter Board may ~~terminate or not renew a charter~~terminate, not renew, or seek applicants to assume the charter through a competitive bid process established by the Charter Board upon any of the following grounds:

(1) Failure to meet the requirements for student performance contained in the charter;

(2) Failure to meet generally accepted standards of fiscal management;

(3) Violations of law;

(4) Material violation of any of the conditions, standards, or procedures set forth in the charter;

(5) Two-thirds of the faculty and instructional support personnel at the school request that the charter be terminated or not renewed; or

(6) Other good cause identified.

(a1) The ~~State~~ Charter Board shall adopt criteria for adequate performance by a charter school and shall identify charter schools with inadequate performance. The criteria shall include a requirement that a charter school which demonstrates no growth in student

performance and has annual performance composites below sixty percent (60%) in any two years in a three-year period is inadequate.

(1) If a charter school is inadequate in the first five years of the charter, the charter school shall develop a strategic plan to meet specific goals for student performance that are consistent with ~~State~~ Charter Board criteria and the mission approved in the charter school. The strategic plan shall be reviewed and approved by the ~~State~~ Charter Board. The ~~State~~ Charter Board is authorized to terminate or not renew a charter for failure to demonstrate improvement under the strategic plan.

(2) If a charter school is inadequate and has had a charter for more than five years, the ~~State~~ Charter Board is authorized to terminate, not renew, or seek applicants to assume the charter through a competitive bid process established by the Charter Board. ~~terminate or not renew the charter.~~ The Charter Board shall develop rules on the assumption of a charter by a new entity that include all aspects of the operations of the charter school, including the status of the employees. Public assets would transfer to the new entity and not revert to the General Fund pursuant to G.S. 115C-238.29F(i).

(b) The ~~State~~ Charter Board ~~of Education~~ shall develop and implement a process to address contractual and other grievances between a charter school and its chartering entity or the local board of education during the time of its charter.

(c) The ~~State~~ Charter Board and the charter school are encouraged to make a good-faith attempt to resolve the differences that may arise between them. They may agree to jointly select a mediator. The mediator shall act as a neutral facilitator of disclosures of factual information, statements of positions and contentions, and efforts to negotiate an agreement settling the differences. The mediator shall, at the request of either the ~~State~~ Charter Board or a charter school, commence a mediation immediately or within a reasonable period of time. The mediation shall be held in accordance with rules and standards of conduct adopted under Chapter 7A of the General Statutes governing mediated settlement conferences but modified as appropriate and suitable to the resolution of the particular issues in disagreement.

Notwithstanding Article 33C of Chapter 143 of the General Statutes, the mediation proceedings shall be conducted in private. Evidence of statements made and conduct occurring in a mediation are not subject to discovery and are inadmissible in any court action. However, no evidence otherwise discoverable is inadmissible merely because it is presented or discussed in a mediation. The mediator shall not be compelled to testify or produce evidence concerning statements made and conduct occurring in a mediation in any civil proceeding for any purpose, except disciplinary hearings before the State Bar or any agency established to enforce standards of conduct for mediators. The mediator may determine that an impasse exists and discontinue the mediation at any time. The mediator shall not make any recommendations or public statement of findings or conclusions. The ~~State~~ Charter Board and the charter school shall share equally the mediator's compensation and expenses. The mediator's compensation shall be determined according to rules adopted under Chapter 7A of the General Statutes."

SECTION 1.(h) G.S. 115C-238.29H reads as rewritten:

"**§ 115C-238.29H. State and local funds for a charter school.**

(a) The State Board of Education shall allocate to each charter school:

(1) An amount equal to the average per pupil allocation for average daily membership from the local school administrative unit allotments in which the charter school is located for each child attending the charter school except for the allocation for children with disabilities and for the allocation for children with limited English proficiency;

(2) An additional amount for each child attending the charter school who is a child with disabilities; and

(3) An additional amount for children with limited English proficiency attending the charter school, based on a formula adopted by the State Board.

~~In accordance with G.S. 115C-238.29D(d), the~~The State Board shall allow for annual adjustments to the amount allocated to a charter school based on its enrollment growth in school years subsequent to the initial year of operation.

In the event a child with disabilities leaves the charter school and enrolls in a public school during the first 60 school days in the school year, the charter school shall return a pro rata amount of funds allocated for that child to the State Board, and the State Board shall reallocate those funds to the local school administrative unit in which the public school is located. In the event a child with disabilities enrolls in a charter school during the first 60 school days in the school year, the State Board shall allocate to the charter school the pro rata amount of additional funds for children with disabilities.

(a1) Funds allocated by the State Board of Education may be used to enter into operational and financing leases for real property or mobile classroom units for use as school facilities for charter schools and may be used for payments on loans made to charter schools for facilities or equipment. However, State funds shall not be used to obtain any other interest in real property or mobile classroom units. No indebtedness of any kind incurred or created by the charter school shall constitute an indebtedness of the State or its political subdivisions, and no indebtedness of the charter school shall involve or be secured by the faith, credit, or taxing power of the State or its political subdivisions. Every contract or lease into which a charter school enters shall include the previous sentence. The school also may own land and buildings it obtains through non-State sources.

(b) If a student attends a charter school, the local school administrative unit in which the child resides shall transfer to the charter school an amount equal to the per pupil share of the local current expense ~~appropriation to~~ fund of the local school administrative unit for the fiscal year. The amount transferred under this subsection that consists of revenue derived from supplemental taxes shall be transferred only to a charter school located in the tax district for which these taxes are levied and in which the student resides. The per pupil share of the local current expense fund shall be transferred to the charter school within 30 days of the receipt of monies into the local current expense fund.

(c) The local school administrative unit shall also provide each charter school to which it transfers a per pupil share of its local current expense fund with all of the following information within the 30-day time period provided in subsection (b) of this section:

(1) The total amount of monies the local school administrative unit has in each of the funds listed in G.S. 115C-426(c).

(2) The student membership numbers used to calculate the per pupil share of the local current expense fund.

(3) How the per pupil share of the local current expense fund was calculated.

(d) The court shall award the prevailing party in an action to enforce the provisions of subsection (b) of this section its reasonable attorneys' fees and costs incurred in bringing such an action, plus interest at the legal rate as provided in G.S. 24-1 from and after the date that any such amounts should have otherwise been paid to the charter school for a fiscal year. The court shall order any delinquent funds, costs, fees, and interest to be paid in full within three years from the entry of any judgment."

SECTION 1.(i) G.S. 115C-238.29I reads as rewritten:

"**§ 115C-238.29I. Notice of the charter school process; review of charter ~~schools; Charter School Advisory Committee.~~schools.**

(a) The ~~State~~ Charter Board ~~of Education~~ shall distribute information announcing the availability of the charter school process described in this Part to each local school

administrative unit and public postsecondary educational institution and, through press releases, to each major newspaper in the State.

(b) Repealed by Session Laws 1997-18, s. 15(i).

(c) The ~~State~~ Charter Board ~~of Education~~ shall review and evaluate the educational effectiveness of the charter ~~school approach~~schools authorized under this Part and the effect of charter schools on the public schools in the local school administrative unit in which the charter schools are located. The Board shall report annually no later than January ~~1, 2002,~~1 to the Joint Legislative Education Oversight Committee ~~with recommendations to modify, expand, or terminate that approach. The Board shall base its recommendations predominantly on the following information:~~on the following:

(1) The current and projected impact of charter schools on the delivery of services by the public schools.

(2) Student academic progress in the charter schools as measured, where available, against the academic year immediately preceding the first academic year of the charter schools' operation.

(3) Best practices resulting from charter school operations.

(4) Other information the ~~State~~ Charter Board considers appropriate.

~~(d) The State Board of Education may establish a Charter School Advisory Committee to assist with the implementation of this Part. The Charter School Advisory Committee may (i) provide technical assistance to chartering entities or to potential applicants, (ii) review applications for preliminary approval, (iii) make recommendations as to whether the State Board should approve applications for charter schools, (iv) make recommendations as to whether the State Board should terminate or not renew a charter, (v) make recommendations concerning grievances between a charter school and its chartering entity, the State Board, or a local board, (vi) assist with the review under subsection (e) of this section, and (vii) provide any other assistance as may be required by the State Board.~~

~~(e) Notwithstanding the dates set forth in this Part, the State Board of Education may establish an alternative time line for the submission of applications, preliminary approvals, criminal record checks, appeals, and final approvals so long as the Board grants final approval by March 15 of each calendar year.~~"

SECTION 1.(j) G.S. 115C-238.29J is repealed.

SECTION 1.(k) G.S. 115C-238.29K is repealed.

SECTION 2.(a) G.S. 115C-426(c) reads as rewritten:

"(c) The uniform budget format shall require the following funds:

(1) The State Public School Fund.

(2) The local current expense fund.

(3) The capital outlay fund.

In addition, other funds may be used to account for reimbursements, including indirect costs, fees for actual costs, tuition, sales tax revenues distributed using the ad valorem method pursuant to G.S. 105-472(b)(2), sales tax refunds, gifts and grants restricted as to use, trust funds, federal appropriations made directly to local school administrative units, and funds received for prekindergarten ~~programs, and special programs.~~programs. In addition, the appropriation or use of fund balance or interest income by a local school administrative unit shall not be construed as a local current expense appropriation.

Each local school administrative unit shall maintain those funds shown in the uniform budget format that are applicable to its operations."

SECTION 2.(b) G.S. 115C-448 is amended by adding a new subsection to read:

"(d) Special funds of individual schools shall not be included as part of the local current expense fund of a local school administrative unit for the purposes of determining the per pupil share of the local current expense fund transferred to a charter school pursuant to G.S. 115C-238.29H(b)."

SECTION 3. G.S. 105-278.4(a) reads as rewritten:

"(a) Buildings. – Buildings, the land they actually occupy, and additional land reasonably necessary for the convenient use of any such building shall be exempted from taxation if all of the following requirements are met:

...

(4) Wholly and exclusively used for educational purposes by ~~the owner or occupied gratuitously by another nonprofit educational institution and wholly and exclusively used by the occupant for nonprofit educational purposes.~~any of the following:

a. The owner.

b. A nonprofit educational institution occupying the building gratuitously.

c. A charter school even if the charter school is not the owner of the building."

SECTION 4. G.S. 135-5.3(b) reads as rewritten:

"(b) No later than 30 days after both parties have signed the written charter under G.S. 115C-238.29E, the board of directors of a charter school operated by a private nonprofit corporation shall elect whether to become a participating employer in the Retirement System in accordance with this Article. This election shall be in writing and filed with the Retirement System and with the ~~State~~North Carolina Public Charter Schools Board ~~of Education~~ and is effective for each charter school employee as of the date of that employee's entry into eligible service. This subsection applies to charter schools that receive State Board of Education or North Carolina Public Charter Schools Board approval under G.S. 115C-238.29D after 1998."

SECTION 5. G.S. 135-48.54(b) reads as rewritten:

"(b) No later than 30 days after both parties have signed the written charter under G.S. 115C-238.29E, the board of directors of a charter school operated by a private nonprofit corporation shall elect whether to become a participating employer in the Plan in accordance with this Article. This election shall be in writing and filed with the Plan and the North Carolina Public Charter Schools Board. ~~State Board of Education.~~ This election is effective for each charter school employee as of the date of that employee's entry into eligible service. This subsection applies to charter schools that receive State Board of Education or North Carolina Public Charter Schools Board approval under G.S. 115C-238.29D after 1998."

SECTION 6. Notwithstanding G.S. 115C-238.29A1, as enacted by this act, initial appointments to the Charter Board shall be made by the Governor and the General Assembly no later than August 1, 2013. Initial terms of office to the Charter Board shall be as follows:

(1) Two members appointed by the Governor, as designated by the Governor, shall be appointed to serve until June 30, 2015. One member appointed by the Governor, as designated by the Governor, shall be appointed to serve until June 30, 2017.

(2) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, as designated by the Speaker, shall be until June 30, 2015. Two members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, as designated by the Speaker, shall be until June 30, 2017.

(3) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as designated by the President Pro Tempore, shall be until June 30, 2015. Two members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as designated by the President Pro Tempore, shall be until June 30, 2017.

SECTION 7. This act is effective when it becomes law. G.S. 115C-238.29H(d), as enacted by this act, applies to proceedings commenced on or after the effective date of this act.

SENATE BILL 337:
NC Public Charter School Board

2013-2014 General Assembly

Committee:	Senate Re-ref to Finance. If fav, re-ref to Appropriations/Base Budget	**Date:**	April 10, 2013
Introduced by:	Sens. Tillman, Soucek	**Prepared by:**	Drupti Chauhan Committee Counsel
Analysis of:	Second Edition		

SUMMARY: ***Senate Bill 337 creates a new North Carolina Public Charter Schools Board to approve and monitor charter schools and makes other changes to the charter school laws.***

BILL ANALYSIS:

Section 1

Current Law: Part 6A of Article 16 of Chapter 115C establishes charter schools and provides that the State Board of Education is the entity that oversees charter schools in the State by granting final approval of charter schools, monitoring the schools, and revoking charters. Charter schools are prohibited from receiving State monies for obtaining any interest in real property or mobile classroom units other than leases.

Analysis:

115C-238.29A1 – Creates North Carolina Public Charter Schools Board (Charter Board)

- The Charter Board would operate independent of the State Board of Education (SBE) but the SBE would have the authority to veto within 45 days, by a ¾ vote, any action adopted by vote of the Charter Board.
- The Charter Board would have 11 voting members. The Superintendent of Public Instruction would be a nonvoting member and secretary of the Charter Board. 9 members would be appointed by the Governor and the General Assembly. The Lieutenant Governor and State Treasurer would also serve as voting members.
- The Charter Board would have the following powers and duties: to provide technical assistance to charter schools and applicants; adopt rules under Chapter 150B of the General Statutes on all aspects of charter schools; oversee the charter application process and approve charter schools; monitor existing charter schools, and take any actions regarding charter schools including renewals, nonrenewals, and revocations of charters.

115C-238.29B – Eligible Applicants and Submission of Applications for Approval

- Only nonprofit corporations would be able to apply to the Charter Board to establish a charter school.
- The option to obtain preliminary approval from a chartering entity such as a local board of education or UNC constituent institution would be repealed.
- An applicant would no longer have to submit a copy of its charter school application to the local board of education of the local school administrative unit (LEA) in which the charter school would be located and the Charter Board would not have to consider any information received from the local board of education regarding the charter application.
- The Charter Board would establish reasonable fees for initial and renewal charter applications under Chapter 150B of the General Statutes. The fees would be placed in the "Charter Application Fund" and be used by the Charter Board for the administration of Part 6A of Article 16 of Chapter 115C.
- Application fees would not be refunded in the event the application is rejected or the charter is revoked.

115C-238.29C – Preliminary Approval of Applications for Charter Schools

- This section would be repealed.

115C-238.29D – Final Approval of Applications for Charter Schools

- Recodifies the requirement that in order to grant approval, the Charter Board must find that the applicant has the ability to operate the school and would do so in an educationally and economically sound manner.
- The Charter Board would be encouraged to give preference to applications that show the capacity to provide learning experiences for students identified at risk of academic failure.
- In approving enrollment growth for existing charter schools, the Charter Board would not have to find that the local board of education of the LEA in which the charter is located has had an opportunity to be heard on any adverse impact the proposed enrollment growth of the charter would have on the LEA's ability to provide a sound basic education to its students.

115C-238.29E – Charter School Operations

- Charter schools would not be able to agree to be accountable to the local board of education of the LEA in which the charter is located rather than the Charter Board.
- At the request of a charter school, the local board of education of the LEA in which the charter is located would be required to lease an available building or land to the charter school for $1.00 per year unless it can show the lease is not economically or practically feasible or that it needs the space for its own enrollment needs.

115C-238.29F – General Requirements

Employees

- The bill would remove the requirement that sets out that certain percentages of teachers employed in charter schools must hold teaching licenses.
- Each charter school board of directors would be required to adopt a policy on whether and under what circumstances an applicant for employment must be given a criminal background check before the person is given an unconditional job offer.

Admissions Requirements

- If a charter school must conduct a lottery for admission and multiple siblings apply, then the school would enter one surname for all of the siblings and admit them all of the surname is selected. Under current law, the one surname requirement applies only to multiple birth siblings.
- Charter schools must make efforts to reasonably reflect the racial and ethnic composition of the LEA in which it is located or the special population that the school seeks to serve that is residing in the LEA.

Assets

- If the charter school is dissolved or its charter is not renewed, all net assets purchased with public funds would become property of State and returned to the General Fund rather than the LEA in which the charter is located.

115C-238.29G – Nonrenewal or Termination of Charters

- The Charter Board would be able to terminate, not renew, or find applicants to assume the charter through a competitive bid process established by the Charter Board upon the grounds listed in the statute. The Charter Board would develop rules on the assumption of the charter that cover all aspects of the operation of the charter including the status of the employees. Public assets would transfer to the new entity.

115C-238.29H – Local Funds for Charter Schools

- The bill would provide that the per pupil share of the local current expense fund must be transferred to the charter school within 30 days of the receipt of monies into the local current expense fund.
- An LEA would be required to provide to each charter school it transfers a per pupil share of its local current expense fund the following information within the 30 day time period:
  - The total amount of monies the LEA has in each of the funds listed in G.S. 115C-426(c) such as reimbursements, fees for actual costs, tuition, sales tax refunds, etc.
  - The student membership numbers used to calculate the per pupil share of the local current expense fund.
  - How the per pupil share of the local current expense fund was calculated.
- In actions to enforce the provisions of the transfer of local funds, courts must award the prevailing party reasonable attorneys' fees and costs plus interest from and after the date that the monies should have been paid to the charter school. Monies would have to be paid in full within 3 years of the judgment.

115C-238.29H – Review of Charter Schools

- The bill would repeal language that provided that the SBE may establish a Charter School Advisory Committee and what the duties of that Advisory Committee could be.
- The bill would also repeal language that provides that final approval of charter schools must be granted by the SBE by March 15 of each calendar year.

115C-238.29J – Public and private assistance to charter schools

- The bill would repeal this section which provides that (i) local boards of education can provide support to charter schools within their LEAs; (ii) private persons and entities are encouraged to provide funds and help to charter schools; (iii) the SBE direct the Department of Public Instruction (DPI) to provide guidance and assistance to charter applicants; and (iv) the SBE direct DPI to notify the Department of Revenue when a charter is terminated, nonrenewed, or not granted.

115C-238.29K – Criminal History Checks conducted by the SBE

- This section would be repealed.

Section 2 – Uniform Budget Format

Current Law: The Uniform Budget Format allows LEAs to have other funds to account for reimbursements, fees for actual costs, tuition, sales tax revenues distributed through ad valorem taxes, sales tax refunds, gifts and grants restricted as to use, trust funds, federal appropriations made to LEAs and funds for prekindgarten programs and special programs.

Analysis:

- The bill would eliminate the fund for "special programs".
- The bill would add language that provides that special funds of individual schools would not be included as a part of the local current expense fund of an LEA for determining the per pupil share of the local current expense fund to be transferred to a charter school.

Section 3 – Property Taxes

Current Law: Certain real property is exempted from property taxes if all of the following are met:

1. It is owned by an educational institution or a nonprofit entity for the sole benefit of a constituent or affiliated institution of The University of North Carolina, certain nonprofit postsecondary educational institution, a North Carolina community college, or a combination of these.
2. The owner is not organized or operated for profit and no officer, shareholder, member, or employee of the owner or any other person is entitled to receive pecuniary profit from the owner's operations except reasonable compensation for services.
3. The use is of a kind commonly employed in the performance of those activities naturally and properly incident to the operation of an educational institution such as the owner.
4. The property is wholly and exclusively used for educational purposes by the owner or occupied gratuitously by another nonprofit educational institution and wholly and exclusively used by the occupant for nonprofit educational purposes.

Analysis: The bill would modify the 4th requirement for exemption from taxation by stating that the exemption would apply if it is wholly and exclusively used for educational purposes by a charter school even if the charter school is not the owner of the building.

Sections 4 and 5 – Conforming Changes in Retirement Statutes

Analysis: These sections would make conforming changes in the retirement statutes to ensure that the correct entity is referenced.

Section 6 – Initial Appointments the Charter Board

Analysis: Provides for the phase-in of members on the Charter Board.

EFFECTIVE DATE: The bill would become effective when it becomes law. The provision providing for attorneys fees in actions to enforce the transfer of monies in local current expense funds would apply to proceedings commenced on or after the effective date of the act.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Fiscal Note

BILL NUMBER: Senate Bill 337 (Second Edition)

SHORT TITLE: NC Public Charter School Board.

SPONSOR(S): Senators Tillman and Soucek

FISCAL IMPACT
($ in millions)

☐ Yes ☐ No ☑ No Estimate Available

State Impact	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
General Fund Revenues:					
General Fund Expenditures:					
State Positions:					
NET STATE IMPACT	$0.0	$0.0	$0.0	$0.0	$0.0

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:
State Board of Education, Department of Public Instruction

EFFECTIVE DATE When the bill becomes law.

TECHNICAL CONSIDERATIONS:
Yes - See Technical Considerations Section

BILL SUMMARY:

The bill creates an eleven member North Carolina Public Charter Schools Board (Charter Board), located in the Department of Public Instruction (DPI), but exercising its powers and duties independently of the State Board of Education (State Board) and DPI. The Charter Board's purpose would be to authorize and oversee high-quality public charter schools throughout the state and to exercise authority for approving charter applicants. The Department of Public Instruction's Office of Charter Schools would serve as the principal administrative unit under the direction of the Charter Board. The Charter Board would have the authority to establish "reasonable" fees for initial and renewal charter applications under Chapter 150B of the General Statutes. The fees would be placed in the "Charter Application Fund" and be used by the Charter Board for the administration of Part 6A of Article 16 of Chapter 115C.

The bill would make several substantive changes to the charter school application process as well as other conforming changes. The bill would make two modifications to current charter school capital statutes. At the request of a charter school, the local board of education of the LEA in which the charter is located would be required to lease an available building or land under the LEA's ownership to the charter school for $1.00 per year unless it can show the lease is not economically or practically feasible or that it needs the space for its own enrollment needs. Secondly, if a charter school is dissolved or its charter is not renewed, all net assets purchased with public funds would become property of State and returned to the General Fund rather than the LEA in which the charter is located.

The bill would also modify certain requirements pertaining to teacher licensure, student admissions, charter review, renewal and revocation. It would also modify the timing of local per-pupil funding transfers from local school administrative units (LEAs) to charter schools, as well as clarifying the eligibility of certain funds in considering the local per-pupil funding transfer. Lastly, the bill would provide for a tax exemption from property that is wholly and exclusively used for educational purposes by a charter school even if the charter school is not the owner of the building.

ASSUMPTIONS AND METHODOLOGY: While this bill would make a number of substantive changes to charter school approval, operation and review processes, this analysis will solely focus on those items that could have a fiscal impact.

North Carolina Public Charter School Board Operations

The bill would create an independent Charter Board that would replicate many of the same responsibilities currently administered by the North Carolina Charter Schools Advisory Council (Advisory Council). Funding for the Advisory Council is allocated from the State Board of Education's administrative budget. Over the last calendar year, its expenses are as follows:

Advisory Council, Costs by Activity (4/2012-2/2013)	
Compensation to Board Members	2,325
Board Transportation	7,944
Board Subsistence	7,772
Miscellaneous Compensation	193
Food Service	3,253
Ground Transportation	80
Printing / Duplicating	3,739
Requisitions	117
Application Review	15,000
Total	**$40,426**

In that time, the Council has held 5 two-day full committee meetings, 2 one-day full committee meetings, 2 two-day subcommittee meetings and three no-cost webinars. With nine in-person meetings held over eleven months, the Council has been essentially been conducting monthly meetings. Fifteen members sit on the Advisory Council, four more than would be appointed to the

Charter Board, not including the Superintendent of Public Instruction, who would serve in a non-voting capacity.

The bill authorizes Charter Board meetings "... upon the call of the chair or the vice-chair with the approval of the chair," without restriction. In the absence of additional information about how often the Charter Board would meet and for how many days those meetings would last, there is insufficient evidence to estimate an additional fiscal impact above and beyond the costs associated with the Advisory Council. The Technical Considerations section of this document further discusses funding for the Charter Board.

Charter School Application Fees

The Charter Board would be authorized to collect "reasonable fees" for initial and charter school renewal applications. The bill does not articulate the extent of those fees. Currently fees are not charged for charter approvals. It may be that the bill would anticipate that fees could be set to cover the difference between the current State Board of Education support for the Advisory Council and any additional costs created by increased number and review of charter school applications by the Charter Board in future years.

This analysis assumes that funding for the primary staff to the Charter Board, the Office of Charter Schools, would remain State-supported through existing appropriations made to the Department of Public Instruction. As such, the anticipated impact of fees would likely be to provide for additional direct resources for the Charter Board's activities or contracted services.

Dispersal of Local Funds for Charter Schools

The bill would provide that the per-pupil share of the local current expense fund legally required to be provided on behalf of public charter school students be transferred to the charter school within 30 days of the receipt of monies into the local current expense fund. Current law does not specify a timeline for this fund transfer. In addition, a variety of information about the calculation of those funds must be provided by the LEA to the charter school.

To enforce the provisions of the transfer of local funds, courts adjudicating a proceeding regarding local charter school funding would be required to award the prevailing party reasonable attorneys' fees and costs plus interest from and after the date that the monies should have been paid to the charter school. Monies would have to be paid in full within 3 years of the judgment. Any impact of this provision would be local in nature. This analysis does not have a basis for estimating the potential LEA costs for legal fees and interest payments that may arise from this bill.

Leasing of Property by LEAs to Charter Schools

Current law holds that LEAs shall lease any available building or land under its ownership to a charter school located within its district, provided that it is economically feasible and the building or land is not otherwise needed by the LEA. That lease may be provided at no cost to the charter school tenant. This bill would modify that arrangement and require that the LEAs shall charge $1 per year for such leases, instead of a rate otherwise set by the LEA. Sufficient data is not available to estimate the impact of potentially lowered LEA revenues from leased facilities. Like most of the preceding sections, any impact would solely be local.

Property Tax Status of Charter School Property
The bill provides that charter school buildings used solely for educational purposes would be exempt from property taxes even if the building is not owned by the charter school. Sufficient data is not available to determine the number and value of charter school buildings that are currently subject to property tax that would become exempt under the bill. To the extent that properties that are currently taxable become tax-exempt, local governments would experience a decrease in property tax revenue; however, no estimate is available on the size of the fiscal impact.

Uniform Budget Format Modifications
The bill would remove "special programs" as a category that may be excluded from calculating the local per-pupil appropriation for transfer on behalf of charter school students. The bill would also exempt LEA special fund proceeds from that calculation. There is no estimate available for the potential changes in the local per-pupil appropriations transfer. Any actual impact would solely involve LEA funding.

SOURCES OF DATA: Department of Public Instruction.

TECHNICAL CONSIDERATIONS:
The bill creates a unique status for the Charter Board, in which it would be located administratively within the Department of Public Instruction but operate independently of the State Board of Education and Department of Public Instruction, with limited exceptions. The following considerations are identified as a result of the Board's special status.

State Board of Education funding. The preceding analysis presumes that funds appropriated to the State Board of Education and used for the activities of the Charter School Advisory Council would be reallocated to the Charter Board. The bill does not identify a financial relationship between the State Board and Charter Board. If the sponsors wish that existing Advisory Council funding be reallocated to the Charter Board, they may wish to consider language to explicitly require that distribution. On the other hand, if the sponsors anticipate that the Charter Board will be entirely fee-supported they may wish to include language that would clarify that status.

Legal Counsel. The State Board of Education currently provides legal services free of charge to the Advisory Council from its counsel. To the extent that the Advisory Council is under the purview of the State Board, no conflict is inherent. However, with the Charter Board's independence from the State Board, additional funding could be needed for the Charter Board to utilize necessary independent legal counsel.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Brian Matteson and Rodney Bizzell

APPROVED BY:

Mark Trogdon, Director
Fiscal Research Division

DATE: April 10, 2013

Signed Copy Located in the NCGA Principal Clerk's Offices

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S 2

SENATE BILL 290*
State and Local Government Committee Substitute Adopted 4/3/13

Short Title: Waynesville Annexation. (Local)

Sponsors:

Referred to:

March 14, 2013

A BILL TO BE ENTITLED

AN ACT ADDING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF WAYNESVILLE.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is added to the corporate limits of the Town of Waynesville:

BEING all that tract of land containing 1,200 acres more or less, with well-defined boundaries commonly known as Lake Junaluska Assembly, established at the Laymen's Conference of the Methodist Episcopal Church South in 1908 as a Christian mission, educational, recreational, and spiritual retreat center, comprising a 200-acre lake, approximately eight hundred residential units and the United Methodist Conference and Retreat Center, located in Haywood County, and more particularly described within boundaries as follows, based on references to Property Identification Numbers (PINs), Deed Books, and Pages, Rights-of-Way, measurements, and existing municipal boundaries as maintained by the Haywood County Geographic Information System as of January 28, 2013:

BEGINNING at a point in the center line of the Norfolk-Southern Railroad track, said point being in the Southern right of way boundary of U.S. Highway 19-23-74 (Great Smoky Mountain West Expressway) said point also being the Northeast corner of the property described in Deed Book 404, page 557, Haywood County Registry, and runs with said highway right of way Southwesterly approximately 2075 feet to the Northeasterly corner of Lot 10 of property recorded in Plat Cabinet C, Slot 2468; thence with Northwest line of said Lot 10 and Southerly margin of said Highway, S 32 deg. 04 min. 38 sec. W. 136.28 feet to a point in center of Richland Creek; thence with the center of the creek in a Southwesterly direction 71.94 feet to the intersection of the center of the creek with the Southern right of way of U. S. Highway 23-74; thence leaving creek and continuing with Southerly right of way boundary of U. S. Highway 23-74 and Northerly boundary of that 40.583-acre tract shown on plat recorded in Plat Cabinet C, Slot 3204, to the Northeasterly corner of property of Waynesville Police Department Association, Inc. recorded in Deed Book 335, page 521; thence with line of that property S. 21 deg. 24 min. E. 197.1 feet to a stake, and S. 60 deg. 31 min. W. 530 feet to a stake, common corner of the Shuford Howell and Charles Liner property; thence S. 24 deg. 21 min. W. 434 feet to a stake; thence in a Northwesterly direction with line of property recorded in Deed Book 374, page 995, to a point in Southerly right of way boundary of said highway; thence with said right of way boundary in a Westerly direction to the Northeast corner of property described in Deed Book 343, page 337; thence S. 27 deg. 03 min. 43 sec. E. 386.48 feet; thence S. 88 deg. 53 min. W. 318 feet; thence S. 69 deg. 40 min. 46 sec. W. 179.82 feet to a point; thence continuing S. 69 deg. 40 min. 46 sec. W. to the Northwest corner of property

described in Deed Book 615, page 1330; thence S. 48 deg. 00 min. 49 sec. E. to Southeast corner of Town of Waynesville 17.2 acre tract (PIN 8616-33-6754), being a part of the property described in Deed Book 140, page 95, said point also being the Northeastmost corner of property of Town of Waynesville recorded in Deed Book 615, page 1336; thence with line of that property in a Southwesterly direction to the Southwest corner of said Town of Waynesville 17.2-acre tract; thence with Westerly boundary of that property and with corporate boundary of Town of Waynesville in a Northwesterly direction, crossing U.S. Highway 23-74 to a point in Southerly line of property described in Deed Book 343, page 343, and in Northerly margin of said Highway 23-74, said point also being approximately 1162 feet from Southwest corner of the property of William C. Davis (PIN 8616-23-1869) recorded in Deed Book 149, page 604, and Easterly right of way boundary of U.S. Highway 276 (Russ Avenue); thence continuing with Northerly right of way boundary of U.S. Highway 23-74 in an Easterly direction approximately 3458 feet to the Southeast corner of Lot 40, Fairway Hills Subdivision, plat of which is recorded in Plat Book I, page 42 (Plat Cabinet B, Slot 169) HCR; thence with the line of that lot two calls as follows: N. 20 deg. 26 min. W. 75 feet to a concrete monument; thence N. 69 deg. 34 min. E. 118 feet to a point in center of a road; thence N. 38 deg. W. 84 feet to the intersection of said road with the center of Pleasant Hill Circle, Southeast corner of Lot 46 of said subdivision; thence continuing with the center of the above first-mentioned road and the Easterly boundary of Lots 46, 44 and 43 of said Subdivision to a point in center of SR 1257 and in Southerly line of Lot 27 of said subdivision; thence with outside line of said subdivision N. 66 deg. E. 502 feet to the Southeast corner of Lot 23 of said Subdivision; thence with Easterly lines of Lots 23, 22, 16, 14, 12, 10, 8, 6 and 4, N. 39 deg. W. 1274 feet to the Southeast corner of Lot 1 of said subdivision; thence with said lot N 39 deg. 00 min. W. 32 feet to the center of Golf Course Road; thence with the center of said road and with Southwesterly line of Lots 1 and 2 of Block 125, Southern Assembly, plat of which is recorded in Plat Book K, page 81, (Plat Cabinet B, Slot 217), HCR, to a point at the intersection of Golf Course Road and Fairway Hills Drive; thence continuing in a Southwesterly direction with Golf Course Road to the Southwest corner of Lot B12, Golf View Estates, plat of which is recorded in Plat Book I, page 21 (Plat Cabinet B, Slot 165); thence with Southerly lines of Lots B12 and B13 in a Northeasterly direction to a point, Easternmost corner of Lot B13 of said subdivision; thence with Easterly lines of Lots B13, B14 and A18 to a point in Southerly line of Tract E, Great Laurels of Lake Junaluska (Plat Cabinet C, Slot 4325); thence with the line of that tract N. 63 deg. 58 min. 42 sec. E. 65.35 feet to an iron stake in Easterly boundary line of said Tract E; thence with Easterly lines of said Tract E to the Southeast corner of Tract B of said property; thence with Easterly lines of said Tract B to the Northeast corner of Tract B; thence with Northerly line of said Tract B in a Westerly direction to a point, Westernmost corner of property recorded in Deed Book 640, page 654; thence with Westerly line of said property N. 19 deg. E. 521 feet to a point in the center of right of way of U. S. Highway 19 (Dellwood Road) recorded in Deed Book 143, page 259); thence in a Westerly direction with center of said right of way to the Southwest corner of property described in Deed Book 827, page 2245, and Plat Cabinet C, Slot 6162; thence N. 23 deg. 44 min. 49 sec. E. 194.15 feet to a point in NCSR 1376 (Old County Road); thence with said road in an Easterly direction to the Southwest corner of property described in Deed Book 358, page 7; thence N. 3 deg. 20 min. 38 sec. W. 291.61 feet to a point in Southerly margin of 40-foot right of way; thence in a Westerly direction approximately 300 feet to the Southeast corner of Lot 3 of the John C. Noland property recorded in Plat Cabinet C, Slot 3; thence with Easterly lines of Lots 3, 4 and 6 of said property N. 07 deg. 26 min. 19 sec. W. 697.07 feet to the Southeast corner of Lot 7B of plat entitled Division of Remainder of Lot 7, John C. Noland Estate recorded in Plat Cabinet C, Slot 1180; thence with line of that lot N 06 deg. 21 min. 44 sec. W. 197.66 feet to an iron pin, Northeast corner of said Lot 7B; thence with Northerly lines of Lots 7B and 7A, N. 84 deg. 50 min. 11 sec. W. 307.81 feet to an existing iron pin, Southeast corner of Lot B of Blueberry Hill

Subdivision recorded in Plat Cabinet C, Slot 741); thence with line of that lot N. 05 deg. 58 min. 29 sec. W. 32.95 feet to a stake, Southeast corner of Lot A of said subdivision; thence with line of that lot N. 23 deg. 30 min. 14 sec. E. 232.01 feet to the Southeast corner of Lot 5 of Muckle Cove Subdivision, Plat Cabinet A, Slot 42A; thence with Easterly lines of Lots 5, 6, 7, 16, 17 and 18 to a planted stone found in fence at top of ridge, Southeast corner of Lot 1-D of property of Paul Kenneth Rathbone et ux. recorded in Plat Cabinet C, Slot 5515; thence with Easterly boundary of Lots 1-D and 1-B of said Rathbone property in a Northerly direction to the Southeast corner of Tract V of Susan Queen Carver property recorded in Plat Cabinet C, Slot 3613; thence with Easterly lines of said Tract V and thence continuing with the Easterly boundary of Tract VIII of said property in a North direction to the Northwestmost corner of Lake Junaluska Assembly property recorded in Deed Book 34, page 476, and the Southwestmost corner of Fullbright property recorded in Deed Book 554, page 1739; thence with Northeasterly boundary of said Lake Junaluska Assembly property and Southwesterly boundary lines of property of Robert G. Fullbright and Sylvia F. Echols recorded in Plat Cabinet C, Slot 3723, in a Southeasterly direction to a point in the Southwesterly boundary of property recorded in Deed Book 708, page 1269, and in center of Sleepy Hollow Drive; thence leaving said road and running with the Southerly boundary of said property in an Easterly direction to the Southwest corner of property described in Deed Book 689, page 479; thence S. 84 deg. 55 min. 48 sec. E. 650.78 feet to the Southwest corner of the Charles G. and Emma Jean Millwood, Trustees, property (PIN 8617-64-5125) recorded in Deed Book 600, page 2127; thence with Southerly line of said property to the Southwest corner of the Robert G. and Patricia H. Fullbright, Trustees, property recorded in Deed Book 473, page 1894, common corner with Lake Junaluska Assembly property recorded in Deed Book 34, page 476; thence with the Northerly and thence Southwesterly boundary of said Fullbright property a Southeasterly direction to the Northeast corner of Lot 26, Addition to Section 23, Lake Junaluska Assembly, recorded in Plat Book K, page 81, (Plat Cabinet B, Slot 217), said property being described in Deed Book 295, page 394; thence with East line of said property to the Northwest corner of property described in Deed Book 390, page 777, Tract 2; thence N. 58 deg. 26 min. 12 sec. E. 124.09 feet to an iron pipe; thence S. 21 deg. 14 min. 00 sec. E. 105 feet to a point in center of a 10-foot wide asphalt drive, Northwest corner of property described in Deed Book 212, page 208; thence with Northerly line of that property an Easterly direction to the Northwest corner of property described in Deed Book 481, page 1136; thence with Northerly boundary of said property in a Northeasterly direction to the Southwesterly corner of property described in Deed Book 481, page 1136 (PIN 8617-73-6199); thence with Westerly boundary of said property in a Northeasterly direction to a point, Northwest corner of property described in Deed Book 582, page 2001; thence with Westerly boundary of said property in a Southeasterly direction S. 61 deg. 54 min. 48 sec. E. 112.73 feet; S. 58 deg. 19 min. 12 sec. E. 74.01 feet; S. 14 deg. 33 min. 53 sec. E. 64.58 feet; S. 02 deg. 28 min. 02 sec. E. 134.93 feet; and S. 29 deg. 47 min. 02 sec. E. 45.78 feet to the Northwest corner of Lot 6 of the Olin T. and Katherine Mouzon Subdivision as shown on plat recorded in Plat Book L, page 67 (Plat Cabinet B. Slot 235); thence S. 22 deg. 15 min. W. 53.0 feet to the northerly margin of Mouzon Drive as shown on said plat; thence with said margin of said Drive in a Southeasterly direction S. 60 deg. E. 28.0 feet; S. 41 deg. E. 28.0 feet; S. 48 deg. 30 min. E. 54.0 feet; S. 80 deg. E. 48 feet; S. 70 deg. 30 min. E. 32 feet to the Southeast corner of Lot 5 of said subdivision; thence continuing with margin of said drive and Southerly boundary line of Lot 5, S. 80 deg. 00 min. E. 36.0 feet; S. 42 deg. 48 min. E. 31.0 feet; thence S. 73 deg. 13 min. E. 29.0 feet to a stake, common corner of Lots 5, 4 and 2 of said subdivision; thence with Westerly line of said Lot 2, S. 03 deg. 00 min. E. 49 feet to a point, Northeastmost corner of Lot 1A; thence continuing with line of Lot 2, S. 3 deg. 00 min. E. 119 feet to a stake, Southwest corner of said Lot 2; thence with Southerly line of said lot S. 78 deg. 30 min. E. 150 feet to a point in outside line of said Mouzon subdivision, common corner of Lots 1 and 2 of Patten Subdivision recorded in

Plat Book G, page 32 (Plat Cabinet B, Slot 129), said point also being in the Westerly margin of Wilcox Drive; thence with Easterly line of said Lot 1, S. 32 deg. 31 min. W. 195 feet to the Southeast corner of property described in Deed Book 311, page 676; thence with Easterly boundary of said property and continuing with Westerly margin of Wilcox Drive in a Southerly direction to the intersection of Wilcox Drive, Bust O Dawn Dr., Old County Road (SR 1376) and Norton Way; thence with Old County Road (SR 1376) in an Easterly and Southerly direction approximately 2075 feet to the Northwest corner of property described in Deed Book 236, page 187, and Northeast corner of property described in Deed Book 349, page 938, (Tri-Vista Villas Common Area); thence leaving County Road and with line between said property described in Deed Book 349, page 938, and Tri Vista Villas property, S. 10 deg. 05 min. E. 129 feet to a stake in center of Rogers Cove Branch and in Northern boundary line of property described in Deed Book 571, page 1645; thence continuing with said branch and Southerly boundary of said property in an Easterly direction approximately 236.1 feet to a point in Westerly boundary of property described in Deed Book 352, page 733; thence leaving the branch and running in a Southeasterly direction approximately 57.9 feet to a point in Northern right of way boundary of Whittle Drive extension (also known as Avenue "C"); thence with the arc of a curve running in a clockwise direction with the margin of said Avenue "C" In a Southeasterly direction to the Southwestmost corner of property described in Deed Book 382, page 694; thence continuing with said margin of said Avenue "C" in a Southeasterly direction to the Northwestmost corner of property described in Deed Book 534, page 614, HCR; thence leaving said Avenue "C" and with Northerly boundary of property described in Deed Book 534, page 614, in an Easterly direction N. 69 deg. 00 min. E. 29.3 feet to a stake; S. 71 deg. 15 min. E. 78 feet to a stake; and S. 34 deg. 00 min. E. 34 feet to a in Westerly boundary of property described in Deed Book 662, page 63; thence continuing with Easterly boundary of property described in Deed Book 534, page 614 in a Southwesterly direction to a butternut (walnut) tree, Southeastmost corner of property described in Deed Book 534, page 614, and Northeastmost corner of property described in Deed Book 517, page 362; thence S. 21 deg. 30 min. W. 23.70 feet to an iron pipe, said iron pipe also being in the Westerly boundary of property described in Deed Book 662, page 63; thence continuing with Easterly boundary of property described in Deed Book 517, page 362, S. 32 deg. 48 min. 54 sec. E. 169.39 feet to a point, Northeastmost corner of property described in Deed Book 836, page 1441; thence with Northerly boundary of said property S. 72 deg. 35 min. 23 sec. W. 75.67 feet to a point in Eastern margin of Avenue "C", Northwest corner of property described in Deed Book 836, page 1441; thence continuing with said margin of Avenue "C" and Western boundary of said property in a Southwesterly direction to the Southwest corner of said property; thence with Southern boundary of said property in an Southeasterly direction to the Southwestmost corner of property described in Deed Book 662, page 63; thence with Southerly boundary of said property in a Southeasterly direction to a point, said point being in the center of Tail Race; thence with center of said Tail Race six calls as follows: N. 09 deg. 02 min. 10 sec. E. 25.62 feet; N. 62 deg. 36 min. 22 sec. E. 111.25 feet; N. 54 deg. 20 min. 18 sec. E. 100.98 feet; N. 50 deg. 17 min. 17 sec. E. 55.65 feet; N. 42 deg. 06 min. 04 sec. E. 95.69 feet, and N. 26 deg. 24 min. 03 sec. E. 83.89 feet to a point in center of bridge over said Tail Race and in center of Old County Road (SR 1376); thence with center of said road in a Southeasterly direction to the Northeasterly corner of property described in Deed Book 822, page 2178, and as shown on plat recorded in Plat Cabinet C, Slot 6119; thence with center of said road and with Easterly boundary of said property recorded in Deed Book 822, page 2178, S. 41 deg. 49 min. 49 sec. E. 252.03 feet of the Northeast corner of property described in Deed Book 472, page 386, and as shown on plat recorded in Plat Cabinet C, Slot 2683; thence continuing with said road and Easterly boundary of said property in a Southeasterly direction S. 40 deg. 06 min. 47 sec. E. 295.41 feet to the intersection of SR 1376 (Old County Road) and SR 1375 (Lake Junaluska Depot Road, aka South Lakeshore Drive); thence with center of said SR 1375 and southerly boundary of said property S. 59 deg. 26 min.

13 sec. W. 307.22 feet to the Southwest corner of said property; thence continuing with center of SR 1375 in a Southwesterly direction approximately 1250 feet to the point of intersection with said road and centerline of said Norfolk-Southern Railroad track; thence leaving said road and running with centerline of said railroad track in a Southwesterly direction approximately 1500 feet to the Southern right of way boundary of U.S. Highway 23-74 (Great Smoky Mountain Expressway), the point of BEGINNING, containing approximately 1200 acres, more or less.

SECTION 2. This act becomes effective August 31, 2013.

SENATE BILL 290:
Waynesville Annexation

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	April 9, 2013
Introduced by:	Sen. J. Davis	**Prepared by:**	Judy Collier
Analysis of:	Second Edition		Research Assistant

SUMMARY: ***Senate Bill 290[1] is a local bill that annexes the unincorporated community of Lake Junaluska Assembly into the Town of Waynesville.***

CURRENT LAW: North Carolina Law sets forth four (4) basic ways in which a town or city may annex an area:

1. **Voluntary Annexation.** The owners of all real property in the area desiring to be annexed sign a petition requesting annexation.[2]
2. **Legislative Act.** The General Assembly has the authority to extend the boundaries of any town or city. This method is most helpful to a town or city trying to annex an area that they could not otherwise.
3. **Satellite Annexation.** This method allows a town or city to annex certain non-contiguous areas meeting the statutory standards into the town or city limits.[3]
4. **Nonvoluntary Annexation.** The town or city brings into the corporate limits an area that has not voluntarily agreed to be annexed.[4]

BILL ANALYSIS: Senate Bill 290 would legislatively annex 1,200 acres, more or less, as specifically described in the bill, commonly known as Lake Junaluska Assembly, into the Town of Waynesville.

EFFECTIVE DATE: This act becomes effective August 31, 2013.

BACKGROUND: Lake Junaluska Assembly is an unincorporated community in Haywood County consisting of a 200-acre lake, and a Methodist conference and retreat center which currently provides municipal-type services to approximately 800 residential units within its boundary. The request for annexation into the Town of Waynesville was initiated voluntarily by the governing board of Lake Junaluska Assembly, Inc. following nearly two years of extensive study and public input by the affected private property owners.

According to the Town of Waynesville, the Lake Junaluska Assembly, Inc. will continue to be tax-exempt as a religious assembly, and the extension of the corporate boundary will result in the following changes to the Town:

- Population increases by approximately 850 to 10, 872.
- Land area increases approximately 1.4 square miles to 10.16 square miles.
- Registered voters increase approximately 630 to 7,478.
- The total assessed value increases approximately $192 million to $1.339 billion.

[1] The Proposed Committee Substitute (PCS) for Senate Bill 290, amending the description of the territory to be annexed, received a Favorable Report from Senate State and Local Government Committee on April 3, 2013.
[2] Part 1 of Article 4 of Chapter 160A.
[3] Part 4 of Article 4 of Chapter 160A.
[4] Parts 2 and 3 of Article 4 of Chapter 160A.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 6*
PROPOSED COMMITTEE SUBSTITUTE S6-PCS35033-RB-2

Short Title: UI Fund Changes. (Public)

Sponsors:

Referred to:

January 31, 2013

A BILL TO BE ENTITLED

AN ACT TO TRANSFER FUNDS TO THE UNEMPLOYMENT INSURANCE FUND TO MAKE PRINCIPAL PAYMENTS ON THE TWO AND ONE-HALF BILLION DOLLAR ADVANCE MADE BY THE FEDERAL GOVERNMENT TO THE UNEMPLOYMENT INSURANCE FUND TO PAY UNEMPLOYMENT COMPENSATION BENEFITS.

The General Assembly of North Carolina enacts:

SECTION 1. The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Commerce, shall transfer and allocate to the Unemployment Insurance Fund any unencumbered cash balance as of June 30, 2013, of each of the following special funds within the Department and then close each of these special funds:

(1) Worker Training Trust Fund (Special Fund Code 64654-6400).

(2) Training and Employment Account (Special Fund Code 64655-6601).

SECTION 2. There is appropriated from the Special Employment Security Administration Fund to the Unemployment Insurance Fund the sum of ten million dollars ($10,000,000) for the 2013-2014 fiscal year to be used to make principal payments on advances made by the federal government under Title XII of the Social Security Act to the Unemployment Insurance Fund to pay unemployment compensation benefits.

SECTION 3. This act becomes effective July 1, 2013.

SENATE BILL 6:
UI Fund Changes

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	February 6, 2013
Introduced by:	Sens. Rucho, Rabon, Brock	**Prepared by:**	Cindy Avrette
Analysis of:	PCS to First Edition S6-CSRB-2		Committee Counsel

SUMMARY: ***House Bill 4 and Senate Bill 6 are companion bills recommended by the Revenue Laws Study Committee. The Revenue Laws recommendation contained both programmatic changes and appropriation provisions to enable the State to more quickly retire the $2.6 billion advance the State has borrowed from the federal government to pay unemployment insurance benefits.***

- ***The General Assembly enacted the programmatic changes in House Bill 4, S.L. 2013-2.***
- ***The appropriation provisions were removed from House Bill 4 and are contained in the proposed committee substitute for Senate Bill 6. The PCS would transfer more than $17 million from three funds and accounts to the Unemployment Insurance Fund to make principal payments on the $2.6 billion advance. The PCS will need to be re-referred to the Appropriations Committee.***

BILL ANALYSIS: The proposed committee substitute for Senate Bill 6 would close two accounts that have not been utilized and transfer the balance of those accounts to the Unemployment Insurance Fund. All monies in that fund are swept daily into the State's account in the federal Unemployment Trust Fund and used to make principal payments on the advance made by the federal government to the account to pay unemployment compensation benefits. The proposed committee substitute would also transfer $10 million from the Special Employment Security Administration Fund to the Unemployment Insurance Fund for the same purpose.

EFFECTIVE DATE: The bill would become effective July 1, 2013.

BACKGROUND: If a state does not have sufficient revenues in its Unemployment Trust Fund to pay benefits, the federal unemployment account provides an automatic advance or loan to the state.[1] North Carolina received its first advance in February 2009. The State currently owes the federal unemployment account $2.6 billion.[2]

The General Assembly created the Worker Training Trust Fund in 1987. It is funded from interest earned on the Employment Security Reserve Fund and monies in the Fund have historically been used for Worker Training Programs at the community colleges. House Bill 4 removes this funding source by providing that all interest earned on the Reserve Fund accrues to it. The money in the Reserve Fund, as amended by House Bill 4, may be used only to fund unemployment compensation benefits and principal and interest payments on advances made by the federal government to the Unemployment Insurance Fund. There is approximately $6 million in this account. Senate Bill 6 would close this fund and remit the unencumbered balance to the Unemployment Insurance Fund.

[1] As of January 3, 2013, 20 states have an outstanding state loan from the Federal Unemployment Account.
[2] NC's debt is the 3rd largest behind California at $10.3 billion and New York at $3.5 billion. The federal advance to NC, as of January 31, 2013, is $2.6 billion.

O. Walker Reagan
Director

S6-SMRB-7 CSRB-2 -V4

Research Division
(919) 733-2578

The General Assembly created the Training and Employment Account in 1991 to capture a mandatory training and reemployment contribution that was levied on employers. Eighty percent of the contributions were allocated to community college training programs and the remaining 20% were allocated to the Employment Security Commission for employment services and administrative expenses. The contributions that funded the account have not been collected since 2005.[3] There is approximately $688,000 in this account. Senate Bill 6 would close this fund and remit the unencumbered balance to the Unemployment Insurance Fund.

The Special Employment Security Administration Fund is funded primarily by interest and penalty[4] payments employers make on past due contributions. There is approximately $16 million[5] in the Fund. Senate Bill 6 would transfer $10 million of this amount to the Unemployment Insurance Fund.

[3] S.L. 1999-321 created the contribution rate and account with a sunset of January 1, 2002. S.L. 2001-424 extended the sunset until January 1, 2006.
[4] Since 2006, the Division of Employment Security has transferred the funds it receives attributable to penalties to the Fines and Forfeitures Account.
[5] Some portion of this amount may be attributed to penalties paid to the Fund prior to 2006.

GENERAL ASSEMBLY OF NORTH CAROLINA

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: February 6, 2013

TO: Senate Finance Committee

FROM: Aubrey Incorvaia
Fiscal Research Division

RE: PCS to First Edition S6-CSRB-2, UI Fund Changes

FISCAL IMPACT

☑ Yes ☐ No ☐ No Estimate Available

State Impact	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
Special Fund Revenues:					
Unemployment Insurance Fund	17,070,015				
Special Fund Expenditures:					
Worker Training Trust Fund	6,381,187				
Training & Employment Account	688,828				
Special Employment Security Administration Fund	10,000,000				
NET STATE IMPACT	**$0**	**$0.0**	**$0.0**	**$0.0**	**$0.0**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Commerce Division of Employment Security

EFFECTIVE DATE: July 1, 2013

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY:

Proposed Committee Substitute (PCS) to Senate Bill (SB) 6 requires the Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Commerce to transfer cash balances to the Unemployment Insurance Fund from the Worker Training Trust Fund and the Training and Employment Account and then close these funds. The

Special Employment Security Administration Fund will also transfer $10 million to the Unemployment Insurance Fund.

ASSUMPTIONS AND METHODOLOGY:

PCS to SB 6 requires unencumbered cash balances from three special funds to be put toward repayment of the $2.5 billion advance the State borrowed from the federal government to pay unemployment insurance benefits. Effective July 1, 2013, the amount generated by transferring the following funds within Commerce's Division of Employment Security is estimated to be $17.1 M:

- Worker Training Trust Fund –These funds have historically been used for Worker Training Programs. This fund was created in 1987 from interest earned by the Employment Security Reserve Fund. As of June 30, 2013, the unencumbered cash balance is estimated to be $6.4 M and will be available for transfer to the Unemployment Insurance Fund.
- Training & Employment Account – Historically, these funds have been used for Community College training programs and Employment Security employment services. The contribution that supported these programs sunset on January 1, 2011, and no further appropriations were made. As of June 30, 2013, the unencumbered cash balance is estimated to be $0.7 M and is available for transfer to the Unemployment Insurance Fund.
- Special Employment Security Administration Fund – These funds come from the collection of penalties & interest. PCS to SB 6 transfers $10 M of the fund's cash balance to the Unemployment Insurance Fund. The cash balance as of December 31, 2012 is $16.1 M. It is assumed that these funds will remain unencumbered through the end of Fiscal Year 2012-2013.

SOURCES OF DATA: North Carolina Accounting System

TECHNICAL CONSIDERATIONS: None

SENATE PAGES ATTENDING

COMMITTEE: Finance ROOM: 544

DATE: 4-10 TIME: 1 pm

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

Page Name	Hometown	Sponsoring Senator
1 Chandria Boykin	Winterville	D. Davis
2 Jamar Jones	Snow Hill	D. Davis
3 Lillie Gardner	Stantonsburg	D. Davis
4 Bobby Evans	Snow Hill	D. Davis
5 Morgan Bass	Farmville	D. Davis
6		
7		
8		
9		
10		

Do not add names below the grid.

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

Senate Committee on Finance
Tuesday, April 16, 2013, 1:00 PM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 129	Limit State Facilities Finance Act Debt. For discussion only	Senator Tucker
SB 471	Debt Issuance Accountability Act: GA Approval. For discussion only	Senator Tucker

Adjournment

Senate Finance Committee
Tuesday, April 16, 2013
Room 544 LOB, 1:00 p.m.

Minutes

The Senate Committee on Finance met on Tuesday, April 16, 2013, at 1:00 p.m. in room 544 of the Legislative Office Building. Andrew Pelletier of Creswell, Sawyer Strand of Faison and Karen Metts of Trenton served as pages. Senator Rabon served as Chair to the meeting.

S.B. 129 – Limit State Facilities Finance Act Debt

Senator Tucker was recognized to explain the bill which was on the agenda for discussion only. Senator Brock moved to adopt the proposed committee substitute (PCS) for discussion. The bill would limit the amount of special indebtedness the General Assembly could authorize to 25% of the amount of general obligation bond indebtedness supported by the General Fund. The PCS applies the limit to all indebtedness supported by the General Fund that was authorized pursuant to legislation enacted after January 1, 2013. Cindy Avrette, a staff attorney with the Research Division, was recognized to answer questions. Vance Holloman, Deputy State Treasurer, was recognized to further explain and answer questions. He explained debt capacity, the legal authority needed to issue debt and the State's available credit. He explained what special indebtedness was issued for – capital improvement. Mark Bondo, a fiscal analyst with the Fiscal Research Division, was recognized to explain capital improvements and certificates of participation. A copy of the PCS, the summary and the 2013 Debt Affordability Study is attached.

S.B. 471 – Debt Issuance Accountability Act: GA Approval

Due to time constraints, this bill was pulled from the agenda.

The meeting adjourned at 1:43 p.m.

Senator Bill Rabon, Presiding Chair
Senate Finance Committee

DeAnne Mangum
Senate Finance Clerk

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 129
PROPOSED COMMITTEE SUBSTITUTE S129-CSRB-7 [v.3]
4/16/2013 9:06:59 AM

Short Title: Limit State Facilities Finance Act Debt. (Public)

Sponsors:

Referred to:

February 26, 2013

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT ISSUANCE OF DEBT UNDER THE STATE CAPITAL FACILITIES FINANCE ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 142-83 reads as rewritten:

"**§ 142-83. Authorization of special indebtedness; General Assembly approval.**

(a) General Assembly Approval. – The State may incur or issue special indebtedness subject to the terms and conditions provided in this Article for the purpose of financing the cost of capital facilities that meet one of the following conditions:

(1) The General Assembly has enacted legislation describing the capital facility and authorizing its financing by the incurrence or issuance of special indebtedness up to a specific maximum amount.

(2) The General Assembly has enacted legislation authorizing the incurrence or issuance of special indebtedness up to a specific maximum amount for a specific category of capital facilities and the capital facility meets all of the conditions set in that legislation.

(b) Limitation. – The General Assembly may enact legislation to incur or issue special indebtedness under subsection (a) of this section only if it determines at the time the legislation is enacted that the amount of special indebtedness authorized by the legislation does not exceed the limitation in this subsection. The determination of the General Assembly must be based upon reasonable estimations and once made may be relied upon as conclusive.

The sum of the special indebtedness authorized by the legislation and all other special indebtedness authorized by legislation enacted after January 1, 2013, may not exceed twenty-five percent (25%) of the bond indebtedness of the State supported by the General Fund that was authorized pursuant to legislation enacted after January 1, 2013. For purposes of this section, bond indebtedness supported by the General Fund includes both special indebtedness and general obligation bond indebtedness of the State that is supported by the General Fund."

SECTION 2. This act is effective when it becomes law and applies to special indebtedness to finance the cost of capital facilities incurred on or after that date.

SENATE BILL 129

Short Title:	Limit State Facilities Finance Act Debt.	(Public)
Sponsors:	Senators Tucker (Primary Sponsor); Bingham, Cook, J. Davis, Meredith, and Pate.	
Referred to:	Finance.	

February 26, 2013

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT ISSUANCE OF DEBT UNDER THE STATE CAPITAL FACILITIES FINANCE ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 142-84(c) reads as rewritten:

"(c) Final Approval. – Before any special indebtedness may be incurred or issued pursuant to this Article, the Council of State must authorize the indebtedness by resolution, either as part of or separate from the resolution required by subsection (b) of this section. The resolution must do all of the following:

(1) Authorize the providing of a particular capital facility or, in general terms, the types or classifications of capital facilities to be provided.

(1a) Make a determination that the sum of the special indebtedness proposed to be issued and all other outstanding special indebtedness of the State authorized after July 1, 2013, does not exceed twenty-five percent (25%) of the total amount of outstanding debt of the State that is supported by the General Fund. The determination required to be made by this subdivision is not required in connection with the issuance of bonds and notes for refunding purposes pursuant to G.S. 142-89(f).

(2) Set the aggregate principal amount or maximum principal amount of the special indebtedness authorized.

(3) Set the maturity or maximum maturity of the special indebtedness authorized.

(4) Set the rate, rates, or maximum rate of interest, which may be fixed or vary over a period of time, of the special indebtedness authorized.

(5) Include any other conditions or matters not inconsistent with the provisions of this Article in the discretion of the Council of State, which may include the adoption or approvals as may be authorized in G.S. 142-88 and G.S. 142-89."

SECTION 2. This act becomes effective July 1, 2013, and applies to special indebtedness to finance the cost of capital facilities incurred on or after that date.

SENATE BILL 129:
Limit State Facilities Finance Act Debt

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	April 16, 2013
Introduced by:	Sen. Tucker	**Prepared by:**	Cindy Avrette
Analysis of:	PCS to First Edition S129-CSRB-7		Committee Counsel

SUMMARY: ***Senate Bill 129 would limit the amount of special indebtedness the General Assembly could authorize to 25% of the amount of general obligation bond indebtedness supported by the General Fund. The proposed committee substitute applies the limit to all indebtedness supported by the General Fund that was authorized pursuant to legislation enacted after January 1, 2013.***

CURRENT LAW: The State issues two kinds of tax-supported debt[1]:

- General Obligation Bonds. – GO bonds are secured by the full faith, credit, and taxing power of the State. GO bonds are considered to be the highest quality of all the various types of debt and usually carry the highest credit rating because of the legal protections inherent in constitutionally permitted debt. GO bonds are generally the most transparent of the various types of State debt obligations and typically carry the lowest interest rate. The costs of holding a GO bond referendum are modest. As of June 30, 2012, the State has $4,062.4 billion of General Fund supported GO debt.
- Special Indebtedness. – Special indebtedness may also be known as non-GO debt or appropriation-supported debt. This form of indebtedness includes financing contract indebtedness, such as a lease-purchase contract, an installment-purchase contract, and certificates of participation. It also includes bonded indebtedness that may be issued on an unsecured basis or secured by a specific stream of revenues, a lease payment or financing agreement, or a security interest in the project being financed. All special indebtedness obligations are paid from annual appropriated amounts for debt service. Special indebtedness is rated lower than GO bonds and typically carries a higher interest rate. As of June 30, 2012, the State has $2,430.8 billion of appropriation-supported debt.

The State Capital Facilities Finance Act establishes the legal framework providing for the issuance of special indebtedness; it does not authorize debt. Only the General Assembly may authorize debt. Under the Act, the General Assembly must enact legislation that describes the capital facility to be financed and authorizing its financing through the issuance of special indebtedness up to a specific maximum amount or legislation that authorizes the issuance of special indebtedness up to a specific maximum amount for a specific category of capital facilities.

In addition to the General Assembly enactment of legislation authorizing the special indebtedness, the agency wishing to use special indebtedness to finance a capital project must receive concurrence or approval from the Department of Administration, the State Treasurer, and the Council of State. The State Treasurer must report to the Joint Legislative Commission on Governmental Operations at least five days before the issuance or incurrence of any debt.

[1] The summary relied extensively on the information in the 2013 Debt Affordability Study.

BILL ANALYSIS: Senate Bill 129 would limit the amount of appropriation-supported debt the General Assembly could authorize, beginning July 1, 2013, to 25% of the total amount of outstanding debt supported by the General Fund. As of June 30, 2012, the amount of General Fund supported debt authorized is approximately $6,493.2 billion outstanding plus $206 million authorized but unissued. Of this amount, approximately 40% is special indebtedness.

The PCS clarifies that the calculation of General Fund supported debt includes both GO bond indebtedness and special obligation indebtedness since both are supported by the General Fund. It also modifies the restriction to apply it prospectively. Under the PCS the amount of special indebtedness authorized by the General Assembly could not exceed 25% of the General Fund supported debt authorized pursuant to legislation enacted after January 1, 2013. The PCS effectively restricts the issuance of any special indebtedness on or after January 1, 2013, until the General Assembly authorizes GO bonds.

EFFECTIVE DATE: The bill would become effective when it becomes law and apply to special indebtedness authorized on or after January 1, 2013.

BACKGROUND: Prior to 2001, the State only issued GO bonded indebtedness. Most states have diversified their debt portfolios and utilize one or more of the various types of appropriation-supported debt structures. However, the State of North Carolina has relied extensively on appropriation-supported debt structures since 2000. In affirming the State's rating in 2013, Fitch noted that "Over time the state has become more reliant on appropriation debt." Currently, the State's percentage of appropriation-supported debt obligation exceeds the medians reported for the "AAA" and "AA" rated states. In 2008, 18.5% of the State's outstanding debt was appropriation-supported debt; in 2013 it is 40.4%. By the year 2017 it is projected to be 46.3%.[2]

The Debt Affordability Advisory Committee recommended in its 2013 Debt Affordability Study that the State consider the authorization of GO debt as the preferred, but not necessarily exclusive, method to provide debt financing.

[2] The percentage of total outstanding debt includes debt funded by the Highway and Highway Trust Fund.

State of North Carolina

Debt Affordability Study

February 1, 2013

Debt Affordability Advisory Committee

Department of State Treasurer
325 North Salisbury Street
Raleigh, NC 27603-1385
Phone: 919-508-5176

STATE OF NORTH CAROLINA
DEBT AFFORDABILITY ADVISORY COMMITTEE

February 1, 2013

To: Governor Pat McCrory
Lieutenant Governor Daniel J. Forest, President of the North Carolina Senate
Senator Phil Berger, President Pro Tempore of the North Carolina Senate
Representative Thom Tillis, Speaker of the North Carolina House of Representatives
Members of the 2012 General Assembly through the Fiscal Research Division

Attached is the February 1, 2013 report of the Debt Affordability Advisory Committee submitted to you pursuant to North Carolina General Statute §142-101. The report was created to serve as a tool for sound debt management practices by the State of North Carolina.

The report provides the Governor and the General Assembly with a basis for assessing the impact of future debt issuance on the State's fiscal position and enables informed decision-making regarding both financing proposals and capital spending priorities. A secondary purpose of the report is to provide a methodology for measuring, monitoring and managing the State's debt levels, thereby protecting North Carolina's bond ratings of AAA/Aaa/AAA.

The methodology used by the Committee to analyze the State's debt position incorporates trends in debt levels and peer group comparisons, and provides recommendations within adopted guidelines. The Committee has also provided recommendations regarding other debt and financial management related policies considered desirable and consistent with the sound management of the State's debt.

Respectfully submitted,

Janet Cowell, State Treasurer
Chair, Debt Affordability Advisory Committee

Debt Affordability Advisory Committee Membership

Ms. Janet Cowell, State Treasurer, Chair

Mr. Lyons Gray, Secretary of Revenue

Mr. David McCoy, State Controller

Mr. Art Pope, State Budget Director

Ms. Beth Wood, State Auditor

Mr. Frank H. Aikmus, Senate Appointee

Mr. William T. Graham, Senate Appointee

Dr. James V. Porto, House Appointee

Dr. Jack Vogt, House Appointee

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SUMMARY

Background and Context

A study of debt affordability is an essential management tool that helps to provide a comprehensive assessment of a government's ability to issue debt for its capital needs. Standard & Poor's, one of the three major bond rating agencies, has stated that "Most of the 'AAA' states have a clearly articulated debt management policy. Evaluating the impact of new or authorized but unissued bond programs on future operating budgets is an important element of debt management and assessing debt affordability." Control of debt burden is one of the key factors used by rating agencies' analysts in assessing credit quality.

The Debt Affordability Advisory Committee (the "Committee" or "DAAC") is required to annually advise the Governor and the General Assembly of the estimated debt capacity of the General, Highway and Highway Trust Funds for the upcoming ten fiscal years. The legislation also directs the Committee to recommend other debt management policies it considers desirable and consistent with the sound management of the State's debt. The Committee hereby presents its study for 2013.

Debt Controls and Ratings

Debt capacity is a limited and scarce resource. It should be used only after evaluating the expected results and foregone opportunities. The Study enables the State to structure its future debt issuances within existing and future resource constraints by providing a comparison of its current debt position to relevant industry and peer group standards. The Study can thus be used to help develop and implement the State's capital budget and is premised on the concept that resources, not only needs, should guide the State's debt issuance program. The Committee's adopted guidelines attempt to strike a balance between providing sufficient debt capacity to allow for the funding of essential capital projects and imposing sufficient discipline so that the State does not create a situation that results in a loss of future budgetary flexibility and deteriorating credit position.

The State's ratings were recently affirmed at Aaa (Moody's), AAA (S&P) and AAA (Fitch). Currently, all of the State's debt ratios remain at or below the median levels for the State's peer group comprised of all states rated "triple A" by all three rating agencies. North Carolina's debt is considered manageable at current levels. In affirming the State's rating, Fitch noted that a key rating driver for North Carolina is "...a low–to-moderate debt burden and strong debt management practices...".

The Committee has adopted the ratio of debt service as a percentage of revenues as the controlling metric that determines the State's debt capacity. The State's current revenue picture is positive reflecting a continued economic recovery. The amount of debt service is projected including the issuance of the State's balance of authorized but unissued debt of approximately $206 million. After a period during which weak revenue growth constrained the State's debt capacity, the model results show that the State's General Fund has debt capacity in each of the next 10 years. The ratio of debt service to revenues will peak at 3.94%, slightly below the 4.00% target.

The combined debt capacity of the Highway Fund and the Highway Trust Fund remains exhausted until FY 2014, despite an improving revenue picture. The ratio of transportation debt service to revenues is projected to peak at 6.09% for FY 2014. This is still above the 6% limit, but it does represent an improvement from the estimates of a year ago. Although Transportation debt capacity does not currently exist, the Committee notes the significant financial support for transportation projects afforded by the issuance of Grant Anticipation Revenue Vehicle Bonds and support for the North Carolina Turnpike Authority revenue bonds. On a combined basis, the General Fund and

Transportation Funds debt service is projected to peak at approximately 4.11% of revenues in FY 2014, also an improvement from a year ago.

Table 1

General Fund
Net Tax-Supported Debt Capacity using 4.0% debt service/revenues target ratio
(In millions of dollars)

Fiscal Year	2013	2014	2015	2016	2017
Total Additional Debt Capacity per Year *	$470.8	$231.7	$545.3	$875.8	$566.3
Debt Capacity Available Each and Every Year	$351.0	$351.0	$351.0	$351.0	$351.0

* In addition to that already authorized but unissued. Assumes additional debt capacity is authorized and issued in stated fiscal year.

Table 2

Transportation
Net Tax-Supported Debt Capacity using 6.0% debt service/revenues target ratio
(In millions of dollars)

Fiscal Year	2013	2014	2015	2016	2017
Total Additional Debt Capacity per Year *	$0.0	$107.8	$235.0	$0.0	$93.6
Debt Capacity Available Each and Every Year	0.0	0.0	0.0	0.0	0.0

* In addition to that already authorized but unissued. Assumes additional debt capacity is authorized and issued in stated fiscal year.
GAP Funding for North Carolina Turnpike Authority projects assumed to reach $112 million in FY 2014 and thereafter.

Table 3

General Fund and Transportation Funds
Combined Debt Service / Revenue Percentages

Fiscal Year	2013	2014	2015	2016	2017
General Fund	3.94%	3.79%	3.71%	3.50%	3.19%
Transportation *	4.28%	6.09%	5.42%	4.77%	4.92%
Combined	3.98%	4.11%	3.94%	3.68%	3.42%

Note: Percentages are based on forecasted revenues and debt service.
* GAP Funding for North Carolina Turnpike Authority projects assumed to reach $112 million in FY 2014 and thereafter.

North Carolina was not alone in the realization that the slow pace of the recovery has constrained debt capacity. In its 2012 State Debt Medians Report, Moody's notes that "...borrowing plans were also deferred as formal or informal debt policies constrained states' ability to issue new debt. Many states set debt limits relative to revenue or personal income, and as these measures declined or stagnated during the recession, so did states' debt issuing capacity." North Carolina not only refrained from instituting new debt-financed capital improvement plans, it rescinded $232 million of previously authorized debt financing in 2011.

Interest rate levels remain at or near historic lows, and the State has been able to capitalize on the very favorable market conditions by refinancing over $1.6 billion of outstanding debt since 2009, achieving aggregate debt service savings of $84.3 million. Additional refundings are anticipated. Not only do refundings increase budgetary flexibility by reducing debt service, they also help to create additional debt capacity.

Other Recommendations

Structural Budget Balance

The Committee confirms its view that North Carolina's priorities of achieving structural budgetary balance and rebuilding the State's reserve funds are strong evidence of financial stability and flexibility. The Committee also recognizes that past legislative action targeting an 8% level of reserves in the State's Budget Stabilization Fund (also known as the "Rainy Day Fund") should serve the State well in the event of future economic downturns and that recently the Rainy Day Fund has begun to be replenished after being severely depleted during the recession.

However, the Committee recommends that permanent solutions be devised that promote long term budgetary stability and that reserve fund replenishment remain a priority. These are key factors in maintaining our "triple A" bond rating.

General Obligation Bonds versus Special Indebtedness

The State has relied extensively on the authorization of Special Indebtedness (for example, Certificates of Participation and lease revenue bonds) to provide debt financing for capital projects since 2000. Such indebtedness is not subject to a vote of the people and its repayment is based on the State's annual debt service appropriation. For these reasons, Special Indebtedness is rated lower than the State's General Obligation "GO" bonds and typically carries a higher interest rate, which increases the cost of projects so financed. The State's General Fund percentage of non-voter approved Special Indebtedness now exceeds the median level for states in its peer group based on a 2006 study by one of the rating agencies. Therefore the Committee highly recommends that the State consider the authorization of General Obligation debt as the preferred, but not necessarily the only, method to provide debt financing for its capital needs. The Committee notes that the State Capital Facilities Finance Act (the "Act", Article 9 of Chapter 142) establishes the legal framework providing for the issuance of Special Indebtedness but does not authorize any additional debt without further General Assembly action. The Act is an important financial management tool that permits the State to respond to urgent needs and market conditions. In addition, any rescission of the Act may be viewed negatively by the financial markets as an indication that North Carolina no longer endorses appropriation support for debt-financed projects, which could impair the value of currently outstanding Special Indebtedness held by investors, including many North Carolinians.

Control of Debt Authorization Authority

As discussed above, the State's debt capacity has recently been constrained by declines in revenue. As an alternative to traditional debt structures, various agencies have proposed "off balance sheet" types of arrangements to provide funding for capital projects. Not only do such structures typically result in more expensive financing costs, they also circumvent the State's historically conservative debt management practices. The Committee strongly recommends that the State of North Carolina maintain its historically conservative debt management practices with regard to (1) centralized debt authorization; (2) debt management and issuance; and (3) classification of debt and debt-like obligations when determining the debt burden. These practices are among those considered by the rating agencies when assigning their "triple A" ratings to the State and ultimately allow the State to maintain a healthy financial position.

The Committee believes that centralized debt management is a key best financial management practice and should be embraced by the State as a matter of policy. Furthermore, the Committee strongly encourages the General Assembly to adopt language restricting the ability of any state department, agency, institution, board or commission to enter into financial arrangements that incur debt or debt-like obligations. The Committee notes that the Treasurer's office has developed proposed legislation for consideration by the General Assembly that would address this concern.

Other Liabilities

The State has significant liabilities that do not impact the calculation of debt capacity for the General Fund and Highway Funds (see Appendix A). One such liability is the unfunded portion of retiree health care benefits (termed Other Post Employment Benefits or "OPEB"), which totaled $29.610 billion as of December 31, 2011. This liability is not considered a "hard" liability because it is based upon estimates of costs the State will incur in the future and because the payment schedule of the liability is uncertain. Although the State has accumulated balances of approximately $725 million and recent changes to the State Health Plan have lowered the unfunded liability, the State should take additional action to fund this liability over time.

As of December 31, 2012 the State had a liability of $2.546 billion to the U.S. Treasury for funds borrowed to make unemployment benefit payments. Although that debt is not an obligation of the General Fund, its repayment, including interest costs, requires increased contributions by our employers. The Committee recognizes that the General Assembly has been working on legislative changes that would enable the federal loan to be retired in approximately 2-3 years and restore structural integrity to the system. It has also been suggested by some that the State should issue debt to repay the federal advances. The Committee recommends that great caution be used in determining whether to proceed with such a borrowing that would 1) shift the liability from the private sector to the State and would 2) exceed our debt capacity limitations and increase the State's debt burden by 35%.

The State has fully funded the annual required contribution ("ARC") for the Teachers' and State Employees' Retirement System for 70 of the last 71 years. At 94%, the System remains one of the best funded in the country. Like OPEB, any unfunded obligations do not represent a hard liability in the same way that debt service does and is not included in the model.

While these other liabilities do not impact the debt capacity of the General Fund and Highway Funds, they could have a negative impact upon the bond ratings of the State. We recommend that the General Assembly determine the best course of action to address each of these liabilities, including measures to contain costs when possible and to appropriate funds or take other action to address these liabilities.

SENATE PAGES ATTENDING

COMMITTEE: Finance ROOM: 544

DATE: 4-16 TIME: 1 pm

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

Page Name	Hometown	Sponsoring Senator
1 Andrew Pelletier	Creswell	Jenkins
2 Sawyer Strand	Faison	Jackson
3 Karen Metts	Trenton	Brown
4		
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8		
9		
10		

Do not add names below the grid.

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

VISITOR REGISTRATION SHEET

Senate Finance Committee — April 16, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Julie Wilson	NCAHC
David Crawford	AIANC
Betsy Bailey	PENC
Carson Hine	MVA
~~Casandra Skinner~~	NCACC
Rebecca Tomlin	NCACC

VISITOR REGISTRATION SHEET

Senate Finance Committee — April 16, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Solari	DST
Mary Shuping	NCCCS
Vera Hollowell	DST
Randi Clark Mann	Alzheimer's Assn
Eileen Vallimont	" "
Edgar Medlin	CTVC
	NC Chamber
George Smith	NP
Erin Wynia	NCLM
Mike Sipe	CAUC
Dana Fenton	CCT

VISITOR REGISTRATION SHEET

Senate Finance Committee
Name of Committee

April 16, 2013
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Matthew Moore	Treasury DST
[signature]	SLS
[signature]	DS Treas.
Jay Stein	NCAA
William James	[signature]
Dustin	Harry Brown

Senate Committee on Finance
Tuesday, April 23, 2013, 8:30 AM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 488	Regionalization of Public Utilities.	Rep. Moffitt Rep. McGrady Rep. Ramsey
SB 129	Limit State Facilities Finance Act Debt.	Sen. Tucker
SB 378	Assess Propane Dealers/Distributors.	Sen. Jackson Sen. Rabin Sen. Walters
SB 523	Returns W/Refunds Filed Late Penalty.	Sen. Rucho Sen. Rabon Sen. Rabin

Adjournment

Joint House & Senate Committee on Finance
Tuesday, April 23, 2013 at 8:30 AM
Room 544 of the Legislative Office Building

MINUTES

The House & Senate Committees on Finance met at 8:30 AM on April 23, 2013 in Room 544 of the Legislative Office Building. Representatives Alexander, R. Brawley, W. Brawley, Collins, Davis, Hamilton, Hanes, Hardister, Holley, Howard, Lewis, McManus, Moffitt, R. Moore, D. Ross, Starnes, Stone, Tine, Waddell, and Wells attended.

Representative Julia C. Howard, Senior Chair, presided. The first order of business was to thank the House and Senate Pages and Sergeant-at-Arms (attachments #1-3).

Representative Howard then introduced Dr. Barry Boardman, Chief Economist in the Fiscal Research Division, to present the *GENERAL FUND REVENUE REPORT & ECONOMIC OUTLOOK APRIL 2013* (attachment #4).

After Dr. Boardman presented the report, Senator Ford and Rucho had questions. Representatives Lewis, Starnes, and Collins also had questions.

After Dr. Boardman answered their questions, the meeting adjourned at 9:02 am.

The attachments are as follows:

1. Sergeant-at-Arms Sign-in Sheet
2. Senate Page Sign-in Sheet
3. House Page Sign-in Sheet
4. *General Fund Revenue Report & Economic Outlook April 2013*
5. Public Sign-in Sheet

Representative Julia C. Howard, Senior Chair
Presiding

Alex Rector, Committee Clerk

Principal Clerk
Reading Clerk

SENATE
NOTICE OF JOINT COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Tuesday	April 23, 2013	8:30 AM	544 LOB

Dr. Barry Boardman, Fiscal Research Division, will present the General Fund Revenue Report/Economic Outlook.

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

NORTH CAROLINA HOUSE OF REPRESENTATIVES
JOINT COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2013-2014 SESSION

H488
Jack Cozort

You are hereby notified that the **House Committee on Finance** will meet as follows:

DAY & DATE: Tuesday, April 23, 2013
TIME: **8:30 AM**
LOCATION: **544 LOB**
COMMENTS: Presentation from Barry Boardman, Fiscal Research, on General Fund Revenue Report and Economic Outlook

Respectfully,
Representative Julia C. Howard, Senior Chair
Representative C. Robert Brawley, Co-Chair
Representative David R. Lewis, Co-Chair
Representative Mitchell S. Setzer, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 4:45 PM on Wednesday, April 17, 2013.

___ Principal Clerk
___ Reading Clerk – House Chamber

Alex Rector (Committee Assistant)

GENERAL FUND REVENUE REPORT & ECONOMIC OUTLOOK

April 2013

Barry Boardman, Ph.D.
Fiscal Research Division
North Carolina General Assembly

FISCAL RESEARCH DIVISION
A Staff Agency of the North Carolina General Assembly

Highlights

- General Fund revenue through three quarters of the fiscal year is $110 million above a $14.3 billion revenue target.
- The State's economy has steadily been gaining strength. We anticipate the pace of economic growth to stay on a steady, upward trend.
- Federal sequestration policies may put the pace of growth at risk and as the effects begin to take hold this summer.
- Unlike the last several years, an "April surprise" is more likely especially given the added volatility from the new $50k business exemption and taxpayers' reactions to federal tax changes.

2012-13 Revenue Through December

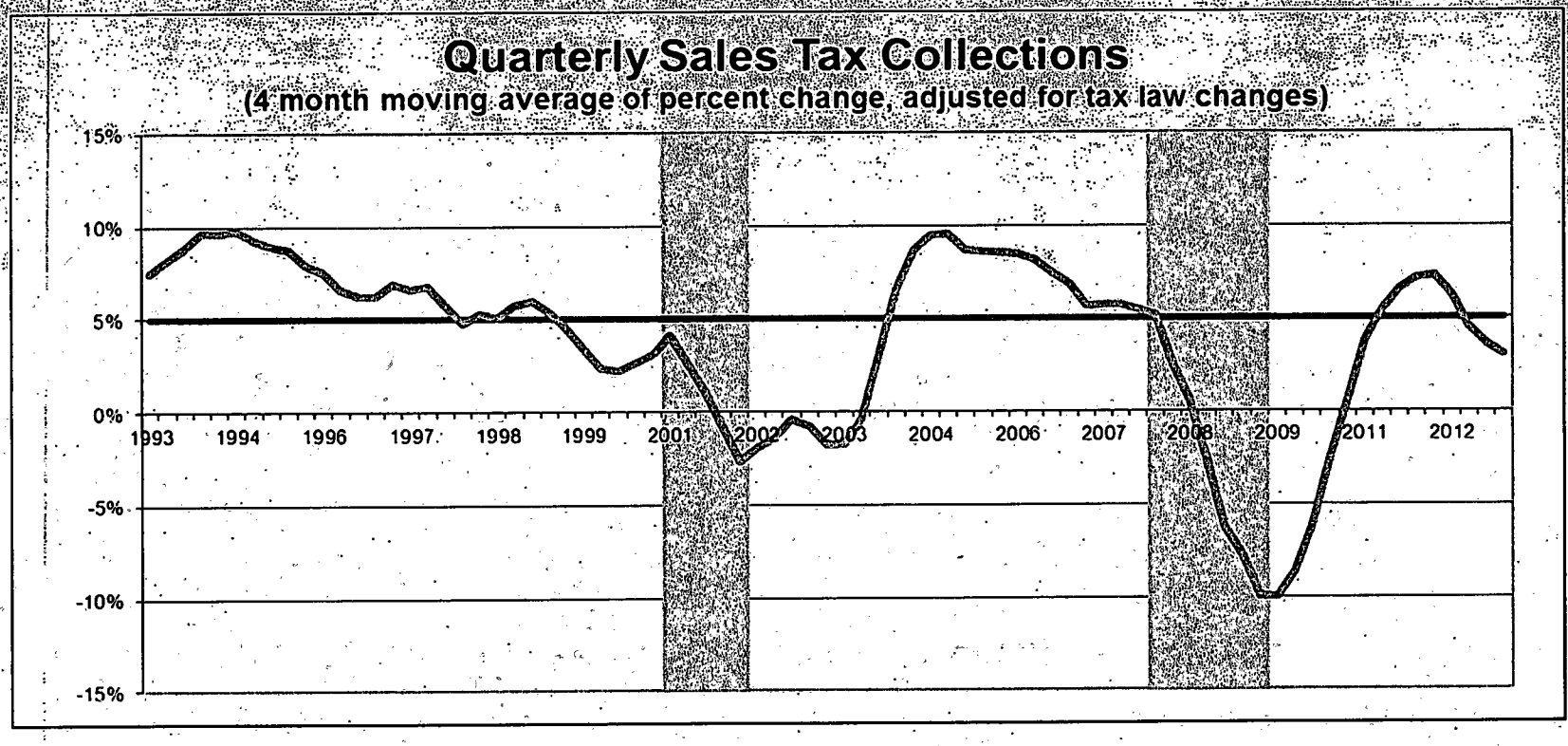
- Through March, General Fund revenue is $110 million above a $14.3 billion revenue target.
  - Tax revenues are $126 million above a $13.5 billion target.
    - Income tax collections are 1.5 % ahead of the budget target.
    - Sales tax collections remain weak with gross collections (total collections before refunds and transfers) 1.4% below target.
  - Non-tax revenues, which include short-term investment income and judicial fees, are $16.3 million below the $613 million target.

2012-13 Revenue Through December

- Through the first three quarters, income tax withholding on wages and salaries is up over last year by 5.6%.
  - The third quarter (Jan. – Mar.) withholding collections were slightly ahead of target with 5.2% growth.
- Baseline sales tax collections picked up the first two months of the third quarter growing above the 3.1% fiscal year target, but in March slowed to 2.8% growth.
  - The slowdown in March has been attributed to the two percent federal payroll tax cut that ended at the start of the year.
  - For the year, net sales tax collections (after refunds and transfers) are $90 million below the $4.0 billion target. The late summer slowdown in the economy is the main reason sales tax collections are below target. Since October, sales have tracked at or slightly above the budget targets.

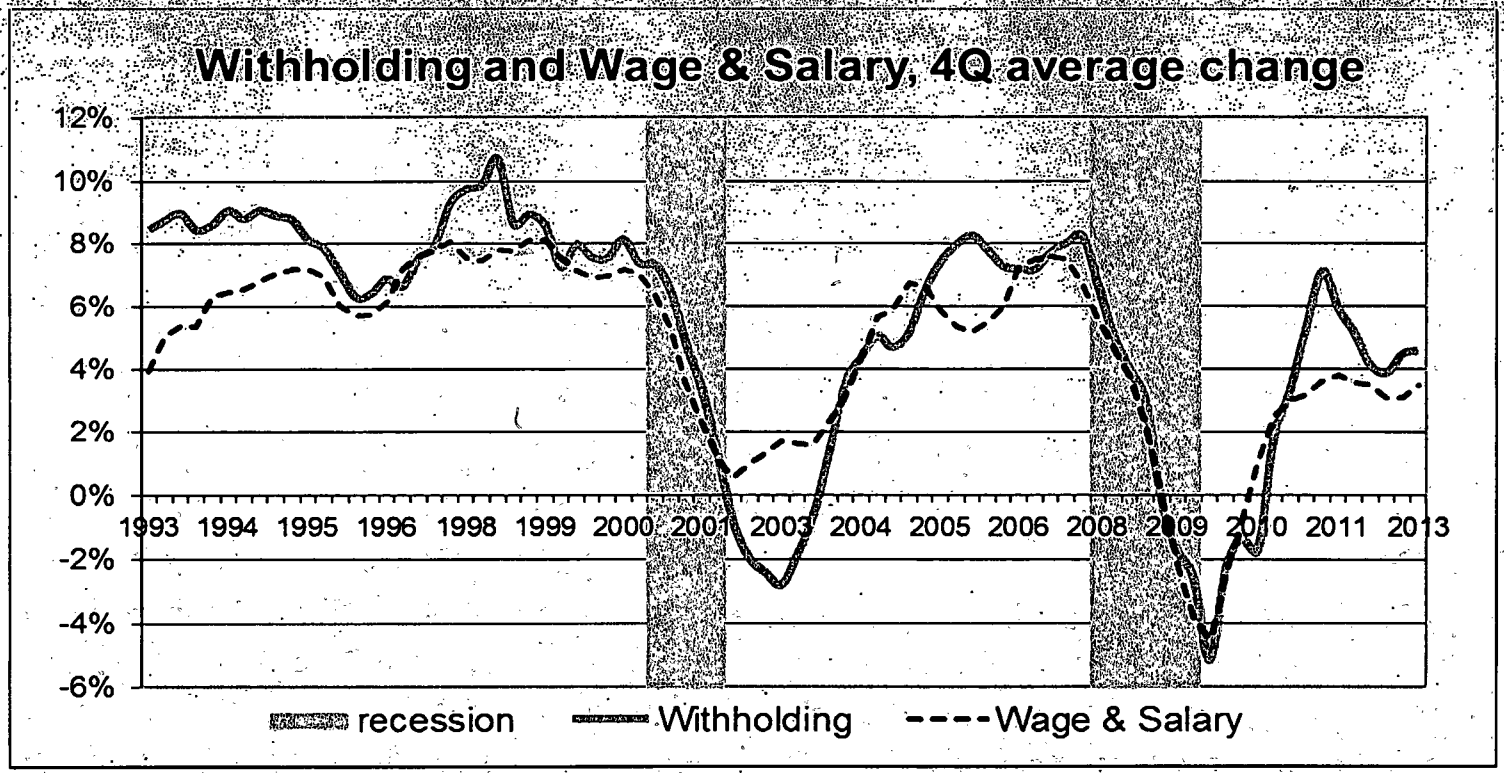
Tracking Economy-Based Collections

The consensus forecast expects baseline sales tax growth for FY 2012-13 to be 3.1%, well-below last year's growth of 6.3%. Weak growth the first-half of the fiscal year has put added pressure on the second-half of the fiscal year to meet this expectation. Thus far, the rebound in sales have not overcome the slow start.



Tracking Economy-Based Collections

The growth in Personal Income withholding continues to be the strongest, most consistent source of General Fund revenue and this fiscal year is no different. Third quarter growth picked up pace with the increase in wage and salary income.

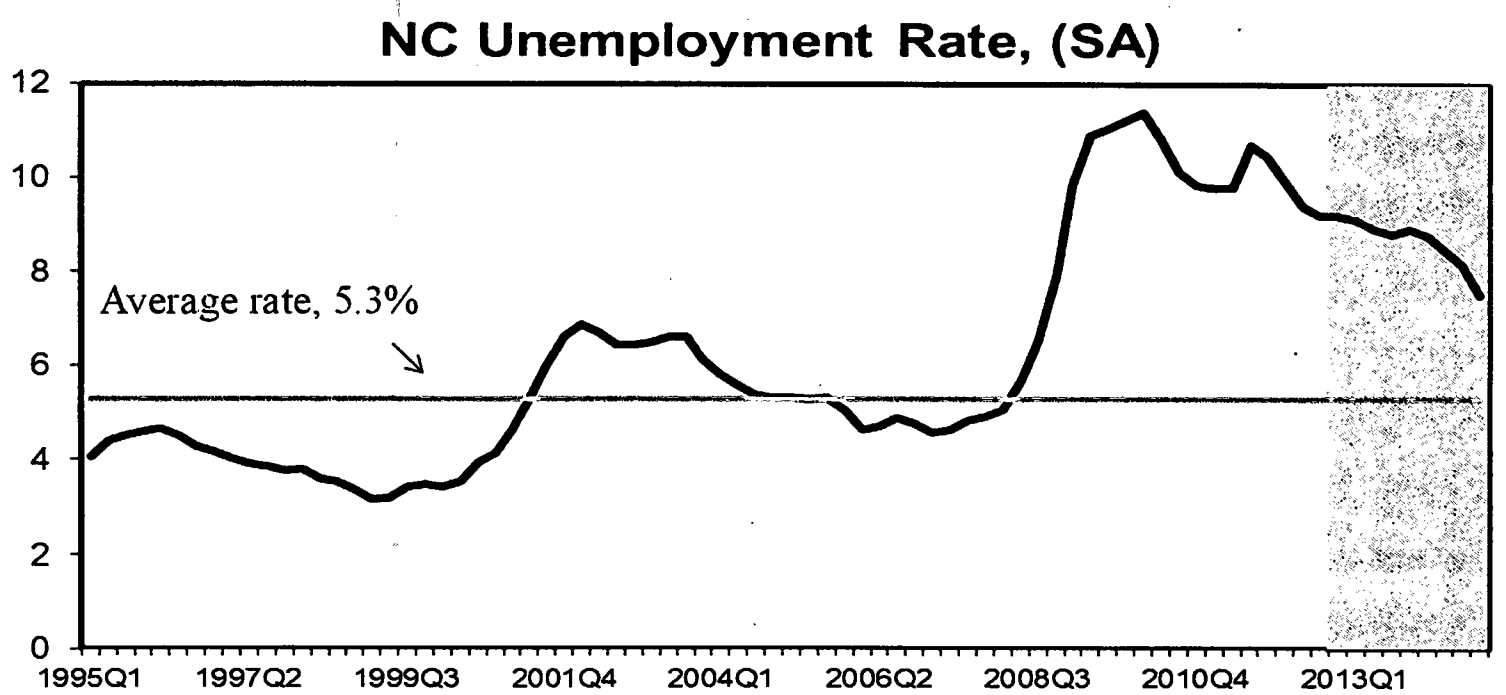


State's Economic Outlook

- Since the economic slowdown last spring, the State's economy has steadily been gaining strength. While we do not anticipate the pace of economic growth to significantly quicken, we do expect it to stay on a steady upward trend.
- Global economic uncertainty fueled part of the slowdown last year. Global conditions always offer some uncertainty, but they have substantially stabilized over the past several months, improving the chances for steady growth.
- The State's employment picture reflects the improvements in the overall economy. Nonetheless, we do not anticipate job growth to be strong enough to significantly lower the unemployment rate until mid-2014.
  - Since last year, the State added nearly 64,000 jobs. At the same time the labor force grew by 64,500 (seasonally adjusted). The combination of modest growth and a growing work force has kept the unemployment rate from falling.

State's Economic Outlook

- The unemployment rate was 9.4% in February. Unfortunately, over the next twelve months the State's unemployment rate is expected to show only slight improvement. In the fourth quarter of 2013 the rate is forecast to be 9.2%.



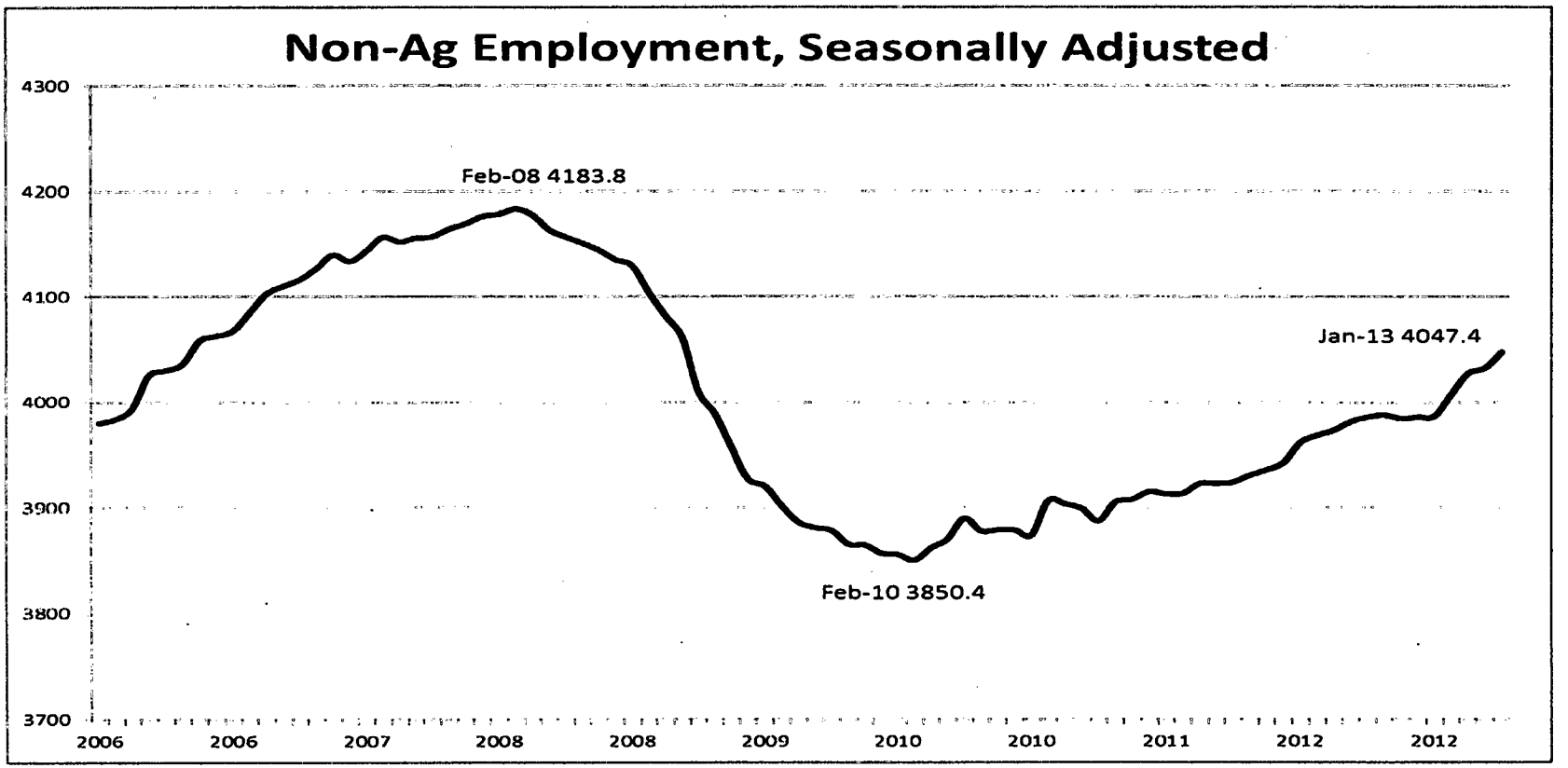
Source: Actual data from the NC Employment Security Commission, Forecast by FRD shaded in gray

State's Economic Outlook

- One important element in the strengthening of the State's overall economy, especially the employment outlook, is the housing market. With so many jobs directly and indirectly tied to housing, the recent improvements in housing are encouraging. While the gains have not been statewide, the momentum is spreading.
- Ongoing federal policy decisions remain a question mark. Sequestration policies may have a bigger impact on North Carolina's economy than in many other states due to the strong military presence and the ancillary industries related to defense.
- Despite a possible slowdown this summer, we do continue to forecast that the State's economy will begin to expand faster than the US economy overall. Unfortunately, that outcome is unlikely to occur until we get closer to 2015.
- Key drivers expected to lead us to a stronger economy will be a rebound in consumer spending both here and abroad, that will spur growth in our tourism, export, and construction industries.

State's Economic Outlook

Non-Agricultural employment (seasonally adjusted) has increased by 197,000 jobs since employment bottomed-out in February 2010, but remains 136,400 below the peak in February 2008.



Source: NC Employment Security Commission

The Revenue Forecast

Revenue Forecast

Since the consensus forecast in early February, changes to the State's economic forecast is a bit of a mixed bag. Economic growth (GSP) for FY 2013-14 has been downgraded since the revenue forecast. Retail sales growth has been cut by nearly a third. However, both wages and employment are expected to improve faster than originally forecast.

FY 2013-14 Growth Forecast	January	April
Gross State Product (nominal GSP)	4.5%	3.6%
Wage & Salary Income	3.9%	5.8%
Employment (Non-Ag)	1.3%	1.5%
Unemployment Rate	8.8%	9.1%
Retail Sales	3.8%	2.7%

Revenue Forecast

- The 2013-15 biennium revenue forecast begins with anticipating how the current fiscal year will end. There are two important components to the end-of-year forecast that add uncertainty to the estimate.

  1. How much did taxpayers increase their 2012 incomes in response to federal tax policy uncertainty that still persisted in December? This will not only have an effect on how the current fiscal year ends, but has implications for the upcoming fiscal year.

  2. How will the new $50k business exemption impact collections? The exemption will add volatility to the second-half of this fiscal year. The business exemption affects every taxpayer reporting non-passive, business income on their personal income tax form.

Revenue Forecast

- April collections always hold the potential to shift revenue forecast assumptions for both the current fiscal year and the upcoming fiscal year due to final income payments and refunds from the past tax year, and estimated payments from corporate and personal income taxpayers on the current tax year. Because of the added uncertainty surrounding this April, this month holds even greater interest than usual.
- The February consensus forecast tried to anticipate the directions the volatility would take, which included estimates on the increase in non-withholding income from 2012 and the reduction of some of those non-withholding dollars in the 2013 tax year. Non-withholding income includes both business income and investment income such as capital gains, interest income, and dividends.
- After April collections have been tabulated we will have a better sense of how well we anticipated the outcomes of these volatile components and whether a revision to the current revenue forecast would be warranted.

Conclusions

- The State's economy is expected to continue along the path of modest yet steady economic growth.
- The economy is on solid footing on most fronts, and improvements in the State's employment growth means the recovery will move along a sturdier track.
- Nonetheless, the ability to continue gaining ground may be sidetracked if the full effects from federal sequestration are allowed to take hold this summer.
- As usual, an "April surprise" provides some risk to the General Fund revenue forecast. With the added volatility this year, the magnitude of the "surprise" may be greater than we have grown accustom to over the last several years.
- Because of the uncertainty surrounding taxpayer behavior affecting income in the 2013 tax year, it will require even greater caution than usual regarding any potential revision to the current consensus forecast.

VISITOR REGISTRATION SHEET

JOINT FINANCE — APRIL 23, 2013

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[signature]	SCS
[signature]	OSP
[signature]	Cap. Access
[signature]	CFTF
Annaliese Dolph	Dolph Lavin
Mary Bethea	AARP-NC
Emily Sutton	NCHFA
Cedric Johnson	BTC
Alyssa Willett	NCACC
Joanne Stevens	Nursing
Susan McCann	AG

VISITOR REGISTRATION SHEET

JOINT FINANCE — APRIL 23, 2013

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Tom Dixon	NCDOR
Bill McGee	DS Treas
Adam Pridemore	NCASA
Katherine Joyce	NCASA
[illegible]	S.A.
[illegible]	Misc Clients
[illegible]	none
[illegible]	none
Sadaf Knight	The Support Center
Suzanne Davis	Williams Mullen
[illegible]	NCSNA

VISITOR REGISTRATION SHEET

JOINT FINANCE — APRIL 23, 2013

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Dee Morris	JWC GA
Jimmy Broughton	Womble Carlyle
Wiley Parry Hice	NCHFA
R Rogers	CWMTF
Carley Ruff	NCHC
Alexandra Sirota	NC Budget & Tax Center
Stan Mullis	NCS
Keith Richards	City of Charlotte
Tom Bean	NCSEA, EDF
Ken McHan	K.M.A.
Bill Griffith	Attny.

VISITOR REGISTRATION SHEET

JOINT FINANCE — APRIL 23, 2013

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
DANIEL VANLIERE	VIBANT HEALTH
Mike Hancock	Senate Finance Counsel
Jennifer Haigwood	NCDOL
Justin DeLancey	NCDOL
TIM KENT	NC Beer & Wine
	NCSU
Amanda Horace	Trautman Sanders
Andy Chase	KMA
Will Grantham	MWC

VISITOR REGISTRATION SHEET

JOINT FINANCE — APRIL 23, 2013

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Amy Bodyfelt	CSS
Michelle Brooks	ECU
W. Gordon Pipp	PPHB
Mitch Lunardi	SEANC
Chuck Stone	SEANC
Allison Waller	Nelson Mullins
Jay Hicks	NCDAACS
DAVID RICE	MFS
Tazra Mitchell	NC BTC
Jim Stegall	NCPCSA
Judy Hyer	Ed Consultant

VISITOR REGISTRATION SHEET

JOINT FINANCE — APRIL 23, 2013

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Carson Blue	MVA
Ashley Jones	NCDOC
Carr McLamb	DENR
Ed Culpepper	Brooks Pierce
Elizabeth Biser	Brooks Pierce

Senate Finance Committee
Wednesday, April 24, 2013
Room 544 LOB, 1:00 p.m.

Minutes

The Senate Committee on Finance met on Wednesday, April 24, 2013, at 1:00 p.m. in room 544 of the Legislative Office Building. Caleb Sanders of Morganton, Elia Dew of Delco, Ben Hedgepeth of Fayetteville, and Nic Carroll of Wilmington served as pages. Senator Rucho served as Chair to the meeting.

S.B. 378 – Assess Propane Dealers/Distributors

Senator Jackson was recognized to explain the bill. It would authorize the North Carolina Propane Education & Research Foundation, a North Carolina nonprofit corporation serving the propane gas industry, to assess propane at a rate of two tenths of a cent per gallon in order to raise funds for the purposes of promoting the common good, welfare, and advancement of the propane industry. Senator Tillman moved for a favorable report and the motion carried. A copy of the bill, the summary and the fiscal note is attached.

S.B. 523 – Returns W/Refunds Filed Late Penalty

Senator Rabin assumed the Chair's responsibility at this point of the meeting. Senator Rucho was recognized to explain the bill. Senator Tillman moved to adopt the proposed committee substitute (PCS) for discussion and the motion carried. The penalty for failure to file a return is a maximum of 25% of "the amount of the tax." The bill would reduce the maximum penalty from 25% to 10 % and would define the term "amount of the tax." Heather Fennell, a staff attorney with the Research Division, was recognized to explain the bill. Tom Dickson, Assistant Secretary of Tax Administration – Department of Revenue, was recognized for comments. After much discussion, Senator Rucho decided to pull the bill from the agenda. A copy of the PCS and the summary is attached.

H488 – Regionalization of Public Utilities

Representative Moffitt was recognized to explain the bill. Senator Rabin moved to adopt the PCS for discussion and the motion carried. Erika Churchill, a staff attorney with the Research Division, was recognized to explain the bill and answer questions. The PCS would establish a statutory framework for the creation and operation of a metropolitan water and sewerage district, and require regionalization of certain large water systems and interconnected sewer systems. Senator Tarte was recognized to offer a technical amendment. Vance Holloman, Deputy State Treasurer, was recognized to further explain the amendment. Senator Rabin moved to adopt the amendment and the motion carried. Gary Jackson, Asheville's City Manager, was recognized to speak in opposition of the bill. Senator Brock moved for a favorable

report for the PCS as amended. The motion carried. A copy of the PCS, the summary, the amendment and a City of Asheville handout is attached.

S.B. 129 – Limit State Facilities Finance Act Debt

The bill was removed from the agenda at the request of Senator Tucker, the bill sponsor.

The meeting adjourned at 2:00 p.m.

Senator Bob Rucho, Presiding Chair
Senate Finance Committee

DeAnne Mangum
Senate Finance Clerk

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	April 24, 2013	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	
✓HB 488	Regionalization of Public Utilities.	Representative Moffitt Representative McGrady Representative Ramsey
✓SB 129	Limit State Facilities Finance Act Debt.	Senator Tucker
✓SB 378	Assess Propane Dealers/Distributors. Peter Ledford	Senator Jackson Senator Rabin Senator Walters
SB 523	Returns W/Refunds Filed Late Penalty. PCS - Heather waiting on summary	Senator Rucho Senator Rabon Senator Rabin

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Wednesday, April 24, 2013

Senator Rucho,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

HB **488** **(CS#1)** Regionalization of Public Utilities.

Draft Number:	H488-PCS30488-STf-35
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Senator Tom Apodaca will handle HB 488

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Wednesday, April 24, 2013

Senator Rabon,
submits the following with recommendations as to passage:

FAVORABLE

SB **378** **(CS#1)** Assess Propane Dealers/Distributors.

Draft Number:	None
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Senator W. Jackson will handle SB 378

SENATE BILL 378*
Commerce Committee Substitute Adopted 4/16/13

Short Title: Assess Propane Dealers/Distributors. (Public)

Sponsors:

Referred to:

March 21, 2013

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE A REFERENDUM OF PROPANE DEALERS AND DISTRIBUTORS REGARDING A VOLUNTARY ASSESSMENT ON PROPANE TO PROVIDE FUNDING FOR PROMOTIONAL, EDUCATIONAL, AND OTHER PROGRAMS OF THE INDUSTRY.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 119 of the General Statutes is amended by adding a new Article 5A to read as follows:

"Article 5A.

"Propane Assessment Act.

"**§ 119-63.1. Title.**

This Article shall be known as the "Propane Assessment Act."

"**§ 119-63.2. Purpose.**

It is in the public interest for the State to enable dealers and distributors of propane to assess the product in order to raise funds for the purposes of promoting the common good, welfare, and advancement of the propane industry.

"**§ 119-63.3. Definitions.**

The following definitions apply in this Article:

(1) Association. – The North Carolina Propane Gas Association, Inc., a North Carolina nonprofit corporation.

(2) Commissioner. – The Commissioner of Agriculture or his or her designee.

(3) Dealer. – Any person who is registered with the Commissioner pursuant to G.S. 119-56 to engage in:

a. The business of selling or otherwise dealing in liquefied petroleum gases requiring handling, storing, measuring, transporting, or distributing liquefied petroleum gas; or

b. The business of installing, servicing, repairing, adjusting, connecting or disconnecting containers, equipment, or appliances using liquefied gas. A person who engages in any of the aforementioned activities only in connection with his or her employer's use of liquefied petroleum gas and not as a business shall not be deemed to be a "dealer" for the purposes of this Article.

Any person who retails liquefied petroleum gas in containers of less than 50 pounds water capacity and whose retail business does not involve the filling or transportation of such containers is not a "dealer" for purposes of this Article.

(4) Department. – The North Carolina Department of Agriculture and Consumer Services.
(5) Distributor. – A person whose primary business involves the sale of liquefied petroleum gas to a dealer.
(6) Liquefied petroleum gas. – Any material which is composed predominantly of any of the following hydrocarbons or mixtures of the same: propane, propylene, butanes (normal butanes or isobutane), and butylenes.
(7) Foundation. – North Carolina Propane Education & Research Foundation, a North Carolina nonprofit corporation that is tax exempt under section 501(c)(3) of the Internal Revenue Code.
(8) Person. – An individual, a partnership, a firm, or a corporation.
(9) Propane. – A liquefied petroleum gas.

"**§ 119-63.4. Referendum.**

(a) The Foundation may from time to time conduct referenda among dealers and distributors in this State upon the question of whether an assessment shall be levied on propane sold in this State.

(b) The Foundation, upon prior consultation with the Association, shall determine:
(1) The amount of the proposed assessment.
(2) The time and place of the referendum.
(3) Procedures for conducting the referendum and counting of votes.
(4) The proposed effective date for the imposition of the assessment, which shall not be less than 180 days from the date the referendum ballot is required to be returned to the Foundation in order to be considered on the question presented.
(5) Any other matters pertaining to the referendum.

(c) The amount of the proposed assessment shall be stated on the referendum ballot. The amount may not exceed the maximum allowable rate of two-tenths of one cent ($.002) for each gallon of propane sold in this State by distributors to dealers.

(d) All dealers and distributors may vote in the referendum. Each distributor and each dealer shall have one vote regardless of the number of bulk plants or retail sales outlets owned. Any dispute over eligibility to vote or any other matter relating to the referendum shall be resolved by the Foundation. The Foundation shall make reasonable efforts to provide all dealers and distributors with notice of the referendum and an opportunity to vote.

(e) Prior to conducting any referenda, the Foundation shall request a list of dealers and their addresses from the Department, and the Department shall provide such information to the Foundation. In order to be eligible to vote, a distributor shall provide the Foundation with a written statement signed by an authorized individual containing its corporate name, address, and the individual authorized to cast a ballot on its behalf, which statement shall be effective until revoked or modified in like manner.

(f) A proposed assessment shall become effective if more than fifty percent (50%) of the eligible votes cast by dealers in the referendum are cast in favor of the assessment and if more than fifty percent (50%) of the eligible votes cast by distributors in the referendum are cast in favor of the assessment. If the assessment is approved by the referendum, then the Foundation shall notify the Department and the Association of the amount of the assessment and the effective date of the assessment. The Department shall notify all distributors and dealers of the assessment.

"**§ 119-63.5. Payment and collection of assessment; refunds.**

(a) Each distributor, as the owner of propane at the time of odorization, or at the time of import of odorized propane, shall make the assessment based on the volume of odorized propane sold and placed into commerce in this State. Each dealer must pay the assessment on each gallon of propane purchased from a distributor. The assessment charge shall be identified

and listed as a separate line item on each distributor's invoice to a dealer for the sale of odorized propane.

(b) Each distributor shall collect the assessment from the dealer to whom the sale is made. Each distributor shall remit to the Foundation the sum of the amount of the assessment multiplied by the number of gallons of propane sold to any dealer during the preceding quarter not later than the 25th day of the month following the end of the prior quarter. The Foundation shall provide forms to the distributors for reporting the assessment. Each distributor shall file the report not later than the 25th day of the month following the end of the prior quarter regardless of the amount due.

(c) A distributor shall keep records of the number of gallons of propane sold to dealers, including number of gallons, name of dealer, and rate of assessment. All documents or records regarding purchases and sales that are made or kept as required by this subsection or subsection (d) of this section shall be made available to the Foundation upon its written request from time to time for the purpose of determining the distributor's compliance with the provisions of this Article. The Foundation shall keep the records confidential and shall not disclose the records except to its accountants, attorneys, or financial advisors without a court order directing it to do so.

(d) The Foundation may bring an action to recover any unpaid assessments plus the reasonable costs, including attorneys' fees, incurred in the action and may use assessment funds to cover all reasonable costs and expenses incurred in connection with recovery of any unpaid assessment.

(e) A dealer may request a refund of the assessment collected from the dealer in the prior month by submitting a written request for a refund to the Foundation no later than 30 days after the end of the month for which the refund is requested. The refund request shall state specifically the period of time for which a refund is requested, the amount of the refund, the distributors to whom the dealer paid assessments, and the amount of each assessment paid and shall be accompanied by proof of payment of the assessment satisfactory to the Foundation. The Foundation shall mail a refund to the dealer within 30 days of receipt of a properly documented refund request, provided that the Foundation shall have no obligation to make a refund to a dealer of assessments that are not yet paid to the Foundation by the distributor. Any dealer who requests and is paid a refund in accordance with this subsection shall not be eligible to receive the benefit of any consumer rebate programs for a period of one year following the date of a refund request under this subsection and shall not be entitled to the payment of any interest by the Foundation on the amount refunded.

"**§ 119-63.6. Use of assessments; reporting.**

(a) The Foundation shall use the funds to promote the common good, welfare, and advancement of the propane industry, including, but not limited to, the following activities and programs: education, training, safety compliance, equipment replacement for low-income customers, marketing, advertising, promotion, and customer rebates to encourage energy-efficient appliance and equipment purchases by residential, commercial, or agricultural consumers. The Foundation shall consult with the Association regarding its proposed use of the funds. In addition, the Foundation shall consult with agricultural industry trade associations and other organizations representing agricultural consumers of propane to ensure that some programs and activities benefit the agriculture industry.

(b) No funds collected pursuant to this Article shall be used in any manner for influencing State or federal legislation or for lobbying.

(c) No more than ten percent (10%) of the funds collected pursuant to this Article shall be used by the Foundation for administrative expenses relating to the expenditure of the funds. The Foundation may advance costs of conducting referenda pursuant to this Article and reimburse those costs from the assessment funds. Costs of conducting referenda, litigation

expenses incurred in connection with actions authorized by G.S. 119-63.5, and the cost of the audit required by subsection (e) of this section are not administrative expenses.

(d) All funds received by the Foundation pursuant to this Article shall be kept in separate accounts from other Foundation funds. The Foundation shall keep minutes, books, and records that clearly reflect all of the acts and transactions of the Foundation with respect to use and expenditure of the funds. The Foundation shall submit a written report annually, not later than March 31 of each year, to the Commissioner on the use and expenditure of the funds received pursuant to this Article.

(e) The books and records of the Foundation shall be audited by a certified public accountant each fiscal year with respect to the receipt and use of the funds. Copies of such audit shall be provided to the Commissioner, to the Association, and to any other interested party upon written request. The Foundation may pay for the audit from the assessment funds.

"**§ 119-63.7. Termination of assessment.**

(a) Upon the Commissioner's receipt of a petition signed by at least ten percent (10%) of the dealers requesting a referendum pursuant to this section, or a receipt of a petition signed by at least fifty percent (50%) of the distributors requesting a referendum pursuant to this section, the Department shall notify the Foundation, and the Foundation shall, within six months, conduct a referendum upon the question of continuing the assessment. If a majority of the votes eligible to be cast by dealers in the referendum are cast against continuing the assessment then in effect and a majority of the votes eligible to be cast by distributors in the referendum are cast against continuing the assessment then in effect, or if the Foundation fails to conduct a referendum within the six-month period, the assessment expires at the end of the year that follows the year in which the Commissioner received a petition pursuant to this section. If more than two-thirds of the eligible votes cast by dealers and more than two-thirds of the eligible votes cast by distributors in the referendum conducted pursuant to this section are in favor of continuing the assessment, then no subsequent referendum shall be required to be conducted pursuant to this section for a period of at least three years from the date the petition was received by the Commissioner.

(b) The Foundation may, on its own initiative, conduct a referendum at any time upon the question of continuing the assessment. If a majority of the votes eligible to be cast by dealers in the referendum are cast against continuing the assessment and if a majority of the votes eligible to be cast by distributors in the referendum are cast against continuing the assessment, the assessment then in effect expires at the end of the year that follows the year in which the referendum was conducted.

(c) The Foundation shall certify to the Department the election results of any referendum conducted pursuant to this Article and shall provide the Department, upon written request, with any documents, papers, tallies, or other information related to the conduct of any referendum conducted by the Foundation.

"**§ 119-63.8. Association activities deemed not in restraint of trade; pricing.**

(a) No meeting or activity undertaken by the Association or the Foundation in pursuance of the provisions of this Article shall be considered illegal under antitrust law or a restraint of trade.

(b) In all cases, the price of propane shall be determined by market forces. Neither the Foundation nor the Association may take any action nor shall any provision of this Article be interpreted as establishing an agreement to pass along to consumers the cost of any assessment provided for by this Article."

SECTION 2. This act is effective when it becomes law.

SENATE BILL 378:
Assess Propane Dealers/Distributors

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	April 24, 2013
Introduced by:	Sens. Jackson, Rabin, Walters	**Prepared by:**	Peter Ledford
Analysis of:	Second Edition		Committee Counsel

SUMMARY: ***Senate Bill 378 would authorize the North Carolina Propane Education & Research Foundation, a North Carolina nonprofit corporation serving the propane gas industry, to assess propane at a rate of two tenths of a cent per gallon in order to raise funds for the purposes of promoting the common good, welfare, and advancement of the propane industry.***

[As introduced, this bill was identical to H403, as introduced by Reps. Collins, Brisson, which is currently in House Commerce and Job Development Subcommittee on Energy and Emerging Markets.]

CURRENT LAW: There is currently no law in the State that would allow the propane gas industry to impose upon itself an assessment to be used for the common good of the industry.

BILL ANALYSIS: Senate Bill 378 would create the Propane Assessment Act.

G.S. 119-63.1 would establish the title of the act as the Propane Assessment Act.

G.S. 119-63.2 would establish the purpose of the act.

G.S. 119-63.2 would establish the definitions used in the act, including the North Carolina Propane Gas Association, Inc. (Association) and the North Carolina Propane Education & Research Foundation (Foundation).

G.S. 119-63.4 would allow the Foundation to conduct a referendum among dealers and distributors of propane in the State to determine whether an assessment should be levied. The assessment could not be levied without the approval of both more than fifty percent of the votes eligible to be cast by dealers and fifty percent of the votes eligible to be cast by distributors. The assessment, if authorized, may not exceed two tenths of a cent ($0.002) per gallon of propane.

G.S. 119-63.5 would require distributors to make the assessment based on the volume of odorized propane sold and placed into commerce in the State. It would require dealers to pay the assessment for each gallon of propane purchased from a distributor. The dealers would pay the assessment to the distributors, who would remit the assessment to the Foundation. The section also includes provisions for recordkeeping, unpaid assessments, and refunds.

G.S. 119-63.6 would set requirements for how the assessment could be used. The assessment may only be used to promote the common good, welfare, and advancement of the propane industry. It may not be used to influence legislation or lobby. No more than ten percent (10%) of the assessment may be used for administrative expenses that are not related to the referenda. The assessment funds must be kept in a separate account and the records of the Foundation must be audited every fiscal year.

G.S. 119-63.7 would establish the procedures for terminating the assessment. The Foundation may, on its own initiative, conduct a referendum at any time on the question of continuing the assessment. In addition, a petition signed by either ten percent (10%) of the dealers or by fifty percent (50%) of the distributors will require the Foundation conduct a referendum within six months. If more than fifty percent of the votes eligible to be cast by dealers and fifty percent of the votes eligible to be cast by

distributors are against continuing the assessment, the Foundation must terminate the assessment. If more than two-thirds of the votes eligible to be cast by dealers and two-thirds of the votes eligible to be cast by distributors are against continuing the assessment, the Foundation may not conduct another assessment within three years of the date of the petition.

G.S. 119-63.8 would state that the activities of the Foundation and the Association under this Act are not in restraint of trade and would prohibit the Foundation and the Association from establishing an agreement to pass the costs of the assessment on to consumers.

EFFECTIVE DATE: This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: April 24, 2013

TO: Senate Finance Committee

FROM: Rodney Bizzell
Fiscal Research Division

RE: Senate Bill 378 (Second Edition)

FISCAL IMPACT

($ in millions)

☑ Yes ☐ No ☐ No Estimate Available

State Impact	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
NC Propane Education and Research Foundation	0.95	0.95	0.95	0.95	0.95
Total Impact	**$0.95**	**$0.95**	**$0.95**	**$0.95**	**$0.95**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:

EFFECTIVE DATE: Becomes effective when law.

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY:

Senate Bill 378 would authorize the North Carolina Propane Education & Research Foundation, a North Carolina nonprofit corporation serving the propane gas industry, to assess propane at a rate of two tenths of a cent per gallon in order to raise funds for the purposes of promoting the common good, welfare, and advancement of the propane industry.
Source: Research Division Committee Counsel Summary

ASSUMPTIONS AND METHODOLOGY:
The NC Propane Gas Association estimates that the assessment would generate $950,000 annually if the maximum assessment of $0.002 per gallon is approved. This estimate is based on the number of gallons sold in North Carolina in 2012.

SOURCES OF DATA: NC Propane Gas Association; US Energy Information Administration

TECHNICAL CONSIDERATIONS: None

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S D

SENATE BILL 523
PROPOSED COMMITTEE SUBSTITUTE S523-CSTD-9 [v.5]
4/23/2013 12:32:44 PM

Short Title: Late Filing Penalty. (Public)

Sponsors:

Referred to:

April 1, 2013

A BILL TO BE ENTITLED

AN ACT TO CLARIFY AND REDUCE THE PENALTIES FOR A TAXPAYER'S FAILURE TO FILE A RETURN.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-236(a)(3) reads as rewritten:

"**§ 105-236. Penalties; situs of violations; penalty disposition.**

(a) Penalties. – The following civil penalties and criminal offenses apply:

...

(3) Failure to File Return. – In case of failure to file any return on the date it is due, determined with regard to any extension of time for filing, the Secretary shall assess a penalty equal to five percent (5%) of the amount of the tax if the failure is for not more than one month, with an additional five percent (5%) for each additional month, or fraction thereof, during which the failure continues, not exceeding ten percent (10%) in the aggregate. For purposes of this subdivision, the "amount of the tax" means the following:

a. For the franchise tax imposed under Article 3 of this Chapter, income taxes imposed under Article 4 of this Chapter, and the gross premiums tax imposed under Article 8B of this Chapter, the "amount of the tax" is the net amount of the tax after subtracting the credits against the tax allowed by this Chapter other than the credits allowed by Articles 4A and 4C of this Chapter.

b. For all other taxes imposed by this Chapter, the "amount of the tax" is the total tax imposed for the period covered by the return.

~~equal to five percent (5%) of the amount of the tax if the failure is for not more than one month, with an additional five percent (5%) for each additional month, or fraction thereof, during which the failure continues, not exceeding twenty-five percent (25%) in the aggregate, or five dollars ($5.00), whichever is the greater.~~

...."

SECTION 2. G.S. 105-236(a), as amended by Section 1 of this act, reads as rewritten:

"**§ 105-236. Penalties; situs of violations; penalty disposition.**

(a) Penalties. – The following civil penalties and criminal offenses apply:

...

(4) Failure to Pay Tax When Due. – In the case of failure to pay any tax when due, without intent to evade the tax, the Secretary shall assess a penalty

equal to ten percent (10%) of the ~~tax, subject to a minimum of five dollars ($5.00).~~tax. This penalty does not apply in any of the following circumstances:

a. When the amount of tax shown as due on an amended return is paid when the return is filed.

b. When the Secretary proposes an assessment for tax due but not shown on a return and the tax due is paid within 45 days after the later of the following:

1. The date of the notice of proposed assessment of the tax, if the taxpayer does not file a timely request for a Departmental review of the proposed assessment.

2. The date the proposed assessment becomes collectible under one of the circumstances listed in G.S. 105-241.22(3) through (6), if the taxpayer files a timely request for a Departmental review of the proposed assessment.

c. When a taxpayer timely files a consolidated or combined return at the request of the Secretary under Part 1 of Article 4 of this Chapter and the tax due is paid within 45 days after the latest of the following:

1. The date the return is filed.

2. The date of a notice of proposed assessment based on the return, if the taxpayer does not file a timely request for a Departmental review of the proposed assessment.

3. The date the Departmental review of the proposed assessment ends as a result of the occurrence of one of the actions listed in G.S. 105-241.22(3) through (6), if the taxpayer files a timely request for a Departmental review.

...."

SECTION 3. Section 2.18 of S.L. 2012-79 is repealed.

SECTION 4. Sections 1 and 2 of this act are effective for penalties assessed on or after October 1, 2013. The remainder of this act is effective when it becomes law.

SENATE BILL 523:
Returns W/Refunds Filed Late Penalty

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	April 24, 2013
Introduced by:	Sens. Rucho, Rabon, Rabin	**Prepared by:**	Heather Fennell Committee Counsel
Analysis of:	PCS to First Edition S523-CSTD-9		

SUMMARY: ***The penalty for failure to file a return is a maximum of 25% of "the amount of the tax." Senate Bill 523 would reduce the maximum penalty from 25% to 10% and would define the term "amount of the tax."***

CURRENT LAW: The Department of Revenue is authorized to impose penalties for violations of Chapter 105 of the General Statutes, including penalties for failure to file a return and failure to pay a tax due. The penalty for failure to file a return is applied to "the amount of the tax" and is a minimum of $5 or 5% for the first month and 5% for each additional month, not to exceed 25%. The penalty for a taxpayer that fails to pay a tax is a minimum of $5 or 10% of the tax.

The current practice of the Department is to apply the penalty to the *net* amount due: the tax imposed minus any credits and any tax paid. This practice results in no penalty for a failure to file a return for which a refund is due.

G.S. 105-236 currently does not define "the amount of the tax." Starting in October, when the new computer system known as the Tax Information Management System (TIMS) is operational, the Department has indicated it will enforce the statute by applying the penalty to the *total* amount due, not the net amount due. This will result in a penalty for a failure to file a return, even if a refund is due. The penalty will be imposed on the total tax liability, not the tax due at the time of the filing of the return.

BILL ANALYSIS: Senate Bill 523 would clarify the penalty for failure to file a return. The bill would define the "amount of the tax" for in the following ways:

For the **franchise tax, income tax, and gross premiums tax** the "amount of the tax" would include any credits allowed. However the "amount of the tax" would not reflect any payments made, including estimated payments and withholding amounts. The "amount of the tax" would be reduced by the tax credits allowed under Chapter 105, for example, the credit against the income tax for children, or for charitable contributions by nonitemizers. This could result in a failure to file penalty applying to returns for which a refund is due.

For **all other taxes,** "the amount of the tax" is the total tax imposed for the period covered by the return.

The bill would lower the amount of the penalty for failure to file to file to 5% for the first month, and 5% for each additional month not to exceed 10%.

Sections 2 and 3 of the bill are conforming changes. The minimum amount for both the penalty for failure to file and the penalty for the failure to pay were repealed at the request of the Department.

EFFECTIVE DATE: This act is effective for penalties assessed on or after October 1, 2013.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H D

HOUSE BILL 488
Committee Substitute Favorable 4/9/13
Third Edition Engrossed 4/11/13
PROPOSED SENATE COMMITTEE SUBSTITUTE H488-CSSTf-35 [v.2]
4/22/2013 8:10:10 PM

Short Title: Regionalization of Public Utilities. (Public)

Sponsors:

Referred to:

April 2, 2013

A BILL TO BE ENTITLED

AN ACT TO PROMOTE THE PROVISION OF REGIONAL WATER AND SEWER SERVICES BY TRANSFERRING OWNERSHIP AND OPERATION OF CERTAIN PUBLIC WATER AND SEWER SYSTEMS TO A METROPOLITAN WATER AND SEWERAGE DISTRICT.

Whereas, regional water and sewer systems provide reliable, cost-effective, high-quality water and sewer services to a wide range of residential and institutional customers; and

Whereas, in an effort to ensure that the citizens and businesses of North Carolina are provided with the highest quality services, the State recognizes the value of regional solutions for public water and sewer for large public systems; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1.(a) All assets, real and personal, tangible and intangible, and all outstanding debts of any public water system meeting all of the following criteria are by operation of law transferred to the metropolitan sewerage district operating in the county where the public water system is located, to be operated as a Metropolitan Water and Sewerage District:

(1) The public water system is owned and operated by a municipality located in a county where a metropolitan sewerage district is operating.

(2) The public water system has not been issued a certificate for an interbasin transfer.

(3) The public water system serves a population greater than one hundred twenty thousand (120,000) people, according to data submitted pursuant to G.S. 143-355(l).

SECTION 1.(b) All assets, real and personal, tangible and intangible, and all outstanding debts of any public sewer system operated by a subdivision of the State and body politic that is interconnected with the metropolitan sewerage district receiving assets pursuant to Section 1.(a) of this act are by operation of law transferred to that metropolitan sewerage district to be operated as a Metropolitan Water and Sewerage District.

SECTION 1.(c) All assets, real and personal, tangible and intangible, and all outstanding debts of any public sewer system operated by the metropolitan sewerage district receiving assets pursuant to Sections 1.(a) and 1.(b) of this act, are by operation of law transferred to, and be operated as, a Metropolitan Water and Sewerage District, as established pursuant to this act.

SECTION 1.(d) Until appointments are made to the Metropolitan Water and Sewerage District established pursuant to this act, the district board of the metropolitan sewerage district in the county in which the public water system, the assets of which are transferred pursuant to Section 1.(a) of this act, is located shall function as the district board of the Metropolitan Water and Sewerage District. All members of the metropolitan sewerage district shall continue to serve on the district board of the Metropolitan Water and Sewerage District until the governing body with appointing authority appoints or replaces that individual on the district board of the Metropolitan Water and Sewerage District.

SECTION 1.(e) All necessary permits for operation shall also be transferred to the Metropolitan Water and Sewerage District established pursuant this act to ensure that no current and paid customer loses services due to the regionalization of water and sewer services required by this act. The new Metropolitan Water and Sewerage District shall immediately begin assessing all permits and the process for transferring the permit or applying for any needed permits. All State agencies shall assist the new Metropolitan Water and Sewerage District in obtaining any needed permits in that entity's name.

SECTION 1.(f) For purposes of this section, the transfer of all outstanding debts by operation of law shall make the Metropolitan Water and Sewer District liable for all debts attached to and related to the assets transferred under this section and the Metropolitan Water and Sewer District shall indemnify and hold harmless the grantor entity for any outstanding debts transferred under this section.

SECTION 2. Chapter 162A of the General Statutes is amended by adding a new Article to read:

"Article 5A.

"Metropolitan Water and Sewerage Districts.

"**§ 162A-85.1. Definitions.**

(a) Definitions. – As used in this Article the following definitions shall apply:

(1) Board of commissioners. – The duly elected board of commissioners of the county or counties in which a metropolitan water and sewerage district shall be created under the provisions of this Article.

(2) City council or Council. – The duly elected city council of any municipality.

(3) Cost. – As defined in G.S. 162A-65.

(4) District. – A metropolitan water and sewerage district created under the provisions of this Article.

(5) District board. – A water and sewerage district board established under the provisions of this Article.

(6) General obligation bonds. – As defined in G.S. 162A-65.

(7) Governing body. – As defined in G.S. 162A-32.

(8) Person. – As defined in G.S. 162A-65.

(9) Political subdivision. – As defined in G.S. 162A-65.

(10) Revenue bonds. – Any bonds the principal of and the interest on which are payable solely from revenues of a water and sewerage system or systems.

(11) Revenues. – All moneys received by a district from, in connection with, or as a result of its ownership or operation of a water and sewerage system, including moneys received from the United States of America, or any agency thereof, pursuant to an agreement with the district board pertaining to the water and sewerage system, if deemed advisable by the district board.

(12) Sewage. – As defined in G.S. 162A-65.

(13) Sewage disposal system. – As defined in G.S. 162A-65.

(14) Sewerage system. – As defined in G.S. 162A-65.

(15) Sewers. – As defined in G.S. 162A-65.

(16) Water distribution system. – As defined in G.S. 162A-32.

(17) Water system. – As defined in G.S. 162A-32.

(18) Water treatment or purification plant. – As defined in G.S. 162A-32.

(b) Description of Boundaries. – Whenever this Article requires the boundaries of an area be described, it shall be sufficient if the boundaries are described in a manner which conveys an understanding of the location of the land and may be by any of the following:

(1) By reference to a clearly identified map recorded in the appropriate register of deeds office.

(2) By metes and bounds.

(3) By general description referring to natural boundaries, boundaries of political subdivisions, or boundaries of particular tracts or parcels of land.

(4) Any combination of the foregoing.

"**§ 162A-85.2. Creation.**

(a) Except as provided by operation of law, the governing bodies of two or more political subdivisions may establish a metropolitan water and sewerage district if all of the political subdivisions adopt a resolution setting forth all of the following:

(1) The names of the appointees to the district board.

(2) The date on which the district board shall be established.

(3) The boundaries of the district board.

(b) Prior to the adoption of a resolution under subsection (a) of this section, the governing body shall hold at least two public hearings on the matter, held at least 30 days apart, after publication of the notices of public hearing in a newspaper of general circulation, published at least 10 days before each public hearing.

"**§ 162A-85.3. District board.**

(a) Appointment. – The district board shall consist of members appointed as follows:

(1) Two individuals by the governing body of each county served, wholly or in part, by the district.

(2) One individual by the governing body of each municipality served by the district located in any county served by the district with a population greater than 200,000.

(3) Two individuals by the governing body of any municipality served by the district with a population greater than 75,000, in addition to any appointments under subdivision (2) of this subsection.

(4) One individual by the governing body of any county served by the district with a population greater than 200,000, in addition to any appointments under subdivision (1) of this subsection.

(5) One individual by the governing body of a county in which a watershed serving the district board is located in a municipality not served by the district, upon recommendation of that municipality. The municipality shall provide to the governing body of the county a list of three names within 30 days of written request by the county, from which the county must select an appointee if the names are provided within 30 days of written request.

(6) One individual by the governing body of any elected water and sewer district wholly contained within the boundaries of the district.

(b) Terms; Reappointment. – Terms shall be for three years. A member shall serve until a successor has been duly appointed and qualified.

(c) Vacancies; Removal. – If a vacancy shall occur on a district board, the governing body which appointed the vacating member shall appoint a new member who shall serve for the remainder of the unexpired term. Any member of a district board may be removed by the governing board that appointed that member.

(d) Oath of Office. – Each member of the district board, before entering upon the duties, shall take and subscribe an oath or affirmation to support the Constitution and laws of

the United States and of this State and to discharge faithfully the duties of the office. A record of each such oath shall be filed with the clerk or clerks of the governing boards appointing the members.

(e) Chair; Officers. – The district board shall elect one of its members as chairman and another as vice-chairman. The district board shall appoint a secretary and a treasurer who may, but need not, be members of the district board. The offices of secretary and treasurer may be combined. The district board may also appoint an assistant secretary and an assistant treasurer or, if the office is combined, an assistant secretary-treasurer who may, but need not, be members of the district board. The terms of office of the chairman, vice-chairman, secretary, treasurer, assistant secretary, and assistant treasurer shall be as provided in the bylaws of the district board.

(f) Meetings; Quorum. – The district board shall meet regularly at such places and dates as are determined by the district board. All meetings shall comply with Article 33C of Chapter 143 of the General Statutes. A majority of the members of the district board shall constitute a quorum, and the affirmative vote of a majority of the members of the district board present at any meeting thereof shall be necessary for any action taken by the district board. No vacancy in the membership of the district board shall impair the right of a quorum to exercise all the rights and perform all the duties of the district board. Each member, including the chairman, shall be entitled to vote on any question.

(g) Compensation. – The members of the district board may receive compensation in an amount to be determined by the district board but not to exceed that compensation paid to members of Occupational Licensing Boards as provided in G.S. 93B-5(a) for each meeting of the district board attended and for attendance at each regularly scheduled committee meeting of the district board. The members of the district board may also be reimbursed the amount of actual expenses incurred by that member in the performance of that member's duties.

"**§ 162A.85.4. Expansion of district board after creation.**

(a) After creation pursuant to G.S. 162A-85.2, the district board may expand to include other political subdivisions if the district board and the political subdivision adopt identical resolutions indicating the political subdivision will become a participant in the district board.

(b) Prior to adopting the resolution under subsection (a) of this section, the district board and the political subdivision shall hold at least two public hearings on the matter, held at least 30 days apart, after publication of the notices of public hearing in a newspaper of general circulation, published at least 10 days before each public hearing.

(c) Upon adoption of the identical resolutions, the political subdivision shall appoint a district member in accordance with G.S. 162A-85.3(a), if that political subdivision is entitled to an appointment under that section.

"**§ 162A-85.5. Powers generally.**

(a) Each district shall be deemed to be a public body and body politic and corporate exercising public and essential governmental functions to provide for the preservation and promotion of the public health and welfare, and each district is hereby authorized and empowered to do all of the following:

(1) To exercise any power of a Metropolitan Water District under Article 4 of this Chapter.

(2) To exercise any power of a Metropolitan Sewerage District under Article 5 of this Chapter.

(3) To do all acts and things necessary or convenient to carry out the powers granted by this Article.

(b) Each district shall keep its accounts on the basis of a fiscal year commencing on the first day of July and ending on the thirtieth day of June of the following year.

"**§ 162A-85.7. Bonds and notes authorized.**

A metropolitan water and sewerage district shall have power from time to time to issue bonds and notes under the Local Government Finance Act.

"**§ 162A-85.13. Rates and charges for services.**

(a) The district board may fix, and may revise from time to time, rents, rates, fees, and other charges for the use of and for the services furnished or to be furnished by any water system or sewerage system. Such rents, rates, fees, and charges may not apply differing treatment within and outside the corporate limits of any city or county within the jurisdiction of the district board. Such rents, rates, fees, and charges shall not be subject to supervision or regulation by any bureau, board, commission, or other agency of the State or of any political subdivision.

(b) Any such rents, rates, fees, and charges pledged to the payment of revenue bonds of the district shall be fixed and revised so that the revenues of the water system or sewerage system, together with any other available funds, shall be sufficient at all times to pay the cost of maintaining, repairing, and operating the water system or sewerage system, the revenues of which are pledged to the payment of such revenue bonds, including reserves for such purposes, and to pay the interest on and the principal of such revenue bonds as the same shall become due and payable and to provide reserves therefor. If any such rents, rates, fees, and charges are pledged to the payment of any general obligation bonds issued under this Article, such rents, rates, fees, and charges shall be fixed and revised so as to comply with the requirements of such pledge.

(c) The district board may provide methods for collection of such rents, rates, fees, and charges and measures for enforcement of collection thereof, including penalties and the denial or discontinuance of service.

"**§ 162A-85.17. Rights-of-way and easements.**

A right-of-way or easement in, along, or across any State highway system, road, or street, and along or across any city or town street within a district is hereby granted to a district in case such right-of-way is found by the district board to be necessary or convenient for carrying out any of the work of the district. Any work done in, along, or across any State highway system, road, street, or property shall be done in accordance with the rules and regulations and any reasonable requirements of the Department of Transportation, and any work done in, along, or across any municipal street or property shall be done in accordance with any reasonable requirements of the municipal governing body.

"**§ 162A-85.19. Authority of governing bodies of political subdivisions.**

(a) The governing body of any political subdivision is hereby authorized and empowered to do any of the following:

(1) Subject to the approval of the Local Government Commission, to transfer jurisdiction over and to lease, lend, sell, grant, or convey to a district, upon such terms and conditions as the governing body of such political subdivision may agree upon with the district board, the whole or any part of any existing water system or systems or sewerage system or systems or such real or personal property as may be necessary or useful in connection with the acquisition, construction, reconstruction, improvement, extension, enlargement, equipment, repair, maintenance, or operation of any water system or sewerage system by the district, including public roads and other property already devoted to public use.

(2) To make and enter into contracts or agreements with a district, upon such terms and conditions and for such periods as such governing body and the district board may determine for any of the following:

a. For the collection, treatment, or disposal of sewage.

b. For the supply of raw or treated water on a regular retail or wholesale basis.

c. For the supply of raw or treated water on a standby wholesale basis.

d. For the construction of jointly financed facilities whose title shall be vested in the district.

e. For the collecting by such political subdivision or by the district of rents, rates, fees, or charges for the services and facilities provided to or for such political subdivision or its inhabitants by any water system or sewerage system and for the enforcement of collection of such rents, rates, fees, and charges.

f. For the imposition of penalties, including the shutting off of the supply of water furnished by any water system owned or operated by such political subdivision, in the event that the owner, tenant, or occupant of any premises utilizing such water shall fail to pay any such rents, rates, fees, or charges.

(3) To fix and revise from time to time, rents, rates, fees, and other charges for the services furnished or to be furnished by a water system or sewerage system under any contract between the district and such political subdivision and to pledge all or any part of the proceeds of such rents, rates, fees, and charges to the payment of any obligation of such political subdivision to the district under such contract.

(4) To pay any obligation of such political subdivision to the district under such contract from any available funds of the political subdivision and to levy and collect a tax ad valorem for the making of any such payment.

(5) In its discretion or if required by law, to submit to its qualified electors under the election laws applicable to such political subdivision any contract or agreement which such governing body is authorized to make and enter into with the district under the provisions of this Article.

(b) Any such election upon a contract or agreement called under subsection (a) of this section may, at the discretion of the governing body, be called and held under the election laws applicable to the issuance of bonds by such political subdivision.

"**§ 162A-85.21. Submission of preliminary plans to planning groups; cooperation with planning agencies.**

(a) Prior to the time final plans are made for the extension of any water system or sewerage system, the district board shall present preliminary plans for such improvement to the county or municipal governing board for their consideration if such facility is to be located within the jurisdiction of any such county or municipality. The district board shall make every effort to cooperate with the county or municipality in the location and construction of any new proposed facility authorized under this Article.

(b) Any district board created under the authority of this Article is hereby directed, wherever possible, to coordinate its plans for the construction of any new water system or sewerage system improvements with the overall plans for the development of the planning area if such district is located wholly or in part within a county or municipal planning area.

(c) This section shall not apply to renovations, repairs, or regular maintenance of water systems or sewer systems.

"**§ 162A-85.25. Adoption and enforcement of ordinances.**

(a) A district shall have the same power as a city under G.S. 160A-175 to assess civil fines and penalties for violation of its ordinances and may secure injunctions to further ensure compliance with its ordinances as provided by this section.

(b) An ordinance may provide that its violation shall subject the offender to a civil penalty of not more than one thousand dollars ($1,000) to be recovered by the district in a civil action in the nature of debt if the offender does not pay the penalty within a prescribed period of time after he has been cited for violation of the ordinance. Any person assessed a civil

penalty by the district shall be notified of the assessment by registered or certified mail, and the notice shall specify the reasons for the assessment. If the person assessed fails to pay the amount of the assessment to the district within 30 days after receipt of notice, or such longer period, not to exceed 180 days, as the district may specify, the district may institute a civil action in the General Court of Justice of the county in which the violation occurred or, in the discretion of the district, in the General Court of Justice of the county in which the person assessed has his or its principal place of business, to recover the amount of the assessment. The validity of the district's action may be appealed directly to General Court of Justice in the county in which the violation occurred or may be raised at any time in the action to recover the assessment. Neither failure to contest the district's action directly nor failure to raise the issue of validity in the action to recover an assessment precludes the other.

(c) An ordinance may provide that it may be enforced by an appropriate equitable remedy issuing from court of competent jurisdiction. In such case, the General Court of Justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the district for equitable relief that there is an adequate remedy at law.

(d) Subject to the express terms of an ordinance, a district ordinance may be enforced by any one, all, or a combination of the remedies authorized and prescribed by this section.

(e) An ordinance may provide, when appropriate, that each day's continuing violation shall be a separate and distinct offense.

"**§ 162A-85.29. No privatization.**

The district board may not in any way privatize the provision of water or sewer to the customers of the district unless related to administrative matters only."

SECTION 3. G.S. 159-44(4) reads as rewritten:

"(4) "Unit," "unit of local government," or "local government" means counties; cities, towns, and incorporated villages; consolidated city-counties, as defined by G.S. 160B-2(1); sanitary districts; mosquito control districts; hospital districts; merged school administrative units described in G.S. 115C-513; metropolitan sewerage districts; metropolitan water districts; metropolitan water and sewerage districts; county water and sewer districts; regional public transportation authorities; and special airport districts."

SECTION 4. G.S. 159-48(e) reads as rewritten:

"(e) Each sanitary district, mosquito control district, hospital district, merged school administrative unit described in G.S. 115C-513; metropolitan sewerage district, metropolitan water district, metropolitan water and sewerage district, county water and sewer district, regional public transportation authority and special airport district is authorized to borrow money and issue its bonds under this Article in evidence thereof for the purpose of paying any capital costs of any one or more of the purposes for which it is authorized, by general laws uniformly applicable throughout the State, to raise or appropriate money, except for current expenses."

SECTION 5. G.S. 159-81(1) reads as rewritten:

"(1) "Municipality" means a county, city, town, incorporated village, sanitary district, metropolitan sewerage district, metropolitan water district, metropolitan water and sewerage district, county water and sewer district, water and sewer authority, hospital authority, hospital district, parking authority, special airport district, special district created under Article 43 of Chapter 105 of the General Statutes, regional public transportation authority, regional transportation authority, regional natural gas district, regional sports authority, airport authority, joint agency created pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes, a joint agency authorized by agreement between two cities to operate an airport pursuant to G.S. 63-56, and the North Carolina Turnpike Authority described in Article 6H of

Chapter 136 of the General Statutes and transferred to the Department of Transportation pursuant to G.S. 136-89.182(b), but not any other forms of State or local government."

SECTION 6. This act is effective May 15, 2013, and the Metropolitan Water and Sewer District in Section 1 of this act shall be created by operation of law.

HOUSE BILL 488:
Regionalization of Public Utilities

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	April 22, 2013
Introduced by:	Reps. Moffitt, McGrady, Ramsey	**Prepared by:**	R. Erika Churchill
Analysis of:	PCS to Third Edition H488-CSSTf-35		Committee Counsel

SUMMARY: ***The pcs for House Bill 488 would establish a statutory framework for the creation and operation of a metropolitan water and sewerage district, and require regionalization of certain large water systems and interconnected sewer systems.***

CURRENT LAW:

Chapter 162A governs water systems and sewer systems which are not operated as a public enterprise or department of a county or city. In particular that chapter provides the creation and operation of water and sewer authorities, metropolitan water districts, metropolitan sewerage districts, and county water and sewer districts. The method of establishment varies, but generally upon creation, each of the entities has a governing board appointed by the units of local government involved that operate the system, with specific authority to set rates and fees, power to sue and be sued, and authority to contract in the name of the entity, amongst other powers and duties.

Additionally, water and sewer authorities have the authority charge special assessments (G.S. 162A-6(a)(14a)), and metropolitan water districts, metropolitan sewer districts, and county water and sewer districts have the authority to tax (G.S. 162A-45, 162A-71, 162A-91). All have the authority to issue bonds (G.S. 162A-8, 162A-37, 162A-70, 162A-90).

All are subject to the open meeting law and public records law.

BILL ANALYSIS:

Section 1. Transfers the all of the assets and liabilities of any public water system serving more 120,000 people that is not part of a joint or regional system to the metropolitan sewerage district in the county where that water system is located, to be operated as a metropolitan water and sewerage district (MSWD). Also transfers the assets and liabilities of any public sewer system interconnected with that water system to the metropolitan sewerage district, to be operated as a MSWD, and the assets and liabilities of the metropolitan sewerage district are transferred to the MSWD.

Section 2. Establishes a framework for the creation and operation of a metropolitan water and sewerage district (MSWD), as follows:

- Creates a district board, of no more than 15 members appointed by the counties and cities served by the MSWD. Counties with a population over 200,000 and cities with a population over 75,000 that are served by the MSWD would have increased membership on the board. The board would elect officers from within its membership, serve 3 year terms, and may be removed by the appointing authority.

- Grants authority to the MSWD to exercise any of the powers and duties of a metropolitan water district or a metropolitan sewerage district. The MSWD would be subject to the Local Government Budget and Fiscal Control Act.
- Grants authority to the MSWD to set rates and fees, issue bonds and notes. Any rates and fees may not apply differing treatment within and outside the corporate limits of any city or county within the jurisdiction of the MSWD.
- Requires the MSWD to seek the approval of the county or city in which the MSWD constructs new water systems or sewer systems.
- Prohibits privatization of the provision of water or sewer, except for administrative matters only.

Sections 3-5. Conforming changes.

EFFECTIVE DATE: May 15, 2013.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 488

AMENDMENT NO. 1
(to be filled in by
Principal Clerk)

H488-AST-57 [v.1]

Comm. Sub. [YES]
Amends Title [NO]
H488-CSSTf-35v.2

Date April 24 ,2013

Senator Tarte

moves to amend the bill on page 5, line 36 by deleting "Commission," and substituting "Commission regarding the disposition of any outstanding debt related to the water system or sewer system, or both,".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED √ FAILED _____ TABLED _____

FREQUENTLY ASKED QUESTIONS ABOUT THE ASHEVILLE WATER SYSTEM

I. Does Asheville's regional water system require higher rates to customers outside the City?

NO. The law requires just the opposite. Customers inside and outside the City pay the same rates. The Sullivan Acts ensure that. The City of Asheville has no desire to pursue legislation or policies that result in inequitable treatment to rate-payers who live outside the city limit.

II. Does Asheville take $3 million a year out of the enterprise fund to subsidize the City's general fund?

NO. Similar to other City departments, the Water Fund pays for expenditures associated with shared central support services, otherwise known as overhead costs (e.g. human resources, financial management, information technology, legal services). The City utilizes the services of a third-party to annually prepare a cost allocation plan (CAP) to identify indirect central service costs, determine a reasonable basis for allocating those costs to operating activities, and then calculate the costs to be allocated to each operating department. This process follows generally accepted accounting principles.

The water utility consists of more than 140 employees and provides water to more than 125,000 people. The City's water system is comprised of 3 water treatment plants (WTPs), 40 pump stations, 32 ground storage tanks, and approximately 1,660 miles of pipe. An enterprise of this size certainly requires functions covering financial management and billing, payroll, purchasing, fleet maintenance, human resource management, and other related central services. The table below shows Asheville's indirect cost allocation compared to other cities in North Carolina. Asheville's cost allocation for central services related to water are in line with other water utilities'.

Utility	Year	Transfer	Operating Expenses	Transfer as a % of OE
Asheville	2012	$ 2,349,404	$ 18,351,872	12.80%
Cary	2012	5,326,178	38,245,284	13.93%
Charlotte	2011	9,424,014	100,592,389	9.37%
Durham	2010	5,797,679	54,183,477	10.70%
Raleigh	2012	13,270,843	96,862,398	13.70%

III. Are most water meters outside the City, even though most usage is inside the City?

NO. 56% of the system's 56,900 meters are inside the City, and a majority of the consumption is inside the City.

IV. Does the City of Asheville withdraw $3 million a year from the water receipts that can be used for sidewalks and roads that are affected by water system improvements?

NO. While the Sullivan Act allows the City to use up to 5% of water revenues for infrastructure improvements associated with waterline projects, the City uses much less for these purposes. To date, the amount the city has spent from water transfers is $140,000. Money that is budgeted but not spent is returned to the fund.

V. Does the City use these funds for more than infrastructure affected by water improvements?

NO. The City uses the funds strictly as allowed by the 2009 amendment to the Sullivan Act.

Proposed legislation, HB252 (Asheville Transfers), passed the House 74-40 on April 3. The proposed bill would take away the city's ability to use water revenues to fund future street and sidewalk projects related to waterline repair. The Sullivan Acts currently provide the city the legal right to make such infrastructure investments.

While the proposed bill aims to take away the city's ability to use water revenues to fund these types of related infrastructure improvements, it does contain language that provides funding for street and sidewalk improvements currently planned which further legitimizes the city's historic use of these funds.

VI. Did the City of Asheville use revenue from the Asheville/Buncombe Water Authority to subsidize its general fund?

NO. The City of Asheville, Buncombe County and the Asheville/Buncombe Water Authority maintained interlocal agreements during the years of 1982 – 2005. While these agreements mainly covered the operating and governance structure of the Authority, they also called for the City and County to be paid a percentage of gross water revenues annually, 5.0% and 2.5% respectively. Known to some as the "Asheville-Buncombe Compromise", these transfers were a regulatory solution for the inability of the Asheville/Buncombe Water Authority to charge differential water rates. Audits of

available records (1991 – 2005) show that City transfers were in accordance with the agreements[1].

VII. Does the City of Asheville intend to pursue policies to "double, triple and possibly quadruple increases" in water rates (Metropolitan Sewerage/Water System Committee 2012)?

NO. The City understands that sound economic development depends on predictable policy and accountable government. In our region, water customers know that rates and policies will be the same across the service area, inside the City and out, and that they can work with elected officials to ensure stability of policy and service.

The City of Asheville has worked to ensure that residential and commercial water rates are fair and predictable. To that end, water rates are projected to increase by no more than 1.5% annually for residential, multi-family, small commercial and manufacturing customers. Annual rate increases are capped at 3.5% for large commercial customers.

VIII. Would the proposed forced transfer of Asheville's water system to a non-elected regional system board save the ratepayers $3 million a year?

NO. The City is working on developing shared functions with the Metropolitan Sewerage District that can lead to savings, if implemented over a timely fashion. However, the proposed forced transfer of the water system will cost the taxpayers of Asheville $33.8 million over the first 9 years.

It is also important to understand that placing the utility in the hands of an appointed board does not provide the same level of transparency and accountability as having oversight by elected officials that are easily identified in the city, county and region.

IX. Will consolidation of MSD and City of Asheville Water Utility save utility customers millions of dollars annually?

NO. True economies of scale are achieved with utility consolidation when there is an opportunity to share plants and treatment facilities. Since water and wastewater use different treatment systems, they cannot share plants. As a result, the only savings that come from the consolidation of water and wastewater are through sharing "central services" – Human Resources, Finance, Purchasing, IT Services, etc.

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[1] City of Asheville, NC, Budget and Audit Documents, 1991 – 2005, 02 February 2013. http://bit.ly/WyGABG

If economies of scale and financial savings were the goals of consolidation, then the most cost efficient models would be to consolidate under the City of Asheville or Buncombe County. These organizations already provide central services to a wider range of services, making them more affordable for the taxpayer. The City of Asheville conducted a financial analysis that shows consolidation under MSD will cost city taxpayers $33 million over nine years while not providing significant cost savings to water rate payers.

Asheville and MSD already share some central services, like customer service and billing. Additional consolidation could be achieved without state legislation through interlocal agreements among the City, the County and MSD and other interested parties. Such an agreement would capitalize on shared services - such as purchasing, warehouses, fleet maintenance, employee benefits and information technology - while avoiding the high costs of a complete merger.

X. Does the City of Asheville have one of the highest leakage rates in the state? Does it waste approximately 30% of the water it pumps?

NO. The 30% figure more correctly represents the current non-revenue or unbilled portion of the water produced. It includes water that is used for water treatment, fire training, fire suppression, flushing for water quality and hydrant testing, inaccurate metering, and theft as well as leakage. The actual number for leakage is much lower than the 30 percent. The non-revenue uses of water are similar for other systems and are not a unique circumstance for the Asheville system and are not related to the expenditure of water revenues.

The mountainous terrain requires 39 independent pressure zones to avoid extreme (i.e., excessive or minimal) pressures. The current system supplies water to areas that range in elevation from 1,950 to 3,700 feet mean sea level (MSL). This system experiences unusually high pressures in some areas that contribute directly to water loss. Added to this is the system miles of pipe (over 1650 miles) that also contribute to the water loss. Our consulting engineers, Brown and Caldwell, have stated publically that our water loss is acceptable when the pressures and miles of pipe are considered. Based on the Infrastructure Leakage Index used to compare systems, Asheville compares favorably to other systems. There is a calculation for "unavoidable annual loss" and Asheville's loss is reasonable. The economic benefit from aggressive leak reduction activities is marginal when compared to the cost of water production according to Brown and Caldwell.

XI. Hasn't the City of Asheville allowed the system to fall into disarray?

NO. Asheville has invested more than $70 million in capital infrastructure since Fiscal Year 2005-2006, which is more than two and a half times than in the previous six years when the systems was governed under a regional water agreement. The City's financial forecast projects $125.9 million in system improvements over the next ten years.

XII. Hasn't the NC Treasurer's Office determined the City of Asheville will not be negatively impacted by the transfer of water assets and liabilities to the proposed Authority?

No opinion or finding of this fact by the North Carolina Treasurer's Office Local Government Commission has been provided to the City of Asheville. The statement seems to refer to what impact a forced transfer might have on the City's balance sheet by transferring assets and liabilities to another entity, thereby reducing the City's overall net assets, which is a different issue than the annual financial impact a forced transfer would have on city taxpayers.

SENATE SERGEANT-AT-ARMS

COMMITTEE: **SENATE FINANCE**

DATE: 04/23/13 ROOM: 544

1. ERNIE SHERRELL
2. JUSTIN OWENS
3. DONNA BLAKE
4. ANDERSON MEADOWS
5. _____
6. _____

SENATE PAGES ATTENDING

COMMITTEE: Finance ROOM: 544

DATE: 4-24 TIME: 1 pm

PLEASE PRINT LEGIBILY!!!!!!!!!!!!....*or else!*

Page Name	Hometown	Sponsoring Senator
1. Caleb Sanders	Morganton	Daniel
2. Elia Dew	Delco	Rabon
3. Ben Hedgepeth	Fayetteville	Meredith
4. Nic Carroll	Wilmington	Goolsby
5.		
6.		
7.		
8.		
9.		
10.		

Do not add names below the grid.

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

VISITOR REGISTRATION SHEET

Senate Finance Committee — April 24, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Penny Huffi	School of Gov.
C Wentz	Barringer
Cedric Johnson	BTC
Emily Sutton	NCHFA
Will Morgan	TNC
Gina Holmes	TCF

VISITOR REGISTRATION SHEET

Senate Finance Committee — April 24, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Andy Ellen	NCPSM
Will Grantham	MLC
[signature]	MWC
[signature]	Citizen
Megan Apple	citizen
Heather Barrett	W&S
Angie Harris	W&S
Erin Wynia	NCLM
Sabra Faires	Tax Council
Susanna Dancy	WM
[signature]	NBS

VISITOR REGISTRATION SHEET

Senate Finance Committee — **Name of Committee**

April 24, 2013 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Gary Jackson	City of Asheville
Jack Cozort	NSS
Conaan Hume	MVA
Julie White	NCMPA
David Ferrell	Van Blah
Doug Heron	Williams Mullen
John McAlister	Electrolux
Alex Bodge	CS

VISITOR REGISTRATION SHEET

Senate Finance Committee — April 24, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Laura Kay Tyree	NCEL
TOM DIXON	NCDOR
Lennie Collins	NCDOR
Eric Wayne	NCDOR
Leah Burns	Governor's Office
Vonce Hollomon	NC DST
Bill McRae	NC DST
Sohari	DST
Dennis Jernigan	Public Works City of Fayetteville
Amanda Honaker	Troutman Sanders
Keith Richards	City of Charlotte

Senate Committee on Finance
Tuesday, April 30, 2013, 1:00 PM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 25	Hunting & Fishing/Active Duty Military.	Sen. Brown
SB 129	Limit State Facilities Finance Act Debt.	Sen. Tucker
SB 368	Inmates Prescriptions/Pistol Permits.	Sen. Bingham
SB 476	NC Captive Insurance Act.	Sen. Meredith Sen. Apodaca
SB 547	Energy Savings Contracting Amendments.	Sen. Hunt

Adjournment

Senate Finance Committee
Tuesday, April 30, 2013
Room 544 LOB, 1:00 p.m.

Minutes

The Senate Committee on Finance met on Tuesday, April 30, 2013, at 1:00 p.m. in room 544 of the Legislative Office Building. Annie Linn Johnson of Fayetteville served as the page to the Committee. Senator Rucho served as Chair to the meeting.

S.B. 476 – NC Captive Insurance Act

Senator Meredith was recognized to explain the bill which would allow captive insurance companies in the State and establish procedures for the organization and regulation of their operations. Senator Meredith was recognized to offer an amendment and Senator Cooke moved to adopt the amendment. The motion carried. Rose Vaughn Williams, Department of Insurance's legal counsel, was recognized to further explain the bill and answer questions. Ray Martinez, Finance Division – Department of Insurance, and Peter Ledford, a staff attorney with the Research Division, were recognized to answer questions. Senator Hise moved for a favorable report and the motion carried. A copy of the bill, the summary and the amendment is attached.

S.B. 129 – Limit State Facilities Finance Act Debt

Senator Tucker was recognized to explain the bill and moved to adopt the proposed committee substitute (PCS) for discussion. The motion carried. The bill would limit the amount of special indebtedness the General Assembly could authorize to 25% of the amount of general obligation bond indebtedness supported by the General Fund. The PCS applies the limit to all indebtedness supported by the General Fund that was authorized pursuant to legislation enacted after January 1, 2013. Senator Cook moved for a favorable report and the motion carried. A copy of the PCS and the summary is attached.

S.B. 25 – Hunting & Fishing/Active Duty Military

Senator Brown was recognized to explain the bill which amend G.S. 113-130(4)e. to define active duty members of the U.S. Armed Forces outside the State of North Carolina as individual residents of the State for the purposes of obtaining certain hunting, fishing, trapping, sportsman, and special activity licenses. Senator Clodfelter moved for a favorable report. The motion carried. A copy of the bill and the summary is attached.

S.B. 368 – Inmates Prescriptions/Pistol Permits

Senator Bingham was recognized to explain the bill. Senator Brown motioned to adopt the PCS for discussion and the motion carried. The PCS would authorize county jails to

charge a fee of $10 for prescription drugs, and would amend the fee for pistol permits. Senator Bingham offered an amendment that changes the fees. Heather Fennell, a staff attorney with the Research Division, was recognized to explain the amendment. Senator Bingham moved for the amendments adoption and the motion passed. Senator Hise motioned for a favorable report and the motion carried. A copy of the PCS, the summary and the amendment is attached.

S.B. 547 – Energy Savings Contracting Amendments

Senator Hunt was recognized to explain the bill and moved to adopt the PCS for discussion. The motion carried. The bill does two things as it relates to energy savings contracts: 1) Sections 1-3 make changes to the law governing guaranteed energy savings contracts to provide for an initial selection process based on qualifications rather than cost. The PCS further deletes the current law requirement that a governmental unit publish a second notice of a request for proposals if fewer than two proposals have been received; and 2) Section 4 limits the self-performance of an energy conservation measure by a constituent institution of the UNC system to a project currently being piloted by NCSU and any other energy conversation project for which it issues an RFP and secures financing before the end of 2014. Senator Brown moved for a favorable report and the motion carried. A copy of the PCS and the summary is attached.

The meeting adjourned at 1:48 p.m.

Senator Bob Rucho, Presiding Chair
Senate Finance Committee

DeAnne Mangum
Senate Finance Clerk

Principal Clerk ____
Reading Clerk ____

Corrected #1: Date corrected

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Tuesday	April 30, 2013	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	
SB 25	Hunting & Fishing/Active Duty Military.	Senator Brown
SB 129	Limit State Facilities Finance Act Debt.	Senator Tucker
SB 368	Inmates Prescriptions/Pistol Permits.	Senator Bingham
SB 476	NC Captive Insurance Act.	Senator Meredith Senator Apodaca
SB 547	Energy Savings Contracting Amendments.	Senator Hunt

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Wednesday, May 01, 2013

Senator Rucho,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2

SB **476** **(CS#1)** NC Captive Insurance Act.

Draft Number:	S476-PCS85213-TP-25
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

SB **547** **(CS#1)** Energy Savings Contracting Amendments.

Draft Number:	S547-PCS75299-SV-16
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 2

Senator Wesley Meredith will handle SB 476
Senator Neal Hunt will handle SB 547

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Tuesday, April 30, 2013

Senator Rucho,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

SB **368** Inmates Prescriptions/Pistol Permits.

Draft Number:	S368-PCS75296-TDf-16
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Senator Stan Bingham will handle SB 368

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Tuesday, April 30, 2013

Senator Rucho,
submits the following with recommendations as to passage:

FAVORABLE

SB **25** Hunting & Fishing/Active Duty Military.

Draft Number:	None
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

SB **129** Limit State Facilities Finance Act Debt.

Draft Number:	S129-PCS35334-RB-7
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 2

Senator Harry Brown will handle SB 25
Senator Tommy Tucker will handle SB 129

SENATE BILL 476*
Insurance Committee Substitute Adopted 4/18/13

Short Title: NC Captive Insurance Act. (Public)

Sponsors:

Referred to:

March 28, 2013

A BILL TO BE ENTITLED

AN ACT TO ENACT THE NORTH CAROLINA CAPTIVE INSURANCE ACT.

The General Assembly of North Carolina enacts:

SECTION 1. Article 10 of Chapter 58 of the North Carolina General Statutes is amended by adding a new Part to read:

"Part 9. Captive Insurance Companies.

"Subpart 1. General Provisions.

"**§ 58-10-335. Purpose.**

(a) This Part shall be known and may be cited as the "North Carolina Captive Insurance Act."

(b) The purpose of this Part is to establish the procedures for the organization and regulation of the operations of captive insurance companies within this State and thereby promote the general welfare of the people of this State.

"**§ 58-10-340. Definitions.**

The following definitions apply in this Part:

(1) Affiliated company. – Any company in the same corporate system as a parent, an industrial insured, or a member organization by virtue of common ownership, control, operation, or management.

(2) Alien. – An alien company as defined in G.S. 58-1-5.

(3) Alien captive insurance company. – Any insurance company formed to write insurance business for its parents and affiliates and licensed pursuant to the laws of an alien jurisdiction which imposes statutory or regulatory standards in a form acceptable to the Commissioner on companies transacting the business of insurance in such jurisdiction.

(4) Association. – Any legal association of individuals, corporations, limited liability companies, partnerships, associations, or other entities that meets the criteria set forth in either sub-subdivision a. or b. of this subdivision:

a. The member organizations of the association or the association itself, either alone or in conjunction with some or all of the member organizations, are described by any of the following:

1. Owning, controlling, or holding with power to vote all of the outstanding voting securities of an association captive insurance company incorporated as a stock insurer.

2. Having complete voting control over an association captive insurance company incorporated as a mutual insurer.

3. Constituting all of the subscribers of an association captive insurance company formed as a reciprocal insurer.
4. Having complete voting control over an association captive insurance company formed as a limited liability company.

b. Each member organization of the association is one of the following:
1. A not-for-profit corporation, nonprofit association, or similar nonprofit organization.
2. An entity or organization exempt from taxation under Section 501(c) of the Internal Revenue Code, 26 U.S.C. § 501(c).
3. A municipality, metropolitan government, county, authority, utility district, or other public body generally classified as a governmental body or governmental entity, whether organized by local act or public act of the General Assembly, or any agency, board, or commission of any municipality, metropolitan government, county, authority, utility district or other public body generally classified as a governmental body or governmental entity. This sub-sub-subdivision shall be liberally construed.

(5) Association captive insurance company. – Any company that insures risks of the member organizations of an association, and that also may insure the risks of affiliated companies of the member organizations and the risks of the association itself.

(6) Branch business. – Any insurance business transacted by a branch captive insurance company in this State.

(7) Branch captive insurance company. – Any alien captive insurance company licensed by the Commissioner to transact the business of insurance in this State through a business unit with a principal place of business in this State. A branch captive insurance company is a pure captive insurance company with respect to operations in this State, unless otherwise permitted by the Commissioner.

(8) Branch operations. – Any business operations of a branch captive insurance company in this State.

(9) Captive insurance company. – Any pure captive insurance company, association captive insurance company, industrial insured captive insurance company, risk retention group, protected cell captive insurance company, incorporated cell captive insurance company, or special purpose financial captive insurance company formed or licensed under this Part.

(10) Commissioner. – Defined in G.S. 58-1-5.

(11) Control, controlling, controlled by, or under common control with. – The possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise; provided that such power is not the result of an official position or corporate office held by the person. Control shall be presumed to exist if a person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing ten percent (10%) or more of the voting securities of another person. This presumption may be rebutted by a showing that control does not exist. Notwithstanding this definition, for purposes of this Part, the fact that an SPFC exclusively provides reinsurance to a ceding insurer under an SPFC contract is not by

itself sufficient grounds for a finding that the SPFC and ceding insurer are under common control.

(12) Controlled unaffiliated business. – A person meeting all of the following:

a. The person is not in the corporate system of a parent and its affiliated companies in the case of a pure captive insurance company, or is not in the corporate system of an industrial insured and its affiliated companies in the case of an industrial insured captive insurance company.

b. The person has an existing contractual relationship with a parent or one of its affiliated companies in the case of a pure captive insurance company, or with an industrial insured or one of its affiliated companies in the case of an industrial insured captive insurance company.

c. The person's risks are managed by a pure captive insurance company or an industrial insured captive insurance company, as applicable, in accordance with G.S. 58-10-470.

(13) Counterparty. – An SPFC's parent or affiliated company or a ceding insurer to the SPFC contract. A nonaffiliated company may be designated a counterparty, but that designation is subject to the prior approval of the Commissioner.

(14) Court. – Defined in G.S. 58-30-10.

(15) Department. – Defined in G.S. 58-1-5.

(16) General account. – All assets and liabilities of a protected cell captive insurance company not attributable to a protected cell.

(17) Incorporated cell. – A protected cell of an incorporated cell captive insurance company that is organized as a corporation or other legal entity separate from the incorporated cell captive insurance company.

(18) Incorporated cell captive insurance company. – A protected cell captive insurance company that is established as a corporation or other legal entity separate from its incorporated cells that are also organized as separate legal entities.

(19) Industrial insured. – An insured that meets all of the following:

a. It procures the insurance of any risk or risks by use of the services of a full-time employee acting as an insurance manager or buyer.

b. Its aggregate annual premiums for insurance on all risks total at least twenty-five thousand dollars ($25,000).

c. It has at least 25 full-time employees.

(20) Industrial insured captive insurance company. – Any company that insures risks of the industrial insureds that comprise the industrial insured group, and that may insure the risks of the affiliated companies of the industrial insureds and the risks of the controlled unaffiliated business of an industrial insured or its affiliated companies.

(21) Industrial insured group. – Any group of industrial insureds that collectively are described by any of the following:

a. Own, control, or hold with power to vote all of the outstanding voting securities of an industrial insured captive insurance company incorporated as a stock insurer.

b. Have complete voting control over an industrial insured captive insurance company incorporated as a mutual insurer.

c. Constitute all of the subscribers of an industrial insured captive insurance company formed as a reciprocal insurer.

d. Have complete voting control over an industrial insured captive insurance company formed as a limited liability company.

(22) Insurance securitization or securitization. – A transaction or a group of related transactions which meet the requirements of sub-subdivisions a. and b. of this subdivision:

a. The transactions include capital market offerings that are effected through related risk transfer instruments and facilitating administrative agreements where all or part of the result of such transactions is used to fund the SPFC's obligations under a reinsurance contract with a ceding insurer and by which one of the following occur:

1. Proceeds are obtained by a SPFC, directly or indirectly, through the issuance of securities by the SPFC or any other person.

2. All of the following occur: (i) a person provides one or more letters of credit or other assets for the benefit of the SPFC; (ii) the Commissioner authorizes the SPFC to treat such letters of credit or other assets as admitted assets for purposes of the SPFC's annual report; and (iii) all or any part of such proceeds, letters of credit, or assets, as applicable, are used to fund the SPFC's obligations under a reinsurance contract with a ceding insurer.

b. The transactions do not include the issuance of a letter of credit for the benefit of the Commissioner to satisfy all or part of the SPFC's capital and surplus requirements under G.S. 58-10-575.

(23) Member organization. – Any individual, corporation, limited liability company, partnership, association, or other entity that belongs to an association.

(24) Mutual corporation. – A corporation organized without stockholders and includes a nonprofit corporation with members.

(25) Mutual insurer. – A company owned by its policyholders where no stock is available for purchase on the stock exchanges.

(26) NAIC. – Defined in G.S. 58-1-5.

(27) Organizational documents. – The documents that must be submitted pursuant to North Carolina law in order to legally form a business in this State or to obtain a certificate of authority to transact business in this State.

(28) Parent. – An individual, corporation, limited liability company, partnership, association, or other entity, or individual that directly or indirectly owns, controls, or holds with power to vote more than fifty percent (50%) of the outstanding voting of any of the following interests:

a. Securities of a pure captive insurance company organized as a stock corporation.

b. Membership interests of a pure captive insurance company organized as a nonprofit corporation.

c. Membership interests of a pure captive insurance company organized as a limited liability company.

d. Securities of an SPFC.

(29) Participant. – A person or an entity authorized to be a participant by G.S. 58-10-515, and any affiliate of a participant, that is insured by a protected cell captive insurance company, if the losses of the participant are limited through a participant contract.

(30) Participant contract. – A contract by which a protected cell captive insurance company insures the risks of a participant and limits the losses of each such participant to its pro rata share of the assets of one or more protected cells identified in such participant contract.

(31) Person. – Defined in G.S. 58-1-5.

(32) Protected cell. – Either of the following:

a. A separate account established by a protected cell captive insurance company formed or licensed under this Part, in which an identified pool of assets and liabilities are segregated and insulated by means of this Part from the remainder of the protected cell captive insurance company's assets and liabilities, in accordance with the terms of one or more participant contracts to fund the liability of the protected cell captive insurance company, with respect to the participants as set forth in the participant contracts.

b. A separate account established and maintained by an SPFC for one SPFC contract and the accompanying insurance securitization with a counterparty.

(33) Protected cell assets. – All assets, contract rights, and general intangibles identified with and attributable to a specific protected cell of a protected cell captive insurance company.

(34) Protected cell captive insurance company. – Any captive insurance company meeting all of the following:

a. The minimum capital and surplus required by this Part are provided by one or more sponsors.

b. The company is formed or licensed under this Part.

c. The company insures the risks of separate participants through participant contracts.

d. The company funds its liability to each participant through one or more protected cells and segregates the assets of each protected cell from the assets of other protected cells and from the assets of the protected cell captive insurance company's general account.

(35) Protected cell liabilities. – All liabilities and other obligations identified with and attributed to a specific protected cell of a protected cell captive insurance company.

(36) Pure captive insurance company. – Any company that insures risks of its parent and affiliated companies or a controlled unaffiliated business or businesses.

(37) Risk retention group. – A captive insurance company organized under the laws of this State pursuant to the Liability Risk Retention Act of 1986, 15 U.S.C. § 3901 et seq., as amended, as a stock or mutual corporation or as a reciprocal or other limited liability entity. Risk retention groups formed under this Part are subject to all applicable insurance laws including, but not limited to, any applicable provisions in Articles 1, 2, 3, 7, 19, 22, 33, and 34 of this Chapter.

(38) Securities. – Those different types of debt obligations, equity, surplus certificates, surplus notes, funding agreements, derivatives, and other legal forms of financial instruments.

(39) SPFC or Special Purpose Financial Captive. – A captive insurance company that has received a certificate of authority from the Commissioner for the limited purposes provided for in this Part.

(40) SPFC contract. – A contract between the SPFC and the counterparty pursuant to which the SPFC agrees to provide insurance or reinsurance protection to the counterparty for risks associated with the counterparty's insurance or reinsurance business.

(41) SPFC securities. – The securities issued by an SPFC.

(42) Sponsor. – Any person or entity that is approved by the Commissioner to provide all or part of the capital and surplus required by this Part and to organize and operate a protected cell captive insurance company.

(43) Surplus note. – An unsecured subordinated debt obligation deemed to be a surplus certificate under this Part and otherwise possessing characteristics consistent with paragraph 3 of the NAIC's Statement of Statutory Accounting Principles No. 41, as amended.

"**§ 58-10-345. Licensing; authority; confidentiality.**

(a) Any captive insurance company, when permitted by its organizational documents, may apply to the Commissioner for a license to do any and all insurance comprised in subdivisions (1) through (16) and (19) through (22) of G.S. 58-7-15; provided, however, that:

(1) No pure captive insurance company shall insure any risks other than those of its parent and affiliated companies or a controlled unaffiliated business or businesses.

(2) No association captive insurance company shall insure any risks other than those of its association, those of the member organizations of its association, and those of a member organization's affiliated companies.

(3) No industrial insured captive insurance company shall insure any risks other than those of the industrial insureds that comprise the industrial insured group, those of their affiliated companies, and those of the controlled unaffiliated business of an industrial insured or its affiliated companies.

(4) No risk retention group shall insure any risks other than those of its members and owners.

(5) No captive insurance company shall provide personal motor vehicle or homeowner's insurance coverage or any component thereof.

(6) No captive insurance company shall accept or cede reinsurance except as provided in G.S. 58-10-445 and G.S. 58-10-605.

(7) No captive insurance company shall provide accident and health insurance on a direct basis.

(8) No captive insurance company shall provide workers' compensation and employer's liability insurance on a direct basis.

(9) No captive insurance company shall provide life insurance or annuities on a direct basis.

(b) No captive insurance company shall transact any insurance business in this State unless:

(1) It obtains a license from the Commissioner pursuant to subsection (c) of this section authorizing it to do insurance business in this State.

(2) Its board of directors or committee of managers or, in the case of a reciprocal insurer, its subscribers' advisory committee holds at least one meeting each year in this State.

(3) It maintains its principal place of business in this State.

(4) It appoints a registered agent to accept service of process and to otherwise act on its behalf in this State, provided that whenever such registered agent cannot with reasonable diligence be found at the registered office of the captive insurance company, the Commissioner shall be an agent of such

captive insurance company upon whom any process, notice, or demand may be served and such service shall be done in accordance with G.S. 58-16-30.

(c) In order to receive a license to issue policies of insurance as a captive insurance company in this State, an applicant business entity shall meet all of the following requirements:

(1) The applicant business entity shall submit its organizational documents to the Commissioner. If the Commissioner approves the organizational documents, then the Commissioner shall issue a letter to the applicant certifying the Commissioner's approval. The applicant business entity shall submit the organizational documents, along with a copy of the approval letter issued by the Commissioner, and the required filing fees for organizational documents prescribed by North Carolina law to the Secretary of State for filing. Upon filing the organizational documents, the Secretary of State shall issue an acknowledgment letter to the applicant. The applicant business entity shall submit a copy of the acknowledgment letter relative to the applicant's organizational documents issued by the Secretary of State to the Commissioner.

(2) The applicant business entity shall file a statement under oath of its president and secretary showing its financial condition.

(3) The applicant business entity shall file its plan of operation.

(4) The applicant business entity shall file other documents as required by the Commissioner.

(5) The applicant business entity shall also file with the Commissioner evidence of all of the following:

a. The amount and liquidity of its assets relative to the risks to be assumed.

b. The adequacy of the expertise, experience, and character of the person or persons who will manage it.

c. The overall soundness of its plan of operation.

d. The adequacy of the loss prevention programs of its insureds.

e. Such other factors deemed relevant by the Commissioner in ascertaining whether the applicant business entity will be able to meet its policy obligations.

(6) No less than the amount required by G.S. 58-10-370 shall be paid in by the applicant business entity and deposited with the Commissioner. In the alternative, an irrevocable letter of credit in that amount and acceptable to the Commissioner shall be filed with the Commissioner.

(7) The applicant business entity shall submit to the Commissioner for approval a description of the coverages, deductibles, coverage limits, and rates, together with such additional information as the Commissioner may require.

(d) Whenever a captive insurance company desires to amend the organizational documents submitted pursuant to subdivision (c)(1) of this section, the company shall submit the amended organizational documents to the Commissioner. If the Commissioner approves the amendment, then the Commissioner shall issue a letter to the applicant certifying the Commissioner's approval. The applicant business entity shall submit the organizational documents, along with a copy of the approval letter issued by the Commissioner, and the required filing fees for organizational documents prescribed in North Carolina law to the Secretary of State for filing. Upon filing the organizational documents, the Secretary of State shall issue an acknowledgment letter to the applicant. The applicant shall submit a copy of the acknowledgment letter relative to the applicant's organizational documents issued by the Secretary of State to the Commissioner.

(e) If a captive insurance company makes any subsequent material change to any item in the description submitted pursuant to subdivision (c)(7) of this section, then the captive insurance company shall submit an appropriate revision to the Commissioner for approval and shall not offer any additional kinds of insurance until a revision of such description is approved by the Commissioner. The captive insurance company shall inform the Commissioner of any material change in rates within 30 days of the adoption of such change.

(f) Information submitted pursuant to this subsection is confidential, and may be made public by the Commissioner or the Commissioner's designee only upon an order of a court of competent jurisdiction, except:

(1) This subdivision shall not apply to any risk retention group.

(2) The Commissioner shall have the discretion to disclose such information to a public official having jurisdiction over the regulation of insurance in another state, provided that:

a. The public official agrees in writing to maintain the confidentiality of such information; and

b. The laws of the state in which the public official serves require the information to be and to remain confidential.

(g) The Commissioner is authorized to retain legal, financial, and examination services from outside the Department, the costs of which shall be reimbursed by the applicant. G.S. 58-2-160 shall apply to examinations, investigations, and processing conducted under the authority of this section.

(h) If the Commissioner is satisfied that the documents and statements filed by an applicant captive insurance company comply with this section, then the Commissioner shall grant a license authorizing it to do insurance business in this State.

"**§ 58-10-350. Commissioner use of consultants and other professionals.**

The Commissioner may contract with consultants and other professionals to expedite and complete the application process, examinations, and other regulatory activities required pursuant to this Part. Such contracts for financial, legal, examination, and other services shall not be subject to any of the following:

(1) G.S. 114-2.3.

(2) G.S. 147-17.

(3) Articles 3, 3C, and 8 of Chapter 143 of the General Statutes, together with rules and procedures adopted under those Articles concerning procurement, contracting, and contract review.

"**§ 58-10-355. Organizational examination.**

In addition to the processing of the application, an organizational investigation or examination may be performed before an applicant is licensed. Such investigation or examination shall consist of a general survey of the applicant's corporate records, including charters, bylaws, and minute books; verification of capital and surplus; verification of principal place of business; determination of assets and liabilities; and a review of such other factors as the Commissioner deems necessary.

"**§ 58-10-360. Designation of captive manager.**

Before licensing, captive insurance companies shall report in writing to the Commissioner the name and address of the manager designated to manage the captive insurance company. The Commissioner shall approve the captive manager and may require the submission of additional information regarding the proposed captive manager in a form and manner as the Commissioner may designate.

"**§ 58-10-365. Names of companies.**

No captive insurance company shall adopt a name that is the same, deceptively similar, or likely to be confused with or mistaken for any other existing business name registered in this

State, nor any name likely to mislead the public. Any name adopted by a captive insurance company shall comply with the requirements of State law.

"**§ 58-10-370. Capital and surplus requirements.**

(a) No captive insurance company shall be issued a license unless it possesses and maintains unimpaired paid-in capital and surplus of:

(1) In the case of a pure captive insurance company, not less than two hundred fifty thousand dollars ($250,000) or such other amount determined by the Commissioner.

(2) In the case of an association captive insurance company, not less than five hundred thousand dollars ($500,000).

(3) In the case of an industrial insured captive insurance company, not less than five hundred thousand dollars ($500,000).

(4) In the case of a risk retention group, not less than one million dollars ($1,000,000).

(5) In the case of a protected cell captive insurance company, not less than two hundred fifty thousand dollars ($250,000).

(b) The Commissioner may prescribe additional capital and surplus based upon the type, volume, and nature of insurance business to be transacted.

(c) Capital and surplus shall be in the form of cash or an irrevocable letter of credit issued by a bank approved by the Commissioner.

"**§ 58-10-375. Dividends and distributions.**

No captive insurance company shall pay a dividend or other distribution from capital or surplus without the prior approval of the Commissioner. Approval of an ongoing plan for the payment of dividends or other distributions shall be conditioned upon the retention, at the time of each payment, of capital or surplus in excess of amounts specified by or determined in accordance with formulas approved by the Commissioner. A captive insurance company may otherwise make such distributions as are in conformity with its purposes and approved by the Commissioner.

"**§ 58-10-380. Formation of captive insurance companies.**

(a) A pure captive insurance company may be incorporated as a stock insurer with its capital divided into shares and held by the stockholders, as a nonprofit corporation with one or more members, or as a manager-managed limited liability company.

(b) An association captive insurance company, an industrial insured captive insurance company, or a risk retention group may be any of the following:

(1) Incorporated as a stock insurer with its capital divided into shares and held by the stockholders.

(2) Incorporated as a mutual corporation.

(3) Organized as a reciprocal insurer in accordance with Article 15 of this Chapter.

(4) Organized as a manager-managed limited liability company.

(c) A captive insurance company incorporated or organized in this State shall have not less than three incorporators or three organizers of whom not less than one shall be a resident of this State.

(d) The capital stock of a captive insurance company incorporated as a stock insurer may be authorized with no par value.

(e) In the case of a captive insurance company formed as a corporation, at least one of the members of the board of directors shall be a resident of this State. In the case of a captive insurance company formed as a reciprocal insurer, at least one of the members of the subscribers' advisory committee shall be a resident of this State. In the case of a captive insurance company formed as a limited liability company, at least one of the managers shall be a resident of this State.

(f) Captive insurance companies formed as corporations, limited liability companies, partnerships, or as nonprofit corporations under this Part shall have the privileges provided in and be subject to all State statutes and laws, as applicable, provided that this Part shall control in the event of a conflict.

(g) Mergers, consolidations, conversions, mutualizations, acquisitions, redomestications, or other similar transactions of captive insurance companies shall be subject to the same provisions of this Chapter applicable to traditional insurance companies, except:

(1) The Commissioner may, upon request of an insurer party to a merger authorized under this subsection, waive such applicable requirements.

(2) The Commissioner may waive or modify the requirements for public notice and hearing.

(3) An alien insurer may be a party to a merger authorized under this subsection, provided that the requirements for a merger between a captive insurance company and a foreign insurer under this Chapter shall apply to a merger between a captive insurance company and an alien insurer under this subsection. For the purposes of this subdivision, an alien insurer shall be treated as a foreign insurer under this Chapter and the domicile of the alien shall be the equivalent to that of another state.

(h) Captive insurance companies formed as reciprocal insurers under this Part shall have the privileges provided in and be subject to Article 15 of this Chapter in addition to this Part, provided that this Part shall control in the event of a conflict. To the extent a reciprocal insurer is made subject to other provisions of this Chapter pursuant to Article 15 of this Chapter, such provisions shall not be applicable to a reciprocal insurer formed under this Part unless such provisions are expressly made applicable to captive insurance companies under this Part.

(i) The articles of incorporation or bylaws of a captive insurance company formed as a corporation may authorize a quorum of its board of directors to consist of no fewer than one-third of the fixed or prescribed number of directors.

(j) The subscribers' agreement or other organizing document of a captive insurance company formed as a reciprocal insurer may authorize a quorum of its subscribers' advisory committee to consist of no fewer than one-third of the number of its members.

(k) With the Commissioner's approval, a captive insurance company organized as a stock insurer may convert to a nonprofit corporation with one or more members by filing with the Secretary of State an election for such conversion, provided that:

(1) The election shall certify that, at the time of the company's original organization and at all times thereafter, the company has conducted its business in a manner not inconsistent with a nonprofit purpose.

(2) At the time of the filing of its election, the company shall file with both the Commissioner and the Secretary of State amended and restated articles of incorporation consistent with this Part and with all other applicable State statutes and laws.

(l) In the case of a captive insurance company formed as a limited liability company, a reciprocal insurance company, or mutual insurance company, any proxy executed by the members, subscribers, and policyholders of each shall be valid if executed and transmitted in compliance with all applicable State statutes and laws.

"**§ 58-10-385. Directors.**

(a) Every captive insurance company shall report to the Commissioner within 30 days after any change in its executive officers or directors, including in its report a biographical affidavit for each new officer or director.

(b) No director, officer, or employee of a captive insurance company shall, except on behalf of the captive insurance company, accept or be the beneficiary of, any fee, brokerage,

gift, or other compensation because of any investment, loan, deposit, purchase, sale, payment, or exchange made by or for the captive insurance company, but such person may receive reasonable compensation for necessary services rendered to the captive insurance company in his or her usual private, professional, or business capacity.

(c) Any profit or gain received by or on behalf of any person in violation of this section shall inure to and be recoverable by the captive insurance company.

"**§ 58-10-390. Conflict of interest.**

(a) Each captive insurance company chartered in this State is required to adopt a conflict of interest statement for officers, directors, and key employees. Such statement shall disclose that the individual has no outside commitments, personal or otherwise, that would divert him or her from his or her duty to further the interests of the captive insurance company he or she represents, but this shall not preclude such person from being a director or officer in more than one insurance company.

(b) Each officer, director, and key employee shall file such disclosure with the Board of Directors yearly.

"**§ 58-10-395. Change of business.**

(a) Any material change in a captive insurance company's business plan that was filed with the Commissioner at the time of initial application and any subsequent amendment of the plan requires prior approval from the Commissioner.

(b) Any change in any other information filed with the application must be filed with the Commissioner within 60 days but does not require prior approval.

"**§ 58-10-400. Insurance manager and intermediaries.**

No person shall act in or from this State as a managing general agent, producer, or reinsurance intermediary for captive business without the authorization of the Commissioner. Application for such authorization must be on a form prescribed by the Commissioner.

"**§ 58-10-405. Annual reports.**

(a) No captive insurance companies shall be required to make any annual report to the Commissioner except as provided in this Part.

(b) Prior to March 1 of each year, and prior to March 15 of each year in the case of pure captive insurance companies or industrial insured captive insurance companies, each captive insurance company shall submit to the Commissioner a report of its financial condition, verified by oath of two of its executive officers. Each captive insurance company shall report using generally accepted accounting principles, unless the Commissioner requires, approves, or accepts the use of statutory accounting principles or other comprehensive basis of accounting. The Commissioner may require, approve, or accept any appropriate or necessary modifications of the statutory accounting principles or other comprehensive basis of accounting for the type of insurance and kinds of insurers to be reported upon. The Commissioner may require additional information to supplement such report. Except as otherwise provided, each risk retention group and association captive insurance company shall file its report in the form required by G.S. 58-2-165, and each risk retention group and association captive insurance company shall comply with the requirements set forth in G.S. 58-4-5. All other captive insurance companies shall report on forms adopted by the Commissioner. G.S. 58-10-345(f) shall apply to each report filed pursuant to this section. Branch captive insurance companies shall file the report required by this section unless otherwise required by G.S. 58-10-545. Special Purpose Financial Captive insurance companies shall report in accordance with G.S. 58-10-625.

(c) A pure captive insurance company or an industrial insured captive insurance company may make written application to the Commissioner for filing the required report on an alternative reporting date based on the company's fiscal year-end. If an alternative reporting date is granted by the Commissioner, then:

(1) The annual report is due 75 days after the fiscal year-end.

(2) In order to provide sufficient detail to support the premium tax return, the pure captive insurance company or industrial insured captive insurance company shall file, prior to March 15 of each year for each calendar year-end, pages 1, 2, 3, and 5 of the "Captive Annual Statement; Pure or Industrial Insured," verified by oath of two of its executive officers.

"**§ 58-10-420. Annual audit and actuarial certification.**

(a) All captive insurance companies shall have an annual audit by an independent certified public accountant and shall file such audited financial report with the Commissioner on or before June 30 for the prior calendar year.

(b) Captive insurance companies that have received approval to report on other than a calendar year basis pursuant to G.S. 58-10-405 shall file such statements within 180 days after the end of their fiscal year.

(c) Captive insurance companies with less than one million two hundred thousand dollars ($1,200,000) in written premium may make a written request for exemption from the annual audit requirement. Such request must be made at least 90 days prior to the captive insurance company's fiscal year-end or as otherwise required by the Commissioner. Requests will be considered on a case-by-case basis and may be subject to the Commissioner receiving an annual audit of the captive insurance company's parent company in lieu of the annual audit of the captive insurance company.

(d) The annual audit report shall be considered part of the captive insurance company's annual report of financial condition except with respect to the date by which it must be filed with the Commissioner. The annual audit shall consist of the following:

(1) Opinion of independent certified public accountant. – Financial statements furnished pursuant to this section shall be audited by independent certified public accountants in accordance with generally accepted auditing standards as determined by the American Institute of Certified Public Accountants or statutory accounting principles in accordance with the NAIC Accounting Practices and Procedures Manual in effect for the period covered by the report. The opinion of the independent certified public accountant shall cover all years presented. The opinion shall be addressed to the captive insurance company on stationery of the accountant showing the address of issuance and shall be signed and dated.

(2) Report of evaluation of internal controls. – This report shall include an evaluation of the internal controls of the captive insurance company relating to the methods and procedures used in the securing of assets and the reliability of the financial records, including, but not limited to, such controls as the system of authorization and approval and the separation of duties. The review shall be conducted in accordance with generally accepted auditing standards or statutory accounting principles and the report filed with the Commissioner. An exemption from this evaluation may be granted on a case–by-case basis upon written request to the Commissioner.

(3) Accountant's letter of qualifications. – The accountant shall furnish the captive insurance company, for inclusion in the filing of the audited annual report, a letter stating:

a. That the accountant is independent with respect to the captive insurance company and conforms to the standards of the profession as contained in the Code of Professional Ethics, pronouncements of the American Institute of Certified Public Accountants, and pronouncements of the Financial Accounting Standards Board.

b. The general background and experience of the staff engaged in the audit, including the experience in auditing captives or other insurance companies.

c. That the accountant understands that the audited annual report and the accountant's opinions thereon will be filed in compliance with this section with the Commissioner.

d. That the accountant consents to the requirements of G.S. 58-10-422(b) and (c) and that the accountant consents and agrees to make available for review by the Commissioner, the Commissioner's appointed agent, or other designee the work papers as defined in G.S. 58-10-422(c).

e. That the accountant is properly licensed by an appropriate state licensing authority and that he or she is a member in good standing of the American Institute of Certified Public Accountants.

(4) Financial statements. – Statements required shall be as follows:

a. Balance sheets reporting assets, liabilities, capital, and surplus.

b. Statements of operations.

c. Statements of cash flow.

d. Statements of changes in capital and surplus.

e. Notes to financial statements. The notes to financial statements shall be those required by generally accepted accounting principles, or as required by any other comprehensive basis of accounting in use by the captive insurance company and approved by the Commissioner, and shall include:

1. A reconciliation of differences, if any, between the audited financial report and the report of its financial condition filed with the Commissioner in accordance with G.S. 58-10-405(b).

2. A summary of ownership and relationship of the captive insurance company and all affiliated corporations or companies insured by the captive insurance company.

3. A narrative explanation of all material transactions and balances with the captive insurance company.

(5) Certification of loss reserves and loss expense reserves. – The annual audit shall be filed with a Statement of Actuarial Opinion evaluating the captive insurance company's loss reserves and loss expense reserves. The individual who prepares the Statement of Actuarial Opinion shall be a Fellow of the Casualty Actuarial Society, a member in good standing of the American Academy of Actuaries, or an individual who has demonstrated competence in loss reserve evaluation to the Commissioner. Certification shall be in such form as the Commissioner deems appropriate.

"**§ 58-10-422. Independent certified public accountants.**

(a) A captive insurance company, after becoming subject to this Part, shall within 60 days report to the Commissioner in writing, the name and address of the independent certified public accountant retained to conduct the annual audit set forth in G.S. 58-10-420.

(b) A captive insurance company shall require its independent certified public accountant to immediately notify in writing an officer and all members of the board of directors of the captive insurance company of any determination by the independent certified public accountant that the captive insurance company has materially misstated its financial condition in its report to the Commissioner as required in G.S. 58-10-405. The independent certified

public accountant shall furnish such notification to the Commissioner within five working days of notifying the captive insurance company.

(c) A captive insurance company shall require its independent certified public accountant to make available for review by the Commissioner or his or her appointed agent the work papers prepared in the conduct of the audit of the captive insurance company. The captive insurance company shall require that the independent certified public accountant retain the audit work papers for a period of not less than five years after the period reported upon. The aforementioned review by the Commissioner shall be considered an examination and all working papers obtained during the course of such examination shall be confidential. The captive insurance company shall require that the independent certified public accountant provide copies, in such form as the Commissioner deems appropriate, of any of the working papers which the Commissioner considers relevant. Such working papers may be retained by the Commissioner. "Work papers" as referred to in this section include, but are not necessarily limited to, schedules, analyses, reconciliations, abstracts, memoranda, narratives, flow charts, copies of captive insurance company records, or other documents prepared or obtained by the independent certified public accountant and the independent certified public accountant's employees in the conduct of their audit of the captive insurance company.

(d) The lead audit partner may not act in that capacity for more than five consecutive years. For purposes of this subsection, lead audit partner means the partner having primary responsibility for the audit. The person shall be disqualified from acting in that or similar capacity for the captive insurance company for a period of five consecutive years. A captive insurance company may make application to the Commissioner for relief from the above rotation requirement on the basis of unusual circumstances. This application should be made at least 30 days before the end of the calendar year. The Commissioner may consider the following factors in determining if the relief should be granted:

(1) Number of partners, expertise of the partners, or the number of insurance clients in the firm;

(2) Premium volume of the captive insurance company; or

(3) Number of jurisdictions in which the insurer transacts business.

"**§ 58-10-425. Deposit requirement.**

(a) Whenever the Commissioner deems that the financial condition of a captive insurance company warrants additional security beyond that required pursuant to G.S. 58-10-345(c)(6), the Commissioner may require a captive insurance company to deposit with the Commissioner additional cash or securities approved by the Commissioner or, alternatively, to furnish the Commissioner a clean irrevocable letter of credit issued by a bank chartered by the State or by a member bank of the Federal Reserve System and approved by the Commissioner.

(b) A captive insurance company may receive interest or dividends from deposits held by the Commissioner or exchange the deposits for others of equal value with the approval of the Commissioner.

(c) If a captive insurance company discontinues business, the Commissioner shall return deposits held by the Commissioner only after being satisfied that all obligations of the captive insurance company have been discharged.

"**§ 58-10-430. Examinations.**

(a) Whenever the Commissioner determines it to be prudent, the Commissioner shall visit a captive insurance company and inspect and examine its affairs to ascertain its financial condition, its ability to fulfill its obligations, and whether it has complied with this Part. The expenses and charges of the examination shall be paid by the captive insurance company.

(b) G.S. 58-2-160 shall apply to examinations conducted under this section.

(c) All examination reports, preliminary examination reports or results, working papers, recorded information, documents, and copies thereof produced by, obtained by, or disclosed to

the Commissioner or any other person in the course of an examination made under this section are confidential, are not subject to subpoena, and may not be made public by the Commissioner or an employee or agent of the Commissioner. Nothing in this subsection shall prevent the Commissioner from using such information in furtherance of the Commissioner's regulatory authority under this Chapter. The Commissioner shall have the discretion to grant access to such information to public officials having jurisdiction over the regulation of insurance in any other state or country, or to law enforcement officers of this State, or any other state or agency of the federal government at any time, only if the officials receiving the information agree in writing to maintain the confidentiality of the information in a manner consistent with this subsection.

"**§ 58-10-435. License suspension or revocation.**

(a) The license of a captive insurance company may be suspended or revoked if the Commissioner finds, upon examination, hearing, or other evidence, that a captive insurance company has committed the violations described in subdivisions (1) through (7) of this subsection, or met the criteria in subdivisions (8) through (10) of this subsection, and that the suspension or revocation is in the best interest of the public and the policyholders of such captive insurance company, notwithstanding any other provision of this Chapter:

(1) Insolvency or impairment of capital or surplus.

(2) Failure to meet the requirements of G.S. 58-10-370.

(3) Refusal or failure to submit an annual report, as required by this Part, or any other report or statement required by law or by lawful order of the Commissioner.

(4) Failure to comply with its own charter, bylaws, or other organizational document.

(5) Failure to submit to or pay the cost of an examination or any legal obligation relative to an examination, as required by this Part.

(6) Use of methods that, although not otherwise specifically prohibited by law, nevertheless render its operation detrimental or its condition unsound with respect to the public or to its policyholders.

(7) Failure otherwise to comply with the laws of this State.

(8) Failure to commence business according to its plan of operation within two years of being licensed.

(9) Failure to carry on insurance business in or from this State.

(10) By request of the captive insurance company.

(b) Before the Commissioner suspends or revokes the license of a captive insurance company under subdivisions (a)(7) or (a)(8) of this section, the Commissioner shall give the captive insurance company notice in writing of the grounds on which the Commissioner proposes to suspend or revoke the license, and shall afford the captive insurance company an opportunity to make objection in writing within the period of 30 days after receipt of notice. The Commissioner shall take into consideration any objection received by the Commissioner within that period and, if the Commissioner decides to suspend or revoke the license, cause the order of suspension or revocation to be served on the captive insurance company.

"**§ 58-10-440. Investment requirements.**

(a) Except as may be otherwise authorized by the Commissioner, association captive insurance companies and risk retention groups shall comply with the investment requirements contained in G.S. 58-7-167, 58-7-170, 58-7-172, 58-7-173, 58-7-178, 58-7-179, 58-7-180, 58-7-183, 58-7-185, 58-7-187, 58-7-188, 58-7-192, 58-7-193, 58-7-197, 58-7-200, and 58-7-205, as applicable. Notwithstanding any other provision of this Chapter, the Commissioner may approve the use of alternative reliable methods of valuation and rating.

(b) No pure captive insurance company, industrial insured captive insurance company, protected cell captive insurance company, incorporated cell captive insurance company, or

special purpose financial captive insurance company shall be subject to any restrictions on allowable investments, provided that the Commissioner may prohibit or limit any investment that threatens the solvency or liquidity of any such company.

(c) No pure captive insurance company shall make a loan to or an investment in its parent company or affiliates without prior written approval of the Commissioner, and any such loan or investment shall be evidenced by documentation approved by the Commissioner. Loans of minimum capital and surplus funds required by G.S. 58-10-370 are prohibited.

(d) Notwithstanding this section or G.S. 58-7-167, 58-7-170, 58-7-172, 58-7-173, 58-7-178, 58-7-179, 58-7-180, 58-7-183, 58-7-185, 58-7-187, 58-7-188, 58-7-192, 58-7-193, 58-7-197, 58-7-200, and 58-7-205, an association captive insurance company of an association described in G.S. 58-10-340(4)(b) may hold any interest in qualified headquarters property, and the qualified headquarters property shall be admitted assets and authorized investments of the association captive insurance company. The net book value of the qualified headquarters property deemed admitted and authorized under this subsection may not exceed two million five hundred thousand dollars ($2,500,000), and an association captive insurance company holding qualified headquarters property pursuant to this subsection shall at all times maintain total surplus, without regard to the qualified headquarters property, of at least the sum of (i) fifty percent (50%) of the net book value of the qualified headquarters property and (ii) the minimum capital and surplus requirements. For purposes of this subsection, "qualified headquarters property" includes the real property and the building in which the principal office of the association captive insurance company is located and also includes any improved and unimproved real property of the association captive insurance company that is located within 1,500 feet of the company's principal office.

"**§ 58-10-445. Reinsurance.**

(a) Any captive insurance company may provide reinsurance as authorized by this Chapter on risks ceded by any other insurer.

(b) Any captive insurance company may take credit for the reinsurance of risks or portions of risks ceded to reinsurers complying with this Chapter. If the reinsurer is licensed as a risk retention group, then the ceding risk retention group or its members must qualify for membership with the reinsurer. The Commissioner shall have the discretion to allow a captive insurance company to take credit for the reinsurance of risks or portions of risks ceded to an unauthorized reinsurer, after review, on a case-by-case basis. The Commissioner may require any documents, financial information, or other evidence that such an unauthorized reinsurer will be able to demonstrate adequate security for its financial obligations.

(c) In addition to reinsurers authorized by this Chapter, a captive insurance company may take credit for the reinsurance of risks or portions of risks ceded to a pool, exchange, or association to the extent authorized by the Commissioner. The Commissioner may require any documents, financial information, or other evidence that such a pool, exchange, or association will be able to provide adequate security for its financial obligations. The Commissioner may deny authorization or impose any limitations on the activities of a reinsurance pool, exchange, or association that in the Commissioner's judgment are necessary and proper to provide adequate security for the ceding captive insurance company and for the protection and consequent benefit of the public at large.

(d) Insurance by a captive insurance company of any workers' compensation or accident and health-qualified self-insured plan shall only be in the form of reinsurance.

(e) No credit shall be allowed for reinsurance where the reinsurance contract does not result in the complete transfer of the risk or liability to the reinsurer.

(f) No credit shall be allowed, as an asset or a deduction from liability, to any ceding insurer for reinsurance unless the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding insurer under the contract reinsured without diminution because of the insolvency of the ceding insurer.

(g) Reinsurance under this section shall be effected through a written agreement of reinsurance setting forth the terms, provisions, and conditions governing such reinsurance. The Commissioner may require that complete copies of all reinsurance treaties and contracts be filed and approved by the Commissioner.

"**§ 58-10-450. Membership in rating organizations; exemption from compulsory associations.**

(a) No captive insurance company shall be required to join a rating organization.

(b) No captive insurance company shall be permitted to join or contribute financially to any plan, pool, association, or guaranty or insolvency fund in this State, nor shall any such captive insurance company, or any insured or affiliate thereof, receive any benefit from any such plan, pool, association, or guaranty or insolvency fund for claims arising out of the operations of such captive insurance company.

"**§ 58-10-455. Taxation.**

(a) Each captive insurance company shall pay to the Department of Revenue, on or prior to March 1 of each year, a tax at the rate of four-tenths of one percent (0.4%) on the first twenty million dollars ($20,000,000), and three-tenths of one percent (0.3%) on each dollar thereafter on the direct premiums collected or contracted for on policies or contracts of insurance written by the captive insurance company during the year ending December 31 next preceding, after deducting from the direct premiums subject to the tax the amounts paid to policyholders as return premiums. Return premiums shall include dividends on unabsorbed premiums or premium deposits returned or credited to policyholders.

(b) Each captive insurance company shall pay to the Department of Revenue, on or prior to March 1 of each year, a tax at the rate of two hundred twenty-five thousandths of one percent (0.225%) on the first twenty million dollars ($20,000,000) of assumed reinsurance premium, and one hundred fifty thousandths of one percent (0.150%) on the next twenty million dollars ($20,000,000), and fifty thousandths of one percent (0.050%) on the next twenty million dollars ($20,000,000), and twenty-five thousandths of one percent (0.025%) of each dollar thereafter. However, no reinsurance tax applies to premiums for risks or portions of risks that are subject to taxation on a direct basis pursuant to subsection (a) of this section. No reinsurance premium tax shall be payable in connection with the receipt of assets in exchange for the assumption of loss reserves and other liabilities of another insurer under common ownership and control, provided that the Commissioner verifies that such transaction is part of a plan to discontinue the operations of such other insurer, and that the intent of the parties to such transaction is to renew or maintain such business with the captive insurance company.

(c) Except with regard to a protected cell captive insurance company, as defined in G.S. 58-10-340, with more than 10 cells, the annual minimum aggregate tax to be paid by a captive insurance company calculated under subsections (a) and (b) of this section shall be five thousand dollars ($5,000), and the annual maximum aggregate tax shall be one hundred thousand dollars ($100,000). For a protected cell captive insurance company with more than 10 cells, the annual minimum aggregate tax to be paid under subsections (a) and (b) of this section shall be ten thousand dollars ($10,000), and the annual maximum aggregate tax shall be the lesser of (i) one hundred thousand dollars ($100,000) plus five thousand dollars ($5,000) multiplied by the number of cells over 10 and (ii) two hundred thousand dollars ($200,000). If a captive insurance company is a special purpose financial captive and if such captive insurance company is subject to subsection (e) of this section as a captive insurance company under common ownership and control with one or more other captive insurance companies (collectively the "consolidated group"), the premium tax calculated with respect to the consolidated group under subsections (a) and (b) of this section shall be allocated to each member of the consolidated group in the same proportion that the premium allocable to such member bears to the total premium of all members. The consolidated group shall pay an

aggregate premium tax equal to the greater of the sum of the premium tax allocated to the members and five thousand dollars ($5,000), provided that:

(1) If the total of premium tax allocated to all members of a consolidated group that are special purpose financial captives exceeds one hundred thousand dollars ($100,000), then the total premium tax allocated to such members shall be one hundred thousand dollars ($100,000).

(2) If the total of premium tax allocated to all members of the consolidated group that are not special purpose financial captive insurance companies exceeds one hundred thousand dollars ($100,000), then the total of premium tax allocated to such members shall be one hundred thousand dollars ($100,000).

(d) The tax provided for in this section shall constitute all taxes collectible under the laws of this State from any captive insurance company and from any insured on its payments to a captive insurance company, and no other occupation tax or other taxes shall be levied or collected from any captive insurance company by this State or any county, city, or municipality within this State, except ad valorem taxes on real and personal property used in the production of income.

(e) Subject to subsection (c) of this section, two or more captive insurance companies under common ownership and control shall be taxed as though they were a single captive insurance company.

(f) There shall be created a special fund known as the Captive Insurance Regulatory Fund which shall receive appropriations to cover cost of staff and other expenses incurred by the Commissioner in both regulating captive insurance companies and promoting North Carolina's captive insurance industry. All premium taxes paid to the Department of Revenue under this Part shall be deposited in the Captive Insurance Regulatory Fund. At the end of each fiscal year, the balance in the Captive Insurance Regulatory Fund, in excess of such amount reasonably necessary to fund the Commissioner's administration of this Part and the promotion of North Carolina's captive insurance industry during the upcoming fiscal year, shall be transferred to the General Fund. Within 30 days after the end of each fiscal year, the Commissioner shall submit to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division of the General Assembly a written report stating:

(1) The total amount of funds paid into the Captive Insurance Regulatory Fund, including taxes paid, as reported to the Commissioner by the Department of Revenue.

(2) The total amount of the Commissioner's costs to administer this Part and promote North Carolina's captive insurance industry during such fiscal year.

(3) The Commissioner's estimate of the total amount of the Commissioner's costs to administer this Part and promote North Carolina's captive insurance industry during the current fiscal year.

(g) The tax provided for in this section shall be calculated on an annual basis, notwithstanding policies or contracts of insurance or contracts of reinsurance issued on a multiyear basis. In the case of multiyear policies or contracts, the premium shall be prorated for purposes of determining the tax under this section.

(h) Nothing in this section shall be construed to provide an exemption from sales and use tax.

(i) In the case of a branch captive insurance company, the tax provided for in this section shall apply only to the branch business of such company.

"**§ 58-10-460. Adoption and amendment of rules by Commissioner.**

The Commissioner may adopt and, from time to time, amend such rules relating to captive insurance companies as are necessary to enable the Commissioner to carry out the provisions of this Part.

"**§ 58-10-465. Applicable provisions.**

No provisions of this Chapter, other than those contained in this Part or as expressly provided in this Part, shall apply to captive insurance companies. Risk retention groups shall have the privileges and be subject to Article 22 of this Chapter in addition to the applicable provisions of this Part.

"**§ 58-10-470. Establishment of standards regarding risk management.**

The Commissioner may adopt rules establishing standards to ensure that a parent or its affiliated company, or an industrial insured or its affiliated company, is able to exercise control of the risk management function of any controlled unaffiliated business to be insured by a pure captive insurance company or an industrial insured captive insurance company, respectively; provided, however, that until such time as rules under this section are adopted, the Commissioner may approve the coverage of such risks by a pure captive insurance company or an industrial insured captive insurance company.

"**§ 58-10-475. Supervision; rehabilitation; liquidation.**

Except as otherwise provided in this Part, the terms and conditions set forth in Article 30 of this Chapter shall apply in full to captive insurance companies formed or licensed under this Part.

"**§ 58-10-480. Authority for expenditure of public funds.**

Any municipality, county, authority, utility district, or other public body generally classified as a governmental body or governmental entity whether chartered or organized by local act or public act of the General Assembly, or otherwise, or any agency, board, or commission of any municipality, metropolitan government, county, authority, utility district, or other public body generally classified as a governmental body or governmental entity may expend public funds for the purchase of capital stock in a captive insurance company or to provide guaranty capital in a mutual captive insurance company, provided that at the time of authorization of expenditure of public funds adequate insurance markets in the United States are not available to cover the risks, hazards, and liabilities of the public body or that the needed coverage is only available at excessive rates or with unreasonable deductibles.

"**§ 58-10-485. Violations and penalties.**

(a) If, after providing the opportunity for a contested case hearing held in accordance with the provisions of Article 3A of Chapter 150B of the General Statutes, the Commissioner finds that any insurer, person, or entity required to be licensed, permitted, or authorized to transact the business of insurance under this Part has violated any provision of this Part or any rule or regulation authorized by this Part, the Commissioner may order:

(1) The insurer, person, or entity to cease and desist from engaging in the act or practice giving rise to the violation.

(2) Payment of a monetary penalty pursuant to G.S. 58-2-70.

(3) The suspension or revocation of the insurer's, person's, or entity's license.

(b) Whenever the Commissioner has evidence that any person has violated or is violating any provisions of this Part, or has violated or is violating any order or requirement of the Commissioner issued by the Commissioner under this Part, and that the interests of policyholders, creditors, or the public may be irreparably harmed by delay, the Commissioner may issue an emergency cease and desist order that shall become effective on the date specified in the order. The emergency cease and desist order shall also include a notice of hearing, which shall be conducted as provided under Article 3A of Chapter 150B of the General Statutes. However, the person ordered to cease and desist under this subsection may request and shall be granted an expedited review of the order. The emergency order shall remain in effect prior to and during the proceedings, unless modified by the Commissioner.

(c) Any monetary penalties collected pursuant to this section shall be deposited into the Captive Insurance Regulatory Fund created in G.S. 58-10-455(f).

"**§ 58-10-495. Captive insurance companies reinsuring life insurance policies.**

(a) A captive insurance company that reinsures life insurance policies, including term, universal, and variable life policies, and related guarantees and riders, shall maintain reserves that are actuarially sufficient to support the liabilities incurred by the captive insurance company in reinsuring life insurance policies.

(b) For purposes of the annual report required pursuant to G.S. 58-10-405, a captive insurance company described by subsection (a) of this section shall comply with the following requirements:

(1) If the company uses statutory accounting principles, it shall submit the annual report in the form of the annual statement approved by the NAIC for life insurers, as modified or supplemented by the Commissioner, unless the Commissioner requires or approves a different form of annual report.

(2) If the company uses generally accepted accounting principles, including any appropriate modifications or adaptations thereto approved by the Commissioner, it shall submit the annual report in a form approved by the Commissioner.

"Subpart 2. Protected Cell Captive Insurance Companies.

"**§ 58-10-500. Forming a protected cell captive insurance company.**

(a) One or more sponsors may form a protected cell captive insurance company under this Subpart.

(b) A protected cell captive insurance company shall be incorporated as a stock insurer with its capital divided into shares and held by the stockholders, as a mutual corporation, as a nonprofit corporation with one or more members, or as a manager-managed limited liability company.

"**§ 58-10-505. Additional filing requirements for applicant protected cell captive insurance companies.**

In addition to the information required by G.S. 58-10-345(c), each applicant protected cell captive insurance company shall file with the Commissioner all of the following:

(1) Materials demonstrating how the applicant will account for the loss and expense experience of each protected cell at a level of detail found to be sufficient by the Commissioner, and how it will report such experience to the Commissioner.

(2) A statement acknowledging that all records of the applicant, including records pertaining to any protected cells, shall be made available for inspection or examination by the Commissioner or the Commissioner's designated agent.

(3) All contracts or sample contracts between the applicant and any participants.

(4) Evidence that expenses shall be allocated to each protected cell in a fair and equitable manner.

"**§ 58-10-510. Establishment of protected cells.**

(a) A protected cell captive insurance company formed or licensed under this Part may establish and maintain one or more incorporated or unincorporated protected cells, to insure risks of one or more participants, subject to the following conditions:

(1) A protected cell captive insurance company may establish one or more protected cells if the Commissioner has approved in writing a plan of operation or amendments to a plan of operation submitted by the protected cell captive insurance company with respect to each protected cell. A plan of operation shall include, but is not limited to, the specific business objectives and investment guidelines of the protected cell, provided that the Commissioner may require additional information in the plan of operation.

(2) Upon the Commissioner's written approval of the plan of operation, the protected cell captive insurance company may attribute insurance obligations

with respect to its insurance business to the protected cell in accordance with the approved plan of operation.

(3) A protected cell shall have its own distinct name or designation that shall include the words "protected cell" or "incorporated cell."

(4) The protected cell captive insurance company shall transfer all assets attributable to a protected cell to one or more separately established and identified protected cell accounts bearing the name or designation of that protected cell. Protected cell assets must be held in the protected cell accounts for the purpose of satisfying the obligations of that protected cell.

(5) An incorporated protected cell may be organized and operated in any form of business organization authorized by the Commissioner. Each incorporated protected cell of a protected cell captive insurer shall be treated as a captive insurer for purposes of this Part. Unless otherwise permitted by the organizational documents of a protected cell captive insurer, each incorporated protected cell of the protected cell captive insurer must have the same directors, secretary, and registered office as the protected cell captive insurer.

(6) All attributions of assets and liabilities between a protected cell and the general account shall be in accordance with the plan of operation and participant contracts approved by the Commissioner. No other attribution of assets or liabilities shall be made by a protected cell captive insurance company between the protected cell captive insurance company's general account and its protected cells. Any attribution of assets and liabilities between the general account and a protected cell shall be in cash or in readily marketable securities with established market values.

(b) The creation of a protected cell does not create, with respect to that protected cell, a legal person separate from the protected cell captive insurance company, unless the protected cell is an incorporated cell. Amounts attributed to a protected cell under this Part, including assets transferred to a protected cell account, are owned by the protected cell. No protected cell captive insurance company shall be, or hold itself out to be, a trustee with respect to those protected cell assets of that protected cell account. Notwithstanding this subsection, the protected cell captive insurance company may allow for a security interest to attach to protected cell assets or a protected cell account when the security interest is in favor of a creditor of the protected cell and otherwise allowed under applicable law.

(c) This Part shall not be construed to prohibit the protected cell captive insurance company from contracting with or arranging for an investment advisor, commodity trading advisor, or other third party to manage the protected cell assets of a protected cell, if all remuneration, expenses, and other compensation of the third-party advisor or manager are payable from the protected cell assets of that protected cell and not from the protected cell assets of other protected cells or the assets of the protected cell captive insurance company's general account.

(d) A protected cell captive insurance company shall establish administrative and accounting procedures necessary to properly identify (i) the one or more protected cells of the protected cell captive insurance company and (ii) the assets and liabilities attributable to each protected cell. The directors of a protected cell captive insurance company shall keep protected cell assets and liabilities:

(1) Separate and separately identifiable from the assets and liabilities of the protected cell captive insurance company's general account.

(2) Attributable to one protected cell separate and separately identifiable from protected cell assets and protected cell liabilities attributable to other protected cells.

If this subsection is violated, then the remedy of tracing is applicable to protected cell assets when commingled with protected cell assets of other protected cells or the assets of the protected cell captive insurance company's general account. The remedy of tracing shall not be construed as an exclusive remedy.

(e) When establishing a protected cell, the protected cell captive insurance company shall attribute to the protected cell assets a value at least equal to the reserves and other insurance liabilities attributed to that protected cell.

(f) Each protected cell shall be accounted for separately on the books and records of the protected cell captive insurance company to reflect (i) the financial condition and results of operations of such protected cell, (ii) net income or loss, (iii) dividends or other distributions to participants, and (iv) such other factors as may be provided in the participant contract or required by the Commissioner.

(g) No asset of a protected cell shall be chargeable with liabilities arising out of any other insurance business the protected cell captive insurance company may conduct.

(h) No sale, exchange, or other transfer of assets shall be made by such protected cell captive insurance company between or among any of its protected cells without the consent of such protected cells.

(i) No sale, exchange, transfer of assets, dividend, or distribution shall be made from a protected cell to a protected cell captive insurance company or participant without the Commissioner's approval. In no event shall the Commissioner's approval be given if the sale, exchange, transfer, dividend, or distribution would result in the insolvency or impairment of a protected cell.

(j) All attributions of assets and liabilities to the protected cells and the general account shall be in accordance with the plan of operation approved by the Commissioner. No other attribution of assets or liabilities shall be made by a protected cell captive insurance company between its general account and any protected cell, or between any protected cells. The protected cell captive insurance company shall attribute all insurance obligations, assets, and liabilities relating to a reinsurance contract entered into with respect to a protected cell to such protected cell. The performance under such reinsurance contract and any tax benefits, losses, refunds, or credits allocated pursuant to a tax allocation agreement to which the protected cell captive insurance company is a party, including any payments made by or due to be made to the protected cell captive insurance company pursuant to the terms of such agreement, shall reflect the insurance obligations, assets, and liabilities relating to the reinsurance contract that are attributed to such protected cell.

(k) In connection with the conservation, rehabilitation, or liquidation of a protected cell captive insurance company, the assets and liabilities of a protected cell shall, to the extent the Commissioner determines they are separable, at all times be kept separate from and shall not be commingled with those of other protected cells and the protected cell captive insurance company.

(l) Each protected cell captive insurance company shall annually file with the Commissioner such financial reports as required by the Commissioner. Any such financial report shall include without limitation accounting statements detailing the financial experience of each protected cell.

(m) Each protected cell captive insurance company shall notify the Commissioner in writing within 10 business days of any protected cell that is insolvent or otherwise unable to meet its claim or expense obligations.

(n) No participant contract shall take effect without the Commissioner's prior written approval. The addition of each new protected cell, the withdrawal of any participant, or the termination of any existing protected cell shall constitute a change in the plan of operation requiring the Commissioner's prior written approval.

(o) The business written by a protected cell captive insurance company, with respect to each protected cell, must be secured by one of the following methods:

(1) Fronted by an insurance company licensed under the laws of any state.

(2) Reinsured by a reinsurer authorized or approved by this State.

(3) Secured by a trust fund in the United States for the benefit of policyholders and claimants, funded by an irrevocable letter of credit, or other arrangement that is acceptable to the Commissioner. The amount of security provided shall be no less than the reserves associated with those liabilities which are neither fronted nor reinsured, including reserves for losses, allocated loss adjustment expenses, incurred but not reported losses, and unearned premiums for business written through the participant's protected cell. The Commissioner may require the protected cell captive insurance company to increase the funding of any security arrangement established under this subdivision. If the form of security is a letter of credit, the letter of credit shall be issued or confirmed by a bank approved by the Commissioner. A trust maintained pursuant to this subdivision shall be established in a form and upon such terms approved by the Commissioner.

(p) Notwithstanding this Chapter or other laws of this State, and in addition to G.S. 58-10-525, in the event of an insolvency of a protected cell captive insurance company where the Commissioner determines that one or more protected cells remain solvent, the Commissioner may separate such cells from the protected cell captive insurance company and may allow, on application of the protected cell captive insurance company, for the conversion of such protected cells into one or more new or existing protected cell captive insurance companies, or one or more other captive insurance companies, pursuant to such plan of operation as the Commissioner deems acceptable.

"**§ 58-10-515. Participation in a protected cell captive insurance company.**

(a) Associations, corporations, limited liability companies, partnerships, trusts, and other business entities may be participants in any protected cell captive insurance company formed or licensed under this Part.

(b) A sponsor may be a participant in a protected cell captive insurance company.

(c) A participant need not be a shareholder of the protected cell captive insurance company or any affiliate thereof.

(d) A participant shall insure only its own risks through a protected cell captive insurance company.

"**§ 58-10-520. Combining assets of protected cells.**

Notwithstanding G.S. 58-10-510, the assets of two or more protected cells may be combined for purposes of investment and such combination shall not be construed as defeating the segregation of such assets for accounting or other purposes. Protected cell captive insurance companies shall comply with the investment requirements contained in G.S. 58-7-167, 58-7-170, 58-7-172, 58-7-173, 58-7-178, 58-7-179, 58-7-180, 58-7-183, 58-7-185, 58-7-187, 58-7-188, 58-7-192, 58-7-193, 58-7-197, 58-7-200, and 58-7-205, as applicable; provided that compliance with such investment requirements shall be waived for protected cell captive insurance companies to the extent that credit for reinsurance ceded to reinsurers is allowed pursuant to G.S. 58-10-445 or to the extent otherwise deemed reasonable and appropriate by the Commissioner. Notwithstanding any other provision of this Chapter, the Commissioner may approve the use of alternative reliable methods of valuation and rating.

"**§ 58-10-525. Application of supervision, rehabilitation, and liquidation provisions to protected cell captive insurance companies.**

(a) Except as otherwise provided in this Part, Article 30 of this Chapter shall apply to a protected cell captive insurance company.

(b) Upon any order of supervision, rehabilitation, or liquidation of a protected cell captive insurance company, the Commissioner or receiver shall manage the assets and liabilities of the protected cell captive insurance company pursuant to this Part.

(c) Notwithstanding Article 30 of this Chapter:

(1) No assets of a protected cell shall be used to pay any expenses or claims other than those attributable to such protected cell.

(2) A protected cell captive insurance company's capital and surplus shall at all times be available to pay any expenses of, or claims against, the protected cell captive insurance company.

"Subpart 3. Branch Captive Insurance Companies.

"§ 58-10-530. Establishment of branch captive insurance companies.

(a) A branch captive insurance company may be established in this State, in accordance with this Subpart, to write in this State any insurance or reinsurance of the employee benefit business of its parent and affiliated companies that is subject to the Employee Retirement Income Security Act of 1974, as amended, or any insurance or reinsurance permitted to be written by captive insurance companies pursuant to this Part.

(b) No branch captive insurance company shall do any insurance business in this State unless it maintains the principal place of business for its branch operations in this State.

"§ 58-10-535. Security for payment of branch captive insurance company liabilities.

(a) No branch captive insurance company shall be issued a license by the Commissioner unless it possesses and maintains as security for the payment of liabilities attributable to the branch operations:

(1) An amount equal to the amount set forth in G.S. 58-10-370 as the minimum capital requirement for a pure captive insurance company.

(2) Reserves on such insurance policies or such reinsurance contracts as may be issued or assumed by the branch captive insurance company through its branch operations, including reserves for losses, allocated loss adjustment expenses, incurred but not reported losses, and unearned premiums with regard to business written through the branch operations; provided, however, that the Commissioner may permit a branch captive insurance company to credit against any such reserve requirement any security for loss reserves that the branch captive insurance company may post with a ceding insurer or that may be posted by a reinsurer with the branch captive insurance company, and in either case if such security remains posted.

(b) Subject to the prior approval of the Commissioner, the amounts required in subsection (a) of this section may be held in the form of:

(1) A trust formed under a trust agreement and funded by assets acceptable to the Commissioner.

(2) An irrevocable letter of credit issued or confirmed by a bank approved by the Commissioner.

(3) With respect to the amounts required in subdivision (a)(1) of this section only, cash on deposit with the Commissioner.

(4) Any combination of subdivisions (b)(1) through (3) of this section.

"§ 58-10-540. Petition for certificate of authority.

In the case of an alien captive insurance company seeking to become licensed as a branch captive insurance company, the alien captive insurance company shall petition the Commissioner to issue a certificate setting forth the Commissioner's finding that, after considering the character, reputation, financial responsibility, insurance experience, and business qualifications of the officers and directors of the alien captive insurance company, the licensing and maintenance of the branch operations will promote the general good of the State.

After the Commissioner issues a certificate of authorization, the alien captive insurance company shall comply with all other applicable State statutes or common law.

"**§ 58-10-545. Filing of reports and statements.**

Prior to March 1 of each year, or with the approval of the Commissioner within 60 days after its fiscal year-end, a branch captive insurance company shall file with the Commissioner a copy of all reports and statements required to be filed under the laws of the jurisdiction in which the alien captive insurance company is formed, verified by oath of two of its executive officers. If the Commissioner is satisfied that the annual report filed by the alien captive insurance company in its domiciliary jurisdiction provides adequate information concerning the financial condition of the alien captive insurance company, the Commissioner may waive the requirement for completion of the captive annual statement for business written in the alien jurisdiction.

"**§ 58-10-550. Examination of a branch captive insurance company.**

(a) Any examination of a branch captive insurance company pursuant to G.S. 58-10-430 shall be of branch business and branch operations only so long as the branch captive insurance company files annually with the Commissioner a certificate of compliance, or its equivalent, issued by or filed with the licensing authority of the jurisdiction in which the branch captive insurance company is formed, and demonstrates to the Commissioner's satisfaction that it is operating in sound financial condition in accordance with all applicable laws and regulations of such jurisdiction.

(b) As a condition of licensure, an alien captive insurance company shall grant authority to the Commissioner for examination of the affairs of the alien captive insurance company in the jurisdiction in which the alien captive insurance company is formed.

"Subpart 4. Special Purpose Financial Captives.

"**§ 58-10-555. Creation of special purpose financial captives.**

Special purpose financial captives (SPFCs) are provided by this Subpart exclusively to facilitate the securitization of one or more risks as a means of accessing alternative sources of capital and achieving the benefits of securitization. SPFCs are created for the limited purpose of entering into SPFC contracts and insurance securitization transactions and into related agreements to facilitate the accomplishment and execution of those transactions. The creation of SPFCs is intended to achieve greater efficiencies in structuring and executing insurance securitizations, to diversify and broaden sources of capital for insurers, to facilitate access for many insurers to insurance securitization and capital markets financing technology, and to further the economic development and expand the interest of this State through its captive insurance program.

"**§ 58-10-560. Controlling provisions when conflict exists; exemptions.**

(a) No provisions of this Chapter, other than those expressly provided in this Part, shall apply to an SPFC. If any conflict occurs in this Part related to an SPFC, the provisions of this Subpart shall control.

(b) The Commissioner, by rule, regulation, or order, may exempt an SPFC or its protected cells, on a case-by-case basis, from this Part if the Commissioner determines regulation under this Part to be inappropriate given the nature of the risks to be insured.

"**§ 58-10-565. Application requirements.**

(a) An SPFC, when permitted by its organizational documents, may apply to the Commissioner for a certificate of authority to transact insurance or reinsurance business as authorized by this Part. An SPFC shall only insure or reinsure the risks of its counterparty. Notwithstanding any other provision of this Part, an SPFC may purchase reinsurance to cede the risks assumed under the SPFC contract as approved by the Commissioner.

(b) To transact business in this State, an SPFC shall:

(1) Comply with the procedures established in G.S. 58-10-345(c).

(2) Obtain from the Commissioner a certificate of authority authorizing it to conduct insurance or reinsurance business, or both, in this State.

(3) Hold at least one management meeting each year in this State. For the purposes of this section, management is defined as the board of directors, managing board, or other individual or individuals vested with overall responsibility for the management of the affairs of the SPFC, including the election and appointment of officers or other of those agents to act on behalf of the SPFC.

(4) Maintain its principal place of business in this State.

(5) Appoint a resident registered agent to accept service of process and to otherwise act on its behalf in this State. If the registered agent, with reasonable diligence, is not found at the registered office of the SPFC, the Commissioner shall be an agent of the SPFC upon whom any process, notice, or demand may be served.

(6) Provide such documentation of the insurance securitization as requested by the Commissioner immediately upon closing of the transaction, including:

a. An opinion of a duly licensed North Carolina legal counsel with respect to compliance with this Part and any other applicable laws as of the effective date of the transaction.

b. A statement under oath of its president and secretary demonstrating its financial condition.

(7) Provide a complete set of the documentation of the insurance securitization to the Commissioner immediately following closing of the transaction.

(c) A complete SPFC application shall include the following:

(1) A certified copy of the SPFC's organizational documents.

(2) Evidence of:

a. The amount and liquidity of its assets relative to the risks to be assumed.

b. The adequacy of the expertise, experience, and character of the person or persons who manage the SPFC.

c. The overall soundness of the SPFC's plan of operation.

d. Other factors considered relevant by the Commissioner in ascertaining whether the proposed SPFC is able to meet its policy obligations.

e. The applicant SPFC's financial condition, including the source and form of the minimum capital to be contributed to the SPFC.

(3) A plan of operation consisting of a description of or statement of intent with respect to the contemplated insurance securitization, the SPFC contract, and related transactions, which shall include:

a. Draft documentation or, at the discretion of the Commissioner, a written summary of all material agreements that are entered into to effectuate the SPFC contract and, before the effectuation of the SPFC contract, the insurance securitization, to include the names of the counterparty, the nature of the risks being assumed, the proposed use of protected cells, if any, and the maximum amounts, purpose, and nature and the interrelationships of the various transactions required to effectuate the insurance securitization.

b. The source and form of additional capital to be contributed to the SPFC.

c. The proposed investment strategy of the SPFC.

d. A description of the underwriting, reporting, and claims payment methods by which losses covered by the SPFC contract are reported, accounted for, and settled.

e. A pro forma balance sheet and income statement illustrating various stress case scenarios for the performance of the SPFC under the SPFC contract.

(4) Biographical affidavits in NAIC format of all of the prospective SPFC's officers and directors, providing the officers' and directors' legal names, any names under which they have or are conducting their affairs, and any other biographical information as the Commissioner may request.

(5) An affidavit from the applicant SPFC verifying:

a. The applicant SPFC complies with this Part.

b. The applicant SPFC operates only pursuant to this Part.

c. The applicant SPFC's investment strategy reflects and takes into account the liquidity of assets and the reasonable preservation, administration, and asset management of such assets relative to the risks associated with the SPFC contract and the insurance securitization transaction.

d. The securities proposed to be issued, if any, are valid legal obligations that are either properly registered with the Commissioner or constitute an exempt security or form part of an exempt transaction.

(6) Any other statements or documents required by the Commissioner to evaluate and complete the licensing of the SPFC.

(d) In addition to the information required by subsection (c) of this section and by G.S. 58-10-585, when a protected cell is used, an applicant SPFC shall file with the Commissioner:

(1) A business plan demonstrating how the applicant SPFC accounts for the loss and expense experience of each protected cell at a level of detail found to be sufficient by the Commissioner and how the applicant will report the experience to the Commissioner.

(2) A statement acknowledging that all records of the SPFC, including records pertaining to any protected cells, must be made available for inspection or examination by the Commissioner.

(3) All contracts or sample contracts between the SPFC and any counterparty related to each protected cell.

(4) A description of the expenses allocated to each protected cell.

(e) Information submitted pursuant to this section shall be and remain confidential, and shall not be made public by the Commissioner or the Commissioner's designee unless disclosure is ordered by a court of competent jurisdiction. In addition, the Commissioner shall have the discretion to disclose such information to a public official having jurisdiction over the regulation of insurance in another state, provided that:

(1) Such public official shall agree in writing to maintain the confidentiality of such information.

(2) The laws of the state in which such public official serves require such information to be and to remain confidential.

(f) G.S. 58-10-430 applies to SPFCs.

(g) SPFCs are subject to any rules or regulations promulgated pursuant to G.S. 58-10-460.

(h) The Commissioner may retain legal, financial, and examination services from outside the Department to examine and investigate the application, the cost of which may be

charged against the applicant. The Commissioner also may use internal resources to examine and investigate the application based upon an hourly rate for the services performed or the usual and customary fee charged by the financial services industry for similar work subject to a minimum fee of twelve thousand dollars ($12,000), six thousand dollars ($6,000) of which is payable upon filing of the application and the remainder upon licensure.

(i) An SPFC shall be subject to payment of premium taxes as required by G.S. 58-10-455.

(j) The Commissioner shall grant a certificate of authority authorizing the SPFC to transact insurance or reinsurance business as an SPFC in this State, upon a finding by the Commissioner that:

(1) The SPFC's proposed plan of operation provides a reasonable and expected successful operation.

(2) The terms of the SPFC contract and related transactions comply with this Part.

(3) The proposed plan of operation is not hazardous to any counterparty.

(4) To the extent required by law or regulation, the Commissioner or an equivalent regulatory authority of the state of domicile of each counterparty has notified the Commissioner in writing or otherwise provided assurance satisfactory to the Commissioner that it has approved or not disapproved the transaction.

(5) The certificate of authority authorizing the SPFC to transact business is limited only to the insurance or reinsurance activities that the SPFC is authorized to conduct pursuant to this Part.

(k) In evaluating the expectation of a successful operation, factors the Commissioner shall consider include whether the proposed SPFC and its management are of known good character and reasonably believed not to be affiliated, directly or indirectly, through ownership, control, management, reinsurance transactions, or other insurance or business relations, with a person known to have been involved in the improper manipulation of assets, accounts, or reinsurance.

(l) To ensure the proposed plan of operation is not hazardous to any counterparty, the Commissioner may require reasonable safeguards in the SPFC's plan of operation where applicable and appropriate in the circumstance, including, without limitation, that certain assets of the SPFC be held in a trust to secure the obligations of the SPFC to a counterparty under an SPFC contract.

(m) A foreign or alien corporation or limited liability company, upon approval of the Commissioner, may become a domestic SPFC after complying with G.S. 58-10-345(c)(1). After such documents are successfully filed, the foreign or alien corporation or limited liability company is entitled to the necessary or appropriate certificates or licenses to transact business as an SPFC in this State and is subject to the authority and jurisdiction of this State. In connection with this redomestication, the Commissioner may waive any requirements for public hearings. It is not necessary for a corporation or limited liability company redomesticating into this State to merge, consolidate, transfer assets, or otherwise engage in another reorganization, other than as specified in this section.

"**§ 58-10-570. Organization of an SPFC.**

(a) An SPFC may be established as a stock corporation, limited liability company, mutual, partnership, or other form of organization approved by the Commissioner.

(b) The SPFC's organizational documents shall limit the SPFC's authority to transact the business of insurance or reinsurance to those activities the SPFC conducts to accomplish its purpose as expressed in this Part.

(c) The SPFC shall not adopt a name that is the same as, deceptively similar to, or likely to be confused with or mistaken for another existing business name registered in this State. Any name adopted by an SPFC shall comply with State law.

(d) An SPFC shall have at least three incorporators or organizers, of whom at least two shall be residents of this State.

(e) At least one of the members of the management of the SPFC shall be a resident of this State.

(f) An SPFC formed pursuant to this Part has the privileges of and is subject to all other requirements of this State's law applicable to its formation, as well as the applicable provisions contained in this Part, provided that this Part controls if a conflict exists in this State's law.

"**§ 58-10-575. Minimum capital.**

(a) An SPFC shall initially possess and maintain minimum capital of not less than two hundred and fifty thousand dollars ($250,000). All of the minimum initial capitalization shall be in cash. All other funds of the SPFC in excess of its minimum initial capitalization shall be in the form of cash, cash equivalent, or securities invested as approved by the Commissioner.

(b) Additional capitalization for the SPFC shall be determined, if so required, by the Commissioner after giving due consideration to the SPFC's plan of operation, feasibility study, pro formas, and the nature of the risks being insured or reinsured, which may be prescribed in formulas approved by the Commissioner.

"**§ 58-10-580. Authorized activities.**

(a) An SPFC shall only insure the risks of a counterparty.

(b) No SPFC shall issue a contract for assumption of risk or indemnification of loss other than an SPFC contract. However, the SPFC may cede risks assumed through an SPFC contract to third-party reinsurers through the purchase of reinsurance or retrocession protection on terms approved by the Commissioner.

(c) An SPFC may enter into contracts and conduct other commercial activities related or incidental to and necessary to fulfill the purposes of the SPFC contract, insurance securitization, and this Part. Those activities may include, but are not limited to:

(1) Entering into SPFC contracts.

(2) Issuing SPFC securities in accordance with applicable securities law.

(3) Complying with the terms of such contracts or securities.

(4) Entering into trust, guaranteed investment contract, letter of credit, swap, tax, administration, reimbursement, or fiscal agent transactions.

(5) Complying with trust indenture, reinsurance, or retrocession, and agreements necessary or incidental to effectuate an insurance securitization in compliance with this Part or the plan of operation approved by the Commissioner.

(d) An SPFC shall do all of the following:

(1) Discount its reserves at discount rates as approved by the Commissioner.

(2) Maintain reserves that are actuarially sufficient to support the liabilities incurred by an SPFC in reinsuring life insurance policies.

(3) File annually with the Commissioner an actuarial opinion on reserves provided by an approved independent actuary.

"**§ 58-10-585. Establishment of protected cell accounts.**

(a) This section and G.S. 58-10-590 provide a basis for the creation and use of protected cells by an SPFC as a means of accessing alternative sources of capital, lowering formation and administrative expenses, and generally making insurance securitizations more efficient. If a conflict exists between other provisions of this Part and either this section or G.S. 58-10-590, then this section or G.S. 58-10-515 shall control as applicable.

(b) An SPFC may establish and maintain one or more protected cells with prior written approval of the Commissioner and subject to compliance with the applicable provisions of this Part and all of the following conditions:

(1) A protected cell shall be established only for the purpose of insuring or reinsuring risks of one or more SPFC contracts with a counterparty with the intent of facilitating an insurance securitization.

(2) Each protected cell shall be accounted for separately on the books and records of the SPFC to reflect the financial condition and results of operations of the protected cell, net income or loss, dividends, or other distributions to the counterparty for the SPFC contract with each cell, and other factors as may be provided in the SPFC contract, insurance securitization transaction documents, plan of operation, or business plan, or as required by the Commissioner.

(3) Amounts attributed to a protected cell under this Part, including assets transferred to a protected cell account, are owned by the SPFC, and no SPFC shall be or hold itself out to be a trustee with respect to those protected cell assets of that protected cell account.

(4) All attributions of assets and liabilities between a protected cell and the general account shall be in accordance with the plan of operation approved by the Commissioner, and no other attribution of assets or liabilities by an SPFC between the SPFC's general account and its protected cell or cells is permitted. The SPFC shall attribute all insurance obligations, assets, and liabilities relating to an SPFC contract and the related insurance securitization transaction, including any securities issued by the SPFC as part of the insurance securitization, to a particular protected cell. The insurance obligations, assets, and liabilities relating to the SPFC contract and the insurance securitization transaction that are attributed to a particular protected cell shall be consistent with:

a. The rights, benefits, obligations, and liabilities of any securities attributable to that protected cell.

b. The performance under an SPFC contract and the related securitization transaction and any tax benefits, losses, refunds, or credits allocated, at any point in time pursuant to a tax allocation agreement between the SPFC and the SPFC's counterparty, parent, or company or group company, or any of them, in common control with them, as the case may be, including any payments made by or due to be made to the SPFC pursuant to the terms of the agreement.

(5) No assets of a protected cell shall be chargeable with liabilities arising out of an SPFC contract related to or associated with another protected cell. However, one or more SPFC contracts may be attributed to a protected cell only if the SPFC contracts are intended to be and ultimately are part of a single securitization transaction.

(6) No sale, exchange, or other transfer of assets shall be made by the SPFC between or among any of the SPFC's protected cells without the consent of the Commissioner, counterparty, and each protected cell.

(7) Except as otherwise contemplated in the SPFC contract or related insurance securitization transaction documents, or both, no sale, exchange, transfer of assets, dividend, or distribution shall be made from a protected cell to a counterparty or parent without the Commissioner's approval and the sale, exchange, transfer, dividend, or distribution shall not be approved if the sale,

exchange, transfer, dividend, or distribution would result in a protected cell's insolvency or impairment.

(8) An SPFC may pay interest or repay principal, or both, and make distributions or repayments with respect to any securities attributed to a particular protected cell from assets or cash flows relating to or emerging from the SPFC contract and the insurance securitization transactions that are attributable to that particular protected cell in accordance with this Part, or as otherwise approved by the Commissioner.

(c) No SPFC contract with or attributable to a protected cell shall take effect without the Commissioner's prior written approval, and the addition of each new protected cell constitutes a change in the business plan requiring the Commissioner's prior written approval. The Commissioner may retain legal, financial, and examination services from outside the Department to examine and investigate the application for a protected cell, the cost of which may be charged against the applicant, or the Commissioner may use internal resources to examine and investigate the application, the cost of which may be charged against the applicant, or both.

(d) An SPFC utilizing protected cells shall possess and maintain minimum capitalization separate and apart from the capitalization of its protected cell or cells in an amount determined by the Commissioner after giving due consideration of the SPFC's business plan, feasibility study, and pro formas, including the nature of the risks to be insured or reinsured. For purposes of determining the capitalization of each protected cell, an SPFC shall initially capitalize and maintain capitalization in each protected cell in the amount and manner required for an SPFC in G.S. 58-10-575.

(e) The establishment of one or more protected cells alone shall not constitute and shall not be deemed to be a fraudulent conveyance, an intent by the SPFC to defraud creditors, or the carrying out of business by the SPFC for any other fraudulent purpose.

"**§ 58-10-590. Protected cell accounts.**

(a) All of the following shall apply to a protected cell:

(1) The creation of a protected cell shall not create, with respect to that protected cell, a legal person separate from the SPFC.

(2) Notwithstanding subdivision (a)(1) of this subsection, a protected cell shall have its own distinct name or designation that includes the words "protected cell." The SPFC shall transfer all assets attributable to the protected cell to one or more separately established and identified protected cell accounts bearing the name or designation of that protected cell.

(3) Although a protected cell is not a separate legal person, the property of an SPFC in a protected cell is subject to orders of the court by name as the property would have been if the protected cell were a separate legal person.

(4) The property of an SPFC in a protected cell shall be served with process in its own name in all civil actions or proceedings involving or relating to the activities of that protected cell or a breach by the SPFC of a duty to the protected cell or to a counterparty to a transaction linked or attributed to it by serving the SPFC.

(5) A protected cell exists only at the pleasure of the SPFC. At the cessation of business of a protected cell in accordance with the plan approved by the Commissioner, the SPFC shall close out the protected cell account.

(b) Nothing in this section shall be construed to prohibit an SPFC from contracting with or arranging for an investment advisor, commodity trading advisor, or other third party to manage the assets of a protected cell, if all remuneration, expenses, and other compensation of the third-party advisor or manager are payable from the assets of that protected cell and not

from the assets of other protected cells or the assets of the SPFC's general account, unless approved by the Commissioner.

(c) Creditors with respect to a protected cell are not entitled to have recourse against the protected cell assets of other protected cells or the assets of the SPFC's general account. If an obligation of an SPFC relates only to the general account, the obligation of the SPFC extends only to that creditor with respect to that obligation, and the creditor is entitled to have recourse only to the assets of the SPFC's general account.

(d) The assets of the protected cell shall not be used to pay expenses or claims other than those attributable to the protected cell. Protected cell assets are available only to the SPFC contract counterparty and other creditors of the SPFC that are creditors only with respect to that protected cell and, accordingly, are entitled in conformity with this Part, to have recourse to the protected cell assets attributable to that protected cell. The assets of the protected cell are protected from the creditors of the SPFC that are not creditors with respect to that protected cell and who, accordingly, are not entitled to have recourse to the protected cell assets attributable to that protected cell. If an obligation of an SPFC to a person or counterparty arises from an SPFC contract or related insurance securitization transaction, or is otherwise incurred with respect to a protected cell, then the obligation shall:

(1) Extend only to the protected cell assets attributable to that protected cell, and the person or counterparty, with respect to that obligation, is entitled to have recourse only to the protected cell assets attributable to that protected cell.

(2) Not extend to the protected cell assets of another protected cell or the assets of the SPFC's general account, and the person or counterparty, with respect to that obligation, is not entitled to have recourse to the protected cell assets of another protected cell or the assets of the SPFC's general account. The SPFC's capitalization held separate and apart from the capitalization of its protected cell or cells must be available at all times to pay expenses of or claims against the SPFC and may not be used to pay expenses or claims attributable to any protected cell.

(e) Notwithstanding any other provision of law, an SPFC may allow for a security interest in accordance with applicable law to attach to protected cell assets or a protected cell account when in favor of a creditor of the protected cell or to facilitate an insurance securitization, including, without limitation, the issuance of the SPFC contract, to the extent those protected cell assets are not required at all times to support the risk, but without otherwise affecting the discharge of liabilities under the SPFC contract, or as otherwise approved by the Commissioner.

(f) An SPFC shall establish administrative and accounting procedures necessary to properly identify the one or more protected cells of the SPFC and the protected cell assets and protected cell liabilities to each protected cell. An SPFC shall keep protected cell assets and protected cell liabilities:

(1) Separate and separately identifiable from the assets and liabilities of the SPFC's general account.

(2) Attributable to one protected cell separate and separately identifiable from protected cell assets and protected cell liabilities attributable to other protected cells.

(g) All contracts or other documentation reflecting protected cell liabilities shall clearly indicate that only the protected cell assets are available for the satisfaction of those protected cell liabilities. In all SPFC insurance securitizations involving a protected cell, the contracts or other documentation effecting the transaction shall contain provisions identifying the protected cell to which the transaction is attributed. In addition, the contracts or other documentation shall clearly disclose that the assets of that protected cell, and only those assets, are available to pay the obligations of that protected cell. Notwithstanding this subsection, and subject to this

Part and other applicable laws or regulations, the failure to include this language in the contracts or other documentation shall not be used as the sole basis by creditors, insureds or reinsureds, insurers or reinsurers, or other claimants to circumvent the provisions of this section.

(h) An SPFC with protected cells shall annually file with the Department accounting statements and financial reports required by this Part, which shall:

(1) Detail the financial experience of each protected cell and the SPFC separately.

(2) Provide the combined financial experience of the SPFC and all protected cells.

(i) An SPFC with protected cells shall notify the Commissioner in writing within 10 business days of a protected cell becoming insolvent.

"**§ 58-10-595. Issuing securities.**

(a) An SPFC may issue securities, including surplus notes and other forms of financial instruments, subject to and in accordance with applicable law, its approved plan of operation, and its organizational documents.

(b) An SPFC, in connection with the issuance of securities, may enter into and perform all of its obligations under any required contracts to facilitate the issuance of these securities.

(c) Subject to the approval of the Commissioner, an SPFC may lawfully:

(1) Account for the proceeds of surplus notes as surplus and not as debt for purposes of statutory accounting.

(2) Submit for prior approval of the Commissioner periodic written requests for payments of interest on and repayments of principal of surplus notes. In lieu of approval of periodic written requests for authorization to make payments of interest on and repayments of principal of surplus notes and other debt obligations issued by the SPFC, the Commissioner may approve a formula or plan, which shall be included in the SPFC's plan of operation as amended from time to time, for payment of interest, principal, or both, with respect to such surplus notes and debt obligations.

(d) The Commissioner, without otherwise prejudicing the Commissioner's authority, may approve formulas for an ongoing plan of interest payments or principal repayments, or both, to provide guidance in connection with the Commissioner's ongoing reviews of requests to approve the payments on and principal repayments of the surplus notes.

(e) The obligation to repay principal or interest, or both, on the securities issued by the SPFC must reflect the risk associated with the obligations of the SPFC to the counterparty under the SPFC contract.

"**§ 58-10-600. Asset management agreements.**

An SPFC may enter into swap agreements, or other forms of asset management agreements, including guaranteed investment contracts, or other transactions that have the objective of leveling timing differences in funding of up-front or ongoing transaction expenses, or managing asset, credit, or interest rate risk of the investments to ensure that the investments are sufficient to assure payment or repayment of the securities, and related interest or principal payments, issued pursuant to an SPFC insurance securitization transaction, or the obligations of the SPFC under the SPFC contract.

"**§ 58-10-605. Reinsurance.**

(a) An SPFC may reinsure only the risks of a ceding insurer pursuant to a reinsurance contract. No SPFC shall issue a contract of insurance or a contract for assumption of risk or indemnification of loss other than such reinsurance contract.

(b) Unless otherwise approved in advance by the Commissioner, no SPFC shall assume or retain exposure to insurance or reinsurance losses for its own account that are not funded by:

(1) Proceeds from an insurance securitization, letters of credit, or other assets described in G.S. 58-10-340(22).
(2) Premium and other amounts payable by the ceding insurer to the SPFC pursuant to the reinsurance contract.
(3) Any return on investment of the items described in subdivisions (1) and (2) of this subsection.

(c) The reinsurance contract shall contain all provisions required or approved by the Commissioner, which requirements shall take into account the laws applicable to the ceding insurer regarding the ceding insurer taking credit for the reinsurance provided under such reinsurance contract.

(d) An SPFC may cede risks assumed through a reinsurance contract to one or more reinsurers through the purchase of reinsurance, subject to the prior approval of the Commissioner.

(e) An SPFC may enter into contracts and conduct other commercial activities related or incidental to and necessary to fulfill the purposes of the reinsurance contract, the insurance securitization, and this Part, provided such contracts and activities are included in the SPFC's plan of operation or are otherwise approved in advance by the Commissioner. Such contracts and activities may include the following:

(1) Entering into SPFC contracts.
(2) Issuing SPFC securities in accordance with applicable securities law.
(3) Complying with the terms of such contracts or securities.
(4) Entering into trust, guaranteed. investment contract, letter of credit, swap, tax, administration, reimbursement, or fiscal agent transactions.
(5) Complying with trust indenture, reinsurance, or retrocession and other agreements necessary or incidental to effectuate an insurance securitization in compliance with this Part or the plan of operation approved by the Commissioner.

(f) Unless otherwise approved in advance by the Commissioner, a reinsurance contract shall not contain any provision for payment by the SPFC in discharge of its obligations under the reinsurance contract to any person other than the ceding insurer or any receiver of the ceding insurer.

(g) An SPFC shall notify the Commissioner immediately of any action by a ceding insurer or any other person to foreclose on or otherwise take possession of collateral provided by the SPFC to secure any obligation of the SPFC.

(h) In the SPFC insurance securitization, the contracts or other relating documentation shall contain provisions identifying the SPFC.

(i) Unless otherwise approved by the Commissioner, no SPFC shall enter into an SPFC contract with a person that is not licensed or otherwise authorized to transact the business of insurance or reinsurance in at least its state or country of domicile.

(j) No SPFC shall:

(1) Have any direct obligation to the policyholders or reinsureds of the counterparty.
(2) Perform any of the following activities with anyone convicted of a felony, anyone who is untrustworthy or of known bad character, or anyone convicted of a criminal offense involving the conversion or misappropriation of fiduciary funds or insurance accounts, theft, deceit, fraud, misrepresentation, or corruption:
a. Lend or otherwise invest assets.
b. Place any assets in custody, trust, or under management.
c. Borrow money or receive a loan or advance, other than by issuance of the securities pursuant to an insurance securitization.

"§ 58-10-610. No securities considered to be insurance or reinsurance contracts.

No securities issued by an SPFC pursuant to an insurance securitization shall be considered to be insurance or reinsurance contracts. No investor in these securities or a holder of these securities, by sole means of this investment or holding, shall be considered to be transacting the business of insurance in this State. The underwriter's placement or selling agents and their partners, directors, officers, members, managers, employees, agents, representatives, and advisors involved in an insurance securitization pursuant to this Part shall not be considered to be insurance producers or brokers or conducting business as an insurance or reinsurance company or agency, brokerage, intermediary, advisory, or consulting business only by virtue of their activities in connection with an insurance securitization.

"§ 58-10-615. Disposition of assets; investment limitations.

(a) The assets of an SPFC shall be preserved and administered by or on behalf of the SPFC to satisfy the liabilities and obligations of the SPFC incident to the reinsurance contract, the insurance securitization, and other related agreements.

(b) In the insurance securitization, the security offering memorandum or other document issued to prospective investors regarding the offer and sale of a surplus note or other security shall include a disclosure that all or part of the proceeds of such insurance securitization will be used to fund the SPFC's obligations to the ceding insurer.

(c) No SPFC shall be subject to any restriction on investments other than the following:

(1) The Commissioner may limit investments by an SPFC to those categories and amounts of authorized investments delineated in G.S. 58-7-167, 58-7-170, 58-7-172, 58-7-173, 58-7-178, 58-7-179, 58-7-180, 58-7-183, 58-7-185, 58-7-187, 58-7-188, 58-7-192, 58-7-193, 58-7-197, 58-7-200, and 58-7-205, as applicable and as amended from time to time.

(2) No SPFC shall make a loan to any person other than as permitted under its plan of operation or as otherwise approved in advance by the Commissioner.

(3) The Commissioner may prohibit or limit any investment that threatens the solvency or liquidity of the SPFC unless the investment is otherwise approved by the Commissioner in writing.

"§ 58-10-620. Dividends.

(a) No SPFC shall declare or pay dividends in any form to its owners other than in accordance with the insurance securitization transaction agreements, and in no extent shall the dividends decrease the capital of the SPFC below two hundred fifty thousand dollars ($250,000). After giving effect to the dividends, the assets of the SPFC, including assets held in trust pursuant to the terms of the insurance securitization, shall be sufficient to satisfy the Commissioner that the SPFC can meet its obligations. Approval by the Commissioner of an ongoing plan for the payment of dividends or other distribution by an SPFC must be conditioned upon the retention at the time of each payment of capital or surplus equal to or in excess of amounts specified by or determined in accordance with formulas approved for the SPFC by the Commissioner.

(b) The dividends may be declared by the management of the SPFC if the dividends do not violate this Part or jeopardize the fulfillment of the obligations of the SPFC or the trustee pursuant to the SPFC insurance securitization agreements, the SPFC contract, or any related transaction and other provisions of this Part.

"§ 58-10-625. Changes in plan of operation; filing of audit and statement of operation; examinations.

(a) Any material change of the SPFC's plan of operation, whether or not through an SPFC protected cell, shall require prior approval of the Commissioner. The following transactions do not constitute material change for purposes of this section:

(1) If initially approved in the plan of operation, securities subsequently issued to continue the securitization activities of the SPFC either during or after

expiration, redemption, or satisfaction of all of these, of part or all of the securities issued pursuant to initial insurance securitization transactions.

(2) A change and substitution in a counterparty to a swap transaction for an existing insurance securitization as allowed pursuant to this Part if the replacement swap counterparty carries a similar or higher rating to its predecessor with two or more nationally recognized rating agencies.

(b) No later than six months after the fiscal year-end of the SPFC, the SPFC shall file with the Commissioner an audit by a certified public accounting firm of the financial statements of the SPFC and the trust accounts.

(c) An SPFC shall report using statutory accounting principles, unless the Commissioner requires, approves, or accepts the use of generally accepted accounting principles or other comprehensive basis of accounting. In each case the Commissioner may require, approve, or accept any appropriate or necessary modifications or adaptations to the accounting basis, and may require the report to be supplemented by additional information.

(d) Each SPFC shall file by March 1 a statement of operations, using either generally accepted accounting principles or, if approved, accepted, or required by the Commissioner, statutory accounting principles with useful or necessary modifications or adaptations for the type of insurance and kinds of insurers to be reported upon, and as supplemented by additional information required by the Commissioner. The statement of operations shall include a statement of income, a balance sheet, and may include a detailed listing of invested assets, including identification of assets held in trust to secure the obligations of the SPFC under the SPFC contract. The SPFC also may include with the filing risk-based capital calculations and other adjusted capital calculations to assist the Commissioner with evaluating the levels of the surplus of the SPFC for the year ending on December 31 of the previous year. The statements shall be prepared on forms required by the Commissioner. In addition, the Commissioner may require the filing of performance assessments of the SPFC contract.

(e) An SPFC shall maintain the SPFC's records in this State unless otherwise approved by the Commissioner and shall make its records available for examination by the Commissioner at any time. The SPFC shall keep its books and records in such manner that its financial condition, affairs, and operations can be ascertained and so that the Commissioner may readily verify its financial statements and determine its compliance with this Part.

(f) All original books, records, documents, accounts, and vouchers shall be preserved and kept available in this State for the purpose of examination and until authority to destroy or otherwise dispose of the records is secured from the Commissioner. The original records, however, may be kept and maintained outside this State if, according to a plan adopted by the management of the SPFC and approved by the Commissioner, the SPFC maintains suitable copies instead of the originals. The books or records may be photographed, reproduced on film, or stored and reproduced electronically.

"**§ 58-10-630. Cessation of business.**

At the cessation of business of an SPFC following termination or cancellation of an SPFC contract and the redemption of any related securities issued in connection with the SPFC contract, the authority granted by the Commissioner expires or, in the case of retiring and surviving protected cells, is modified, the SPFC is no longer authorized to conduct activities unless and until a new or modified certificate of authority is issued pursuant to a new filing under this Part or as agreed by the Commissioner.

"**§ 58-10-635. Supervision, rehabilitation, or liquidation of SPFC.**

(a) Except as otherwise provided in this section, the terms and conditions set forth in Article 30 of this Chapter pertaining to supervision, rehabilitation, and liquidation of insurers apply in full to SPFCs or each of the SPFC's protected cells, independently, or both, without causing or otherwise effecting a supervision, rehabilitation, or liquidation of the SPFC or another protected cell.

(b) Notwithstanding the provisions of Article 30 of this Chapter, and without causing or otherwise effecting a rehabilitation or liquidation of an otherwise solvent protected cell of an SPFC and subject to the provisions of subdivision (g)(5) of this section, the Commissioner may apply by petition to the court for an order authorizing the Commissioner to rehabilitate or liquidate an SPFC domiciled in this State on one or more of the following grounds:

(1) There has been embezzlement, wrongful sequestration, dissipation, or diversion of the assets of the SPFC intended to be used to pay amounts owed to the counterparty or the holders of SPFC securities.

(2) The SPFC is insolvent and the holders of a majority in outstanding principal amount of each class of SPFC securities request or consent to rehabilitation or liquidation pursuant to the provisions of this Part.

(c) Notwithstanding the provisions of Article 30 of this Chapter, the Commissioner may apply by petition to the Court for an order authorizing the Commissioner to rehabilitate or liquidate one or more of an SPFC's protected cells independently, without causing or otherwise effecting a rehabilitation or liquidation of the SPFC generally or another of its protected cells on one or more of the following grounds:

(1) There has been embezzlement, wrongful sequestration, dissipation, or diversion of the assets of the SPFC attributable to the affected protected cell or cells intended to be used to pay amounts owed to the counterparty or the holders of SPFC securities of the affected protected cell or cells.

(2) The affected protected cell is insolvent and the holders of a majority in outstanding principal amount of each class of SPFC securities attributable to that particular protected cell request or consent to rehabilitation or liquidation pursuant to the provisions of this Part.

(d) The Court may not grant relief provided by subdivision (b)(1) or (c)(1) of this section, unless after notice and a hearing, the Commissioner, who shall have the burden of proof, establishes by preponderance of the evidence that relief must be granted. The court's order may be made with respect to one or more protected cells by name, rather than the SPFC generally.

(e) Notwithstanding another provision in this Chapter, rules adopted under this Chapter, or another applicable law or regulation, upon any order of rehabilitation or liquidation of a SPFC, or one or more of the SPFC's protected cells, the receiver shall manage the assets and liabilities of the SPFC pursuant to the provisions of this Part. The receiver shall ensure that the assets linked to one protected cell are not applied to the liabilities linked to another protected cell or to the SPFC generally, unless an asset or liability is linked to more than one protected cell, in which case the receiver shall deal with the asset or liability in accordance with the terms of any relevant governing instrument or contract.

(f) With respect to amounts recoverable under an SPFC contract, the amount recoverable by the receiver must not be reduced or diminished as a result of the entry of an order of rehabilitation or liquidation with respect to the counterparty, notwithstanding another provision in the contracts or other documentation governing the SPFC insurance securitization.

(g) Notwithstanding the provisions of Article 30 of this Chapter or other laws of this State:

(1) An application or petition, or a temporary restraining order or injunction issued pursuant to the provisions of Article 30 of this Chapter, with respect to a counterparty does not prohibit the transaction of a business by an SPFC, including any payment by an SPFC made pursuant to an SPFC security, or any action or proceeding against an SPFC or its assets.

(2) The commencement of a summary proceeding or other interim proceeding commenced before a delinquency proceeding with respect to an SPFC, and any order issued by the court does not prohibit the payment by an SPFC

made pursuant to an SPFC security, SPFC contract, or the SPFC from taking any action required to make the payment.

(3) A receiver of a counterparty may not void a nonfraudulent transfer by a counterparty to an SPFC of money or other property made pursuant to an SPFC contract.

(4) A receiver of an SPFC may not void a nonfraudulent transfer by the SPFC of money or other property made to a counterparty pursuant to an SPFC contract or made to or for the benefit of any holder of an SPFC security on account of the SPFC security.

(5) The Commissioner may not seek to have an SPFC with protected cells declared insolvent as long as at least one of the SPFC's protected cells remains solvent, and in the case of such an insolvency, the receiver shall handle the SPFC's assets in compliance with subsection (e) of this section and other laws of this State.

(h) Subsection (g) of this section does not prohibit the Commissioner from taking any action permitted under Article 30 of this Chapter with respect only to the rehabilitation of an SPFC with protected cell or cells, provided the Commissioner would have had sufficient grounds to seek to declare the SPFC insolvent, subject to and without otherwise affecting the provisions of subdivision (5) of subsection (g) of this section. In this case, with respect to the solvent protected cell or cells, the Commissioner may not prohibit payments made by the SPFC pursuant to the SPFC security, SPFC contract, or otherwise made under the insurance securitization transaction that are attributable to these protected cell or cells or prohibit the SPFC from taking any action required to make these payments.

(i) With the exception of the fulfillment of the obligations under an SPFC contract, and notwithstanding another provision of this Part or other laws of this State, the assets of an SPFC, including assets held in trust, must not be consolidated with or included in the estate of a counterparty in any delinquency proceeding against the counterparty, pursuant to the provisions of this Part for any purpose including, without limitation, distribution to creditors of the counterparty.

"Subpart 5. Other Provisions.

"§ 58-10-650. Other laws applicable to captive insurance companies.

In addition to the statutes and laws previously referred to in this Part, the following provisions of this Chapter are applicable to all captive insurance companies subject to this Part:

(1) G.S. 58-2-45. – Orders of Commissioner; when writing required.

(2) G.S. 58-2-160. – Reporting and investigation of insurance and reinsurance fraud and the financial condition of licensees; immunity from liability.

(3) G.S. 58-2-162. – Embezzlement by insurance agents, brokers, or administrators.

(4) G.S. 58-2-185. – Record of business kept by companies and agents; Commissioner may inspect.

(5) G.S. 58-2-190. – Commissioner may require special reports.

(6) G.S. 58-2-195. – Commissioner may require records, reports, etc., for agencies, agents, and others.

(7) G.S. 58-2-200. – Books and papers required to be exhibited.

(8) G.S. 58-5-1. – Deposits; use of master trust.

(9) G.S. 58-7-50. – Maintenance and removal of records and assets.

(10) G.S. 58-7-55. – Exceptions to requirements of G.S. 58-7-50."

SECTION 2. G.S. 58-22-15 reads as rewritten:

"§ 58-22-15. Risk retention groups chartered in this State.

(a) A risk retention group ~~seeking to be chartered in this State must be chartered~~ shall, pursuant to the provisions of Part 9 of Article 10 of this Chapter, be chartered and licensed ~~as a~~

to write only liability insurance ~~company under Article 7 of this Chapter~~ pursuant to this Article and, except as provided elsewhere in this Article, must comply with all of the laws and rules applicable to such insurers chartered and licensed in this State and with G.S. 58-22-20 to the extent such requirements are not a limitation on laws, administrative rules, or requirements of this State. ~~As a chartered and licensed liability insurance company, the group is subject to the taxes imposed in Article 8B of Chapter 105 of the General Statutes.~~

...."

SECTION 3. G.S. 58-28-5 reads as rewritten:

"**§ 58-28-5. Transacting business without a license prohibited; exceptions.**

(a) Except as otherwise provided in this section, it is unlawful for any company to enter into a contract of insurance as an insurer or to transact insurance business in this State as set forth in G.S. 58-28-13 without a license issued by the Commissioner. This section does not apply to the following acts or transactions:

...

(10) An activity in this State by or on the sole behalf of a captive insurer licensed and subject to regulation in another jurisdiction other than this State that insures solely the risks of the company's parent and affiliated ~~companies.~~companies, or the risks of controlled unaffiliated companies.

...."

SECTION 4. G.S. 58-47-95 reads as rewritten:

"**§ 58-47-95. Excess insurance and reinsurance.**

...

(b) Any excess insurance policy or reinsurance contract under this section shall be issued by a licensed insurance company, a licensed captive insurance company, an approved surplus lines insurance company, or an accredited reinsurer, and shall:

(1) Provide for at least 30 days' written notice of cancellation by certified mail, return receipt requested, to the group and to the Commissioner.

(2) Be renewable automatically at its expiration, except upon 30 days' written notice of nonrenewal by certified mail, return receipt requested, to the group and to the Commissioner.

...."

SECTION 5. G.S. 97-90 reads as rewritten:

"**§ 97-190. Excess insurance.**

...

(b) An excess insurance policy required by this section shall be issued by either an insurance company licensed in this ~~State~~ State, a captive insurance company licensed in this State, or an eligible surplus lines insurer as defined in G.S. 58-21-10 and shall:

(1) Provide for at least 30 days' written notice of cancellation by registered or certified mail, return receipt requested, to the self-insurer and to the Commissioner.

(2) Be renewable automatically at its expiration, except upon 30 days' written notice of nonrenewal by certified mail, return receipt requested, to the self-insurer and to the Commissioner.

...."

SECTION 6. Nothing in this act shall be construed to obligate the General Assembly to appropriate funds to implement the provisions of this act. This act becomes effective July 1, 2013, if funds are appropriated for the 2013-2015 fiscal biennium to provide the Department with regulatory staff and resources to license and regulate captive insurance companies. If no funds are appropriated, then this act shall not become effective until July 1 of a year in which the General Assembly appropriates funds to implement it.

SENATE BILL 476:
NC Captive Insurance Act

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	April 30, 2013
Introduced by:	Sens. Meredith, Apodaca	**Prepared by:**	Peter Ledford* Committee Counsel
Analysis of:	Second Edition		

SUMMARY: ***Senate Bill 476 would allow captive insurance companies in the State and establish procedures for the organization and regulation of their operations.***

[As introduced, this bill was identical to H473, as introduced by Reps. Dockham, Howard, Johnson, Tine, which is currently in House Commerce and Job Development.]

BACKGROUND: Captive insurance companies are insurance companies that are established solely to insure the risks of a specific company or group. The captive insurance company is a wholly owned subsidiary of a parent company or an industry association. The parent company pays premiums to the captive insurance company, who covers any claims against the parent company. Unlike traditional insurance, when the captive insurance company profits, the parent company does as well. Captive insurance companies are typically used to self-insure against predictable risks, such as workers' compensation and malpractice. Captive insurance companies can purchase reinsurance to cover any claims that may exceed the premiums collected.

CURRENT LAW: Captive insurance companies are not allowed under current North Carolina law.

BILL ANALYSIS: Senate Bill 476 would establish the procedures for the organization and regulation of the operations of captive insurance companies within the State.

Section 1 would create a new Part in Article 10 of Chapter 58, the North Carolina Captive Insurance Act.

Subpart 1. General Provisions.

G.S. 58-10-335 would establish the title of the Act, the North Carolina Captive Insurance Act, and declare the purpose of the Act, to establish the procedures for the organization and regulation of the operations of captive insurance companies within this State and thereby promote the general welfare of the people of this State.

G.S. 58-10-340 would provide definitions for the terms used throughout the Act. Key terms include:

- Association captive insurance company. – A company that insures the risks of the members of an association and their affiliated companies.
- Branch captive insurance company. – An insurance company licensed pursuant to the laws of a foreign country that is licensed by the Commissioner of Insurance (Commissioner) to transact in this State. A branch captive insurance company is a pure captive insurance company with respect to operations in this State.
- Industrial insured captive insurance company. – A company that insures the risks of a group of companies having shared governance and that may insure the risks of the affiliated companies and controlled unaffiliated businesses.
- Protected cell. – Either (a) a separate account established by a protected cell captive insurance company in which an identified pool of assets and liabilities are segregated and

insulated from the remainder of the protected cell captive insurance company's assets and liabilities, or (b) a separate account established by a special purpose financial captive (SPFC) for one SPFC contract and the accompanying insurance securitization.

- Protected cell captive insurance company. – A captive insurance company where (a) the minimum capital and surplus are provided by one or more sponsors, (b) the company is formed or licensed under the Act, (c) the company insures the risks of separate participants through participant contracts, and (d) the company funds its liability to each participant through one or more protected cells.
- Pure captive insurance company. – A company that insures risks of its parent company and affiliated or controlled unaffiliated businesses.
- Risk retention group. – A captive insurance company organized under the laws of the State pursuant to the Liability Risk Retention Act of 1986, 15 U.S.C. § 3901, et seq., as a stock or mutual corporation or as a reciprocal or other limited liability entity.
- Special Purpose Financial Captive (SPFC). – A captive insurance company that has received a certificate of authority from the Commissioner for the limited purposes provided in Subpart 4.

G.S. 58-10-345 would set forth the requirements for an applicant to obtain a license to form a captive insurance company in the State and the types of insurance a captive insurance company is permitted to issue.

G.S. 58-10-350 would authorize the Commissioner to hire consultants and other professionals to expedite and complete application reviews, examinations, and other regulatory activities. The contracts to hire consultants and other professionals would not be subject to G.S. 114-2.3, G.S. 147-17, and Articles 3, 3C, and 8 of Chapter 143 and their associated rules.

G.S. 58-10-355 would authorize the Commissioner to perform an organizational examination before issuing a license to an applicant.

G.S. 58-10-360 would require a captive insurance company, before being issued a license, to report to the Commissioner the name and address of the manager retained to manage the captive insurance company, and also requires the Commissioner to approve the manager.

G.S. 58-10-365 would prohibit a captive insurance company from adopting a name that is the same as, deceptively similar to, or likely to be confused with any business name currently registered in the State.

G.S. 58-10-370 would specify the capital and surplus requirements for the different types of captive insurance companies. The requirements are as follows:

- For a pure captive insurance company, not less than $250,000
- For an association captive insurance company, not less than $500,000
- For an industrial insured captive insurance company, not less than $500,000
- For a risk retention group, not less than $1,000,000
- For a protected cell captive insurance company, not less than $250,000

G.S. 58-10-375 would require a captive insurance company receive prior approval from the Commissioner before paying a dividend or other distribution out of capital and surplus.

G.S. 58-10-380 would set forth the requirements for the formation of a captive insurance company.

G.S. 58-10-385 would require a captive insurance company report to the Commissioner within 30 days after a change in its executive officers or directors. It would also prohibit directors, officers, and employees from receiving any personal benefit as a result of any investment, loan, deposit, purchase, sale, payment, or exchange made by or for the captive insurance company.

G.S. 58-10-390 would require a captive insurance company adopt a conflict of interest policy for officers, directors, and key employees.

G.S. 58-10-395 would require a captive insurance company receive prior approval from the Commissioner before any material change in the company's previously filed business plan. Any immaterial change in other information included in the application does not require prior approval, but must be filed within 60 days.

G.S. 58-10-400 would prohibit any person in or from the State from acting as a managing general agent, producer, or reinsurance intermediary for a captive insurance company without authorization from the Commissioner.

G.S. 58-10-405 would require a captive insurance company file an annual report with the Commissioner and sets forth the reporting requirements.

G.S. 58-10-420 would require a captive insurance company have an audit prepared annually by an independent certified public accountant and the audit be filed with the Commissioner. The annual audit would be required to include a statement of actuarial opinion prepared by a qualified actuary evaluating the captive insurance company's loss and loss expense reserves.

G.S. 58-10-422 would set forth the specific requirements of the annual audit required by G.S. 58-10-420..

G.S. 58-10-425 would set forth the specific requirements of the deposit required from a captive insurance company by G.S. 58-10-345(c)(6), including increasing, releasing, and receiving interest on the deposit.

G.S. 58-10-430 would authorize the Commissioner to conduct an examination of a captive insurance company whenever the Commissioner determines it is prudent. Any examination conducted pursuant to this section is to be paid by the captive insurance company being examined.

G.S. 58-10-435 would set forth the reasons that the license of a captive insurance company may be suspended or revoked.

G.S. 58-10-440 would set forth the investment requirements for association captive insurance companies and risk retention groups. All other forms of captive insurance companies are not subject to restrictions on allowable investments, unless the Commissioner believes that an investment may threaten the solvency or liquidity of a captive insurance company.

G.S. 58-10-445 would authorize captive insurance companies to provide reinsurance and to take credit for the reinsurance of risks ceded to the captive insurance company if certain criteria are met.

G.S. 58-10-450 would set forth that a captive insurance company is not required to join a rating association. It would also prohibit a captive insurance company from joining or contributing financially to any plan, pool, association, or guaranty or insolvency fund in the State or from receiving any benefit from any such plan, pool, association, or guaranty or insolvency fund.

G.S. 58-10-455 would set forth the premium tax rates for captive insurance companies and establishes the Captive Insurance Regulatory Fund, which would receive appropriations to cover the cost of staff and other expenses incurred in regulating and promoting the captive insurance industry. The tax rates are as follows:

- For direct premiums collected or contracted:
    - 0.4% on the first $20,000,000
    - 0.3% on each dollar thereafter
- For assumed reinsurance premiums
    - 0.225% on the first $20,000,000
    - 0.150% on the next $20,000,000
    - 0.050% on the next $20,000,000
    - 0.025% on each dollar thereafter
- The annual minimum aggregate tax would be $5,000 and the maximum would be $100,000, for all captive insurance companies except for protected cell captive insurance companies.
- For protected cell captive insurance companies with more than 10 cells, the annual minimum aggregate tax would be $10,000 and the maximum would be the lesser of (i) $100,000, plus $5,000 multiplied by the number of cells over 10 and (ii) $200,000.

G.S. 58-10-460 would authorize the Commissioner to adopt rules to carry out the provisions of the Act.

G.S. 58-10-465 would provide that no part of Chapter 58 applies to the Act, unless specifically set forth in the Act.

G.S. 58-10-470 would authorize the Commissioner to adopt rules to establish standards to ensure that a parent or its affiliate company, or an industrial insured or its affiliate company, is able to exercise control of the risk management function of any controlled unaffiliated business to be insured by a pure captive insurance company or an industrial insured captive insurance company.

G.S. 58-10-475 would set forth the terms and conditions for supervision, rehabilitation, and liquidation for captive insurance companies.

G.S. 58-10-480 would authorize any specified public body to expend public funds for the purchase of capital stock in a captive insurance company or to provide guaranty capital in a mutual captive insurance company, provided that at the time of the expenditure adequate insurance markets in the United States are not available to cover the risks, hazards, and liabilities of the public body, or that the needed coverage is only available at excessive rates or with unreasonable deductibles.

G.S. 58-10-485 would set forth the penalties for violating any provision of the Act or any rule or regulation authorized by the Act.

G.S. 58-10-495 would provide that a captive insurance company that reinsures life insurance policies must maintain reserves that are actuarially sufficient to support the liabilities incurred by the captive insurance company in reinsuring life insurance policies.

Subpart 2. Protected Cell Captive Insurance Companies.

G.S. 58-10-500 would set forth additional provisions for the formation of a protected cell captive insurance company.

G.S. 58-10-505 would set forth additional filing requirements for an applicant forming a protected cell captive insurance company.

G.S. 58-10-510 would set forth the conditions under which a protected cell captive insurance company is allowed to establish and maintain protected cells.

G.S. 58-10-515 would set forth the requirements for participation in a protected cell captive insurance company.

G.S. 58-10-520 would authorize the assets of two or more protected cells to be combined for the purposes of investment, provided that the assets can still be segregated for accounting and other purposes.

G.S. 58-10-525 would set forth the terms and conditions for supervision, rehabilitation, and liquidation for protected cell captive insurance companies, including that the assets of one protected sell may not be used to pay any expenses or claims of any other protected cell.

Subpart 3. Branch Captive Insurance Companies.

G.S. 58-10-530 would authorize the formation of branch captive insurance companies in the State, provided that no branch captive insurance company may do any business in the State unless it maintains the principal place of business for its branch operations in the State.

G.S. 58-10-535 would require that, before a license is issued to a branch captive insurance company, security for the payment of liabilities attributable to the branch operations totaling an amount for a minimum capital requirement and an amount for reserves must be held in the form of a trust account, an irrevocable letter of credit, or cash on deposit with the Commissioner, for the minimum capital requirement only, or a combination of each.

G.S. 58-10-540 would require an alien captive insurance company seeking to become licensed as a branch captive insurance company petition the Commissioner to issue a certificate setting forth the Commissioner's finding that the licensing and maintenance of the branch operations will promote the general good of the State.

G.S. 58-10-545 would set forth the annual reporting requirements for a branch captive insurance company.

G.S. 58-10-550 would provide that any examination of a branch captive insurance company conducted by the Commissioner shall be of the branch business and branch operations only.

Subpart 4. Special Purpose Financial Captives.

G.S. 58-10-555 would provide for the creation of special purpose financial captives (SPFCs) exclusively to facilitate the securitization of one or more risks, as a means of accessing alternative sources of capital and achieving the benefit of securitization.

G.S. 58-10-560 would set forth the controlling provisions for a SPFC.

G.S. 58-10-565 would set forth the application requirements for a SPFC.

G.S. 58-10-570 would set forth the requirements for the organization of a SPFC.

G.S. 58-10-575 would require a SPFC maintain a minimum capital and surplus of $250,000, which must be in the form of cash. Additional capitalization may be determined, if so required, by the Commissioner.

G.S. 58-10-580 would set forth the authorized activities of a SPFC.

G.S. 58-10-585 and G.S. 58-10-590 would provide a basis for the creation and use of protected cells by a SPFC as a means of accessing alternative sources of capital, lowering formation and administrative expenses, and general making insurance securitizations more efficient.

G.S. 58-10-595 would authorize a SPFC to issue securities, including surplus notes and other forms of financial instruments, subject to and in accordance with applicable law, its plan of operation, and its organizational documents.

G.S. 58-10-600 would authorize a SPFC to enter into asset management agreements.

G.S. 58-10-605 would authorize a SPFC to reinsure only the risks of a ceding insurer pursuant to a reinsurance contract. It would set forth the conditions that must be met in order to assume or retain exposure to insurance or reinsurance losses for its own account.

G.S. 58-10-610 would provide that no securities issued by a SPFC pursuant to an insurance securitization are to be considered an insurance or reinsurance contract.

G.S. 58-10-615 would set forth the disposition of assets of a SPFC and the investment limitations of a SPFC.

G.S. 58-10-620 would prohibit a SPFC from declaring or paying dividends in any form to its owners, other than in accordance with the securitization agreements.

G.S. 58-10-625 would require prior approval from the Commissioner before there is any change in a SPFC's plan of operations. It would also set forth the requirements for an annual audit and for the filing of a statement of operations.

G.S. 58-10-630 would set forth that the authority of the Commissioner expires at the cessation of business of a SPFC following termination or cancellation of a SPFC contract and the redemption of any related securities issued in connection with the SPFC contract.

G.S. 58-10-635 would set forth the terms and conditions for supervision, rehabilitation, and liquidation for SPFCs.

Subpart 5. Other Provisions.

G.S. 58-10-650 would set out what other sections in Chapter 58 are applicable to captive insurance companies under the Act.

Section 2 would require risk retention groups be charted and licensed to write only liability insurance in accordance with the North Carolina Captive Insurance Act.

Section 3 would amend the exceptions under which a business may transact insurance business in the State without a license to include captive insurance companies licensed and subject to regulation in another state that solely insure the risks of the captive's parent company, affiliated companies, or controlled unaffiliated companies.

Section 4 would allow a business is licensed to self-insure for workers' compensation under Article 47 of Chapter 58 to maintain excess insurance or reinsurance through a captive insurance company licensed in the State.

Section 5 would allow a business is licensed to self-insure for workers' compensation under Article 5 of Chapter 97 to maintain excess insurance or reinsurance through a captive insurance company licensed in the State.

EFFECTIVE DATE: This act becomes effective July 1, 2013, if funds are appropriated for the 2013-2015 fiscal biennium to provide the Department with regulatory staff and resources to license and regulate captive insurance companies. If no funds are appropriated, then this act becomes effective on July 1 of a year in which the General Assembly appropriates funds to implement it.

**The North Carolina Department of Insurance substantially contributed to this summary.*

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 476*

AMENDMENT NO. 1
(to be filled in by Principal Clerk)

S476-ARB-35 [v.1]

Comm. Sub. [NO]
Amends Title [NO]
Second Edition

Date April 30, 2013, 2013

Senator Meredith

moves to amend the bill on page 19, lines 49 and 50, by deleting those lines;

And on page 17, line 13 through page 18, line 47 by rewriting those lines to read:
"**§ 58-10-455. Taxation.**
A captive insurance company is taxed in accordance with Article 8B of Chapter 105 of the General Statutes.";

And on page 39, lines 44 and 45, by adding the following new sections to read:
SECTION 6.(a) G.S. 105-228.3 is amended by adding a new subdivision to read:
"**§ 105-228.3. Definitions.**
The following definitions apply in this Article:
(1) Article 65 corporation. – A corporation subject to Article 65 of Chapter 58 of the General Statutes, regulating hospital, medical, and dental service corporations.
(1a) Captive insurance company. – Defined in G.S. 58-10-340.
(2) Insurer. – An insurer as defined in G.S. 58-1-5 or a group of employers who have pooled their liabilities pursuant to G.S. 97-93 of the Workers' Compensation Act.
(3) Self-insurer. – An employer that carries its own risk pursuant to G.S. 97-93 of the Workers' Compensation Act."
SECTION 6.(b) Article 8B of Chapter 105 of the General Statutes is amended by adding a new section to read:
"**§ 105-228.4A. Tax on captive insurance companies.**
(a) Tax Levied. – A tax is levied in this section on captive insurance companies. A captive insurance company that is subject to the tax levied by this section is not subject to franchise or income taxes imposed by Articles 3 and 4 of this Chapter or to the insurance regulatory charge imposed by G.S. 58-6-25.
(b) Administration. – The definitions in G.S. 58-10-340 apply in this section. Except as provided in this section, the tax is collected and administered in the same manner as the gross premiums tax imposed under G.S. 105-228.5.
(c) Tax Base. – Gross premiums from business done in this State by a captive insurance company means all premiums collected in the calendar year less the amounts paid to

policyholders as a return premium. The term "return premium" means dividends paid on unabsorbed premiums or premium deposits returned or credited to policyholders. In the case of multiyear policies or contracts, the premium must be prorated for purposes of calculating the tax base under this section. In the case of a branch captive insurance company, the tax applies only to the branch business of the company.

(d) Tax Rate on Reinsurance Contracts. – The tax to be applied to gross premiums collected on reinsurance contracts issued by a captive insurance company under G.S. 58-10-445 is computed at the following percentages:

Premiums Collected	Rate of Tax
Up to $20,000,000	.225%
$20,000,000 to $40,000,000	.150%
$40,000,000 to $60,000,000	.050%
$60,000,000 and over	.025%

(e) Tax Rate on Other Contracts. – The tax to be applied to gross premiums collected on all other contracts of insurance issued by a captive insurance company is computed at the following percentages:

Premiums Collected	Rate of Tax
Up to $20,000,000	0.4%
$20,000,000 and more	0.3%

(f) Total Tax Liability. – The aggregate amount of tax payable under this section by a protected cell captive insurance company with more than 10 cells may not be less than ten thousand dollars ($10,000) and may not exceed the lesser of (i) one hundred thousand dollars ($100,000) plus five thousand dollars ($5,000) multiplied by the number of cells over 10 and (ii) two hundred thousand dollars ($200,000).

For all other captive insurance companies, the aggregate amount of tax payable under this section may not be less than five thousand dollars ($5,000) and may not exceed one hundred thousand dollars ($100,000).

(g) Common Ownership and Control. – Two or more captive insurance companies under common ownership and control are taxed under this section as a single captive insurance company. When one or more captive insurance companies under common ownership and control are taxed as a single captive insurance company, the amount of premium tax calculated with respect to the consolidated group is allocated to each member of the consolidated group in the same proportion that the premium allocable to the member bears to the total premium of all members. The amount of tax allocated to a member of the consolidated group may not exceed one hundred thousand dollars ($100,000). The aggregate amount of tax payable under subsection (f) of this section by the consolidated group is the sum of the premium tax allocated to the members plus five thousand dollars ($5,000)."

SECTION 6.(c) G.S. 105-228.5(g) reads as rewritten:

"(g) Exemptions. – This section does not apply to farmers' mutual assessment fire insurance companies or to fraternal orders or societies that do not operate for a profit and do not issue policies on any person except members. This section does not apply to captive insurance companies taxed under G.S. 105-228.4A."

SECTION 7. G.S. 58-6-25 reads as rewritten:

"**§ 58-6-25. Insurance regulatory charge.**

(a) Charge Levied. – There is levied on each insurance ~~company~~ company, other than a captive insurance company, an annual charge for the purposes stated in subsection (d) of this section. The charge levied in this section is in addition to all other fees and taxes. The percentage rate of the charge is established pursuant to subsection (b) of this section and is applied to the company's premium tax liability for the taxable year. In determining an insurance company's premium tax liability for a taxable year, the following shall be disregarded:

...

(d) Use of Proceeds. – The Insurance Regulatory Fund is created in the State treasury, under the control of the Office of State Budget and Management. The proceeds of the charge levied in this section and all fees collected under Articles 69 through 71 of this Chapter and under Articles 9 and 9C of Chapter 143 of the General Statutes shall be credited to the Fund. The Fund shall be placed in an interest-bearing account and any interest or other income derived from the Fund shall be credited to the Fund. Moneys in the Fund may be spent only pursuant to appropriation by the General Assembly and in accordance with the line item budget enacted by the General Assembly. The Fund is subject to the provisions of the Executive Budget Act, except that no unexpended surplus of the Fund shall revert to the General Fund. All money credited to the Fund shall be used to reimburse the General Fund for the following:

(1) Money appropriated to the Department of Insurance to pay its expenses incurred in regulating the insurance ~~industry~~ industry, including the captive insurance industry, and other industries in this State.

...

(10) Money appropriated to the Department of Insurance to pay its expenses incurred in promoting North Carolina's captive insurance industry.

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

(1) Repealed by Session Laws 2003-284, s. 43.2, effective for taxable years beginning on or after January 1, 2004.

(1a) Captive insurance company. – Defined in G.S. 105-228.3.

(2) Insurance company. – A company that pays the gross premiums tax levied in G.S. 105-228.5 and G.S. 105-228.8.

(3) Insurer. – Defined in G.S. 105-228.3.";

And by renumbering the remaining section accordingly.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED X FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S D

SENATE BILL 129
PROPOSED COMMITTEE SUBSTITUTE S129-CSRB-7 [v.4]

4/30/2013 8:40:40 AM

Short Title: Limit State Facilities Finance Act Debt. (Public)

Sponsors:

Referred to:

February 26, 2013

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT ISSUANCE OF DEBT UNDER THE STATE CAPITAL FACILITIES FINANCE ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 142-83 reads as rewritten:

"**§ 142-83. Authorization of special indebtedness; General Assembly approval.**

(a) General Assembly Approval. – The State may incur or issue special indebtedness subject to the terms and conditions provided in this Article for the purpose of financing the cost of capital facilities that meet one of the following conditions:

(1) The General Assembly has enacted legislation describing the capital facility and authorizing its financing by the incurrence or issuance of special indebtedness up to a specific maximum amount.

(2) The General Assembly has enacted legislation authorizing the incurrence or issuance of special indebtedness up to a specific maximum amount for a specific category of capital facilities and the capital facility meets all of the conditions set in that legislation.

(b) Limitation. – The General Assembly may enact legislation to incur or issue special indebtedness under subsection (a) of this section only if it determines at the time the legislation is enacted that the amount of special indebtedness authorized by the legislation does not exceed the limitation in this subsection. The determination of the General Assembly must be based upon reasonable estimations and once made may be relied upon as conclusive.

The sum of the special indebtedness authorized by the legislation and all other special indebtedness authorized by legislation enacted after January 1, 2013, may not exceed twenty-five percent (25%) of the bond indebtedness of the State supported by the General Fund that was authorized pursuant to legislation enacted after January 1, 2013. For purposes of this section, bond indebtedness supported by the General Fund includes both special indebtedness and general obligation bond indebtedness of the State that is supported by the General Fund."

SECTION 2. This act is effective when it becomes law.

This Bill Analysis reflects the contents of the bill as it was presented in committee.

SENATE BILL 129: Limit State Facilities Finance Act Debt

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	April 30, 2013
Introduced by:	Sen. Tucker	**Prepared by:**	Cindy Avrette
Analysis of:	PCS to First Edition S129-CSRB-7		Committee Counsel

SUMMARY: ***Senate Bill 129 would limit the amount of special indebtedness the General Assembly could authorize to 25% of the amount of general obligation bond indebtedness supported by the General Fund. The proposed committee substitute applies the limit to all indebtedness supported by the General Fund that was authorized pursuant to legislation enacted after January 1, 2013. The PCS is the same one discussed in Senate Finance on April 16, 2013.***

CURRENT LAW: The State issues two kinds of tax-supported debt[1]:

- General Obligation Bonds. – GO bonds are secured by the full faith, credit, and taxing power of the State. GO bonds are considered to be the highest quality of all the various types of debt and usually carry the highest credit rating because of the legal protections inherent in constitutionally permitted debt. GO bonds are generally the most transparent of the various types of State debt obligations and typically carry the lowest interest rate. The costs of holding a GO bond referendum are modest. As of June 30, 2012, the State has $4,062.4 million of General Fund supported GO debt.
- Special Indebtedness. – Special indebtedness may also be known as non-GO debt or appropriation-supported debt. This form of indebtedness includes financing contract indebtedness, such as a lease-purchase contract, an installment-purchase contract, and certificates of participation. It also includes bonded indebtedness that may be issued on an unsecured basis or secured by a specific stream of revenues, a lease payment or financing agreement, or a security interest in the project being financed. All special indebtedness obligations are paid from annual appropriated amounts for debt service. Special indebtedness is rated lower than GO bonds and typically carries a higher interest rate. As of June 30, 2012, the State has $2,430.8 million of appropriation-supported debt.

The State Capital Facilities Finance Act establishes the legal framework providing for the issuance of special indebtedness; it does not authorize debt. Only the General Assembly may authorize debt. Under the Act, the General Assembly must enact legislation that describes the capital facility to be financed and authorizing its financing through the issuance of special indebtedness up to a specific maximum amount or legislation that authorizes the issuance of special indebtedness up to a specific maximum amount for a specific category of capital facilities.

In addition to the General Assembly enactment of legislation authorizing the special indebtedness, the agency wishing to use special indebtedness to finance a capital project must receive concurrence or approval from the Department of Administration, the State Treasurer, and the Council of State. The State Treasurer must report to the Joint Legislative Commission on Governmental Operations at least five days before the issuance or incurrence of any debt.

[1] The summary relied extensively on the information in the 2013 Debt Affordability Study.

BILL ANALYSIS: Senate Bill 129 would limit the amount of appropriation-supported debt the General Assembly could authorize, beginning January 1, 2013, to 25% of the total amount of outstanding debt supported by the General Fund. As of June 30, 2012, the amount of General Fund supported debt authorized is approximately $6,493.2 million outstanding plus $206 million authorized but unissued. Of this amount, approximately 40% is special indebtedness.

The PCS clarifies that the calculation of General Fund supported debt includes both GO bond indebtedness and special obligation indebtedness since both are supported by the General Fund. It also modifies the restriction to apply it prospectively. Under the PCS the amount of special indebtedness authorized by the General Assembly could not exceed 25% of the General Fund supported debt authorized pursuant to legislation enacted after January 1, 2013. The PCS effectively restricts the issuance of any special indebtedness on or after January 1, 2013, until the General Assembly authorizes GO bonds.

EFFECTIVE DATE: The bill would become effective when it becomes law.

BACKGROUND: Prior to 2001, the State only issued GO bonded indebtedness. Most states have diversified their debt portfolios and utilize one or more of the various types of appropriation-supported debt structures. However, the State of North Carolina has relied extensively on appropriation-supported debt structures since 2000. In affirming the State's rating in 2013, Fitch noted that "Over time the state has become more reliant on appropriation debt." Currently, the State's percentage of appropriation-supported debt obligation exceeds the medians reported for the "AAA" and "AA" rated states. In 2008, 18.5% of the State's outstanding debt was appropriation-supported debt; in 2013 it is 40.4%. By the year 2017 it is projected to be 46.3%.[2]

The Debt Affordability Advisory Committee recommended in its 2013 Debt Affordability Study that the State consider the authorization of GO debt as the preferred, but not necessarily exclusive, method to provide debt financing.

[2] The percentage of total outstanding debt includes debt funded by the Highway and Highway Trust Fund.

SENATE BILL 25

Short Title:	Hunting & Fishing/Active Duty Military.	(Public)
Sponsors:	Senators Brown (Primary Sponsor); Apodaca, Barefoot, Brock, Clark, Cook, Daniel, D. Davis, Goolsby, Jackson, Jenkins, McLaurin, Rabon, Randleman, Sanderson, Tucker, and Walters.	
Referred to:	Agriculture/Environment/Natural Resources.	

February 4, 2013

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT MEMBERS OF THE ARMED FORCES WHO ARE SERVING ON ACTIVE MILITARY DUTY IN THE ARMED FORCES OF THE UNITED STATES OUTSIDE THE STATE OF NORTH CAROLINA SHALL BE CONSIDERED RESIDENTS FOR PURPOSES OF OBTAINING CERTAIN HUNTING, FISHING, TRAPPING, AND SPECIAL ACTIVITY LICENSES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-130 reads as rewritten:

"**§ 113-130. Definitions relating to activities of public.**

The following definitions and their cognates apply to activities of the public in regard to marine and estuarine and wildlife resources:

...

(4) Resident. – In the case of:

...

e. Military Personnel and Their Dependents. – A member of the Armed Forces of the United States stationed at a military facility in North Carolina, the member's spouse, and any dependent under 18 years of age residing with the member are deemed residents of the State, of the county in which they live, and also, if different, of any county in which the military facility is located. A member of the Armed Forces of the United States on active duty outside the State of North Carolina shall be deemed an individual resident of the State for purposes of all the following licenses:

1. Coastal Recreational Fishing Licenses issued pursuant to G.S. 113-174.2(c)(1) and (c)(4).
2. Combination Hunting and Inland Fishing Licenses issued pursuant to G.S. 113-270.1C(b)(1).
3. Sportsman Licenses issued pursuant to G.S. 113-270.1D(a).
4. Hunting Licenses issued pursuant to G.S. 113-270.2(c)(1) and (c)(5).
5. Special Activity Licenses issued pursuant to G.S. 113-270.3(b)(1).
6. Trapping Licenses issued pursuant to G.S. 113-270.5(b)(1).

7. Hook-and-Line Licenses issued pursuant to G.S. 113-271(d)(1), (d)(2), and (d)(6)a.
8. Unified Hunting and Fishing Licenses issued pursuant to G.S. 113-351(c)(1) and (c)(2).

...."

SECTION 2. This act becomes effective July 1, 2013.

SENATE BILL 25:
Hunting & Fishing/Active Duty Military

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	April 30, 2013
Introduced by:	Sen. Brown	**Prepared by:**	Heather Fennell
Analysis of:	First Edition		Committee Counsel

SUMMARY: ***The bill amends G.S. 113-130(4)e. to define active duty members of the U.S. Armed Forces outside the State of North Carolina as individual residents of the State for the purposes of obtaining certain hunting, fishing, trapping, sportsman, and special activity licenses.***

CURRENT LAW: Currently, G.S. 113-130(4)e. defines members of the U.S. Armed Forces stationed at a military facility in North Carolina, their spouses, and minor dependents as residents of the State.

BILL ANALYSIS: Senate Bill 25 amends G.S. 113-130(4)e. to provide that any active duty member of the U.S. Armed Forces outside the State of North Carolina is a resident of the State for the purposes of obtaining any of the following licenses:

- Annual Resident Coastal Recreational Fishing Licenses (G.S. 113-174.2(c)(1)).
- Ten-Day Resident Coastal Recreational Fishing Licenses (G.S. 113-174.2(c)(4)).
- Resident Annual Combination Hunting and Inland Fishing Licenses (G.S. 113-270.1C(b)(1)).
- Annual Sportsman Licenses (G.S. 113-270.1D(a)).
- Resident State Hunting Licenses (G.S. 113-270.2(c)(1)).
- Resident Annual Comprehensive Hunting Licenses (G.S. 113-270.2(c)(5)).
- Resident Big Game Hunting Licenses (G.S. 113-270.3(b)(1)).
- Resident State Trapping Licenses (G.S. 113-270.5(b)(1)).
- Resident Annual Comprehensive Inland Fishing Licenses (G.S. 113-271(d)(1)).
- Resident State Inland Fishing Licenses (G.S. 113-271(d)(2)).
- Resident 10-Day Inland Fishing Licenses (G.S. 113-271(d)(6)a).
- Annual Resident Unified Sportsman/Coastal Recreational Fishing Licenses (G.S. 113-351(c)(1)).
- Annual Resident Unified Inland/Coastal Recreational Fishing Licenses (G.S. 113-351(c)(2)).

EFFECTIVE DATE: Senate Bill 25 would become effective July 1, 2013.

Chris Saunders, counsel to Senate Agriculture, substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S D

SENATE BILL 368
PROPOSED COMMITTEE SUBSTITUTE S368-CSTDf-16 [v.3]

4/30/2013 9:27:19 AM

Short Title: Inmates Prescriptions/Pistol Permits. (Public)

Sponsors:

Referred to:

March 20, 2013

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR A TEN DOLLAR CO-PAY FOR PRESCRIPTION MEDICATION DISPENSED IN A COUNTY JAIL AND TO PROVIDE FOR THE PISTOL PERMIT FEE COLLECTED BY SHERIFFS TO BE AN APPLICATION FEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-225(a) reads as rewritten:

"(a) Each unit that operates a local confinement facility shall develop a plan for providing medical care for prisoners in the facility. The plan

(1) Shall be designed to protect the health and welfare of the prisoners and to avoid the spread of contagious disease;

(2) Shall provide for medical supervision of prisoners and emergency medical care for prisoners to the extent necessary for their health and welfare;

(3) Shall provide for the detection, examination and treatment of prisoners who are infected with tuberculosis or venereal diseases.

The unit shall develop the plan in consultation with appropriate local officials and organizations, including the sheriff, the county physician, the local or district health director, and the local medical society. The plan must be approved by the local or district health director after consultation with the area mental health, developmental disabilities, and substance abuse authority, if it is adequate to protect the health and welfare of the prisoners. Upon a determination that the plan is adequate to protect the health and welfare of the prisoners, the plan must be adopted by the governing body.

As a part of its plan, each unit may establish fees of not more than twenty dollars ($20.00) per incident for the provision of nonemergency medical care to ~~prisoners.~~prisoners and a fee of not more than ten dollars ($10.00) for a 30-day supply or less of a prescription drug. In establishing fees pursuant to this section, each unit shall establish a procedure for waiving fees for indigent prisoners."

SECTION 2. G.S. 14-404(e) reads as rewritten:

"(e) The sheriff shall charge for the sheriff's services upon ~~issuing the license or permit~~receipt of an application a fee of ~~five dollars ($5.00).~~five dollars ($5.00) for each permit requested."

SECTION 3. This act becomes effective July 1, 2013, and applies to fees assessed or collected on or after that date.

SENATE BILL 368:
Inmates Prescriptions/Pistol Permits

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	April 30, 2013
Introduced by:	Sen. Bingham	**Prepared by:**	Heather Fennell
Analysis of:	PCS to First Edition S368-CSTDf-16		Committee Counsel

SUMMARY: ***The PCS to Senate Bill 368 would authorize county jails to charge a fee of $10 for prescription drugs, and would amend the fee for pistol permits.***

CURRENT LAW: S.L. 1995-385 authorized county jails to charge a fee for the provision of nonemergency medical care. The fee was initially set at $10 per incident, and was raised to $20 per incident in 2011. When the fee is established, the county must also establish a procedure that waives the fees for indigent prisoners.

G.S. 14-404 provides the procedure and fees for the issuance of a pistol permit. The fee for a pistol permit is $5.00 upon the issuance of a license. Typically, the fee is paid at the time of application, and refunded if the permit is denied. Before issuing or denying a permit, the sheriff must conduct a background check and determine if the applicant is eligible for the permit.

BILL ANALYSIS:

Section 1: Authorizes county jails to establish a fee of not more than $10 for a 30 day supply of prescription drugs. The county must also establish a procedure that waives this fee for indigent prisoners.

Section 2: Amends the fee for a pistol permit to apply when the application is filed. Fees will no longer be refunded for applicants that are denied a permit. Also clarifies the fee is $5 for each permit requested.

EFFECTIVE DATE: This act is effective July 1, 2013, and applies to fees assessed or collected on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S D

SENATE BILL 547
Commerce Committee Substitute Adopted 4/16/13
PROPOSED COMMITTEE SUBSTITUTE S547-CSSV-16 [v.1]
4/29/2013 7:17:59 PM

Short Title: Energy Savings Contracting Amendments. (Public)

Sponsors:

Referred to:

April 1, 2013

A BILL TO BE ENTITLED

AN ACT TO AMEND THE STATUTES GOVERNING GUARANTEED ENERGY SAVINGS CONTRACTS FOR GOVERNMENTAL UNITS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-64.17 reads as rewritten:

"**§ 143-64.17. Definitions.**

As used in this Part:

...

(5) "Qualified provider" means a person or business experienced in the design, implementation, and installation of energy conservation ~~measures.~~measures who has been prequalified by the State Energy Office according to the prequalification criteria established by that Office.

(5a) "Qualified reviewer" means an architect or engineer who is (i) licensed in this State and (ii) experienced in the design, implementation, and installation of energy efficiency measures.

...."

SECTION 2. G.S. 143-64.17A reads as rewritten:

"**§ 143-64.17A. Solicitation of guaranteed energy savings contracts.**

(a) RFP Issuance. – Before entering into a guaranteed energy savings contract, a governmental unit shall issue a request for proposals. Notice of the request shall be published at least 15 days in advance of the time specified for opening of the proposals in at least one newspaper of general circulation in the geographic area for which the local governmental unit is responsible or, in the case of a State governmental unit, in which the facility or facilities are located. No guaranteed energy savings contract shall be awarded by any governmental unit unless at least two proposals have been received from qualified providers. Provided that if after the publication of the notice of the request for proposals, fewer than two proposals have been received from qualified providers, or fewer than two qualified providers attend the mandatory pre-bid meeting, ~~the governmental unit shall again publish notice of the request and if as a result of the second notice, one or more proposals by qualified providers are received,~~ the governmental unit may then open the proposals and select a qualified provider even if only one proposal is received.

(b) Preliminary Proposal Evaluation. – The governmental unit shall evaluate a sealed proposal from any qualified provider. ~~Proposals shall contain estimates of all costs of installation, modification, or remodeling, including costs of design, engineering, installation, maintenance, repairs, debt service, and estimates of energy savings.~~A qualified reviewer shall

be required to evaluate the proposals and will provide the governmental unit with a letter report containing both qualitative and quantitative evaluation of the proposals. The report may include a recommendation for selection, but the governmental unit is not obligated to follow it.

(c) Receipt of Proposals for Unit of Local Government. – In the case of a local governmental unit, proposals received pursuant to this section shall be opened by a member or an employee of the governing body of the local governmental unit at a public opening at which the contents of the proposals shall be announced and recorded in the minutes of the governing body. Proposals shall be evaluated for the local governmental unit by ~~a licensed architect or engineer~~ a qualified reviewer on the basis of:

(1) The information required in subsection (b) of this section; and

(2) The criteria stated in the request for proposals.

The local governmental unit may require a qualified provider to include in calculating the cost of a proposal for a guaranteed energy savings contract any reasonable fee payable by the local governmental unit for the evaluation of the proposal by a ~~licensed architect or professional engineer~~qualified reviewer not employed as a member of the staff of the local governmental unit or the qualified provider.

(c1) Receipt of Proposals for Unit of State Government. – In the case of a State governmental unit, proposals received pursuant to this section shall be opened by a member or an employee of the State governmental unit at a public opening and the contents of the proposals shall be announced at this opening. Proposals shall be evaluated for the State governmental unit ~~by a licensed architect or engineer~~by a qualified reviewer who is either privately retained, employed with the Department of Administration, or employed as a member of the staff of the State governmental unit. The proposal shall be evaluated on the basis of the information and report required in subsection (b) of this section and the criteria stated in the request for proposals.

The State governmental unit shall require a qualified provider to include in calculating the cost of a proposal for a guaranteed energy savings contract any reasonable fee payable by the State governmental unit for evaluation of the proposal ~~by a licensed architect or professional engineer~~by a qualified reviewer not employed as a member of the staff of the State governmental unit or the qualified provider. The Department of Administration may charge the State governmental unit a reasonable fee for the evaluation of the proposal if the Department's services are used for the evaluation and the cost paid by the State governmental unit to the Department of Administration shall be calculated in the cost of the proposal under this subsection.

(d) Criteria for Selection of Provider. – The governmental unit shall select the qualified provider that it determines to best meet the needs of the governmental unit by evaluating all of the ~~following:~~following and following the procedures set forth in subsection (d1) of this section:

~~(1) Prices offered.~~

~~(2) Proposed costs of construction, financing, maintenance, and training.~~

(3) Quality of the products and energy conservation measures proposed.

~~(4) Amount of energy savings.~~

(5) General reputation and performance capabilities of the qualified providers.

(6) Substantial conformity with the specifications and other conditions set forth in the request for proposals.

(7) Time specified in the proposals for the performance of the contract.

(8) Any other factors the governmental unit deems necessary, which factors shall be made a matter of record.

(d1) Process for Selection of Provider. – The governmental unit shall select a short list of finalists on the basis of its rankings of the written proposals under the criteria set forth in subsection (d) of this section as well as references from past clients. The governmental unit

shall have the highest ranked qualified provider prepare a cost-savings analysis for the proposed contract showing at a minimum a comparison of the total estimated project savings to the total estimated project costs for the proposed term. If the governmental unit and the qualified provider cannot negotiate acceptable terms, pricing, and savings estimates, the governmental unit may terminate the process and begin negotiations with the second highest ranked qualified provider. The State Energy Office shall review the selected qualified provider's proposal, cost-benefit analysis, and other relevant documents prior to the governmental unit announcing the award.

(e) Nothing in this section shall limit the authority of governmental units as set forth in Article 3D of this Chapter."

SECTION 3. G.S. 143-64.17B reads as rewritten:

"**§ 143-64.17B. Guaranteed energy savings contracts.**

...

(c) A qualified provider entering into a guaranteed energy savings contract under this Part shall provide security to the governmental unit in the form acceptable to the Office of the State Treasurer and in an amount equal to one hundred percent (100%) of the ~~total cost~~ guaranteed savings for the term of the guaranteed energy savings contract to assure the provider's faithful performance. Any bonds required by this subsection shall be subject to the provisions of Article 3 of Chapter 44A of the General Statutes. If the savings resulting from a guaranteed energy savings contract are not as great as projected under the contract and all required shortfall payments to the governmental unit have not been made, the governmental unit may terminate the contract without incurring any additional obligation to the qualified provider.

...

(g) ~~In the case of a State governmental unit, a~~A qualified provider shall provide an annual reconciliation statement based upon the results of the measurement and verification review. The statement shall disclose any shortfalls or surplus between guaranteed energy and operational savings specified in the guaranteed energy savings contract and actual, not stipulated, energy and operational savings incurred during a given guarantee year. Any guaranteed energy and operational savings shall be determined by using one of the measurement and verification methodologies listed in the United States Department of Energy's Measurement and Verification Guidelines for Energy Savings Performance Contracting, the International Performance Measurement and Verification Protocol (IPMVP) maintained by the Efficiency Valuation Organization, or Guideline 14-2002 of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers. If due to existing data limitations or the nonconformance of specific project characteristics, none of the three methodologies listed in this subsection is sufficient for measuring guaranteed savings, the qualified provider shall develop an alternate method that is compatible with one of the three methodologies and mutually agreeable to the governmental unit. The guarantee year shall consist of a 12-month term commencing from the time that the energy conservation measures become fully operational. A qualified provider shall pay the ~~State~~ governmental unit or its assignee any shortfall in the guaranteed energy and operational savings after the total year savings have been determined. ~~A~~ In the case of a governmental unit, a surplus in any one year shall not be carried forward or applied to a shortfall in any other year."

SECTION 4.(a) G.S. 143-64.17L and G.S. 143-64.17M are repealed.

SECTION 4.(b) G.S. 143-64.17F(b) reads as rewritten:

"(b) The Department of Administration, in consultation with the Department of Commerce through the State Energy Office, shall adopt rules for: (i) agency evaluation of guaranteed energy savings contracts; (ii) establishing time periods for consideration of guaranteed energy savings contracts by the Office of State Budget and Management, the Office of the State Treasurer, and the Council of State, and (iii) setting measurements and verification

criteria, including review, audit, and precertification. Prior to adopting any rules pursuant to this section, the Department shall consult with and obtain approval of those rules from the State Treasurer. ~~The rules adopted pursuant to this subsection shall not apply to energy conservation measures implemented pursuant to G.S. 143-64.17L.~~"

SECTION 4.(c) G.S. 143-64.17H reads as rewritten:

"**§ 143-64.17H. Report on guaranteed energy savings contracts entered into by State governmental units.**

A State governmental unit that enters into a guaranteed energy savings contract ~~or implements an energy conservation measure pursuant to G.S. 143-64.17L~~ must report ~~either~~ (i) the contract and the terms of the contract or (ii) the implementation of the measure to the State Energy Office of the Department of Commerce within 30 days of the date the contract is entered into or the measure is implemented. In addition, within 60 days after each annual anniversary date of a guaranteed energy savings contract, the State governmental unit must report the status of the contract to the State Energy Office, including any details required by the State Energy Office. The State Energy Office shall compile the information for each fiscal year and report it to the Joint Legislative Commission on Governmental Operations and to the Local Government Commission annually by December 1. In compiling the information, the State Energy Office shall include information on the energy savings expected to be realized from a contract or implementation and shall evaluate whether expected savings have in fact been realized."

SECTION 4.(d) G.S. 142-63 reads as rewritten:

"**§ 142-63. Authorization of financing contract.**

~~Subject to the terms and conditions set forth in this Article, (i) a State governmental unit that is implementing an energy conservation measure pursuant to G.S. 143-64.17L and financing it pursuant to this Article, (ii) a State governmental unit that has solicited a guaranteed energy conservation measure pursuant to G.S. 143-64.17A or G.S. 143-64.17B, or (iii) the State Treasurer, as designated by the Council of State, is authorized to execute and deliver, for and on behalf of the State of North Carolina, a financing contract to finance the costs of the energy conservation measure. The aggregate outstanding amount payable by the State under financing contracts entered pursuant to this Article shall not exceed five hundred million dollars ($500,000,000) at any one time.~~

Subject to the terms and conditions set forth in this Article, a State governmental unit that has solicited a guaranteed energy conservation measure pursuant to G.S. 143-64.17A or G.S. 143-64.17B or the State Treasurer, as designated by the Council of State, is authorized to execute and deliver, for and on behalf of the State of North Carolina, a financing contract to finance the costs of the energy conservation measure. The aggregate outstanding amount payable by the State under financing contracts entered pursuant to this Article shall not exceed five hundred million dollars ($500,000,000) at any one time."

SECTION 4.(e) G.S. 142-64 reads as rewritten:

"**§ 142-64. Procedure for incurrence or issuance of financing contract.**

(a) When a State governmental unit ~~(i) is implementing an energy conservation measure pursuant to G.S. 143-64.17L and financing it pursuant to this Article or (ii)~~ has solicited a guaranteed energy conservation measure, the State governmental unit shall request that the State Treasurer approve the State governmental unit's entering into a financing contract to finance the cost of the energy conservation measure. In connection with the request, the State governmental unit shall provide to the State Treasurer any information the State Treasurer requests in order to evaluate the request. In the event that the State Treasurer determines that financing efficiencies will be realized through the combining of financing contracts, then the State Treasurer is authorized to execute and deliver, for and on behalf of the State of North Carolina, subject to the terms and conditions set forth in this Article, a financing contract for the purpose of financing the cost of the multiple energy conservation measures.

...."

SECTION 4.(f) Notwithstanding this section, North Carolina State University may continue to self-perform any of the projects listed in this section. The projects are subject to the requirements of Part 2 of Article 3B of Chapter 143 of the General Statutes, including any of the requirements in the statutes repealed or amended by this section. The authorized projects are:

(1) The Phytotron Energy Savings Performance Contract authorized pursuant to Section 9.6D of S.L. 2011-145 and S.L. 2012-164.

(2) An energy conservation measure for which a request for proposal has been issued prior to December 31, 2013, and financing has been put in place by December 31, 2014.

SECTION 5. This act is effective when it becomes law.

SENATE BILL 547:
Energy Savings Contracting Amendments

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	April 30, 2013
Introduced by:	Sen. Hunt	**Prepared by:**	Trina Griffin
Analysis of:	PCS to Second Edition S547-CSSV-16		Committee Counsel

SUMMARY: ***Senate Bill 547 does two things as it relates to energy savings contracts:***

- ***Sections 1-3 make changes to the law governing guaranteed energy savings contracts to provide for an initial selection process based on qualifications rather than cost. The PCS further deletes the current law requirement that a governmental unit publish a second notice of a request for proposals if fewer than two proposals have been received.***
- ***Section 4 limits the self-performance of an energy conservation measure by a constituent institution of the UNC system to a project currently being piloted by NCSU and any other energy conservation project for which it issues an RFP and secures financing before the end of 2014.***

CURRENT LAW: Local governments have had the authority to enter into financing contracts to finance the cost of energy conservation measures since 1994.[1] The General Assembly extended this ability to State agencies in 2002; the law limits the aggregate principal amount payable by the State under these contracts to $500 million at any one time.[2] An energy conservation measure is a facility or meter alteration, training, or services that will provide anticipated energy savings with respect to a facility. The financing contracts are known as guaranteed energy savings contracts. Under the contract to implement energy conservation measures, all payments, except obligations on early termination, are to be made over time, and energy cost savings are guaranteed to exceed the cost of the contract.

The law provides that a guaranteed energy savings contract is not a pledge of the government's taxing power. The debt is secured by a lien on, or a security interest in, any part of the property with respect to which an energy conservation measure is undertaken and/or the land upon which the property is or will be located. It is anticipated that the energy savings will generate enough money to pay the debt service on the contract. This is a method of funding repair and renovation projects without impacting the State's debt capacity.

State agencies that enter into guaranteed energy savings contracts are required to report to the State Energy Office which in turn reports annually to the Joint Legislative Commission on Governmental Operations. State energy conservation measures are subject to inspection and compliance by the State Construction Office or the local building inspector. The cost of the evaluation of the contract by either an independent architect or engineer, or by the State Construction Office, and the costs of the necessary building inspections are included in the cost of the contract.

Before a guaranteed energy savings contract can be entered into, the Office of State Budget and Management must certify that resources are expected to be available to pay the amounts due under the contract. Next, the Council of State must approve the contract by resolution that sets out the maximum

[1] G.S. 160A-20 and G.S. 143-64.17I.
[2] G.S. 143-64.17J and Article 8 of Chapter 142.

maturity and the maximum interest rates. The maximum maturity may not exceed 20 years. The State Treasurer also must approve the financing, finding that the amount to be borrowed is adequate and not excessive and will not require an excessive increase in any State revenues to provide for repayment, and that the special indebtedness can be incurred or issued on terms favorable to the State.

BILL ANALYSIS:

Section 1 would require that a qualified provider meet the prequalification criteria established by the State Energy Office. The prequalification criteria are designed to ensure that a provider has adequate technical expertise and financial backing. It would also add a definition for a "qualified reviewer." Under current law, a governmental unit seeking to enter into a guaranteed energy savings contract must have proposals evaluated by a licensed architect or engineer. **Section 1** incorporates the term "qualified reviewer" and defines it as an architect or engineer who is licensed in this State and is experienced in the design, implementation, and installation of energy efficiency measures.

Section 2 of the bill does the following:

Regarding the ***issuance of requests for proposals***:

- It would delete the requirement that a governmental unit publish a second notice of a request for proposals if fewer than two proposals have been received or if fewer than two qualified providers attend the mandatory pre-bid meeting. Under current law, the unit is required to publish a second notice if fewer than two proposals have been received from qualified providers. The purpose of this change is to speed up the process when the unit knows there is only one possible bidder.

Regarding ***preliminary proposal evaluations***:

- It would eliminate the requirement that a preliminary proposal include detailed cost information. The purpose of this change, which goes hand-in-hand with the changes to the criteria for selection, is to provide governmental units with additional flexibility during contract negotiations. Under the current process, when costs are included in the preliminary proposal, they are essentially non-negotiable. The intent is to change to a more qualification-based system of identifying the top choices of qualified providers and negotiate costs at a later stage in the process. Preliminary proposals must be reviewed by a qualified reviewer who will prepare a detailed evaluation of the proposal. The reviewer may include a recommendation for selection, but the governmental unit is not obligated to follow it.

Regarding ***criteria for selection of a provider***:

- It would delete from the criteria to be considered by a governmental unit when selecting a provider consideration of prices offered, proposed costs of construction, financing, maintenance, and training, and the amount of energy savings. The reason for this change is twofold. First, it should reduce costs in the preliminary stages. Requiring a provider to provide a detailed estimate of costs at the preliminary stage is costly and that cost is ultimately borne by the government unit. Second, it would give governmental units more flexibility in negotiating the contracts.

Regarding the ***process for the selection of a provider***:

- It would set out the selection process as follows: The governmental unit would rank qualified providers and identify a short list of finalists based on written proposals and references from past clients. The unit would require the highest-ranked provider to prepare a cost-savings analysis. If the unit and the provider are unable to negotiate acceptable terms, the unit may

begin negotiations with the second highest-ranked provider. The State Energy Office must review the proposal and analysis prior to the unit announcing the award of the contract.

Section 3 of the bill does three things:

- It would require that a qualified provider provide security for the full amount of the contract. This is consistent with the fact that the total energy savings must be fully guaranteed and that the energy savings company is responsible for any shortfall.
- It would require that the energy and operational savings be determined using one of the methodologies listed below. These references are already named in the applicable regulations in the NC Administrative Code, but this would codify them in statute.
    - The U.S. Department of Energy's Measurement and Verification Guidelines for Energy Savings Performance Contracting.
    - The International Performance Measurement and Verification Protocol maintained by the Efficiency Valuation Organization.
    - Guideline 14-2002 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers.
- It would recognize the situation where a loan for these contracts is assigned to another party in order to allow for payment.

Section 4 of the bill would allow NC State University to fulfill the self-performance of the Phytotron Energy Savings Performance Contract and to self-perform any other energy conservation measure for which an RFP has been issued prior to December 31, 2013, and for which financing has been put in place by December 31, 2014.

However, it would not extend the authority previously granted to NC State to any other projects by NC State or other constituent institutions of the UNC system. It does this by repealing the statutes enacted in 2011, which were limited in application to NC State only. **Section 4(f)** specifically preserves NC State's authority to complete the above-named projects despite the repeal of these statutes.

The Appropriations Act of 2011 (S.L. 2011-145) enacted two new statutes that authorized the Board of Governors to allow specifically named constituent institutions of the UNC system to implement energy conservation measures without entering into a guaranteed energy savings contract. The only named institution in those statutes is NC State University. The 2012 Nonappropriated Capital Projects Act (S.L. 2012-164) further approved self-liquidating authority for a particular project being piloted by NC State under this authority identified as the Phytotron Energy Savings Performance Contract. This project is underway and ongoing. NC State anticipates beginning construction activities in October of this year.

EFFECTIVE DATE: This act is effective when it becomes law.

SENATE PAGES ATTENDING

COMMITTEE: Finance ROOM: 544

DATE: 4-30 TIME: 1 PM

PLEASE PRINT LEGIBILY!!!!!!!!!!!!!....*or else!*

Page Name	Hometown	Sponsoring Senator
1. [redacted]	[redacted]	[redacted]
2. Annie Linn Johnson	Fayetteville	Meredith
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

Do not add names below the grid.

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

VISITOR REGISTRATION SHEET

Senate Finance Committee — April 30, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Dallas McClain	
Jonathan Kappler	UNC GA
Drew Moretz	UNC GA
Kevin Hamm	NCSU
Kevin MacNaughton	NCSU
Rhonda Todd	
Greg Driver	DOA
Speros Fleggas	
CHRIS DILLON	NCMRC
C Wentz	Staff
Penny Griffin	School of Gov.

VISITOR REGISTRATION SHEET

Senate Finance Committee — April 30, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Bill Rowe	NC Justice Center
Cedric Johnson	BTC
Andrew Blackburn	SSG NC
John Hardee	MFJS
Bill Mehle	D & Treas
Matthew Moore	D & Treas
Solari	DST

VISITOR REGISTRATION SHEET

Senate Finance Committee — April 30, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
[signature]	SOS
Rose Williams	NCDOI
Carr McLamb	DENR
Canaan Hein	MVA
R Marley	NCBOI
Jeff TRENDEL	NCDOI
ALEX WEBB	NC CAPTIVE INS. ASN,
Lisa Hazirjian	NCAAN
Amanda Horaker	Trautman Sanders
Dustin Hale	Sen Harry Brown
Vance Holloman	NCDST
TIM KENT	NC Beer & Wine

VISITOR REGISTRATION SHEET

Senate Finance Committee — **Name of Committee**

April 30, 2013 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Alex Badger	CSS
R Joyner	SEO
Harley Haynes	SOS
Bo Heath	McGuireWoods
Greg Stahl	NC Sheriffs' Assoc
Becki Gray	Locke Foundation
Amy Ellen	NCBA
Allison Waller	Nelson Mullins
Wilton Jones	Jordan Price
Daniel Dacon	Troutman Sanders
Hayden Robinson	NCRMA

VISITOR REGISTRATION SHEET

Senate Finance Committee
Name of Committee

April 30, 2013
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Rick Zechini	Williams Mullen
[signature]	NMRS
[signature]	Ward & Smith
Preston Howard	NCMA

Senate Committee on Finance
Wednesday, May 1, 2013, 1:00 PM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 58	Increase Funding for Dredging.	Senator Brown
SB 365	Affordable and Reliable Energy Act.	Senator Brock

Adjournment

Senate Finance Committee
Wednesday, May 1, 2013
Room 544 LOB, 1:00 p.m.

Minutes

The Senate Committee on Finance met on Wednesday, May 1, 2013, at 1:00 p.m. in room 544 of the Legislative Office Building. Annie Linn Johnson of Fayetteville and Odom Williford of Asheville served as pages to the Committee. Senator Rabon served as Chair to the meeting.

S.B. 58 – Increase Funding for Dredging

Senator Brown was recognized to explain the bill. Senator Brock moved to adopt the proposed committee substitute (PCS) for discussion. The motion carried. The PCS would increase vessel numbering and titling fees and allocate a portion of the excise tax on motor fuel to provide additional funding for the dredging of the State's shallow draft navigation channels. Senator Brown offered an amendment changing the effective date from July to October. Senator Cook moved to adopt the amendment and the motion carried. Chris Dillon, the Wildlife Resources Commission's legislative liaison, was recognized to answer questions. Senator Cook moved for a favorable report and the motion carried. A copy of the PCS, the summary, the fiscal note and the amendment is attached.

S.B. 365 – Affordable and Reliable Energy Act

Senator Brock was recognized to explain the bill. Senator Hise moved to adopt the PCS for discussion and the motion carried. The PCS would revise the Renewable Energy Portfolio Standards (REPS) requirements enacted in S.L. 2007-397 in the following ways: 1) keeps the REPS requirement at the current requirement of 3% through 2023; 2) repeals the REPS requirements as of 2023; 3) requires the costs recovered for the REPS requirement to be separately stated on customer bills and identified as a special surcharge for green energy; and 4) allows electric suppliers to recover all costs incurred in compliance with the REPS requirements, including the provisions repealed by this act. Don Conrad, a staff attorney with the NC Utilities Commissioner, was recognized to answer questions. Summer Lanier, Prestige Farms, was recognized to speak in opposition to the bill. Tom Butler, a hog farmer, was recognized to explain that the captured methane was key to a new industry at his farm. Ralph Thompson, Holocen Energy's President, was recognized to speak in opposition to the bill. Paul Sherman, Farm Bureau, expressed original skepticism at S.B. 3, but investments by farmers have borne fruit and funds. Don Butler, Vice President of Smithfield Foods, was recognized to oppose the bill and expressed concern that technology companies might flee the State taking money and jobs with them. Senator Rucho moved for a favorable report. The motion carried. A copy of the bill and the summary is attached.

The meeting adjourned at 1:48 p.m.

Senator Bill Rabon, Presiding Chair
Senate Finance Committee

DeAnne Mangum
Senate Finance Clerk

Principal Clerk ____
Reading Clerk ____

Corrected #2: S473 - Health Care Cost Reduction & Transparency has been removed from the agenda.

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	May 1, 2013	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	
SB 58	Increase Funding for Dredging.	Senator Brown
SB 365	Affordable and Reliable Energy Act.	Senator Brock

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

Principal Clerk ____
Reading Clerk ____

Corrected #1: S58 - Increase Funding for Dredging and S365 - Affordable and Reliable Energy Act have been added to the agenda.

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	May 1, 2013	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	
SB 58 SH	Increase Funding for Dredging.	Senator Brown
SB 365 HF	Affordable and Reliable Energy Act.	Senator Brock
SB 473 HC	HealthCare Cost Reduction & Transparency.	Senator Rucho Senator Brown

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	May 1, 2013	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	
SB 473	HealthCare Cost Reduction & Transparency.	Senator Rucho Senator Brown

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Wednesday, May 01, 2013

Senator Rabon,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

SB **365** Affordable and Reliable Energy Act.

Draft Number:	S365-PCS75302-TD-18
Sequential Referral:	Commerce
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Senator Andrew Brock will handle SB 365

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Wednesday, May 01, 2013

Senator Rabon,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2

SB **58** **(CS#1)** Increase Funding for Dredging.

Draft Number:	S58-PCS75301-SBxf-3
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Senator Harry Brown will handle SB 58

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S D

SENATE BILL 58

Agriculture/Environment/Natural Resources Committee Substitute Adopted 3/5/13
PROPOSED COMMITTEE SUBSTITUTE S58-CSSBxf-3 [v.6]
4/23/2013 9:16:25 AM

Short Title: Increase Funding for Dredging. (Public)

Sponsors:

Referred to:

February 6, 2013

A BILL TO BE ENTITLED

AN ACT TO PROVIDE ADDITIONAL FUNDING FOR DREDGING OF THE STATE'S SHALLOW DRAFT NAVIGATION CHANNELS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 75A-3 reads as rewritten:

"**§ 75A-3. Wildlife Resources Commission to administer Chapter; Vessel Committee; funds for administration.**

(a) The Commission shall enforce and administer the provisions of this Chapter.

(b) The chair of the Commission shall designate from among the members of the Commission three members who shall serve as the Vessel Committee of the Commission, and who shall, in their activities with the Commission, place special emphasis on the administration and enforcement of this Chapter.

(c) The Boating Account is established within the Wildlife Resources Fund created under G.S. 143-250. Interest and other investment income earned by the Account accrues to the Account. All moneys collected pursuant to the numbering and titling provisions of this Chapter shall be credited to this Account. Motor fuel excise tax revenue is credited to the Account under G.S. 105-449.126. The Commission shall use revenue in the Account, subject to the Executive Budget Act and the Personnel Act, for the administration and enforcement of this Chapter; for activities relating to boating and water safety including education and waterway marking and improvement; and for boating access area acquisition, development, and maintenance. The Commission shall use at least three dollars ($3.00) of each one-year certificate of number fee and at least nine dollars ($9.00) of each three-year certificate of number fee collected under the numbering provisions of G.S. 75A-5 for boating access area acquisition, development, and maintenance. The Commission shall transfer on a quarterly basis forty-five percent (45%) of each one-year certificate of number fee and forty-five percent (45%) of each three-year certificate of number fee collected under the numbering provisions of G.S. 75A-5 to the Shallow Draft Navigation Channel Dredging Fund established by G.S. 143-215.73F."

SECTION 2. G.S. 75A-5 reads as rewritten:

"**§ 75A-5. Application for certificate of ~~number and fees;~~number; fees; reciprocity; change of ownership; conformity with federal regulations; records; award of certificates; renewal of certificates; transfer of partial interest; destroyed or junked vessels; abandonment; change of address; duplicate certificates; display.**

(a) Application for Certificate of ~~Number and Fees.~~Number. – The owner of each vessel requiring numbering by this State shall file an application for a certificate of number with the Commission. The Commission shall furnish application forms and shall prescribe the information contained in the application form. The application shall be signed by the owner of the vessel or the owner's agent and shall be accompanied by a ~~fee. The fee is fifteen dollars ($15.00) for a one-year period or forty dollars ($40.00) for a three-year period.~~fee, as set out in subsection (a1) of this section. The fee does not apply to vessels owned and operated by nonprofit rescue squads if they are operated exclusively for rescue purposes, including rescue training. The owner shall have the option of selecting a one-year numbering period or a three-year numbering period. Upon receipt of the application in approved form, the Commission shall enter the application in its records and issue the owner a certificate of number stating the identification number awarded to the vessel and the name and address of the owner, and a validation decal indicating the expiration date of the certificate of number. The owner shall paint on or attach to each side of the bow of the vessel the identification number in such manner as may be prescribed by rules of the Commission in order that it may be clearly visible. The identification number shall be maintained in legible condition. The validation decal shall be displayed on the starboard bow of the vessel immediately following the number. The certificate of number shall be pocket size and shall be available for inspection on the vessel for which the certificate is issued at all times the vessel is in operation. Any person charged with failing to so carry a certificate of number shall not be convicted if the person produces in court a certificate of number previously issued to the owner that was valid at the time of the alleged violation.

(a1) Fees. – The fees for certificates of number are as set out in this subsection:

(1) The fee for a certificate of number for a one-year period is:

a. Twenty-five dollars ($25.00) for a vessel that is less than 26 feet in length.

b. Fifty dollars ($50.00) for a vessel that is 26 feet or more in length.

(2) The fee for a certificate of number for a three-year period is:

a. Seventy-five dollars ($75.00) for a vessel that is less than 26 feet in length.

b. One hundred fifty dollars ($150.00) for a vessel that is 26 feet or more in length.

(b) Reciprocity. – The owner of any vessel already covered by a number in full force and effect pursuant to federal law or a federally approved numbering system of another state shall record the identification number prior to operating the vessel on the waters of this State in excess of the 90-day reciprocity period provided for in G.S. 75A-7(a)(1). The recordation shall be made pursuant to subsection (a) of this section, except that no additional or substitute identification number shall be issued.

(c) Change of Ownership. – Should the ownership of a vessel change, a new application form with a fee in the amount set in subsection ~~(a)~~(a1) of this section shall be filed with the Commission and a new certificate bearing the same identification number shall be awarded to the new owner in the same manner as an original certificate of number. Possession of the certificate shall in cases involving prosecution for violation of any provision of this Chapter be prima facie evidence that the person whose name appears on the certificate is the owner of the vessel referred to on the certificate.

(d) Conformity With Federal Regulations. – In the event that an agency of the federal government shall have in force an over-all system of identification numbering for vessels within the United States, the numbering system employed pursuant to this Chapter by the Commission shall be in conformity therewith.

(e) Repealed by Session Laws 2006-185, s. 1.

(f) Records. – All records of the Commission made or kept pursuant to this section shall be public records.

(g) Award of Certificates. – Each certificate of number awarded pursuant to this Chapter, unless sooner terminated or discontinued in accordance with the provisions of this Chapter, shall continue in full force and effect to and including the last day of the month during which the certificate was awarded after the lapse of one year in the case of a one-year certificate or three years in the case of a three-year certificate. No person shall willfully remove a validation decal from any vessel during the continuance of its validity or alter, counterfeit, or otherwise tamper with a validation decal attached to any vessel for the purpose of changing or obscuring the indicated date of expiration of the certificate of number of the vessel.

(h) Renewal of Certificates. – An owner of a vessel awarded a certificate of number pursuant to this Chapter shall renew the certificate on or before the first day of the month after which the certificate expires; otherwise, the certificate shall lapse and be void until such time as it may thereafter be renewed. Application for renewal shall be submitted on a form approved by the Commission and shall be accompanied by a fee in the amount set in subsection ~~(a)~~(a1) of this section. ~~No fee is required for a period of one year for renewal of certificates of number that have been previously issued to commercial fishing vessels as defined in G.S. 75A-5.1, upon compliance with all of the requirements of that section.~~

(i) Transfer of Partial Interest. – The owner shall furnish the Commission notice of the transfer of any part of the owner's interest other than the creation of a security interest in a vessel numbered in this State pursuant to subsections (a) and (b) of this section within 15 days of the transfer. A transfer of partial interest in a vessel shall not affect the owner's right to operate the vessel, nor shall a transfer of partial interest in a vessel terminate the certificate of number.

(i1) Destroyed or Junked Vessels. – The owner of any destroyed or junked vessel shall furnish the Commission notice of the destruction or junking of that vessel within 15 days of its occurrence. Destruction or junking terminates the certificate of number and renders the hull identification number invalid for that vessel.

(i2) Abandonment. – A person may acquire ownership of an abandoned vessel by providing proof to the Commission that the lawful owner has actually abandoned the vessel. The Commission shall adopt rules by which a person seeking to acquire ownership may demonstrate that the vessel is actually abandoned. At a minimum, the rules shall provide for a reasonable attempt to locate the lawful owner and, if the owner is located, notice by the claimant of an intention to claim ownership of the vessel.

(j) Change of Address. – Whenever any person, after applying for or obtaining the certificate of number of a vessel, moves from the address shown in the application or upon the certificate of number, that person shall notify the Commission of the change of address within 30 days of moving in a form acceptable to the Commission.

(j1) Duplicate Certificates. – The Commission shall issue a duplicate certificate of number for a vessel upon application by the person entitled to hold the certificate, if the Commission is satisfied that the original certificate of number has been lost, stolen, mutilated, or destroyed, or has become illegible. The Commission shall charge a fee of five dollars ($5.00) for issuance of each duplicate certificate.

(k) Display. – No number other than the identification number set forth in the certificate of number or granted reciprocity pursuant to this Chapter shall be painted, attached, or otherwise displayed on either side of the bow of a vessel, except the validation decal required by subsection (a) of this section.

(l) Repealed by Session Laws 2006-185, s. 1."

SECTION 3. G.S. 75A-5.1 is repealed.

SECTION 4. G.S. 75A-7 reads as rewritten:

"**§ 75A-7. Exemption from numbering requirements.**

(a) A vessel shall not be required to be numbered under this Chapter if it is:

(1) A vessel that is required to be awarded an identification number pursuant to federal law or a federally approved numbering system of another state, and for which an identification number has been so awarded: Provided, that any such vessel shall not have been within this State for a period in excess of 90 consecutive days.

(2) A vessel from a country other than the United States temporarily using the waters of this State.

(3) A vessel whose owner is the United States, a state or a subdivision thereof.

(4) A ship's lifeboat.

~~(5) A vessel that has a valid marine document issued by the federal Bureau of Customs or any federal agency successor thereto.~~

(6) A sailboat of not more than 14 feet on the load water line (LWL).

(7) A vessel with no means of propulsion other than drifting or manual paddling, poling, or rowing.

(b) The Commission is hereby empowered to permit the voluntary numbering of vessels owned by the United States, a state or a subdivision thereof.

(c) Those vessels owned by the United States, a state or a subdivision thereof and those owned by nonprofit rescue squads may be assigned a certificate of number bearing no expiration date but which shall be stamped with the word "permanent" and shall not be renewable so long as the vessel remains the property of the governmental entity or nonprofit rescue squad. If the ownership of any such vessel is transferred from one governmental entity to another or to a nonprofit rescue squad or if a vessel owned by a nonprofit rescue squad is transferred to another nonprofit rescue squad or governmental entity, the Commission shall issue a new permanent certificate of number, displaying the same identification number, without charge to the successor entity. When any such vessel is sold to a private owner or is otherwise transferred to private ownership, the applicable certificate of number shall be deemed to have expired immediately prior to the transfer. Prior to further use on the waters of this State, the new owner shall obtain a certificate of number pursuant to the provisions of this Chapter. The provisions of this subsection applicable to a vessel owned by a nonprofit rescue squad apply only to a vessel operated exclusively for rescue purposes, including rescue training."

SECTION 5. G.S. 75A-34 reads as rewritten:

"**§ 75A-34. Who may apply for certificate of title; authority of employees of Commission.**

(a) Any owner of a motorized vessel or sailboat 14 feet or longer or any personal watercraft, as defined in G.S. 75A-13.3(a), that is applying for a certificate of number for the first time in this State pursuant to G.S. 75A-5(a), and any new owner of a motorized vessel or sailboat 14 feet or longer or any personal watercraft to whom ownership is being transferred under G.S. 75A-5(c) shall apply to the Commission for a certificate of title for that vessel. Any other vessel may be titled in this State at the owner's option. A vessel may not be titled in this State if it is titled in another state, unless the current title is surrendered along with the application for a certificate of title in this State. The Commission shall issue a certificate of title upon reasonable evidence of ownership, which may be established by affidavit, bill of sale, manufacturer's statement of origin, certificate of title in this State, certificate of number or title from another state, or other document satisfactory to the Commission. Only one certificate of title may be issued for any vessel in this State. A vessel may not be titled in this State if it is documented with the United States Coast ~~Guard.~~Guard, unless the documentation has expired or been deleted by the United States Coast Guard. The Commission shall issue a certificate of title upon receipt of a completed application, along with the appropriate fee and reasonable evidence of ownership. The Commission shall require a manufacturer's statement of origin for all new vessels being issued a certificate of number and a certificate of title for the first time. The Commission may request a pencil tracing of the hull identification number (serial number)

for vessels being transferred, in order to positively identify the vessel before issuance of a certificate of title for that vessel.

(b) Employees of the Commission are vested with the power to administer oaths and to take acknowledgements and affidavits incidental to the administration and enforcement of this section. They shall receive no compensation for these services."

SECTION 6. G.S. 75A-38 reads as rewritten:

"**§ 75A-38. Commission's records; fees.**

(a) The Commission shall maintain a record of any title it issues.

(b) The Commission shall charge a fee of ~~twenty dollars ($20.00)~~thirty dollars ($30.00) to issue a new or transfer certificate of title. The Commission shall transfer on a quarterly basis at least ten dollars ($10.00) of each new or transfer certificate of title to the Shallow Draft Navigation Channel Dredging Fund established by G.S. 143-215.73F. The Commission shall charge a fee of ten dollars ($10.00) for each duplicate title it issues and for the recording of a supplemental lien."

SECTION 7. G.S. 105-449.126 reads as rewritten:

"**§ 105-449.126. Distribution of part of Highway Fund allocation to Wildlife Resources ~~Fund.~~Fund and Shallow Draft Navigation Channel Dredging Fund.**

(a) The Secretary shall credit to the Wildlife Resources Fund one-sixth of one percent (1/6 of 1%) of the amount that is allocated to the Highway Fund under G.S. 105-449.125 and is from the excise tax on motor fuel. Revenue credited to the Wildlife Resources Fund under this section may be used only for the boating and water safety activities described in G.S. 75A-3(c). The Secretary must credit revenue to the Wildlife Resources Fund on an annual basis.

(b) The Secretary shall credit to the Shallow Draft Navigation Channel Dredging Fund one-sixth of one percent (1/6 of 1%) of the amount that is allocated to the Highway Fund under G.S. 105-449.125 and is from the excise tax on motor fuel. Revenue credited to the Shallow Draft Navigation Channel Dredging Fund under this section may be used only for the dredging activities described in G.S. 143-215.73F. The Secretary must credit revenue to the Shallow Draft Navigation Channel Dredging Fund on an annual basis."

SECTION 8. Article 21 of Chapter 143 of the General Statutes is amended by adding a new Part to read:

"Part 8B. Shallow Draft Navigation Channel Dredging Fund.

"**§ 143-215.73F. Shallow Draft Navigation Channel Dredging Fund.**

The Shallow Draft Navigation Channel Dredging Fund is established as a special revenue fund. The Fund consists of fees credited to it under G.S. 75A-3, G.S. 75A-38, and G.S. 105-449.126. Revenue in the Fund may only be used to provide the State's share of the costs associated with any dredging project designed to keep a shallow draft navigation channel located in State waters navigable and safe. Any project funded by revenue from the Fund must be cost-shared with non-State dollars on a one-to-one basis. For purposes of this section, "shallow draft navigation channel" means (i) a waterway connection, with a maximum depth of 14 feet, between the Atlantic Ocean and a bay or the Atlantic Intracoastal Waterway; (ii) a river entrance to the Atlantic Ocean through which tidal and other currents flow; or (iii) other interior coastal waterways."

SECTION 9. Nothing in this act shall affect the validity, term, or cost of any certificate of number or certificate of title issued prior to July 1, 2013.

SECTION 10. This act becomes effective July 1, 2013.

SENATE BILL 58:
Increase Funding for Dredging

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	May 1, 2013
Introduced by:	Senator Brown	**Prepared by:**	Jeff Hudson
Analysis of:	PCS to Second Edition S58-CSSBxf-3 [v.6]		Staff Attorney

SUMMARY: The Proposed Committee Substitute for Senate Bill 58 would increase vessel numbering and titling fees and allocate a portion of the excise tax on motor fuel to provide additional funding for the dredging of the State's shallow draft navigation channels.

CURRENT LAW:

Under G.S. 75A-4, every watercraft or vessel used on the waters of the State must obtain and display identification numbers provided by the Wildlife Resources Commission (WRC). There are several types of vessels that are exempt from this requirement, including sailboats of 14 feet in length or less; vessels with no means of propulsion other than drifting or manual paddling, poling, or rowing; and vessels that are covered by documentation issued by the federal government. The fees for vessel numbering are $15.00 for a one-year period and $40.00 for a three-year period.

Under G.S. 75A-34, the owner of a motorized vessel or sailboat 14 feet or longer or any personal watercraft that is applying for a certificate of number for the first time, or any new owner of such vessel to whom ownership is being transferred, must obtain a certificate of title for the vessel from the WRC. The fee for vessel titling is $20.00.

G.S. 75A-3 establishes the Boating Account within the Wildlife Resources Fund. All funds collected for the numbering and titling of vessels are credited to the Account, as is a portion of the motor fuel excise tax. Funds in the Account are used by the WRC to administer and enforce the boating laws of the State; for activities relating to boating and water safety, including education and waterway marking and improvement; and for boating access area acquisition, development, and maintenance. The WRC must use at least $3.00 of each one-year certificate of number fee and at least $9.00 of each three-year certificate of number fee for boating access area acquisition, development, and maintenance.

BILL ANALYSIS:

The Proposed Committee Substitute for Senate Bill 58 (PCS) would change vessel numbering and titling fees and requirements and allocation of the excise tax on motor fuels as follows:

Vessel Numbering Fee for a One-Year Period

Current Law	PCS for Senate Bill 58
$15.00	• $25.00 for a vessel that is less than 26 feet in length. • $50.00 for a vessel that is 26 feet or more in length.

The PCS would also direct the WRC to transfer at least 45% of each one-year certificate of number fee to the Shallow Draft Navigation Channel Dredging Fund.

Vessel Numbering Fee for a Three-Year Period

Current Law	PCS for Senate Bill 58
$40.00	• $75.00 for a vessel that is less than 26 feet in length. • $150.00 for a vessel that is 26 feet or more in length.

The PCS would also direct the WRC to transfer at least 45% of each three-year certificate of number fee to the Shallow Draft Navigation Channel Dredging Fund.

Exemption from Numbering Requirements

The PCS would repeal the exemption from numbering requirements for vessels that are covered by documentation issued by the federal government and would repeal the exemption from payment of fees for the numbering of commercial fishing vessels.

Vessel Titling

The PCS would increase the vessel titling fee from $20.00 to $30.00. It would also direct the WRC to transfer at least $10.00 of each new or transfer certificate of title to the Shallow Draft Navigation Channel Dredging Fund.

Allocation of the Excise Tax on Motor Fuel

The PCS would direct the Secretary of Revenue to credit to the Shallow Draft Navigation Channel Dredging Fund 1/6 of 1% of the amount allocated to the Highway Fund from the excise tax on motor fuels.

Shallow Draft Navigation Channel Dredging Fund

The PCS would establish the Shallow Draft Navigation Channel Dredging Fund, which would consist of fees credited to it from the numbering and titling of vessels and from allocation of the excise tax on motor fuel. Revenue from the Fund may only be used to provide the State's share of the costs associated with any dredging project designed to keep a shallow draft navigation channel located in State waters navigable and safe. Any project funded by revenue from the Fund must be cost shared with non-State dollars on a one-to-one basis.

EFFECTIVE DATE: This act would become effective July 1, 2013.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: April 30, 2013

TO: Senate Finance Chairs

FROM: Jennifer Hoffmann,
Fiscal Research Division

RE: SB 58 – CSSBxf-3 [v.6]

FISCAL IMPACT

($ in millions)

☑ Yes ☐ No ☐ No Estimate Available

State Impact	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
Special Fund Revenues					
WRC's Boating Account	6.4	6.4	6.4	6.4	6.4
DWR's Dredging Fund	7.3	7.2	7.2	7.4	7.5
Special Fund Expenditures					
WRC's Boating Account	(6.4)	(6.4)	(6.4)	(6.4)	(6.4)
DWR's Dredging Fund	(7.3)	(7.2)	(7.2)	(7.4)	(7.5)
NET STATE IMPACT	$ -	$ -	$ -	$ -	$ -

Local Impact	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
Revenues					
Expenditures	See Assumptions and Methodology				
NET LOCAL IMPACT	$ -	$ -	$ -	$ -	$ -

PRINCIPAL DEPARTMENT(S) & PROGRAM AFFECTED: Wildlife Resources Commission and Department of Environment and Natural Resources

EFFECTIVE DATE: July 1, 2013

TECHNICAL CONSIDERATIONS: None

BILL SUMMARY: The Proposed Committee Substitute (PCS) for Senate Bill 58 increases vessel registration and titling fees to provide additional funding for the dredging of the State's shallow draft inlets. It also repeals the North Carolina exemption from registration requirements for vessels that are covered by documentation issued by the federal government, and the exemption from payment of the registration fees by commercial fishing vessels. Lastly, the PCS directs that 1/6 of 1% of the excise tax on motor fuel that is allocated to the Highway Fund be credited to the Shallow Draft Navigation Channel Dredging Fund.

ASSUMPTIONS AND METHODOLOGY:

For the purpose of estimating the amount of the revenue generated by the increase in registration and titling fees, the following assumptions were used:

1. The total number of active vessel registrations and title transactions does not change. This is supported by the stable number of registrations (and funds generated) over the past several years.
2. The breakdown between 1-year registration sales and 3-year registration sales does not change. The increase in vessel registration fees may cause a small percentage of boat owners to change their current behavior of purchasing three-year registrations to purchasing one-year licenses, but not in large enough numbers to cause a significant impact on total revenue collected annually.

REVENUES:

The PCS proposes the following four changes to increase revenue for dredging:

1. Increases vessel registration and title fees,
2. Makes federally documented vessels subject to the NC vessel registration fees,
3. Makes commercial fishing vessels subject to the NC vessel registration fees, and
4. Transfers 1/6 of 1% of the motor fuel tax deposited in the Highway Fund to Shallow Draft Navigation Channel Dredging Fund.

1. **Increases in vessel registration and title fees**: The PCS changes the vessel registration fees by moving from a flat fee of $15 per vessel per year (or $40 for a 3-year registration) to a two-tiered fee structure based on vessel length (see Table 1). The bill retains the option to purchase a 3-year registration, but it removes the $5 discount for the multi-year registration. The cost of 3-year registration is now three times the amount of a 1-year registration.

Table 1

Current 1-Year Fee	Proposed 1-Year Registration Fees
$15.00	• $25.00 for a vessel that is less than 26 feet in length
	• $50.00 for a vessel that is 26 feet or more in length
Current 3-Year Fee	**Proposed 3-Year Registration Fees**
$40.00	• $75.00 for a vessel that is less than 26 feet in length
	• $150.00 for a vessel that is 26 feet or more in length

In calendar year 2012, the Wildlife Resources Commission reported a total of 46,280 vessel title transactions and a total of 358,790 active boat registrations. The number of 1-year and 3-year registrations by vessel length can be found below in Table 2.

Table 2

North Carolina Active Vessel Registrations and Title Transactions in 2012			
Vessel Length	Active Registrations*	1-Year Registrations	3-Year Registrations*
boats less than 26'	347,414	27,844	111,484
boats 26" and greater	11,376	992	3,622
Total Registrations	**358,790**	**28,836**	**115,106**
Vessel Title Transactions	46,280		

*Active registrations include each year of 3-year registrations. The number of 3-year registrations shown on the table is the actual number of 3-year registrations issued in 2012. This fiscal memo assumes that the number of 3-year registrations issued each year remains constant. The actual number of active registrations varies from year to year.

The estimated total amount of revenue generated is approximately $11 million (see Table 3), which the bill proposes to be distribute between the Boating Account administered by the Wildlife Resources Commission and the newly created Shallow Draft Navigation Channel Dredging Fund (Dredging Fund) to be administered by the Department of Environment and Natural Resources' Division of Water Resources. The Boating Account would retain 55% of the all registration fees and the Dredging Fund would receive 45%.

The PCS also increases the title fees from the current fee of $20 to the proposed fee of $30. Ten dollars of each new or transferred title would be credited to the Dredging Fund.

Table 3

North Carolina Vessel Registration and Titling Fees Projected Revenue from Proposed New Fee Structure Based Vessel Length					
Vessel Length	1-Year Registrations	Proposed 1-Year Registration Fee	3-Year Registrations	Proposed 3-Year Registration Fee	Projected Total Revenue
boats less than 26'	27,844	$25	111,484	$75	$ 9,057,400
boats 26" and greater	992	$50	3,622	$150	$ 592,900
Registration Revenue					**$ 9,650,300**
	Title Transactions	Proposed New Fee			
Title Revenue	46,280	$30			**$ 1,388,400**
Total Combined Revenue					**$ 11,038,700**

Table 4 illustrates the allocation of the registration and title fees to the Wildlife Resources Commission (WRC) and the Division of Water Resources (DWR).

Table 4

Allocation of Projected Registration and Tilte Revenue		
Total Annual Registration Revenue	$	9,650,300
Registration Revenue Generated for WRC (55% of fees)	$	5,307,665
Registration Revenue Generated for Dredging (45% of fees)	$	4,342,635
Total Annual Title Revenue	$	1,388,400
Title Revenue Generated for WRC ($20/title)	$	925,600
New Title Revenue for Dredging ($10/title)	$	462,800
Total Combined Registration & Title Revenue	$	11,038,700
Total Estimated Revenue for WRC's Boating Account	$	6,233,265
Total Estimated Revenue for DWR's Dredging Fund	$	4,805,435

2. **Documented Vessels subject to the NCs[1]:** Currently, vessels that are required to be documented with the federal government are exempt from North Carolina's registration requirement. Vessels requiring documentation are those of five net tons or more used in fishing activities on navigable waters of the U.S. This roughly equates to a vessel 26 feet in length or longer. Because NC does not register these vessels it is difficult to know how many additional vessels could be subject to the registration requirement. Of the 355,434 documented vessels contained in the US Coast Guard database, a total of 5,200 vessels had NC listed both as a home port as well as the address of the vessel owner. This note assumes that these 5,200 vessels are located in North Carolina and thus would be subject to the proposed registration fees. Based on this assumption, a total of $260,000 in additional revenue is estimated to be generated on an annual basis from repealing the documentation exemption. [5,200 vessels 26'or more x $50 = $260,000] Because the actual number of documented vessels in NC is unknown, the amount of revenue collected from these vessels could be high than estimated.

3. **Commercial Fishing Vessels:** Currently, commercial fishermen are required to obtain a commercial fishing vessel registration from the Division of Marine Fisheries (DMF) and to pay annual registration fees to the Division based on vessel length (see Table 5). Commercial fishermen are also required to register their vessels with the Wildlife Resources Commission (WRC). They are, however, exempt from paying the WRC registration fee if they hold a valid commercial fishing vessel registration through the DMF.

Table 5

Current Commercial Vessel Registration Fees Charged by Division of Marine Fisheries (G.S. 113-168.6)
• $1 per foot for a vessel up to 18 Ft
• $1.50 per foot for a vessel that is over 18 feet but not over 38 feet in length
• $3.00 per foot for a vessel over 38 feet but not over 50 feet in length.
• $6.00 per foot for a vessel that is over 50 feet in length

[1] The following states require documented vessels to be registered: Maryland, Georgia, Florida, Louisiana (except for commercial fishing vessels), Texas (except for commercial fishing vessels), Tennessee and Missouri.

According to the DMF's records, 83% of commercial fishing vessels are less than 26 feet in length. WRC reports that a total of 2,173 commercial fishing vessels were given one year free registration renewals in FY 2011-12. Making these 2,173 vessels subject to the new two-tiered fee structure would generate a total of $63,550 on an annual basis. [1,804 vessels less than 26'in length x $25 = $45,100 plus 369 vessels greater than 26 x $50 = $18,450]

4. **Motor Fuel Tax:** The PCS directs that 1/6 of 1% of the excise tax on motor fuel that is allocated to the Highway Fund be credited to the Shallow Draft Navigation Channel Dredging Fund. Using the Department of Transportation's five year motor fuel tax forecast for the Highway Fund, the amount of new revenue generated for the Dredging Fund can be seen in Table 6.

Table 6

Highway Fund Motor Fuel Tax Projections					
	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
Total	$ 1,382,000,000	$ 1,330,000,000	$ 1,378,000,000	$ 1,452,000,000	$ 1,522,000,000
1% of Total	$ 13,820,000	$ 13,300,000	$ 13,780,000	$ 14,520,000	$ 15,220,000
1/6 of 1% Dredging Fund	**$ 2,303,333**	**$ 2,216,667**	**$ 2,296,667**	**$ 2,420,000**	**$ 2,536,667**

TOTAL REVENUE and EXPENDITURES:

Table 7 shows the total estimated revenue to be generated from the fee increases, the removal of certain exemptions, and the transfer of the motor fuel tax.

Table 7

Total Projected Revenue Based on Senate Bill 58					
	FY 2013-14	**FY 2014-15**	**FY 2015-16**	**FY 2016-17**	**FY 2017-18**
Registration Fees ($)	9,650,300	9,650,300	9,650,300	9,650,300	9,650,300
Title Fees ($)	1,388,400	1,388,400	1,388,400	1,388,400	1,388,400
Documented Vessels ($)	260,000	260,000	260,000	260,000	260,000
Commercial Fishing Vessels ($)	63,550	63,550	63,550	63,550	63,550
Motor Fuel Tax ($)	2,303,333	2,216,667	2,296,667	2,420,000	2,536,667
Total	**$ 13,665,583**	**$ 13,578,917**	**$ 13,658,917**	**$ 13,782,250**	**$ 13,898,917**
Use of Funds Generated					
WRC's Boating Account	$ 6,411,218	$ 6,411,218	$ 6,411,218	$ 6,411,218	$ 6,411,218
DWR's Dredging Fund	$ 7,254,365	$ 7,167,699	$ 7,247,699	$ 7,371,032	$ 7,487,699

All registration and title fee revenue will initially be deposited into the Wildlife Resources Commission's Boating Account. On a quarterly basis, 45% of registration fees and $10 from each title fee deposited in the Account will be transferred to the Shallow Draft Navigation Channel Fund, which will be administered by the Division of Water Resources (DWR) in the Department of Environment and Natural Resources.

The 55% of the funds that remain in the Boating Account will be used by WRC for the following purposes: 1) administration of the registration and titling system, 2) enforcement of boating laws, 3) activities related to boating and water safety including education and waterway marking and improvement, and 4) boating access area acquisition, development, and maintenance.

Currently, the Wildlife Resources Commission receives 100% of all vessel registration and title fees, which average just over $5.1 million in registration fees and $925,600 in title fees annually. The proposed changes in the PCS results in a net increase in the amount of revenue WRC receives from registration fees by approximately $400,000. There is no impact on the amount of revenue received from title fees.

Funds transferred to the Shallow Draft Navigation Dredging Channel Fund will be used to provide the State's share of the costs associated with any dredging project designed to keep a shallow draft inlet located in State waters navigable and safe. Any project funded by revenue from the Fund must be cost shared with non-State dollars on a one-to-one basis.

SOURCES OF DATA: Wildlife Resources Commission, NC Department of Environment and Natural Resources' Division of Marine Fisheries and the NC Department of Transportation

TECHNICAL CONSIDERATIONS: None

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 58

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S58-ASB-31 [v.1]

Comm. Sub. [YES]
Amends Title [NO]
PCS S58-CSSBxf-3 [v.6]

Date _____,2013

Senator _____

moves to amend the bill on page 5, line 45,
by rewriting the line to read:

"**SECTION 10.** This act becomes effective October 1, 2013."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S D

SENATE BILL 365*
PROPOSED COMMITTEE SUBSTITUTE S365-CSTD-18 [v.5]
4/30/2013 4:26:17 PM

Short Title: Affordable and Reliable Energy Act. (Public)

Sponsors:

Referred to:

March 20, 2013

A BILL TO BE ENTITLED

AN ACT TO REDUCE THE BURDEN OF HIGH ENERGY COSTS ON THE CITIZENS OF NORTH CAROLINA BY REVISING THE RENEWABLE ENERGY PORTFOLIO STANDARDS; AND TO PROVIDE FOR COST RECOVERY BY PUBLIC UTILITIES FOR CERTAIN COSTS OF COMPLIANCE WITH RENEWABLE ENERGY PORTFOLIO STANDARDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 62-2(a)(10) reads as rewritten:

"**§ 62-2. Declaration of policy.**

(a) Upon investigation, it has been determined that the rates, services and operations of public utilities as defined herein, are affected with the public interest and that the availability of an adequate and reliable supply of electric power and natural gas to the people, economy and government of North Carolina is a matter of public policy. It is hereby declared to be the policy of the State of North Carolina:

...

(10) To promote ~~the development of~~ renewable energy and energy efficiency through the implementation of a Renewable Energy and Energy Efficiency Portfolio Standard (REPS) that will do all of the following:

a. Diversify the resources used to reliably meet the energy needs of consumers in the State.

b. Provide greater energy security through the use of indigenous energy resources available within the State.

c. Encourage private investment in renewable energy and energy efficiency.

d. Provide improved air quality and other benefits to energy consumers and citizens of the State."

SECTION 2. G.S. 62-133.8 reads as rewritten:

"**§ 62-133.8. Renewable Energy and Energy Efficiency Portfolio Standard (REPS).**

...

(b) Renewable Energy and Energy Efficiency Standards (REPS) for Electric Public Utilities. –

(1) Each electric public utility in the State shall be subject to a Renewable Energy and Energy Efficiency Portfolio Standard (REPS) according to the following schedule:

Calendar Year	**REPS Requirement**
2012 <u>through 2023</u>	3% of 2011 North Carolina retail sales

~~2015~~	~~6% of 2014 North Carolina retail sales~~
~~2018~~	~~10% of 2017 North Carolina retail sale~~
~~2021 and thereafter~~	~~12.5% of 2020 North Carolina retail sales~~

....

(c) Renewable Energy and Energy Efficiency Standards (REPS) for Electric Membership Corporations and Municipalities. –

(1) Each electric membership corporation or municipality that sells electric power to retail electric power customers in the State shall be subject to a Renewable Energy and Energy Efficiency Portfolio Standard (REPS) according to the following schedule:

Calendar Year	**REPS Requirement**
2012 through 2023	3% of 2011 North Carolina retail sales
~~2015~~	~~6% of 2014 North Carolina retail sales~~
~~2018 and thereafter~~	~~10% of 2017 North Carolina retail sales~~

...

(d) Compliance With REPS Requirement Through Use of Solar Energy Resources. – For the years listed below, no less than the corresponding percentage ~~For calendar year 2018 and for each calendar year thereafter, at least two tenths of one percent (0.2%)~~ of the total electric power in kilowatt hours sold to retail electric customers in the State, or an equivalent amount of energy, shall be supplied by a combination of new solar electric facilities and new metered solar thermal energy facilities that use one or more of the following applications: solar hot water, solar absorption cooling, solar dehumidification, solar thermally driven refrigeration, and solar industrial process heat. The terms of any contract entered into between an electric power supplier and a new solar electric facility or new metered solar thermal energy facility shall be of sufficient length to stimulate development of solar energy; provided, the Commission shall develop a procedure to determine if an electric power supplier is in compliance with the provisions of this subsection if a new solar electric facility or a new metered solar thermal energy facility fails to meet the terms of its contract with the electric power supplier. As used in this subsection, "new" means a facility that was first placed into service on or after January 1, 2007. The electric power suppliers shall comply with the requirements of this subsection according to the following schedule:

Calendar Year	**Requirement for Solar Energy Resources**
2010	0.02%
2012	0.07%
2015	0.14%
2018 through 2023	0.20%

(e) Compliance With REPS Requirement Through Use of Swine Waste Resources. – ~~For calendar year 2018 and for each calendar year thereafter, at least two tenths of one percent (0.2%)~~For the years listed below, no less than the corresponding percentage of the total electric power in kilowatt hours sold to retail electric customers in the State shall be supplied, or contracted for supply in each year, by swine waste. The electric power suppliers, in the aggregate, shall comply with the requirements of this subsection according to the following schedule:

Calendar Year	**Requirement for Swine Waste Resources**
2012	0.07%
2015	0.14%
2018 through 2023	0.20%

(f) Compliance With REPS Requirement Through Use of Poultry Waste Resources. – For ~~calendar year 2014 and for each calendar year thereafter, at least 900,000 megawatt~~

~~hours~~the years listed below, at least the number of megawatt hours of the total electric power sold to retail electric customers in the State or an equivalent amount of energy shall be supplied, or contracted for supply in each year, by poultry waste combined with wood shavings, straw, rice hulls, or other bedding material. The electric power suppliers, in the aggregate, shall comply with the requirements of this subsection according to the following schedule:

Calendar Year	Requirement for Poultry Waste Resources
2012	170,000 megawatt hours
2013	700,000 megawatt hours
2014 through 2023	900,000 megawatt hours

...

(h) Cost Recovery and Customer Charges. –

...

(4) An electric power supplier shall be allowed to recover the incremental costs incurred to comply with the requirements of subsections (b), (c), (d), (e), and (f) of this section and fund research as provided in subdivision (1) of this subsection through an annual rider not to exceed the following per-account annual charges:

Customer Class	2008-2011	2012-~~2014~~2023	~~2015 and thereafter~~
Residential per account	$10.00	$12.00	~~$34.00~~
Commercial per account	$50.00	$150.00	~~$150.00~~
Industrial per account	$500.00	$1,000.00	~~$1,000.00~~

...

(6) The costs shall be recovered from individual customers as a separately assessed surcharge. The surcharge shall be identified on the customer bills as a special surcharge for green energy.

..."

SECTION 3. Incremental costs incurred by an electric power supplier prior to July 1, 2013, to comply with any requirement repealed by this act may be recovered as provided in G.S. 62-133.8(h). For the purposes of cost recovery under this act, costs incurred prior to July 1, 2013, include all of the following:

(1) Costs under purchase contracts for renewable energy entered into prior to July 1, 2013, for the purpose of complying with REPS requirements repealed by this act.

(2) The costs of renewable energy facilities built by a public utility for which a certificate of public convenience and necessity has been issued by the Commission prior to July 1, 2013, for the purpose of complying with REPS requirements repealed by this act.

(3) Other costs the Utilities Commission determines are reasonable and prudent costs incurred prior to July 1, 2013, to comply with the REPS requirements repealed by this act.

SECTION 4. This act becomes effective July 1, 2013.

SENATE BILL 365:
Affordable and Reliable Energy Act

2013-2014 General Assembly

Committee:	Senate Re-ref to Finance. If fav, re-ref to Commerce	**Date:**	May 1, 2013
Introduced by:	Sen. Brock	**Prepared by:**	Heather Fennell Committee Counsel
Analysis of:	PCS to First Edition S365-CSTD-18		

SUMMARY: ***The PCS to Senate Bill 365 would revise the Renewable Energy Portfolio Standards (REPS) requirements enacted in S.L. 2007-397 in the following ways:***

- ***Keeps the REPS requirement at the current requirement of 3% through 2023.***
- ***Repeals the REPS requirements as of 2023.***
- ***Requires the costs recovered for the REPS requirement to be separately stated on customer bills and identified as a special surcharge for green energy.***
- ***Allows electric suppliers to recover all costs incurred in compliance with the REPS requirements, including the provisions repealed by this act.***

[As introduced, this bill was identical to H298, as introduced by Reps. Hager, Collins, Avila, Cleveland, which is currently in House Public Utilities and Energy, if favorable, Environment, if favorable, Regulatory Reform.]

CURRENT LAW: In 2007, the General Assembly enacted a Renewable Energy Portfolio Standard (REPS) requirement for electric power suppliers.[1] Renewable Energy Portfolio Standards (REPS) require that electric power suppliers operating within a state provide a designated amount or percentage of power from renewable energy resources as a portion of their overall provision of electricity. Iowa enacted the first REPS in 1991 and as of March 2013, REPS have been enacted by 29 states and the District of Columbia.

Types of Renewable Energy: Renewable energy resources that can be used to meet the REPS requirements are:

- Solar electric, solar thermal, wind, hydropower, geothermal, or ocean current or wave energy resource.
- A biomass resource, including agricultural waste, animal waste, wood waste, spent pulping liquors, combustible residues, combustible liquids, combustible gases, energy crops, or landfill methane.
- Waste heat derived from a renewable energy resource and used to produce electricity or useful, measurable thermal energy at a retail electric customer's facility.
- Hydrogen derived from a renewable energy resource.

"Renewable energy resource" does not include peat, a fossil fuel, or nuclear energy resource.

[1] S.L. 2007-397, also known as "Senate Bill 3." The provisions of SB3 that are not amended by the H298 are briefly outlined in the "Background" section of this summary.

REPS Requirements: The REPS requirements varies based on the type of electric supplier, and is as follows:

Electric Public Utilities	
Calendar Year	**REPS Requirement**
2012	3% of 2011 North Carolina retail sales
2015	6% of 2014 North Carolina retail sales
2018	10% of 2017 North Carolina retail sales
2021 and thereafter	12.5% of 2020 North Carolina retail sales

Electric Membership Corporations and Municipalities	
Calendar Year	**REPS Requirement**
2012	3% of 2011 North Carolina retail sales
2015	6% of 2014 North Carolina retail sales
2018 and thereafter	10% of 2017 North Carolina retail sales

All electric power suppliers may meet the REPS requirements by:

- Generating electric power at a new renewable energy facility.
- Reducing energy consumption through the implementation of an energy efficiency measure.
- Purchasing electric power from a new renewable energy facility.
- Purchasing renewable energy certificates derived from in-state or out-of-state new renewable energy facilities.
- Using electric power that is supplied by a new renewable energy facility or saved due to the implementation of an energy efficiency measure that exceeds the requirements for any calendar year as a credit towards meeting the requirements in the following calendar year or sell the associated renewable energy certificates.
- Reducing electricity demand with a program that is voluntary, under the real-time control of both the electric power supplier and the retail electric customer, and measured in real time, using two-way communications devices that communicate on the basis of standards.

Electric public utilities may also meet the REPS requirements by using a renewable energy resource to generate electric power at a generating facility. Electric membership corporations and municipalities may also meet the requirements by purchase electricity from renewable energy facilities, and acquiring all or part of its electric power from an electric power supplier who meets the REPS requirements.

Set-Asides

Part of the REPS requirements must be met with certain energy resources. Commonly known as "set-asides" these additional requirements are as follows:

Requirement for Solar Energy Resources	
At least the following percentage of the total electric power in kW hours sold to retail customers in the State must be supplied by a combination of new solar electric facilities and new solar thermal electric facilities:	
2010	0.02%
2012	0.07%
2015	0.14%
2018	0.20%

Requirement for Swine Waste Resources[2]	
At least the following percentage of the total electric power in kW hours sold to retail customers in the State must be supplied by swine waste.	
2012	0.07%
2015	0.14%
2018	0.20%

Requirement for Poultry Waste Resources[3]	
At least the following megawatt hours of total electric power sold to retail customers in the State must be supplied by poultry waste combined with wood shavings, straw, rice hulls, or other bedding materials.	
2012	170,000 megawatt-hours
2013	700,000 megawatt-hours
2014	900,000 megawatt-hours

Cost Cap: Electric power suppliers are allowed to recover costs of compliance with the REPS requirements through an annual rider proceeding. The recovery of costs may not exceed an amount equal to the per-customer annual charges in the following schedule:

Customer Class	2008-2011	2012-2014	2015 and thereafter
Residential per account	$10.00	$12.00	$34.00
Commercial per account	$50.00	$150.00	$150.00
Industrial per account	$500.00	$1,000.00	$1,000.00

BILL ANALYSIS: The PCS to Senate Bill 365 would revise the Renewable Energy Portfolio Standards (REPS) requirements enacted in S.L. 2007-397 in the following ways:

The REPS requirements would remain at 3% of 2011 jurisdictional sales until 2023. The requirements would be repealed as of 2023. The set-asides would not be amended; however, the set-asides are also repealed as of 2023.

[2] In November of 2012, the Utilities Commission issued an order that eliminated the swine waste set aside for 2012.

[3] In November of 2012, the Utilities Commission issued an order that delayed the poultry waste set aside for one year.

The costs of compliance with the REPS requirement are currently recovered through a separate rider proceeding each year. The PCS would require that the amount recovered under the rider to be separately stated on customer bills and identified as a surcharge for green energy.

Electric suppliers are allowed to recover all costs incurred in compliance with the REPS requirements, including the provisions repealed by this act.

EFFECTIVE DATE: This act becomes effective July 1, 2013.

BACKGROUND: S.L. 2007-397, also known as Senate Bill 3, enacted the REPS requirements that would be amended by House Bill 298. The act also contained the following additional provisions, which are NOT amended by House Bill 298:

Demand-side management and energy efficiency programs. – S.L. 2007-397 directed electric power suppliers to implement demand-side management and energy efficiency measures to establish the least cost mix of demand reduction and generation measures that meet the electricity needs of its customers.

Cost recover for electric power suppliers. – S.L. 2007-397 amended the cost recovery procedures for electric power suppliers to provide for:

- Recovery of additional costs under the annual fuel charge.
- Ongoing review of construction costs and the inclusion of construction costs in rates.
- Recovery of construction work in progress when reasonable and prudent and subject to an ongoing review by the Utilities Commission
- Recovery of construction costs for out-of-state electric generating facilities.
- Recovery of project development costs for nuclear facilities.

Public Utility and EMC Regulatory Fees. – S.L. 2007-397 adjusted the public utility and electric membership corporation regulatory fees. These fees are adjusted each year, typically in the budget.

Sales tax of fuel. – S.L. 2007-397 phased out the sales taxes paid by farmers and manufacturers for electricity, piped natural gas, and other fuels.

Tax credit. – S.L. 2007-397 provided a tax credit to a taxpayer that makes an eligible contribution to a nonprofit organization organized under section 501(c)(3) of the Code for investment in renewable energy property.

SENATE BILL 365:
Affordable and Reliable Energy Act

2013-2014 General Assembly

Committee:	Senate Re-ref to Finance. If fav, re-ref to Commerce	**Date:**	May 1, 2013
Introduced by:	Sen. Brock	**Prepared by:**	Heather Fennell Committee Counsel
Analysis of:	PCS to First Edition S365-CSTD-18		

SUMMARY: ***The PCS to Senate Bill 365 would revise the Renewable Energy Portfolio Standards (REPS) requirements enacted in S.L. 2007-397 in the following ways:***

- ***Keeps the REPS requirement at the current requirement of 3% through 2023.***
- ***Repeals the REPS requirements as of 2023.***
- ***Requires the costs recovered for the REPS requirement to be separately stated on customer bills and identified as a special surcharge for green energy.***
- ***Allows electric suppliers to recover all costs incurred in compliance with the REPS requirements, including the provisions repealed by this act.***

[As introduced, this bill was identical to H298, as introduced by Reps. Hager, Collins, Avila, Cleveland, which is currently in House Public Utilities and Energy, if favorable, Environment, if favorable, Regulatory Reform.]

CURRENT LAW: In 2007, the General Assembly enacted a Renewable Energy Portfolio Standard (REPS) requirement for electric power suppliers.[1] Renewable Energy Portfolio Standards (REPS) require that electric power suppliers operating within a state provide a designated amount or percentage of power from renewable energy resources as a portion of their overall provision of electricity. Iowa enacted the first REPS in 1991 and as of March 2013, REPS have been enacted by 29 states and the District of Columbia.

Types of Renewable Energy: Renewable energy resources that can be used to meet the REPS requirements are:

- Solar electric, solar thermal, wind, hydropower, geothermal, or ocean current or wave energy resource.
- A biomass resource, including agricultural waste, animal waste, wood waste, spent pulping liquors, combustible residues, combustible liquids, combustible gases, energy crops, or landfill methane.
- Waste heat derived from a renewable energy resource and used to produce electricity or useful, measurable thermal energy at a retail electric customer's facility.
- Hydrogen derived from a renewable energy resource.

"Renewable energy resource" does not include peat, a fossil fuel, or nuclear energy resource.

[1] S.L. 2007-397, also known as "Senate Bill 3." The provisions of SB3 that are not amended by the H298 are briefly outlined in the "Background" section of this summary.

REPS Requirements: The REPS requirements varies based on the type of electric supplier, and is as follows:

Electric Public Utilities	
Calendar Year	**REPS Requirement**
2012	3% of 2011 North Carolina retail sales
2015	6% of 2014 North Carolina retail sales
2018	10% of 2017 North Carolina retail sales
2021 and thereafter	12.5% of 2020 North Carolina retail sales

Electric Membership Corporations and Municipalities	
Calendar Year	**REPS Requirement**
2012	3% of 2011 North Carolina retail sales
2015	6% of 2014 North Carolina retail sales
2018 and thereafter	10% of 2017 North Carolina retail sales

All electric power suppliers may meet the REPS requirements by:

- Generating electric power at a new renewable energy facility.
- Reducing energy consumption through the implementation of an energy efficiency measure.
- Purchasing electric power from a new renewable energy facility.
- Purchasing renewable energy certificates derived from in-state or out-of-state new renewable energy facilities.
- Using electric power that is supplied by a new renewable energy facility or saved due to the implementation of an energy efficiency measure that exceeds the requirements for any calendar year as a credit towards meeting the requirements in the following calendar year or sell the associated renewable energy certificates.
- Reducing electricity demand with a program that is voluntary, under the real-time control of both the electric power supplier and the retail electric customer, and measured in real time, using two-way communications devices that communicate on the basis of standards.

Electric public utilities may also meet the REPS requirements by using a renewable energy resource to generate electric power at a generating facility. Electric membership corporations and municipalities may also meet the requirements by purchase electricity from renewable energy facilities, and acquiring all or part of its electric power from an electric power supplier who meets the REPS requirements.

Set-Asides

Part of the REPS requirements must be met with certain energy resources. Commonly known as "set-asides" these additional requirements are as follows:

Requirement for Solar Energy Resources	
At least the following percentage of the total electric power in kW hours sold to retail customers in the State must be supplied by a combination of new solar electric facilities and new solar thermal electric facilities:	
2010	0.02%
2012	0.07%
2015	0.14%
2018	0.20%

Requirement for Swine Waste Resources[2]	
At least the following percentage of the total electric power in kW hours sold to retail customers in the State must be supplied by swine waste.	
2012	0.07%
2015	0.14%
2018	0.20%

Requirement for Poultry Waste Resources[3]	
At least the following megawatt hours of total electric power sold to retail customers in the State must be supplied by poultry waste combined with wood shavings, straw, rice hulls, or other bedding materials.	
2012	170,000 megawatt-hours
2013	700,000 megawatt-hours
2014	900,000 megawatt-hours

Cost Cap: Electric power suppliers are allowed to recover costs of compliance with the REPS requirements through an annual rider proceeding. The recovery of costs may not exceed an amount equal to the per-customer annual charges in the following schedule:

Customer Class	2008-2011	2012-2014	2015 and thereafter
Residential per account	$10.00	$12.00	$34.00
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BILL ANALYSIS: The PCS to Senate Bill 365 would revise the Renewable Energy Portfolio Standards (REPS) requirements enacted in S.L. 2007-397 in the following ways:

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[3] In November of 2012, the Utilities Commission issued an order that delayed the poultry waste set aside for one year.

The costs of compliance with the REPS requirement are currently recovered through a separate rider proceeding each year. The PCS would require that the amount recovered under the rider to be separately stated on customer bills and identified as a surcharge for green energy.

Electric suppliers are allowed to recover all costs incurred in compliance with the REPS requirements, including the provisions repealed by this act.

EFFECTIVE DATE: This act becomes effective July 1, 2013.

BACKGROUND: S.L. 2007-397, also known as Senate Bill 3, enacted the REPS requirements that would be amended by House Bill 298. The act also contained the following additional provisions, which are NOT amended by House Bill 298:

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Cost recover for electric power suppliers. – S.L. 2007-397 amended the cost recovery procedures for electric power suppliers to provide for:

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Public Utility and EMC Regulatory Fees. – S.L. 2007-397 adjusted the public utility and electric membership corporation regulatory fees. These fees are adjusted each year, typically in the budget.

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Tax credit. – S.L. 2007-397 provided a tax credit to a taxpayer that makes an eligible contribution to a nonprofit organization organized under section 501(c)(3) of the Code for investment in renewable energy property.

Pages

Annie-Linn Johnson

Odom Williford

Meredith Nesbitt

PUBLIC SPEAKING LIST

SB 474

FOR

1.

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3.

4.

AGAINST

1.

2.

3.

4.

SENATE SERGEANT-AT-ARMS

COMMITTEE: **SENATE FINANCE**

DATE: 05/01/13 ROOM: 544

1. ERNIE SHERRELL
2. ANDERSON MEADOWS
3. DONNA BLAKE
4. CANTON LEWIS
5. _____
6. _____

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 1, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Francis Deluca	Civitas
Joy Peters	CSS
J Peters	CSS
Mike Forte	Boiling Spring Lakes
Matt Vishl	CW Consult
Andrew Blackburn	SSG NC
Scott Laster	SSG NC
Kristen Laster	SSG NC
Michael A Shompson	Dominion NC Power
Chuck Stone	SEANC
Jarrod Lowery	Governor's Office

VISITOR REGISTRATION SHEET

Senate Finance Committee — **Name of Committee**

May 1, 2013 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Sarah Lynn Miller	Self
Brooks Rainey Pearson	SELC
Lowell Sachs	NCSEA
Nadia Luhr	NCCN
DAN CRAWFORD	NCLCV
Jeanne Bonds	Plain Talk Politics
Ralph Thompson	Holocene Energy
[illegible]	VHS
Angie Hamm	Ward and Smith
Heather Barrett	W&S
Cedric Johnson	BTC

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 1, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Chris Seaberg	Town of Cedar Point
Art Schools	Emerald Isle
Chip Kellair	Nelson mullins
Jim Holmes	TCR
Allison Waller	Nelson Mullins
Marie Gardner	GSK
Joe Lanier	Nelson Mullins
Matt Wolfe	PPAB
Michael Houser	The Houser Consulting Group
Lisa Martin	NCHBA
Steven Webb	"

VISITOR REGISTRATION SHEET

Senate Finance Committee
Name of Committee

May 1, 2013
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Edgar Miller	CTNC
Dustin Chevrel-Bayer	Sierra Club
Elizabeth Ouzts	Environment North Carolina
Molly Diggins	Sierra Club
Cassie Gavin	Sierra Club

Senate Committee on Finance
Tuesday, May 7, 2013, 1:00 PM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 254	Zoning Changes/Notice to Military Bases.	Rep. Glazier Rep. Lewis Rep. Szoka Rep. Lucas
SB 380	Adjust Landfill Permit Fee Timing.	Sen. Jackson
SB 454	Registration of Petroleum Device Technicians.-AB	Sen. Cook Sen. Barefoot Sen. Rabin
SB 490	Correct Taxation of Computer Software.	Sen. Gunn Sen. Barefoot Sen. Walters

Adjournment

Senate Finance Committee
Tuesday, May 7, 2013
Room 544 LOB, 1:00 p.m.

Minutes

The Senate Committee on Finance met on Tuesday, May 7, 2013, at 1:00 p.m. in room 544 of the Legislative Office Building. Jordan Thomas of Garner, John Ange Kernodle of Burlington, Trevis Watts of Brownsummit and Lauren Coker of Garner served as pages to the Committee. Senator Curtis served as Chair to the meeting.

H.B. 254 – Zoning Changes/Notice to Military Bases

Senator Brown was recognized to explain the bill which identifies additional proposed land use changes that would require notification by a local government to a nearby military installation. Heather Fennell, a staff attorney with the Research Division, was recognized to answer questions. Senator Wade moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 380 – Adjust Landfill Permit Fee Timing

Senator Jackson was recognized to explain the bill. The bill would make adjustments to the fee schedule for permits for sanitary landfills, transfer stations, and tire monofill facilities to reflect extension of the duration of these permits as directed by legislation enacted in 2012. The legislation was a recommendation of the Environmental Review Commission. Senator Cook moved for a favorable report. The motion carried. A copy of the bill, the summary and the fiscal memo is attached.

S.B. 454 – Registration of Petroleum Device Technicians

Senator Barefoot was recognized to explain the bill which would authorize the Gasoline and Oil Inspection Board to regulate petroleum device technicians who perform necessary repairs to equipment used to measure petroleum products. Senator Apodaca moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 490 – Exclude Custom Software from Property Tax

Senator Gunn was recognized to explain the bill. Senator Brown moved to adopt the proposed committee substitute (PCS) for discussion and the motion carried. The PCS would exclude custom computer software from local property tax. Senator Tillman moved for a favorable report and the motion carried. A copy of the PCS, the summary and the fiscal memo is attached.

The meeting adjourned at 1:30 p.m.

Senator David Curtis, Presiding Chair
Senate Finance Committee

DeAnne Mangum
Senate Finance Clerk

Principal Clerk ____
Reading Clerk ____

Corrected #1: S473 - HealthCare Cost Reduction & Transparency has been removed from the agenda.

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Tuesday	May 7, 2013	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	
HB 254	Zoning Changes/Notice to Military Bases.	Representative Glazier Representative Lewis Representative Szoka Representative Lucas
SB 380	Adjust Landfill Permit Fee Timing.	Senator Jackson
SB 454	Registration of Petroleum Device Technicians.-AB	Senator Cook Senator Barefoot Senator Rabin
SB 490	Correct Taxation of Computer Software.	Senator Gunn Senator Barefoot Senator Walters

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

Principal Clerk ____
Reading Clerk ____

SENATE
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AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

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Tuesday	May 7, 2013	1:00 PM	544 LOB

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HB 254	Zoning Changes/Notice to Military Bases.	Representative Glazier Representative Lewis Representative Szoka Representative Lucas
SB 380	Adjust Landfill Permit Fee Timing.	Senator Jackson
SB 454	Registration of Petroleum Device Technicians.-AB	Senator Cook Senator Barefoot Senator Rabin
SB 473	HealthCare Cost Reduction & Transparency.	Senator Rucho Senator Brown
SB 490	Correct Taxation of Computer Software.	Senator Gunn Senator Barefoot Senator Walters

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Tuesday, May 07, 2013

Senator Rucho,
submits the following with recommendations as to passage:

FAVORABLE

HB **254** **(CS#1)** Zoning Changes/Notice to Military Bases.

Draft Number:	None
Sequential Referral:	Rules and Operations of the Senate
Recommended Referral:	None
Long Title Amended:	No

SB **380** **(CS#1)** Adjust Landfill Permit Fee Timing.

Draft Number:	None
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

SB **454** Registration of Petroleum Device Technicians.-AB

Draft Number:	None
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 3

Senator Wesley Meredith will handle HB 254
Senator W. Jackson will handle SB 380
Senator John Barefoot will handle SB 454

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Tuesday, May 07, 2013

Senator Rucho,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

SB **490** Correct Taxation of Computer Software.

Draft Number:	S490-PCS95084-TM-32
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Senator Richard Gunn will handle SB 490

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H 2

HOUSE BILL 254
Committee Substitute Favorable 4/2/13

Short Title: Zoning Changes/Notice to Military Bases. (Public)

Sponsors:

Referred to:

March 11, 2013

A BILL TO BE ENTITLED

AN ACT AMENDING THE REQUIREMENTS RELATED TO NOTICE OF LAND-USE PLANNING AND ZONING CHANGES TO BE GIVEN TO A MILITARY BASE BY COUNTIES OR CITIES NEAR THE MILITARY BASE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-323(b) reads as rewritten:

"(b) If the adoption or modification of the ordinance would result in any of the changes ~~to the zoning map or would change or affect the permitted uses of land~~ listed in this subsection and those changes would be located five miles or less from the perimeter boundary of a military base, the board of commissioners shall provide written notice of the proposed changes by certified mail, ~~return receipt requested,~~ or by any other written means reasonably designed to provide actual notice, to the commander of the military base or the commander's designee not less than 10 days nor more than 25 days before the date fixed for the public hearing. Prior to the date of the public hearing, the military may provide comments or analysis to the board regarding the compatibility of the proposed changes with military operations at the base. If the board does not receive a response within 30 days of the notice, the military is deemed to waive the comment period. If the military provides comments or analysis regarding the compatibility of the proposed ordinance or amendment with military operations at the base, the board of commissioners shall take the comments and analysis into consideration before making a final determination on the ordinance. The proposed changes requiring notice are:

(1) Changes to the zoning map.
(2) Changes that affect the permitted uses of land.
(3) Changes relating to telecommunications towers or windmills.
(4) Changes to proposed new major subdivision preliminary plats.
(5) An increase in the size of an approved subdivision by more than fifty percent (50%) of the subdivision's total land area."

SECTION 2. G.S. 160A-364(b) reads as rewritten:

"(b) If the adoption or modification of the ordinance would result in any of the changes ~~to the zoning map or would change or affect the permitted uses of land~~ listed in this subsection and those changes would be located five miles or less from the perimeter boundary of a military base, the board of commissioners shall provide written notice of the proposed changes by certified mail, ~~return receipt requested,~~ or by any other written means reasonably designed to provide actual notice, to the commander of the military base or the commander's designee not less than 10 days nor more than 25 days before the date fixed for the public hearing. Prior to the date of the public hearing, the military may provide comments or analysis to the board regarding the compatibility of the proposed changes with military operations at the base. If the

board does not receive a response within 30 days of the notice, the military is deemed to waive the comment period. If the military provides comments or analysis regarding the compatibility of the proposed ordinance or amendment with military operations at the base, the board of commissioners shall take the comments and analysis into consideration before making a final determination on the ordinance. The proposed changes requiring notice are:

(1) Changes to the zoning map.

(2) Changes that affect the permitted uses of land.

(3) Changes relating to telecommunications towers or windmills.

(4) Changes to proposed new major subdivision preliminary plats.

(5) An increase in the size of an approved subdivision by more than fifty percent (50%) of the subdivision's total land area."

SECTION 3. This act is effective when it becomes law and applies to planning and zoning changes initiated on or after that date.

HOUSE BILL 254:
Zoning Changes/Notice to Military Bases

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	May 7, 2013
Introduced by:	Reps. Glazier, Lewis, Szoka, Lucas	**Prepared by:**	Heather Fennell
Analysis of:	Second Edition		Committee Counsel

SUMMARY: ***House Bill 254 identifies additional proposed land use changes that would require notification by a local government to a nearby military installation.***

CURRENT LAW: Counties and municipalities are required to notify nearby military installations of proposed zoning ordinances or other changes that would change or affect the permitted uses of land located five miles or less from the perimeter boundary of the installation. Prior to adopting an ordinance that would make these changes, the local government must consider any comments or analysis from the installation command relating to compatibility of use issues.

BILL ANALYSIS: The bill does the following:

- Adds the following matters as requiring notification to nearby military installations:
  - Changes relating to telecommunications towers or windmills.
  - Changes to proposed new major subdivision preliminary plats.
  - An increase in the size of an approved subdivision by more than fifty percent (50%) of the subdivision's total land area to proposed subdivisions, telecommunications towers, or windmills.
- Broadens the means by which notification can be made, by adding "any other written means reasonably designed to provide notification," and deleting a requirement for return receipt on certified mail.
- Allows the commander of the installation to appoint a designee to receive the required notice.
- Provides a 30-day timeframe in which the military has to provide comments to the proposed changes before it is considered to have waived the comment period.

EFFECTIVE DATE: This bill would be effective when it becomes law and apply to planning and zoning changes initiated on or after that date.

Trina Griffin, counsel to House Finance, substantially contributed to this summary.

O. Walker Reagan
Director

H254-SMTD-28 E2 -V1

Research Division
(919) 733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S 2

SENATE BILL 380*
Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/30/13

Short Title: Adjust Landfill Permit Fee Timing. (Public)

Sponsors:

Referred to:

March 21, 2013

A BILL TO BE ENTITLED

AN ACT TO MAKE ADJUSTMENTS TO THE FEE SCHEDULE FOR PERMITS FOR SANITARY LANDFILLS AND TRANSFER STATIONS TO REFLECT EXTENSION OF THE DURATION OF THESE PERMITS AS DIRECTED BY S.L. 2012-187, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-294 is amended by adding a new subsection to read:

"(a2) Permits for sanitary landfills and transfer stations shall be issued for (i) a design and operation phase of five years or (ii) a design and operation phase of 10 years. A permit issued for a design and operation phase of 10 years shall be subject to a limited review within five years of the issuance date."

SECTION 2. G.S. 130A-295.8 reads as rewritten:

"**§ 130A-295.8. Fees applicable to permits for solid waste management facilities.**

(a) The Solid Waste Management Account is established as a nonreverting account within the Department. All fees collected under this section shall be credited to the Account and shall be used to support the solid waste management program established pursuant to G.S. 130A-294.

(b) As used in this section:

(1) "New permit" means any of the following:

a. An application for a permit for a solid waste management facility that has not been previously permitted by the Department. The term includes one site suitability review, the initial permit to construct, and one permit to operate the constructed portion of a phase included in the permit to construct.

b. An application that proposes to expand the boundary of a permitted waste management facility for the purpose of expanding the permitted activity.

c. An application that includes a proposed expansion to the boundary of a waste disposal unit within a permitted solid waste management facility.

d. An application for a substantial amendment to a solid waste permit, as defined in G.S. 130A-294.

(2) "Permit amendment" means any of the following:

a. An application for a permit to construct and one permit to operate for the second and subsequent phases of landfill development described

in the approved facility plan for a permitted solid waste management facility.

b. An application for the five-year renewal of a permit for a permitted solid waste management facility or for a permit review of a permitted solid waste management facility.

c. Any application that proposes a change in ownership or corporate structure of a permitted solid waste management facility.

(3) "Permit modification" means any of the following:

a. An application for any change to the plans approved in a permit for a solid waste management facility that does not constitute a "permit amendment" or a "new permit".

b. A second or subsequent permit to operate for a constructed portion of a phase included in the permit to construct.

c. An application for a five-year limited review of a 10-year permit, as required by G.S. 130A-294(a2), including review of the operations plan, closure plan, post-closure plan, financial assurance cost estimates, environmental monitoring plans, and any other applicable plans for the facility.

(4) "Major permit modification" means an application for any change to the approved engineering plans for a sanitary landfill or transfer station permitted for a 10-year design capacity that does not constitute a "permit amendment," "new permit," or "permit modification."

(c) An applicant for a permit shall pay an application fee upon submission of an application according to the following schedule:

(1) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, New ~~Permit~~ Permit (Five-Year) – $25,000.

(1a) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, New Permit (Ten-Year) – $38,500.

(2) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, ~~Amendment~~ Amendment (Five-Year) – $15,000.

(2a) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, Amendment (Ten-Year) – $28,500.

(3) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, ~~Modification~~ Modification (Five-Year) – $1,500.

(3a) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, Major Modification (Ten-Year) – $7,500.

(4) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, New ~~Permit~~ Permit (Five-Year) – $50,000.

(4a) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, New Permit (Ten-Year) – $77,000.

(5) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, ~~Amendment~~ Amendment (Five-Year) – $30,000.

(5a) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, Amendment (Ten-Year) – $57,000.

(6) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, ~~Modification~~ Modification (Five-Year) – $3,000.

(6a) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, Major Modification (Ten-Year) – $15,000.

(7) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, New ~~Permit~~ Permit (Five-Year) – $15,000.

(7a) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, New Permit (Ten-Year) – $22,500.

(8) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, ~~Amendment~~ Amendment (Five-Year) – $9,000.

(8a) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, Amendment (Ten-Year) – $16,500.

(9) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, ~~Modification~~ Modification (Five-Year) – $1,500.

(9a) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, Major Modification (Ten-Year) – $4,500.

(10) Construction and Demolition Landfill accepting 100,000 tons/year or more of solid waste, New ~~Permit~~ Permit (Five-Year) – $30,000.

(10a) Construction and Demolition Landfill accepting 100,000 tons/year or more of solid waste, New Permit (Ten-Year) – $46,000.

(11) Construction and Demolition Landfill accepting 100,000 tons/year or more of solid waste, ~~Amendment~~ Amendment (Five-Year) – $18,500.

(11a) Construction and Demolition Landfill accepting 100,000 tons/year or more of solid waste, Amendment (Ten-Year) – $34,500.

(12) Construction and Demolition Landfill accepting 100,000 tons/year or more of solid waste, ~~Modification~~ Modification (Five-Year) – $2,500.

(12a) Construction and Demolition Landfill accepting 100,000 tons/year or more of solid waste, Major Modification (Ten-Year) – $9,250.

(13) Industrial Landfill accepting less than 100,000 tons/year of solid waste, New ~~Permit~~ Permit (Five-Year) – $15,000.

(13a) Industrial Landfill accepting less than 100,000 tons/year of solid waste, New Permit (Ten-Year) – $22,500.

(14) Industrial Landfill accepting less than 100,000 tons/year of solid waste, ~~Amendment~~ Amendment (Five-Year) – $9,000.

(14a) Industrial Landfill accepting less than 100,000 tons/year of solid waste, Amendment (Ten-Year) – $16,500.

(15) Industrial Landfill accepting less than 100,000 tons/year of solid waste, ~~Modification~~ Modification (Five-Year) – $1,500.

(15a) Industrial Landfill accepting less than 100,000 tons/year of solid waste, Major Modification (Ten-Year) – $4,500.

(16) Industrial Landfill accepting 100,000 tons/year or more of solid waste, New ~~Permit~~ Permit (Five-Year) – $30,000.

(16a) Industrial Landfill accepting 100,000 tons/year or more of solid waste, New Permit (Ten-Year) – $46,000.

(17) Industrial Landfill accepting 100,000 tons/year or more of solid waste, ~~Amendment~~ Amendment (Five-Year) – $18,500.

(17a) Industrial Landfill accepting 100,000 tons/year or more of solid waste, Amendment (Ten-Year) – $34,500.

(18) Industrial Landfill accepting 100,000 tons/year or more of solid waste, ~~Modification~~ Modification (Five-Year) – $2,500.

(18a) Industrial Landfill accepting 100,000 tons/year or more of solid waste, Major Modification (Ten-Year) – $9,250.

(19) Tire Monofill, New Permit – $1,750.

(19a) Tire Monofill, New Permit (Ten-Year) – $2,500.

(20) Tire Monofill, Amendment – $1,250.

(20a) Tire Monofill, Amendment (Ten-Year) – $2,000.

(21) Tire Monofill, Modification – $500.

(21a) Tire Monofill, Major Modification – $625.
(22) Treatment and Processing, New Permit – $1,750.
(23) Treatment and Processing, Amendment – $1,250.
(24) Treatment and Processing, Modification – $500.
(25) Transfer Station, New ~~Permit~~ Permit (Five-Year) – $5,000.
(25a) Transfer Station, New Permit (Ten-Year) – $7,500.
(26) Transfer Station, ~~Amendment~~ Amendment (Five-Year) – $3,000.
(26a) Transfer Station, Amendment (Ten-Year) – $5,500.
(27) Transfer Station, ~~Modification~~ Modification (Five-Year) – $500.
(27a) Transfer Station, Major Modification (Ten-Year) – $1,500.
(28) Incinerator, New Permit – $1,750.
(29) Incinerator, Amendment – $1,250.
(30) Incinerator, Modification – $500.
(31) Large Compost Facility, New Permit – $1,750.
(32) Large Compost Facility, Amendment – $1,250.
(33) Large Compost Facility, Modification – $500.
(34) Land Clearing and Inert, New Permit – $1,000.
(35) Land Clearing and Inert, Amendment – $500.
(36) Land Clearing and Inert, Modification – $250.

(d) A permitted solid waste management facility shall pay an annual permit fee on or before 1 August of each year according to the following schedule:

(1) Municipal Solid Waste Landfill – $3,500.
(2) Post-Closure Municipal Solid Waste Landfill – $1,000.
(3) Construction and Demolition Landfill – $2,750.
(4) Post-Closure Construction and Demolition Landfill – $500.
(5) Industrial Landfill – $2,750.
(6) Post-Closure Industrial Landfill – $500.
(7) Transfer Station – $750.
(8) Treatment and Processing Facility – $500.
(9) Tire Monofill – $500.
(10) Incinerator – $500.
(11) Large Compost Facility – $500.
(12) Land Clearing and Inert Debris Landfill – $500.

(e) The Department shall determine whether an application for a permit for a solid waste management facility that is subject to a fee under this section is complete within 90 days after the Department receives the application for the permit. A determination of completeness means that the application includes all required components but does not mean that the required components provide all of the information that is required for the Department to make a decision on the application. If the Department determines that an application is not complete, the Department shall notify the applicant of the components needed to complete the application. An applicant may submit additional information to the Department to cure the deficiencies in the application. The Department shall make a final determination as to whether the application is complete within the later of: (i) 90 days after the Department receives the application for the permit less the number of days that the applicant uses to provide the additional information; or (ii) 30 days after the Department receives the additional information from the applicant. The Department shall issue a draft permit decision on an application for a permit within one year after the Department determines that the application is complete. The Department shall hold a public hearing and accept written comment on the draft permit decision for a period of not less than 30 or more than 60 days after the Department issues a draft permit decision. The Department shall issue a final permit decision on an application for a permit within 90 days after the comment period on the draft permit decision closes. The

Department and the applicant may mutually agree to extend any time period under this subsection. If the Department fails to act within any time period set out in this subsection, the applicant may treat the failure to act as a denial of the permit and may challenge the denial as provided in Chapter 150B of the General Statutes."

SECTION 3. This act is effective when it becomes law and applies to permit applications submitted on or after July 1, 2013.

SENATE BILL 380:
Adjust Landfill Permit Fee Timing

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	May 6, 2013
Introduced by:	Sen. Jackson	**Prepared by:**	Jennifer McGinnis Committee Counsel to Agriculture/Environment/Natural Resources
Analysis of:	Second Edition		

SUMMARY: ***Senate Bill 380[1] would make adjustments to the fee schedule for permits for sanitary landfills, transfer stations, and tire monofill facilities to reflect extension of the duration of these permits as directed by legislation enacted in 2012. The legislation was a recommendation of the Environmental Review Commission.***

CURRENT LAW and BACKGROUND:

Prior to legislation enacted in 2012, the duration of permits for sanitary landfills and transfer stations was five years. S.L. 2012-187 directed the Commission for Public Health to adopt rules to allow applicants for permits for sanitary landfills and transfer stations the option to apply for a permit to construct (and operate) a facility for a period of ten years, with a limited review of the permit five years after issuance. In addition, the legislation directed the Department of Environment and Natural Resources (Department) to examine the fee schedule for permits for sanitary landfills and transfer stations and to formulate recommendations for adjustments to the applicable fees that would be sufficient to address any additional demands associated with review of permits issued for a longer period of time. The legislation further provided that the rule changes to allow permits of extended duration would not become effective until the fee schedule was amended to address any additional demands associated with review of permits issued for longer periods of time. The Department reported its findings and recommendations, including a legislative proposal, to the Environmental Review Commission (ERC) in December 2012. Senate Bill 380 embodies the Department's legislative proposal concerning needed fee adjustments, and was a recommendation of the ERC.

BILL ANALYSIS:

In conformance with the legislation enacted in 2012 that extended the duration of permits for sanitary landfills and transfer stations to ten years, the bill would add language to the statutes specifying that permits for sanitary landfills and transfer stations may be issued for a design and operation phase of 10 years, with a limited review five years after the date of issuance. In addition, the bill would make changes to the fee schedule under the General Statutes for sanitary landfills and transfer stations, based on the directive for an extended duration.

EFFECTIVE DATE:

The bill would be effective when it became law and apply to permit applications submitted on or after July 1, 2013.

[1] The House companion bill, House Bill 135, 2nd edition, is in the Senate Agriculture/Environment/Natural Resources Committee.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: May 7, 2013
TO: Senate Finance Chairs
FROM: Jennifer Hoffmann, Fiscal Research Division
RE: Senate Bill 380

FISCAL IMPACT

☑ Yes ☐ No ☐ No Estimate Available

State Impact	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
Special Fund Revenues:	270,000	270,000	270,000	270,000	270,000
Special Fund Expenditures:					
State Positions:					
NET STATE IMPACT	**$270,000**	**$270,000**	**$270,000**	**$270,000**	**$270,000**
Local Impact					
Revenues:					
Expenditures:					
NET LOCAL IMPACT	**$0.0**	**$0.0**	**$0.0**	**$0.0**	**$0.0**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Environment and Natural Resources, Division of Waste Management

EFFECTIVE DATE: When the act becomes law.

TECHNICAL CONSIDERATIONS: None

BILL SUMMARY: Senate Bill 380 makes adjustments to the fee schedule for permits for sanitary landfills and transfer stations to reflect the extension of the duration of these permits as directed by the Regulatory Reform Act of 2012 (S.L. 2012-187). The bill also makes conforming changes to add language to the statutes specifying that permits for sanitary landfills and transfer stations may be issued for a design and operation phase of ten years with a limited review five years after the date of issuance.

ASSUMPTIONS AND METHODOLOGY:

Background: The Regulatory Reform Act of 2012 required the Commission of Public Health to adopt rules that would allow the applicants for permits for sanitary landfills and transfer stations the option to apply for a new permit to construct and operate a facility for a period of ten years, with a limited review of the permit five years after issuance. At the end of the first five years, facilities issued new 10-year permits are required to submit a *"permit modification"* application. At the end of the first ten years, facility operators are required to submit a 10-year *"amendment."*

At the end of year five of the 10-year amendment, a "*permit modification*" is again required. Any time a facility operator makes a significant change to a 10-year permit, a "*major modification*" permit and associated fees are required.

To conform with the legislation that was enacted in 2012 and the subsequent rules, the bill adjusts the current statutory fee schedule for sanitary landfills and transfer stations by 1) adding fees for new permits of 10-year duration, 2) adding fees for 10-year permit amendments, and 3) adding new fees for a 10-year "major modification" (see Table 1 at end of memo).

Prior to the legislation enacted in 2012, the duration of new permits for sanitary landfills and transfer stations was five years. This 5-year permit option is still available and the existing fee structure for five-year permits has not changed. (see Table 1 at end of the memo).

The bill sets the fee structure for new 10-year permits such that a facility would pay the same amount in fees over a 10-year period regardless of the chosen permit option (five or 10-years).

The fees collected by the Division of Waste Management are deposited into a special fund and are used to support the staff in the Division's Solid Waste Management Section.

Assumptions:

1. **The option of obtaining a 10-year permit versus a 5-year permit will not affect the number facilities seeking permits.** The Division of Waste Management (DWM) projects the number of sanitary landfills to increase by less than five facilities over the next five years and the number of transfer stations to increase by approximately 10 facilities within the same timeframe. This increase is not due to the option of obtaining a 10-year permit, or its associated fees.

2. **The services provided by the DWM will not change.** There is no expected change in the current type of service provided to applicants of 10-year permits for sanitary landfills and transfer stations. The same type of permit review will be conducted in accordance with the statutory and rule requirements for facilities that seek either a five or 10-year permit.

3. **DWM estimates that the amount of time it will take to review a 10-year permit will be approximately 30 percent more than the current five-year permits.** This initial increase in the review time however, is offset by a five-year review of a 10-year permit that is projected to take 30 percent less time than a conventional five-year permit renewal (amendment). According to DWM, the projected workload can be accommodated within the agency's existing staff levels but the permit fees need to be adjusted in order to preserve the current program budget amounts.

4. Sanitary landfill and transfer station operators have the choice of selecting a 5-year or 10-year permit term; however, **DWM projects that 75 percent of the facilities will choose permits of 10-year duration.** This assumption is based on the fact that private solid waste companies initiated the 2012 legislation to lengthen the permit term for sanitary landfills and transfer stations. In addition, a 10-year permit offers potential savings to facility owners because the necessary engineering and hydrogeological work must only be completed once for a permit of 10-year duration versus repeating the work for two five-year permits. A 10-year permit also allows facilities the flexibility to construct individual landfill phases as needed by volume instead of by a particular date.

Fee Structure: The new fee structure for sanitary landfills and transfer stations is illustrated in Table 1. While the fee for a 10-year permit is higher than for a 5-year permit, the new fees are structured so that the total cost of a 10-year permit and its required 5-year modification is the same as the total cost of a 5-year permit and its required 5-year amendment over a ten-year period of time. As a result, the **overall amount of permit fee revenue collected from sanitary landfills and transfer stations will not change under the proposed permit fee adjustments, but the timing of payments will be different**. Permit fee revenue will increase during the first five years and will decrease on an equal basis during the second five years.

Fiscal Impact: The amount of additional revenue collected by the Division of Waste Management from proposed fee increases is approximately $270,000 each year for the next five years with a corresponding reduction in fees collected in the subsequent five years. This estimate is based on the following information:

1. The Division of Waste Management currently collects an average of $400,000 in permit fees from sanitary landfills and transfers stations.
2. The assumption that 75% of the facilities will switch to the new 10-year permit option. No new facilities have been permitted in recent years, so the switch to the 10-year option would require a 10-year amendment.
3. The 10-year permit amendment fees are about 90% higher than the five-year permit amendments.

Using this information, the annual amount of additional revenue from the proposed fee increase for next five years is calculated to be ($400,000 x 75%) x (90%) = $270,000. There is an equal reduction in fee revenue for the subsequent five years due to small fees associated with required 5-year modification permit. Over the ten year period the amount of fees collected by the division does not change, just the timing of revenue collection.

SOURCES OF DATA: Department of Environment and Natural Resources, Division of Waste Management

TECHNICAL CONSIDERATIONS: None

Table 1: SB 380 Proposed 10-year Fees Compared to Current 5-year Fees					
Facility Type & Size	**Permit Type**	**Current 5-year Permit Fees**	**Years Covered**	**New 10-year Permit Fees**	**Permit Type**
Municipal Solid Waste Landfill Facility<100,000 tons/yr					
	New	$25,000	year 1	$38,500	New
	Amendment (5-years)	$15,000	year 5	$1,500	Modification (5-years)
	Amendment (5-years)	$15,000	year 10	$28,500	Amendment (10- years)
	Amendment (5-years)	$15,000	year 15	$1,500	Modification (5-years)
			anytime	$7,500	10-year Major Modification
Municipal Solid Waste Landfill Facility>100,000 tons/yr					
	New	$50,000	year 1	$77,000	New
	Amendment (5-years)	$30,000	year 5	$3,000	Modification (5-years)
	Amendment (5-years)	$30,000	year 10	$57,000	Amendment (10- years)
	Amendment (5-years)	$30,000	year 15	$3,000	Modification (5-years)
			anytime	$15,000	10-year Major Modification
Construction and Demolition Landfill Facility<100,000 tons/yr					
	New	$15,000	year 1	$22,500	New
	Amendment (5-years)	$9,000	year 5	$1,500	Modification (5-years)
	Amendment (5-years)	$9,000	year 10	$16,500	Amendment (10- years)
	Amendment (5-years)	$9,000	year 15	$1,500	Modification (5-years)
			anytime	$4,500	10-year Major Modification
Construction and Demolition Landfill Facility>100,000 tons/yr					
	New	$30,000	year 1	$46,000	New
	Amendment (5-years)	$18,500	year 5	$2,500	Modification (5-years)
	Amendment (5-years)	$18,500	year 10	$34,500	Amendment (10- years)
	Amendment (5-years)	$18,500	year 15	$2,500	Modification (5-years)
			anytime	$9,250	10-year Major Modification

Table 1: SB 380 Proposed 10-year Fees Compared to Current 5-year Fees					
Facility Type & Size	**Permit Type**	**Current 5-year Permit Fees**	**Years Covered**	**New 10-year Permit Fees**	**Permit Type**
Industrial Landfill <100,000 tons/yr					
	New	$15,000	year 1	$22,500	New
	Amendment (5-years)	$9,000	year 5	$1,500	Modification (5-years)
	Amendment (5-years)	$9,000	year 10	$16,500	Amendment (10- years)
	Amendment (5-years)	$9,000	year 15	$1,500	Modification (5-years)
			anytime	$4,500	10-year Major Modification
Industrial Landfill>100,000 tons/yr					
	New	$30,000	year 1	$46,000	New
	Amendment (5-years)	$18,500	year 5	$2,500	Modification (5-years)
	Amendment (5-years)	$18,500	year 10	$34,500	Amendment (10- years)
	Amendment (5-years)	$18,500	year 15	$2,500	Modification (5-years)
			anytime	$9,250	10-year Major Modification
Tire Monofill					
	New	$1,750	year 1	$2,500	New
	Amendment (5-years)	$1,250	year 5	$500	Modification (5-years)
	Amendment (5-years)	$1,250	year 10	$2,000	Amendment (10- years)
	Amendment (5-years)	$1,250	year 15	$500	Modification (5-years)
			anytime	$625	10-year Major Modification
Transfer Station					
	New	$5,000	year 1	$7,500	New
	Amendment (5-years)	$3,000	year 5	$500	Modification (5-years)
	Amendment (5-years)	$3,000	year 10	$5,500	Amendment (10- years)
	Amendment (5-years)	$3,000	year 15	$500	Modification (5-years)
			anytime	$1,500	10-year Major Modification

SENATE BILL 454*

Short Title:	Registration of Petroleum Device Technicians.-AB	(Public)
Sponsors:	Senators Cook, Barefoot, and Rabin (Primary Sponsors).	
Referred to:	Transportation.	

March 27, 2013

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE AUTHORITY OF THE GASOLINE AND OIL INSPECTION BOARD TO REGULATE PETROLEUM DEVICE TECHNICIANS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 119-33 reads as rewritten:

"**§ 119-33. Investigation and inspection of measuring equipment; devices calculated to falsify measures.**

(a) The gasoline and oil inspectors shall be required to investigate and inspect the equipment for measuring gasoline, kerosene, lubricating oil, and other liquid petroleum products. ~~Said~~ The inspectors shall be under the supervision of the Commissioner of Agriculture, and are hereby vested with the same power and authority now given by law to inspectors of weights and measures, ~~insofar as the same may be necessary~~ in order to effectuate the provisions of this Article. The rules, regulations, specifications and tolerance limits as promulgated by the National Conference ~~of~~ on Weights and Measures, and recommended by the ~~United States Bureau of Standards,~~ National Institute of Standards and Technology, shall be observed by said inspectors insofar as they apply to the inspection of equipment used in measuring gasoline, kerosene, lubricating oil and other petroleum products. Inspectors of weights and measures appointed and maintained by the various counties and cities of the State shall have the same power and authority given by this section to inspectors under the supervision of the Commissioner of Agriculture. In all cases where it is found, after inspection, that the measuring equipment used in connection with the distribution of such products is inaccurate, the inspector shall condemn and seize all incorrect devices which in his best judgment ~~are not susceptible of satisfactory repair,~~cannot be satisfactorily repaired, but ~~such as are incorrect, and in his best judgment~~measuring equipment, that in the judgment of the inspector may be repaired, ~~he shall mark or tag~~shall be marked or tagged as "condemned for repairs" in a manner prescribed by the Commissioner of Agriculture. After notice in writing the owners or users of such measuring devices which have been condemned for repairs shall have the ~~same~~ devices repaired and corrected within 10 ~~days,~~days by a registered petroleum device technician, and ~~the~~ neither the owners ~~and/or~~nor the users ~~thereof~~ of the devices shall ~~neither~~ use ~~nor~~ or dispose of ~~said~~ the measuring devices in any manner, but shall hold the ~~same~~ devices at the disposal of the gasoline and oil inspector. The inspector shall confiscate and destroy all measuring devices which have been condemned for repairs and have not been repaired as required by this Article. The gasoline and oil inspectors shall officially seal all dispensing pumps or other dispensing devices found to be accurate on ~~inspection,~~inspection. ~~and if,~~The finding, upon inspection at a later date, that any pump is ~~found to be~~ inaccurate and the seal broken, ~~the same~~ shall constitute prima facie evidence of intent to defraud by giving inaccurate

measure, and (i) the owner ~~and/or~~, (ii) the user, or (iii) both of them ~~thereof~~ shall be guilty of a Class 2 misdemeanor. Any person other than a registered petroleum device technician who ~~shall remove or break~~removes or breaks any seal placed upon ~~said~~ a measuring ~~and/or~~or dispensing ~~devices~~ device by ~~said inspectors~~any oil and gas inspector until the provisions of this section have been complied with shall be guilty of a Class 2 misdemeanor. Any person, firm, or corporation who ~~shall sell or have~~sells or has in his possession for the purpose of selling or using any measuring device to be used or calculated to be used to falsify any measure shall be guilty of a Class 1 misdemeanor.

(b) The Gasoline and Oil Inspection Board may adopt rules to provide for the registration of petroleum device technicians. The rules may establish qualifications for registration and may also establish grounds for the suspension or revocation of registration. The annual fee for registration of a petroleum device technician shall be twenty dollars ($20.00)."

SECTION 2. This act is effective when it becomes law.

SENATE BILL 454:
Registration of Petroleum Device Technicians.-AB

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	May 6, 2013
Introduced by:	Sens. Cook, Barefoot, Rabin	**Prepared by:**	Cindy Avrette Committee Counsel
Analysis of:	First Edition		

SUMMARY: ***Senate Bill 454 would authorize the Gasoline and Oil Inspection Board to regulate petroleum device technicians who perform necessary repairs to equipment used to measure petroleum products.***

CURRENT LAW: The Gasoline and Oil Inspection Board regulates and enforces provisions of the law related to inspection of petroleum products. Gasoline and oil inspectors are responsible for inspecting the equipment used for measuring gasoline, kerosene, lubricating oil, and other liquid petroleum products. When an inspector finds that measuring equipment is inaccurate but is reparable, the owner is notified and must have the equipment repaired within 10 days.

Although it is not specifically authorized in statute, the Board currently registers petroleum device technicians who perform necessary repairs to the equipment. The Board has adopted rules establishing qualifications for registration, and registration is subject to revocation due to misrepresentation of fact, incompetency, or failure to render satisfactory service. Registrants must pay an annual fee of $20.

BILL ANALYSIS: Senate Bill 454 would specifically authorize the Gasoline and Oil Inspection Board to provide for registration of petroleum device technicians, codifying in statute what is already the current practice. It would also specifically authorize the $20 annual registration fee in statute.

The bill would make clear that noticed repairs to measuring equipment must be done by registered petroleum device technicians. It would also make several technical and grammatical changes to the existing statutory language.

EFFECTIVE DATE: The bill would be effective when it becomes law.

Wendy Graf-Ray, counsel to Senate Transportation, substantially contributed to this summary.

O. Walker Reagan
Director

S454-SMRB-23 E1 -V2

Research Division
(919) 733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 490*
PROPOSED COMMITTEE SUBSTITUTE S490-PCS95084-TM-32

Short Title: Exclude Custom Software from Property Tax. (Public)

Sponsors:

Referred to:

March 28, 2013

A BILL TO BE ENTITLED

AN ACT TO EXCLUDE CUSTOM SOFTWARE FROM PROPERTY TAX.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-275(40) reads as rewritten:

"**§ 105-275. Property classified and excluded from the tax base.**

The following classes of property are designated special classes under Article V, Sec. 2(2), of the North Carolina Constitution and are excluded from tax:

...

(40) Computer software and any documentation related to the computer software. As used in this subdivision, the term "computer software" means any program or routine used to cause a computer to perform a specific task or set of tasks. The term includes system and application programs and database storage and management programs.

The exclusion established by this subdivision does not apply to computer software and its related documentation if the computer software meets one or more of the following descriptions:

a. It is embedded software. "Embedded software" means computer instructions, known as microcode, that reside permanently in the internal memory of a computer system or other equipment and are not intended to be removed without terminating the operation of the computer system or equipment and removing a computer chip, a circuit, or another mechanical device.

b. It is purchased or licensed from a person who is unrelated to the taxpayer and it is capitalized on the books of the taxpayer in accordance with generally accepted accounting principles, including financial accounting standards issued by the Financial Accounting Standards Board. A person is unrelated to a taxpayer if (i) the taxpayer and the person are not subject to any common ownership, either directly or indirectly, and (ii) neither the taxpayer nor the person has any ownership interest, either directly or indirectly, in the other. The foregoing does not include development of software or any modifications to software, whether done internally by the taxpayer or externally by a third party, to meet the customer's specified needs.

This subdivision does not affect the value or taxable status of any property that is otherwise subject to taxation under this Subchapter.

The provisions of the exclusion established by this subdivision are not severable. If any provision of this subdivision or its application is held invalid, the entire subdivision is repealed.

...."

SECTION 2. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2013.

SENATE BILL 490:
Correct Taxation of Computer Software

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	May 7, 2013
Introduced by:	Sens. Gunn, Barefoot, Walters	**Prepared by:**	Greg Roney Committee Counsel
Analysis of:	PCS to First Edition S490-CSTM-32		

SUMMARY: ***The Proposed Committee Substitute (PCS) for Senate Bill 490 would exclude custom computer software from local property tax.***

[As introduced, this bill was identical to H453, as introduced by Reps. J. Bell, Hager, Lewis, T. Moore, which is currently in House Finance.]

CURRENT LAW: The only forms of intangible personal property subject to local property tax are leasehold interests in exempt real property (G.S. 105-275(31)) and certain computer software (G.S. 105-275(40)).

Under G.S. 105-275(40), computer software and documentation related to the software is excluded from local property tax except the exclusion does not apply to:

- **Embedded software or microcode** – Computer instructions that reside permanently in the internal memory of a computer system and are not intended to be removed without terminating the operation of the computer system and removing a physical part.
- **Capitalized, third-party software** – Computer software that is purchased or licensed from a unrelated person and that is capitalized by the taxpayer under generally accepted accounting principles (GAAP). A person is unrelated to a taxpayer if (1) the taxpayer and the person are not subject to any direct or indirect common ownership and (2) the taxpayer and the person do not have any direct or indirect ownership interest in the other.

BILL ANALYSIS: The PCS for Senate Bill 490 would narrow the definition of computer software subject to local property tax. The capitalized, third-party software currently subject to local property tax would be limited to software that was not customized through development or modification to meet the customer's specified needs. The PCS excludes customized software from local property tax regardless of who customized the software (i.e., internally by the taxpayer or externally by a third party).

The PCS would leave embedded software subject to local property tax. The PCS would only subject the prewritten portion of capitalized, third-party software to local property tax.

BACKGROUND: On July 21, 2011, the NC Department of Revenue issued a memorandum to county tax assessors explaining the taxability of modifications to computer software. The Department of Revenue concluded that modifications to taxable software are taxable and modifications to excluded software are excluded. The Department of Revenue's position is based on the interpretation that software, including any modifications, is either taxable or excluded and that property is not subdivided into parts to determine taxability.

The Department of Revenue's memorandum addresses only modifications to software. The PCS addresses both modifications to software and the taxability of customized software that would be taxed as capitalized, third-party software.

EFFECTIVE DATE: The PCS for Senate Bill 490 would be effective for taxes imposed for taxable years beginning on or after July 1, 2013.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: May 6, 2013

TO: **Senators Rucho and Rabon**

FROM: Rodney Bizzell
Fiscal Research Division

RE: **PCS to S490**

FISCAL IMPACT
($ in millions)

☑ Yes ☐ No ☑ No Estimate Available

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
State Impact					
General Fund Revenues:					
General Fund Expenditures:					
State Positions:					
NET STATE IMPACT	**$0.0**	**$0.0**	**$0.0**	**$0.0**	**$0.0**
Local Impact					
Revenues:					
Expenditures:					
NET LOCAL IMPACT	**Unknown**	**Unknown**	**Unknown**	**Unknown**	**Unknown**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Local Governments; NC Department of Revenue

EFFECTIVE DATE: Taxable years beginning July 1, 2013

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY:
The PCS to SB 490 would exclude customized software from the property tax base.

ASSUMPTIONS AND METHODOLOGY:
Under current law, computer software is subject to property tax if it is purchased or licensed from a person unrelated to the taxpayer and it is capitalized on the books of the taxpayer.

The PCS to SB 490 would exclude customized or modified software. Because the property tax is a local revenue source, the PCS would have no General Fund Impact. There would be an impact to local governments, however, the value of customized software currently taxed is unknown and a fiscal estimate is therefore unavailable.

SOURCES OF DATA: NC Department of Revenue

TECHNICAL CONSIDERATIONS: None

SENATE PAGES ATTENDING

COMMITTEE: Finance ROOM: 544

DATE: 5-7 TIME: 1 pm

PLEASE PRINT LEGIBILY!!!!!!!!!!!!!....*or else!*

Page Name	Hometown	Sponsoring Senator
1. Jordan Thomas	Garner	Sen ~~Rabon~~ Blue
2. [redacted]	[redacted]	[redacted]
3. JohnArye Kernodle	Burlington	Gunn
4. Travis Watts	Brownsummit	~~Allen~~ Robinson
5. Lauren Coker (Coker)	Garner	Sanderson
6.		
7.		
8.		
9.		
10.		

Do not add names below the grid.

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

SENATE SERGEANT-AT-ARMS

COMMITTEE: **SENATE FINANCE**

DATE: 05/07/13 ROOM: 544

1. ERNIE SHERRELL
2. ED KESLER
3. ANDERSON MEADOWS
4. CHARLES HARPER
5. _____
6. _____

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 7, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
BRADLEY SHORE	NCBWWA
Bill Watkins	Guest of Sen. Rick Gunn
Gayle Gunn	guest - Sen. Gunn
Linda Watkins	guest of Sen. Rick Gunn
Michael Scott	NC DENR
Dixie Mathis	NC DENR
[illegible]	SEPAC
Angie Packer	Tryon Distributing
Brad Johnston	NCBWWA
Nathan Batts	NCBA
[illegible]	[illegible]

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 7, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Reed Hollander	Nelson Mullins 4140 Parklake Ave, Suite 200 Raleigh NC 27612
Charles Mercer Jr	Nelson Mullins 4140 ParkLake Ave, Suite 200 Raleigh NC 27612
David Baker	NCDOR
Rebecca Trantham	NCACC
ASHTON SKINNER	NCACC
Anne Loy	511 Lafayette Drive Wilson NC 27893
Kay Parsons	NAIW-NC
Johanna Reese	NCACC
WD Blanchard	Coastal Bev. Co. Inc – Wilm. NC
Mike Ley	Smith A
Crockett Long	NCBWWA

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 1, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Angel Sams	CR
Sharon Miller	CUCA
E Jarvis	ED&A, Inc.
Will Morgan	TWC
TYLER NEWMAN	CITY OF WILMINGTON

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 7, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Clay Adams	NCBWWA
TERRY COLLOM	NC BWWA
C Weatz	Staff
Jim Hobbs	HANC
Kathryn Robinson	NCRMA
ANDREW TRIPP	SENATE STAFF
BRUCE THOMPSON	PARKER POE

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 7, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Angie Harris	Ward & Smith
Lou Wilson	LTC
Elizabeth Bass	Brooks Pierce
Cameron Hardy	Moore & Van Allen
Gary Harris	NCPCM
Scott Matson	Lowe's
Amy C	NCR
DAVID WARD	LOWE'S
Andy Chase	KMA
Tina Hlabse	NCDA&CS
David McLeod	NCDA+CS

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 7, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Trina Ozer	DENR
Sarah Lindh	DENR
Carr McLamb	DENR
Susan McCracken	Appalachian State Univ.
Kenneth E. Peacock	Appalachian State University
Dy Hom	NCPCM
Penny Burtt	School of Gov
Amanda Hoover	Troutman Sanders
Paul Meyer	NCLM
Chris Nida	NCLM
Heather Barrett	Ward & Smith

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 7, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Chris Agner	DOT
Susanna Davis	WM
David McGowan	NCPC
John Hardin	MPOs
[illegible]	[illegible]

2013-2014

SENATE FINANCE

MINUTES

Senate Committee on Finance
Wednesday, May 8, 2013, 1:00 PM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 473	HealthCare Cost Reduction & Transparency.	Senator Rucho Senator Brown
HB 484	Permitting of Wind Energy Facilities.	Representative J. Bell Representative Dixon Representative McElraft Representative Whitmire

Adjournment

Senate Finance Committee
Wednesday, May 8, 2013
Room 544 LOB, 1:00 p.m.

Minutes

The Senate Committee on Finance met on Wednesday, May 8, 2013, at 1:00 p.m. in room 544 of the Legislative Office Building. Senator Rabon served as Chair to the meeting.

H.B. 484 – Permitting of Wind Energy Facilities

This bill was removed from the agenda.

S.B. 473 – HealthCare Cost Reduction & Transparency

Senator Rucho was recognized to explain the bill. Senator Hise moved to adopt the PCS for discussion and the motion carried. The PCS establishes the Health Care Cost Reduction and Transparency Act of 2013. Part II of the bill creates new reporting requirements for hospitals on pricing for the 100 most common in patient diagnostic related groups (DRG's) in each hospital. The bill also creates similar reporting requirements for hospital outpatient departments and ambulatory surgical facilities (ASCs). These facilities must report on the 20 most common surgical procedures and the 20 most common imaging procedures, along with the appropriate CPT and HCPCS codes, performed in each setting. The North Carolina Department of Health and Human Services (DHHS) must publish this information reported by the hospitals and ASC's on its internet website available to the public. The Medical Care Commission is charged with adopting rules identifying the DRG's, surgical procedures and imaging procedures on which the facilities will report. In addition, non-profit hospitals and ASC's must also report on their annual expenditures on financial assistance and bad debt and make this information available to the general public by posting on their premises and the internet. Part III of the bill makes it unlawful for any provider of health care services to charge or accept payment for any health care procedure or component of a health care procedure that was not performed or supplied. Part IV of the bill prohibits the UNC Health Care System and its affiliates, and other schools of medicine, clinical programs, facilities, and medical practices affiliated with one of the constituent institutions of UNC that provides medical care to the general public, from utilizing setoff debt collection procedures to collect outstanding debts from tax refunds and lottery winnings of debtors. Part V of the bill establishes fair billing practices for hospitals and ASC's. These include requirements that bills that are written so as to be comprehensible to the ordinary lay person, that notice be provided before a bill is sent to collections, and that facilities provide prompt refunds in the event of overpayment. The bill also prohibits a lien for a debt owed a hospital or ASC from attaching to a debtor's principal residence held by spouses as tenants by the entireties or that was held as tenants by the entireties prior to the death of either spouse where the tenancy terminate as a result of the death of either spouse. Execution on, or forced sale of, the primary residence of a custodial parent or parents to

collect an unpaid bill for a debt owed for care provided to a minor is prohibited until the minor leaves the home or reaches the age of majority, whichever comes first. Part VI of the bill provides guidance for the governance of entities to manage care and control costs statewide. Barbara Riley, a staff attorney with the Research Division, and Denise Canada, an analyst with the Fiscal Research Division, were recognized to answer questions. Chuck Stone, a lobbyist for the State Employees' Association of NC, was recognized to support the bill. Cody Hand, a lobbyist with the NC Hospital Association, was recognized to request changes to the bill. Senator Cook moved for a favorable report. The motion carried. A copy of the bill, the summary and the fiscal note is attached.

The meeting adjourned at 1:27 p.m.

Senator Bill Rabon, Presiding Chair
Senate Finance Committee

DeAnne Mangum
Senate Finance Clerk

Principal Clerk
Reading Clerk

Corrected #1: H484 - Permitting of Wind Energy Facilities has been added to the agenda.

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	May 8, 2013	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	
SB 473	HealthCare Cost Reduction & Transparency.	Senator Rucho Senator Brown
HB 484	Permitting of Wind Energy Facilities.	Representative J. Bell Representative Dixon Representative McElraft Representative Whitmire

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
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SB 473	HealthCare Cost Reduction & Transparency.	Senator Rucho Senator Brown

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Wednesday, May 08, 2013

Senator Rabon,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2

SB **473** **(CS#1)** HealthCare Cost Reduction & Transparency.

Draft Number:	S473-PCS75319-RF-19
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Senator Robert Rucho will handle SB 473

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S D

SENATE BILL 473
Health Care Committee Substitute Adopted 4/25/13
PROPOSED COMMITTEE SUBSTITUTE S473-CSRF-19 [v.1]
5/7/2013 2:59:56 PM

Short Title: HealthCare Cost Reduction & Transparency. (Public)

Sponsors:

Referred to:

March 28, 2013

A BILL TO BE ENTITLED

AN ACT TO IMPROVE TRANSPARENCY IN THE COST OF HEALTH CARE PROVIDED BY HOSPITALS AND AMBULATORY SURGICAL FACILITIES; TO TERMINATE SET-OFF DEBT COLLECTION BY CERTAIN STATE AGENCIES PROVIDING HEALTH CARE TO THE PUBLIC; TO MAKE IT UNLAWFUL FOR HEALTH CARE PROVIDERS TO CHARGE FOR PROCEDURES OR COMPONENTS OF PROCEDURES THAT WERE NOT PROVIDED OR SUPPLIED; TO PROVIDE FOR FAIR HEALTH CARE FACILITY BILLING AND COLLECTIONS PRACTICES; AND TO PROVIDE GUIDANCE ON THE GOVERNANCE OF ENTITIES TO MANAGE CARE AND CONTROL COSTS STATEWIDE.

The General Assembly of North Carolina enacts:

PART I. TITLE

SECTION 1. This act shall be known as the Health Care Cost Reduction and Transparency Act of 2013.

PART II. TRANSPARENCY IN HEALTH CARE COSTS

SECTION 2. Chapter 131E of the General Statutes is amended by adding a new Article to read:

"Article 1B.

"Transparency in Health Care Costs.

"**§ 131E-214.5. Purpose; Department to publish price information.**

(a) It is the intent of this Article to improve transparency in health care costs by providing information to the public on the costs of the most frequently reported diagnostic related groups (DRGs) for hospital inpatient care and the most common surgical procedures and imaging procedures provided in hospital outpatient settings and ambulatory surgical facilities.

(b) The Department of Health and Human Services shall make available to the public on its internet Web site the most current price information it receives from hospitals and ambulatory surgical facilities pursuant to G.S. 131E-214.6. The Department shall provide this information in a manner that is easily understood by the public and meets the following minimum requirements:

(1) Information for each hospital shall be listed separately and hospitals shall be listed in groups by category as determined by the North Carolina Medical Care Commission in rules adopted pursuant to G.S. 131E-214.6.

(2) Information for each hospital outpatient department and each ambulatory surgical facility shall be listed separately.

(c) Any data disclosed to the Department by a hospital or ambulatory surgical facility pursuant to the Health Care Cost Reduction and Transparency Act of 2013 shall be and will remain the sole property of the facility that submitted the data. Any data or product derived from the data disclosed pursuant to this act, including a consolidation or analysis of the data, shall be and will remain the sole property of the State. The Department shall not allow proprietary information it receives pursuant to this act to be used by any person or entity for commercial purposes.

"**§ 131E-214.6. Disclosure of prices for most frequently reported DRGs, CPTs, and HCPCSs.**

(a) The following definitions apply in this Article:

(1) Ambulatory surgical facility. – A facility licensed under Part 4 of Article 6 of this Chapter.

(2) Commission. – The North Carolina Medical Care Commission.

(3) Hospital. – A medical care facility licensed under Article 5 of this Chapter or under Article 2 of Chapter 122C of the General Statutes.

(4) Health insurer. – As defined in G.S. 108A-55.4, provided that "health insurer" shall not include self-insured plans and group health plans as defined in section 607(1) of the Employee Retirement Income Security Act of 1974.

(5) Public or private third party. – Includes the State, the federal government, employers, health insurers, third-party administrators, and managed care organizations.

(b) Beginning with the quarter ending March 31, 2014, and quarterly thereafter, each hospital shall provide to the Department of Health and Human Services, utilizing electronic health records software, the following information about the 100 most frequently reported admissions by DRG for inpatients as established by the Commission:

(1) The amount that will be charged to a patient for each DRG if all charges are paid in full without a public or private third party paying for any portion of the charges.

(2) The average negotiated settlement on the amount that will be charged to a patient required to be provided in subdivision (1) of this subsection.

(3) The total amount of Medicaid reimbursements for each DRG, including claims and pro rata supplemental payments.

(4) The total amount of Medicare reimbursements for each DRG.

(5) For the five largest health insurers providing payment to the hospital on behalf of insureds, the range of the total amount of payments made for each DRG. Prior to providing this information to the Department, each hospital shall redact the names of the health insurers and any other information that would otherwise identify the health insurers.

(6) The total amount of payments made by the State Health Plan for Teachers and State Employees for each DRG.

(c) The Commission shall adopt rules to ensure that subsection (b) of this section is properly implemented on January 1, 2014, and that hospitals report this information to the Department in a uniform manner. The rules shall include all of the following:

(1) The 100 most frequently reported DRGs for inpatients for which hospitals must provide the data set out in subsection (b) of this section.

(2) Specific categories by which hospitals shall be grouped for the purpose of disclosing this information to the public on the Department's Internet Web site.

(d) Beginning with the quarter ending June 30, 2014, and quarterly thereafter, each hospital and ambulatory surgical facility shall provide to the Department, utilizing electronic health records software, information on the total costs for the 20 most common surgical procedures and the 20 most common imaging procedures, by volume, performed in hospital outpatient settings or in ambulatory surgical facilities, along with the related CPT and HCPCS codes. Hospitals and ambulatory surgical facilities shall report this information in the same manner as required by subdivisions (b)(1) through (6) of this section.

(e) The Commission shall adopt rules on or before March 31, 2014, to ensure that subsection (d) of this section is properly implemented and that hospitals and ambulatory surgical facilities report this information to the Department in a uniform manner. The rules shall include the list of the 20 most common surgical procedures and the 20 most common imaging procedures, by volume, performed in a hospital outpatient setting and those performed in an ambulatory surgical facility, along with the related CPT and HCPCS codes.

(f) Upon request of a patient for a particular DRG, imaging procedure, or surgery procedure reported in this section, a hospital or ambulatory surgical facility shall provide the information required by subsection (b) or subsection (d) of this section to the patient in writing, either electronically or by mail, within three business days after receiving the request.

"**§ 131E-214.7. Disclosure of charity care policy and costs.**

(a) Requirements. – A hospital or ambulatory surgical facility required to file Schedule H, federal form 990, under the Code must provide the public access to its financial assistance policy and its annual financial assistance costs reported on its Schedule H, federal form 990. The information must be submitted annually to the Department in the time, manner, and format required by the Department. The Department must post the information on its Internet Web site. The information must also be displayed in a conspicuous place in the organization's place of business.

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

(1) Code. – Defined in G.S. 105-228.90.

(2) Financial assistance costs. – The information reported on Schedule H, federal form 990, related to the organization's financial assistance at cost and the amounts reported on that schedule related to the organization's bad debt expense and the estimated amount of the organization's bad debt expense attributable to patients eligible under the organization's financial assistance policy.

(3) Financial assistance policy. – A policy that meets the requirements of section 18 501(r) of the Code."

SECTION 3. Not later than July 1, 2013, the Department of Health and Human Services shall communicate the requirements of Section 2 of this act to all hospitals licensed pursuant to Article 5 of Chapter 131E of the General Statutes, Article 2 of Chapter 122C of the General Statutes, and to all ambulatory surgical facilities licensed pursuant to Part 4 of Article 6 of Chapter 131E of the General Statutes.

SECTION 4. G.S. 131E-97.3(a) reads as rewritten:

"**§ 131E-97.3. Confidentiality of competitive health care information.**

(a) For the purposes of this section, competitive health care information means information relating to competitive health care activities by or on behalf of hospitals and public hospital authorities. Competitive health care information does not include any of the information hospitals and ambulatory surgical facilities are required to report under G.S. 131E-214.6. Competitive health care information shall be confidential and not a public record under Chapter 132 of the General Statutes; provided that any contract entered into by or on behalf of a public hospital or public hospital authority, as defined in G.S. 159-39, shall be a public record unless otherwise exempted by law, or the contract contains competitive health

care information, the determination of which shall be as provided in subsection (b) of this section."

SECTION 5. G.S. 131E-99 reads as rewritten:

"**§ 131E-99. Confidentiality of health care contracts.**

~~The~~ Except for the information a hospital or an ambulatory surgical facility is required to report under G.S. 131E-214.6, the financial terms and other competitive health care information directly related to the financial terms in a health care services contract between a hospital or a medical school and a managed care organization, insurance company, employer, or other payer is confidential and not a public record under Chapter 132 of the General Statutes. Nothing in this section shall prevent an elected public body which has responsibility for the hospital or medical school from having access to this confidential information in a closed session. The disclosure to a public body does not affect the confidentiality of the information. Members of the public body shall have a duty not to further disclose the confidential information."

PART III. CERTAIN CHARGES/PAYMENTS PROHIBITED

SECTION 6. Article 16 of Chapter 131E of the General Statutes is amended by adding a new section to read:

"**§ 131E-273. Certain charges/payments prohibited.**

It shall be unlawful for any provider of health care services to charge or accept payment for any health care procedure or component of any health care procedure that was not performed or supplied."

PART IV. HOSPITAL DEBT COLLECTION

SECTION 7. G.S. 105A-2(9) reads as rewritten:

"(9) State agency. – Any of the following:

a. A unit of the executive, legislative, or judicial branch of State ~~government.~~government, except for the following:

1. Any school of medicine, clinical program, facility, or practice affiliated with one of the constituent institutions of The University of North Carolina that provides medical care to the general public.

2. The University of North Carolina Health Care System and other persons or entities affiliated with or under the control of The University of North Carolina Health Care System.

b. A local agency, to the extent it administers a program supervised by the Department of Health and Human Services or it operates a Child Support Enforcement Program, enabled by Chapter 110, Article 9, and Title IV, Part D of the Social Security Act.

c. A community college."

PART V. FAIR HEALTH CARE FACILITY BILLING AND COLLECTIONS PRACTICES

SECTION 8.(a) G.S. 131E-91 reads as rewritten:

"**§ 131E-91. ~~Itemized charges on discharged patient's bill~~Fair billing and collections practices for hospitals and ambulatory surgical facilities.**

(a) All hospitals and ambulatory surgical facilities licensed pursuant to this Chapter shall, upon request of the ~~patient~~patient, ~~within 30 days of discharge,~~present an itemized list of charges to all discharged ~~patients.~~patients detailing in language comprehensible to an ordinary layperson the specific nature of the charges or expenses incurred by the patient. Patient bills that are not itemized shall include notification to the patient of the right to request, free of charge, an itemized bill. A patient may request an itemized list of charges at any time within

three years after the date of discharge or so long as the hospital or ambulatory surgical facility, a collections agency, or another assignee of the hospital or ambulatory surgical facility asserts the patient has an obligation to pay the bill. Each hospital and ambulatory surgical facility shall establish a method for patients to inquire about or dispute a bill.

(b) If a patient has overpaid the amount due to the hospital or ambulatory surgical facility, whether as the result of insurance coverage, patient error, health care facility billing error, or other cause, and the overpayment is not in dispute or on appeal, the hospital or ambulatory surgical facility shall provide the patient with a refund within 45 days of receiving notice of the overpayment.

(c) A hospital or ambulatory surgical facility shall not bill insured patients for charges that would have been covered by their insurance had the hospital or ambulatory surgical facility submitted the claim or other information required to process the claim within the allotted time requirements of the insurer.

(d) Hospitals and ambulatory surgical facilities shall abide by the following reasonable collections practices:

(1) A hospital or ambulatory surgical facility shall not refer a patient's unpaid bill to a collections agency, entity, or other assignee during the pendency of a patient's application for charity care or financial assistance under the hospital's or ambulatory surgical facility's charity care or financial assistance policies.

(2) A hospital or ambulatory surgical facility shall provide a patient with a written notice that the patient's bill will be subject to collections activity at least 30 days prior to the referral being made.

(3) A hospital or ambulatory surgical facility that contracts with a collections agency, entity, or other assignee shall require the collections agency, entity, or other assignee to inform the patient of the hospital's or ambulatory surgical facility's charity care and financial assistance policies when engaging in collections activity.

(4) A hospital or ambulatory surgical facility shall require a collections agency, entity, or other assignee to obtain the written consent of the hospital or ambulatory surgical facility prior to the collections agency, entity, or other assignee filing a lawsuit to collect the debt.

(5) For debts arising from the provision of care by a hospital or ambulatory surgical center, the doctrine of necessaries as it existed at common law shall apply equally to both spouses, except where they are permanently living separate and apart, but shall in no event create any liability between the spouses as to each other. No lien arising out of a judgment for a debt owed a hospital or ambulatory surgical facility under this section shall attach to the judgment debtors' principal residence held by them as tenants by the entireties or that was held by them as tenants by the entireties prior to the death of either spouse where the tenancy terminated as a result of the death of either spouse.

(6) For debts arising from the provision of care by a hospital or ambulatory surgical center to a minor, there shall be no execution on or otherwise forced sale of the principal residence of the custodial parent or parents for a judgment obtained for the outstanding debt until such time as the minor is either no longer residing with the custodial parent or parents or until the minor reaches the age of majority, whichever occurs first.

(e) The Commission shall adopt rules to ensure that this section is properly ~~implemented~~ implemented. ~~and that patient bills which are not itemized include notification to the patient of his right to request an itemized bill.~~ The Department shall not issue ~~nor~~ or renew a

license under this ~~Chapter~~ Article unless the applicant has demonstrated that the requirements of this ~~section~~ subsection are being met.

SECTION 8.(b) Article 2A of Chapter 131E of the General Statutes is repealed.

SECTION 8.(c) Part 4 of Article 6 of Chapter 131E of the General Statutes is amended by adding a new section to read:

"**§ 131E-147.1. Fair billing and collections practices for ambulatory surgical facilities.**

All ambulatory surgical facilities licensed under this Part shall be subject to the fair billing and collections practices set out in G.S. 131E-91."

SECTION 8.(d) G.S. 58-3-245 reads as rewritten:

"**§ 58-3-245. Provider ~~directories.~~directories; cost tools for insured.**

(a) Every health benefit plan utilizing a provider network shall maintain a provider directory that includes a listing of network providers available to insureds and shall update the listing no less frequently than once a year. In addition, every health benefit plan shall maintain a telephone system and may maintain an electronic or on-line system through which insureds can access up-to-date network information. The health benefit plan shall ensure that a patient is provided accurate and current information on each provider's network status through the telephone system and any electronic or online system. If the health benefit plan produces printed directories, the directories shall contain language disclosing the date of publication, frequency of updates, that the directory listing may not contain the latest network information, and contact information for accessing up-to-date network information.

(b) Each directory listing shall include the following network information:

(1) The provider's name, address, telephone number, and, if applicable, area of specialty.

(2) Whether the provider may be selected as a primary care provider.

(3) To the extent known to the health benefit plan, an indication of whether the provider:

a. Is or is not currently accepting new patients.

b. Has any other restrictions that would limit an insured's access to that provider.

(c) The directory listing shall include all of the types of participating providers. Upon a participating provider's written request, the insurer shall also list in the directory, as part of the participating provider's listing, the names of any allied health professionals who provide primary care services under the supervision of the participating provider and whose services are covered by virtue of the insurer's contract with the supervising participating provider and whose credentials have been verified by the supervising participating provider. These allied health professionals shall be listed as a part of the directory listing for the participating provider upon receipt of a certification by the supervising participating provider that the credentials of the allied health professional have been verified consistent with the requirements for the type of information required to be verified under G.S. 58-3-230.

(d) A health care provider shall provide to a patient or prospective patient, upon request, information on that provider's network status with a particular health benefit plan."

PART VI. GOVERNANCE OF ENTITIES TO MANAGE CARE AND CONTROL COSTS STATEWIDE

SECTION 9.(a) The General Assembly finds that the internal governance of entities contracting with the State to provide centralized care coordination, cost containment, or management of care on a statewide basis for the Medicaid program is of significant importance to the State, its taxpayers, and its Medicaid recipients; especially given the considerable amount of public funds expended on such contracts. The General Assembly further finds that the public has a profound interest in ensuring the quality of the entities' internal governance and,

therefore, it is appropriate that the public should have an influence in the entities' internal governance.

SECTION 9.(b) Based on the legislative findings of subsection (a) of this section, the Department of Health and Human Services shall not enter into a new contract with an entity to provide cost containment or management of care on a statewide basis for the Medicaid program unless the entity adheres to the following governance provisions related to the entity's governing board:

(1) The board shall contain individuals with experience in health care, including the following:
   a. A health actuary.
   b. Someone with expertise in health information technology, informatics, or provider performance measurement.
   c. Two representatives of the provider community.
   d. A representative of the health insurance industry.

(2) The board shall provide for public, voting members to be appointed as follows:
   a. Two persons appointed by General Assembly on the recommendation of the President Pro Tempore of the Senate.
   b. Two persons appointed by the General Assembly on the recommendation of the Speaker of the House of Representatives.
   c. Two persons appointed by the Governor.

(3) No more than two members on the board may directly benefit from any per member per month (PMPM) payments or incentive payments that are distributed or administered by the entity.

(4) No more than twenty-five percent (25%) of the members of the board may be providers or come from the provider community.

(5) No member of the board, or immediate family of a member of the board, may be a registered lobbyist or be employed by an entity that lobbies on behalf of a health care provider association.

(6) The board size may not exceed twice the number of persons to be appointed under subdivision (2) of this section plus one.

SECTION 9.(c) Subsection (b) of this section shall not apply to existing contracts or renewals under existing contracts when the renewal is at the option of one party.

PART VII. EFFECTIVE DATE

SECTION 10. Sections 4 and 5 of this act become effective January 1, 2014. Section 6 of this act becomes effective December 1, 2013, and applies to health care procedures and services rendered on or after that date. Section 7 of this act becomes effective January 1, 2014, and applies to tax refunds determined by the Department of Revenue on or after that date. Section 8 of this act becomes effective October 1, 2013, and applies to hospital and ambulatory surgical facility billings and collections practices occurring on or after that date. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Fiscal Note

BILL NUMBER: Senate Bill 473 (Second Edition)

SHORT TITLE: HealthCare Cost Reduction & Transparency.

SPONSOR(S): Senators Rucho and Brown

FISCAL IMPACT
($ in millions)

☑ Yes ☐ No ☐ No Estimate Available

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
State Impact					
General Fund Revenues:					
General Fund Expenditures:					
Special Fund Revenues:					
Special Fund Expenditures:					
State Positions:					
NET STATE IMPACT	Impact in Other Funds; See Assumptions and Methodology				
Local Impact					
Revenues:					
Expenditures:					
NET LOCAL IMPACT	$0.0	$0.0	$0.0	$0.0	$0.0

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: The University of North Carolina Health Care System; East Carolina University Medical Faculty Practice Plan

EFFECTIVE DATE January 1, 2014

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY:

Section 4 enacts G.S. 131E-91.1, which requires each hospital licensed under Article 5 of G.S. 131E to provide to the NC Health Information Exchange, annually beginning on January 1, 2014, specific information regarding costs, payments, and reimbursements for the hospital's 50 most common episodes of care. Section 4 also requires hospitals to provide this information in writing to any patient requesting it within 24 hours after receiving the request.

Section 10 amends the definition of "state agency" found in G.S. 105A-2(9). G.S. 105A, The Set-off Debt Collection Act, requires State agencies to satisfy debts of more than $50 owed to them by individuals and corporations by garnishing state income tax returns and lottery winnings. Section 10 of this bill specifies that the following not be considered state agencies for the purposes of the act:

- Any school of medicine, clinical program, facility, or practice affiliated with one of the constituent institutions of The University of North Carolina that provides medical care to the general public; and
- The University of North Carolina Health Care System and other persons or entities affiliated with or under the control of The University of North Carolina Health Care System.

ASSUMPTIONS AND METHODOLOGY:

The University of North Carolina

Section 4:

Section 4 requires each hospital to calculate and make public certain information about the hospital's 50 most common episodes of care. Although this requirement will have a financial impact on the hospitals affiliated with the University of North Carolina, no cost estimate is available at this time.

Section 10:

By redefining "State agency" as it applies to the Set-off Debt Collection Act (SODCA), this bill limits the debt collections methods available to the ECU Medical Faculty Practice Plan (ECU) and the healthcare entities affiliated with The University of North Carolina.

Both entities have charity care policies to help minimize the financial impact on patients with a limited ability to pay; these policies significantly reduce the amount of debt that would otherwise be subject to SODCA.[1] For debt not relieved by these policies, both the UNC Health Care System (UNC) and the ECU Medical Faculty Practice Plan (ECU) use their authority under SODCA to

[1] Both ECU and UNC have adopted charity care policies to provide relief to patients with incomes at or below 250% of the federal poverty level. Both programs have detailed policies, but generally:

- Under UNC's policy, patients pay co-payments of at least $25 per primary care clinic visit, $35 per specialist clinic visit, $50 per Emergency Department visit and $100 per admission.
- Under ECU's policy, patients pay co-payments of $50 per primary care visit; $30 per specialty visit and $50 per Emergency Department visit.

Additionally, UNC's Community Care discount program grants a 35% discount on physician and hospital charges to any uninsured patient, and its Catastrophic Care Program allows eligible patients who do not qualify for charity care and who have incurred significant hospital and physician costs to have their medical debt reduced to 20% of their yearly income.

garnish tax refunds and lottery winnings of patients who have not made a debt payment in over 120 days old and who are not on a payment plan. By restricting these debt collection practices, the bill would reduce the amount of revenue that UNC and ECU collect on past due accounts. Table 1 shows the revenue that the entities collected over the past five fiscal years under SODCA.

Table 1: UNC and ECU SODCA Collections, FY07- FY12

Fiscal Year	UNC	ECU	Total
2007-08	4,802,386	3,350,558	**8,152,944**
2008-09	5,202,743	4,175,267	**9,378,010**
2009-10	5,603,584	3,941,139	**9,544,723**
2010-11	7,030,181	5,388,962	**12,419,143**
2011-12	7,314,496	5,312,570	**12,627,066**
2012-13 Est.	7,314,496	5,500,000	**12,814,496**

To estimate the bill's impact over the next five fiscal years, the FY 2011-12 total SODCA collection was grown using the medical services inflationary growth rates as projected by Moody's Economy.com. Table 2 shows these estimates; because expenditures and revenues for UNC and ECU are recorded outside of the General Fund, there is no General Fund impact.

Table 2. Projected Revenue Lost by UNC and ECU

Fiscal Year	Growth Rate	UNC	ECU	Total
2013-14	4.28%	7,627,556	5,735,400	**13,362,956**
2014-15	4.11%	7,941,049	5,971,125	**13,912,174**
2015-16	4.11%	8,267,426	6,216,538	**14,483,964**
2016-17	4.14%	8,609,697	6,473,903	**15,083,600**
2017-18	4.08%	8,960,973	6,738,038	**15,699,011**

State Health Plan for Teachers and State Employees, Department of State Treasurer
This bill has no impact on the State Health Plan for Teachers and State Employees.

Department of Health and Human Services
It is unknown if and how much this bill would impact the Department of Health and Human Services.

SOURCES OF DATA: State Health Plan for Teachers and State Employees, Department of State Treasurer"; UNC Health Care System; East Carolina University; Moody's Economy.com.

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Denise Harb Canada

APPROVED BY: Mark Trogdon, Director
Fiscal Research Division

DATE: May 7, 2013

Signed Copy Located in the NCGA Principal Clerk's Offices

SENATE BILL 473:
HealthCare Cost Reduction & Transparency

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	May 8, 2013
Introduced by:	Sens. Rucho, Brown	**Prepared by:**	Barbara Riley
Analysis of:	PCS to Second Edition S473-CSRF-19		Committee Counsel

SUMMARY: ***Senate Bill 473 establishes the Health Care Cost Reduction and Transparency Act of 2013. Part II of the bill creates new reporting requirements for hospitals on pricing for the 100 most common in patient diagnostic related groups (DRG's) in each hospital. The bill also creates similar reporting requirements for hospital outpatient departments and ambulatory surgical facilities (ASCs). These facilities must report on the 20 most common surgical procedures and the 20 most common imaging procedures, along with the appropriate CPT and HCPCS codes, performed in each setting. The North Carolina Department of Health and Human Services (DHHS) must publish this information reported by the hospitals and ASC's on its internet website available to the public. The Medical Care Commission is charged with adopting rules identifying the DRG's, surgical procedures and imaging procedures on which the facilities will report. In addition, non-profit hospitals and ASC's must also report on their annual expenditures on financial assistance and bad debt and make this information available to the general public by posting on their premises and the internet. Part III of the bill makes it unlawful for any provider of health care services to charge or accept payment for any health care procedure or component of a health care procedure that was not performed or supplied. Part IV of the bill prohibits the UNC Health Care System and its affiliates, and other schools of medicine, clinical programs, facilities, and medical practices affiliated with one of the constituent institutions of UNC that provides medical care to the general public, from utilizing setoff debt collection procedures to collect outstanding debts from tax refunds and lottery winnings of debtors. Part V of the bill establishes fair billing practices for hospitals and ASC's. These include requirements that bills that are written so as to be comprehensible to the ordinary lay person, that notice be provided before a bill is sent to collections, and that facilities provide prompt refunds in the event of overpayment. The bill also prohibits a lien for a debt owed a hospital or ASC from attaching to a debtor's principal residence held by spouses as tenants by the entireties or that was held as tenants by the entireties prior to the death of either spouse where the tenancy terminate as a result of the death of either spouse. Execution on, or forced sale of, the primary residence of a custodial parent or parents to collect an unpaid bill for a debt owed for care provided to a minor is prohibited until the minor leaves the home or reaches the age of majority, whichever comes first. Part VI of the bill provides guidance for the governance of entities to manage care and control costs statewide.***

BILL ANALYSIS: **Section 1** of the bill designates the bill as the Health Care Cost Reduction and Transparency Act of 2013.

Section 2 creates a new article in Chapter 131E establishing the price reporting requirements for hospitals and ASC's and requiring DHHS to make that information available to the public on its website. The Medical Care Commission is directed to adopt rules establishing the DRG's, surgical procedures, and imaging procedures on which hospitals and ASC's must report.

G.S. 131E-214.5 sets out the intent of the General Assembly to improve transparency in health costs by providing information to the public on the costs of the most frequently reported DRG's for hospital

inpatient care and surgical and imaging procedures performed in hospital outpatient settings and ASCs. DHHS is to make this information available to the public on its website. The information is to be provided in a manner that is easily understandable. The data disclosed to the Department shall not be used by any person or entity for commercial purposes.

G.S. 131E-214.6 provides for disclosure by hospitals of pricing information on the 100 most frequently reported admissions by DRG as established by rule by the Medical Care Commission. Beginning on March 31, 2014, and quarterly thereafter, hospitals must report:

1. The amount that will be charged to a patient for each of the 100 most frequently reported admissions by DRG if all charges are paid in full without a public or private third party paying for any portion of the charges, along with a separate listing of the facility fees charged by health care providers affiliated with the hospital for each episode of care (i.e., uninsured individuals).
2. The average negotiated settlement on the amount charged to an uninsured patient.
3. The total amount of Medicaid reimbursement for each DRG, including claims and pro rata supplements.
4. The total amount of Medicare reimbursement for each DRG.
5. For the 5 largest health insurers providing payment to the hospital on behalf of insureds, the range of the total amount of payments made for each of the 50 most frequently reported admissions by DRG. Hospitals and ASCs must redact the names and identifying information of health insurers prior to providing this information to the NC HIE. (Health insurers do not include self insured plans or group health plans as defined under ERISA.)
6. The total amount of payments made by the State health Plan for each of the DRG's.

Hospitals must provide this same information about their 100 most frequently reported admissions by DRG to a patient, in writing, within 24 hours after receiving a patient request for it.

G.S. 131E-214.6 also provides that beginning with the quarter ending June 30, 2014, and quarterly thereafter, hospitals and ASCs shall report information on the total cost for the 20 most common surgical procedures and 20 most common imaging procedures, by volume, performed in hospital outpatient settings or AS's, along with the related CPT and HCPCS codes, to DHHS for publication on its website. The information shall be reported in the same manner hospitals reported its cost information on DRG's. The Commission must adopt rules establishing the 20 most common surgical procedures and 20 most common imaging procedures by March 31, 2014.

G.S. 131E-214.7 provides that hospitals and ASCs required to file Schedule H, federal form 990, must provide the public access to their financial assistance policies and financial assistance and bad debt costs. This information must be posted in a public location on the facilities' premises and published by the Department on its website.

Section 3 of the bill directs the Department of Health and Human Services (DHHS) to inform hospitals and ASCs by July 1, 2013, of the new reporting requirements pertaining to the most common episodes of care and charity care.

Section 4 of the bill excludes from the definition of competitive health care information the information hospitals and ASCs are required to report pursuant to Sections 4 and 5 of the bill concerning common episodes of care.

Section 5 of the bill provides that information hospitals and ASCs are required to report pursuant to Sections 4 and 5 of the bill and that is included in health care contracts entered into by hospitals and ASCs is not confidential and that this information is considered a public record under Chapter 132 of the General Statutes.

Section 6 of the bill makes it unlawful for a provider of healthcare services to charge or accept payment for any health care procedure or component of a health care procedure that was not performed or supplied.

Section 7 of the bill amends the definition of State agency for purposes of the Setoff Debt Collection Act to exclude (i) any school of medicine, clinical program, facility, or practice affiliated with one of the constituent institutions of UNC that provides medical care to the general public, and (ii) UNC Health Care System or any persons or entities affiliated with them or under their control. These entities will not be able to use setoff debt collection procedures to collect outstanding debts from debtors' State tax refunds and State lottery winnings.

Section 8 of the bill establishes fair billing and collections practices for hospitals and ASC's. G.S. 131E-91 is amended to provide that:

1. Non itemized bills must contain a statement that a patient has a right to an itemized statement, free of charge detailing in language comprehensible to an ordinary layperson the specific nature of the charges or expenses incurred by the patient. A patient may request an itemized bill any time within 3 years after discharge or as long as the hospital, a collections agency, or other assignee of the hospital or ASC asserts the patient has an obligation to pay the bill.
2. If a patient has overpaid, and the amount is not disputed or on appeal, a refund shall be issued within 45 days of the facility receiving notice of the overpayment.
3. Patients shall not be billed for charges that would have been covered by their insurance had the facility submitted the claim or necessary information within the allotted time.
4. Hospitals and ASC's shall not refer an unpaid bill to a collections agency or other entity during the pendency of a patient's application for charity care or financial assistance.
5. Hospitals and ASC's shall provide a patient with written notice 30 days prior to referring a bill to collections.
6. A hospital or ASC that contracts with a collections agency or other entity shall require that the collections agency inform the patient of the hospital's or ASC's charity care and financial assistance policies when engaging in collections activity.
7. A hospital or ASC shall require a collections agency or other entity to obtain the written consent of the hospital or ASC before filing a lawsuit to collect the debt.
8. A lien for a debt owed a hospital or ASC shall not attach to a debtor's principal residence held by spouses as tenants by the entireties or that was held as tenants by the entireties prior to the death of either spouse where the tenancy terminates as a result of the death of either spouse.
9. There shall be no execution on, or otherwise forced sale of the principal residence of the custodial parent or parents for debts arising from the provision of care to a minor, until such time as the minor is either no longer residing with the custodial parent or until the minor reaches the age of majority, whichever occurs first.

Section 8.b. repeals Article 2A of Chapter 131E providing for garnishment for debts owed public hospitals.

Section 8.c. provides a cross reference to the provisions in Section 11.a. in the ambulatory surgical facilities licensing act.

Section 8.d. amends G.S. 58-3-245 regarding the provision of provider directories to require that a health benefit plan shall ensure that a patient is provided current and accurate information on each provider's network status through the phone system and any online system. The amendment further requires a healthcare provider to provide a patient or prospective patient, on request, information on the provider's network status with a particular benefit plan.

Section 9 of the bill makes findings of fact regarding the State's significant interest in the internal governance of entities contracting with the State to provide centralized care coordination, cost containment, or management of care on a Statewide basis for the Medicaid program. Based on those findings, Section 9.(b) prohibits the Department of Health and Human Services from entering into a new contract with such an entity unless the entity adheres to the following governance provisions:

1. The board shall contain individuals with experience in health care including:
   - A health actuary.
   - Someone with expertise in health information technology, informatics, or provider performance measurement.
   - Two representatives of the provider community.
   - A representative of the health insurance industry.

2. The board shall provide for public, voting members to be appointed as follows: Two persons appointed by General Assembly on the recommendation of the President Pro Tempore of the Senate; two persons appointed on the recommendation of the Speaker of the House of Representatives; and two persons appointed by the Governor.

3. No more than two members on the board may directly benefit from any per member per month (PMPM) payments or incentive payments that are distributed or administered by the entity.

4. No more than twenty-five percent (25%) of the members of the board may be providers or come from the provider community.

5. No member of the board, or immediate family of a member of the board, may be a registered lobbyist or be employed by an entity that lobbies on behalf of a health care provider association.

6. The board size may not exceed twice the number of persons to be appointed under subdivision (2) of this section plus one.

Section 9.(c) of the bill provides that Section 9.(b) of this section shall not apply to existing contracts or renewals under existing contracts when the renewal is at the option of one party.

EFFECTIVE DATE: Sections 4 and 5 of this act become effective January 1, 2014. Section 6 of this act becomes effective December 1, 2013, and applies to health care procedures and services rendered on or after that date. Section 7 of this act becomes effective January 1, 2014, and applies to tax refunds determined by the Department of Revenue on or after that date. Section 8 of this act becomes effective October 1, 2013 and applies to hospital and ambulatory surgical facility billings and collections practices occurring on or after that date. The remainder of this act is effective when it becomes law.

SENATE SERGEANT-AT-ARMS

COMMITTEE: **SENATE FINANCE**

DATE: 05/08/13 ROOM: 544

1. ERNIE SHERRELL
2. DONNA BLAKE
3. ANDERSON MEADOWS
4. CANTON ~~OWENS~~ Lewis
5. _____

VISITOR REGISTRATION SHEET

Senate Finance Committee
Name of Committee

May 8, 2013
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Allison Valauro	NW
[illegible]	NMRS
Weldon Jones	Jordan Price
Connie Wilson	NCOA
[illegible]	MWC
Daniel [illegible]	Troutman Sanders
Karen Gillespie	BMS
Joyce Peters	CES

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 8, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Heather Barnett	Ward & Smith
Jesse Goodman	DHHS/DHSR
Trina Ozer	DENR
Carr McLamb	DENR
Martha McConnell	Carolinas Healthcare
[illegible]	NP
Evelyn Hawkins	ETOR
Jenni McClees	McClees Consulting
Joe McClees	McClees Consulting
JOE LANIER	NELSON MULLINS
Dana Sykes	SCA

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 8, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Tommy Suter	Novartis
Susan Harrison	NCNA
Alex Mullinnix	Covenant Health
Erica Nelson	NCHA
Daniel Vanliere	Vidant
Doug Heron	Duke
Cory Hand	NCHA
BJ Miller	Comp
Joel Maynard	NCAFP
J Bridges	BCS
Mark Stone	SEANC

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 8, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Lori Ann Harris	ZAHA
Debbie Hyler	KLG
Mary Bethea	AARP-NC
JEFF BARNHART	MWC
[illegible]	NCACC
Michael Hauser	Hauser Consulting
Judy Jenkins	OAPI
LISA MARTIN	[illegible]
STEVEN WEBB	[illegible]
Hon. John Robinson	NCRMA
David Farrell	CHEMC

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 8, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Adam Sholar	DHHS
Moore) Gardner	GSK
Crystal Collins	NC Trucking Assoc.
JAY PETERS	CSS
Jim Hamill	Unicef
BRUCE THOMPSON	PARKER POE

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 8, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Will Grantham	MVC
George Smith	NP
Marci Worlden	Novant Health
Christie Craig	WakeMed
David Jiffries	Johnston CC
Andy Chase	KMA
Canaan Heise	MVA
Andrew Blackburn	SSG NC
David Heinen	NC Center for Nonprofits
Michelle Brooks	ECU
Kelly Nicholson	UNC HC

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 8, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Beth Vetter	American Heart Assn
Chris Agnew	DOJ
AIMÉE ESCUETA	DOJ
Kevin Anderson	DOS
Jacob Yaniero	Sen. Brown's Office
Sarah Lynn Miller	Self
TOM FEIDLER	DST
C Wentz	Staff
Kay Emanuel	School of Government
Alex Bodzer	CSS
Matt Vrooman	OW ONS

Senate Committee on Finance
Tuesday, May 14, 2013, 1:00 PM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 103	Amend Petition & Method for Crit. Assessments.	Sen. Hartsell
SB 248	Choice of Hearing Aid Specialist.	Sen. Hartsell
SB 269	Salisbury/Deannex Rowan Cty Airport Property.	Sen. Brock
SB 463	Jail Dormitory Minimum Standards.	Sen. Woodard Sen. McKissick
SB 523	Returns W/Refunds Filed Late Penalty.	Sen. Rucho Sen. Rabon Sen. Rabin
HB 484	Permitting of Wind Energy Facilities.	Rep. J. Bell Rep. Dixon Rep. McElraft Rep. Whitmire

Adjournment

Senate Finance Committee
Tuesday, May 14, 2013
Room 544 LOB, 1:00 p.m.

Minutes

The Senate Committee on Finance met on Tuesday, May 14 2013, at 1:00 p.m. in room 544 of the Legislative Office Building. Jamarlo Williams, Katie Steg, and James Averette of Henderson; Emily Rundle of Raleigh; Dillon Phillips of Louisburg; and Jamera Williams of Weldon served as pages. Senator Rabon served as Chair to the meeting.

H.B. 484 – Permitting of Wind Energy Facilities

Senator Brown was recognized to explain the bill. Senator Rucho moved to adopt the proposed committee substitute (PCS) for discussion and the motion carried. The bill would establish a permitting program for the siting and operation of wind energy facilities in North Carolina. The PCS would (i) eliminate the proposed change to the policy of the State to promote development of renewable resources in a manner compatible with the efficient use of resources and the State's military and economic interests, and (ii) provide that an applicant must comply with the applicable requirements of Chapter 62 of the General Statutes. Wayne Harris, Director of the Albemarle Economic Development Commission, was recognized to speak in opposition to the bill. He said that wind energy is a job creator in poor sections of the State. David Burton was recognized and said that the bill needs improvements – testing needs to be conducted by DENR instead of by the developers. Brad Ives, Assistant Secretary – DENR, was recognized to speak in favor of the bill. Attila Nemecz, Friends of Pocosin Lakes National Wildlife Reserve, requested an independent assessment of wildlife concerns. Doris Morris, Friends of Pocosin Lakes National Wildlife Reserve, requested that DENR have control of inspections. Senator Apodaca moved for a favorable report and the motion carried. A copy of the PCS, the summary and a favorable letter from John Nicholson, Governor McCrory's military advisor, is attached.

S.B. 523 – Returns w/Refunds Filed Late Penalty

Senator Rucho was recognized to explain the bill. Senator Brock moved to adopt the PCS for discussion and the motion carried. The penalty for failure to file a return is a maximum of 25% of the "amount of the tax." The PCS would impose a flat penalty of $100 for failure to file a return for personal income, tax and clarify the amount of the penalty for failure to file a return for all other penalties. Tom Dixon, Assistant Secretary – Department of Revenue, was recognized to answer questions. Senator Apodaca moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 269 – Salisbury/Deannex Rowan Cty Airport Property

Senator Brock was recognized to explain the bill which would deannex a described area from the corporate limits of the City of Salisbury. He then offered a technical amendment which changed the effective date. Senator Tillman moved to adopt the

amendment and the motion carried. Senator Tillman moved for a favorable report and the motion carried. A copy of the bill, the summary and the amendment is attached.

S.B. 103 – Amend Assessments for Infrastructure Needs

Senator Hartsell was recognized to explain the bill. Senator Hise moved to adopt the PCS for discussion and the motion carried. The bill addresses two issues in the special assessment for critical infrastructure needs that have arisen as local governments have considered its use. The PCS extends the sunset on this program for two years, from July 1, 2013 to July 1, 2015. Senator Tillman moved for a favorable report and the motion carried. A copy of the PCS and the summary is attached.

S.B. 248 – Choice of Hearing Aid Specialist

Senator Hartsell was recognized to explain the bill. It adds hearing aid specialists to the list of providers from which an individual has the right to choose the provider of services under a health benefit plan. The bill also increases the amount of the fee for licensure that the Board may assess from $250 to $500. Senator Hartsell offered a clarifying amendment and moved for its adoption. The motion carried. Senator Hise moved for a favorable report as amended and the motion carried. A copy of the bill, the summary, the actuarial note, and the amendment is attached.

S.B. 463 – Jail Dormitory Minimum Standards

Senator Woodard was recognized to explain the bill which would modify the requirement regarding the maximum number of inmates that may be housed in a dormitory of a county detention facility located in certain counties. Heather Fennell, a staff attorney with the Research Division, was recognized to answer questions. Senator Woodard offered a technical amendment to correct the title and moved for its adoption. The motion carried. Senator Tillman moved for a favorable report as amended and the motion carried. A copy of the bill, the summary and the amendment is attached.

The meeting adjourned at 1:38 p.m.

Senator Bill Rabon, Presiding Chair
Senate Finance Committee

DeAnne Mangum
Senate Finance Clerk

Principal Clerk ____
Reading Clerk ____

Corrected #1: H484 - Permitting of Wind Energy Facilities has been added to the agenda.

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Tuesday	May 14, 2013	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	
SB 103	Amend Petition & Method for Crit. Assessments.	Senator Hartsell
SB 248	Choice of Hearing Aid Specialist.	Senator Hartsell
SB 269	Salisbury/Deannex Rowan Cty Airport Property.	Senator Brock
SB 463	Jail Dormitory Minimum Standards.	Senator Woodard Senator McKissick
SB 523	Returns W/Refunds Filed Late Penalty.	Senator Rucho Senator Rabon Senator Rabin
HB 484	Permitting of Wind Energy Facilities.	Representative J. Bell Representative Dixon Representative McElraft Representative Whitmire

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

Principal Clerk
Reading Clerk

SENATE
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AND
BILL SPONSOR NOTICE

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SB 103	Amend Petition & Method for Crit. Assessments.	Senator Hartsell
SB 248	Choice of Hearing Aid Specialist.	Senator Hartsell
SB 269	Salisbury/Deannex Rowan Cty Airport Property.	Senator Brock
SB 463	Jail Dormitory Minimum Standards.	Senator Woodard Senator McKissick
SB 523	Returns W/Refunds Filed Late Penalty.	Senator Rucho Senator Rabon Senator Rabin

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Tuesday, May 14, 2013

Senator Rabon,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

SB **103** Amend Petition & Method for Crit. Assessments.

Draft Number:	S103-PCS75321-RBx-14
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

SB **523** Returns W/Refunds Filed Late Penalty.

Draft Number:	S523-PCS75322-TDx-21
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 2

Senator Fletcher Hartsell will handle SB 103
Senator Robert Rucho will handle SB 523

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Tuesday, May 14, 2013

Senator Rabon,
submits the following with recommendations as to passage:

FAVORABLE, AS AMENDED

SB **248** **(CS#1)** Choice of Hearing Aid Specialist.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

SB **269** Salisbury/Deannex Rowan Cty Airport Property.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

SB **463** Jail Dormitory Minimum Standards.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 3, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

HB **484** **(CS#3)** Permitting of Wind Energy Facilities.
Draft Number: H484-PCS30541-TAf-14
Sequential Referral: Commerce
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED: 4

Senator Fletcher Hartsell will handle SB 248
Senator Andrew Brock will handle SB 269
Senator J. Woodard will handle SB 463
Senator Harry Brown will handle HB 484

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H D

HOUSE BILL 484*

Committee Substitute Favorable 4/11/13
Committee Substitute #2 Favorable 4/18/13
Committee Substitute #3 Favorable 4/30/13
Fifth Edition Engrossed 5/1/13
PROPOSED SENATE COMMITTEE SUBSTITUTE H484-CSTAf-14 [v.1]
5/7/2013 4:29:49 PM

Short Title: Permitting of Wind Energy Facilities. (Public)

Sponsors:

Referred to:

April 1, 2013

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A PERMITTING PROGRAM FOR THE SITING AND OPERATION OF WIND ENERGY FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 143 of the General Statutes is amended by adding a new Article to read:

"Article 21C.
"Permitting of Wind Energy Facilities.

"**§ 143-215.115. Definitions.**

In addition to the definitions set forth in G.S. 143-212, the following definitions apply to this Article:

(1) "Major military installation" means Fort Bragg, Pope Army Airfield, Marine Corps Base Camp Lejeune, New River Marine Corps Air Station, Cherry Point Marine Corps Air Station, Military Ocean Terminal at Sunny Point, the United States Coast Guard Air Station at Elizabeth City, Naval Support Activity Northwest, Air Route Surveillance Radar (ARSR-4) at Fort Fisher, and Seymour Johnson Air Force Base, in its own right and as the responsible entity for the Dare County Bombing Range, and any facility located within the State that is subject to the installations' oversight and control.

(2) "Wind energy facility" means the turbines, accessory buildings, transmission facilities, and any other equipment necessary for the operation of the facility that cumulatively, with any other wind energy facility whose turbines are located within one-half mile of one another, have a rated capacity of one megawatt or more of energy.

(3) "Wind energy facility expansion" means any activity that (i) adds or substantially modifies turbines or transmission facilities, including increasing the height of such equipment, over that which was initially permitted or (ii) increases the footprint of the wind energy facility over that which was initially permitted.

"**§ 143-215.116. Permit to site wind energy facilities.**

No person shall undertake construction, operation, or expansion activities associated with a wind energy facility in this State without first obtaining a permit from the Department.

"**§ 143-215.117. Permit preapplication site evaluation meeting; notice; preapplication package requirements.**

(a) Permit Preapplication Site Evaluation Meeting. – No less than 180 days prior to filing an application for a permit to construct, operate, or expand a wind energy facility, a person shall request a preapplication site evaluation meeting to be held between the applicant and the Department. The preapplication site evaluation meeting shall be held no less than 120 days prior to filing an application for a permit to construct, operate, or expand a wind energy facility and may be used by the participants to:

(1) Conduct a preliminary evaluation of the site or sites for the proposed wind energy facility or wind energy facility expansion. The preliminary evaluation of the proposed wind energy facility or proposed wind energy facility expansion shall determine if the site or sites:

a. Pose serious risk to civil air navigation or military air navigation routes, air traffic control areas, military training routes, special-use air space, radar, or other potentially affected military operations.

b. Pose serious risk to natural resources and uses, including to species of concern or their habitats.

(2) Identify areas where proposed construction or expansion activities pose minimal risk of interference with civil air navigation or military air navigation routes, air traffic control areas, military training routes, special-use air space, radar, or other potentially affected military operations.

(3) Identify areas where proposed construction or expansion activities pose minimal risk to natural resources and uses, including avian, bat, and endangered and threatened species.

(b) Permit Preapplication Package. – No less than 45 days prior to the date of the permit preapplication site evaluation meeting scheduled in accordance with subsection (a) of this section, the applicant for a wind energy facility or wind energy facility expansion shall submit a preapplication package to the Department. To the extent that any documents contain trade secrets or confidential business information, those portions of the documents shall not be subject to disclosure under the North Carolina Public Records Act. The preapplication package shall include all of the following:

(1) A narrative description of the proposed wind energy facility or proposed wind energy facility expansion, including (i) the approximate number, type, and height of wind turbines to be constructed; (ii) the total planned capacity of the facility; and (iii) a description of any ancillary facilities.

(2) A map showing the approximate location of the proposed wind energy facility or proposed wind energy facility expansion.

(3) A description of any known potential impacts of the proposed wind energy project location on civil air navigation or military air navigation routes, air traffic control areas, military training routes, special-use air space, radar, or other potentially affected military operations. The applicant may use data made available by the Department pursuant to G.S. 143-215.123 to satisfy this requirement.

(4) A description of species of concern, habitats that support species of concern, critical areas of wildlife congregation, and protected lands, as those species, habitats, and critical areas are referenced in the March 23, 2012, United States Fish and Wildlife Service Land-Based Wind Energy Guidelines (OMB Control No. 1018-0148) that are or believed to be present at the site of the proposed wind energy facility or proposed wind energy facility expansion. The applicant may use data made available by the North Carolina

Wildlife Resources Commission, the Department, or other governmental agency to satisfy this requirement.

(5) A list of the federal, State, and local agencies from which approvals will be obtained and the name of those approvals required in order to authorize the construction, operation, or expansion of the proposed wind energy facility.

(6) A schedule showing the anticipated dates for commencement of construction, testing, and commercial operation of the proposed wind energy facility or proposed wind energy facility expansion.

(c) Notice to Interested Parties. – No less than 21 days prior to the date of the permit preapplication site evaluation meeting scheduled in accordance with subsection (a) of this section, the Department shall provide written notice of the meeting to the United States Army Corps of Engineers, the United States Fish and Wildlife Service, the North Carolina Wildlife Resources Commission, the commanding military officer or the commanding military officer's designee of any potentially affected major military installation, and any other party that the Department deems relevant. The notice shall include an invitation to participate in the permit preapplication site evaluation meeting.

"**§ 143-215.118. Permit application scoping meeting and notice.**

(a) Scoping Meeting. – No less than 60 days prior to filing an application for a permit for a proposed wind energy facility or proposed wind energy facility expansion, the applicant shall request the scheduling of a scoping meeting between the applicant and the Department. The scoping meeting shall be held no less than 30 days prior to filing an application for a permit for a proposed wind energy facility or proposed wind energy facility expansion. The applicant and the Department shall review the permit for the proposed wind energy facility or proposed facility expansion at the scoping meeting.

(b) Notice of Scoping Meeting. – No less than 21 days prior to the scheduled permit application scoping meeting with an applicant, the Department shall provide written notice of the meeting to the commanding military officer of each major military installation, or the commanding military officer's designee, the Federal Aviation Administration, the North Carolina Wildlife Resources Commission, the United States Fish and Wildlife Service, the board of commissioners for each county and the governing body of each municipality in which the wind energy facility or proposed wind energy facility expansion is proposed to be located; and those local governments with jurisdictions over areas in which a major military installation is located. The notice shall include an invitation to participate in the scoping meeting.

"**§ 143-215.119. Permit application requirements; fees; notice of receipt of completed permit; public hearing; public comment.**

(a) Permit Requirements. – A person applying for a permit for a proposed wind energy facility or proposed wind energy facility expansion shall include all of the following in an application for the permit:

(1) A narrative description of the proposed wind energy facility or proposed wind energy facility expansion.

(2) A map showing the location of the proposed wind energy facility or proposed wind energy facility expansion that identifies the specific location of each turbine.

(3) A copy of a deed, purchase agreement, lease agreement, or other legal instrument demonstrating the right to construct, expand, or otherwise develop a wind energy facility on the property.

(4) Identification by name and address of property owners adjacent to the proposed wind energy facility or proposed wind energy facility expansion. The applicant shall notify every property owner identified pursuant to this subdivision by registered or certified mail or by any means authorized by

G.S. 1A-1, Rule 4, in a form approved by the Department. The notice shall include all of the following:

a. The location of the proposed wind energy facility or proposed wind energy facility expansion and the specific location of each turbine proposed to be located within one-half mile of the boundary of the adjacent property owner.

b. A description of the proposed wind energy facility or proposed wind energy facility expansion.

(5) A description of civil air navigation or military air navigation routes, air traffic control areas, military training routes, special-use air space, radar, or other military operations that may be affected by the construction or operation of the proposed wind energy facility or proposed wind energy facility expansion.

(6) Documentation that addresses any potential adverse impact on military operations and readiness as identified by the Department of Defense Clearinghouse pursuant to Part 211 of Title 32 Code of Federal Regulations (July 1, 2012 edition) and any mitigation actions agreed to by the applicant.

(7) Documentation that the applicant has either (i) submitted Federal Aviation Administration Form 7460-1 for the turbines associated with the proposed wind energy facility or proposed wind energy facility expansion or (ii) initiated an informal review by the Department of Defense Siting Clearinghouse of the proposed wind energy facility or proposed wind energy facility expansion. If the applicant has submitted Federal Aviation Administration Form 7460-1 in order to fulfill the requirements of this subdivision, the applicant shall provide any determination reached by the Federal Aviation Administration at the time the application is submitted to the Department. If the Federal Aviation Administration has not made a determination at the time the application is submitted to the Department, the application shall include a description of the status of the applicant's engagement with the Federal Aviation Administration and the Department of Defense Siting Clearinghouse.

(8) A study of the noise impacts of the turbines to be associated with the proposed wind energy facility or proposed wind energy facility expansion.

(9) A study on shadow flicker impacts of the turbines to be associated with the proposed wind energy facility or proposed wind energy facility expansion, unless the turbines will be located in a sound or in offshore waters.

(10) A study of the impact of the proposed wind energy facility or proposed wind energy facility expansion on natural resources and uses, including avian, bat, and endangered and threatened species.

(11) An explanation of how the proposed wind energy facility or proposed wind energy facility expansion would be consistent with the criteria in subsection (a) of G.S. 143-215.120.

(12) The application fee required by subsection (b) of this section.

(13) A plan regarding the action to be taken upon the decommissioning and removal of the wind energy facility. The plan shall include an estimate of the cost to decommission and remove the wind energy facility. The plan shall also include the anticipated life of the project, an estimate of the cost to decommission and remove the wind energy facility, a description of the manner in which the facility will be decommissioned, and a description of the expected condition of the site once the wind energy facility has been decommissioned and removed.

(14) Other data or information the Department may reasonably require.

(a1) Confidentiality of Trade Secrets and Business Information. – To the extent that any documents included in the permit application contain trade secrets or confidential business information, those portions of the documents shall not be subject to disclosure under the North Carolina Public Records Act.

(b) Fees. – An applicant for a permit for a proposed wind energy facility or proposed wind energy facility expansion under this section shall submit with the application required pursuant to subsection (a) of this section, an application fee of three thousand five hundred dollars ($3,500).

(c) Notice of Receipt of Complete Permit Application. – Within 10 days of receipt of a complete permit application for a proposed wind energy facility or proposed wind energy facility expansion submitted pursuant to subsection (a) of this section, the Department shall provide notice of the permit application to (i) the commanding military officer of all major military installations, (ii) the commanding military officer of any military installation located outside the State that is located within 50 nautical miles of the location of the proposed wind energy facility or proposed wind energy facility expansion, and (iii) the board of commissioners for each county and the governing body of each municipality in which the wind energy facility or wind energy facility expansion is proposed to be located. The notice shall include:

(1) A copy of the map showing the location of the proposed wind energy facility or proposed wind energy facility expansion that includes the specific locations of wind turbines.

(2) A written request to the commanding military officer of a major military installation or the commanding military officer's designee, for technical information related to any adverse impact on the installation's operations, training, or mission, including military air navigation routes, air traffic control areas, military training routes, special-use air space, radar or other military operations that may be affected.

(3) A written request for information related to potential adverse impacts of the proposed wind energy facility or proposed wind energy facility expansion on local governments from the board of commissioners for each county and the governing body of each municipality.

(d) Provision of Permit Application to Affected Entities. – Except as provided by G.S. 143-215.124, within 10 days of receipt of a written request from the commanding military officer of any major military installation or the commanding military officer's designee, the board of commissioners for any county in which the site is proposed to be located or the governing body of any municipality in which the site is proposed to be located, the Department shall provide a copy of a permit application filed pursuant to subsection (a) of this section, in addition to any supplements, changes, or amendments to the permit application to the requesting commanding military officer or local government.

(e) Public Hearing and Comment. – The Department shall hold a public hearing in each county in which the wind energy facility or wind energy facility expansion is proposed to be located within 75 days of receipt of a completed permit application. The Department shall provide notice including the time and location of the public hearing in a newspaper of general circulation in each applicable county. The notice of public hearing shall be published for at least two consecutive weeks beginning no less than 45 days prior to the scheduled date of the hearing. The notice shall provide that any comments on the proposed wind energy facility or proposed wind energy facility expansion should be submitted to the Department by a specified date, not less than 15 days from the date of the newspaper publication of the notice or 15 days after distribution of the mailed notice, whichever is later. No less than 30 days prior to the scheduled public hearing, the Department shall provide written notice of the hearing to:

(1) The North Carolina Utilities Commission.
(2) The Office of the Attorney General of North Carolina.
(3) The commanding military officer of any potentially affected major military installation or the commanding military officer's designee.
(4) The board of commissioners for each county and the governing body of each municipality with jurisdictions over areas in which a potentially affected major military installation is located.

"**§ 143-215.120. Criteria for permit approval; time frame; permit conditions; other approvals required.**

(a) Permit Approval. – The Department shall approve an application for a permit for a proposed wind energy facility or proposed wind energy facility expansion unless the Department finds any one or more of the following:

(1) Construction or operation of the proposed wind energy facility or proposed wind energy facility expansion would be inconsistent with or violate rules adopted by the Department or any other provision of law.
(2) Construction or operation of the proposed wind energy facility or proposed wind energy facility expansion would encroach upon or would otherwise have a significant adverse impact on the mission, training, or operations of any major military installation or branch of military in North Carolina and result in a detriment to continued military presence in the State. In its evaluation, the Department may consider whether the proposed wind energy facility or proposed wind energy facility expansion would cause interference with air navigation routes, air traffic control areas, military training routes, or radar based on information submitted by the applicant pursuant to subdivisions (5) and (6) of subsection (a) of G.S. 143-215.119, and any information received by the Department pursuant to subdivision (2) of subsection (c) of G.S. 143-215.119.
(3) Construction or operation of the proposed wind energy facility or proposed wind energy facility expansion would result in significant adverse impacts to ecological systems, natural resources, cultural sites, recreation areas, or historic sites of more than local significance; including national or State parks or forests, wilderness areas, historic sites, recreation areas, segments of the natural and scenic rivers system, wildlife refuges, preserves and management areas, areas that provide habitat for threatened or endangered species, primary nursery areas designated by the Marine Fisheries Commission and the Wildlife Resources Commission, and critical fisheries habitat identified pursuant to the Coastal Habitat Protection Plan.
(4) Construction or operation of the proposed wind energy facility or proposed wind energy facility expansion would have a significant adverse impact on fish or wildlife.
(5) Construction or operation of the proposed wind energy facility or proposed wind energy facility expansion would have a significant adverse impact on views from any State or national park, wilderness area, significant natural heritage area as compiled by the North Carolina Natural Heritage Program, or other public lands or private conservation lands designated or dedicated due to their high recreational values.
(6) Construction or operation of the proposed wind energy facility or proposed wind energy facility expansion would obstruct major navigation channels or create a significant obstacle to navigation in coastal waters, as determined by the United States Army Corps of Engineers and the United States Coast Guard.

(7) A permit for a proposed wind energy facility or proposed wind energy facility expansion would be denied under any other criteria set out in G.S. 113A-120.

(8) Construction of the proposed wind energy facility or proposed wind energy facility expansion would be prohibited under Article 14 of Chapter 113A of the General Statutes, the Mountain Ridge Protection Act of 1983.

(9) The applicant is not in compliance with all applicable federal, State, or local permit requirements, licenses, or approvals, including local zoning requirements.

(b) Permit Decision. – The Department shall make a final decision on a permit application within 90 days following receipt of a completed application, except that the Department shall not be required to make a final decision until the Department has received a written "Determination of No Hazard to Air Navigation" issued by the Federal Aviation Administration pursuant to Subpart D of Part 77 of Title 14 of the Code of Federal Regulations (January 1, 2012 edition). If the Department requests additional information following the receipt of a completed application, the Department shall make a final decision on a permit application within 30 days of receipt of the requested information. If the Department determines that an application for a wind energy facility or a wind energy facility expansion fails to meet the requirements for a permit under this section, the Department shall deny the application, and the application shall be returned to the applicant accompanied by a written statement of the reasons for the denial and any modifications to the permit application that would make the application acceptable. If the Department fails to act within the time period set forth in this subsection, the applicant may treat the failure to act as a denial of the permit and may challenge the denial as provided under Chapter 150B of the General Statutes.

(c) Permit Conditions. – The Department (i) may include as a condition of a permit for a proposed wind energy facility or proposed wind energy facility expansion a requirement that the permit holder mitigate any adverse impacts and (ii) shall include as a condition of a permit for a proposed wind energy facility or proposed wind energy facility expansion a requirement that the permit holder obtain a written "Determination of No Hazard to Air Navigation" issued by the Federal Aviation Administration pursuant to Subpart D of Part 77 of Title 14 of the Code of Federal Regulations (January 1, 2012 edition) for the facility. No permit for a wind energy facility or wind energy facility expansion shall become effective until the Department has received and reviewed the "Determination of No Hazard to Air Navigation" issued by the Federal Aviation Administration for the facility. If the specific location of a turbine authorized to be constructed pursuant to a "Determination of No Hazard to Air Navigation" or the configuration of the wind energy facility varies from the information submitted by the applicant upon which the Department has made its permit decision, the Department may reevaluate the permit application and require the applicant to submit any additional information the Department deems necessary to approve or deny a permit for the facility as reconfigured.

(d) Other Approvals Required. – The issuance of a permit under this section shall not obviate the need for the applicant to obtain any and all other applicable local, State, or federal permits, licenses, or approvals. Furthermore, nothing in this Article shall be interpreted to limit, as applicable, (i) the application of Article 7 of Chapter 113A of the General Statutes to facilities permitted under this section, including the permitting requirements of G.S. 113A-118, (ii) the ability of a city or county to plan for and regulate the siting of a wind energy facility in accordance with land-use regulations authorized under Chapter 160A and Chapter 153A of the General Statutes, or (iii) the applicable requirements of Chapter 62 of the General Statutes.

"**§ 143-215.121. Financial assurance requirements.**

The applicant for a permit or a permit holder for a wind energy facility shall establish financial assurance that will ensure that sufficient funds are available for decommissioning of the facility and reclamation of the property to its condition prior to commencement of activities

on the site, even if the applicant or permit holder becomes insolvent or ceases to reside in, be incorporated, do business, or maintain assets in the State. To establish sufficient availability of funds under this section, the applicant for a permit or a permit holder for a wind energy facility may use insurance, financial tests, third-party guarantees by persons who can pass the financial test, guarantees by corporate parents who can pass the financial test, irrevocable letters of credit, trusts, surety bonds, or any other financial device, or any combination of the foregoing, shown to provide protection equivalent to the financial protection that would be provided by insurance if insurance were the only mechanism used.

"**§ 143-215.122. Monitoring and reporting.**

The applicant shall annually submit copies to the Department of any post-construction monitoring, such as reports on the impacts on wildlife in the location of and in the area proximate to the wind energy facility or wind energy facility expansion and any impacts on military operations that are required by the United States Fish and Wildlife Service, the North Carolina Wildlife Resources Commission, the North Carolina Utilities Commission, or any other government agency.

"**§ 143-215.123. Annual review of military presence.**

The Department shall consult with representatives of the major military installations to review information regarding military air navigation routes, air traffic control areas, military training routes, special-use air space, radar, or other potentially affected military operations at least once per year. The Department shall provide relevant information on civil air navigation or military air navigation routes, air traffic control areas, military training routes, special-use air space, radar, or other potentially affected military operations to permit applicants as requested.

"**§ 143-215.124. Record keeping.**

The Department shall serve as the custodian of all data, information, and records received from a permit applicant or a major military installation pursuant to this Article and shall ensure that information provided to the Department that constitutes trade secrets, as that term is defined in G.S. 66-152, and that is designated as confidential or as a trade secret under G.S. 132-1.2, is limited only to the Department, State employees, and other persons who have executed a confidentiality agreement with the owner of such information. Information designated as confidential or as a trade secret under G.S. 132-1.2 shall not be subject to disclosure pursuant to G.S. 132-6.

"**§ 143-215.125. Rule making.**

The Environmental Management Commission shall adopt any rules necessary for the implementation of this Article. In adopting rules, the Commission shall consult with the Coastal Resources Commission to ensure that the development of statewide permitting requirements is consistent with and in consideration of the characteristics unique to the coastal area of the State to the maximum extent practicable.

"**§ 143-215.126. Civil penalties.**

(a) The Secretary of Environment and Natural Resources may impose an administrative penalty on a person who constructs a wind energy facility or wind energy facility expansion without obtaining a permit under this Article or who constructs or operates a wind energy facility in violation of its permit terms and conditions. Each day of a continuing violation shall constitute a separate violation. The penalty shall not exceed ten thousand dollars ($10,000) per day.

(b) The Secretary of Environment and Natural Resources, irrespective of all other remedies at law, may institute an action for injunctive relief against a person who constructs a wind energy facility without first obtaining a permit under this Article or who constructs or operates a wind energy facility or wind energy facility expansion in violation of its permit terms and conditions."

SECTION 2. This act is effective when it becomes law and applies only to those wind energy facilities or wind energy facility expansions that have not received a written

"Determination of No Hazard to Air Navigation" issued by the Federal Aviation Administration on or before that date.

HOUSE BILL 484:
Permitting of Wind Energy Facilities

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	May 8, 2013
Introduced by:	Reps. J. Bell, Dixon, McElraft, Whitmire	**Prepared by:**	Jennifer Mundt
Analysis of:	PCS to Fifth Edition H484-CSTAf-14 [v.1]		Legislative Analyst

SUMMARY: House Bill 484 would establish a permitting program for the siting and operation of wind energy facilities in North Carolina.

The PCS would (i) eliminate the proposed change to the policy of the State to promote development of renewable resources in a manner compatible with the efficient use of resources and the State's military and economic interests and (ii) provide that an applicant must comply with the applicable requirements of Chapter 62 of the General Statutes (Public Utilities).

[As introduced, this bill was identical to S491, as introduced by Sen. Brown, which is currently in Senate Ref to Agriculture/Environment/Natural Resources. If fav, re-ref to Finance.]

BILL ANALYSIS: House Bill 484 would establish a permitting program, to be implemented by the Department of Environment and Natural Resources (Department or DENR), for the siting and operation of wind energy facilities in the State. The bill would create a new Article 21C in Chapter 143 of the General Statutes (Permitting of Wind Energy Facilities).

Definitions: Three new terms are defined for purposes of the Article, "major military installation," "wind energy facility," and "wind energy facility expansion."

Permit to site wind energy facilities: Provides that no person may undertake construction, operation, or expansion activities associated with a wind energy facility without first obtaining a permit from the Department.

Pre-permit application requirements: At least 180 days before filing an application for a permit to construct, operate, or expand a wind energy facility, a permit applicant must request a ***pre-application site evaluation meeting*** with DENR to determine if proposed sites pose a serious risk to civil air navigation, military activities, or natural resources. The pre-application site evaluation meeting must be held within 120 days prior to filing an application.

At least 45 days before the date of the pre-application site evaluation meeting, the applicant must submit a ***pre-application package*** to DENR that includes: a narrative description and map of the proposed facility, a description of potential impacts to civil air navigation, military activities, or natural resources; and a timetable for development through commercial operation.

At least 21 days before the pre-application site evaluation meeting, DENR must provide written ***notice to interested parties*** of the meeting, with an invitation to participate in the meeting, to the United States Army Corps of Engineers, the United States Fish and Wildlife Service (USFWS), the North Carolina Wildlife Resources Commission (WRC), the commanding military officer of any potentially affected major military installation, and any other party the Department deems relevant.

Scoping meeting and notice: At least 60 days prior to filing an application for a permit to construct, operate, or expand a wind energy facility, the applicant must request a ***scoping meeting*** with the Department to review the permit. The scoping meeting must be held within 30 days prior to filing an application.

At least 21 days prior to the scoping meeting, DENR must provide ***written notice*** to the commanding officer of each major military installation, the Federal Aviation Administration (FAA), WRC, USFWS, the board of commissioners for each county and governing body of each municipality in which the facility is proposed to be located, and those local governments with jurisdictions over areas in which a major military installation is located.

Permit requirements: A ***permit application*** for a wind energy facility must include:

- A narrative description of the proposed facility and map showing the location of each turbine.
- A description of civil air navigation or military activities that may be affected by the construction or operation of the proposed facility.
- Documentation addressing any potential adverse impacts on military activities as identified by the Department of Defense (DOD) Clearinghouse[1] and any mitigation actions agreed to by the applicant.
- A study of the noise and shadow flicker[2] impacts of the turbines associated with the proposed facility.
- A study of the proposed facility on natural resources.
- The permit application fee of $3,500.
- A plan for decommissioning and removal of the facility.

Within 10 days of receiving a complete permit application, DENR must ***provide notice*** of the permit application, accompanied by a request for information related to potential adverse impacts of the proposed facility, to the commanding military officer of all major military installations, the commanding military officer of any military installation located outside the State that is within 50 nautical miles of the proposed facility, and the board of commissioners and the governing body of each municipality in which the facility is proposed to be located.

Within 75 days of receipt of a complete permit application, the Department must hold ***a public hearing*** in each county in which the facility is proposed to be located.

Permit approval and conditions: The Department must approve an application for a proposed wind energy facility unless the Department finds that construction or operation of the facility would:

- Be inconsistent with or violate rules of the Department or any other provision of law.
- Encroach upon or otherwise have a significant adverse impact on military operations.
- Result in significant adverse impacts to natural resources, fish, wildlife, or views from State or national parks and other areas with high recreational values.
- Obstruct major navigation channels.

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[1] The DOD Clearinghouse was established by DOD to provide a one-stop shop for industry, state, Tribal, and local governments, and the public to communicate with and receive feedback from DOD on the impacts of energy projects on military missions. The Clearinghouse coordinates the efforts of all DOD Components (including the Joint Staff, Army, Navy, Air Force, Marines, and other critical offices) in the assessment of energy project proposals and the coordination of official DOD positions on the impacts of those projects on military missions. http://www.acq.osd.mil/dodsc/

[2] Shadow flicker from wind turbines is the effect resulting from the shadows cast by the rotating blades of the turbine on sunny days. The effect may be more or less pronounced depending on the intensity of the sun/shadow contrast and the distance from the turbines to a receptor. From: Maine Department of Environmental Protection.

- Be denied based on criteria under the Coastal Area Management Act or prohibited under the Mountain Ridge Protection Act.
- Not comply with all applicable federal, State, or local permitting requirements, licenses, or approvals, including local zoning requirements.

Following receipt of a complete application, DENR must make a final a ***decision on a permit*** application within 90 days and within a total of 120 days if additional information is requested by the Department. The Department is not required to make a final decision on a permit application until the Department has received a written "Determination of No Hazard to Air Navigation3" (Determination) issued by the FAA. If the application is denied, the Department must return the application to the applicant with a written statement of the reasons for the denial and any modifications that would make the application acceptable.

A permit for a facility may not become effective until the Department has received and reviewed the FAA Determination. If the specific location of a turbine authorized by the FAA Determination or the configuration of the facility varies from the information submitted by the applicant upon which the Department has made its permit decision, the Department may reevaluate the permit application and require the applicant to submit any additional information the Department deems necessary to approve or deny a permit for the facility as reconfigured.

Issuance of a permit for the construction and operation of a wind energy facility by the Department does not obviate the need for the applicant to **obtain any and all other local, State, and federal permits, licenses, or approvals.**

Financial assurance: The applicant or permit holder must establish financial assurance that will ensure sufficient funds are available for decommissioning of the facility and reclamation of the property to its condition prior to commencement of activities on the site even if the applicant or permit holder becomes insolvent or ceases to reside in, be incorporated, do business, or maintain assets in the State.

Monitoring and reporting: The applicant must submit copies of any required post-construction monitoring annually to the Department.

Annual review of military presence: The Department must consult with representatives of the major military installations to review information pertaining to military operations at least once per year and provide relevant information to permit applicants as requested.

Record keeping: The Department will be responsible for all data, information, and records received from a permit applicant or a major military installation. Information constituting trade secrets or designated as confidential must not be disclosed.

Rulemaking: The Environmental Management Commission must adopt any rules necessary to implement Article 21C and is directed to consult with the Coastal Resources Commission to ensure that the rules are consistent with and in consideration of the characteristics unique to the coastal area.

Civil penalties: Authorizes the Secretary of Environment and Natural Resources to impose an administrative penalty on a person who constructs a wind energy facility without a permit or operates a facility in violation of the permit terms. The Secretary may institute an action for injunctive relief

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[3] FAA has oversight over any object that could have an impact on the navigable airspace or communications/navigation technology of aviation (commercial or military) or DOD operations. The FAA requires that a Notice of Proposed Construction (Form 7460-1) be filed for any object that would extend more than 200 feet above ground. For any filed project, the FAA undertakes an initial aeronautical study within the relevant FAA region, and issues either a Determination of No Hazard to Air Navigation (DNH) or a Notice of Presumed Hazard (NPH). http://www.masscec.com/masscec/file/Airspace%20Issues%20Page_Final.pdf

on a person who constructs a wind energy facility without a permit or operates a facility in violation of the permit terms.

EFFECTIVE DATE: House Bill 484 would become effective when it becomes law and applies only to those wind energy facilities that have not received a written "Determination of No Hazard to Air Navigation" issued by the FAA on or before that date.

State of North Carolina
Office of the Governor
20301 Mail Service Center • Raleigh, NC 27699-0301

Patrick L. McCrory
Governor

April 30, 2013

The Honorable John R. Bell IV
NC House of Representatives
300 N. Salisbury Street, Room 418A
Raleigh, NC 27603-5925

Dear Representative Bell,

I thought it was important to provide you with some additional information and reinforcement in support of H484. On April 11, 2013 the NC Commanders' Council (NCCC) provided a letter to the NC Advisory Commission on Military Affairs containing the results of their review of proposed bills before the current session. The NCCC selected a variety of bills to provide comment on given their potential impact on military installations, personnel and operations. In particular, the NCCC supported H484/S491. The NCCC is a group comprised of the Commanders of all the military and homeland security installations in North Carolina organized to collectively address military issues impacting their mission and operations in conjunction with the Governor's office and various Cabinet and Council of State representatives.

Sustainment of our military infrastructure is by far one of the most important tasks I have in my role in the Governor's office. The efforts of H484/S491 directly support the development of long-term sustainable land use for both the military and civilian sector by establishing the procedures for coordinating the formation of wind turbine facilities that could potentially impact the military's ability to train in North Carolina. As a reminder, the most heavily weighted factor our installations are graded on in a round of Base Realignment and Closure is their ability to support their training mission. It is important to note that we fully support the economic development of wind energy; however, it must be responsibly coordinated and sited to avoid interfering with critical military missions.

Sincerely,

John A. Nicholson, Col, USMC (Ret)
Military Affairs Advisor

Location: 116 West Jones Street •Raleigh, NC • Telephone: (919) 733-5811

House Bill 484
Permitting of Wind Energy Facilities

Congressman George Holding – 13th District
Wayne County Board of Commissioners
Wayne County Chamber of Commerce
Mayor and Goldsboro City Council
Wayne County Public Schools
Town of Mount Olive
Town of Pikeville
Village of Walnut Creek
NC Community Federal Credit Union, Goldsboro
Danny Hood Realty, Goldsboro
Seegers Fence Company, Inc., Goldsboro
Carteret County Board of Commissioners
Carteret County Chamber of Commerce
Craven County Board of Commissioners
City of Havelock
Havelock Chamber of Commerce
New Bern Area Chamber of Commerce
Allies for Cherry Point's Tomorrow (ACT)
Cumberland County Board of Commissioners
Dare County Board of Commissioners
Greene County Chamber of Commerce
Harnett County Board of Commissioners
Lenoir County Board of Commissioners
Kinston-Lenoir County Chamber of Commerce
Town of Princeton

The above listed have sent letters and emails supporting the permitting process of wind energy facilities to protect our military instillations

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S D

SENATE BILL 523
PROPOSED COMMITTEE SUBSTITUTE S523-CSTDx-21 [v.4]

5/13/2013 9:54:43 AM

Short Title: Late Filing Penalty. (Public)

Sponsors:

Referred to:

April 1, 2013

A BILL TO BE ENTITLED

AN ACT TO CLARIFY AND AMEND THE PENALTIES FOR A TAXPAYER'S FAILURE TO FILE A RETURN.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-236(a)(3) reads as rewritten:

"**§ 105-236. Penalties; situs of violations; penalty disposition.**

(a) Penalties. – The following civil penalties and criminal offenses apply:

...

(3) Failure to File Return. – In case of failure to file any return on the date it is due, determined with regard to any extension of time for filing, the Secretary shall assess a penalty equal to the following:

a. For personal income tax imposed under Part 2 of Article 4 of this Chapter, the penalty is one hundred dollars ($100.00).

b. For all other taxes, the penalty is equal to five percent (5%) of the amount of the tax if the failure is for not more than one month, with an additional five percent (5%) for each additional month, or fraction thereof, during which the failure continues, not exceeding twenty-five percent (25%) in the ~~aggregate, or five dollars ($5.00), whichever is the greater.~~aggregate.

...."

SECTION 2. G.S. 105-236(a), as amended by Section 1 of this act, reads as rewritten:

"**§ 105-236. Penalties; situs of violations; penalty disposition.**

(a) Penalties. – The following civil penalties and criminal offenses apply:

...

(4) Failure to Pay Tax When Due. – In the case of failure to pay any tax when due, without intent to evade the tax, the Secretary shall assess a penalty equal to ten percent (10%) of the ~~tax, subject to a minimum of five dollars ($5.00).~~tax. This penalty does not apply in any of the following circumstances:

a. When the amount of tax shown as due on an amended return is paid when the return is filed.

b. When the Secretary proposes an assessment for tax due but not shown on a return and the tax due is paid within 45 days after the later of the following:

1. The date of the notice of proposed assessment of the tax, if the taxpayer does not file a timely request for a Departmental review of the proposed assessment.
2. The date the proposed assessment becomes collectible under one of the circumstances listed in G.S. 105-241.22(3) through (6), if the taxpayer files a timely request for a Departmental review of the proposed assessment.

c. When a taxpayer timely files a consolidated or combined return at the request of the Secretary under Part 1 of Article 4 of this Chapter and the tax due is paid within 45 days after the latest of the following:

1. The date the return is filed.
2. The date of a notice of proposed assessment based on the return, if the taxpayer does not file a timely request for a Departmental review of the proposed assessment.
3. The date the Departmental review of the proposed assessment ends as a result of the occurrence of one of the actions listed in G.S. 105-241.22(3) through (6), if the taxpayer files a timely request for a Departmental review.

...."

SECTION 3. Section 2.18 of S.L. 2012-79 is repealed.

SECTION 4. Sections 1 and 2 of this act are effective for penalties assessed on or after October 1, 2013. The remainder of this act is effective when it becomes law.

SENATE BILL 523:
Late Filing Penalty

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	May 14, 2013
Introduced by:	Sens. Rucho, Rabon, Rabin	**Prepared by:**	Heather Fennell Committee Counsel
Analysis of:	PCS to First Edition S523-CSTDx-21		

SUMMARY: ***The penalty for failure to file a return is a maximum of 25% of "the amount of the tax." Senate Bill 523 would impose a flat penalty of $100 for failure to file a return for personal income tax, and clarify the amount of the penalty for failure to file a return for all other penalties.***

CURRENT LAW: The Department of Revenue is authorized to impose penalties for violations of Chapter 105 of the General Statutes, including penalties for failure to file a return and failure to pay a tax due. The penalty for failure to file a return is applied to "the amount of the tax" and is a minimum of $5 or 5% for the first month and 5% for each additional month, not to exceed 25%. The penalty for a taxpayer that fails to pay a tax is a minimum of $5 or 10% of the tax.

The current practice of the Department is to apply the penalty to the *net* amount due: the tax imposed minus any credits and any tax paid. This practice results in no penalty for a failure to file a return for which a refund is due.

G.S. 105-236 currently does not define "the amount of the tax." Starting in October, when the new computer system known as the Tax Information Management System (TIMS) is operational, the Department has indicated it will enforce the statute by applying the penalty to the *total* amount due, not the net amount due. This will result in a penalty for a failure to file a return, even if a refund is due. The penalty will be imposed on the total tax liability, not the tax due at the time of the filing of the return.

BILL ANALYSIS: Senate Bill 523 would clarify the penalty for failure to file a return.

For failure to file a return for **personal income tax** the amount of the penalty is $100.

For **all other taxes,** the penalty is 5% for the first month and 5% for each additional month, not to exceed 25% on "the amount of the tax." Based on the interpretation of the Department "the amount of the tax" will be interpreted as the total tax imposed for the period covered by the return.

Sections 2 and 3 of the bill are conforming changes. The minimum amount for both the penalty for failure to file and the penalty for the failure to pay were repealed at the request of the Department.

EFFECTIVE DATE: This act is effective for penalties assessed on or after October 1, 2013.

O. Walker Reagan
Director

Research Division
(919) 733-2578

SENATE BILL 269*

Short Title:	Salisbury/Deannex Rowan Cty Airport Property.	(Local)
Sponsors:	Senator Brock (Primary Sponsor).	
Referred to:	State and Local Government.	

March 13, 2013

A BILL TO BE ENTITLED

AN ACT REMOVING CERTAIN ROWAN COUNTY OWNED PARCELS IN THE VICINITY OF THE ROWAN COUNTY AIRPORT FROM THE CORPORATE LIMITS OF THE CITY OF SALISBURY.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property owned by Rowan County and located in the vicinity of the Rowan County Airport, and identified by Property Identification Number (PIN), is removed from the corporate limits of the City of Salisbury:

PIN# 460 063
460 165
460 184
461 0770000001
461 1870000001
469 063
470 0010000011
470 037
470 042
471 043

SECTION 2. This act has no effect upon the validity of any liens of the City of Salisbury for ad valorem taxes or special assessments outstanding before the effective date of this act. Such liens may be collected or foreclosed upon after the effective date of this act as though the property were still within the corporate limits of the City of Salisbury.

SECTION 3. This act is effective when it becomes law.

SENATE BILL 269:
Salisbury/Deannex Rowan Cty Airport Property

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	May 13, 2013
Introduced by:	Sen. Brock	**Prepared by:**	Cindy Avrette
Analysis of:	First Edition		Committee Counsel

SUMMARY: Senate Bill 269[1] would deannex a described area from the corporate limits of the City of Salisbury.

CURRENT LAW: Under Section 1 of Article VII of the N.C. Constitution, the General Assembly is empowered to "provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions, and, except as otherwise prohibited by this Constitution, may give such powers and duties to counties, cities and towns, and other governmental subdivisions as it may deem advisable."

Pursuant to this Section, the General Assembly enacted Article 4A of Chapter 160A of the General Statutes, which governs municipal annexations by creating a statewide statutory process for cities to expand their territories. The General Assembly has not provided a like process for removing territory from a city's jurisdiction — that power remains with the General Assembly and is accomplished by local act.

BILL ANALYSIS: House Bill 260 would deannex 10 parcels totaling 175.2 acres from the City of Salisbury. These parcels are located near or within the Rowan County airport and are owned by Rowan County. The largest parcel, 470 0010000011 (147.90 acres), constitutes the south end of the airport's runway. The north end of the runway is not in the corporate limits of the City.

The property owned by Rowan County is not subject to municipal property taxes. The private property located at the airport, such as private planes and hangers, would be subject to municipal property taxes. The act also provides that it does not affect the validity of any liens of the City of Salisbury for outstanding ad valorem taxes or special assessments.

EFFECTIVE DATE: This act is effective when it becomes law.

Shelly DeAdder and Brad Krehely contributed substantially to the drafting of this summary.

[1] The House companion bill, House Bill 260 introduced by Rep. Ford, is in the House Finance Committee.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 269*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S269-ARB-43 [v.1]

Comm. Sub. [NO]
Amends Title [NO]
First Edition

Date _____,2013

Senator _____

moves to amend the bill on page 1, line 23, by rewriting the line to read:
"**SECTION 3.** This act becomes effective June 30, 2013.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S D

SENATE BILL 103
PROPOSED COMMITTEE SUBSTITUTE S103-CSRBx-14 [v.3]
5/13/2013 12:19:02 PM

Short Title: Amend Assessments for Infrastructure Needs. (Public)

Sponsors:

Referred to:

February 20, 2013

A BILL TO BE ENTITLED

AN ACT TO AMEND THE AUTHORITY COUNTIES AND CITIES HAVE TO USE SPECIAL ASSESSMENTS TO ADDRESS CRITICAL INFRASTRUCTURE NEEDS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 153A-210.1 reads as rewritten:

"**§ 153A-210.1. ~~Purpose.~~Purpose; sunset.**

(a) Purpose. – This Article enables counties that face increased demands for infrastructure improvements as a result of rapid growth and development to issue revenue bonds payable from special assessments imposed under this Article on benefited property. This Article supplements the authority counties have in Article 9 of this Chapter. The provisions of Article 9 of this Chapter apply to this Article, to the extent they do not conflict with this Article.

(b) Sunset. – This Article expires July 1, 2015. The expiration does not affect the validity of assessments imposed or bonds issued or authorized under the provisions of this Article prior to the effective date of the expiration."

SECTION 1.(b) G.S. 153A-210.2(c) reads as rewritten:

"(c) Method. – The board of commissioners must establish an assessment method that will most accurately assess each lot or parcel of land subject to the assessments according to the benefits conferred upon it by the project for which the assessment is made. In addition to ~~the~~ other bases upon which assessments may be made under G.S. 153A-186, the board may select any other method designed to allocate the costs in accordance with benefits conferred. In doing so, the board may provide that the benefits conferred are measured on the basis of use being made on the lot or parcel of land and provide for adjustments of assessments upon a change in use, provided that the total amount of all assessments is sufficient to pay the costs of the project after the adjustments have been made."

SECTION 1.(c) G.S. 153A-210.3(a) reads as rewritten:

"(a) Petition. – The board of commissioners may not impose a special assessment under this Article unless it receives a petition for the project to be financed by the assessment signed by (i) at least a majority of the owners of real property to be assessed and (ii) owners who ~~must~~ represent at least sixty-six percent (66%) of the assessed value of all real property to be assessed. For purposes of determining whether the petition has been signed by a majority of owners, an owner who holds title to a parcel of real property alone shall be treated as having one vote each and an owner who shares title to a parcel of real property with one or more other owners shall have a vote equal to one vote multiplied by a fraction, the numerator of which is one and the denominator of which is the total number of owners of the parcel. For purposes of determining whether the assessed value represented by those signing the petition constitute at

least sixty-six percent (66%) of the assessed value of all real property to be assessed, an owner who holds title to a parcel of real property alone shall have the full assessed value of the parcel included in the calculation and an owner who shares title to a parcel of real property with one or more other owners shall have their proportionate share of the full assessed value of the parcel included in the calculation.The petition must include the following:

(1) A statement of the project proposed to be financed in whole or in part by the imposition of an assessment under this Article.

(2) An estimate of the cost of the project.

(3) An estimate of the portion of the cost of the project to be assessed."

SECTION 2.(a) G.S. 160A-239.1 reads as rewritten:

"**§ 160A-239.1. ~~Purpose.~~Purpose; sunset.**

(a) Purpose. – This Article enables cities that face increased demands for infrastructure improvements as a result of rapid growth and development to issue revenue bonds payable from special assessments imposed under this Article on benefited property. This Article supplements the authority cities have in Article 10 of this Chapter. The provisions of Article 10 of this Chapter apply to this Article, to the extent they do not conflict with this Article.

(b) Sunset. – This Article expires July 1, 2015. The expiration does not affect the validity of assessments imposed or bonds issued or authorized under the provisions of this Article prior to the effective date of the expiration."

SECTION 2.(b) G.S. 160A-239.2(c) reads as rewritten:

"(c) Method. – The city council must establish an assessment method that will most accurately assess each lot or parcel of land subject to the assessments according to the benefits conferred upon it by the project for which the assessment is made. In addition to ~~the~~ other bases upon which assessments may be made under G.S. 160A-218, the council may select any other method designed to allocate the costs in accordance with benefits conferred. In doing so, the council may provide that the benefits conferred are measured on the basis of use being made on the lot or parcel of land and provide for adjustments of assessments upon a change in use, provided that the total amount of all assessments is sufficient to pay the costs of the project after the adjustments have been made."

SECTION 2.(c) G.S. 160A-239.3(a) reads as rewritten:

"(a) Petition. – The city council may not impose a special assessment under this Article unless it receives a petition for the project to be financed by the assessment signed by (i) at least a majority of the owners of real property to be assessed and (ii) owners who ~~must~~ represent at least sixty-six percent (66%) of the assessed value of all real property to be assessed. For purposes of determining whether the petition has been signed by a majority of owners, an owner who holds title to a parcel of real property alone shall be treated as having one vote each and an owner who shares title to a parcel of real property with one or more other owners shall have a vote equal to one vote multiplied by a fraction, the numerator of which is one and the denominator of which is the total number of owners of the parcel. For purposes of determining whether the assessed value represented by those signing the petition constitute at least sixty-six percent (66%) of the assessed value of all real property to be assessed, an owner who holds title to a parcel of real property alone shall have the full assessed value of the parcel included in the calculation and an owner who shares title to a parcel of real property with one or more other owners shall have their proportionate share of the full assessed value of the parcel included in the calculation. The petition must include the following:

(1) A statement of the project proposed to be financed in whole or in part by the imposition of an assessment under this Article.

(2) An estimate of the cost of the project.

(3) An estimate of the portion of the cost of the project to be assessed."

SECTION 3. Section 5 of S.L. 2008-165 reads as rewritten:

"**SECTION 5.** This act is effective when it becomes law. ~~Sections 2 and 3 of this act expire July 1, 2013. The expiration does not affect the validity of assessments imposed or bonds issued or authorized under the provisions of this act prior to the effective date of the expiration.~~"

SECTION 4. This act is effective when it becomes law and applies to special assessments imposed on or after that date.

SENATE BILL 103:
Amend Assessments for Infrastructure Needs

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	May 10, 2013
Introduced by:	Sen. Hartsell	**Prepared by:**	Cindy Avrette
Analysis of:	PCS to First Edition S103-CSRBx-14		Committee Counsel

SUMMARY: ***Senate Bill 103 addresses two issues in the special assessment for critical infrastructure needs that have arisen as local governments have considered its use. The proposed committee substitute extends the sunset on this program for two years, from July 1, 2013, to July 1, 2015.***

CURRENT LAW: In 2008, the General Assembly gave counties and cities the opportunity to use special assessments on benefitted property as a financing tool for long-term capital projects. Although some local government units have considered using assessment-based financing, sometimes in conjunction with project development financing, no unit has done so to date. The ability to use this financing tool expires July 1, 2013.

Assessment-based financing may be used for any purpose for which project development financing may be used. Those purposes include water and sewer systems, public transportation facilities, school facilities, gas systems, electric systems, industrial parks, parks and recreation facilities, and streets and sidewalks. Special assessments may be pledged as additional security for project development financing debt instruments as well as revenue bond financing debt instruments. If the assessment is pledged to secure financing, the city or county must covenant to enforce the payment of assessments.[1] Special assessments must be paid in annual installments over a period not to exceed 30 years.

A county or city may only impose special assessments if it receives a petition for the project to be financed through assessments that meets a two-prong test:

- The petition must be signed by a majority of the owners of the property assessed.
- And those owners must represent ownership of at least 66% of the assessed value of the property to be assessed.[2]

The county board of commissioners or city must adopt a preliminary assessment resolution that describes the project, the proposed basis for making the assessment, and information concerning the cost of the work and the terms of payment of the assessment. The proposed basis for making the assessment method most accurately assess property according to the benefits conferred upon it by the project for which the assessment is made. The county or city must hold a public hearing on the matter, prepare a preliminary assessment roll, and publish a confirmation of the assessment roll once it is adopted. An owner of property against which an assessment is made may file a notice of appeal to the General Court of Justice if the owner is dissatisfied with the amount of the assessment.

[1] Unpaid assessments bear interest at a rate fixed in the assessment resolution. A county or city may foreclose assessment liens under procedures provided by law for the foreclosure of property tax liens.

[2] For example, if there are 21 owners involved and 10 hold 67% of the assessed value of the property to be assessed, at least one of the other 11 owners would have to sign the petition for the county or city to be able to impose the special assessments. Likewise, if 21 owners are involved and one owner owns 67% of the assessed value of the property, that one owner would have to be one of the signatures on the petition for the county or city to impose the special assessments.

BILL ANALYSIS: The Proposed Committee Substitute for Senate Bill 103 addresses three issues:

- An extension of the sunset date from July 1, 2013, to July 1, 2015.[3]
- An adjustment of the assessment in cases where the use of the benefitted property changes.
- Clarification as to how to apply the two-prong test to parcels of property owned by more than one person.

The original legislation enacted in S.L. 2008-165 contained a sunset date of July 1, 2013. Section 3 removes the sunset date from the effective date of the session law and places it in the statutes. Sections 1(a) and 2(a) extend the sunset date from July 1, 2013, to July 1, 2015.

One assessment method that may be used is one designed to allocate the costs in accordance with the benefits conferred. Sections 1(b) and 2(b)[4] provide that the benefits conferred on an assessed property may be measured by how the property is used and that the assessment on that property may be adjusted over time if the use of the property changes. However, the assessment may not be changed unless the total amount of all the assessments is sufficient to pay the cost of the project after the adjustment is made.

Sections 1(c) and 2(c)[5] address the two-prong ownership tests for properties owned by more than one person:

- A majority of the owners of the properties to be assessed must sign the petition. For purposes of determining a majority, each parcel of property is given one vote. The sole owner of a parcel is given one vote. Multiple owners of a parcel are given a percentage vote equal to one vote multiplied by a fraction, the numerator of which is one and the denominator of which is the total number of owners of the parcel.
- The petition signers must represent at least 66% of the properties to be assessed. For purposes of determining whether the assessed value represented by those signing the petition constitute at least 66% of the assessed value of all real property to be assessed, 100% of the assessed value of property owned by one person is included in the calculation. For property owned by more than one person, that person's proportionate share of the assessed value of that property is included in the calculation.

EFFECTIVE DATE: This act becomes effective when it becomes law and applies to special assessments imposed on or after that date.

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[3] Senate Bill 104, also introduced by Sen. Hartsell, would repeal the sunset provision.

[4] Section 1 makes the change in the statutes pertaining to counties and Section 2 makes the same change in the statutes pertaining to cities.

[5] Section 3 pertains to counties and Section 4 pertains to cities.

SENATE BILL 248
Health Care Committee Substitute Adopted 4/17/13

Short Title: Choice of Hearing Aid Specialist. (Public)

Sponsors:

Referred to:

March 12, 2013

A BILL TO BE ENTITLED

AN ACT TO ENSURE THAT PATIENTS HAVE THE RIGHT TO CHOOSE THEIR HEARING AID SPECIALIST UNDER THEIR HEALTH BENEFIT PLANS, TO AUTHORIZE THE NORTH CAROLINA STATE HEARING AID DEALERS AND FITTERS BOARD TO INCREASE CERTAIN FEES, AND TO MAKE TECHNICAL CHANGES TO THE STATUTE ON CHOOSING SERVICES OF PROVIDERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-50-30 reads as rewritten:

"**§ 58-50-30. Right to choose services of ~~optometrist, podiatrist, licensed clinical social worker, certified substance abuse professional, licensed professional counselor, dentist, chiropractor, physical therapist, psychologist, pharmacist, certified fee-based practicing pastoral counselor, advanced practice nurse, licensed marriage and family therapist, or physician assistant.~~certain providers.**

(a) Repealed by Session Laws 2001-297, s. 1, effective January 1, 2001.

(a1) Whenever any health benefit plan, subscriber contract, or policy of insurance issued by a health maintenance organization, hospital or medical service corporation, or insurer governed by Articles 1 through 67 of this Chapter provides for coverage for, payment of, or reimbursement for any service rendered in connection with a condition or complaint that is within the scope of practice of ~~a duly licensed optometrist, a duly licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly licensed physical therapist, a duly licensed clinical social worker, a duly certified substance abuse professional, a duly licensed professional counselor, a duly licensed psychologist, a duly licensed pharmacist, a duly certified fee-based practicing pastoral counselor, a duly licensed physician assistant, a duly licensed marriage and family therapist, or an advanced practice registered nurse,~~ a provider listed in subsection (b) of this section, the insured or other persons entitled to benefits under the policy shall be entitled to coverage of, payment of, or reimbursement for the services, whether the services be performed by a duly licensed physician, or a provider listed in ~~this subsection,~~subsection (b) of this section, notwithstanding any provision contained in the plan or policy limiting access to the providers. The policyholder, insured, or beneficiary shall have the right to choose the provider of services notwithstanding any provision to the contrary in any other statute, subject to the utilization review, referral, and prior approval requirements of the plan that apply to all providers for that service; provided that:

(1) In the case of plans that require the use of network providers as a condition of obtaining benefits under the plan or policy, the policyholder, insured, or beneficiary must choose a provider of the services within the network; and

(2) In the case of plans that require the use of network providers as a condition of obtaining a higher level of benefits under the plan or policy, the policyholder, insured, or beneficiary must choose a provider of the services within the network in order to obtain the higher level of benefits.

(a2) Whenever any policy of insurance governed by Articles 1 through 64 of this Chapter provides for certification of disability that is within the scope of practice of ~~a duly licensed physician, a duly licensed physician assistant, a duly licensed optometrist, a duly licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly licensed physical therapist, a duly licensed clinical social worker, a duly certified substance abuse professional, a duly licensed professional counselor, a duly licensed psychologist, a duly certified fee-based practicing pastoral counselor, a duly licensed marriage and family therapist, or an advanced practice registered nurse,~~a provider listed in subsection (b) of this section, the insured or other persons entitled to benefits under the policy shall be entitled to payment of or reimbursement for the disability whether the disability be certified by a duly licensed physician, or a provider listed in ~~this subsection,~~subsection (b) of this section, notwithstanding any provisions contained in the policy. The policyholder, insured, or beneficiary shall have the right to choose the provider of the services notwithstanding any provision to the contrary in any other statute; provided that for plans that require the use of network providers either as a condition of obtaining benefits under the plan or policy or to access a higher level of benefits under the plan or policy, the policyholder, insured, or beneficiary must choose a provider of the services within the network, subject to the requirements of the plan or policy.

(a3) Whenever any health benefit plan, subscriber contract, or policy of insurance issued by a health maintenance organization, hospital or medical service corporation, or insurer governed by Articles 1 through 67 of this Chapter provides coverage for medically necessary treatment, the insurer shall not impose any limitation on treatment or levels of coverage if performed by a duly licensed chiropractor acting within the scope of the chiropractor's practice as defined in G.S. 90-151 unless a comparable limitation is imposed on the medically necessary treatment if performed or authorized by any other duly licensed physician.

(b) ~~For the purposes of this section,~~ This section applies to the following provider types:

(1) A duly licensed optometrist.

(2) A duly licensed dentist.

(3) A duly licensed podiatrist.

(4) A duly licensed chiropractor.

(5) An advanced practice registered nurse, subject to subsection (d) of this section. For purposes of this section, an "advanced practice registered nurse" means only a registered nurse who is duly licensed or certified as a nurse practitioner, clinical specialist in psychiatric and mental health nursing, or nurse midwife.

(6) ~~a "duly licensed psychologist" is a:~~A psychologist who is one of the following:

~~(1)~~a. ~~Licensed~~A licensed psychologist who holds permanent licensure and certification as a health services provider psychologist issued by the North Carolina Psychology ~~Board; or~~Board.

~~(2)~~b. ~~Licensed~~A licensed psychological associate who holds permanent licensure.

~~(c)~~(7) ~~For the purposes of this section, a "duly licensed clinical social worker" is a "licensed clinical social worker"~~ A licensed clinical social worker, as defined in ~~G.S. 90B-3(2) and~~G.S. 90B-3(2) who is licensed by the North Carolina Social Work Certification and Licensure Board pursuant to Chapter 90B of the General Statutes.

(8) A duly licensed pharmacist, subject to the provisions of subsection (e) of this section.

~~(e1)~~(9) ~~For purposes of this section, a "duly certified fee-based practicing pastoral counselor" shall be defined only to include~~A fee-based practicing pastoral ~~counselors~~counselor certified by the North Carolina State Board of Examiners of Fee-Based Practicing Pastoral Counselors pursuant to Article 26 of Chapter 90 of the General Statutes.

~~(e2)~~(10) ~~For purposes of this section, a "duly certified substance abuse professional" is a person~~A substance abuse professional certified by the North Carolina Substance Abuse Professional Certification Board pursuant to Article 5C of Chapter 90 of the General Statutes.

(11) A physician assistant, as defined by G.S. 90-18.1 and subject to subsection (f) of this section.

~~(e3)~~(12) ~~For purposes of this section, a "duly licensed professional counselor" is a person~~A professional counselor licensed by the North Carolina Board of Licensed Professional Counselors pursuant to Article 24 of Chapter 90 of the General Statutes.

~~(e4)~~(13) ~~For purposes of this section, a "duly licensed marriage and family therapist" is a person~~A marriage and family therapist licensed by the North Carolina Marriage and Family Therapy Licensure Board pursuant to Article 18C of Chapter 90 of the General Statutes.

~~(e5)~~(14) ~~For purposes of this section, a "duly licensed physical therapist" is a person~~A physical therapist licensed by the North Carolina Board of Physical Therapy Examiners pursuant to Article 18B of Chapter 90 of the General Statutes.

(15) A hearing aid specialist licensed by the North Carolina State Hearing Aid Dealers and Fitters Board pursuant to Chapter 93D of the General Statutes.

(d) Payment or reimbursement is required by this section for a service performed by an advanced practice registered nurse only when:

(1) The service performed is within the nurse's lawful scope of practice;

(2) The policy currently provides benefits for identical services performed by other licensed health care providers;

(3) The service is not performed while the nurse is a regular employee in an office of a licensed physician;

(4) The service is not performed while the registered nurse is employed by a nursing facility (including a hospital, skilled nursing facility, intermediate care facility, or home care agency); and

(5) Nothing in this section is intended to authorize payment to more than one provider for the same service.

No lack of signature, referral, or employment by any other health care provider may be asserted to deny benefits under this provision, unless these plan requirements apply to all providers for that service.

~~For purposes of this section, an "advanced practice registered nurse" means only a registered nurse who is duly licensed or certified as a nurse practitioner, clinical specialist in psychiatric and mental health nursing, or nurse midwife.~~

(e) Payment or reimbursement is required by this section for a service performed by a duly licensed pharmacist only when:

(1) The service performed is within the lawful scope of practice of the pharmacist;

(2) The service performed is not initial counseling services required under State or federal law or regulation of the North Carolina Board of Pharmacy;

(3) The policy currently provides reimbursement for identical services performed by other licensed health care providers; and

(4) The service is identified as a separate service that is performed by other licensed health care providers and is reimbursed by identical payment methods.

Nothing in this subsection authorizes payment to more than one provider for the same service.

(f) Payment or reimbursement is required by this section for a service performed by a duly licensed physician assistant only when:

(1) The service performed is within the lawful scope of practice of the physician assistant in accordance with rules adopted by the North Carolina Medical Board pursuant to G.S. 90-18.1;

(2) The policy currently provides reimbursement for identical services performed by other licensed health care providers; and

(3) The reimbursement is made to the physician, clinic, agency, or institution employing the physician assistant.

Nothing in this subsection is intended to authorize payment to more than one provider for the same service. ~~For the purposes of this section, a "duly licensed physician assistant" is a physician assistant as defined by G.S. 90-18.1.~~

(g) A health maintenance organization, hospital or medical service corporation, or insurer governed by Articles 1 through 67 of this Chapter shall not exclude from participation in its provider network or from eligibility to provide particular covered services under the plan or policy any duly licensed physician or provider listed in subsection ~~(a1)~~(b) of this section, acting within the scope of the provider's license or certification under North Carolina law, solely on the basis of the provider's license or certification. Any health maintenance organization, hospital or medical service corporation, or insurer governed by Articles 1 through 67 of this Chapter that offers coverage through a network plan may condition participation in the network on satisfying written participation criteria, including credentialing, quality, and accessibility criteria. The participation criteria shall be developed and applied in a like manner consistent with the licensure and scope of practice for each type of provider. Any health maintenance organization, hospital or medical service corporation, or insurer governed by Articles 1 through 67 of this Chapter that excludes a provider listed in subsection ~~(a1)~~(b) of this section from participation in its network or from eligibility to provide particular covered services under the plan or policy shall provide the affected listed provider with a written explanation of the basis for its decision. A health maintenance organization, hospital or medical service corporation, or insurer governed by Articles 1 through 67 of this Chapter shall not exclude from participation in its provider network a provider listed in subsection ~~(a1)~~(b) of this section acting within the scope of the provider's license or certification under North Carolina law solely on the basis that the provider lacks hospital privileges, unless use of hospital services by the provider on behalf of a policy holder, insured, or beneficiary reasonably could be expected.

(h) Nothing in this section shall be construed as expanding the scope of practice of any duly licensed physician or provider listed in subsection ~~(a1)~~(b) of this section."

SECTION 2. G.S. 93D-5 reads as rewritten:

"**§ 93D-5. Requirements for registration; examinations; licenses.**

(a) No person shall begin the fitting and selling of hearing aids in this State unless the person has been issued a license by the Board or is an apprentice working under the supervision of a Registered Sponsor. Except as hereinafter provided, each applicant for a license shall pay a fee set by the Board, not to exceed ~~two hundred fifty dollars ($250.00),~~five hundred dollars ($500.00), which fee may be prorated by the Board, and shall show to the satisfaction of the Board that the applicant:

(1) Is a person of good moral character.
(2) Is 18 years of age or older.
(3) Has an education equivalent to a four-year course in an accredited high school.

...."

SECTION 3. G.S. 135-48.51(12) reads as rewritten:

"(12) G.S. 58-50-30, Right to choose services of ~~optometrist, podiatrist, licensed clinical social worker, certified substance abuse professional, licensed professional counselor, dentist, physical therapist, chiropractor, psychologist, pharmacist, certified fee-based practicing pastoral counselor, advanced practice nurse, licensed marriage and family therapist, or physician assistant.~~certain providers."

SECTION 4. This act becomes effective October 1, 2013.

This Bill Analysis reflects the contents of the bill as it was presented in committee.

SENATE BILL 248: Choice of Hearing Aid Specialist

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	May 13, 2013
Introduced by:	Sen. Hartsell	**Prepared by:**	Cindy Avrette Committee Counsel
Analysis of:	PCS to Second Edition S248-CSMEf-10		

SUMMARY: ***Senate Bill 656 adds hearing aid specialists to the list of providers from which an individual has the right to choose the provider of services under a health benefit plan. The bill also increases the amount of the fee for licensure that the Board may assess from $250 to $500.***

CURRENT LAW:

G.S. 58-50-30 lists the various types of health care providers from which a policy holder, insured, or beneficiary ("insured") may choose under a health benefit plan, subscriber contract, or policy of insurance ("policy"). The services must be of a nature that the policy provides coverage of, or payment or reimbursement. If the policy requires use of network providers, the insured must choose a provider of services within the network. If the policy requires use of network providers as a condition of obtaining a higher level of benefits, the insured must choose a provider of services within network in order to obtain the higher level of benefits.

G.S. 58-50-30 also lists the provider types who are able to complete a certification of disability. When a policy provides for a certification of disability that is within the scope of the enumerated providers, the insured is entitled to benefits as long as one of the listed provider types has completed the certification of disability, notwithstanding any provisions contained in the policy. The insured has the right to choose the provider of services.

The provisions of G.S. 58-50-30 are applicable to the State Health Plan pursuant to G.S. 135-48.51.

BILL ANALYSIS:

Section 1 amends G.S. 58-50-30 to add "a duly licensed hearing aid specialist" to the list of health care providers from which an insured may choose under a policy. A "duly licensed hearing aid specialist" is defined as a person licensed by the North Carolina State Hearing Aid Dealers and Fitters Board (Board) pursuant to Chapter 93D of the General Statutes. The remainder of Section 1 contains technical changes meant increase the readability of the statute by reorganizing the list of providers accounted for under G.S. 58-50-30.

Section 2 changes the amount of the fee for licensure the (Board) may assess. Currently, the Board may assess a fee not to exceed $250. Under Senate Bill 248, that amount is increased to $500.

Section 3 makes a conforming change to G.S. 135-48.51(12), the statute applying G.S. 58-50-30 to the State Health Plan.

EFFECTIVE DATE: The act becomes effective October 1, 2013.

Amy Jo Johnson, counsel to the Senate Health Care Committee, substantially contributed to this summary.

O. Walker Reagan
Director

Research Division
(919) 733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Actuarial Note

HEALTH BENEFITS

BILL NUMBER: Senate Bill 248 (First Edition)

SHORT TITLE: Choice of Hearing Aid Specialist.

SPONSOR(S): Senator Hartsell

SYSTEM OR PROGRAM AFFECTED: State Health Plan for Teachers and State Employees (Plan).

FUNDS AFFECTED: State General Fund, State Highway Fund, other State employer receipts; premium payments for dependents of active employees and retired employees of State agencies and universities, local public schools and local community colleges; premium payments for coverages selected by eligible former employees; premium payments for coverages selected by firefighters, rescue squad workers, members of the National Guard, and certain authorized local governments.

BILL SUMMARY:

Section 1 of Senate Bill 248 (First Edition) amends G.S. 58-50-30 to add that insured persons have the right to choose any duly licensed hearing aid specialist for services offered within the scope of practice for a duly licensed hearing aid specialist. This change applies to the Plan because G.S. 135-48.51(12) states that the provisions of G.S. 58-50-30 apply to the Plan. The Plan currently covers hearing aids for those members under age 22 and this bill would not expand the set of members or type of hearing aids covered. The Plan typically only covers hearing aids provided in a physician's office and this bill would require the Plan to also cover hearing aids provided by a hearing aid specialist operating independently of a physician. However, the Plan would be able to charge higher out-of-pocket amounts for independent hearing aid specialists, in line with its rules for out-of-network services.

The bill also amends G.S. 93D-5 to increase the licensure fee for persons fitting and selling hearing aids to $500 from $250, which has no effect on the Plan.

EFFECTIVE DATE: The effective date in the First Edition is October 1, 2012, but we understand this to be a typographical error and have assumed, for the purposes of this note, that the effective date will be changed to October 1, 2013.

ESTIMATED IMPACT ON STATE:

The Segal Company, the consulting actuary for the State Health Plan for Teachers and State Employees, estimates that the bill will generate a negligible cost or savings for the Plan based on the very low volume of services and the limited impact of a change in providers.

Hartman & Associates, the consulting actuary for the General Assembly's Fiscal Research Division, estimates that the bill will not have a material financial impact on the Plan based on the Plan's out-of-network rules and the low number of members affected.

ASSUMPTIONS AND METHODOLOGY: The actuarial analyses used by each respective consulting actuary are on file with the Fiscal Research Division. Copies of each respective consulting actuary's analysis, including assumptions, are also attached to the original copy of this Legislative Actuarial note.

Summary Information and Data about the Plan

The Plan administers health benefit coverage for active employees from employing units of State agencies and departments, universities, local public schools, and local community colleges. Eligible retired employees of authorized employing units may also access health benefit coverage under the Plan. Eligible dependents of active and retired employees are authorized to participate in the Plan provided they meet certain requirements. Employees and retired employees of selected local governments may also participate in the Plan under certain conditions. Members of fire, rescue squads, and the National Guard may also obtain coverage under the Plan provided they meet certain eligibility criteria.

The State finances the Plan on a self-funded basis and administers benefit coverage under a Preferred Provider Option (PPO) arrangement. The Plan's receipts are derived through premium contributions, investment earnings and other receipts. Premiums for health benefit coverage are paid by (1) employing agencies for active employees, (2) the Retiree Health Benefit Fund for retired employees, and (3) employees and retirees who participate in the Standard plan or who elect dependent coverage. Total requirements for the Plan are estimated to be $3.05 billion for FY 2013-14 and $3.30 billion for FY 2014-15. The Plan's PPO benefit design includes two alternative benefit levels listed below:

1) The "Basic" 70/30 plan that offers higher out-of pocket requirements in return for lower premiums from employees and retirees; and

2) The "Standard" 80/20 plan.

The Basic plan offers coverage to employees and retired employees on a noncontributory basis. The Standard plan offers coverage to employees and retired employees on a partially contributory basis. Coverage for dependents under both plans is offered on a fully contributory basis.

The following table provides a summary of most monthly premium rates for the Plan in FY 2012-13:

	PPO Basic		PPO Standard	
Coverage Type	Employee/ Retiree	Employer	Employee/ Retiree	Employer
Non-Medicare Active Employee/Retiree				
Employee	$0.00	$432.66	$22.76	$432.66
Employee + Child(ren)	$198.06	$432.66	$286.16	$432.66
Employee + Spouse	$510.32	$432.66	$629.64	$432.66
Employee + Family	$543.54	$432.66	$666.18	$432.66
Medicare Primary for Only Employee/Retiree				
Employee	$0.00	$336.25	$10.52	$336.25
Employee + Child(ren)	$198.06	$336.25	$273.92	$336.25
Employee + Spouse	$510.32	$336.25	$617.40	$336.25
Employee + Family	$543.54	$336.25	$653.94	$336.25

The employer share of premiums for retirees is paid from the Retiree Health Benefit Fund. During FY 2012-13, employers contribute 5.3% of active employee payroll into the Fund. Total contributions for the year are projected to be approximately $828 million.

Financial Condition

Current and Projected Results for 2011-13 Biennium – The following summarizes actual financial results for FY 2011-12 and projected financial results for FY 2012-13, based on financial experience through December, 2012. It reflects the adoption of an Employer Group Waiver Plan (EGWP) for Medicare-eligible retirees effective January 1, 2013.

	($ millions) Actual FY 2011-12	Projected FY 2012-13
Beginning Cash Balance	$269.9	$502.2
Receipts:		
Net Premium Collections	$2,749.9	$2,884.6
Early Retiree Reinsurance Program	$42.2	($0.6)
Medicare Part D / EGWP Subsidies	$57.6	$59.9
Investment Earnings	$3.0	$2.8
Total	$2,852.7	$2,946.8
Disbursements:		
Net Medical Claim Payment Expenses	$1,826.8	$1,899.2
Net Pharmacy Claim Payment Expenses	$628.0	$679.8
Administration and Claims-Processing Expenses	$165.5	$170.4
Total	$2,620.3	$2,749.4
Net Operating Income (Loss)	$232.4	$197.3

Financial Projection 2013-15 Biennium – The following summarizes a financial projection conducted by the Plan's consulting actuary, The Segal Company, for the 2013-15 biennium. The information is provided by fiscal year based on year-to-date financial experience (through December 2012) and other updated factors. The projection assumes an 8.5% annual claims growth trend, that benefit provisions remain the same, and that both employer and member-paid premiums are kept constant over the biennium.

	($ millions) Projected FY 2013-14	Projected FY 2014-15
Beginning Cash Balance	$699.6	$608.2
Receipts:		
Net Premium Collections	$2,877.7	$2,865.8
Early Retiree Reinsurance Program	$0.0	$0.0
Medicare Part D / EGWP Subsidies	$82.9	$102.5
Investment Earnings	$2.7	$2.0
Total	$2,963.3	$2,970.2
Disbursements:		
Net Medical Claim Payment Expenses	$2,118.3	$2,248.6
Net Pharmacy Claim Payment Expenses	$753.9	$824.8

Administration and Claims-Processing Expenses	$182.4	$223.9
Total	$3,054.7	$3,297.2
Net Operating Income (Loss)	($91.4)	($327.0)

Other Information

Additional assumptions include Medicare benefit "carve-outs," cost containment strategies including prior approval for certain medical services, utilization of the "Blue Options" provider network, case and disease management for selected medical conditions, mental health case management, coordination of benefits with other payers, a prescription drug benefit manager with manufacturer rebates from formularies, fraud detection, and other authorized actions by the State Treasurer, Executive Administrator, and Board of Trustees to manage the Plan to maintain and improve the Plan's operation and financial condition where possible. Claim cost trends are expected to increase at a rate of 8.5% annually according to the Plan's consulting actuary. Investment earnings are based upon a 0.4% return on available cash balances. The active population is projected to decline by 1% per year, the COBRA population is projected to remain constant, and the retired population is projected to increase by 1% per year.

Enrollment as of December 31, 2012

I. No. of Participants	Basic	Standard	Total	Percent of Total
Actives				
Employees	126,974	187,018	313,992	46.9%
Dependents	72,615	84,298	156,913	23.5%
Sub-total	199,589	271,316	470,905	70.4%
Retired				
Employees	29,014	145,419	174,433	26.1%
Dependents	5,602	13,160	18,762	2.8%
Sub-total	34,616	158,579	193,195	28.9%
Former Employees with Continuation Coverage				
Employees	555	911	1,466	0.2%
Dependents	254	338	592	0.1%
Sub-total	809	1,249	2,058	0.3%
Firefighters, Rescue Squad & National Guard				
Employees	3	5	8	0.0%
Dependents	3	1	4	0.0%
Sub-total	6	6	12	0.0%
Local Governments				
Employees	544	1,342	1,886	0.3%
Dependents	442	509	951	0.1%
Sub-total	986	1,851	2,837	0.4%
Total				
Employees	157,090	334,695	491,785	73.5%
Dependents	78,916	98,306	177,222	26.5%
Grand Total	**236,006**	**433,001**	**669,007**	**100%**
Percent of Total	**35.3%**	**64.7%**	**100.0%**	

II. Enrollment by Contract	Basic	Standard	Total
Employee Only	117,228	280,916	398,144
Employee Child(ren)	23,480	29,181	52,661
Employee Spouse	6,155	13,499	19,654
Employee Family	10,227	11,099	21,326
Total	**157,090**	**334,695**	**491,785**

Percent Enrollment by Contract	Basic	Standard	Total
Employee Only	74.6%	83.9%	81.0%
Employee Child(ren)	14.9%	8.7%	10.7%
Employee Spouse	3.9%	4.0%	4.0%
Employee Family	6.5%	3.3%	4.3%
Total	**100.0%**	**100.0%**	**100.0%**

III. Enrollment by Sex	Basic	Standard	Total
Female	137,067	281,337	418,404
Male	98,939	151,664	250,603
Total	**236,006**	**433,001**	**669,007**

Percent Enrollment by Sex	Basic	Standard	Total
Female	58.1%	65.0%	62.5%
Male	41.9%	35.0%	37.5%
Total	**100.0%**	**100.0%**	**100.0%**

IV. Enrollment by Age	Basic	Standard	Total
19 & Under	50,510	57,419	107,929
20 to 29	30,459	34,693	65,152
30 to 44	55,932	69,280	125,212
45 to 54	43,808	63,317	107,125
55 to 64	43,577	90,285	133,862
65 & Over	11,720	118,007	129,727
Total	**236,006**	**433,001**	**669,007**

Percent Enrollment by Age	Basic	Standard	Total
19 & Under	21.4%	13.3%	16.1%
20 to 29	12.9%	8.0%	9.7%
30 to 44	23.7%	16.0%	18.7%
45 to 54	18.6%	14.6%	16.0%
55 to 64	18.5%	20.9%	20.0%
65 & Over	5.0%	27.3%	19.4%
Total	**100.0%**	**100.0%**	**100.0%**

V. Retiree Enrollment by Category	Employee	Dependents	Total
Non-Medicare Eligible	53,656	11,878	65,534
Medicare Eligible	120,777	6,884	127,661
Total	**174,433**	**18,762**	193,195

Percent Enrollment by Category (Retiree)	Employee	Dependents	Total
Non-Medicare Eligible	30.8%	63.3%	33.9%
Medicare Eligible	69.2%	36.7%	66.1%
Total	**100.0%**	**100.0%**	100.0%

VI. Enrollment By Major Employer Groups	Employees	Dependents	Total
State Agencies	72,946	33,507	106,453
UNC System	50,104	30,627	80,731
Local Public Schools	172,563	83,045	255,608
Charter Schools	2,765	1,583	4,348
Local Community Colleges	15,614	8,151	23,765
Other			
Local Goverments	1,886	951	2,837
COBRA	1,466	592	2,058
Nat. Guard, Fire & Rescue	8	4	12
Sub-total	317,352	158,460	475,812
Retirement System	174,433	18,762	193,195
Total	**491,785**	**177,222**	**669,007**

Percent Enrollment by Major Employer Groups	Employees	Dependents	Total
State Agencies	14.8%	18.9%	15.9%
UNC System	10.2%	17.3%	12.1%
Local Public Schools	35.1%	46.9%	38.2%
Charter Schools	0.6%	0.9%	0.6%
Local Community Colleges	3.2%	4.6%	3.6%
Other			
Local Goverments	0.4%	0.5%	0.4%
COBRA	0.3%	0.3%	0.3%
Nat. Guard, Fire & Rescue	0.0%	0.0%	0.0%
Sub-total	64.5%	89.4%	71.1%
Retirement System	35.5%	10.6%	28.9%
Total	**100.0%**	**100.0%**	**100.0%**

SOURCES OF DATA:

The Segal Company; North Carolina State Health Plan; Financial Projections – Dec 2012; Trends – 8.5% Medical & Pharmacy; With Dental, MHSA and ACA Reinsurance Fee. March 12, 2013. Filename "NCSHP Q2 Update – Baseline Updated 031213 – V2.pdf"

-Actuarial Note, Hartman & Associates, Senate Bill 248, "Senate Bill 248: An Act to Ensure That Patients Have the Right to Choose Their Hearing Aid Therapists Under Their Health Benefit Plans", March 28, 2013, original of which is on file in the General Assembly's Fiscal Research Division.

-Actuarial Note, The Segal Company, Senate Bill 248, "Senate Bill 248 State Health Plan/Choice of Hearing Aid Specialist", April 5, 2013, original of which is on file with the State Health Plan for Teachers and State Employees and the General Assembly's Fiscal Research Division.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: David Vanderweide

APPROVED BY:

Mark Trogdon, Director
Fiscal Research Division

DATE: April 8, 2013

Signed Copy Located in the NCGA Principal Clerk's Offices

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 248

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S248-ARB-42 [v.1]

Comm. Sub. [NO]
Amends Title [NO]
Second Edition

Date _____ ,2013

Senator _____

moves to amend the bill on page 3, lines 26 and 27, by rewriting the lines to read:

"(15) A hearing aid specialist licensed by the North Carolina State Hearing Aid Dealers and Fitters Board under Chapter 93D of the General Statutes to engage in fitting or selling hearing aids. For purposes of this subdivision, the term "fitting and selling hearing aids" has the same meaning as defined in G.S. 93D-1."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S 1

SENATE BILL 463

Short Title:	Jail Dormitory Minimum Standards.	(Public)
Sponsors:	Senators Woodard and McKissick (Primary Sponsors).	
Referred to:	Finance.	

March 28, 2013

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAW PROVIDING FOR MINIMUM STANDARDS FOR JAIL DORMITORIES TO ALLOW COUNTIES WITH POPULATIONS IN EXCESS OF TWO HUNDRED FIFTY THOUSAND INMATES TO HOUSE SIXTY-FOUR INMATES PER DORMITORY SO LONG AS CERTAIN MINIMUM STANDARDS ARE MET.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-221(d) reads as rewritten:

"(d) Notwithstanding any law or rule to the contrary, each dormitory in a county detention facility may house up to 64 inmates as long as the dormitory provides all of the following:

(1) A minimum floor space of 70 square feet per inmate, including both the sleeping and dayroom areas.
(2) One shower per eight inmates, one toilet per eight inmates, one sink with a security mirror per eight inmates, and one water fountain.
(3) A telephone jack or other telephone arrangement provided within the dormitory.
(4) Space designed to allow a variety of activities.
(5) Sufficient seating and tables for all inmates.
(6) A way for officers to observe the entire area from the entrance.

This subsection applies only to those counties that have a population in excess of ~~300,000,~~250,000, according to the most recent decennial federal census."

SECTION 2. This act is effective when it becomes law.

SENATE BILL 463:
Jail Dormitory Minimum Standards

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	May 14, 2013
Introduced by:	Sens. Woodard, McKissick	**Prepared by:**	Heather Fennell Committee Counsel
Analysis of:	First Edition		

SUMMARY: ***Senate Bill 463 would modify the requirement regarding the maximum number of inmates that may be housed in a dormitory of a county detention facility located in certain counties.***

CURRENT LAW: Under current law, the Secretary of the Department of Health and Human Services is directed to establish minimum standards for the operation of local confinement facilities with a view to providing secure custody of prisoners and to protecting their health and welfare and providing for their humane treatment.

The Secretary has adopted an administrative rule (10A NCAC 14J .1226) which provides that each dormitory shall house no more than 40 inmates and shall have:

(1) A minimum floor space of 70 square feet per inmate, including both the sleeping and dayroom areas.

(2) One shower per eight inmates, one toilet per eight inmates, one sink with a security mirror per eight inmates, and one water fountain.

(3) A telephone jack or other telephone arrangement provided within the dormitory.

(4) Space designed to allow a variety of activities.

(5) Sufficient seating and tables for all inmates.

(6) A way for officers to observe the entire area from the entrance.

In 2008, the law was amended to authorize certain county detention facilities to increase dormitory capacity to up to 56 inmates, notwithstanding the administrative rule which required a capacity of no more than 40 inmates. This exception was limited to counties with a population in excess of 600,000 according to the most recent decennial federal census. The initial exception only applied to Wake and Mecklenburg counties.

In 2011, the exception was amended to allow for the housing of 64 inmates in a dormitory and the exception was extended counties with a population in excess of 300,000. This extended the exception to Cumberland, Guilford, and Forsyth counties.

BILL ANALYSIS: Senate Bill 463 would extend the exception for dormitory standards to counties with a population in excess of 250,000. This would extend the exception to Durham County.

EFFECTIVE DATE: This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. 1

H. B. No. _____ DATE 5/14/13

S. B. No. 463 Amendment No. 1

COMMITTEE SUBSTITUTE _____ (to be filled in by Principal Clerk)

Rep.) ~~Woodard~~ Rucho
Sen.)

1 moves to amend the bill on page 1, line 4

2 ( ) WHICH CHANGES THE TITLE

3 by deleting the word "INMATES".

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SIGNED _____

ADOPTED X FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

SENATE PAGES ATTENDING

COMMITTEE: Finance ROOM: 544 LOB

DATE: 5-14 TIME: 1 pm

PLEASE PRINT LEGIBILY!!!!!!!!!!!!!....*or else!*

Page Name	Hometown	Sponsoring Senator
1. Jamario Williams	Henderson	Bryant
2. Emily Rundle	Raleigh	Tillman
3. Katie Steg	Henderson	Berger
4. Dillon Phillips	Louisburg	Barefoot
5. Jamera Williams	Weldon	Bryant
6. James Averette	Henderson	Bryant
7. ~~Kennedy Terrell~~	~~Matthews~~	~~Tarte~~
8.		
9.		
10.		

Do not add names below the grid.

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

SENATE SERGEANT-AT-ARMS

COMMITTEE: **SENATE FINANCE**

DATE: 05/14/13 ROOM: 544

1. ERNIE SHERRELL
2. ED KESLER
3. ANDERSON MEADOWS
4. CANTON LEWIS
5. _____
6. _____

VISITOR REGISTRATION SHEET

Senate Finance Committee
Name of Committee

May 14, 2013
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Alan Bayer	CSS
Preston Howard	NCMA
Joel Maynard	GRM & Assoc
Daniel Baum	Troutman Sanders
Doug Heron	Williams Mullen
Bruce Thompson	Parker Poe
Katherine Ross	PPAB
Kelli Kuhn	Duke Energy

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 14, 2013

Name of Committee — **Date**

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NAME	FIRM OR AGENCY AND ADDRESS
David Bagnes	Electricities
Joni Ally	BEGINNINGS
Kemi Burico	NWOC
Melvin Jones	Jordan Price
Moore Barber	GSK
Melanie Jordan	Jacksonville Onslow Leadership Class
Cynthia Mareadn	Jacksonville Onslow Leadership Class, Jacksonville, NC
Janet Bowen	Jacksonville Onslow Chamber of Commerce Exec VC
Lauretta Leagon	Jacksonville-Onslow Chamber 1099 Gum Branch Rd Jacksonville NC 28540
Tracy Jackson	Jacksonville Onslow Chamber Leadership Class 211 Crooked Creek Rd Jacksonville, NC 28540
Dylan Watts	SA

VISITOR REGISTRATION SHEET

Senate Finance Committee — **Name of Committee**

May 14, 2013 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
David A. Burton	private citizen / 109 Black Bear Ct, Cary 27513
Paul Hofmann	Inform
Conaan Hunt	NVA
Michal Hauser	Hauser Group
Tim Kent	NC Beer & Wine
Tim Letts	FSP
Hayden Bourquess	FSP
Steve Gill	CCCC
Deborah Craig-Ray	Durham County Gov't
Glen Whitley	Durham County Gov't
Frank Williams	Brunswick County Commissioner

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 14, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
BRAD IVES	DENR
Trina Ozer	DENR
Hugh Johnson	Gov. Office
Dan Conrad	NCUC
Dianna Downey	PSNCUC
Karl Knapp	NCLM
[signature]	NCACC
Paula Hopper	NCAHCP
Henry M Lancaster	LCA
TOM BEAN	NCSEA, EDF
DAN Crawford	NCUC

VISITOR REGISTRATION SHEET

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May 14, 2013
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Michael Gorbert	nclcv
Liz Irwin	NC Lawyers Weekly / Mecklenburg Times
Marc Finlayson	Finlayson Consulting, LLC
Brooks Rainey Pearson	SELC
Nadia Luhr	NCCN
[illegible]	SELC
Carr McLamb	DENR
Cedric Johnson	BTC
J. Norment	Ward and Smith
Elizabeth Biser	Brooks Pierce
Logan Mohs	NCLCV

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 14, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
C.P. Broad	Stanly County
Kathryn Trogdon	NCMMC
WAYNE HARRIS	ALBEMARLE EDC
Cassie Gavin	Sierra Club
Attila Nemecz	Friends of Pocosin Lakes NWR
Doris Morris	VP Friends of Pocosin Lakes NWR.
CHUCK ALLEN	US AIRWAYS
DON Abernathy	Stanly Co Chamber of Com
Janine Abernathy	Stanly Co chamber of Com.
Nicki Coggins	Stanly Co. Chamber of Commerce
DeLois Chambers	Stanly Co Chamber of Commerce

VISITOR REGISTRATION SHEET

Senate Finance Committee
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May 14, 2013
Date

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NAME	FIRM OR AGENCY AND ADDRESS
Joyce Bassett	Alderman
Judy Dery Hammitt	Stanley County
Dave Stanton	Stark County

Senate Committee on Finance
Wednesday, May 15, 2013, 1:00 PM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 151	Coastal Policy Reform Act of 2013.	Senator Rabon
SB 236	Counties Responsible for School Construction.	Senator Hunt Senator Apodaca Senator Brunstetter

Adjournment

Senate Finance Committee
Wednesday, May 15, 2013
Room 544 LOB, 1:00 p.m.

Minutes

The Senate Committee on Finance met on Wednesday, May 15, 2013, at 1:00 p.m. in room 544 of the Legislative Office Building. James Averette of Henderson, Emily Rundle of Raleigh, and Dillon Phillips of Louisburg served as pages. Senator Rucho served as Chair to the meeting.

S.B. 236 – Counties Responsible for School Construction

Senator Hunt was recognized to explain the bill. It would allow certain counties to be responsible for the construction, improvement, ownership and acquisition of public school property. The bill would apply to the following counties: Beaufort, Dare, Davie, Guildford, Harnett, Lee, Rockingham, Rowan, and Wake. It would not apply to the Kannapolis City School System. Joe Bryan, the Chair of the Wake County Commissioners, was recognized to speak in favor of the bill. Senator Tarte moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 151- Coastal Policy Reform Act of 2013

Senator Rabin was recognized to explain the bill which would amend laws relating to marine fisheries licenses, the construction of terminal groins, Coastal Area Management Act permitting, and the ability of cities to enforce ordinances within public trust areas. Jeff Hudson, a staff attorney with the Research Division, was recognized to further explain the bill and answer questions. Senator Rabon offered a technical amendment. Senator Wade moved for its adoption and the motion carried. Rob Lamme, a lobbyist with the NC Coastal Federation, was recognized to speak in opposition to the bill. Senator Wade moved for a favorable report and the motion carried. A copy of the bill, the summary, and the amendment is attached.

The meeting adjourned at 1:33 p.m.

Senator Bob Rucho, Presiding Chair
Senate Finance Committee

DeAnne Mangum
Senate Finance Clerk

Principal Clerk ____
Reading Clerk ____

Corrected #1: S236 - Counties Responsible for School Construction has been added to the agenda.

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	May 15, 2013	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	
SB 151	Coastal Policy Reform Act of 2013.	Senator Rabon
SB 236	Counties Responsible for School Construction.	Senator Hunt Senator Apodaca Senator Brunstetter

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

Principal Clerk ____
Reading Clerk ____

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Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Wednesday, May 15, 2013

Senator Rucho,
submits the following with recommendations as to passage:

FAVORABLE

SB **236** **(CS#1)** Counties Responsible for School Construction.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

FAVORABLE, AS AMENDED

SB **151** **(CS#1)** Coastal Policy Reform Act of 2013.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED: 2

Senator Neal Hunt will handle SB 236
Senator William Rabon will handle SB 151

SENATE BILL 236
Education/Higher Education Committee Substitute Adopted 5/15/13

Short Title: Counties Responsible for School Construction. (Local)

Sponsors:

Referred to:

March 11, 2013

A BILL TO BE ENTITLED

AN ACT AUTHORIZING COUNTIES TO ASSUME RESPONSIBILITY FOR CONSTRUCTION, IMPROVEMENT, OWNERSHIP, AND ACQUISITION OF PUBLIC SCHOOL PROPERTY.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 153A of the General Statutes is amended by adding a new section to read:

"**§ 153A-158.1A. Authority to assume responsibility for construction, improvement, ownership, and acquisition of public school property.**

(a) Scope. – This section applies only in a county that elects by resolution to assume responsibility for some or all of owning, siting, acquiring, constructing, equipping, expanding, improving, repairing, and renovating property for use by a named school administrative unit located wholly within the county but only to the extent and under the terms and conditions specified in the board of county commissioners' resolution. If such election is made, that school administrative unit shall no longer exercise such power for any construction, improvement, ownership, or acquisition of any property for which the county has made that election; the election may, however, leave the school administrative unit with responsibility for equipment and for maintenance and repairs in categories or amounts named in the resolution.

Any responsibility for school property transferred by resolution pursuant to this section shall be for a minimum period of 10 years, renewable by subsequent resolution of the board of commissioners in 10-year increments.

(b) Construction or Improvement by County. – A county may by resolution elect to construct, equip, expand, improve, repair, renovate, or otherwise make available property for use by a school administrative unit within the county. The county shall consult the board of education in the siting, design, construction, equipping, expansion, improvement, or renovation of the property.

(c) Ownership of School Property. – A county may by resolution provide that any interest in real property or school capital funds presently held by the board of education shall vest in the county. A county may also by resolution provide that any interest in real property or school capital funds acquired for the use of a school administrative unit in the future shall vest in the county. A copy of any such resolution shall be certified by the clerk of the board of commissioners and sent to the clerk of the board of education. The board of education shall, within 30 days of entry of the resolution, execute any documents or deeds necessary to effectuate the transfer under the exact terms set forth in the resolution. The county shall pay the costs of executing the documents or deeds and effectuating the transfer.

As used in this section:

(1) Interest in real property includes, but is not limited to, (i) fixtures, (ii) leaseholds, and (iii) other capital assets.

(2) School capital funds includes, but is not limited to, all or part of (i) funds appropriated to the school capital outlay fund as provided in G.S. 115-426(f)(1) and (2), and (ii) funds allocated for school capital from the Public School Building Capital Fund to the county or to local school administrative units located wholly within that county in accordance with G.S. 115C-546.2(a) and (d).

(d) Insurance of Public School Property. – For school property affected by a resolution entered pursuant to this section, a county may elect to (i) leave current risk management programs operated by the local board of education in place, (ii) secure insurance from the system of insurance operated by the State Board of Education pursuant to Article 38 of Chapter 115C of the General Statutes, (iii) secure insurance from other sources, or (iv) utilize any combination of these options.

Monies paid to a county pursuant to contracts of insurance against loss of capital assets through fire or casualty shall be used to repair or replace the damaged asset or if the asset is not repaired or replaced, placed to the credit of the county capital outlay fund for public schools for appropriation at some future time.

(e) Liability. – A county shall not be liable for the acts or omissions of school employees in or on school property owned, acquired, leased, or improved by the county by a resolution entered pursuant to this section.

(f) Use of School Property. – Any interest in school property, whether real or personal, acquired by a county under the provisions of this section shall be conclusively presumed to be for the exclusive use of the school administrative unit for public school purposes to the same extent as if the property were owned by the local board of education. Therefore, property acquired by a county from a board of education under the provisions of this act shall not constitute the exercise of eminent domain power and shall not otherwise entitle the board of education or school administrative unit to any funds or other consideration for any property so acquired by or transferred to the county.

For school property affected by a resolution entered pursuant to this section, the board of education shall continue to have the exclusive authority to determine whether and when such school property is unnecessary or undesirable for public school purposes, in which event the board of education shall so inform the county board of commissioners. The county shall then either (i) dispose of the property and use the proceeds to reduce the county's bonded indebtedness for schools or for school capital outlay purposes or (ii) use the property for nonschool purposes and use an amount negotiated by the two boards as the fair market value of the property to reduce the county's bonded indebtedness for schools or for school capital outlay purposes."

SECTION 2. G.S. 115C-207(2) reads as rewritten:

"**§ 115C-207. Authority and responsibility of local boards of education.**

Every local board of education that uses State funds to implement programs under this Article shall:

(1) Develop programs and plans for increased community involvement in the public schools based upon policies and guidelines adopted by the State Board of Education.

(1a) Develop policies and programs designed to encourage the use of community-based academic booster organizations, which may be known as Community Achievement Network – Developing Our Educational Resources (CAN DOER) organizations, to provide tutoring and other appropriate services to encourage and support student academic achievement.

(1b) Develop policies and/or procedures for approving the use of volunteer organizations and for approving the use of individual volunteers.

(1c) Develop policies and/or procedures designed to make information available to parents and students about what tutoring and other academic support services are available to students in the community or through school volunteers or other community organizations.

(2) Develop programs and plans for increased community use of public school facilities based upon policies and guidelines adopted by the State Board of Education. If a county has assumed ownership of school property pursuant to G.S. 153A-158.1A, the local board of education shall permit the use of that property by nonschool groups, only as authorized by the county commissioners.

(3) Establish rules governing the implementation of such programs and plans in its public schools and submit these rules along with adopted programs and plans to the State Board of Education for approval by the State Board of Education.

Programs and plans developed by a local board of education may provide for the establishment of one or more community schools advisory councils for the public schools under the board's jurisdiction and for the employment of one or more community schools coordinators. The local board of education shall establish the terms and conditions of employment for the community schools coordinators.

Every local board of education using State funds to implement a community schools program under this Article may enter into agreements with other local boards of education, agencies and institutions for the joint development of plans and programs and the joint expenditure of these State funds."

SECTION 3. G.S. 115C-426 reads as rewritten:

"**§ 115C-426. Uniform budget format.**

....

(f) ~~The~~ Except as otherwise provided in subsection (f1) of this section, the capital outlay fund shall include appropriations for:

(1) The acquisition of real property for school purposes, including but not limited to school sites, playgrounds, athletic fields, administrative headquarters, and garages.

(2) The acquisition, construction, reconstruction, enlargement, renovation, or replacement of buildings and other structures, including but not limited to buildings for classrooms and laboratories, physical and vocational educational purposes, libraries, auditoriums, gymnasiums, administrative offices, storage, and vehicle maintenance.

(3) The acquisition or replacement of furniture and furnishings, instructional apparatus, data-processing equipment, business machines, and similar items of furnishings and equipment.

(4) The acquisition of school buses as additions to the fleet.

(5) The acquisition of activity buses and other motor vehicles.

(6) Such other objects of expenditure as may be assigned to the capital outlay fund by the uniform budget format.

The cost of acquiring or constructing a new building, or reconstructing, enlarging, or renovating an existing building, shall include the cost of all real property and interests in real property, and all plants, works, appurtenances, structures, facilities, furnishings, machinery, and equipment necessary or useful in connection therewith; financing charges; the cost of plans, specifications, studies, reports, and surveys; legal expenses; and all other costs necessary or incidental to the construction, reconstruction, enlargement, or renovation.

No contract for the purchase of a site shall be executed nor any funds expended therefor without the approval of the board of county commissioners as to the amount to be spent for the site; and in case of a disagreement between a board of education and a board of county commissioners as to the amount to be spent for the site, the procedure provided in G.S. 115C-431 shall, insofar as the same may be applicable, be used to settle the disagreement.

Appropriations in the capital outlay fund shall be funded by revenues made available for capital outlay purposes by the State Board of Education and the board of county commissioners, supplemental taxes levied by or on behalf of the local school administrative unit pursuant to a local act or G.S. 115C-501 to 115C-511, the proceeds of the sale of capital assets, the proceeds of claims against fire and casualty insurance policies, and other sources.

(f1) To the extent that a county has assumed responsibility for the ownership, acquisition, construction, and improvement of school property pursuant to G.S. 153A-158.1A, the capital outlay shall not include appropriations for those purposes provided in subsections (f)(1) and (f)(2) of this section.

...."

SECTION 4. G.S. 115C-431 reads as rewritten:

"**§ 115C-431. Procedure for resolution of dispute between board of education and board of county commissioners.**

(a) If the board of education determines that the amount of money appropriated to the local current expense fund, or the capital outlay fund, or both, by the board of county commissioners is not ~~sufficient~~ sufficient, when added to the moneys appropriated by the county for school capital projects for which the county has assumed responsibility pursuant to G.S. 153A-158.1A, to support a system of free public schools, the chairman of the board of education and the chairman of the board of county commissioners shall arrange a joint meeting of the two boards to be held within seven days after the day of the county commissioners' decision on the school appropriations.

Prior to the joint meeting, the Senior Resident Superior Court Judge shall appoint a mediator unless the boards agree to jointly select a mediator. The mediator shall preside at the joint meeting and shall act as a neutral facilitator of disclosures of factual information, statements of positions and contentions, and efforts to negotiate an agreement settling the boards' differences.

At the joint meeting, the entire school budget shall be considered carefully and judiciously, and the two boards shall make a good-faith attempt to resolve the differences that have arisen between them.

...

(f) If a county has assumed responsibility for the ownership, acquisition, construction, and improvement of school property pursuant to G.S. 153A-158.1A, the section shall not apply to disputes over capital outlay funds as provided in G.S. 115C-426(f)(1) and (f)(2)."

SECTION 5. G.S. 115C-517 reads as rewritten:

"**§ 115C-517. Acquisition of sites.**

Local boards of education or boards of county commissioners acting pursuant to G.S. 153A-158.1 or G.S. 153A-158.1A may acquire suitable sites for schoolhouses or other school facilities either within or without the local school administrative unit; but no school may be operated by a local school administrative unit outside its own boundaries, although other school facilities such as repair shops, may be operated outside the boundaries of the local school administrative unit. Whenever any such local board of education is unable to acquire or enlarge a suitable site or right-of-way for a school, school building, school bus garage or for a parking area or access road suitable for school buses or for other school facilities by gift or purchase, condemnation proceedings to acquire same may be instituted by such board under the provisions of Chapter 40A of the General Statutes, and the determination of the local board of

education of the land necessary for such purposes shall be conclusive. A board of county commissioners may acquire such property pursuant to G.S. 153A-158.1 or G.S. 153-158.1A."

SECTION 6. G.S. 115C-519 reads as rewritten:

"**§ 115C-519. Deeds to property.**

All deeds to school property owned by a local board of education shall, after registration, be delivered to the superintendent of the local school administrative unit in which the property is ~~located~~ located, and ~~he~~ the superintendent shall provide a safe place for preserving all such deeds. All deeds to school property owned by a county shall, after registration, be delivered to the clerk of the board of county commissioners, and the clerk shall provide a safe place for preserving all such deeds."

SECTION 7. G.S. 115C-521 reads as rewritten:

"**§ 115C-521. Erection of school buildings.**

(a) It shall be the duty of local boards of education to provide classroom facilities adequate to meet the requirements of G.S. 115C-47(10) and 115C-301. Local boards of education shall submit their long-range plans for meeting school facility needs to the State Board of Education by January 1, 1988, and every five years thereafter.

In developing these plans, local boards of education shall consider the costs and feasibility of renovating old school buildings instead of replacing them. For school facilities for which a county has assumed responsibility pursuant to G.S. 153A-158.1A, the county shall provide the local board of education with information necessary for this consideration.

(b) It shall be the duty of the boards of education of the several local school administrative school units of the State to make provisions for the public school term by providing adequate school buildings equipped with suitable school furniture and apparatus. The needs and the cost of those buildings, equipment, and apparatus, except those for which the county has assumed responsibility pursuant to G.S. 153A-158.1A, shall be presented each year when the school budget is submitted to the respective tax-levying authorities. If the county has assumed responsibility pursuant to G.S. 153A-158.1A for school buildings, the local board of education shall present each year, concurrent with submission of the school budget, the needs for school buildings necessary to provide adequate provisions for the public school term. The boards of commissioners shall be given a reasonable time to provide the funds which they, upon investigation, shall find to be necessary for providing their respective units with buildings suitably equipped, and it shall be the duty of the several boards of county commissioners to provide funds for the same. If the county has assumed responsibility pursuant to G.S. 153A-158.1A for school buildings and there is a dispute regarding whether adequate school buildings have been provided for the public school term by the county, the local board of education and county commissioners may resolve the dispute using the mediation process provided in G.S. 115C-431(a) and (b).

Upon determination by a local board of education that the existing permanent school building does not have sufficient classrooms to house the pupil enrollment anticipated for the school, the local board of education may acquire and use as temporary classrooms for the operation of the school, relocatable or mobile classroom units, whether built on the lot or ~~not, which~~not. If the county has assumed responsibility pursuant to G.S. 153A-158.1A for providing such classrooms, the county may acquire these units upon notice of a determination by the local board of education that the existing permanent school building does not have sufficient classrooms to house the pupil enrollment anticipated for the school. If there is a dispute over the sufficiency of classrooms and need for mobile units between the local board and county commissioners, the local board of education and county commissioners may resolve the dispute using the mediation process provided in G.S. 115C-431(a) and (b). These units and method of use shall meet the approval of the School Planning Division of the State Board of ~~Education,~~ Education and ~~which units~~ shall comply with all applicable requirements of the North Carolina State Building Code and of the local building and electrical codes applicable to the area in

which the school is located. These units shall also be anchored in a manner required to assure their structural safety in severe weather. The acquisition and installation of these units shall be subject in all respects to the provisions of Chapter 143 of the General Statutes. The provisions of Chapter 87, Article 1, of the General Statutes, shall not apply to persons, firms or corporations engaged in the sale or furnishing to local boards of education or boards of county commissioners and the delivery and installation upon school sites of classroom trailers as a single building unit or of relocatable or mobile classrooms delivered in less than four units or sections.

(c) The building of all new school buildings and the repairing of all old school buildings shall be under the control and direction of, and by contract with, the board of education for which the building and repairing is ~~done.~~done, or if the county has assumed responsibility pursuant to G.S. 153A-158.1A for such activities, under the control and direction of and by contract with the county. If a board of education or a board of county commissioners is considering building a new school building to replace an existing school building, the board shall not invest any construction money in the new building unless it submits to the State Superintendent and the State Superintendent submits to the North Carolina Historical Commission an analysis that compares the costs and feasibility of building the new building and of renovating the existing building and that clearly indicates the desirability of building the new building. No board of education or board of county commissioners shall invest any money in any new building until it has (i) developed plans based upon a consideration of the State Board's facilities guidelines, (ii) submitted these plans to the State Board for its review and comments, and (iii) reviewed the plans based upon a consideration of the comments it receives from the State Board. No local board of education or board of county commissioners shall contract for more money than is made available for the erection of a new building. However, this subsection shall not be construed so as to prevent boards of education from investing any money in buildings that are being constructed pursuant to a continuing contract of construction as provided for in G.S. 115C-441(c). All contracts for buildings shall be in writing and all buildings shall be inspected, received, and approved by the local superintendent and the architect before full payment is made therefor. Nothing in this subsection shall prohibit boards of education from repairing and altering buildings with the help of janitors and other regular employees of the board.

In the design and construction of new school buildings and in the renovation of existing school buildings that are required to be designed by an architect or engineer under G.S. 133-1.1, the local board of education or the board of county commissioners shall participate in the planning and review process of the Energy Guidelines for School Design and Construction that are developed and maintained by the Department of Public Instruction and shall adopt local energy-use goals for building design and operation that take into account local conditions in an effort to reduce the impact of operation costs on local and State budgets. In the design and construction of new school facilities and in the repair and renovation of existing school facilities, the local board of education or the board of county commissioners shall consider the placement and design of windows to use the climate of North Carolina for both light and ventilation in case of power shortages. A local board shall also consider the installation of solar energy systems in the school facilities whenever practicable.

In the case of any school buildings erected, repaired, or equipped with any money loaned or granted by the State to any local school administrative unit, no board of education or board of county commissioners, if the county has assumed responsibility pursuant to G.S. 153A-158.1A for such activities, shall invest any money until it has (i) developed plans based upon a consideration of the State Board's facilities guidelines, (ii) submitted these plans to the State Board for its review and comments, and (iii) reviewed the plans based upon a consideration of the comments it receives from the State Board.

(c1) No local board of education or board of county commissioners shall apply for a certificate of occupancy for any new middle or high school building until the plans for the science laboratory areas of the building have been reviewed and approved to meet accepted safety standards for school science laboratories and related preparation rooms and stockrooms. The review and approval of the plans may be done by the State Board of Education or by any other entity that is licensed or authorized by the State Board to do so.

(d) Local boards of education shall make no contract for the erection of any school building unless the site upon which it is located is owned in fee simple by the board: Provided, that the board of education of a local school administrative unit, with the approval of the board of county commissioners, may appropriate funds to aid in the establishment of a school facility and the operation thereof in an adjoining local school administrative unit when a written agreement between the boards of education of the administrative units involved has been reached and the same recorded in the minutes of the boards, whereby children from the administrative unit making the appropriations shall be entitled to attend the school so established.

In all cases where title to property has been vested in the trustees of a special charter district which has been abolished and has not been reorganized, title to the property shall be vested in the local board of education of the county embracing the former special charter district.

(e) The State Board of Education shall establish within the Department of Public Instruction a central clearinghouse for access by local boards of education or boards of county commissioners that may want to use a prototype design in the construction of school facilities. The State Board shall compile necessary publications and a computer database to distribute information on prototype designs to local school administrative ~~units.~~ units and to counties that have assumed responsibility for construction of school facilities pursuant to G.S. 153A-158.1A. All architects and engineers registered in North Carolina may submit plans for inclusion in the computer database and these plans may be accessed by any person. The original architect of record or engineer of record shall retain ownership and liability for a prototype design. The State Board may adopt rules it considers necessary to implement this subsection."

SECTION 8. G.S. 115C-524 reads as rewritten:

"**§ 115C-524. Repair of school property; use of buildings for other than school purposes.**

(a) Repair of school buildings is subject to the provisions of G.S. 115C-521(c) and (d).

(b) It shall be the duty of local boards of education and tax-levying authorities, in order to safeguard the investment made in public schools, to keep all school buildings in good repair to the end that all public school property shall be taken care of and be at all times in proper condition for use. It shall be the duty of all principals, teachers, and janitors to report to their respective boards of education immediately any unsanitary condition, damage to school property, or needed repair. All principals, teachers, and janitors shall be held responsible for the safekeeping of the buildings during the school session and all breakage and damage shall be repaired by those responsible for same, and where any principal or teacher shall permit damage to the public school buildings by lack of proper discipline of pupils, such principal or teacher shall be held responsible for such damage: Provided, principals and teachers shall not be held responsible for damage that they could not have prevented by reasonable supervision in the performance of their duties.

Notwithstanding the provisions of G.S. 115C-263 and 115C-264, local boards of education may adopt rules and regulations under which they may enter into agreements permitting non-school groups to use school real and personal property, except for school buses, for other than school purposes so long as such use is consistent with the proper preservation and care of the public school property. If a county has assumed ownership of school property pursuant to G.S. 153A-158.1A, the local board of education shall permit the use of that property by nonschool groups only as authorized by the county commissioners. No liability shall attach to any board of education, individually or collectively, or any board of commissioners,

individually or collectively, for personal injury suffered by reason of the use of such school property pursuant to such agreements."

SECTION 9. G.S. 115C-526 reads as rewritten:

"**§ 115C-526. Reward for information leading to arrest of persons damaging school property.**

Local boards of education and counties are authorized and empowered to offer and pay rewards in an amount not exceeding three hundred dollars ($300.00) for information leading to the arrest and conviction of any persons who willfully deface, damage, destroy or commit acts of vandalism or larceny of, the property belonging to the public school system or the county under the jurisdiction of and administered by any local board of education."

SECTION 10. G.S. 115C-530 reads as rewritten:

"**§ 115C-530. Operational leases of school buildings and school facilities.**

(a) Local boards of education or counties acting pursuant to G.S. 153A-158.1A may enter into operational leases of real or personal property for use as school buildings or school facilities. Operational leases entered into by local boards of education for terms of less than three years shall not be subject to the approval of the board of county commissioners. Operational leases entered into by local boards of education for terms of three years or longer, including periods that may be added to the original term through the exercise of options to renew or extend, are permitted if all of the following conditions are met:

(1) The budget resolution includes an appropriation authorizing the current fiscal year's portion of the obligation.

(2) An unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the lease for the current fiscal year.

(3) The leases are approved by a resolution adopted by the board of county commissioners. If an operational lease is approved by the board of county commissioners, in each year the county commissioners shall appropriate sufficient funds to meet the amounts to be paid during the fiscal year under the lease.

(4) Any construction, repair, or renovation of the property is in compliance with the requirements of G.S. 115C-521(c) relating to energy guidelines.

For purposes of this section, an operational lease is defined according to generally accepted accounting principles and may be for new or existing buildings.

(b) Local boards of education or counties acting pursuant to G.S. 153A-158.1A may enter into contracts for the construction, repair, or renovation of leased property if (i) the budget resolution includes an appropriation authorizing the obligation, (ii) an unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction for the current fiscal year, and (iii) the construction, repair, or renovation is in compliance with the requirements of G.S. 115C-521(c) relating to energy guidelines. Construction, repair, or renovation work undertaken or contracted by a private developer is subject to the requirements of Article 8 of Chapter 143 of the General Statutes. Contracts for new construction and renovation entered into by a local board of education that are subject to the bidding requirements of G.S. 143-129(a) and which do not constitute continuing contracts for capital outlay must be approved by the board of county commissioners.

(c) Operational leases and contracts entered into under this section are subject to approval by the Local Government Commission under Article 8 of Chapter 159 of the General Statutes if they meet the standards set out in G.S. 159-148(a)(1), 159-148(a)(2), and 159-148(a)(3). For purposes of determining whether the standards set out in G.S. 159-148(a)(3) have been met, only the five hundred thousand dollar ($500,000) threshold shall apply."

SECTION 11. G.S. 115C-533 reads as rewritten:

"**§ 115C-533. Duty of State Board to operate insurance system.**

The State Board shall have the duty to manage and operate a system of insurance for public school property. The State Board shall make this insurance available to counties for school property owned by counties under the same terms and conditions as if the school administrative unit had owned such property."

SECTION 12. G.S. 115C-534(a) reads as rewritten:

"**§ 115C-534. Duty to insure property.**

(a) The local board of every local school administrative unit in the public school system of this ~~State,~~ State or the board of county commissioners if the county has ownership of a school building, in order to safeguard the investment made in public schools, shall:

(1) Insure and keep insured to the extent of not less than seventy-five percent (75%) of the current insurable value as determined by the insurer and the insured of each of its insurable buildings against fire, lightning and the perils embraced in extended coverage.

(2) Insure and keep insured adequately the equipment and contents of said building."

SECTION 13. This act shall apply only in the following counties: Beaufort, Dare, Davie, Guilford, Harnett, Lee, Rockingham, Rowan, and Wake. This act shall not apply to the Kannapolis City School System.

SECTION 14. This act is effective when it becomes law.

SENATE BILL 236:
Counties Responsible for School Construction

2013-2014 General Assembly

Committee:	Senate Ref to Education/Higher Education. If fav, re-ref to Finance	**Date:**	May 15, 2013
Introduced by:	Sens. Hunt, Apodaca, Brunstetter	**Prepared by:**	Kara McCraw and Drupti Chauhan Committee Counsel
Analysis of:	Second Edition		

SUMMARY: ***Senate Bill 236 would allow certain counties to be responsible for the construction, improvement, ownership and acquisition of public school property. The bill would apply to the following counties: Beaufort, Dare, Davie, Guilford, Harnett, Lee, Rockingham, Rowan, and Wake. The bill would not apply to the Kannapolis City School System.***

CURRENT LAW: Local boards of education acquire and own public school properties primarily with funds appropriated to them by local boards of county commissioners. The local boards of education are also responsible for repairs and renovations of public school property. Counties may acquire interest in real or personal property within the county for use by a local school administrative unit (LEA) but only upon the request of the local board of education of that LEA and after a public hearing.

BILL ANALYSIS:

Section 1—County Ownership of School Property: Senate Bill 236 would allow certain counties to elect by resolution to assume some or all of the responsibility for the owing, siting, acquiring, constructing, equipping, expanding, improving, repairing, and renovating of property for use by an LEA located entirely within the county. The resolution of the county commissioners must specify the terms and conditions under which the county assumes such responsibilities and can leave the LEA with the responsibility of equipment and for maintenance and repairs in categories or amounts named in the resolution. Any responsibility transferred by resolution to the county must be for a minimum of 10 years and is renewable by a subsequent resolution of the board of county commissioners in 10 year increments. Items such as furnishings and school buses would not be included in any transfer.

Consultation with LEA: The county must consult the local board of education in the siting, design, construction, equipping, expansion, improvement, or renovation of the property.

Property presently held by LEA: The county resolution may provide that any interest in real property or school capital funds presently held by the local board of education vests in the county and that any future interests in real property acquired for the use of an LEA also vest in the county. Within 30 days of the resolution, the local board of education must execute any documents or deeds needed to effectuate the transfer under the exact terms in the resolution. The county must pay for the costs of executing the documents or deeds and effectuating the transfer.

Insurance of Public School Property: A county can elect to leave current risk management programs operated by the local board of education in place; secure insurance from the insurance system operated by the State Board of Education; secure insurance from other sources; or use any combination of these options. Funds paid to a county through insurance against loss of capital assets through fire or casualty must be used to repair or replace the damaged asset or placed to the credit of the county capital outlay fund for public schools for future appropriation.

Liability: A county is not liable for the acts or omissions of the school employees in or on school property owned, acquired, leased or improved by a county by the resolution.

Use of School Property: Any real or personal interest in school property acquired by a county through the resolution would be conclusively presumed to be for the exclusive use by the LEA for public school purposes to the same extent as if it were owned by the LEA. Any property acquired by the county from the LEA would not constitute the exercise of eminent domain and would not entitle the LEA or local board of education to any funds or other consideration for property acquired by the county through such a transfer.

Property No Longer Needed by LEA: For school property affected by a resolution, the local board of education would continue to have the exclusive authority to determine whether and when the school property is unnecessary or undesirable for public school purposes. When so informed by the local board of education, the county would then either dispose of the property and use the proceeds to reduce the county's bonded indebtedness for schools or for public school capital outlay purposes or use the property for non-school purposes and use an amount negotiated by both boards as the fair market value of the property to reduce the county's bonded indebtedness for schools or for public school capital outlay purposes.

Section 2—Use by Non-School Groups: If a county has assumed ownership of school property, then the local board of education would be able to permit the use of that property by non-school groups only as authorized by the county commissioners.

Section 3—Capital Outlay Fund: To the extent that a county has assumed responsibility for the ownership, acquisition, construction, and improvement of school property through the resolution, the capital outlay fund would not include appropriations for those purposes.

Section 4—Dispute Resolution Between the 2 Boards: This section would make conforming changes and would provide that the procedure for dispute resolution between the local board of education and board of county commissioners regarding funding would not apply to disputes over capital outlay funds for public school buildings if the county has assumed that responsibility by resolution.

Sections 5 and 6—Conforming Changes

Section 7—Erection of School Buildings: Local boards of education are required to submit long range plans for meeting school facility needs to the State Board of Education every five years and must consider the costs and feasibility of renovating old school buildings instead of replacing them. Local boards of education are responsible for providing adequate school buildings, and must provide those needs and costs as a part of the annual budget resolution to the county commissioners. This section would provide that if the county has assumed responsibility for the school buildings, the local board of education would present the needs for school buildings along with the submission of the school budget. Any disputes on the adequacy of school buildings or mobile classrooms would be resolved through mediation. The section would also make conforming changes.

Sections 8, 9, and 10—Conforming Changes

Section 11—State Board of Education Insurance System: The State Board of Education would be required to make its system of insurance for public school property available to counties for school property owned by the counties under the same terms and conditions that the LEA would have received if it had owned such property.

Section 12—Duty to Insure Property: The county would be required to insure any school building that it owns.

Section 13 - The bill would only apply to the following counties: Beaufort, Dare, Davie, Guilford, Harnett, Lee, Rockingham, Rowan, and Wake. It would not apply to the Kannapolis City School System.

EFFECTIVE DATE: The bill would become effective when it becomes law.

SENATE BILL 151

Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/14/13

Short Title: Coastal Policy Reform Act of 2013. (Public)

Sponsors:

Referred to:

March 4, 2013

A BILL TO BE ENTITLED

AN ACT TO AMEND MARINE FISHERIES LAWS, AMEND THE LAW GOVERNING THE CONSTRUCTION OF TERMINAL GROINS, AMEND CAMA PERMITTING LAWS, AND CLARIFY THAT CITIES AND COUNTIES MAY ENFORCE ORDINANCES WITHIN THE STATE'S PUBLIC TRUST AREAS.

The General Assembly of North Carolina enacts:

PART I. AMEND MARINE FISHERIES LAW

SECTION 1. G.S. 113-172 reads as rewritten:

"**§ 113-172. License agents.**

(a) The Secretary shall designate license agents for the Department. ~~At least one license agent shall be designated for each county that contains or borders on coastal fishing waters. The Secretary may designate additional license agents in any county if the Secretary determines that additional agents are needed to provide efficient service to the public.~~ The Division and license agents designated by the Secretary under this section shall issue licenses authorized under this Article in accordance with this Article and the rules of the Commission. The Secretary may require license agents to enter into a contract that provides for their duties and compensation, post a bond, and submit to reasonable inspections and audits. If a license agent violates any provision of this Article, the rules of the Commission, or the terms of the contract, the Secretary may initiate proceedings for the forfeiture of the license agent's bond and may summarily suspend, revoke, or refuse to renew a designation as a license agent and may impound or require the return of all licenses, moneys, record books, reports, license forms and other documents, ledgers, and materials pertinent or apparently pertinent to the license agency. The Secretary shall report evidence or misuse of State property, including license fees, by a license agent to the State Bureau of Investigation as provided by G.S. 114-15.1.

(b) License agents shall be compensated by adding a surcharge of one dollar ($1.00) to each license sold and retaining the surcharge. If more than one license is listed on a consolidated license form, the license agent shall be compensated as if a single license were sold. It is unlawful for a license agent to add more than the surcharge authorized by this section to the fee for each license sold."

SECTION 2.(a) G.S. 113-168.5 reads as rewritten:

"(a), (b) Repealed by Session Laws 1998-225, s. 4.14.

~~(c) Menhaden Endorsements. Except as provided in G.S. 113-169, it is unlawful to use a vessel to take menhaden by purse seine in coastal fishing waters, to land menhaden taken by purse seine, or to sell menhaden taken by purse seine without obtaining a menhaden endorsement of a SCFL. The fee for a menhaden endorsement shall be two dollars ($2.00) per~~

~~ton, based on gross tonnage as determined by the custom house measurement for the mother ship. The menhaden endorsement shall be required for the mother ship but no separate endorsement shall be required for a purse boat carrying a purse seine. The application for a menhaden endorsement must state the name of the person in command of the vessel. Upon a change in command of a menhaden vessel, the owner must notify the Division in writing within 30 days.~~

(d) Shellfish Endorsement for North Carolina Residents. – The Division shall issue a shellfish endorsement of a SCFL to a North Carolina resident at no charge. The holder of a SCFL with a shellfish endorsement is authorized to take and sell shellfish."

SECTION 2.(b) G.S. 113-169 is repealed.

SECTION 2.(c) G.S. 113-168.2(a1) reads as rewritten:

"(a1) Use of Vessels. – The holder of a SCFL is authorized to use only one vessel in a commercial fishing operation at any given time. The Commission may adopt a rule to exempt from this requirement a person in command of a vessel that is auxiliary to a vessel engaged in a pound net operation, long-haul operation, or beach seine ~~operation, or menhaden~~ operation."

PART II. AMEND TERMINAL GROIN CONSTRUCTION LAW

SECTION 3.(a) G.S. 113A-115.1 reads as rewritten:

"**§ 113A-115.1. Limitations on erosion control structures.**

(a) As used in this section:

(1) "Erosion control structure" means a breakwater, bulkhead, groin, jetty, revetment, seawall, or any similar structure.

(1a) "Estuarine shoreline" means all shorelines that are not ocean shorelines that border estuarine waters as defined in G.S. 113A-113(b)(2).

(2) "Ocean shoreline" means the Atlantic Ocean, the oceanfront beaches, and frontal dunes. The term "ocean shoreline" includes an ocean inlet and lands adjacent to an ocean inlet but does not include that portion of any inlet and lands adjacent to the inlet that exhibits characteristics of estuarine shorelines.

(3) "Terminal groin" means ~~a structure that is~~one or more structures constructed on the side of an inlet at the terminus of an island generally perpendicular to the shoreline to limit or control sediment passage into the inlet channel.

(b) No person shall construct a permanent erosion control structure in an ocean shoreline. The Commission shall not permit the construction of a temporary erosion control structure that consists of anything other than sandbags in an ocean shoreline. This ~~section~~ subsection shall not apply to any of the following:

(1) Any permanent erosion control structure that is approved pursuant to an exception set out in a rule adopted by the Commission prior to July 1, 2003.

(2) Any permanent erosion control structure that was originally constructed prior to July 1, 1974, and that has since been in continuous use to protect an inlet that is maintained for navigation.

(3) Any terminal groin permitted pursuant to this section.

(b1) This section shall not be construed to limit the authority of the Commission to adopt rules to designate or protect areas of environmental concern, to govern the use of sandbags, or to govern the use of erosion control structures in estuarine shorelines.

(c) The Commission may renew a permit for an erosion control structure issued pursuant to a variance granted by the Commission prior to July 1, 1995. The Commission may authorize the replacement of a permanent erosion control structure that was permitted by the Commission pursuant to a variance granted by the Commission prior to July 1, 1995, if the Commission finds that: (i) the structure will not be enlarged beyond the dimensions set out in the original permit; (ii) there is no practical alternative to replacing the structure that will provide the same or similar benefits; and (iii) the replacement structure will comply with all

applicable laws and with all rules, other than the rule or rules with respect to which the Commission granted the variance, that are in effect at the time the structure is replaced.

(d) Any rule that prohibits permanent erosion control structures shall not apply to terminal groins permitted pursuant to this section.

(e) In addition to the requirements of Part 4 of Article 7 of Chapter 113A of the General Statutes, an applicant for a permit for the construction of a terminal groin shall submit all of the following to the Commission:

(1) Information to demonstrate that structures or infrastructure are ~~imminently threatened by erosion, and nonstructural approaches to erosion control, including relocation of threatened structures, are impractical.~~threatened by erosion.

(2) An environmental impact statement that satisfies the requirements of G.S. 113A-4. An environmental impact statement prepared pursuant to the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321, et seq., for the construction of the terminal groin shall satisfy the requirements of this subdivision.

(3) A list of property owners and local governments that may be affected by the construction of the proposed terminal groin and its accompanying beach fill project and proof that the property owners and local governments have been notified of the application for construction of the terminal groin and its accompanying beach fill project.

(4) A plan for the construction and maintenance of the terminal groin and its accompanying beach fill project prepared by a professional engineer licensed to practice pursuant to Chapter 89C of the General Statutes.

(5) A plan for the management of the inlet and the estuarine and ocean shorelines immediately adjacent to and under the influence of the inlet. The inlet management plan monitoring and mitigation requirements must be reasonable and are not required to address unduly speculative or remote matters or impose requirements whose cost outweigh the benefits. The inlet management plan is not required to address sea level rise. The inlet management plan shall do all of the following relative to the terminal groin and its accompanying beach fill project:

a. Describe the post-construction activities that the applicant will undertake to monitor the impacts on coastal resources.

b. Define the baseline for assessing any adverse impacts and the thresholds for when the adverse impacts must be mitigated.

c. Provide for mitigation measures to be implemented if adverse impacts reach the thresholds defined in the plan.

d. Provide for modification or removal of the terminal groin if the adverse impacts cannot be mitigated.

(6) Proof of financial assurance in the form of a bond, insurance policy, escrow account, or other financial instrument that is adequate to cover the cost ~~of:~~

~~a. Long-term maintenance and monitoring of the terminal groin.~~

~~b. Implementation of mitigation measures as provided in the inlet management plan.~~

~~c. Modification~~ of modification or removal of the terminal groin as provided in the inlet management plan.

~~d. Restoration of public, private, or public trust property if the groin has an adverse impact on the environment or property.~~

(f) The Commission shall issue a permit for the construction of a terminal groin if the Commission finds no grounds for denying the permit under G.S. 113A-120 and the Commission finds all of the following:

(1) The applicant has complied with all of the requirements of subsection (e) of this section.

~~(2) The applicant has demonstrated that structures or infrastructure are imminently threatened by erosion and that nonstructural approaches to erosion control, including relocation of threatened structures, are impractical.~~

(3) The terminal groin will be accompanied by a concurrent beach fill project to prefill the groin.

(4) Construction and maintenance of the terminal groin will not result in significant adverse impacts to private property or to the public recreational beach. In making this finding, the Commission shall take into account the potential benefits of the project, including protection of beaches, protective dunes, wildlife habitats, roads, homes, and infrastructure, and mitigation measures, including the accompanying beach fill project, that will be incorporated into the project design and construction and the inlet management plan.

~~(5) The inlet management plan is adequate for purposes of monitoring the impacts of the proposed terminal groin and mitigating any adverse impacts identified as a result of the monitoring.~~

(6) Except to the extent expressly modified by this section, the project complies with State guidelines for coastal development adopted by the Commission pursuant to G.S. 113A-107.

~~(g) The Commission may issue no more than four permits for the construction of a terminal groin pursuant to this section.~~

~~(h) No permit may be issued where funds are generated from any of the following financing mechanisms and would be used for any activity related to the terminal groin or its accompanying beach fill project:~~

~~(1) Special obligation bonds issued pursuant to Chapter 159I of the General Statutes.~~

~~(2) Nonvoted general obligation bonds issued pursuant to G.S. 159-48(b)(4).~~

~~(3) Financing contracts entered into under G.S. 160A-20 or G.S. 159-148.~~

(i) No later than September 1 of each year, the Coastal Resources Commission shall report to the Environmental Review Commission on the implementation of this section. The report shall provide a detailed description of each proposed and permitted terminal groin and its accompanying beach fill project, including the information required to be submitted pursuant to subsection (e) of this section. For each permitted terminal groin and its accompanying beach fill project, the report shall also provide all of the following:

(1) The findings of the Commission required pursuant to subsection (f) of this section.

(2) The status of construction and maintenance of the terminal groin and its accompanying beach fill project, including the status of the implementation of the plan for construction and maintenance and the inlet management plan.

(3) A description and assessment of the benefits of the terminal groin and its accompanying beach fill project, if any.

(4) A description and assessment of the adverse impacts of the terminal groin and its accompanying beach fill project, if any, including a description and assessment of any mitigation measures implemented to address adverse impacts."

SECTION 3.(b) Sections 3 and 4 of S.L. 2011-387 are repealed.

PART III. AMEND CAMA PERMITTING LAW

SECTION 4. G.S. 113A-120 is amended by adding a new subsection to read:

"(d) Review of a permit application submitted pursuant to this Article shall be limited to consideration of areas of environmental concern officially designated as such at the time the application was submitted and shall not include consideration of any areas that have not been designated as areas of environmental concern or for which a designation as an area of environmental concern is pending at the time the application was submitted."

PART IV. CLARIFY THAT CITIES MAY ENFORCE ORDINANCES WITHIN THE STATE'S PUBLIC TRUST AREAS

SECTION 5.(a) Article 8 of Chapter 160A of the General Statutes is amended by adding a new section to read as follows:

"**§ 160A-203. Municipalities may enforce ordinances in public trust areas.**

(a) Notwithstanding the provisions of G.S. 113-131 or any other provision of law, a city may, by ordinance, define, prohibit, regulate, or abate acts, omissions, or conditions upon the State's ocean beaches and prevent or abate any unreasonable restriction of the public's rights to use the State's ocean beaches. A city may enforce any ordinance adopted pursuant to this section or any other provision of law upon the State's ocean beaches located within or adjacent to the city's jurisdictional boundaries to the same extent that a city may enforce ordinances within the city's jurisdictional boundaries. For purposes of this section, the term "ocean beaches" has the same meaning as in G.S. 77-20(e).

(b) The authority of a city under this section includes, but is not limited to, the following:

(1) A city may regulate, restrict, or prohibit the placement, development, maintenance, repair, alteration, improvement, location, or use of structures, equipment, personal property, or debris upon the State's ocean beaches located within or adjacent to the city's jurisdictional boundaries.

(2) Any ordinance adopted by the city may provide for summary procedures to remove or abate any unreasonable restrictions on the public's rights to use the State's ocean beaches located within or adjacent to the city's jurisdictional boundaries. However, any procedure potentially resulting in the removal or demolition of an otherwise lawful building or structure that is not in imminent danger of collapse shall include provisions that provide the record owner of the building or structure with notice and a hearing and the city with a means to recover costs that are the same as or equivalent to the following: service of complaints and orders as provided in G.S. 160A-445; notice and hearing as provided in G.S. 160A-443(2); findings of fact and order as provided in G.S. 160A-443(3)b. and G.S. 24 160A-443(5); liens as provided in G.S. 160A-443(6); and remedies as provided in G.S. 160A-446.

(3) A city may enforce a violation of any ordinance adopted pursuant to this section by any remedy provided for in G.S. 160A-175. A city may, in lieu of any other remedy provided for in this section, seek a court order from a court of competent jurisdiction to remove or abate a building or structure that is in violation of an ordinance adopted under this section.

(c) Nothing in this section shall be construed to (i) limit the authority of the State or any State agency to regulate the State's ocean beaches as authorized by G.S. 113-131, or common law as interpreted and applied by the courts of this State; (ii) limit any other authority granted to cities by the State to regulate the State's ocean beaches; (iii) deny the existence of the authority recognized in this section prior to the date this section becomes effective; or (iv)

impair the right of the people of this State to the customary free use and enjoyment of the State's ocean beaches, which rights remain reserved to the people of this State as provided in G.S. 77-20(d). Nothing in this section changes or modifies existing common or statutory law with respect to the riparian, littoral, or other ownership rights of owners of property bounded by the Atlantic Ocean."

SECTION 5.(b) G.S. 113-131 reads as rewritten:

"**§ 113-131. Resources belong to public; stewardship of conservation agencies; grant and delegation of powers; injunctive relief.**

(a) The marine and estuarine and wildlife resources of the State belong to the people of the State as a whole. The Department and the Wildlife Resources Commission are charged with stewardship of these resources.

(b) The following powers are hereby granted to the Department and the Wildlife Resources Commission and may be delegated to the Fisheries Director and the Executive Director:

(1) Comment on and object to permit applications submitted to State agencies which may affect the public trust resources in the land and water areas subject to their respective management duties so as to conserve and protect the public trust rights in such land and water areas;

(2) Investigate alleged encroachments upon, usurpations of, or other actions in violation of the public trust rights of the people of the State; and

(3) Initiate contested case proceedings under Chapter 150B for review of permit decisions by State agencies which will adversely affect the public trust rights of the people of the State or initiate civil actions to remove or restrain any unlawful or unauthorized encroachment upon, usurpation of, or any other violation of the public trust rights of the people of the State or legal rights of access to such public trust areas.

(c) Whenever there exists reasonable cause to believe that any person or other legal entity has unlawfully encroached upon, usurped, or otherwise violated the public trust rights of the people of the State or legal rights of access to such public trust areas, a civil action may be instituted by the responsible agency for injunctive relief to restrain the violation and for a mandatory preliminary injunction to restore the resources to an undisturbed condition. The action shall be brought in the superior court of the county in which the violation occurred. The institution of an action for injunctive relief under this section shall not relieve any party to such proceeding from any civil or criminal penalty otherwise prescribed for the violation.

(d) The Attorney General shall act as the attorney for the agencies and shall initiate actions in the name of and at the request of the Department or the Wildlife Resources Commission.

(e) In this section, the term "public trust resources" means land and water areas, both public and private, subject to public trust rights as that term is defined in G.S. 1-45.1.

(f) Notwithstanding the provisions of this section, a city may adopt and enforce ordinances as provided in G.S. 160A-203."

PART V. EFFECTIVE DATE

SECTION 6. Sections 3 and 4 of this act are effective when the act becomes law and apply to permit applications submitted on or after that date. Section 5 of this act becomes effective July 1, 2013. The remainder of this act is effective when it becomes law.

SENATE BILL 151:
Coastal Policy Reform Act of 2013

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	May 15, 2013
Introduced by:	Senator Rabon	**Prepared by:**	Jeff Hudson
Analysis of:	Second Edition		Committee Counsel

SUMMARY: ***Senate Bill 151 would amend laws relating to marine fisheries licenses, the construction of terminal groins, Coastal Area Management Act permitting, and the ability of cities to enforce ordinances within public trust areas.***

CURRENT LAW AND BILL ANALYSIS:

Senate Bill 151 would make the following changes to State coastal law:

Part I. Amend Marine Fisheries Law

Under current law, the Secretary of Environment and Natural Resources (Secretary) is required to designate at least one license agent in each county bordering coastal fishing waters. Section 1 would remove this requirement.

In 2012, the General Assembly made it unlawful to take menhaden by the use of a purse seine net deployed by a mother ship and one or more runner boats in coastal fishing waters. Section 2 would repeal various licenses for the taking of menhaden by these means.

Part II. Amend Terminal Groin Construction Law

In 2011, the General Assembly authorized the permitting and construction of up to four terminal groins on the ocean shorelines of inlets under certain circumstances. Section 3 would make the following changes to the 2011 law:

- Provide that an environmental impact statement prepared for a terminal groin pursuant to federal law is sufficient to satisfy the requirements of the State terminal groin law.
- Repeal the requirement for financial assurance adequate to cover the cost of:
  - Long term maintenance and monitoring of the terminal groin.
  - Implementation of mitigation measures set out in the inlet management plan.
  - Restoration of public, private, or public trust property if the groin has an adverse impact on the environment or property.
- Provide that the requirements of an inlet management plan must be reasonable and may not be required to address speculative matters or impose requirements whose costs outweigh the benefits.
- Repeal the requirement that an applicant for a terminal groin demonstrate that structures or infrastructure are imminently threatened by erosion and that nonstructural approaches to erosion control, including relocation of threatened structures, are impractical.

- Provide that the Coastal Resources Commission (CRC) consider the benefits of a terminal groin when determining whether the terminal groin will result in significant adverse impacts to private property or the public beach.
- Repeal the requirement that the inlet management plan be adequate for purposes of monitoring and mitigating the impacts of the terminal groin.
- Repeal the limitation that no more than four terminal groins may be permitted.
- Repeal the prohibition on the use of certain types of local government financing to construct a terminal groin.
- Repeal the prohibition on using State funds to construct a terminal groin unless the General Assembly enacts legislation appropriating funds explicitly for such purpose.
- Repeal the direction to the Department of Environment and Natural Resources to adopt rules to implement the terminal groin law.

Part III. Amend CAMA Permitting Law

The Coastal Area Management Act (CAMA) requires any person developing property in an area of environmental concern to obtain a CAMA permit. Section 4 would limit areas of environmental concern to those areas so designated at the time the permit application is submitted.

Part IV. Clarify that Cities May Enforce Ordinances within the State's Public Trust Areas

In 2012, the North Carolina Court of Appeals held that only the Attorney General may initiate an action to abate and remove unreasonable interferences with public trust rights on the State's ocean beaches. Section 5.(a) would clarify that cities may adopt and enforce ordinances on the State's ocean beaches and abate unreasonable interferences with public trust rights on State's ocean beaches. Any ordinance allowing the removal of a structure to abate an interference with public trust rights must provide the owner of the structure with notice and a hearing. In order for the city to recover the costs of demolition and removal of a structure, the ordinance must set forth procedural requirements equivalent to those in the Minimum Housing Standards in Chapter 160A of the General Statutes. Section 5.(b) would make a clarifying change to provide that cities may adopt and enforce ordinances on the State's ocean beaches as provided in Section 5.(a).

EFFECTIVE DATE: The provisions governing the issuance of terminal groin and CAMA permits would become effective when the act becomes law and apply to permit applications submitted on or after that date. The provisions governing the ability of cities to enforce ordinances within public trust areas would become effective July 1, 2013. The remainder of the act would become effective when the act becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 151

AMENDMENT NO. 1
(to be filled in by
Principal Clerk)

S151-ASB-44 [v.1]

Comm. Sub. [YES]
Amends Title [NO]
Second Edition

Date May 15 ,2013

Senator Rabon

moves to amend the bill on page 5, line 1,
by rewriting the line to read:

"**SECTION 3.(b)** Section 3 of S.L. 2011-387 is repealed.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED X FAILED _____ TABLED _____

SENATE PAGES ATTENDING

COMMITTEE: Finance ROOM: 544

DATE: 5-15 TIME: 1 pm

PLEASE PRINT LEGIBILY!!!!!!!!!!!!....*or else!*

Page Name	Hometown	Sponsoring Senator
1. Emily Rundle	Raleigh	Tillman
2. Faith Coleman	WakeForest	Barefoot
3. Dillan ~~Dillan~~ Phillips	Louisburg	Barefoot
4. James Averette	~~Bryant~~ Henderson	Bryant
5.	Henderson	
6.		
7.		
8.		
9.		
10.		

Do not add names below the grid.

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

Senate Sgt at Arms

Ashley Mickens

Steve Wilson

Canton Lewis

Anderson Meadows

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 15, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Julie White	NCMMC
Dave Simpson	ARC
Barbara	D.A.
[illegible]	News & Observer
[illegible]	MMC
Daniel Blum	Troutman Sanders

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 15, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
J GOODMAN	NC CHAMBER
Brad Howard	NCMA
Chuck Allen	US Airways
Michael Hunser	Hunser Consulting
Jim Kent	NC Beer & Wine
Susan Nelli	FSP
Hayden Baucuss	FSP
Laurie Anania	FSP
[illegible]	UC COMM
Ray Emanuel	School of Government
Alan Body	CSS

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 15, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

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Lauren Vannin	NCSBA
Christine Craig	WakeMed
Michelle Brooks	ECU
[illegible]	Wake County NC
Allison Waller	Nelson Mullins
TJ Bugbee	NP
DAVID BARNES	Electricities
Patrick Bafflin	NCASE
Cameron [illegible]	NVA
Angel Sams	CR
JOE LANIER	NELSON MULLINS
Nathan Babcock	NC Chamber

VISITOR REGISTRATION SHEET

Senate Finance Committee — **Name of Committee**

May 15, 2013 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Sarah Lynn Miller	Self
Sarah Wolfe	MWC LLC
Nadia Luhr	NCCN
Alissa Willett	NCACC
MATTHEW GUNNET	"
Lisa Martin	NCAJC NBA
Steven Webb	"
BRUCE THOMPSON	PARKER POE

VISITOR REGISTRATION SHEET

Senate Finance Committee
Name of Committee

May 15, 2013
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Drew Elliott	DENR
Michele Walker	DENR
Trina Ozer	DENR
Layla Cummings	DENR
Carr McLamb	DENR
Tom Bean	EDF, NCWF
Cassie Gavin	Sierra Club
Meg Mal D Ashley	SELC
Brooks Rainey Pearson	SELC
Chris Agnor	DOJ
Susanna Dark	UNC

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 15, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Ken Raymer	NCBA
Joe McMillan	MFAS
Edgar Miller	CTNC
Johanna Reese	NCACC
Stan Skinner	NCACC
Rebecca Troutman	NCACC
Katherine Joyce	NCASA
Adam Pridemore	NCASA
DAN CRAWFORD	NCLCV
Mike Grabert	NCLCV
Logan Mohs	NCLCV

Senate Committee on Finance
Tuesday, May 21, 2013
Room 544 LOB, 1:00 p.m.

Minutes

The Senate Committee on Finance met at 1:00 p.m. on Tuesday, May 21, 2013 in room 544 of the Legislative Office Building. Jineet Patel of Cary, Hannah Hardy of Whiteville, Cameron Bailey of Wilmington, and Chance Wade of Fayetteville served as pages. Senator Rabon presided as chair.

S.B. 402 – Appropriations Act of 2013

Senator Brunstetter was recognized to explain the bill and answer questions. Senator Rucho moved to adopt the proposed committee substitute (PCS) and the motion carried. Andrea Poole, a fiscal analyst with the Fiscal Research Division, was recognized to answer education questions. Senator Brock offered an amendment that changed percentages and moved for its adoption. Senator Hartsell offered an amendment and moved for a favorable report. His amendment would make adjustments to the State Board of Education fee schedule for teacher licensure and administrative changes. The motion carried. Senator Hise was recognized to offer an amendment which would increase autopsy fees by $250. He moved for the amendment's adoption and the motion carried. Senator Goolsby was recognized to offer an amendment regarding the court costs of expert witnesses who provide testimony about chemical or forensic analyses and he moved for its adoption. The motion carried. Senator Curtis moved to adopt the PCS as amended and the motion carried. A copy of the PCS, the summary, and the amendments is attached.

The meeting adjourned at 1:51 p.m.

Senator Bill Rabon
Presiding Chair

DeAnne Mangum
Committee Assistant

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Tuesday, May 21, 2013

Senator Rabon,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO COM SUB NO. 1 AS AMENDED, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2

SB **402** Appropriations Act of 2013.

Draft Number:	S402-PCS35347-MDxf-10
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Senator Peter Brunstetter will handle SB 402

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S D

SENATE BILL 402
PROPOSED COMMITTEE SUBSTITUTE S402-PCS15273-MDxf-9

Short Title: Appropriations Act of 2013. (Public)

Sponsors:

Referred to:

March 26, 2013

A BILL TO BE ENTITLED

AN ACT TO MAKE BASE BUDGET APPROPRIATIONS FOR CURRENT OPERATIONS OF STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER PURPOSES.

The General Assembly of North Carolina enacts:

PART I. INTRODUCTION AND TITLE OF ACT

TITLE

SECTION 1.1. This act shall be known as the "Current Operations and Capital Improvements Appropriations Act of 2013."

INTRODUCTION

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

PART II. CURRENT OPERATIONS AND EXPANSION GENERAL FUND

CURRENT OPERATIONS AND EXPANSION/GENERAL FUND

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

Current Operations – General Fund	**2013-2014**	**2014-2013**
EDUCATION		
Community Colleges System Office	$ 1,026,315,467	$ 1,014,315,467
Department of Public Instruction	7,849,691,842	8,032,588,328
University of North Carolina – Board of Governors		

Appalachian State University	127,908,903	127,908,903
East Carolina University		
Academic Affairs	220,012,450	220,615,626
Health Affairs	64,841,247	64,841,247
Elizabeth City State University	35,363,212	35,385,057
Fayetteville State University	49,336,186	49,336,186
NC A&T State University	96,882,428	96,882,428
NC Central University	84,084,488	84,084,488
NC State University		
Academic Affairs	389,976,973	390,045,059
Agricultural Extension	39,859,682	39,859,682
Agricultural Research	54,911,053	54,911,053
UNC – Asheville	37,465,299	37,465,299
UNC – Chapel Hill		
Academic Affairs	274,632,544	274,515,010
Health Affairs	202,260,403	205,741,444
Area Health Education Centers	42,418,348	42,418,348
UNC – Charlotte	192,697,970	192,683,456
UNC – Greensboro	153,838,192	153,783,960
UNC – Pembroke	54,175,566	54,175,566
UNC School of the Arts	31,547,460	29,146,203
UNC – Wilmington	96,484,692	96,484,692
Western Carolina University	83,140,199	83,161,081
Winston-Salem State University	68,957,656	68,980,084
General Administration	34,752,475	34,752,475
University Institutional Programs	(12,320,751)	(25,204,458)
Related Educational Programs	83,408,458	110,387,576
NC School of Science and Mathematics	17,877,872	16,657,107
Aid to Private Colleges	88,851,588	88,851,588
Total University of North Carolina – Board of Governors	$ 2,613,364,593	$ 2,627,869,160

HEALTH AND HUMAN SERVICES

Department of Health and Human Services		
Central Management and Support	$ 65,069,146	$ 62,655,211
Division of Aging & Adult Services	54,142,341	54,342,341
Division of Blind Services/Deaf/HH	8,178,618	8,178,618
Division of Child Development & Early Education	255,039,269	255,039,269
Health Service Regulation	16,461,992	16,461,992
Division of Medical Assistance	3,484,745,754	3,655,086,552
Division of Mental Health, Developmental Disabilities, & Substance Abuse Services	675,738,286	678,592,084
NC Health Choice	67,177,341	56,281,405
Division of Public Health	147,178,997	144,980,498
Division of Social Services	172,455,677	172,519,249
Division of Vocation Rehabilitation	38,773,169	38,773,169
Total Health and Human Services	$ 4,984,960,590	$ 5,142,910,388

NATURAL AND ECONOMIC RESOURCES

Department of Agriculture and Consumer Services	$ 114,670,702	$ 114,769,902
Department of Commerce		
Commerce	42,661,856	45,692,759
Commerce State-Aid	9,505,810	9,255,810
Wildlife Resources Commission	9,476,588	9,476,588
Department of Environment and Natural Resources	157,890,131	157,385,763
Department of Labor	16,696,339	16,696,339
JUSTICE AND PUBLIC SAFETY		
Department of Public Safety	$ 1,712,621,317	$ 1,692,187,988
Judicial Department	456,876,742	455,376,742
Judicial Department – Indigent Defense	114,357,264	109,357,264
Department of Justice	47,476,998	51,365,574
GENERAL GOVERNMENT		
Department of Administration	$ 67,117,185	$ 66,571,237
Office of Administrative Hearings	4,727,544	4,652,581
Department of State Auditor	11,217,468	11,217,468
Office of State Controller	28,160,691	28,160,691
Department of Cultural Resources		
Cultural Resources	62,934,497	61,426,429
Roanoke Island Commission	0	0
State Board of Elections	6,699,032	6,021,532
General Assembly	51,449,283	51,484,767
Office of the Governor	5,120,050	5,122,132
Office of State Budget and Management		
Office of State Budget and Management	6,837,072	6,919,583
OSBM – Reserve for Special Appropriations	1,800,000	1,500,000
Housing Finance Agency	8,499,464	8,499,464
Department of Insurance		
Insurance	37,994,004	38,003,624
Insurance – Volunteer Safety Workers' Compensation		

Fund	0	0
Office of Lieutenant Governor	681,089	675,089
Department of Revenue	85,336,745	85,317,085
Department of Secretary of State	11,616,001	11,616,001
Department of State Treasurer		
State Treasurer	8,137,890	7,026,305
State Treasurer – Retirement for Fire and Rescue Squad Workers	23,179,042	23,179,042
RESERVES, ADJUSTMENTS AND DEBT SERVICE		
Statewide Compensation Study	$ 1,000,000	$ 0
Severance Expenditure Reserve	37,126,314	0
Disability Income Plan of North Carolina	(1,100,000)	(1,100,000)
Reserve for Teachers' and State Employees' Retirement Contribution	36,000,000	36,000,000
Reserve for Judicial Retirement System Contribution	1,000,000	1,000,000
Reserve for Future Benefit Needs	0	56,400,000
Information Technology Fund	6,053,142	6,053,142
One North Carolina Fund	9,000,000	9,000,000
Reserve for State Health Plan	34,000,000	77,000,000
Contingency and Emergency Fund	5,000,000	5,000,000
Firemen's and Rescue Squad Workers' Pension Fund	(820,000)	(820,000)
NC Government and Efficiency and Reform Project (NC GEAR)	2,000,000	2,000,000
Unemployment Insurance Reserve	23,800,000	13,600,000
Reserve for Job Development Investment Grants (JDIG)	51,823,772	63,045,357
Information Technology Reserve Fund	31,000,000	36,000,000
Reserve for Escheat Fund Global TransPark Debt Repayment	27,000,000	0
Debt Service		
General Debt Service	725,057,796	745,471,838

Federal Reimbursement	1,616,380	1,616,380
TOTAL CURRENT OPERATIONS – GENERAL FUND	**$ 20,567,630,700**	**$ 20,946,907,819**

GENERAL FUND AVAILABILITY STATEMENT

SECTION 2.2.(a) The General Fund availability used in developing the 2013-2015 biennial budget is shown below.

	FY 2013-2014	FY 2014-2015
Unappropriated Balance Remaining from Previous Year	$ 213,432,877	$ 106,360,611
Anticipated Overcollections from FY 2012-13	405,700,000	0
Overcollections Due to MSA Disputed Payments	51,510,749	
Anticipated Reversions from FY 2012-13	170,000,000	0
Net Supplemental Medicaid Appropriations (H.B. 980)	(306,100,000)	
Less Earmarkings of Year End Fund Balance		
Savings Reserve	(165,075,883)	(74,244,692)
Repairs and Renovations	(100,000,000)	(25,502,274)
Beginning Unreserved Fund Balance	**$ 269,467,743**	**$ 6,613,645**
Revenues Based on Existing Tax Structure	**$ 19,628,100,000**	**$ 20,549,000,000**
Nontax Revenues		
Investment Income	13,700,000	14,100,000
Judicial Fees	250,200,000	251,400,000
Disproportionate Share	110,000,000	109,000,000
Insurance	72,500,000	73,400,000
Other Nontax Revenues	173,000,000	175,000,000
Highway Trust Fund/Use Tax Reimbursement Transfer	0	0
Highway Fund Transfer	218,100,000	215,900,000
Subtotal Nontax Revenues	837,500,000	838,800,000
Total General Fund Availability	**$ 20,735,067,743**	**$ 21,394,413,645**
Adjustments to Availability: 2013 Session		
Finance Package	$ (217,100,000)	$ (553,100,000)
Tobacco Master Settlement Agreement (MSA)	137,500,000	137,500,000
MSA Disputed Payments Erroneously Paid to Golden LEAF (S.L. 2011-145)	24,639,357	0
Repeal North Carolina Public Campaign Fund	3,500,000	0
Transfer from NC Flex FICA Fund Balance	2,000,000	0
Transfer from E-Commerce Reserve Fund Balance	5,111,585	4,000,000
Transfer from Misdemeanant Confinement Fund	1,000,000	1,000,000
Repeal Portion of Solid Waste Disposal Tax Earmark	2,300,000	2,300,000
Increase Lobbyist Fees	400,000	400,000
Adjust Transfer from Insurance Regulatory Fund	(460,589)	(460,589)
Adjust Transfer from Treasurer's Office	175,215	175,215
Adjust Gross Premiums Tax for Volunteer Safety Workers	(3,000,000)	(3,000,000)
Subtotal Adjustments to Availability: 2013 Session	**$ (43,934,432)**	**$ (411,185,374)**

Revised General Fund Availability	**$ 20,691,133,311**	**$ 20,983,228,271**
Less: General Fund Appropriations	**$ (20,584,772,700)**	**$ (20,955,157,819)**
Unappropriated Balance Remaining	**$ 106,360,611**	**$ 28,070,452**

SECTION 2.2.(b) Notwithstanding the provisions of G.S. 105-187.9(b)(1) and G.S. 105-187.9(b)(2), no funds shall be transferred from the Highway Trust Fund under those subdivisions for the 2013-2014 fiscal year or for the 2014-2015 fiscal year.

SECTION 2.2.(c) In addition to funds transferred pursuant to G.S. 105-164.44D, the sum of one hundred ninety-six million five hundred eighty-two thousand nine hundred eighty-one ($196,582,981) for the 2013-2014 fiscal year and the sum of one hundred ninety-six million five hundred eighty-two thousand nine hundred eighty-one ($196,582,981) for the 2014-2015 fiscal year shall be transferred from the Highway Fund to the General Fund.

SECTION 2.2.(d) Notwithstanding any other provision of law to the contrary, effective July 1, 2013, the following amounts shall be transferred to the State Controller to be deposited in the appropriate budget code as determined by the State Controller. These funds shall be used to support the General Fund appropriations as specified in this act for the 2013-2014 fiscal year and the 2014-2015 fiscal year.

Budget Code	Fund Code	Description	FY 2013-2014 Amount	FY 2014-2015 Amount
24100	2514	E-Commerce Fund	$ 5,111,585	$ 4,000,000
24500	2225	Misdemeanant Confinement Fund	1,000,000	1,000,000

SECTION 2.2.(e) Notwithstanding the provisions of G.S. 143C-4-3, the State Controller shall transfer a total of one hundred million dollars ($100,000,000) from the unreserved fund balance to the Repairs and Renovations Reserve on June 30, 2013, and shall transfer a total of twenty-five million five hundred two thousand two hundred seventy-four dollars ($25,502,274) from the unreserved fund balance to the Repairs and Renovations Reserve on June 30, 2014. This subsection becomes effective June 30, 2013. Funds transferred under this section to the Repairs and Renovations Reserve are appropriated for the 2013-2014 fiscal year and for the 2014-2015 fiscal year and shall be used in accordance with G.S. 143C-4-3.

SECTION 2.2.(f) Notwithstanding G.S. 143C-4-2, the State Controller shall transfer a total of one hundred sixty-five million seventy-five thousand eight hundred eighty-three dollars ($165,075,883) from the unreserved fund balance to the Savings Reserve Account on June 30, 2013, and shall transfer a total of seventy-four million two hundred forty-four thousand six hundred ninety-two dollars ($74,244,692) from the unreserved fund balance to the Savings Reserve Account on June 30, 2014. Neither of these transfers is an "appropriation made by law," as that phrase is used in Section 7(1) of Article V of the North Carolina Constitution. This subsection becomes effective June 30, 2013.

SECTION 2.2.(g) Notwithstanding the provisions of Article 6 of Chapter 143C of the General Statutes or any other law to the contrary, the State Controller shall transfer two million dollars ($2,000,000) from the NC FICA Account for deposit in the appropriate budget code as determined by the State Controller for the 2013-2014 fiscal year.

SECTION 2.2.(h) Of the unexpended and unencumbered monies credited to the North Carolina Public Campaign Fund, established under repealed G.S. 163-278.63, the sum of three million five hundred thousand dollars ($3,500,000) for the 2013-2014 fiscal year shall be transferred to the General Fund.

SECTION 2.2.(i) Notwithstanding any other provision of law, the sum of five million one hundred eleven thousand five hundred eighty-five dollars ($5,111,585) for the

2013-2014 fiscal year and the sum of four million dollars ($4,000,000) for the 2014-2015 fiscal year shall be transferred from the E-Commerce Reserve, Budget Code 24100, to the State Controller to be deposited in the appropriate budget code as determined by the State Controller for each fiscal year.

PART III. CURRENT OPERATIONS/HIGHWAY FUND

CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND

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

Current Operations – Highway Fund	**2013-2014**	**2014-2015**
Department of Transportation		
Administration	$ 94,027,709	$ 98,994,109
Division of Highways		
Administration	34,218,958	34,218,958
Construction	53,923,707	39,859,878
Maintenance	1,143,487,787	1,033,662,280
Planning and Research	4,055,402	4,055,402
OSHA Program	365,337	365,337
Ferry Operations	40,564,796	39,414,796
State Aid to Municipalities	142,293,840	136,874,010
Intermodal Divisions		
Public Transportation	83,351,374	83,351,374
Aviation	22,244,510	22,244,510
Rail	40,392,294	24,942,294
Bicycle and Pedestrian	751,066	751,066
Governor's Highway Safety	284,932	284,932
Division of Motor Vehicles	116,352,241	116,996,778
Other State Agencies, Reserves, Transfers	259,634,197	261,737,076
Capital Improvements	18,055,500	19,937,700
Total Highway Fund Appropriations	**$2,054,003,650**	**$1,917,690,500**

HIGHWAY FUND/AVAILABILITY STATEMENT

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

Highway Fund Availability Statement	**2013-2014**	**2014-2015**
Unreserved Fund Balance	$ 74,150,000	$ 0
Estimated Revenue	1,937,200,000	1,892,400,000
Adjustment to Revenue Availability:		

Adjustment to Emission Inspection Fees	23,600,000	21,600,000
Adjustment to Technology Improvement Account Fees	634,000	634,000
Motor Fuel Tax		
(Shallow Draft Navigation Channel Dredging Fund)	(2,280,350)	(2,193,500)
Hybrid/Electric Vehicle Registration Fee	1,500,000	1,500,000
North Carolina Railroad Company Dividend Payments	19,200,000	3,750,000
Total Highway Fund Availability	**$ 2,054,003,650**	**$ 1,917,690,500**
Unappropriated Balance	$ 0	$ 0

PART IV. HIGHWAY TRUST FUND APPROPRIATIONS

HIGHWAY TRUST FUND APPROPRIATIONS

SECTION 4.1. Appropriations from the State Highway Trust Fund for the maintenance and operation of the Department of Transportation and for other purposes as enumerated are made for the fiscal biennium ending June 30, 2015, according to the following schedule:

Current Operations – Highway Trust Fund	**2013-2014**	**2014-2015**
Program Administration	$ 45,590,880	$ 45,590,880
Aid to Municipalities	0	0
Intrastate	0	0
Secondary Roads	0	0
Urban Loops	0	0
Mobility Fund	0	0
Turnpike Authority	49,000,000	49,000,000
Transfer to General Fund	0	0
Transfer to Highway Fund	400,000	400,000
Debt Service	79,170,090	60,307,448
Strategic Prioritization Funding Plan		
for Transportation Investments	931,539,030	950,101,672
Total Highway Trust Fund Appropriations	**$ 1,105,700,000**	**$ 1,105,400,000**

HIGHWAY TRUST FUND AVAILABILITY STATEMENT

SECTION 4.2. The Highway Trust Fund availability used in developing the 2013-2015 fiscal biennial budget is shown below:

Highway Trust Fund Availability	**2013-2014**	**2014-2015**
Unreserved Fund Balance	$ 0	$ 0
Estimated Revenue	1,105,700,000	1,105,400,000
Adjustment to Revenue Availability	0	0
Total Highway Trust Fund Availability	**$ 1,105,700,000**	**$ 1,105,400,000**
Unappropriated Balance	$ 0	$ 0

PART V. OTHER APPROPRIATIONS

APPROPRIATION OF OTHER FUNDS

SECTION 5.1.(a) Expenditures of cash balances, federal funds, departmental receipts, grants, and gifts from the various General Fund, Special Revenue Fund, Enterprise

Fund, Internal Service Fund, and Trust and Agency Fund budget codes are appropriated and authorized for the 2013-2015 fiscal biennium as follows:

(1) For all budget codes listed in "The State of North Carolina Recommended Continuation Budget and Fund Purpose Statements, 2013-2015" and in the Budget Support Document, cash balances and receipts are appropriated up to the amounts specified, as adjusted by the General Assembly, for the 2013-2014 fiscal year and the 2014-2015 fiscal year. Funds may be expended only for the programs, purposes, objects, and line items or as otherwise authorized by the General Assembly. Expansion budget funds listed in those documents are appropriated only as otherwise provided in this act.

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

a. Any receipts that are required to be used to pay debt service requirements for various outstanding bond issues and certificates of participation are appropriated up to the actual amounts received for the 2013-2014 fiscal year and the 2014-2015 fiscal year and shall be used only to pay debt service requirements.

b. Other funds, cash balances, and receipts of funds that meet the definition issued by the Governmental Accounting Standards Board of a trust or agency fund are appropriated for and in the amounts required to meet the legal requirements of the trust agreement for the 2013-2014 fiscal year and the 2014-2015 fiscal year.

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

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

SECTION 5.1.(d) The Office of State Budget and Management, the Office of the State Controller, the Department of Revenue, and the Fiscal Research Division shall jointly study the Reserve for Reimbursements to Local Governments and Shared Tax Revenues (Budget Code 24705) within the Department of Revenue and shall determine the best manner in which to budget the funds deposited into and expended from this fund. When conducting this study, the Office of State Budget and Management, the Office of the State Controller, the Department of Revenue, and the Fiscal Research Division shall jointly determine if any statutory or other changes are needed in order to ensure that these funds are properly accounted for and budgeted in a manner consistent with the North Carolina Constitution. No later than May 1, 2014, the Office of State Budget and Management, the Office of the State Controller, the Department of Revenue, and the Fiscal Research Division shall report the results of this study, including their findings, recommendations, and any legislative proposals, to the Chairs of the Senate Appropriations/Base Budget Committee and of the House Appropriations Committee.

SECTION 5.1.(e) Subdivisions (2) through (4) of subsection (d) of Section 5.1 of S.L. 2011-145, as enacted by Section 5.1 of S.L. 2012-142, are repealed. This subsection becomes effective on June 30, 2013.

OTHER RECEIPTS FROM PENDING GRANT AWARDS

SECTION 5.2.(a) Notwithstanding G.S. 143C-6-4, State agencies may, with approval of the Director of the Budget, spend funds received from grants awarded subsequent to the enactment of this act for grant awards that are for less than two million five hundred thousand dollars ($2,500,000), do not require State matching funds, and will not be used for a capital project. State agencies shall report to the Joint Legislative Commission on Governmental Operations within 30 days of receipt of such funds.

State agencies may spend all other funds from grants awarded after the enactment of this act only with approval of the Director of the Budget and after consultation with the Joint Legislative Commission on Governmental Operations.

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

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

SECTION 5.2.(d) Notwithstanding G.S. 143C-6-4 and subsection (b) of this section, State agencies may spend funds received from the following grants for the 2013-2014 fiscal year and 2014-2015 fiscal year awarded subsequent to the enactment of this act for up to the specified amounts:

	2013-2014	**2014-2015**
Department of Agriculture and Consumer Services		
Soil and Water Conservation GIS Project	$30,000	$0
Department of Public Instruction		
The New Venture Fund	$75,000	$0
Promoting Adolescent Health through School-Based HIV/STD Prevention	$290,000	$400,000

Neither the approval of the Director of the Budget nor consultation with the Joint Legislative Commission on Governmental Operations is required prior to the expenditure of these funds.

CIVIL PENALTY AND FORFEITURE FUND

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

	FY 2013-2014	**FY 2014-2015**
School Technology Fund	$ 18,000,000	$ 18,000,000
State Public School Fund	$146,313,464	$120,362,790
Total Appropriation	$164,313,464	$138,362,790

SECTION 5.3.(b) Excess receipts realized in the Civil Penalty and Forfeiture Fund in the 2012-2013 fiscal year are hereby appropriated to the State Public School Fund for the 2013-2014 fiscal year.

INDIAN GAMING EDUCATION REVENUE FUND

SECTION 5.4.(a) There is appropriated from the Indian Gaming Education Revenue Fund to the Department of Public Instruction, School Technology Fund, the sum of

three million dollars ($3,000,000) for the 2013-2014 fiscal year and the sum of three million five hundred thousand dollars ($3,500,000) for the 2014-2015 fiscal year.

SECTION 5.4.(b) G.S. 143C-9-7 does not apply to the use of these funds for the 2013-2015 fiscal biennium.

PART VI. GENERAL PROVISIONS

CONTINGENCY AND EMERGENCY FUND LIMITATION

SECTION 6.1. For the 2013-2015 fiscal biennium and notwithstanding the provisions of G.S. 143C-4-4(b), funds appropriated to the Contingency and Emergency Fund may be used only for expenditures required (i) by a court or Industrial Commission order or (ii) to respond to events as authorized under G.S. 166A-19.40(a) of the North Carolina Emergency Management Act. These funds shall not be used for other statutorily authorized purposes or for any other contingencies and emergencies.

ESTABLISHING OR INCREASING FEES UNDER THIS ACT

SECTION 6.2.(a) Notwithstanding G.S. 12-3.1, an agency is not required to consult with the Joint Legislative Commission on Governmental Operations prior to establishing or increasing a fee to the level authorized or anticipated in this act.

SECTION 6.2.(b) Notwithstanding G.S. 150B-21.1A(a), an agency may adopt an emergency rule in accordance with G.S. 150B-21.1A to establish or increase a fee as authorized by this act if the adoption of a rule would otherwise be required under Article 2A of Chapter 150B of the General Statutes.

GLOBAL TRANSPARK LOAN REPAYMENT

SECTION 6.3.(a) The Office of State Budget and Management shall transfer funds from the Reserve for Global TransPark Loan Repayment to the Escheat Fund as payment-in-full for the outstanding loan from the Escheat Fund to the Global TransPark Authority originally authorized under G.S. 63A-4(a)(22) and G.S. 147-69.2(b)(11).

SECTION 6.3.(b) G.S. 63A-4(a)(22) is repealed.

SECTION 6.3.(c) G.S. 147-69.2(b)(11) is repealed.

MSA PAYMENTS

SECTION 6.4.(a) Sections 2(a) and 2(b) of S.L. 1999-2 are repealed.

SECTION 6.4.(b) Section 6 of S.L. 1999-2, as amended by Section 6.11(d) of Session Law 2011-145 and Section 7(b) of Session Law 2011-391, reads as rewritten:

"**SECTION 6.(a)** ~~Except as provided in subsection (b) of this section, it is the intent of the General Assembly that the~~ The funds under the Master Settlement Agreement, which is incorporated into the Consent ~~Decree, be allocated as follows:~~Decree, shall be credited to the Settlement Reserve Fund.

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

~~(2) Fifty percent (50%) shall be allocated as follows:~~

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

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

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

~~1. The benefit of tobacco producers, tobacco allotment holders, and persons engaged in tobacco related businesses. To carry out this purpose, funds may provide direct and indirect financial assistance, to the extent allowed by law, to (i) indemnify tobacco producers, allotment holders, and persons engaged in tobacco related businesses from the adverse economic effects of the Master Settlement Agreement, (ii) compensate tobacco producers and allotment holders for the economic loss resulting from lost quota, and (iii) revitalize tobacco dependent communities.~~

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

(b) Any monies paid into the North Carolina State Specific Account from the Disputed Payments Account on account of the Non-Participating Manufacturers that would have been transferred to The Golden L.E.A.F. (Long-Term Economic Advancement Foundation), ~~Inc., or to the trust funds established in accordance with subdivision (a)(2) of this section~~ Inc., shall be deposited in the Settlement Reserve Fund and transferred to ~~nontax Budget Code 19878~~the State General Fund."

SECTION 6.4.(c) The Attorney General shall take all necessary actions to notify the court in the action entitled State of North Carolina v. Philip Morris Incorporated, et al., 98 CVS 14377, in the General Court of Justice, Superior Court Division, Wake County, North Carolina, and the administrators of the State Specific Account established under the Master Settlement Agreement of this action by the General Assembly regarding redirection of payments set forth in subsections (a) and (b) of this section.

SECTION 6.4.(d) G.S. 116-29.1(b) reads as rewritten:

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

~~(1)~~ ~~Of the funds credited to Budget Code 69430 in the Department of State Treasurer, the sum of eight million dollars ($8,000,000) is transferred from Budget Code 69430 to the University Cancer Research Fund and appropriated for this purpose.~~

~~(2)~~ ~~The~~ the funds remitted to the University Cancer Research Fund by the Secretary of Revenue from the tax on tobacco products other than cigarettes pursuant to G.S. 105-113.40A ~~is~~are appropriated for this purpose.

~~(3) An amount equal to the difference between (i) fifty million dollars ($50,000,000) and (ii) the amounts appropriated pursuant to subdivisions (1) and (2) of this subsection is appropriated from the General Fund for this purpose.~~"

SECTION 6.4.(e) G.S. 143C-9-3 reads as rewritten:

"**§ 143C-9-3. Settlement Reserve Fund.**

(a) The "Settlement Reserve Fund" is established ~~as a restricted reserve~~ in the General ~~Fund. Except as otherwise provided in this section, funds shall be expended from the Settlement Reserve Fund only by specific appropriation by the General Assembly.~~Fund to receive proceeds from tobacco litigation settlement agreements or final orders or judgments of a court in litigation between tobacco companies and the states. Funds credited to the Settlement Reserve Fund each fiscal year shall be included in General Fund availability as nontax revenue for the next fiscal year.

(b), (c) Repealed by Session Laws 2011-145, s. 6.11(i), effective July 1, 2011.

(d) Unless prohibited by federal law, federal funds provided to the State by block grant or otherwise as part of federal legislation implementing a settlement between United States tobacco companies and the states shall be credited to the Settlement Reserve Fund. Unless otherwise encumbered or distributed under a settlement agreement or final order or judgment of the court, funds paid to the State or a State agency pursuant to a tobacco litigation settlement agreement, or a final order or judgment of a court in litigation between tobacco companies and the states, shall be credited to the Settlement Reserve Fund."

GOVERNMENT EFFICIENCY AND REFORM

SECTION 6.5.(a) The Office of State Budget and Management shall contract for a Government Efficiency and Reform review and analysis of the executive branch of State government, which shall be known as NC GEAR. The purpose of the review and analysis is to evaluate the efficiency and effectiveness of State government and to identify specific strategies for making State government more efficient and effective. The review and analysis may examine entire departments, agencies, or institutions, or similar programs in different departments. The review and analysis shall include an examination of the efficiency and effectiveness of major management policies, practices, and functions pertaining to the following areas:

(1) The statutory authority, funding sources, and functions of each department, agency, institution, or program.

(2) The organizational structure and staffing patterns in place to perform these functions and whether they are appropriate based on comparative data and other reasonable staffing criteria.

(3) The measurement of each reviewed program's outcomes, overall performance, and success in accomplishing its mandated or stated mission and subsequent goals, considering the resources provided to the program.

(4) State and local responsibilities for providing government services and funding for those services, and whether these responsibilities should be reallocated.

(5) Personnel systems operations and management.

(6) State purchasing operations and management.

(7) Information technology and telecommunications systems policy, organization, and management.

(8) The identification of opportunities to reduce fragmentation, duplication, and related or overlapping services or activities through restructuring of departmental organizations and streamlining programs.

SECTION 6.5.(b) All executive branch departments, agencies, boards, commissions, authorities, and institutions in the executive branch of State government, including receipt supported agencies, and all nonstate entities receiving State funds shall be subject to review and analysis. The chief administrative officer of each entity shall ensure full cooperation with the Office of State Budget and Management and provide timely responses to the Office of State Budget and Management's request for information under the provisions of G.S. 143C-2-1(b).

SECTION 6.5.(c) The Office of State Budget and Management will work collaboratively with the Office of State Auditor to develop the review, analysis, and findings needed to produce a final report and recommendations to the Governor and General Assembly.

SECTION 6.5.(d) At the request of the Office of State Budget and Management, the Legislative Services Officer of the General Assembly may authorize selected central legislative staff to be consulted by the Office of State Budget and Management staff about developing the review, analysis, and findings needed to produce a final report and recommendations to the Governor and General Assembly.

SECTION 6.5.(e) The contracting provisions of Chapter 143 of the General Statutes and related State purchasing and budget regulations do not apply to NC GEAR; however, the Office of State Budget and Management shall report all external contracts for consultants or professional services within 30 days of their execution to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives.

SECTION 6.5.(f) The Office of State Budget and Management shall submit an interim report of the NC GEAR's analysis, findings, and recommendations to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Fiscal Research Division, and the Program Evaluation Division by February 15, 2014, and a final report by February 15, 2015.

SECTION 6.5.(g) Funds appropriated for NC GEAR shall be used to contract with consultants and other experts and to pay for travel, postage, printing, planning, and other related costs as needed to accomplish the objectives specified for the project. Funds appropriated for the 2013-2015 fiscal biennium for NC GEAR shall not revert at the end of each fiscal year but shall remain available for expenditure for the project.

EXPENDITURES OF FUNDS IN RESERVES LIMITED

SECTION 6.6. All funds appropriated by this act into reserves may be expended only for the purposes for which the reserves were established.

BUDGET CODE CONSOLIDATIONS

SECTION 6.7. Notwithstanding G.S. 143C-6-4, the Office of State Budget and Management may, after reporting to the Fiscal Research Division, adjust the authorized budget by making transfers among purposes or programs for the purpose of consolidating budget and fund codes or eliminating inactive budget and fund codes. The Office of State Budget and Management shall change the authorized budget to reflect these adjustments.

NORTH CAROLINA EDUCATION LOTTERY

SECTION 6.8. G.S. 18C-151(a) reads as rewritten:

"(a) Except as otherwise specifically provided in this subsection for contracts for the purchase of services, apparatus, supplies, materials, or equipment, Article 8 of Chapter 143 of the General Statutes, including the provisions relating to minority participation goals, shall apply to contracts entered into by the Commission. If this subsection and Article 8 of Chapter 143 are in conflict, the provisions of this subsection shall control. In recognition of the particularly sensitive nature of the Lottery and the competence, quality of product, experience, and timeliness, fairness, and integrity in the operation and administration of the Lottery and maximization of the objective of raising revenues, a contract for the purchase of services, apparatus, supplies, materials, or equipment requiring an estimated aggregate expenditure of ~~ninety thousand dollars ($90,000)~~three hundred thousand dollars ($300,000) or more may be awarded by the Commission only after the following have occurred:

...."

PROVISION OF ANONYMOUS TAX RETURN DATA TO REVENUE ESTIMATORS

SECTION 6.9. G.S. 105-259(b)(13) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person except as provided in this subsection. Standards used or to be used for the selection of returns for examination and data used or to be used for determining the standards may not be disclosed for any purpose. All other tax information may be disclosed only if the disclosure is made for one of the following purposes:

...

(13) To furnish the following to the Fiscal Research Division of the ~~General Assembly,~~ Legislative Services Commission, and the Office of State Budget and Management, upon request:

a. A sample, suitable in character, composition, and size for statistical analyses, of tax returns or other tax information from which taxpayers' names and identification numbers have been removed.

b. An analysis of the fiscal impact of proposed legislation.

...."

EXEMPTIONS FROM MANAGEMENT FLEXIBILITY REDUCTIONS

SECTION 6.10. Notwithstanding G.S. 143C-6-4, expansion funds appropriated for the 2013-2015 fiscal biennium to State agencies as defined by G.S. 143C-1-1(d)(24) shall not be used to offset management flexibility adjustments in this act.

CLOSE OUT PUBLIC SCHOOL BUILDING CAPITAL FUND/ APPROPRIATE EDUCATION LOTTERY FUNDS

SECTION 6.11.(a) G.S. 115C-546.1 reads as rewritten:

"**§ 115C-546.1. Creation of Fund; administration.**

(a) There is created the Public School Building Capital Fund. The Fund shall be used to assist county governments in meeting their public school building capital ~~needs and their equipment needs under their local school technology plans.~~needs.

~~(b) Each calendar quarter, the Secretary of Revenue shall remit to the State Treasurer for credit to the Public School Building Capital Fund an amount equal to the applicable fraction provided in the table below of the net collections received during the previous quarter by the Department of Revenue under G.S. 105-130.3. All funds deposited in the Public School Building Capital Fund shall be invested as provided in G.S. 147-69.2 and G.S. 147-69.3.~~

~~Period~~	~~Fraction~~
~~10/1/97 to 9/30/98~~	~~One-fifteenth (1/15)~~
~~10/1/98 to 9/30/99~~	~~Two-twenty-ninths (2/29)~~
~~10/1/99 to 9/30/00~~	~~One-fourteenth (1/14)~~
~~After 9/30/00~~	~~Five-sixty-ninths (5/69)~~

(c) The Fund shall be administered by the Department of Public Instruction."

SECTION 6.11.(b) G.S. 115C-546.2 reads as rewritten:

"**§ 115C-546.2. Allocations from the Fund; uses; expenditures; reversion to General Fund; matching requirements.**

~~(a) Of the monies credited to the Fund by the Secretary of Revenue pursuant to G.S. 115C-546.1(b), the State Board of Education may allocate up to one million dollars ($1,000,000) each year to the Department of Public Instruction. These funds shall be used by the Plant Operation Section of the School Support Division to assist each local school administrative unit with effective energy and environmental management, effective water management, hazardous material management, clean air quality, and engineering support for safe, effective environmental practices. The remainder of the monies in the Fund shall be~~

~~allocated to the counties on a per average daily membership basis according to the average daily membership for the budget year as determined and certified by the State Board of Education. Interest earned on funds allocated to each county shall be allocated to that county.~~

~~The Department of Public Instruction shall report to the Joint Legislative Education Oversight Committee by April 15 of each year on the effectiveness of the program in accomplishing its purpose and on any other information requested by the Committee.~~

(b) Counties shall use monies ~~in the Fund~~ previously credited to the Fund by the Secretary of Revenue pursuant to G.S. 115C-546.1(b) for capital outlay projects including the planning, construction, reconstruction, enlargement, improvement, repair, or renovation of public school buildings and for the purchase of land for public school buildings; for equipment to implement a local school technology ~~plan that is approved pursuant to G.S. 115C-102.6C;~~ plan; or for both. Monies used to implement a local school technology plan shall be transferred to the State School Technology Fund and allocated by that Fund to the local school administrative unit for equipment.

As used in this section, "public school buildings" only includes facilities for individual schools that are used for instructional and related purposes and does not include centralized administration, maintenance, or other facilities.

In the event a county finds that it does not need all or part of the funds allocated to it for capital outlay projects including the planning, construction, reconstruction, enlargement, improvement, repair, or renovation of public school buildings, for the purchase of land for public school buildings, or for equipment to implement a local school technology plan, the unneeded funds allocated to that county may be used to retire any indebtedness incurred by the county for public school facilities.

In the event a county finds that its public school building needs and its school technology needs can be met in a more timely fashion through the allocation of financial resources previously allocated for purposes other than school building needs or school technology needs and not restricted for use in meeting public school building needs or school technology needs, the county commissioners may, with the concurrence of the affected local Board of Education, use those financial resources to meet school building needs and school technology needs and may allocate the funds it receives under this Article for purposes other than school building needs or school technology needs to the extent that financial resources were redirected from such purposes. The concurrence described herein shall be secured in advance of the allocation of the previously unrestricted financial resources and shall be on a form prescribed by the Local Government Commission.

(c) Monies previously credited to the Fund by the Secretary of Revenue pursuant to G.S. 115C-546.1(b) for capital projects shall be matched on the basis of one dollar of local funds for every three dollars of State funds. ~~Monies~~ Such monies in the Fund transferred to the State Technology Fund do not require a local match.

Revenue received from local sales and use taxes that is restricted for public school capital outlay purposes pursuant to G.S. 105-502 or G.S. 105-487 may be used to meet the local matching requirement. Funds expended by a county after July 1, 1986, for land acquisition, engineering fees, architectural fees, or other directly related costs for a public school building capital project that was not completed prior to July 1, 1987, may be used to meet the local match requirement.

(d) If funds are appropriated from the Education Lottery Fund to the Public School Building Capital Fund, such funds shall be allocated for school capital construction projects on a per average daily membership basis according to the average daily membership for the budget year as determined and certified by the State Board of Education. ~~Monies transferred into the Fund in accordance with Chapter 18C of the General Statutes shall be allocated for capital projects for school construction projects as follows:~~

~~(1) A sum equal to sixty-five percent (65%) of those monies transferred in accordance with G.S. 18C-164 shall be allocated on a per average daily membership basis according to the average daily membership for the budget year as determined and certified by the State Board of Education.~~

~~(2) A sum equal to thirty-five percent (35%) of those monies transferred in accordance with G.S. 18C-164 shall be allocated to those local school administrative units located in whole or part in counties in which the effective county tax rate as a percentage of the State average effective tax rate is greater than one hundred percent (100%), with the following definitions applying to this subdivision:~~

~~a. "Effective county tax rate" means the actual county rate for the previous fiscal year, including any countywide supplemental taxes levied for the benefit of public schools, multiplied by a three-year weighted average of the most recent annual sales assessment ratio studies.~~

~~b. "State average effective tax rate" means the average effective county tax rates for all counties.~~

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

(3) No county shall have to provide matching funds required under subsection (c) of this section.

(4) A county may use monies in this Fund to pay for school construction projects in local school administrative units and to retire indebtedness incurred for school construction projects.

(5) A county may not use monies in this Fund to pay for school technology needs.

(e) The State Board of Education may use up to one million five hundred thousand dollars ($1,500,000) each year of monies in the Fund to support positions in the Department of Public Instruction's Support Services Division."

SECTION 6.11.(c) G.S. 18C-164 reads as rewritten:

"**§ 18C-164. Transfer of net revenues.**

(a) The funds remaining in the North Carolina State Lottery Fund after receipt of all revenues to the Lottery Fund and after accrual of all obligations of the Commission for prizes and expenses shall be considered to be the net revenues of the North Carolina State Lottery Fund. The net revenues of the North Carolina State Lottery Fund shall be transferred four times a year to the Education Lottery Fund, which shall be created in the State treasury.

(b) From the Education Lottery Fund, the ~~Commission~~ Office of State Budget and Management shall transfer a sum equal to five percent (5%) of the net revenue of the prior year to the Education Lottery Reserve Fund. A special revenue fund for this purpose shall be established in the State treasury to be known as the Education Lottery Reserve Fund, and that fund shall be capped at fifty million dollars ($50,000,000). Monies in the Education Lottery Reserve Fund may be appropriated only as provided in subsection (e) of this section.

(c) ~~The Commission shall distribute~~ The General Assembly shall appropriate the remaining net revenue of the Education Lottery ~~Fund, as follows, in the following manner:~~Fund annually in the Current Operations Appropriations Act, based upon estimates of lottery net revenue to the Education Lottery Fund provided by the Office of State Budget and Management and the Fiscal Research Division of the Legislative Services Commission.

~~(1) A sum equal to fifty percent (50%) to support reduction of class size in early grades to class size allotments not exceeding 1:18 in order to eliminate achievement gaps and to support academic prekindergarten programs for at risk four-year-olds who would otherwise not be served in a high quality~~

~~education program in order to help those four-year-olds be prepared developmentally to succeed in school.~~

~~(2) A sum equal to forty percent (40%) to the Public School Building Capital Fund in accordance with G.S. 115C-546.2.~~

~~(3) A sum equal to ten percent (10%) to the State Educational Assistance Authority to fund college and university scholarships in accordance with Article 35A of Chapter 115C of the General Statutes.~~

~~(d) Of the sums transferred under subsection (c) of this section, the General Assembly shall appropriate the funds annually based upon estimates of lottery net revenue to the Education Lottery Fund provided by the Office of State Budget and Management and the Fiscal Research Division of the North Carolina General Assembly.~~

(e) If the actual net revenues are less than the appropriation for that given year, then the Governor may transfer from the Education Lottery Reserve Fund an amount sufficient to equal the appropriation by the General Assembly. ~~If the monies available in the Education Lottery Reserve Fund are insufficient to reach a full appropriation, the Governor shall transfer monies in order of priority, to the following:~~

~~(1) To support academic prekindergarten programs for at-risk four-year-olds who would otherwise not be served in a high-quality education program in order to help those four-year-olds be prepared developmentally to succeed in school.~~

~~(2) To reduce class size.~~

~~(3) To provide financial aid for needy students to attend college.~~

~~(4) To the Public School Building Capital Fund to be spent in accordance with this section.~~

(f) ~~If the actual~~ Actual net revenues ~~exceed~~ in excess of the amounts appropriated in ~~that fiscal year, the excess net revenues~~ a fiscal year shall remain in the Education Lottery ~~Fund, and then be transferred as follows:~~ Fund.

~~(1) Fifty percent (50%) to the Public School Building Capital Fund to be spent in accordance with this section.~~

~~(2) Fifty percent (50%) to the State Educational Assistance Authority to be spent in accordance with this section.~~"

SECTION 6.11.(d) G.S. 115C-499.3(b) reads as rewritten:

"(b) Subject to the maximum amounts provided in this section, the Authority shall have the power to determine the actual scholarship amounts disbursed to students in any given year based on the amount of ~~net income available under Chapter 18C of the General Statutes.~~ funds appropriated from the Education Lottery Fund. If the net income available is not sufficient to fully fund the scholarships to the maximum amount, all scholarships shall be reduced equally, to the extent practicable, so that every eligible applicant shall receive a proportionate scholarship amount."

SECTION 6.11.(e) The appropriations made from the Education Lottery Fund for the 2013-2015 fiscal biennium are as follows:

	FY 2013-2014	**FY 2014-2015**
Classroom Teachers	$ 220,643,188	$ 220,643,188
Prekindergarten Program	$ 63,135,709	$ 63,135,709
Public School Building Capital Fund	$ 100,000,000	$ 100,000,000
Scholarships for Needy Students	$ 30,450,000	$ 30,450,000
UNC Need-Based Financial Aid	$ 10,744,733	$ 10,744,733
UNC Need-Based Financial Aid Forward Funding Reserve	$ 55,128,620	-
Lottery Reserve Fund	-	$ 43,459,463

TOTAL APPROPRIATION **$ 480,102,250** **$ 468,433,093**

SECTION 6.11.(f) Notwithstanding G.S. 18C-164, the Office of State Budget and Management shall not transfer funds to the Education Lottery Reserve Fund for the 2013-2014 fiscal year.

SECTION 6.11.(g) Notwithstanding G.S. 18C-164(c), Article 35A of Chapter 115C of the General Statutes, or any other provision of law, the funds appropriated in this section for UNC Need-Based Financial Aid shall be administered in accordance with the policy adopted by the Board of Governors of The University of North Carolina.

SECTION 6.11.(h) Subsection (c) of this section becomes effective June 30, 2013.

AMEND STATE BUDGET ACT

TECHNICAL CORRECTIONS AND CLARIFYING CHANGES

SECTION 6.12.(a) G.S. 143C-1-1(d)(19) reads as rewritten:

"(19) Nontax revenue. – Revenue that is not a tax proceed or a departmental receipt and that is required by statute to be credited to ~~the General Fund.~~a fund."

SECTION 6.12.(b) G.S. 143C-1-1(d)(30) reads as rewritten:

"(30) Unreserved fund balance. – The available ~~General Fund~~ cash balance effective June 30 after excluding documented encumbrances, unearned revenue, ~~federal grants,~~ statutory requirements, and other legal obligations to ~~General Fund~~ a fund's cash balance as determined by the State Controller. Beginning unreserved fund balance equals ending unreserved fund balance from the prior fiscal year."

SECTION 6.12.(c) G.S. 143C-1-3(c) reads as rewritten:

"(c) Notwithstanding subsections (a) and (b) of this section, funds established for The University of North Carolina and its constituent institutions pursuant to the following statutes are exempt from Chapter 143C of the General Statutes and shall be accounted for as provided by those statutes, except that the provisions of Article 8 of Chapter 143C of the General Statutes shall apply to the funds: G.S. 116-35, 116-36, 116-36.1, 116-36.2, 116-36.4, 116-36.5, 116-36.6, 116-44.4, 116-68, 116-220, ~~116-235, 116-238.~~116-235."

SECTION 6.12.(d) Article 1 of Chapter 143C of the General Statutes is amended by adding a new section to read:

"**§ 143C-1-5. Chapter is applicable to The University of North Carolina.**

Except as expressly provided in G.S. 143C-1-3(c) or otherwise expressly provided by law, The University of North Carolina shall be subject to the provisions of this Chapter in the same manner and to the same degree as other State agencies."

SECTION 6.12.(e) G.S. 143C-3-5(e) reads as rewritten:

"(e) ~~Revenue~~ Availability Estimates. – The recommended Current Operations Appropriations Act shall contain a statement showing the estimates of General Fund availability, Highway Fund availability, and Highway Trust Fund availability upon which the Recommended State Budget is based."

SECTION 6.12.(f) G.S. 143C-9-6 reads as rewritten:

"**§ 143C-9-6. JDIG ~~Reserve Fund.~~Reserve.**

(a) The State Controller shall establish a reserve in the General Fund to be known as the JDIG Reserve. Funds from the JDIG Reserve shall not be ~~expended or~~ transferred except in accordance with G.S. 143B-437.63.

(b) It is the intent of the General Assembly to appropriate funds annually to the JDIG Reserve established in this section in amounts sufficient to meet the anticipated cash requirements for each fiscal year of the Job Development Investment Grant Program established pursuant to G.S. 143B-437.52."

SECTION 6.12.(g) G.S. 143C-9-8(a) reads as rewritten:

"(a) The State Controller shall establish a reserve in the General Fund to be known as the One North Carolina Fund Reserve. Funds from the One North Carolina Fund Reserve shall not be ~~expended or~~ transferred except in accordance with G.S. 143B-437.75."

SUBSTANTIVE CHANGES

SECTION 6.12.(h) G.S. 143C-1-1(d) is amended by adding the following new subdivisions to read:

"(1a) Authorized budget. – The certified budget with changes authorized by the Director of the Budget through authority granted in G.S. 143C-6-4 or other statutes.

(1b) Availability. – The total anticipated cash available within a fund for appropriation purposes, including unreserved fund balance and all revenue and receipts anticipated in a fiscal year.

...

(7a) Continuation budget. – That part of the Recommended State Budget necessary to continue the same level of services in the next biennium as is provided in the current fiscal year, including (i) mandated Social Security rate adjustments; (ii) annualization of programs and positions; (iii) enrollment adjustments for public schools and Medicaid; (iv) reductions to adjust for items funded with nonrecurring funds during the prior fiscal biennium; (v) increases to adjust for nonrecurring reductions during the prior fiscal biennium; and (vi) if deemed necessary by the Director, other adjustments such as inflation, building reserves, and equipment replacement."

SECTION 6.12.(i) G.S. 143C-1-1(d)(7) reads as rewritten:

"(7) Certified budget. – The budget as enacted by the General Assembly including adjustments made for (i) distributions to State agencies from statewide reserves appropriated by the General Assembly, (ii) distributions of reserves appropriated to a specific agency by the General Assembly, and (iii) organizational or budget changes ~~directed~~ mandated by the General ~~Assembly but left to the Director to carry out.~~Assembly."

SECTION 6.12.(j) G.S. 143C-3-3 reads as rewritten:

"**§ 143C-3-3. Budget requests from State agencies in the executive branch.**

...

(b) University of North Carolina System Request. – Notwithstanding ~~subsections (c), (d), and (e) of this section, pursuant to~~ the requirement in G.S. 116-11 that the Board of Governors ~~shall~~ prepare a unified budget request for all of the constituent institutions of The University of North Carolina, ~~including~~ repairs and renovations, capital fund requests, and information ~~technology.~~technology requests shall comply with subsections (c), (d), and (e) of this section.

...

(e) Information Technology Request. – In addition to any other information requested by the Director, any State agency requesting significant State resources, as defined by the Director, for the purpose of acquiring or maintaining information technology shall accompany that request with all of the following:

(1) A statement of its needs for information technology and related resources, including expected improvements to programmatic or business operations, together with a review and evaluation of that statement prepared by the State Chief Information Officer.

(2) A statement setting forth the requirements for State resources, together with an evaluation of those requirements by the State Chief Information Officer that takes into consideration the State's current technology, the opportunities for technology sharing, the requirements of Article 3D of Chapter 147 of the General Statutes, and any other factors relevant to the analysis.

(3) A statement by the State Chief Information Officer that sets forth viable alternatives, if any, for meeting the agency needs in an economical and efficient manner.

(4) In the case of an acquisition, an explanation of the method by which the acquisition is to be financed.

This subsection shall not apply to requests submitted by the General ~~Assembly,~~Assembly or the Administrative Office of the ~~Courts, or The University of North Carolina.~~Courts."

SECTION 6.12.(k) G.S. 143C-3-5 reads as rewritten:

"**§ 143C-3-5. Budget recommendations and budget message.**

...

(b) Odd-Numbered ~~Fiscal~~ Years. – In odd-numbered years the budget recommendations shall include the following components:

(1) A Recommended State Budget setting forth goals for improving the State with recommended expenditure requirements, funding sources, and performance information for each State government program and for each proposed capital improvement. The Recommended State Budget may be presented in a format chosen by the Director, except that the Recommended State Budget shall clearly distinguish program continuation requirements, program reductions, program eliminations, program expansions, and new programs, and shall explain all proposed capital improvements in the context of the Six-Year Capital Improvements Plan and as required by G.S. 143C-8-6. ~~The Director shall include as continuation requirements the amounts the Director proposes to fund for the enrollment increases in public schools, community colleges, and the university system.~~

(1a) The Governor's Recommended State Budget shall include a continuation budget, which shall be presented in the budget support document pursuant to subdivision (2) of this subsection.

...

(5) A list of budget adjustments made during the prior fiscal year pursuant to G.S. 143C-6-4 that are included in the proposed continuation budget for the upcoming fiscal year.

(c) Even-Numbered ~~Fiscal~~ Years. – In even-numbered years, the Governor may recommend changes in the enacted budget for the second year of the biennium. These recommendations shall be presented as amendments to the enacted budget and shall be incorporated in a recommended Current Operations Appropriation Act and a recommended Capital Improvements Appropriations Act as necessary. Any recommended changes shall clearly distinguish program reductions, program eliminations, program expansions, and new programs, and shall explain all proposed capital improvements in the context of the Six-Year Capital Improvements Plan and as required by G.S. 143C-8-6. The Governor shall provide sufficient supporting documentation and accounting detail, consistent with that required by G.S. 143C-3-5(b), corresponding to the recommended amendments to the enacted budget.

(d) Funds Included in Budget. – Consistent with requirements of the North Carolina Constitution, Article 5, Section 7(1), the Governor's Recommended State Budget, together with the Budget Support Document, shall include recommended expenditures of State funds from all Governmental and Proprietary Funds, as those funds are described in ~~G.S. 143C-1-3.~~ G.S. 143C-1-3, and all funds established for The University of North Carolina and its

constituent institutions that are subject to this Chapter. Except where provided otherwise by federal law, funds received from the federal government become State funds when deposited in the State treasury and shall be classified and accounted for in the Governor's budget recommendations no differently than funds from other sources.

...."

SECTION 6.12.(l) G.S. 143C-4-3 reads as rewritten:

"**§ 143C-4-3. Repairs and Renovations ~~Reserve Account.~~Reserve.**

(a) Creation and Source of Funds. – The Repairs and Renovations Reserve ~~Account~~ is established as a reserve in the General Fund. The State Controller shall reserve to the Repairs and Renovations Reserve ~~Account~~ one-fourth of any unreserved fund balance, as determined on a cash basis, remaining in the General Fund at the end of each fiscal year.

(b) Use of Funds. – The funds in the Repairs and Renovations Reserve ~~Account~~ shall be used only for the repair and renovation of State facilities and related infrastructure that are supported from the General Fund. Funds from the Repairs and Renovations Reserve ~~Account~~ shall be used only for the following types of projects:

(1) Roof repairs and replacements;
(2) Structural repairs;
(3) Repairs and renovations to meet federal and State standards;
(4) Repairs to electrical, plumbing, and heating, ventilating, and air-conditioning systems;
(5) Improvements to meet the requirements of the Americans with Disabilities Act, 42 U.S.C. § 12101, et seq., as amended;
(6) Improvements to meet fire safety needs;
(7) Improvements to existing facilities for energy efficiency;
(8) Improvements to remove asbestos, lead paint, and other contaminants, including the removal and replacement of underground storage tanks;
(9) Improvements and renovations to improve use of existing space;
(10) Historical restoration;
(11) Improvements to roads, walks, drives, utilities infrastructure; and
(12) Drainage and landscape improvements.

Funds from the Repairs and Renovations Reserve ~~Account~~ shall not be used for new construction or the expansion of the building area (sq. ft.) of an existing facility unless required in order to comply with federal or State codes or standards.

(c) Use of Funds. – Funds Available Only Upon Appropriation. – Funds reserved to the Repairs and Renovations Reserve ~~Account~~ shall be available for expenditure only upon an act of appropriation by the General Assembly.

(d) ~~Board of Governors May Allocate~~ Allocation and Reallocation of Funds ~~to~~ for Particular Projects. – Any funds in the ~~Reserve for~~ Repairs and Renovations Reserve that are allocated to the Board of Governors of The University of North Carolina or to the Office of State Budget and Management may be allocated or reallocated by ~~the Board~~ those agencies for repairs and renovations projects so long as ~~(i) any project that receives an allocation or reallocation satisfies the requirements of subsection (b) of this section unless the Board determines that sufficient funds are not available from other sources and that conditions warrant General Fund assistance and (ii) the allocation or reallocation is in accordance with guidelines developed in The University of North Carolina Funding Allocation Model for Reserve for Repairs and Renovations, as approved by the Board of Governors of The University of North Carolina. The Board of Governors shall report to the Joint Legislative Commission on Governmental Operations on the allocation or reallocation of funds pursuant to this section within 60 days of any allocation or reallocation under this subsection.~~all of the following conditions are satisfied:

(1) Any project that receives an allocation or reallocation satisfies the requirements of subsection (b) of this section.

(2) If the allocation or reallocation of funds from one project to another under this section is two million five hundred thousand dollars ($2,500,000) or more for a particular project, the Office of State Budget and Management or the Board of Governors, as appropriate, consults with the Joint Legislative Commission on Governmental Operations prior to the expenditure or reallocation.

(3) If the allocation or reallocation of funds from one project to another under this section is less than two million five hundred thousand dollars ($2,500,000) for a particular project, the allocation or reallocation of funds is reported to the Joint Legislative Commission on Governmental Operations within 60 days of the expenditure or reallocation.

~~(c) Office of State Budget and Management May Allocate Funds to Particular Projects. – Any funds in the Reserve for Repairs and Renovations that are allocated to the Office of State Budget and Management may be allocated or reallocated by the State Budget Office for repairs and renovations projects so long as any project that receives an allocation or reallocation satisfies the requirements of subsection (b) of this section. The Office of State Budget and Management shall consult with the Joint Legislative Commission on Governmental Operations prior to the allocation of these funds. The State Budget Office shall report to the Joint Legislative Commission on Governmental Operations on the reallocation of funds pursuant to this section within 60 days of any reallocation under this subsection.~~"

SECTION 6.12.(m) G.S. 143C-5-2 reads as rewritten:

"**§ 143C-5-2. Order of appropriations bills.**

(a) Each house of the General Assembly shall first pass its version of the Current Operations Appropriations Act on third reading and order it sent to the other chamber before placing any other appropriations bill on the calendar for second reading. This section does not apply to the following bills:

(1) An appropriations bill to respond to an emergency as defined by G.S. 166A-19.3.

(2) An appropriations bill making adjustments to the current year budget.

(3) An appropriations bill authorizing continued operations at current funding levels.

(4) In even-numbered years, an appropriations bill that contains a statement that the General Assembly does not intend to enact a Current Operations Appropriations Act that year.

(b) The provisions of subsection (a) of this section shall apply to each fiscal year of the biennium."

SECTION 6.12.(n) G.S. 143C-6-1 reads as rewritten:

"**§ 143C-6-1. Budget enacted by the General Assembly; certified budgets of State agencies.**

...

(b) Departmental Receipts. – Departmental receipts collected to support a program or purpose shall be credited to the fund from which appropriations have been made to support that program or purpose. A State agency shall expend departmental receipts first, including receipts in excess of the amount of receipts budgeted in the certified budget for the program or purpose, and shall expend other funds appropriated for the purpose or program only to the extent that receipts are insufficient to meet the costs anticipated in the certified budget.

Except as authorized in G.S. 143C-6-4, excess departmental receipts shall not be used to increase expenditures for a purpose or program."

(c) Certification of the Budget. – The Director of the Budget shall certify to each State agency the amount appropriated to it for each program and each object from all ~~governmental and proprietary funds.~~ funds included in the budget as defined is G.S. 143C-3-5(d). The certified budget for each State agency shall reflect the total of all appropriations enacted for each State agency by the General Assembly in the Current Operations Appropriations Act, the Capital Improvements Appropriations Act, and any other act affecting the State budget. The certified budget for each State agency shall follow the format of the Budget Support Document as modified to reflect changes enacted by the General Assembly."

SECTION 6.12.(o) G.S. 143C-6-4 reads as rewritten:

"**§ 143C-6-4. Budget Adjustments Authorized.**

(a) Findings. – The General Assembly recognizes that even the most thorough budget deliberations may be affected by unforeseeable ~~events. Under~~events; therefore, under the limited circumstances set forth in this section, the Director ~~may~~ is authorized to adjust the enacted budget by making transfers among lines of expenditure, purposes, or programs or by increasing expenditures funded by departmental receipts. ~~Under no circumstances, however, shall total General Fund expenditures for a State department exceed the amount appropriated to that department from the General Fund for the fiscal year.~~

(b) ~~Adjustments to the Certified Budget.~~Budget Adjustments. – Notwithstanding the provisions of G.S. 143C-6-1, a State agency may, with approval of the Director of the Budget, spend more than was ~~authorized~~ appropriated in the certified budget by adjusting the authorized budget for all of the following:

(1) Line items within programs. – An object or line item within a purpose or program so long as the total amount expended for the purpose or program is no more than was authorized in the certified budget for the purpose or program.

(2) Responses to extraordinary events. – A purpose or program if the overexpenditure of the purpose or program is:

a. Required by a court or Industrial Commission order;

b. Authorized under G.S. 166A-19.40(a) of the North Carolina Emergency Management Act; or

c. Required to call out the North Carolina National Guard.

(3) Responses to unforeseen circumstances. – A purpose or program not subject to the provisions of subdivision (b)(2) of this ~~subsection, but only in accord with the following restrictions: (i) the~~ subsection, if each of the following conditions is satisfied:

a. The overexpenditure is required to continue the purpose or programs due to complications or changes in circumstances that could not have been foreseen when the budget for the fiscal period was ~~enacted, (ii) the~~ enacted.

b. The scope of the purpose or program is not ~~increased, (iii) the~~increased.

c. The overexpenditure is authorized on a ~~nonrecurring basis, and (iv) under no circumstances shall the total requirements for a State department exceed the department's certified budget for the fiscal year by more than three percent (3%) without prior consultation with the Joint Legislative Commission on Governmental Operations one-time~~ nonrecurring basis for one year only.

(b1) If the overexpenditure would cause a department's total requirements for a fund to exceed the department's certified budget for a fiscal year for that fund by more than three percent (3%), the Director shall consult with the Joint Legislative Commission on Governmental Operations prior to authorizing the overexpenditure.

(b2) Subsection (b) of this section shall not be construed to authorize budget adjustments that cause General Fund expenditures, excluding expenditures from General Fund receipts, to exceed General Fund appropriations for a department.

...."

SECTION 6.12.(p) G.S. 143C-6-21 reads as rewritten:

"**§ 143C-6-21. Payments to nonprofits.**

Except as otherwise provided by law, an annual appropriation of one hundred thousand dollars ($100,000) or less to or for the use of a nonprofit corporation ~~shall~~ may be made in a single annual ~~payment.~~ payment, in the discretion of the Director of the Budget. An annual appropriation of more than one hundred thousand dollars ($100,000) to or for the use of a nonprofit corporation shall be made in quarterly or monthly payments, in the discretion of the Director of the Budget."

SECTION 6.12.(q) G.S. 143C-7-2(a) reads as rewritten:

"(a) Plans Submitted and Reviewed. – The Secretary of each State agency that receives and administers federal Block Grant funds shall prepare and submit the agency's Block Grant plans to the Director of the Budget. The Director of the Budget shall submit the Block Grant plans to ~~the Fiscal Research Division of the General Assembly not later than February 28 of each odd-numbered calendar year and not later than April 30 of each even-numbered calendar year.~~the General Assembly as part of the Recommended State Budget submitted pursuant to G.S. 143C-3-5."

SECTION 6.12.(r) G.S. 143C-8-2 reads as rewritten:

"**§ 143C-8-2. Capital facilities inventory.**

(a) The Department of Administration shall develop and maintain an automated inventory of all facilities owned by State agencies pursuant to G.S. 143-341(4). The inventory shall include the location, occupying agency, ownership, size, description, condition assessment, maintenance record, parking and employee facilities, and other information to determine maintenance needs and prepare life-cycle cost evaluations of each facility listed in the inventory. The Department of Administration shall update and publish the inventory at least once every three years. The Department shall also record in the inventory acquisitions of new facilities and significant changes in existing facilities as they occur.

(b) No later than October 1 of each even-numbered year, the Department of Administration shall provide a summary of the information maintained in the inventory described in subsection (a) of this section to the Fiscal Research Division of the Legislative Services Commission. This summary shall include all of the following:

(1) A summary of the number, type, square footage or acreage, and condition of facilities allocated to or owned by each State agency.

(2) A summary of the geographical distribution of State facilities.

(3) An estimate of the percentage increase or decrease of square footage or acreage allocated to or owned by each State agency since the last report was submitted pursuant to this subsection.

(4) Any other information requested by the Fiscal Research Division."

SECTION 6.12.(s) G.S. 143C-9-7(b) reads as rewritten:

"(b) ~~Funds~~ Upon appropriation by the General Assembly, funds received in the Indian Gaming Education Revenue Fund ~~are hereby appropriated as received to the State Public School Fund for quarterly allotment~~shall be allocated quarterly by the State Board of Education to local school administrative units, charter schools, and regional schools on the basis of allotted average daily membership. The funds allotted by the State Board of Education pursuant to this section shall be nonreverting. Funds received pursuant to this section by local school administrative units shall be expended for classroom teachers, teacher assistants, classroom materials or supplies, or textbooks."

PART VII. INFORMATION TECHNOLOGY

INFORMATION TECHNOLOGY FUND

SECTION 7.1. The availability used to support appropriations made in this act from the Information Technology Fund established in G.S. 147-33.72H is as follows:

	FY 2013-2014	FY 2014-2015
General Fund Appropriation for IT Fund	$6,053,142	$6,055,342
General Fund Appropriation for Government Data Analytics Center	3,000,000	4,417,515
Interest	$2,200	$2,200
IT Fund Balance, June 30	$0	$0
Total Funds Available	$9,055,342	$10,475,057

Appropriations are made from the Information Technology Fund for the 2013-2015 fiscal biennium as follows:

Information Technology Operations		
Criminal Justice Information Network	$189,563	$189,563
Center for Geographic Information and Analysis	$495,338	$495,338
Enterprise Security Risk Management	$864,148	$864,148
Enterprise Project Management Office	$1,473,285	$1,473,285
Architecture and Engineering	$851,986	$851,986
State Web Site	$224,741	$224,741
Enterprise Licenses	$33,000	$33,000
Subtotal Information Technology Operations	$4,132,061	$4,132,061
Information Technology Projects		
Government Data Analytics Center	$3,000,000	$4,417,515
IT Consolidation	$1,021,081	$1,021,081
Electronic Forms/Digital Signatures	$900,000	$900,000
Subtotal Information Technology Projects	$4,921,081	$6,338,596
Total	$9,053,142	$10,470,657

Unless a change is approved by the State Chief Information Officer after consultation with the Office of State Budget and Management, funds appropriated to the Information Technology Fund shall be spent only as specified in this section. Changes shall not result in any degradation to the information technology operations or projects listed in this section for which the funds were originally appropriated.

Any changes to the specified uses shall be reported in writing to the Chairs of the Joint Legislative Oversight Committee on Information Technology, the Chair and Cochair of the House Appropriations Subcommittee on Information Technology, and the Fiscal Research Division.

INFORMATION TECHNOLOGY INTERNAL SERVICE FUND

SECTION 7.2.(a) G.S. 147-33.88 reads as rewritten:

"**§ 147-33.88. Information technology budget development and reports.**

(a) ~~The Office shall develop an annual budget for review and approval by the Office of State Budget and Management prior to April 1 of each year.~~The Office of Information Technology Services (ITS) shall develop an annual budget for review and approval by the Office of State Budget and Management (OSBM) in accordance with a schedule prescribed by the Director of the Office of State Budget and Management. The approved Information

Technology Internal Service Fund budget shall be included in the Governor's budget recommendations to the General Assembly.

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

(b) The Office shall report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on the Office's Internal Service Fund on a quarterly basis, no later than the first day of the second month following the end of the quarter. The report shall include current cash balances, line-item detail on expenditures from the previous quarter, and anticipated expenditures and revenues. The Office shall report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on expenditures for the upcoming quarter, projected year-end balance, and the status report on personnel position changes including new positions created and existing positions eliminated. The Office spending reports shall comply with the State Accounting System object codes."

SECTION 7.2.(b) IT Internal Service Fund. – For each year of the 2013-2015 fiscal biennium, receipts for the IT Internal Service Fund shall not exceed one hundred ninety million dollars ($190,000,000), excluding a 60-day balance for contingencies. Rates approved by the Office of State Budget and Management (OSBM) to support the IT Internal Service Fund shall be based on this fund limit. In the event the Fund exceeds the required limit, rates shall be adjusted within 30 days. In the event that an increase in receipts for the IT Internal Service Fund is required, the Office of Information Technology services may only implement the increase after consultation with the Joint Legislative Commission on Governmental Operations.

SECTION 7.2.(c) Rate Setting. – By October 31, 2013, the State Chief Information Officer shall establish consistent, fully transparent, easily understandable rates that reflect industry standards for each service for which any agency is charged. A report explaining the rate structure shall be submitted to the Joint Legislative Commission on Governmental Operations, the Chairs of the Joint Legislative Oversight Committee on Information Technology, the House Appropriations Subcommittee on Information Technology, and the Fiscal Research Division. An interim report shall be submitted by July 30, 2013. Overhead charges to agencies shall be consistently applied and shall reflect industry standards for the particular service. Rate increases shall require the approval of OSBM and consultation with the Joint Legislative Commission on Governmental Operations. Rate reductions may be implemented following notification of OSBM.

SECTION 7.2.(d) Agency Billing and Payments. – The State Chief Information Officer shall ensure that bills from the Office of Information Technology Services are easily understandable and fully transparent. If a State agency fails to pay its IT Internal Service Fund bill within 30 days of receipt, the Office of State Budget and Management may transfer funds from the agency to fully or partially cover the cost of the bill from that agency to the IT Internal Service Fund, following notification of the affected agency.

SECTION 7.2.(e) Unspecified Uses. – Any uses of the IT Internal Service Fund not specifically related to the operation of the Office of Information Technology Services, to include any transfers to other State agencies, shall immediately be reported to the Office of State Budget and Management and the Fiscal Research Division with a detailed explanation as to why it was necessary to use the Fund. The State Chief Information Officer may use the IT Internal Service Fund, and any other available resources, to accelerate desktop remediation and associated software upgrades, if it is in the State's best interest.

INFORMATION TECHNOLOGY RESERVE FUND

SECTION 7.3.(a) Funds in the Reserve for Information Technology for the 2013-2014 fiscal year consist of the sum of thirty-one million dollars ($31,000,000) appropriated from the General Fund. Funds in the Reserve for Information Technology for the 2014-2015 fiscal year consist of the sum of thirty-six million dollars ($36,000,000) appropriated from the General Fund.

SECTION 7.3.(b) The Information Technology Reserve Fund shall be established in the Office of the State Chief Information Officer (CIO). It shall be interest-bearing and nonreverting. The State CIO shall follow established procedures for project approval. Appropriations are made from the Information Technology Reserve Fund for the 2013-2015 fiscal biennium as follows:

	FY 2013-2014	FY 2014-2015
Prepare/Focus	$250,000	$0
Plan	$1,752,806	$2,232,321
Build	$1,057,353	$2,754,163
Remediation	$1,100,000	$600,000
Security	$1,571,394	$392,788
Network Simplification	$0	$5,250,000
Desktop Remediation	$16,000,000	$14,300,000
Desktop Software Licenses	$7,615,000	$2,300,000
Operate	$985,446	$685,446
Customer Data	$400,000	$1,000,000
Secure Sign-On	$0	$6,350,000
Innovation Center	$0	$0

SECTION 7.3.(c) By August 1, 2013, the State Chief Information Officer shall provide a time line for completing initiatives included in the IT Reserve Fund to the Joint Legislative Oversight Committee on Information Technology, the House Appropriations Subcommittee on Information Technology, and the Fiscal Research Division. The time line shall include the dates for completion of a strategic plan, an enterprise architecture, a new business case methodology, and implementation of a new project management process. Not later than the dates specified in the time line, each of these documents shall be submitted to the Joint Legislative Oversight Committee on Information Technology, the House Appropriations Subcommittee on Information Technology, and the Fiscal Research Division.

INFORMATION TECHNOLOGY OPERATIONS

SECTION 7.4.(a) The Office of the State Chief Information Officer (CIO) shall develop an inventory of servers and server locations in State agencies. Based on this inventory, the State CIO shall develop a plan to consolidate agency servers in State-owned data centers. By November 1, 2013, the State CIO shall provide a written plan for accomplishing this to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division.

SECTION 7.4.(b) The Office of the State CIO shall identify information technology applications that are hosted by vendors that are not backed up on State-owned infrastructure. The State CIO shall work with impacted State agencies to develop a plan to ensure that any State agency application hosted by a vendor is backed up on State-owned infrastructure. By January 1, 2014, the State CIO shall provide a plan for accomplishing this to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division.

SECTION 7.4.(c) G.S. 147-33.80 reads as rewritten:

"**§ 147-33.80. Exempt agencies.**

Except as otherwise specifically provided by law, this Article shall not apply to the General ~~Assembly, the Judicial Department, or The University of North Carolina and its constituent~~

~~institutions.~~ Assembly or to the Judicial Department. These agencies may elect to participate in the information technology programs, services, or contracts offered by the Office, including information technology procurement, in accordance with the statutes, policies, and rules of the Office."

STATEWIDE INFORMATION TECHNOLOGY PROCUREMENT

SECTION 7.5. Statewide information technology procurement shall be funded through fees charged to agencies using the services of the Statewide Information Technology Procurement Office. The Office of the State Chief Information Officer (CIO) shall provide to the Office of State Budget and Management (OSBM) a fee schedule to allow cost recovery. If an agency fails to pay for services within 30 days of billing, OSBM shall transfer the unpaid amount to the State Information Technology Procurement Office, following notification of the affected agency.

PUBLIC SCHOOL PROCUREMENT OF INFORMATION TECHNOLOGY

SECTION 7.6.(a) The State Chief Information Officer (CIO) shall work with the North Carolina Department of Public Instruction (DPI) and the Governor's Education Council to implement public school cooperative purchasing agreements for the procurement of information technology (IT) goods and services to support public schools. For purposes of this section, the phrase "public school cooperative purchasing agreement" means an agreement implemented pursuant to this section and available for local school administrative units, regional schools, charter schools, or some combination thereof, providing for collaborative or collective purchases of information technology goods and services in order to leverage economies of scale and to reduce costs.

SECTION 7.6.(b) Each public school cooperative purchasing agreement shall be based on a defined statewide information technology need to support education in the public schools. Each public school cooperative purchasing agreement shall allow for equal access to technology tools and services and shall provide a standard competitive cost throughout North Carolina for each tool or service. Public school cooperative purchasing agreements shall follow State information technology procurement laws, rules, and procedures.

SECTION 7.6.(c) By October 1, 2013, and quarterly thereafter, the Office of the State CIO and DPI shall report on the establishment of public school cooperative purchasing agreements, savings resulting from the establishment of the agreements, and any issues impacting the establishment of the agreements. The reports shall be made to the Joint Legislative Oversight Committee on Information Technology, the Joint Legislative Education Oversight Committee, and the Fiscal Research Division.

INFORMATION TECHNOLOGY CONTRACTS

SECTION 7.7.(a) SCIO Review. – The State Chief Information Officer (CIO) shall review all State information technology (IT) contracts and shall develop a plan to consolidate duplicate IT contracts and multiple IT contracts with the same vendor.

SECTION 7.7.(b) Sole Sourcing Limited. – State IT contracts, including extensions of the period of performance or expansion of the scope of existing contracts, shall not be sole sourced, unless the State CIO grants a specific exception to allow sole sourcing. The State CIO shall immediately report any exceptions granted to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division. The report shall explain the reasons why any sole sourcing was deemed to be appropriate.

SECTION 7.7.(c) Contract Payments. – State payments under information technology contracts must be in return for value received or benefits conferred to the State in accordance with timely vendor performance of the contract. Therefore, all payments made by the State under information technology contracts shall be linked to vendor completion of

specified performance standards and measures, the delivery of deliverables required under the contract, or both. State information technology contracts shall include terms requiring that vendors meet specific benchmarks within specified time periods. If vendors fail to meet benchmarks within the specified time period, the State CIO shall suspend or terminate the contract. If an agency develops a detailed risk versus reward analysis in advance that (i) is reviewed and approved by the Office of the State CIO and the Office of State Budget and Management and (ii) reflects industry practices, then contract payments provisions may consider the level of risk that a vendor assumes under the contract.

SECTION 7.7.(d) State Intellectual Property. – In any IT contract in which the State funds any portion of the development of intellectual property, the State shall own and shall have a financial interest in the IT-related intellectual property developed with State funds. The State's financial interest shall be specified in all contracts written in association with the development of the intellectual property. The Office of the State CIO shall review and approve any contract provisions related to the State's interest in intellectual property. This subsection shall not apply to the development of intellectual property by (i) The University of North Carolina, (ii) any other college or university in North Carolina, or (iii) any nonprofit with regard to State-funded biotechnology research done by that nonprofit.

SECTION 7.7.(e) Guaranteed Savings. – If a selected vendor presents a proposal quantifying savings to the State over a specific time period, the savings shall be considered guaranteed. To ensure that the State receives the guaranteed savings, the vendor shall provide security to the State in the form acceptable to the Office of the State Treasurer and in an amount equal to one hundred percent (100%) of the total cost of the guaranteed savings contract to ensure the vendor's faithful performance. Any bonds required under this section shall be subject to the provisions of Article 3 of Chapter 44A of the General Statutes. If the savings resulting from a guaranteed contract are not as great as projected under the contract and all required shortfall payments to the State have not been made, the State Chief Information Officer may terminate the contract without incurring any additional obligation to the vendor.

SECTION 7.7.(f) Enterprise Contracts. – The State Chief Information Officer shall consult participating agency chief information officers and obtain approval from the Office of State Budget and Management prior to the initiation of any enterprise project or contract and shall ensure that enterprise project and contract costs are allocated to participating agencies in an equitable manner. Enterprise agreements shall not exceed the participating State agencies' ability to financially support the contracts.

The State CIO shall not enter into any enterprise information technology contracts without obtaining written agreements from participating State agencies regarding the apportionment of the contract cost. State agencies agreeing to participate in a contract shall:

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

(2) Transfer the required funding to the Information Technology Internal Service Fund in sufficient time for the Office of Information Technology Services to meet vendor contract requirements.

SECTION 7.7.(g) Three-Year Contracts. – Notwithstanding the cash management provisions of G.S. 147-86.11, the Office of Information Technology Services may procure information technology goods and services for periods up to a total of three years where the terms of the procurement contracts require payment of all, or a portion, of the contract price at the beginning of the contract agreement. All of the following conditions shall be met before payment for these agreements may be disbursed:

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

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

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

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

The Office of State Budget and Management shall ensure the savings from any authorized agreement shall be included in the IT Internal Service Fund rate calculations before approving annual proposed rates. Any savings resulting from the agreements shall be returned to agencies included in the contract in the form of reduced rates. Beginning October 1, 2013, ITS shall submit a quarterly written report of any authorizations granted under this section to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division.

SECTION 7.7.(h) Develop State IT Contract Expertise. – The State CIO, the Office of State Personnel Management, and the University of North Carolina School of Government shall work jointly to create a career path for information technology contracting professionals that includes defined qualifications, career progression, training opportunities, and appropriate compensation. By March 1, 2014, the UNC School of Government shall submit a report on efforts to create the career path for government information technology contracting professionals to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division.

INFORMATION TECHNOLOGY PERSONAL SERVICES CONTRACT REQUIREMENTS

SECTION 7.8. Notwithstanding any provision of law to the contrary, no contract for information technology personal services, or that provides personnel to perform information technology functions, may be established or renewed without written approval from the Statewide Information Technology Procurement Office and the Office of State Budget and Management. To facilitate compliance with this requirement, the Statewide Information Technology Procurement Office shall develop and document the following:

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

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

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

The Statewide Information Technology Procurement Office shall review current personal services contracts and determine if each contractor is performing a function that could more appropriately be performed by a State employee. Where the determination is made that a State employee should be performing the function, the Statewide Information Technology Procurement Office shall work with the impacted agency and the Office of State Personnel to identify or create the position.

Beginning October 1, 2013, the Statewide Information Technology Procurement Office shall report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on its progress toward standardizing information technology personal services contracts. In addition, the report shall include detailed information on the number of personal service contractors in each State agency, the cost for each, and the comparable cost (including benefits) of a State employee serving in that capacity rather than a contractor.

PREVENT DUPLICATION OF INFORMATION TECHNOLOGY CAPABILITIES

SECTION 7.9.(a) The Office of the State Chief Information Officer (CIO) shall develop a plan and adopt measures to prevent the duplication of information technology capabilities and resources across State agencies. When multiple agencies require the same, or substantially similar, information technology capabilities, the State CIO shall designate one State agency as the lead to coordinate and manage the capability for all State agencies, with the State CIO maintaining oversight of the effort. By October 1, 2013, the State CIO shall provide this plan to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division.

SECTION 7.9.(b) The Office of the State Chief Information Officer shall do all of the following to carry out the purposes of this section:

(1) Review all current and future information technology projects to determine whether the capabilities required for each project already exist in a planned, ongoing, or completed information technology project developed by another State agency. For projects where the capability already exists, the Office of the State CIO shall assist the agency with implementing the existing capability.

(2) Identify existing projects that can best support a specific information technology capability for multiple agencies and work to transition all agencies requiring the specific capability to the identified projects.

(3) When State agencies request approval for new projects, determine if the information technology project can be implemented using an existing application, or if the new project has the potential to support multiple agencies' requirements.

(4) Provide quarterly reports on progress toward eliminating duplication to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division.

(5) Ensure that contracts for information technology allow the addition of other agencies' requirements within the terms of the existing contracts.

SECTION 7.9.(c) All State agencies shall coordinate any Geographic Information System (GIS) initiatives through the Center for Geographic Information and Analysis (CGIA) in the Office of Information Technology Services, as well as the Office of the State CIO, to ensure that existing capabilities are not being duplicated. The CGIA shall monitor and approve all new GIS-related information technology projects and expansion budget requests. By January 1 of each year, the CGIA shall submit a written report on GIS duplication to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division.

The CGIA shall conduct a review of all GIS applications in State agencies, identify instances of duplication for existing applications, and develop a plan for consolidating duplicative projects. By November 1, 2013, the CGIA shall provide a report on the review to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division.

GOVERNMENT DATA ANALYTICS/DATA SHARING

SECTION 7.10.(a) G.S. 20-7(b2) reads as rewritten:

"(b2) Disclosure of Social Security Number. – The social security number of an applicant is not a public record. The Division may not disclose an applicant's social security number except as allowed under federal law. A violation of the disclosure restrictions is punishable as provided in 42 U.S.C. § 408, as amended.

In accordance with 42 U.S.C. 405 and 42 U.S.C. 666, as amended, the Division may disclose a social security number obtained under subsection (b1) of this section only as follows:

(1) For the purpose of administering the driver's license laws.
(2) To the Department of Health and Human Services, Child Support Enforcement Program for the purpose of establishing paternity or child support or enforcing a child support order.
(3) To the Department of Revenue for the purpose of verifying taxpayer identity.
(4) To the Office of Indigent Defense Services of the Judicial Department for the purpose of verifying the identity of a represented client and enforcing a court order to pay for the legal services rendered.
(5) To each county jury commission for the purpose of verifying the identity of deceased persons whose names should be removed from jury lists.
(6) To the Office of the State Controller for the purposes of G.S. 143B-426.38A."

SECTION 7.10.(b) G.S. 20-43(a) reads as rewritten:

"(a) All records of the Division, other than those declared by law to be confidential for the use of the Division, shall be open to public inspection during office hours in accordance with G.S. 20-43.1. A ~~photographic image or~~ signature recorded in any format by the Division for a drivers license or a special identification card is confidential and shall not be released except for law enforcement purposes. A photographic image recorded in any format by the Division for a drivers license or a special identification card is confidential and shall not be released except for law enforcement purposes or to the Office of the State Controller for the purposes of G.S. 143B-426.38A."

SECTION 7.10.(c) G.S. 105-259(b) is amended by adding a new subdivision to read:

"(44) To furnish tax information to the Office of the State Controller under G.S. 143B-426.38A. The use and reporting of individual data may be restricted to only those activities specifically allowed by law when potential fraud or other illegal activity is indicated."

SECTION 7.10.(d) Part 28 of Article 9 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-426.38A. Government Data Analytics Center; State data-sharing requirements.**

(a) State Government Data Analytics. – The State shall initiate across State agencies, departments, and institutions a data integration and data-sharing initiative that is not intended to replace transactional systems but is instead intended to leverage the data from those systems for enterprise-level State business intelligence.

(1) Creation of initiative. – In carrying out the purposes of this section, the Office of the State Controller shall conduct an ongoing, comprehensive evaluation of State data analytics projects and plans in order to identify data integration and business intelligence opportunities that will generate greater efficiencies in, and improved service delivery by, State agencies, departments, and institutions. The State Controller and State CIO shall continue to utilize public-private partnerships and existing data integration and analytics contracts and licenses as appropriate to continue the implementation of the initiative.
(2) Application to State government. – The initiative shall include all State agencies, departments, and institutions, including The University of North Carolina.
(3) Governance. – The State Controller shall lead the initiative established pursuant to this section. The Chief Justice of the North Carolina Supreme Court and the Legislative Services Commission each shall designate an officer or agency to advise and assist the State Controller with respect to

implementation of the initiative in their respective branches of government. The judicial and legislative branches shall fully cooperate in the initiative mandated by this section in the same manner as is required of State agencies.

(b) Government Data Analytics Center. –

(1) GDAC established. – There is established in the Office of the State Controller the Government Data Analytics Center (GDAC). GDAC shall assume the work, purpose, and resources of the current data integration effort in the Office of the State Controller and shall otherwise advise and assist the State Controller in the management of the initiative. The State Controller shall make any organizational changes necessary to maximize the effectiveness and efficiency of GDAC.

(2) Powers and duties of the GDAC. – The State Controller shall, through the GDAC, do all of the following:

a. Continue and coordinate ongoing enterprise data integration efforts, including:

1. The deployment, support, technology improvements, and expansion for the Criminal Justice Law Enforcement Automated Data System (CJLEADS).

2. The pilot and subsequent phase initiative for the North Carolina Financial Accountability and Compliance Technology System (NCFACTS).

3. Individual-level student data and workforce data from all levels of education and the State workforce.

4. Other capabilities developed as part of the initiative.

b. Identify technologies currently used in North Carolina that have the capability to support the initiative.

c. Identify other technologies, especially those with unique capabilities, that could support the State's business intelligence effort.

d. Compare capabilities and costs across State agencies.

e. Ensure implementation is properly supported across State agencies.

f. Ensure that data integration and sharing is performed in a manner that preserves data privacy and security in transferring, storing, and accessing data, as appropriate.

g. Immediately seek any waivers and enter into any written agreements that may be required by State or federal law to effectuate data sharing and to carry out the purposes of this section.

h. Coordinate data requirements and usage for State business intelligence applications in a manner that (i) limits impacts on participating State agencies as those agencies provide data and business knowledge expertise and (ii) assists in defining business rules so the data can be properly used.

i. Recommend the most cost-effective and reliable long-term hosting solution for enterprise-level State business intelligence as well as data integration, notwithstanding Section 6A.2(f) of S.L. 2011-145.

(c) Implementation of the Enterprise-Level Business Intelligence Initiative. –

(1) Phases of the initiative. – The initiative shall cycle through these phases on an ongoing basis:

a. Phase I requirements. – In the first phase, the State Controller through GDAC shall:

1. Inventory existing State agency business intelligence projects, both completed and under development.

2. Develop a plan of action that does all of the following:
   I. Defines the program requirements, objectives, and end state of the initiative.
   II. Prioritizes projects and stages of implementation in a detailed plan and benchmarked time line.
   III. Includes the effective coordination of all of the State's current data integration initiatives.
   IV. Utilizes a common approach that establishes standards for business intelligence initiatives for all State agencies and prevents the development of projects that do not meet the established standards.
   V. Determines costs associated with the development efforts and identifies potential sources of funding.
   VI. Includes a privacy framework for business intelligence consisting of adequate access controls and end user security requirements.
   VII. Estimates expected savings.
3. Inventory existing external data sources that are purchased by State agencies to determine whether consolidation of licenses is appropriate for the enterprise.
4. Determine whether current, ongoing projects support the enterprise-level objectives.
5. Determine whether current applications are scalable or are applicable for multiple State agencies or both.

b. Phase II requirements. – In the second phase, the State Controller through the GDAC shall:
   1. Identify redundancies and recommend to the State CIO any projects that should be discontinued.
   2. Determine where gaps exist in current or potential capabilities.

c. Phase III requirements. – In the third phase:
   1. The State Controller through GDAC shall incorporate or consolidate existing projects, as appropriate.
   2. The State Controller shall, notwithstanding G.S. 147-33.76 or any rules adopted pursuant thereto, eliminate redundant business intelligence projects, applications, software, and licensing.
   3. The State Controller through GDAC shall complete all necessary steps to ensure data integration in a manner that adequately protects privacy.

(2) Project Management. – The State CIO shall ensure that all current and new business intelligence/data analytics projects are in compliance with all State laws, policies, and rules pertaining to information technology procurement, project management, and project funding and that they include quantifiable and verifiable savings to the State. The State CIO shall report to the Joint Legislative Oversight Committee on Information Technology on projects that are not achieving projected savings. The report shall include a proposed corrective action plan for the project.

The Office of the State CIO, with the assistance of the Office of State Budget and Management, shall identify potential funding sources for

expansion of existing projects or development of new projects. No GDAC project shall be initiated, extended, or expanded:

a. Without the specific approval of the General Assembly unless the project can be implemented within funds appropriated for GDAC projects.

b. Without prior consultation to the Joint Legislative Commission on Governmental Operations and a report to the Joint Legislative Oversight Committee on Information Technology, if the project can be implemented within funds appropriated for GDAC projects.

(d) Funding. – The Office of the State Controller, with the support of the Office of State Budget and Management, shall identify and make all efforts to secure any matching funds or other resources to assist in funding this initiative. Savings resulting from the cancellation of projects, software, and licensing, as well as any other savings from the initiative, shall be returned to the General Fund and shall remain unexpended and unencumbered until appropriated by the General Assembly in a subsequent fiscal year. It is the intent of the General Assembly that expansion of the initiative in subsequent fiscal years be funded with these savings and that the General Assembly appropriate funds for projects in accordance with the priorities identified by the Office of the State Controller in Phase I of the initiative.

(d1) Appropriations. – Of the funds appropriated to the Information Technology Fund, the sum of three million dollars ($3,000,000) for the 2013-2014 fiscal year and the sum of four million four hundred seventeen thousand five hundred fifteen dollars ($4,417,515) for the 2014-2015 fiscal year shall be used to support the GDAC and NCFACTS. Of these funds, the sum of one million four hundred seventeen thousand five hundred fifteen dollars ($1,417,515) shall be used in each fiscal year of the 2013-2015 biennium for OSC internal costs. For fiscal year 2014-2015, of the funds generated by GDAC and NCFACTS projects and returned to the General Fund, the sum of up to five million dollars ($5,000,000) is appropriated to fund GDAC and NCFACTS, to include vendor payments. Prioritization for the expenditure of these funds shall be for State costs associated with GDAC first, then vendor costs second. Funds in the 2013-2015 fiscal year budgets for GDAC and NCFACTS shall be used solely to support the continuation for these priority project areas.

(e) Reporting. – The Office of the State Controller shall:

(1) Submit and present quarterly reports on the implementation of Phase I of the initiative and the plan developed as part of that phase to the Chairs of the House of Representatives Appropriations and Senate Base Budget/Appropriations Committees, to the Joint Legislative Oversight Committee on Information Technology, and to the Fiscal Research Division of the General Assembly. The State Controller shall submit a report prior to implementing any improvements, expending funding for expansion of existing business intelligence efforts, or establishing other projects as a result of its evaluations, and quarterly thereafter, a written report detailing progress on, and identifying any issues associated with, State business intelligence efforts.

(2) Report the following information as needed:

a. Any failure of a State agency to provide information requested pursuant to this section. The failure shall be reported to the Joint Legislative Oversight Committee on Information Technology and to the Chairs of the House of Representatives Appropriations and Senate Base Budget/Appropriations Committees.

b. Any additional information to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Oversight

Committee on Information Technology that is requested by those entities.

(f) Data Sharing. –

(1) General duties of all State agencies. – The head of each State agency, department, and institution shall do all of the following:

a. Grant the Office of the State Controller access to all information required to develop and support State business intelligence applications pursuant to this section. The State Controller and the GDAC shall take all necessary actions and precautions, including training, certifications, background checks, and governance policy and procedure, to ensure the security, integrity, and privacy of the data in accordance with State and federal law and as may be required by contract.

b. Provide complete information on the State agency's information technology, operational, and security requirements.

c. Provide information on all of the State agency's information technology activities relevant to the State business intelligence effort.

d. Forecast the State agency's projected future business intelligence information technology needs and capabilities.

e. Ensure that the State agency's future information technology initiatives coordinate efforts with the GDAC to include planning and development of data interfaces to incorporate data into the initiative and to ensure the ability to leverage analytics capabilities.

f. Provide technical and business resources to participate in the initiative by providing, upon request and in a timely and responsive manner, complete and accurate data, business rules and policies, and support.

g. Identify potential resources for deploying business intelligence in their respective State agencies and as part of the enterprise-level effort.

h. Immediately seek any waivers and enter into any written agreements that may be required by State or federal law to effectuate data sharing and to carry out the purposes of this section, as appropriate.

(2) Specific requirements. – The State Controller and the GDAC shall enhance the State's business intelligence through the collection and analysis of data relating to workers' compensation claims for the purpose of preventing and detecting fraud, as follows:

a. The North Carolina Industrial Commission shall release to GDAC, or otherwise provide electronic access to, all data requested by GDAC relating to workers' compensation insurance coverage, claims, appeals, compliance, and enforcement under Chapter 97 of the General Statutes.

b. The North Carolina Rate Bureau (Bureau) shall release to GDAC, or otherwise provide electronic access to, all data requested by GDAC relating to workers' compensation insurance coverage, claims, business ratings, and premiums under Chapter 58 of the General Statutes. The Bureau shall be immune from civil liability for releasing information pursuant to this subsection, even if the information is erroneous, provided the Bureau acted in good faith and without malicious or willful intent to harm in releasing the information.

c. The Department of Commerce, Division of Employment Security (DES), shall release to GDAC, or otherwise provide access to, all data requested by GDAC relating to unemployment insurance coverage, claims, and business reporting under Chapter 96 of the General Statutes.

d. The Department of Labor shall release to GDAC, or otherwise provide access to, all data requested by GDAC relating to safety inspections, wage and hour complaints, and enforcement activities under Chapter 95 of the General Statutes.

e. The Department of Revenue shall release to GDAC, or otherwise provide access to, all data requested by GDAC relating to the registration and address information of active businesses, business tax reporting, and aggregate federal tax Form 1099 data for comparison with information from DES, the Rate Bureau, and the Department of the Secretary of State for the evaluation of business reporting. Additionally, the Department of Revenue shall furnish to the GDAC, upon request, other tax information, provided that the information furnished does not impair or violate any information-sharing agreements between the Department and the United States Internal Revenue Service. Notwithstanding any other provision of law, a determination of whether furnishing the information requested by GDAC would impair or violate any information-sharing agreements between the Department of Revenue and the United States Internal Revenue Service shall be within the sole discretion of the State Chief Information Officer. The Department of Revenue and the Office of the State Controller shall work jointly to assure that the evaluation of tax information pursuant to this subdivision is performed in accordance with applicable federal law.

(3) All information shared with GDAC and the State Controller under this subdivision is protected from release and disclosure in the same manner as any other information is protected under this section.

(g) Provisions on Privacy and Confidentiality of Information. –

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

a. With respect to criminal information, and to the extent allowed by federal law, a criminal justice agency (CJA), as defined under Criminal Justice Information Services (CJIS) Security Policy. The State CJIS Systems Agency (CSA) shall ensure that CJLEADS receives access to federal criminal information deemed to be essential in managing CJLEADS to support criminal justice professionals.

b. With respect to health information covered under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended, and to the extent allowed by federal law:

1. A business associate with access to protected health information acting on behalf of the State's covered entities in support of data integration, analysis, and business intelligence.

2. Authorized to access and view individually identifiable health information, provided that the access is essential to the enterprise fraud, waste, and improper payment detection program or required for future initiatives having specific definable need for the data.

c. Authorized to access all State and federal data, including revenue and labor information, deemed to be essential to the enterprise fraud, waste, and improper payment detection program or future initiatives having specific definable need for the data.

d. Authorized to develop agreements with the federal government to access data deemed to be essential to the enterprise fraud, waste, and improper payment detection program or future initiatives having specific definable need for such data.

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

a. Information compiled as part of the initiative. – Notwithstanding the provisions of Chapter 132 of the General Statutes, information compiled by the State Controller and the GDAC related to the initiative may be released as a public record only if the State Controller, in that officer's sole discretion, finds that the release of information is in the best interest of the general public and is not in violation of law or contract.

b. Data from State agencies. – Any data that is not classified as a public record under G.S. 132-1 shall not be deemed a public record when incorporated into the data resources comprising the initiative. To maintain confidentiality requirements attached to the information provided to the State Controller and GDAC, each source agency providing data shall be the sole custodian of the data for the purpose of any request for inspection or copies of the data under Chapter 132 of the General Statutes.

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

SECTION 7.10.(e) G.S. 143B-426.39 is amended by adding a new subdivision to read:

"(17) Coordinate data integration and data sharing pursuant to G.S. 143B-426.38A across State agencies, departments, and institutions to support the State's enterprise-level business intelligence initiative."

SECTION 7.10.(f) The Office of State Controller, in consultation with the State CIO, shall continue the management and implementation of the GDAC, and shall continue to manage the ongoing enterprise data integration efforts under the GDAC including CJLEADS and NC FACTS. The Office of the State CIO, in consultation with OSC, shall develop a plan for a cooperative transition of the GDAC and all of its programs to the Office of the SCIO, effective July 1, 2014. The plan shall include provisions for a governance structure for GDAC that includes participation by the State Controller. The plan shall also include milestones for the transition. The State CIO shall report the plan details and any associated costs to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division

by no later than October 1, 2013. The State CIO shall also report on a quarterly basis to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on progress toward achieving milestones set out in the plan.

SECTION 7.10.(g) Effective July 1, 2014, the GDAC and all of its programs are hereby transferred to the Office of the SCIO. This transfer shall have all of the elements of a Type I transfer, as defined in G.S. 143A-6. The Office of State Budget and Management shall determine the personnel, property, unexpended balances of appropriations, allocations, or other funds, including the functions of budgeting and purchasing, to be included in the transfer.

SECTION 7.10.(h) The purpose of this section is to codify provisions of Section 6A.7A of S.L. 2012-142, and to the extent that any provision of that section conflicts with G.S. 143B-426.38A, as enacted by this act, the provisions of the statute shall be construed to prevail over any conflicting uncodified provisions.

SECTION 7.10.(i) This section is effective when it becomes law.

STATE INFORMATION TECHNOLOGY DATA ARCHIVING

SECTION 7.11.(a) The State Chief Information Officer (CIO) shall investigate the feasibility of creating an enterprise data archiving system for State agencies that will (i) allow for the effective management of data from multiple sources; (ii) provide for efficient, timely responses to discovery requests and investigations; and (iii) ensure real time State agency access to and use of archived files. The system shall be financed only by savings accrued as a result of the project.

SECTION 7.11.(b) By December 1, 2013, the State CIO shall report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on the results of the feasibility assessment.

SECTION 7.11.(c) Subsequent to making the report required by this section, and only if the State CIO has developed a business case that is validated by the Office of State Budget and Management, then the State CIO may initiate the development of an enterprise data archiving system.

INFORMATION TECHNOLOGY/PRIVACY PROTECTION OF CITIZEN DATA

SECTION 7.12. The Joint Legislative Oversight Committee on Information Technology shall study and develop legislative proposals to establish State requirements to safeguard the personal data of individuals collected and managed by the various State agencies. This review shall be conducted in collaboration with the State Chief Information Officer (CIO), and with the participation and assistance of agency CIOs selected jointly by the Committee and State CIO.

STATE INFORMATION TECHNOLOGY INNOVATION CENTER

SECTION 7.13. The State Chief Information Officer (CIO) may operate a State Information Technology Innovation Center (Center) to develop and demonstrate technology solutions with potential benefit to the State and its citizens. The Center may facilitate the piloting of potential solutions to State technology requirements. In operating the Center, the State CIO shall ensure that all State laws, rules, and policies are followed. Vendor participation in the Center shall not be construed to (i) create any type of preferred status for vendors or (ii) abrogate the requirement that the State CIO ensure that agency and statewide requirements for information technology support (including those for the Office of the State CIO and the Office of Information Technology Services) are awarded based on a competitive process that follows information technology procurement guidelines. Beginning July 1, 2013, the State CIO shall report to the Joint Legislative Oversight Committee on Information Technology on a quarterly basis on initiatives being developed and implemented within the Center, as well as on the sources and amounts of resources used to support the Center.

Any contracts awarded as a result of State collaboration with private vendors in the Innovation Center shall include a provision that allows the State to own and have a financial interest in any intellectual property that is developed.

Any contracts awarded as a result of State collaboration with private vendors in the Innovation Center shall include a provision that allows the State to own and have a financial interest in any intellectual property that is developed.

ENTERPRISE GRANTS MANAGEMENT

SECTION 7.14.(a) Effective August 1, 2013, the State Chief Information Officer (CIO) shall oversee the development and implementation of the enterprise grants management system. The State CIO shall review progress on the implementation of the enterprise grants management system and update the plan for its development and implementation. This plan shall include an updated inventory of current agency grants management systems and a detailed process for consolidating grants management within the State, to include a timeline for implementation. By October 1, 2013, the State CIO shall provide the updated plan to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division.

SECTION 7.14.(b) There is established a Grants Management Oversight Committee to coordinate the development of an enterprise grants management system. The Committee shall be chaired by the State Chief Information Officer. Committee membership shall include the Director of the Office of State Budget and Management, the State Auditor, the Department of Transportation Chief Information Officer, and the State Controller. The Committee shall:

(1) Establish priorities for moving agencies to the enterprise system.
(2) Establish priorities for development and implementation of system capabilities.
(3) Define system requirements.
(4) Approve plans associated with system development and implementation.
(5) Review costs and approve funding sources for system development and implementation.
(6) Ensure any system benefits are realistic and realized.

SECTION 7.14.(c) Beginning September 1, 2013, the Office of the State CIO shall report quarterly to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on the status of the system, including the following information:

(1) Agencies currently participating in the system.
(2) Specific requirements for each agency project included in the system development.
(3) Cost and funding sources for each agency participating in the system.
(4) Status of each agency project included in the system.
(5) Comparison of the status of each project to the project's time line, with an explanation of any differences.
(6) Detailed descriptions of milestones completed that quarter and to be completed the next quarter.
(7) Any changes in project cost for any participating agency, the reason for the change, and the source of funding, if there is a cost increase.
(8) Actual project expenditures by agency, to date, and during that quarter.
(9) Any potential funding shortfalls, and their impact.
(10) Any issues identified during the quarter, with a corrective action plan and a time line for resolving each issue.
(11) Impact of any issues on schedule or cost.
(12) Any changes to agency projects, or the system as a whole.
(13) Any change requests and their costs.

ENTERPRISE ELECTRONIC FORMS AND DIGITAL SIGNATURES

SECTION 7.15.(a) The State's enterprise electronic forms and digital signatures project shall be transferred from the Office of the State Controller to the Office of the State Chief Information Officer (CIO) as a Type I transfer, as defined in G.S. 143A-6. The State CIO shall continue the planning, development, and implementation of a coordinated enterprise electronic forms and digital signatures capability, as well as the use of digital certificates. As part of the process, the Office of the State CIO shall include the capability to allow one-time data entry for multiple applications.

SECTION 7.15.(b) The State CIO shall continue to integrate executive branch agencies developing, or identifying the need to develop, electronic forms or digital signatures projects, or both. The State CIO shall also review existing electronic forms and digital signatures capabilities and develop a plan to consolidate them. The State CIO may consolidate current agency electronic forms and digital signature capabilities, and cancel ongoing projects, and may redirect the resources associated with the capabilities and projects to the enterprise electronic forms and digital signatures project. Beginning November 1, 2013, the State CIO shall submit quarterly reports on the status of the project to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division.

VEHICLE MANAGEMENT

SECTION 7.16.(a) The Office of the State Chief Information Officer (CIO) shall develop an implementation plan for establishing a statewide motor fleet management system. The plan shall consider consolidating individual agency and institution motor fleet management systems and include an implementation time line, a cost estimate, and a continuing funding strategy to create and operate a statewide fleet management information system to which all State agencies and institutions would be required to provide vehicle identification, utilization, and direct cost data. In formulating an implementation plan, the Office of the State Chief Information Officer shall do the following:

(1) Consult with State agencies that own vehicles.

(2) Review the existing fleet management information systems used by State agencies.

(3) Examine fleet management information systems used by other state governments.

(4) Determine whether the State should (i) expand a fleet management information system currently used by a State agency for statewide use, (ii) develop a new in-house system, or (iii) purchase a new system from an outside vendor.

(5) Determine fees or other methods to pay the initial and ongoing costs for the system.

SECTION 7.16.(b) The Office of State Budget and Management shall assist and advise the Office of the State Chief Information Officer in developing the implementation plan and work with State agencies and institutions to identify funding from current and proposed projects and applications that could be used to support the development and implementation of the statewide motor fleet management system. The Office of State Controller shall assist and advise the Office of the State Chief Information Officer in developing the implementation plan for the statewide motor fleet management information system, including how the system interfaces with the statewide accounting system.

SECTION 7.16.(c) Beginning October 1, 2013, the State CIO shall report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on the implementation plan for the statewide motor fleet management information

system including progress toward the development of the enterprise system, the associated costs, identified sources of funding, and any issues associated with the project.

SECTION 7.16.(d) The State CIO shall also study the feasibility of implementing a tracking system for State vehicles, based on recommendations from the Program Evaluation Division, and report the results of the study to the Joint Legislative Oversight Committee on Information Technology, the Joint Legislative Program Evaluation Oversight Committee, and the Fiscal Research Division by November 15, 2013.

SECTION 7.16.(e) Until July 1, 2015, no State or local governmental entity or officer may procure or operate an unmanned aircraft system or disclose personal information about any person acquired through the operation of an unmanned aircraft system unless the State CIO approves an exception specifically granting disclosure, use, or purchase. Any exceptions to the prohibition in this subsection shall be reported immediately to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division. The following definitions apply in this section:

(1) "Unmanned aircraft" means an aircraft that is operated without the possibility of human intervention from within or on the aircraft.

(2) "Unmanned aircraft system" means an unmanned aircraft and associated elements, including communication links and components that control the unmanned aircraft that are required for the pilot in command to operate safely and efficiently in the national airspace system.

SECTION 7.16.(f) If the State Chief Information Officer determines that there is a requirement for unmanned aircraft systems for use by State or local agencies, planning may begin for the possible development, implementation, and operation of an unmanned aircraft system program within the State of North Carolina. This planning effort shall be accomplished in coordination with the Chief Information Officer for the Department of Transportation and the DOT Aviation Division Director. If the State CIO decides to plan for an unmanned aircraft system program, a proposal for the implementation of the program shall be provided by March 1, 2014, to the Joint Legislative Oversight Committee on Information Technology, the Joint Transportation Legislative Oversight Committee, and the Fiscal Research Division. At a minimum, the proposal shall include the following:

(1) Governance structure to include the appropriate use at each level of government.

(2) Guidelines for program implementation to include limitations on unmanned aircraft system use.

(3) Potential participants.

(4) Costs associated with establishing a program.

(5) Potential sources of funding.

(6) Issues associated with establishing a program to include limitations on entities that may already have purchased unmanned aircraft systems.

(7) Recommendations for legislative proposals.

TAX INFORMATION MANAGEMENT SYSTEM/ADDITIONAL PUBLIC-PRIVATE PARTNERSHIP AUTHORIZED

SECTION 7.17.(a) Additional Public-Private Partnership. – The Secretary of Revenue may enter into an additional public-private arrangement in order to expand the implementation of the Tax Information Management System (TIMS). All such arrangements will terminate June 30, 2018. The public-private arrangement may include terms necessary to implement additional revenue-increasing or cost-savings components if all of the following conditions are met:

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

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

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

SECTION 7.17.(b) Contracts. – Work under an additional public-private arrangement that is authorized by this section may be contracted by requests for proposals, modifications to the existing contracts, purchases using existing contracts, or other related contract vehicles.

SECTION 7.17.(c) Management/Performance Measurement. – The Secretary of Revenue shall follow the existing model for public-private arrangement oversight and shall establish a measurement process to determine the increased revenue or cost savings attributed to the additional public-private arrangement authorized by this section. To accomplish this, the Secretary shall consult subject matter experts in the Department of Revenue, in other governmental units, and in the private sector, as necessary. At a minimum, the measurement process shall include all of the following:

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

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

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

SECTION 7.17.(d) Funding. – Of funds generated from increased revenues or cost savings, as compared to the baselines established by subdivision (1) of subsection (c) of this section, in the General Fund, the Highway Fund, and that State portion of the Unauthorized Substance Tax collections of the Special Revenue Fund, the sum of up to a total of sixteen million dollars ($16,000,000) may be authorized by the Office of State Budget and Management to make purchases related to the implementation of the additional public-private arrangement authorized by this section, including payments for services from non-State entities.

SECTION 7.17.(e) Internal Costs. – For the 2013-2015 fiscal biennium the Department of Revenue may retain an additional sum of eight million eight hundred seventy-four thousand three hundred nineteen dollars ($8,874,319) from benefits generated for the General Fund since the beginning of the public-private partnership described under Section 6A.5(a) of S.L. 2011-145. These funds shall be used as payment of internal costs for the fiscal biennium, and such funds are hereby appropriated for this purpose.

SECTION 7.17.(f) Expert Counsel Required. – Notwithstanding G.S. 114-2.3, the Department of Revenue shall engage the services of private counsel with the pertinent information technology and computer law expertise to negotiate and review contracts associated with an additional public-private arrangement authorized under this section.

SECTION 7.17.(g) Oversight Committee. – The Oversight Committee established under Section 6A.5(c) of S.L. 2011-145 shall have the same responsibilities and duties with respect to an additional public-private arrangement authorized by this section as it does with respect to public-private arrangements to implement TIMS and the additional Planning and Design Project (PDP) components.

SECTION 7.17.(h) Reporting. – Beginning August 1, 2013, and quarterly thereafter, the Department of Revenue shall submit detailed written reports to the Chairs of the House of Representatives Appropriations Committee, to the Chairs of the Senate Committee on Appropriations/Base Budget, to the Joint Legislative Oversight Committee on Information

Technology, and to the Fiscal Research Division of the General Assembly. The report shall include an explanation of all of the following:

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

SECTION 7.17.(i) Information Technology Project Oversight. – In addition to the oversight provided by the Oversight Committee established in Section 6A.5(c) of S.L. 2011-145, the additional public-private arrangement authorized by this section shall be subject to existing State information technology project oversight laws and statutes, and the project management shall comply with all statutory requirements and other criteria established by the State Chief Information Officer and the Office of State Budget and Management for information technology projects. The State Chief Information Officer and the Office of State Budget and Management shall immediately report any failure to do so to the Joint Legislative Oversight Committee on Information Technology, the Chairs of the House of Representatives and Senate Committees on Appropriations, and the Fiscal Research Division.

SECTION 7.17.(j) Section 6A.5(c) of S.L. 2011-145, as amended by Section 6A.3(j) of S.L.. 2012-142 reads as rewritten:

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

The members of the Committee shall include the following:

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

The State Budget Director shall serve as chair of the Committee. The Committee shall set its meeting schedule and adopt its rules of operation by majority vote. A majority of the members constitutes a quorum. Vacancies shall be filled by the appointing authority. Administrative support staff shall be provided by the Department of Revenue. Members of the

Committee shall receive reimbursements for subsistence and travel expenses as provided by Chapter 138 of the General Statutes. The Committee shall terminate on June 30, 2018.

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

USE OF MOBILE COMMUNICATIONS DEVICES

SECTION 7.18.(a) By October 1, 2013, every State agency shall submit to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division a copy of the agency policy on the use of mobile communications devices. This reporting requirement is continuous such that any time a change is made to an existing policy, the agency shall submit an update immediately.

SECTION 7.18.(b) Beginning October 1, 2013, each State agency shall submit a quarterly report to the Joint Legislative Oversight Committee on Information Technology, the Fiscal Research Division, and the Office of the State Chief Information Officer (CIO) on the use of mobile electronic communications devices within the agency. The report shall include the following information:

(1) The total number of devices issued by the agency.
(2) The total cost of mobile devices issued by the agency.
(3) The number and cost of new devices issued since the last report.
(4) The contracts used to obtain the devices.

SECTION 7.18.(c) The Office of the State Chief Information Officer shall review current enterprise, and any individual agency mobile electronic communications contracts, to develop a plan to consolidate the contracts. By October 1, 2013, the Office of the State CIO shall submit a report on progress toward consolidating State agency mobile communications device contracts to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division.

SECTION 7.18.(d) The Office of the State CIO shall develop a policy for implementing a "bring your own device" plan for State employees. By September 1, 2013, the State CIO shall report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on how the plan is to be implemented, as well as on potential issues and costs. Following consultation with the Joint Legislative Oversight Committee on Information Technology, the State CIO may implement the "bring you own device" plan.

NEXT GENERATION SECURE DRIVER LICENSE SYSTEM

SECTION 7.19.(a) By August 1, 2013, the Chief Information Officer of the Department of Transportation shall provide a detailed report on the status of the Next Generation Secure Driver License System (NGSDLS) to the Joint Legislative Oversight Committee on Information Technology, the Joint Legislative Transportation Oversight Committee, and the Fiscal Research Division. At a minimum, the report on the NGSDLS shall include the following information:

(1) Original project scope, deliverables, and milestones, including descriptions of any subsequent modifications and basis for each.
(2) Contractual status and amendments.
(3) Initial and current estimated costs for system development, implementation, and maintenance.
(4) Remaining deliverables and cost to complete by phase.
(5) Any issues, including vendor performance, identified during project development and implementation and planned corrective actions for each issue.

(6) Programmatic impacts for Division of Motor Vehicles driver license services.

(7) Requirements and costs to implement a process to allow persons who are homebound to apply for or renew a special photo identification card, with a color photo, and similar in size, shape, design, and background to a drivers license, by means other than personal appearance.

SECTION 7.19.(b) In the event of any changes in the NGSDLS project status occurring after submission of the report required by subsection (a) of this section, the Chief Information Officer of the Department of Transportation shall ensure that the Joint Legislative Oversight Committee on Information Technology, the Joint Legislative Transportation Oversight Committee, and the Fiscal Research Division are notified immediately of the changes.

STATE TITLING AND REGISTRATION SYSTEM/STATE AUTOMATED DRIVER LICENSE SYSTEM/LIABILITY INSURANCE TRACKING AND ENFORCEMENT SYSTEM

SECTION 7.20.(a) The Chief Information Officer of the Department of Transportation shall continue the replacement of the State Titling and Registration System (STARS), the State Automated Driver License System (SADLS), and the Liability Insurance Tracking and Enforcement System (LITES).

SECTION 7.20.(b) By August 1, 2013, and quarterly thereafter, the Chief Information Officer of the Department of Transportation shall report to the Joint Legislative Oversight Committee on Information Technology, the Joint Legislative Transportation Oversight Committee, and the Fiscal Research Division on the status of each of the projects listed in subsection (a) of this section. At a minimum, the report shall include the following information for each project:

(1) Project scope, milestones, and anticipated business process improvements.

(2) Estimated development, implementation, and maintenance costs.

(3) Project status, including any modifications to the project scope or revisions to baseline cost estimates.

(4) Project accomplishments and changes in status for the previous quarter.

(5) Actual costs incurred, by purpose and funding source, for the previous quarter.

(6) Remaining cost to complete by project phase for the next two fiscal years.

(7) Any issues, including vendor performance, identified during project development and implementation and planned corrective actions.

GDAC/LOCAL GOVERNMENTS/COLLECTION AGREEMENTS

SECTION 7.21.(a) Cities and counties may enter into an agreement with the North Carolina Department of Revenue and the North Carolina Office of the State Controller, Government Data Analytics Center (GDAC), to manage the collection of outstanding unpaid parking fines and penalties. Any such agreements shall:

(1) Comply with State or federal law regarding data sharing, as appropriate.

(2) Provide the GDAC with access to all required information necessary to develop and support analytics allowing the identification of the owners of vehicles with associated unpaid parking fines and penalties.

(3) Provide for technical and business resources to support the analytics development.

(4) Provide for timely and responsive access to complete and accurate data, business rules, policies and technical support.

SECTION 7.21.(b) In carrying out the purposes of this section and the agreements made under its provisions, the State Controller and the GDAC shall:

(1) Ensure the security, integrity, and privacy of the data in accordance with State and federal law and as may be required by contract.

(2) Leverage enterprise data sources, as allowed by State and federal law, and GDAC governance agreements, to provide analytics to integrate and match data to identify owner information associated with vehicles with unpaid parking fines and penalties.

(3) Provide access to analytics reporting and information to the participating city or municipality and the Department of Revenue.

(4) Provide data to the Department of Revenue for use in the withholding of tax refunds of persons that have unpaid parking fines and penalties.

SECTION 7.21.(c) The Department of Transportation, Division of Motor Vehicles shall provide the GDAC with access to historical and current information required to identify owners associated with vehicles with unpaid parking fines and penalties.

SECTION 7.21.(d) The Department of Revenue shall (i) receive data from the GDAC associated with persons that have unpaid parking fines and penalties (ii) withhold tax refunds for the purpose of the collection of those fines and penalties as allowed by law and (iii) from the withholdings, pay to the appropriate city or county the amounts due.

SECTION 7.21.(e) Any fee imposed by the North Carolina Department of Revenue or the GDAC to cover the administrative costs of withholding for the collection of unpaid parking fines and penalties shall be borne by the city or county and shall be negotiated as part of the agreements authorized by this section.

PART VIII. PUBLIC SCHOOLS

FUNDS FOR CHILDREN WITH DISABILITIES

SECTION 8.1. The State Board of Education shall allocate additional funds for children with disabilities on the basis of three thousand seven hundred forty-three dollars and forty-eight cents ($3,743.48) per child. Each local school administrative unit shall receive funds for the lesser of (i) all children who are identified as children with disabilities or (ii) twelve and one-half percent (12.5%) of its 2013-2014 allocated average daily membership in the local school administrative unit. The dollar amounts allocated under this section for children with disabilities shall also adjust in accordance with legislative salary increments, retirement rate adjustments, and health benefit adjustments for personnel who serve children with disabilities.

FUNDS FOR ACADEMICALLY GIFTED CHILDREN

SECTION 8.2. The State Board of Education shall allocate additional funds for academically or intellectually gifted children on the basis of one thousand two hundred thirty-three dollars and one cent ($1,233.01) per child for fiscal year 2013-2014 and 2014-2015. A local school administrative unit shall receive funds for a maximum of four percent (4%) of its 2013-2014 allocated average daily membership, regardless of the number of children identified as academically or intellectually gifted in the unit. The dollar amounts allocated under this section for academically or intellectually gifted children shall also adjust in accordance with legislative salary increments, retirement rate adjustments, and health benefit adjustments for personnel who serve academically or intellectually gifted children.

USE OF SUPPLEMENTAL FUNDING IN LOW-WEALTH COUNTIES

SECTION 8.3.(a) Use of Funds for Supplemental Funding. – All funds received pursuant to this section shall be used only (i) to provide instructional positions, instructional support positions, teacher assistant positions, clerical positions, school computer technicians,

instructional supplies and equipment, staff development, and textbooks and (ii) for salary supplements for instructional personnel and instructional support personnel. Local boards of education are encouraged to use at least twenty-five percent (25%) of the funds received pursuant to this section to improve the academic performance of children who are performing at Level I or II on either reading or mathematics end-of-grade tests in grades three through eight.

SECTION 8.3.(b) Definitions. – As used in this section, the following definitions apply:

(1) "Anticipated county property tax revenue availability" means the county-adjusted property tax base multiplied by the effective State average tax rate.

(2) "Anticipated total county revenue availability" means the sum of the following:

a. Anticipated county property tax revenue availability.

b. Local sales and use taxes received by the county that are levied under Chapter 1096 of the 1967 Session Laws or under Subchapter VIII of Chapter 105 of the General Statutes.

c. Sales tax hold harmless reimbursement received by the county under G.S. 105-521.

d. Fines and forfeitures deposited in the county school fund for the most recent year for which data are available.

(3) "Anticipated total county revenue availability per student" means the anticipated total county revenue availability for the county divided by the average daily membership of the county.

(4) "Anticipated State average revenue availability per student" means the sum of all anticipated total county revenue availability divided by the average daily membership for the State.

(5) "Average daily membership" means average daily membership as defined in the North Carolina Public Schools Allotment Policy Manual, adopted by the State Board of Education. If a county contains only part of a local school administrative unit, the average daily membership of that county includes all students who reside within the county and attend that local school administrative unit.

(6) "County-adjusted property tax base" shall be computed as follows:

a. Subtract the present-use value of agricultural land, horticultural land, and forestland in the county, as defined in G.S. 105-277.2, from the total assessed real property valuation of the county.

b. Adjust the resulting amount by multiplying by a weighted average of the three most recent annual sales assessment ratio studies.

c. Add to the resulting amount the following:

1. Present-use value of agricultural land, horticultural land, and forestland, as defined in G.S. 105-277.2.

2. Value of property of public service companies, determined in accordance with Article 23 of Chapter 105 of the General Statutes.

3. Personal property value for the county.

(7) "County-adjusted property tax base per square mile" means the county-adjusted property tax base divided by the number of square miles of land area in the county.

(8) "County wealth as a percentage of State average wealth" shall be computed as follows:

a. For counties containing a base of the Armed Forces of the United States that have an average daily membership of more than 23,000 students:
   1. Compute the percentage that the county per capita income is of the State per capita income and weight the resulting percentage by a factor of four-tenths.
   2. Compute the percentage that the anticipated total county revenue availability per student is of the anticipated State average revenue availability per student and weight the resulting percentage by a factor of five-tenths.
   3. Compute the percentage that the county-adjusted property tax base per square mile is of the State-adjusted property tax base per square mile and weight the resulting percentage by a factor of one-tenth.
   4. Add the three weighted percentages to derive the county wealth as a percentage of the State average wealth.

b. For all other counties in the State:
   1. Compute the percentage that the county per capita income is of the State per capita income and weight the resulting percentage by a factor of five-tenths.
   2. Compute the percentage that the anticipated total county revenue availability per student is of the anticipated State average revenue availability per student and weight the resulting percentage by a factor of four-tenths.
   3. Compute the percentage that the county-adjusted property tax base per square mile is of the State-adjusted property tax base per square mile and weight the resulting percentage by a factor of one-tenth.
   4. Add the three weighted percentages to derive the county wealth as a percentage of the State average wealth.

(9) "Effective county tax rate" means the actual county tax rate multiplied by a weighted average of the three most recent annual sales assessment ratio studies.

(10) "Effective State average tax rate" means the average of effective county tax rates for all counties.

(11) "Local current expense funds" means the most recent county current expense appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.

(12) "Per capita income" means the average for the most recent three years for which data are available of the per capita income according to the most recent report of the United States Department of Commerce, Bureau of Economic Analysis, including any reported modifications for prior years as outlined in the most recent report.

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

(14) "State average current expense appropriations per student" means the most recent State total of county current expense appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.

(15) "State average adjusted property tax base per square mile" means the sum of the county-adjusted property tax bases for all counties divided by the number of square miles of land area in the State.

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

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

SECTION 8.3.(c) Eligibility for Funds. – Except as provided in subsection (g) of this section, the State Board of Education shall allocate these funds to local school administrative units located in whole or in part in counties in which the county wealth as a percentage of the State average wealth is less than one hundred percent (100%).

SECTION 8.3.(d) Allocation of Funds. – Except as provided in subsection (f) of this section, the amount received per average daily membership for a county shall be the difference between the State average current expense appropriations per student and the current expense appropriations per student that the county could provide given the county's wealth and an average effort to fund public schools. (To derive the current expense appropriations per student that the county could be able to provide given the county's wealth and an average effort to fund public schools, multiply the county's wealth as a percentage of State average wealth by the State average current expense appropriations per student.) The funds for the local school administrative units located in whole or in part in the county shall be allocated to each local school administrative unit located in whole or in part in the county based on the average daily membership of the county's students in the school units. If the funds appropriated for supplemental funding are not adequate to fund the formula fully, each local school administrative unit shall receive a pro rata share of the funds appropriated for supplemental funding.

SECTION 8.3.(e) Formula for Distribution of Supplemental Funding Pursuant to This Section Only. – The formula in this section is solely a basis for distribution of supplemental funding for low-wealth counties and is not intended to reflect any measure of the adequacy of the educational program or funding for public schools. The formula is also not intended to reflect any commitment by the General Assembly to appropriate any additional supplemental funds for low-wealth counties.

SECTION 8.3.(f) Minimum Effort Required. – Counties that had effective tax rates in the 1996-1997 fiscal year that were above the State average effective tax rate but that had effective rates below the State average in the 1997-1998 fiscal year or thereafter shall receive reduced funding under this section. This reduction in funding shall be determined by subtracting the amount that the county would have received pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws from the amount that the county would have received if qualified for full funding and multiplying the difference by ten percent (10%). This method of calculating reduced funding shall apply one time only. This method of calculating reduced funding shall not apply in cases in which the effective tax rate fell below the statewide average effective tax rate as a result of a reduction in the actual property tax rate. In these cases, the minimum effort required shall be calculated in accordance with Section 17.1(g) of Chapter 507 of the 1995 Session Laws. If the county documents that it has increased the per student appropriation to the school current expense fund in the current fiscal year, the State Board of

Education shall include this additional per pupil appropriation when calculating minimum effort pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws.

SECTION 8.3.(g) Nonsupplant Requirement. – A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds. For the 2013-2015 fiscal biennium, the State Board of Education shall not allocate funds under this section to a county found to have used these funds to supplant local per student current expense funds. The State Board of Education shall make a finding that a county has used these funds to supplant local current expense funds in the prior year, or the year for which the most recent data are available, if all of the following criteria apply:

(1) The current expense appropriation per student of the county for the current year is less than ninety-five percent (95%) of the average of the local current expense appropriations per student for the three prior fiscal years.

(2) The county cannot show (i) that it has remedied the deficiency in funding or (ii) that extraordinary circumstances caused the county to supplant local current expense funds with funds allocated under this section.

The State Board of Education shall adopt rules to implement the requirements of this subsection.

SECTION 8.3.(h) Funds for EVAAS Data. – Notwithstanding the requirements of subsection (a) of this section, local school administrative units may utilize funds allocated under this section to purchase services that allow for extraction of data from the Education Value Added Assessment System (EVAAS).

SECTION 8.3.(i) Reports. – For the 2013-2015 fiscal biennium, the State Board of Education shall report to the Fiscal Research Division prior to May 1 of each year if it determines that counties have supplanted funds.

SECTION 8.3.(j) Department of Revenue Reports. – The Department of Revenue shall provide to the Department of Public Instruction a preliminary report for the current fiscal year of the assessed value of the property tax base for each county prior to March 1 of each year and a final report prior to May 1 of each year. The reports shall include for each county the annual sales assessment ratio and the taxable values of (i) total real property, (ii) the portion of total real property represented by the present-use value of agricultural land, horticultural land, and forestland, as defined in G.S. 105-277.2, (iii) property of public service companies determined in accordance with Article 23 of Chapter 105 of the General Statutes, and (iv) personal property.

SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING

SECTION 8.4.(a) Funds for Small School Systems. – Except as provided in subsection (b) of this section, the State Board of Education shall allocate funds appropriated for small school system supplemental funding (i) to each county school administrative unit with an average daily membership of fewer than 3,175 students and (ii) to each county school administrative unit with an average daily membership from 3,175 to 4,000 students if the county in which the local school administrative unit is located has a county-adjusted property tax base per student that is below the State-adjusted property tax base per student and if the total average daily membership of all local school administrative units located within the county is from 3,239 to 4,080 students. The allocation formula shall do all of the following:

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

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

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

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

(5) Provide a base for the consolidated funds allotment of at least seven hundred seventeen thousand three hundred sixty dollars ($717,360), excluding textbooks, for the 2013-2014 fiscal year and a base of seven hundred seventeen thousand three hundred sixty dollars ($717,360) for the 2014-2015 fiscal year.

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

SECTION 8.4.(b) Nonsupplant Requirement. – A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds. For the 2013-2015 fiscal biennium, the State Board of Education shall not allocate funds under this section to a county found to have used these funds to supplant local per student current expense funds. The State Board of Education shall make a finding that a county has used these funds to supplant local current expense funds in the prior year, or the year for which the most recent data are available, if all of the following criteria apply:

(1) The current expense appropriation per student of the county for the current year is less than ninety-five percent (95%) of the average of the local current expense appropriations per student for the three prior fiscal years.

(2) The county cannot show (i) that it has remedied the deficiency in funding or (ii) that extraordinary circumstances caused the county to supplant local current expense funds with funds allocated under this section.

The State Board of Education shall adopt rules to implement the requirements of this subsection.

SECTION 8.4.(c) Phase-Out Provisions. – If a local school administrative unit becomes ineligible for funding under this formula because of (i) an increase in the population of the county in which the local school administrative unit is located or (ii) an increase in the county-adjusted property tax base per student of the county in which the local school administrative unit is located, funding for that unit shall be continued for three years after the unit becomes ineligible.

SECTION 8.4.(d) Definitions. – As used in this section, the following definitions apply:

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

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

number of students in average daily membership who reside within the county.

(3) "Local current expense funds" means the most recent county current expense appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.

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

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

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

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

SECTION 8.4.(e) Reports. – For the 2013-2015 fiscal biennium, the State Board of Education shall report to the Fiscal Research Division prior to May 1 of each year if it determines that counties have supplanted funds.

SECTION 8.4.(f) Use of Funds. – Local boards of education are encouraged to use at least twenty percent (20%) of the funds they receive pursuant to this section to improve the academic performance of children who are performing at Level I or II on either reading or mathematics end-of-grade tests in grades three through six.

Local school administrative units may also utilize funds allocated under this section to purchase services that allow for extraction of data from the Education Value-Added Assessment System (EVAAS).

DISADVANTAGED STUDENT SUPPLEMENTAL FUNDING (DSSF)

SECTION 8.5.(a) Funds appropriated for disadvantaged student supplemental funding shall be used, consistent with the policies and procedures adopted by the State Board of Education, only to:

(1) Provide instructional positions or instructional support positions and/or professional development;

(2) Provide intensive in-school and/or after-school remediation;

(3) Purchase diagnostic software and progress-monitoring tools; and

(4) Provide funds for teacher bonuses and supplements. The State Board of Education shall set a maximum percentage of the funds that may be used for this purpose.

The State Board of Education may require local school administrative units receiving funding under the Disadvantaged Student Supplemental Fund to purchase the Education Value-Added Assessment System (EVAAS) in order to provide in-depth analysis of student performance and help identify strategies for improving student achievement. This data shall be used exclusively for instructional and curriculum decisions made in the best interest of children and for professional development for their teachers and administrators.

SECTION 8.5.(b) Funds appropriated to a local school administrative unit for disadvantaged student supplemental funding (DSSF) shall be allotted based on (i) the unit's eligible DSSF population and (ii) the difference between a teacher-to-student ratio of 1:21 and the following teacher-to-student ratios:

(1) For counties with wealth greater than ninety percent (90%) of the statewide average, a ratio of 1:19.9.

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

(3) For counties with wealth less than eighty percent (80%) of the statewide average, a ratio of 1:19.1.

(4) For local school administrative units receiving DSSF funds in fiscal year 2005-2006, a ratio of 1:16. These local school administrative units shall receive no less than the DSSF amount allotted in fiscal year 2006-2007.

For the purpose of this subsection, wealth shall be calculated under the low-wealth supplemental formula as provided for in this act.

SECTION 8.5.(c) If a local school administrative unit's wealth increases to a level that adversely affects the unit's disadvantaged student supplemental funding (DSSF) allotment ratio, the DSSF allotment for that unit shall be maintained at the prior year level for one additional fiscal year.

BUDGET REDUCTIONS/DEPARTMENT OF PUBLIC INSTRUCTION

SECTION 8.6. Notwithstanding G.S. 143C-6-4, the Department of Public Instruction may, after consultation with the Office of State Budget and Management and the Fiscal Research Division, reorganize, if necessary, to implement the budget reductions set out in this act. Consultation shall occur prior to requesting budgetary and personnel changes through the budget revision process. The Department shall provide a current organization chart in the consultation process and shall report to the Joint Legislative Commission on Governmental Operations on any reorganization.

LITIGATION RESERVE FUNDS

SECTION 8.7. The State Board of Education may expend up to five hundred thousand dollars ($500,000) each year for the 2013-2014 and 2014-2015 fiscal years from unexpended funds for licensed employees' salaries to pay expenses related to litigation.

UNIFORM EDUCATION REPORTING SYSTEM (UERS) FUNDS

SECTION 8.8.(a) Funds appropriated for the Uniform Education Reporting System (UERS) shall not revert at the end of the 2012-2013 fiscal year. Funds appropriated for UERS for the 2013-2015 fiscal biennium shall not revert at the end of each fiscal year but shall remain available until expended.

SECTION 8.8.(b) This section becomes effective June 30, 2013.

REVISE NC VIRTUAL PUBLIC SCHOOLS (NCVPS) COST CALCULATION DATE

SECTION 8.9.(a) Section 7.22(d)(6) of S.L. 2011-145 is repealed.

SECTION 8.9.(b) In implementing the allotment formula for the North Carolina Virtual Public Schools (NCVPS) program, the State Board of Education shall calculate, no later than February 28 of each year, the actual instructional cost for each local school administrative unit and charter school based upon actual NCVPS enrollment as of that date.

CLOSE NC CENTER FOR THE ADVANCEMENT OF TEACHING

SECTION 8.10.(a) G.S. 115C-296.5 is repealed.

SECTION 8.10.(b) G.S. 115C-296.6 is repealed.

SECTION 8.10.(c) G.S. 126-5(c1)(29) is repealed.

SECTION 8.10.(d) The ownership, possession, and control of all property of The North Carolina Center for the Advancement of Teaching located at Cullowhee, including buildings, grounds, personal property, vehicles, and equipment, shall be transferred to Western Carolina University. Notwithstanding Chapters 143 and 146 of the General Statutes, these transfers may be made without gubernatorial or Council of State approval and without consultation with the Joint Legislative Commission on Governmental Operations.

SECTION 8.10.(e) The Department of Administration shall determine the best use for all property of The North Carolina Center for the Advancement of Teaching located at Ocracoke, consistent with the terms of the conveyance of that property to the State. Any transfer or reallocation of that property shall be in accordance with applicable law.

SECTION 8.10.(f) This section becomes effective June 30, 2013.

SCHOOL BUS REPLACEMENT

SECTION 8.11. The State Board of Education shall adopt guidelines that provide for the replacement of school buses at 250,000 miles or, regardless of vehicle mileage, upon 20 years of service.

EDUCATION SERVICES FOR CHILDREN AT CERTAIN JUVENILE FACILITIES

SECTION 8.12. Funds appropriated for education services for children at certain juvenile facilities under this act shall be distributed to Alexander County, Cabarrus County, Chatham County, Cumberland County, Gaston County, Granville County, Lenoir County, New Hanover County, Pitt County, and Wake County on the basis of facility bed capacity at the State's detention centers and youth development centers located within those counties. These funds shall only be used to provide educational services for children who are residents of the facilities.

EVAAS SCHOOL PERFORMANCE GRADES

SECTION 8.13. The State Board of Education shall not be subject to the requirements of Section 7.7(b) of this act for the development of school performance scores and grades in accordance with G.S. 115C-12(9)c1.

LEA BUDGETARY FLEXIBILITY

SECTION 8.14.(a) G.S. 115C-105.25 reads as rewritten:

"**§ 115C-105.25. Budget flexibility.**

(a) Consistent with improving student performance, a local board shall provide maximum flexibility to schools in the use of funds to enable the schools to accomplish their goals.

(b) Subject to the following limitations, local boards of education may transfer and may approve transfers of funds between funding allotment categories:

~~(1) In accordance with a school improvement plan accepted under G.S. 115C-105.27, State funds allocated for teacher assistants may be transferred only for personnel (i) to serve students only in kindergarten through third grade, or (ii) to serve students primarily in kindergarten through third grade when the personnel are assigned to an elementary school to serve the whole school. Funds allocated for teacher assistants may be transferred to reduce class size or to reduce the student teacher ratio in kindergarten through third grade so long as the affected teacher assistant positions are not filled when the plan is amended or approved by the building level staff entitled to vote on the plan or the affected teacher assistant positions are not expected to be filled on the date the plan is to be~~

~~implemented. Any State funds appropriated for teacher assistants that were converted to certificated teachers before July 1, 1995, in accordance with Section 1 of Chapter 986 of the 1991 Session Laws, as rewritten by Chapter 103 of the 1993 Session Laws, may continue to be used for certificated teachers.~~

(1a) Funds for children with disabilities, career and technical education, and other purposes may be transferred only as permitted by federal law and the conditions of federal grants or as provided through any rules that the State Board of Education adopts to ensure compliance with federal regulations.

~~(2) In accordance with a school improvement plan accepted under G.S. 115C-105.27, (i) State funds allocated for classroom materials/instructional supplies/equipment may be transferred only for the purchase of textbooks; (ii) State funds allocated for textbooks may be transferred only for the purchase of instructional supplies, instructional equipment, or other classroom materials; and (iii) State funds allocated for noninstructional support personnel may be transferred only for teacher positions.~~

~~(2a) Up to three percent (3%) of State funds allocated for noninstructional support personnel may be transferred for staff development.~~

(3) No funds shall be transferred into the central office administration allotment category.

~~(4) Funds allocated for children with disabilities, for students with limited English proficiency, and for driver's education shall not be transferred.~~

~~(5) Funds allocated for classroom teachers may be transferred only for teachers of exceptional children, for teachers of at-risk students, and for authorized purposes under the textbooks allotment category and the classroom materials/instructional supplies/equipment allotment category.~~

(5a) Positions allocated for classroom teachers may be converted to dollar equivalents to contract for visiting international exchange teachers. These positions shall be converted at the statewide average salary for classroom teachers, including benefits. The converted funds shall be used only to cover the costs associated with bringing visiting international exchange teachers to the local school administrative unit through a State-approved visiting international exchange teacher program and supporting the visiting exchange teachers.

(5b) Except as provided in subdivision (5a) of this subsection, positions allocated for classroom teachers and instructional support personnel may be converted to dollar equivalents for any purpose authorized by the policies of the State Board of Education. These positions shall be converted at the salary on the first step of the "A" Teachers Salary Schedule. Certified position allotments shall not be transferred to dollars to hire the same type of position.

(5c) Funds allocated for school building administration may be converted for any purpose authorized by the policies of the State Board of Education. For funds related to principal positions, the salary transferred shall be based on the first step of the Principal III Salary Schedule. For funds related to assistant principal months of employment, the salary transferred shall be based on the first step of the Assistant Principal Salary Schedule. Certified position allotments shall not be transferred to dollars to hire the same type of position.

~~(6) Funds allocated for vocational education may be transferred only in accordance with any rules that the State Board of Education considers appropriate to ensure compliance with federal regulations.~~

~~(7) Funds allocated for career development shall be used in accordance with Section 17.3 of Chapter 324 of the 1995 Session Laws.~~

~~(8) Funds allocated for academically or intellectually gifted students may be used only (i) for academically or intellectually gifted students; (ii) to implement the plan developed under G.S. 115C-150.7; or (iii) in accordance with an accepted school improvement plan, for any purpose so long as that school demonstrates it is providing appropriate services to academically or intellectually gifted students assigned to that school in accordance with the local plan developed under G.S. 115C-150.7.~~

~~(9) Funds allocated in the Alternative Schools/At-Risk Student allotment shall be spent only for alternative learning programs, at-risk students, and school safety programs.~~

(10) Funds to carry out the elements of the Excellent Public Schools Act, which are contained in Section 7A.1 of S.L. 2012-142, shall not be transferred.

(c) To ensure that parents, educators, and the general public are informed on how State funds have been used to address local educational priorities, each local school administrative unit shall publish the following information on its Web site by October 15 of each year:

(1) A description of each program report code, written in plain English, and a summary of the prior fiscal year's expenditure of State funds within each program report code.

(2) A description of each object code within a program report code, written in plain English, and a summary of the prior fiscal year's expenditure of State funds for each object code.

(3) A description of each allotment transfer that increased or decreased the initial allotment amount by more than five percent (5%) and the educational priorities that necessitated the transfer."

SECTION 8.14.(b) G.S. 115C-301 reads as rewritten:

"**§ 115C-301. Allocation of teachers; class size.**

(a) Request for Funds. – The State Board of Education, based upon the reports of local boards of education and such other information as the State Board may require from local boards, shall determine for each local school administrative unit the number of teachers and other instructional personnel to be included in the State budget request.

(b) Allocation of Positions. – The State Board of Education is authorized to adopt rules to allot instructional personnel and teachers, within funds appropriated.

(c) ~~Maximum~~ Class Size. – Local school administrative units shall have the maximum flexibility to use allotted teacher positions to maximize student achievement.~~The average class size for each grade span in a local school administrative unit shall at no time exceed the funded allotment ratio of teachers to students. At the end of the second school month and for the remainder of the school year, the size of an individual class shall not exceed the allotment ratio by more than three students. At no time may the General Assembly appropriate funds for higher unit-wide class averages than those for which State funds were provided during the 1984-85 school year.~~

~~(d) Maximum Teaching Load. – Students shall be assigned to classes so that from the 15th day of the school year through the end of the school year the number of students for whom teachers in grades 7 through 12 are assigned teaching responsibilities during the course of the day is no more than 150 students, except as provided in subsection (g) of this section.~~

~~(e) Alternative Maximum Class Sizes. – The State Board of Education, in its discretion, may set higher maximum class sizes and daily teaching loads for classes in music, physical~~

~~education, and other similar subjects, so long as the effectiveness of the instructional programs in those areas is not thereby impaired.~~

(f) Second Month Reports. – At the end of the second month of each school year, each local board of education, through the superintendent, shall file a report for each school within the school unit with the State Board of Education. The report shall be filed in a format prescribed by the State Board of Education and shall include the organization for each school, the duties of each teacher, the size of each class, the teaching load of each teacher, and such other information as the State Board may require. ~~As of February 1 each year, local boards of education, through the superintendent, shall report all exceptions to individual class size and daily teaching load maximums that occur at that time.~~

(g) ~~Waivers and~~ Allotment Adjustments. – Local boards of education ~~shall report exceptions to the State Board of Education as provided in G.S. 115C-47(10), and shall request~~ may request allotment ~~adjustments~~ adjustments, and ~~or waivers from the standards set out above. Within 45 days of receipt of reports,~~ the State Board of Education, within funds available, may allot additional positions.~~positions or grant waivers for the excess class size or daily load.~~

~~(1) If the exception resulted from (i) exceptional circumstances, emergencies, or acts of God, (ii) large changes in student population, (iii) organizational problems caused by remote geographic location, or (iv) classes organized for a solitary curricular area, and~~

~~(2) If the local board cannot organizationally correct the exception.~~

(h) State Board Rules. – The State Board of Education shall adopt rules necessary for the implementation of ~~class size and teaching load provisions.~~this section.

~~(i) Penalty for Noncompliance. If the State Board of Education determines that a local superintendent has willfully failed to comply with the requirements of this section, no State funds shall be allocated to pay the superintendent's salary for the period of time the superintendent is in noncompliance.~~"

SECTION 8.14.(c) G.S. 115C-47(10) reads as rewritten:

"**§ 115C-47. Powers and duties generally.**

In addition to the powers and duties designated in G.S. 115C-36, local boards of education shall have the power or duty:

...

(10) To Assure Appropriate Class Size. – It shall be the responsibility of local boards of education to assure that the teacher positions allotted by the State are used to maximize student achievement.~~class size and teaching load requirements set forth in G.S. 115C-301 are met. Any teacher who believes that the requirements of G.S. 115C-301 have not been met shall make a report to the principal and superintendent, and the superintendent shall immediately determine whether the requirements have in fact not been met. If the superintendent determines the requirements have not been met, he shall make a report to the next local board of education meeting. The local board of education shall take action to meet the requirements of the statute. If the local board cannot organizationally correct the exception and if any of the conditions set out in G.S. 115C-301(g)(1) exist, it shall immediately apply to the State Board of Education for additional personnel or a waiver of the class size requirements, as provided in G.S. 115C-301(g).~~

~~Upon notification from the State Board of Education that the reported exception does not qualify for an allotment adjustment or a waiver under provisions of G.S. 115C-301, the local board, within 30 days, shall take action necessary to correct the exception.~~

~~At the end of the second month of each school year, the local board of education, through the superintendent, shall file a report with the State Board of Education, in a format prescribed by the State Board of Education, describing the organization of each school, the duties of each teacher, the size of each class, and the teaching load of each teacher. As of February 1 each year, local boards of education, through the superintendent, shall report all exceptions to individual class size and daily teaching load maximums that exist at that time.~~

In ~~addition to assuring that the requirements of G.S. 115C-301 are met,~~addition, each local board of education shall also have the duty to provide an adequate number of ~~classrooms to meet the requirements of that statute.~~classrooms."

SECTION 8.14.(d) G.S. 115C-276(k) reads as rewritten:

"(k) To Submit Organization Reports and Other Information to the State Board. – Each year the superintendent of each local school administrative unit shall submit to the State Board of Education statistical reports, certified by the chairman of the board of education, showing the organization of the schools in his or her unit and any additional information the State Board may require. At the end of the second month of school each year, local boards of education, through the superintendent, shall report school organization, employees' duties, class sizes, and teaching loads to the State Board of ~~Education as provided in G.S. 115C-47(10).~~ Education.~~As of February 1 each year, local boards of education, through the superintendent, shall report all exceptions to individual class size and daily teaching load maximums that occur at that time.~~"

RESIDENTIAL SCHOOLS

SECTION 8.15.(a) The Department of Public Instruction shall not transfer any school-based personnel from the State's residential schools to central office administrative positions.

SECTION 8.15.(b) Notwithstanding G.S. 146-30 or any other provision of law, the Department of Public Instruction shall retain all proceeds generated from the rental of building space on the residential school campuses. The Department of Public Instruction shall use all receipts generated from these leases to staff and operate the North Carolina School for the Deaf, the Eastern North Carolina School for the Deaf, and the Governor Morehead School. These receipts shall not be used to support administrative functions within the Department.

EXCELLENT PUBLIC SCHOOLS ACT/SUMMER READING CAMPS

SECTION 8.16. Funds appropriated for the 2013-2015 fiscal biennium for summer reading camps as defined in G.S. 115C-83.3(9) shall not revert at the end of each fiscal year but shall remain available until expended.

PARTICIPATION IN COMMUNITIES IN SCHOOLS LEARNING INITIATIVE

SECTION 8.17.(a) The purpose of the Harvard University Reads for Summer Learning Initiative, which is conducted in concert with Communities In Schools of North Carolina, Inc. (CISNC), is to help at-risk children in grades two through five read at grade level by the fourth grade and to maintain their reading competency. Students who are enrolled in this initiative shall be exempt from mandatory retention requirements set out in G.S. 115C-83.7 and G.S. 115C-238.29F. Any student participating in this initiative and in need of more intensive intervention shall, however, be placed in a summer reading program as determined by the local school administrative unit and as approved by the child's parent or guardian.

SECTION 8.17.(b) CISNC shall report to the Joint Legislative Education Oversight Committee on the initiative by November 1, 2015. This report shall include reading competency outcome data for all participating students.

SECTION 8.17.(c) Subsection (a) of this section expires at the end of the 2014-2015 school year.

INSTRUCTIONAL IMPROVEMENT SYSTEM

SECTION 8.18.(a) It is the intent of the General Assembly that the optional portions of the Home Base Instructional Improvement System (System) shall be receipt-supported. The State Board of Education shall establish a cost not to exceed four dollars ($4.00) per average daily membership for local school administrative units and charter schools that elect to participate in the optional portions of the System. A local school administrative unit or charter school may identify budget reductions to State Public School Fund allotments to cover the required payment.

SECTION 8.18.(b) If funds collected pursuant to subsection (a) of this section are not sufficient to cover the cost of the optional portions of the System, the State Board of Education may use funds appropriated to the Department of Public Instruction or State Aid for Public Schools for this purpose.

SECTION 8.18.(c) If funds collected pursuant to subsection (a) of this section exceed the cost of the optional portions of the System, such funds shall not revert and shall be used to reduce the per-student cost in the subsequent fiscal years.

SECTION 8.18.(d) This section becomes effective July 1, 2014.

STUDY OF GPA CALCULATIONS

SECTION 8.19. The Joint Legislative Education Oversight Committee shall study the State Board of Education's policy on calculating the weighted grade point average and class rank on high school transcripts, especially the proper weights for courses taken through community colleges, independent colleges, and universities. The Committee shall report the results of its study to the General Assembly prior to the convening of the 2013 Regular Session of the General Assembly in 2014.

REGIONAL SCHOOL BOARDS

SECTION 8.20. G.S. 115C-238.63(a) reads as rewritten:

"(a) Appointment. – A board of directors for a regional school shall consist of the following members. Appointed members of the board of directors shall be selected for their interest in and commitment to the importance of public education to regional economic development and to the purposes of the regional school.

(1) Local boards of education. – Each participating unit shall appoint one member to the board of directors from among the membership of the local board of education. Members appointed by local boards of education shall serve terms of four years.

(2) Local superintendents. – The local superintendent of the local school administrative unit identified as the finance agent for the regional school shall serve as an ex officio member of the board of directors. One additional superintendent shall be selected from among the superintendents of the participating units by those superintendents. The additional superintendent shall serve an initial term of two years. Subsequent appointees shall serve a term of four years.

(3) ~~Economic development region.~~ Business community. – The ~~Economic Development Regional Partnership for the economic development region~~ board of directors for the chamber of commerce of the county in which the regional school is ~~located~~ located, in consultation with the North Carolina Economic Developers Association, shall appoint at least three members as representatives of the business community. At least fifty percent (50%) of

the members of the board of directors for the regional school shall be representatives of the business community appointed in accordance with this subdivision. At least one of the appointees shall be a resident of the county in which the regional school is located. The appointees shall serve an initial term of two years. Subsequent appointees shall serve a term of four years.

(4) Parent Advisory Council. – The Parent Advisory Council established by G.S. 115C-238.69 shall appoint a member to the board of directors from among the Council membership. The member appointed by the Council shall serve a term of four years or until the child of the parent no longer attends the regional school.

(5) Higher education partners. – Any institution of higher education partner may appoint a representative of the institution of higher education to serve as an ex officio member of the board of directors."

TEACH FOR AMERICA EXPANSION AND NC TEACHER CORPS

SECTION 8.21.(a) Teach for America, Inc. (TFA), shall use a portion of the funds available to it for the 2013-2015 fiscal biennium to recruit, train, support, and retain teachers to work in the North Carolina public schools. TFA shall leverage State funds to raise additional funding to achieve the purposes set out in this section and shall expand its current programs and initiate new programs as follows:

(1) TFA shall establish a program in the Piedmont Triad region (the area within and surrounding the three major cities of Greensboro, Winston-Salem, and High Point) and expand its current program in the southeast region of the State. TFA shall establish the following goals for the number of teacher candidates accepted to these programs:

a. In the Piedmont Triad region, at least 30 candidates for the 2013-2014 school year and at least 50 candidates for the 2014-2015 school year.

b. In the southeast region of the State, a total of at least 125 to 150 candidates beginning with the 2013-2014 school year.

c. Combined for the southeast and northeast regions of the State, a total of at least 175 candidates beginning with the 2013-2014 school year.

(2) TFA shall develop and establish a new program, Teach Back Home, to increase the recruitment of candidates who are residents of North Carolina.

(3) TFA shall develop and establish two new programs, Teach Beyond Two and Make it Home, to increase the number of candidates who remain working in North Carolina public schools beyond their initial two-year TFA commitment by developing innovative strategies to work with both TFA participants and local school administrators and board of education members to extend the service commitment of TFA participants.

(4) TFA shall increase targeted recruitment efforts of candidates who are (i) working in areas related to STEM education, (ii) mid-career level and lateral entry industry professionals, and (iii) veterans of the United States Armed Forces.

SECTION 8.21.(b) By March 1, 2014, and by January 1, 2015, and annually thereafter, TFA shall report to the Joint Legislative Education Oversight Committee on the operation of its programs under subsection (a) of this section, including at least all of the following information:

(1) The total number of applications received nationally from candidates seeking participation in the program.

(2) The total number of applications received from candidates who are residents of North Carolina and information on the source of these candidates, including the number of (i) recent college graduates and the higher institution the candidates attended, (ii) mid-career level and lateral entry industry professionals, and (iii) veterans of the United States Armed Forces.
(3) The total number of North Carolina candidates accepted by TFA.
(4) The total number of accepted candidates placed in North Carolina, including the number of accepted candidates who are residents of North Carolina.
(5) The regions in which accepted candidates have been placed, the number of candidates in each region, and the number of students impacted by placement in those regions.
(6) Success of recruitment efforts, including the Teach Back Home program and targeting of candidates who are (i) working in areas related to STEM education, (ii) mid-career level and lateral entry industry professionals, and (iii) veterans of the United States Armed Forces.
(7) Success of retention efforts, including the Teach Beyond Two and Make it Home programs, and the percentage of accepted candidates working in their placement communities beyond the initial TFA two-year commitment period and the number of years those candidates teach beyond the initial commitment.
(8) A financial accounting of how the State funds appropriated to TFA were expended in the previous year, including at least the following information:
a. Funds expended by region of the State.
b. Details on program costs, including at least the following:
1. Recruitment, candidate selection, and placement.
2. Preservice training and preparation costs.
3. Operational and administrative costs, including development and fundraising, alumni support, management costs, and marketing and outreach.
c. Funds received through private fundraising, specifically by sources in each region of the State.

SECTION 8.21.(c) Effective July 1, 2014, G.S. 115C-296.7 reads as rewritten:

"**§ 115C-296.7. North Carolina Teacher Corps.**

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

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

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

(d) ~~The State Board of Education~~ Teach for America, Inc., shall identify local school administrative units with unmet recruitment needs, especially for career and technical education teachers, and high needs schools and shall coordinate placement of NC Teacher Corps members in those schools.

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

(f) ~~The State Board of Education,~~ Teach for America, Inc., in coordination with the Board of Governors, shall provide ongoing support to NC Teaching Corps members through coaching, mentoring, and continued professional development.

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

(h) Teach for America, Inc., a nonprofit organization under Section 501(c)(3) of the Internal Revenue Code, shall comply with the requirements of this section. Teach for America, Inc., shall adopt procedures for its operation of the NC Teacher Corps that are comparable to those of Article 33C of Chapter 143 of the General Statutes, the Open Meetings Law, and Chapter 132 of the General Statutes, the Public Records Law."

SECTION 8.21.(d) Beginning with the 2014-2015 fiscal year, TFA shall use a portion of the funds available to it to administer the NC Teacher Corps program in accordance with G.S. 115C-296.7, as amended by subsection (c) of this section. TFA may also use a portion of the funds available to it for the 2013-2014 fiscal year to recruit a cohort of NC Teacher Corps members for the 2014-2015 school year. TFA shall include information regarding the operation of the NC Teacher Corps in its annual report to the Joint Legislative Education Oversight Committee by January 1, 2015, and annually thereafter, as required under subsection (b) of this section.

SECTION 8.21.(e) TFA shall submit quarterly updates on the information contained in the annual report required by this section to the offices of the President Pro Tempore of the Senate and the Speaker of the House of Representatives, the Chairs of the Senate Appropriations/Base Budget Committee, the House Appropriations Committee, the Senate Appropriations Committee on Education/Higher Education, the House Appropriations Subcommittee on Education, and the Fiscal Research Division.

SECTION 8.21.(f) The State Board of Education shall provide ongoing support through coaching, mentoring, and continued professional development to NC Teacher Corps members who were placed in North Carolina public schools in accordance with G.S. 115C-296.7 for the 2012-2013 and 2013-2014 school years.

PHASE OUT CERTAIN TEACHER SALARY SUPPLEMENTS

SECTION 8.22. Notwithstanding Section 35.11 of this act, no teachers or instructional support personnel, except for school nurses, shall be paid on the "M" salary schedule or receive a salary supplement for academic preparation at the six-year degree level or at the doctoral degree level for the 2014-2015 school year, unless they were paid on that salary schedule or received that salary supplement prior to the 2014-2015 school year.

PUBLIC-PRIVATE PARTNERSHIPS FOR THE READ TO ACHIEVE PROGRAM

SECTION 8.23. Local school administrative units shall consider the utilization of public-private partnerships in implementing the requirements of the North Carolina Read to Achieve Program. The Department of Public Instruction may recommend nonprofit organizations with expertise in literacy training in low-performing schools and the ability to

leverage private resources to partner with the local school administrative units in implementing the program.

PART IX. THE EXCELLENT PUBLIC SCHOOLS ACT OF 2013

STATE EMPLOYEE LITERACY VOLUNTEER LEAVE TIME

SECTION 9.1. G.S. 126-4 reads as rewritten:

"**§ 126-4. Powers and duties of State Personnel Commission.**

Subject to the approval of the Governor, the State Personnel Commission shall establish policies and rules governing each of the following:

...

(5b) A leave program that allows employees to volunteer in a literacy program in a public school for up to five hours each month.

...."

MAXIMIZE INSTRUCTIONAL TIME

SECTION 9.2.(a) G.S. 115C-174.12(a) reads as rewritten:

"(a) The State Board of Education shall establish policies and guidelines necessary for minimizing the time students spend taking tests administered through State and local testing programs, for minimizing the frequency of field testing at any one school, and for otherwise carrying out the provisions of this Article. These policies and guidelines shall include the following:

(1) Schools shall devote no more than two days of instructional time per year to the taking of practice tests that do not have the primary purpose of assessing current student learning;

(2) Students in a school shall not be subject to field tests or national tests during the two-week period preceding the administration of end-of-grade tests, end-of-course tests, or the school's regularly scheduled final exams; and

(3) No school shall participate in more than two field tests at any one grade level during a school ~~year unless that school volunteers, through a vote of its school improvement team, to participate in an expanded number of field tests.~~year.

(4) All annual assessments of student achievement adopted by the State Board of Education pursuant to G.S. 115C-174.11(c)(1) and (3) and all final exams for courses shall be administered within the final 10 instructional days of the school year for year-long courses and within the final five instructional days of the semester for semester courses. Exceptions shall be permitted to accommodate a student's individualized education program and section 504 (29 U.S.C. § 794) plans and for the administration of final exams for courses with national or international curricula required to be held at designated times.

These policies shall reflect standard testing practices to insure reliability and validity of the sample testing. The results of the field tests shall be used in the final design of each test. The State Board of Education's policies regarding the testing of children with disabilities shall (i) provide broad accommodations and alternate methods of assessment that are consistent with a ~~child's~~ student's individualized education program and section 504 (29 U.S.C. § 794) plans, (ii) prohibit the use of statewide tests as the sole determinant of decisions about a ~~child's~~student's graduation or promotion, and (iii) provide parents with information about the Statewide Testing Program and options for ~~students~~children with disabilities. The State Board shall report its proposed policies and proposed changes in policies to the Joint Legislative Education Oversight Committee prior to adoption.

The State Board of Education may appoint an Advisory Council on Testing to assist in carrying out its responsibilities under this Article."

SECTION 9.2.(b) Notwithstanding the provisions of G.S. 115C-174.11(c), the State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to the purchase and implementation of a new assessment instrument to assess student achievement on the Common Core State Standards, including the Common Core Smarter Balance Consortium Assessments. The State Board shall not purchase such an assessment instrument without the enactment of legislation by the General Assembly authorizing the purchase.

SECTION 9.2.(c) This section applies beginning with the 2013-2014 school year.

STRENGTHEN TEACHER LICENSURE AND MODIFY LICENSURE FEES

SECTION 9.3.(a) G.S. 115C-296 reads as rewritten:

"**§ 115C-296. Board sets licensure requirements; reports; lateral entry and mentor programs.**

...

(a2) The State Board of Education shall ~~impose the following~~ establish a schedule of fees for teacher licensure and administrative ~~changes:~~changes. The schedule may include fees for any of the following services:

(1) Application for demographic or administrative changes to a ~~license, $30.00.~~license.

(2) Application for a duplicate license or for copies of documents in the licensure ~~files, $30.00.~~files.

(3) Application for a renewal, extension, addition, upgrade, reinstatement, and variation to a ~~license, $55.00.~~license.

(4) Initial application for a New, In-State Approved Program ~~Graduate, $55.00.~~Graduate.

(5) Initial application for an Out-of-State ~~license, $85.00.~~license.

(6) All other ~~applications, $85.00.~~applications.

~~The~~An applicant must pay ~~the fee~~ any nonrefundable service fees at the time ~~the~~an application is submitted.

(a3) For the purposes of subsection (a2) of this section, the State Board of Education shall not be subject to Article 2A of Chapter 150B of the General Statutes.

(a4) The State Board of Education shall report to the Joint Legislative Education Oversight Committee by March 15 in any year that the amount of fees in the fee schedule established under subsection (a2) of this section has been modified during the previous 12 months. The report shall include the number of personnel paid from licensure receipts, any change in personnel paid from receipts, other related costs covered by the receipts, and the estimated unexpended receipts as of June 30 of the year reported.

...."

SECTION 9.3.(b) G.S. 115C-296 reads as rewritten:

"**§ 115C-296. Board sets licensure requirements; reports; lateral entry and mentor programs.**

...

(b) It is the policy of the State of North Carolina to maintain the highest quality teacher education programs and school administrator programs in order to enhance the competence of professional personnel licensed in North Carolina. To the end that teacher preparation programs are upgraded to reflect a more rigorous course of study, the State Board of Education, as lead agency in coordination and cooperation with the University Board of Governors, the Board of Community Colleges and such other public and private agencies as are necessary, shall continue to refine the several licensure requirements, standards for approval of institutions of

teacher education, standards for institution-based innovative and experimental programs, standards for implementing consortium-based teacher education, and standards for improved efficiencies in the administration of the approved programs.

(1) Licensure Standards. –

a. The licensure program shall provide for initial licensure after completion of preservice training, continuing licensure after three years of teaching experience, and license renewal every five years thereafter, until the retirement of the teacher. The last license renewal received prior to retirement shall remain in effect for five years after retirement. The licensure program shall also provide for lifetime licensure after 50 years of teaching.

b. The State Board of Education, in consultation with the Board of Governors of The University of North Carolina, shall evaluate and develop enhanced requirements for continuing licensure. The new requirements shall reflect more rigorous standards for continuing licensure and shall be aligned with high quality professional development programs that reflect State priorities for improving student achievement. Standards for continuing licensure shall include at least eight continuing education credits with at least three credits required in a teacher's academic subject area.

c. The State Board of Education, in consultation with local boards of education and the Board of Governors of The University of North Carolina, shall reevaluate and enhance the requirements for renewal of teacher licenses. The State Board shall consider modifications in the license renewal achievement and to make it a mechanism for teachers to renew continually their knowledge and professional skills.

(2) Teacher education programs. –

a. The State Board of Education, as lead agency in coordination with the Board of Governors of The University of North Carolina, the North Carolina Independent Colleges and Universities, and any other public and private agencies as necessary, shall continue to raise standards for entry into teacher education programs.

b. To further ensure that teacher preparation programs remain current and reflect a rigorous course of study that is aligned to State and national standards, the State Board of Education, in consultation with the Board of Governors of The University of North Carolina, shall do all of the following to ensure that students ~~preparing~~are prepared to teach in elementary ~~school~~schools:

1. ~~(i) have~~Provide students with adequate coursework in the teaching of reading and ~~mathematics;~~mathematics.

2. ~~(ii) are assessed~~Assess students prior to ~~certification~~ licensure to determine that they possess the requisite knowledge in scientifically based reading and mathematics instruction that is aligned with the State Board's ~~expectations;~~expectations.

3. ~~(iii) continue to receive~~Continue to provide students with preparation in applying formative and summative assessments within the school and classroom setting through technology-based assessment systems available in North

Carolina schools that measure and predict expected student ~~improvement; and~~improvement.

4. ~~(iv) are prepared~~Prepare students to integrate arts education across the curriculum.

c. The State Board of Education, in consultation with local boards of education and the Board of Governors of The University of North Carolina, shall evaluate and modify, as necessary, the academic requirements of teacher preparation programs for students preparing to teach science in middle and high schools to ensure that there is adequate preparation in issues related to science laboratory safety.

~~The State Board of Education, in consultation with the Board of Governors of The University of North Carolina, shall evaluate and develop enhanced requirements for continuing licensure. The new requirements shall reflect more rigorous standards for continuing licensure and to the extent possible shall be aligned with quality professional development programs that reflect State priorities for improving student achievement.~~

~~The State Board of Education, in consultation with local boards of education and the Board of Governors of The University of North Carolina, shall reevaluate and enhance the requirements for renewal of teacher licenses. The State Board shall consider modifications in the license renewal achievement and to make it a mechanism for teachers to renew continually their knowledge and professional skills. The State Board shall adopt new standards for the renewal of teacher licenses by May 15, 1998.~~

d. The standards for approval of institutions of teacher education shall require that teacher education programs for all students include demonstrated competencies in (i) the identification and education of children with disabilities and (ii) positive management of student behavior and effective communication techniques for defusing and deescalating disruptive or dangerous behavior.

e. The State Board of Education shall incorporate the criteria developed in accordance with G.S. 116-74.21 for assessing proposals under the School Administrator Training Program into its school administrator program approval standards.

f. All North Carolina institutions of higher education that offer teacher education programs, masters degree programs in education, or masters degree programs in school administration shall provide annual performance reports to the State Board of Education.

~~The performance reports shall follow a common format, shall be submitted according to a plan developed by the State Board, and shall include the information required under the plan developed by the State Board.~~

(b1) The State Board of Education shall ~~develop a plan to provide a focused review of~~require teacher education ~~programs~~programs, masters degree programs in education, and masters degree programs in school administration to submit annual performance reports. The performance reports shall provide the State Board with a focused review of the programs and the current process of accrediting these programs in order to ensure that the programs produce graduates that are well prepared to teach. ~~The plan shall include the development and implementation of a school of education performance report for each teacher education program in North Carolina.~~

(1) Teacher education program performance report. – The performance report for each teacher education program in North Carolina shall follow a common format and include at least the following elements:

a. ~~(i) quality~~Quality of students entering the schools of education, including the average grade point average and average score on

preprofessional skills tests that assess reading, writing, math and other ~~competencies;~~competencies.

b. ~~(ii) graduation rates;~~Graduation rates.

c. ~~(iii) time-to-graduation rates;~~Time-to-graduation rates.

d. ~~(iv) average~~Average scores of graduates on professional and content area examination for the purpose of ~~licensure;~~licensure.

e. ~~(v) percentage~~Percentage of graduates receiving initial ~~licenses;~~licenses.

f. ~~(vi) percentage~~Percentage of graduates hired as ~~teachers;~~teachers.

g. ~~(vii) percentage~~Percentage of graduates remaining in teaching for four ~~years;~~years.

h. ~~(viii) graduate~~Graduate satisfaction based on a common ~~survey; and~~survey.

i. ~~(ix) employer~~Employer satisfaction based on a common survey.

j. Teacher contribution to the academic success of students.

~~The performance reports shall follow a common format. The performance reports shall be submitted annually. The State Board of Education shall develop a plan to be implemented beginning in the 1998-99 school year to reward and sanction approved teacher education programs and masters of education programs and to revoke approval of those programs based on the performance reports and other criteria established by the State Board of Education.~~

(2) Masters degree programs in education and school administration performance report. – The State Board ~~also~~ shall ~~develop and implement a plan for~~ require submission to the State Board of annual performance reports ~~for~~from all masters degree programs in education and school administration in North Carolina. To the extent it is appropriated, the performance report shall include similar indicators to those ~~developed~~required for the performance report for teacher education ~~programs.~~programs as set forth in subdivision (1) of this subsection. The performance reports shall follow a common format.

(3) Educator preparation program report card. – The State Board shall create a higher education educator preparation program report card reflecting the information collected in the annual performance reports for each North Carolina institution offering teacher education programs and master of education programs. The report cards shall, at a minimum, summarize information reported on all of the performance indicators for the performance reports required by subdivision (1) of this subsection.

(4) Submission of annual performance reports. – ~~Both plans for performance~~ Performance reports ~~also~~ shall ~~include a method to provide the annual performance reports~~ be provided annually to the Board of Governors of The University of North Carolina, the State Board of Education, and the boards of trustees of the independent colleges. The State Board of Education shall review the schools of education performance reports and the performance reports for masters degree programs in education and school administration each year the performance reports are submitted. ~~The State Board shall submit the performance report for the 1999-2000 school year to the Joint Legislative Education Oversight Committee by December 15, 2000. Subsequent~~The performance reports and the educator preparation program report cards shall be submitted to the Joint Legislative Education Oversight Committee on an annual basis by October 1.

(5) State Board action based on performance. – The State Board of Education shall reward and sanction approved teacher education programs and master

of education programs and revoke approval of those programs based on the performance reports and other criteria established by the State Board of Education.

(b2) An undergraduate student seeking a degree in teacher education must attain passing scores on a preprofessional skills test prior to admission to an approved teacher education program in a North Carolina college or university. The State Board of Education shall permit students to fulfill this requirement by achieving the prescribed minimum scores set by the State Board of Education for the Praxis I tests or by achieving the appropriate required score, as determined by the State Board of Education, on the verbal and mathematics portions of the ~~SAT.~~SAT or ACT. The minimum combined verbal and mathematics score set by the State Board of Education for the SAT shall be ~~between 900 and 1,200.~~1,100 or greater. The minimum composite score set by the State Board of Education for the ACT shall be 24 or greater.

(c) It is the policy of the State of North Carolina to encourage lateral entry into the profession of teaching by skilled individuals from the private sector. To this end, before the 1985-86 school year begins, the State Board of Education shall develop criteria and procedures to accomplish the employment of such individuals as classroom teachers. Beginning with the 2006-2007 school year, the criteria and procedures shall include preservice training in (i) the identification and education of children with disabilities and (ii) positive management of student behavior, effective communication for defusing and deescalating disruptive or dangerous behavior, and safe and appropriate use of seclusion and restraint. Skilled individuals who choose to enter the profession of teaching laterally may be granted a ~~provisional~~lateral entry teaching license for no more than three years and shall be required to obtain licensure before contracting for a fourth year of service with any local administrative unit in this State.

...."

SECTION 9.3.(c) G.S. 115C-296, as rewritten by subsections (a) and (b) of this section, reads as rewritten:

"**§ 115C-296. Board sets licensure requirements; reports; lateral entry and mentor programs.**

(a) The State Board of Education shall have entire control of licensing all applicants for teaching positions in all public ~~elementary and high~~ schools of North Carolina; and it shall prescribe the rules and regulations for the renewal and extension of all licenses and shall determine and fix the salary for each grade and type of license which it authorizes.

The State Board of Education ~~may~~shall require an applicant for an initial bachelors degree ~~certificate~~license or graduate degree ~~certificate~~license to demonstrate the applicant's academic and professional preparation by achieving a prescribed minimum score on a standard examination appropriate and adequate for that purpose. Elementary Education (K-6) and special education general curriculum teachers shall also achieve a prescribed minimum score on subtests or standard examinations specific to teaching reading and mathematics. The State Board of Education shall permit an applicant to fulfill any such testing requirement before or during the applicant's second year of teaching provided the applicant took the examination at least once during the first year of teaching. The State Board of Education shall make any required standard initial licensure exam ~~sufficiently~~ rigorous and raise the prescribed minimum score as necessary to ensure that each applicant has ~~adequate~~ received high quality academic and professional preparation to ~~teach.~~teach effectively.

(a1) The State Board shall adopt policies that establish the minimum scores for any required standard examinations and other measures necessary to assess the qualifications of professional personnel as required under subsection (a) of this section. For purposes of this subsection, the State Board shall not be subject to Article 2A of Chapter 150B of the General Statutes. At least 30 days prior to changing any policy adopted under this subsection, the State

Board shall provide written notice to all North Carolina schools of education and to all local boards of education. The written notice shall include the proposed revised policy.

(a2) The State Board of Education shall establish a schedule of fees for teacher licensure and administrative changes. The schedule may include fees for any of the following services:

(1) Application for demographic or administrative changes to a license.
(2) Application for a duplicate license or for copies of documents in the licensure files.
(3) Application for a renewal, extension, addition, upgrade, reinstatement, and variation to a license.
(4) Initial application for a New, In-State Approved Program Graduate.
(5) Initial application for an Out-of-State license.
(6) All other applications.

An applicant must pay any nonrefundable service fees at the time an application is submitted.

(a3) For the purposes of subsection (a2) of this section, the State Board of Education shall not be subject to Article 2A of Chapter 150B of the General Statutes.

(a4) The State Board of Education shall report to the Joint Legislative Education Oversight Committee by March 15 in any year that the amount of fees in the fee schedule established under subsection (a2) of this section has been modified during the previous 12 months. The report shall include the number of personnel paid from licensure receipts, any change in personnel paid from receipts, other related costs covered by the receipts, and the estimated unexpended receipts as of June 30 of the year reported.

(b) It is the policy of the State of North Carolina to maintain the highest quality teacher education programs and school administrator programs in order to enhance the competence of professional personnel licensed in North Carolina. To the end that teacher preparation programs are upgraded to reflect a more rigorous course of study, the State Board of Education, as lead agency in coordination and cooperation with the University Board of Governors, the Board of Community Colleges and such other public and private agencies as are necessary, shall continue to refine the several licensure requirements, standards for approval of institutions of teacher education, standards for institution-based innovative and experimental programs, standards for implementing consortium-based teacher education, and standards for improved efficiencies in the administration of the approved programs.

(1) Licensure standards. –
  a. The licensure program shall provide for initial licensure after completion of preservice training, continuing licensure after three years of teaching experience, and license renewal every five years thereafter, until the retirement of the teacher. The last license renewal received prior to retirement shall remain in effect for five years after retirement. The licensure program shall also provide for lifetime licensure after 50 years of teaching.
  b. The State Board of Education, in consultation with the Board of Governors of The University of North Carolina, shall evaluate and develop enhanced requirements for continuing licensure. The new requirements shall reflect more rigorous standards for continuing licensure and shall be aligned with high quality professional development programs that reflect State priorities for improving student achievement. Standards for continuing licensure shall include at least eight continuing education credits, with at least three credits required in the teacher's academic subject areas. Standards for continuing licensure for elementary and middle school teachers shall include at least three continuing education credits related to literacy.

Literacy renewal credits shall include evidence-based assessment, diagnosis, and intervention strategies for students not demonstrating reading proficiency. Oral language, phonemic and phonological awareness, phonics, vocabulary, fluency, and comprehension shall be addressed in literacy-related activities leading to license renewal for elementary school teachers.

c. The State Board of Education, in consultation with local boards of education and the Board of Governors of The University of North Carolina, shall reevaluate and enhance the requirements for renewal of teacher licenses. The State Board shall consider modifications in the license renewal achievement and to make it a mechanism for teachers to renew continually their knowledge and professional skills.

(2) Teacher education programs. –

a. The State Board of Education, as lead agency in coordination with the Board of Governors of The University of North Carolina, the North Carolina Independent Colleges and Universities, and any other public and private agencies as necessary, shall continue to raise standards for entry into teacher education programs.

b. To further ensure that teacher preparation programs remain current and reflect a rigorous course of study that is aligned to State and national standards, the State Board of Education, in consultation with the Board of Governors of The University of North Carolina, shall do all of the following to ensure that students are prepared to teach in elementary schools:

1. Provide students with adequate coursework in the teaching of reading and mathematics.
2. Assess students prior to licensure to determine that they possess the requisite knowledge in scientifically based reading and mathematics instruction that is aligned with the State Board's expectations.
3. Continue to provide students with preparation in applying formative and summative assessments within the school and classroom setting through technology-based assessment systems available in North Carolina schools that measure and predict expected student improvement.
4. Prepare students to integrate arts education across the curriculum.

c. The State Board of Education, in consultation with local boards of education and the Board of Governors of The University of North Carolina, shall evaluate and modify, as necessary, the academic requirements of teacher preparation programs for students preparing to teach science in middle and high schools to ensure that there is adequate preparation in issues related to science laboratory safety.

d. The standards for approval of institutions of teacher education shall require that teacher education programs for all students include the following demonstrated ~~competencies~~competencies:

1. ~~in~~All teacher education programs. –

I. ~~(i) the~~The identification and education of children with ~~disabilities and~~disabilities.

II. ~~(ii) positive~~Positive management of student behavior and effective communication techniques for defusing and deescalating disruptive or dangerous behavior.

2. Elementary and special education general curriculum teacher education programs. –

I. Teaching of reading, including a substantive understanding of reading as a process involving oral language, phonological and phonemic awareness, phonics, fluency, vocabulary, and comprehension.

II. Evidence-based assessment and diagnosis of specific areas of difficulty with reading development and of reading deficiencies.

III. Appropriate application of instructional supports and services and reading interventions to ensure reading proficiency for all students.

e. The State Board of Education shall incorporate the criteria developed in accordance with G.S. 116-74.21 for assessing proposals under the School Administrator Training Program into its school administrator program approval standards.

f. All North Carolina institutions of higher education that offer teacher education programs, masters degree programs in education, or masters degree programs in school administration shall provide annual performance reports to the State Board of Education.

...."

SECTION 9.3.(d) G.S. 150B-1(d) is amended by adding a new subdivision to read:

"(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the following:

...

(21) The State Board of Education in establishing a schedule of fees for teacher licensure and administrative changes pursuant to G.S. 115C-296(a2)."

SECTION 9.3.(e) The State Board of Education shall develop a plan to require the schools of education to measure performance and provide an annual report on the demonstrated competencies included in their elementary and special education general curriculum teacher education programs on (i) teaching of reading, including a substantive understanding of reading as a process involving oral language, phonological and phonemic awareness, phonics, fluency, vocabulary, and comprehension; (ii) evidence-based assessment and diagnosis of specific areas of difficulty with reading development and of reading deficiencies; and (iii) appropriate application of instructional supports and services and reading interventions to ensure reading proficiency for all students. The plan shall address requiring this information to be included in the annual performance reports to the State Board and the higher education educator preparation program report cards required by G.S. 115C-296, as enacted by this section. The State Board shall report to the Joint Legislative Education Oversight Committee on or before March 15, 2014, on the plan to include this information in the performance reports required for the 2014-2015 school year.

SECTION 9.3.(f) Subsection (b) of this section applies beginning with the 2013-2014 school year. Subsection (c) of this section applies beginning with the 2014-2015 school year.

For teachers who are in their fourth or fifth year of their current five-year license renewal cycle, the changes required by G.S. 115C-296(b)(1)b., as enacted by subsections (b)

and (c) of this section, shall apply beginning with the first year of their next five-year license renewal cycle.

SCHOOL PERFORMANCE GRADES

SECTION 9.4.(a) Section 7A.3(e) of S.L. 2012-142 is repealed.

SECTION 9.4.(b) Article 8 of Chapter 115C of the General Statutes is amended by adding a new Part to read:

"Part 1B. School Performance.

"**§ 115C-83.11. School performance scores, grades, including measure of student growth.**

(a) The State Board of Education shall award school performance scores and grades as required by G.S. 115C-12(9)c1., calculated as provided in this section. Eighty percent (80%) of the overall performance score shall be determined by the results of the achievement calculation, and the remaining twenty percent (20%) shall be determined by the results of the student growth calculation. The State Board shall enter all necessary data for each indicator into the Education Value-Added Assessment System (EVAAS) in order to calculate an overall school achievement score and overall school growth score.

(b) Achievement Calculation. – Using EVAAS, the State Board of Education shall calculate the overall achievement score earned by schools. In calculating the overall school achievement score earned by schools, the State Board of Education shall (i) total the sum of points earned by the school; (ii) proportionally weigh the achievement indicators based on the number of students measured by any given achievement indicator; and (iii) proportionally adjust the scale to account for the absence of school achievement indicators for award of scores to a school that does not have a measure of one of the school achievement indicators annually assessed for the grades taught at that school.

(c) Growth Calculation. – Using EVAAS, the State Board shall calculate the overall growth score earned by schools. In calculating the total growth score earned by schools, the State Board of Education shall weight student growth on achievement measures as provided in subsection (b) of this section. The numerical values used to determine whether a school has met, exceeded, or has not met expected growth shall be translated to a 100-point scale. The equivalent number of points shall be added to a school's total sum of points.

(d) Elementary and Middle Schools Achievement Indicators. – For schools serving students in kindergarten through eighth grade, the overall school achievement score shall be calculated based on the sum of the following school achievement indicators that are weighted proportionally by the number of students measured by each indicator. The score shall be calculated as follows:

(1) One point for each percent of students who score at or above proficient on annual assessments for mathematics in grades three through eight.

(2) One point for each percent of students who score at or above proficient on annual assessments for reading in grades three through eight.

(3) One point for each percent of students who score at or above proficient on annual assessments for science in grades five and eight.

(4) One point for each percent of students who score at or above proficient in Algebra I/Integrated Math I, English II, or Biology end-of-course tests.

(e) High Schools Achievement Indicators. – The school achievement score earned by schools serving students in ninth through 12th grade shall reflect academic achievement, career and college readiness, and graduation rate. The school achievement score shall be calculated based on the sum of the following school achievement indicators that are weighted proportionally by the number of students measured by each indicator. The score shall be calculated as follows:

(1) One point for each percent of students who score at or above proficient on annual assessments for mathematics.

(2) One point for each percent of students who score at or above proficient on annual assessments for English.

(3) One point for each percent of students who score at or above proficient on annual assessments for biology.

(4) One point for each percent of students who complete a mathematics class beyond Algebra I/Integrated Math II with a passing grade.

(5) One point for each percent of students who achieve the minimum score required for admission into a constituent institution of The University of North Carolina System on a nationally normed test of college readiness.

(6) One point for each percent of students enrolled in Career and Technical Education courses who meet the standard when scoring at Silver, Gold, or Platinum levels on a nationally normed test of workplace readiness.

(7) One point for each percent of students who graduate within four years of entering high school.

(f) Calculation of School Performance Scores and Grades. – The State Board of Education shall calculate school performance scores by totaling the sum of school achievement points, as provided in subsections (b), (d), (e) of this section, and school growth points, as provided in subsection (c) of this section, earned by the school. School achievement points shall account for eighty percent (80%), and school growth points shall account for twenty percent (20%) of the total sum. The sum of points shall be converted to a 100-point scale. The school performance score shall be used to determine the school performance grade based on the following scale:

(1) At least 90 performance grade points for an overall school performance grade of A.

(2) At least 80 performance grade points for an overall school performance grade of B.

(3) At least 70 performance grade points for an overall school performance grade of C.

(4) At least 60 performance grade points for an overall school performance grade of D.

(5) A school that accumulates fewer than 60 points shall be assigned an overall school performance grade of F.

(g) Elementary and Middle School Reading and Math Scores. – For schools serving students in kindergarten through eighth grade, the school performance scores in reading and mathematics, respectively, shall be reported separately on the annual school report card provided under G.S. 115C-12(9)c1., 115C-238.29F, and 115C-238.66.

(h) Indication of Growth. – In addition to the overall school performance score and grade, the State Board shall include as a part of the annual school report card a separate indicator reflecting a measure of growth for performance on annual assessments for reading, mathematics, and science in grades three through eight and on annual assessments for mathematics, English, and biology in grades nine through 12. Using EVAAS, the State Board shall designate that a school has (i) met, (ii) failed to meet, or (iii) exceeded expected growth. The growth measure shall be clearly displayed in the annual school report card provided under G.S. 115C-12(9)c1., 115C-238.29F, and 115C-238.66."

SECTION 9.4.(c) G.S. 115C-12(9)c1. reads as rewritten:

"c1. To issue an annual "report card" for the State and for each local school administrative unit, assessing each unit's efforts to improve student performance based on the growth in performance of the students in each school and taking into account progress over the previous years' level of performance and the State's performance in comparison with other states. This assessment shall take into account

factors that have been shown to affect student performance and that the State Board considers relevant to assess the State's efforts to improve student performance. As a part of the annual "report card" for each local school administrative unit, the State Board shall ~~award~~award, in accordance with G.S. 115C-83.11, an overall numerical school performance score on a scale of zero to 100 and a corresponding letter grade of A, B, C, D, or F earned by each school within the local school administrative unit. The school performance score and grade shall reflect student performance on annual subject-specific assessments, college and workplace readiness measures, and graduation rates. For schools serving students in any grade from kindergarten to eighth grade, separate performance scores and grades shall also be awarded based on the school performance in reading and mathematics respectively. The annual "report card" for schools serving students in third grade also shall include the number and percentage of third grade students who (i) take and pass the alternative assessment of reading comprehension; (ii) were retained in third grade for not demonstrating reading proficiency as indicated in G.S. 115C-83.7(a); and (iii) were exempt from mandatory third grade retention by category of exemption as listed in G.S. 115C-83.7(b)."

SECTION 9.4.(d) This section applies beginning with the 2012-2013 school year.

PAY FOR EXCELLENCE

SECTION 9.5. When a robust evaluation instrument and process that accurately assesses and evaluates the effectiveness of teachers, especially in the area of student growth, is wholly implemented in North Carolina, it is the intent of the General Assembly that the evaluation instrument and process be utilized in the implementation of a plan of performance pay for teachers in this State.

TEACHER CONTRACTS

SECTION 9.6.(a) G.S. 115C-325 is repealed.

SECTION 9.6.(b) Part 3 of Article 22 of Chapter 115C of the General Statutes is amended by adding new sections to read:

"**§ 115C-325.1. Definitions.**

As used in this Part, the following definitions apply:

(1) "Day" means calendar day. In computing any period of time, Rule 6 of the North Carolina Rules of Civil Procedure shall apply.

(2) "Demote" means to reduce the salary of a person who is classified or paid by the State Board of Education as a classroom teacher or as a school administrator during the time of the contract. The word "demote" does not include (i) a suspension without pay pursuant to G.S. 115C-325.5(a); (ii) the elimination or reduction of bonus payments, including merit-based supplements or a systemwide modification in the amount of any applicable local supplement; (iii) any reduction in salary that results from the elimination of a special duty, such as the duty of an athletic coach or a choral director; or (iv) any reduction of pay as compared to a prior term of contract.

(3) "Disciplinary suspension" means a final decision to suspend a teacher or school administrator without pay for no more than 60 days under G.S. 115C-325.5(b).

(4) "School administrator" means a principal, assistant principal, supervisor, or director whose major function includes the direct or indirect supervision of teaching or any other part of the instructional program, as provided in G.S. 115C-287.1(a)(3).

(5) "Teacher" means a person meeting each of the following requirements:

a. Who holds at least one of the following licenses issued by the State Board of Education:

1. A current standard professional educator's license.

2. A current lateral entry teaching license.

3. A regular, not expired, vocational license.

b. Whose major responsibility is to teach or directly supervise teaching or who is classified by the State Board of Education or is paid either as a classroom teacher or instructional support personnel.

c. Who is employed to fill a full-time, permanent position.

(6) "Year" means a calendar year beginning July 1 and ending June 30.

"**§ 115C-325.2. Personnel files.**

(a) Maintenance of Personnel File. – The superintendent shall maintain in his or her office a personnel file for each teacher that contains any complaint, commendation, or suggestion for correction or improvement about the teacher's professional conduct, except that the superintendent may elect not to place in a teacher's file (i) a letter of complaint that contains invalid, irrelevant, outdated, or false information or (ii) a letter of complaint when there is no documentation of an attempt to resolve the issue. The complaint, commendation, or suggestion shall be signed by the person who makes it and shall be placed in the teacher's file only after five days' notice to the teacher. Any denial or explanation relating to such complaint, commendation, or suggestion that the teacher desires to make shall be placed in the file. Any teacher may petition the local board of education to remove any information from the teacher's personnel file that the teacher deems invalid, irrelevant, or outdated. The board may order the superintendent to remove said information if it finds the information is invalid, irrelevant, or outdated.

(b) Inspection of Personnel Files. – The personnel file shall be open for the teacher's inspection at all reasonable times but shall be open to other persons only in accordance with such rules and regulations as the board adopts. Any preemployment data or other information obtained about a teacher before the teacher's employment by the board may be kept in a file separate from the teacher's personnel file and need not be made available to the teacher. No data placed in the preemployment file may be introduced as evidence at a hearing on the dismissal or demotion of a teacher, except the data may be used to substantiate G.S. 115C-325.4(a)(7) or G.S. 115C-325.4(a)(14) as grounds for dismissal or demotion.

"**§ 115C-325.3. Teacher contracts.**

(a) Length of Contract. – A contract between the local board of education and a teacher who has been employed by the local board of education for less than three years shall be for a term of one school year. A contract or renewal of contract between the local board of education and a teacher who has been employed by the local board of education for three years or more shall be for a term of one, two, three, or four school years.

(b) Superintendent Recommendation to Local Board. – Local boards of education shall employ teachers upon the recommendation of the superintendent. If a superintendent intends to recommend to the local board of education that a teacher be offered a new or renewed contract, the superintendent shall submit the recommendation to the local board for action and shall include in the recommendation the length of the term of contract. A superintendent shall only recommend a teacher for a contract of a term longer than one school year if the teacher has shown effectiveness as demonstrated by proficiency on the evaluation instrument. The local board may approve the superintendent's recommendation, may decide not to offer the teacher a

new or renewed contract, or may decide to offer the teacher a renewed contract for a different term than recommended by the superintendent.

(c) Dismissal During Term of Contract. – A teacher shall not be dismissed or demoted during the term of the contract except for the grounds and by the procedure set forth in G.S. 115C-325.4.

(d) Recommendation on Nonrenewal. – If a superintendent decides not to recommend that the local board of education offer a renewed contract to a teacher, the superintendent shall give the teacher written notice of the decision no later than June 1.

(e) Right to Petition for Hearing. – A teacher shall have the right to petition the local board of education for a hearing no later than 10 days after receiving written notice. The local board may, in its discretion, grant a hearing regarding the superintendent's recommendation for nonrenewal. The local board of education shall notify the teacher making the petition of its decision whether to grant a hearing. If the request for a hearing is granted, the local board shall conduct a hearing pursuant to the provisions of G.S. 115C-45(c) and make a final decision on whether to offer the teacher a renewed contract. The board shall notify a teacher whose contract will not be renewed for the next school year of its decision by June 15; provided, however, if a teacher submits a request for a hearing, the board shall provide the nonrenewal notification within 10 days of the hearing or such later date upon the written consent of the superintendent and teacher. A decision not to offer a teacher a renewed contract shall not be arbitrary, capricious, discriminatory, for personal or political reasons, or on any basis prohibited by State or federal law.

(f) Failure to Offer Contract or Notify on Nonrenewal of Contract. – If a teacher fails to receive a contract offer but does not receive written notification from the superintendent of a recommendation of nonrenewal, and the teacher continues to teach in the local school administrative unit without entering into a contract with the local board, upon discovery of the absence of contract, the board by majority vote shall do one of the following:

(1) Offer the teacher a one–year contract expiring no later than June 30 of the current school year.

(2) Dismiss the teacher and provide the teacher with the equivalent of one additional month's pay. A teacher dismissed as provided in this section shall be considered an at-will employee and shall not be entitled to a hearing or appeal of the dismissal.

(g) Local boards of education and teachers employed by the local board may mutually modify the terms of the contract to permit part-time employment. An individual that mutually modifies a full-time contract to permit part-time employment or enters into a part-time contract is not a teacher as defined in G.S. 115C-325.1(5).

"**§ 115C-325.4. Dismissal or demotion for cause.**

(a) Grounds. – No teacher shall be dismissed, demoted, or reduced to employment on a part-time basis for disciplinary reasons during the term of the contract except for one or more of the following:

(1) Inadequate performance. In determining whether the professional performance of a teacher is adequate, consideration shall be given to regular and special evaluation reports prepared in accordance with the published policy of the employing local school administrative unit and to any published standards of performance which shall have been adopted by the board. Inadequate performance for a teacher shall mean (i) the failure to perform at a proficient level on any standard of the evaluation instrument or (ii) otherwise performing in a manner that is below standard.

(2) Immorality.

(3) Insubordination.

(4) Neglect of duty.

(5) Physical or mental incapacity.
(6) Habitual or excessive use of alcohol or nonmedical use of a controlled substance as defined in Article 5 of Chapter 90 of the General Statutes.
(7) Conviction of a felony or a crime involving moral turpitude.
(8) Advocating the overthrow of the government of the United States or of the State of North Carolina by force, violence, or other unlawful means.
(9) Failure to fulfill the duties and responsibilities imposed upon teachers or school administrators by the General Statutes of this State.
(10) Failure to comply with such reasonable requirements as the board may prescribe.
(11) Any cause which constitutes grounds for the revocation of the teacher's teaching license or the school administrator's administrator license.
(12) Failure to maintain his or her license in a current status.
(13) Failure to repay money owed to the State in accordance with the provisions of Article 60 of Chapter 143 of the General Statutes.
(14) Providing false information or knowingly omitting a material fact on an application for employment or in response to a preemployment inquiry.
(15) A justifiable decrease in the number of positions due to district reorganization, decreased enrollment, or decreased funding.

(b) Dismissal Procedure. – The procedures provided in G.S. 115C-325.6 shall be followed for dismissals, demotions, or reductions to part-time employment for disciplinary reasons for any reason specified in subsection (a) of this section.

"**§ 115C-325.5. Teacher suspension.**

(a) Immediate Suspension Without Pay. – If a superintendent believes that cause exists for dismissing a teacher for any reason specified in G.S. 115C-325.4 and that immediate suspension of the teacher is necessary, the superintendent may suspend the teacher without pay. Before suspending a teacher without pay, the superintendent shall meet with the teacher and give him or her written notice of the charges against the teacher, an explanation of the basis for the charges, and an opportunity to respond. Within five days after a suspension under this subsection, the superintendent shall initiate a dismissal, demotion, or disciplinary suspension without pay as provided in this section. If it is finally determined that no grounds for dismissal, demotion, or disciplinary suspension without pay exist, the teacher shall be reinstated immediately, shall be paid for the period of suspension, and all records of the suspension shall be removed from the teacher's personnel file.

(b) Disciplinary Suspension Without Pay. – A teacher recommended for disciplinary suspension without pay may request a hearing before the board. The hearing shall be conducted as provided in G.S. 115C-325.7. If no request is made within 15 days, the superintendent may file his or her recommendation with the board. If, after considering the recommendation of the superintendent and the evidence adduced at the hearing if one is held, the board concludes that the grounds for the recommendation are true and substantiated by a preponderance of the evidence, the board, if it sees fit, may by resolution order such suspension.

(c) Suspension With Pay. – If a superintendent believes that cause may exist for dismissing or demoting a teacher for any reasons specified in G.S. 115C-325.4 but that additional investigation of the facts is necessary and circumstances are such that the teacher should be removed immediately from the teacher's duties, the superintendent may suspend the teacher with pay for a reasonable period of time, not to exceed 90 days. The superintendent shall notify the board of education within two days of the superintendent's action and shall notify the teacher within two days of the action and the reasons for it. If the superintendent has not initiated dismissal or demotion proceedings against the teacher within the 90-day period, the teacher shall be reinstated to the teacher's duties immediately, and all records of the suspension with pay shall be removed from the teacher's personnel file at the teacher's request.

However, if the superintendent and the teacher agree to extend the 90-day period, the superintendent may initiate dismissal or demotion proceedings against the teacher at any time during the period of the extension.

"**§ 115C-325.6. Procedure for dismissal or demotion of a teacher for cause.**

(a) Recommendation of Dismissal or Demotion. – A teacher may not be dismissed, demoted, or reduced to part-time employment for disciplinary reasons during the term of the contract except upon the superintendent's recommendation based on one or more of the grounds in G.S. 115C-325.4.

(b) Notice of Recommendation. – Before recommending to a board the dismissal or demotion of a teacher, the superintendent shall give written notice to the teacher by certified mail or personal delivery of the superintendent's intention to make such recommendation and shall set forth as part of the superintendent's recommendation the grounds upon which he or she believes such dismissal or demotion is justified. The superintendent also shall meet with the teacher and provide written notice of the charges against the teacher, an explanation of the basis for the charges, and an opportunity to respond if the teacher has not done so under G.S. 115C-325.5(a). The notice shall include a statement to the effect that the teacher, within 14 days after the date of receipt of the notice, may request a hearing before the board on the superintendent's recommendation. A copy of Part 3 of Article 22 of Chapter 115C of the General Statutes shall also be sent to the teacher.

(c) Request for Hearing. – Within 14 days after receipt of the notice of recommendation, the teacher may file with the superintendent a written request for a hearing before the board on the superintendent's recommendation. The superintendent shall submit his or her recommendation to the board. Within five days after receiving the superintendent's recommendation and before taking any formal action, the board shall set a time and place for the hearing and shall notify the teacher by certified mail or personal delivery of the date, time, and place of the hearing. The time specified shall not be less than 10 nor more than 30 days after the board has notified the teacher, unless both parties agree to an extension. The hearing shall be conducted as provided in G.S. 115C-325.7.

(d) No Request for Hearing. – If the teacher does not request a hearing before the board within the 14 days provided, the superintendent may submit his or her recommendation to the board. The board, if it sees fit, may by resolution (i) reject the superintendent's recommendation or (ii) accept or modify the superintendent's recommendation and dismiss, demote, reinstate, or suspend the teacher without pay.

"**§ 115C-325.7. Hearing before board.**

(a) The following procedures shall apply for a board hearing for dismissal, demotion, reduction to part-time employment for disciplinary reasons, or disciplinary suspension without pay:

(1) The hearing shall be private.

(2) The hearing shall be conducted in accordance with reasonable rules adopted by the State Board of Education to govern such hearings.

(3) At the hearing, the teacher and the superintendent shall have the right to be present and to be heard, to be represented by counsel, and to present through witnesses any competent testimony relevant to the issue of whether grounds exist for a dismissal, demotion, reduction to part-time employment for disciplinary reasons, or disciplinary suspension without pay.

(4) Rules of evidence shall not apply to a hearing under this subsection, and the board may give probative effect to evidence that is of a kind commonly relied on by reasonably prudent persons in the conduct of serious affairs.

(5) At least five days before the hearing, the superintendent shall provide to the teacher a list of witnesses the superintendent intends to present, a brief

statement of the nature of the testimony of each witness, and a copy of any documentary evidence the superintendent intends to present.

(6) At least three days before the hearing, the teacher shall provide the superintendent a list of witnesses the teacher intends to present, a brief statement of the nature of the testimony of each witness, and a copy of any documentary evidence the teacher intends to present.

(7) No new evidence may be presented at the hearing except upon a finding by the board that the new evidence is critical to the matter at issue and the party making the request could not, with reasonable diligence, have discovered and produced the evidence according to the schedule provided in this section.

(8) The board may subpoena and swear witnesses and may require them to give testimony and to produce records and documents relevant to the grounds for dismissal, demotion, reduction to part-time employment for disciplinary reasons, or disciplinary suspension without pay.

(9) The board shall decide all procedural issues, including limiting cumulative evidence, necessary for a fair and efficient hearing.

(10) The superintendent shall provide for making a transcript of the hearing. The teacher may request and shall receive at no charge a transcript of the proceedings.

"**§ 115C-325.8. Right of appeal.**

(a) A teacher who (i) has been dismissed, demoted, or reduced to employment on a part-time basis for disciplinary reasons during the term of the contract as provided in G.S. 115C-325.4, or has received a disciplinary suspension without pay as provided in G.S. 115C-325.5, and (ii) requested a hearing before the local board of education, shall have a further right of appeal from the final decision of the local board of education to the superior court of the State on one or more of the following grounds that the decision:

(1) Is in violation of constitutional provisions.

(2) Is in excess of the statutory authority or jurisdiction of the board.

(3) Was made upon unlawful procedure.

(4) Is affected by other error of law.

(5) Is unsupported by substantial evidence in view of the entire record as submitted.

(6) Is arbitrary or capricious.

(b) An appeal pursuant to this section must be filed within 30 days of notification of the final decision of the local board of education and shall be decided on the administrative record. The superior court shall have authority to affirm or reverse the local board's decision or remand the matter to the local board of education. The superior court shall not have authority to award monetary damages or to direct the local board of education to enter into an employment contract of more than one year, ending June 30.

"**§ 115C-325.9. Teacher resignation.**

(a) Teacher Resignation Following Recommendation for Dismissal. – If a teacher has been recommended for dismissal under G.S. 115C-325.4 and the teacher chooses to resign without the written agreement of the superintendent, then:

(1) The superintendent shall report the matter to the State Board of Education.

(2) The teacher shall be deemed to have consented to (i) the placement in the teacher's personnel file of the written notice of the superintendent's intention to recommend dismissal and (ii) the release of the fact that the superintendent has reported this teacher to the State Board of Education to prospective employers, upon request. The provisions of G.S. 115C-321 shall not apply to the release of this particular information.

(3) The teacher shall be deemed to have voluntarily surrendered his or her license pending an investigation by the State Board of Education in a determination whether or not to seek action against the teacher's license. This license surrender shall not exceed 45 days from the date of resignation. Provided further that the cessation of the license surrender shall not prevent the State Board of Education from taking any further action it deems appropriate. The State Board of Education shall initiate investigation within five working days of the written notice from the superintendent and shall make a final decision as to whether to revoke or suspend the teacher's license within 45 days from the date of resignation.

(b) Thirty Days' Notice Resignation Requirement. – A teacher who is not recommended for dismissal should not resign during the term of the contract without the consent of the superintendent unless he or she has given at least 30 days' notice. If a teacher who is not recommended for dismissal does resign during the term of the contract without giving at least 30 days' notice, the board may request that the State Board of Education revoke the teacher's license for the remainder of that school year. A copy of the request shall be placed in the teacher's personnel file.

"**§ 115C-325.10. Application to certain institutions.**

Notwithstanding any law or regulation to the contrary, this Part shall apply to all persons employed in teaching and related educational classes in the schools and institutions of the Departments of Health and Human Services, Public Instruction, and the Divisions of Juvenile Justice and Adult Correction of the Department of Public Safety, regardless of the age of the students.

"**§ 115C-325.11. Dismissal of school administrators and teachers employed in low-performing residential schools.**

(a) Notwithstanding any other provision of this section or any other law, this section shall govern the dismissal by the State Board of Education of teachers, principals, assistant principals, directors, supervisors, and other licensed personnel assigned to a residential school that the State Board has identified as low-performing and to which the State Board has assigned an assistance team. The State Board shall dismiss a teacher, principal, assistant principal, director, supervisor, or other licensed personnel when the State Board receives two consecutive evaluations that include written findings and recommendations regarding that person's inadequate performance from the assistance team. These findings and recommendations shall be substantial evidence of the inadequate performance of the teacher or school administrator.

(b) The State Board may dismiss a teacher, principal, assistant principal, director, supervisor, or other licensed personnel when:

(1) The State Board determines that the school has failed to make satisfactory improvement after the State Board assigned an assistance team to that school.

(2) That assistance team makes the recommendation to dismiss the teacher, principal, assistant principal, director, supervisor, or other licensed personnel for one or more grounds established in G.S. 115C-325.4 for dismissal or demotion of a teacher.

Within 30 days of any dismissal under this subsection, a teacher, principal, assistant principal, director, supervisor, or other licensed personnel may request a hearing before a panel of three members designated by the State Board. The State Board shall adopt procedures to ensure that due process rights are afforded to persons recommended for dismissal under this subsection. Decisions of the panel may be appealed on the record to the State Board.

(c) Notwithstanding any other provision of this section or any other law, this subsection shall govern the dismissal by the State Board of licensed staff members who have engaged in a remediation plan under G.S. 115C-105.38A(c) but who, after one retest, fail to meet the general

knowledge standard set by the State Board. The failure to meet the general knowledge standard after one retest shall be substantial evidence of the inadequate performance of the licensed staff member.

Within 30 days of any dismissal under this subsection, a licensed staff member may request a hearing before a panel of three members designated by the State Board. The State Board shall adopt procedures to ensure that due process rights are afforded to licensed staff members recommended for dismissal under this subsection. Decisions of the panel may be appealed on the record to the State Board.

(d) The State Board or the superintendent of a residential school may terminate the contract of a school administrator dismissed under this section. Nothing in this section shall prevent the State Board from refusing to renew the contract of any person employed in a school identified as low-performing.

(e) Neither party to a school administrator or teacher contract is entitled to damages under this section.

(f) The State Board shall have the right to subpoena witnesses and documents on behalf of any party to the proceedings under this section.

"**§ 115C-325.12. Procedure for dismissal of principals employed in low-performing schools.**

(a) Dismissal of Principals Assigned to Low-Performing Schools With Assistance Teams. – Notwithstanding any other provision of this Part or any other law, this section governs the State Board's dismissal of principals assigned to low-performing schools to which the State Board has assigned an assistance team.

(b) Authority of State Board to Dismiss Principal. – The State Board through its designee may, at any time, recommend the dismissal of any principal who is assigned to a low-performing school to which an assistance team has been assigned. The State Board through its designee shall recommend the dismissal of any principal when the State Board receives from the assistance team assigned to that principal's school two consecutive evaluations that include written findings and recommendations regarding the principal's inadequate performance.

(c) Procedures for Dismissal of Principal. –

(1) If the State Board through its designee recommends the dismissal of a principal under this section, the principal shall be suspended with pay pending a hearing before a panel of three members of the State Board. The purpose of this hearing, which shall be held within 60 days after the principal is suspended, is to determine whether the principal shall be dismissed.

(2) The panel shall order the dismissal of the principal if it determines from available information, including the findings of the assistance team, that the low performance of the school is due to the principal's inadequate performance.

(3) The panel may order the dismissal of the principal if (i) it determines that the school has not made satisfactory improvement after the State Board assigned an assistance team to that school and (ii) the assistance team makes the recommendation to dismiss the principal for one or more grounds established in G.S. 115C-325.4 for dismissal or demotion of a teacher.

(4) If the State Board or its designee recommends the dismissal of a principal before the assistance team assigned to the principal's school has evaluated that principal, the panel may order the dismissal of the principal if the panel determines from other available information that the low performance of the school is due to the principal's inadequate performance.

(5) In all hearings under this section, the burden of proof is on the principal to establish that the factors leading to the school's low performance were not

due to the principal's inadequate performance. In all hearings under this section, the burden of proof is on the State Board to establish that the school failed to make satisfactory improvement after an assistance team was assigned to the school and to establish one or more of the grounds established for dismissal or demotion of a teacher under G.S. 115C-325.4.

(6) In all hearings under this section, two consecutive evaluations that include written findings and recommendations regarding that principal's inadequate performance from the assistance team are substantial evidence of the inadequate performance of the principal.

(7) The State Board shall adopt procedures to ensure that due process rights are afforded to principals under this section. Decisions of the panel may be appealed on the record to the State Board.

(d) The State Board of Education or a local board may terminate the contract of a principal dismissed under this section.

(e) Neither party to a school administrator contract is entitled to damages under this section.

(f) The State Board shall have the right to subpoena witnesses and documents on behalf of any party to the proceedings under this section.

"**§ 115C-325.13. Procedure for dismissal of teachers employed in low-performing schools.**

(a) Notwithstanding any other provision of this Part or any other law, this section shall govern the State Board's dismissal of teachers, assistant principals, directors, and supervisors assigned to schools that the State Board has identified as low-performing and to which the State Board has assigned an assistance team under Article 8B of this Chapter. The State Board shall dismiss a teacher, assistant principal, director, or supervisor when the State Board receives two consecutive evaluations that include written findings and recommendations regarding that person's inadequate performance from the assistance team. These findings and recommendations shall be substantial evidence of the inadequate performance of the teacher, assistant principal, director, or supervisor.

(b) The State Board may dismiss a teacher, assistant principal, director, or supervisor when:

(1) The State Board determines that the school has failed to make satisfactory improvement after the State Board assigned an assistance team to that school under G.S. 115C-105.38; and

(2) That assistance team makes the recommendation to dismiss the teacher, assistant principal, director, or supervisor for one or more grounds established in G.S. 115C-325.4 for dismissal or demotion for cause.

A teacher, assistant principal, director, or supervisor may request a hearing before a panel of three members of the State Board within 30 days of any dismissal under this section. The State Board shall adopt procedures to ensure that due process rights are afforded to persons recommended for dismissal under this section. Decisions of the panel may be appealed on the record to the State Board.

(c) Notwithstanding any other provision of this Part or any other law, this section shall govern the State Board's dismissal of licensed staff members who have engaged in a remediation plan under G.S. 115C-105.38A(c) but who, after one retest, fail to meet the general knowledge standard set by the State Board. The failure to meet the general knowledge standard after one retest shall be substantial evidence of the inadequate performance of the licensed staff member.

(d) A licensed staff member may request a hearing before a panel of three members of the State Board within 30 days of any dismissal under this section. The State Board shall adopt procedures to ensure that due process rights are afforded to licensed staff members

recommended for dismissal under this section. Decisions of the panel may be appealed on the record to the State Board.

(e) The State Board of Education or a local board may terminate the contract of a teacher, assistant principal, director, or supervisor dismissed under this section.

(f) Neither party to a school administrator or teacher contract is entitled to damages under this section.

(g) The State Board shall have the right to subpoena witnesses and documents on behalf of any party to the proceedings under this section."

SECTION 9.6.(c) G.S. 115C-45(c) reads as rewritten:

"(c) Appeals to Board of Education and to Superior Court. – An appeal shall lie to the local board of education from any final administrative decision in the following matters:

(1) The discipline of a student under G.S. 115C-390.7, 115C-390.10, or 115C-390.11;

(2) An alleged violation of a specified federal law, State law, State Board of Education policy, State rule, or local board policy, including policies regarding grade retention of students;

(3) The terms or conditions of employment or employment status of a school employee; and

(4) Any other decision that by statute specifically provides for a right of appeal to the local board of education and for which there is no other statutory appeal procedure.

As used in this subsection, the term "final administrative decision" means a decision of a school employee from which no further appeal to a school administrator is available.

Any person aggrieved by a decision not covered under subdivisions (1) through (4) of this subsection shall have the right to appeal to the superintendent and thereafter shall have the right to petition the local board of education for a hearing, and the local board may grant a hearing regarding any final decision of school personnel within the local school administrative unit. The local board of education shall notify the person making the petition of its decision whether to grant a hearing.

In all appeals to the board it is the duty of the board of education to see that a proper notice is given to all parties concerned and that a record of the hearing is properly entered in the records of the board conducting the hearing.

The board of education may designate hearing panels composed of not less than two members of the board to hear and act upon such appeals in the name and on behalf of the board of education.

An appeal of right brought before a local board of education under subdivision (1), (2), ~~(3),~~ or (4) of this subsection may be further appealed to the superior court of the State on the grounds that the local board's decision is in violation of constitutional provisions, is in excess of the statutory authority or jurisdiction of the board, is made upon unlawful procedure, is affected by other error of law, is unsupported by substantial evidence in view of the entire record as submitted, or is arbitrary or capricious. ~~However, the right of a noncertified employee to appeal decisions of a local board under subdivision (3) of this subsection shall only apply to decisions concerning the dismissal, demotion, or suspension without pay of the noncertified employee. A noncertified employee may request and shall be entitled to receive written notice as to the reasons for the employee's dismissal, demotion, or suspension without pay. The notice shall be provided to the employee prior to any local board of education hearing on the issue. This subsection shall not alter the employment status of a noncertified employee.~~"

SECTION 9.6.(d) G.S. 115C-287.1 reads as rewritten:

"**§ 115C-287.1. Method of employment of principals, assistant principals, supervisors, and directors.**

(a) (1) ~~Beginning July 1, 1995, all~~All persons employed as school administrators shall be employed pursuant to this section.

~~(2) Notwithstanding G.S. 115C-287.1(a)(1), the following school administrators shall be employed pursuant to G.S. 115C-325:~~

~~a. School administrators who, as of July 1, 1995, are serving in a principal or supervisor position with career status in that position; and~~

~~b. School administrators who, as of July 1, 1995, are serving in a principal or supervisor position and who are eligible to achieve career status on or before June 30, 1997.~~

~~A school administrator shall cease to be employed pursuant to G.S. 115C-325 if the school administrator: (i) voluntarily relinquishes career status or the opportunity to achieve career status through promotion, resignation, or otherwise; or (ii) is dismissed or demoted or whose contract is not renewed pursuant to G.S. 115C-325.~~

(3) For purposes of this section, school administrator means a:

a. Principal;

b. Assistant principal;

c. Supervisor; or

d. Director,

whose major function includes the direct or indirect supervision of teaching or of any other part of the instructional program.

~~(4) Nothing in this section shall be construed to confer career status on any assistant principal or director, or to make an assistant principal eligible for career status as an assistant principal or a director eligible for career status as a director.~~

(b) Local boards of education shall employ school administrators ~~who are ineligible for career status as provided in G.S. 115C-325(e)(3),~~ upon the recommendation of the superintendent. The initial contract between a school administrator and a local board of education shall be for two to four years, ending on June 30 of the final 12 months of the contract. In the case of a subsequent contract between a principal or assistant principal and a local board of education, the contract ~~shall be for~~ may be for up to a term of four years. In the case of an initial contract between a school administrator and a local board of education, the first year of the contract may be for a period of less than 12 months provided the contract becomes effective on or before September 1. A local board of education may, with the written consent of the school administrator, extend, renew, or offer a new school administrator's contract at any time after the first 12 months of the contract so long as the term of the new, renewed, or extended contract does not exceed four years. Rolling annual contract renewals are not allowed. Nothing in this section shall be construed to prohibit the filling of an administrative position on an interim or temporary basis.

(c) The term of employment shall be stated in a written contract that shall be entered into between the local board of education and the school administrator. The school administrator shall not be dismissed or demoted during the term of the contract except for the grounds and by the procedure by which a ~~career~~ teacher may be dismissed or demoted for cause as set forth in ~~G.S. 115C-325.~~G.S. 115C-325.4.

(d) If a superintendent intends to recommend to the local board of education that the school administrator be offered a new, renewed, or extended contract, the superintendent shall submit the recommendation to the local board for action. The local board may approve the superintendent's recommendation or decide not to offer the school administrator a new, renewed, or extended school administrator's contract.

If a superintendent decides not to recommend that the local board of education offer a new, renewed, or extended school administrator's contract to the school administrator, the superintendent shall give the school administrator written notice of his or her decision ~~and the reasons for his or her decision~~ no later than May 1 of the final year of the contract. The superintendent's reasons may not be arbitrary, capricious, discriminatory, personal, ~~or political.~~political, or prohibited by State or federal law. No action by the local board or further notice to the school administrator shall be necessary unless the school administrator files with the superintendent a written request, within 10 days of receipt of the superintendent's decision, for a hearing before the local board. ~~Failure to file a timely request for a hearing shall result in a waiver of the right to appeal the superintendent's decision.~~ If a school administrator files a timely request for a hearing, the local board shall conduct a hearing pursuant to the provisions of G.S. 115C-45(c) and make a final decision on whether to offer the school administrator a new, renewed, or extended school administrator's contract.

If the local board decides not to offer the school administrator a new, renewed, or extended school administrator's contract, the local board shall notify the school administrator of its decision by June 1 of the final year of the contract. A decision not to offer the school administrator a new, renewed, or extended contract may be for any cause that is not arbitrary, capricious, discriminatory, personal, ~~or political.~~political, or prohibited by State or federal law. ~~The local board's decision not to offer the school administrator a new, renewed, or extended school administrator's contract is subject to judicial review in accordance with Article 4 of Chapter 150B of the General Statutes.~~

(e) Repealed by Session Laws 1995, c. 369, s. 1.

(f) If the superintendent or the local board of education fails to notify a school administrator by June 1 of the final year of the contract that the school administrator will not be offered a new school administrator's contract, the school administrator shall be entitled to 30 days of additional employment or severance pay beyond the date the school administrator receives written notice that a new contract will not be offered.

~~(g) If, prior to appointment as a school administrator, the school administrator held career status as a teacher in the local school administrative unit in which he or she is employed as a school administrator, a school administrator shall retain career status as a teacher if the school administrator is not offered a new, renewed, or extended contract by the local board of education, unless the school administrator voluntarily relinquished that right or is dismissed or demoted pursuant to G.S. 115C-325.~~

(h) An individual who holds a provisional assistant principal's ~~certificate~~license and who is employed as an assistant principal under G.S. 115C-284(c) shall be considered a school administrator for purposes of this section. Notwithstanding subsection (b) of this section, a local board may enter into one-year contracts with a school administrator who holds a provisional assistant principal's ~~certificate.~~license. ~~If the school administrator held career status as a teacher in the local school administrative unit prior to being employed as an assistant principal and the State Board for any reason does not extend the school administrator's provisional assistant principal's certificate, the school administrator shall retain career status as a teacher unless the school administrator voluntarily relinquished that right or is dismissed or demoted under G.S. 115C-325.~~ Nothing in this subsection or G.S. 115C-284(c) shall be construed to require a local board to extend or renew the contract of a school administrator who holds a provisional assistant principal's ~~certificate.~~license."

SECTION 9.6.(e) The State Board of Education shall develop by rule as provided in Article 2A of Chapter 150B a model contract for use by local boards of education in awarding teacher contracts. The State Board may adopt a temporary rule for a model contract as provided in G.S. 150B-21.1 to provide a contract to local boards of education no later than January 1, 2014, but shall replace the temporary rule with a permanent rule as soon as practicable.

SECTION 9.6.(f) G.S. 115C-325(c)(1) is repealed effective May 1, 2013. Individuals who have not received career status prior to the 2012-2013 school year shall not be granted career status during the 2012-2013 school year. All teachers who have not been granted career status prior to the 2012-2013 school year shall be offered only one-year contracts, except for qualifying teachers offered a four-year contract as provided in subsection (g) of this section, until the 2018-2019 school year.

SECTION 9.6.(g) From July 1, 2013, to June 30, 2014, all superintendents shall review the performance and evaluations of all teachers who have been employed by the local board for at least three consecutive years. Based on these reviews, the superintendent shall identify and recommend to the local board twenty-five percent (25%) of those teachers employed by the local board for at least three consecutive years to be awarded four-year contracts beginning with the 2014-2015 school year. The superintendent shall not recommend to the local board any teacher for a four-year contract unless that teacher has shown effectiveness as demonstrated by proficiency on the teacher evaluation instrument. The local board of education shall review the superintendent's recommendation and may approve that recommendation or may select other teachers as part of the twenty-five percent (25%) to offer four-year contracts, but the local board shall not offer any teacher a four-year contract unless that teacher has shown effectiveness as demonstrated by proficiency on the teacher evaluation instrument. Contract offers shall be made and accepted no later than June 30, 2014. A teacher shall cease to be employed pursuant to G.S. 115C-325 and voluntarily relinquishes career status or any claim of career status by acceptance of a four-year contract as provided in this section.

SECTION 9.6.(h) Teachers employed by a local board of education on a four-year contract beginning with the 2014-2015 school year shall receive a five hundred dollar ($500.00) annual pay raise for each year of the four-year contract.

SECTION 9.6.(i) Subsection (a) of this section becomes effective June 30, 2018, and no teacher employed by a local board of education on or after that date shall have career status. G.S. 115C-325 applies only to teachers with career status after June 30, 2014.

SECTION 9.6.(j) Subsection (b) of this section becomes effective July 1, 2014. G.S. 115C-325.1 through G.S. 115C-325.13, as enacted by this section, shall apply to all teachers on one- or four-year contracts beginning July 1, 2014. G.S. 115C-325.1 through G.S. 115C-325.13, as enacted by this section, shall apply to all teachers employed by local boards of education or the State on or after July 1, 2018.

SECTION 9.6.(k) Subsections (c) and (d) of this section become effective July 1, 2014, and apply to all employees employed on or after that date.

SECTION 9.6.(l) Except as otherwise provided in this section, this section is effective when this act becomes law.

TEACHER CONTRACT CONFORMING CHANGES

SECTION 9.7.(a) G.S. 115C-105.26(b)(2) reads as rewritten:

"(2) State rules and policies, except those pertaining to public school State salary schedules and employee benefits for school employees, the instructional program that must be offered under the Basic Education Program, the system of employment for public school teachers and administrators set out in G.S. 115C-287.1 and ~~G.S. 115C-325,~~in Part 3 of Article 22 of this Chapter, health and safety codes, compulsory attendance, the minimum lengths of the school day and year, and the Uniform Education Reporting System."

SECTION 9.7.(b) G.S. 115C-105.37B(a)(2) reads as rewritten:

"(2) Restart model, in which the State Board of Education would authorize the local board of education to operate the school with the same exemptions from statutes and rules as a charter school authorized under Part 6A of Article 16 of this Chapter, or under the management of an educational

management organization that has been selected through a rigorous review process. A school operated under this subdivision remains under the control of the local board of education, and employees assigned to the school are employees of the local school administrative unit with the protections provided by ~~G.S. 115C-325.~~Part 3 of Article 22 of this Chapter."

SECTION 9.7.(c) G.S. 115C-105.38A reads as rewritten:

"**§ 115C-105.38A. Teacher competency assurance.**

...

(d) Retesting; Dismissal. – Upon completion of the remediation plan required under subsection (c) of this section, the ~~certified~~licensed staff member shall take the general knowledge test a second time. If the ~~certified~~licensed staff member fails to acquire a passing score on the second test, the State Board shall begin a dismissal proceeding under ~~G.S. 115C-325(q)(2a).~~G.S. 115C-325(q)(2a) or G.S. 115C-325.13.

...

(f) Other Actions Not Precluded. – Nothing in this section shall be construed to restrict or postpone the following actions:

(1) The dismissal of a principal under ~~G.S. 115C-325(q)(1);~~G.S. 115C-325.12.

(2) The dismissal of a teacher, assistant principal, director, or supervisor under ~~G.S. 115C-325(q)(2);~~G.S. 115C-325(q)(2) or G.S. 115C-325.13.

(3) The dismissal or demotion of ~~a career~~ an employee for any of the grounds listed under ~~G.S. 115C-325(e);~~G.S. 115C-325(e) or G.S. 115C-325.4.

(4) The nonrenewal of a school administrator's or ~~probationary~~ teacher's contract of ~~employment; or~~employment.

~~(5) The decision to grant career status.~~

...."

SECTION 9.7.(d) G.S. 115C-105.39 reads as rewritten:

"**§ 115C-105.39. Dismissal or removal of personnel; appointment of interim superintendent.**

(a) Within 30 days of the initial identification of a school as low-performing, whether by the local school administrative unit under G.S. 115C-105.37(a1) or by the State Board under G.S. 115C-105.37(a), the superintendent shall take one of the following actions concerning the school's principal: (i) recommend to the local board that the principal be retained in the same position, (ii) recommend to the local board that the principal be retained in the same position and a plan of remediation should be developed, (iii) recommend to the local board that the principal be transferred, or (iv) proceed under ~~G.S. 115C-325~~G.S. 115C-325.4 to dismiss or demote the principal. The principal may be retained in the same position without a plan for remediation only if the principal was in that position for no more than two years before the school is identified as low-performing. The principal shall not be transferred to another principal position unless (i) it is in a school classification in which the principal previously demonstrated at least 2 years of success, (ii) there is a plan to evaluate and provide remediation to the principal for at least one year following the transfer to assure the principal does not impede student performance at the school to which the principal is being transferred; and (iii) the parents of the students at the school to which the principal is being transferred are notified. The principal shall not be transferred to another low-performing school in the local school administrative unit. If the superintendent intends to recommend demotion or dismissal, the superintendent shall notify the local board. Within 15 days of (i) receiving notification that the superintendent intends to proceed under ~~G.S. 115C-325,~~G.S. 115C-325.4 or (ii) its decision concerning the superintendent's recommendation, but no later than September 30, the local board shall submit to the State Board a written notice of the action taken and the basis for that action. If the State Board does not assign an assistance team to that school or if the State Board assigns an assistance team to that school and the superintendent proceeds under

~~G.S. 115C-325~~G.S. 115C-325.4 to dismiss or demote the principal, then the State Board shall take no further action. If the State Board assigns an assistance team to the school and the superintendent is not proceeding under ~~G.S. 115C-325~~G.S. 115C-325.4 to dismiss or demote the principal, then the State Board shall vote to accept, reject, or modify the local board's recommendations. The State Board shall notify the local board of its action within five days. If the State Board rejects or modifies the local board's recommendations and does not recommend dismissal of the principal, the State Board's notification shall include recommended action concerning the principal's assignment or terms of employment. Upon receipt of the State Board's notification, the local board shall implement the State Board's recommended action concerning the principal's assignment or terms of employment unless the local board asks the State Board to reconsider that recommendation. The State Board shall provide an opportunity for the local board to be heard before the State Board acts on the local board's request for a reconsideration. The State Board shall vote to affirm or modify its original recommended action and shall notify the local board of its action within five days. Upon receipt of the State Board's notification, the local board shall implement the State Board's final recommended action concerning the principal's assignment or terms of employment. If the State Board rejects or modifies the local board's action and recommends dismissal of the principal, the State Board shall proceed under ~~G.S. 115C-325(q)(1).~~G.S. 115C-325.12.

(b) The State Board shall proceed under G.S. 115C-325(q)(2) or G.S. 115C-325.13 for the dismissal of teachers, assistant principals, directors, and supervisors assigned to a school identified as low-performing in accordance with ~~G.S. 115C-325(q)(2).~~G.S. 115C-325(q)(2) or G.S. 115C-325.13.

...."

SECTION 9.7.(e) G.S. 115C-238.68(3) reads as rewritten:

"(3) ~~Career status.~~Leave of absence from local school administrative unit. – ~~Employees of the board of directors shall not be eligible for career status.~~ If a teacher employed by a local school administrative unit makes a written request for a leave of absence to teach at the regional school, the local school administrative unit shall grant the leave for one year. For the initial year of the regional school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 45 days before the teacher would otherwise have to report for duty. After the initial year of the regional school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 90 days before the teacher would otherwise have to report for duty. A local board of education is not required to grant a request for a leave of absence or a request to extend or renew a leave of absence for a teacher who previously has received a leave of absence from that school board under this subdivision. A teacher who has career status under G.S. 115C-325 prior to receiving a leave of absence to teach at the regional school may return to a public school in the local school administrative unit with career status at the end of the leave of absence or upon the end of employment at the regional school if an appropriate position is available. If an appropriate position is unavailable, the teacher's name shall be placed on a list of available teachers in accordance with G.S. 115C-325(e)(2)."

SECTION 9.7.(f) G.S. 115C-276(l) reads as rewritten:

"(l) To Maintain Personnel Files and to Participate in Firing and Demoting of Staff. – The superintendent shall maintain in his or her office a personnel file for each teacher that contains complaints, commendations, or suggestions for correction or improvement about the teacher and shall participate in the firing and demoting of staff, as provided in ~~G.S. 115C-325.~~Part 3 of Article 22 of this Chapter."

SECTION 9.7.(g) G.S. 115C-285(a)(7) reads as rewritten:

"(7) All persons employed as principals in the schools and institutions listed in ~~subsection (p) of G.S. 115C-325~~ G.S. 115C-325.10 shall be compensated at the same rate as are teachers in the public schools in accordance with the salary schedule adopted by the State Board of Education."

SECTION 9.7.(h) G.S. 115C-304 is repealed.

SECTION 9.7.(i) G.S. 115C-333 reads as rewritten:

"**§ 115C-333. Evaluation of licensed employees including certain superintendents; mandatory improvement plans; State board notification upon dismissal of employees.**

(a) Annual Evaluations; Low-Performing Schools. – Local school administrative units shall evaluate at least once each year all licensed employees assigned to a school that has been identified as low-performing. The evaluation shall occur early enough during the school year to provide adequate time for the development and implementation of a mandatory improvement plan if one is recommended under subsection (b) of this section. If the employee is a teacher with career status as defined under G.S. 115C-325(a)(6), or a teacher as defined under G.S. 115C-325.1(5), either the principal, the assistant principal who supervises the teacher, or an assistance team assigned under G.S. 115C-105.38 shall conduct the evaluation. If the employee is a school administrator as defined under G.S. 115C-287.1(a)(3), either the superintendent or the superintendent's designee shall conduct the evaluation.

All teachers in low-performing schools who have ~~not attained career status~~been employed for less than three consecutive years shall be observed at least three times annually by the principal or the principal's designee and at least once annually by a teacher and shall be evaluated at least once annually by a principal. This section shall not be construed to limit the duties and authority of an assistance team assigned to a low-performing school under G.S. 115C-105.38.

A local board shall use the performance standards and criteria adopted by the State Board and may adopt additional evaluation criteria and standards. All other provisions of this section shall apply if a local board uses an evaluation other than one adopted by the State Board.

(b) Mandatory Improvement Plans. –

...

(2a) If a licensed employee in a low-performing school receives a rating on any standard on an evaluation that is below proficient or otherwise represents unsatisfactory or below standard performance in an area that the licensed employee was expected to demonstrate, the individual or team that conducted the evaluation shall recommend to the superintendent that (i) the employee receive a mandatory improvement plan designed to improve the employee's ~~performance or~~ performance, (ii) the superintendent recommend to the local board that if the employee is a career status teacher the employee be dismissed or demoted and if the employee is a teacher on contract the teacher's contract not be recommended for renewal, or (iii) if the employee engaged in inappropriate conduct or performed inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment that a proceeding for immediate dismissal or demotion be instituted. If the individual or team that conducted the evaluation elects not to make ~~either~~ any of the above recommendations, the said individual or team shall notify the superintendent of this decision. The superintendent shall determine whether to develop a mandatory improvement ~~plan~~plan, to not recommend renewal of the employee's contract, or to recommend a dismissal proceeding.

...

(c) Reassessment of Employee in a Low-Performing School. – After the expiration of the time period for the mandatory improvement plan under subdivision (2a) of subsection (b) of this section, the superintendent, the superintendent's designee, or the assistance team shall assess the performance of the employee of the low-performing school a second time. If the superintendent, superintendent's designee, or assistance team determines that the employee has failed to become proficient in any of the performance standards articulated in the mandatory improvement plan or demonstrate sufficient improvement toward such standards, the superintendent shall recommend that if the employee is a teacher with career status the teacher be dismissed or demoted under G.S. 115C-325, or if the employee is a teacher on contract ~~the employee~~ the employee's contract not be renewed or if the employee has engaged in inappropriate conduct or performed inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, that the employee be immediately dismissed or demoted under ~~G.S. 115C-325.~~G.S. 115C-325.4. The results of the second assessment shall constitute substantial evidence of the employee's inadequate performance.

(d) State Board Notification. – If a local board dismisses an employee of a low-performing school who is a teacher with career status for any reason except a reduction in force under G.S. 115C-325(e)(1)l., or dismisses an employee who is a teacher on contract for cause or elects to not renew an employee's contract as a result of a superintendent's recommendation under subsection (b) or (c) of this section, it shall notify the State Board of the action, and the State Board annually shall provide to all local boards the names of those individuals. If a local board hires one of these individuals, within 60 days the superintendent or the superintendent's designee shall observe the employee, develop a mandatory improvement plan to assist the employee, and submit the plan to the State Board. The State Board shall review the mandatory improvement plan and may provide comments and suggestions to the superintendent. If on the next evaluation the employee receives a rating on any standard that was identified as an area of concern on the mandatory improvement plan that is again below proficient or otherwise represents unsatisfactory or below standard performance, the local board shall notify the State Board and the State Board shall initiate a proceeding to revoke the employee's license under G.S. 115C-296(d). If on this next evaluation the employee receives at least a proficient rating on all of the performance standards that were identified as areas of concern on the mandatory improvement plan, the local board shall notify the State Board that the employee is in good standing and the State Board shall not continue to provide the individual's name to local boards under this subsection unless the employee is a teacher with career status and is subsequently dismissed under G.S. 115C-325 except for a reduction in ~~force.~~force, or the employee is a teacher on contract subsequently dismissed under G.S. 115C-325.4.

...."

SECTION 9.7.(j) G.S. 115C-333.1 reads as rewritten:

"**§ 115C-333.1. Evaluation of teachers in schools not identified as low-performing; mandatory improvement plans; State Board notification upon dismissal of teachers.**

(a) Annual Evaluations. – All teachers who are assigned to schools that are not designated as low-performing and who have not ~~attained career status~~been employed for at least three consecutive years shall be observed at least three times annually by the principal or the principal's designee and at least once annually by a teacher and shall be evaluated at least once annually by a principal. All teachers with career status or on a four-year contract who are assigned to schools that are not designated as low-performing shall be evaluated annually unless a local board adopts rules that allow teachers with career status or on a four-year contract to be evaluated more or less frequently, provided that such rules are not inconsistent with State or federal requirements. Local boards also may adopt rules requiring the annual

evaluation of nonlicensed employees. A local board shall use the performance standards and criteria adopted by the State Board and may adopt additional evaluation criteria and standards. All other provisions of this section shall apply if a local board uses an evaluation other than one adopted by the State Board.

...

(d) Reassessment of the Teacher. – Upon completion of a mandatory improvement plan under subsection (b) of this section, the principal shall assess the performance of the teacher a second time. The principal shall also review and consider any report provided by the qualified observer under subsection (c) of this section if one has been submitted before the end of the mandatory improvement plan period. If, after the second assessment of the teacher and consideration of any report from the qualified observer, the superintendent or superintendent's designee determines that the teacher has failed to become proficient in any of the performance standards identified as deficient in the mandatory improvement plan or demonstrate sufficient improvement toward such standards, the superintendent may recommend that a teacher with career status be dismissed or demoted under G.S. 115C-325, or if the teacher is on contract that the teacher's contract not be renewed or if the teacher has engaged in inappropriate conduct or performed inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, that the teacher be immediately dismissed or demoted under ~~G.S. 115C-325.~~G.S. 115C-325.4. The results of the second assessment produced pursuant to the terms of this subsection shall constitute substantial evidence of the teacher's inadequate performance.

(e) Dismissal Proceedings Without a Mandatory Improvement Plan. – The absence of a mandatory improvement plan as described in this section shall not prohibit a superintendent from initiating a dismissal proceeding against a teacher under the provisions of ~~G.S. 115C-325.~~ G.S. 115C-325 or G.S. 115C-325.4. However, the superintendent shall not be entitled to the substantial evidence provision in subsection (d) of this section if such mandatory improvement plan is not utilized.

(f) State Board Notification. – If a local board dismisses a teacher with career status for any reason except a reduction in force under G.S. 115C-325(e)(1)l., or dismisses a teacher on contract for cause or elects to not renew a teacher's contract as a result of a superintendent's recommendation under subsection (d) of this section, it shall notify the State Board of the action, and the State Board annually shall provide to all local boards the names of those teachers. If a local board hires one of these teachers, within 60 days the superintendent or the superintendent's designee shall observe the teacher, develop a mandatory improvement plan to assist the teacher, and submit the plan to the State Board. The State Board shall review the mandatory improvement plan and may provide comments and suggestions to the superintendent. If on the next evaluation the teacher receives a rating on any standard that was an area of concern on the mandatory improvement plan that is again below proficient or a rating that otherwise represents unsatisfactory or below standard performance, the local board shall notify the State Board, and the State Board shall initiate a proceeding to revoke the teacher's license under G.S. 115C-296(d). If on the next evaluation the teacher receives at least a proficient rating on all of the overall performance standards that were areas of concern on the mandatory improvement plan, the local board shall notify the State Board that the teacher is in good standing, and the State Board shall not continue to provide the teacher's name to local boards under this subsection unless the teacher has career status and is subsequently dismissed under G.S. 115C-325 except for a reduction in ~~force.~~force or is a teacher on contract who is subsequently dismissed under G.S. 115C-325.4. If, however, on this next evaluation the teacher receives a developing rating on any standards that were areas of concern on the mandatory improvement plan, the teacher shall have one more year to bring the rating to ~~proficient. If,~~proficient if the local board elects to renew the teacher's contract. If by the end of this second ~~year,~~year the teacher is not proficient in all standards that were areas of concern on the

mandatory improvement plan, the local board shall notify the State Board, and the State Board shall initiate a proceeding to revoke the teacher's license under G.S. 115C-296(d).

...."

SECTION 9.7.(k) G.S. 115C-335(b) reads as rewritten:

"(b) Training. – The State Board, in collaboration with the Board of Governors of The University of North Carolina, shall develop programs designed to train principals and superintendents in the proper administration of the employee evaluations developed by the State Board. The Board of Governors shall use the professional development programs for public school employees that are under its authority to make this training available to all principals and superintendents at locations that are geographically convenient to local school administrative units. The programs shall include methods to determine whether an employee's performance has improved student learning, the development and implementation of appropriate professional growth and mandatory improvement plans, the process for contract nonrenewal, and the dismissal process under ~~G.S. 115C-325.~~Part 3 of Article 22 of this Chapter. The Board of Governors shall ensure that the subject matter of the training programs is incorporated into the masters in school administration programs offered by the constituent institutions. The State Board, in collaboration with the Board of Governors, also shall develop in-service programs for licensed public school employees that may be included in a mandatory improvement plan created under G.S. 115C-333(b) or G.S. 115C-333.1(b). The Board of Governors shall use the professional development programs for public school employees that are under its authority to make this training available at locations that are geographically convenient to local school administrative units."

SECTION 9.7.(l) G.S. 115C-404(b) reads as rewritten:

"(b) Documents received under this section shall be used only to protect the safety of or to improve the education opportunities for the student or others. Information gained in accordance with G.S. 7B-3100 shall not be the sole basis for a decision to suspend or expel a student. Upon receipt of each document, the principal shall share the document with those individuals who have (i) direct guidance, teaching, or supervisory responsibility for the student, and (ii) a specific need to know in order to protect the safety of the student or others. Those individuals shall indicate in writing that they have read the document and that they agree to maintain its confidentiality. Failure to maintain the confidentiality of these documents as required by this section is grounds for the dismissal of an employee who is not employed on contract, grounds for dismissal of an employee on contract ~~not a career employee~~in accordance with G.S. 115C-325.4(a)(9), and ~~is~~ grounds for dismissal of an employee who is a career ~~employee,~~teacher in accordance with G.S. 115C-325(e)(1)i."

SECTION 9.7.(m) G.S. 143B-146.7(b) reads as rewritten:

"(b) At any time after the State Board identifies a school as low-performing under this Part, the ~~Secretary~~ State Board shall proceed under G.S. 115C-325(p1) or G.S. 115C-325.11 for the dismissal of ~~certificated~~licensed instructional personnel assigned to that school."

SECTION 9.7.(n) G.S. 143B-146.8 reads as rewritten:

"**§ 143B-146.8. Evaluation of ~~certificated~~ licensed personnel and principals; action plans; State Board notification.**

(a) Annual Evaluations; Low-Performing Schools. – The principal shall evaluate at least once each year all ~~certificated~~ licensed personnel assigned to a participating school that has been identified as low-performing but has not received an assistance team. The evaluation shall occur early enough during the school year to provide adequate time for the development and implementation of an action plan if one is recommended under subsection (b) of this section. If the employee is a teacher as defined under ~~G.S. 115C-325(a)(6),~~ G.S. 115C-325(a)(6) with career status or a teacher as defined in G.S. 115C-325.1(5) on contract, either the principal or an assessment team assigned under G.S. 143B-146.9 shall

conduct the evaluation. If the employee is a school administrator as defined under G.S. 115C-287.1(a)(3), the Superintendent shall conduct the evaluation.

Notwithstanding this subsection or any other law, the principal shall observe at least three times annually, a teacher shall observe at least once annually, and the principal shall evaluate at least once annually, all teachers who have ~~not attained career status.~~been employed for less than three consecutive years. All other employees defined as teachers under G.S. 115C-325(a)(6) with career status or teachers as defined in G.S. 115C-325.1(5) on a four-year contract who are assigned to participating schools that are not designated as low-performing shall be evaluated annually unless the ~~Secretary~~ State Board adopts rules that allow specified categories of teachers with career status or on four-year contracts to be evaluated more or less frequently. The ~~Secretary~~ State Board also may adopt rules requiring the annual evaluation of ~~noncertificated~~ nonlicensed personnel. This section shall not be construed to limit the duties and authority of an assistance team assigned to a low-performing school.

~~The Secretary shall use the State Board's performance standards and criteria unless the Secretary develops an alternative evaluation that is properly validated and that includes standards and criteria similar to those adopted by the State Board. All other provisions of this section shall apply if an evaluation is used other than one adopted by the State Board.~~

(b) Action Plans. – If a ~~certificated~~ licensed employee in a participating school that has been identified as low-performing receives an unsatisfactory or below standard rating on any function of the evaluation that is related to the employee's instructional duties, the individual or team that conducted the evaluation shall recommend to the principal that: (i) the employee receive an action plan designed to improve the employee's performance; or (ii) the principal recommend ~~to the Secretary~~ that the employee who is a career teacher be dismissed or demoted as provided in G.S. 115C-325 or the employee who is a teacher on contract not be recommended for renewal; or (iii) if the employee who is a teacher on contract engages in inappropriate conduct or performs inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment that a proceeding for immediate dismissal or demotion under G.S. 115C-325.4 be instituted. The principal shall determine whether to develop an action ~~plan~~plan, to not recommend renewal of the employee's contract, or to recommend a dismissal proceeding. The person who evaluated the employee or the employee's supervisor shall develop the action plan unless an assistance team or assessment team conducted the evaluation. If an assistance team or assessment team conducted the evaluation, that team shall develop the action plan in collaboration with the employee's supervisor. Action plans shall be designed to be completed within 90 instructional days or before the beginning of the next school year. The State ~~Board, in consultation with the Secretary,~~Board shall develop guidelines that include strategies to assist in evaluating ~~certificated~~ licensed personnel and developing effective action plans within the time allotted under this section. The ~~Secretary~~ State Board may adopt policies for the development and implementation of action plans or professional development plans for personnel who do not require action plans under this section.

(c) Reevaluation. – Upon completion of an action plan under subsection (b) of this section, the principal or the assessment team shall evaluate the employee a second time. If on the second evaluation the employee receives one unsatisfactory or more than one below standard rating on any function that is related to the employee's instructional duties, the principal shall recommend that the employee with career status be dismissed or demoted under G.S. 115C-325, or that an employee's contract not be renewed or if the employee engages in inappropriate conduct or performs inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, that the employee be dismissed or demoted under ~~G.S. 115C-325.~~G.S. 115C-325.4. The results of the second evaluation shall constitute substantial evidence of the employee's inadequate performance.

(d) State Board Notification. – If ~~the Secretary dismisses~~ an employee is dismissed for ~~any reason except a reduction in force under G.S. 115C-325(e)(1)l.,~~cause or an employee's contract is not renewed as a result of a superintendent's recommendation under subsection (b) or (c) of this section, the ~~Secretary shall notify the~~ State Board shall be notified of the action, and the State Board annually shall provide to all local boards of education the names of those individuals. If a local board hires one of these individuals, that local board shall proceed under G.S. 115C-333(d).

...."

SECTION 9.7.(o) G.S. 115C-105.38A, as amended by subsection (c) of this section, reads as rewritten:

"**§ 115C-105.38A. Teacher competency assurance.**

...

(d) Retesting; Dismissal. – Upon completion of the remediation plan required under subsection (c) of this section, the licensed staff member shall take the general knowledge test a second time. If the licensed staff member fails to acquire a passing score on the second test, the State Board shall begin a dismissal proceeding under ~~G.S. 115C-325(q)(2a) or~~ G.S. 115C-325.13.

...

(f) Other Actions Not Precluded. – Nothing in this section shall be construed to restrict or postpone the following actions:

(1) The dismissal of a principal under G.S. 115C-325.12.

(2) The dismissal of a teacher, assistant principal, director, or supervisor under ~~G.S. 115C-325(q)(2) or~~ G.S. 115C-325.13.

(3) The dismissal or demotion of an employee for any of the grounds listed under ~~G.S. 115C-325(e) or~~ G.S. 115C-325.4.

(4) The nonrenewal of a school administrator's or teacher's contract of employment.

...."

SECTION 9.7.(p) G.S. 115C-105.39(b), as amended by subsection (d) of this section, reads as rewritten:

"(b) The State Board shall proceed under ~~G.S. 115C-325(q)(2) or~~ G.S. 115C-325.13 for the dismissal of teachers, assistant principals, directors, and supervisors assigned to a school identified as low-performing in accordance with ~~G.S. 115C-325(q)(2) or~~ G.S. 115C-325.13.

...."

SECTION 9.7.(q) G.S. 115C-238.29F(e)(3) reads as rewritten:

"(3) If a teacher employed by a local school administrative unit makes a written request for a leave of absence to teach at a charter school, the local school administrative unit shall grant the leave for one year. For the initial year of a charter school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 45 days before the teacher would otherwise have to report for duty. After the initial year of a charter school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 90 days before the teacher would otherwise have to report for duty. A local board of education is not required to grant a request for a leave of absence or a request to extend or renew a leave of absence for a teacher who previously has received a leave of absence from that school board under this subdivision. A teacher who has ~~career status under G.S. 115C-325 prior to receiving~~received a leave of absence to teach at a charter school may return to a public school in the local school administrative unit ~~with career status~~ at the end of the leave of absence or upon the end of employment at the charter school if an

appropriate position is available. ~~If an appropriate position is unavailable, the teacher's name shall be placed on a list of available teachers and that teacher shall have priority on all positions for which that teacher is qualified in accordance with G.S. 115C-325(e)(2).~~"

SECTION 9.7.(r) G.S. 115C-238.68(3), as amended by subsection (e) of this section, reads as rewritten:

"(3) Leave of absence from local school administrative unit. – If a teacher employed by a local school administrative unit makes a written request for a leave of absence to teach at the regional school, the local school administrative unit shall grant the leave for one year. For the initial year of the regional school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 45 days before the teacher would otherwise have to report for duty. After the initial year of the regional school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 90 days before the teacher would otherwise have to report for duty. A local board of education is not required to grant a request for a leave of absence or a request to extend or renew a leave of absence for a teacher who previously has received a leave of absence from that school board under this subdivision. A teacher who has ~~career status under G.S. 115C-325 prior to receiving~~ received a leave of absence to teach at the regional school may return to a public school in the local school administrative unit ~~with career status~~ at the end of the leave of absence or upon the end of employment at the regional school if an appropriate position is available. ~~If an appropriate position is unavailable, the teacher's name shall be placed on a list of available teachers in accordance with G.S. 115C-325(e)(2).~~"

SECTION 9.7.(s) G.S. 115C-333, as amended by subsection (i) of this section, reads as rewritten:

"**§ 115C-333. Evaluation of licensed employees including certain superintendents; mandatory improvement plans; State board notification upon dismissal of employees.**

(a) Annual Evaluations; Low-Performing Schools. – Local school administrative units shall evaluate at least once each year all licensed employees assigned to a school that has been identified as low-performing. The evaluation shall occur early enough during the school year to provide adequate time for the development and implementation of a mandatory improvement plan if one is recommended under subsection (b) of this section. If the employee is a teacher ~~with career status as defined under G.S. 115C-325(a)(6), or a teacher~~ as defined under G.S. 115C-325.1(5), either the principal, the assistant principal who supervises the teacher, or an assistance team assigned under G.S. 115C-105.38 shall conduct the evaluation. If the employee is a school administrator as defined under G.S. 115C-287.1(a)(3), either the superintendent or the superintendent's designee shall conduct the evaluation.

All teachers in low-performing schools who have been employed for less than three consecutive years shall be observed at least three times annually by the principal or the principal's designee and at least once annually by a teacher and shall be evaluated at least once annually by a principal. This section shall not be construed to limit the duties and authority of an assistance team assigned to a low-performing school under G.S. 115C-105.38.

A local board shall use the performance standards and criteria adopted by the State Board and may adopt additional evaluation criteria and standards. All other provisions of this section shall apply if a local board uses an evaluation other than one adopted by the State Board.

(b) Mandatory Improvement Plans. –

...

(2a) If a licensed employee in a low-performing school receives a rating on any standard on an evaluation that is below proficient or otherwise represents unsatisfactory or below standard performance in an area that the licensed employee was expected to demonstrate, the individual or team that conducted the evaluation shall recommend to the superintendent that (i) the employee receive a mandatory improvement plan designed to improve the employee's performance, (ii) the superintendent recommend to the local board that ~~if the employee is a career status teacher the employee be dismissed or demoted and if the employee is a teacher on contract the teacher's~~ employee's contract not be recommended for renewal, or (iii) if the employee engaged in inappropriate conduct or performed inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment that a proceeding for immediate dismissal or demotion be instituted. If the individual or team that conducted the evaluation elects not to make any of the above recommendations, the said individual or team shall notify the superintendent of this decision. The superintendent shall determine whether to develop a mandatory improvement plan, to not recommend renewal of the employee's contract, or to recommend a dismissal proceeding.

...

(c) Reassessment of Employee in a Low-Performing School. – After the expiration of the time period for the mandatory improvement plan under subdivision (2a) of subsection (b) of this section, the superintendent, the superintendent's designee, or the assistance team shall assess the performance of the employee of the low-performing school a second time. If the superintendent, superintendent's designee, or assistance team determines that the employee has failed to become proficient in any of the performance standards articulated in the mandatory improvement plan or demonstrate sufficient improvement toward such standards, the superintendent shall recommend that ~~if the employee is a teacher with career status the teacher be dismissed or demoted under G.S. 115C-325, or if the employee is a teacher on contract~~ the employee's contract not be renewed or if the employee has engaged in inappropriate conduct or performed inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, that the employee be immediately dismissed or demoted under G.S. 115C-325.4. The results of the second assessment shall constitute substantial evidence of the employee's inadequate performance.

(d) State Board Notification. – If a local board dismisses an employee of a low-performing school ~~who is a teacher with career status for any reason except a reduction in force under G.S. 115C-325(e)(1)l., or dismisses an employee who is a teacher on contract~~ for cause or elects to not renew an employee's contract as a result of a superintendent's recommendation under subsection (b) or (c) of this section, it shall notify the State Board of the action, and the State Board annually shall provide to all local boards the names of those individuals. If a local board hires one of these individuals, within 60 days the superintendent or the superintendent's designee shall observe the employee, develop a mandatory improvement plan to assist the employee, and submit the plan to the State Board. The State Board shall review the mandatory improvement plan and may provide comments and suggestions to the superintendent. If on the next evaluation the employee receives a rating on any standard that was identified as an area of concern on the mandatory improvement plan that is again below proficient or otherwise represents unsatisfactory or below standard performance, the local board shall notify the State Board and the State Board shall initiate a proceeding to revoke the employee's license under G.S. 115C-296(d). If on this next evaluation the employee receives at least a proficient rating on all of the performance standards that were identified as areas of concern on the mandatory improvement plan, the local board shall notify the State Board that

the employee is in good standing and the State Board shall not continue to provide the individual's name to local boards under this subsection unless the employee is ~~a teacher with career status and is subsequently dismissed under G.S. 115C-325 except for a reduction in force, or the employee is a teacher on contract~~ subsequently dismissed under G.S. 115C-325.4.

...."

SECTION 9.7.(t) G.S. 115C-333.1, as amended by subsection (j) of this section, reads as rewritten:

"**§ 115C-333.1. Evaluation of teachers in schools not identified as low-performing; mandatory improvement plans; State Board notification upon dismissal of teachers.**

(a) Annual Evaluations. – All teachers who are assigned to schools that are not designated as low-performing and who have not been employed for at least three consecutive years shall be observed at least three times annually by the principal or the principal's designee and at least once annually by a teacher and shall be evaluated at least once annually by a principal. All teachers ~~with career status or on a four-year contract~~who have been employed for three or more years who are assigned to schools that are not designated as low-performing shall be evaluated annually unless a local board adopts rules that allow teachers ~~with career status or on a four-year contract~~employed for three or more years to be evaluated more or less frequently, provided that such rules are not inconsistent with State or federal requirements. Local boards also may adopt rules requiring the annual evaluation of nonlicensed employees. A local board shall use the performance standards and criteria adopted by the State Board and may adopt additional evaluation criteria and standards. All other provisions of this section shall apply if a local board uses an evaluation other than one adopted by the State Board.

...

(d) Reassessment of the Teacher. – Upon completion of a mandatory improvement plan under subsection (b) of this section, the principal shall assess the performance of the teacher a second time. The principal shall also review and consider any report provided by the qualified observer under subsection (c) of this section if one has been submitted before the end of the mandatory improvement plan period. If, after the second assessment of the teacher and consideration of any report from the qualified observer, the superintendent or superintendent's designee determines that the teacher has failed to become proficient in any of the performance standards identified as deficient in the mandatory improvement plan or demonstrate sufficient improvement toward such standards, the superintendent may recommend that ~~a teacher with career status be dismissed or demoted under G.S. 115C-325, or if the teacher is on contract that~~ the teacher's contract not be ~~renewed~~ renewed, or if the teacher has engaged in inappropriate conduct or performed inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, that the teacher be immediately dismissed or demoted under G.S. 115C-325.4. The results of the second assessment produced pursuant to the terms of this subsection shall constitute substantial evidence of the teacher's inadequate performance.

(e) Dismissal Proceedings Without a Mandatory Improvement Plan. – The absence of a mandatory improvement plan as described in this section shall not prohibit a superintendent from initiating a dismissal proceeding against a teacher under the provisions of ~~G.S. 115C-325 or~~ G.S. 115C-325.4. However, the superintendent shall not be entitled to the substantial evidence provision in subsection (d) of this section if such mandatory improvement plan is not utilized.

(f) State Board Notification. – If a local board dismisses a teacher~~with career status for any reason except a reduction in force under G.S. 115C-325(e)(1)l., or dismisses a teacher on contract~~ for cause or elects to not renew a teacher's contract as a result of a superintendent's recommendation under subsection (d) of this section, it shall notify the State Board of the action, and the State Board annually shall provide to all local boards the names of those

teachers. If a local board hires one of these teachers, within 60 days the superintendent or the superintendent's designee shall observe the teacher, develop a mandatory improvement plan to assist the teacher, and submit the plan to the State Board. The State Board shall review the mandatory improvement plan and may provide comments and suggestions to the superintendent. If on the next evaluation the teacher receives a rating on any standard that was an area of concern on the mandatory improvement plan that is again below proficient or a rating that otherwise represents unsatisfactory or below standard performance, the local board shall notify the State Board, and the State Board shall initiate a proceeding to revoke the teacher's license under G.S. 115C-296(d). If on the next evaluation the teacher receives at least a proficient rating on all of the overall performance standards that were areas of concern on the mandatory improvement plan, the local board shall notify the State Board that the teacher is in good standing, and the State Board shall not continue to provide the teacher's name to local boards under this subsection unless the teacher has career status and is subsequently dismissed ~~under G.S. 115C-325 except for a reduction in force or is a teacher on contract who is subsequently dismissed~~ under G.S. 115C-325.4. If, however, on this next evaluation the teacher receives a developing rating on any standards that were areas of concern on the mandatory improvement plan, ~~the teacher shall have one more year to bring the rating to proficient~~ if the local board elects to renew the teacher's contract. If by the end of this second year the teacher is not proficient in all standards that were areas of concern on the mandatory improvement plan, the local board shall notify the State Board, and the State Board shall initiate a proceeding to revoke the teacher's license under G.S. 115C-296(d).

...."

SECTION 9.7.(u) Article 23 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-344. Employment benefits for exchange teachers.**

An exchange teacher is a nonimmigrant alien teacher participating in an exchange visitor program designated by the United States Department of State pursuant to 22 C.F.R. Part 62 or by the United States Department of Homeland Security pursuant to 8 C.F.R. Part 214.2(q). For purposes of determining eligibility to receive employment benefits under this Chapter, including personal leave, annual vacation leave, and sick leave, an exchange teacher shall be considered a permanent teacher if employed with the expectation of at least six full consecutive monthly pay periods of employment and if employed at least 20 hours per week. An exchange teacher is not a teacher for purposes of the Teachers' and State Employees' Retirement System of North Carolina as provided in G.S. 135-1(25)."

SECTION 9.7.(v) G.S. 115C-404(b), as amended by subsection (n) of this section, reads as rewritten:

"(b) Documents received under this section shall be used only to protect the safety of or to improve the education opportunities for the student or others. Information gained in accordance with G.S. 7B-3100 shall not be the sole basis for a decision to suspend or expel a student. Upon receipt of each document, the principal shall share the document with those individuals who have (i) direct guidance, teaching, or supervisory responsibility for the student, and (ii) a specific need to know in order to protect the safety of the student or others. Those individuals shall indicate in writing that they have read the document and that they agree to maintain its confidentiality. Failure to maintain the confidentiality of these documents as required by this section is grounds for the dismissal of an employee who is not employed on ~~contract,~~contract and grounds for dismissal of an employee on contract in accordance with G.S. 115C-325.4(a)(9).~~G.S. 115C-325.4(a)(9), and grounds for dismissal of an employee who is a career teacher in accordance with G.S. 115C-325(e)(1)i.~~"

SECTION 9.7.(w) G.S. 143B-146.7(b), as amended by subsection (m) of this section, reads as rewritten:

"(b) At any time after the State Board identifies a school as low-performing under this Part, the State Board shall proceed under ~~G.S. 115C-325(p1) or~~ G.S. 115C-325.11 for the dismissal of licensed instructional personnel assigned to that school."

SECTION 9.7.(x) G.S. 143B-146.8, as amended by subsection (n) of this section, reads as rewritten:

"§ 143B-146.8. Evaluation of licensed personnel and principals; action plans; State Board notification.

(a) Annual Evaluations; Low-Performing Schools. – The principal shall evaluate at least once each year all licensed personnel assigned to a participating school that has been identified as low-performing but has not received an assistance team. The evaluation shall occur early enough during the school year to provide adequate time for the development and implementation of an action plan if one is recommended under subsection (b) of this section. If the employee is a ~~teacher as defined under G.S. 115C-325(a)(6) with career status or a~~ teacher as defined in ~~G.S. 115C-325.1(5) on contract;~~G.S. 115C-325.1(5), either the principal or an assessment team assigned under G.S. 143B-146.9 shall conduct the evaluation. If the employee is a school administrator as defined under G.S. 115C-287.1(a)(3), the Superintendent shall conduct the evaluation.

Notwithstanding this subsection or any other law, the principal shall observe at least three times annually, a teacher shall observe at least once annually, and the principal shall evaluate at least once annually, all teachers who have been employed for less than three consecutive years. All other employees who have been employed for three or more years and are defined as teachers under ~~G.S. 115C-325(a)(6) with career status or teachers as defined in~~ G.S. 115C-325.1(5) ~~on a four-year contract~~ who are assigned to participating schools that are not designated as low-performing shall be evaluated annually unless the State Board adopts rules that allow specified categories of teachers with ~~career status or on four-year contracts~~three or more years employment to be evaluated more or less frequently. The State Board also may adopt rules requiring the annual evaluation of nonlicensed personnel. This section shall not be construed to limit the duties and authority of an assistance team assigned to a low-performing school.

(b) Action Plans. – If a licensed employee in a participating school that has been identified as low-performing receives an unsatisfactory or below standard rating on any function of the evaluation that is related to the employee's instructional duties, the individual or team that conducted the evaluation shall recommend to the principal that: (i) the employee receive an action plan designed to improve the employee's performance; or (ii) ~~the principal recommend that the employee who is a career teacher be dismissed or demoted as provided in G.S. 115C-325 or the employee who is a teacher on contract~~the employee's contract not be recommended for renewal; or (iii) if the employee who is a teacher on contract engages in inappropriate conduct or performs inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment that a proceeding for immediate dismissal or demotion under G.S. 115C-325.4 be instituted. The principal shall determine whether to develop an action plan, to not recommend renewal of the employee's contract, or to recommend a dismissal proceeding. The person who evaluated the employee or the employee's supervisor shall develop the action plan unless an assistance team or assessment team conducted the evaluation. If an assistance team or assessment team conducted the evaluation, that team shall develop the action plan in collaboration with the employee's supervisor. Action plans shall be designed to be completed within 90 instructional days or before the beginning of the next school year. The State Board shall develop guidelines that include strategies to assist in evaluating licensed personnel and developing effective action plans within the time allotted under this section. The State Board may adopt policies for the development and implementation of action plans or professional development plans for personnel who do not require action plans under this section.

(c) Reevaluation. – Upon completion of an action plan under subsection (b) of this section, the principal or the assessment team shall evaluate the employee a second time. If on the second evaluation the employee receives one unsatisfactory or more than one below standard rating on any function that is related to the employee's instructional duties, the principal shall recommend that the ~~employee with career status be dismissed or demoted under G.S. 115C-325, or that an employee on~~employee's contract not be ~~renewed~~ renewed, or if the employee engages in inappropriate conduct or performs inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, that the employee be dismissed or demoted under G.S. 115C-325.4. The results of the second evaluation shall constitute substantial evidence of the employee's inadequate performance.

...."

SECTION 9.7.(y) Subsections (a) through (n) of this section become effective July 1, 2014. Subsections (o) through (x) become effective June 30, 2018.

PART X. COMMUNITY COLLEGES

REORGANIZATION OF THE COMMUNITY COLLEGES SYSTEM OFFICE

SECTION 10.1.(a) Notwithstanding any other provision of law, and consistent with the authority established in G.S. 115D-3, the President of the North Carolina Community College System may reorganize the System Office in accordance with recommendations and plans submitted to and approved by the State Board of Community Colleges.

SECTION 10.1.(b) This section expires June 30, 2014.

CARRYFORWARD OF COLLEGE INFORMATION SYSTEM FUNDS

SECTION 10.2. Of the funds appropriated to the Community Colleges System Office for the 2013-2015 fiscal biennium for the College Information System, up to one million two hundred fifty thousand dollars ($1,250,000) shall not revert at the end of each fiscal year but shall remain available until expended. These funds may be used only to purchase periodic system upgrades.

BASIC SKILLS PLUS

SECTION 10.3.(a) Notwithstanding any other provision of law, the State Board of Community Colleges may authorize a local community college to use up to twenty percent (20%) of the State Literacy Funds allocated to it to provide employability skills, job-specific occupational and technical skills, and developmental education instruction to students concurrently enrolled in a community college course leading to a high school diploma or equivalent certificate.

SECTION 10.3.(b) Notwithstanding any other provision of law, if a community college is authorized by the State Board to provide employability skills, job-specific occupational or technical skills, or developmental education instruction to students concurrently enrolled in a community college course leading to a high school diploma or equivalent certificate, the college may waive the tuition and registration fees associated with this instruction.

ENROLLMENT FUNDING

SECTION 10.4.(a) Beginning with the 2013-2015 fiscal biennium, community colleges shall receive funding based on the number of full-time equivalent (FTE) students enrolled in curriculum, continuing education, and Basic Skills courses, by tiered funding level. Community colleges shall calculate this enrollment as the higher of the current year's total enrollment or the average enrollment of the last two academic years.

The State Board of Community Colleges shall report to the Joint Legislative Education Oversight Committee by February 1, 2014, on the use of nonrecurring funds appropriated to it to phase in this new enrollment funding model.

SECTION 10.4.(b) G.S. 115D-5 is amended by adding a new subsection to read:

"(v) Community colleges may teach technical education, health care, developmental education, and STEM-related courses at any time during the year, including the summer term. Student membership hours from these courses shall be counted when computing full-time equivalent students (FTE) for use in budget funding formulas at the State level."

SECTION 10.4.(c) The State Board of Community Colleges shall report to the Joint Legislative Education Oversight Committee by October 1, 2014, on FTE for the 2014 summer term.

SECTION 10.4.(d) Subsection (b) of this section is effective when it becomes law and applies beginning with the summer 2014 term.

PERFORMANCE FUNDING

SECTION 10.5.(a) G.S. 115D-31.3 reads as rewritten:

"**§ 115D-31.3. Institutional performance accountability.**

(a) ~~Creation~~Implementation of Accountability Measures and Performance Standards. – The State Board of Community Colleges shall ~~create new~~ adopt and implement a system of accountability measures and performance standards for the Community College System. ~~The~~At least once every three years, the State Board of Community Colleges shall ~~review~~ review, and revise if necessary, ~~annually~~ the accountability measures and performance standards to ensure that they are appropriate for use in recognition of successful institutional performance. If the State Board determines that accountability measures and performance standards must be revised following a review required by this subsection, the State Board shall report to the Joint Legislative Education Oversight Committee prior to the implementation of any proposed revisions.

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

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

(1) Progress of basic skills students.

(2) ~~Passing rate for~~Attainment of General Educational Development (GED) ~~diploma examinations.~~diplomas by students.

(3) Performance of students who transfer to a four-year institution.

(4) Success ~~rates~~ of developmental students in subsequent college-level English courses.

(5) Success ~~rates~~ of developmental students in subsequent college-level math courses.

(5a) Progress of first-year curriculum students.

(6) Repealed by Session Laws 2012-142, s. 8.5, effective July 1, 2012.

(7) Curriculum student retention and graduation.

(8) Repealed by Session Laws 2012-142, s. 8.5, effective July 1, 2012.

(9) ~~Passing rate for~~Attainment of licensure and ~~certification examinations.~~certifications by students.

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

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

The Community Colleges System Office shall publish the performance of all colleges on all eight measures.

(g) Recognition ~~for~~ of Successful Institutional Performance. – For the purpose of recognition ~~for~~ of successful institutional performance, the State Board of Community Colleges shall evaluate each college on the eight performance ~~measures.~~measures set out in subsection (e) of this section. ~~For each of these eight performance measures on which a college performs successfully, the college may retain and carry forward into the next fiscal year one fourth of one percent (1/4 of 1%) of its final fiscal year General Fund appropriations.~~Subject to the availability of funds, the State Board may allocate funds among colleges based on the evaluation of each institution's performance, including at least the following components:

(1) Program quality evaluated by determining a college's rate of student success on each measure as compared to a systemwide performance baseline and goal.

(2) Program impact on student outcomes evaluated by the number of students succeeding on each measure.

(g1) Carryforward of Funds Allocated Based on Performance. – A college that receives funds under subsection (g) of this section may retain and carry forward an amount up to or equal to its performance-based funding allocation for that year into the next fiscal year.

~~(h) Recognition for Exceptional Institutional Performance. Funds not allocated to colleges in accordance with subsection (g) of this section shall be used to reward exceptional institutional performance. A college is deemed to have achieved exceptional institutional performance if it succeeds on all eight performance measures. After all State aid budget obligations have been met, the State Board of Community Colleges shall distribute the remainder of these funds to colleges that achieve exceptional institutional performance status based on the pro rata share of total full time equivalent (FTE) students served at each college. The State Board may withhold the portion of funds for which a college may qualify as an exceptional institution while the college is under investigation by a State or federal agency or if its performance does not meet the standards established by the Southern Association of Colleges and Schools, the State Auditor's Office, or the State Board of Community Colleges. The State Board may release the funds at such time as the investigations are complete and the issues are resolved.~~

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

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

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

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

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

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

SECTION 10.5.(b) Section 9.2(b) of S.L. 1999-237 is repealed.

SECTION 10.5.(c) Section 8.6 of S.L. 2012-142 is repealed.

SECTION 10.5.(d) Effective only for the 2011-2012 reporting year, and notwithstanding G.S. 115D-31.3, the State Board of Community Colleges shall not require a college to report its performance on the progress of basic skills students as part of the mandatory performance standards prescribed by G.S. 115D-31.3(e), as amended by this section. In distributing performance-based funding allocations for the 2013-2014 fiscal year, notwithstanding G.S. 115D-31.3, the State Board of Community Colleges shall not consider the progress of basic skills students or the attainment of GED diplomas for the purpose of recognizing successful institutional performance. However, the State Board of Community Colleges shall distribute a portion of the Basic Skills block grant appropriated under this act for the 2013-2014 fiscal year based on the number of GED diplomas awarded by each college.

SECTION 10.5.(e) Beginning with the 2012-2013 reporting year, the State Board of Community Colleges shall require a college to report its performance on all eight of the mandatory performance standards prescribed by G.S. 115D-31.3(e), as amended by this section.

SECTION 10.5.(f) Beginning with the 2014-2015 fiscal year, the State Board of Community Colleges shall allocate three million three hundred thirty-three thousand three hundred thirty-three dollars ($3,333,333) of the Basic Skills block grant in accordance with G.S. 115D-31.3(g), as amended by this section.

REPEAL OF SENIOR CITIZEN TUITION WAIVER

SECTION 10.6. G.S. 115D-5(b)(11) is repealed.

STUDY OF THE APPROVAL PROCESS FOR MULTICAMPUS CENTERS

SECTION 10.7. The State Board of Community Colleges shall develop a process for approval of community college multicampus centers. The Board shall report to the Joint Legislative Education Oversight Committee by January 1, 2014, on its plan for a multicampus approval process and any statutory changes necessary to implement the plan.

COOPERATION BY THE MANUFACTURING SOLUTIONS CENTER AND THE TEXTILE TECHNOLOGY CENTER

SECTION 10.8.(a) The General Assembly finds that the missions of both the Manufacturing Solutions Center at Catawba Valley Community College and the Textile Technology Center at Gaston College are to help North Carolina manufacturers create and maintain jobs and increase sales.

The Manufacturing Solutions Center accomplishes this mission by (i) enhancing and improving products through research and development; (ii) creating prototypes for new products; (iii) analyzing new materials to enhance structure; (iv) testing products for reliability and quality; (v) training personnel in Lean Manufacturing and Supply Chain strategies; (vi) providing a forum for rollout of new technologies; (vii) providing hands-on assistance to companies in the areas of international sales and government procurement; and (viii) advocating for industry.

The Textile Technology Center accomplishes this mission by (i) developing a world-class workforce for the textile industry in North Carolina; (ii) identifying and solving problems confronting the textile industry; and (iii) serving as a statewide center of excellence that serves all components of the textile industry.

SECTION 10.8.(b) The General Assembly further finds that the strategies of the Manufacturing Solutions Center and the Textile Technology Center are complementary and that cooperation by the Centers is in the best interest of the State; therefore, the General Assembly directs the Centers to work cooperatively whenever possible to maximize the State's ability to help North Carolina manufacturers create and maintain jobs and increase sales.

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

SECTION 10.9.(a) G.S. 115D-20(4)a.2. reads as rewritten:

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

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

...

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

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

...

2. Academic transition pathways for qualified junior and senior high school students that lead to a career technical education certificate or ~~diploma.~~ diploma and academic transition pathways for qualified freshmen and sophomore high school students that lead to a career technical education certificate or diploma in industrial and engineering technologies."

SECTION 10.9.(b) The Community Colleges System Office shall report to the Joint Legislative Education Oversight Committee by October 1, 2014, and October 1, 2015, on freshmen and sophomore students served under G.S. 115D-20(4)a.2., as amended by subsection (a) of this section. The report shall include the number of and budget FTE for freshmen students and the number of and budget FTE for sophomore students.

STATE BOARD OF COMMUNITY COLLEGES MEETINGS

SECTION 10.10. G.S. 115D-2.1(g) reads as rewritten:

"(g) The State Board of Community Colleges shall meet at stated times established by the State Board, but not less frequently than ~~10~~eight times a year. The State Board of Community Colleges shall also meet with the State Board of Education and the Board of Governors of The University of North Carolina at least once a year to discuss educational matters of mutual interest and to recommend to the General Assembly such policies as are appropriate to encourage the improvement of public education at every level in this State; these joint meetings shall be hosted by the three Boards according to the schedule set out in G.S. 115C-11(b1). Special meetings of the State Board may be set at any regular meeting or may be called by the chairman. A majority of the qualified members of the State Board shall constitute a quorum for the transaction of business."

ACQUISITION BY COMMUNITY COLLEGES OF REAL PROPERTY BY LEASE PURCHASE

SECTION 10.11.(a) G.S. 115D-58.15 reads as rewritten:

"**§ 115D-58.15. Lease purchase and installment purchase contracts for ~~equipment.~~equipment and real property.**

(a) Authority. – ~~The~~ Notwithstanding any other provision of law to the contrary, the board of trustees of a community college may use lease purchase or installment purchase contracts to purchase or finance the purchase of equipment or real property as provided in this

section. A college shall not have more than five State-funded contracts in effect at any one time.

(b) Contract Approval. – Contracts for more than one hundred thousand dollars ($100,000) or for a term of more than three years shall be subject to review and approval as provided in this subsection. If the source of funds for payment of the obligation by the community college is intended to be local funds, the contract must be approved by resolution of the tax-levying authority, and the authority must acknowledge in writing its understanding that the community college may require appropriations from the tax-levying authority in order to meet the college's obligations under the contract. The tax-levying authority may in each fiscal year appropriate sufficient funds to meet the amounts to be paid during the fiscal year under the contract. The source of funds for lease purchase or installment purchase contracts for real property shall be local funds. If the source of funds for payment of the obligation by the community college is intended to be State funds, the contract must be approved by resolution of the State Board of Community Colleges. The State Board may in each fiscal year allocate sufficient funds to meet the amounts to be paid during the fiscal year under the contract.

(c) Local Government Commission. – A contract that is subject to approval by the tax-levying authority also shall be subject to approval by the Local Government Commission as provided in Article 8 of Chapter 159 of the General Statutes if the contract:

(1) Extends for five or more years from the date of the contract;

(2) Obligates the board of trustees to pay sums of money to another, regardless of whether the payee is a party to the contract; and

(3) Obligates the board of trustees to pay five hundred thousand dollars ($500,000) or more over the full term of the contract.

(d) Application of Section. – When determining whether a contract is subject to approval under this section the total cost of exercising an option to upgrade property shall be taken into consideration. The term of a contract shall include periods that may be added to the original term through the exercise of an option to renew or extend.

(e) Nonsubstitution Clause. – No contract entered into under this section may contain a nonsubstitution clause that restricts the right of a board of trustees to:

(1) Continue to provide a service or activity; or

(2) Replace or provide a substitute for any property financed or purchased by the contract.

(f) Nonappropriations Clause. – No deficiency judgment may be rendered against any board of trustees, any tax-levying authority, the State Board of Community Colleges, or the State of North Carolina in any action for breach of a contractual obligation authorized by this section. The taxing power of a tax-levying authority and the State is not and may not be pledged directly or indirectly to secure any moneys due under a contract authorized by this section."

SECTION 10.11.(b) G.S. 115D-20(11) reads as rewritten:

"(11) To enter into lease purchase and installment purchase contracts for equipment and real property under G.S. 115D-58.15."

CLARIFY EMPLOYEE ACADEMIC ASSISTANCE

SECTION 10.12. G.S. 115D-5(b1) reads as rewritten:

"(b1) The State Board of Community Colleges shall not waive tuition and registration fees for community college faculty or staff members. Community colleges may, however, use State or local funds to pay tuition and registration fees for one course per semester for full-time community college faculty or staff members employed for a nine-, ten-, eleven-, or twelve-month term. Community colleges may also use State and local funds to pay tuition and registration fees for professional development courses and for other courses consistent with the academic assistance program authorized by the State Personnel Commission."

REVISE TARGETED ASSISTANCE CRITERIA

SECTION 10.13. G.S. 115D-40.1(b) reads as rewritten:

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

(1) Students who ~~do not qualify for need-based assistance but who~~ enroll in low-enrollment programs that prepare students for high-demand ~~occupations, and~~occupations.

(2) Students with disabilities who have been referred by the Department of Health and Human Services, Division of Vocational ~~Rehabilitation~~ Rehabilitation, and are enrolled in a community college."

REPURPOSE OF FUNDS

SECTION 10.14.(a) Of the funds appropriated to Forsyth Technical Community College in fiscal year 2005-2006 for the construction of the Center for Emerging Technologies at Forsyth Technical Community College, the sum of three million dollars ($3,000,000) for fiscal year 2013-2014 shall be transferred by the State Treasurer to Budget Code 26800 to be administered by the North Carolina Community Colleges System Office. The Community Colleges System Office shall allocate up to three hundred thousand dollars ($300,000) of these funds each fiscal year to Forsyth Technical Community College for the operating costs and lease expenses for the community college's biotechnology, nanotechnology, design, and advanced information technology programs; Small Business Center; and Corporate and Industrial Training programs. The Community Colleges System Office shall continue to allocate these funds to Forsyth Technical Community College for this purpose until those funds are expended. No additional State funds shall be made available to Forsyth Technical Community College to be used for the purposes described in this section.

SECTION 10.14.(b) The State Treasurer shall transfer all funds in Budget Codes 40520 and 40620 that are unencumbered as of July 1, 2013, except those funds to be transferred in accordance with subsection (a) of this section, to Budget Code 16800. Of the funds transferred to Budget Code 16800 under this subsection, the State Board of Community Colleges shall allocate those funds to community colleges under the equipment allocation formula for the 2013-2014 fiscal year in accordance with G.S. 115D-31(d).

PART XI. UNIVERSITIES

USE OF ESCHEAT FUND FOR NEED-BASED FINANCIAL AID PROGRAMS

SECTION 11.1.(a) There is appropriated from the Escheat Fund income to the Board of Governors of The University of North Carolina the sum of sixty-four million two hundred eighty-seven thousand two hundred forty-two dollars ($64,287,242) for the 2013-2014 fiscal year and the sum of thirty-seven million two hundred eighty-seven thousand two hundred forty-two dollars ($37,287,242) for the 2014-2015 fiscal year to be used for The University of North Carolina Need-Based Financial Aid Program.

SECTION 11.1.(b) There is appropriated from the Escheat Fund income to the State Board of Community Colleges the sum of fifteen million two hundred forty-six thousand three hundred seventy-three dollars ($15,246,373) for the 2013-2014 fiscal year and the sum of sixteen million three hundred thirty-five thousand dollars ($16,335,000) for the 2014-2015 fiscal year to be used for community college grants.

SECTION 11.1.(c) There is appropriated from the Escheat Fund income to the Department of Administration, Division of Veterans Affairs, the sum of six million five hundred twenty thousand nine hundred sixty-four dollars ($6,520,964) for the 2013-2014 fiscal

year and the sum of six million five hundred twenty thousand nine hundred sixty-four dollars ($6,520,964) for the 2014-2015 fiscal year to be used for need-based student financial aid.

SECTION 11.1.(d) The funds appropriated by this section shall be allocated by the State Educational Assistance Authority (SEAA) for need-based student financial aid in accordance with G.S. 116B-7. If the interest income generated from the Escheat Fund is less than the amounts referenced in this section, the difference may be taken from the Escheat Fund principal to reach the appropriations referenced in this section; however, under no circumstances shall the Escheat Fund principal be reduced below the sum required in G.S. 116B-6(f). If any funds appropriated under this section remain uncommitted for need-based financial aid as of the end of a fiscal year, the funds shall be returned to the Escheat Fund, but only to the extent the funds exceed the amount of the Escheat Fund income for that fiscal year.

SECTION 11.1.(e) The State Education Assistance Authority shall perform all of the administrative functions necessary to implement this program of financial aid. The SEAA shall conduct periodic evaluations of expenditures of the scholarship programs to determine if allocations are utilized to ensure access to institutions of higher learning and to meet the goals of the respective programs. SEAA may make recommendations for redistribution of funds to The University of North Carolina, Department of Administration, and the President of the Community College System regarding their respective scholarship programs, who then may authorize redistribution of unutilized funds for a particular fiscal year.

SECTION 11.1.(f) G.S. 116B-7(a) reads as rewritten:

"(a) The income derived from the investment or deposit of the Escheat Fund shall be distributed annually on or before ~~July 15~~ August 15 to the State Education Assistance Authority for grants and loans to aid worthy and needy students who are residents of this State and are enrolled in public institutions of higher education in this State. Such grants and loans shall be made upon terms, consistent with the provisions of this Chapter, pursuant to which the State Education Assistance Authority makes grants and loans to other students under G.S. 116-201 to 116-209.23, Article 23 of Chapter 116 of the General Statutes, policies of the Board of Governors of The University of North Carolina regarding need-based grants for students of The University of North Carolina, and policies of the State Board of Community Colleges regarding need-based grants for students of the community colleges."

UNC NEED-BASED FINANCIAL AID FORWARD FUNDING RESERVE/PROVIDE FUNDS FOR UNC NEED-BASED GRANTS

SECTION 11.2.(a) It is the intent of the General Assembly to move the UNC Need-Based Financial Aid Program grant funding into a reserve in the North Carolina Student Loan Fund designated for that purpose so that funds appropriated for grants in a fiscal year are awarded to students for the following academic year. This change will provide additional program stability.

SECTION 11.2.(b) The UNC Need-Based Financial Aid Forward Funding Reserve is established as a reserve in the North Carolina Student Loan Fund. The funds in the UNC Need-Based Financial Aid Forward Funding Reserve shall be held in reserve for the 2013-2014 fiscal year and, beginning with the 2014-2015 fiscal year, shall be used to fund grants from the UNC Need-Based Financial Aid Program for the 2014-2015 program year and each subsequent program year.

SECTION 11.2.(c) Section 6.11(e) of this act appropriates funds from the Education Lottery Fund in the amount of fifty-five million one hundred twenty-eight thousand six hundred twenty dollars ($55,128,620) for the 2013-2014 fiscal year to the UNC Need-Based Financial Aid Forward Funding Reserve. The following funds shall also be transferred to the UNC Need-Based Financial Aid Forward Funding Reserve (Reserve):

(1) The sum of fifty-nine million eight hundred fifty-nine thousand five hundred sixty-two dollars ($59,859,562) shall be transferred from the North Carolina Student Loan Fund to the Reserve.

(2) Of the funds appropriated by this act to the Board of Governors of The University of North Carolina for the 2013-2015 fiscal biennium, the sum of three million four hundred seventy-five thousand five hundred thirty-eight dollars ($3,475,538) for the 2013-2014 fiscal year and the sum of three million four hundred fifty-four thousand six hundred fifty-six dollars ($3,454,656) for the 2014-2015 fiscal year shall be transferred to the Reserve.

(3) Notwithstanding G.S. 115C-269.2, the sum of three million five hundred twenty-five thousand dollars ($3,525,000) shall be transferred from the fund balance of the National Board Certification Loan program to the Reserve.

(4) The sum of five hundred thousand dollars ($500,000) shall be transferred from the John B. McLendon Scholarship Fund established in G.S. 116-209.40 to the Reserve.

SECTION 11.2.(d) There is appropriated from the Escheat Fund for the 2013-2014 fiscal year to the UNC Need-Based Financial Aid Forward Funding Reserve the sum of one million eighty-eight thousand six hundred twenty-seven dollars ($1,088,627).

SECTION 11.2.(e) G.S. 116-209.40 is repealed.

COORDINATED RESIDENCY DETERMINATION PROCESS

SECTION 11.3.(a) The General Assembly finds that it is in the best interest of the State for the University System, the Community College System, and the State Education Assistance Authority to apply the criteria in G.S. 116-143.1 to determine residency for tuition purposes in a coordinated and similar manner. Therefore, The University of North Carolina, the North Carolina Community College System, and the State Education Assistance Authority shall jointly develop and implement a coordinated and centralized process to be used by those three entities when determining the residency for tuition purposes of students who apply for admission and are admitted to a constituent institution of The University of North Carolina or a community college under the jurisdiction of the State Board of Community Colleges and for private college students receiving State-funded financial aid. In developing a centralized residency determination process, The University of North Carolina General Administration, the North Carolina Community College System, and the State Education Assistance Authority shall consult with the North Carolina Independent Colleges and Universities.

SECTION 11.3.(b) No later than January 1, 2014, The University of North Carolina, the North Carolina Community College System, and the State Education Assistance Authority shall report to the Joint Legislative Education Oversight Committee regarding the progress in developing and implementing a coordinated and centralized process and any necessary statutory changes.

IMPLEMENT TUITION SURCHARGE STUDY RECOMMENDATIONS

SECTION 11.4.(a) G.S. 116-143.7 reads as rewritten:

"**§ 116-143.7. Tuition surcharge.**

(a) The Board of Governors of The University of North Carolina shall impose a fifty percent (50%) tuition surcharge on students who take more than 140 degree credit hours to complete a baccalaureate degree in a four-year program or more than one hundred ten percent (110%) of the credit hours necessary to complete a baccalaureate degree in any program officially designated by the Board of Governors as a five-year program. ~~Courses and credit hours taken include those taken at that constituent institution or accepted for transfer.~~ Courses and credit hours that count toward the surcharge include those taken at that constituent

institution and those taken at either another constituent institution or a community college established pursuant to G.S. 115D-4 and accepted for transfer. In calculating the number of degree credit hours taken:

(1) Included are courses that a student:
  a. Fails.
  b. Does not complete unless the course was officially dropped by the student pursuant to the academic policy of the appropriate constituent institution.

(2) Excluded are credit hours earned through:
  a. The College Board's Advanced Placement Program, CLEP examinations, or similar programs.
  b. Institutional advanced placement, course validation, or any similar procedure for awarding course credit.
  c. Summer term or extension programs.
  d. Courses and credit hours transferred and accepted for credit from an institution of higher education that is not a constituent institution or a community college established pursuant to G.S. 115D-4.

(b) No surcharge shall be imposed on any student who exceeds the degree credit hour limits within the equivalent of four academic years of regular term enrollment or within five academic years of regular term enrollment in a degree program officially designated by the Board of Governors as a five-year program.

(c) Upon application by a student, the tuition surcharge shall be waived if the student demonstrates that any of the following have substantially disrupted or interrupted the student's pursuit of a degree: (i) a military service obligation, (ii) serious medical debilitation, (iii) a short-term or long-term disability, or (iv) other extraordinary hardship. The Board of Governors shall establish the appropriate procedures to implement the waiver provided by this subsection.

(d) Each constituent institution shall implement procedures to notify students regarding the tuition surcharge and to provide appropriate advance notice to a student when the student is approaching the credit hour limit regarding the tuition surcharge. The procedures shall comply with the tuition surcharge notification principles established by the Board of Governors."

SECTION 11.4.(b) G.S. 116-11 is amended by adding a new subdivision to read:

"(7a) The Board of Governors shall develop a uniform core set of notification principles regarding the tuition surcharge, including a process for each campus to notify students at orientation and through each semester's tuition statements and a process to provide appropriate advance notification to a student when the student is approaching the credit hour limit regarding the tuition surcharge. The Board of Governors shall direct each constituent institution to implement these procedures."

SECTION 11.4.(c) This section applies to the 2013 fall academic semester and each subsequent academic semester.

UNC MANAGEMENT FLEXIBILITY REDUCTION

SECTION 11.5.(a) The management flexibility reduction for The University of North Carolina shall not be allocated by the Board of Governors to the constituent institutions and affiliated entities using an across-the-board method but in a manner that recognizes the importance of the academic missions and differences among The University of North Carolina entities.

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

(1) Reducing State funding for centers and institutes, speaker series, and other nonacademic activities.

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

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

SECTION 11.5.(b) In allocating the management flexibility reduction, no reduction in State funds shall be allocated in either fiscal year of the 2013-2015 biennium to any of the following:

(1) UNC Need-Based Financial Aid.
(2) North Carolina Need-Based Scholarship.
(3) Any special responsibility constituent institution which has been granted a basic type designation of "Special Focus Institution" under the Carnegie Classification of Institutions of Higher Education.
(4) Any special responsibility constituent institution which has been granted a basic type designation of "Baccalaureate Colleges–Arts & Sciences" under the Carnegie Classification of Institutions of Higher Education.
(5) Any constituent high school of The University of North Carolina.

SECTION 11.5.(c) The University of North Carolina shall report on the implementation of the management flexibility reduction in subsection (a) of this section to the Office of State Budget and Management and the Fiscal Research Division no later than October 1, 2013. This report shall identify both of the following by campus:

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

UNC BOARD OF GOVERNORS REPORT ON OVERHEAD RECEIPTS

SECTION 11.6.(a) G.S. 116-11 is amended by adding a new subdivision to read:

"(9a) The Board of Governors shall report to the Joint Legislative Education Oversight Committee and the Office of State Budget and Management by March 1 of each year regarding the sum of facilities and administrative fees and overhead receipts for The University of North Carolina that are collected and expended by each constituent institution. The report shall include all of the following information:

a. The collection of facilities and administrative fees and overhead receipts by line item and by grant or program.
b. The use of facilities and administrative fees and overhead receipts showing line item expenditures by grant or program.
c. The sum of facilities and administrative fees and overhead receipts collected or expended by each constituent institution for maintenance and operation of facilities that were constructed with or at any time operated by funds from the General Fund."

SECTION 11.6.(b) Section 31.14 of S.L. 2001-424 is repealed.

STUDENT CHARGES AT THE NORTH CAROLINA SCHOOL OF SCIENCE AND MATH

SECTION 11.7.(a) G.S. 116-40.22 reads as rewritten:

"**§ 116-40.22. Management flexibility.**

...

(c) Tuition and Fees. – Notwithstanding any provision in Chapter 116 of the General Statutes to the contrary, in addition to any tuition and fees set by the Board of Governors pursuant to G.S. 116-11(7), the Board of Trustees of the institution may recommend to the Board of Governors tuition and fees for program-specific and institution-specific needs at that institution without regard to whether an emergency situation exists and not inconsistent with the actions of the General Assembly. Any tuition and fees set pursuant to this subsection are appropriated for use by the institution. Notwithstanding this subsection, neither the Board of Governors of The University of North Carolina nor its Board of Trustees shall impose any tuition or mandatory fee at the North Carolina School of Science and Mathematics without the approval of the General ~~Assembly.~~Assembly, except as provided in subsection (e) of this section.

...

(e) The Board of Governors of The University of North Carolina may approve, upon the recommendation of the Board of Trustees of the North Carolina School of Science and Mathematics, the imposition of fees not inconsistent with actions of the General Assembly for distance education services provided by the North Carolina School of Science and Mathematics to nonresidents and for students participating in extracurricular enrichment programs sponsored by the School."

SECTION 11.7.(b) G.S. 116-143 reads as rewritten:

"**§ 116-143. State-supported institutions of higher education required to charge tuition and fees.**

...

(b) In the event that said students are unable to pay the cost of tuition and required academic fees as the same may become due, in cash, the said several boards of trustees are hereby authorized and empowered, in their discretion, to accept the obligation of the student or students together with such collateral or security as they may deem necessary and proper, it being the purpose of this Article that all students in State institutions of higher learning shall be required to pay tuition, and that free tuition is hereby abolished. Notwithstanding this section, neither the Board of Governors of The University of North Carolina nor its Board of Trustees shall impose any tuition or mandatory fee at the North Carolina School of Science and Mathematics without the approval of the General ~~Assembly.~~Assembly, except as provided in subsection (e) of this section.

...

(e) The Board of Governors of The University of North Carolina may approve, upon the recommendation of the Board of Trustees of the North Carolina School of Science and Mathematics, the imposition of fees not inconsistent with actions of the General Assembly for distance education services provided by the North Carolina School of Science and Mathematics to nonresidents and for students participating in extracurricular enrichment programs sponsored by the School."

SECTION 11.7.(c) This section applies to the 2013-2014 spring academic semester and each subsequent academic semester.

STUDENT CHARGES AT THE UNC SCHOOL OF THE ARTS

SECTION 11.8.(a) Article 4 of Chapter 116 of the General Statutes is amended by adding a new section to read:

"**§ 116-68.1. Fees.**

The Board of Governors of The University of North Carolina may set fees, not inconsistent with the actions of the General Assembly, to be paid by in-State high school students enrolled at the University of North Carolina School of the Arts to assist with expenses of the institution. The Board of Trustees may recommend to the Board of Governors of The University of North Carolina that fees be set, not inconsistent with actions of the General Assembly, to be paid by in-State high school students enrolled at the University of North Carolina School of the Arts to assist with expenses of the institution. The University of North Carolina School of the Arts may charge and collect fees established as provided by this section from in-State high school students enrolled at the University of North Carolina School of the Arts."

SECTION 11.8.(b) This section applies to the 2014-2015 academic year and each subsequent academic year.

AUTHORIZE STATE EDUCATION ASSISTANCE AUTHORITY TO CONTINUE TO COLLECT NORTH CAROLINA TEACHING FELLOWS REPAYMENTS

SECTION 11.9. Subsection (b) of Section 1.38 of S.L. 2011-266 is repealed.

UNC DISPOSITION AND ACQUISITION OF REAL PROPERTY

SECTION 11.10.(a) G.S. 116-198.34(5) reads as rewritten:

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

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

SECTION 11.10.(b) This section becomes effective July 1, 2013, and expires June 30, 2015.

UNC CAMPUS HOUSING

SECTION 11.11.(a) Part 3 of Article 1 of Chapter 116 of the General Statutes is amended by adding a new section to read:

"**§ 116-40.11. Prohibit assignment of members of the opposite sex to same dormitory room, suite, or campus apartment.**

Notwithstanding any other provision of law, The University of North Carolina shall prohibit the assignment of members of the opposite sex to the same dormitory room, dormitory suite, or campus apartment unless the students are siblings, they are parent and child, or they are legally married and there is a valid marriage license on file at the campus housing office that documents the marriage."

SECTION 11.11.(b) This section applies to housing assignments for the 2013 fall semester and each subsequent semester.

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

SECTION 11.12.(a) Of the funds appropriated by this act for the 2013-2015 fiscal biennium to the Board of Governors of The University of North Carolina the sum of seven million dollars ($7,000,000) for the 2013-2014 fiscal year and the sum of seven million dollars ($7,000,000) for the 2014-2015 fiscal year shall be allocated to Wake Forest University Health Sciences (hereinafter "Wake Forest") in support of the Wake Forest Institute for Regenerative Medicine (hereinafter "Institute") and its Department of Defense Armed Forces Institute for Regenerative Medicine and current good manufacturing practices (cGMP) facility.

SECTION 11.12.(b) Wake Forest shall reimburse the State for State funds appropriated for the Institute under subsection (a) of this section and in prior fiscal years by returning to the State five percent (5%) of the royalty revenue received by the Institute from commercialized projects arising under those research projects supported by the State funds, either through direct research support or through substantial utilization of the cGMP facility not reimbursed through other funds ("Subject Projects"). Royalty revenue reimbursed to the State shall be subject to all of the following:

(1) The total amount to be reimbursed to the State shall be limited to the aggregate amount of State funds allocated to Wake Forest for the Institute plus simple interest at the rate of four percent (4%) annually from the time of disbursement until reimbursement commences.

(2) Wake Forest shall be entitled to deduct the expenses reasonably incurred in prosecuting, defending, and enforcing patent rights for the Subject Projects, except to the extent the expenses are recovered from a third party, before calculating the amount to be paid to the State.

(3) Calculation of the payments to the State shall be based upon the formula provided in subsection (c) of this section.

(4) Payments shall be made to the State and used by the State in a manner consistent with federal law.

SECTION 11.12.(c) Wake Forest on behalf of the Institute shall annually calculate and remit reimbursement payments to the State based upon the following formula:

(1) Payments to the State shall be based on that share of royalty revenue proportional to the State funds used for the Subject Project, which shall be calculated as the ratio of State funds to total funds used to support the Subject Project, based on budgets developed consistent with federal research funding accounting guidelines and including the fair market value of unreimbursed cGMP facility utilization.

(2) Wake Forest shall calculate net royalty revenue on a Subject Project-by-Subject-Project basis by deducting any expenses authorized under subsection (b)(2) of this section from the total royalty revenue received from the Subject Project.

(3) Wake Forest shall multiply net royalty revenue by the support ratio calculated in subsection (c)(1) of this section and then multiply the product by five percent (5%) to determine the State royalty share ("State Royalty Share").

(4) The State Royalty Share shall be remitted to the State unless the cumulative State Royalty Share payments have satisfied the total aggregate amount to be reimbursed as provided in subsection (b)(1) of this section.

SECTION 11.12.(d) Wake Forest on behalf of the Institute shall comply with the following reporting requirements:

(1) By September 1 of each year, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Board of Governors of The University of North Carolina on prior State fiscal year program activities, objectives, and

accomplishments and prior State fiscal year itemized expenditures and fund sources. The annual report shall include a report of royalty revenues generated from the Subject Projects.

(2) Provide to the Fiscal Research Division a copy of the Institute's annual audited financial statement within 30 days of issuance of the statement.

SECTION 11.12.(e) Remaining allotments after September 1 shall not be released to the Institute if the reporting requirements provided in subsection (d) of this section are not satisfied.

SECTION 11.12.(f) No more than one hundred twenty thousand dollars ($120,000) in State funds shall be used for the annual salary of any one employee of the Institute. For purposes of this subsection, the term "State funds" means funds appropriated by the State to the Institute and interest earned on those funds.

SECTION 11.12.(g) No State funds shall be used by the Institute (i) to hire or facilitate the hiring of a lobbyist or any person performing the duties or activities of a lobbyist, without regard to the person's title; or (ii) to facilitate any lobbying efforts.

UNC/STRATEGIC PLAN FUNDS

SECTION 11.13. Of the funds appropriated by this act to the Board of Governors of The University of North Carolina for the 2013-2015 fiscal biennium, the Board of Governors may spend a sum of up to fifteen million dollars ($15,000,000) for the 2013-2014 fiscal year and a sum of up to fifteen million dollars ($15,000,000) for the 2014-2015 fiscal year to implement provisions of The University of North Carolina Strategic Plan as set out in the report "Our Time, Our Future: The University of North Carolina Compact with North Carolina."

PART XII. DEPARTMENT OF HEALTH AND HUMAN SERVICES

SUBPART XII-A. CENTRAL MANAGEMENT AND SUPPORT

DEPARTMENT FLEXIBILITY TO ACHIEVE DEPARTMENTAL PRIORITIES AND ENHANCE FISCAL OVERSIGHT AND ACCOUNTABILITY.

SECTION 12A.1.(a) Notwithstanding any other provision of law and consistent with the intent of G.S. 143B-10, the Secretary of the Department of Health and Human Services may reorganize positions and related operational costs within the Department (i) upon a demonstration by the Department of cost-effectiveness and (ii) after approval by the Office of State Budget and Management (OSBM) of a written proposal submitted by the Department to OSBM. Proposals submitted to OSBM under this section shall, at a minimum, identify the positions involved and the strategies to be implemented in order to achieve efficiencies.

SECTION 12A.1.(b) Notwithstanding G.S. 143C-6-4 and in order to enhance fiscal oversight and accountability, the Secretary of the Department of Health and Human Services may realign existing resources to expand its internal audit capacity. The Secretary may, with the approval of OSBM, identify up to 32 existing positions for this purpose. The expanded Office of Internal Audit shall provide the Department's management personnel with independent reviews and analyses of various functions and services within the Department, including operational audits, performance audits, compliance audits, financial audits, and other special reviews. Any realignment of resources and positions pursuant to this subsection is subject to the prior approval of OSBM.

SECTION 12A.1.(c) By no later than June 30, 2014, the Department shall report any actions undertaken pursuant to this section to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division. The report shall, at a minimum, identify the positions involved and the strategies implemented to achieve efficiencies, to expand internal audit capacity, or both.

COMPETITIVE GRANTS PROCESS FOR NONPROFIT FUNDING

SECTION 12A.2.(a) Of the funds appropriated in this act to the Department of Health and Human Services, Office of the Secretary, the sum of nine million five hundred twenty-nine thousand one hundred thirty-four dollars ($9,529,134) for the 2013-2014 fiscal year and the sum of five million two hundred seventy-three thousand eight hundred thirty-five dollars ($5,273,835) appropriated in Section 12J.1 of this act for the 2013-2014 fiscal year shall be used to implement a request for application (RFA) process to allow non-State entities to apply for and receive State funds on a competitive basis.

SECTION 12A.2.(b) The Office of the Secretary shall administer grants awarded to non-State entities pursuant to this section and shall require non-State entities to match ten percent (10%) of the total amount of the grant. The Office of the Secretary shall prioritize grant awards to those non-State entities that are able to leverage non-State funds in addition to the grant award.

SECTION 12A.2.(c) Grants shall be awarded to non-State entities dedicated to providing services statewide and supporting any of the following State health and wellness initiatives:

(1) A program targeting advocacy, support, education, or residential services for persons diagnosed with autism.
(2) A comprehensive program of education, advocacy, and support related to brain injury and those affected by brain injury.
(3) A system of residential supports for those afflicted with substance abuse addiction.
(4) A program of advocacy and supports for individuals with intellectual and developmental disabilities or severe and persistent mental illness, substance abusers, or the elderly.
(5) Supports and services to children and adults with developmental disabilities or mental health diagnoses.
(6) A food distribution system for needy individuals.
(7) The provision and coordination of services for the homeless.
(8) The provision of maternity and high-risk pregnancy services.
(9) The provision of services for individuals aging out of foster care.
(10) Programs promoting wellness, physical activity, and health education programming for North Carolinians.
(11) A program focused on enhancing vision screening through the State's public school system.
(12) Provision for the delivery of after-school services for at-risk youth.
(13) The provision of direct services for amyotrophic lateral sclerosis (ALS) and those diagnosed with the disease.

SECTION 12A.2.(d) The Department shall submit a written report to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division on the use of these funds no later than April 1, 2014. The report shall include at least all of the following:

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

SECTION 12A.2.(e) Funds received by the Department of Health and Human Services pursuant to this section shall supplement and not supplant existing funds for health and wellness programs and initiatives.

HEALTH INFORMATION TECHNOLOGY

SECTION 12A.3.(a) The Department of Health and Human Services, in cooperation with the State Chief Information Officer, shall coordinate health information technology (HIT) policies and programs within the State of North Carolina. The Department's goal in coordinating State HIT policy and programs shall be to avoid duplication of efforts and to ensure that each State agency, public entity, and private entity that undertakes health information technology activities does so within the area of its greatest expertise and technical capability and in a manner that supports coordinated State and national goals, which shall include at least all of the following:

(1) Ensuring that patient health information is secure and protected, in accordance with applicable law.

(2) Improving health care quality, reducing medical errors, reducing health disparities, and advancing the delivery of patient-centered medical care.

(3) Providing appropriate information to guide medical decisions at the time and place of care.

(4) Ensuring meaningful public input into HIT infrastructure development.

(5) Improving the coordination of information among hospitals, laboratories, physicians' offices, and other entities through an effective infrastructure for the secure and authorized exchange of health care information.

(6) Improving public health services and facilitating early identification and rapid response to public health threats and emergencies, including bioterrorist events and infectious disease outbreaks.

(7) Facilitating health and clinical research.

(8) Promoting early detection, prevention, and management of chronic diseases.

SECTION 12A.3.(b) The Department of Health and Human Services shall establish and direct an HIT management structure that is efficient and transparent and that is compatible with the Office of the National Health Coordinator for Information Technology (National Coordinator) governance mechanism. The HIT management structure shall be responsible for all of the following:

(1) Developing a State plan for implementing and ensuring compliance with national HIT standards and for the most efficient, effective, and widespread adoption of HIT.

(2) Ensuring that (i) specific populations are effectively integrated into the State plan, including aging populations, populations requiring mental health services, and populations utilizing the public health system, and (ii) unserved and underserved populations receive priority consideration for HIT support.

(3) Identifying all HIT stakeholders and soliciting feedback and participation from each stakeholder in the development of the State plan.

(4) Ensuring that existing HIT capabilities are considered and incorporated into the State plan.

(5) Identifying and eliminating conflicting HIT efforts where necessary.

(6) Identifying available resources for the implementation, operation, and maintenance of health information technology, including identifying resources and available opportunities for North Carolina institutions of higher education.

(7) Ensuring that potential State plan participants are aware of HIT policies and programs and the opportunity for improved health information technology.

(8) Monitoring HIT efforts and initiatives in other states and replicating successful efforts and initiatives in North Carolina.

(9) Monitoring the development of the National Coordinator's strategic plan and ensuring that all stakeholders are aware of and in compliance with its requirements.

(10) Monitoring the progress and recommendations of the HIT Policy and Standards Committee and ensuring that all stakeholders remain informed of the Committee's recommendations.

(11) Monitoring all studies and reports provided to the United States Congress and reporting to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on the impact of report recommendations on State efforts to implement coordinated HIT.

SECTION 12A.3.(c) Section 10.24(c) of S.L. 2011-145 reads as rewritten:

"**SECTION 10.24.(c)** ~~Beginning October 1, 2011, the Department of Health and Human Services shall provide quarterly written reports~~By no later than January 15, 2015, the Department of Health and Human Services shall provide a written report on the status of HIT efforts to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division. The ~~reports due each January 1 and July 1 shall consist of updates to substantial initiatives or challenges that have occurred since the most recent comprehensive report. The reports due each October 1 and April 1~~report shall be comprehensive and shall include all of the following:

(1) Current status of federal HIT initiatives.

(2) Current status of State HIT efforts and initiatives among both public and private entities.

(3) A breakdown of current public and private funding sources and dollar amounts for State HIT initiatives.

(4) Department efforts to coordinate HIT initiatives within the State and any obstacles or impediments to coordination.

(5) HIT research efforts being conducted within the State and sources of funding for research efforts.

(6) Opportunities for stakeholders to participate in HIT funding and other efforts and initiatives during the next quarter.

(7) Issues associated with the implementation of HIT in North Carolina and recommended solutions to these issues."

FUNDS FOR REPLACEMENT MEDICAID MANAGEMENT INFORMATION SYSTEM/IMPLEMENTATION OF REPLACEMENT MMIS

SECTION 12A.4.(a) The Secretary of the Department of Health and Human Services may utilize prior year earned revenue received for the replacement MMIS in the amount of nine million six hundred fifty-eight thousand one hundred fifty-two dollars ($9,658,152) for the 2013-2014 fiscal year and in the amount of one million six hundred sixty-six thousand six hundred twenty-five dollars ($1,666,625) for the 2014-2015 fiscal year. In the event the Department does not receive prior year earned revenues in the amounts authorized by this section, or funds are insufficient to advance the project, the Department may, with prior approval from the Office of State Budget and Management (OSBM), utilize overrealized receipts and funds appropriated to the Department to achieve the level of funding specified in this section for the replacement MMIS.

SECTION 12A.4.(b) The Department shall make full development of the replacement MMIS a top priority. During development and implementation of the replacement MMIS, the Department shall develop plans to ensure the timely and effective implementation of enhancements to the system to provide the following capabilities:

(1) Receiving and tracking premiums or other payments required by law.

(2) Compatibility with the Health Information System.

SECTION 12A.4.(c) The Department shall make every effort to expedite the implementation of the enhancements. The replacement MMIS shall have the capability to fully implement the administration of NC Health Choice, Ticket to Work, CAP Children's Program, all relevant Medicaid waivers, and the Medicare 646 waiver as it applies to Medicaid eligibles.

SECTION 12A.4.(d) The Office of the State Chief Information Officer (SCIO) and the Office of Information Technology Services (ITS) shall work in cooperation with the Department to ensure the timely and effective implementation of the replacement MMIS and any enhancements. The SCIO shall ensure that the replacement MMIS meets all State requirements for project management and shall immediately report any failure to meet these requirements to the Joint Legislative Oversight Committee on Health and Human Services, the Joint Legislative Oversight Committee on Information Technology, the Fiscal Research Division, and the Office of State Budget and Management. The SCIO shall also immediately report if any replacement MMIS project, or portion of a project, is listed as red in the project portfolio management tool.

SECTION 12A.4.(e) Notwithstanding G.S. 114-2.3, the Department shall consult with the Office of the SCIO concerning the retention of private counsel for the replacement MMIS, and as directed by the Office of the SCIO, retain private counsel with expertise in pertinent information technology and computer law to negotiate and review contract amendments associated with the replacement MMIS. The private counsel engaged by the Department shall review the replacement MMIS contract amendments between the Department and the vendors to ensure that the requirements of subsection (c) of this section are met in their entirety and that the terms of the contract amendments are in the State's best interest.

SECTION 12A.4.(f) The Department shall immediately report any changes to the replacement MMIS implementation schedules to the Joint Legislative Oversight Committee on Health and Human Services, the Joint Legislative Oversight Committee on Information Technology, the Fiscal Research Division, and the Office of State Budget and Management, with a full explanation of the reason for the change and any associated costs.

SECTION 12A.4.(g) The Department shall provide the following reports on the replacement MMIS by the dates specified in this subsection to the Joint Legislative Oversight Committee on Health and Human Services, the Joint Legislative Oversight Committee on Information Technology, the Fiscal Research Division, and the Office of State Budget and Management:

(1) By no later than August 1, 2013, a progress report on full implementation of the replacement MMIS, which shall include at least all of the following:

a. An updated estimate of the costs associated with operating and maintaining the system during the 2013-2014 fiscal year and during the 2014-2015 fiscal year, with an explanation for any changes from previous submissions.

b. Any issues encountered following the "go-live" date of July 1, 2013, how each issue was resolved, any cost associated with the resolution of each issue, and the source of funding for the associated cost.

c. Any system requirements for manual workarounds, any cost associated with these system requirements, the source of funding used to pay for the associated cost, the time line for implementing an automated solution for each manual workaround, the cost associated with transitioning to each automated solution, and the source of funding for each identified cost.

d. A comparison of timeliness and accuracy of payments for legacy system and replacement system transactions, using the same criteria for both.

e. Required capabilities that are not available in the replacement MMIS on the "go-live" date of July 1, 2013, with a date for the implementation of each, as well as any cost associated with implementation.

(2) By no later than September 1, 2013, a plan for the elimination of the Office of Medicaid Management Information System Services (OMMISS) and the transfer of its remaining operations to other Divisions within the Department of Health and Human Services. This plan shall include at least all of the following:

a. The specific operations to be transferred to other Divisions within the Department, the specific Division to which each operation will be transferred, the State personnel that will be impacted by each transfer, costs associated with each transfer, and sources of funding to enable the identified Divisions to assume these transferred operations.

b. Any State personnel costs that will result from the dissolution of OMMISS, including the costs of any severance payments and any compensatory time earned during the course of the project, broken down by employee; and any identified sources of funding to pay for these personnel costs.

c. A plan for transitioning out of the space currently leased by the State for OMMISS, costs associated with this transition, and any savings that will result from the transition.

(3) By no later than October 1, 2013, a preliminary report on the Department's plan for achieving system certification, which shall include at least all of the following:

a. A description of the process.

b. A detailed time line.

c. Any issues that could impact the timing of system certification and plans to mitigate identified issues.

d. Any costs associated with system certification.

e. Any identified funding sources to pay for costs associated with system certification.

SECTION 12A.4.(h) The Department shall complete the Reporting and Analytics Project solution simultaneously with the implementation of the replacement MMIS.

SECTION 12A.4.(i) Notwithstanding any other provision of law and to the extent permitted by federal law, the Department shall not approve any overtime or compensatory time related to the replacement MMIS after the replacement MMIS "go-live" date of July 1, 2013, without the prior written approval of the Office of State Personnel for each specific instance of overtime or compensatory time.

SECTION 12A.4.(j) Beginning when the replacement MMIS is fully implemented, the Department shall require all Medicaid claim adjudication to be performed by the replacement MMIS, including all Medicaid claim adjudication performed by entities under contract with the Department. The Department may charge entities under contract with the Department a fee not to exceed the amount necessary to cover the full operating cost of Medicaid claim adjudication performed by the replacement MMIS.

FRAUD DETECTION THROUGH NORTH CAROLINA ACCOUNTABILITY AND COMPLIANCE TECHNOLOGY SYSTEM

SECTION 12A.5. The Department of Health and Human Services shall integrate with and leverage the State's enterprise-level fraud detection system operated by the North

Carolina Financial Accountability and Compliance Technology System (NC FACTS) in an effort to detect and prevent potential fraud, waste, and improper payments. Integration shall involve the following information technology systems:

(1) Medicaid Management Information System (MMIS).
(2) North Carolina Child Treatment Program (NC CTP) State-funded secure database.
(3) North Carolina Families Accessing Services through Technology (NC FAST).

FUNDING FOR NORTH CAROLINA FAMILIES ACCESSING SERVICES THROUGH TECHNOLOGY (NC FAST); REPORT ON ELIGIBILITY DETERMINATIONS FOR THE EXCHANGE

SECTION 12A.6.(a) Funds appropriated in this act in the amount of eight hundred sixty-four thousand six hundred fifty-five dollars ($864,655) for State fiscal year 2014-2015 along with the cash balance in Budget Code 24410 Fund 2411 for the North Carolina Families Accessing Services through Technology (NC FAST) project shall be used to match federal funds in fiscal years 2013-2014 and 2014-2015 to expedite the development and implementation of the Eligibility Information System (EIS), Child Care, Low Income Energy Assistance, and Crisis Intervention Programs, and Child Service components of the NC FAST project.

SECTION 12A.6.(b) The Department of Health and Human Services shall report on NC FAST's performance in providing eligibility determinations for Medicaid applicants on the federally facilitated Health Benefit Exchange, a required function of NC FAST directed by Section 2 of S.L. 2013-5. The report shall contain a description of the following:

(1) Funding sources, funding amounts, and expenditures for the project beginning in fiscal year 2012-2013 through the time of the report.
(2) Any challenges with the eligibility determination project and how NC FAST solved those challenges.
(3) The number of eligibility determinations performed for applicants on the federally facilitated Health Benefit Exchange, including an analysis of on what days and for how many persons eligibility determinations were performed as well as how many applicants were determined to be eligible.

The Department shall submit a report to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Oversight Committee on Health and Human Services, and the Joint Legislative Oversight Committee on Information Technology three months after open enrollment begins for the federally facilitated Health Benefit Exchange.

LIABILITY INSURANCE

SECTION 12A.7. Article 31 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"**§ 58-31-26. Medical liability insurance for certain physicians and dentists.**

(a) The Secretary of the Department of Health and Human Services and the Secretary of the Department of Public Safety may provide medical liability insurance not to exceed one million dollars ($1,000,000) per incident on behalf of employees of these Departments who are licensed to practice medicine or dentistry; on behalf of all licensed physicians who are faculty members of The University of North Carolina who perform work on a contractual basis for the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for incidents that occur in Division programs; and on behalf of physicians in all residency training programs from The University of North Carolina who are in training at institutions operated by the Department of Health and Human Services. This coverage may include commercial insurance or self-insurance and shall cover these individuals for their acts or omissions only

while they are engaged in providing medical and dental services pursuant to their State employment or training.

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

(c) The coverage provided pursuant to this section shall not require any additional appropriations and, except as provided in subsection (a) of this section, shall not apply to any individual providing contractual service to the Department of Health and Human Services or the Department of Public Safety."

ELIMINATE UNNECESSARY AND REDUNDANT REPORTS

SECTION 12A.8.(a) Eliminate Outcomes Evaluation Study on the Effectiveness of Substance Abuse Services Provided to Person Convicted of DWI. – G.S. 122C-142.1(j) is repealed.

SECTION 12A.8.(b) Eliminate Evaluation of Efficiency and Effectiveness of Family Resource Center Grant Program. – G.S. 143B-152.15(b) is repealed.

SECTION 12A.8.(c) Eliminate Annual Report on Progress of MH/DD/SAS State Plan. – G.S. 122C-102(c) is repealed.

SECTION 12A.8.(d) Eliminate Annual Report on North Carolina State Plan on Healthcare Associated Infections. – G.S. 130A-150(e) is repealed.

SECTION 12A.8.(e) Eliminate Annual Report on The Health Insurance Program for Children. – G.S. 108A-70.27(b) is repealed.

SECTION 12A.8.(f) Eliminate Annual Report by State Child Fatality Review Team. – G.S. 143B-150.20(h) is repealed.

SECTION 12A.8.(g) Forgiveness of Late Reports. – Notwithstanding any other provision of law, unless otherwise required in this act, the Department of Health and Human Services is not required to submit any report due on or before January 6, 2013, to the General Assembly; to any committee, commission, subcommittee, task force, or division of the General Assembly; or to any other department, unit, or subdivision of State government, if the Department has not already submitted the report prior to July 1, 2013. This subsection shall not be construed to eliminate any reports due from the Department after January 6, 2013, except as otherwise provided by law.

CANCER COORDINATION REPORTING

SECTION 12A.9. G.S. 130A-33.51(b) reads as rewritten:

"(b) The Committee shall submit a written report not later than May 1, 1994, and not later than October 1 of each subsequent year, to ~~the Governor and to the Joint Legislative Commission on Governmental Operations.~~ the Secretary. The report shall address the progress in implementation of a cancer control program. The report shall include an accounting of funds expended and anticipated funding needs for full implementation of recommended programs."

MEETINGS OF CANCER COORDINATION COMMITTEE

SECTION 12A.10. G.S. 130A-33.50(b) reads as rewritten:

"(b) The Committee shall have up to 34 members, including the Secretary of the Department or the Secretary's designee. The members of the Committee shall elect a chair and vice-chair from among the Committee membership. The Committee shall meet not more than twice a year at the call of the chair. Six of the members shall be legislators, three of whom shall be appointed by the Speaker of the House of Representatives, and three of whom shall be appointed by the President Pro Tempore of the Senate. Four of the members shall be cancer

survivors, two of whom shall be appointed by the Speaker of the House of Representatives, and two of whom shall be appointed by the President Pro Tempore of the Senate. The remainder of the members shall be appointed by the Governor as follows:

(1) One member from the Department of Environment and Natural Resources;
(2) Three members, one from each of the following: the Department, the Department of Public Instruction, and the North Carolina Community College System;
(3) Four members representing the cancer control programs at North Carolina medical schools, one from each of the following: the University of North Carolina at Chapel Hill School of Medicine, the Bowman Gray School of Medicine, the Duke University School of Medicine, and the East Carolina University School of Medicine;
(4) One member who is an oncology nurse representing the North Carolina Nurses Association;
(5) One member representing the Cancer Committee of the North Carolina Medical Society;
(6) One member representing the Old North State Medical Society;
(7) One member representing the American Cancer Society, North Carolina Division, Inc.;
(8) One member representing the North Carolina Hospital Association;
(9) One member representing the North Carolina Association of Local Health Directors;
(10) One member who is a primary care physician licensed to practice medicine in North Carolina;
(11) One member representing the American College of Surgeons;
(12) One member representing the North Carolina Oncology Society;
(13) One member representing the Association of North Carolina Cancer Registrars;
(14) One member representing the Medical Directors of the North Carolina Association of Health Plans; and
(15) Up to four additional members at large.

Except for the Secretary, the members shall be appointed for staggered four-year terms and until their successors are appointed and qualify. The Governor may remove any member of the Committee from office in accordance with the provisions of G.S. 143B-13. Members may succeed themselves for one term and may be appointed again after being off the Committee for one term."

LAPSED SALARY FUNDS REPORT

SECTION 12A.11. Section 10.20 of S.L. 2012-142 is repealed.

PRISON REPORT

SECTION 12A.12. G.S. 148-19(d) reads as rewritten:

"(d) The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services shall adopt standards for the delivery of mental health and mental retardation services to inmates in the custody of the Division of Adult Correction of the Department of Public Safety. The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services shall give the Secretary of Public Safety an opportunity to review and comment on proposed standards prior to promulgation of such standards; however, final authority to determine such standards remains with the Commission. The Secretary of the Department of Health and Human Services shall designate an agency or agencies within the Department of Health and Human Services to monitor the implementation by the Division of Adult Correction

of the Department of Public Safety of these standards and of substance abuse standards adopted by the Division of Adult Correction of the Department of Public Safety. ~~The Secretary of Health and Human Services shall send a written report on the progress which the Division of Adult Correction of the Department of Public Safety has made on the implementation of such standards to the Governor, the Lieutenant Governor, and the Speaker of the House. Such reports shall be made on an annual basis beginning January 1, 1978.~~"

MODIFICATIONS TO JUSTUS-WARREN TASK FORCE

SECTION 12A.13. G.S. 143B-216.60 reads as rewritten:

"**§ 143B-216.60. The Justus-Warren Heart Disease and Stroke Prevention Task Force.**

...

(e) The Task Force shall meet ~~at least quarterly or more frequently~~ not more than twice annually at the call of the Chair.

~~(f) The Task Force Chair may establish committees for the purpose of making special studies pursuant to its duties, and may appoint non-Task Force members to serve on each committee as resource persons. Resource persons shall be voting members of the committees and shall receive subsistence and travel expenses in accordance with G.S. 138-5 and G.S. 138-6. Committees may meet with the frequency needed to accomplish the purposes of this section.~~

...."

MODIFICATIONS TO COMMISSION FOR THE BLIND

SECTION 12A.14.(a) Eliminate Professional Advisory Committee. – Part 8 of Article 3 of Chapter 143B of the General Statutes is repealed.

SECTION 12A.14.(b) G.S. 143B-158 reads as rewritten:

"**§ 143B-158. Commission for the Blind.**

(a) The Commission for the Blind of the Department of Health and Human Services shall consist of ~~13~~19 members as follows:

(1) One representative of the Statewide Independent Living Council.

(2) One representative of a parent training and information center established pursuant to section 631(c) of the Individuals with Disabilities Education Act, 20 U.S.C. § 1431(c).

(3) One representative of the State's Client Assistance Program.

(4) One vocational rehabilitation counselor who has knowledge of and experience in vocational rehabilitation services for the blind. A vocational rehabilitation counselor appointed pursuant to this subdivision shall serve as a nonvoting member of the Commission if the counselor is an employee of the Department of Health and Human Services.

(5) One representative of community rehabilitation program services providers.

(6) One current or former applicant for, or recipient of, vocational rehabilitation services.

(7) One representative of a disability advocacy group representing individuals who are blind.

(8) One parent, family member, guardian, advocate, or authorized representative of an individual who is blind, has multiple disabilities, and either has difficulty representing himself or herself or who is unable, due to disabilities, to represent himself or herself.

(9) One representative of business, industry, and labor.

(10) One representative of the directors of projects carried out under section 121 of the Rehabilitation Act of 1973, 29 U.S.C. § 741, as amended, if there are any of these projects in the State.

(11) One representative of the Department of Public Instruction.
(12) One representative of the Commission on Workforce Development.
(12a) Two licensed physicians nominated by the North Carolina Medical Society whose practice is limited to ophthalmology.
(12b) Two optometrists nominated by the North Carolina State Optometric Society.
(12c) Two opticians nominated by the North Carolina Opticians Association.
(13) The Director of the Division of Services for the Blind shall serve as an ex officio, nonvoting member.

(b) The members of the Commission for the Blind shall be appointed by the Governor. The Governor shall appoint members after soliciting recommendations from representatives of organizations representing a broad range of individuals who have disabilities and organizations interested in those individuals. In making appointments to the Commission, the Governor shall consider, to the greatest extent practicable, the extent to which minority populations are represented on the Commission.

(c) ~~A~~ Except for individuals appointed to the Commission under subdivisions (12a), (12b), and (12c) of subsection (a) of this section, a majority of Commission members shall be persons who are blind, as defined in ~~G.S. 111-11. A majority of Commission members shall be persons who are~~ G.S. 111-11 and who are not employed by the Division of Services for the Blind.

(d) The Commission for the Blind shall select a Chairperson from among its members.

(e) The term of office of members of the Commission is three years. The term of members appointed under subdivisions (1), (2), (3), ~~and (4)~~ (4), and (12a) of subsection (a) of this section shall expire on June 30 of years evenly divisible by three. The term of members appointed under subdivisions (5), (6), (7), ~~and (8)~~ (8), and (12b) of subsection (a) of this section shall expire on June 30 of years that follow by one year those years that are evenly divisible by three. The term of members appointed under subdivisions (9), (10), (11), ~~and (12)~~ (12), and (12c) of subsection (a) of this section shall expire on June 30 of years that precede by one year those years that are evenly divisible by three.

(f) No individual may be appointed to more than two consecutive three-year terms. Upon the expiration of a term, a member shall continue to serve until a successor is appointed, as provided by G.S. 128-7. An appointment to fill a vacancy shall be for the unexpired balance of the term.

(g) A member of the Commission shall not vote on any issue before the Commission that would have a significant and predictable effect on the member's financial interest. The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of G.S. 143B-13 of the Executive Organization Act of 1973.

(h) The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

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

(j) All clerical and other services required by the Commission shall be supplied by the Secretary of Health and Human Services."

SUBPART XII-B. DIVISION OF CHILD DEVELOPMENT AND EARLY EDUCATION

NC PRE-K

SECTION 12B.1.(a) Eligibility. – The Department of Health and Human Services, Division of Child Development and Early Education, shall continue implementing the prekindergarten program (NC Pre-K). The NC Pre-K program shall serve children who are four

years of age on or before August 31 of the program year. In determining eligibility, the Division shall establish income eligibility requirements for the program not to exceed seventy-five percent (75%) of the State median income. Up to twenty percent (20%) of children enrolled may have family incomes in excess of seventy-five percent (75%) of median income if those children have other designated risk factors. Furthermore, any age-eligible child who is a child of either of the following shall be eligible for the program: (i) an active duty member of the Armed Forces of the United States, including the North Carolina National Guard, State military forces, or a reserve component of the Armed Forces who was ordered to active duty by the proper authority within the last 18 months or is expected to be ordered within the next 18 months or (ii) a member of the Armed Forces of the United States, including the North Carolina National Guard, State military forces, or a reserve component of the Armed Forces who was injured or killed while serving on active duty. Eligibility determinations for prekindergarten participants may continue through local education agencies and local North Carolina Partnership for Children, Inc., partnerships.

Other than developmental disabilities or other chronic health issues, the Division shall not consider the health of a child as a factor in determining eligibility for participation in the NC Pre-K program.

SECTION 12B.1.(b) Multiyear Contracts. – The Division of Child Development and Early Education shall require the NC Pre-K contractor to issue multiyear contracts for licensed private child care centers providing NC Pre-K classrooms.

SECTION 12B.1.(c) Programmatic Standards. – All entities operating prekindergarten classrooms shall adhere to all of the policies prescribed by the Division of Child Development and Early Education regarding programmatic standards and classroom requirements.

SECTION 12B.1.(d) NC Pre-K Committees. – The Division of Child Development and Early Education shall establish a standard decision-making process to be used by local NC Pre-K committees in awarding prekindergarten classroom slots and student selection.

SECTION 12B.1.(e) SEEK. – All prekindergarten classrooms shall be required to participate in the Subsidized Early Education for Kids (SEEK) accounting system to streamline the payment function for these classrooms with a goal of eliminating duplicative systems and streamlining the accounting and payment processes among the subsidy reimbursement systems. Prekindergarten funds transferred may be used to add these programs to SEEK.

SECTION 12B.1.(f) Pilot Program. – The Division of Child Development and Early Education shall create a pilot program that provides funding for NC Pre-K classrooms on a per classroom basis. The pilot program shall include three different NC Pre-K contractual regions that are geographically diverse. The local NC Pre-K administrator shall contract with the provider for operation of a classroom established pursuant to the pilot program. The Division shall provide a report on the status of the pilot program to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division no later than January 31, 2014. The report shall include the following:

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

SECTION 12B.1.(g) Reporting. – The Division of Child Development and Early Education shall submit an annual report no later than March 15 of each year to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Oversight Committee on Health and Human Services, the Office of State Budget and Management, and the Fiscal Research Division. The report shall include the following:

(1) The number of children participating in the NC Pre-K program by county.

(2) The number of children participating in the NC Pre-K program who have never been served in other early education programs such as child care, public or private preschool, Head Start, Early Head Start, or early intervention programs.

(3) The expected NC Pre-K expenditures for the programs and the source of the local contributions.

(4) The results of an annual evaluation of the NC Pre-K program.

COUNTY DEPARTMENTS OF SOCIAL SERVICES TO ADMINISTER CHILD CARE SUBSIDY

SECTION 12B.2.(a) It is the intent of the General Assembly to streamline services at the local level. To that end, only a county department of social services shall administer child care subsidy funds. Any child care subsidy funds previously administered by a local North Carolina Partnership for Children, Inc., partnership shall be administered by the county department of social services. Expenditures for child care subsidy, including North Carolina Partnership for Children, Inc., child care subsidy funds, for fiscal years 2013-2014 and 2014-2015 shall not be less than the expenditures for child care subsidy for the 2012-2013 fiscal year. Any administrative savings the Department of Health and Human Services, Division of Child Development and Early Education, can identify based on the administration of child care subsidy by county departments of social services shall be allocated to child care subsidy.

SECTION 12B.2.(b) The Department of Health and Human Services, Division of Child Development and Early Education, shall report on the implementation of the requirements of subsection (a) of this section to the Joint Legislative Committee on Health and Human Services and the Fiscal Research Division no later than April 1, 2014.

CHILD CARE SUBSIDY RATES

SECTION 12B.3.(a) The maximum gross annual income for initial eligibility, adjusted biennially, for subsidized child care services shall be seventy-five percent (75%) of the State median income, adjusted for family size.

SECTION 12B.3.(b) Fees for families who are required to share in the cost of care shall be established based on a percent of gross family income and adjusted for family size. Fees shall be determined as follows:

FAMILY SIZE	PERCENT OF GROSS FAMILY INCOME
1-3	10%
4-5	9%
6 or more	8%

SECTION 12B.3.(c) Payments for the purchase of child care services for low-income children shall be in accordance with the following requirements:

(1) Religious-sponsored child care facilities operating pursuant to G.S. 110-106 and licensed child care centers and homes that meet the minimum licensing standards that are participating in the subsidized child care program shall be paid the one-star county market rate or the rate they charge privately paying

parents, whichever is lower, unless prohibited by subsection (f) of this section.

(2) Licensed child care centers and homes with two or more stars shall receive the market rate for that rated license level for that age group or the rate they charge privately paying parents, whichever is lower, unless prohibited by subsection (f) of this section.

(3) Nonlicensed homes shall receive fifty percent (50%) of the county market rate or the rate they charge privately paying parents, whichever is lower.

(4) No payments shall be made for transportation services or registration fees charged by child care facilities.

(5) Payments for subsidized child care services for postsecondary education shall be limited to a maximum of 20 months of enrollment.

(6) The Department of Health and Human Services shall implement necessary rule changes to restructure services, including, but not limited to, targeting benefits to employment.

SECTION 12B.3.(d) Provisions of payment rates for child care providers in counties that do not have at least 50 children in each age group for center-based and home-based care are as follows:

(1) Except as applicable in subdivision (2) of this subsection, payment rates shall be set at the statewide or regional market rate for licensed child care centers and homes.

(2) If it can be demonstrated that the application of the statewide or regional market rate to a county with fewer than 50 children in each age group is lower than the county market rate and would inhibit the ability of the county to purchase child care for low-income children, then the county market rate may be applied.

SECTION 12B.3.(e) A market rate shall be calculated for child care centers and homes at each rated license level for each county and for each age group or age category of enrollees and shall be representative of fees charged to parents for each age group of enrollees within the county. The Division of Child Development and Early Education shall also calculate a statewide rate and regional market rate for each rated license level for each age category.

SECTION 12B.3.(f) The Division of Child Development and Early Education shall continue implementing policies that improve the quality of child care for subsidized children, including a policy in which child care subsidies are paid, to the extent possible, for child care in the higher quality centers and homes only. The Division shall define higher quality, and subsidy funds shall not be paid for one- or two-star rated facilities. For those counties with an inadequate number of four- and five-star rated facilities, the Division shall continue a transition period that allows the facilities to continue to receive subsidy funds while the facilities work on the increased star ratings. The Division may allow exemptions in counties where there is an inadequate number of four- and five-star rated facilities for nonstar rated programs, such as religious programs.

SECTION 12B.3.(g) Facilities licensed pursuant to Article 7 of Chapter 110 of the General Statutes and facilities operated pursuant to G.S. 110-106 may participate in the program that provides for the purchase of care in child care facilities for minor children of needy families. Except as authorized by subsection (f) of this section, no separate licensing requirements shall be used to select facilities to participate. In addition, child care facilities shall be required to meet any additional applicable requirements of federal law or regulations. Child care arrangements exempt from State regulation pursuant to Article 7 of Chapter 110 of the General Statutes shall meet the requirements established by other State law and by the Social Services Commission.

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

SECTION 12B.3.(h) Payment for subsidized child care services provided with Work First Block Grant funds shall comply with all regulations and policies issued by the Division of Child Development for the subsidized child care program.

SECTION 12B.3.(i) Noncitizen families who reside in this State legally shall be eligible for child care subsidies if all other conditions of eligibility are met. If all other conditions of eligibility are met, noncitizen families who reside in this State illegally shall be eligible for child care subsidies only if at least one of the following conditions is met:

(1) The child for whom a child care subsidy is sought is receiving child protective services or foster care services.

(2) The child for whom a child care subsidy is sought is developmentally delayed or at risk of being developmentally delayed.

(3) The child for whom a child care subsidy is sought is a citizen of the United States.

SECTION 12B.3.(j) Department of Health and Human Services, Division of Child Development and Early Education, shall require all county departments of social services to include on any forms used to determine eligibility for child care subsidy whether the family waiting for subsidy is receiving assistance through the NC Pre-K Program or Head Start.

CHILD CARE ALLOCATION FORMULA

SECTION 12B.4.(a) The Department of Health and Human Services shall allocate child care subsidy voucher funds to pay the costs of necessary child care for minor children of needy families. The mandatory thirty percent (30%) North Carolina Partnership for Children, Inc., subsidy allocation under G.S. 143B-168.15(g) shall constitute the base amount for each county's child care subsidy allocation. The Department of Health and Human Services shall use the following method when allocating federal and State child care funds, not including the aggregate mandatory thirty percent (30%) North Carolina Partnership for Children, Inc., subsidy allocation:

(1) Funds shall be allocated to a county based upon the projected cost of serving children under age 11 in families with all parents working who earn less than seventy-five percent (75%) of the State median income.

(2) No county's allocation shall be less than ninety percent (90%) of its State fiscal year 2001-2002 initial child care subsidy allocation.

(3) For fiscal years 2013-2014 and 2014-2015, the Division of Child Development and Early Education shall base the formula identified in subdivision (1) of this subsection on the same data source used for the 2012-2013 fiscal year.

(4) The Department of Health and Human Services shall allocate to counties all State funds appropriated for child care subsidy and shall not withhold funds during the 2013-2014 and 2014-2015 fiscal years.

SECTION 12B.4.(b) The Department of Health and Human Services may reallocate unused child care subsidy voucher funds in order to meet the child care needs of low-income families. Any reallocation of funds shall be based upon the expenditures of all child care subsidy voucher funding, including North Carolina Partnership for Children, Inc., funds within a county.

CHILD CARE FUNDS MATCHING REQUIREMENTS

SECTION 12B.5. No local matching funds may be required by the Department of Health and Human Services as a condition of any locality's receiving its initial allocation of

child care funds appropriated by this act unless federal law requires a match. If the Department reallocates additional funds above twenty-five thousand dollars ($25,000) to local purchasing agencies beyond their initial allocation, local purchasing agencies must provide a twenty percent (20%) local match to receive the reallocated funds. Matching requirements shall not apply when funds are allocated because of a disaster as defined in G.S. 166A-19.3(6).

CHILD CARE REVOLVING LOAN

SECTION 12B.6. Notwithstanding any law to the contrary, funds budgeted for the Child Care Revolving Loan Fund may be transferred to and invested by the financial institution contracted to operate the Fund. The principal and any income to the Fund may be used to make loans, reduce loan interest to borrowers, serve as collateral for borrowers, pay the contractor's cost of operating the Fund, or pay the Department's cost of administering the program.

ADMINISTRATIVE ALLOWANCE FOR COUNTY DEPARTMENTS OF SOCIAL SERVICES/USE OF SUBSIDY FUNDS FOR FRAUD DETECTION

SECTION 12B.7.(a) The Department of Health and Human Services, Division of Child Development and Early Education, shall fund the allowance that county departments of social services may use for administrative costs at four percent (4%) of the county's total child care subsidy funds allocated in the Child Care Development Fund Block Grant plan or eighty thousand dollars ($80,000), whichever is greater.

SECTION 12B.7.(b) Each county department of social services may use up to two percent (2%) of child care subsidy funds allocated to the county for fraud detection and investigation initiatives.

STUDY USE OF UNIQUE STUDENT IDENTIFIER/CHILD CARE SUBSIDY

SECTION 12B.8.(a) In coordination with the Department of Public Instruction (DPI), the Department of Health and Human Services, Division of Child Development and Early Education (DCDEE), shall study assigning a unique student identifier to monitor, throughout their education, the performance levels of children receiving child care subsidies. The study shall be designed to provide data on the efficacy of child care facilities participating in the child care subsidy program or the North Carolina Partnership for Children, Inc. The study shall define the requirements for the following:

(1) Establishing the unique identifier.
(2) Collecting, maintaining, and analyzing data.
(3) Recommending a solution that will allow for the cost-effective acquisition and maintenance of data from child care facilities.
(4) Recommending an interface with DPI applications that monitors and analyzes student performance.
(5) Estimating the cost for developing an interface and implementing the requirements identified in the study.

SECTION 12B.8.(b) DCDEE shall report the results of the study to the Joint Legislative Committee on Health and Human Services, the Joint Legislative Education Oversight Committee, the Joint Legislative Oversight Committee on Information Technology, and the Fiscal Research Division no later than April 1, 2014.

EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES ENHANCEMENTS/SALARY SCHEDULE/MATCH REQUIREMENT ADJUSTMENTS

SECTION 12B.9.(a) Policies. – The North Carolina Partnership for Children, Inc., and its Board shall establish policies that focus the North Carolina Partnership for Children, Inc.'s mission on improving child care quality in North Carolina for children from birth to five

years of age. North Carolina Partnership for Children, Inc.-funded activities shall include assisting child care facilities with (i) improving quality, including helping one-, two-, and three-star rated facilities increase their star ratings and (ii) implementing prekindergarten programs. State funding for local partnerships shall also be used for evidence-based or evidence-informed programs for children from birth to five years of age that do the following:

(1) Increase children's literacy.
(2) Increase the parents' ability to raise healthy, successful children.
(3) Improve children's health.
(4) Assist four- and five-star rated facilities in improving and maintaining quality.

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

SECTION 12B.9.(c) Salaries. – The salary schedule developed and implemented by the North Carolina Partnership for Children, Inc., shall set the maximum amount of State funds that may be used for the salary of the Executive Director of the North Carolina Partnership for Children, Inc., and the directors of the local partnerships. The North Carolina Partnership for Children, Inc., shall base the schedule on the following criteria:

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

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

SECTION 12B.9.(d) Match Requirements. – It is the intent of the General Assembly to continue to increase the percentage of the match of cash and in-kind contributions required of the North Carolina Partnership for Children, Inc., and the local partnerships. The North Carolina Partnership for Children, Inc., and all local partnerships shall, in the aggregate, be required to match one hundred percent (100%) of the total amount budgeted for the program in each fiscal year of the biennium. Of the funds the North Carolina Partnership for Children, Inc., and the local partnerships are required to match, contributions of cash shall be equal to at least eleven percent (11%), and in-kind donated resources shall be equal to no more than three percent (3%) for a total match requirement of fourteen percent (14%) for the 2013-2014 fiscal year; and contributions of cash shall be equal to at least eleven percent (11%), and in-kind donated resources shall be equal to no more than four percent (4%) for a total match requirement of fifteen percent (15%) for the 2014-2015 fiscal year. The North Carolina Partnership for Children, Inc., may carry forward any amount in excess of the required match for a fiscal year in order to meet the match requirement of the succeeding fiscal year. Only

in-kind contributions that are quantifiable shall be applied to the in-kind match requirement. Volunteer services may be treated as an in-kind contribution for the purpose of the match requirement of this subsection. Volunteer services that qualify as professional services shall be valued at the fair market value of those services. All other volunteer service hours shall be valued at the statewide average wage rate as calculated from data compiled by the Employment Security Commission in the Employment and Wages in North Carolina Annual Report for the most recent period for which data are available. Expenses, including both those paid by cash and in-kind contributions, incurred by other participating non-State entities contracting with the North Carolina Partnership for Children, Inc., or the local partnerships, also may be considered resources available to meet the required private match. In order to qualify to meet the required private match, the expenses shall:

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

Failure to obtain a fourteen percent (14%) match by June 30 of the 2013-2014 fiscal year and a fifteen percent (15%) match by June 30 of the 2014-2015 fiscal year shall result in a dollar-for-dollar reduction in the appropriation for the Program for a subsequent fiscal year. The North Carolina Partnership for Children, Inc., shall be responsible for compiling information on the private cash and in-kind contributions into a report that is submitted to the Joint Legislative Commission on Governmental Operations in a format that allows verification by the Department of Revenue. The same match requirements shall apply to any expansion funds appropriated by the General Assembly.

SECTION 12B.9.(e) Bidding. – The North Carolina Partnership for Children, Inc., and all local partnerships shall use competitive bidding practices in contracting for goods and services on contract amounts as follows:

(1) For amounts of five thousand dollars ($5,000) or less, the procedures specified by a written policy to be developed by the Board of Directors of the North Carolina Partnership for Children, Inc.
(2) For amounts greater than five thousand dollars ($5,000), but less than fifteen thousand dollars ($15,000), three written quotes.
(3) For amounts of fifteen thousand dollars ($15,000) or more, but less than forty thousand dollars ($40,000), a request for proposal process.
(4) For amounts of forty thousand dollars ($40,000) or more, a request for proposal process and advertising in a major newspaper.

SECTION 12B.9.(f) Allocations. – The North Carolina Partnership for Children, Inc., shall not reduce the allocation for counties with less than 35,000 in population below the 2012-2013 funding level.

SECTION 12B.9.(g) Performance-Based Evaluation. – The Department of Health and Human Services shall continue to implement the performance-based evaluation system.

SECTION 12B.9.(h) Expenditure Restrictions. – The Department of Health and Human Services and the North Carolina Partnership for Children, Inc., shall ensure that the allocation of funds for Early Childhood Education and Development Initiatives for State fiscal years 2013-2014 and 2014-2015 shall be administered and distributed in the following manner:

(1) Capital expenditures are prohibited for fiscal years 2013-2014 and 2014-2015. For the purposes of this section, "capital expenditures" means expenditures for capital improvements as defined in G.S. 143C-1-1(d)(5).

(2) Expenditures of State funds for advertising and promotional activities are prohibited for fiscal years 2013-2014 and 2014-2015.

For fiscal years 2013-2014 and 2014-2015, local partnerships shall not spend any State funds on marketing campaigns, advertising, or any associated materials. Local partnerships may spend any private funds the local partnerships receive on those activities.

SUBPART XII-C. DIVISION OF SOCIAL SERVICES

REVISE DATES/TANF BENEFIT IMPLEMENTATION

SECTION 12C.1.(a) The General Assembly approves the plan titled "North Carolina Temporary Assistance for Needy Families State Plan 2012-2015," prepared by the Department of Health and Human Services and presented to the General Assembly. The North Carolina Temporary Assistance for Needy Families State Plan covers the period October 1, 2012, through September 30, 2015. The Department shall submit the State Plan, as revised in accordance with subsection (b) of this section and as amended by this act or any other act of the 2013 General Assembly, to the United States Department of Health and Human Services.

SECTION 12C.1.(b) The counties approved as Electing Counties in the North Carolina Temporary Assistance for Needy Families State Plan 2012-2015, as approved by this section are Beaufort, Caldwell, Catawba, Lenoir, Lincoln, Macon, and Wilson.

SECTION 12C.1.(c) Counties that submitted the letter of intent to remain as an Electing County or to be redesignated as an Electing County and the accompanying county plan for years 2012 through 2015 pursuant to G.S. 108A-27(e) shall operate under the Electing County budget requirements effective July 1, 2012. For programmatic purposes, all counties referred to in this subsection shall remain under their current county designation through September 30, 2015.

SECTION 12C.1.(d) For the 2013-2014 fiscal year, Electing Counties shall be held harmless to their Work First Family Assistance allocations for the 2012-2013 fiscal year, provided that remaining funds allocated for Work First Family Assistance and Work First Diversion Assistance are sufficient for payments made by the Department on behalf of Standard Counties pursuant to G.S. 108A-27.11(b).

SECTION 12C.1.(e) In the event that departmental projections of Work First Family Assistance and Work First Diversion Assistance for the 2013-2014 fiscal year indicate that remaining funds are insufficient for Work First Family Assistance and Work First Diversion Assistance payments to be made on behalf of Standard Counties, the Department is authorized to deallocate funds, of those allocated to Electing Counties for Work First Family Assistance in excess of the sums set forth in G.S. 108A-27.11, up to the requisite amount for payments in Standard Counties. Prior to deallocation, the Department shall obtain approval by the Office of State Budget and Management. If the Department adjusts the allocation set forth in subsection (d) of this section, then a report shall be made to the Joint Legislative Commission on Governmental Operations, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

INTENSIVE FAMILY PRESERVATION SERVICES FUNDING AND PERFORMANCE ENHANCEMENTS

SECTION 12C.2.(a) Notwithstanding the provisions of G.S. 143B-150.6, the Intensive Family Preservation Services (IFPS) Program shall provide intensive services to children and families in cases of abuse, neglect, and dependency where a child is at imminent risk of removal from the home and to children and families in cases of abuse where a child is not at imminent risk of removal. The Program shall be developed and implemented statewide on a regional basis. The IFPS shall ensure the application of standardized assessment criteria for determining imminent risk and clear criteria for determining out-of-home placement.

SECTION 12C.2.(b) The Department of Health and Human Services shall require that any program or entity that receives State, federal, or other funding for the purpose of IFPS shall provide information and data that allows for the following:

(1) An established follow-up system with a minimum of six months of follow-up services.

(2) Detailed information on the specific interventions applied, including utilization indicators and performance measurement.

(3) Cost-benefit data.

(4) Data on long-term benefits associated with IFPS. This data shall be obtained by tracking families through the intervention process.

(5) The number of families remaining intact and the associated interventions while in IFPS and 12 months thereafter.

(6) The number and percentage, by race, of children who received IFPS compared to the ratio of their distribution in the general population involved with Child Protective Services.

SECTION 12C.2.(c) The Department shall establish a performance-based funding protocol and shall only provide funding to those programs and entities providing the required information specified in subsection (b) of this section. The amount of funding shall be based on the individual performance of each program.

CHILD CARING INSTITUTIONS

SECTION 12C.3. Until the Social Services Commission adopts rules setting standardized rates for child caring institutions as authorized under G.S. 143B-153(8), the maximum reimbursement for child caring institutions shall not exceed the rate established for the specific child caring institution by the Department of Health and Human Services, Office of the Controller. In determining the maximum reimbursement, the State shall include county and IV-E reimbursements.

USE OF FOSTER CARE BUDGET FOR GUARDIANSHIP ASSISTANCE PROGRAM

SECTION 12C.4. Of the funds available for the provision of foster care services, the Department of Health and Human Services, Division of Social Services, may provide for the financial support of children who are deemed to be (i) in a permanent family placement setting, (ii) eligible for legal guardianship, and (iii) otherwise unlikely to receive permanency. The Division of Social Services shall design the Guardianship Assistance Program (GAP) in such a manner that no additional expenses are incurred beyond the funds budgeted for foster care. The Guardianship Assistance Program rates shall reimburse the legal guardian for room and board and be set at the same rate as the foster care room and board rates in accordance with rates established under G.S. 108A-49.1. The Social Services Board shall adopt rules establishing a Guardianship Assistance Program to implement this section, including defining the phrase "legal guardian" as used in this section.

CHILD WELFARE POSTSECONDARY SUPPORT PROGRAM (NC REACH)

SECTION 12C.5.(a) Of the funds appropriated from the General Fund to the Department of Health and Human Services, the sum of five hundred forty-seven thousand two hundred forty-five dollars ($547,245) for the 2013-2014 fiscal year and six hundred ten thousand eight hundred seventeen dollars ($610,817) for the 2014-2015 fiscal year shall be used to expand support for the child welfare postsecondary support program for the educational needs of foster youth aging out of the foster care system and special needs children adopted from foster care after age 12 by providing assistance with the "cost of attendance" as that term is defined in 20 U.S.C. § 108711. These funds shall be allocated by the State Education Assistance Authority.

SECTION 12C.5.(b) Of the funds appropriated from the General Fund to the Department of Health and Human Services, the sum of fifty thousand dollars ($50,000) for the 2013-2014 fiscal year and the sum of fifty thousand dollars ($50,000) for the 2014-2015 fiscal year shall be allocated to the North Carolina State Education Assistance Authority (SEAA). The SEAA shall use these funds only to perform administrative functions necessary to manage and distribute scholarship funds under the child welfare postsecondary support program.

SECTION 12C.5.(c) Of the funds appropriated from the General Fund to the Department of Health and Human Services, the sum of three hundred thirty-nine thousand four hundred ninety-three dollars ($339,493) for the 2013-2014 fiscal year and the sum of three hundred thirty-nine thousand four hundred ninety-three dollars ($339,493) for the 2014-2015 fiscal year shall be used to contract with an entity to administer the child welfare postsecondary support program described under subsection (a) of this section, which administration shall include the performance of case management services.

SECTION 12C.5.(d) Funds appropriated to the Department of Health and Human Services for the child welfare postsecondary support program shall be used only for students attending public institutions of higher education in this State.

REQUIRE DRUG TESTING/WORK FIRST PROGRAM ASSISTANCE

SECTION 12C.6.(a) G.S. 108A-29.1 reads as rewritten:

"**§ 108A-29.1. ~~Substance abuse treatment required; drug~~ Drug testing required for Work First Program applicants and recipients.**

(a) ~~Each applicant or current recipient of Work First Program benefits, determined by a Qualified Professional in Substance Abuse (QPSA) or by a physician certified by the American Society of Addiction Medicine (ASAM) to be addicted to alcohol or drugs and to be in need of professional substance abuse treatment services shall be required, as part of the person's MRA and as a condition to receiving Work First Program benefits, to participate satisfactorily in an individualized plan of treatment in an appropriate treatment program. As a mandatory program component of participation in an addiction treatment program, each applicant or current recipient shall be required to submit to an approved, reliable, and professionally administered regimen of testing for presence of alcohol or drugs, without advance notice, during and after participation, in accordance with the addiction treatment program's individualized plan of treatment, follow-up, and continuing care services for the applicant or current recipient.~~ The Department shall require a drug test to screen each applicant for or recipient of Work First Program assistance. The cost of the drug testing is the responsibility of the individual tested. The Department shall provide notice of drug testing to each applicant or recipient. The notice shall advise the applicant or recipient that drug testing will be conducted as a condition of receiving Work First Program assistance, and that the results of the drug tests will remain confidential and will not be released to law enforcement. The applicant or recipient shall be advised that the required drug testing may be avoided if the applicant or recipient does not apply for Work First Program assistance. Dependent children under the age of 18 are exempt from the requirements of this section. The Department shall require the following:

(1) That for two-parent households, both parents comply with the drug testing requirement.

(2) That any teen parent who is emancipated pursuant to Article 35 of Chapter 7B of the General Statutes comply with the drug testing requirement.

(3) That each applicant or recipient be advised before testing that he or she may inform the agent administering the test of any prescription or over-the-counter medication he or she is taking.

(4) That each applicant or recipient being tested sign a written acknowledgement that he or she has received and understood the notice and advice provided under this subsection.

(5) That each applicant or recipient who fails a drug test understands that he or she has the right to take one or more additional tests.

(b) ~~An applicant or current recipient who fails to comply with any requirement imposed pursuant to this section shall not be eligible for benefits or shall be subject to the termination of benefits, but shall be considered to be receiving benefits for purposes of determining eligibility for medical assistance.~~For an applicant or current recipient who tests negative for controlled substances, the Department shall increase the amount of the initial Work First Program assistance by the amount paid by the applicant or recipient for the drug testing. An applicant or recipient who tests positive for controlled substances as a result of a drug test required under this section is ineligible to receive Work First Program assistance for one year from the date of the positive drug test, except as provided in subsection (b1) of this section. The individual may reapply after one year. However, if the individual has any subsequent positive drug tests, the individual shall be ineligible for benefits for three years from the date of the subsequent positive drug test unless the individual reapplies pursuant to subsection (b1) of this section.

(b1) An applicant or recipient deemed ineligible may reapply for Work First Program assistance if the individual can document the successful completion of a substance abuse treatment program offered by a provider under subsection (e) of this section and licensed by the Department. The applicant or recipient who reapplies for Work First Program assistance after completion of a substance abuse program shall pass a drug test. The cost of any drug testing and substance abuse program provided under this subsection shall be the responsibility of the applicant or recipient being tested and receiving treatment. An applicant or recipient who reapplies for Work First Program assistance pursuant to this subsection may reapply one time only.

(c) The children of any applicant or current recipient shall remain eligible for benefits, and these benefits shall be paid to a protective payee pursuant to G.S. 108A-38.

(d) ~~An applicant or current recipient shall not be regarded as failing to comply with the requirements of this section if an appropriate drug or alcohol treatment program is unavailable.~~The Social Services Commission shall adopt rules pertaining to the testing of applicants and recipients under this section.

(e) Area mental health authorities organized pursuant to Article 4 of Chapter 122C of the General Statutes shall be responsible for administering the provisions of this section.

~~(f) The requirements of this section may be waived or modified as necessary in the case of individual applicants or recipients to the degree necessary to comply with Medicaid eligibility provisions.~~"

SECTION 12C.6.(b) The Department of Health and Human Services, Division of Social Services, shall report to the Joint Legislative Committee on Health and Human Services and the Fiscal Research Division no later than April 1, 2014, on the implementation of this section.

SECTION 12C.6.(c) This section becomes effective November 1, 2013.

DSS STUDY/PROCEDURES FOR REPORTING CHILD ABUSE

SECTION 12C.7.(a) The Department of Health and Human Services, Division of Social Services, shall study the policies and procedures in place for reporting child abuse. In conducting the study, the Division shall review the following:

(1) Reports of child abuse in child care facilities.
(2) How reports of child abuse are received.
(3) The number of inaccurate reports of child abuse the Division receives annually.
(4) The number of children the Division has placed in child protective services pursuant to a report of child abuse.
(5) The reasons a child is placed in child protective services pursuant to a report of child abuse.
(6) The procedures the Division follows after determining child abuse has occurred as well as the procedures the Division follows after determining child abuse has not occurred.
(7) The number of reports the Division has determined to be false and a summary of actions taken in response to false reports.
(8) Procedures and actions the Division follows in removing or redacting reports or other information made available to the public regarding an individual accused of child abuse or a child care facility where the alleged abuse occurred when there is a determination that no abuse has occurred.
(9) Any recommendations the Division has for improving the process for reporting instances of child abuse.

SECTION 12C.7.(b) The Division of Social Services shall report the results of the study and any recommendations to the Joint Legislative Committee on Health and Human Services and the Fiscal Research Division no later than April 1, 2014.

CODIFY WORK FIRST FAMILY ASSISTANCE ELIGIBILITY AND PAYMENT LEVELS

SECTION 12C.8. Part 2 of Article 2 of Chapter 108A of the General Statutes is amended by adding a new section to read as follows:

"**§ 108A-27A. Income eligibility and payment level for Work First Family Assistance.**

The maximum net family annual income eligibility standards for Work First Family Assistance are the same standards of need for eligibility for the categorically needy under the Medicaid Program, as provided in the eligibility table found in G.S. 108-54.6(a). The payment level for Work First Family Assistance shall be fifty percent (50%) of the standard of need."

SUBPART XII-D. DIVISION OF AGING AND ADULT SERVICES

STATEWIDE IMPLEMENTATION OF PROJECT C.A.R.E.

SECTION 12D.1.(a) Funds appropriated in this act to the Department of Health and Human Services, Division of Aging & Adult Services, for the 2013-2015 fiscal biennium for the Caregiver Alternatives to Running On Empty project (Project C.A.R.E.) shall be used to support Alzheimer's-related activities consistent with the goals of Project C.A.R.E. in all 100 counties. By no later than December 31, 2013, the Department shall submit a report on the progress of statewide implementation of Project C.A.R.E. to the Joint Legislative Oversight Committee on Health and Human Services, the Fiscal Research Division, and the Governor's Advisory Council on Aging.

SECTION 12D.1.(b) Section 10.35B of S.L. 2010-31 is repealed.

TIERED STATE-COUNTY SPECIAL ASSISTANCE PILOT

SECTION 12D.2.(a) It is the intent of the General Assembly to create a State-County Special Assistance program that allows counties greater flexibility in serving individual needs within their communities and greater control over how county funds are used to support this program in light of the fact that counties are required to pay for fifty percent (50%) of the costs of this program. To that end, the General Assembly directs the Department of Health and Human Services to establish a pilot program in accordance with subsection (b) of this section.

SECTION 12D.2.(b) The Department of Health and Human Services, Division of Aging and Adult Services, shall establish a pilot program to implement a tiered rate structure within the State-County Special Assistance program for individuals residing in group homes, in-home living arrangements, and assisted living residences as defined in G.S. 131D-2.1. The purposes of the pilot program are to (i) determine the best way to implement a block grant for this program statewide and (ii) test the feasibility and effectiveness of implementing a tiered rate structure to address program participants' intensity of need, including medication management. The Department shall select a minimum of four and a maximum of six counties to participate in the pilot program, at least two of which shall be rural counties and at least two of which shall be urban counties. The pilot program shall be implemented during the 2013-2014 fiscal year for at least a 12-month period.

SECTION 12D.2.(c) The Department shall implement the pilot program in collaboration with the local departments of social services in the counties selected for participation. As part of the pilot program, the selected counties shall receive a State General Fund allocation as a block grant to be equally matched with county general funds. The General Fund allocation provided to each county participating in the pilot program shall be calculated based upon the average annual Special Assistance expenditures for that county during the 2011-2013 fiscal biennium, adjusted for the amount of projected annual growth in the number of Special Assistance recipients in that county during the 2013-2015 fiscal biennium. These funds may be used to pay for room, board, and personal care services, including medication management, for individuals eligible to receive State-County Special Assistance, subject to the following limitations and requirements:

(1) These funds shall not be used to cover any portion of the cost of providing services for which an individual receives Medicaid coverage.

(2) The pilot program shall comply with all federal and State requirements governing the existing State-County Special Assistance program.

(3) The tiered rate structure shall be based upon intensity of need, and an individual's placement within a tier shall be based upon an independent assessment of the individual's need for room, board, and assistance with activities of daily living, including medication management.

SECTION 12D.2.(d) By no later than February 1, 2014, the Department shall submit a progress report on the implementation and operation of the pilot program, including any obstacles to implementation; and by no later than February 1, 2015, the Department shall submit a final report on the results of the pilot program, along with any recommendations based on these results, to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division. The report due by February 1, 2015, shall include information from all participating counties on at least all of the following:

(1) The amount of the tiered rates implemented as part of the pilot program.

(2) The cost methodology for determining these tiered rates.

(3) The number of individuals participating in the pilot program while residing in a group home.

(4) The number of individuals participating in the pilot program while residing in an in-home living arrangement.

(5) The number of individuals participating in the pilot program while residing in an assisted living residence as defined by G.S. 131D-2.1, broken down by facility type.

(6) A comparison of the number of recipients of State-County Special Assistance prior to and during the pilot program, broken down by county and living arrangement.

(7) Any other information the Department deems relevant for determining the best way to implement a block grant statewide for the State-County Special Assistance program.

SECTION 12D.2(e). As used in this section, the term "group home" means any facility that (i) is licensed under Chapter 122C of the General Statutes, (ii) meets the definition of a supervised living facility under 10A NCAC 27G .5601, and (iii) serves adults whose primary diagnosis is mental illness or a developmental disability but may also have other diagnoses.

SUBPART XII-E. DIVISION OF PUBLIC HEALTH

INCREASE PERMIT FEES FOR CERTAIN FOOD AND LODGING ESTABLISHMENTS

SECTION 12E.1.(a) G.S. 130A-247 is amended by adding a new subdivision to read:

"(8) "Temporary food establishment" means an establishment not otherwise exempted from this part pursuant to G.S. 130A-250 that (i) prepares or serves food, (ii) operates for a period of time not to exceed 21 days in one location, and (iii) is affiliated with and endorsed by a transitory fair, carnival, circus, festival, or public exhibition."

SECTION 12E.1.(b) G.S. 130A-248(d) reads as rewritten:

"(d) The Department shall charge each establishment subject to this section, except nutrition programs for the elderly administered by the Division of Aging and Adult Services of the Department of Health and Human Services, establishments that prepare and sell meat food products or poultry products, temporary food establishments, limited food services establishments, and public school cafeterias, a fee of ~~seventy-five~~one hundred twenty dollars ~~($75.00)~~($120.00) for each permit issued. This fee shall be reassessed annually for permits that do not expire. The Commission shall adopt rules to implement this subsection. Fees collected under this subsection shall be used for State and local food, lodging, and institution sanitation programs and activities. No more than ~~thirty-three and one-third percent (33 1/3%) of the fees~~fifty dollars ($50.00) of each fee collected under this subsection may be used to support State health programs and activities."

SECTION 12E.1.(c) G.S. 130A-248(d1) reads as rewritten:

"(d1) The Department shall charge a twenty-five dollar ($25.00) late payment fee to any establishment subject to this section, except nutrition programs for the elderly administered by the Division of Aging of the Department of Health and Human Services, establishments that prepare and sell meat food products or poultry products, temporary food establishments, limited food services establishments, and public school cafeterias, that fails to pay the fee required by subsection (d) of this section within 45 days after billing by the Department. The Department may, in accordance with G.S. 130A-23, suspend the permit of an establishment that fails to pay the required fee within 60 days after billing by the Department. The Department shall charge a reinstatement fee of one hundred fifty dollars ($150.00) to any establishment that requests reinstatement of its permit after the permit has been suspended. The Commission shall adopt rules to implement this subsection.

The clear proceeds of civil penalties collected pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

SECTION 12E.1.(d) G.S. 130A-248 is amended by adding a new subsection to read:

"(d2) A local health department shall charge each temporary food establishment and each limited food services establishment a fee of seventy-five dollars ($75.00) for each permit issued. A local health department shall use all fees collected under this subsection for local food, lodging, and institution sanitation programs and activities."

SECTION 12E.1.(e) Subsections (a) through (d) of this section become effective on July 1, 2013, and apply to food and lodging permits effective or reassessed on or after July 1, 2013.

SECTION 12E.1.(f) Section 31.11A of S.L. 2011-145, as amended by Section 61A of S.L. 2011-391 and Section 10.15 of S.L. 2012-142, is repealed.

MODIFICATIONS TO ORAL HEALTH STRATEGY

SECTION 12E.2.(a) It is the intent of the General Assembly to redirect the resources of the Oral Health Section within the Department of Health and Human Services, Division of Public Health, to provide direct clinical care in dental clinics operated or sponsored by local health departments.

SECTION 12E.2.(b) Effective October 1, 2013, the Secretary of Health and Human Services shall eliminate 39 full-time equivalent dental hygienist positions, two full-time equivalent dental equipment technician positions, and seven full-time equivalent administrative positions within the Oral Health Section of the Division of Public Health. The Secretary shall reallocate the funds that become available as a result of eliminating the 39 full-time equivalent dental hygienist positions and the two full-time equivalent dental equipment technician positions in the form of grants-in-aid to local health departments that operate or sponsor dental clinics. The local health departments shall use these grants-in-aid for the sole purpose of hiring dental hygienists or dental assistants to provide direct clinical care in the dental clinics operated or sponsored by the local health departments.

SECTION 12E.2.(c) By no later than February 1, 2014, the Department shall submit a revised statewide oral health strategic plan to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division. The plan shall include at least all of the following:

(1) Recommendations for reorganizing the Department's Oral Health Section.
(2) Strategies for reducing oral diseases through prevention, education, and health promotion services.
(3) Strategies for monitoring public oral health.
(4) Strategies for increasing access to dental care.

FUNDS FOR SCHOOL NURSES

SECTION 12E.3.(a) All funds appropriated in this act for the School Nurse Funding Initiative shall be used to supplement and not supplant other State, local, or federal funds appropriated or allocated for this purpose. Communities shall maintain their current level of effort and funding for school nurses. These funds shall not be used to fund nurses for State agencies. These funds shall be distributed to local health departments according to a formula that includes all of the following:

(1) School nurse-to-student ratio.
(2) Percentage of students eligible for free or reduced meals.
(3) Percentage of children in poverty.
(4) Per capita income.
(5) Eligibility as a low-wealth county.

(6) Mortality rates for children between one and 19 years of age.
(7) Percentage of students with chronic illnesses.
(8) Percentage of county population consisting of minority persons.

SECTION 12E.3.(b) The Division of Public Health shall ensure that school nurses funded with State funds (i) do not assist in any instructional or administrative duties associated with a school's curriculum and (ii) perform all of the following with respect to school health programs:

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

SECTION 12E.3.(c) Section 6.9(b) of S.L. 2011-145, as amended by Section 6.2 of S.L. 2012-142, is repealed.

CHILDREN'S DEVELOPMENTAL SERVICE AGENCIES

SECTION 12E.4. In order to reduce the amount of State funds appropriated for the Children's Developmental Service Agencies (CDSAs) program, the Department of Health and Human Services, Division of Public Health, shall close four CDSAs, effective July 1, 2014. The Department shall retain the CDSAs with the highest caseloads of children residing in rural and medically underserved areas. By no later than March 1, 2014, the Department shall submit a report to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division identifying the four CDSAs selected for closure in accordance with this section.

AIDS DRUG ASSISTANCE PROGRAM

SECTION 12E.5.(a) The Department of Health and Human Services shall work with the Department of Public Safety (DPS) to use DPS funds to purchase pharmaceuticals for the treatment of individuals in the custody of DPS who have been diagnosed with Human Immunodeficiency Virus or Acquired Immune Deficiency Syndrome (HIV/AIDS) in a manner that allows these funds to be accounted for as State matching funds in the Department of Health and Human Services drawdown of federal Ryan White funds earmarked for the AIDS Drug Assistance Program (ADAP).

SECTION 12E.5.(b) By no later than April 1, 2014, and by no later than April 1, 2015, the Department of Health and Human Services, Division of Public Health, shall submit a report to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division on all of the following:

(1) Use of the funds appropriated to support ADAP for the preceding fiscal year.
(2) Steps taken by DHHS to reduce the waiting list for ADAP.
(3) Alternative options for serving individuals diagnosed with HIV/AIDS who are eligible to receive services under ADAP, including the State Medicaid

program and the federally facilitated Health Benefit Exchange that will operate in this State.

COMMUNITY-FOCUSED ELIMINATING HEALTH DISPARITIES INITIATIVE

SECTION 12E.6.(a) Funds appropriated in this act to the Department of Health and Human Services, Division of Public Health, for the Community-Focused Eliminating Health Disparities Initiative (CFEHDI) shall be used to provide a maximum of 12 grants-in-aid to close the gap in the health status of African-Americans, Hispanics/Latinos, and American Indians as compared to the health status of white persons. These grants-in-aid shall focus on the use of measures to eliminate or reduce health disparities among minority populations in this State with respect to heart disease, stroke, diabetes, obesity, asthma, HIV/AIDS, and cancer. The Office of Minority Health shall coordinate and implement the grants-in-aid program authorized by this section.

SECTION 12E.6.(b) In implementing the grants-in-aid program authorized by subsection (a) of this section, the Department shall ensure all of the following:

(1) The amount of any grant-in-aid is limited to three hundred thousand dollars ($300,000).

(2) Only community-based organizations, faith-based organizations, local health departments, hospitals, and CCNC networks located in urban and rural areas of the western, eastern, and Piedmont areas of this State are eligible to apply for these grants-in-aid. No more than four grants-in-aid shall be awarded to applicants located in any one of the three areas specified in this subdivision.

(3) Each eligible applicant shall be required to demonstrate substantial participation and involvement with all other categories of eligible applicants, in order to ensure an evidence-based medical home model that will affect change in health and geographic disparities.

(4) Eligible applicants shall select one or more of the following chronic illnesses or conditions specific to the applicant's geographic area as the basis for applying for a grant-in-aid under this section to affect change in the health status of African-Americans, Hispanics/Latinos, or American Indians:
   a. Heart Disease.
   b. Stroke.
   c. Diabetes.
   d. Obesity.
   e. Asthma.
   f. HIV/AIDS.
   g. Cancer.

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

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

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

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

SECTION 12E.6.(c) The grants-in-aid awarded under this section shall be awarded in honor of the memory of the following deceased members of the General Assembly: Bernard

Allen, Pete Cunningham, John Hall, Robert Holloman, Howard Hunter, Ed Jones, Jeanne Lucas, Vernon Malone, William Martin, and William Wainwright. These funds shall be used for concerted efforts to address large gaps in health status among North Carolinians who are African-American, as well as disparities among other minority populations in North Carolina.

SECTION 12E.6.(d) Section 10.21(d) of S.L. 2011-145 reads as rewritten:

"**SECTION 10.21.(d)** By ~~October 1, 2012, and annually thereafter,~~October 1, 2013, the Department shall submit a report to ~~the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services,~~ the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division on funds appropriated to the CFEHDI. The report shall include specific activities undertaken pursuant to subsection (a) of this section to address large gaps in health status among North Carolinians who are African-American and other minority populations in this State, and shall also address all of the following:

(1) Which community-based organizations, faith-based organizations, local health departments, hospitals, and CCNC networks received CFEHDI grants-in-aid.

(2) The amount of funding awarded to each grantee.

(3) Which of the minority populations were served by each grantee.

(4) Which community-based organizations, faith-based organizations, local health departments, hospitals, and CCNC networks were involved in fulfilling the goals and activities of each grant-in-aid awarded under this section and what activities were planned and implemented by the grantee to fulfill the community focus of the CFEHDI program.

(5) How the activities implemented by the grantee fulfilled the goal of reducing health disparities among minority populations, and the specific success in reducing particular incidences."

STRATEGIES FOR IMPROVING MEN'S HEALTH

SECTION 12E.7. Article 7 of Chapter 130A of the General Statutes is amended by adding a new Part to read:

"Part 5A. Men's Health.

"**§ 130A-223.1. Department to establish strategies for improving men's health.**

The Department of Health and Human Services, Division of Public Health, Chronic Disease and Injury Prevention Section, shall work to expand the State's attention and focus on the prevention of disease and improvement in the quality of life for men over their entire lifespan. The Department shall develop strategies for achieving these goals, which shall include, but not be limited to, all of the following:

(1) Developing a strategic plan to improve health care services.

(2) Building public health awareness.

(3) Developing initiatives within existing programs.

(4) Pursuing federal and State funding for the screening, early detection, and treatment of prostate cancer and other diseases affecting men's health."

SUBPART XII-F. DIVISION OF MH-DD-SAS AND STATE OPERATED HEALTHCARE FACILITIES

ESTABLISH STATEWIDE TELEPSYCHIATRY PROGRAM

SECTION 12F.1.(a) By no later than October 1, 2013, the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall develop and submit a plan for implementation of a statewide telepsychiatry program to the Joint Legislative Oversight Committee on Health and Human

Services and the Fiscal Research Division. The plan shall be substantially similar to the Albemarle Hospital Foundation telepsychiatry program currently operating in 12 hospitals in eastern North Carolina and include at least all of the following:

(1) Specific steps to be taken by the Department, within a specified time period, to establish and administer the program statewide.

(2) Program costs and rates of payment for telepsychiatry services.

(3) Recommendations for addressing liability issues related to participation in telepsychiatry.

SECTION 12F.1.(b) Chapter 122C of the General Statutes is amended by adding a new Article to read:

"Article 1B.

"Statewide Telepsychiatry Program.

"**§ 122C-20.5. Department to establish statewide telepsychiatry program.**

(a) The following definitions apply in this section:

(1) Consultant site. – The site at which the consulting provider is physically located at the time the consulting provider delivers the acute mental health or substance abuse care by means of telepsychiatry.

(2) Referring site. – A hospital licensed under Chapter 131E of the General Statutes at which a patient experiencing an acute mental health or substance abuse crisis is physically located.

(3) Telepsychiatry. – The delivery of acute mental health or substance abuse care, including diagnosis or treatment, by means of two-way real-time interactive audio or video by a consulting provider at a consultant site to an individual patient at a referring site. The term does not include the standard use of telephones, facsimile transmissions, unsecured electronic mail, or a combination of these in the course of care.

(4) Consulting provider. – A physician or other health care provider licensed in this State to provide acute mental health or substance abuse care.

(b) By no later than January 1, 2014, the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall establish a statewide telepsychiatry program that allows referring sites to utilize consulting providers at a consultant site to provide timely psychiatric assessment and rapid initiation of treatment for patients at the referring site experiencing an acute mental health or substance abuse crisis.

(c) The Commission shall adopt rules necessary to implement this section. The rules shall specify at least all of the following:

(1) Requirements to ensure the health and safety of patients.

(2) Participation and equipment requirements for consultant sites, consulting providers, and referring sites.

(3) Rates of payment for telepsychiatry services.

(d) The Department shall periodically evaluate the effectiveness of the statewide telepsychiatry program."

SECTION 12F.1.(c) G.S. 143B-147(a)(1) is amended by adding a new sub-subdivision to read:

"(1) To adopt rules regarding the

...

g. Statewide telepsychiatry program established pursuant to G.S. 122C-20.5."

SECTION 12F.1.(d) Funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2013-2015 fiscal biennium for the statewide telepsychiatry program shall be used for the following purposes:

(1) To establish and administer the statewide telepsychiatry program authorized in G.S. 122C-20.5.
(2) To purchase needed telepsychiatry equipment for State-owned and State-operated hospitals participating in the statewide telepsychiatry program.
(3) To contract with an outside vendor for management of the statewide telepsychiatry program.

FUNDS FOR LOCAL INPATIENT PSYCHIATRIC BEDS OR BED DAYS

SECTION 12F.2.(a) Use of Funds. – Of the funds appropriated in Section 2.1 of this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for crisis services, the sum of thirty-eight million one hundred twenty-one thousand six hundred forty-four dollars ($38,121,644) for the 2013-2014 fiscal year and the sum of thirty-eight million one hundred twenty-one thousand six hundred forty-four dollars ($38,121,644) for the 2014-2015 fiscal year shall be used to purchase additional local inpatient psychiatric beds or bed days not currently funded by or though LME/MCOs. In addition, at the discretion of the Secretary of Health and Human Services, existing funds allocated to LME/MCOs for community-based mental health, developmental disabilities, and substance abuse services may be used to purchase additional local inpatient psychiatric beds or bed days. Funds designated in this subsection for the purchase of local inpatient psychiatric beds or bed days shall not be used to supplant other funds appropriated or otherwise available to the Department for the purchase of inpatient psychiatric services through contracts with local hospitals.

SECTION 12F.2.(b) Distribution and Management of Beds or Bed Days. – The Department shall work to ensure that any local inpatient psychiatric beds or bed days purchased in accordance with this section are distributed across the State in LME/MCO catchment areas and according to need as determined by the Department. The Department shall enter into contracts with LME/MCOs and local hospitals for the management of these beds or bed days. The Department shall work to ensure that these contracts are awarded equitably around all regions of the State. LME/MCOs shall manage and control these local inpatient psychiatric beds or bed days, including the determination of the specific local hospital or State psychiatric hospital to which an individual should be admitted pursuant to an involuntary commitment order.

SECTION 12F.2.(c) Funds to be Held in Statewide Reserve. – Funds appropriated to the Department for the purchase of local inpatient psychiatric beds or bed days shall not be allocated to LME/MCOs but shall be held in a statewide reserve at the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to pay for services authorized by the LME/MCOs and billed by the hospitals through the LME/MCOs. LME/MCOs shall remit claims for payment to the Department within 15 working days after receipt of a clean claim from the hospital and shall pay the hospital within 30 working days after receipt of payment from the Department.

SECTION 12F.2.(d) Ineffective LME/MCO Management of Beds or Bed Days. – If the Department determines that (i) an LME/MCO is not effectively managing the beds or bed days for which it has responsibility, as evidenced by beds or bed days in the local hospital not being utilized while demand for services at the State psychiatric hospitals has not reduced, or (ii) the LME/MCO has failed to comply with the prompt payment provisions of subsection (c) of this section, the Department may contract with another LME/MCO to manage the beds or bed days or, notwithstanding any other provision of law to the contrary, may pay the hospital directly.

SECTION 12F.2.(e) Reporting by LME/MCOs. – The Department shall establish reporting requirements for LME/MCOs regarding the utilization of these beds or bed days.

SECTION 12F.2.(f) Reporting by Department. – By no later than March 1, 2014, the Department shall report to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division on all of the following:

(1) A uniform system for beds or bed days purchased during the fiscal year ending June 30, 2013, from (i) funds appropriated in this act that are designated for this purpose in subsection (a) of this section, (ii) existing State appropriations, and (iii) local funds.

(2) Other Department initiatives funded by State appropriations to reduce State psychiatric hospital use.

SECTION 12F.2.(g) Repeal of Hospital Utilization Pilot. – Sections 10.49(s1) through 10.49(s5) of S.L. 2007-323 are repealed.

FUNDS FOR THE NORTH CAROLINA CHILD TREATMENT PROGRAM

SECTION 12F.3.(a) Recurring funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2013-2015 fiscal biennium for the North Carolina Child Treatment Program (NC CTP) shall be used for the following purposes:

(1) To provide clinical training and coaching to licensed Medicaid clinicians on an array of evidence-based treatments and to provide a statewide platform to assure accountability and outcomes.

(2) To maintain and manage a public roster of program graduates, linking high-quality clinicians with children, families, and professionals.

(3) To partner with State, LME/MCO, and private sector leadership to bring effective mental health treatment to children in juvenile justice and mental health facilities.

SECTION 12F.3.(b) Nonrecurring funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2013-2015 fiscal biennium for the North Carolina Child Treatment Program (NC CTP) shall be used to pay for the cost of developing a secure database for the NC CTP to track individual-level and aggregate-level data with interface capability to work with existing networks within State agencies. The database shall be the property of the State and shall be hosted on State infrastructure. Any data or product that is part of, or derived from, this database shall be and will remain the sole property of the State.

SINGLE STREAM FUNDING FOR MH/DD/SAS COMMUNITY SERVICES

SECTION 12F.4.(a) For the purpose of mitigating cash flow problems that many LME/MCOs experience at the beginning of each fiscal year relative to single stream funding, the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall distribute not less than one-twelfth of each LME/MCO's continuation allocation at the beginning of the fiscal year and subtract the amount of that distribution from the LME/MCO's total reimbursements for the fiscal year.

SECTION 12F.4.(b) The Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall periodically review and, as deemed necessary by the Department, update the set of standardized covered benefits developed and implemented by the Department pursuant to Section 10.11(b) of S.L. 2011-145 for recipients of LME/MCO community service funds; provided, however, the Department shall not implement any updates that increase the overall cost of these standardized covered benefits.

MH/DD/SAS HEALTH CARE INFORMATION SYSTEM PROJECT

SECTION 12F.5. The Department of Health and Human Services shall not take any further action or expend any funds appropriated or available to the Department to develop and implement the health care information system for State facilities operated by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services. By no later than March 1, 2014, the Department shall submit a detailed plan of this system to the Joint Legislative Oversight Committee on Health and Human Services, the Joint Legislative Oversight Committee on Information Technology, and the Fiscal Research Division. The plan shall include an explanation of at least all of the following:

(1) The process the Department used to select the Veterans Health Information Systems and Technology Architecture (VisTA), whether or not the selection process was competitive, and if not, why it was not.
(2) Requirements for vendor services to support system implementation and operation and the costs associated with this support.
(3) Governance structure for the system.
(4) Modules to be implemented in each facility and the reason for each.
(5) Assignment of responsibility for system maintenance, codes fixes, application upgrades, and hardware upgrades.
(6) Whether the application and database will be implemented at each facility or centrally managed by the Department and the reasons for the decision.
(7) Identification of additional hardware that will be required to support a statewide rollout and the location at which the Department plans to host it.
(8) Assignment of responsibility for backup and recovery.
(9) If there will be redundant failover between facilities.
(10) Plans, time lines, and costs for implementing any other modules currently offered by the United State Department of Veterans Affairs.
(11) A process for ensuring that the system software is upgraded whenever the United States Department of Veterans Affairs upgrades its system.
(12) Technology constraints for VisTA and State-supported facilities and how they will be addressed, by facility.
(13) Facility on-boarding plan for the State psychiatric hospitals and other State facilities operated by the Division.
(14) Costs and sources of funding for planning, development, and implementation at each facility and five years of costs and sources of funding for operations and maintenance at each facility.
(15) Any other costs associated with system planning, development, implementation, operation, and maintenance.
(16) Any issues associated with the planning, development, and implementation, identified by the Department, the Office of the State Chief Information Officer, the Office of Information Technology Services, or the Office of State Budget and Management, with a solution for each identified issue.

LME/MCO FUNDS FOR SUBSTANCE ABUSE SERVICES

SECTION 12F.6.(a) LME/MCOs shall use a portion of their allocated funds for substance abuse treatment services to support prevention and education activities at a level at least equivalent to the 2012-2013 fiscal year.

SECTION 12F.6.(b) In providing treatment and services for adult offenders and increasing the number of Treatment Accountability for Safer Communities (TASC) case managers, local management entities shall consult with TASC to improve offender access to substance abuse treatment and match evidence-based interventions to individual needs at each stage of substance abuse treatment. Special emphasis should be placed on intermediate

punishment offenders, community punishment offenders at risk for revocation, and Department of Correction releases who have completed substance abuse treatment while in custody.

The Department shall allocate up to three hundred thousand dollars ($300,000) of the funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, to provide substance abuse services for adult offenders and to increase the number of TASC case managers. These funds shall be allocated to TASC before funds are allocated to LMEs for mental health services, substance abuse services, and crisis services.

CLOSE STATE-OPERATED ALCOHOL & DRUG ABUSE TREATMENT CENTERS

SECTION 12F.7.(a) The Department of Health and Human Services shall not allow any new admissions or readmissions to State-operated alcohol and drug abuse treatment centers (ADATCs) after June 30, 2013.

SECTION 12F.7.(b) By no later than September 30, 2013, the Department shall permanently cease operations at all State-operated ADATCs and close these facilities.

SECTION 12F.7.(c) The sum of ten million dollars ($10,000,000) appropriated in this act for the 2013-2014 fiscal year and the sum of twenty million dollars ($20,000,000) appropriated in this act for the 2014-2015 fiscal year from the savings achieved as a result of closing the State-operated ADACTs shall be used to increase the allocations provided to the LME/MCOs. LME/MCOs shall use these funds to provide community-based and residential alcohol and substance abuse treatment services. LME/MCOs shall not use these funds to supplant other State, local, or block grant funds provided for this purpose.

SEVERANCE & RELOCATION FOR AREA DIRECTORS

SECTION 12F.8. G.S. 122C-121(a2) reads as rewritten:

"(a2) The area board shall not provide the director with any benefits that are not also provided by the area board to all permanent employees of the area ~~program.~~program, except that the area board may, in its discretion, offer severance benefits, relocation expenses, or both to an applicant for the position of director as an incentive for the applicant to accept an offer of employment. The director shall be reimbursed only for allowable employment-related expenses at the same rate and in the same manner as other employees of the area program."

SUBPART XII-G. DIVISION OF HEALTH SERVICE REGULATION

THREE-YEAR MORATORIUM ON SPECIAL CARE UNIT LICENSES

SECTION 12G.1. For the period beginning July 1, 2013, and ending July 1, 2016, the Department of Health and Human Services, Division of Health Service Regulation, shall not issue any licenses for special care units as defined in G.S. 131D-4.6 and G.S. 131E-114. This prohibition shall not restrict the Department from doing any of the following:

(1) Issuing a license to a facility that is acquiring an existing special care unit.

(2) Issuing a license for a special care unit in any area of the State upon a determination by the Secretary of the Department of Health and Human Services that increased access to this type of care is necessary in that area during the three-year moratorium imposed by this section.

(3) Processing all completed applications for special care unit licenses received by the Division of Health Service Regulation along with the applicable license fee prior to June 1, 2013.

ELIMINATE COMPREHENSIVE REPORT ON MEDICATION-RELATED ERRORS IN NURSING HOMES

SECTION 12G.2.(a) G.S. 131E-128.1(e) reads as rewritten:

"(e) Confidentiality. – The meetings or proceedings of the advisory committee, the records and materials it produces, and the materials it considers, including analyses and reports pertaining to medication-related error reporting under G.S. 131E-128.2 ~~and G.S. 131E-128.5~~ and pharmacy reports on drug defects and adverse reactions under G.S. 131E-128.4, shall be confidential and not be considered public records within the meaning of G.S. 132-1. The meetings or proceedings and records and materials also shall not be subject to discovery or introduction into evidence in any civil action against a nursing home or a provider of professional health services resulting from matters that are the subject of evaluation and review by the committee. No person who was in attendance at a meeting of the committee shall testify in any civil action as to any evidence or other matters produced or presented during the meetings or proceedings of the committee or as to any findings, recommendations, evaluations, opinions, or other actions of the committee or its members. Notwithstanding the foregoing:

(1) Information, documents, or records otherwise available, including any deficiencies found in the course of an inspection conducted under G.S. 131E-105, shall not be immune from discovery or use in a civil action merely because they were presented during meetings or proceedings of the advisory committee. A member of the advisory committee or a person who testifies before the committee may testify in a civil action but cannot be asked about that person's testimony before the committee or any opinion formed as a result of the committee meetings or proceedings.

(2) Information that is confidential and not subject to discovery or use in civil actions under this subsection may be released to a professional standards review organization that performs any accreditation or certification function. Information released to the professional standards review organization shall be limited to information reasonably necessary and relevant to the standards review organization's determination to grant or continue accreditation or certification. Information released to the standards review organization retains its confidentiality and is not subject to discovery or use in any civil action as provided under this subsection. The standards review organization shall keep the information confidential subject to this subsection.

(3) Information that is confidential and not subject to discovery or use in civil actions under this subsection may be released to the Department of Health and Human Services pursuant to its investigative authority under G.S. 131E-105. Information released to the Department shall be limited to information reasonably necessary and relevant to the Department's investigation of compliance with Part 1 of Article 6 of this Chapter. Information released to the Department retains its confidentiality and is not subject to discovery or use in any civil action as provided in this subsection. The Department shall keep the information confidential subject to this subsection.

(4) Information that is confidential and is not subject to discovery or use in civil actions under this subsection may be released to an occupational licensing board having jurisdiction over the license of an individual involved in an incident that is under review or investigation by the advisory committee. Information released to the occupational licensing board shall be limited to information reasonably necessary and relevant to an investigation being conducted by the licensing board pertaining to the individual's involvement in the incident under review by the advisory committee. Information released to an occupational licensing board retains its confidentiality and is not subject to discovery or use in any civil action as provided in this

subsection. The occupational licensing board shall keep the information confidential subject to this subsection."

SECTION 12G.2.(b) G.S. 131E-128.1(g) reads as rewritten:

"(g) Penalty. – The Department may take adverse action against the license of a nursing home upon a finding that the nursing home has failed to comply with this section, G.S. 131E-128.2, 131E-128.3, ~~131E-128.4, or 131E-128.5.~~or 131E-128.4."

SECTION 12G.2.(c) G.S. 131E-128.5 is repealed.

CERTIFICATE OF NEED EXEMPTION FOR REPLACEMENT EQUIPMENT & REPLACEMENT FACILITIES ON THE MAIN CAMPUS OF A CON-APPROVED HEALTH SERVICE FACILITY

SECTION 12G.3.(a) G.S. 131E-184 is amended by adding a new subsection to read:

"(f) The Department shall exempt from certificate of need review the purchase of any replacement equipment that exceeds the two million dollar ($2,000,000) threshold set forth in G.S. 131E-176(22) and any capital expenditure that exceeds the two million dollar ($2,000,000) threshold set forth in G.S. 131E-176(16)b. if all of the following conditions are met:

(1) For replacement equipment, if the replacement equipment is to be used on the main campus of a licensed health service facility that has already obtained certificate of need approval.

(2) For a capital expenditure, if the sole purpose of the capital expenditure is to replace an existing health service facility on the main campus of a licensed health service facility that has already obtained certificate of need approval and the capital expenditure does not result in (i) a change in bed capacity as defined in G.S. 131E-176(5) or (ii) the addition of a health service facility or any other new institutional health service other than that allowed in G.S. 131E-176(16)b.

(3) The licensed health service facility proposing to purchase the replacement equipment or incur the capital expenditure shall provide prior written notice to the Department, along with supporting documentation to demonstrate that it meets the exemption criteria of this subsection."

SECTION 12G.3.(b) This section applies to replacement equipment purchased and capital expenditures incurred on or after July 1, 2013.

SUBPART XII-H. DIVISION OF MEDICAL ASSISTANCE (MEDICAID)

DETAILED MEDICAID REFORM PROPOSAL TO BE PREPARED BY DEPARTMENT OF HEALTH AND HUMAN SERVICES

SECTION 12H.1.(a) The Department of Health and Human Services, Division of Medical Assistance, (Department) shall create a detailed plan for, but not implement, significant reforms to the State's Medicaid Program that shall accomplish the following:

(1) Create a predictable and sustainable Medicaid program for North Carolina taxpayers.

(2) Increase administrative ease and efficiency for North Carolina Medicaid providers.

(3) Provide care for the whole person by uniting physical and behavioral health care.

SECTION 12H.1.(b) The Department shall submit its detailed proposal of how to reform the State's Medicaid Program to the General Assembly. The report shall contain the following:

(1) The details of the reform plan, including how the plan would accomplish the goals set out in subsection (a) of this section.
(2) The Department's methodology for selecting the reform plan over alternatives.
(3) Forecasts of the reform plan's potential to slow the growth of the costs of the Medicaid Program, including the assumptions and methodology used for the forecast, as well as an explanation of how the Department's forecast methodology has been improved to produce more accurate forecasting than in prior years.
(4) The reform plan's impact, as compared to the existing Medicaid Program, on both providers and recipients in areas such as enrollment within the Medicaid system, access to services, quality of care, and payment methodologies, and any other areas of comparison to help the General Assembly evaluate the reform plan.
(5) If regional demonstration projects, pilot projects, or similar projects will be used to test a proposal, how the Department will ensure that the test methodology is scientifically valid and consistent with social science research methods.
(6) How financial risks will be allocated under the reform plan.
(7) The mechanisms through which the Department and any contractors under the reform plan would be held accountable for the implementation and performance of the plan.
(8) Short-term costs to implement the plan and expected long-term savings in future years from slowing the growth of costs.
(9) A realistic time line for implementation.
(10) Draft Medicaid State Plan Amendments, Medicaid waivers, amendments to State law, or other changes necessary to legally allow the Department to implement its reform plan.
(11) Any other detailed information that would assist the General Assembly in evaluating the strength of the reform plan and the plan's ability to accomplish the goals set out in subsection (a) of this section.

SECTION 12H.1.(c) The Department is encouraged to and may submit draft Medicaid State Plan amendments, draft waiver applications, or other documents to the federal government to solicit feedback on the Department's proposal prior to reporting to the General Assembly. The Department shall not, however, submit any documents to the federal government to implement the reform plan without legislation authorizing the Department to implement the Department's reform plan.

SECTION 12H.1.(d) The Department shall submit its reform plan to the General Assembly no later than March 17, 2014, but is encouraged to submit its plan as early as it responsibly can.

CLARIFY STATE PLAN AMENDMENT PROCEDURES; REPEAL UNAUTHORIZED STATE PLAN AMENDMENT

SECTION 12H.2.(a) Part 6 of Article 2 of Chapter 108A of the General Statutes is amended by adding a new section to read as follows:

"**§ 108A-54.1A. Amendments to Medicaid State Plan and Medicaid Waivers.**

(a) No provision in the Medicaid State Plan or in a Medicaid Waiver may expand or otherwise alter the scope or purpose of the Medicaid program from that authorized by law enacted by the General Assembly. For purposes of this section, the term "amendments to the State Plan" includes State Plan amendments, Waivers, and Waiver amendments.

(b) The Department may submit amendments to the State Plan only as required under any of the following circumstances:

(1) A law enacted by the General Assembly directs the Department to submit an amendment to the State Plan.

(2) A law enacted by the General Assembly makes a change to the Medicaid Program that requires approval by the federal government.

(3) A change in federal law, including regulatory law, requires an amendment to the State Plan.

(4) A change made by the Department to the Medicaid Program requires an amendment to the State Plan, if the change was within the authority granted to the Department by State law.

(5) An amendment to the State Plan is required to ensure continued federal financial participation.

(c) Amendments to the State Plan submitted to the federal government for approval shall contain only those changes that are allowed by the authority for submitting an amendment to the State Plan in subsection (b) of this section.

(d) No fewer than 10 days prior to submitting an amendment to the State Plan to the federal government, the Department shall post the amendment on its Web site and notify the members of the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division, that the amendment has been posted. This requirement shall not apply to draft or proposed amendments submitted to the federal government for comments, but not submitted for approval. If the authority for submitting the amendment to the State Plan is pursuant to subdivision (3), (4), or (5) of subsection (b) of this section, then, prior to submitting an amendment to the federal government, the Department shall submit to the General Assembly members receiving notice under this subsection and to the Fiscal Research Division an explanation of the amendment, the need for the amendment, and the federal time limits required for implementation of the amendment.

(e) The Department shall submit an amendment to the State Plan to the federal government by a date sufficient to provide the federal government adequate time to review and approve the amendment so the amendment may be effective by the date required by the directing authority in subsection (b) of this section."

SECTION 12H.2.(b) G.S. 108A-70.25 reads as rewritten:

"**§ 108A-70.25. State Plan for Health Insurance Program for Children.**

~~The Department shall develop and submit a State Plan to implement "The Health Insurance Program for Children" authorized under this Part to the federal government as application for federal funds under Title XXI. The State Plan submitted under this Part shall be developed by the Department only as authorized by and in accordance with this Part. No provision in the State Plan submitted under this Part may expand or otherwise alter the scope or purpose of the Program from that authorized under this Part. The Department shall include in the State Plan submitted only those items required by this Part and required by the federal government to qualify for federal funds under Title XXI and necessary to secure the State's federal fund allotment for the applicable fiscal period. Except as otherwise provided in this section, the Department shall not amend the State Plan nor submit any amendments thereto to the federal government for review or approval without the specific approval of the General Assembly. In the event federal law requires that an amendment be made to the State Plan and further requires that the amendment be submitted or implemented within a time period when the General Assembly is not and will not be in session to approve the amendment, then the Department may submit the amendment to the federal government for review and approval without the approval of the General Assembly. Prior to submitting an amendment to the federal government without General Assembly approval as authorized in this section, the Department shall report the proposed amendment to the Joint Legislative Oversight Committee on Health and Human~~

~~Services and to members of the Joint Appropriations Subcommittee on Health and Human Services. The report shall include an explanation of the amendment, the necessity therefor, and the federal time limits required for implementation of the amendment.~~

(a) The NC Health Choice program shall be administered and operated in accordance with this Part and the NC Health Choice State Plan, as periodically amended by the Department of Health and Human Services and approved by the federal government.

(b) The requirements in G.S. 108A-54.1A shall apply to NC Health Choice State Plan amendments in the same manner in which they apply to Medicaid State Plan amendments."

SECTION 12H.2.(c) The Department of Health and Human Services shall take any and all action necessary to remove from the Medicaid State Plan the amendment that begins on Attachment 4.19-B, Section 5, Page 2, and pertains to supplemental payments that increase reimbursement to the average commercial rate for certain eligible medical professional providers.

CODIFY GENERAL POLICIES

SECTION 12H.3. G.S. 108A-54 reads as rewritten:

"**§ 108A-54. Authorization of Medical Assistance Program.**

(a) The Department is authorized to establish a Medicaid Program in accordance with Title XIX of the federal Social Security Act. The Department may adopt rules to implement the Program. The State is responsible for the nonfederal share of the costs of medical services provided under the Program. In addition, the State shall pay one hundred percent (100%) of the federal Medicare Part D clawback payments under the Medicare Modernization Act of 2004, P.L. 108-173, as amended. A county is responsible for the county's cost of administering the Program in that county.

...

(c) The Medicaid Program shall be administered and operated in accordance with this Part and the North Carolina Medicaid State Plan and Waivers, as periodically amended by the Department of Health and Human Services in accordance with G.S. 108A-54.1A and approved by the federal government.

(d) The Department shall not take any actions that the Department determines would jeopardize the State's qualification to receive federal funds through the Medicaid Program."

CODIFY MEDICAID AS SECONDARY PAYOR

SECTION 12H.4. G.S. 108A-55 is amended by adding a new subsection to read as follows:

"**§ 108A-55. Payments.**

...

(e) Medicaid is a secondary payor of claims. The Department shall apply Medicaid medical policy to recipients who have primary insurance other than Medicare, Medicare Advantage, and Medicaid. For recipients who have primary insurance other than Medicare, Medicare Advantage, or Medicaid, the Department shall pay an amount up to the actual coinsurance or deductible or both, in accordance with the State Plan, as approved by the Department of Health and Human Services. The Department may disregard application of this policy in cases where application of the policy would adversely affect patient care."

CODIFY COUNTIES SHARING IN FRAUD RECOVERY

SECTION 12H.5. Part 6 of Article 2 of Chapter 108A of the General Statutes is amended by adding a new section to read as follows:

"**§ 108A-64.1. Incentives to counties to recover fraudulent Medicaid expenditures.**

The Department of Health and Human Services, Division of Medical Assistance, shall provide incentives to counties that successfully recover fraudulently spent Medicaid funds by

sharing State savings with counties responsible for the recovery of the fraudulently spent funds."

CODIFY CHANGES TO MEDICAL POLICY

SECTION 12H.6.(a) G.S. 108A-54.2 reads as rewritten:

"**§ 108A-54.2. Procedures for changing medical policy.**

(a) The Department shall adopt rules to develop, amend, and adopt medical coverage policy for Medicaid and NC Health Choice in accordance with this section.

(b) Medical coverage policy is defined as those policies, definitions, or guidelines utilized to evaluate, treat, or support the health or developmental conditions of a recipient so as to determine eligibility, authorization or continued authorization, medical necessity, course of treatment and supports, clinical outcomes, and clinical supports treatment practices for a covered procedure, product, or service. Medical coverage policy is subject to the following:

(1) During the development of new medical coverage policy or amendment to existing medical coverage policy, the Department shall consult with and seek the advice of the Physician Advisory Group and other organizations the Secretary deems appropriate. The Secretary shall also consult with and seek the advice of officials of the professional societies or associations representing providers who are affected by the new medical coverage policy or amendments to existing medical coverage policy.

(2) At least 45 days prior to the adoption of new or amended medical coverage policy, the Department shall:

a. Publish the proposed new or amended medical coverage policy on the Department's Web site;

b. Notify all Medicaid and NC Health Choice providers of the proposed, new, or amended policy; and

c. Upon request, provide persons copies of the proposed medical coverage policy.

(3) During the 45-day period immediately following publication of the proposed new or amended medical coverage policy, the Department shall accept oral and written comments on the proposed new or amended policy.

(4) If, following the comment period, the proposed new or amended medical coverage policy is modified, then the Department shall, at least 15 days prior to its adoption:

a. Notify all Medicaid and NC Health Choice providers of the proposed policy;

b. Upon request, provide persons notice of amendments to the proposed policy; and

c. Accept additional oral or written comments during this 15-day period.

(c) If the adoption of new or amended medical coverage policies is necessitated by an act of the General Assembly or a change in federal law, then the 45- and 15-day time periods specified in subsection (b) of this section shall instead be 30- and 10-day time periods.

(d) Unless directed to do so by the General Assembly, the Department shall not change medical policy affecting the amount, sufficiency, duration, and scope of health care services and who may provide services until the Division of Medical Assistance has prepared a five-year fiscal analysis documenting the increased cost of the proposed change in medical policy and submitted it for departmental review. Changes to medical policy affecting the amount, sufficiency, duration, and scope of health care services and who may provide services are subject to the following:

(1) If the fiscal impact indicated by the fiscal analysis for any proposed medical policy change exceeds five hundred thousand dollars ($500,000) in total requirements for Medicaid or fifty thousand dollars ($50,000) in total requirements for NC Health Choice for a given fiscal year, then the Department shall submit the proposed medical policy change to the fiscal analysis to the Office of State Budget and Management and the Fiscal Research Division. The Department shall not implement the proposed medical policy change unless the source of State funding is identified and approved by the Office of State Budget and Management.

(2) If the medical policy change meets the requirement thresholds specified in subdivision (1) of this subsection but is required for compliance with federal law, then the Department shall submit the proposed medical policy or policy interpretation change with the five-year fiscal analysis to the Office of State Budget and Management prior to implementing the change.

The Department shall annually report, by November 1 of each year, all medical policy changes with total requirements of less than the amount specified in subdivision (1) of this subsection to the Office of State Budget and Management and the Fiscal Research Division of the Legislative Services Commission."

SECTION 12H.6.(b) G.S. 108A-54.3 is repealed.

CODIFY PREEXISTING PROVIDER APPLICATION FEE

SECTION 12H.7. G.S. 108C-9 is amended by adding a new subsection to read as follows:

"**§ 108C-9. Provider enrollment criteria.**

...

(e) The Department of Health and Human Services, Division of Medical Assistance, shall charge an application fee of one hundred dollars ($100.00), and the amount federally required, to each provider enrolling in the Medicaid Program for the first time. The fee shall be charged to all providers at recredentialing every three years."

CODIFY ELECTRONIC TRANSACTION REQUIREMENTS FOR PROVIDERS

SECTION 12H.8. Chapter 108C of the General Statutes is amended by adding a new section to read as follows:

"**§ 108C-13. Electronic transactions.**

(a) Providers shall follow the Department's established procedures for securing electronic payments, and the Department shall not provide routine provider payments by check. Medicaid providers shall file claims electronically, except that nonelectronic claims submission may be required when it is in the best interest of the Department.

(b) Providers shall submit Preadmission Screening and Annual Resident Reviews (PASARR) through the Department's Web-based tool or through a vendor with interface capability to submit data into the Web-based PASARR.

(c) Providers shall submit requests for prior authorizations electronically via Web site. Providers shall access their authorizations via online portals rather than receiving hard copies by mail. Providers shall receive copies of adverse decisions electronically, although recipients shall receive adverse decisions via certified mail.

(d) Providers shall submit their provider enrollment applications online. The Department shall accept electronic signatures rather than require receipt of signed hard copies."

CODIFY RULE MAKING, TEMPORARY AND EXCEPTIONS

SECTION 12H.9.(a) G.S. 108A-54(b) is recodified as G.S. 108A-54.1B(a).

SECTION 12H.9.(b) G.S. 108A-54.1B, as created by subsection (a) of this section, reads as rewritten:

"**§ 108A-54.1B. Adoption of rules; exceptions.**

(a) The Department is expressly authorized to adopt temporary and permanent rules to implement or define the federal laws and regulations, the North Carolina State Plan of Medical Assistance, and the North Carolina State Plan of the Health Insurance Program for Children, the terms and conditions of eligibility for applicants and recipients of the Medical Assistance Program and the Health Insurance Program for Children, audits and program integrity, the services, goods, supplies, or merchandise made available to recipients of the Medical Assistance Program and the Health Insurance Program for Children, and reimbursement for the services, goods, supplies, or merchandise made available to recipients of the Medical Assistance Program and the Health Insurance Program for Children.

(b) Prior to filing a temporary rule authorized under G.S. 150B-21.1(a)(17) with the Rules Review Commission and the Office of Administrative Hearings, the Department shall consult with the Office of State Budget and Management on the possible fiscal impact of the temporary rule and its effect on State appropriations and local governments.

(c) Rule-making authority granted under this section for particular circumstances or programs is in addition to any other rule-making authority granted to the Department under Chapter 150B of the General Statutes.

(d) State Plans, State Plan Amendments, and Waivers approved by the Centers for Medicare and Medicaid Services (CMS) for the North Carolina Medicaid Program and the NC Health Choice program shall have the force and effect of rules adopted pursuant to Article 2A of Chapter 150B of the General Statutes."

SECTION 12H.9.(c) G.S. 150B-1(d) is amended by adding a new subdivision to read as follows:

"(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the following:

...

(22) The Department of Health and Human Services with respect to the content of State Plans, State Plan Amendments, and Waivers approved by the Centers for Medicare and Medicaid Services (CMS) for the North Carolina Medicaid Program and the NC Health Choice program."

SECTION 12H.9.(d) G.S. 150B-21.1(a) is amended by adding a new subdivision to read as follows:

"(a) Adoption. – An agency may adopt a temporary rule when it finds that adherence to the notice and hearing requirements of G.S. 150B-21.2 would be contrary to the public interest and that the immediate adoption of the rule is required by one or more of the following:

...

(17) To maximize receipt of federal funds for the Medicaid or NC Health Choice programs within existing State appropriations, to reduce Medicaid or NC Health Choice expenditures, and to reduce Medicaid and NC Health Choice fraud and abuse."

CODIFY ELIGIBILITY

SECTION 12H.10.(a) Part 6 of Article 2 of Chapter 108A of the General Statutes is amended by adding a new section to read as follows:

"**§ 108A-54.6. Eligibility.**

(a) Families and children who are categorically and medically needy are eligible for Medicaid, subject to the following annual income levels:

Family	Categorically Needy	Medically Needy

Size	Income Level	Income Level
1	$ 4,344	$ 2,900
2	5,664	3,800
3	6,528	4,400
4	7,128	4,800
5	7,776	5,200
6	8,376	5,600
7	8,952	6,000
8	9,256	6,300

The Department of Health and Human Services shall provide Medicaid coverage to 19- and 20-year-olds under this subsection in accordance with federal rules and regulations. Medicaid enrollment of categorically needy families with children shall be continuous for one year without regard to changes in income or assets.

(b) Persons eligible for the following programs shall be eligible for Medicaid:

(1) Work First Family Assistance.

(2) Supplemental Social Security Income (SSI).

(3) State/County Special Assistance.

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

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

(2) Pregnant women with incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines and without regard to resources. Services to pregnant women eligible under this subsection continue throughout the pregnancy but include only those related to pregnancy and to those other conditions determined by the Department as conditions that may complicate pregnancy.

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

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

(5) Children aged six through 18 with family incomes equal to or less than one hundred percent (100%) of the federal poverty guidelines and without regard to resources.

(6) Workers with disabilities described in G.S. 108A-66A with unearned income equal to or less than one hundred fifty percent (150%) of the federal poverty guidelines.

The Department of Health and Human Services, Division of Medical Assistance, shall also provide family planning services to men and women of childbearing age with family incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines and without regard to resources.

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

(e) The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to "independent foster care adolescents," ages 18, 19, and 20,

as defined in section 1905(w)(1) of the Social Security Act (42 U.S.C. § 1396d(w)(1)), without regard to the adolescent's assets, resources, or income levels.

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

SECTION 12H.10.(b) G.S. 108A-54.1 is recodified as G.S. 108A-66.1. G.S. 108A-66.1(a), as recodified by this subsection, reads as rewritten:

"(a) Title. – This ~~act~~ section may be cited as the Health Coverage for Workers With Disabilities Act. The Department shall implement a Medicaid buy-in eligibility category as permitted under P.L. 106-170, Ticket to Work and Work Incentives Improvement Act of 1999. The Department shall establish rules, policies, and procedures to implement this act in accordance with this section."

SECTION 12H.10.(c) Effective January 1, 2014, G.S. 108A-54.6(c)(5), as enacted by this section, reads as rewritten:

"(5) Children aged six through 18 with family incomes equal to or less than ~~one hundred percent (100%)~~ one hundred thirty-three percent (133%) of the federal poverty guidelines and without regard to resources."

SECTION 12H.10.(d) Effective January 1, 2014, G.S. 108A-70.21(a)(1)d. reads as rewritten:

"**§ 108A-70.21. Program eligibility; benefits; enrollment fee and other cost-sharing; coverage from private plans; purchase of extended coverage.**

(a) Eligibility. – The Department may enroll eligible children based on availability of funds. Following are eligibility and other requirements for participation in the Program:

(1) Children must:

a. Be between the ages of 6 through 18;

b. Be ineligible for Medicaid, Medicare, or other federal government-sponsored health insurance;

c. Be uninsured;

d. Be in a family whose family income is above ~~one hundred percent (100%)~~ one hundred thirty-three percent (133%) through two hundred percent (200%) of the federal poverty level;

e. Be a resident of this State and eligible under federal law; and

f. Have paid the Program enrollment fee required under this Part.

...."

NC HEALTH CHOICE TEMPORARY EXTENDED COVERAGE

SECTION 12H.11. An enrollee in the NC Health Choice program who loses eligibility due to reaching the age of 19 on or after June 1, 2013, may purchase at full premium cost continued coverage under the NC Health Choice program until the end of the month following the date on which the Secretary of the United States Department of Health and Human Services determines that the North Carolina federally facilitated Health Benefits Exchange is fully operational. The benefits, co-payments, and other conditions of enrollment under the NC Health Choice program applicable to extended coverage purchased in accordance with this section shall be the same as those applicable to an NC Health Choice enrollee who has not yet reached the age of 19.

INSURANCE PREMIUMS FOR PREGNANT WOMEN

SECTION 12H.12.(a) G.S. 108A-54.6(c)(2), as enacted by Section 12H.10 of this act, reads as rewritten:

"(2) Pregnant women with incomes equal to or less than ~~one hundred eighty-five percent (185%)~~one hundred thirty-three percent (133%) of the federal

poverty guidelines and without regard to resources. Services to pregnant women eligible under this subsection continue throughout the pregnancy but include only those related to pregnancy and to those other conditions determined by the Department as conditions that may complicate pregnancy."

SECTION 12H.12.(b) Article 2 of Chapter 108A of the General Statutes is amended by adding a new Part to read as follows:

"Part 10. Insurance Premiums for Pregnant Women.

"**§ 108A-70.35. Definitions.**

In this Part, the following definitions apply:

(1) Federal poverty guidelines. – The federal poverty guidelines established by the United States Department of Health and Human Services, as periodically revised.

(2) Household income. – As defined under 26 U.S.C. § 5000A(c)(4)(B).

(3) Medicaid. – The State Medical Assistance Program established under Part 6 of this Article.

(4) Minimum essential coverage. – As defined under 26 U.S.C. § 5000A(f)(1).

(5) Program. – The Insurance Premiums for Pregnant Women program established in this Part.

(6) Uninsured. – Without minimum essential coverage.

"**§ 108A-70.36. Purpose; no entitlement.**

The purpose of this Part is to help uninsured, lower-income pregnant women who are residents of this State acquire health insurance through premium assistance. Premium assistance shall be paid from State funds appropriated. Nothing in this Part shall be construed as obligating the General Assembly to appropriate funds for this purpose or as entitling any person to receive premium assistance under this Part.

"**§ 108A-70.37. Program established.**

The Insurance Premiums for Pregnant Women program is established. The program shall be administered by the Department of Health and Human Services in accordance with this Part.

"**§ 108A-70.38. Program eligibility.**

In order to participate in the program, an individual must meet all of the following requirements:

(1) Be a resident of the State.

(2) Be lawfully present in the United States.

(3) Not be on active punishment, as that term is defined under G.S. 15A-1340.11.

(4) Have a medically verified pregnancy.

(5) Not have minimum essential coverage, excluding coverage purchased using funding from the program.

(6) Have household income of no more than one hundred eighty-five percent (185%) of the federal poverty guidelines.

(7) Qualify for a premium assistance credit under 26 U.S.C. § 36B.

"**§ 108A-70.39. Program benefits.**

(a) An individual who qualifies under G.S. 108A-70.38 shall be eligible for premium assistance from the State to help the individual purchase coverage under a health benefit plan during the period of the pregnancy through the end of the second calendar month following the pregnancy.

(b) The amount of the premium assistance shall be the amount necessary to purchase insurance coverage up to the amount provided in 26 U.S.C. § 36B(b)(2)(B)(ii).

(c) The Department of Health and Human Services shall remit the amount of the premium assistance to a qualified individual's insurer on behalf of the qualified individual.

(d) A qualified individual who participates in the program shall remain responsible for the other costs of the health benefit plan in which they are enrolled, including any cost-sharing."

SECTION 12H.12.(c) This section becomes effective January 1, 2014, and applies to pregnancies medically verified on or after that date.

MODIFICATIONS TO EXISTING COVERED SERVICES AND PAYMENT FOR SERVICES

SECTION 12H.13.(a) Except as otherwise provided in this act, the allowable State plan services, co-pays, reimbursement rates, and fees shall remain the same as those effective June 30, 2013. Except as otherwise provided in this act and to the extent allowable under federal law, the adjustments made in this section apply to both the Medicaid Program and the NC Health Choice program.

SECTION 12H.13.(b) Effective July 1, 2013, any rates that contain an inflationary or increase factor shall not increase above the rate in effect on June 30, 2013, unless the rate is otherwise increased by the General Assembly. Hospital outpatient services' percentage of cost shall be adjusted to compensate for expected inflation that hospitals would be eligible for, and cost settlement will only be up to that percentage. Nursing direct care services shall not receive case mix index increases after June 30, 2013, until reinstated. The following rates are excluded from this subsection: Federally Qualified Health Centers, Rural Health Centers, State-Operated services, Hospice, Part B and D Premiums, third-party and HMO premiums, drugs, and MCO capitation payments.

SECTION 12H.13.(c) Effective November 1, 2013, nominal co-pays are increased to the maximum amount allowed by the Centers for Medicare and Medicaid Services (CMS). The Department of Health and Human Services, Division of Medical Assistance, shall monitor changes to federal law and increase the nominal co-pays whenever allowed under federal law.

SECTION 12H.13.(d) Effective January 1, 2014, the following changes are made to allowable State plan services:

(1) Of the 22 visits allowed per recipient per fiscal year for professional services provided by physicians, nurse practitioners, nurse midwives, physician assistants, clinics, and health departments, prior authorization is required for visits in excess of 10 within a year. This limitation and prior authorization requirement does not apply to chronic conditions.

(2) Adult private duty nursing (PDN) is limited to four hundred thirty-two dollars ($432.00) per day.

(3) Adult rehabilitation home visits for set-up and training are limited to three within a 12-month period.

(4) Prior authorization is required for all mental health drugs. A 72-hour emergency supply may be provided if a beneficiary is waiting for acknowledgment of the prior authorization request.

SECTION 12H.13.(e) Effective January 1, 2014, the percentage of allowable costs for hospital outpatients is reduced from eighty percent (80%) to seventy percent (70%).

SECTION 12H.13.(f) Effective January 1, 2014, nonemergency services provided in an emergency room shall be reimbursed based on a single fee. The Department of Health and Human Services, Division of Medical Assistance, shall establish such a fee. This fee may not be cost-settled.

SECTION 12H.13.(g) Effective January 1, 2014, the following changes are made to drug reimbursements:

(1) Reimbursement rates for prescribed drugs are based on an invoice cost that will be established through quarterly surveys to determine the actual cost of

drugs to pharmacies. The Department of Health and Human Services, Division of Medical Assistance, shall conduct such quarterly surveys.

(2) Dispensing fees are to be increased to an average payment of nine dollars and eighty-seven cents ($9.87) for all drugs, with the incentive differential for dispensing generic and preferred drugs remaining at two dollars ($2.00).

ADDITIONAL PERSONAL CARE SERVICES FOR QUALIFIED INDIVIDUALS

SECTION 12H.14.(a) Section 10.9F(c) of S.L. 2012-142, as amended by Section 70 of S.L. 2012-194, reads as rewritten:

"**SECTION 10.9F.(c)** A Medicaid recipient who meets each of the following criteria is eligible for up to 80 hours of personal care services:

(1) The recipient has a medical condition, disability, or cognitive impairment and demonstrates unmet needs for, at a minimum, (i) three of the five qualifying activities of daily living (ADLs) with limited hands-on assistance; (ii) two ADLs, one of which requires extensive assistance; or (iii) two ADLs, one of which requires assistance at the full dependence level.

(2) The recipient (i) resides in a private living arrangement, a residential facility licensed by the State of North Carolina as an adult care home, or a combination home as defined in G.S. 131E-101(1a); or (ii) resides in a group home licensed under Chapter 122C or the General ~~Statues~~ Statutes and under 10A NCAC 27G .5601 as a supervised living facility for two or more adults whose primary diagnosis is mental illness, a developmental disability, or substance abuse dependency, and is eligible to receive personal care services under the Medicaid State Plan.

The five qualifying ADLs are eating, dressing, bathing, toileting, and mobility. For Medicaid recipients meeting the criteria above, ~~Personal~~ personal care services shall be available ~~for up to 80 hours per month~~ in accordance with an assessment conducted under subsection (d) of this section and a plan of care developed by the service provider and approved by the Department of Health and Human Services, Division of Medical Assistance, or its designee.

(3) A Medicaid recipient who meets the eligibility criteria provided in subdivisions (1) and (2) of this subsection and all of the criteria provided below is eligible for up to 50 additional hours of Medicaid Personal Care Services per month for a total of up to 130 hours per month in accordance with an assessment and a plan of care.

a. The recipient requires an increased level of supervision.

b. The recipient requires caregivers with training or experience in caring for individuals who have a degenerative disease characterized by irreversible memory dysfunction that attacks the brain and results in impaired memory, thinking, and behavior including gradual memory loss, impaired judgment, disorientation, personality change, difficulty in learning, and the loss of language skills.

c. Regardless of setting, the recipient requires a physical environment that includes modifications and safety measures to safeguard the recipient because of the recipient's gradual memory loss, impaired judgment, disorientation, personality change, difficulty in learning, and the loss of language skills.

d. The recipient exhibits safety concerns related to inappropriate wandering, ingestion, aggressive behavior, and an increased incidence of falls.

Physician attestation. – A recipient must have a physician's attestation that the recipient meets each of the criteria in sub-subdivisions a. through d. of subdivision (3) of this subsection. A recipient is not required to have a new attestation if he or she is identified by the Department of Health and Human Services, Division of Medical Assistance, as having on record a physician's attestation that meets the requirements of this subdivision. A recipient is required to have a new attestation if one cannot be identified by the Division of Medical Assistance or if the one identified does not meet the requirements of this subdivision.

Independent assessment. – Based on the physician's attestation, the Medicaid recipient must receive an independent assessment conducted by a trained professional who is qualified to assess and has experience assessing individuals with the needs for additional safeguards identified by this subdivision. The independent assessment shall be conducted in accordance with subsection (d) of this section and shall determine the number of hours of personal care services needed by the individual. In response to the assessment, a plan of care shall be developed by the service provider and approved by the Department of Health and Human Services, Division of Medical Assistance, or its designee.

Personal care services shall not include nonmedical transportation; financial management; non-hands-on assistance such as cueing, prompting, guiding, coaching, or babysitting; and household chores not directly related to the qualifying ADLs."

SECTION 12H.14.(b) The Department shall reduce the rate for personal care services in order to fund the additional service hours authorized under this section within the budgeted amount of funds for personal care services.

SECTION 12H.14.(c) On or before August 1, 2013, and on or before November 1, 2013, the Department of Health and Human Services shall report on the implementation of this section to the Joint Legislative Oversight Committee on Health and Human Services.

MODIFY MEDICAID SUBROGATION STATUTE IN RESPONSE TO WOS V. E.M.A.

SECTION 12H.15.(a) G.S. 108A-57 reads as rewritten:

"**§ 108A-57. Subrogation rights; withholding of information a misdemeanor.**

(a) Notwithstanding any other provisions of the law, to the extent of payments under this Part, the ~~State, or the county providing medical assistance benefits,~~ State shall be subrogated to all rights of recovery, contractual or otherwise, of the beneficiary of this assistance, or of the beneficiary's personal representative, heirs, or the administrator or executor of the estate, against any person. ~~The county attorney, or an attorney retained by the county or the State or both, or an attorney retained by the beneficiary of the assistance if this attorney has actual notice of payments made under this Part shall enforce this section.~~ A personal injury or wrongful death claim brought by a medical assistance beneficiary against a third party shall include a claim for all medical assistance payments for health care items or services furnished to the medical assistance beneficiary as a result of the injury, hereinafter referred to as the "Medicaid claim." Any personal injury or wrongful death claim brought by a medical assistance beneficiary against a third party that does not state the Medicaid claim shall be deemed to include the Medicaid claim.

(a1) If the amount of the Medicaid claim does not exceed one-third of the medical assistance beneficiary's gross recovery, it is presumed that the gross recovery includes compensation for the full amount of the Medicaid claim. If the amount of the Medicaid claim exceeds one-third of the medical assistance beneficiary's gross recovery, it is presumed that one-third of the gross recovery represents compensation for the Medicaid claim.

(a2) A medical assistance beneficiary may dispute the presumptions established in subsection (a1) of this section by applying to the court in which the medical assistance beneficiary's claim against the third party is pending, or if there is none, then to a court of competent jurisdiction, for a determination of the portion of the beneficiary's gross recovery that represents compensation for the Medicaid claim. An application under this subsection shall be filed with the court and served on the Department pursuant to the Rules of Civil Procedure no later than 30 days after the date that the settlement agreement is executed by all parties and, if required, approved by the court, or in cases in which judgment has been entered, no later than 30 days after the date of entry of judgment. The court shall hold an evidentiary hearing no sooner than 30 days after the date the action was filed. All of the following shall apply to the court's determination under this subsection:

(1) The medical assistance beneficiary has the burden of proving by clear and convincing evidence that the portion of the beneficiary's gross recovery that represents compensation for the Medicaid claim is less than the portion presumed under subsection (a1) of this section.

(2) The presumption under subsection (a1) of this section is not rebutted solely by the fact that the medical assistance beneficiary was not able to recover the full amount of all claims.

(3) The court may consider any factors the court deems just and reasonable in determining the portion of the recovery that represents compensation for the Medicaid claim.

(4) The court may determine based upon a preponderance of the evidence that the portion of the recovery that represents compensation for the Medicaid claim is greater than the portion presumed under subsection (a1) of this section.

(a3) ~~Any~~Within 30 days of receipt of the proceeds of a settlement or judgment related to a claim described in subsection (a) of this section, the medical assistance beneficiary or any attorney retained by the beneficiary shall notify the Department of the receipt of the proceeds. The medical assistance beneficiary or any attorney retained by the beneficiary ~~of the assistance~~ shall, out of the proceeds obtained by or on behalf of the beneficiary by settlement with, judgment against, or otherwise from a third party by reason of injury or death, distribute to the Department the amount of assistance paid by the Department on behalf of or to the beneficiary, as prorated with the claims of all others having medical subrogation rights or medical liens against the amount received or recovered, but the amount paid to the Department shall not exceed ~~one third of the gross amount obtained or recovered.~~the portion presumptively determined under subsection (a1) of this section or the portion judicially determined under subsection (a2) of this section. Unless an action has been commenced pursuant to subsection (a2) of this section, the amount shall be paid to the Department within 30 days of the beneficiary's receipt of the proceeds.

(a4) The United States and the State of North Carolina shall be entitled to shares in each net recovery by the Department under this section. Their shares shall be promptly paid under this section and their proportionate parts of such sum shall be determined in accordance with the matching formulas in use during the period for which assistance was paid to the recipient.

(b) It is a Class 1 misdemeanor for any person seeking or having obtained assistance under this Part for himself or another to willfully fail to disclose to the county department of social services or its attorney the identity of any person or organization against whom the recipient of assistance has a right of recovery, contractual or otherwise.

(c) This section applies to the administration of and claims payments made by the Department of Health and Human Services under the NC Health Choice Program established under Part 8 of this Article.

(d) As required to ensure compliance with this section, the Department may apply to the court in which the medical assistance beneficiary's claim against the third party is pending, or if there is none, then to a court of competent jurisdiction for enforcement of this section."

SECTION 12H.15.(b) This section is effective when it becomes law and applies to claims brought by a medical assistance beneficiary against a third party in which either a settlement agreement is executed by all parties or a judgment is entered against the third party on or after the effective date of this section. For claims in which the Medicaid claim has not been satisfied and as to which, prior to the effective date of this section, either (i) a settlement agreement has been executed by all parties or (ii) judgment has been entered against the third party, the medical assistance beneficiary shall have 90 days from the effective date of this section within which to apply to the court pursuant to G.S. 108A-57(c).

ADMINISTRATIVE HEARINGS FUNDING AND PROCEDURE MODIFICATION

SECTION 12H.16.(a) The Department of Health and Human Services (Department) shall transfer the sum of one million dollars ($1,000,000) for the 2013-2014 fiscal year, and the sum of one million dollars ($1,000,000) for the 2014-2015 fiscal year, to the Office of Administrative Hearings (OAH). These funds shall be allocated by the OAH for mediation services provided for Medicaid applicant and recipient appeals and to contract for other services necessary to conduct the appeals process. OAH shall continue the Memorandum of Agreement (MOA) with the Department for mediation services provided for Medicaid recipient appeals and contracted services necessary to conduct the appeals process. The MOA will facilitate the Department's ability to draw down federal Medicaid funds to support this administrative function. Upon receipt of invoices from OAH for covered services rendered in accordance with the MOA, the Department shall transfer the federal share of Medicaid funds drawn down for this purpose.

SECTION 12H.16.(b) G.S. 108C-12(d) is repealed.

SECTION 12H.16.(c) G.S. 108C-5 reads as rewritten:

"**§ 108C-5. Payment suspension and audits utilizing extrapolation.**

(a) The Department may suspend payments to a provider in accordance with the requirements and procedures set forth in 42 C.F.R. § 455.23.

(b) In addition to the procedures for suspending payment set forth at 42 C.F.R. § 455.23, the Department may also suspend payment to any provider that (i) owes a final overpayment, assessment, or fine to the Department and has not entered into an approved payment plan with the Department or (ii) has had its participation in the Medicaid or Health Choice programs suspended or terminated by the Department. For purposes of this section, a suspension or termination of participation does not become final until all administrative appeal rights have been exhausted and shall not include any agency decision that is being contested at the Department or the Office of Administrative Hearings or in Superior Court provided that the Superior Court has entered a stay pursuant to the provisions of G.S. 150B-48.

(b1) The Department shall withhold payment to any North Carolina Medicaid provider or Health Choice provider for whom the Division of Medical Assistance, or its vendor, has identified an overpayment in a written notice to the provider. Withholding shall begin on the 31st day after the day the notice of overpayment is mailed and shall continue during the pendency of any appeal until the overpayment becomes a final overpayment. For purposes of this subsection, withholding during any month shall not exceed the amount of any interest required by law plus nine percent (9%) of the sum of the total overpayment amount identified in the notice of overpayment and any penalty required by law. If the Department subsequently reduces the identified overpayment in writing, withholding during any subsequent month shall not exceed the amount of any interest required by law plus nine percent (9%) of the sum of the total reduced identified overpayment and any penalty required by law. Total withholdings shall not exceed the total amount of the overpayment plus any penalty and interest charges required

by law. If the total amount withheld exceeds the final overpayment plus interest and penalty required by law, the Department shall pay the provider the amount withheld in excess of the final overpayment plus penalty and interest. Upon request by the provider and for good cause shown, the Department is authorized to approve a payment plan for a provider to pay an overpayment, pursuant to subsection (g) of this section. Absent a showing of good cause for repayment to be made over a period of more than one year, the Department shall take all necessary and appropriate action to recover overpayments within 365 days of the date the notice of overpayment was mailed to the provider.

(c) For providers who owe a final overpayment, assessment, or fine to the Department, the payment suspension shall begin the thirty-first day after the overpayment, assessment, or fine becomes final. The payment suspension shall not exceed the amount owed to the Department, including any applicable penalty and interest charges.

(d) Providers whose participation in the Medicaid or Health Choice programs has been suspended or terminated shall have all payments suspended beginning on the thirty-first day after the suspension or termination becomes final.

(e) The Department shall consult with the N.C. Departments of Treasury and Revenue and other State departments and agencies to determine if a provider owes debts or fines to the State. The Department may collect any of these debts owed to the State subsequent to consideration by the Department of the financial impact upon the provider and the impact upon access to the services provided by the provider.

(f) When issuing payment suspensions and withholdings in accordance with this Chapter, the Department may suspend or withhold payment to all providers which share the same IRS Employee Identification Number or corporate parent as the provider or provider site location which owes the final overpayment, overpayment, assessment, or fine. The Department shall give 30 days advance written notice to all providers which share the same IRS Employee Identification Number or corporate parent as the provider or provider site location of the intention of the Department to implement a payment ~~suspension.~~suspension or withholding.

(g) The Department is authorized to approve a payment plan for a provider to pay a final overpayment, overpayment, assessment, or fine including interest and any penalty. The payment plan can include a term of up to 24 months. The Department shall establish in rule the conditions of such provider payment plans. Nothing in this subsection shall prevent the provider and the Department from mutually agreeing to modifications of a payment plan.

(h) All payments suspended or withheld in accordance with this Chapter shall be applied toward any final overpayment, assessment, or fine owed to the Department.

...."

SECTION 12H.16.(d) Chapter 108C of the General Statutes is amended by adding a new section to read as follows:

"**§ 108C-5.1. Post-payment review and recovery audit contracts.**

The Department shall not pay contingent fees pursuant to any contract with an entity conducting Medicaid post-payment reviews or Recovery Audit Contractor (RAC) audits before all appeal rights have been exhausted. Any contingent fee for Medicaid post-payment reviews or RAC audits shall be calculated as a percentage of the amount of the final overpayment, as defined in G.S. 108C-2(5). The State share of the contingent fee paid for Medicaid post-payment reviews or RAC audits shall not exceed the State share of the amount actually recovered by the Department and applied to the final overpayment."

SECTION 12H.16.(e) Subsection (d) of this section applies only to contracts entered into or amended on or after the effective date of subsection (d).

SECTION 12H.16.(f) G.S. 1A-1 is amended by adding a new Article to read as follows:

"Article 9.

"Extraordinary Writs.

"**Rule 90. Certiorari.**

(a) Scope of the Writ; Review of the Judgments, Decisions, and Orders of the Office of Administrative Hearings. – The writ of certiorari may be issued in appropriate circumstances by the Superior Court to permit review of the judgments, decisions, and orders of the Office of Administrative Hearings when no right of appeal from an interlocutory order exists.

(b) Petition for Writ; to Which Superior Court Addressed. – Application for the writ of certiorari shall be made by filing a petition therefor with the clerk of the superior court division to which appeal of right might lie from a final decision of the Office of Administrative Hearings in the contested case for which issuance of the writ is sought.

(c) Same; Filing and Service; Content. – The petition shall be filed without unreasonable delay and shall be accompanied by proof of service upon all other parties. The petition shall contain a statement of the facts necessary to an understanding of the issues presented by the application, a statement of the reasons why the writ should issue, and certified copies of the judgment, decision, order, or opinion or parts of the record which may be essential to an understanding of the matters set forth in the petition. The petition shall be verified by counsel or the petitioner. Upon receipt of the prescribed docket fee, the clerk will docket the petition.

(d) Response; Determination by Court. – Within 10 days after service of the petition any party may file a response thereto with supporting affidavits or certified portions of the record not filed with the petition. Filing shall be accompanied by proof of service upon all other parties. The court for good cause shown may shorten the time for filing a response. Determination will be made on the basis of the petition, the response, and any supporting papers. No briefs or oral argument will be received or allowed unless ordered by the court upon its own initiative.

"**Rule 91. Mandamus and Prohibition.**

(a) Petition for Writ; to Which Superior Court Addressed. – Applications for the writs of mandamus or prohibition directed to an administrative law judge shall be made by filing a petition therefor with the clerk of the superior court division to which appeal of right might lie from a final decision entered in the contested case for which issuance of the writ is sought.

(b) Same; Filing and Service; Content. – The petition shall be filed without unreasonable delay after the action by the Office of Administrative Hearings sought to be prohibited or compelled has been undertaken, or has occurred, or has been refused, and shall be accompanied by proof of service on the respondent administrative law judge or administrative law judges and on all other parties to the action. The petition shall contain a statement of the facts necessary to an understanding of the issues presented by the application, a statement of the issues presented and of the relief sought, a statement of the reasons why the writ should issue, and certified copies of any order or opinion or parts of the record that may be essential to an understanding of the matters set forth in the petition. The petition shall be verified by counsel or the petitioner. Upon receipt of the prescribed docket fee, the clerk shall docket the petition.

(c) Response; Determination by Court. – Within 10 days after service of the petition the respondent or any party may file a response thereto with supporting affidavits or certified portions of the record not filed with the petition. Filing shall be accompanied by proof of service upon all other parties. The court for good cause shown may shorten the time for filing a response. Determination will be made on the basis of the petition, the response, and any supporting papers. No briefs or oral argument will be received or allowed unless ordered by the court upon its own initiative.

"**Rule 92. Supersedeas.**

(a) Pending Review of Office of Administrative Hearings Judgments, Decisions, and Orders. – Application may be made to the appropriate superior court for a writ of supersedeas to stay the execution or enforcement of any judgment, decision, order, or other determination of

the Office of Administrative Hearings which is not automatically stayed by the taking of appeal when an appeal has been taken or a petition for mandamus, prohibition, or certiorari has been filed to obtain review of the judgment, decision, order, or other determination and (i) a stay order or entry has been sought by the applicant by deposit of security or by motion at the Office of Administrative Hearings and such order or entry has been denied or vacated by the trial tribunal or (ii) extraordinary circumstances make it impracticable to obtain a stay by deposit of security or by application to the Office of Administrative Hearings for a stay order.

(b) Petition; Filing and Service; Content. – The petition shall be filed with the clerk of the superior court division to which appeal of right might lie from a final decision of the Office of Administrative Hearings in the contested case for which issuance of the writ is sought. The petitions shall be accompanied by proof of service upon all other parties. The petition shall be verified by counsel or the petitioner. Upon receipt of the required docket fee, the clerk will docket the petition. For stays of the judgments of the Office of Administrative Hearings, the petition shall contain a statement that a stay has been sought in the Office of Administrative Hearings and denied or vacated or shall contain facts showing that it was impracticable there to seek a stay. For stays of any judgment, the petition shall contain (i) a statement of any facts necessary to an understanding of the basis upon which the writ is sought and (ii) a statement of reasons why the writ should issue in justice to the applicant. The petition may be accompanied by affidavits and by any certified portions of the record pertinent to its consideration. It may be included in a petition to the superior court for certiorari, mandamus, or prohibition.

(c) Response; Determination by Court. – Within 10 days after service of the petition, any party may file a response thereto with supporting affidavits or certified portions of the record not filed with the petition. Filing shall be accompanied by proof of service upon all other parties. The court for good cause shown may shorten the time for filing a response. Determination will be made on the basis of the petition, the response, and any supporting papers. No briefs or oral argument will be received or allowed unless ordered by the court upon its own initiative.

(d) Temporary Stay. – Upon the filing of a petition for supersedeas, the applicant may apply, either within the petition or by separate paper, for an order temporarily staying enforcement or execution of the judgment, decision, order, or other determination pending decision by the court upon the petition for supersedeas. If application is made by separate paper, it shall be filed and served in the manner provided for the petition for supersedeas in Rule 92(b). The court for good cause shown in such a petition for temporary stay may issue such an order ex parte."

SECTION 12H.16.(g) Article 4 of Chapter 150B of the General Statutes is amended by adding a new section to read:

"**§ 150B-53. Writs.**

Any party to a contested case may petition for writs of certiorari, mandamus, prohibition, or supersedeas in the manner prescribed in Rules 90, 91, and 92 of the North Carolina Rules of Civil Procedure."

CODIFY PROVIDER PERFORMANCE BONDS

SECTION 12H.17.(a) Chapter 108C of the General Statutes is amended by adding a new section to read as follows:

"**§ 108C-14. Provider performance bonds.**

(a) Subject to the provisions of this section, the Department may require Medicaid-enrolled providers to purchase a performance bond in an amount not to exceed one hundred thousand dollars ($100,000) naming as beneficiary the Department of Health and Human Services, Division of Medical Assistance, or provide to the Department a validly executed letter of credit or other financial instrument issued by a financial institution or agency honoring a demand for payment in an equivalent amount. The Department may require the

purchase of a performance bond or the submission of an executed letter of credit or financial instrument as a condition of initial enrollment, reenrollment, recredentialing, or reinstatement if any of the following are true:

(1) The provider fails to demonstrate financial viability.

(2) The Department determines there is significant potential for fraud and abuse.

(3) The Department otherwise finds it is in the best interest of the Medicaid program to do so.

The Department shall specify the circumstances under which a performance bond or executed letter of credit will be required.

(b) The Department may waive or limit the requirements of subsection (a) of this section for individual Medicaid-enrolled providers or for one or more classes of Medicaid-enrolled providers based on the following:

(1) The provider's or provider class's dollar amount of monthly billings to Medicaid.

(2) The length of time an individual provider has been licensed, endorsed, certified, or accredited in this State to provide services.

(3) The length of time an individual provider has been enrolled to provide Medicaid services in this State.

(4) The provider's demonstrated ability to ensure adequate record keeping, staffing, and services.

(5) The need to ensure adequate access to care.

In waiving or limiting requirements of this section, the Department shall take into consideration the potential fiscal impact of the waiver or limitation on the State Medicaid Program. The Department shall provide to the affected provider written notice of the findings upon which its action is based and shall include the performance bond requirements and the conditions under which a waiver or limitation apply."

SECTION 12H.17.(b) The Department may adopt temporary rules in accordance with G.S. 150B-21.1 as necessary to implement G.S. 108C-14, as enacted by this section.

SHARED SAVINGS PLAN WITH PROVIDERS

SECTION 12H.18.(a) The Department of Health and Human Services shall consult with providers affected by subsection (b) of this section to develop a shared savings plan that the Department shall implement by July 1, 2014, with provider payments beginning January 1, 2015. The shared savings plan shall provide incentives to provide effective and efficient care that results in positive outcomes for Medicaid recipients. Payments under the shared savings plan shall be paid from funds withheld under subsection (b) of this section.

SECTION 12H.18.(b) During the 2013-2015 fiscal biennium, the Department of Health and Human Services shall withhold four percent (4%) of payments for the following services rendered on or after July 1, 2013:

(1) Inpatient hospital.

(2) Physician, excluding primary care until January 1, 2015.

(3) Dental.

(4) Optical services and supplies.

(5) Podiatry.

(6) Chiropractors.

(7) Hearing aids.

(8) Personal care services.

(9) Nursing homes.

(10) Adult care homes.

(11) Drugs.

Funds from payments withheld under this section that are budgeted to be shared with providers shall not revert to the General Fund.

SECTION 12H.18.(c) The Department of Health and Human Services shall report to the Joint Legislative Oversight Committee on Health and Human Services on the development of the shared savings program established by this section no later than March 1, 2014.

MODIFY HOSPITAL PROVIDER ASSESSMENTS BY CHANGING AMOUNT RETAINED BY STATE TO A PERCENTAGE

SECTION 12H.19.(a) G.S. 108A-121(8) reads as rewritten:

"(8) State's annual Medicaid payment. – ~~Forty-three million dollars ($43,000,000).~~ For an assessment collected under this Article, an amount equal to fifteen and six-tenths percent (15.6%) of the total amount collected under the assessment."

SECTION 12H.19.(b) G.S. 108A-124 reads as rewritten:

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

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

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

~~(1) Transfer to the State Controller twenty-five percent (25%) of the State's annual Medicaid payment amount.~~

~~(2)~~(1) Pay to each hospital that has paid its equity assessment for the respective quarter twenty-five percent (25%) of its Medicaid equity payment amount. A hospital's Medicaid equity payment amount is the sum of the hospital's Medicaid inpatient and outpatient deficits after calculating all other Medicaid payments, excluding disproportionate share hospital payments and the UPL payment remitted to the hospital under subdivision ~~(3)~~(2) of this subsection.

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

...."

SECTION 12H.19.(c) Article 7 of Chapter 108A is amended by adding a new section to read as follows:

"**§ 108A-128. Payment for providers formerly subject to this Article.**

If a hospital provider (i) is exempt from both the equity and UPL assessments under this Article, (ii) makes an intergovernmental transfer (IGT) to the Department of Health and Human Services to be used to draw down matching federal funds, and (iii) has acquired, merged, leased, or managed another provider on or after March 25, 2011, then the hospital provider shall transfer to the State an additional amount, which shall be retained by the State. The additional amount shall be fifteen and six tenths percent (15.6%) of the amount of funds that (i) would be transferred to the State through such an IGT and (ii) are to be used to match additional federal funds that the hospital provider is able to receive because of the acquired, merged, leased, or managed provider."

MODIFY MEDICAID RATE METHODOLOGIES FOR RECENTLY ACQUIRED PROVIDERS; CREATE REGIONAL BASE RATES FOR HOSPITALS

SECTION 12H.20.(a) The Department of Health and Human Services shall modify Medicaid rate methodologies to ensure that rates paid to hospital or physician providers that were acquired, merged, leased, or managed after December 31, 2011, do not exceed rates that would have been paid if the provider had not been acquired, merged, leased, or managed.

SECTION 12H.20.(b) The Department of Health and Human Services, Division of Medical Assistance, shall replace the existing base rates for individual hospitals with new regional base rates for all hospitals within a given region. The Department shall consult with hospitals to define the regions and to identify appropriate regional differences in order to establish regional base rates. The new regional base rates shall do the following:

(1) Maintain the same statewide total for the base rates for all hospitals as before the base rate revision, after first adjusting the statewide total based on the changes to rates made by subsection (a) of this section.

(2) Ensure the sustainability of small rural hospitals, ensuring access to care.

COMMUNITY CARE OF NORTH CAROLINA COST-EFFECTIVENESS AND OUTCOMES STUDY; CONTINUED REPORTING

SECTION 12H.21.(a) As recommended by the Office of the State Auditor in the January 2013 performance audit of the Medicaid Program, the Department of Health and Human Services shall engage medical researchers to perform a scientifically valid study based upon actual data to determine whether the Community Care of North Carolina (CCNC) model saves money and improves health outcomes. This study shall begin during fiscal year 2013-2014 and shall, if possible, be completed by the end of that fiscal year.

SECTION 12H.21.(b) During fiscal year 2014-2015, the Department of Health and Human Services shall submit a report from a qualified entity with proven experience in conducting actuarial and health care studies on the Medicaid cost-savings achieved by the CCNC networks, which shall include children, adults, and the aged, blind, and disabled, to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

SECTION 12H.21.(c) North Carolina Community Care Networks, Inc. (NCCCN), shall report quarterly to the Department and to the Office of State Budget and Management (OSBM) on the development of the statewide Enhanced Primary Care Case Management System and its defined goals and deliverables as agreed upon in the contract. NCCCN shall submit biannual reports to the Secretary of Health and Human Services, OSBM, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division on the progress and results of implementing the quantitative, analytical, utilization, quality, cost containment, and access goals and deliverables set out in the contract. NCCCN shall conduct its own analysis of the CCNC system to identify any variations from the development plan for the Enhanced Primary Care Case Management System and its defined goals and deliverables set out in the contract between the Department of Health and Human Services, Division of Medical Assistance (DMA), and NCCCN. Upon identifying any variations, NCCCN shall develop and implement a plan to address the variations. NCCCN shall report the plan to DMA within 30 days after taking any action to implement the plan.

COMMUNITY CARE OF NORTH CAROLINA TO SET AND PAY PER MEMBER PER MONTH PAYMENTS ON PERFORMANCE BASIS TO ENCOURAGE BETTER CARE MANAGEMENT

SECTION 12H.22.(a) The Department of Health and Human Services shall contract with Community Care Networks, Inc. (NCCCN), to administer and distribute the funds currently allocated to per member per month (PMPM) payments for Community Care of North

Carolina (CCNC) primary care providers. NCCCN shall distribute one hundred percent (100%) of the funds allocated to PMPM payments to primary care providers on a care management performance basis using criteria developed by NCCCN. In developing its pay for performance model, NCCCN shall (i) ensure an adequate statewide network of participating CCNC primary care providers and (ii) adopt a payment level of zero dollars ($0.00) for providers who do not satisfactorily participate in CCNC care management initiatives. Performance-based payments shall begin on July 1, 2014.

SECTION 12H.22.(b) PMPM payments from the Department to CCNC primary care providers shall continue until the implementation of the performance-based payment system.

SECTION 12H.22.(c) The Department shall consult with the Joint Legislative Oversight Committee on Health and Human Services on the performance-based payment proposal from NCCCN to incentivize better care management from primary care providers. If the Department submits a report and requests a meeting for the consultation, but the Oversight Committee does not hear the consultation within 90 days of the request, then the consultation requirement shall be deemed waived by the Oversight Committee. The report submitted for consultation shall include the following:

(1) Measureable elements that will be used to differentiate care management performance-based payments from the existing PMPM payments.

(2) A comparison of the performance plan to other measures such as the Healthcare Effectiveness Data and Information Set (HEDIS) or other national performance or quality measures.

(3) The specific structure of when payments would be made.

(4) An impact calculation of prospective payments under the performance-based payment plan and the current PMPM rates.

SECTION 12H.22.(d) Subsection (a) of this section is contingent upon both of the following:

(1) The Department's successful renegotiation of and modification to the existing contract or entering into a new contract with NCCCN to administer and distribute performance-based payments, as provided in subsection (a) of this section.

(2) The consultation required under subsection (c) of this section or an implied waiver of the consultation requirement, as provided in subsection (c) of this section.

GOVERNANCE OF ENTITIES TO MANAGE CARE AND CONTROL COSTS STATEWIDE

SECTION 12H.23.(a) The General Assembly finds that the internal governance of entities contracting with the State to provide centralized care coordination, cost containment, or management of care on a Statewide basis for the Medicaid program is of significant importance to the State, its taxpayers, and its Medicaid recipients, especially given the considerable amount of public funds expended on such contracts. The General Assembly further finds that the public has a profound interest in ensuring the quality of the entities' internal governance and, therefore, it is appropriate that the public should have an influence in the entities' internal governance.

SECTION 12H.23.(b) Based on the legislative findings of subsection (a) of this section, the Department of Health and Human Services shall not enter into a new contract with an entity to provide cost containment or management of care on a statewide basis for the Medicaid program unless the entity adheres to the following governance provisions related to the entity's governing board:

(1) The board shall contain individuals with experience in health care, including the following:
a. A health actuary.
b. Someone with expertise in health information technology, informatics, or provider performance measurement.
c. Two representatives of the provider community.
d. A representative of the health insurance industry.
(2) The board shall provide for public voting members to be appointed as follows:
a. Two persons appointed by the General Assembly on the recommendation of the President Pro Tempore of the Senate.
b. Two persons appointed by the General Assembly on the recommendation of the Speaker of the House of Representatives.
c. Two persons appointed by the Governor.
(3) No more than two members on the board may directly benefit from any per member per month (PMPM) payments or incentive payments that are distributed or administered by the entity.
(4) No more than twenty-five percent (25%) of the members of the board may be providers or come from the provider community.
(5) No member of the board, or immediate family of a member of the board, may be a registered lobbyist or be employed by an entity that lobbies on behalf of a health care provider association.
(6) The board size may not exceed twice the number of persons to be appointed under subdivision (2) of this section plus one.

SECTION 12H.23.(c) Subsection (b) of this section shall not apply to existing contracts or renewals under existing contracts when the renewal is at the option of one party.

ACCOUNTING FOR MEDICAID RECEIVABLES AS NONTAX REVENUE

SECTION 12H.24.(a) Receivables reserved at the end of the 2013-2014 and 2014-2015 fiscal years shall, when received, be accounted for as nontax revenue for each of those fiscal years.

SECTION 12H.24.(b) For the 2013-2014 fiscal year, the Department of Health and Human Services shall deposit from its revenues one hundred ten million dollars ($110,000,000) with the Department of State Treasurer to be accounted for as nontax revenue. For the 2014-2015 fiscal year, the Department of Health and Human Services shall deposit from its revenues one hundred nine million dollars ($109,000,000) with the Department of State Treasurer to be accounted for as nontax revenue. These deposits shall represent the return of General Fund appropriations, nonfederal revenue, fund balances, or other resources from State-owned and State-operated hospitals which are used to provide indigent and non-indigent care services. The return from State-owned and State-operated hospitals to DHHS will be made from nonfederal resources in an amount equal to the amount of the payments from the Division of Medical Assistance for uncompensated care. The treatment of any revenue derived from federal programs shall be in accordance with the requirements specified in the Code of Federal Regulations, Title 2, Part 225.

MEDICAID SPECIAL FUND TRANSFER

SECTION 12H.25. Of the funds transferred to the Department of Health and Human Services for Medicaid programs pursuant to G.S. 143C-9-1, there is appropriated from the Medicaid Special Fund to the Department of Health and Human Services the sum of forty-three million dollars ($43,000,000) for the 2013-2014 fiscal year and the sum of forty-three million dollars ($43,000,000) for the 2014-2015 fiscal year. These funds shall be

allocated as prescribed by G.S. 143C-9-1(b) for Medicaid programs. Notwithstanding the prescription in G.S. 143C-9-1(b) that these funds not reduce State general revenue funding, these funds shall replace the reduction in general revenue funding effected in this act.

MEDICAID COST CONTAINMENT ACTIVITIES

SECTION 12H.26.(a) The Department of Health and Human Services may use up to five million dollars ($5,000,000) in the 2013-2014 fiscal year and up to five million dollars ($5,000,000) in the 2014-2015 fiscal year in Medicaid funds budgeted for program services to support the cost of administrative activities when cost-effectiveness and savings are demonstrated. The funds shall be used to support activities that will contain the cost of the Medicaid Program, including contracting for services, hiring additional staff, funding pilot programs, Health Information Exchange and Health Information Technology (HIE/HIT) administrative activities, or providing grants through the Office of Rural Health and Community Care to plan, develop, and implement cost containment programs.

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

SECTION 12H.26.(b) The Department shall report annually on the expenditures under this section to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division. The report shall include the methods used to achieve savings and the amount saved by these methods. The report is due to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division not later than December 1 of each year for the activities of the previous State fiscal year.

MISCELLANEOUS MEDICAID PROVISIONS

SECTION 12H.27.(a) Volume Purchase Plans and Single Source Procurement. – The Department of Health and Human Services, Division of Medical Assistance, may, subject to the approval of a change in the State Medicaid Plan, contract for services, medical equipment, supplies, and appliances by implementation of volume purchase plans, single source procurement, or other contracting processes in order to improve cost containment.

SECTION 12H.27.(b) Cost Containment Programs. – The Department of Health and Human Services, Division of Medical Assistance, may undertake cost containment programs, including contracting for services, preadmissions to hospitals, and prior approval for certain outpatient surgeries before they may be performed in an inpatient setting.

SECTION 12H.27.(c) Posting of Notices on Web Site. – For any public notice of change required pursuant to the provisions of 42 C.F.R. § 447.205, the Department shall, no later than seven business days after the date of publication, publish the same notice on its Web site on the same Web page as it publishes State Plan amendments, and the notice shall remain on the Web site continuously for 90 days.

SECTION 12H.27.(d) Medicaid Identification Cards. – The Department shall issue Medicaid identification cards to recipients on an annual basis with updates as needed.

SUBPART XII-I. MISCELLANEOUS

SPECIFY BOARD SELECTION FOR THE NORTH CAROLINA INSTITUTE OF MEDICINE

SECTION 12I.1.(a) G.S. 90-470 reads as rewritten:

"**§ 90-470. Institute of Medicine.**

(a) The persons appointed under the provisions of this section are declared to be a body politic and corporate under the name and style of the North Carolina Institute of Medicine, and by that name may sue and be sued, make and use a corporate seal and alter the same at pleasure, contract and be contracted with, and shall have and enjoy all the rights and privileges necessary for the purposes of this section. The corporation shall have perpetual succession.

(b) The purposes for which the corporation is organized are to:

(1) Be concerned with the health of the people of North Carolina;

(2) Monitor and study health matters;

(3) Respond authoritatively when found advisable;

(4) Respond to requests from outside sources for analysis and advice when this will aid in forming a basis for health policy decisions.

~~The 18 initial members of the North Carolina Institute of Medicine shall be appointed by the Governor.~~

(c) The North Carolina Institute of Medicine shall be governed by a Board of Directors. The ~~initial members are authorized, prior to expanding the membership,~~ Board of Directors is authorized to establish and amend bylaws, to procure facilities, employ a director and staff, to solicit, receive and administer funds in the name of the North Carolina Institute of Medicine, and carry out other activities necessary to fulfill the purposes of this section.

(d) The ~~members~~ Board of Directors shall select ~~with the approval of the Governor~~ additional ~~members,~~ members of the North Carolina Institute of Medicine, so that the total membership will not exceed a number determined by the Board of Directors in its bylaws. The membership should be distinguished and influential leaders from the major health professions, the hospital industry, the health insurance industry, State and county government and other political units, education, business and industry, the universities, and the university medical centers.

(e) The North Carolina Institute of Medicine may receive and administer funds from private sources, foundations, State and county governments, federal agencies, and professional organizations.

(f) The director and staff of the North Carolina Institute of Medicine should be chosen from those well established in the field of health promotion and medical care.

~~For the purposes of Chapter 55A of the General Statutes, the members appointed under this section shall be considered the initial board of directors.~~

(g) The North Carolina Institute of Medicine is declared to be under the patronage and control of the State.

(h) The General Assembly reserves the right to alter, amend, or repeal this ~~section.~~ Article."

SECTION 12I.1.(b) Article 31 of Chapter 90 is amended by adding a new section to read as follows:

"**§ 90-471. Board of Directors of the Institute of Medicine.**

(a) The Board of Directors of the North Carolina Institute of Medicine shall be appointed as follows:

(1) Seven individuals appointed by the General Assembly on the recommendation of the Speaker of the House of Representatives.

(2) Seven individuals appointed by the General Assembly on the recommendation of the President Pro Tempore of the Senate.

(3) Seven individuals appointed by the Governor.

(b) The members of the Board of Directors should be distinguished and influential leaders from the major health professions, the hospital industry, the health insurance industry, State and county government and other political units, education, business and industry, the universities, and the university medical centers.

(c) Terms on the Board of Directors shall be for four years, and no individual may serve more than two consecutive terms."

SECTION 12I.1.(c) For the appointments under G.S. 90-471, as enacted by this section, with terms to begin on January 1, 2014, the appointing authorities shall designate certain appointees to serve initial two-year terms as follows:

(1) Of those appointments on the recommendation of the Speaker of the House of Representatives, three shall be designated for two-year terms.

(2) Of those appointments on the recommendation of the President Pro Tempore of the Senate, three shall be designated for two-year terms.

(3) Of those appointments by the Governor, four shall be designated for two-year terms.

A two-year term under this subsection shall count as a term for purposes of the two consecutive term limit provided in G.S. 90-471(c), as enacted by this section.

SECTION 12I.1.(d) The members of the Board of Directors serving as of the effective date of this act may continue to serve until January 1, 2014.

SECTION 12I.1.(e) Subsections (a) and (b) of this section become effective January 1, 2014.

SUBPART XII-J. DHHS BLOCK GRANTS

DHHS BLOCK GRANTS

SECTION 12J.1.(a) Except as otherwise provided, appropriations from federal block grant funds are made for each year of the fiscal biennium ending June 30, 2015, according to the following schedule:

TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) FUNDS

Local Program Expenditures

Division of Social Services

01.	Work First Family Assistance	$ 60,285,413
02.	Work First County Block Grants	82,485,495
03.	Work First Electing Counties	2,352,521
04.	Adoption Services – Special Children's Adoption Fund	2,026,877
05.	Child Protective Services – Child Welfare Workers for Local DSS	9,412,391
06.	Child Welfare Collaborative	632,416

Division of Child Development	
07. Subsidized Child Care Program	52,060,846
08. Swap Child Care Subsidy	6,352,644
Division of Public Health	
09. Teen Pregnancy Initiatives	2,500,000
DHHS Administration	
10. Division of Social Services	2,482,260
11. Office of the Secretary	34,042
Transfers to Other Block Grants	
Division of Child Development	
12. Transfer to the Child Care and Development Fund	71,773,001
13. Transfer to Social Services Block Grant for Child Protective Services – Child Welfare Training in Counties	1,300,000
14. Transfer to Social Services Block Grant for Child Protective Services	5,040,000
15. Transfer to Social Services Block Grant for County Departments of Social Services for Children's Services	4,148,001
TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) FUNDS	**$ 302,885,907**
TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) EMERGENCY CONTINGENCY FUNDS	
Local Program Expenditures	
Division of Social Services	
01. Work First County Block Grants	$ 5,580,925
02. Work First Electing Counties	25,692
03. Subsidized Child Care	6,549,469
TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) EMERGENCY CONTINGENCY FUNDS	**$ 12,156,086**

SOCIAL SERVICES BLOCK GRANT

Local Program Expenditures

Divisions of Social Services and Aging and Adult Services

01.	County Departments of Social Services (Transfer from TANF $4,148,001)	$ 29,422,137
02.	Child Protective Services (Transfer from TANF)	5,040,000
03.	State In-Home Services Fund	1,943,950
04.	Adult Protective Services	1,245,363
05.	State Adult Day Care Fund	1,994,084
06.	Child Protective Services/CPS Investigative Services – Child Medical Evaluation Program (Carousel Center for Abused Children $134,592)	563,868
07.	Special Children Adoption Incentive Fund	462,600
08.	Child Protective Services – Child Welfare Training for Counties (Transfer from TANF)	1,300,000
09.	Home and Community Care Block Grant (HCCBG)	1,696,888
10.	Child Advocacy Centers	375,000
11.	Guardianship	3,978,360
12.	UNC Cares Contract	229,376
13.	Foster Care Services	1,385,152

Division of Central Management and Support

14.	DHHS Competitive Block Grants for Nonprofits (2013-2014 Fiscal Year Only)	3,852,500

Division of Mental Health, Developmental Disabilities, and Substance Abuse Services

15.	Mental Health Services – Adult and Child/Developmental Disabilities Program/Substance Abuse Services – Adult	4,030,730

DHHS Program Expenditures

Division of Services for the Blind

16.	Independent Living Program	3,361,323

Division of Health Service Regulation		
17.	Adult Care Licensure Program	381,087
18.	Mental Health Licensure and Certification Program	190,284
DHHS Administration		
19.	Division of Aging and Adult Services	577,745
20.	Division of Social Services	559,109
21.	Office of the Secretary/Controller's Office	127,731
22.	Division of Child Development	13,878
23.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	27,446
24.	Division of Health Service Regulation	118,946
TOTAL SOCIAL SERVICES BLOCK GRANT		**$ 62,877,557**

LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT

Local Program Expenditures		
Division of Social Services		
01.	Low-Income Energy Assistance Program (LIEAP)	$ 50,799,293
02.	Crisis Intervention Program (CIP)	33,866,195
Local Administration		
Division of Social Services		
03.	County DSS Administration	6,757,731
DHHS Administration		
04.	Office of the Secretary/DIRM	412,488
05.	Office of the Secretary/Controller's Office	18,378
Transfers to Other State Agencies		
Department of Commerce		
06.	Weatherization Program	15,024,936

07.	Heating Air Repair and Replacement Program (HARRP)	7,193,873
08.	Local Residential Energy Efficiency Service Providers – Weatherization	37,257
09.	Local Residential Energy Efficiency Service Providers – HARRP	338,352
10.	Department of Commerce Administration – Weatherization	37,257
11.	Department of Commerce Administration – HARRP	338,352
	Department of Administration	
12.	N.C. Commission on Indian Affairs	87,736
TOTAL LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT		**$ 114,911,848**
CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT		
Local Program Expenditures		
	Division of Child Development	
01.	Child Care Services (Smart Start $7,000,000)	$ 158,328,747
02.	Electronic Tracking System	3,000,000
03.	Transfer from TANF Block Grant for Child Care Subsidies	71,773,001
04.	Quality and Availability Initiatives (TEACH Program $3,800,000)	22,500,000
DHHS Administration		
	Division of Child Development	
05.	DCDEE Administrative Expenses	6,000,000
06.	Local Subsidized Child Care Services Support	13,274,413
	Division of Central Administration	
07.	DHHS Central Administration – DIRM	

	Technical Services	775,000
TOTAL CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT		**$ 275,651,161**
MENTAL HEALTH SERVICES BLOCK GRANT		
Local Program Expenditures		
01.	Mental Health Services – Adult	$ 10,717,607
02.	Mental Health Services – Child	5,121,991
03.	Administration	200,000
TOTAL MENTAL HEALTH SERVICES BLOCK GRANT		**$ 16,039,598**
SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT		
Local Program Expenditures		
Division of Mental Health, Developmental Disabilities, and Substance Abuse Services		
01.	Substance Abuse Services – Adult	$ 14,960,371
02.	Substance Abuse Treatment Alternative for Women	6,050,300
03.	Substance Abuse – HIV and IV Drug	3,919,723
04.	Substance Abuse Prevention – Child	7,186,857
05.	Substance Abuse Services – Child	4,190,500
06.	Administration	454,000
Division of Public Health		
07.	Risk Reduction Projects	575,654
08.	Aid-to-Counties	190,295
TOTAL SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT		**$ 37,527,700**
MATERNAL AND CHILD HEALTH BLOCK GRANT		
Local Program Expenditures		
Division of Public Health		
01.	Children's Health Services	$ 8,042,531

02. Women's Health (March of Dimes $350,000; Teen Pregnancy Prevention Initiatives $650,000; Perinatal Quality Collaborative $350,000; 17P Project $47,000; Maternity Homes $925,085; Carolina Pregnancy Care Fellowship $250,000)	8,532,935
03. Local Health Departments/Oral Health Services	44,901
Division of Central Management and Support	
04. DHHS Competitive Block Grants for Nonprofits (2013-2014 Fiscal Year Only)	89,374
DHHS Program Expenditures	
Division of Public Health	
05. Children's Health Services	1,301,504
06. Women's Health – Maternal Health	105,419
07. State Center for Health Statistics	164,487
DHHS Administration	
Division of Public Health	
08. Division of Public Health Administration	573,108
TOTAL MATERNAL AND CHILD HEALTH BLOCK GRANT	**$ 18,854,259**

PREVENTIVE HEALTH SERVICES BLOCK GRANT

Local Program Expenditures	
01. DHHS Competitive Block Grants for Nonprofits (2013-2014 Fiscal Year Only)	1,331,961
02. Injury and Violence Prevention (Services to Rape Victims – Set-Aside)	169,730
DHHS Program Expenditures	
Division of Public Health	
03. HIV/STD Prevention and Community Planning (Transfer from Social Services Block Grant)	145,819

04.	Oral Health Preventive Services	46,302
05.	Laboratory Services – Testing, Training, and Consultation	10,980
06.	Injury and Violence Prevention (Services to Rape Victims – Set-Aside)	199,634
07.	Heart Disease and Stroke Prevention	162,249
08.	Performance Improvement and Accountability	213,971
09.	Physical Activity and Nutrition	38,000
10.	State Center for Health Statistics	61,406
TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT		**$ 2,380,052**

COMMUNITY SERVICES BLOCK GRANT

Local Program Expenditures

Office of Economic Opportunity

01.	Community Action Agencies	$ 22,402,724
02.	Limited Purpose Agencies	1,244,596

DHHS Administration

03.	Office of Economic Opportunity	1,244,596
TOTAL COMMUNITY SERVICES BLOCK GRANT		**$ 24,891,916**

GENERAL PROVISIONS

SECTION 12J.1.(b) Information to Be Included in Block Grant Plans. – The Department of Health and Human Services shall submit a separate plan for each Block Grant received and administered by the Department, and each plan shall include the following:

(1) A delineation of the proposed allocations by program or activity, including State and federal match requirements.

(2) A delineation of the proposed State and local administrative expenditures.

(3) An identification of all new positions to be established through the Block Grant, including permanent, temporary, and time-limited positions.

(4) A comparison of the proposed allocations by program or activity with two prior years' program and activity budgets and two prior years' actual program or activity expenditures.

(5) A projection of current year expenditures by program or activity.

(6) A projection of federal Block Grant funds available, including unspent federal funds from the current and prior fiscal years.

SECTION 12J.1.(c) Changes in Federal Fund Availability. – If the Congress of the United States increases the federal fund availability for any of the Block Grants or contingency funds and other grants related to existing Block Grants administered by the Department of Health and Human Services from the amounts appropriated in this section, the Department

shall allocate the increase proportionally across the program and activity appropriations identified for that Block Grant in this section. In allocating an increase in federal fund availability, the Office of State Budget and Management shall not approve funding for new programs or activities not appropriated in this section.

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

Notwithstanding the provisions of this subsection, for fiscal years 2013-2014 and 2014-2015, increases in the federal fund availability for the Temporary Assistance to Needy Families (TANF) Block Grant shall be used for the North Carolina Child Care Subsidy program to pay for child care in four- or five-star rated facilities for four-year-old children.

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

SECTION 12J.1.(d) Except as otherwise provided, appropriations from federal Block Grant funds are made for each year of the fiscal biennium ending June 30, 2015, according to the schedule enacted for State fiscal years 2013-2014 and 2014-2015 or until a new schedule is enacted by the General Assembly.

SECTION 12J.1.(e) All changes to the budgeted allocations to the Block Grants or contingency funds and other grants related to existing Block Grants administered by the Department of Health and Human Services that are not specifically addressed in this section shall be approved by the Office of State Budget and Management, and the Office of State Budget and Management shall consult with the Joint Legislative Commission on Governmental Operations for review prior to implementing the changes. The report shall include an itemized listing of affected programs, including associated changes in budgeted allocations. All changes to the budgeted allocations to the Block Grants shall be reported immediately to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division. This subsection does not apply to Block Grant changes caused by legislative salary increases and benefit adjustments.

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) FUNDS

SECTION 12J.1.(f) The sum of eighty-two million four hundred eighty-five thousand four hundred ninety-five dollars ($82,485,495) appropriated in this section in TANF funds to the Department of Health and Human Services, Division of Social Services, for each year of the 2013-2015 fiscal biennium shall be used for Work First County Block Grants. The Division shall certify these funds in the appropriate State-level services based on prior year actual expenditures. The Division has the authority to realign the authorized budget for these funds among the State-level services based on current year actual expenditures.

SECTION 12J.1.(g) The sum of two million four hundred eighty-two thousand two hundred sixty dollars ($2,482,260) appropriated in this section in TANF funds to the Department of Health and Human Services, Division of Social Services, for each year of the 2013-2015 fiscal biennium shall be used to support administration of TANF-funded programs.

SECTION 12J.1.(h) The sum of nine million four hundred twelve thousand three hundred ninety-one dollars ($9,412,391) appropriated in this section to the Department of Health and Human Services, Division of Social Services, in TANF funds for each year of the 2013-2015 fiscal biennium for child welfare improvements shall be allocated to the county departments of social services for hiring or contracting staff to investigate and provide services

in Child Protective Services cases; to provide foster care and support services; to recruit, train, license, and support prospective foster and adoptive families; and to provide interstate and post-adoption services for eligible families.

Counties shall maintain their level of expenditures in local funds for Child Protective Services' workers. Of the block grant funds appropriated for Child Protective Services' workers, the total expenditures from State and local funds for fiscal years 2013-2014 and 2014-2015 shall not be less than the total expended from State and local funds for the 2012-2013 fiscal year.

SECTION 12J.1.(i) The sum of two million twenty-six thousand eight hundred seventy-seven dollars ($2,026,877) appropriated in this section in TANF funds to the Department of Health and Human Services, Special Children Adoption Fund, for each year of the 2013-2015 fiscal biennium shall be used in accordance with G.S. 108A-50.2. The Division of Social Services, in consultation with the North Carolina Association of County Directors of Social Services and representatives of licensed private adoption agencies, shall develop guidelines for the awarding of funds to licensed public and private adoption agencies upon the adoption of children described in G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption Fund by participating agencies shall be used exclusively to enhance the adoption services program. No local match shall be required as a condition for receipt of these funds.

SECTION 12J.1.(j) The sum of six hundred thirty-two thousand four hundred sixteen dollars ($632,416) appropriated in this section to the Department of Health and Human Services in TANF funds for each year of the 2013-2015 fiscal biennium shall be used to continue support for the Child Welfare Collaborative.

SECTION 12J.1.(k) The Department of Health and Human Services, Division of Social Services, shall use funds appropriated in the Temporary Assistance to Needy Families (TANF) Block Grant and allocated for Work First Family Assistance for each year of the 2013-2015 fiscal biennium to implement Section 12C.6 of this act.

SOCIAL SERVICES BLOCK GRANT

SECTION 12J.1.(l) The sum of twenty-nine million four hundred twenty-two thousand one hundred thirty-seven dollars ($29,422,137) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for each year of the 2013-2015 fiscal biennium shall be used for County Block Grants. The Division shall certify these funds in the appropriate State-level services based on prior year actual expenditures. The Division has the authority to realign the authorized budget for these funds among the State-level services based on current year actual expenditures.

SECTION 12J.1.(m) The sum of one million three hundred thousand dollars ($1,300,000) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for each year of the 2013-2015 fiscal biennium shall be used to support various child welfare training projects as follows:

(1) Provide a regional training center in southeastern North Carolina.

(2) Provide training for residential child caring facilities.

(3) Provide for various other child welfare training initiatives.

SECTION 12J.1.(n) The Department of Health and Human Services is authorized, subject to the approval of the Office of State Budget and Management, to transfer Social Services Block Grant funding allocated for departmental administration between divisions that have received administrative allocations from the Social Services Block Grant.

SECTION 12J.1.(o) Social Services Block Grant funds appropriated for the Special Children's Adoption Incentive Fund will require a fifty percent (50%) local match.

SECTION 12J.1.(p) The sum of five million forty thousand dollars ($5,040,000) appropriated in this section in the Social Services Block Grant for each year of the 2013-2015

fiscal biennium shall be allocated to the Department of Health and Human Services, Division of Social Services. The Division shall allocate these funds to local departments of social services to replace the loss of Child Protective Services State funds that are currently used by county government to pay for Child Protective Services staff at the local level. These funds shall be used to maintain the number of Child Protective Services workers throughout the State. These Social Services Block Grant funds shall be used to pay for salaries and related expenses only and are exempt from 10A NCAC 71R .0201(3) requiring a local match of twenty-five percent (25%).

SECTION 12J.1.(q) The sum of three million eight hundred fifty-two thousand five hundred dollars ($3,852,500) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Central Management and Support, shall be used for DHHS competitive block grants pursuant to Section 12A.2 of this act for the 2013-2014 fiscal year only. These funds are exempt from the provisions of 10A NCAC 71R .0201(3).

SECTION 12J.1.(r) The sum of three hundred seventy-five thousand dollars ($375,000) appropriated in this section in the Social Services Block Grant for each year of the 2013-2015 fiscal biennium to the Department of Health and Human Services, Division of Social Services, shall be used to continue support for the Child Advocacy Centers and are exempt from the provisions of 10A NCAC 71R .0201(3).

SECTION 12J.1.(s) Social Services Block Grant funds allocated each year of the 2013-2015 fiscal biennium for child medical evaluations and the Carousel Center for Abused Children are exempt from the provisions of 10A NCAC 71R .0201(3).

SECTION 12J.1.(t) The sum of three million nine hundred seventy-eight thousand three hundred sixty dollars ($3,978,360) appropriated in this section in the Social Services Block Grant for each year of the 2013-2015 fiscal biennium to the Department of Health and Human Services, Divisions of Social Services and Aging and Adult Services, shall be used for guardianship services pursuant to Chapter 35A of the General Statutes. The Department may expend funds appropriated in this section to support (i) existing corporate guardianship contracts during the 2013-2014 and 2014-2015 fiscal years and (ii) guardianship contracts transferred to the State from local management entities or managed care organizations during the 2013-2014 and 2014-2015 fiscal years.

LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT

SECTION 12J.1.(u) Additional emergency contingency funds received may be allocated for Energy Assistance Payments or Crisis Intervention Payments without prior consultation with the Joint Legislative Commission on Governmental Operations. Additional funds received shall be reported to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division upon notification of the award. The Department of Health and Human Services shall not allocate funds for any activities, including increasing administration, other than assistance payments, without prior consultation with the Joint Legislative Commission on Governmental Operations.

SECTION 12J.1.(v) The sum of fifty million seven hundred ninety-nine thousand two hundred ninety-three dollars ($50,799,293) appropriated in this section in the Low-Income Home Energy Assistance Block Grant for each year of the 2013-2015 fiscal biennium to the Department of Health and Human Services, Division of Social Services, shall be used for energy assistance payments for the households of (i) elderly persons age 60 and above with income up to one hundred thirty percent (130%) of the federal poverty level and (ii) disabled persons eligible for services funded through the Division of Aging and Adult Services. County departments of social services shall submit to the Division of Social Services an outreach plan for targeting households with 60-year-old household members no later than August 1 of each year.

CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT

SECTION 12J.1.(w) Payment for subsidized child care services provided with federal TANF funds shall comply with all regulations and policies issued by the Division of Child Development for the subsidized child care program.

SECTION 12J.1.(x) If funds appropriated through the Child Care and Development Fund Block Grant for any program cannot be obligated or spent in that program within the obligation or liquidation periods allowed by the federal grants, the Department may move funds to child care subsidies, unless otherwise prohibited by federal requirements of the grant, in order to use the federal funds fully.

MATERNAL AND CHILD HEALTH BLOCK GRANT

SECTION 12J.1.(y) If federal funds are received under the Maternal and Child Health Block Grant for abstinence education, pursuant to section 912 of Public Law 104-193 (42 U.S.C. § 710), for the 2013-2014 fiscal year or the 2014-2015 fiscal year, then those funds shall be transferred to the State Board of Education to be administered by the Department of Public Instruction. The Department of Public Instruction shall use the funds to establish an abstinence until marriage education program and shall delegate to one or more persons the responsibility of implementing the program and G.S. 115C-81(e1)(4) and (4a). The Department of Public Instruction shall carefully and strictly follow federal guidelines in implementing and administering the abstinence education grant funds.

SECTION 12J.1.(z) The Department of Health and Human Services shall ensure that there will be follow-up testing in the Newborn Screening Program.

SECTION 12J.1.(aa) The sum of eighty-nine thousand three hundred seventy-four dollars ($89,374) appropriated in this section in the Maternal and Child Health Block Grant to the Department of Health and Human Services, Division of Central Management and Support, shall be used for DHHS competitive block grants pursuant to Section 12A.2 of this act for the 2013-2014 fiscal year only.

PREVENTIVE HEALTH SERVICES BLOCK GRANT

SECTION 12J.1.(bb) The sum of one million three hundred thirty-one thousand nine hundred sixty-one dollars ($1,331,961) appropriated in this section in the Preventive Health Services Block Grant to the Department of Health and Human Services, Division of Central Management and Support, shall be used for DHHS competitive block grants pursuant to Section 12A.2 of this act for the 2013-2014 fiscal year only.

PART XIII. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

INCREASE CERTAIN AGRONOMIC TESTING FEES

SECTION 13.1.(a) G.S. 106-22 reads as rewritten:

"**§ 106-22. Joint duties of Commissioner and Board.**

The Commissioner of Agriculture, by and with the consent and advice of the Board of Agriculture shall:

...

(17) Agronomic Testing. – Provide agronomic testing services and charge reasonable fees for plant analysis, nematode testing, in-State soil testing during peak season, out-of-state soil testing, and expedited soil testing. The Board shall charge at least four dollars ($4.00) for plant analysis, at least two dollars ($2.00) for nematode testing, at least four dollars ($4.00) for in-State soil testing during peak season, at least five dollars ($5.00) for out-of-state soil testing, and at least ~~one hundred dollars ($100.00)~~two hundred dollars

($200.00) for expedited soil testing. As used in this subdivision, "peak season" includes at a minimum the four-month period beginning no later than December 1 of any year and extending until at least March 31 of the following year. The Board may modify the meaning of peak season by starting a peak season earlier in any year or ending it later the following year or both.

...."

SECTION 13.1.(b) It is the intent of the General Assembly that receipts generated from the new fee for in-State soil testing during peak season under G.S. 106-22(17), as amended by this section, are to be used to alleviate testing delays in the peak testing season. Any receipts generated as a result of the new fee for in-State soil testing during peak season are appropriated to the Department of Agriculture and Consumer Services for the 2013-2014 fiscal year and for the 2014-2015 fiscal year and shall be available to the Department in addition to any other existing funding sources.

SECTION 13.1.(c) This section becomes effective July 1, 2013, and applies to submissions received by the Department for testing or analysis on or after that date.

UNENCUMBERED AGRICULTURAL WATER RESOURCES ASSISTANCE PROGRAM FUNDS

SECTION 13.2.(a) Up to twenty percent (20%) of the funds appropriated to the Department of Agriculture and Consumer Services for the Agricultural Water Resources Assistance Program under Article 5 of Chapter 139 of the General Statutes for the 2013-2014 fiscal year that are unexpended and unencumbered at the end of the 2013-2014 fiscal year shall not revert but shall remain available for expenditure for that purpose through the 2014-2015 fiscal year. The remaining funds appropriated to the Department of Agriculture and Consumer Services for the Agricultural Water Resources Assistance Program for the 2013-2014 fiscal year that are unexpended and unencumbered at the end of the 2013-2014 fiscal year shall revert to the General Fund.

SECTION 13.2.(b) Up to twenty percent (20%) of the funds appropriated to the Department of Agriculture and Consumer Services for the Agricultural Water Resources Assistance Program under Article 5 of Chapter 139 of the General Statutes for the 2014-2015 fiscal year that are unexpended and unencumbered at the end of the 2014-2015 fiscal year shall not revert but shall remain available for expenditure for that purpose through the 2015-2016 fiscal year. The remaining funds appropriated to the Department of Agriculture and Consumer Services for the Agricultural Water Resources Assistance Program for the 2014-2015 fiscal year that are unexpended and unencumbered at the end of the 2014-2015 fiscal year shall revert to the General Fund.

TVA SETTLEMENT FUNDS

SECTION 13.3.(a) The General Assembly encourages the Department of Agriculture and Consumer Services, when the Department awards grants from funds received by the State pursuant to the provisions of the Consent Decree entered into by the State in *State of Alabama et al. v. Tennessee Valley Authority*, Civil Action 3:11-cv-00170 in the United States District Court for the Eastern District of Tennessee and allocated to the Department of Agriculture and Consumer Services for "Environmental Mitigation Projects" of the types specified in paragraph 128 of the Consent Decree, to use its best efforts to identify projects that are located in TVA's power service area or the Tennessee River watershed and to give preference to such projects over projects outside these areas. However, any project funding requested that is within the categories identified in paragraph 128 of the Consent Decree shall be funded by TVA in accordance with this paragraph regardless of where in the State the funds will be utilized. TVA shall not have approval rights over the projects.

SECTION 13.3.(b) In fiscal year 2013-2014, The Department of Environment and Natural Resources, State Energy Office, shall apply for two million two hundred forty thousand dollars ($2,240,000) from the Tennessee Valley Authority Settlement Agreement in compliance with the requirements of paragraphs 122 through 128 of the Consent Decree entered into by the State in *State of Alabama et al. v. Tennessee Valley Authority,* Civil Action 3:11-cv-00170 in the United States District Court for the Eastern District of Tennessee, and Appendix C to the Compliance Agreement. The funds received by the State shall be allocated as follows:

(1) One million dollars ($1,000,000) to North Carolina Agricultural Water Resources Assistance Program (AgWRAP).

(2) One million dollars ($1,000,000) to North Carolina Agricultural Development and Farmland Preservation Trust Fund.

(3) Two hundred forty thousand dollars ($240,000) to Appalachian Energy Center at Appalachian State University.

SUSTAINABLE LOCAL FOOD ADVISORY COUNCIL SUNSET

SECTION 13.4. Section 1 of S.L. 2012-75 reads as rewritten:

"**SECTION 1.** Section 4 of S.L. 2009-530 reads as rewritten:

"**SECTION 4.** This act is effective when it becomes law and shall expire on ~~July 31, 2015.~~June 30, 2013.""

TOBACCO TRUST FUND

SECTION 13.5. Notwithstanding any other provisions of G.S. 143-720 or the provisions of G.S. 143-721, the funds appropriated from the General Fund to the Tobacco Trust Fund for the 2013-2014 fiscal year and for the 2014-2015 fiscal year shall be used as follows:

(1) Up to three hundred fifty thousand dollars ($350,000) may be used for administrative expenses each fiscal year.

(2) All remaining funds shall be used each fiscal year to provide direct financial assistance to tobacco producers as permitted under G.S. 143-720.

BOB MARTIN EASTERN AGRICULTURAL CENTER AND SOUTHEASTERN AGRICULTURE CENTER FUNDS

SECTION 13.6.(a) If the Senator Bob Martin Eastern Agricultural Center is not at least fifty percent (50%) receipt supported by the end of the 2014-2015 fiscal year, no additional appropriations from the General Fund shall be provided to the Senator Bob Martin Eastern Agricultural Center, and no funds shall be included for this purpose in the continuation budget of the Department of Agriculture and Consumer Services.

SECTION 13.6.(b) If the Southeastern Agriculture Center is not at least fifty percent (50%) receipt supported by the end of the 2014-2015 fiscal year, no additional appropriations from the General Fund shall be provided to the Southeastern Agriculture Center, and no funds shall be included for this purpose in the continuation budget of the Department of Agriculture and Consumer Services.

FUTURE FARMERS OF AMERICA PROGRAM FUNDS/REPORTING REQUIREMENTS/USE OF STATE FUNDS

SECTION 13.7.(a) Of the funds available to the Department of Agriculture and Consumer Services for administration of the Department, up to fifty thousand dollars ($50,000) for the 2013-2014 fiscal year and up to fifty thousand dollars ($50,000) for the 2014-2015 fiscal year may be used as a grant-in-aid to the North Carolina Agricultural Foundation, Inc., for the Future Farmers of America program.

SECTION 13.7.(b) North Carolina Agricultural Foundation–FFA Foundation (hereinafter "FFA Foundation") shall do the following if the Department of Agriculture and Consumer Services allocates funds to the entity:

(1) By September 1 of each year, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on prior State fiscal year program activities, objectives, and accomplishments and prior State fiscal year itemized expenditures and fund sources.

(2) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

SECTION 13.7.(c) No more than one hundred twenty thousand dollars ($120,000) in State funds shall be used for the annual salary of any one employee of FFA Foundation. For purposes of this subsection, the term "State funds" means funds allocated to FFA Foundation and interest earned on those funds.

SECTION 13.7.(d) No State funds shall be used by FFA Foundation (i) to hire or facilitate the hiring of a lobbyist or any person performing the duties or activities of a lobbyist, without regard to the person's title or (ii) to facilitate any lobbying efforts.

PART XIV. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

DEVELOP PLAN FOR AQUARIUMS TO RAISE PRIVATE FUNDS FOR SUPPORT ASSISTANCE

SECTION 14.1. No later than April 1, 2014, the Division of North Carolina Aquariums of the Department of Environment and Natural Resources shall develop a plan for the North Carolina Aquariums established under Article 5C of Chapter 143B of the General Statutes to increase the amount of private funds raised through the direct efforts of each North Carolina Aquarium in order to make the North Carolina Aquariums become more financially self-sustaining. No later than April 1, 2014, the Division of North Carolina Aquariums of the Department of Environment and Natural Resources shall report its plan under this section to the Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division.

EARLY SUNSET FOR NC SUSTAINABLE COMMUNITIES TASK FORCE

SECTION 14.2. Section 13.5(e) of S.L. 2010-31 reads as rewritten:

"**SECTION 13.5.(e)** Sunset. – This section expires June 30, ~~2016.~~2013."

WATER AND LAND CONSERVATION FUND/GRANT PROGRAM CREATED; CWMTF AND NHTF REPEALED

SECTION 14.3.(a) All staff that are supported by the Clean Water Management Trust Fund and employed by the Clean Water Management Trust Fund Board of Trustees are transferred to the Department of Environment and Natural Resources and shall be supported by the Water and Land Conservation Fund, established in G.S. 113A-262, as enacted by subsection (b) of this section, and shall be employed by the Department of Environment and Natural Resources.

SECTION 14.3.(b) Chapter 113A of the General Statutes is amended by adding a new Article to read:

"Article 19.

"Water and Land Conservation Grant Program.

"**§ 113A-260. Purpose.**

The General Assembly recognizes that a critical need exists in this State to clean up pollution in the State's surface waters and to protect, preserve, and conserve those waters that are not yet polluted. The General Assembly recognizes that a critical need exists in this State to protect, preserve, and conserve the lands in our State that have natural or cultural significance. The task of cleaning up polluted waters and protecting and enhancing the State's water resources is multifaceted and requires different approaches, including innovative pilot projects that take into account the problems, the type of pollution, the geographical area, and the recognition that the hydrological and ecological values of each resource sought to be upgraded, conserved, and protected are unique.

It is the intent of the General Assembly that grants under this Article shall be used to help finance projects that specifically address water pollution problems and focus on upgrading surface waters, eliminating pollution, and protecting, preserving, and conserving unpolluted surface waters, including enhancement or development of drinking water supplies. It is the further intent of the General Assembly that grants under this Article also be used to build a network of riparian buffers and greenways for environmental, educational, and recreational benefits. Lastly, it is the intent of the General Assembly that moneys from the Fund also be used to preserve lands that could be used for water supply reservoirs or that are part of the State's natural heritage. While the purpose of this Article is to focus on the cleanup and prevention of pollution of the State's surface waters and on the preservation of its natural heritage areas, the General Assembly believes that the results of these efforts will also be beneficial to wildlife and marine fisheries habitats, wildlife resources, and marine fisheries resources.

"**§ 113A-261. Definitions.**

The following definitions apply in this Article:

(1) Appraised value. – The price estimated in terms of money at which the property would change hands between a willing and financially able buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the uses to which the property is adapted and for which it is capable of being used.

(2) Authority. – The Water and Land Conservation Authority created under G.S. 113A-266.

(3) Land. – Real property and any interest in, easement in, or restriction on real property.

(4) Local government unit. – Defined in G.S. 159G-20.

"**§ 113A-262. Water and Land Conservation Fund.**

(a) Fund Established. – The Water and Land Conservation Fund is established as a special revenue fund within the Department of Environment and Natural Resources to be administered by the Department of Environment and Natural Resources. The Fund receives revenue from the following sources and may receive revenue from other sources:

(1) Annual appropriations.

(2) Scenic River special registration plates under G.S. 20-81.12.

(b) Fund Earnings, Assets, and Balances. – The State Treasurer shall hold the Fund separate and apart from all other moneys, funds, and accounts. Investment earnings credited to the assets of the Fund shall become part of the Fund. Any balance remaining in the Fund at the end of any fiscal year shall be carried forward in the Fund for the next succeeding fiscal year. Payments from the Fund shall be made on the warrant of the Chair of the Authority.

(c) Fund Purposes. – Moneys from the Fund are appropriated annually to provide water conservation grants under subsection (b) of G.S. 113A-263 or to provide land conservation grants under subsection (c) of G.S. 113A-263.

(d) Limit on Operating and Administrative Expenses. – No more than one million two hundred fifty thousand dollars ($1,250,000) may be used each fiscal year for the total administrative and operating costs of all of the following:

(1) The administrative and operating costs of the program under this Article.

(2) The administrative and operating expenses of the Authority under G.S. 113A-266 and its executive director under G.S. 113A-270.

"**§ 113A-263. Water and Land Conservation Grant Program.**

(a) Program Established. – The Water and Land Conservation Program is established within the Department of Environment and Natural Resources.

(b) Water Conservation Grants. – Grants under this subsection may be used for any of the following purposes:

(1) To acquire land for riparian buffers for the purposes of providing environmental protection for surface waters and urban drinking water supplies and establishing a network of riparian greenways for environmental, educational, and recreational uses, and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.

(2) To acquire conservation easements or other interests in real property for the purpose of protecting and conserving surface waters and enhancing drinking water supplies, including the development of water supply reservoirs.

(3) To coordinate with other public programs involved with lands adjoining water bodies to gain the most public benefit while protecting and improving water quality.

(4) To restore previously degraded lands to reestablish their ability to protect water quality.

(5) To provide buffers around military bases or for State matching funds for the Readiness and Environmental Protection Initiative, a federal funding initiative that provides funds for military buffers.

(6) To facilitate planning that targets reductions in surface water pollution.

(7) To finance innovative efforts, including pilot projects, to reduce pollutants entering the State's waterways, to improve water quality, and to research alternative solutions to the State's water quality problems.

(c) Land Conservation Grants. – Grants under this subsection may be used for any of the following purposes:

(1) To acquire land that represents the ecological diversity of North Carolina, including natural features such as riverine, montane, coastal, and geologic systems and other natural areas to ensure their preservation and conservation for recreational, scientific, educational, cultural, and aesthetic purposes.

(2) To acquire land as additions to the system of parks, State trails, aesthetic forests, fish and wildlife management areas, wild and scenic rivers, and natural areas for the beneficial use and enjoyment of the public.

(3) To acquire land that contributes to the development of a balanced State program of historic properties.

(4) To pay for the inventory of natural areas conducted under the Natural Heritage Program established pursuant to the Nature Preserves Act, Article 9A of Chapter 113A of the General Statutes.

(5) To pay for conservation and protection planning and for informational programs for owners of natural areas, as defined in G.S. 113A-164.3.

"**§ 113A-264. Water conservation grants; requirements.**

(a) Eligible Applicants. – Any of the following are eligible to apply for a water conservation grant under this Article for the purpose of protecting and enhancing water quality:

(1) A State agency.

(2) A local government unit.
(3) A nonprofit corporation whose primary purpose is the conservation, preservation, and restoration of our State's environmental and natural resources.

(b) Matching Requirement. – The Authority shall establish matching requirements for water conservation grants awarded under this section. This requirement may be satisfied by the donation of land to a public or private nonprofit conservation organization as approved by the Authority. The Authority may also waive the requirement to match a water conservation grant pursuant to guidelines adopted by the Authority.

(c) Restriction. – No water conservation grant shall be awarded under this section to satisfy compensatory mitigation requirements under 33 U.S.C. § 1344 or G.S. 143-214.11.

(d) Withdrawal. – An award of a grant under this Article is withdrawn if the grant recipient fails to enter into a construction contract for the project within one year after the date of the award, unless the Authority finds that the applicant has good cause for the failure. If the Authority finds good cause for a recipient's failure, the Authority must set a date by which the recipient must take action or forfeit the grant.

"**§ 113A-265. Land conservation grants; information regarding land acquisition; priorities.**

(a) Eligible Applicants. – Any of the following are eligible to apply for a land conservation grant under this Article for the purpose of protecting land with outstanding natural or cultural heritage value:

(1) The following State agencies: the Department of Environment and Natural Resources, the Department of Agriculture and Consumer Services, the Department of Cultural Resources, and the Wildlife Resources Commission.
(2) A nonprofit corporation whose primary purpose is the conservation, preservation, and restoration of our State's environmental and natural resources.

(b) Proposals. – From time to time, but at least once each year, the Secretary, the Chairman of the North Carolina Wildlife Resources Commission, the Commissioner of Agriculture, and the Secretary of Cultural Resources may propose to the Water and Land Conservation Authority lands to be acquired by land conservation grants under subsection (c) of G.S. 113A-262. For each tract or interest proposed, the Secretary, the Chairman of the North Carolina Wildlife Resources Commission, the Commissioner of Agriculture, and the Secretary of Cultural Resources shall provide the Authority with the following information:

(1) The value of the land for recreation, forestry, fish and wildlife habitat, and wilderness purposes and its consistency with the plan developed pursuant to the State Parks Act, the State's comprehensive plan for outdoor recreation, parks, natural areas development, and wildlife management goals and objectives.
(2) Any rare or endangered species on or near the land.
(3) Whether the land contains a relatively undisturbed and outstanding example of a native North Carolina ecological community that is now uncommon.
(4) Whether the land contains a major river or tributary, watershed, wetland, significant littoral, estuarine or aquatic site, or important geologic feature.
(5) The extent to which the land represents a type of landscape, natural feature, or natural area that is not currently in the State's inventory of parks and natural areas.
(6) Other sources of funds that may be available to assist in acquiring the land.
(7) The State department or division that will be responsible for managing the land.

(8) What assurances exist that the land will not be used for purposes other than those for which it is being acquired.

(9) Whether the site or structure is of such historical significance as to be essential to the development of a balanced State program of historic properties.

(c) Information Requests by Authority. – The Authority may request any applicant that is eligible under subdivision (2) of subsection (a) of this section to submit to the Authority any of the information under subdivisions (1) through (9) of subsection (b) of this section.

(d) Priorities. – When considering authorizing land conservation grants to acquire land under subsection (c) of G.S. 113A-263, the first priority shall be the protection of land with outstanding natural or cultural heritage values. Land with outstanding natural heritage values is land that is identified by the North Carolina Natural Heritage Program as having State or national significance. Land with outstanding cultural heritage values is land that is identified, inventoried, or evaluated by the Department of Cultural Resources. The Authority shall be guided by any priorities established by the Secretary, the Chairman of the Wildlife Resources Commission, the Commissioner of Agriculture, and the Secretary of Cultural Resources in their proposals made under subsection (a) of this section.

(e) Local Reimbursement. – In any county in which real property was purchased with a land conservation grant as an addition to the fish and wildlife management areas and where less than twenty-five percent (25%) of the land area is privately owned at the time of purchase, that county and any other local taxing unit shall be annually reimbursed, for a period of 20 years, from funds available to the Wildlife Resources Commission in an amount equal to the amount of ad valorem taxes that would have been paid to the taxing unit if the property had remained subject to taxation.

"**§ 113A-266. Water and Land Conservation Authority established; membership qualifications; vacancies; meetings and meeting facilities.**

(a) Authority Established. – The Water and Land Conservation Authority is created within the Department of Environment and Natural Resources.

(b) Membership. – The Water and Land Conservation Authority shall be composed of nine members appointed to three-year terms as follows:

(1) One member appointed by the Governor to a term that expires on July 1 of years that precede by one year those years that are evenly divisible by three.

(2) One member appointed by the Governor to a term that expires on July 1 of years that follow by one year those years that are evenly divisible by three.

(3) One member appointed by the Governor to a term that expires on July 1 of years that are evenly divisible by three.

(4) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of years that precede by one year those years that are evenly divisible by three.

(5) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of years that follow by one year those years that are evenly divisible by three.

(6) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of years that are evenly divisible by three.

(7) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of years that precede by one year those years that are evenly divisible by three.

(8) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of years that follow by one year those years that are evenly divisible by three.

(9) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of years that are evenly divisible by three.

(c) Geographic Distribution of Members; Qualifications. – The appointment of a member of the Authority may be held concurrently with any other executive or appointive office, under the authority of Article VI, Section 9, of the North Carolina Constitution. When appointing members of the Authority, the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives shall give consideration to adequate representation from the various regions of the State and shall give consideration to the appointment of members who are knowledgeable in any of the following areas:

(1) Acquisition and management of natural areas.

(2) Conservation and restoration of water quality.

(3) Wildlife and fisheries habitats and resources.

(d) Limitation on Length of Service. – No member of the Authority shall serve more than two consecutive four-year terms or a total of 10 years.

(e) Chair. – The Governor shall appoint one member to serve as Chair of the Authority.

(f) Vacancies. – An appointment to fill a vacancy on the Authority created by the resignation, removal, disability, or death of a member shall be for the balance of the unexpired term. Vacancies in appointments made by the General Assembly shall be filled as provided in G.S. 120-122.

(g) Frequency of Meetings. – The Authority shall meet at least twice each year and may hold special meetings at the call of the Chair or a majority of the members.

(h) Quorum. – A majority of the membership of the Authority constitutes a quorum for the transaction of business.

(i) Per Diem and Expenses. – Each member of the Authority shall receive no salary as a result of serving on the Authority but shall receive per diem, subsistence, and travel expenses in accordance with the provisions of G.S. 120-3.1, 138-5, and 138-6, as applicable.

(j) Meeting Facilities. – The Secretary of Environment and Natural Resources shall provide meeting facilities for the Authority and its staff as requested by the Chair.

"**§ 113A-267. Water and Land Conservation Authority; powers and duties.**

(a) Award Grants. – The Authority may award a grant only for a project or activity or for the acquisition of land that satisfies the criteria and furthers the purposes of this Article.

(b) Develop Grant Criteria. – The Authority shall develop criteria for awarding grants under this Article. The criteria developed shall include consideration of the following:

(1) The significant enhancement and conservation of water quality in the State.

(2) The objectives of the basinwide management plans for the State's river basins and watersheds.

(3) The promotion of regional integrated ecological networks insofar as they affect water quality.

(4) The specific areas targeted as being environmentally sensitive.

(5) The geographic distribution of funds as appropriate.

(6) The preservation of water resources with significant recreational or economic value and uses.

(7) The development of a network of riparian buffer-greenways bordering and connecting the State's waterways that will serve environmental, educational, and recreational uses.

(8) Water supply availability and the public's need for resources adequate to meet demand for essential water uses. Criteria developed pursuant to this subdivision may include consideration of the likelihood of a proposed water supply project ultimately being permitted and built.

(9) The preservation of natural heritage resources with significant recreational or economic value and uses.

(c) Develop Additional Guidelines. – The Authority may develop guidelines in addition to the grant criteria consistent with and as necessary to implement this Article.

(d) Acquisition of Land. – The Authority may acquire land by purchase, negotiation, gift, or devise. Any acquisition of land by the Authority must be reviewed and approved by the Council of State and the deed for the land subject to approval of the Attorney General before the acquisition can become effective. In determining whether to acquire land as permitted by this Article, the Authority shall consider whether the acquisition furthers the purposes of this Article and may also consider recommendations from the Council. Nothing in this section shall allow the Authority to acquire land under the right of eminent domain.

(e) Exchange of Land. – The Authority may exchange any land it acquires in carrying out the powers conferred on the Authority by this Article and for purposes consistent with the provisions of this Article.

(f) Land Management. – The Authority may designate managers or managing agencies of the lands acquired under this Article.

(g) Tax Credit Certification. – The Authority shall develop guidelines to determine whether land donated for a tax credit under G.S. 105-130.34 or G.S. 105-151.12 is suitable for one of the purposes under this Article and may be certified for a tax credit.

(h) Rule-Making Authority. – The Authority may adopt rules to implement this Article. Chapter 150B of the General Statutes applies to the adoption of rules by the Authority.

"**§ 113A-268. North Carolina Conservation Easement Endowment Fund.**

(a) The North Carolina Conservation Easement Endowment Fund is established as a special fund in the Office of the State Treasurer. The principal of the Endowment Fund shall consist of a portion of grant funds transferred by the Authority to the Endowment Fund for stewardship activities related to projects for conservation easements funded from grants awarded under this Article. The principal of the Endowment Fund may also consist of any proceeds of any gifts, grants, or contributions to the State that are specifically designated for inclusion in the Endowment Fund and any investment income that is not used in accordance with subsection (b) of this section. The State Treasurer shall hold the Endowment Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall invest the assets of the Endowment Fund in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3. The State Treasurer shall disburse the endowment investment income only upon the written direction of the Chair of the Authority. No expenditure or disbursement shall be made from the principal of the Endowment Fund.

(b) The Authority may authorize the disbursement of the endowment investment income only for activities related to stewardship of conservation easements owned by the State.

"**§ 113A-269. Water and Land Conservation Authority; reporting requirement.**

The Chair of the Authority shall report each year by December 1 to the Joint Legislative Commission on Governmental Operations, the Environmental Review Commission, the Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division of the General Assembly regarding the implementation of this Article. The report shall include:

(1) A list of water conservation grants awarded under G.S. 113A-263 for the previous 12-month period. The list shall include for each grant a description

of the project, the amount of the grant awarded for the project, and the total cost of the project.

(2) A list of land conservation grants awarded under G.S. 113A-263 for the previous 12-month period. The list shall include for each grant the acreage of each tract, the county in which the tract is located, the amount awarded as a grant to acquire the tract, and the State department or division responsible for managing the tract.

"**§ 113A-270. Water and Land Conservation Authority; Executive Director; staff.**

(a) The Secretary shall select and appoint a competent person in accordance with this section as Executive Director of the Authority. The Executive Director shall be charged with the supervision of all activities under the jurisdiction of the Authority and shall serve as the chief administrative officer of the Authority. The person selected as Executive Director shall have had training and experience in conservation, protection, and management of surface water resources and natural heritage resources.

(b) The Secretary shall provide staff to support the Water and Land Conservation Grant Program under this Article.

"**§ 113A-271. Construction of Article.**

No provision of this Article shall be construed to eliminate hunting and fishing, as regulated by the laws of the State of North Carolina, upon properties purchased pursuant to this Article."

SECTION 14.3.(c) Article 5A of Chapter 113 of the General Statutes and Article 18 of Chapter 113A of the General Statutes are repealed.

SECTION 14.3.(d) G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) of this section among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), the ~~Natural Heritage Trust Fund (NHTF),~~Water and Land Conservation Fund (WLCF), which is established under ~~G.S. 113-77.7,~~G.S. 113A-262, and the Parks and Recreation Trust Fund, which is established under G.S. 113-44.15, as follows:

Special Plate	SRPA	CCAPA	~~NHTF~~WLCF	PRTF"

SECTION 14.3.(e) G.S. 20-81.12(b2)(5) reads as rewritten:

"(5) North Carolina State Parks. – One-half of the revenue derived from the special plate shall be transferred quarterly to ~~Natural Heritage Trust Fund established under G.S. 113-77.7,~~the Water and Land Conservation Fund established under G.S. 113A-262, and the remaining revenue shall be transferred quarterly to the Parks and Recreation Trust Fund established under G.S. 113-44.15."

SECTION 14.3.(f) G.S. 20-81.12(b7) reads as rewritten:

"(b7) Scenic Rivers Plates. – The Division must receive 300 or more applications for a Scenic Rivers plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Scenic Rivers plates to the ~~Clean Water Management Trust Fund established in G.S. 113A-253.~~Water and Land Conservation Fund established under G.S. 113A-262." .

SECTION 14.3.(g) G.S. 126-5(c1)(21) is repealed.

SECTION 14.3.(h) G.S. 143-214.14(c) reads as rewritten:

"(c) Legislative Goals and Policies. – It is the goal of the General Assembly that, to the extent practicable, the State shall adopt water quality protection plans that are developed and implemented in cooperation and coordination with local governments and that the State shall adopt water quality protection requirements that are proportional to the relative contributions of pollution from all sources in terms of both the loading and proximity of those sources.

Furthermore, it is the goal of the General Assembly to encourage and support State-local partnerships for improved water quality protection through the provision of technical and financial assistance available through ~~the Clean Water Management Trust Fund,~~ the Water and Land Conservation Fund established under G.S. 113A-262, the Ecosystem Enhancement Program, the Ecosystem Restoration Fund, water quality planning and project grant programs, the State's revolving loan and grant programs for water and wastewater facilities, other funding sources, and future appropriations. The Commission shall implement these goals in accordance with the standards, procedures, and requirements set out in this section."

SECTION 14.3.(i) G.S. 143B-344.38(a)(8)a. and G.S. 143B-344.38(a)(8)d. are repealed.

SECTION 14.3.(j) G.S. 106-887(a) reads as rewritten:

"(a) DuPont State Forest is designated as a State Recreational Forest. The Department shall manage DuPont State Recreational Forest: (i) primarily for natural resource preservation, scenic enjoyment and recreational purposes, including horseback riding, hiking, bicycling, hunting, and fishing; (ii) so as to provide an exemplary model of scientifically sound, ecologically based natural resource management for the social and economic benefit of the forest's diverse community of users; and (iii) consistent with the grant agreement ~~between the Natural Heritage Trust Fund and the Division of Forest Resources, which grant~~that designates a portion of the forest as a North Carolina Nature Preserve. In addition, the Department may use the forest for the demonstration of different forest management and resource protection techniques for local landowners, natural resource professionals, students, and other forest visitors."

SECTION 14.3.(k) G.S. 120-123 reads as rewritten:

"**§ 120-123. Service by members of the General Assembly on certain boards and commissions.**

No member of the General Assembly may serve on any of the following boards or commissions:

(1) The Board of Agriculture, as established by G.S. 106-2.

...

~~(67) The Board of Trustees of the Natural Heritage Trust Fund, as established by G.S. 113-77.8.~~

(67a) The Water and Land Conservation Authority established by G.S. 113A-262.

...."

SECTION 14.3.(l) G.S. 143B-279.3(b)(18) is repealed.

SECTION 14.3.(m) The Natural Heritage Trust Fund and the Clean Water Management Trust Fund shall be closed and the remaining fund balances in each fund shall be transferred to the Water and Land Conservation Fund established in G.S. 113A-262, as enacted by subsection (b) of this section, as provided in this subsection. It is the intent of the General Assembly to honor the obligations from the Natural Heritage Trust Fund and the Clean Water Management Trust Fund that were authorized prior to the effective date of this section and to ensure that any tax proceeds credited to the Natural Heritage Trust Fund are used for the purposes for which they were collected. The unencumbered funds transferred from the Natural Heritage Trust Fund to the Water and Land Conservation Fund and any funds from the Natural Heritage Trust Fund that were encumbered but become unencumbered after the effective date of this section shall be used for land conservation grants under G.S. 113A-263(c), as enacted by subsection (b) of this section. Any encumbered funds transferred from the Natural Heritage Trust Fund to the Water and Land Conservation Fund shall be used for the purpose for which the grant was awarded. The unencumbered funds transferred from the Clean Water Management Trust Fund to the Water and Land Conservation Fund and any funds from the Clean Water Management Trust Fund that were encumbered but become unencumbered after the effective date of this section shall be used for water conservation grants under

G.S. 113A-263(b), as enacted by subsection (b) of this section. Any encumbered funds transferred from the Clean Water Management Trust Fund to the Water and Land Conservation Fund shall be used for the purpose for which the grant was awarded.

SECTION 14.3.(n) The terms for the initial appointments to the Water and Land Conservation Authority established by G.S. 113A-266, as enacted by subsection (b) of this section, shall commence July 1, 2013. Notwithstanding the provisions of G.S. 113A-266, as enacted by subsection (b) of this section, in order to establish staggered terms, the terms for the initial appointments to the Water and Land Conservation Authority made under G.S. 113A-266(b)(1), (4), and (7) shall expire July 1, 2015; the terms for the initial appointments to the Water and Land Conservation Authority made under G.S. 113A-266(b)(3), (6), and (9) shall expire July 1, 2016; and the terms for the initial appointments to the Water and Land Conservation Authority made under G.S. 113A-266(b)(2), (5), and (8) shall expire July 1, 2017.

SECTION 14.3.(o) The Codifier of Statutes shall make any conforming changes in Chapter 159I of the General Statutes or any other sections of the General Statutes necessary to implement this section.

DEED STAMP TAX PROCEEDS CREDITED TO GENERAL FUND

SECTION 14.4.(a) G.S. 105-228.30(b) reads as rewritten:

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

SECTION 14.4.(b) G.S. 113-44.15(a) reads as rewritten:

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

PARKS AND RECREATION AUTHORITY

SECTION 14.5.(a) G.S. 143B-313.2 reads as rewritten:

"**§ 143B-313.2. North Carolina Parks and Recreation Authority; members; selection; compensation; meetings.**

(a) Membership. – The North Carolina Parks and Recreation Authority shall consist of ~~15~~ nine members. The members shall include persons who are knowledgeable about park and recreation issues in North Carolina or with expertise in finance. In making appointments, each appointing authority shall specify under which subdivision of this subsection the person is appointed. Members shall be appointed as follows:

(1) One member appointed by the Governor.

(2) One member appointed by the Governor.

(3) One member appointed by the Governor.

~~(3a) One member appointed by the Governor.~~
~~(3b) One member appointed by the Governor.~~
(4) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, as provided in G.S. 120-121.
(5) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, as provided in G.S. 120-121.
(6) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, as provided in G.S. 120-121.
~~(7) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, as provided in G.S. 120-121.~~
~~(7a) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, as provided in G.S. 120-121.~~
(8) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as provided in G.S. 120-121.
(9) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as provided in G.S. 120-121.
(10) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as provided in G.S. 120-121.
~~(11) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as provided in G.S. 120-121.~~
~~(12) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as provided in G.S. 120-121.~~

(b) Terms. – Members shall serve staggered terms of office of three years. Members shall serve no more than two consecutive three-year terms. After serving two consecutive three-year terms, a member is not eligible for appointment to the Authority for at least one year after the expiration date of that member's most recent term. Upon the expiration of a three-year term, a member may continue to serve until a successor is appointed and duly qualified as provided by G.S. 128-7. The terms of members appointed under subdivision (1), ~~(3a),~~ (5), ~~(7),~~ or (9) of subsection (a) of this section shall expire on July 1 of years that are evenly divisible by three. The terms of members appointed under subdivision (2), ~~(3b),~~ (4), ~~(8), or (11)~~or (8) of subsection (a) of this section shall expire on July 1 of years that follow by one year those years that are evenly divisible by three. The terms of members appointed under subdivision (3), (6), ~~(7a), (10), or (12)~~ or (10) of subsection (a) of this section shall expire on July 1 of years that precede by one year those years that are evenly divisible by three.

(c) Chair. – The Governor shall appoint one member of the North Carolina Parks and Recreation Authority to serve as Chair.

(d) Vacancies. – A vacancy on the North Carolina Parks and Recreation Authority shall be filled by the appointing authority responsible for making the appointment to that position as provided in subsection (a) of this section. An appointment to fill a vacancy shall be for the unexpired balance of the term.

(e) Removal. – The Governor may remove, as provided in Article 10 of Chapter 143C of the General Statutes any member of the North Carolina Parks and Recreation Authority appointed by the Governor for misfeasance, malfeasance, or nonfeasance. The General Assembly may remove any member of the North Carolina Parks and Recreation Authority appointed by the General Assembly for misfeasance, malfeasance, or nonfeasance.

(f) Compensation. – The members of the North Carolina Parks and Recreation Authority shall receive per diem and necessary travel and subsistence expenses according to the provisions of G.S. 138-5.

(g) Meetings. – The North Carolina Parks and Recreation Authority shall meet at least quarterly at a time and place designated by the Chair.

(h) Quorum. – A majority of the North Carolina Parks and Recreation Authority shall constitute a quorum for the transaction of business.

(i) Staff. – All clerical and other services required by the North Carolina Parks and Recreation Authority shall be provided by the Secretary of Environment and Natural Resources."

SECTION 14.5.(b) The terms of all members of the North Carolina Parks and Recreation Authority shall expire on June 30, 2013. A new Authority consisting of nine members shall be appointed as provided in G.S. 143B-313.2, as amended by subsection (a) of this section. This subsection becomes effective on June 30, 2013.

LAKE WACCAMAW HYDRILLA ERADICATION PROJECT FUNDS

SECTION 14.6. Of the funds appropriated to the Department of Environment and Natural Resources for the Parks and Recreation Trust Fund for the 2013-2014 fiscal year, the sum of two hundred fifty thousand dollars ($250,000) shall be reallocated to the Division of Water Resources of the Department of Environment and Natural Resources to be used to provide the State portion of the nonfederal funds needed for the Lake Waccamaw Hydrilla Eradication Project. This project shall be subject to the same requirements as other water resources development projects under this act.

FISHERY RESOURCE GRANT PROGRAM REPEAL

SECTION 14.7.(a) G.S. 113-200 is repealed.

SECTION 14.7.(b) G.S. 143B-289.54(c) reads as rewritten:

"(c) Additional Considerations. – In making appointments to the Commission, the Governor shall provide for appropriate representation of women and minorities on the Commission. ~~The Governor shall make appointments to the Commission consistent with the restrictions of G.S. 113-200(g).~~"

MARINE FISHERIES LICENSE AND PERMIT FEES; LICENSE AND PERMIT REQUIREMENTS; FEE INCREASES FUND DMF AT-SEA OBSERVER PROGRAM

SECTION 14.8.(a) G.S. 113-168.1(h) reads as rewritten:

"(h) Replacement Licenses and Endorsements. – The Division shall issue a replacement license, including any endorsements, to a licensee for a license that has not been suspended or revoked. A licensee may apply for a replacement license for a license that has been lost, stolen, or destroyed and shall apply for a replacement license within 30 days of a change in the licensee's name or address. A licensee may apply for a replacement license in person at any office of the Division or by mail to the Morehead City office of the Division. A licensee may use a copy of the application for a replacement license that has been filed with the Division as a temporary license until the licensee receives the replacement license. The Commission may establish a fee for each type of replacement license, not to exceed ~~ten dollars ($10.00),~~ twelve dollars and fifty cents ($12.50), that compensates the Division for the administrative costs associated with issuing the replacement license."

SECTION 14.8.(b) G.S. 113-168.2 reads as rewritten:

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

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

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

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

(e) Fees. – The annual SCFL fee for a resident of this State shall be ~~two hundred dollars ($200.00)~~two hundred fifty dollars ($250.00). The annual SCFL fee for a person who is not a resident of this State shall be ~~eight hundred dollars ($800.00) or~~ the amount charged to a resident of this State in the nonresident's ~~state, whichever is less.~~state. In no event, however, may the fee be less than ~~two hundred dollars ($200.00).~~two hundred fifty dollars ($250.00). For purposes of this subsection, a "resident of this State" is a person who is a resident within the meaning of:

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

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

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

(1) Upon written notification by the assignor to the assignee and the Division that the assignment has been terminated.

(2) Upon written notification by the estate of the assignor to the assignee and the Division that the assignment has been terminated.

(3) If the Division determines that the assignee is operating in violation of the terms and conditions applicable to the assignment.

(4) If the assignee becomes ineligible to hold a license under this Article.

(5) Upon the death of the assignee.

(6) If the Division suspends or revokes the assigned SCFL.

(7) At the end of the license year.

(g) Transfer. – A SCFL may be transferred only by the Division. A SCFL may be transferred pursuant to rules adopted by the Commission or upon the request of:

(1) A licensee, from the licensee to a member of the licensee's immediate family who is eligible to hold a SCFL under this Article.

(2) The administrator or executor of the estate of a deceased licensee, to the administrator or executor of the estate if a surviving member of the deceased licensee's immediate family is eligible to hold a SCFL under this Article. The administrator or executor must request a transfer under this subdivision within six months after the administrator or executor qualifies under Chapter 28A of the General Statutes. An administrator or executor who holds a SCFL under this subdivision may, for the benefit of the estate of the deceased licensee:

a. Engage in a commercial fishing operation under the SCFL if the administrator or executor is eligible to hold a SCFL under this Article.
b. Assign the SCFL as provided in subsection (f) of this section.
c. Renew the SCFL as provided in G.S. 113-168.1.

(3) An administrator or executor to whom a SCFL was transferred pursuant to subdivision (2) of this subsection, to a surviving member of the deceased licensee's immediate family who is eligible to hold a SCFL under this Article.

(4) The surviving member of the deceased licensee's immediate family to whom a SCFL was transferred pursuant to subdivision (3) of this subsection, to a third-party purchaser of the deceased licensee's fishing vessel.

(5) A licensee who is retiring from commercial fishing, to a third-party purchaser of the licensee's fishing vessel.

(h) Identification as Commercial Fisherman. – The receipt of a current and valid SCFL or shellfish license issued by the Division shall serve as proper identification of the licensee as a commercial fisherman.

(i) Record-Keeping Requirements. – The fish dealer shall record each transaction at the time and place of landing on a form provided by the Division. The transaction form shall include the information on the SCFL or shellfish license, the quantity of the fish, the identity of the fish dealer, and other information as the Division deems necessary to accomplish the purposes of this Subchapter. The person who records the transaction shall provide a completed copy of the transaction form to the Division and to the other party of the transaction. The Division's copy of each transaction form shall be transmitted to the Division by the fish dealer on or before the tenth day of the month following the transaction."

SECTION 14.8.(c) G.S. 113-168.3(b) reads as rewritten:

"(b) Eligibility; Fees. – Any individual who is 65 years of age or older and who is eligible for a SCFL under G.S. 113-168.2 may apply for either a SCFL or RSCFL. An applicant for a RSCFL shall provide proof of age at the time the application is made. The annual fee for a RSCFL for a resident of this State shall be ~~one hundred dollars ($100.00).~~one hundred twenty-five dollars ($125.00). The annual fee for a RSCFL for a person who is not a resident of this State shall be ~~eight hundred dollars ($800.00) or the amount charged to a resident of this State in the nonresident's state, whichever is less. In no event, however, shall the fee be less than one hundred dollars ($100.00).~~one hundred sixty-two dollars and fifty cents ($162.50). For purposes of this subsection, a "resident of this State" is a person who is a resident within the meaning of:

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

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

SECTION 14.8.(d) G.S. 113-168.4(c) reads as rewritten:

"(c) A person who organizes a recreational fishing tournament may sell fish taken in connection with the tournament pursuant to a recreational fishing tournament license to sell fish. A person who organizes a recreational fishing tournament may obtain a recreational fishing tournament license to sell fish upon application to the Division and payment of a fee of ~~one hundred dollars ($100.00).~~one hundred twenty-five dollars ($125.00). It is unlawful for any person licensed under this subsection to sell fish to any person other than a fish dealer licensed under G.S. 113-169.3 unless the seller is also a licensed fish dealer. A recreational fishing tournament is an organized fishing competition occurring within a specified time period not to exceed one week and that is not a commercial fishing operation. Gross proceeds from the sale

of fish may be used only for charitable, religious, educational, civic, or conservation purposes and shall not be used to pay tournament expenses."

SECTION 14.8.(e) G.S. 113-168.6 reads as rewritten:

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

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

(1) A certificate of number has been issued for the vessel under Article 1 of Chapter 75A of the General Statutes;

(2) A certificate of title has been issued for the vessel under Article 4 of Chapter 75A of the General Statutes; or

(3) A certification of documentation has been issued for the vessel that lists a home port in the State under 46 U.S.C. § 12101, et seq., as amended.

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

(b1) The vessel owner at the time of application for registration under subsection (b) of this section shall obtain either a commercial vessel endorsement if the vessel is intended to be used primarily for the harvest of fish for sale, a for-hire endorsement if the vessel is intended to be used primarily for for-hire activities, or both endorsements if the vessel is intended to be engaged in both activities. The owner of a vessel applying for a commercial fishing vessel registration with a for-hire endorsement must affirm liability coverage and knowledge of applicable United States Coast Guard safety requirements.

(b2) Every owner who obtains a commercial fishing vessel registration with a for-hire endorsement shall submit to the Division logbooks summarizing catch and effort statistical data to the Division. The Commission may adopt rules that determine means and methods to satisfy the requirements of this subsection.

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

(1) ~~One dollar ($1.00)~~One dollar and twenty-five cents ($1.25) per foot for a vessel not over 18 feet in length.

(2) ~~One dollar and fifty cents ($1.50)~~One dollar and ninety cents ($1.90) per foot for a vessel over 18 feet but not over 38 feet in length.

(3) ~~Three dollars ($3.00)~~Three dollars and seventy-five cents ($3.75) per foot for a vessel over 38 feet but not over 50 feet in length.

(4) ~~Six dollars ($6.00)~~Seven dollars and fifty cents ($7.50) per foot for a vessel over 50 feet in length.

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

(e) Within 30 days of the date on which the owner of a registered vessel transfers ownership of the vessel, the new owner of the vessel shall notify the Division of the change in ownership and apply for a replacement commercial fishing vessel registration. An application for a replacement commercial fishing vessel registration shall be accompanied by proof of the

transfer of the vessel. The provisions of G.S. 113-168.1(h) apply to a replacement commercial fishing vessel registration."

SECTION 14.8.(f) G.S. 113-169.1 reads as rewritten:

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

(a) The Commission may adopt rules to establish permits for gear, equipment, and specialized activities, including commercial fishing operations that do not involve the use of a vessel and transplanting oysters or clams. The Commission may establish a fee for each permit established pursuant to this subsection in an amount that compensates the Division for the administrative costs associated with the permit but that does not exceed one hundred dollars ($100.00) per permit.

(b) The Commission may adopt rules to establish gear specific permits to take striped bass from the Atlantic Ocean and to limit the number and type of these permits that may be issued to a person. The Commission may establish a fee for each permit established pursuant to this subsection in an amount that compensates the Division for the administrative costs associated with the permit but that does not exceed ~~ten dollars ($10.00)~~thirty dollars ($30.00) per permit.

(c) To ensure an orderly transition from one permit year to the next, the Division may issue a permit prior to July 1 of the permit year for which the permit is valid. Revenue that the Division receives for the issuance of a permit prior to the beginning of a permit year shall not revert at the end of the fiscal year in which the revenue is received and shall be credited and available to the Division for the permit year in which the permit is valid."

SECTION 14.8.(g) G.S. 113-169.2 reads as rewritten:

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

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

(a1) License Necessary to Take or Sell Shellfish Taken by Mechanical Means. – Subject to subsection (i) of this section, an individual who takes shellfish from the public or private grounds of the State by mechanical means must obtain a SCFL under the provisions of G.S. 113-168.2.

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

(c) Fees. – Shellfish licenses issued under this section shall be issued annually upon payment of a fee of ~~twenty-five dollars ($25.00)~~thirty-one dollars and twenty-five cents ($31.25) upon proof that the license applicant is a North Carolina resident.

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

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

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

(g) Transfer Prohibited. – It is unlawful for an individual issued a shellfish license to transfer or offer to transfer the license, either temporarily or permanently, to another. It is unlawful for an individual to secure or attempt to secure a shellfish license from a source not authorized by the Commission.

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

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

SECTION 14.8.(h) G.S. 113-169.3(e) reads as rewritten:

"(e) Application Fee for New Fish Dealers. – An applicant for a new fish dealer license shall pay a nonrefundable application fee of ~~fifty dollars ($50.00)~~sixty-two dollars and fifty cents ($62.50) in addition to the license category fees set forth in this section."

SECTION 14.8.(i) G.S. 113-169.3(f) reads as rewritten:

"(f) License Category Fees. – Every fish dealer subject to licensing requirements shall secure an annual license at each established location for each of the following activities transacted there, upon payment of the fee set out:

(1) Dealing in oysters: ~~$50.00;~~$62.50.
(2) Dealing in scallops: ~~$50.00;~~$62.50.
(3) Dealing in clams: ~~$50.00;~~$62.50.
(4) Dealing in hard or soft crabs: ~~$50.00;~~$62.50.
(5) Dealing in shrimp, including bait: ~~$50.00;~~$62.50.
(6) Dealing in finfish, including bait: ~~$50.00;~~$62.50.
(7) Operating menhaden or other fish-dehydrating or oil-extracting processing plants: ~~$50.00; or~~$62.50.
(8) Consolidated license (all categories): ~~$300.00.~~$375.00."

SECTION 14.8.(j) G.S. 113-169.4 reads as rewritten:

"**§ 113-169.4. Licensing of ocean fishing piers; fees.**

(a) The owner or operator of an ocean fishing pier within the coastal fishing waters who charges the public a fee to fish in any manner from the pier shall secure a current and valid pier license from the Division. An application for a pier license shall disclose the names of all parties involved in the pier operations, including the owner of the property, owner of the pier if different, and all leasehold or other corporate arrangements, and all persons with a substantial financial interest in the pier.

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

(c) Pier licenses are issued upon payment of ~~fifty cents (50¢)~~four dollars and fifty cents ($4.50) per linear foot, to the nearest foot, that the pier extends into coastal fishing waters beyond the mean high waterline. The length of the pier shall be measured to include all extensions of the pier.

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

(e) The pier license issued under this section authorizes any individual who does not hold a Coastal Recreational Fishing License under Article 14B or Article 25A of this Chapter to engage in recreational fishing while on the pier."

SECTION 14.8.(k) G.S. 113-169.5 reads as rewritten:

"(b) The fee for a land or sell license for a vessel not having its primary situs in North Carolina is ~~two hundred dollars ($200.00);~~two hundred fifty dollars ($250.00), or an amount

equal to the nonresident fee charged by the nonresident's state, whichever is greater. Persons aboard vessels having a primary situs in a jurisdiction that would allow North Carolina vessels without restriction to land or sell their catch, taken outside the jurisdiction, may land or sell their catch in the State without complying with this section if the persons are in possession of a valid license from their state of residence."

SECTION 14.8.(l) G.S. 113-171.1(b) reads as rewritten:

"(b) License. – Before an aircraft is used as a spotter plane in a commercial fishing operation, the owner or operator of the aircraft must obtain a license for the aircraft from the Division. The fee for a license for a spotter plane is ~~one hundred dollars ($100.00).~~one hundred twenty-five dollars ($125.00). An applicant for a license for a spotter plane shall include in the application the identity, either by boat or by company, of the specific commercial fishing operations in which the spotter plane will be used during the license year. If, during the course of the license year, the aircraft is used as a spotter plane in a commercial fishing operation that is not identified in the original license application, the owner or operator of the aircraft shall amend the license application to add the identity of the additional commercial fishing operation."

SECTION 14.8.(m) G.S. 113-173(f) reads as rewritten:

"(f) Duration; Fees. – The RCGL shall be valid for a one-year period from the date of purchase. The fee for a RCGL for a North Carolina resident shall be ~~thirty-five dollars ($35.00).~~forty-three dollars and seventy-five cents ($43.75). The fee for a RCGL for an individual who is not a North Carolina resident shall be ~~two hundred fifty dollars ($250.00).~~three hundred twelve dollars and fifty cents ($312.50)."

SECTION 14.8.(n) G.S. 113–174.3 reads as rewritten:

"**§ 113-174.3. ~~For Hire Blanket CRFL.~~For-Hire Boat Licenses.**

~~(a) License. – A person who operates a for hire boat may purchase a For Hire Blanket CRFL issued by the Division for the for hire boat. A For Hire Blanket CRFL authorizes all individuals on the for hire boat who do not hold a license issued under this Article or Article 25A of this Chapter to engage in recreational fishing in coastal fishing waters that are not joint fishing waters. A For Hire Blanket CRFL does not authorize individuals to engage in recreational fishing in joint fishing waters or inland fishing waters. A For Hire Blanket CRFL is valid for a period of one year from the date of issuance. The fee for a For Hire Blanket CRFL is:~~

~~(1) Two hundred fifty dollars ($250.00) for a vessel that will carry six or fewer passengers.~~

~~(2) Three hundred fifty dollars ($350.00) for a vessel that will carry greater than six passengers.~~

~~(b) Implementation. – Except as provided in this section and G.S. 113-174.2(d), each individual on board a for hire boat engaged in recreational fishing, other than crew members who do not engage in recreational fishing, must hold a license issued under this Article or Article 25A of this Chapter. An owner, operator, or crew member of a for hire boat is not responsible for the licensure of a customer fishing from the boat.~~

(c) License. – It is unlawful for a person to engage in a for-hire operation without having obtained one of the following licenses issued by the Division:

(1) Blanket For-Hire Captain's CRFL. – This license allows individuals properly licensed by the United States Coast Guard to carry passengers on any vessel with a commercial vessel registration with a for-hire endorsement. A Blanket For-Hire Captains CRFL authorizes all individuals on the for-hire boat who do not hold a license issued under this Article or Article 25A of this Chapter to engage in recreational fishing in coastal fishing waters that are not joint fishing waters. The resident fees for a Blanket For-Hire Captain's CRFL are two hundred fifty dollars ($250.00) for a boat carrying

six or fewer passengers and three hundred fifty dollars ($350.00) for a boat carrying more than six passengers. The nonresident fees for a Blanket For-Hire Captain's CRFL are three hundred twelve dollars and fifty cents ($312.50) for a boat carrying six or fewer passengers and four hundred thirty-seven dollars and fifty cents ($437.50) for a boat carrying more than six passengers. Any boat whose operator is licensed under this subdivision and that is engaged in for-hire fishing must obtain a Commercial Fishing Vessel Registration with a for-hire endorsement.

(2) Blanket For-Hire Boat CRFL. – This license allows any United States Coast Guard licensed operator to carry passengers aboard the licensed vessel. A Blanket For-Hire Boat CRFL authorizes all individuals on the for-hire boat who do not hold a license issued under this Article or Article 25A of this Chapter to engage in recreational fishing in coastal fishing waters that are not joint fishing waters. The resident fees for a Blanket For-Hire Captain's CRFL are two hundred fifty dollars ($250.00) for a boat carrying six or fewer passengers and three hundred fifty dollars ($350.00) for a boat carrying more than six passengers. The nonresident fees for a Blanket For-Hire Captain's CRFL are three hundred twelve dollars and fifty cents ($312.50) for a boat carrying six or fewer passengers and four hundred thirty-seven dollars and fifty cents ($437.50) for a boat carrying more than six passengers. Any boat whose operator is licensed under this subdivision and that is engaged in for-hire fishing is not required to obtain a Commercial Fishing Vessel Registration with a for-hire endorsement.

(3) Non-Blanket For-Hire Boat License. – This license allows any United States Coast Guard licensed operator to carry passengers aboard the licensed boat. This license does not authorize individuals aboard the boat to engage in recreational fishing unless they hold an individual CRFL issued under this Article or Article 25A of this Chapter. The fee for the Non-Blanket For-Hire Boat License is twenty-five dollars ($25.00) for a boat operated by a resident operator and thirty-seven dollars and fifty cents ($37.50) for a boat operated by a nonresident operator. Any boat whose operator is licensed under this subdivision and that is engaged in for-hire fishing is not required to obtain a Commercial Fishing Vessel Registration with a for-hire endorsement.

(d) A license issued under this section does not authorize individuals to engage in recreational fishing in joint fishing waters or inland fishing waters. All for-hire licenses expire on the last day of the license year."

SECTION 14.8.(o) G.S. 113-174.4 is repealed.

SECTION 14.8.(p) G.S. 113–182.1(b) reads as rewritten:

"(b) The goal of the plans shall be to ensure the long-term viability of the State's commercially and recreationally significant species or fisheries. Each plan shall be designed to reflect fishing practices so that one plan may apply to a specific fishery, while other plans may be based on gear or geographic areas. Each plan shall:

...

(5) Specify a time period, not to exceed two years from the date of the adoption of the plan, ~~for ending~~to end overfishing. ~~This subdivision shall only apply to a plan for a fishery that is not producing a sustainable harvest.~~This subdivision shall not apply if the Fisheries Director determines that the biology of the fish, environmental conditions, or lack of sufficient data make implementing the requirements of this subdivision incompatible with professional standards for fisheries management.

...."

SECTION 14.8.(q) G.S. 113-203 is amended by adding two new subsections to read:

"(f) The Commission may establish a fee for each permit established pursuant to this subsection in an amount that compensates the Division for the administrative costs associated with the permit but that does not exceed one hundred dollars ($100.00) per permit.

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

SECTION 14.8.(r) G.S. 113–210 is amended by adding two new subsections to read:

"(l) Fees. – Under the Dock Oyster Culture Permit shall be issued annually upon payment of a fee of one hundred dollars ($100.00).

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

SECTION 14.8.(s) G.S. 113–221.2 reads as rewritten:

"**§ 113-221.2. Additional rules to establish sanitation requirements for scallops, shellfish, and ~~crustacea.~~crustacea; permits and permit fees authorized.**

(a) Authority to Adopt Certain Rules and Establish Permits. – For the protection of the public health, the Marine Fisheries Commission shall adopt rules establishing sanitation requirements for the harvesting, processing and handling of scallops, shellfish, and crustacea of in-State origin. The rules of the Marine Fisheries Commission may also regulate scallops, shellfish, and crustacea shipped into North Carolina. The Department is authorized to enforce the rules and may issue and revoke permits according to the rules. The Department is authorized to establish a fee for each permit not to exceed one hundred dollars ($100.00).

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

SECTION 14.8.(t) G.S. 143B-289.52(d1) reads as rewritten:

"(d1) The Commission may regulate participation in a fishery that is subject to a federal fishery management plan if that plan imposes a quota on the State for the harvest or landing of fish in the fishery. ~~If the Commission regulates participation in a fishery under this subsection, the Division may issue a license to participate in the fishery to a person who:~~

~~(1) Held a valid license issued by the Division to harvest, land, or sell fish during at least two of the three license years immediately preceding the date adopted by the Commission to determine participation in the fishery; and~~

~~(2) Participated in the fishery during at least two of those license years by landing in the State at least the minimum number of pounds of fish adopted by the Commission to determine participation in the fishery.~~The Commission may use any additional criteria aside from holding a Standard Commercial Fishing License to develop limited entry fisheries. The Commission may establish a fee for each license established pursuant to this

subsection in an amount that does not exceed five hundred dollars ($500.00)."

SECTION 14.8.(u) G.S. 143B-289.52 is amended by adding a new subsection to read:

"(d2) To ensure an orderly transition from one permit year to the next, the Division may issue a permit prior to July 1 of the permit year for which the permit is valid. Revenue that the Division receives for the issuance of a permit prior to the beginning of a permit year shall not revert at the end of the fiscal year in which the revenue is received and shall be credited and available to the Division for the permit year in which the permit is valid."

SECTION 14.8.(v) The Division of Marine Fisheries of the Department of Environment and Natural Resources shall seek the involvement of the commercial fishing industry in North Carolina in the Division's development of a plan to determine a source of funding necessary to support the Marine Fisheries At-Sea Observer Program that is in addition to the fee increases under this section. As part of this effort, the Division of Marine Fisheries shall conduct at least three public hearings in different coastal county locations to seek the input of, and receive comments of potential additional recurring funding sources from, the individuals involved in the commercial fishing industry. The Division shall receive written comments at the public hearings and take minutes of the public hearings. The minutes shall be made available to the public on the Department's Internet Web site.

SECTION 14.8.(w) Following the public hearings under subsection (v) of this section and the Division's consideration of written and oral comments resulting from the public hearings, the Division of Marine Fisheries shall submit its plan for an additional recurring funding source to support the Marine Fisheries At-Sea Observer Program to the Marine Fisheries Commission. The Marine Fisheries Commission shall vote on whether it endorses the plan.

SECTION 14.8.(x) No later than March 1, 2014, the Marine Fisheries Commission shall submit a report to the Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division. This report shall include the results of the Commission's vote under subsection (w) of this section and its findings and recommendations for an additional source of funding necessary to support the Marine Fisheries At-Sea Observer Program in the event the Commission votes against endorsing the plan.

SECTION 14.8.(y) The Division of Marine Fisheries shall use the proceeds it receives as a result of the fee increases under this section to provide support for the 2014-2015 fiscal year for the Marine Fisheries At-Sea Observer Program. In addition, the Division of Marine Fisheries shall provide available funds for the 2014-2015 fiscal year to provide any additional support that is needed to continue the Marine Fisheries At-Sea Observer Program.

MARINE RESOURCES FUND AND MARINE RESOURCES ENDOWMENT FUND DISBURSEMENTS

SECTION 14.9.(a) G.S. 113-175.1(b) reads as rewritten:

"(b) The State Treasurer shall hold the Marine Resources Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall invest the assets of the Marine Resources Fund in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3, and all marine resources investment income shall be deposited to the credit of the Marine Resources Fund. The State Treasurer shall disburse the principal of the Marine Resources Fund and marine resources investment income only upon the written direction of ~~both~~ the Marine Fisheries ~~Commission and the Wildlife Resources Commission.~~Commission."

SECTION 14.9.(b) G.S. 113-175.1(c) reads as rewritten:

"(c) The Marine Fisheries Commission ~~and the Wildlife Resources Commission~~ may authorize the disbursement of the principal of the Marine Resources Fund and marine resources

investment income only to manage, protect, restore, develop, cultivate, conserve, and enhance the marine resources of the State. The Marine Fisheries Commission ~~and the Wildlife Resources Commission are~~ is encouraged to consider supporting the Oyster Sanctuary Program managed by the Division of Marine Fisheries. The Marine Fisheries Commission ~~and the Wildlife Resources Commission~~ may not authorize the disbursement of the principal of the Marine Resources Fund and marine resources investment income to establish positions without specific authorization from the General Assembly. All proposals to the Marine Fisheries Commission ~~and the Wildlife Resources Commission~~ for the disbursement of funds from the Marine Resources Fund shall be made by and through the Fisheries Director. Prior to authorizing disbursements from the Marine Resources Fund, the Marine Fisheries Commission shall consult with the Wildlife Resources Commission about these proposals. Expenditure of the assets of the Marine Resources Fund shall be made through the State budget accounts of the Division of Marine Fisheries in accordance with the provisions of the Executive Budget Act. The Marine Resources Fund is subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes."

SECTION 14.9.(c) G.S. 113-175.5(b) reads as rewritten:

"(b) The State Treasurer shall hold the Endowment Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall invest the assets of the Endowment Fund in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3. The State Treasurer shall disburse the endowment investment income only upon the written direction of both the Marine Fisheries ~~Commission and the Wildlife Resources Commission.~~Commission."

SECTION 14.9.(d) G.S. 113-175.5(c) reads as rewritten:

"(c) Subject to the limitations set out in subsection (d) of this section, the Marine Fisheries Commission ~~and the Wildlife Resources Commission~~ may authorize the disbursement of endowment investment income only to manage, protect, restore, develop, cultivate, conserve, and enhance the marine resources of the State. The Marine Fisheries Commission ~~and the Wildlife Resources Commission~~ may not authorize the disbursement of endowment investment income to establish positions without specific authorization from the General Assembly. All proposals to the Marine Fisheries Commission ~~and the Wildlife Resources Commission~~ for the disbursement of funds from the Endowment Fund shall be made by and through the Fisheries Director. Prior to authorizing disbursements from the Marine Resources Endowment Fund, the Marine Fisheries Commission shall consult with the Wildlife Resources Commission about these proposals."

MARINE FISHERIES ENDOWMENT FUND REPEALED

SECTION 14.10. G.S. 143B-289.58 is repealed.

BOATING SAFETY ENFORCEMENT AGREEMENT

SECTION 14.11.(a) The Director of the Division of Marine Fisheries of the Department of Environment and Natural Resources and the Director of the Wildlife Resources Commission shall develop and implement an agreement that includes at least all of the following provisions:

(1) Provisions to authorize the Division of Marine Fisheries marine patrol to perform any needed boating safety inspection.

(2) To avoid the duplication of enforcement activities by the Division of Marine Fisheries marine patrol and the Wildlife Resources Commission law enforcement officers, a schedule for high-volume areas that is developed to take into account that the Division of Marine Fisheries marine patrol must confine their enforcement activities to the coastal waters.

(3) To further encourage more efficient management of the State's resources, a protocol that sets forth appropriate circumstances when the Division of Marine Fisheries marine patrol is authorized or required to investigate boating accidents in coastal waters and within the joint jurisdiction of the Division of Marine Fisheries and the Wildlife Resources Commission.

(4) A provision to prohibit, except in the instances of investigations of boating accidents, the Division of Marine Fisheries from receiving any federal boating safety funds.

(5) A provision to provide mutual aid that authorizes the Division of Marine Fisheries marine patrol to enter into inland waters in winter to conduct a normal investigation of suspected illegal netting activity.

SECTION 14.11.(b) No later than April 1, 2014, the Division of Marine Fisheries of the Department of Environment and Natural Resources and the Wildlife Resources Commission shall submit a joint report to the Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division. The report shall include any findings and recommendations, including any legislative proposals. The report shall include findings regarding at least the following issues:

(1) Whether the agreement developed pursuant to subsection (a) of this section has been successful from the perspective of the Division of Marine Fisheries, the Wildlife Resources Commission and the public in clarifying enforcement activities and reducing the duplication of enforcement activities by the Division of Marine Fisheries marine patrol and the Wildlife Resources Commission law enforcement officers.

(2) As an alternative to the agreement developed under the provisions of subsection (a) of this section, whether it would be preferable to confer law enforcement powers upon the Division of Marine Fisheries marine patrol to authorize the Division of Marine Fisheries marine patrol to engage in enforcement activity related to only fisheries under the jurisdiction of the Division of Marine Fisheries or subject to the management of the Division of Marine Fisheries.

(3) Any other issue the Division of Marine Fisheries or the Wildlife Resources Commission deems pertinent to include in the report.

GRASSROOTS SCIENCE PROGRAM

SECTION 14.12.(a) The Grassroots Science Program within the Department of Commerce is transferred to the Department of Environment and Natural Resources.

SECTION 14.12.(b) Of the funds appropriated in this act to the Department of Environment and Natural Resources, the sum of two million two hundred eighty-nine thousand seven hundred eighty-two dollars ($2,289,782) for the 2013-2014 fiscal year and the sum of two million two hundred eighty-six thousand forty-three dollars ($2,286,043) for the 2014-2015 fiscal year is allocated as grants-in-aid for each fiscal year as follows:

	2013-2014	2014-2015
Aurora Fossil Museum	$61,821	$61,801
Cape Fear Museum	$85,248	$85,108
Carolina Raptor Center	$74,916	$74,828
Catawba Science Center	$93,041	$92,860
Colburn Earth Science Museum, Inc.	$62,547	$62,524
Core Sound Waterfowl Museum	$67,395	$67,347
Discovery Place	$261,617	$260,565
Eastern NC Regional Science Center	$59,587	$59,579

Fascinate-U	$65,616	$65,577
Granville County Museum Commission, Inc.–Harris Gallery	$60,651	$60,638
Greensboro Children's Museum	$83,575	$83,443
The Health Adventure Museum of Pack Place Education, Arts and Science Center, Inc.	$73,352	$73,273
Highlands Nature Center	$62,816	$62,791
Imagination Station	$67,588	$67,538
The Iredell Museums, Inc.	$61,013	$60,998
Kidsenses	$65,233	$65,196
Museum of Coastal Carolina	$65,454	$65,415
The Natural Science Center of Greensboro, Inc.	$116,532	$116,230
North Carolina Museum of Life and Science	$203,545	$202,793
Pisgah Astronomical Research Institute	$74,925	$74,837
Port Discover: Northeastern North Carolina's Center for Hands-On Science, Inc.	$60,610	$60,597
Rocky Mount Children's Museum	$66,463	$66,419
Schiele Museum of Natural History and Planetarium, Inc.	$100,990	$100,768
Sci Works Science Center and Environmental Park of Forsyth County	$83,725	$83,592
Sylvan Heights Waterfowl Park and Eco-Center	$69,864	$69,803
Western North Carolina Nature Center	$74,973	$74,885
Wilmington Children's Museum	$66,684	$66,639
Total	**$2,289,782**	**$2,286,043**

SECTION 14.12.(c) No later than March 1, 2014, the Department of Environment and Natural Resources shall report to the Fiscal Research Division all of the following information for each museum that receives funds under this section:

(1) The actual operating budget for the 2012-2013 fiscal year.

(2) The proposed operating budget for the 2013-2014 fiscal year.

(3) The total attendance at the museum during the 2013 calendar year.

SECTION 14.12.(d) No later than March 1, 2015, the Department of Environment and Natural Resources shall report to the Fiscal Research Division all of the following information for each museum that receives funds under this section:

(1) The actual operating budget for the 2013-2014 fiscal year.

(2) The proposed operating budget for the 2014-2015 fiscal year.

(3) The total attendance at the museum during the 2014 calendar year.

SECTION 14.12.(e) As a condition for qualifying to receive funding under this section, all of the following documentation shall, no later than November 1 of each year of the 2013-2015 fiscal biennium, be submitted for each museum under this section to the Department of Environment and Natural Resources for the fiscal year that most recently ended, and only those costs that are properly documented under this subsection are allowed by the Department in calculating the distribution of funds under this section:

(1) Each museum under this section shall submit its IRS (Internal Revenue Service) Form 990 to show its annual operating expenses, its annual report,

and a reconciliation that explains any differences between expenses as shown on the IRS Form 990 and the annual report.

(2) Each friends association of a museum under this section shall submit its IRS Form 990 to show its reported expenses for the museum, its annual report, and a reconciliation that explains any differences between expenses as shown on the IRS Form 990 and the annual report, unless the association does not have both an IRS Form 990 and an annual report available, in which case, it shall submit either an IRS Form 990 or an annual report.

(3) The chief financial officer of each county or municipal government that provides funds for the benefit of the museum shall submit a detailed signed statement of documented costs spent for the benefit of the museum that includes documentation of the name, address, title, and telephone number of the person making the assertion that the museum receives funds from the county or municipality for the benefit of the museum.

(4) The chief financial officer of each county or municipal government or each friends association that provides indirect or allocable costs that are not directly charged to a museum under this section but that benefit the museum shall submit in the form of a detailed statement enumerating each cost by type and amount that is verified by the financial officer responsible for the completion of the documentation and that includes the name, address, title, and telephone number of the person making the assertion that the county, municipality, or association provides indirect or allocable costs to the museum.

SECTION 14.12.(f) As used in subsection (e) of this section, "friends association" means a nonprofit corporation established for the purpose of supporting and assisting a museum that receives funding under this section.

SECTION 14.12.(g) No more than one hundred twenty thousand dollars ($120,000) in State funds shall be used for the annual salary of any one employee of a museum named in subsection (b) of this section. For purposes of this subsection, the term "State funds" means funds allocated to a museum listed in subsection (b) of this section and interest earned on those funds.

SECTION 14.12.(h) Each museum listed in subsection (b) of this section shall do the following:

(1) By September 1 of each year, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on prior State fiscal year program activities, objectives, and accomplishments and prior State fiscal year itemized expenditures and fund sources.

(2) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

SECTION 14.12.(i) No State funds shall be used by any museum listed in subsection (b) of this section (i) to hire or facilitate the hiring of a lobbyist or any person performing the duties or activities of a lobbyist, without regard to the person's title or (ii) to facilitate any lobbying efforts.

MUSEUM OF FORESTRY

SECTION 14.13.(a) No later than October 1, 2013, the State of North Carolina shall convey to the City of Whiteville for consideration of one dollar ($1.00), all its right, title, and interest in the property used for the Museum of Forestry currently allocated to the Department of Environment and Natural Resources.

SECTION 14.13.(b) The State of North Carolina shall convey the real property described in subsection (a) of this section without warranty. The State makes no representations or warranties concerning the title to the property, the boundaries of the property, the uses to which the property may be put, zoning, local ordinances or any physical, environmental, health, and safety conditions relating to the property. All costs associated with the conveyance of the property shall be borne by the City of Whiteville.

SECTION 14.13.(c) The conveyance of the State's right, title, and interest in the Museum of Forestry shall be exempt from the provisions of Article 7 of Chapter 146 of the General Statutes. The conveyance shall comply with the provisions of Article 16 of Chapter 146 of the General Statutes; provided that the provisions of G.S. 146-74 shall not apply. The transaction shall be reported to the Fiscal Research Division within 30 days of the transaction being finalized.

SECTION 14.13.(d) If the governing board of the City of Whiteville resolves to accept ownership of the property used for the Museum of Forestry under this section and the conveyance occurs under this section, the Department of Environment and Natural Resources shall provide the sum of fifty-eight thousand dollars ($58,000) for the 2013-2014 fiscal year to the City of Whiteville to be used to support the ongoing operations of the Museum of Forestry.

SECTION 14.13.(e) If the governing board of the City of Whiteville resolves to not accept ownership of the property used for the Museum of Forestry under this section and the conveyance does not occur by October 1, 2013, the Department of Environment and Natural Resources shall close the Museum of Forestry no later than October 1, 2013, and shall eliminate all positions for the Museum no later than November 1, 2013. The Department of Environment and Natural Resources may use any funds available to the Department during the 2013-2014 fiscal year for any costs associated with operating and then closing the Museum and for supporting positions for the Museum until the Museum is sold, closed, or November 1, 2013, whichever occurs earliest.

BERNARD ALLEN MEMORIAL EMERGENCY DRINKING WATER FUND

SECTION 14.14. G.S. 87-98 reads as rewritten:

"**§ 87-98. Bernard Allen Memorial Emergency Drinking Water Fund.**

(a) The Bernard Allen Memorial Emergency Drinking Water Fund is established under the control and direction of the Department. The Fund shall be a nonreverting, interest-bearing fund consisting of monies appropriated by the General Assembly or made available to the Fund from any other source and investment interest credited to the Fund.

(b) The Fund may be used to pay ~~for notification,~~for:

(1) Notification, to the extent practicable, of persons aged 18 and older who reside in any dwelling unit, and the senior official in charge of any business, at which drinking water is supplied from a private drinking water well or improved spring that is located within 1,500 feet of, and at risk from, known groundwater contamination. The senior official in charge of the business shall take reasonable measures to notify all employees of the business of the groundwater contamination, including posting a notice of the contamination in a form and at a location that is readily accessible to the employees of the business. ~~The Fund may also be used by the Department to pay the~~

(2) The costs of testing of private drinking water wells and improved springs for suspected contamination up to once every three years upon request by a person who uses the ~~well and for the~~ well, or more frequent testing if the concentration of one or more contaminants in a private drinking water well is increasing over time and there is a significant risk that the concentration of a contaminant will exceed the drinking water action levels set forth in subsection (c) of this section within a three-year period.

(3) Additional testing to confirm the results of a previous test.

(4) The temporary or permanent provision of alternative drinking water supplies to persons whose drinking water well or improved spring is contaminated. Under this ~~subsection,~~section, an alternative drinking water supply includes the repair, such as use of a filtration system, or replacement of a contaminated well or the connection to a public water supply.

(5) Monitoring of filtration systems used in connection with temporary or permanent alternative drinking water supplies provided pursuant to this section.

(c) The Department shall disburse monies from the Fund based on financial need and on the risk to public health posed by groundwater contamination and shall give priority to the provision of services under this section to instances when an alternative source of funds is not available. The Fund shall not be used to provide alternative water supply to households with incomes greater than three hundred percent (300%) of the current federal poverty level. The Fund may be used to provide alternative drinking water supplies if the Department determines that the concentration of one or more contaminants in the private drinking water well or improved spring exceeds the federal maximum contaminant level, or the federal drinking water action level as defined in 40 Code of Federal Regulations § 141.1 through § 141.571 (1 July 2007) and 40 Code of Federal Regulations § 143.3 (1 July 2007). For a contaminant for which a federal maximum contaminant level or drinking water action level has not been established, the State groundwater standard established by the Environmental Management Commission for the concentration of that contaminant shall be used to determine whether the Fund may be used to provide alternative drinking water supplies. The Fund may also be used to provide alternative drinking water supplies as provided in this section if the Department determines that the concentration of one or more contaminants in a private drinking water well is increasing over time and that there is a significant risk that the concentration of a contaminant will exceed the federal maximum contaminant level or drinking water action level, or the State groundwater standard. A determination of the concentration of a contaminant shall be based on a sample of water collected from the private drinking water well within the past 12 months.

(c1) In disbursing monies from the Fund, the Department shall give preference to provision of permanent replacement water supplies by connection to public water supplies and repair or replacement of contaminated wells over the provision of temporary water supplies. In providing alternative drinking water supplies, the Department shall give preference to connection to a public water supply system or to construction of a new private drinking water well over the use of a filtration system if the Department determines that the costs of periodic required maintenance of the filtration system would be cost-prohibitive for users of the alternative drinking water supply.

(c2) If the Department provides an alternative drinking water supply by extension of a waterline, the Department may disburse from the Fund no more than ~~ten~~ fifty thousand dollars ~~($10,000)~~($50,000) per household or other service connection. For projects where more than 10 residences are eligible for alternative water supplies under this section, no ~~No~~ more than one-third of the total cost of the project may be paid from the Fund. The Department may combine monies from the Fund with monies from other sources in order to pay the total cost of the project.

(c3) The Fund shall be used to provide alternative drinking water supplies only if the Department determines that the person or persons who are responsible for the contamination of the private drinking water well is or are not financially viable or cannot be identified or located and if the Department determines that one of the following applies:

(1) The contamination of the private drinking water well is naturally occurring.

(2) The owner of the property on which the private drinking water well is located did not cause or contribute to the contamination or control the source of the contamination.

(3) The source of the contamination is the application or disposal of a hazardous substance or pesticide that occurred without the consent of the owner of the property on which the private drinking water well is located.

(c4) The Department may use up to one hundred thousand dollars ($100,000) annually of the monies in the Fund to pay the personnel and other direct costs associated with the implementation of this section.

(c5) The Fund shall not be used for remediation of groundwater contamination.

(c6) Nothing in this section expands, contracts, or modifies the obligation of responsible parties under Article 9 or 10 of Chapter 130A of the General Statutes, this Article, or Article 21A of this Chapter to assess contamination, identify receptors, or remediate groundwater or soil contamination.

(c7) In disbursing monies from the Fund for replacement water supplies, the Department shall give priority to circumstances in which a well is contaminated as the result of nonnaturally occurring groundwater contamination in the area over circumstances in which a well has naturally occurring contamination.

(d) The Department shall establish criteria by which the Department is to evaluate applications and disburse monies from this Fund and may adopt any rules necessary to implement this section.

(e) The Department, in consultation with the Commission for Public Health and local health departments, shall report no later than ~~1 October~~October 1 of each year to the Environmental Review Commission, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division on the implementation of this section. The report shall include the purpose and amount of all expenditures from the Fund during the prior fiscal year, a discussion of the benefits and deficiencies realized as a result of the section, and may also include recommendations for any legislative action."

NONCOMMERCIAL LEAKING PETROLEUM UNDERGROUND STORAGE TANK CLEANUP FUND; DENR STUDY

SECTION 14.15.(a) G.S. 143-215.94D(b1) reads as rewritten:

"(b1) The Noncommercial Fund shall be used for the payment of the costs of:

(1) The cleanup of environmental damage as required by ~~G.S. 143-215.94E(a).~~G.S. 143-215.94E(a) in excess of one thousand dollars ($1,000) per occurrence, plus a co-pay equal to ten percent (10%) of the costs of the cleanup of environmental damage not to exceed two thousand dollars ($2,000) per occurrence.

(2) Compensation to third parties for bodily injury and property damage in excess of one hundred thousand dollars ($100,000) per occurrence.

(3) Reimbursing the State for damages or other costs incurred as a result of a loan from the Loan Fund. The per occurrence limit does not apply to reimbursements to the State under this subdivision.

(4) Recordation of residual petroleum as required by G.S. 143B-279.11 if the Noncommercial Fund is responsible for the payment of costs under subdivisions (1) through (3) of this subsection and subsection (b) of this section."

SECTION 14.15.(b) The Department of Environment and Natural Resources (Department) shall study the costs and benefits of the noncommercial underground storage tank program and explore options for continued use of the Noncommercial Leaking Petroleum

Underground Storage Tank Cleanup Fund (Fund) and ways to improve the solvency of the Fund. The study shall consider all of the following:

(1) The usual, average, historic costs of various phases of assessment and cleanup of noncommercial UST releases in order to determine areas of potential costs savings.

(2) The feasibility of determining levels of soil and groundwater contamination at noncommercial UST releases earlier in the assessment and cleanup process in order to identify lower risks sites and limit reimbursement of costs of initial abatement actions.

(3) The feasibility of assigning risk to noncommercial UST releases earlier in the assessment and cleanup process in order to limit reimbursement of costs of initial abatement actions.

(4) The feasibility of partial cleanup at lower priority noncommercial UST releases.

(5) The feasibility of issuing notices similar to the Notices of No Further Action for partially cleaned up, stabilized, lower priority noncommercial UST sites in order to facilitate property transfers.

(6) Methods to strengthen liability protections for buyers and lenders of residential properties that have known noncommercial UST releases in order to facilitate property transfers.

(7) Methods to employ land use restrictions on residential properties where petroleum contamination remains at lower risk sites in order to limit cleanup at these sites, while still informing the public of risk, and facilitating property transfers.

(8) Methods to increase the participation of noncommercial UST owners in the costs of assessments and cleanups.

(9) Any other matter the Department deems relevant to improve the solvency of the Fund.

SECTION 14.15.(c) The Department shall report its findings and recommendations, including any legislative proposals, to the Environmental Review Commission, the Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division no later than April 1, 2014.

PORTION OF SCRAP TIRE DISPOSAL TAX CREDITED TO GENERAL FUND; REPEAL SCRAP TIRE DISPOSAL ACCOUNT

SECTION 14.16.(a) G.S. 105-187.19(b) reads as rewritten:

"(b) Each quarter, the Secretary shall credit ~~eight percent (8%) of the net tax proceeds to the Solid Waste Management Trust Fund, seventeen percent (17%) of the net tax proceeds to the Scrap Tire Disposal Account, two and one-half percent (2.5%) of the net tax proceeds to the Inactive Hazardous Sites Cleanup Fund, and two and one-half percent (2.5%) of the net tax proceeds to the Bernard Allen Memorial Emergency Drinking Water Fund.~~thirty percent (30%) of the net tax proceeds to the General Fund. The Secretary shall distribute the remaining seventy percent (70%) of the net tax proceeds among the counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer."

SECTION 14.16.(b) G.S. 130A-309.63 is repealed.

SECTION 14.16.(c) Part 2B of Article 9 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-309.64. Scrap Tire Disposal Program; other Department activities related to scrap tires.**

(a) The Department may make grants to units of local government to assist them in disposing of scrap tires. To administer the grants, the Department shall establish procedures for applying for a grant and the criteria for selecting among grant applicants. The criteria shall include the financial ability of a unit of local government to provide for scrap tire disposal, the severity of a unit of local government's scrap tire disposal problem, the effort made by a unit of local government to ensure that only tires generated in the normal course of business in this State are provided free disposal, and the effort made by a unit of local government to provide for scrap tire disposal within the resources available to it.

(b) A unit of local government is not eligible for a grant under subsection (a) of this section unless its costs for disposing of scrap tires for the six-month period preceding the date the unit of local government files an application for a grant exceeded the amount the unit of local government received during that period from the proceeds of the scrap tire tax under G.S. 105-187.19. A grant to a unit of local government for scrap tire disposal may not exceed the unit of local government's unreimbursed cost for the six-month period.

(c) The Department may support a position to provide local governments with assistance in developing and implementing scrap tire management programs designed to complete the cleanup of nuisance tire collection sites and prevent scrap tires generated from outside of the State from being presented for free disposal in the State.

(d) The Department may clean up scrap tire collection sites that the Department has determined are a nuisance. The Department may use funds to clean up a nuisance tire collection site only if no other funds are available for that purpose.

(e) The Department shall include in the report to be delivered to the Environmental Review Commission on or before January 15 of each year pursuant to G.S. 130A-309.06(c) a description of the implementation of the North Carolina Scrap Tire Disposal Act under this Part for the fiscal year ending the preceding June 30. The description of the implementation of the North Carolina Scrap Tire Disposal Act shall include a list of the recipients of grants under subsection (a) of this section and the amount of each grant for the previous 12-month period. The report also shall include the amount of funds used to clean up nuisance sites under subsection (d) of this section.

(f) The Department may adopt any rules necessary to implement this section."

SECTION 14.16.(d) G.S. 130A-309.06(c) reads as rewritten:

"(c) The Department shall report to the Environmental Review Commission on or before 15 January of each year on the status of solid waste management efforts in the State. The report shall include:

...

(10) A description of the implementation of the North Carolina Scrap Tire Disposal Act that includes ~~the beginning and ending balances in the Scrap Tire Disposal Account for the reporting period, the amount credited to the Scrap Tire Disposal Account during the reporting period, and~~the amount of revenue used for grants and to clean up nuisance tire collection ~~sites, as required by G.S. 130A-309.63(e).~~under the provisions of G.S 130A-309.64.

...."

SECTION 14.16.(e) G.S. 130A-309.09C(g) reads as rewritten:

"(g) In addition to any other penalties provided by law, a unit of local government that does not comply with the requirements of G.S. 130A-309.09A(b) and G.S. 130A-309.09B(a) shall not be eligible for grants from the Solid Waste Management Trust ~~Fund, the Scrap Tire Disposal Account,~~Fund or the White Goods Management Account and shall not receive the proceeds of the scrap tire disposal tax imposed by Article 5B of Chapter 105 of the General Statutes or the proceeds of the white goods disposal tax imposed by Article 5C of Chapter 105 of the General Statutes to which the unit of local government would otherwise be entitled. The Secretary shall notify the Secretary of Revenue to withhold payment of these funds to any unit

of local government that fails to comply with the requirements of G.S. 130A-309.09A(b) and G.S. 130A-309.09B(a). Proceeds of the scrap tire disposal tax that are withheld pursuant to this subsection shall be credited to the ~~Scrap Tire Disposal Account~~General Fund and may be used as provided in ~~G.S. 130A-309.63.~~G.S. 130A-309.64. Proceeds of the white goods disposal tax that are withheld pursuant to this subsection shall be credited to the White Goods Management Account and may be used as provided in G.S. 130A-309.83."

SECTION 14.16.(f) The funds appropriated to the Department of Environment and Natural Resources for the 2013-2015 biennium for the Scrap Tire Disposal Program established under G.S. 130A-309.64, as enacted by subsection (b) of this section, shall be allocated as follows:

(1) Up to eighty thousand dollars ($80,000) shall be used by the Department of Environment and Natural Resources to support a position in the same manner as revenue in the Scrap Tire Disposal Account may be used under G.S. 130A-309.63(b)(3), and

(2) Four hundred twenty thousand dollars ($420,000) shall be used by the Department of Environment and Natural Resources in the same manner as revenue in the Scrap Tire Disposal Account may be used under G.S. 130A-309.63, as amended by this section.

SECTION 14.16.(g) Any tax proceeds remaining in the Scrap Tire Disposal Account, repealed under subsection (b) of this section, as of the effective date of this section shall continue to be used for the same purposes and in the same manner as the Scrap Tire Disposal Account, except the funds in the Scrap Tire Disposal Account shall not be used for grants to encourage the use of processed scrap tire materials.

PORTION OF WHITE GOODS DISPOSAL TAX CREDITED TO GENERAL FUND

SECTION 14.17.(a) G.S. 105-187.24 reads as rewritten:

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

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

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

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

SECTION 14.17.(b) G.S. 130A-309.83(a) reads as rewritten:

"(a) The White Goods Management Account is established within the Department. ~~The Account consists of revenue credited to the Account from the proceeds of the white goods disposal tax imposed by Article 5C of Chapter 105 of the General Statutes.~~"

SECTION 14.17.(c) G.S. 130A-309.87(a) reads as rewritten:

"(a) Receipt of Funds. – A county may not receive a quarterly distribution of the white goods disposal tax proceeds under G.S. 105-187.24 unless the undesignated balance in the county's white goods account at the end of its fiscal year is less than the threshold amount. Based upon the information in a county's Annual Financial Information Report, the Department must notify the Department of Revenue by March 1 of each year which counties may not receive a distribution of the white goods disposal tax for the current calendar year. The Department of Revenue will credit the undistributed tax proceeds to the ~~White Goods Management Account.~~General Fund."

SECTION 14.17.(d) G.S. 130A-309.09C(g) reads as rewritten:

"(g) In addition to any other penalties provided by law, a unit of local government that does not comply with the requirements of G.S. 130A-309.09A(b) and G.S. 130A-309.09B(a) shall not be eligible for grants from the Solid Waste Management Trust Fund, the Scrap Tire Disposal Account, or the White Goods Management Account and shall not receive the proceeds of the scrap tire disposal tax imposed by Article 5B of Chapter 105 of the General Statutes or the proceeds of the white goods disposal tax imposed by Article 5C of Chapter 105 of the General Statutes to which the unit of local government would otherwise be entitled. The Secretary shall notify the Secretary of Revenue to withhold payment of these funds to any unit of local government that fails to comply with the requirements of G.S. 130A-309.09A(b) and G.S. 130A-309.09B(a). Proceeds of the scrap tire disposal tax that are withheld pursuant to this subsection shall be credited to the Scrap Tire Disposal Account and may be used as provided in G.S. 130A-309.63. Proceeds of the white goods disposal tax that are withheld pursuant to this subsection shall be credited to the ~~White Goods Management Account~~General Fund and may be used as provided in G.S. 130A-309.83."

SECTION 14.17.(e) G.S. 130A-309.83 is repealed.

SECTION 14.17.(f) G.S. 130A-309.85(3) is repealed.

SECTION 14.17.(g) G.S. 130A-309.87, as amended by subsection (c) of this section, reads as rewritten:

"**§ 130A-309.87. Eligibility for disposal tax proceeds.**

...

(b) Annual Financial Information Report. – On or before November 1 of each year, a county must submit a copy of its Annual Financial Information Report, prepared in accordance with G.S. 159-33.1, to the Department. The Secretary of the Local Government Commission must require the following information in that report:

...

(2) The amount of revenue credited to its white goods account. This revenue should include all receipts derived from the white goods disposal tax, and the sale of white goods scrap metals and ~~freon, and a grant from the White Goods Management Account.~~freon.

...."

SECTION 14.17.(h) Subsection (e) through subsection (g) of this section become effective June 30, 2017.

PORTION OF SOLID WASTE DISPOSAL TAX CREDITED TO GENERAL FUND; REPEAL SOLID WASTE MANAGEMENT TRUST FUND

SECTION 14.18.(a) G.S. 105-187.63 reads as rewritten:

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

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

(1) Fifty percent (50%) to the Inactive Hazardous Sites Cleanup Fund established by G.S. 130A-310.11.

(2) Thirty-seven and one-half percent (37.5%) to cities and counties in the State on a per capita basis, using the most recent annual estimate of population certified by the State Budget Officer. One-half of this amount must be distributed to cities, and one-half of this amount must be distributed to counties. For purposes of this distribution, the population of a county does not include the population of a city located in the county.

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

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

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

SECTION 14.18.(b) G.S. 130A-309.12 is repealed.

SECTION 14.18.(c) Part 2A of Article 9 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-309.13. Solid Waste Management Outreach Program.**

(a) The Department shall develop an outreach program to promote waste reduction and recycling. From funds available to the Department for this program, the Department may engage in any of the following outreach activities:

(1) Provide public education regarding waste reduction and recycling.

(2) Provide technical assistance regarding waste reduction and recycling to units of local government.

(3) Conduct research on the solid waste stream in North Carolina.

(4) Develop secondary materials markets by providing technical and financial support, including providing technical and financial support to private recycling businesses, including use of processed scrap tire materials.

(5) Provide funding for the activities of the Division of Environmental Assistance and Outreach.

(b) The Department shall include in the report required by G.S. 130A-309.06(c) a description of the outreach program under this section. This report shall specify the type of outreach activity under each of subdivisions (1) through (5) under subsection (a) of this section and the amount of program funds the Department expended for each activity during the previous year."

SECTION 14.18.(d) Of the funds appropriated to the Department of Environment and Natural Resources for the 2013-2015 fiscal biennium for the Solid Waste Management Outreach Program, established under G.S. 130A-309.13, as enacted by subsection (c) of this section, up to one million one hundred thousand dollars ($1,100,000) may be used by the Department of Environment and Natural Resources for recycling grants.

SECTION 14.18.(e) Any tax proceeds remaining in the Solid Waste Management Trust Fund, repealed under subsection (b) of this section, as of the effective date of this section, shall be used only for one or more of the following purposes:

(1) Funding activities of the Department to promote waste reduction and recycling, including, but not limited to, public education programs and technical assistance to units of local government.

(2) Funding research on the solid waste stream in North Carolina.
(3) Funding activities related to the development of secondary materials markets.
(4) Providing funding for demonstration projects as provided by this Part.
(5) Providing funding for research by The University of North Carolina and independent nonprofit colleges and universities within the State which are accredited by the Southern Association of Colleges and Schools as provided by this Part.
(6) Providing funding for the activities of the Division of Environmental Assistance and Outreach.

REQUIRE DENR TO USE DWQ'S GROUNDWATER INVESTIGATION UNIT'S WELL-DRILLING SERVICES IN OTHER DENR DIVISIONS

SECTION 14.19.(a) The purposes of this section are (i) to assure that the well-drilling staff of the Groundwater Investigation Unit of the Division of Water Quality of the Department of Environment and Natural Resources are fully utilized by establishing a procedure whereby the Groundwater Investigation Unit may bid to contract to provide well-drilling services to other divisions of the Department of Environment and Natural Resources and by providing funding support by these divisions for the Unit's costs and travel expenses and (ii) to reduce the need for the Department of Environment and Natural Resources to enter into contracts with private well-drilling companies.

SECTION 14.19.(b) During the 2013-2014 fiscal year and the 2014-2015 fiscal year, the Groundwater Investigation Unit of the Division of Water Quality of the Department of Environment and Natural Resources shall bid on contracts to perform well-drilling services for any division within the Department of Environment and Natural Resources that needs to have wells drilled to monitor groundwater, as part of remediating a contaminated site, or as part of any other division or program responsibility, except for a particular instance when this would be impracticable. The provisions of Article 3 of Chapter 143 of the General Statutes apply to any contract entered into under this section.

SECTION 14.19.(c) The terms of any contract entered into under this section may include a provision whereby the division within the Department of Environment and Natural Resources that contracts for the well-drilling services of the Groundwater Investigation Unit may use available receipts for the 2013-2014 fiscal year and for the 2014-2015 fiscal year, as applicable, for the costs of the Groundwater Investigation Unit well-drilling staff that are incurred to perform the well-drilling services under the contract.

SECTION 14.19.(d) Other departments within State government that have well-drilling needs are encouraged to use the well-drilling services of the Groundwater Investigation Unit of the Division of Water Quality of the Department of Environment and Natural Resources when it is practicable and financially feasible to do so.

DRINKING WATER STATE REVOLVING FUND

SECTION 14.20. Notwithstanding G.S. 159G-22, the Department of Environment and Natural Resources may transfer State funds from the Drinking Water Reserve to the Drinking Water State Revolving Fund for the 2013-2014 fiscal year and shall use any such funds to match maximum available federal grant monies authorized by section 1453 of the federal Safe Drinking Water Act of 1996, 42 U.S.C. § 300j-12, as amended.

CREATE NEW DIVISION OF WATER INFRASTRUCTURE IN DENR; NEW STATE WATER INFRASTRUCTURE AUTHORITY; TRANSFER WATER INFRASTRUCTURE FUND TO NEW DIVISION

SECTION 14.21.(a) The Division of Water Infrastructure is established as a new division within the environmental area of the Department of Environment and Natural Resources. All functions, powers, duties, and obligations previously vested in the Division of Water Quality of the Department of Environment and Natural Resources pertaining to the implementation and administration of Chapter 159G of the General Statutes are transferred to and vested in the Division Water Infrastructure by a Type II transfer, as defined in G.S. 143A-6. All functions, powers, duties, and obligations previously vested in the Division of Water Resources of the Department of Environment and Natural Resources pertaining to the implementation and administration of Chapter 159G of the General Statutes are transferred to and vested in the Division Water Infrastructure by a Type II transfer, as defined in G.S. 143A-6. The Water Infrastructure Fund established under G.S. 159G-22 and all accounts within the Water Infrastructure Fund under G.S. 159G-22 shall be transferred to and administered by the Division of Water Infrastructure.

SECTION 14.21.(b) Chapter 159G of the General Statutes is amended by adding a new Article to read:

"Article 5.

"State Water Infrastructure Authority.

"**§ 159G-70. State Water Infrastructure Authority created.**

(a) Authority Established. – The State Water Infrastructure Authority is created within the Department of Environment and Natural Resources.

(b) Membership. – The Authority consists of nine members as follows:

(1) The Assistant Secretary of Infrastructure of the Department or the Assistant Secretary's designee who is familiar with the water infrastructure financing, regulatory, and technical assistance programs of the Department.

(2) The Secretary of Commerce or the Secretary's designee who is familiar with the State programs that fund water or other infrastructure improvements for the purpose of promoting economic development.

(3) The Director of the Local Government Commission or the Director's designee who is familiar with the functions of the Commission.

(4) One member who is a professional engineer in the private sector and is familiar with the development of infrastructure necessary for wastewater systems, to be appointed by the Governor to a term that expires on July 1 of even-numbered years.

(5) One member who is knowledgeable about, and has experience related to, direct federal funding programs for wastewater and public water systems, to be appointed by the Governor to a term that expires on July 1 of odd-numbered years.

(6) One member who is a representative of an urban local government wastewater system or public water system, to be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of even-numbered years.

(7) One member who is a representative of a rural local government wastewater system or public water system, to be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of odd-numbered years.

(8) One member who either (i) is a county commissioner of a rural county or (ii) resides in a rural county and is knowledgeable about, and has experience related to, public health services; to be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of even-numbered years.

(9) One member who is familiar with wastewater, drinking water, and stormwater issues and related State funding sources, to be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of odd-numbered years.

(c) Terms. – The members appointed by the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives shall serve two-year terms. The other members, who are ex officio members or designees of those members, shall serve until they are no longer in office or are replaced with another designee.

(d) Chair. – The Assistant Secretary of Infrastructure, or the Assistant Secretary's designee, shall serve as Chair of the Authority. The Chair must call the first meeting. The Chair shall serve as a nonvoting member, provided, however, that the Chair shall vote to break a tie.

(e) Meetings. – The Authority shall meet at least four times a year and may meet as often as needed. A majority of the members of the Authority constitutes a quorum for the transaction of business. The affirmative vote of a majority of the members present at a meeting of the Authority is required for action to be taken by the Authority.

(f) Vacancies. – A vacancy in the Authority or as Chair of the Authority resulting from the resignation of a member or otherwise is filled in the same manner in which the original appointment was made. The term of an appointment to fill a vacancy is for the balance of the unexpired term.

(g) Compensation. – Each member of the Authority shall receive no salary as a result of serving on the Authority but shall receive per diem, subsistence, and travel expenses in accordance with the provisions of G.S. 120-3.1, 138-5, and 138-6, as applicable.

"**§ 159G-71. State Water Infrastructure Authority; powers and duties.**

The Authority has the following additional duties:

(1) After reviewing the recommendations for grants and loans submitted to it by the Division, to determine the rank of applications and to select the applications that are eligible to receive grants and loans, consistent with federal law.

(2) To establish priorities for making loans and grants under this Chapter, consistent with federal law.

(3) To review the criteria for making loans and grants under G.S. 159G-23 and make recommendations, if any, to the Department for additional criteria or changes to the criteria, consistent with federal law.

(4) To develop guidelines for making loans and grants under this Chapter, consistent with federal law.

(5) To develop a master plan to meet the State's water infrastructure needs.

(6) To assess and make recommendations on the role of the State in the development and funding of wastewater, drinking water, and stormwater infrastructure in the State.

(7) To analyze the adequacy of projected funding to meet projected needs over the next five years.

(8) To make recommendations on ways to maximize the use of current funding resources, whether federal, State, or local, and to ensure that funds are used in a coordinated manner.

(9) To review the application of management practices in wastewater, drinking water, and stormwater utilities, and to determine the best practices.

(10) To assess the role of public-private partnerships in the future provision of utility service.

(11) To assess the application of the river basin approach to utility planning and management.

(12) To assess the need for a "troubled system" protocol.

"**§ 159G-72. State Water Infrastructure Authority; reports.**

No later than November 1 of each year, the Authority shall submit a report of its activity and findings, including any recommendations or legislative proposals, to the Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division of the Legislative Services Commission."

SECTION 14.21.(c) Article 4 of Chapter 159G of the General Statutes is repealed.

SECTION 14.21.(d) G.S. 159G-20 reads as rewritten:

"**§ 159G-20. Definitions.**

The following definitions apply in this Chapter:

...

~~(5) Division of Water Quality. – The Division of Water Quality of the Department of Environment and Natural Resources.~~

~~(5a) Division of Water Resources. – The Division of Water Resources of the Department of Environment and Natural Resources.~~

(5b) Division. – Division of Water Infrastructure.

...."

SECTION 14.21.(e) G.S. 159G-23 reads as rewritten:

"**§ 159G-23. Common criteria for loan or grant from Wastewater Reserve or Drinking Water Reserve.**

The criteria in this section apply to a loan or grant from the Wastewater Reserve or the Drinking Water Reserve. The Division of Water ~~Quality and the Division of Water Resources~~Infrastructure must each establish a system of assigning points to applications based on the following criteria:

(1) Public necessity. – An applicant must explain how the project promotes public health and protects the environment. A project that improves a system that is not in compliance with permit requirements or is under orders from the Department, enables a moratorium to be lifted, or replaces failing septic tanks with a wastewater collection system has priority.

...."

SECTION 14.21.(f) G.S. 159G-26(a) reads as rewritten:

"(a) Requirement. – The Department must publish a report each year on the accounts in the Water Infrastructure Fund that are administered by the Division of Water ~~Quality or the Division of Water Resources.~~Infrastructure. The report must be published by 1 November of each year and cover the preceding fiscal year. The Department must make the report available to the public and must give a copy of the report to the Environmental Review Commission and the Fiscal Research Division of the ~~General Assembly.~~Legislative Services Commission."

SECTION 14.21.(g) G.S. 159G-30 reads as rewritten:

"**§ 159G-30. Department's responsibility.**

The Department, through the Division of Water ~~Quality and the Division of Water Resources,~~Infrastructure, administers loans and grants made from the CWSRF, the DWSRF, the Wastewater Reserve, and the Drinking Water Reserve. ~~The Division of Water Quality administers loans and grants from the CWSRF and the Wastewater Reserve. The Division of Water Resources administers loans and grants from the DWSRF and the Drinking Water Reserve.~~"

SECTION 14.21.(h) G.S. 159G-32(b) reads as rewritten:

"(b) Wastewater Reserve. – The Department is authorized to make loans and grants from the Wastewater Reserve for the following types of projects:

(1) Wastewater collection system.

(2) Wastewater treatment works.

(3) Stormwater quality ~~project.~~projects, including innovative stormwater management projects and pilot projects.

(4) Nonpoint source pollution project."

SECTION 14.21.(i) G.S. 159G-37 reads as rewritten:

"**§ 159G-37. Application to CWSRF, Wastewater Reserve, DWSRF, and Drinking Water Reserve.**

An application for a loan or grant from the ~~CWSRF or the Wastewater Reserve~~CWSRF, the DWSRF, the Wastewater Reserve, or the Drinking Water Reserve must be filed with the Division of Water ~~Quality of the Department. An application for a loan or grant from the DWSRF or the Drinking Water Reserve must be filed with the Division of Water Resources~~Infrastructure of the Department. An application must be submitted on a form prescribed by the Division and must contain the information required by the Division. An applicant must submit to the Division any additional information requested by the Division to enable the Division to make a determination on the application. An application that does not contain information required on the application or requested by the Division is incomplete and is not eligible for consideration. An applicant may submit an application in as many categories as it is eligible for consideration under this Article."

SECTION 14.21.(j) G.S. 159G-38 reads as rewritten:

"**§ 159G-38. Environmental assessment and public hearing.**

(a) Required Information. – An application submitted under this Article for a loan or grant for a project must state whether the project requires an environmental assessment. If the application indicates that an environmental assessment is not required, it must identify the exclusion in the North Carolina Environmental Policy Act, Article 1 of Chapter 113A of the General Statutes, that applies to the project. If the application does not identify an exclusion in the North Carolina Environmental Policy Act, it must include an environmental assessment of the project's probable impacts on the environment.

(b) Division Review. – If, after reviewing an application, the Division of Water ~~Quality or the Division of Water Resources, as appropriate,~~ Infrastructure determines that a project requires an environmental assessment, the assessment must be submitted before the Division continues its review of the application. If, after reviewing an environmental assessment, the Division concludes that an environmental impact statement is required, the Division may not continue its review of the application until a final environmental impact statement has been completed and approved as provided in the North Carolina Environmental Policy Act.

(c) Hearing. – The Division of Water ~~Quality or the Division of Water Resources, as appropriate,~~ Infrastructure may hold a public hearing on an application for a loan or grant under this Article if it determines that holding a hearing will serve the public interest. An individual who is a resident of any county in which a proposed project is located may submit a written request for a public hearing. The request must set forth each objection to the proposed project or other reason for requesting a hearing and must include the name and address of the individual making the request. The Division may consider all written objections to the proposed project, any statement submitted with the hearing request, and any significant adverse effects the proposed project may have on the environment. The Division's decision on whether to hold a hearing is conclusive. The Division must keep all written requests for a hearing on an application as part of the records pertaining to the application."

SECTION 14.21.(k) G.S. 159G-39 reads as rewritten:

"**§ 159G-39. Review of applications and award of loan or grant.**

(a) Point Assignment. – The Division of Water ~~Quality or the Division of Water Resources, as appropriate,~~Infrastructure must review all applications filed for a loan or grant under this Article for an application period. The Division must rank each application in accordance with the points assigned to the evaluation criteria. The Division must make a written determination of an application's rank and attach the determination to the ~~application.~~

~~The Division's determination of rank is conclusive.~~application for the Authority's review. The Authority must consider the Division's determination of rank when the Authority determines an application's rank. The Authority's determination of rank is conclusive.

(b) Initial Consideration. – The Division may consider an application for an emergency loan from the Wastewater Reserve or the Drinking Water Reserve at any time. The Division must consider all other loan applications and all grant applications filed during an application period at the same time in order to rank the applications. The Division shall forward all applications received for the application period to the State Water Infrastructure Authority.

(c) Reconsideration. – When the Authority determines an application's rank is too low to receive an award of a loan or grant for an application period, the Division must include the application with those considered for the next application period. If the application's rank is again too low to receive an award, the application is not eligible for consideration in a subsequent application period. An applicant whose application does not receive an award after review in two application periods may file a new application.

(d) Notification of Decision. – When the ~~Division~~ Authority determines that an application's rank makes it eligible for an award of a loan or grant, the Division must send the applicant a letter of intent to award the loan or grant. The notice must set out any conditions the applicant must meet to receive an award of a loan or grant. When the applicant satisfies the conditions set out in the letter of intent, the Division must send the applicant an offer to award a loan or grant. The applicant must give the Division written notice of whether it accepts or rejects the offer. A loan or grant is considered awarded when an offer to award the loan or grant is issued."

SECTION 14.21.(l) G.S. 143-355.4(b) reads as rewritten:

"(b) To be eligible for State water infrastructure funds from the Drinking Water State Revolving Fund or the Drinking Water Reserve or any other grant or loan of funds allocated by the General Assembly whether the allocation of funds is to a State agency or to a nonprofit organization for the purpose of extending waterlines or expanding water treatment capacity, a local government or large community water system must demonstrate that the system:

(1) Has established a water rate structure that is adequate to pay the cost of maintaining, repairing, and operating the system, including reserves for payment of principal and interest on indebtedness incurred for maintenance or improvement of the water system during periods of normal use and periods of reduced water use due to implementation of water conservation measures. The funding agency shall apply guidelines developed by the State Water Infrastructure ~~Commission~~ Authority in determining the adequacy of the water rate structure to support operation and maintenance of the system.

...."

SECTION 14.21.(m) Of the funds appropriated to the Department of Environment and Natural Resources in this act, at least three million two hundred thousand dollars ($3,200,000) for the 2013-2014 fiscal year and at least four million seven hundred thousand dollars ($4,700,000) for the 2014-2015 fiscal year shall be used for grants to local government units for public water-system related projects and wastewater-related projects. The State Water Infrastructure Authority established by G.S. 159G-70, as enacted by subsection (b) of this section, shall determine the distribution of funds between public water-system related projects and wastewater-related projects, depending upon the number of applications for grants received and the priorities established by the State Water Infrastructure Authority. Grants awarded to local government units for public water-system related projects shall be credited to the Drinking Water Reserve established in G.S. 159G-22 to be used for grants to local government units in accordance with the provisions of Chapter 159G of the General Statutes, as amended by this section. Grants awarded to local government units for wastewater-related projects shall be credited to the Wastewater Reserve established in G.S. 159G 22 to be used for grants to

local government units in accordance with the provisions of Chapter 159G of the General Statutes, as amended by this section. The State Water Infrastructure Authority shall report no later than May 1, 2014, to the Environmental Review Commission, the Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division on the distribution of grant funds awarded under Chapter 159G of the General Statutes, as amended by the section, and whether changes are needed to the existing grant program under Chapter 159G of the General Statutes or other available grant programs to better facilitate the dissemination of funds and meet the project needs of rural, economically-distressed local governments.

SECTION 14.21.(n) The terms for the members who are appointed initially to the State Water Infrastructure Authority established by G.S. 159G-70, as enacted by subsection (b) of this section, shall commence July 1, 2013. Notwithstanding the provisions of G.S. 159G-70, as enacted by subsection (b) of this section, in order to establish staggered terms, the terms for the members who are appointed initially to the State Water Infrastructure Authority under G.S. 159G-70(b)(4), (6), and (8) shall expire July 1, 2016.

SECTION 14.21.(o) The Revisor of Statutes shall make any other necessary conforming changes in the General Statutes not included under the provisions of this section in order to effectuate the provisions of this section.

INCREASE FUNDING FOR DREDGING

SECTION 14.22.(a) G.S. 75A-3 reads as rewritten:

"**§ 75A-3. Wildlife Resources Commission to administer Chapter; Vessel Committee; funds for administration.**

(a) The Commission shall enforce and administer the provisions of this Chapter.

(b) The chair of the Commission shall designate from among the members of the Commission three members who shall serve as the Vessel Committee of the Commission, and who shall, in their activities with the Commission, place special emphasis on the administration and enforcement of this Chapter.

(c) The Boating Account is established within the Wildlife Resources Fund created under G.S. 143-250. Interest and other investment income earned by the Account accrues to the Account. All moneys collected pursuant to the numbering and titling provisions of this Chapter shall be credited to this Account. Motor fuel excise tax revenue is credited to the Account under G.S. 105-449.126. The Commission shall use revenue in the Account, subject to the Executive Budget Act and the Personnel Act, for the administration and enforcement of this Chapter; for activities relating to boating and water safety including education and waterway marking and improvement; and for boating access area acquisition, development, and maintenance. The Commission shall use at least three dollars ($3.00) of each one-year certificate of number fee and at least nine dollars ($9.00) of each three-year certificate of number fee collected under the numbering provisions of G.S. 75A-5 for boating access area acquisition, development, and maintenance. The Commission shall transfer on a quarterly basis forty-five percent (45%) of each one-year certificate of number fee and forty-five percent (45%) of each three-year certificate of number fee collected under the numbering provisions of G.S. 75A-5 to the Shallow Draft Navigation Channel Dredging Fund established by G.S. 143-215.73F."

SECTION 14.22.(b) G.S. 75A-5 reads as rewritten:

"**§ 75A-5. Application for certificate of ~~number and fees;~~ number; fees; reciprocity; change of ownership; conformity with federal regulations; records; award of certificates; renewal of certificates; transfer of partial interest; destroyed or junked vessels; abandonment; change of address; duplicate certificates; display.**

(a) Application for Certificate of ~~Number and Fees.~~Number. – The owner of each vessel requiring numbering by this State shall file an application for a certificate of number with the Commission. The Commission shall furnish application forms and shall prescribe the information contained in the application form. The application shall be signed by the owner of the vessel or the owner's agent and shall be accompanied by a ~~fee. The fee is fifteen dollars ($15.00) for a one-year period or forty dollars ($40.00) for a three-year period.~~fee, as set out in subsection (a1) of this section. The fee does not apply to vessels owned and operated by nonprofit rescue squads if they are operated exclusively for rescue purposes, including rescue training. The owner shall have the option of selecting a one-year numbering period or a three-year numbering period. Upon receipt of the application in approved form, the Commission shall enter the application in its records and issue the owner a certificate of number stating the identification number awarded to the vessel and the name and address of the owner, and a validation decal indicating the expiration date of the certificate of number. The owner shall paint on or attach to each side of the bow of the vessel the identification number in such manner as may be prescribed by rules of the Commission in order that it may be clearly visible. The identification number shall be maintained in legible condition. The validation decal shall be displayed on the starboard bow of the vessel immediately following the number. The certificate of number shall be pocket size and shall be available for inspection on the vessel for which the certificate is issued at all times the vessel is in operation. Any person charged with failing to so carry a certificate of number shall not be convicted if the person produces in court a certificate of number previously issued to the owner that was valid at the time of the alleged violation.

(a1) Fees. – The fees for certificates of number are as set out in this subsection:

(1) The fee for a certificate of number for a one-year period is:

a. Twenty-five dollars ($25.00) for a vessel that is less than 26 feet in length.

b. Fifty dollars ($50.00) for a vessel that is 26 feet or more in length.

(2) The fee for a certificate of number for a three-year period is:

a. Seventy-five dollars ($75.00) for a vessel that is less than 26 feet in length.

b. One hundred fifty dollars ($150.00) for a vessel that is 26 feet or more in length.

(b) Reciprocity. – The owner of any vessel already covered by a number in full force and effect pursuant to federal law or a federally approved numbering system of another state shall record the identification number prior to operating the vessel on the waters of this State in excess of the 90-day reciprocity period provided for in G.S. 75A-7(a)(1). The recordation shall be made pursuant to subsection (a) of this section, except that no additional or substitute identification number shall be issued.

(c) Change of Ownership. – Should the ownership of a vessel change, a new application form with a fee in the amount set in subsection ~~(a)~~(a1) of this section shall be filed with the Commission and a new certificate bearing the same identification number shall be awarded to the new owner in the same manner as an original certificate of number. Possession of the certificate shall in cases involving prosecution for violation of any provision of this Chapter be prima facie evidence that the person whose name appears on the certificate is the owner of the vessel referred to on the certificate.

(d) Conformity With Federal Regulations. – In the event that an agency of the federal government shall have in force an over-all system of identification numbering for vessels within the United States, the numbering system employed pursuant to this Chapter by the Commission shall be in conformity therewith.

(e) Repealed by Session Laws 2006-185, s. 1.

(f) Records. – All records of the Commission made or kept pursuant to this section shall be public records.

(g) Award of Certificates. – Each certificate of number awarded pursuant to this Chapter, unless sooner terminated or discontinued in accordance with the provisions of this Chapter, shall continue in full force and effect to and including the last day of the month during which the certificate was awarded after the lapse of one year in the case of a one-year certificate or three years in the case of a three-year certificate. No person shall willfully remove a validation decal from any vessel during the continuance of its validity or alter, counterfeit, or otherwise tamper with a validation decal attached to any vessel for the purpose of changing or obscuring the indicated date of expiration of the certificate of number of the vessel.

(h) Renewal of Certificates. – An owner of a vessel awarded a certificate of number pursuant to this Chapter shall renew the certificate on or before the first day of the month after which the certificate expires; otherwise, the certificate shall lapse and be void until such time as it may thereafter be renewed. Application for renewal shall be submitted on a form approved by the Commission and shall be accompanied by a fee in the amount set in subsection ~~(a)~~(a1) of this section. ~~No fee is required for a period of one year for renewal of certificates of number that have been previously issued to commercial fishing vessels as defined in G.S. 75A-5.1, upon compliance with all of the requirements of that section.~~

(i) Transfer of Partial Interest. – The owner shall furnish the Commission notice of the transfer of any part of the owner's interest other than the creation of a security interest in a vessel numbered in this State pursuant to subsections (a) and (b) of this section within 15 days of the transfer. A transfer of partial interest in a vessel shall not affect the owner's right to operate the vessel, nor shall a transfer of partial interest in a vessel terminate the certificate of number.

(i1) Destroyed or Junked Vessels. – The owner of any destroyed or junked vessel shall furnish the Commission notice of the destruction or junking of that vessel within 15 days of its occurrence. Destruction or junking terminates the certificate of number and renders the hull identification number invalid for that vessel.

(i2) Abandonment. – A person may acquire ownership of an abandoned vessel by providing proof to the Commission that the lawful owner has actually abandoned the vessel. The Commission shall adopt rules by which a person seeking to acquire ownership may demonstrate that the vessel is actually abandoned. At a minimum, the rules shall provide for a reasonable attempt to locate the lawful owner and, if the owner is located, notice by the claimant of an intention to claim ownership of the vessel.

(j) Change of Address. – Whenever any person, after applying for or obtaining the certificate of number of a vessel, moves from the address shown in the application or upon the certificate of number, that person shall notify the Commission of the change of address within 30 days of moving in a form acceptable to the Commission.

(j1) Duplicate Certificates. – The Commission shall issue a duplicate certificate of number for a vessel upon application by the person entitled to hold the certificate, if the Commission is satisfied that the original certificate of number has been lost, stolen, mutilated, or destroyed, or has become illegible. The Commission shall charge a fee of five dollars ($5.00) for issuance of each duplicate certificate.

(k) Display. – No number other than the identification number set forth in the certificate of number or granted reciprocity pursuant to this Chapter shall be painted, attached, or otherwise displayed on either side of the bow of a vessel, except the validation decal required by subsection (a) of this section.

(l) Repealed by Session Laws 2006-185, s. 1."

SECTION 14.22.(c) G.S. 75A-5.1 is repealed.

SECTION 14.22.(d) G.S. 75A-7 reads as rewritten:

"**§ 75A-7. Exemption from numbering requirements.**

(a) A vessel shall not be required to be numbered under this Chapter if it is:

(1) A vessel that is required to be awarded an identification number pursuant to federal law or a federally approved numbering system of another state, and for which an identification number has been so awarded: Provided, that any such vessel shall not have been within this State for a period in excess of 90 consecutive days.

(2) A vessel from a country other than the United States temporarily using the waters of this State.

(3) A vessel whose owner is the United States, a state or a subdivision thereof.

(4) A ship's lifeboat.

~~(5) A vessel that has a valid marine document issued by the federal Bureau of Customs or any federal agency successor thereto.~~

(6) A sailboat of not more than 14 feet on the load water line (LWL).

(7) A vessel with no means of propulsion other than drifting or manual paddling, poling, or rowing.

(b) The Commission is hereby empowered to permit the voluntary numbering of vessels owned by the United States, a state or a subdivision thereof.

(c) Those vessels owned by the United States, a state or a subdivision thereof and those owned by nonprofit rescue squads may be assigned a certificate of number bearing no expiration date but which shall be stamped with the word "permanent" and shall not be renewable so long as the vessel remains the property of the governmental entity or nonprofit rescue squad. If the ownership of any such vessel is transferred from one governmental entity to another or to a nonprofit rescue squad or if a vessel owned by a nonprofit rescue squad is transferred to another nonprofit rescue squad or governmental entity, the Commission shall issue a new permanent certificate of number, displaying the same identification number, without charge to the successor entity. When any such vessel is sold to a private owner or is otherwise transferred to private ownership, the applicable certificate of number shall be deemed to have expired immediately prior to the transfer. Prior to further use on the waters of this State, the new owner shall obtain a certificate of number pursuant to the provisions of this Chapter. The provisions of this subsection applicable to a vessel owned by a nonprofit rescue squad apply only to a vessel operated exclusively for rescue purposes, including rescue training."

SECTION 14.22.(e) G.S. 75A-34 reads as rewritten:

"**§ 75A-34. Who may apply for certificate of title; authority of employees of Commission.**

(a) Any owner of a motorized vessel or sailboat 14 feet or longer or any personal watercraft, as defined in G.S. 75A-13.3(a), that is applying for a certificate of number for the first time in this State pursuant to G.S. 75A-5(a), and any new owner of a motorized vessel or sailboat 14 feet or longer or any personal watercraft to whom ownership is being transferred under G.S. 75A-5(c) shall apply to the Commission for a certificate of title for that vessel. Any other vessel may be titled in this State at the owner's option. A vessel may not be titled in this State if it is titled in another state, unless the current title is surrendered along with the application for a certificate of title in this State. The Commission shall issue a certificate of title upon reasonable evidence of ownership, which may be established by affidavit, bill of sale, manufacturer's statement of origin, certificate of title in this State, certificate of number or title from another state, or other document satisfactory to the Commission. Only one certificate of title may be issued for any vessel in this State. A vessel may not be titled in this State if it is documented with the United States Coast ~~Guard.~~ Guard, unless the documentation has expired or been deleted by the United States Coast Guard. The Commission shall issue a certificate of title upon receipt of a completed application, along with the appropriate fee and reasonable evidence of ownership. The Commission shall require a manufacturer's statement of origin for all new vessels being issued a certificate of number and a certificate of title for the first time. The Commission may request a pencil tracing of the hull identification number (serial number)

for vessels being transferred, in order to positively identify the vessel before issuance of a certificate of title for that vessel.

(b) Employees of the Commission are vested with the power to administer oaths and to take acknowledgements and affidavits incidental to the administration and enforcement of this section. They shall receive no compensation for these services."

SECTION 14.22.(f) G.S. 75A-38 reads as rewritten:

"**§ 75A-38. Commission's records; fees.**

(a) The Commission shall maintain a record of any title it issues.

(b) The Commission shall charge a fee of ~~twenty dollars ($20.00)~~ thirty dollars ($30.00) to issue a new or transfer certificate of title. The Commission shall transfer on a quarterly basis at least ten dollars ($10.00) of each new or transfer certificate of title to the Shallow Draft Navigation Channel Dredging Fund established by G.S. 143-215.73F. The Commission shall charge a fee of ten dollars ($10.00) for each duplicate title it issues and for the recording of a supplemental lien."

SECTION 14.22.(g) G.S. 105-449.126 reads as rewritten:

"**§ 105-449.126. Distribution of part of Highway Fund allocation to Wildlife Resources ~~Fund.~~Fund and Shallow Draft Navigation Channel Dredging Fund.**

(a) The Secretary shall credit to the Wildlife Resources Fund one-sixth of one percent (1/6 of 1%) of the amount that is allocated to the Highway Fund under G.S. 105-449.125 and is from the excise tax on motor fuel. Revenue credited to the Wildlife Resources Fund under this section may be used only for the boating and water safety activities described in G.S. 75A-3(c). The Secretary must credit revenue to the Wildlife Resources Fund on an annual basis.

(b) The Secretary shall credit to the Shallow Draft Navigation Channel Dredging Fund one-sixth of one percent (1/6 of 1%) of the amount that is allocated to the Highway Fund under G.S. 105-449.125 and is from the excise tax on motor fuel. Revenue credited to the Shallow Draft Navigation Channel Dredging Fund under this section may be used only for the dredging activities described in G.S. 143-215.73F. The Secretary shall credit revenue to the Shallow Draft Navigation Channel Dredging Fund on an annual basis."

SECTION 14.22.(h) Article 21 of Chapter 143 of the General Statutes is amended by adding a new Part to read:

"Part 8B. Shallow Draft Navigation Channel Dredging Fund.

"**§ 143-215.73F. Shallow Draft Navigation Channel Dredging Fund.**

The Shallow Draft Navigation Channel Dredging Fund is established as a special revenue fund. The Fund consists of fees credited to it under G.S. 75A-3, 75A-38, and 105-449.126. Revenue in the Fund may only be used to provide the State's share of the costs associated with any dredging project designed to keep a shallow draft navigation channel located in State waters navigable and safe. Any project funded by revenue from the Fund must be cost-shared with non-State dollars on a one-to-one basis. For purposes of this section, "shallow draft navigation channel" means (i) a waterway connection, with a maximum depth of 14 feet, between the Atlantic Ocean and a bay or the Atlantic Intracoastal Waterway (ii) a river entrance to the Atlantic Ocean through which tidal and other currents flow or (iii) other interior coastal waterways."

SECTION 14.22.(i) Nothing in this section shall affect the validity, term, or cost of any certificate of number or certificate of title issued prior to July 1, 2013.

SECTION 14.22.(j) This section authorizes a Long Term Dredging Memorandum of Agreement with the U.S. Army Corps of Engineers which may last beyond the current fiscal biennium and which shall provide for all of the following:

(1) Prioritization of projects through joint consultation with the State, applicable units of local government, and the U.S. Army Corps of Engineers.

(2) Compliance with G.S. 143-215.73F. Funds in the Shallow Draft Navigation Channel Dredging Fund shall be used in accordance with that section.

(3) Annual reporting by the Department on the use of funds provided to the U.S. Army Corps of Engineers under the Long Term Dredging Memorandum of Agreement. These reports shall be made to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management and shall include all of the following:

a. A list of all projects commenced.
b. The estimated cost of each project.
c. The date that work on each project commenced or is expected to commence.
d. The date that work on each project was completed or is expected to be completed.
e. The actual cost of each project.

SECTION 14.22.(k) The Department of Environment and Natural Resources may use available funds for the 2013-2014 fiscal year and the 2014-2015 fiscal year in the Shallow Draft Navigation Channel Dredging Fund established in G.S. 143-215.73F, as enacted by subsection (h) of this section, to provide the State's share of costs associated with projects that comply with that section. These funds are hereby appropriated for that purpose, but the Department of Environment and Natural Resources shall approve a project before it is eligible to receive any funds under this section.

SECTION 14.22.(l) Subsection (b) of this section becomes effective October 1, 2013, and applies to applications submitted on or after that date. Subsection (f) of this section becomes effective October 1, 2013, and applies to new or transfer certificates of title issued on or after that date. The remainder of this section becomes effective October 1, 2013.

ENVIRONMENTAL MANAGEMENT COMMISSION

SECTION 14.23.(a) G.S. 143B-283 reads as rewritten:

"**§ 143B-283. Environmental Management Commission – members; selection; removal; compensation; quorum; services.**

~~(a) The Environmental Management Commission shall consist of 13 members appointed by the Governor. The Governor shall select the members so that the membership of the Commission shall consist of:~~

~~(1) One who shall be a licensed physician with specialized training and experience in the health effects of environmental pollution;~~
~~(2) One who shall, at the time of appointment, be actively connected with the Commission for Public Health or local board of health or have experience in health sciences;~~
~~(3) One who shall, at the time of appointment, be actively connected with or have had experience in agriculture;~~
~~(4) One who shall, at the time of appointment, be a registered engineer with specialized training and experience in water supply or water or air pollution control;~~
~~(5) One who shall, at the time of appointment, be actively connected with or have had experience in the fish and wildlife conservation activities of the State;~~
~~(6) One who shall, at the time of appointment, have special training and scientific expertise in hydrogeology or groundwater hydrology;~~
~~(7) Three members interested in water and air pollution control, appointed from the public at large;~~
~~(8) One who shall, at the time of appointment, be actively employed by, or recently retired from, an industrial manufacturing facility and knowledgeable in the field of industrial air and water pollution control;~~

~~(9) One who shall, at the time of appointment, be actively connected with or have had experience in pollution control problems of municipal or county government;~~

~~(10) One who shall, at the time of appointment, have special training and scientific expertise in air pollution control and the effects of air pollution; and~~

~~(11) One who shall, at the time of appointment, have special training and scientific expertise in freshwater, estuarine, marine biological, or ecological sciences.~~

(a1) The Environmental Management Commission shall consist of 15 members as follows:

(1) One appointed by the Governor who shall be a licensed physician.

(2) One appointed by the Governor who shall at the time of appointment have special training or scientific expertise in hydrology, water pollution control, or the effects of water pollution.

(3) One appointed by the Governor who shall at the time of appointment have special training or scientific expertise in hydrology, water pollution control, or the effects of water pollution.

(4) One appointed by the Governor who shall at the time of appointment have special training or scientific expertise in air pollution control or the effects of air pollution.

(5) One appointed by the Governor who shall at the time of appointment be actively connected with or have had experience in agriculture.

(6) One appointed by the Governor who shall at the time of appointment have special training and scientific expertise in freshwater, estuarine, marine biological, or ecological sciences or be actively connected with or have had experience in the fish and wildlife conservation activities of the State.

(7) One appointed by the Governor who shall at the time of appointment be actively employed by, or recently retired from, an industrial manufacturing facility and shall be knowledgeable in the field of industrial pollution control.

(8) One appointed by the Governor who shall at the time of appointment be a licensed engineer with specialized training and experience in water supply or water or air pollution control.

(9) One appointed by the Governor who shall serve at large.

(10) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121 who shall serve at large.

(11) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121 who shall serve at large.

(12) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121 who shall serve at large.

(13) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121 who shall serve at large.

(14) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121 who shall serve at large.

(15) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121 who shall serve at large.

(b) ~~Members appointed by the Governor shall serve terms of office of six years.~~ Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term. The Governor may reappoint a member of the Commission to an additional term if, at the time of the reappointment, the member qualifies for membership on the Commission under subdivisions (1) through (9) of subsection ~~(a)~~(a1) of this section. Appointments by the General Assembly shall be made in accordance with G.S. 120-121; and vacancies in those appointments shall be filled in accordance with G.S. 120-122.

(b1) The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of G.S. 143B-13 of the Executive Organization Act of 1973.

(b2) The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(b3) A majority of the Commission shall constitute a quorum for the transaction of business.

(b4) All clerical and other services required by the Commission shall be supplied by the Secretary of Environment and Natural Resources.

(c) ~~Nine of the members appointed by the Governor under this section shall be persons who do not derive any significant portion of their income from persons subject to permits or enforcement orders under this Chapter.~~ The Governor shall require adequate disclosure of potential conflicts of interest by members. The Governor, by executive order, shall promulgate criteria regarding conflicts of interest and disclosure thereof for determining the eligibility of persons under this ~~section,~~subsection, giving due regard to the requirements of federal legislation, and for this purpose may promulgate rules, regulations or guidelines in conformance with those established by any federal agency interpreting and applying provisions of federal law.

(c1) All members of the Commission are covered persons for the purposes of Chapter 138A of the General Statutes, the State Government Ethics Act. As covered persons, members of the Commission shall comply with the applicable requirements of the State Government Ethics Act, including mandatory training, the public disclosure of economic interests, and ethical standards for covered persons. Members of the Commission shall comply with the provisions of the State Government Ethics Act to avoid conflicts of interest.

~~(d) In addition to the members designated by subsection (a) of this section, the General Assembly shall appoint six members, three upon the recommendation of the Speaker of the House of Representatives, and three upon the recommendation of the President Pro Tempore of the Senate. Appointments by the General Assembly shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be filled in accordance with G.S. 120-122. Members appointed by the General Assembly shall serve terms of two years.~~

(e) Members of the Commission shall serve terms of four years."

SECTION 14.23.(b) Transition of Membership of the Environmental Management Commission. –

(a) The terms of all members of the Environmental Management Commission serving on January 1, 2013, shall expire on June 30, 2013. A new Commission of 15 members shall be appointed in the manner provided by G.S. 143B-283(a1), as enacted by subsection (a) of this section.

(b) Members of the Commission whose qualifications are described by subdivisions (3), (5), (7), (8), (9), (11), (13), and (15) of G.S. 143B-283(a1), as enacted by subsection (a) of this section, shall, notwithstanding G.S. 143B-283(e), as enacted by subsection (a) of this section,

be appointed for an initial term of two years and subsequent appointments shall be for four-year terms thereafter. Members of the Commission whose qualifications are described by subdivisions (1), (2), (4), (6), (10), (12), and (14) of G.S. 143B-283(a1), as enacted by subsection (a) of this section, shall be appointed for an initial term of four years and subsequent appointments shall be for four-year terms thereafter. Initial terms shall begin on July 1, 2013, and expire on June 30 of the year of expiration as set forth in this subsection.

(c) Members of the Commission appointed to any other State board or commission as a representative of the Commission shall no longer serve as a member of those boards or commissions after this section becomes law, and a new Commission representative shall be appointed as provided by law.

COASTAL RESOURCES COMMISSION

SECTION 14.24.(a) G.S. 113A-104 reads as rewritten:

"**§ 113A-104. Coastal Resources Commission.**

(a) Established. – The General Assembly hereby establishes within the Department of Environment and Natural Resources a commission to be designated the Coastal Resources Commission.

~~(b) Composition. – The Coastal Resources Commission shall consist of 15 members appointed by the Governor, as follows:~~

~~(1) One who shall at the time of appointment be actively connected with or have experience in commercial fishing.~~

~~(2) One who shall at the time of appointment be actively connected with or have experience in wildlife or sports fishing.~~

~~(3) One who shall at the time of appointment be actively connected with or have experience in marine ecology.~~

~~(4) One who shall at the time of appointment be actively connected with or have experience in coastal agriculture.~~

~~(5) One who shall at the time of appointment be actively connected with or have experience in coastal forestry.~~

~~(6) One who shall at the time of appointment be actively connected with or have experience in coastal land development.~~

~~(7) One who shall at the time of appointment be actively connected with or have experience in marine-related business (other than fishing and wildlife).~~

~~(8) One who shall at the time of appointment be actively connected with or have experience in engineering in the coastal area.~~

~~(9) One who shall at the time of appointment be actively associated with a State or national conservation organization.~~

~~(10) One who shall at the time of appointment be actively connected with or have experience in financing of coastal land development.~~

~~(11) Two who shall at the time of appointment be actively connected with or have experience in local government within the coastal area.~~

~~(12) Three at-large members.~~

(b1) Composition. – The Coastal Resources Commission shall consist of 13 members as follows:

(1) One appointed by the Governor who shall at the time of appointment be a coastal property owner or experienced in land development.

(2) One appointed by the Governor who shall at the time of appointment be a coastal property owner or experienced in land development.

(3) One appointed by the Governor who shall at the time of appointment be actively connected with or have experience in engineering in the coastal area or a marine-related science.

(4) One appointed by the Governor who shall at the time of appointment be actively connected with or have experience in engineering in the coastal area or a marine-related science.

(5) One appointed by the Governor who shall at the time of appointment be actively connected with or have experience in coastal-related business.

(6) One appointed by the Governor who shall at the time of appointment be actively connected with or have experience in local government within the coastal area.

(7) One appointed by the Governor who shall at the time of appointment be actively connected with or have experience in coastal agriculture.

(8) One appointed by the Governor who shall at the time of appointment be actively connected with or have experience in commercial fishing.

(9) One appointed by the Governor who shall at the time of appointment be actively connected with or have experience in coastal forestry.

(10) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121 who shall at the time of appointment be actively connected with or have experience in sports fishing.

(11) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121 who shall serve at large.

(12) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121 who shall at the time of appointment be actively connected with or have experience in wildlife.

(13) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121 who shall serve at large.

(c) Appointment of Members. – As used in this section, the term "appointing authority" means the Governor in the case of members appointed by the Governor and means the General Assembly in the case of members appointed by the General Assembly. Appointments to the Commission shall be made to provide knowledge and experience in a diverse range of coastal interests. The members of the Commission shall serve and act on the Commission solely for the best interests of the public and public trust, and shall bring their particular knowledge and experience to the Commission for that end alone. Counties and cities in the coastal area may designate and transmit to the appointing authorities no later than May 1 of each even-numbered year qualified persons in the categories set out in subsection (b1) of this section corresponding to the Commission positions to be filled that year.

~~The Governor shall appoint in his sole discretion those members of the Commission whose qualifications are described in subdivisions (6) and (10), and one of the three members described in subdivision (12) of subsection (b) of this section.~~

~~The remaining members of the Commission shall be appointed by the Governor after completion of the nominating procedures prescribed by subsection (d) of this section.~~

(c1) The members of the Commission whose qualifications are described in subdivisions ~~(1) through (5), (9), and (11),~~(3), (6), (7), (8), (9), (11), and (12) of subsection (b1) of this section shall be persons who do not derive any significant portion of their income from land development, construction, real estate sales, or lobbying and do not otherwise serve as agents for development-related business activities. The Governor shall require adequate disclosure of potential conflicts of interest by these members. The Governor, by executive order, shall promulgate criteria regarding conflicts of interest and disclosure thereof for determining the eligibility of persons under this ~~section.~~subsection.

(c2) All members of the Commission are covered persons for the purposes of Chapter 138A of the General Statutes, the State Government Ethics Act. As covered persons, members of the Commission shall comply with the applicable requirements of the State Government Ethics Act, including mandatory training, the public disclosure of economic interests, and ethical standards for covered persons. Members of the Commission shall comply with the provisions of the State Government Ethics Act to avoid conflicts of interest.

~~(d) Nominations for Membership. On or before May 1 in every even-numbered year the Governor shall designate and transmit to the board of commissioners in each county in the coastal area four nominating categories applicable to that county for that year. Said nominating categories shall be selected by the Governor from among the categories represented, respectively by subdivisions (1), (2), (3), (4), (5), (7), (8), (9), (11) two persons, and (12) two persons, of subsection (b) of this section (or so many of the above listed paragraphs as may correspond to vacancies by expiration of term that are subject to being filled in that year). On or before June 1 in every even-numbered year the board of commissioners of each county in the coastal area shall nominate (and transmit to the Governor the names of) one qualified person in each of the four nominating categories that was designated by the Governor for that county for that year. In designating nominating categories from biennium to biennium, the Governor shall equitably rotate said categories among the several counties of the coastal area as in his judgment he deems best; and he shall assign, as near as may be, an even number of nominees to each nominating category and shall assign in his best judgment any excess above such even number of nominees. On or before June 1 in every even-numbered year the governing body of each incorporated city within the coastal area shall nominate and transmit to the Governor the name of one person as a nominee to the Commission. In making nominations, the boards of county commissioners and city governing bodies shall give due consideration to the nomination of women and minorities. The Governor shall appoint 12 persons from among said city and county nominees to the Commission. The several boards of county commissioners and city governing bodies shall transmit the names, addresses, and a brief summary of the qualifications of their nominees to the Governor on or before June 1 in each even-numbered year, beginning in 1974; provided, that the Governor, by registered or certified mail, shall notify the chairman or the mayors of the said local governing boards by May 20 in each such even-numbered year of the duties of local governing boards under this sentence. If any board of commissioners or city governing body fails to transmit its list of nominations to the Governor by June 1, the Governor may add to the nominations a list of qualified nominees in lieu of those that were not transmitted by the board of commissioners or city governing body; Provided however, the Governor may not add to the list a nominee in lieu of one not transmitted by an incorporated city within the coastal area that neither has a population of 2,000 or more nor is contiguous with the Atlantic Ocean. Within the meaning of this section, the "governing body" is the mayor and council of a city as defined in G.S. 160A-66. The population of cities shall be determined according to the most recent annual estimates of population as certified to the Secretary of Revenue by the Secretary of Administration.~~

~~(e) Residential Qualifications. All nominees of the several boards of county commissioners and city governing bodies must reside within the coastal area, but need not reside in the county from which they were nominated. No more than one of those members appointed by the Governor from among said nominees may reside in a particular county. No more than two members of the entire Commission, at any time, may reside in a particular county. No more than two members of the entire Commission, at any time, may reside outside the coastal area.~~

(f) Office May Be Held Concurrently with Others. – Membership on the Coastal Resources Commission is hereby declared to be an office that may be held concurrently with other elective or appointive offices in addition to the maximum number of offices permitted to be held by one person under G.S. 128-1.1.

(g) Terms. – The members shall serve staggered terms of office of four years. At the expiration of each member's term, the ~~Governor~~ appointing authority shall reappoint or replace the member with a new member of like qualification ~~(as~~as specified in subsection ~~(b)~~(b1) of this ~~section), in the manner provided by subsections (c) and (d) of this section. The initial term shall be determined by the Governor in accordance with customary practice but eight of the initial members shall be appointed for two years and seven for four years.~~section.

(h) Vacancies. – In the event of a vacancy arising otherwise than by expiration of term, the ~~Governor~~ appointing authority shall appoint a successor of like qualification ~~(as~~as specified in subsection ~~(b)~~(b1) of this ~~section)~~section who shall then serve the remainder of his predecessor's term. ~~When any such vacancy arises, the Governor shall immediately notify the board of commissioners of each county in the coastal area and the governing body of each incorporated city within the coastal area. Within 30 days after receipt of such notification each such county board and city governing body shall nominate and transmit to the Governor the name and address of one person who is qualified in the category represented by the position to be filled, together with a brief summary of the qualifications of the nominee. The Governor shall make the appointment from among said city and county nominees. If any county board or city governing body fails to make a timely transmittal of its nominee, the Governor may add to the nominations a qualified person in lieu of said nominee; Provided however, the Governor may not add to the list a nominee in lieu of one not transmitted by an incorporated city within the coastal area that neither has a population of 2,000 or more nor is contiguous with the Atlantic Ocean.~~

(i) Officers. – The chairman shall be designated by the Governor from among the members of the Commission to serve as chairman at the pleasure of the Governor. The vice-chairman shall be elected by and from the members of the Commission and shall serve for a term of two years or until the expiration of ~~his~~ the vice-chairman's regularly appointed term.

(j) Compensation. – The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

~~(k) In making appointments to and filling vacancies upon the Commission, the Governor shall give due consideration to securing appropriate representation of women and minorities.~~

(l) Attendance. – Regular attendance at Commission meetings is a duty of each member. The Commission shall develop procedures for declaring any seat on the Commission to be vacant upon failure by a member to perform this duty.

(m) Quorum. – A majority of the Commission shall constitute a quorum."

SECTION 14.24.(b) Transition of Membership of the Coastal Resources Commission. – Except as otherwise provided in this section, the terms of all members of the Coastal Resources Commission serving on January 1, 2013, shall expire June 30, 2013. A new Commission of 13 members shall be appointed in the manner provided by G.S. 113A-104(b1), as enacted by subsection (a) of this section. Members appointed in the manner provided by G.S. 113A-104(b1), as enacted by subsection (a) of this section, shall be appointed no later than July 1, 2013.

(1) The member serving pursuant to G.S. 113A-104(b)(1) on January 1, 2013, shall continue to serve pursuant to G.S. 113A-104(b1)(8), as enacted by subsection (a) of this section, until June 30, 2014.

(2) The member serving pursuant to G.S. 113A-104(b)(2) on January 1, 2013, shall continue to serve pursuant to G.S. 113A-104(b1)(10), as enacted by subsection (a) of this section, until June 30, 2014.

(3) The member serving pursuant to G.S. 113A-104(b)(11) on January 1, 2013, whose term would otherwise expire on June 30, 2014, shall continue to serve pursuant to G.S. 113A-104(b1)(6), as enacted by subsection (a) of this section, until June 30, 2014.

(4) The member serving pursuant to G.S. 113A-104(b)(5) on January 1, 2013, whose term would otherwise expire on June 30, 2014, shall continue to serve pursuant to G.S. 113A-104(b1)(9), as enacted by subsection (a) of this section, until June 30, 2014.

Members of the Commission whose qualifications are described by subdivisions (1), (3), (5), (7), (11), and (13) of G.S. 113A-104(b1), as enacted by subsection (a) of this section, shall be appointed for an initial term of two years, and subsequent appointments shall be for four-year terms thereafter. Members of the Commission whose qualifications are described by subdivisions (2), (4), (6), (8), (9), (10), and (12) of G.S. 113A-104(b1), as enacted by subsection (a) of this section, shall be appointed for an initial term of one year, and subsequent appointments shall be for four-year terms thereafter. Initial terms shall expire on June 30 of the year of expiration.

COASTAL RESOURCES ADVISORY COMMISSION

SECTION 14.25. G.S. 113A-105 reads as rewritten:

"**§ 113A-105. Coastal Resources Advisory Council.**

(a) Creation. – There is hereby created and established a council to be known as the Coastal Resources Advisory Council.

(b) Membership and Terms. – The Coastal Resources Advisory Council shall consist of not more than ~~45~~ 20 members appointed or designated ~~as follows:~~

~~(1) Two individuals designated by the Secretary from among the employees of the Department;~~

~~(1a) The Secretary of Commerce or person designated by the Secretary of Commerce;~~

~~(2) The Secretary of Administration or person designated by the Secretary of Administration;~~

~~(3) The Secretary of Transportation or person designated by the Secretary of Transportation; and one additional member selected by the Secretary of Transportation from the Department of Transportation;~~

~~(4) The State Health Director or the person designated by the State Health Director;~~

~~(5) The Commissioner of Agriculture or person designated by the Commissioner of Agriculture;~~

~~(6) The Secretary of Cultural Resources or person designated by the Secretary of Cultural Resources;~~

~~(7) One member from each of the four multi-county planning districts of the coastal area to be appointed by the lead regional agency of each district;~~

~~(8) One representative from each of the counties in the coastal area to be designated by the respective boards of county commissioners;~~

~~(9) No more than eight additional members representative of cities in the coastal area and to be designated by the Commission;~~

~~(10) Three members selected by the Commission who are marine scientists or technologists;~~

~~(11) One member who is a local health director selected by the Commission upon the recommendation of the Secretary.~~

by the Coastal Resources Commission. Counties and cities in the coastal area may nominate candidates for consideration by the Commission. The terms of all Council members serving on the Council on January 1, 2013, shall expire on June 30, 2013. A new Council shall be appointed in the manner provided by this subsection with terms beginning on July 1, 2013, and expiring on June 30, 2015. Members may be reappointed at the discretion of the Commission,

provided that one-half of the membership at the beginning of any two-year term are residents of counties in the coastal area.

...."

SEVERANCE TAX ON ENERGY MINERALS; USE OF PROCEEDS

SECTION 14.26.(a) If Senate Bill 76, 2013 Session, becomes law, then Section 11 of Senate Bill 76 reads as rewritten:

"**SECTION 11.** Section 1(b) of this act becomes effective March 1, 2015. Section 3(b) of this act is effective when it becomes law and applies retroactively to October 1, 2012. Sections 5(a) through 5(c) of this act are effective for energy minerals sold on or after March 1, ~~2015, except that G.S. 105-187.76, as enacted by Section 5(a) of this act, becomes effective only if authorized by the General Assembly in the Current Operations and Capital Improvements Appropriations Act of 2013. G.S. 113B-30, enacted by Section 7 of this act, becomes effective only if authorized by the General Assembly in the Current Operations and Capital Improvements Appropriations Act of 2013.~~2015. The first report due pursuant to G.S. 113B-12, as amended by Section 9(m) of this act, shall be transmitted on or before January 1, 2014. Except as otherwise provided, the remainder of this act is effective when it becomes law."

SECTION 14.26.(b) If Senate Bill 76, 2013 Session, becomes law, the Department of Environment and Natural Resources may, notwithstanding the provisions of G.S. 105-187.76, as enacted by Senate Bill 76, use any proceeds the Department receives from the imposition of the tax on severance of energy minerals imposed under G.S. 105-187.72, as enacted by Senate Bill 76, for the 2013-2014 fiscal year and the 2014-2015 fiscal year for its costs to administer Article 27 of Chapter 113 of the General Statutes, and these funds are appropriated from the General Fund to the Department of Environment and Natural Resources for this purpose.

WILDLIFE ENDOWMENT FUND

SECTION 14.27. G.S. 143-250.1 reads as rewritten:

"**§ 143-250.1. Wildlife Endowment Fund.**

(a) Recognizing the inestimable importance to the State and its people of conserving the wildlife resources of North Carolina, and for the purpose of providing the opportunity for citizens and residents of the State to invest in the future of its wildlife resources, there is created the North Carolina Wildlife Endowment Fund, ~~the income and principal of~~ which shall be used only for the purpose of supporting wildlife conservation programs of the State in accordance with this section. This fund shall also be known as the Eddie Bridges Fund.

(b) There is created the Board of Trustees of the Wildlife Endowment Fund of the Wildlife Resources Commission, with full authority over the administration of the Wildlife Endowment Fund, whose ex officio chairman, vice-chairman, and members shall be the chairman, vice-chairman, and members of the Wildlife Resources Commission. The State Treasurer shall be the custodian of the Wildlife Endowment Fund and shall invest its assets in accordance with the provisions of G.S. 147-69.2 and 147-69.3.

(c) The assets of the Wildlife Endowment Fund shall be derived from the following:

(1) The proceeds of any gifts, grants and contributions to the State which are specifically designated for inclusion in the fund;

(2) The proceeds from the sale of lifetime sportsman combination licenses issued pursuant to G.S. 113-270.1D;

(3) The proceeds from the sale of lifetime hunting and lifetime fishing licenses pursuant to G.S. 113-270.2(c)(2) and G.S. 113-271(d)(3);

(4) The proceeds of lifetime subscriptions to the magazine Wildlife in North Carolina at such rates as may be established from time to time by the Wildlife Resources Commission;

(5) Any amount in excess of the statutory fee for a particular lifetime license or lifetime subscription shall become an asset of the fund and shall qualify as a tax exempt donation to the State;

(5a) The proceeds from the sale of lifetime combination hunting and fishing licenses for disabled residents pursuant to G.S. 113-270.1C(b)(4);

(6) Such other sources as may be specified by law.

(d) The Wildlife Endowment Fund is ~~declared to constitute~~ a special trust derived from a contractual relationship between the State and the members of the public whose investments contribute to the fund. In recognition of such special trust, the following limitations and restrictions are placed on expenditures from the funds:

(1) Any limitations or restrictions specified by the donors on the uses of the income derived from gifts, grants and voluntary contributions shall be respected but shall not be binding.

~~(2) No expenditures or disbursements from the income from the proceeds derived from the sale of Infant Lifetime Sportsman or Youth Lifetime Sportsman Licenses pursuant to G.S. 113-270.1D(b)(1) or (2) shall be made for any purpose until the respective holders of such licenses attain the age of 16 years. The State Treasurer, as custodian of the fund, shall determine actuarially from time to time the amount of income within the fund which remains encumbered by and which is free of this restriction. For such purpose, the executive director shall cause deposits of proceeds from Infant Lifetime Sportsman Licenses to be distinguished and deposits of proceeds from Youth Lifetime Sportsman Licenses to be accompanied by information as to the ages of the license recipients.~~

(3) ~~No expenditure or disbursement shall be made from the principal of the Wildlife Endowment Fund except as otherwise proved by law.~~Expenditures of principal may be made from the Wildlife Resources Endowment Fund once the balance of the Fund exceeds one hundred million dollars ($100,000,000).

(4) The income received and accruing from the investments of the Wildlife Endowment Fund must be spent only in furthering the conservation of wildlife resources and the efficient operation of the North Carolina Wildlife Resources Commission in accomplishing the purposes of the agency as set forth in G.S. 143-239.

(e) The Board of Trustees of the Wildlife Endowment Fund may accumulate the investment income of the fund until the income, in the sole judgment of the trustees, can provide a significant supplement to the budget of the Wildlife Resources Commission. After that time the trustees, in their sole discretion and authority, may direct expenditures from the income of the fund for the purposes set out in division (4) of subsection (d).

(f) Expenditure of the income derived from the Wildlife Endowment Fund shall be made through the State budget accounts of the Wildlife Resources Commission in accordance with the provisions of the Executive Budget Act. The Wildlife Endowment Fund is subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes.

(g) The Wildlife Endowment Fund and the income therefrom shall not take the place of State appropriations or agency receipts placed in the Wildlife Resources Fund, or any part thereof, but any portion of the income of the Wildlife Endowment Fund available for the purpose set out in division (4) of subsection (d) shall be used to supplement other income of and appropriations to the Wildlife Resources Commission to the end that the Commission may improve and increase its services and become more useful to a greater number of people.

(h) In the event of a future dissolution of the Wildlife Resources Commission, such State agency as shall succeed to its budgetary authority shall, ex officio, assume the trusteeship of the Wildlife Endowment Fund and shall be bound by all the limitations and restrictions placed by this section on expenditures from the Fund. No repeal or modification of this section or of G.S. 143-239 shall alter the fundamental purposes to which the Wildlife Endowment Fund may be applied. No future dissolution of the Wildlife Resources Commission or substitution of any agency in its stead shall invalidate any lifetime license issued in accordance with G.S. 113-270.1D(b), 113-270.2(c)(2), or 113-271(d)(3)."

PART XV. DEPARTMENT OF COMMERCE

SET REGULATORY FEE FOR UTILITIES COMMISSION

SECTION 15.1.(a) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is twelve one-hundredths of one percent (0.12%) for each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 2013, and on or after July 1, 2014.

SECTION 15.1.(b) The electric membership corporation regulatory fee imposed under G.S. 62-302(b1) for the 2013-2014 and the 2014-2015 fiscal year is two hundred thousand dollars ($200,000).

INDUSTRIAL COMMISSION FEES/COMPUTER SYSTEM REPLACEMENT

SECTION 15.2. For the 2013-2014 fiscal year and the 2014-2015 fiscal year, the Industrial Commission may, in consultation with the State Chief Information Officer, use up to one million eight hundred thousand dollars ($1,800,000) of available funds in Budget Code 24611 to replace the Electronic Document Management System (EDMS).

UNEMPLOYMENT INSURANCE RESERVE

SECTION 15.3.(a) The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Commerce, shall transfer to the Unemployment Insurance Reserve within the Office of State Budget and Management any unencumbered cash balance as of June 30, 2013, of each of the following special funds within the Department of Commerce and then close each of these special funds:

(1) Worker Training Trust Fund (Special Fund Code 64654-6400).

(2) Training and Employment Account (Special Fund Code 64655-6601).

SECTION 15.3.(b) The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Commerce, shall transfer the sum of ten million dollars ($10,000,000) for the 2013-2014 fiscal year from the Special Employment Security Administration Fund (Fund Code 64650-6100) to the Unemployment Insurance Reserve within the Office of State Budget and Management.

EMPLOYMENT SECURITY RESERVE FUND

SECTION 15.4.(a) There is appropriated from the Employment Security Reserve Fund to the Department of Commerce, Division of Employment Security, the amount needed for the 2014-2015 fiscal year to fund the interest payment due to the federal government for the debt owed to the U.S. Treasury for unemployment benefits.

SECTION 15.4.(b) Of the funds credited to and held in the State of North Carolina's account in the Unemployment Trust Fund by the Secretary of the Treasury of the United States pursuant to and in accordance with section 903 of the Social Security Act and pursuant to Title II of Division B of P.L. 111-5, the Assistance for Unemployed Workers and Struggling Families Act, the Department of Commerce, Division of Employment Security, may expend the sum of two hundred five million sixty-three thousand five hundred fifty-two dollars

($205,063,552) as follows: (i) one hundred million dollars ($100,000,000) shall be used to design and build the integrated unemployment insurance benefit and tax accounting system and (ii) the remaining funds shall be used for the operation of the unemployment insurance program.

WORKFORCE INVESTMENT ACT FUNDS/TRANSFER OF FUNDS TO DEPARTMENT OF LABOR

SECTION 15.5. Of the Workforce Investment Act funds awarded to the Department of Commerce by the United States Department of Labor, the sum of three hundred fifty thousand dollars ($350,000) shall be transferred to the Department of Labor for the Apprenticeship Program on a recurring basis for the 2013-2015 biennium.

SPECIAL FUNDS TRANSFER/OFFSET COMMERCE ADMINISTRATION GENERAL FUND APPROPRIATION

SECTION 15.6.(a) The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Commerce, shall transfer the unencumbered cash balances in the following funds as of June 30, 2013, to Commerce Administration (Budget Code 14600-1111):

(1) 24609-2537 – Energy Research Grants

(2) 24609-2535 – NC Green Business Fund

SECTION 15.6.(b) The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Commerce, shall transfer the unencumbered cash balance in the International Trade Show Special Fund (Budget Code 24610-2431) as of June 30, 2013, to Commerce Administration (Budget Code 14600-1111) and, upon the transfer, close the Fund.

SECTION 15.6.(c) The transfers in subsections (a) and (b) of this section are to offset General Fund appropriations to the Department of Commerce for administration.

SECRETARY DESIGNATE SUPERVISOR OF BLNC & INTERNATIONAL TRADE DIVISION EMPLOYEES

SECTION 15.7. The Secretary of Commerce shall designate the person or persons who shall supervise the employees in the following agency or division within the Department: (i) Business Link North Carolina; and (ii) International Trade Division. The person or persons designated under this section shall have the powers and duties authorized by the Secretary.

COMMON FOLLOW-UP/CONTINUATION REVIEW

SECTION 15.8.(a) The Department of Commerce, Labor and Economic Analysis Division (LEAD), shall conduct a continuation review of the Common Follow-Up Information Management System (hereinafter "Common Follow-Up") created pursuant to G.S. 96-32. LEAD shall report the preliminary findings of the continuation review to the Fiscal Research Division no later than December 1, 2013, and shall submit a final report to the Joint Legislative Commission on Governmental Operations, the Senate Appropriations Committee on Natural and Economic Resources, and the House Appropriations Subcommittee on Natural and Economic Resources no later than March 1, 2014.

SECTION 15.8.(b) The continuation review report required by subsection (a) of this section shall include the following information:

(1) A description of Common Follow-Up and the goals of the program.

(2) The statutory objectives for Common Follow-Up and the problem or need addressed.

(3) The extent to which the objectives of Common Follow-Up have been achieved.

(4) Any functions or programs of Common Follow-Up performed without specific statutory authority.
(5) The performance measures for Common Follow-Up and the process by which the performance measures determine efficiency and effectiveness.
(6) Recommendations for statutory, budgetary, or administrative changes needed to improve efficiency and effectiveness of services delivered to the public.
(7) The consequences of discontinuing funding.
(8) Recommendations for improving services or reducing costs or duplication.
(9) The identification of policy issues that should be brought to the attention of the General Assembly.

MARKETING STRATEGY TO PROMOTE NC

SECTION 15.9. The Department of Commerce, Division of Tourism, Film, and Sports Development, shall revise its current marketing strategies to develop and execute a comprehensive national and international advertising, promotion, and public relations strategy to promote the State as a great place to live, work, and play. The Division shall continue to work closely with tourism destination marketing organizations, private businesses, including hotels, restaurants, and attractions, nonprofits, other State agencies, and other organizations and entities to collaborate, plan, and leverage resources in order to accomplish the goals of the comprehensive advertising and promotions strategy.

RURAL ECONOMIC DEVELOPMENT DIVISION CREATED

SECTION 15.10.(a) Article 10 of Chapter 143B of the General Statutes is amended by adding a new Part to read as follows:

"Part 22. Rural Economic Development Division.

"**§ 143B-472.126. Rural Economic Development Division created.**

There is hereby created in the Department of Commerce a division to be known as the Rural Economic Development Division. The Secretary shall appoint an Assistant Secretary to administer this Division, who shall be subject to the direction and supervision of the Secretary. The Assistant Secretary, subject to the approval of the Secretary, shall select a professional staff of qualified and competent employees to assist in the administration of the duties and responsibilities prescribed in this Part.

"**§ 143B-472.127. Programs administered.**

(a) The Rural Economic Development Division shall be responsible for administering the program whereby economic development grants or loans are awarded by the Rural Infrastructure Authority as provided in G.S. 143B-472.128 to local government units of the counties that have one of the 80 highest rankings under G.S. 143B-437.08 after the adjustment of that section. The funds available for grants or loans under this program may be used as follows:

(1) To construct critical water and wastewater facilities or to provide other infrastructure needs, including, but not limited to, natural gas, broadband, and rail, to sites where these facilities will generate private job-creating investment. The grants under this subdivision shall not be subject to the provisions of G.S. 143-355.4.
(2) To provide matching grants or loans to local government units in an economically distressed county that will productively reuse vacant buildings and properties or construct or expand rural health care facilities, with priority given to towns or communities with populations of less than 5,000. For purposes of this section, the term "economically distressed county" has the same meaning as in G.S. 143B-437.01.

(3) Recipients of grant funds under this Part shall contribute a cash match for the grant that is equivalent to at least five percent (5%) of the grant amount. The cash match shall come from local resources and may not be derived from other State or federal grant funds.

(4) In awarding grants under this Part, preference shall be given to a project involving a resident company. For purposes of this Part, the term "resident company" means a company that has paid unemployment taxes or income taxes in this State and whose principal place of business is located in this State. An application for a project that serves an economically distressed area shall have priority over a project that does not. A grant to assist with water infrastructure needs is not subject to the provisions of G.S. 143-355.4.

(5) Under no circumstances shall a grant for a project be awarded in excess of twelve thousand five hundred dollars ($12,500) per projected job created or saved.

(b) In addition to the duties under subsection (a) of this section, the Rural Economic Development Division shall also be responsible for (i) administering the program whereby local government units are awarded funds by the Rural Infrastructure Authority from the Utility Account under G.S. 143B-437.01 and (ii) administering the program whereby local government units are awarded funds by the Rural Infrastructure Authority for economic development projects from community development block grant funds.

(c) The Rural Economic Development Division may make recommendations to the Rural Infrastructure Authority as to any matters related to the administration of the programs under subsections (a) and (b) of this section.

"**§ 143B-472.128. Rural Infrastructure Authority created; powers.**

(a) Creation. – The Rural Infrastructure Authority is created within the Department of Commerce.

(b) Membership. – The Authority shall consist of 10 members, who shall be appointed as follows:

(1) The Secretary of Commerce, who shall be chair. However, the Secretary shall vote on matters before the Authority only in the case of a tie.

(2) Three members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate; one of whom shall represent a rural county in the eastern part of the State and shall serve for a term of one year; one of whom shall represent a rural county in the central part of the State and shall serve for a term of two years; and one of whom shall represent a rural county in the western part of the State and shall serve for a term of three years.

(3) Three members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives; one of whom shall represent a rural county in the eastern part of the State and shall serve for a term of three years; one of whom shall represent a rural county in the central part of the State and shall serve for a term of one year; and one of whom shall represent a rural county in the western part of the State and shall serve for a term of two years.

(4) Three members appointed by the Governor; one of whom shall represent a rural county in the eastern part of the State and shall serve for a term of two years; one of whom shall represent a rural county in the central part of the State and shall serve for a term of three years; and one of whom shall represent a rural county in the western part of the State and shall serve for a term of one year.

(c) Terms. – Upon the expiration of the terms provided for in subsection (b) of this section, each member shall serve for a term of three years. No member of the Authority shall serve for more than two consecutive terms, but a person who has been a member for two consecutive terms may be reappointed after being off the Authority for a period of at least three years. An initial term as provided in subsection (b) of this section that is two years or less shall not be counted in determining the limitation on consecutive terms. Initial terms shall commence on July 1, 2013.

(d) Compensation. – Authority members shall receive no salary as a result of serving on the Authority, but are entitled to per diem and allowances in accordance with G.S. 138-5 and G.S. 138-6, as appropriate.

(e) Meetings. – The Secretary shall convene the first meeting of the Authority within 30 days after the appointment of Authority members under subsection (b) of this section. Meetings shall be held as necessary as determined by the Authority.

(f) Quorum. – A majority of the members of the Authority constitutes a quorum for the transaction of business. A vacancy in the membership of the Authority does not impair the right of the quorum to exercise all rights and to perform all duties of the Authority.

(g) Vacancies. – A vacancy on the Authority shall be filled in the same manner in which the original appointment was made, and the term of the member filling the vacancy shall be for the balance of the unexpired term. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122.

(h) Removal. – Members may be removed in accordance with G.S. 143B-13. A member who misses three consecutive meetings of the Authority may be removed for nonfeasance.

(i) Powers and Duties. – The Authority has the following powers and duties:

(1) To receive and review applications from local government units for grants or loans authorized under G.S. 143B-472.127.

(2) To award grants or loans as provided in G.S. 143B-472.127.

(3) To formulate policies and priorities for grant and loan making under G.S. 143B-472.127.

(4) To determine ways in which the Rural Economic Development Division can aid local government units in meeting the costs for preliminary project planning needed for making an application for a grant or loan under G.S. 143B-472.127.

(5) To determine ways in which the Rural Economic Development Division can effectively disseminate information to local government units about the availability of grants or loans under G.S. 143B-472.127, the application and review process, and any other information that may be deemed useful to local government units in obtaining grants or loans.

(6) To review from time to time the effectiveness of the grant or loan programs under G.S. 143B-472.127 and to determine ways in which the programs may be improved to better serve local government units.

(7) No later than September 1 of each year, to submit a report to the Senate Appropriations Committee on Natural and Economic Resources, the House Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division that details all of the following:

a. Total number of awards made in the previous fiscal year.

b. Geographic display of awards made.

c. Total number of jobs created in the previous fiscal year.

d. Recommended policy changes that would benefit economic development in rural areas of the State."

SECTION 15.10.(b) For the 2013-2015 biennium, the Department of Commerce, Rural Economic Development Division, as established in subsection (a) of this section, may

use up to three percent (3%) of the funds appropriated in this act to the programs to be administered by the Division, and described in subsection (a) of this section, to cover the Division's expenses in administering those programs.

SECTION 15.10.(c) G.S. 120-123 reads as rewritten:

"**§ 120-123. Service by members of the General Assembly on certain boards and commissions.**

No member of the General Assembly may serve on any of the following boards or commissions:

...

(80) The Rural Infrastructure Authority, as created by G.S. 143B-472.128."

SECTION 15.10.(d) G.S. 126-5 reads as rewritten:

"**§ 126-5. Employees subject to Chapter; exemptions.**

...

(c1) Except as to the provisions of Articles 6 and 7 of this Chapter, the provisions of this Chapter shall not apply to:

...

(30) Employees of the Department of Commerce employed in the Rural Economic Development Division.

...."

SECTION 15.10.(e) G.S. 143B-433 reads as rewritten:

"**§ 143B-433. Department of Commerce – organization.**

The Department of Commerce shall be organized to include:

(1) The following agencies:

...

w. The Rural Economic Development Division.

x. The Rural Infrastructure Authority.

...."

PROSPERITY ZONES/RURAL SATELLITE OFFICES WITHIN ZONES

SECTION 15.11.(a) If Senate Bill 127, 2013 Regular Session, becomes law, of the funds appropriated in this act to the Department of Commerce for the Rural Economic Development Division, the Department shall use up to one million four hundred thousand dollars ($1,400,000) in each year of the 2013-2015 biennium to establish one primary office in each of the Collaboration for Prosperity Zones described in Senate Bill 127 for the purpose of enhancing collaboration and cooperation between governmental agencies, planning, use of resources, and improved efficiency at a regional level.

SECTION 15.11.(b) If Senate Bill 127, 2013 Regular Session, becomes law, of the funds appropriated in this act to the Department of Commerce for the Rural Economic Development Division, the Department shall use up to one million nine hundred twenty thousand dollars ($1,920,000) in the 2013-2014 fiscal year and up to two million three hundred twenty thousand dollars ($2,320,000) in the 2014-2015 fiscal year to establish at least one satellite office in a rural area within each Collaboration for Prosperity Zone. The primary office and rural satellite office in the Zone shall collaborate to support new business recruitment and existing business and industry in the rural areas of the Zone.

SECTION 15.11.(c) If Senate Bill 127, 2013 Regular Session, becomes law, the Secretary of Commerce shall determine the person or persons to whom the Department of Commerce employees working in the Collaboration for Prosperity Zones, including rural satellite offices, shall report. The Secretary shall also determine the appropriate staffing requirements for each rural satellite office.

SECTION 15.11.(d) If Senate Bill 127, 2013 Regular Session, does not become law, the Secretary of Commerce, in conjunction with the Assistant Secretary of Commerce in

charge of the Rural Economic Development Division shall establish regional offices in rural areas across the State to support new business recruitment and existing business and industry in those rural areas. Each regional office shall have at least one full-time employee, who shall report to the Assistant Secretary of Commerce, Rural Economic Development Division.

LEAD/DEVELOP STANDARDIZED PERFORMANCE METRIC FOR NONPROFITS

SECTION 15.12. The Department of Commerce, Labor and Economic Analysis Division (LEAD), shall develop a standardized performance metric to evaluate whether a nonprofit allocated State funds by the Department in the 2013-2015 biennium has achieved its own goals or performance standards. The metric shall include standards for determining whether jobs were actually created, grants were awarded, or loans were made. The information obtained as a result of the metric shall be used by the General Assembly in determining whether to fund the nonprofits in future fiscal years. In order to be eligible to receive State funds, each nonprofit surveyed shall provide to LEAD any information requested to help develop the metric provided for in this section.

CDBG FUNDS/COMMERCE REPEAL RULES MORE RESTRICTIVE THAN HUD RULES

SECTION 15.13. Rules adopted by the Department of Commerce related to the receipt, distribution, or use of Community Development Block Grant (CDBG) funds shall not be more restrictive than rules and regulations promulgated by the United States Department of Housing and Urban Development (HUD) related to the receipt, distribution, or use of CDBG funds. The Department of Commerce shall review all rules adopted by the Department related to the receipt, distribution, or use of CDBG funds, and shall repeal any rules that are more restrictive than HUD rules related to the receipt, distribution, or use of CDBG funds. During the period in which rules are being reviewed as provided in this section, the Department shall not enforce any rules related to the receipt, distribution, or use of CDBG funds that are more restrictive than HUD rules related to the receipt, distribution, or use of CDBG funds.

NER BLOCK GRANTS/2014 AND 2015 PROGRAM YEARS

SECTION 15.14.(a) Appropriations from federal block grant funds are made for the fiscal years ending June 30, 2014, and June 30, 2015, according to the following schedule:

COMMUNITY DEVELOPMENT BLOCK GRANT

01.	State Administration	$ 1,275,000
02.	Economic Development	10,737,500
03.	Infrastructure	30,937,500
TOTAL COMMUNITY DEVELOPMENT BLOCK GRANT – 2014 Program Year		**$42,950,000**
	2015 Program Year	**$42,950,000**

SECTION 15.14.(b) Decreases in Federal Fund Availability. – If federal funds are reduced below the amounts specified above after the effective date of this act, then every program in each of these federal block grants shall be reduced by the same percentage as the reduction in federal funds.

SECTION 15.14.(c) Increases in Federal Fund Availability for Community Development Block Grant. – Any block grant funds appropriated by the Congress of the United States in addition to the funds specified in this section shall be expended as follows: each

program category under the Community Development Block Grant shall be increased by the same percentage as the increase in federal funds.

SECTION 15.14.(d) Limitations on Community Development Block Grant Funds. – Of the funds appropriated in this section for the Community Development Block Grant, the following shall be allocated in each category for each program year: up to one million two hundred seventy-five thousand dollars ($1,275,000) may be used for State Administration; up to ten million seven hundred thirty-seven thousand five hundred dollars ($10,737,500) may be used for Economic Development; and up to thirty million nine hundred thirty-seven thousand five hundred dollars ($30,937,500) may be used for Infrastructure. If federal block grant funds are reduced or increased by the Congress of the United States after the effective date of this act, then these reductions or increases shall be allocated in accordance with subsection (b) or (c) of this section, as applicable.

SECTION 15.14.(e) The Department of Commerce shall consult with the Joint Legislative Commission on Governmental Operations prior to reallocating Community Development Block Grant Funds. Notwithstanding the provisions of this subsection, whenever the Director of the Budget finds that:

(1) A reallocation is required because of an emergency that poses an imminent threat to public health or public safety, the Director of the Budget may authorize the reallocation without consulting the Commission. The Department of Commerce shall report to the Commission on the reallocation no later than 30 days after it was authorized and shall identify in the report the emergency, the type of action taken, and how it was related to the emergency.

(2) The State will lose federal block grant funds or receive less federal block grant funds in the next fiscal year unless a reallocation is made, the Department of Commerce shall provide a written report to the Commission on the proposed reallocation and shall identify the reason that failure to take action will result in the loss of federal funds. If the Commission does not hear the issue within 30 days of receipt of the report, the Department may take the action without consulting the Commission.

SECTION 15.14.(f) By September 1, 2013, and September 1, 2014, the Division of Community Assistance, Department of Commerce, shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the use of Community Development Block Grant Funds appropriated in the prior fiscal year. The report shall include the following:

(1) A discussion of each of the categories of funding and how the categories were selected, including information on how a determination was made that there was a statewide need in each of the categories.

(2) Information on the number of applications that were received in each category and the total dollar amount requested in each category.

(3) A list of grantees, including the grantee's name, county, category under which the grant was funded, the amount awarded, and a narrative description of the project.

SECTION 15.14.(g) For purposes of this section, eligible activities under the category of Infrastructure in subsection (a) of this section are limited to the installation of public water or sewer lines and improvements to water or sewer treatment plants that have specific problems such as being under moratoriums or special orders of consent. Notwithstanding the provisions of subsection (e) of this section, funds allocated to the Infrastructure category in subsection (a) of this section shall not be reallocated to any other category.

NER BLOCK GRANTS/2013 PROGRAM YEAR

SECTION 15.15.(a) Section 14.1 of S.L. 2011-145, as amended by Section 13.1 of S.L. 2012-142, reads as rewritten:

"**SECTION 14.1.(a)** Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2013, according to the following schedule:

COMMUNITY DEVELOPMENT BLOCK GRANT

01.	State Administration	~~$1,000,000~~ $1,275,000
~~03.~~	~~Scattered Site Housing~~	~~7,200,000~~
04.	Economic Development	~~7,000,000~~ 10,625,000
~~05.~~	~~Small Business/Entrepreneurship~~	~~2,500,000~~
~~06.~~	~~NC Catalyst~~	~~4,500,000~~
07.	Infrastructure	~~20,300,000~~ 30,600,000

TOTAL COMMUNITY DEVELOPMENT
BLOCK GRANT – 2013 Program Year $42,500,000

"**SECTION 14.1.(b)** Decreases in Federal Fund Availability. – If federal funds are reduced below the amounts specified above after the effective date of this act, then every program in each of these federal block grants shall be reduced by the same percentage as the reduction in federal funds.

"**SECTION 14.1.(c)** Increases in Federal Fund Availability for Community Development Block Grant. – Any block grant funds appropriated by the Congress of the United States in addition to the funds specified in this section shall be expended as follows: each program category under the Community Development Block Grant shall be increased by the same percentage as the increase in federal funds.

"**SECTION 14.1.(d)** Limitations on Community Development Block Grant Funds. – Of the funds appropriated in this section for the Community Development Block Grant, the following shall be allocated in each category for each program year: up to ~~one million dollars ($1,000,000)~~ one million two hundred seventy-five thousand dollars ($1,275,000) may be used for State Administration; ~~up to seven million two hundred thousand dollars ($7,200,000) may be used for Scattered Site Housing;~~up to ~~seven million dollars ($7,000,000)~~ ten million six hundred twenty-five thousand dollars ($10,625,000) may be used for Economic Development; ~~up to two million five hundred thousand dollars ($2,500,000) may be used for Small Business/Entrepreneurship; up to four million five hundred thousand dollars ($4,500,000) shall be used for NC Catalyst;~~ and up to ~~twenty million three hundred thousand dollars ($20,300,000)~~thirty million six hundred thousand dollars ($30,600,000) may be used for Infrastructure. If federal block grant funds are reduced or increased by the Congress of the United States after the effective date of this act, then these reductions or increases shall be allocated in accordance with subsection (b) or (c) of this section, as applicable.

"**SECTION 14.1.(e)** The Department of Commerce shall consult with the Joint Legislative Commission on Governmental Operations prior to reallocating Community Development Block Grant Funds. Notwithstanding the provisions of this subsection, whenever the Director of the Budget finds that:

(1) A reallocation is required because of an emergency that poses an imminent threat to public health or public safety, the Director of the Budget may

authorize the reallocation without consulting the Commission. The Department of Commerce shall report to the Commission on the reallocation no later than 30 days after it was authorized and shall identify in the report the emergency, the type of action taken, and how it was related to the emergency.

(2) The State will lose federal block grant funds or receive less federal block grant funds in the next fiscal year unless a reallocation is made, the Department of Commerce shall provide a written report to the Commission on the proposed reallocation and shall identify the reason that failure to take action will result in the loss of federal funds. If the Commission does not hear the issue within 30 days of receipt of the report, the Department may take the action without consulting the Commission.

"**SECTION 14.1.(f)** By ~~September 1, 2012,~~September 1, 2013, the Division of Community Assistance, Department of Commerce, shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the use of Community Development Block Grant Funds appropriated in the prior fiscal year. The report shall include the following:

(1) A discussion of each of the categories of funding and how the categories were selected, including information on how a determination was made that there was a statewide need in each of the categories.

(2) Information on the number of applications that were received in each category and the total dollar amount requested in each category.

(3) A list of grantees, including the grantee's name, county, category under which the grant was funded, the amount awarded, and a narrative description of the project.

"**SECTION 14.1.(g)** For purposes of this section, eligible activities under the category of Infrastructure in subsection (a) of this section are limited to the installation of public water or sewer lines and improvements to water or sewer treatment plants that have specific problems such as being under moratoriums or special orders of consent. Notwithstanding the provisions of subsection (e) of this section, funds allocated to the Infrastructure category in subsection (a) of this section shall not be reallocated to any other category."

SECTION 15.15.(b) This section becomes effective June 30, 2013.

ONE NORTH CAROLINA FUND

SECTION 15.16. Of the funds appropriated in this act to the One North Carolina Fund for the 2013-2015 biennium, the Department of Commerce may use up to two hundred fifty thousand dollars ($250,000) in each year of the biennium to cover its expenses in administering the One North Carolina Fund and other economic development incentive grant programs. The Department of Commerce shall not use more than two hundred fifty thousand dollars ($250,000) for administrative costs in any one fiscal year.

INDUSTRIAL DEVELOPMENT FUND UTILITY ACCOUNT/USE OF FUNDS

SECTION 15.17. Notwithstanding the provisions of G.S. 143B-437.01, of the funds credited to the Industrial Development Fund Utility Account (Utility Account) in the 2013-2015 biennium, the sum of five million dollars ($5,000,000) for each year of the biennium may be used for the operating expenses of the Department of Commerce on a nonrecurring basis. The remainder of the funds in the Utility Account in each year of the biennium shall be awarded by the Rural Infrastructure Authority within the Department of Commerce, as established by this act, for the purposes authorized in G.S. 143B-437.01.

MODIFY INDUSTRIAL DEVELOPMENT FUND AND UTILITY ACCOUNT

SECTION 15.18.(a) G.S. 143B-437.01 reads as rewritten:

"**§ 143B-437.01. Industrial Development ~~Fund.~~Fund Utility Account.**

(a) Creation and Purpose of Fund. – There is created in the Department of Commerce ~~the Industrial Development Fund~~ a special account to be known as the Industrial Development Fund Utility Account ("Utility Account") to provide funds to assist the local government units of the most economically distressed counties in the State in creating ~~and retaining jobs in certain industries.~~jobs. The Department of Commerce shall adopt rules providing for the administration of the program. Those rules shall include the following provisions, which shall apply to each grant from the ~~fund:~~account:

(1) The funds shall be used for ~~(i) installation of or purchases of equipment for eligible industries, (ii) structural repairs, improvements, or renovations of existing buildings to be used for expansion of eligible industries, or (iii)~~construction of or improvements to new or existing water, sewer, gas, telecommunications, high-speed broadband, electrical utility distribution lines or equipment, or transportation infrastructure for existing or new or proposed ~~industrial buildings to be used for eligible industries.~~buildings. To be eligible for funding, the water, gas, telecommunications, high-speed broadband, electrical utility lines or facilities, or transportation infrastructure shall be located on the site of the building or, if not located on the site, shall be directly related to the operation of the ~~specific eligible industrial~~job creation activity. To be eligible for funding, the sewer infrastructure shall be located on the site of the building or, if not located on the site, shall be directly related to the operation of the specific eligible industrial activity, even if the sewer infrastructure is located in a county other than the county in which the building is located.

(1a) The funds shall be used for projects located in economically distressed counties except that the Secretary of Commerce may use up to one hundred thousand dollars ($100,000) to provide emergency economic development assistance in any county that is documented to be experiencing a major economic dislocation.

(2) The funds shall be used by the city and county governments for projects that ~~will directly~~are reasonably anticipated to result in the creation ~~or retention~~ of new jobs. ~~The funds shall be expended at a maximum rate of ten thousand dollars ($10,000) per new job created or per job retained up to a maximum of five hundred thousand dollars ($500,000) per project.~~There shall be no maximum funding amount per new job to be created or per project.

(3) There shall be no local match requirement if the project is located in a county that has one of the 25 highest rankings under ~~G.S. 143B-437.08 or that has a population of less than 50,000 and more than nineteen percent (19%) of its population below the federal poverty level according to the most recent federal decennial census.~~G.S. 143B-437.08.

(4) The Department may authorize a local government that receives funds under this section to use up to two percent (2%) of the funds, if necessary, to verify that the funds are used only in accordance with law and to otherwise administer the grant or loan.

(5) No project subject to the Environmental Policy Act, Article 1 of Chapter 113A of the General Statutes, shall be funded unless the Secretary of Commerce finds that the proposed project will not have a significant adverse effect on the environment. The Secretary of Commerce shall not make this finding unless the Secretary has first received a certification from the Department of Environment and Natural Resources that concludes, after

consideration of avoidance and mitigation measures, that the proposed project will not have a significant adverse effect on the environment.

(6) The funds shall not be used for any nonmanufacturing project that does not meet the wage standard set out in ~~G.S. 105-129.4(b).~~G.S. 105-129.4(b) or for any retail, entertainment, or sports projects.

(7) Priority for the use of funds shall be given to eligible industries.

(a1) Definitions. – The following definitions apply in this section:

(1) Air courier services. – ~~Defined in G.S. 105-129.81.~~The furnishing of air delivery of individually addressed letters and packages for compensation, in interstate commerce, except by the United States Postal Service.

(2) Repealed by Session Laws 2006-252, s. 2.4, effective January 1, 2007.

(2a) Company headquarters. – ~~Defined in G.S. 105-129.81.~~A corporate, subsidiary, or regional managing office, as defined by NAICS in United States industry 551114, that is responsible for strategic or organizational planning and decision making for the business on an international, national, or multistate regional basis.

(3) Repealed by Session Laws 2006-252, s. 2.4, effective January 1, 2007.

(4) Economically distressed county. – A county that ~~has one of the 65 highest rankings~~is defined as a development tier one or two area under G.S. 143B-437.08 after the adjustments of that section are applied.

(5) Eligible industry. – A company headquarters or a person engaged in the business of air courier services, information technology and services, manufacturing, or warehousing and wholesale trade.

(6) Information technology and services. – ~~Defined in G.S. 105-129.81.~~An industry in one of the following, as defined by NAICS:

a. Data processing industry group 518.

b. Software publishers industry group 5112.

c. Computer systems design and related services industry group 5415.

d. An Internet activity included in industry group 519130.

(7) Major economic dislocation. – The actual or imminent loss of 500 or more manufacturing jobs in the county or of a number of manufacturing jobs equal to at least ten percent (10%) of the existing manufacturing workforce in the county.

(8) Manufacturing. – ~~Defined in G.S. 105-129.81.~~An industry in manufacturing sectors 31 through 33, as defined by NAICS, but not including quick printing or retail bakeries.

(9) Reserved.

(10) Warehousing. – ~~Defined in G.S. 105-129.81.~~An industry in warehousing and storage subsector 493 as defined by NAICS.

(11) Wholesale trade. – ~~Defined in G.S. 105-129.81.~~An industry in wholesale trade sector 42 as defined by NAICS.

(b) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.5.

~~(b1) There is created within the Industrial Development Fund a special account to be known as the Utility Account to provide funds to assist the local government units of the counties that have one of the 65 highest rankings under G.S. 143B-437.08 after the adjustments of that section are applied in creating jobs in eligible industries. The Department of Commerce shall adopt rules providing for the administration of the program. Except as otherwise provided in this subsection, those rules shall be consistent with the rules adopted with respect to the Industrial Development Fund. The rules shall provide that the funds in the Utility Account may be used only for construction of or improvements to new or existing water, sewer, gas, telecommunications, high-speed broadband, electrical utility distribution lines or equipment, or~~

~~transportation infrastructure for existing or new or proposed industrial buildings to be used for eligible industrial operations. To be eligible for funding, the water, sewer, gas, telecommunications, high-speed broadband, electrical utility lines or facilities, or transportation infrastructure shall be located on the site of the building or, if not located on the site, shall be directly related to the operation of the specific industrial activity. There shall be no maximum funding amount per new job to be created or per project.~~

(c), (c1) Repealed by Session Laws 2012-142, s. 13.4(c), effective July 1, 2012.

(d) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.5."

SECTION 15.18.(b) G.S. 105-129.81 reads as rewritten:

"**§ 105-129.81. Definitions.**

The following definitions apply in this Article:

...

(2) Air courier services. – ~~The furnishing of air delivery of individually addressed letters and packages for compensation, in interstate commerce, except by the United States Postal Service.~~Defined in G.S. 143B-437.01.

...

(5) Company headquarters. – ~~A corporate, subsidiary, or regional managing office, as defined by NAICS in United States industry 551114, that is responsible for strategic or organizational planning and decision making for the business on an international, national, or multistate regional basis.~~Defined in G.S. 143B-437.01.

...

(13) Information technology and services. – Defined in G.S. 143B-437.01.~~An industry in one of the following, as defined by NAICS:~~

~~a. Data processing industry group 518.~~

~~b. Software publishers industry group 5112.~~

~~c. Computer systems design and related services industry group 5415.~~

~~d. An Internet activity included in industry group 519130.~~

...

(15) Manufacturing. – ~~An industry in manufacturing sectors 31 through 33, as defined by NAICS, but not including quick printing or retail bakeries.~~Defined in G.S. 143B-437.01.

...

(25) Warehousing. – ~~An industry in warehousing and storage subsector 493 as defined by NAICS.~~Defined in G.S. 143B-437.01.

(26) Wholesale trade. – ~~An industry in wholesale trade sector 42 as defined by NAICS.~~Defined in G.S. 143B-437.01."

SECTION 15.18.(c) G.S. 143B-437.012(d) reads as rewritten:

"(d) Eligibility. – A business is eligible for consideration for a grant under this section if it satisfies the conditions of either subdivision (1) or (2) of this subsection and satisfies the conditions of both subdivisions (3) and (4) of this subsection:

...

(2) The business is a large manufacturing employer. A business is a large manufacturing employer if the business meets the following requirements:

a. The business is in manufacturing, as defined in ~~G.S. 105-129.81,~~G.S. 143B-437.01, and is converting its manufacturing process to change the product it manufactures.

b. The Department certifies that the business has invested or intends to invest at least sixty-five million dollars ($65,000,000) of private funds in improvements to real property and additions to tangible

personal property in the project within a three-year period beginning with the time the investment commences.

c. The business employs at least 320 full-time employees at the project that is the subject of the grant at the time the application is made, and the business agrees to maintain at least 320 full-time employees at the project for the full term of the grant.

...."

SECTION 15.18.(d) G.S. 143B-435.1(d) reads as rewritten:

"(d) Report. – By April 1 and October 1 of each year, the Department of Commerce shall report to the Revenue Laws Study Committee, the Joint Legislative Commission on Governmental Operations, the Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division of the ~~General Assembly~~Legislative Services Commission on (i) all clawbacks that have been triggered under the One North Carolina Fund established pursuant to G.S. 143B-437.71, the Job Development Investment Grant Program established pursuant to G.S. 143B-437.52, Job Maintenance and Capital Development Fund established pursuant to G.S. 143B-437.012, the ~~Industrial Development Fund and~~ Utility Account established pursuant to G.S. 143B-437.01, and the Site Infrastructure Fund established pursuant to G.S. 143B-437.02 and (ii) its progress on obtaining repayments. The report must include the name of each business, the event that triggered the clawback, and the amount forfeited or to be repaid."

SECTION 15.18.(e) G.S. 143B-437.07(c) reads as rewritten:

"(c) Economic Development Incentive. – An economic development incentive includes any grant from the following programs: Job Development Investment Grant Program; the Job Maintenance and Capital Development Fund; One North Carolina Fund; and the ~~Industrial Development Fund, including the~~ Utility Account. The State also incents economic development through the use of tax expenditures in the form of tax credits and refunds. The Department of Revenue must report annually on these statutory economic development incentives, as required under G.S. 105-256."

SECTION 15.18.(f) G.S. 143B-437.55(c) reads as rewritten:

"(c) Annual Reports. – The Committee shall publish a report on the Job Development Investment Grant Program on or before April 30 of each year. The Committee shall submit the report electronically to the House of Representatives Finance Committee, the Senate Finance Committee, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division. The report shall include the following:

...

(13) The total amount transferred to the Utility Account ~~of the Industrial Development Fund~~ under this Part during the preceding year."

SECTION 15.18.(g) G.S. 143B-437.61 reads as rewritten:

"**§ 143B-437.61. Transfer to Industrial Development ~~Fund.~~Fund Utility Account.**

At the time the Department of Commerce remits a check to a business under G.S. 143B-437.60, the Department of Commerce shall transfer to the Utility Account ~~of the Industrial Development Fund~~ an amount equal to the amount certified by the Committee as the difference between the amount of the grant and the amount of the grant for which the business would be eligible without regard to G.S. 143B-437.56(d)."

SECTION 15.18.(h) The Department of Commerce, in conjunction with the Office of the State Controller, shall close the Industrial Development Fund and the Utility Account and shall transfer the remaining fund balances of each to the Industrial Development Fund Utility Account.

SECTION 15.18.(i) This section becomes effective July 1, 2013, and applies to projects for which funds are initially provided on or after that date.

JOB DEVELOPMENT INVESTMENT GRANT PROGRAM MODIFICATIONS

SECTION 15.19.(a) G.S. 143B-437.52 reads as rewritten:

"**§ 143B-437.52. Job Development Investment Grant Program.**

...

(b) Cap and Priority. – The maximum number of grants the Committee may award in each calendar year is 25. In selecting between applicants, a project that is located in an Eco-Industrial Park certified under G.S. 143B-437.08 has priority over a comparable project that is not located in a certified Eco-Industrial Park.

(c) Awards. – The maximum amount of total annual liability for grants awarded in any single calendar year under this Part, including amounts transferred to the Utility Account pursuant to G.S. 143B-437.61, is fifteen million dollars ($15,000,000). No agreement may be entered into that, when considered together with other existing agreements governing grants awarded during a single calendar year, could cause the State's potential total annual liability for grants awarded in a single calendar year to exceed this amount. The Department shall make every effort to ensure that the average percentage of withholdings of eligible positions for grants awarded under this Part does not exceed the average of the range provided in G.S. 143B-437.56(a).

...."

SECTION 15.19.(b) G.S. 143B-437.55(b) reads as rewritten:

"(b) Application Fee. – When filing an application under this section, the business must pay the Committee a fee of five thousand dollars ($5,000). The fee is due at the time the application is filed. The Secretary of Commerce, the Secretary of Revenue, and the Director of the Office of State Budget and Management shall determine the allocation of the fee imposed by this section among their agencies. The proceeds of the fee are receipts of the agency to which they are credited. Within 30 days of receipt of an application under this section but prior to any award being made, the Department of Commerce shall notify each governing body of an area where a submitted application proposes locating a project of the information listed in this subsection, provided that the governing body agrees, in writing, to any confidentiality requirements imposed by the Department under G.S. 132-6(d). The information required by this subsection includes all of the following:

(1) The estimated amount of the grant anticipated to be awarded to the applicant for the project.

(2) Any economic impact data submitted with the application or prepared by the Department.

(3) Any economic impact estimated by the Department to result from the project."

SECTION 15.19.(c) This section becomes effective July 1, 2013, and applies to applications and awards made on or after that date.

JOB DEVELOPMENT INVESTMENT GRANT PROGRAM APPLICATION FEE INCREASE

SECTION 15.20.(a) G.S. 143B-437.55(b) reads as rewritten:

"(b) Application Fee. – When filing an application under this section, the business must pay the Committee a fee of ~~five thousand dollars ($5,000).~~ ten thousand dollars ($10,000). The fee is due at the time the application is filed. The Secretary of Commerce, the Secretary of Revenue, and the Director of the Office of State Budget and Management shall determine the allocation of the fee imposed by this section among their agencies. The proceeds of the fee are receipts of the agency to which they are credited."

SECTION 15.20.(b) This section becomes effective July 1, 2013, and applies to applications filed on or after that date.

JOB DEVELOPMENT INVESTMENT GRANT PROGRAM REPORTING FEE INCREASE

SECTION 15.21.(a) G.S. 143B-437.58(a) reads as rewritten:

"(a) No later than March 1 of each year, for the preceding grant year, every business that is awarded a grant under this Part shall submit to the Committee an annual payroll report showing withholdings as a condition of its continuation in the grant program and identifying eligible positions that have been created during the base period that remain filled at the end of each year of the grant. Annual reports submitted to the Committee shall include social security numbers of individual employees identified in the reports. Upon request of the Committee, the business shall also submit a copy of its State and federal tax returns. Payroll and tax information, including social security numbers of individual employees and State and federal tax returns, submitted under this subsection is tax information subject to G.S. 105-259. Aggregated payroll or withholding tax information submitted or derived under this subsection is not tax information subject to G.S. 105-259. When making a submission under this section, the business must pay the Committee a fee of ~~one thousand five hundred dollars ($1,500).~~ the greater of two thousand five hundred dollars ($2,500) or three one-hundredths of one percent (.03%) of an amount equal to the grant less the maximum amount to be transferred pursuant to G.S. 143B-437.61. The fee is due at the time the submission is made. The Secretary of Commerce, the Secretary of Revenue, and the Director of the Office of State Budget and Management shall determine the allocation of the fee imposed by this section among their agencies. The proceeds of the fee are receipts of the agency to which they are credited."

SECTION 15.21.(b) This section becomes effective July 1, 2013, and applies to fees submitted for awards granted on or after that date.

TRANSFER STATE ENERGY OFFICE FROM COMMERCE TO DENR

GENERAL

SECTION 15.22.(a) The State Energy Office is hereby transferred from the Department of Commerce to the Department of Environment and Natural Resources. This transfer shall have all of the elements of a Type I transfer, as defined in G.S. 143A-6.

ENERGY LOAN FUND

SECTION 15.22.(b) Part 2C of Article 10 of Chapter 143B of the General Statutes, G.S. 143B-437.14 through G.S. 143B-437.16, is recodified as Part 32 of Article 7 of Chapter 143B of the General Statutes, G.S. 143B-344.42 through G.S. 143B-344.44.

SECTION 15.22.(c) G.S. 143B-437.16, recodified as G.S. 143B-344.44 in subsection (b) of this section, reads as rewritten:

"**§ 143B-344.44. Lead agency; powers and duties.**

(a) For the purposes of this Part, the Department of ~~Commerce,~~Environment and Natural Resources, State Energy Office, is designated as the lead State agency in matters pertaining to energy efficiency.

...."

GUARANTEED ENERGY SAVINGS CONTRACTS

SECTION 15.22.(d) G.S. 143-64.17F reads as rewritten:

"**§ 143-64.17F. State agencies to use contracts when feasible; rules; recommendations.**

...

(b) The Department of Administration, in consultation with the Department of ~~Commerce~~ Environment and Natural Resources, through the State Energy Office, shall adopt rules for: (i) agency evaluation of guaranteed energy savings contracts; (ii) establishing time periods for consideration of guaranteed energy savings contracts by the Office of State Budget and Management, the Office of the State Treasurer, and the Council of State, and (iii) setting measurements and verification criteria, including review, audit, and precertification. Prior to adopting any rules pursuant to this section, the Department shall consult with and obtain approval of those rules from the State Treasurer. The rules adopted pursuant to this subsection shall not apply to energy conservation measures implemented pursuant to G.S. 143-64.17L.

(c) The Department of Administration, and the Department of ~~Commerce~~ Environment and Natural Resources through the State Energy Office, may provide to the Council of State its recommendations concerning any energy savings contracts being considered."

SECTION 15.22.(e) G.S. 143-64.17G reads as rewritten:

"**§ 143-64.17G. Report on guaranteed energy savings contracts entered into by local governmental units.**

A local governmental unit that enters into a guaranteed energy savings contract must report the contract and the terms of the contract to the Local Government Commission and the State Energy Office of the Department of ~~Administration.~~Environment and Natural Resources. The Commission shall compile the information and report it biennially to the Joint Commission on Governmental Operations. In compiling the information, the Local Government Commission shall include information on the energy savings expected to be realized from a contract and, with the assistance of the Office of State Construction and the State Energy Office, shall evaluate whether expected savings have in fact been realized."

SECTION 15.22.(f) G.S. 143-64.17H reads as rewritten:

"**§ 143-64.17H. Report on guaranteed energy savings contracts entered into by State governmental units.**

A State governmental unit that enters into a guaranteed energy savings contract or implements an energy conservation measure pursuant to G.S. 143-64.17L must report either (i) the contract and the terms of the contract or (ii) the implementation of the measure to the State Energy Office of the Department of ~~Commerce~~ Environment and Natural Resources within 30 days of the date the contract is entered into or the measure is implemented. In addition, within 60 days after each annual anniversary date of a guaranteed energy savings contract, the State governmental unit must report the status of the contract to the State Energy Office, including any details required by the State Energy Office. The State Energy Office shall compile the information for each fiscal year and report it to the Joint Legislative Commission on Governmental Operations and to the Local Government Commission annually by December 1. In compiling the information, the State Energy Office shall include information on the energy savings expected to be realized from a contract or implementation and shall evaluate whether expected savings have in fact been realized."

ENERGY ASSISTANCE FOR LOW-INCOME PERSONS

SECTION 15.22.(g) The programs administered under the North Carolina Energy Assistance Act for Low-Income Persons, being the Weatherization Assistance Program for Low-Income Families and the Heating/Air Repair and Replacement Program, and any other energy-related assistance program for the benefit of low-income persons in existing housing, are transferred from the Department of Commerce to the State Energy Office in the Department of Environment and Natural Resources. The transfer under this subsection shall have all of the elements of a Type I transfer, as defined in G.S. 143A-6.

SECTION 15.22.(h) Part 9 of Article 2 of Chapter 108A of the General Statutes, G.S. 108A-70.30, is recodified as Part 33 of Article 7 of Chapter 143B of the General Statutes, G.S. 143B-344.46.

SECTION 15.22.(i) G.S. 108A-70.30, recodified as G.S. 143B-344.46 in subsection (h) of this section, reads as rewritten:

"**§ 143B-344.46. Weatherization Assistance Program and Heating/Air Repair and Replacement Program.**

The State Energy Office within the Department may administer the Weatherization Assistance Program for Low-Income Families and the Heating/Air Repair and Replacement Program functions. Nothing in this Part shall be construed as obligating the General Assembly to appropriate funds for the Program or as entitling any person to services under the Program."

SECTION 15.22.(j) Part 21 of Article 10 of Chapter 143B of the General Statutes, G.S. 143B-472.121 through 143B-472.123, is recodified as Part 34 of Article 7 of Chapter 143B of the General Statutes, G.S. 143B-344.48 through G.S. 143B-344.50.

SECTION 15.22.(k) G.S. 143B-472.122, recodified as G.S. 143B-344.49 in subsection (j) of this section, and G.S. 143B-472.123, recodified as G.S. 143B-344.50 in subsection (j) of this section, read as rewritten:

"**§ 143B-344.49. Definitions.**

The following definitions apply to this Part:

...

(2) Department. – The Department of ~~Commerce.~~Environment and Natural Resources.

(3) Secretary. – The Secretary of ~~Commerce.~~the Department of Environment and Natural Resources.

....

"**§ 143B-344.50. The ~~Office of Economic Opportunity~~State Energy Office designated agency; powers and duties.**

(a) The ~~Office of Economic Opportunity of the Department~~State Energy Office in the Department of Environment and Natural Resources shall administer the Weatherization Assistance Program for Low-Income Families established by 42 U.S.C. § 6861, et seq., and 42 U.S.C. § 7101, et seq.; the Heating/Air Repair and Replacement Program established by the Secretary under ~~G.S. 108A-70.30;~~G.S. 143B-344.46; and any other energy-related assistance program for the benefit of low-income persons in existing housing. The ~~Office of Economic Opportunity~~State Energy Office shall exercise the following powers and duties:

...

(8) Create a Policy Advisory Council within the ~~Office of Economic Opportunity~~State Energy Office that shall advise the ~~Office of Economic Opportunity~~State Energy Office with respect to the development and implementation of a Weatherization Program for Low-Income Families, the Heating/Air Repair and Replacement Program, and any other energy-related assistance program for the benefit of low-income persons in existing housing.

...."

ENERGY POLICY COUNCIL

SECTION 15.22.(l) G.S. 113B-2 reads as rewritten:

"**§ 113B-2. Creation of Energy Policy Council; purpose of Council.**

(a) There is hereby created a council to advise and make recommendations on energy policy to the Governor and the General Assembly to be known as the Energy Policy Council which shall be located within the Department of ~~Commerce.~~Environment and Natural Resources.

(b) Except as otherwise provided in this Chapter, the powers, duties and functions of the Energy Policy Council shall be as prescribed by the Secretary of ~~Commerce.~~the Department of Environment and Natural Resources.

(c) The Energy Policy Council shall serve as the central energy policy planning body of the State and shall communicate and cooperate with federal, State, regional and local bodies and agencies to the end of effecting a coordinated energy policy."

SECTION 15.22.(m) G.S. 113B-11 reads as rewritten:

"**§ 113B-11. Powers and authority.**

...

(c) The Council shall have authority to apply for and utilize grants, contributions and appropriations in order to carry out its duties as defined in Articles 1 and 2 of this Chapter, provided, however, that all such applications and requests are made through and administered by the Department of ~~Commerce.~~Environment and Natural Resources.

...

(e) The Department of ~~Commerce~~ Environment and Natural Resources shall provide the staffing capability to the Energy Policy Council so as to fully and effectively develop recommendations for a comprehensive State energy policy as contained in the provisions of this Article. The Utilities Commission is hereby authorized to make its staff available to the Council to assist in the development of a State energy policy."

PURCHASES AND CONTRACTS

SECTION 15.22.(n) G.S. 143-58.4 reads as rewritten:

"**§ 143-58.4. Energy credit banking and selling program.**

(a) The following definitions apply in this section:

...

(4) Department. – The Department of ~~Commerce.~~The Department of Environment and Natural Resources.

...

(c) Adopt Rules. – The Secretary of ~~Commerce~~ Environment and Natural Resources shall adopt rules as necessary to implement this section."

ENERGY POLICY AND LIFE-CYCLE COST ANALYSIS

SECTION 15.22.(o) G.S. 143-64.11 reads as rewritten:

"**§ 143-64.11. Definitions.**

For purposes of this Article:

...

(2a) "Energy Office" means the State Energy Office of the Department of ~~Commerce.~~Environment and Natural Resources.

...."

SECTION 15.22.(p) G.S. 143-64.12 reads as rewritten:

"**§ 143-64.12. Authority and duties of the Department; State agencies and State institutions of higher learning.**

(a) The Department of ~~Commerce~~ Environment and Natural Resources through the State Energy Office shall develop a comprehensive program to manage energy, water, and other utility use for State agencies and State institutions of higher learning and shall update this program annually. Each State agency and State institution of higher learning shall develop and implement a management plan that is consistent with the State's comprehensive program under this subsection to manage energy, water, and other utility use, and that addresses any findings or recommendations resulting from the energy audit required by subsection (b1) of this section. The energy consumption per gross square foot for all State buildings in total shall be reduced by twenty percent (20%) by 2010 and thirty percent (30%) by 2015 based on energy consumption for the 2002-2003 fiscal year. Each State agency and State institution of higher learning shall update its management plan annually and include strategies for supporting the energy consumption reduction requirements under this subsection. Each community college

shall submit to the State Energy Office an annual written report of utility consumption and costs. Management plans submitted annually by State institutions of higher learning shall include all of the following:

...."

SECTION 15.22.(q) The Revisor of Statutes shall make any other conforming statutory changes that are necessary to reflect the transfer under subsection (a) of this section.

STAFF FOR RURAL ECONOMIC DEVELOPMENT DIVISION AND WATER INFRASTRUCTURE DIVISION

SECTION 15.23. The Departments of Commerce and Environment and Natural Resources shall work together to determine a way in which to equitably distribute the employees within the Department of Commerce, Division of Community Assistance, responsible for the CDBG program between the Rural Economic Development Division, as established by this act, and the Water Infrastructure Division, as established by this act.

OREGON INLET LAND ACQUISITION TASK FORCE

SECTION 15.24.(a) There is hereby created the Oregon Inlet Land Acquisition Task Force for the purpose of determining, reviewing, and considering the State's options for acquiring the federal government's right, title, and interest in Oregon Inlet and the real property adjacent thereto, including submerged lands. A more particular description of the property to be acquired is provided in subsection (h) of this section. Acquiring the property described in subsection (h) of this section will allow the State to preserve Oregon Inlet and to develop long-term management solutions for preserving and enhancing the navigability of Oregon Inlet, which is both a critical transportation corridor and a critical source of commerce for the State's Outer Banks. The Task Force shall have duties including the following:

(1) Consulting with the State Property Office and agencies and departments of the federal government, including the United States Department of Fish and Wildlife, United States National Park Service, Congressional Budget Office, and members of the North Carolina congressional delegation to establish the monetary value of Oregon Inlet and the real property adjacent thereto.

(2) Determining whether and to what degree the federal government will sell to the State Oregon Inlet and the real property adjacent thereto or exchange the property for State-owned real property. If the federal government expresses a willingness to exchange the property for State-owned property, the Task Force shall determine the identity of the State-owned property and the monetary value of the property.

(3) Exploring any and all options for acquiring Oregon Inlet and the real property adjacent thereto, including condemnation of the coastal lands conveyed to the federal government in a deed dated August 7, 1958, and recorded September 3, 1958, in the Dare County Registry of Deeds.

(4) Considering any other issues deemed relevant by the Task Force that are related to the acquisition of Oregon Inlet and the real property adjacent thereto.

SECTION 15.24.(b) The Task Force shall consist of the following 13 members:

(1) The Governor or the Governor's designee, who shall be chair.

(2) The Commissioner of Agriculture and Consumer Services or the Commissioner's designee.

(3) The Secretary of the Department of Administration or the Secretary's designee.

(4) The Secretary of the Department of Commerce or the Secretary's designee.

(5) The Secretary of the Department of Environment and Natural Resources or the Secretary's designee.
(6) The Secretary of the Department of Public Safety or the Secretary's designee.
(7) The Secretary of the Department of Transportation or the Secretary's designee.
(8) The Attorney General or the Attorney General's designee.
(9) Two members of the Senate appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate.
(10) Two members of the House of Representatives appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives.
(11) The chair of the Dare County Board of Commissioners or the chair's designee.

SECTION 15.24.(c) The terms of the members appointed under subsection (b) of this section shall commence on July 1, 2013. A vacancy on the Task Force shall be filled by the Governor, except that a vacancy in an appointment by the General Assembly shall be filled by the original appointing authority.

SECTION 15.24.(d) The Task Force shall meet at the call of the Governor. All members of the Task Force are voting members. A majority of the members of the Task Force constitutes a quorum.

SECTION 15.24.(e) Members of the Task Force shall receive no compensation for their service, but may receive per diem, travel, and subsistence allowances in accordance with G.S. 120-3.1, 138-5, and 138-6, as appropriate. No State funds shall be appropriated to the Task Force or to any State agency or department for the Task Force.

SECTION 15.24.(f) The Department of Commerce shall provide staff to the Task Force. All State agencies and departments shall provide assistance to the Task Force upon request.

SECTION 15.24.(g) By May 1, 2014, the Task Force shall submit a report detailing its findings and recommendations to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the General Assembly. The Task Force shall terminate upon the filing of the report required by this subsection.

SECTION 15.24.(h) The federally owned property to be acquired by the State shall include all of the federal government's right, title, and interest in the real property, including submerged lands, located within the area described by connecting the following latitude and longitude points:

Latitude:	Longitude:
35.78867341400	-75.53323291600
35.78099563900	-75.52953510600
35.78178528500	-75.52513394400
35.78141354400	-75.52334019100
35.77887390700	-75.52025162500
35.77857436500	-75.51969654900
35.77781290800	-75.51900873900
35.77734893400	-75.51884305500
35.77110009400	-75.51641608800
35.76633568000	-75.51356516200
35.76116258500	-75.51036495800
35.75751496100	-75.50801176500
35.75608651600	-75.51228522200
35.75777480300	-75.51379949200

1	35.75860596900	-75.51451482100
2	35.75960484700	-75.51540263600
3	35.76100041400	-75.51665469900
4	35.76117351400	-75.51681019600
5	35.76212525300	-75.51767780700
6	35.76287562800	-75.51836186100
7	35.76316770200	-75.51862812200
8	35.76381492400	-75.51921814800
9	35.76415098700	-75.51955669900
10	35.76445468400	-75.51995078300
11	35.76485826900	-75.52059025200
12	35.76505577400	-75.52094720300
13	35.76528160600	-75.52142243500
14	35.76548548000	-75.52198988800
15	35.76556574300	-75.52341266800
16	35.76566877400	-75.52523906000
17	35.76454632200	-75.52902085700
18	35.76357138700	-75.53246190700
19	35.76337226200	-75.53339199600
20	35.76333441200	-75.53364756500
21	35.76332909000	-75.53390886900
22	35.76335819500	-75.53458675100
23	35.76341367100	-75.53498008200
24	35.76354478800	-75.53535025300
25	35.76361737400	-75.53547511500
26	35.76383009500	-75.53584104000
27	35.76425804000	-75.53655388200
28	35.76471137600	-75.53740653000
29	35.76502225800	-75.53875413900
30	35.76521060100	-75.54081681300
31	35.76523404100	-75.54194712400
32	35.76525043500	-75.54273769600
33	35.76526768700	-75.54353888100
34	35.76532715800	-75.54394387700
35	35.76541340600	-75.54428520100
36	35.76550080400	-75.54463107400
37	35.76577010000	-75.54534161500
38	35.76597248500	-75.54579049600
39	35.76632062300	-75.54620555000
40	35.76655164400	-75.54635947100
41	35.76725670200	-75.54660003000
42	35.76764041200	-75.54670534600
43	35.76795847900	-75.54670661900
44	35.77077784300	-75.54629895400
45	35.77115918300	-75.54624921300
46	35.77148150500	-75.54619720600
47	35.77234520600	-75.54605784500
48	35.77377517700	-75.54582711000
49	35.77469339200	-75.54566942900
50	35.77590248800	-75.54531166000
51	35.77673545200	-75.54571296000

35.77711645600 -75.54582301200
35.77742981800 -75.54581293600
35.77771608200 -75.54572387500
35.77791539100 -75.54559449800
35.77810904100 -75.54546879500
35.77904847600 -75.54478184500
35.77912430900 -75.54486803600
35.77981427400 -75.54534862400
35.78042966800 -75.54567367500
35.78135818100 -75.54600030500
35.78175635200 -75.54606539500
35.78221194600 -75.54612839200
35.78279713100 -75.54636296300
35.78378882800 -75.54668308800
35.78766932400 -75.54709605000
35.79082109200 -75.54691243300
35.79820587700 -75.54665906000
35.79859286600 -75.54249624600
35.80046065100 -75.53877586500
35.79408521600 -75.53252823100
35.79248815800 -75.53183764800
35.79151104100 -75.53197071600
35.78867341400 -75.53323291600
35.76886839300 -75.52536743000
35.76724598100 -75.52438052100
35.76805629700 -75.52240411900
35.76966632600 -75.52339266000
35.76886839300 -75.52536743000.

COMMERCE NONPROFITS/REPORTING REQUIREMENTS AND USE OF STATE FUNDS

SECTION 15.25.(a) High Point Furniture Market Authority and RTI International shall do the following:

(1) By September 1 of each year, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on prior State fiscal year program activities, objectives, and accomplishments and prior State fiscal year itemized expenditures and fund sources.

(2) Provide to the Fiscal Research Division a copy of the entity's annual audited financial statement within 30 days of issuance of the statement.

SECTION 15.25.(b) No more than one hundred twenty thousand dollars ($120,000) in State funds shall be used for the annual salary of any one employee of an entity listed in subsection (a) of this section. For purposes of this section, the term "State funds" means funds appropriated or allocated to an entity and interest earned on those funds.

SECTION 15.25.(c) No State funds shall be used by an entity listed in subsection (a) of this section (i) to hire or facilitate the hiring of a lobbyist or any person performing the duties or activities of a lobbyist, without regard to the person's title or (ii) to facilitate any lobbying efforts.

SECTION 15.25.(d) Funds appropriated in this act to RTI International shall be used to support new research that is conducted in the State of North Carolina. Funds

appropriated to RTI International for the 2013-2014 fiscal year that are unexpended and unencumbered as of June 30, 2014, shall revert to the General Fund on June 30, 2014.

RURAL CENTER/REPEAL STATUTORY REFERENCES

SECTION 15.26.(a) G.S. 106-744 reads as rewritten:

"**§ 106-744. Purchase of agricultural conservation easements; establishment of North Carolina Agricultural Development and Farmland Preservation Trust Fund and Advisory Committee.**

...

(g) There is established the Agricultural Development and Farmland Preservation Trust Fund Advisory Committee. The Advisory Committee shall be administratively located within the Department of Agriculture and Consumer Services and shall advise the Commissioner on the prioritization and allocation of funds, the development of criteria for awarding funds, program planning, and other areas where monies from the Trust Fund can be used to promote the growth and development of family farms in North Carolina. The Advisory Committee shall be composed of 19 members as follows:

...

~~(7) The Executive Director of the North Carolina Rural Economic Development Center, Inc., or the Executive Director's designee.~~The Assistant Secretary for the Rural Economic Development Division within the Department of Commerce or the Assistant Secretary's designee.

...."

SECTION 15.26.(b) The Revisor of Statutes may, where necessitated by this section, correct any reference in the General Statutes and make any other conforming changes.

RURAL CENTER/EXPENSES FOR ADMINISTERING STATE-FUNDED GRANT PROGRAMS

SECTION 15.27.(a) The North Carolina Rural Economic Development Center, Inc. (Rural Center), may repurpose funds previously appropriated by the General Assembly for grant and loan programs to administer State-funded programs. Up to three million dollars ($3,000,000) in the 2013-2014 fiscal year and up to three million dollars ($3,000,000) in the 2014-2015 fiscal year of any unencumbered funds appropriated to the Rural Center in prior fiscal years may be repurposed to cover administrative expenses associated with State-funded programs. However, prior to repurposing funds to cover administrative expenses as provided in this subsection, the Rural Center shall first expend all State funds appropriated in prior fiscal years for administrative expenses.

SECTION 15.27.(b) No more than one hundred twenty thousand dollars ($120,000) in State funds shall be used for the annual salary of any one employee of the Rural Center. For purposes of this section, the term "State funds" means funds appropriated or allocated to an entity and interest earned on those funds.

SECTION 15.27.(c) No State funds shall be appropriated or allocated to the Rural Center for the 2013-2015 biennium, including grants, loans, or any other awards made by a State agency, department, or other entity. No nonprofit to whom State funds were appropriated or allocated in prior fiscal years or the 2013-2015 biennium shall grant, loan, or give any of those State funds to the Rural Center.

REGIONAL ECONOMIC DEVELOPMENT COMMISSIONS/STATUTES CREATING COMMISSIONS REPEALED

SECTION 15.28.(a) Articles 2 and 4 of Chapter 158 of the General Statutes are repealed.

SECTION 15.28.(b) Upon the dissolution of North Carolina's Eastern Region, the North Carolina's Eastern Region Development Commission, the governing body of North Carolina's Eastern Region, shall liquidate the assets of the Region to the extent possible and distribute all Region assets to the counties of the Region in proportion to the amount of the vehicle registration tax levied by the Commission and collected in each county. The assets of the Region that exceed the amount of the vehicle registration tax collected by the counties and are attributable to an appropriation made to the Region by the General Assembly shall revert to the General Fund and may not be distributed to the counties. A county may use funds distributed to it pursuant to this subsection only for economic development projects and infrastructure construction projects. In calculating the amount to be refunded to each county, the Region shall first allocate amounts loaned and not yet repaid as follows:

(1) Amounts loaned for a project in a county will be allocated to that county to the extent of its beneficial ownership of the principal of the interest-bearing trust account in which the proceeds of the vehicle registration tax levied by the Commission were placed, and the county will become the owner of the right to repayment of the amount loaned to the extent of its beneficial ownership of the principal of the trust account.

(2) Amounts not allocated pursuant to subdivision (1) of this subsection shall be allocated among the remaining counties in proportion to the amount of the vehicle registration tax collected in each county, and the remaining counties shall become the owners of the right to repayment of the amounts loaned in proportion to the amount of the vehicle registration tax collected in each county.

Notes and other instruments representing the right to repayment shall, upon dissolution of the Region, be held and collected by the State Treasurer, who shall disburse the collections to the counties as provided in this subsection.

The Commission shall distribute those assets that it is unable to liquidate among the Region counties insofar as practical on an equitable basis, as determined by the Commission. Upon dissolution, the State of North Carolina shall succeed to any remaining rights, obligations, and liabilities of the Region not assigned to the Region counties.

SECTION 15.28.(c) G.S. 120-123 reads as rewritten:

"**§ 120-123. Service by members of the General Assembly on certain boards and commissions.**

No member of the General Assembly may serve on any of the following boards or commissions:

...

~~(62) The North Carolina's Northeast Commission, as established by G.S. 158-8.2.~~

...."

SECTION 15.28.(d) G.S. 143-215.42 reads as rewritten:

"**§ 143-215.42. Acquisition of lands.**

...

(h) This section shall not authorize acquisition by condemnation of interests in land within the boundaries of any project to be constructed by the Tennessee Valley Authority, its agents or subdivision or any project licensed by the Federal Power Commission or interests in land owned or held for use by a public utility, as defined in G.S. 62-3. ~~No commission created pursuant to G.S. 158-8 shall condemn or acquire any property to be used by the Tennessee Valley Authority, its agents or subdivision.~~"

SECTION 15.28.(e) G.S. 143-506.10 reads as rewritten:

"**§ 143-506.10. Designation of growth centers; achieving balanced growth.**

It shall be the policy of the State of North Carolina to support the expansion of the State and to designate growth areas or centers with the potential, capacity and desire for growth. The

Governor, with the advice of county and municipal government officials and citizens, is charged with designating growth areas or centers, which shall include at least one center in each North Carolina county. Designation of growth areas or centers shall be reviewed annually. These designations may be used for the purpose of establishing priority consideration for State and federal assistance for growth.

Progress toward achieving balanced growth shall be measured by the strengthening of economic activity and the adequacy of public services within each of the State's multi-county ~~regions and, as to the geographical area included, the Southeastern Economic Development Commission.~~regions. The Governor, with the advice of county and municipal government officials and citizens, shall develop measures of progress toward achieving balanced growth."

SECTION 15.28.(f) G.S. 153A-398 reads as rewritten:

"**§ 153A-398. Regional planning and economic development commissions.**

Two or more counties, cities, or counties and cities may create a regional planning and economic development commission by adopting identical concurrent resolutions to that effect. Such a commission has the powers granted by this ~~Article and the powers granted by Chapter 158, Article 2.~~Article. If such a commission is created, it shall maintain separate books of account for appropriations and expenditures made pursuant to this ~~Article and for appropriations and expenditures made pursuant to Chapter 158, Article 2.~~Article."

SECTION 15.28.(g) The Revisor of Statutes may, where necessitated by this section, correct any reference in the General Statutes and make any other conforming changes.

HIGH POINT MARKET AUTHORITY/HOUSE COMMERCE ECONOMIC DEVELOPER POSITION

SECTION 15.29. To receive State funds, the High Point Market Authority shall provide suitable work space for a Department of Commerce economic developer position.

NC BIOTECHNOLOGY CENTER

SECTION 15.30.(a) Of the funds appropriated in this act to the North Carolina Biotechnology Center (hereinafter "Center"), the sum of eight million six hundred thousand three hundred thirty-eight dollars ($8,600,338) for each fiscal year in the 2013-2015 biennium shall be allocated as follows:

(1) Job Creation: Ag Biotech Initiative, Economic and Industrial Development, and related activities – $1,852,063;

(2) Science and Commercialization: Science and Technology Development, Centers of Innovation, Business and Technology Development, Education and Training, and related activities – $5,566,743; and

(3) Center Operations: Administration, Professional and Technical Assistance and Oversight, Corporate Communications, Human Resource Management, Financial and Grant Administration, Legal, and Accounting – $1,181,532.

SECTION 15.30.(b) Except to provide administrative flexibility, up to ten percent (10%) of each of the allocations in subsection (a) of this section may be reallocated to one or more of the other allocations in subsection (a) of this section if, in the judgment of Center management, the reallocation will advance the mission of the Center.

SECTION 15.30.(c) The Center shall comply with the following reporting requirements:

(1) By September 1 of each year, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on prior State fiscal year program activities, objectives, and accomplishments and prior State fiscal year itemized expenditures and fund sources.

(2) Provide to the Fiscal Research Division a copy of the Center's annual audited financial statement within 30 days of issuance of the statement.

SECTION 15.30.(d) No more than one hundred twenty thousand dollars ($120,000) in State funds shall be used for the annual salary of any one employee of the Center. For purposes of this section, the term "State funds" means funds appropriated or allocated to an entity and interest earned on those funds.

SECTION 15.30.(e) No State funds shall be used by the Center (i) to hire or facilitate the hiring of a lobbyist or any person performing the duties or activities of a lobbyist, without regard to the person's title or (ii) to facilitate any lobbying efforts.

NC BIOTECHNOLOGY CENTER/CHALLENGE GRANT

SECTION 15.31.(a) It is the intent of the General Assembly that the North Carolina Biotechnology Center (hereinafter "Center") raise at least one million dollars ($1,000,000) in non-State funds for the 2013-2014 fiscal year and at least two million dollars ($2,000,000) in non-State funds for the 2014-2015 fiscal year. Receipts collected in prior fiscal years, State funds previously appropriated to the Center, and interest earned on State funds appropriated to the Center cannot be used as matching funds required by this section.

SECTION 15.31.(b) For the 2013-2014 fiscal year, the Center shall receive allocations as follows:

(1) Three-fourths of the funds appropriated in this act for the 2013-2014 fiscal year will be distributed to the Center in regular installments between July 1, 2013, and March 31, 2014.

(2) The remaining one-fourth of the funds appropriated in this act for the 2013-2014 fiscal year will be distributed in the fourth quarter of the fiscal year after demonstrating to the Department of Commerce that it has received at least the sum of one million dollars ($1,000,000) in non-State funds to match this allotment.

SECTION 15.31.(c) For the 2014-2015 fiscal year, the Center shall receive allocations as follows:

(1) One-half of the funds appropriated in this act for the 2014-2015 fiscal year will be distributed to the Center in regular installments between July 1, 2014, and December 31, 2014.

(2) One-fourth of the funds appropriated in this act for the 2014-2015 fiscal year will be distributed in the third quarter of the fiscal year after demonstrating to the Department of Commerce that it has received at least the sum of one million dollars ($1,000,000) in non-State funds to match this allotment.

(3) The remaining one-fourth of the funds appropriated in this act for the 2014-2015 fiscal year will be distributed in the fourth quarter of the fiscal year after demonstrating to the Department of Commerce that it has received at least the sum of one million dollars ($1,000,000) in non-State funds in addition to the requirements provided in subdivision (2) of this subsection.

NORTH CAROLINA BIOTECHNOLOGY CENTER/EXAMINE CENTER OPERATIONS

SECTION 15.32.(a) The Board of Directors (hereinafter "Board") of the North Carolina Biotechnology Center (hereinafter "Center") shall review and examine each aspect of the Center's operations to determine ways in which efficiencies and cost savings can be achieved. The review required by this section shall include evaluating:

(1) The activities conducted at the Center's headquarters in Research Triangle Park to determine how each and every activity is necessary to achieve the

goals for which State funds are appropriated. Any unnecessary or duplicative activities shall be reduced or eliminated.

(2) The activities conducted at the Center's regional offices and how those activities can be consolidated and performed in fewer locations.

(3) Staffing requirements at the Center's headquarters and at the regional offices to determine whether some staff positions are duplicated and, if so, whether those duplications can be reduced or eliminated.

(4) Whether State funds would be better used to provide additional grants and loans rather than to support current staffing levels and whether reducing current staffing levels to increase the amount of funds available for grants and loans would provide a positive return on investment. The Center shall determine the appropriate percentage of State funds that should be disbursed for grants, loans, and staff to maximize the return on State funds appropriated to the Center.

(5) The administration of grant and loan programs funded in any way with State funds to ensure that the programs are conducted in a cost-efficient manner.

(6) Any and all cash balances on hand to determine ways in which those cash balances can be used quickly to make grants and loans.

(7) The size of the Board and the overall governance of the Center to determine whether changes in either or both can be made to make the Center more cost-efficient and effective in providing grants or loans.

SECTION 15.32.(b) By March 1, 2014, the Center shall report the findings of the review required by subsection (a) of this section to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division. The report shall include the steps taken by the Center to implement any changes made to the Center's operations as a result of the review and shall include the Center's anticipated funding requirements from the General Assembly.

SECTION 15.32.(c) Remaining allotments after March 1, 2014, shall not be released to the Center if it does not conduct the review and report its findings as provided in this section.

PART XVI. DEPARTMENT OF PUBLIC SAFETY

SUBPART XVI-A. GENERAL PROVISIONS

FEDERAL GRANT REPORTING AND MATCHING FUNDS

SECTION 16A.1.(a) The Department of Public Safety, the Department of Justice, and the Judicial Department shall report by May 1 of each year to the Joint Legislative Commission on Governmental Operations, the Chairs of the House of Representatives Subcommittee on Justice and Public Safety, and the Chairs of the Senate Appropriations Committee on Justice and Public Safety on federal grant funds received or preapproved for receipt by those departments. The report shall include information on the amount of grant funds received or preapproved for receipt by each department, the use of the funds, the State match expended to receive the funds, and the period to be covered by each grant. If the department intends to continue the program beyond the end of the grant period, the department shall report on the proposed method for continuing the funding of the program at the end of the grant period. Each department shall also report on any information it may have indicating that the State will be requested to provide future funding for a program presently supported by a local grant.

SECTION 16A.1.(b) Notwithstanding the provisions of G.S. 143C-6-9, the Department of Public Safety may use up to the sum of one million two hundred thousand

dollars ($1,200,000) during the 2013-2014 fiscal year and up to the sum of one million two hundred thousand dollars ($1,200,000) during the 2014-2015 fiscal year from funds available to the Department to provide the State match needed in order to receive federal grant funds. Prior to using funds for this purpose, the Department shall report to the Chairs of the House of Representatives Subcommittee on Justice and Public Safety, the Chairs of the Senate Appropriations Committee on Justice and Public Safety, and the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds.

EXEMPT DPS FROM MOTOR FLEET MANAGEMENT

SECTION 16A.2.(a) G.S. 143-341 reads as rewritten:

"**§ 143-341. Powers and duties of Department.**

...

(8) General Services:

...

i. To establish and operate a central motor pool and such subsidiary related facilities as the Secretary may deem necessary, and to that end:

...

3. To require on a schedule determined by the Department all State agencies to transfer ownership, custody or control of any or all passenger motor vehicles within the ownership, custody or control of that agency to the Department, except those motor vehicles under the ownership, custody or control of ~~the Highway Patrol, the State Bureau of Investigation,~~(i) the Department of Public Safety; or (ii) the constituent institutions of The University of North Carolina which are used primarily for law-enforcement ~~purposes, and except those motor vehicles under the ownership, custody or control of the Department of Public Safety for Butner Public Safety which are used primarily for law enforcement, fire, or emergency purposes.~~purposes."

SECTION 16A.2.(b) Unexpended funds previously transferred from the Department of Public Safety to Fund Code 74100-7211 shall be reallocated to the Department of Public Safety to support the Department of Public Safety Motor Fleet and are hereby appropriated for that purpose.

SECTION 16A.2.(c) Of the funds appropriated to the Department of Public Safety in the 2012-2013 fiscal year, and subject to the approval of the State Chief Information Officer, the sum of ten million dollars ($10,000,000) shall be reallocated for the purchase and implementation of an enterprise resource planning (ERP) system that is to be part of a statewide ERP initiative.

SECTION 16A.2.(d) Subsection (c) of this section becomes effective June 30, 2013.

USE OF CLOSED FACILITIES

SECTION 16A.3. In conjunction with the closing of prison facilities, youth detention centers, and youth development centers, the Department of Public Safety shall consult with the county or municipality in which the facility is located, with the elected State and local officials, and with State and federal agencies about the possibility of converting that facility to other use. The Department may also consult with any private for-profit or nonprofit firm about the possibility of converting the facility to other use. In developing a proposal for future use of each facility, the Department shall give priority to converting the facility to other

criminal justice use. Consistent with existing law and the future needs of the Department of Public Safety, the State may provide for the transfer or the lease of any of these facilities to counties, municipalities, State agencies, federal agencies, or private firms wishing to convert them to other use. The Department of Public Safety may also consider converting some of the facilities recommended for closing from one security custody level to another, where that conversion would be cost-effective. A prison unit under lease to a county pursuant to the provisions of this section for use as a jail is exempt for the period of the lease from any of the minimum standards adopted by the Secretary of Health and Human Services pursuant to G.S. 153A-221 for the housing of adult prisoners that would subject the unit to greater standards than those required of a unit of the State prison system.

LIMITED AUTHORITY TO RECLASSIFY AND ELIMINATE CERTAIN POSITIONS

SECTION 16A.4. Notwithstanding any other provision of law, subject to the approval of the Director of the Budget, the Secretary of the Department of Public Safety may reclassify or eliminate existing administrative positions that are not specifically addressed in this act as needed for the efficient operation of the Department. The Secretary of the Department of Public Safety shall report any position reclassification undertaken pursuant to this section to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, the Chairs of the Senate Appropriations Committee on Justice and Public Safety, and to the Fiscal Research Division, within 30 days of the reclassification. The report shall include the position number, original title, original fund code, original budgeted salary, new title, new fund code, and new budgeted salary for each reclassified position.

SUBPART XVI-B. DIVISION OF LAW ENFORCEMENT

USE OF SEIZED AND FORFEITED PROPERTY TRANSFERRED TO STATE LAW ENFORCEMENT AGENCIES BY THE FEDERAL GOVERNMENT

SECTION 16B.1.(a) Assets transferred to the Department of Justice or to the Department of Public Safety during the 2013-2015 fiscal biennium pursuant to applicable federal law shall be credited to the budgets of the respective departments and shall result in an increase of law enforcement resources for those departments. The Departments of Justice and Public Safety shall report to the Joint Legislative Commission on Governmental Operations, the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, and the Chairs of the Senate Appropriations Committee on Justice and Public Safety upon receipt of the assets and, before using the assets, shall report on the intended use of the assets and the departmental priorities on which the assets may be expended.

SECTION 16B.1.(b) The General Assembly finds that the use of assets transferred pursuant to federal law for new personnel positions, new projects, acquisition of real property, repair of buildings where the repair includes structural change, and construction of or additions to buildings may result in additional expenses for the State in future fiscal periods. Therefore, the Department of Justice and the Department of Public Safety are prohibited from using these assets for such purposes without the prior approval of the General Assembly.

SECTION 16B.1.(c) Nothing in this section prohibits North Carolina law enforcement agencies from receiving funds from the United States Department of Justice, the United States Department of the Treasury, and the United States Department of Health and Human Services.

TRANSFER ABC PERMIT APPLICATION INVESTIGATION FUNCTION FROM ALE TO ABC COMMISSION

SECTION 16B.2. G.S. 18B-902(b) reads as rewritten:

"(b) Investigation. – Before issuing a new permit, the ~~Commission, with the assistance of the ALE Section,~~Commission shall investigate the applicant and the premises for which the permit is requested. The Commission may request the assistance of local ABC officers or other law enforcement officials in investigating applications. An applicant shall cooperate fully with the investigation. The Commission may delegate the duty to conduct investigations under this section to local boards.

The ~~Department of Justice~~Department of Public Safety may provide a criminal record check to the ~~ALE Section~~Commission or to the appropriate local board for a person who has applied for a permit through the Commission. The ~~ALE Section~~Commission or the appropriate local board shall provide to the ~~Department of Justice,~~Department of Public Safety, along with the request, the fingerprints of the applicant, any additional information required by the ~~Department of Justice,~~Department of Public Safety, and a form signed by the applicant consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The ~~ALE Section and the~~ Commission and local boards shall keep all information pursuant to this subsection privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes.

The ~~Department of Justice~~Department of Public Safety may charge each applicant a fee for conducting the checks of criminal history records authorized by this subsection."

CREATION OF REGIONAL SBI/ALE OFFICES

SECTION 16B.3. The Department of Public Safety shall create eight regional offices in the Division of Law Enforcement at each of which shall be collocated personnel and property of the Alcohol Law Enforcement Section and the State Bureau of Investigation. Specifically, each regional office shall house one district of personnel and equipment for the Alcohol Law Enforcement Section, and appropriate personnel and equipment for the State Bureau of Investigation. These regional offices shall be operational by July 1, 2014, and on or before March 1, 2014, the Department shall report to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, the Chairs of the Senate Appropriations Committee on Justice and Public Safety, and the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety on the following:

(1) The amount of savings the Department anticipates achieving as a result of collocating personnel and property of the Alcohol Law Enforcement Section and the State Bureau of Investigation at the eight regional offices.

(2) The counties that will be included in each district and the regional office that will serve each district.

(3) The staffing levels anticipated at each regional office.

(4) Any statutory or regulatory changes that will be required as a prerequisite to or consequence of housing personnel and property of the Alcohol Law Enforcement Section and the State Bureau of Investigation within the same regional offices.

ELIMINATE BUTNER PUBLIC SAFETY AUTHORITY

SECTION 16B.4.(a) G.S. 122C-408 is repealed and the Butner Public Safety Authority hereby abolished.

SECTION 16B.4.(b) The town of Butner shall file articles of dissolution for the Butner Public Safety Authority with the Secretary of State. Upon filing those articles, all of the

property of the former Butner Public Safety Authority shall be distributed to the Town of Butner.

SECTION 16B.4.(c) G.S. 143-341(8)(i)(3) reads as rewritten:

"**§ 143-341. Powers and duties of Department.**

The Department of Administration has the following powers and duties:

...

(8) General Services:

...

i. To establish and operate a central motor pool and such subsidiary related facilities as the Secretary may deem necessary, and to that end:

...

3. To require on a schedule determined by the Department all State agencies to transfer ownership, custody or control of any or all passenger motor vehicles within the ownership, custody or control of that agency to the Department, except those motor vehicles under the ownership, custody or control of the Highway Patrol, the State Bureau of Investigation, or the constituent institutions of The University of North Carolina which are used primarily for law-enforcement ~~purposes, and except those motor vehicles under the ownership, custody or control of the Department of Public Safety for Butner Public Safety which are used primarily for law-enforcement, fire, or emergency purposes.~~ purposes."

SECTION 16B.4.(d) G.S. 160A-288(d) reads as rewritten:

"(d) For purposes of this section, the following shall be considered the equivalent of a municipal police department:

(1) Campus law-enforcement agencies established pursuant to G.S. 115D-21.1(a) or G.S. 116-40.5(a).

(2) Colleges or universities which are licensed, or exempted from licensure, by G.S. 116-15 and which employ company police officers commissioned by the Attorney General pursuant to Chapter 74E or Chapter 74G of the General Statutes.

(3) Law enforcement agencies operated or eligible to be operated by a municipality pursuant to G.S. 63-53(2).

~~(4) Butner Public Safety Authority.~~

(5) A Company Police agency of the Department of Agriculture and Consumer Services commissioned by the Attorney General pursuant to Chapter 74E of the General Statutes."

SECTION 16B.4.(e) G.S. 160A-288.2(d) reads as rewritten:

"(d) For the purposes of this section, the following shall be considered the equivalent of a municipal police department:

(1) Campus law-enforcement agencies established pursuant to G.S. 116-40.5(a).

(2) Colleges or universities which are licensed, or exempted from licensure, by G.S. 116-15 and which employ company police officers commissioned by the Attorney General pursuant to Chapter 74E or Chapter 74G of the General Statutes.

~~(3) Butner Public Safety Authority.~~"

VOICE INTEROPERABILITY PLAN FOR EMERGENCY RESPONSE (VIPER) SYSTEM

SECTION 16B.5.(a) It is the intent of the General Assembly to continue to support development and implementation of the State's Voice Interoperability Plan for Emergency Response (VIPER) system in subsequent fiscal years. The Department is hereby authorized to spend up to five million dollars ($5,000,000) during the 2013-2014 fiscal year and ten million dollars ($10,000,000) during the 2014-2015 fiscal year to continue development and implementation of the State's VIPER system by constructing towers that will facilitate system expansion. Notwithstanding any other provision of law, State agencies, offices, commissions, and non-State entities shall not spend more than the amount of State funds authorized in this section for this purpose during the 2013-2015 fiscal biennium. This prohibition shall not be construed to prevent the expenditure of federal funds. This section does not impair or authorize the breach of any contract and instead affects the availability of appropriated funds within the meaning of G.S. 143C-6-8 and the terms of the North Carolina Information Technology Procurement Office General Terms and Conditions for Goods and Related Services related to availability of funds as specified in the applicable contract or contract extension.

SECTION 16B.5.(b) The Department of Public Safety shall report to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety on a quarterly basis on the progress of the State's VIPER system.

SUBPART XVI-C. DIVISION OF ADULT CORRECTION

LIMIT USE OF OPERATIONAL FUNDS

SECTION 16C.1. Funds appropriated in this act to the Department of Public Safety for operational costs for additional facilities shall be used for personnel and operating expenses set forth in the budget approved by the General Assembly. These funds shall not be expended for any other purpose, except as provided for in this act, and shall not be expended for additional prison personnel positions until the new facilities are within 120 days of projected completion, except that the Department may establish critical positions prior to 120 days of completion representing no more than twenty percent (20%) of the total estimated number of positions.

REIMBURSE COUNTIES FOR HOUSING AND EXTRAORDINARY MEDICAL COSTS FOR INMATES, PAROLEES, AND POST-RELEASE SUPERVISEES AWAITING TRANSFER TO STATE PRISON SYSTEM

SECTION 16C.2. Notwithstanding G.S. 143C-6-9, the Department of Public Safety may use funds available to the Department for the 2013-2015 fiscal biennium to pay the sum of forty dollars ($40.00) per day as reimbursement to counties for the cost of housing convicted inmates, parolees, and post-release supervisees awaiting transfer to the State prison system, as provided in G.S. 148-29. The Department shall report quarterly to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety and the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety and Senate Appropriations Committee on Justice and Public Safety on the expenditure of funds to reimburse counties for prisoners awaiting transfer and on its progress in reducing the jail backlog.

CENTER FOR COMMUNITY TRANSITIONS/CONTRACT AND REPORT

SECTION 16C.3. The Department of Public Safety may continue to contract with The Center for Community Transitions, Inc., a nonprofit corporation, for the purchase of prison beds for minimum security female inmates during the 2013-2015 fiscal biennium. The Center for Community Transitions, Inc., shall report by February 1 of each year to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety on the annual cost per inmate

and the average daily inmate population compared to bed capacity using the same methodology as that used by the Department of Public Safety.

INMATE MEDICAL COSTS

SECTION 16C.4.(a) The Department of Public Safety shall reimburse those providers and facilities providing approved inmate medical services outside the correctional facility the lesser amount of either a rate of seventy percent (70%) of the provider's then-current prevailing charge or two times the then-current Medicaid rate for any given service. The Department shall have the right to audit any given provider to determine the actual prevailing charge to ensure compliance with this provision.

This section does apply to vendors providing services that are not billed on a fee-for-service basis, such as temporary staffing. Nothing in this section shall preclude the Department from contracting with a provider for services at rates that provide greater documentable cost avoidance for the State than do the rates contained in this section or at rates that are less favorable to the State but that will ensure the continued access to care.

SECTION 16C.4.(b) The Department of Public Safety shall make every effort to contain inmate medical costs by making use of its own hospital and health care facilities to provide health care services to inmates. To the extent that the Department of Public Safety must utilize other facilities and services to provide health care services to inmates, the Department shall make reasonable efforts to make use of hospitals or other providers with which it has a contract or, if none is reasonably available, hospitals with available capacity or other health care facilities in a region to accomplish that goal. The Department shall make reasonable efforts to equitably distribute inmates among all hospitals or other appropriate health care facilities.

SECTION 16C.4.(c) The Department of Public Safety shall report to the Joint Legislative Oversight Committee on Justice and Public Safety and the Chairs of the House of Representative Appropriations Subcommittee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety no later than November 1, 2013, and quarterly thereafter on:

(1) The percentage of the total inmates requiring hospitalization or hospital services who receive that treatment at each hospital.

(2) The volume of services provided by community medical providers that can be scheduled in advance and, of that volume, the percentage of those services that are provided by contracted providers.

(3) The volume of services provided by community medical providers that cannot be scheduled in advance and, of that volume, the percentage of those services that are provided by contracted providers.

(4) The volume of services provided by community medical providers that are emergent cases requiring hospital admissions and emergent cases not requiring hospital admissions.

(5) The volume of inpatient medical services provided to Medicaid-eligible inmates, the cost of treatment, and the estimated savings of paying the nonfederal portion of Medicaid for the services.

(6) The status of the Division's efforts to contract with hospitals to provide secure wards in each of the State's five prison regions.

ANNUAL REPORT ON SAFEKEEPERS

SECTION 16C.5. The Department of Public Safety shall report by October 1 of each year to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, the Chairs of the Senate Appropriations Committee on Justice and Public Safety, and the Chairs of the Joint Legislative Oversight Committee on Justice and

Public Safety on county prisoners housed in the State prison system pursuant to safekeeping orders under G.S. 162-39(b) to avoid security risks in county jails or due to insufficient or inadequate county facilities. The report shall include:

(1) The number of safekeepers currently housed by the Department.
(2) A list of the facilities where safekeepers are housed and the population of safekeepers by facility.
(3) The average length of stay by a safekeeper in one of those facilities.
(4) The amount paid by counties for housing and extraordinary medical care of safekeepers.
(5) A list of the counties in arrears for safekeeper payments owed to the Department at the end of the fiscal year.

STATEWIDE MISDEMEANANT CONFINEMENT PROGRAM

SECTION 16C.6.(a) G.S. 148-10.4(e) reads as rewritten:

"(e) Operating and Administrative Expenses. ~~Ten percent (10%)~~Five percent (5%) of the monthly receipts collected and credited to the Statewide Misdemeanant Confinement Fund shall be transferred on a monthly basis to the Sheriffs' Association to be used to support the Program and for administrative and operating expenses of the Association and its staff. ~~One percent (1%)~~Five percent (5%) of the monthly receipts collected and credited to the Statewide Misdemeanant Confinement Fund shall be transferred on a monthly basis to the General Fund to be allocated to the Division of Adult Correction for its administrative and operating expenses for the Program."

SECTION 16C.6.(b) The North Carolina Sheriffs' Association shall report by October 1 of each year to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, the Chairs of the Senate Appropriations Committee on Justice and Public Safety, and to the Joint Legislative Oversight Committee on Justice and Public Safety on the Statewide Misdemeanant Confinement Program. The report shall include the following with respect to the prior fiscal year:

(1) Revenue collected by the Statewide Misdemeanant Confinement Program.
(2) The cost of housing prisoners by county under the Program.
(3) The cost of transporting prisoners by county under the Program.
(4) Personnel costs by county.
(5) Inmate medical care costs by county.
(6) The number of counties that volunteer to house inmates under the Program.
(7) The administrative costs paid to the Sheriffs' Association and to the Department of Public Safety.

INMATE CONSTRUCTION PROGRAM

SECTION 16C.7. Notwithstanding G.S. 66-58 or any other provision of law, during the 2013-2015 fiscal biennium, the State Construction Office may, wherever feasible, utilize inmates in the custody of the Division of Adult Correction of the Department of Public Safety through the Inmate Construction Program for repair and renovation projects on State-owned facilities, with priority given to Department of Public Safety construction projects.

TRANSFER OF POSITIONS FROM WESTERN YOUTH INSTITUTION TO FOOTHILLS CORRECTIONAL INSTITUTION

SECTION 16C.8. The Division of Adult Correction shall transfer 55 positions from Western Youth Institution to Foothills Correctional Institution to supervise the youthful offenders being transferred from Western Youth Institution to Foothills Correctional Institution.

LEGAL RESEARCH SOFTWARE AND COMPUTER FACILITIES AVAILABLE TO INMATES

SECTION 16C.9. The Department of Public Safety shall develop and implement a system for the provision of legal research software on computer facilities available to inmates in the State prison system, in order to fulfill the State's responsibility to provide inmates in the custody of the Division of Adult Correction with legal assistance and access to the courts. The system shall make use of the most cost-effective legal research software available to meet the State's responsibility and shall be ready for use by inmates no later than July 1, 2013.

REPORT ON PROBATION AND PAROLE CASELOADS

SECTION 16C.10. Article 13 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-707.1. Report on probation and parole caseloads.**

(a) The Department of Public Safety shall report by March 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Oversight Committee on Justice and Public Safety on caseload averages for probation and parole officers. The report shall include:

(1) Data on current caseload averages and district averages for probation/parole officer positions.

(2) Data on current span of control for chief probation officers.

(3) An analysis of the optimal caseloads for these officer classifications.

(4) The number and role of paraprofessionals in supervising low-risk caseloads.

(5) The process of assigning offenders to an appropriate supervision level based on a risk/needs assessment.

(6) Data on cases supervised solely for the collection of court-ordered payments.

(b) The Department of Public Safety shall report by March 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Oversight Committee on Justice and Public Safety on the following:

(1) The number of sex offenders enrolled on active and passive GPS monitoring.

(2) The caseloads of probation officers assigned to GPS-monitored sex offenders.

(3) The number of violations.

(4) The number of absconders.

(5) The projected number of offenders to be enrolled by the end of the fiscal year."

PAROLE ELIGIBILITY REPORT/MUTUAL AGREEMENT PAROLE PROGRAM/MEDICAL RELEASE PROGRAM

SECTION 16C.11.(a) The Post-Release Supervision and Parole Commission shall, with the assistance of the North Carolina Sentencing and Policy Advisory Commission and the Department of Public Safety, analyze the amount of time each inmate who is eligible for parole on or before July 1, 2014, has served compared to the time served by offenders under Structured Sentencing for comparable crimes. The Commission shall determine if the person has served more time in custody than the person would have served if sentenced to the maximum sentence under the provisions of Article 81B of Chapter 15A of the General Statutes. The "maximum sentence," for the purposes of this section, shall be calculated as set forth in subsection (b) of this section.

SECTION 16C.11.(b) For the purposes of this section, the following rules apply for the calculation of the maximum sentence:

(1) The offense upon which the person was convicted shall be classified as the same felony class as the offense would have been classified if committed after the effective date of Article 81B of Chapter 15A of the General Statutes.

(2) The minimum sentence shall be the maximum number of months in the presumptive range of minimum durations in Prior Record Level VI of G.S. 15A-1340.17(c) for the felony class determined under subdivision (1) of this subsection. The maximum sentence shall be calculated using G.S. 15A-1340.17(d), (e), or (e1).

(3) If a person is serving sentences for two or more offenses that are concurrent in any respect, then the offense with the greater classification shall be used to determine a single maximum sentence for the concurrent offenses. The fact that the person has been convicted of multiple offenses may be considered by the Commission in making its determinations under subsection (a) of this section.

SECTION 16C.11.(c) The Post-Release Supervision and Parole Commission shall report to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety, the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, and the Chairs of the Senate Appropriations Committee on Justice and Public Safety by April 1, 2014. The report shall include the following: the class of the offense for which each parole-eligible inmate was convicted and whether an inmate had multiple criminal convictions. The Commission shall reinitiate the parole review process for each offender who has served more time than that person would have under Structured Sentencing as provided by subsections (a) and (b) of this section.

The Commission shall also report on the number of parole-eligible inmates reconsidered in compliance with this section and the number who were actually paroled.

SECTION 16C.11.(d) Article 13 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-707.2. Mutual agreement parole program report; medical release program report.**

(a) The Department of Correction and the Post-Release Supervision and Parole Commission shall report by March 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety on the number of inmates enrolled in the mutual agreement parole program, the number completing the program and being paroled, and the number who enrolled but were terminated from the program. The information should be based on the previous calendar year.

(b) The Department of Public Safety and the Post-Release Supervision and Parole Commission shall report by March 1 of each year to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, to the Chairs of the Senate Appropriations Committee on Justice and Public Safety, and to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety on the number of inmates proposed for release, considered for release, and granted release under Chapter 84B of Chapter 15A of the General Statutes, providing for the medical release of inmates who are either permanently and totally disabled, terminally ill, or geriatric."

REPORT ON TREATMENT FOR EFFECTIVE COMMUNITY SUPERVISION

SECTION 16C.12. The Division of Community Corrections shall report by March 1 of each year to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, the Chairs of the Senate Appropriations Committee on Justice and Public Safety, and the Joint Legislative Oversight Committee on Justice and Public Safety on

the status of the Treatment for Effective Community Supervision (TECS) program. The report shall include the following information:

(1) The amount of funds carried over from the prior fiscal year.
(2) The dollar amount and purpose of contracts awarded to vendors for the current fiscal year.
(3) An update on efforts to ensure that all counties make use of the electronic reporting system, including the number of counties submitting offender participation via the system.
(4) An analysis of offender participation data received, including data on each program's utilization, capacity, and completion rates.
(5) The number of offenders served by each contracted vendor.
(6) The outcome measures for program participants, including the rates of recidivism, employment status, and educational progress of participants.

JUSTICE REINVESTMENT ACT/LIMITED AUTHORITY TO RECLASSIFY VACANT POSITIONS

SECTION 16C.13.(a) Notwithstanding any other provision of law, subject to the approval of the Director of the Budget, the Secretary of Public Safety may reclassify vacant positions within the Department to create up to 25 new chief probation/parole officer positions in order to meet the increasing caseloads resulting from the implementation of the Justice Reinvestment Act of 2011, S.L. 2011-192, as amended.

SECTION 16C.13.(b) The Department of Public Safety shall report to the Chairs of the Senate Appropriations Committee on Justice and Public Safety and the House Appropriations Subcommittee on Justice and Public Safety by March 1, 2014, on the following:

(1) The position number, position type, salary, and position location of each new position created under the authority of this section.
(2) The position number, position type, fund code, and position location of each vacant position used to create new positions under the authority of this section.

SUBPART XVI-D. DIVISION OF JUVENILE JUSTICE

ANNUAL EVALUATION OF COMMUNITY PROGRAMS AND MULTIPLE PURPOSE GROUP HOMES

SECTION 16D.1. Subpart B of Part 3 of Article 13 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-811. Annual evaluation of community programs and multiple purpose group homes.**

The Department of Public Safety shall conduct an annual evaluation of the community programs and of multipurpose group homes. In conducting the evaluation of each of these, the Department shall consider whether participation in each program results in a reduction of court involvement among juveniles. The Department shall also determine whether the programs are achieving the goals and objectives of the Juvenile Justice Reform Act, S.L. 1998-202.

The Department shall report the results of the evaluation to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety and the Chairs of the Senate and House of Appropriations Subcommittees on Justice and Public Safety by March 1 of each year."

JUVENILE CRIME PREVENTION COUNCIL FUNDS

SECTION 16D.2.(a) Subpart F of Part 3 of Article 13 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-852. Department of Public Safety to report on Juvenile Crime Prevention Council grants.

(a) On or before February 1 of each year, the Department of Public Safety shall submit to the Chairs of the Joint Legislative Commission on Governmental Operations and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety a list of the recipients of the grants awarded, or preapproved for award, from funds appropriated to the Department for local Juvenile Crime Prevention Council (JCPC) grants, including the following information:

(1) The amount of the grant awarded.

(2) The membership of the local committee or council administering the award funds on the local level.

(3) The type of program funded.

(4) A short description of the local services, programs, or projects that will receive funds.

(5) Identification of any programs that received grant funds at one time but for which funding has been eliminated by the Department.

(6) The number of at-risk, diverted, and adjudicated juveniles served by each county.

(7) The Department's actions to ensure that county JCPCs prioritize funding for dispositions of intermediate and community-level sanctions for court-adjudicated juveniles under minimum standards adopted by the Department.

(8) The total cost for each funded program, including the cost per juvenile and the essential elements of the program.

(b) On or before February 1 of each year, the Department of Public Safety shall send to the Fiscal Research Division of the Legislative Services Commission an electronic copy of the list and information required under subsection (a) of this section."

SECTION 16D.2.(b) Of the funds appropriated by this act for the 2013-2015 fiscal biennium to the Department of Public Safety for Juvenile Crime Prevention Council grants, the sum of one hundred twenty-one thousand six hundred dollars ($121,600) for the 2013-2014 fiscal year and the sum of one hundred twenty-one thousand six hundred dollars ($121,600) for the 2014-2015 fiscal year shall be transferred to Project Challenge North Carolina, Inc., to be used for the continued support of Project Challenge programs throughout the State.

YOUTH DEVELOPMENT CENTER ANNUAL REPORT

SECTION 16D.3. Subpart B of Part 3 of Article 13 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-810. Youth Development Center annual report.**

The Department of Public Safety shall report by October 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety, the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety, and the Fiscal Research Division of the Legislative Services Commission on the Youth Development Center (YDC) population, staffing, and capacity in the preceding fiscal year. Specifically, the report shall include all of the following:

(1) The on-campus population of each YDC, including the county the juveniles are from.

(2) The housing capacity of each YDC.

(3) A breakdown of staffing for each YDC, including number, type of position, position title, and position description.

(4) The per-bed and average daily population cost for each facility.

(5) The operating cost for each facility, including personnel and nonpersonnel items.
(6) A brief summary of the treatment model, education, services, and plans for reintegration into the community offered at each facility.
(7) The average length of stay in the YDCs.
(8) The number of incidents of assaults and attacks on staff at each facility."

JUVENILE FACILITY MONTHLY COMMITMENT REPORT

SECTION 16D.4. Subpart C of Part 3 of Article 13 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-822. Juvenile facility monthly commitment report.**

The Department of Public Safety shall report electronically on the first day of each month to the Fiscal Research Division regarding each juvenile correctional facility and the average daily population for the previous month. The report shall include (i) the average daily population for each detention center and (ii) the monthly summary of the Committed Youth Report."

LIMIT USE OF COMMUNITY PROGRAM FUNDS

SECTION 16D.5.(a) Funds appropriated in this act to the Department of Public Safety for the 2013-2015 fiscal biennium for community program contracts that are not required for or used for community program contracts shall only be used for the following:

(1) Other statewide residential programs that provide Level 2 intermediate dispositional alternatives for juveniles.
(2) Statewide community programs that provide Level 2 intermediate dispositional alternatives for juveniles.
(3) Regional programs that are collaboratives of two or more Juvenile Crime Prevention Councils which provide Level 2 intermediate dispositional alternatives for juveniles.
(4) The Juvenile Crime Prevention Council grants fund to be used for the Level 2 intermediate dispositional alternatives for juveniles listed in G.S. 7B-2506(13) through (23).

SECTION 16D.5.(b) Under no circumstances shall funds appropriated by this act to the Department of Public Safety for the 2013-2015 fiscal biennium for community programs be used for staffing, operations, maintenance, or any other expenses of youth development centers or detention facilities.

SECTION 16D.5.(c) The Department of Public Safety shall submit an electronic report by October 1, 2013, on all expenditures made from the miscellaneous contract line in Fund Code 1230 to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, the Chairs of the Senate Appropriations Committee on Justice and Public Safety, and the Fiscal Research Division. The report shall include all of the following: an itemized list of the contracts that have been executed, the amount of each contract, the date the contract was executed, the purpose of the contract, the number of juveniles that will be served and the manner in which they will be served, the amount of money transferred to the Juvenile Crime Prevention Council fund, and an itemized list of grants allocated from the funds transferred to the Juvenile Crime Prevention Council fund.

MULTIPURPOSE GROUP HOME

SECTION 16D.6. Of the funds appropriated in this act to the Department of Public Safety for the Division of Juvenile Justice for the 2013-2015 fiscal biennium, the sum of five hundred fifty thousand dollars ($550,000) for the 2013-2014 fiscal year and the sum of five

hundred fifty thousand dollars ($550,000) for the 2014-2015 fiscal year shall be used to continue operating a multipurpose group home in Craven County.

DIRECTOR/ADMINISTRATIVE HEAD OF JUVENILE JUSTICE DIVISION

SECTION 16D.7.(a) G.S. 143B-806 reads as rewritten:

"**§ 143B-806. Duties and powers of the Division of Juvenile Justice of the Department of Public Safety.**

(a) The head of the Division is a ~~Chief Deputy Secretary~~Director appointed by the Secretary of Public Safety. The ~~Chief Deputy Secretary~~ Director shall have the powers and duties conferred by this ~~Chapter,~~ Part, delegated by the Secretary of Public Safety or the Governor, and conferred by the Constitution and laws of this State. The Secretary of Public Safety shall be responsible for effectively and efficiently organizing the Division to promote the policy of the State as set forth in this Part and to promote public safety and to prevent the commission of delinquent acts by juveniles.

(b) The ~~Chief Deputy Secretary~~Director shall have the following powers and duties:

...

...."

SECTION 16D.7.(b) G.S. 153A-221.1 reads as rewritten:

"**§ 153A-221.1. Standards and inspections.**

The legal responsibility of the ~~Chief Deputy Secretary of~~ Director of the Division of Juvenile Justice of the Department of Public Safety for State services to county juvenile detention homes under this Article is hereby confirmed and shall include the following: development of State standards under the prescribed procedures; inspection; consultation; technical assistance; and training.

The Secretary of Health and Human Services, in consultation with the ~~Chief Deputy Secretary~~Director of the Division of Juvenile Justice of the Department of Public Safety, shall also develop standards under which a local jail may be approved as a holdover facility for not more than five calendar days pending placement in a juvenile detention home which meets State standards, providing the local jail is so arranged that any child placed in the holdover facility cannot converse with, see, or be seen by the adult population of the jail while in the holdover facility. The personnel responsible for the administration of a jail with an approved holdover facility shall provide close supervision of any child placed in the holdover facility for the protection of the child."

PART XVII. DEPARTMENT OF JUSTICE

BIANNUAL REPORTING ON ATTORNEY ACTIVITY

SECTION 17.1. Beginning on August 1, 2013, and every six months thereafter, the Attorney General shall report on the work of Department of Justice attorneys during the previous two quarters. The reports required by this section shall be filed with the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, with the Chairs of the Senate Appropriations Committee on Justice and Public Safety, with the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety, and with the Fiscal Research Division as follows:

(1) Agency-specific work. – A report on the work of Department of Justice attorneys for State agencies. This report shall include at least all of the following information:

a. The amount of time spent working for each State department and agency.

b. The amount of time spent on each case for each State department and agency.

c. The amount billed to each State agency for the legal services provided.

(2) Other work. – A report on the work of Department of Justice attorneys that is not on behalf of a particular State agency. The report required by this subdivision shall include all of the information required by subdivision (1) of this section and all of the following information:

a. The amount of time spent by each unit of the Department of Justice.

b. The amount of time spent on each particular matter for each unit of the Department of Justice.

ANNUAL CRIME LAB REPORT

SECTION 17.2. Beginning on October 1, 2013, and yearly thereafter, the Attorney General shall report on the work of the North Carolina State Crime Laboratory during the previous fiscal year. The reports required by this section shall be filed with the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety and with the Fiscal Research Division. Each report shall include at least the following:

(1) Summary information about the workload of the Laboratory.

(2) Information about the number and type of different procedures and analyses performed by the Laboratory.

(3) A geographical breakdown by county of the number and type of requests for the various procedures and analyses performed by the Laboratory.

(4) An estimate of the dollar and time cost to perform each type of procedure and analysis performed by the Laboratory.

DEVELOPMENT OF TRAINING PROGRAM ON PROPER PROCEDURES FOR SUBMISSION OF EVIDENCE TO THE CRIME LAB

SECTION 17.3.(a) The North Carolina State Crime Laboratory, in conjunction with The University of North Carolina School of Government and the Conference of District Attorneys, shall develop a training program for district attorneys on proper procedures for submitting evidence to the North Carolina State Crime Laboratory. In order to ensure that it will be practicable to require all district attorneys in the State to receive the training in the future, the program shall be (i) designed with the time and resource constraints of district attorneys in mind and (ii) designed in a way that makes the program suitable for regional distribution and distribution through distance learning facilities at community colleges.

SECTION 17.3.(b) No later than October 1, 2013, the North Carolina State Crime Laboratory shall report its progress on developing the training program to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, to the Senate Appropriations Committee on Justice and Public Safety, to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety, and to the Fiscal Research Division.

USE OF TOXICOLOGY ANALYSIS FUNDS

SECTION 17.4. If the Attorney General determines that it is not appropriate to outsource toxicology cases due to legal or fiscal concerns involving analyst testimony, funds appropriated in this act for that purpose shall be reallocated to increase toxicology analysis capabilities within the North Carolina State Crime Laboratory.

NO HIRING OF SWORN STAFF POSITIONS FOR THE NORTH CAROLINA STATE CRIME LABORATORY

SECTION 17.5. The Department of Justice shall not hire sworn personnel to fill vacant positions in the North Carolina State Crime Laboratory. Nothing in this section shall be

construed to require the termination of sworn personnel, but as vacant positions in the State Laboratory are filled, they shall be filled only with non-sworn personnel.

TRANSFER MOST OF THE SBI TO THE DEPARTMENT OF PUBLIC SAFETY

TRANSFER OF STATE BUREAU OF INVESTIGATION AND DIVISION OF CRIMINAL INFORMATION

SECTION 17.6.(a) The North Carolina State Crime Laboratory, the State DNA Database and Databank, the Public Corruption Section of the Professional Standards Division of the State Bureau of Investigation, and the 16 information technology positions that currently serve the information technology needs of the Department of Justice are hereby transferred from the State Bureau of Investigation and shall be relocated elsewhere within the Department of Justice as determined by the Attorney General.

SECTION 17.6.(b) Except for the components transferred pursuant to subsection (a) of this section, the State Bureau of Investigation is hereby transferred to the Department of Public Safety as a new section within the Law Enforcement Division. This transfer shall have all of the elements of a Type I transfer, as described in G.S. 143A-6.

SECTION 17.6.(c) The Division of Criminal Information is hereby transferred to the Department of Public Safety. This transfer shall have all of the elements of a Type I transfer, as described in G.S. 143A-6.

CREATION OF STATUTORY SUBPARTS

SECTION 17.6.(d) Part 4 of Article 13 of Chapter 143B of the General Statutes is amended by adding a new Subpart to read:

"Subpart A. General Provisions."

SECTION 17.6.(e) Part 4 of Article 13 of Chapter 143B of the General Statutes is amended by adding a new Subpart to read:

"Subpart B. State Capitol Police."

SECTION 17.6.(f) Part 4 of Article 13 of Chapter 143B of the General Statutes is amended by adding a new Subpart to read:

"Subpart C. State Bureau of Investigation – General Powers and Duties."

REPEAL OF CERTAIN STATUTES AND RECODIFICATION OF OTHER AFFECTED STATUTES

SECTION 17.6.(h) G.S. 114-13 is repealed.

SECTION 17.6.(i) G.S. 114-2.7 is recodified as G.S. 143B-901 under Subpart A of Article 13 of Chapter 143B of the General Statutes, as created by subsection (d) of this section.

SECTION 17.6.(j) G.S. 114-10 through G.S. 114-10.1 are recodified as G.S. 143B-902 through G.S. 143B-905 under Subpart A of Article 13 of Chapter 143B of the General Statutes, as created by subsection (d) of this section.

SECTION 17.6.(k) G.S. 143B-900 is recodified as G.S. 143B-906 under Subpart B of Article 13 of Chapter 143B of the General Statutes, as created by subsection (e) of this section.

SECTION 17.6.(l) The following statutes are recodified as G.S. 143B-907 through G.S. 143B-917 under Subpart C of Article 13 of Chapter 143B of the General Statutes, as created by subsection (f) of this section: G.S. 114-12, 114-12.1, 114-14 through 114-15.3, and 114-17 through 114-19.

SECTION 17.6.(m) Part 2 of Article 4 of Chapter 114 of the General Statutes is recodified as Subpart D of Article 13 of Chapter 143B of the General Statutes, "State Bureau of Investigation – Criminal History Record Checks," G.S. 143B-920 through G.S. 143B-972.

Statutory sections of the former statutes that were reserved for future codification shall have corresponding sections that are reserved for future codification in the recodified statutes.

SECTION 17.6.(n) Part 3 of Article 4 of Chapter 114 of the General Statutes is recodified as Subpart E of Article 13 of Chapter 143B of the General Statutes, "State Bureau of Investigation – Protection of Public Officials," G.S. 143B-975 through G.S. 143B-976.

OTHER CHANGES

SECTION 17.6.(o) The following statutes, as recodified by subsections (i) through (n) of this section, as applicable, are amended by deleting the language "Department of Justice" wherever it appears and substituting "Department of Public Safety": G.S. 14-208.15A, 53-244.050, 58-71-51, 58-89A-60, 66-407, 74C-8.1, 74D-2.1, 84-24, 90-11, 90-30, 90-85.15, 90-102.1, 90-143.3, 90-210.25, 90-224, 90-652, 90D-7, 93A-4, 95-47.2, 106-65.26, 110-90.2, 114-12.1, 114-19.1 through 114-19.32, 115C-238.29K, 115C-238.73, 131D-10.3A, 143-166.13, and 160A-304.

SECTION 17.6.(p) The following statute is amended by deleting the language "State Bureau of Investigation" wherever it appears and substituting "North Carolina State Crime Laboratory": G.S. 14-269.1.

SECTION 17.6.(q) The following statutes, as recodified by subsections (i) through (n) of this section, as applicable, are amended by deleting the language "Attorney General" wherever it appears and substituting "Secretary of Public Safety": G.S. 15A-1475, 58-79-1, 114-15.2, and 163-278.

SECTION 17.6.(r) The following statutes, as recodified by subsections (i) through (n) of this section, as applicable, are amended by deleting the language "Director of the State Bureau of Investigation" or "Director of the Bureau" wherever it appears and substituting "Secretary of Public Safety": G.S. 7A-375, 7B-1402, 7B-1404, 15A-1383, 20-39.1, 114-14.1, 114-15.1, 114-15.3.

SECTION 17.6.(s) The following statutes, as recodified by subsections (i) through (n) of this section, as applicable, are amended by deleting the language "Division of Criminal Information" and "State Bureau of Investigation's Division of Criminal Information" wherever it appears and substituting "Department of Public Safety": G.S. 7B-2507, 15A-1340.14, 15A-1340.21, 20-26, 85B-3.2, 114-19.6, 114-19.12, 114-19.23, 114-19.50, 122C-80.

SECTION 17.6.(t) The following statutes, as recodified by subsections (i) through (n) of this section, as applicable, are amended by deleting the language "Division" wherever it appears and substituting "Department of Public Safety": G.S. 14-208.7, 14-208.8, 14-208.8A, 14-208.9, 14-208.9A, 14-208.12A, 14-208.15, 14-208.15A, 14-208.22, and 14-208.27. However, no substitution shall be made under this subsection to instances of the word "Division" that appear in the phrase "Division of Adult Correction."

SECTION 17.6.(t1) The following statutes are amended by deleting "SBI" wherever it appears and substituting "Department of Justice": G.S. 15A-146 and G.S. 15A-148.

SECTION 17.6.(t2) The following statutes are amended by deleting "SBI" wherever it appears and substituting "Department": G.S. 15A-266.3, 15A-266.3A, 15A-266.5, 15A-266.6, 15A-266.7, 15A-266.8, 15A-266.9, 15A-266.12, 15A-267, and 15A-268.

SECTION 17.6.(u) G.S. 7A-304(a) reads as rewritten:

"(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected. No costs may be assessed when a case is dismissed. Only upon entry of a written order, supported by findings of fact and conclusions of law, determining that there is just cause, the court may (i) waive costs assessed under this section or (ii) waive or reduce costs assessed under subdivisions (7) or (8) of this section.

...

(7) For the services of the North Carolina State Crime Laboratory facilities, the district or superior court judge shall, upon conviction, order payment of the sum of six hundred dollars ($600.00) to be remitted to the Department of Justice for support of the ~~State Bureau of Investigation.~~Laboratory. This cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratories have performed DNA analysis of the crime, tests of bodily fluids of the defendant for the presence of alcohol or controlled substances, or analysis of any controlled substance possessed by the defendant or the defendant's agent.

(8) For the services of any crime laboratory facility operated by a local government or group of local governments, the district or superior court judge shall, upon conviction, order payment of the sum of six hundred dollars ($600.00) to be remitted to the general fund of the local governmental unit that operates the laboratory to be used for law enforcement purposes. The cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratory has performed DNA analysis of the crime, test of bodily fluids of the defendant for the presence of alcohol or controlled substances, or analysis of any controlled substance possessed by the defendant or the defendant's agent. The costs shall be assessed only if the court finds that the work performed at the local government's laboratory is the equivalent of the same kind of work performed by the ~~State Bureau of Investigation~~North Carolina State Crime Laboratory under subdivision (7) of this subsection.

(9) For the support and services of the ~~State Bureau of Investigation~~State DNA Database and DNA Databank, the sum of two dollars ($2.00). This amount is annually appropriated to the Department of Justice for this purpose. Notwithstanding the provisions of subsection (e) of this section, this cost does not apply to infractions.

...."

SECTION 17.6.(v) G.S. 7A-349 reads as rewritten:

"**§ 7A-349. Criminal history record check; denial of employment, contract, or volunteer opportunity.**

The Judicial Department may deny employment, a contract, or a volunteer opportunity to any person who refuses to consent to a criminal history check authorized under G.S. 114-19.19 and may dismiss a current employee, terminate a contractor, or terminate a volunteer relationship if that employee, contractor, or volunteer refuses to consent to a criminal history record check authorized under ~~G.S. 114-19.19.~~G.S. 143B-941."

SECTION 17.6.(w) G.S. 7B-1904 reads as rewritten:

"**§ 7B-1904. Order for secure or nonsecure custody.**

The custody order shall be in writing and shall direct a law enforcement officer or other authorized person to assume custody of the juvenile and to make due return on the order. The official executing the order shall give a copy of the order to the juvenile's parent, guardian, or custodian. If the order is for nonsecure custody, the official executing the order shall also give a copy of the petition and order to the person or agency with whom the juvenile is being placed. If the order is for secure custody, copies of the petition and custody order shall accompany the juvenile to the detention facility or holdover facility of the jail. A message of ~~the Division of Criminal Information, State Bureau of Investigation,~~the Department of Public Safety, stating that a juvenile petition and secure custody order relating to a specified juvenile are on file in a particular county shall be authority to detain the juvenile in secure custody until a copy of the juvenile petition and secure custody order can be forwarded to the juvenile detention facility.

The copies of the juvenile petition and secure custody order shall be transmitted to the detention facility no later than 72 hours after the initial detention of the juvenile.

An officer receiving an order for custody which is complete and regular on its face may execute it in accordance with its terms and need not inquire into its regularity or continued validity, nor does the officer incur criminal or civil liability for its execution."

SECTION 17.6.(x) G.S. 14-16.9 reads as rewritten:

"**§ 14-16.9. Officers-elect to be covered.**

Any person who has been elected to any office covered by this Article but has not yet taken the oath of office shall be considered to hold the office for the purpose of this Article and ~~G.S. 114-15.~~G.S. 143B-911."

SECTION 17.6.(y) G.S. 14-132(c)(3) reads as rewritten:

"(3) Designated by the ~~Attorney General~~Secretary of Public Safety in accordance with ~~G.S. 114-20.1.~~G.S. 143B-976."

SECTION 17.6.(z) G.S. 14-208.6 reads as rewritten:

"**§ 14-208.6. Definitions.**

The following definitions apply in this Article:

...

(1c) ~~"Division"~~"Department" means the ~~Division of Criminal Information of the Department of Justice.~~Department of Public Safety.

...

(8) "Statewide registry" means the central registry compiled by the ~~Division~~ Department in accordance with G.S. 14-208.14.

...."

SECTION 17.6.(aa) G.S. 14-208.13 reads as rewritten:

"**§ 14-208.13. File with ~~Police~~ Criminal Information Network.**

(a) The ~~Division~~ Department of Public Safety shall include the registration information in the ~~Police~~ Criminal Information Network as set forth in ~~G.S. 114-10.1.~~G.S. 143B-905.

(b) The ~~Division~~ Department of Public Safety shall maintain the registration information permanently even after the registrant's reporting requirement expires."

SECTION 17.6.(bb) G.S. 14-208.14 reads as rewritten:

"**§ 14-208.14. Statewide registry; ~~Division of Criminal Statistics~~Department of Public Safety designated custodian of statewide registry.**

(a) The ~~Division of Criminal Statistics~~ Department of Public Safety shall compile and keep current a central statewide sex offender registry. The ~~Division~~ Department is the State agency designated as the custodian of the statewide registry. As custodian the ~~Division~~ Department has the following responsibilities:

(1) To receive from the sheriff or any other law enforcement agency or penal institution all sex offender registrations, changes of address, changes of academic or educational employment status, and prerelease notifications required under this Article or under federal law. The ~~Division~~ Department shall also receive notices of any violation of this Article, including a failure to register or a failure to report a change of address.

(2) To provide all need-to-know law enforcement agencies (local, State, campus, federal, and those located in other states) immediately upon receipt by the ~~Division~~ Department of any of the following: registration information, a prerelease notification, a change of address, a change of academic or educational employment status, or notice of a violation of this Article.

(2a) To notify the appropriate law enforcement unit at an institution of higher education as soon as possible upon receipt by the ~~Division~~ Department of relevant information based on registration information or notice of a change

of academic or educational employment status. If an institution of higher education does not have a law enforcement unit, then the ~~Division~~Department shall provide the information to the local law enforcement agency that has jurisdiction for the campus.

(3) To coordinate efforts among law enforcement agencies and penal institutions to ensure that the registration information, changes of address, change of name, prerelease notifications, and notices of failure to register or to report a change of address are conveyed in an appropriate and timely manner.

(4) To provide public access to the statewide registry in accordance with this Article.

(4a) To maintain the system for public access so that a registrant's full name, any aliases, and any legal name changes are cross-referenced and a member of the public may conduct a search of the system for a registrant under any of those names.

(5) To maintain a system allowing an entity to access a list of online identifiers of persons in the central sex offender registry.

(b) The statewide registry shall include the following:

(1) Registration information obtained by a sheriff or penal institution under this Article or from any other local or State law enforcement agency.

(2) Registration information received from a state or local law enforcement agency or penal institution in another state.

(3) Registration information received from a federal law enforcement agency or penal institution."

SECTION 17.6.(cc) G.S. 14-208.31 reads as rewritten:

"**§ 14-208.31. File with ~~Police~~ Criminal Information Network.**

(a) The ~~Division~~ Department of Public Safety shall include the registration information in the ~~Police~~ Criminal Information Network as set forth in ~~G.S. 114-10.1~~.G.S. 143B-905.

(b) The ~~Division~~ Department of Public Safety shall maintain the registration information permanently even after the registrant's reporting requirement expires; however, the records shall remain confidential in accordance with Article 32 of Chapter 7B of the General Statutes."

SECTION 17.6.(dd) G.S. 14-415.4(d)(5) reads as rewritten:

"(5) The petitioner submits his or her fingerprints to the sheriff of the county in which the petitioner resides for a criminal background check pursuant to ~~G.S. 114-19.28~~.G.S. 143B-950."

SECTION 17.6.(ee) G.S. 15A-1341(d) reads as rewritten:

"(d) Search of Sex Offender Registration Information Required When Placing a Defendant on Probation. – When the court places a defendant on probation, the probation officer assigned to the defendant shall conduct a search of the defendant's name or other identifying information against the registration information regarding sex offenders compiled by the ~~Division of Criminal Statistics of the Department of Justice~~Department of Public Safety in accordance with Article 27A of Chapter 14 of the General Statutes. The probation officer may conduct the search using the Internet site maintained by the ~~Division of Criminal Statistics~~.Department of Public Safety."

SECTION 17.6.(ee1) G.S. 15A-266.2 reads as rewritten:

"**§ 15A-266.2. Definitions.**

As used in this Article, unless another meaning is specified or the context clearly requires otherwise, the following terms have the meanings specified:

...

(1e) Department. – The Department of Justice.

...

~~(6) "SBI" means the State Bureau of Investigation. The SBI is responsible for the policy, management, and administration of the State DNA identification record system to support law enforcement and other criminal justice agencies.~~

...

(8) "State DNA Database" means the ~~SBI's~~ Department of Justice's DNA identification record system to support law enforcement. It is administered by the ~~SBI~~ Department of Justice and provides DNA records to the FBI for storage and maintenance in CODIS. The ~~SBI's~~ Department's DNA Database system is the collective capability provided by computer software and procedures administered by the ~~SBI~~ Department to store and maintain DNA records related to: forensic casework; convicted offenders and arrestees required to provide a DNA sample under this Article; persons required to register as sex offenders under G.S. 14-208.7; unidentified persons or body parts; missing persons; relatives of missing persons; and anonymous DNA profiles used for forensic validation, forensic protocol development, or quality control purposes or establishment of a population statistics database for use by criminal justice agencies."

SECTION 17.6.(ee2) G.S. 15A-266.3A(d) reads as rewritten:

"(d) After taking a DNA sample from an arrested person required to provide a DNA sample pursuant to this section, the person taking the DNA sample shall provide the arrested person with a written notice of the procedures for seeking an expunction of the DNA sample pursuant to subsections (h), (i), (j), (k), and (l) of this section. The Department ~~of Justice~~ shall provide the written notice required by this subsection."

SECTION 17.6.(ee3) G.S. 15A-266.3A(h) reads as rewritten:

(h) The ~~State Bureau of Investigation~~Department shall remove a person's DNA record, and destroy any DNA biological samples that may have been retained, from the State DNA Database and DNA Databank if both of the following are determined pursuant to subsection (i) of this section:

...."

SECTION 17.6.(ee4) G.S. 15A-269(b1) reads as rewritten:

"(b1) If the court orders DNA testing, such testing shall be conducted by an ~~SBI-approved~~ Department-approved testing facility, mutually agreed upon by the petitioner and the State and approved by the court. If the parties cannot agree, the court shall designate the testing facility and provide the parties with reasonable opportunity to be heard on the issue."

SECTION 17.6.(gg) G.S. 18C-151(a)(3) reads as rewritten:

"(3) All proposals shall be accompanied by a bond or letter of credit in an amount equal to not less than five percent (5%) of the proposal and the fee to cover the cost of the criminal record check conducted under ~~G.S. 114-19.6.~~G.S. 143B-926."

SECTION 17.6.(hh) G.S. 48-3-309 reads as rewritten:

"**§ 48-3-309. Mandatory preplacement criminal checks of prospective adoptive parents seeking to adopt a minor who is in the custody or placement responsibility of a county department of social services and mandatory preplacement criminal checks of all individuals 18 years of age or older who reside in the prospective adoptive home.**

...

(c) The ~~Department of Justice~~Department of Public Safety shall provide to the Department of Health and Human Services the criminal history of any individual required to be checked under subsection (a) of this section as requested by the Department and obtained from the State and National Repositories of Criminal Histories. The Department shall provide to the

~~Department of Justice,~~Department of Public Safety, along with the request, the fingerprints of any individual to be checked, any additional information required by the ~~Department of Justice,~~Department of Public Safety, and a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories signed by the individual to be checked. The fingerprints of any individual to be checked shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

...

(h) The ~~Department of Justice~~Department of Public Safety shall perform the State and national criminal history checks on prospective adoptive parents seeking to adopt a minor in the custody or placement responsibility of a county department of social services and all individuals 18 years of age or older who reside in the prospective adoptive home and shall charge the Department of Health and Human Services a reasonable fee only for conducting the checks of the national criminal history records authorized by this section. The Division of Social Services, Department of Health and Human Services, shall bear the costs of implementing this section."

SECTION 17.6.(ii) G.S. 74F-6(16) reads as rewritten:

"(16) Request that the Department of Justice conduct criminal history record checks of applicants for licensure and apprenticeships pursuant to ~~G.S. 114-19.15.~~G.S. 143B-937."

SECTION 17.6.(jj) G.S. 90-113.33(10) reads as rewritten:

"(10) Request that the Department of Justice conduct criminal history record checks of applicants for registration, certification, or licensure pursuant to ~~G.S. 114-19.11A.~~G.S. 143B-932."

SECTION 17.6.(kk) G.S. 90-171.23(b)(19) reads as rewritten:

"(19) Request that the Department of Justice conduct criminal history record checks of applicants for licensure pursuant to ~~G.S. 114-19.11.~~G.S. 143B-931."

SECTION 17.6.(ll) G.S. 90-270.63(b) reads as rewritten:

"(b) The Board may request that an applicant for licensure, an applicant seeking reinstatement of a license, or a licensee under investigation by the Board for alleged criminal offenses in violation of this Article consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure to an applicant, deny reinstatement of a license to an applicant, or revoke the license of a licensee. The Board shall ensure that the State and national criminal history of an applicant is checked. The Board shall be responsible for providing to the North Carolina Department of Justice the fingerprints of the applicant or licensee to be checked, a form signed by the applicant or licensee consenting to the criminal history record check and the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories, and any additional information required by the Department of Justice in accordance with ~~G.S. 114-19.27.~~G.S. 143B-949. The Board shall keep all information obtained pursuant to this section confidential. The Board shall collect any fees required by the Department of Justice and shall remit the fees to the Department of Justice for expenses associated with conducting the criminal history record check."

SECTION 17.6.(mm) G.S. 90-345(b) reads as rewritten:

"(b) The Board may request that an applicant for licensure, an applicant seeking reinstatement of a license, or a licensee under investigation by the Board for alleged criminal offenses in violation of this Article consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure to an applicant, deny reinstatement of a license to an applicant, or revoke the license

of a licensee. The Board shall ensure that the State and national criminal history of an applicant is checked. The Board shall be responsible for providing to the North Carolina Department of Justice the fingerprints of the applicant or licensee to be checked, a form signed by the applicant or licensee consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories, and any additional information required by the Department of Justice in accordance with ~~G.S. 114-19.26.~~G.S. 143B-948. The Board shall keep all information obtained pursuant to this section confidential. The Board shall collect any fees required by the Department of Justice and shall remit the fees to the Department of Justice for expenses associated with conducting the criminal history record check."

SECTION 17.6.(nn) G.S. 93E-2-11(b) reads as rewritten:

"(b) The Board may require that an applicant for registration as an appraisal management company or a registrant consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny registration to an applicant or registrant. The Board shall ensure that the State and national criminal history of an applicant or registrant is checked. The Board shall be responsible for providing to the North Carolina Department of Justice the fingerprints of the applicant or registrant to be checked, a form signed by the applicant or registrant consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories, and any additional information required by the Department of Justice in accordance with ~~G.S. 114-19.30.~~G.S. 143B-952. The Board shall keep all information obtained pursuant to this section confidential. The Board shall collect any fees required by the Department of Justice and shall remit the fees to the Department of Justice for expenses associated with conducting the criminal history record check."

SECTION 17.6.(oo) G.S. 101-5 reads as rewritten:

"**§ 101-5. Name change application requirements; grounds for clerk to order or deny name change; certificate and record.**

...

(e) The clerk shall forward the order granting the name change to:

(1) The State Registrar of Vital Statistics on a form provided by the Registrar. If the applicant was born in North Carolina, the State Registrar shall note the change of name of the individual or individuals specified in the order on the birth certificate of that individual or those individuals and shall notify the register of deeds in the county of birth. If the applicant was born in another state of the United States, the State Registrar shall forward the notice of change of name to the registration office of the state of birth.

(2) The ~~Division of Criminal Information at the State Bureau of Investigation,~~Department of Public Safety, which shall update its records to show the name change.

...

(g) Upon information obtained by the clerk of fraud or material misrepresentation in the application for a name change, the clerk on his or her own motion may set aside the order granting the name change after notice to the applicant and opportunity to be heard. If the clerk sets aside the name change order, the clerk shall notify the State Registrar of Vital Statistics and the ~~Division of Criminal Information.~~Department of Public Safety."

SECTION 17.6.(pp) G.S. 110-90.2(g) reads as rewritten:

"(g) The child care provider shall pay the cost of the fingerprinting and the federal criminal history record check in accordance with ~~G.S. 114-19.5.~~G.S. 143B-925. The Department of Justice shall perform the State criminal history record check. The Department of Health and Human Services shall pay for and conduct the county criminal history record check. Child care providers who reside outside the State bear the cost of the county criminal history

record check and shall provide the county criminal history record check to the Division of Child Development as required by this section."

SECTION 17.6.(qq) G.S. 113-172(a) reads as rewritten:

"(a) The Secretary shall designate license agents for the Department. At least one license agent shall be designated for each county that contains or borders on coastal fishing waters. The Secretary may designate additional license agents in any county if the Secretary determines that additional agents are needed to provide efficient service to the public. The Division and license agents designated by the Secretary under this section shall issue licenses authorized under this Article in accordance with this Article and the rules of the Commission. The Secretary may require license agents to enter into a contract that provides for their duties and compensation, post a bond, and submit to reasonable inspections and audits. If a license agent violates any provision of this Article, the rules of the Commission, or the terms of the contract, the Secretary may initiate proceedings for the forfeiture of the license agent's bond and may summarily suspend, revoke, or refuse to renew a designation as a license agent and may impound or require the return of all licenses, moneys, record books, reports, license forms and other documents, ledgers, and materials pertinent or apparently pertinent to the license agency. The Secretary shall report evidence or misuse of State property, including license fees, by a license agent to the State Bureau of Investigation as provided by ~~G.S. 114-15.1.~~G.S. 143B-912."

SECTION 17.6.(rr) G.S. 114-2.7, as recodified by subsection (i) of this section, reads as rewritten:

"**§ 143B-901. Reporting system and database on certain domestic-violence-related homicides; reports by law enforcement agencies required; annual report to the General Assembly.**

The ~~Attorney General's Office,~~Department of Public Safety, in consultation with the North Carolina Council for Women/Domestic Violence Commission, the North Carolina Sheriffs' Association, and the North Carolina Association of Chiefs of Police, shall develop a reporting system and database that reflects the number of homicides in the State where the offender and the victim had a personal relationship, as defined by G.S. 50B-1(b). The information in the database shall also include the type of personal relationship that existed between the offender and the victim, whether the victim had obtained an order pursuant to G.S. 50B-3, and whether there was a pending charge for which the offender was on pretrial release pursuant to G.S. 15A-534.1. All State and local law enforcement agencies shall report information to the ~~Attorney General's Office~~Department of Public Safety upon making a determination that a homicide meets the reporting system's criteria. The report shall be made in the format adopted by the ~~Attorney General's Office.~~Department of Public Safety. The ~~Attorney General's Office~~ Department of Public Safety shall report to the ~~Joint Legislative Committee on Domestic Violence,~~Joint Legislative Oversight Committee on Justice and Public Safety, no later than February 1 of each year, with the data collected for the previous calendar year."

SECTION 17.6.(ss) Article 1 of Chapter 114 of the General Statutes is amended by adding a new section to read:

"**§ 114-8.6. Power of arrest.**

Law enforcement officers of the Attorney General's office who are engaged in the investigation of public corruption are given the same power of arrest as is now vested in the sheriffs of the several counties, and their jurisdiction shall be statewide. Such law enforcement officers shall, at the request of the Governor, give assistance to sheriffs, police officers, district attorneys, and judges when called upon by them and so directed."

SECTION 17.6.(tt) G.S. 114-10, as recodified by subsection (j) of this section, reads as rewritten:

"**§ 143B-902. ~~Division of Criminal Information.~~Powers and duties of the Department of Public Safety with respect to criminal information.**

~~The Attorney General shall set up in the Department of Justice a division to be designated as the Division of Criminal Information. There shall be assigned to this Division by the Attorney General duties as follows:~~In addition to its other duties, it shall be the duty of the Department of Public Safety to do all of the following:

...

(2) To collect, correlate, and maintain access to information that will assist in the performance of duties required in the administration of criminal justice throughout the State. This information may include, but is not limited to, motor vehicle registration, drivers' licenses, wanted and missing persons, stolen property, warrants, stolen vehicles, firearms registration, sexual offender registration as provided under Article 27A of Chapter 14 of the General Statutes, drugs, drug users and parole and probation histories. In performing this function, the ~~Division~~ Department may arrange to use information available in other agencies and units of State, local and federal government, but shall provide security measures to insure that such information shall be made available only to those whose duties, relating to the administration of justice, require such information.

...

~~(5) To perform such other duties as may be from time to time prescribed by the Attorney General.~~

(6) To promulgate rules and regulations for the administration of this Article."

SECTION 17.6.(uu) G.S. 114-10.01, as recodified by subsection (j) of this section, reads as rewritten:

"**§ 143B-903. Collection of traffic law enforcement statistics.**

(a) ~~In addition to the duties set forth in G.S. 114-10, the Division of Criminal Information~~ In addition to its other duties, the Department of Public Safety shall collect, correlate, and maintain the following information regarding traffic law enforcement by law enforcement officers:

...

(b) For purposes of this section, "law enforcement officer" means any of the following:

(1) All State law enforcement officers.

(2) Law enforcement officers employed by county sheriffs or county police departments.

(3) Law enforcement officers employed by police departments in municipalities with a population of 10,000 or more persons.

(4) Law enforcement officers employed by police departments in municipalities employing five or more full-time sworn officers for every 1,000 in population, as calculated by the ~~Division~~ Department for the calendar year in which the stop was made.

...

(d) Each law enforcement officer making a stop covered by subdivision (1) of subsection (a) of this section shall be assigned an anonymous identification number by the officer's employing agency. The anonymous identifying number shall be public record and shall be reported to the ~~Division~~ Department to be correlated along with the data collected under subsection (a) of this section. The correlation between the identification numbers and the names of the officers shall not be a public record, and shall not be disclosed by the agency except when required by order of a court of competent jurisdiction to resolve a claim or defense properly before the court.

(d1) Any agency subject to the requirements of this section shall submit information collected under subsection (a) of this section to the ~~Division~~ Department within 60 days of the close of each month. Any agency that does not submit the information as required by this

subsection shall be ineligible to receive any law enforcement grants available by or through the State until the information which is reasonably available is submitted.

(e) The ~~Division~~ Department shall publish and distribute by December 1 of each year a list indicating the law enforcement officers that will be subject to the provisions of this section during the calendar year commencing on the following January 1."

SECTION 17.6.(vv) G.S. 114-10.02, as recodified by subsection (j) of this section, reads as rewritten:

"**§ 143B-904. Collection of statistics on the use of deadly force by law enforcement officers.**

(a) In addition to ~~the duties set forth in G.S. 114-10, the Division of Criminal Information~~its other duties, the Department of Public Safety shall collect, maintain, and annually publish the number of deaths, by law enforcement agency, resulting from the use of deadly force by law enforcement officers in the course and scope of their official duties.

(b) For purposes of this section, "law enforcement officer" means sworn law enforcement officers with the power of arrest, both State and local."

SECTION 17.6.(ww) G.S. 114-10.1, as recodified by subsection (j) of this section, reads as rewritten:

"**§ 143B-905. ~~Police~~ Criminal Information Network.**

(a) The ~~Division of Criminal Information~~Department of Public Safety is authorized to establish, devise, maintain and operate a system for receiving and disseminating to participating agencies information collected, maintained and correlated under authority of ~~G.S. 114-10 of this Article.~~G.S. 143B-902. The system shall be known as the ~~Division of~~ Criminal Information Network.

(b) The ~~Division of Criminal Information~~ Department of Public Safety is authorized to cooperate with the Division of Motor Vehicles, Department of Administration, ~~the Department of Public Safety,~~ and other State, local and federal agencies and organizations in carrying out the purpose and intent of this section, and to utilize, in cooperation with other State agencies and to the extent as may be practical, computers and related equipment as may be operated by other State agencies.

(c) The ~~Division of Criminal Information,~~Department of Public Safety, after consultation with participating agencies, shall adopt rules and regulations governing the organization and administration of the ~~Division of~~ Criminal Information Network, including rules and regulations governing the types of information relating to the administration of criminal justice to be entered into the system, and who shall have access to such information. The rules and regulations governing access to the ~~Division of~~ Criminal Information Network shall not prohibit an attorney who has entered a criminal proceeding in accordance with G.S. 15A-141 from obtaining information relevant to that criminal proceeding. The rules and regulations governing access to the ~~Division of~~ Criminal Information Network shall not prohibit an attorney who represents a person in adjudicatory or dispositional proceedings for an infraction from obtaining the person's driving record or criminal history.

(d) ~~The Division of Criminal Information may impose an initial set up fee of two thousand six hundred fifty dollars ($2,650) for agencies to participate in the Division of Criminal Information Network. This one time fee shall be used to offset the cost of the router and data circuit needed to access the Network.~~

The ~~Division of Criminal Information~~ Department may ~~also~~ impose monthly fees on participating agencies. The monthly fees collected under this subsection shall be used to offset the cost of operating and maintaining the ~~Police~~ Criminal Information ~~Network~~Network.

(1) The ~~Division of Criminal Information~~Department may impose a monthly circuit fee on agencies that access the ~~Division of~~ Criminal Information Network through a circuit maintained and operated by the ~~Department of Justice.~~Department of Public Safety. The amount of the monthly fee is three

hundred dollars ($300.00) plus an additional fee amount for each device linked to the Network. The additional fee amount varies depending upon the type of device. For a desktop device after the first seven desktop devices, the additional monthly fee is twenty-five dollars ($25.00) per device. For a mobile device, the additional monthly fee is twelve dollars ($12.00) per device.

(2) The ~~Division of Criminal Information~~Department may impose a monthly device fee on agencies that access the ~~Police~~ Criminal Information Network through some other approved means. The amount of the monthly device fee varies depending upon the type of device. For a desktop device, the monthly fee is twenty-five dollars ($25.00) per device. For a mobile device, the fee is twelve dollars ($12.00) per device."

SECTION 17.6.(xx) G.S. 114-11.6 reads as rewritten:

"**§ 114-11.6. Division established; duties.**

There is hereby established in the office of the Attorney General of North Carolina, a Special Prosecution Division. The attorneys assigned to this Division shall be available to prosecute or assist in the prosecution of criminal cases when requested to do so by a district attorney and the Attorney General approves. In addition, these attorneys assigned to this Division shall ~~serve as legal advisers to the State Bureau of Investigation and the Police Information Network and~~ perform any other duties assigned to them by the Attorney General."

SECTION 17.6.(yy) The title of Article 4 of Chapter 114 of the General Statutes and of Part 1 of that Article reads as rewritten:

"~~State Bureau of Investigation.~~North Carolina State Crime Laboratory.

Part 1. General Powers and ~~Duties of the State Bureau of Investigation.~~Duties."

SECTION 17.6.(zz) G.S. 114-12, as recodified by subsection (l) of this section, reads as rewritten:

"**§ 143B-907. Bureau of Investigation created; powers and duties.**

In order to secure a more effective administration of the criminal laws of the State, to prevent crime, and to procure the speedy apprehension of criminals, the ~~Attorney General~~Secretary of Public Safety shall set up in the Division of Law Enforcement of the Department of ~~Justice~~ Public Safety a ~~division~~ section to be designated as the State Bureau of Investigation. The ~~Division~~ Section shall have charge of and administer the agencies and activities herein set up for the identification of criminals, for their apprehension, ~~for the scientific analysis of evidence of crime,~~ and investigation and preparation of evidence to be used in criminal courts; and the said Bureau shall have charge of investigation of criminal matters herein especially mentioned, and of such other crimes and criminal procedure as the Governor may direct."

SECTION 17.6.(aaa) G.S. 114-14, as recodified by subsection (l) of this section, reads as rewritten:

"**§ 143B-909. General powers and duties of ~~Director and assistants.~~law enforcement officers of the State Bureau of Investigation.**

~~The Director of the Bureau and his assistants~~Sworn law enforcement officers of the State Bureau of Investigation are given the same power of arrest as is now vested in the sheriffs of the several counties, and their jurisdiction shall be statewide. ~~The Director of the Bureau and his assistants~~ Sworn law enforcement officers of the Bureau shall, at the request of the Governor, give assistance to sheriffs, police officers, district attorneys, and judges when called upon by them and so directed. ~~They shall also give assistance, when requested, to the Department of Public Safety in the investigation of cases pending before the parole office and of complaints lodged against parolees, when so directed by the Governor.~~"

SECTION 17.6.(bbb) G.S. 114-15, as recodified by subsection (l) of this section, reads as rewritten:

"**§ 143B-911. Investigations of lynchings, election frauds, etc.; services subject to call of Governor; witness fees and mileage for ~~Director and assistants.~~employees.**

(a) The Bureau shall, ~~through its Director and~~ upon request of the Governor, investigate and prepare evidence in the event of any lynching or mob violence in the State; shall investigate all cases arising from frauds in connection with elections when requested to do so by the Board of Elections, and when so directed by the Governor. Such investigation, however, shall in nowise interfere with the power of the Attorney General to make such investigation as the Attorney General is authorized to make under the laws of the State. The Bureau is authorized further, at the request of the Governor, to investigate cases of frauds arising under the Social Security Laws of the State, of violations of the gaming laws, and lottery laws, and matters of similar kind when called upon by the Governor so to do. In all such cases it shall be the duty of the Department to keep such records as may be necessary and to prepare evidence in the cases investigated, for the use of enforcement officers and for the trial of causes. The services of ~~the Director of the Bureau, and of the Director's assistants,~~employees of the Bureau may be required by the Governor in connection with the investigation of any crime committed anywhere in the State when called upon by the enforcement officers of the State, and when, in the judgment of the Governor, such services may be rendered with advantage to the enforcement of the criminal law. The State Bureau of Investigation is hereby authorized to investigate without request the attempted arson of, or arson of, damage of, theft from, or theft of, or misuse of, any State-owned personal property, buildings, or other real property or any assault upon or threats against any legislative officer named in G.S. 147-2(1), (2), or (3), any executive officer named in G.S. 147-3(c), or any court officer as defined in G.S. 14-16.10(1). The Bureau also is authorized at the request of the Governor to conduct a background investigation on a person that the Governor plans to nominate for a position that must be confirmed by the General Assembly, the Senate, or the House of Representatives. The background investigation of the proposed nominee shall be limited to an investigation of the person's criminal record, educational background, employment record, records concerning the listing and payment of taxes, and credit record, and to a requirement that the person provide the information contained in the statements of economic interest required to be filed by persons subject to Chapter 138A of the General Statutes. The Governor must give the person being investigated written notice that the Governor intends to request a background investigation at least 10 days prior to the date that the Governor requests the State Bureau of Investigation to conduct the background investigation. The written notice shall be sent by regular mail, and there is created a rebuttable presumption that the person received the notice if the Governor has a copy of the notice.

...

(c) All records and evidence collected and compiled by ~~the Director of the Bureau and his assistants~~employees of the Bureau shall, upon request, be made available to the district attorney of any district if the same concerns persons or investigations in his district.

(d) In all cases where the cost is assessed against the defendant and paid by him, there shall be assessed in the bill of cost, mileage and witness fees to ~~the Director and any of his assistants~~ any employees of the Bureau who are witnesses in cases arising in courts of this State. The fees so assessed, charged and collected shall be forwarded by the clerks of the court to the Treasurer of the State of North Carolina, and there credited to the Bureau of Identification and Investigation Fund."

SECTION 17.6.(ccc) G.S. 114-16 reads as rewritten:

"**§ 114-16. Laboratory and clinical facilities; employment of criminologists; services of scientists, etc., employed by State; radio system.**

In the ~~said Bureau~~Department of Justice there shall be provided laboratory facilities for the analysis of evidences of crime, including the determination of presence, quantity and character of poisons, the character of bloodstains, microscopic and other examination material associated

with the commission of crime, examination and analysis of projectiles of ballistic imprints and records which might lead to the determination or identification of criminals, the examination and identification of fingerprints, and other evidence leading to the identification, apprehension, or conviction of criminals. A sufficient number of persons skilled in such matters shall be employed to render a reasonable service to the public and the criminal justice system in the discharge of their duties. ~~In the personnel of the Bureau shall be included a sufficient number of persons of training and skill in the investigation of crime and in the preparation of evidence as to be of service to local enforcement officers, under the direction of the Governor, in criminal matters of major importance.~~

The laboratory and clinical facilities of the institutions of the State, both educational and departmental, shall be made available to the ~~Bureau,~~Department of Justice and scientists and doctors now working for the State through its institutions and departments may be called upon by the Governor to aid the ~~Bureau~~ State Crime Laboratory in the evaluation, preparation, and preservation of evidence in which scientific methods are employed, and a reasonable fee may be allowed by the Governor for such service.

The State radio system shall be made available to the ~~Bureau~~ State Crime Laboratory for use in its work."

SECTION 17.6.(ddd) G.S. 114-19.1(d), as recodified by subsection (m) of this section, reads as rewritten:

"(d) Nothing in this section shall be construed as enlarging any right to receive any record of the State Bureau of Investigation. Such rights are and shall be controlled by ~~G.S. 114-15, G.S. 114-19, G.S.~~ G.S. 143B-911, 143B-917, 120-19.4A, and other applicable statutes."

SECTION 17.6.(eee) G.S. 114-19.6(b), as recodified by subsection (m) of this section, reads as rewritten:

"(b) When requested by the Department of Health and Human Services or the Division of Juvenile Justice of the Department of Public Safety, the North Carolina Department of Justice may provide to the requesting department or division a covered person's criminal history from the State Repository of Criminal Histories. Such requests shall not be due to a person's age, sex, race, color, national origin, religion, creed, political affiliation, or handicapping condition as defined by G.S. 168A-3. For requests for a State criminal history record check only, the requesting department or division shall provide to the Department of Justice a form consenting to the check signed by the covered person to be checked and any additional information required by the Department of Justice. National criminal record checks are authorized for covered applicants who have not resided in the State of North Carolina during the past five years. For national checks the Department of Health and Human Services or the Division of Juvenile Justice of the Department of Public Safety shall provide to the North Carolina Department of Justice the fingerprints of the covered person to be checked, any additional information required by the Department of Justice, and a form signed by the covered person to be checked consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories. The fingerprints of the individual shall be forwarded to the State Bureau of Investigation for a search of the State criminal history record file and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Department of Health and Human Services and the Division of Juvenile Justice of the Department of Public Safety shall keep all information pursuant to this section confidential. The Department of Justice shall charge a reasonable fee for conducting the checks of the criminal history records authorized by this section."

SECTION 17.6.(fff) G.S. 114-20, as recodified by subsection (n) of this section, reads as rewritten:

"**§ 143B-975. Authority to provide protection to certain public officials.**

The North Carolina State Bureau of Investigation is authorized to provide protection to public officials who request it, and who, in the discretion of the ~~Director of the Bureau with the approval of the Attorney General,~~Secretary of Public Safety, demonstrate a need for such protection. The bureau shall not provide protection for any individual other than the Governor for a period greater than 30 days without review and reapproval by the ~~Attorney General.~~Secretary of Public Safety. This review and reapproval shall be required at the end of each 30-day period."

SECTION 17.6.(ggg) G.S. 114-20.1, as recodified by subsection (n) of this section, reads as rewritten:

"**§ 143B-976. Authority to designate areas for protection of public officials.**

(a) The ~~Attorney General~~Secretary of Public Safety is authorized to designate buildings and grounds which constitute temporary residences or temporary offices of any public official being protected under authority of G.S. 114-20, or any area that will be visited by any such official, a public building or facility during the time of such use.

(b) The ~~Attorney General or the Director of the State Bureau of Investigation~~Secretary of Public Safety may, with the consent of the official to be protected, make rules governing ingress to or egress from such buildings, grounds or areas designated under this section."

SECTION 17.6.(hhh) G.S. 120-226(c) reads as rewritten:

"(c) Membership. – The Commission shall consist of 22 members to be appointed as follows:

...

(12) ~~The Director of the State Bureau of Investigation~~The Secretary of Public Safety or the ~~Director's~~ Secretary's designee.

...."

SECTION 17.6.(iii) G.S. 122C-80 reads as rewritten:

"**§ 122C-80. Criminal history record check required for certain applicants for employment.**

...

(b) Requirement. – An offer of employment by a provider licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned on consent to a State and national criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. A provider shall not employ an applicant who refuses to consent to a criminal history record check required by this section. Except as otherwise provided in this subsection, within five business days of making the conditional offer of employment, a provider shall submit a request to the ~~Department of Justice~~Department of Public Safety under ~~G.S. 114-19.10~~G.S. 143B-930 to conduct a criminal history record check required by this section or shall submit a request to a private entity to conduct a State criminal history record check required by this section. Notwithstanding ~~G.S. 114-19.10,~~G.S. 143B-930, the ~~Department of Justice~~Department of Public Safety shall return the results of national criminal history record checks for employment positions not covered by Public Law 105-277 to the Department of Health and Human Services, Criminal Records Check Unit. Within five business days of receipt of the national criminal history of the person, the Department of Health and Human Services, Criminal Records Check Unit, shall notify the provider as to whether the information received may affect the employability of the applicant. In no case shall the results of the national criminal history record check be shared with the provider. Providers shall make available upon request verification that a criminal history check has been completed on any

staff covered by this section. A county that has adopted an appropriate local ordinance and has access to the Division of Criminal Information data bank may conduct on behalf of a provider a State criminal history record check required by this section without the provider having to submit a request to the Department of Justice. In such a case, the county shall commence with the State criminal history record check required by this section within five business days of the conditional offer of employment by the provider. All criminal history information received by the provider is confidential and may not be disclosed, except to the applicant as provided in subsection (c) of this section. For purposes of this subsection, the term "private entity" means a business regularly engaged in conducting criminal history record checks utilizing public records obtained from a State agency.

...

(g) Conditional Employment. – A provider may employ an applicant conditionally prior to obtaining the results of a criminal history record check regarding the applicant if both of the following requirements are met:

(1) The provider shall not employ an applicant prior to obtaining the applicant's consent for criminal history record check as required in subsection (b) of this section or the completed fingerprint cards as required in ~~G.S. 114-19.10.~~G.S. 143B-930.

(2) The provider shall submit the request for a criminal history record check not later than five business days after the individual begins conditional employment."

SECTION 17.6.(jjj) G.S. 122C-205(c) reads as rewritten:

"(c) Upon receipt of notice of an escape or breach of a condition of release as described in subsections (a) and (b) of this section, an appropriate law enforcement officer shall take the client into custody and have the client returned to the 24-hour facility from which the client has escaped or has been conditionally released. Transportation of the client back to the 24-hour facility shall be provided in the same manner as described in G.S. 122C-251 and G.S. 122C-408(b). Law enforcement agencies who are notified of a client's escape or breach of conditional release shall be notified of the client's return by the responsible 24-hour facility. Under the circumstances described in this section, the initial notification by the 24-hour facility of the client's escape or breach of conditional release shall be given by telephone communication to the appropriate law enforcement agency or agencies and, if available and appropriate, by ~~Division of Criminal Information (DCI)~~Department of Public Safety message to any law enforcement agency in or out of state and by entry into the National Crime Information Center (NCIC) telecommunications system. As soon as reasonably possible following notification, written authorization to take the client into custody shall also be issued by the 24-hour facility. Under this section, law enforcement officers shall have the authority to take a client into custody upon receipt of the telephone notification or ~~Division of Criminal Information~~Department of Public Safety message prior to receiving written authorization. The notification of a law enforcement agency does not, in and of itself, render this information public information within the purview of Chapter 132 of the General Statutes. However, the responsible law enforcement agency shall determine the extent of disclosure of personal identifying and background information reasonably necessary, under the circumstances, in order to assure the expeditious return of a client to the 24-hour facility involved and to protect the general public and is authorized to make such disclosure. The responsible law enforcement agency may also place any appropriate message or entry into either the ~~Division of Criminal Information System~~Department of Public Safety's Criminal Information System or National Crime Information System, or both, as appropriate."

SECTION 17.6.(kkk) G.S. 131D-10.3A reads as rewritten:

"§ 131D-10.3A. Mandatory criminal checks.

...

(d) The ~~Department of Justice~~Department of Public Safety shall provide to the Department the criminal history of the individuals specified in subsection (a) of this section obtained from the State and National Repositories of Criminal Histories as requested by the Department. The Department shall provide to the ~~Department of Justice,~~Department of Public Safety, along with the request, the fingerprints of the individual to be checked, any additional information required by the ~~Department of Justice,~~Department of Public Safety, and a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories signed by the individual to be checked. The fingerprints of the individual to be checked shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

...

(i) The ~~Department of Justice~~Department of Public Safety shall perform the State and national criminal history checks on individuals required by this section and shall charge the Department a reasonable fee only for conducting the checks of the national criminal history records authorized by this section. The Division of Social Services, Department of Health and Human Services, shall bear the costs of implementing this section."

SECTION 17.6.(lll) G.S. 131D-40 reads as rewritten:

"**§ 131D-40. Criminal history record checks required for certain applicants for employment.**

(a) Requirement; Adult Care Home. – An offer of employment by an adult care home licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned on consent to a criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. An adult care home shall not employ an applicant who refuses to consent to a criminal history record check required by this section. Within five business days of making the conditional offer of employment, an adult care home shall submit a request to the ~~Department of Justice~~Department of Public Safety under ~~G.S. 114-19.10~~G.S. 143B-930 to conduct a State or national criminal history record check required by this section, or shall submit a request to a private entity to conduct a State criminal history record check required by this section. Notwithstanding ~~G.S. 114-19.10,~~G.S. 143B-930, the ~~Department of Justice~~ Department of Public Safety shall return the results of national criminal history record checks for employment positions not covered by Public Law 105-277 to the Department of Health and Human Services, Criminal Records Check Unit. Within five business days of receipt of the national criminal history of the person, the Department of Health and Human Services, Criminal Records Check Unit, shall notify the adult care home as to whether the information received may affect the employability of the applicant. In no case shall the results of the national criminal history record check be shared with the adult care home. Adult care homes shall make available upon request verification that a criminal history check has been completed on any staff covered by this section. All criminal history information received by the home is confidential and may not be disclosed, except to the applicant as provided in subsection (b) of this section.

(a1) Requirement; Contract Agency of Adult Care Home. – An offer of employment by a contract agency of an adult care home licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned upon consent to a criminal history record check of the applicant. If the applicant has been a resident

of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. A contract agency of an adult care home shall not employ an applicant who refuses to consent to a criminal history record check required by this section. Within five business days of making the conditional offer of employment, a contract agency of an adult care home shall submit a request to the ~~Department of Justice~~Department of Public Safety under ~~G.S. 114-19.10~~G.S. 143B-930 to conduct a State or national criminal history record check required by this section, or shall submit a request to a private entity to conduct a State criminal history record check required by this section. Notwithstanding ~~G.S. 114-19.10,~~G.S. 143B-930, the ~~Department of Justice~~ Department of Public Safety shall return the results of national criminal history record checks for employment positions not covered by Public Law 105-277 to the Department of Health and Human Services, Criminal Records Check Unit. Within five business days of receipt of the national criminal history of the person, the Department of Health and Human Services, Criminal Records Check Unit, shall notify the contract agency of the adult care home as to whether the information received may affect the employability of the applicant. In no case shall the results of the national criminal history record check be shared with the contract agency of the adult care home. Contract agencies of adult care homes shall make available upon request verification that a criminal history check has been completed on any staff covered by this section. All criminal history information received by the contract agency is confidential and may not be disclosed, except to the applicant as provided by subsection (b) of this section.

...

(f) Conditional Employment. – An adult care home may employ an applicant conditionally prior to obtaining the results of a criminal history record check regarding the applicant if both of the following requirements are met:

(1) The adult care home shall not employ an applicant prior to obtaining the applicant's consent for a criminal history record check as required in subsection (a) of this section or the completed fingerprint cards as required in ~~G.S. 114-19.10.~~G.S. 143B-930.

(2) The adult care home shall submit the request for a criminal history record check not later than five business days after the individual begins conditional employment.

...."

SECTION 17.6.(mmm) G.S. 131E-159(g) reads as rewritten:

"(g) An individual who applies for EMS credentials, seeks to renew EMS credentials, or holds EMS credentials is subject to a criminal background review by the Department. At the request of the Department, the Emergency Medical Services Disciplinary Committee, established by G.S. 143-519, shall review criminal background information and make a recommendation regarding the eligibility of an individual to obtain initial EMS credentials, renew EMS credentials, or maintain EMS credentials. The Department and the Emergency Medical Services Disciplinary Committee shall keep all information obtained pursuant to this subsection confidential. The Medical Care Commission shall adopt rules to implement the provisions of this subsection, including rules to establish a reasonable fee to offset the actual costs of criminal history information obtained pursuant to ~~G.S. 114-19.21.~~G.S. 143B-943."

SECTION 17.6.(nnn) G.S. 131E-265 reads as rewritten:

"**§ 131E-265. Criminal history record checks required for certain applicants for employment.**

(a) Requirement; Nursing Home or Home Care Agency. – An offer of employment by a nursing home licensed under this Chapter to an applicant to fill a position that does not require

the applicant to have an occupational license is conditioned on consent to a criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. An offer of employment by a home care agency licensed under this Chapter to an applicant to fill a position that requires entering the patient's home is conditioned on consent to a criminal history record check of the applicant. In addition, employment status change of a current employee of a home care agency licensed under this Chapter from a position that does not require entering the patient's home to a position that requires entering the patient's home shall be conditioned on consent to a criminal history record check of that current employee. If the applicant for employment or if the current employee who is changing employment status has been a resident of this State for less than five years, then the offer of employment or change in employment status is conditioned on consent to a State and national criminal history record check. The national criminal history record check shall include a check of the applicant's or current employee's fingerprints. If the applicant or current employee has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant or current employee applying for a change in employment status. A nursing home or a home care agency shall not employ an applicant who refuses to consent to a criminal history record check required by this section. In addition, a home care agency shall not change a current employee's employment status from a position that does not require entering the patient's home to a position that requires entering the patient's home who refuses to consent to a criminal history record check required by this section. Within five business days of making the conditional offer of employment, a nursing home or home care agency shall submit a request to the ~~Department of Justice~~Department of Public Safety under ~~G.S. 114-19.10~~G.S. 143B-930 to conduct a State or national criminal history record check required by this section, or shall submit a request to a private entity to conduct a State criminal history record check required by this section. Notwithstanding ~~G.S. 114-19.10,~~G.S. 143B-930, the ~~Department of Justice~~ Department of Public Safety shall return the results of national criminal history record checks for employment positions not covered by Public Law 105-277 to the Department of Health and Human Services, Criminal Records Check Unit. Within five business days of receipt of the national criminal history of the person, the Department of Health and Human Services, Criminal Records Check Unit, shall notify the nursing home or home care agency as to whether the information received may affect the employability of the applicant. In no case shall the results of the national criminal history record check be shared with the nursing home or home care agency. Nursing homes and home care agencies shall make available upon request verification that a criminal history check has been completed on any staff covered by this section. All criminal history information received by the home or agency is confidential and may not be disclosed, except to the applicant as provided in subsection (b) of this section.

(a1) Requirement; Contract Agency of Nursing Home or Home Care Agency. – An offer of employment by a contract agency of a nursing home or home care agency licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned upon consent to a criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. A contract agency of a nursing home or home care agency shall not employ an applicant who refuses to consent to a criminal history record check required by this section.

Within five business days of making the conditional offer of employment, a contract agency of a nursing home or home care agency shall submit a request to the ~~Department of Justice~~Department of Public Safety under ~~G.S. 114-19.10~~G.S. 143B-930 to conduct a State or national criminal history record check required by this section, or shall submit a request to a private entity to conduct a State criminal history record check required by this section. Notwithstanding ~~G.S. 114-19.10,~~G.S. 143B-930, the ~~Department of Justice~~ Department of Public Safety shall return the results of national criminal history record checks for employment positions not covered by Public Law 105-277 to the Department of Health and Human Services, Criminal Records Check Unit. Within five business days of receipt of the national criminal history of the person, the Department of Health and Human Services, Criminal Records Check Unit, shall notify the contract agency of the nursing home or home care agency as to whether the information received may affect the employability of the applicant. In no case shall the results of the national criminal history record check be shared with the contract agency of the nursing home or home care agency. Contract agencies of nursing homes and home care agencies shall make available upon request verification that a criminal history check has been completed on any staff covered by this section. All criminal history information received by the contract agency is confidential and may not be disclosed, except to the applicant as provided by subsection (b) of this section.

...

(f) Conditional Employment. – A nursing home or home care agency may employ an applicant conditionally prior to obtaining the results of a criminal history record check regarding the applicant if both of the following requirements are met:

(1) The nursing home or home care agency shall not employ an applicant prior to obtaining the applicant's consent for a criminal history record check as required in subsection (a) of this section or the completed fingerprint cards as required in ~~G.S. 114-19.10.~~G.S. 143B-930.

(2) The nursing home or home care agency shall submit the request for a criminal history record check not later than five business days after the individual begins conditional employment.

...."

SECTION 17.6.(nnn1) Subpart C of Article 13 of Chapter 143B of the General Statutes, as created by subsection (f) of this section is amended by adding a new section to read:

"**§ 143B-918. Assistance to local law enforcement officers.**

In the personnel of the Bureau shall be included a sufficient number of persons of training and skill in the investigation of crime and in the preparation of evidence as to be of service to local enforcement officers, under the direction of the Governor, in criminal matters of major importance."

SECTION 17.6.(ooo) G.S. 143-143.10(b)(6) reads as rewritten:

"(6) To request that the Department of Justice conduct criminal history checks of applicants for licensure pursuant to ~~G.S. 114-19.13.~~G.S. 143B-935."

SECTION 17.6.(ppp) G.S. 143B-1100 reads as rewritten:

"**§ 143B-1100. Governor's Crime Commission – creation; composition; terms; meetings, etc.**

(a) There is hereby created the Governor's Crime Commission of the Department of Public Safety. The Commission shall consist of ~~36~~ 37 voting members and ~~six~~ five nonvoting members. The composition of the Commission shall be as follows:

...

(2) The nonvoting members shall be ~~the Director of the State Bureau of Investigation,~~ the Deputy Director of the Division of Juvenile Justice of the Department of Public Safety who is responsible for Intervention/Prevention

programs, the Deputy Director of the Division of Juvenile Justice of the Department of Public Safety who is responsible for Youth Development programs, the Section Chief of the Section of Prisons of the Division of Adult Correction and the Section Chief of the Section of Community Corrections of the Division of Adult Correction.

(b) The membership of the Commission shall be selected as follows:

(1) The following members shall serve by virtue of their office: the Governor, the Chief Justice of the Supreme Court, the Attorney General, the Director of the Administrative Office of the Courts, the Secretary of the Department of Health and Human Services, the Secretary of Public Safety, ~~the Director of the State Bureau of Investigation,~~ the Section Chief of the Section of Prisons of the Division of Adult Correction, the Section Chief of the Section of Community Corrections of the Division of Adult Correction, the Deputy Director who is responsible for Intervention/Prevention of the Division of Juvenile Justice of the Department of Public Safety, the Deputy Director who is responsible for Youth Development of the Division of Juvenile Justice of the Department of Public Safety, and the Superintendent of Public Instruction. Should the Chief Justice of the Supreme Court choose not to serve, his alternate shall be selected by the Governor from a list submitted by the Chief Justice which list must contain no less than three nominees from the membership of the Supreme Court.

...."

SECTION 17.6.(qqq) G.S. 148-37.3(c) reads as rewritten:

"(c) Any private corporation described in subsection (a) of this section shall reimburse the State and any county or other law enforcement agency for the full cost of any additional expenses incurred by the State or the county or other law enforcement agency in connection with the pursuit and apprehension of an escaped inmate from the facility.

In the event of an escape from the facility, any private corporation described in subsection (a) of this section shall immediately notify the sheriff in the county in which the facility is located, who shall cause an immediate entry into the ~~State Bureau of Investigation Division of Criminal Information network.~~Department of Public Safety's Criminal Information Network. The sheriff of the county in which the facility is located shall be the lead law enforcement officer in connection with the pursuit and apprehension of an escaped inmate from the facility."

SECTION 17.6.(rrr) G.S. 153A-94.2 reads as rewritten:

"**§ 153A-94.2. Criminal history record checks of employees permitted.**

The board of commissioners may adopt or provide for rules and regulations or ordinances concerning a requirement that any applicant for employment be subject to a criminal history record check of State and National Repositories of Criminal Histories conducted by the ~~Department of Justice~~ Department of Public Safety in accordance with ~~G.S. 114-19.14.~~G.S. 143B-936. The local or regional public employer may consider the results of these criminal history record checks in its hiring decisions."

SECTION 17.6.(sss) G.S. 160A-164.2 reads as rewritten:

"**§ 160A-164.2. Criminal history record check of employees permitted.**

The council may adopt or provide for rules and regulations or ordinances concerning a requirement that any applicant for employment be subject to a criminal history record check of State and National Repositories of Criminal Histories conducted by the ~~Department of Justice~~Department of Public Safety in accordance with ~~G.S. 114-19.14.~~G.S. 143B-936. The city may consider the results of these criminal history record checks in its hiring decisions."

SECTION 17.6.(ttt) G.S. 164-44(a) reads as rewritten:

"(a) The Commission shall have the secondary duty of collecting, developing, and maintaining statistical data relating to sentencing, corrections, and juvenile justice so that the

primary duties of the Commission will be formulated using data that is valid, accurate, and relevant to this State. All State agencies shall provide data as it is requested by the Commission. For the purposes of ~~G.S. 114-19.1,~~G.S. 143B-921, the Commission shall be considered to be engaged in the administration of criminal justice. All meetings of the Commission shall be open to the public and the information presented to the Commission shall be available to any State agency or member of the General Assembly."

PART XVIII. JUDICIAL DEPARTMENT

SUBPART XVIII-A. OFFICE OF INDIGENT DEFENSE SERVICES

OFFICE OF INDIGENT DEFENSE SERVICES REPORT

SECTION 18A.1. The Office of Indigent Defense Services shall report to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety, the House of Representatives Appropriations Subcommittee on Justice and Public Safety, and the Senate Appropriations Committee on Justice and Public Safety by March 1 of each year on:

(1) The volume and cost of cases handled in each district by assigned counsel or public defenders;

(2) Actions taken by the Office to improve the cost-effectiveness and quality of indigent defense, including the capital case program;

(3) Plans for changes in rules, standards, or regulations in the upcoming year; and

(4) Any recommended changes in law or funding procedures that would assist the Office in improving the management of funds expended for indigent defense services, including any recommendations concerning the feasibility and desirability of establishing regional public defender offices.

OFFICE OF INDIGENT DEFENSE SERVICES EXPANSION FUNDS

SECTION 18A.2. The Judicial Department, Office of Indigent Defense Services, may use up to the sum of two million one hundred fifty thousand dollars ($2,150,000) in appropriated funds during the 2013-2014 fiscal year for the expansion of existing offices currently providing legal services to the indigent population under the oversight of the Office of Indigent Defense Services, for the creation of new public defender offices within existing public defender programs, or for the establishment of regional public defender programs. Notwithstanding the defender districts established by G.S. 7A-498.7, the Office of Indigent Defense Services may use a portion of these funds to create positions within existing public defender programs to handle cases in adjacent counties or districts. These funds may be used to create up to 50 new attorney positions and 25 new support staff positions during the 2013-2015 fiscal biennium and for the salaries, benefits, equipment, and related expenses for these positions in both years of the biennium. Positions creation will be staggered across the two years of the biennium. Prior to using funds for this purpose, the Office of Indigent Defense Services shall report to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety on the proposed expansion.

OFFICE OF INDIGENT DEFENSE SERVICES/STATE MATCH FOR GRANTS

SECTION 18A.3. Notwithstanding G.S. 143C-6-9, during the 2013-2015 fiscal biennium, the Office of Indigent Defense Services may use the sum of up to fifty thousand dollars ($50,000) from funds available to provide the State matching funds needed to receive grant funds. Prior to using funds for this purpose, the Office shall report to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, the

Senate Appropriations Committee on Justice and Public Safety, and the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds.

PRIVATE ASSIGNED COUNSEL

SECTION 18A.4. The Office of Indigent Defense Services shall issue a request for proposals from private law firms or not-for-profit legal representation organizations for the provision of all classes of legal cases for indigent clients in all judicial districts. The Office of Indigent Defense Services shall report on the issuance of this request for proposals to the Joint Legislative Commission on Governmental Operations by October 1, 2013. In cases where the proposed contract can provide representation services more efficiently than current costs, the Office of Indigent Defense Services shall use private assigned counsel funds to enter into contracts for this purpose. In selecting contracts, the Office of Indigent Defense Services shall consider the cost-effectiveness of the proposed contract. Disputes regarding the ability of the potential contractor to provide effective representation for clients served by the contract shall be determined by the senior resident superior court judge for the district.

SUBPART XVIII-B. ADMINISTRATIVE OFFICE OF THE COURTS

GRANT FUNDS

SECTION 18B.1. Notwithstanding G.S. 143C-6-9, the Administrative Office of the Courts may use up to the sum of one million five hundred thousand dollars ($1,500,000) from funds available to the Department to provide the State match needed in order to receive grant funds. Prior to using funds for this purpose, the Department shall report to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, the Senate Appropriations Committee on Justice and Public Safety, and to the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds.

COLLECTION OF WORTHLESS CHECK FUNDS

SECTION 18B.2. Notwithstanding the provisions of G.S. 7A-308(c), the Judicial Department may use any balance remaining in the Collection of Worthless Checks Fund on June 30, 2013, for the purchase or repair of office or information technology equipment during the 2013-2014 fiscal year. Prior to using any funds under this section, the Judicial Department shall report to the Joint Legislative Commission on Governmental Operations, the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, the Chairs of the Senate Appropriations Committee on Justice and Public Safety, and the Office of State Budget and Management on the equipment to be purchased or repaired and the reasons for the purchases.

COURT REPORTER CONTRACTUAL SERVICES FUNDS

SECTION 18B.3. Of the funds appropriated in this act to the Judicial Department for court reporters, the Department shall use the sum of one million nine hundred thirty-eight thousand nine hundred thirty-nine dollars ($1,938,939) during the 2013-2014 fiscal year to provide contractual services of court reporters for superior court.

CONFERENCE OF DISTRICT ATTORNEYS GRANT FUND

SECTION 18B.4. Of the funds appropriated in this act to the Judicial Department, the sum of one million two hundred fifty thousand dollars ($1,250,000) in the 2013-2014 fiscal year and the sum of seven hundred fifty thousand dollars ($750,000) in the 2014-2015 fiscal year shall be allocated to the Conference of District Attorneys and shall be used to establish a grant fund to provide district attorneys across the State with the resources to obtain toxicology

analysis from local hospitals on persons charged with driving while impaired whose conduct did not result in serious injury or death to others.

MODIFY LEGAL AID DOMESTIC VIOLENCE REPORT

SECTION 18B.5. G.S. 7A-474.20 reads as rewritten:

"**§ 7A-474.20. Records and reports.**

The established legal services programs shall keep appropriate records and make periodic reports, as requested, to the North Carolina State Bar. The North Carolina State Bar shall report annually to the ~~General Assembly~~ Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety on the amount of the funds disbursed and the use of the funds by each legal services program receiving funds. The report to the ~~General Assembly~~ Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety shall be made by January 15 of each year beginning January 15, 2006."

FAMILY COURT PROGRAMS

SECTION 18B.6. The Administrative Office of the Courts shall provide direction and oversight to the existing family court programs in order to ensure that each district with a family court program is utilizing best practices and is working effectively and efficiently in the disposition of domestic and juvenile cases. The Administrative Office of the Courts shall report on its efforts in this regard and the results of those efforts to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, the Senate Appropriations Committee on Justice and Public Safety, and the Joint Legislative Oversight Committee on Justice and Public Safety by March 1, 2014.

MAGISTRATE DISTRIBUTION FORMULA

SECTION 18B.7. The Administrative Office of the Courts, in consultation with the National Center for State Courts, shall study its current formula for the distribution of magistrates across the State and consider revisions to that formula designed to take into account regional differences, travel considerations, and the potential for regionalizing magistrates. The Administrative Office of the Courts shall report its findings and recommendations to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety by February 1, 2014.

MINUTES MAINTAINED BY THE CLERK OF SUPERIOR COURT TO RECORD CONVENING AND ADJOURNMENT OR RECESS OF BOTH DISTRICT AND SUPERIOR COURT

SECTION 18B.8.(a) G.S. 7A-109(a1) is amended by adding a new section to read:

"(a1) The minutes maintained by the clerk pursuant to this subsection shall record the date and time of each convening of district and superior court, as well as the date and time of each recess or adjournment of district and superior court with no further business before the court."

SECTION 18B.8.(b) The Administrative Office of the Courts shall provide on a monthly basis the records of the dates and times of convening, recess, and adjournment of district and superior court collected by each clerk of superior court pursuant to G.S. 7A-109, as amended by subsection (a) of this section, to the National Center for State Courts, the Fiscal Research Division, and the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety.

JUDICIAL FORMS SHALL CONFORM TO JUSTICE REINVESTMENT CHANGES

SECTION 18B.9. The Administrative Office of the Courts shall ensure that all judicial forms being used in the General Court of Justice conform to all of the changes made in the law with the enactment of the Justice Reinvestment Act of 2011, as amended.

CRIMINAL CASE INFORMATION SYSTEM FOR PUBLIC DEFENDERS

SECTION 18B.10. The Administrative Office of the Courts shall use funds allocated to the Judicial Department for technology for the 2013-2014 fiscal biennium to develop and implement a component of the Department's criminal case information system for use by public defenders no later than July 1, 2014.

CLERKS SHALL ACCEPT CREDIT CARDS

SECTION 18B.11.(a) G.S. 7A-321(a) reads as rewritten:

"(a) The Judicial Department ~~may,~~ shall, in lieu of payment by cash or check, accept payment by credit card, charge card, or debit card for the ~~fines, fees, and~~ costs owed to the ~~courts by offenders.~~court, including fines, fees, and restitution."

SECTION 18B.11.(b) The Administrative Office of the Courts shall provide a cost-effective system for accepting online payments for court costs to all clerks of superior court by January 1, 2014.

SECTION 18B.11.(c) This section becomes effective January 1, 2014.

SPECIAL SUPERIOR COURT JUDGES

SECTION 18B.12. Effective July 1, 2013, G.S. 7A-45.1 is amended by adding a new subsection to read:

"(a8) Notwithstanding any other provision of this section, except as to those three seats designated as of January 1, 2013, under G.S. 7A-45.3 as business court judges, effective on and after July 1, 2013, any seat established by this section is abolished."

AMEND CLASS 3 MISDEMEANOR SENTENCES

SECTION 18B.13.(a) G.S. 15A-1340.23 reads as rewritten:

"**§ 15A-1340.23. Punishment limits for each class of offense and prior conviction level.**

(a) Offense Classification; Default Classifications. – The offense classification is as specified in the offense for which the sentence is being imposed. If the offense is a misdemeanor for which there is no classification, it is as classified in G.S. 14-3.

(b) Fines. – Any judgment that includes a sentence of imprisonment may also include a fine. Additionally, when the defendant is other than an individual, the judgment may consist of a fine only. If a community punishment is authorized, the judgment may consist of a fine only. Unless otherwise provided for a specific offense, the maximum fine that may be imposed is two hundred dollars ($200.00) for a Class 3 misdemeanor and one thousand dollars ($1,000) for a Class 2 misdemeanor. The amount of the fine for a Class 1 misdemeanor and a Class A1 misdemeanor is in the discretion of the court.

(c) Punishment for Each Class of Offense and Prior Conviction Level; Punishment Chart Described. – Unless otherwise provided for a specific offense, the authorized punishment for each class of offense and prior conviction level is as specified in the chart below. Prior conviction levels are indicated by the Roman numerals placed horizontally on the top of the chart. Classes of offenses are indicated by the Arabic numbers placed vertically on the left side of the chart. Each grid on the chart contains the following components:

(1) A sentence disposition or dispositions: "C" indicates that a community punishment is authorized; "I" indicates that an intermediate punishment is authorized; and "A" indicates that an active punishment is authorized; and

(2) A range of durations for the sentence of imprisonment: any sentence within the duration specified is permitted.

	PRIOR CONVICTION LEVELS		
MISDEMEANOR OFFENSE	LEVEL I	LEVEL II	LEVEL III

CLASS	No Prior Convictions	One to Four Prior Convictions	Five or More Prior Convictions
A1	1-60 days C/I/A	1-75 days C/I/A	1-150 days C/I/A
1	1-45 days C	1-45 days C/I/A	1-120 days C/I/A
2	1-30 days C	1-45 days C/I	1-60 days C/I/A
3	1-10 days C	~~1-15 days C/I~~ 1-15 days C if one to three prior convictions 1-15 days C/I if four prior convictions	1-20 days C/I/A.

(d) Fine Only for Certain Class 3 Misdemeanors. – Unless otherwise provided for a specific offense, the judgment for a person convicted of a Class 3 misdemeanor who has no more than three prior convictions shall consist only of a fine."

SECTION 18B.13.(b) This section becomes effective December 1, 2013. Prosecutions for offenses committed before the effective date of this section are not abated or affected by this section, and the statutes that would be applicable but for this section remain applicable to those prosecutions.

RECLASSIFICATION OF CERTAIN CLASS 1 AND CLASS 2 MISDEMEANORS AS CLASS 3 MISDEMEANORS

SECTION 18B.14.(a) G.S. 14-106 reads as rewritten:

"§ 14-106. Obtaining property in return for worthless check, draft or order.

Every person who, with intent to cheat and defraud another, shall obtain money, credit, goods, wares or any other thing of value by means of a check, draft or order of any kind upon any bank, person, firm or corporation, not indebted to the drawer, or where he has not provided for the payment or acceptance of the same, and the same be not paid upon presentation, shall be guilty of a ~~Class 2 misdemeanor.~~Class 3 misdemeanor. The giving of the aforesaid worthless check, draft, or order shall be prima facie evidence of an intent to cheat and defraud."

SECTION 18B.14.(b) G.S. 14-107(d) reads as rewritten:

"(d) A violation of this section is a Class I felony if the amount of the check or draft is more than two thousand dollars ($2,000). If the amount of the check or draft is two thousand dollars ($2,000) or less, a violation of this section is a misdemeanor punishable as follows:

(1) Except as provided in subdivision (3) or (4) of this subsection, the person is guilty of a ~~Class 2 misdemeanor.~~Class 3 misdemeanor. Provided, however, if the person has been convicted three times of violating this section, the person shall on the fourth and all subsequent convictions (i) be punished as for a Class 1 misdemeanor and (ii) be ordered, as a condition of probation, to refrain from maintaining a checking account or making or uttering a check for three years.

(2) Repealed by Session Laws 1999-408, s. 1.

(3) If the check or draft is drawn upon a nonexistent account, the person is guilty of a Class 1 misdemeanor.

(4) If the check or draft is drawn upon an account that has been closed by the drawer, or that the drawer knows to have been closed by the bank or depository, prior to time the check is drawn, the person is guilty of a Class 1 misdemeanor."

SECTION 18B.14.(c) G.S. 14-167 reads as rewritten:

"§ 14-167. Failure to return hired property.

Any person who shall rent or hire, any horse, mule or other like animal, or any buggy, wagon, truck, automobile, or other vehicle, aircraft, motor, trailer, appliance, equipment, tool, or other thing of value, and who shall willfully fail to return the same to the possession of the

person, firm or corporation from whom such property has been rented or hired at the expiration of the time for which such property has been rented or hired, shall be guilty of a ~~Class 2 misdemeanor.~~Class 3 misdemeanor.

If the value at the time of the rental or hiring of the truck, automobile, or other motor vehicle that is not returned is in excess of four thousand dollars ($4,000), the person who rented or hired it and failed to return it shall be guilty of a Class H felony."

SECTION 18B.14.(d) G.S. 14-168.1 reads as rewritten:

"**§ 14-168.1. Conversion by bailee, lessee, tenant or attorney-in-fact.**

Every person entrusted with any property as bailee, lessee, tenant or lodger, or with any power of attorney for the sale or transfer thereof, who fraudulently converts the same, or the proceeds thereof, to his own use, or secretes it with a fraudulent intent to convert it to his own use, shall be guilty of a ~~Class 1 misdemeanor.~~ Class 3 misdemeanor.

If, however, the value of the property converted or secreted, or the proceeds thereof, is in excess of four hundred dollars ($400.00), every person so converting or secreting it is guilty of a Class H felony. In all cases of doubt the jury shall, in the verdict, fix the value of the property converted or secreted."

SECTION 18B.14.(e) G.S. 14-168.4(a) reads as rewritten:

"(a) It shall be a ~~Class 2 misdemeanor~~Class 3 misdemeanor for any person to fail to return rented property with intent to defeat the rights of the owner, which is rented pursuant to a written rental agreement in which there is an option to purchase the property, after the date of termination provided in the agreement has occurred or, if the termination date is the occurrence of a specified event, then that such event has in fact occurred."

SECTION 18B.14.(f) G.S. 20-28(a) reads as rewritten:

"(a) Driving While License Revoked. – Except as provided in subsection (a1) of this section, any person whose drivers license has been revoked who drives any motor vehicle upon the highways of the State while the license is revoked is guilty of a Class 3 misdemeanor unless the person's license was originally revoked for an impaired driving revocation, in which case the person is guilty of a Class 1 misdemeanor. Upon conviction, the person's license shall be revoked for an additional period of one year for the first offense, two years for the second offense, and permanently for a third or subsequent offense.

If the person's license was originally revoked for an impaired driving revocation, the court may order as a condition of probation that the offender abstain from alcohol consumption and verify compliance by use of a continuous alcohol monitoring system, of a type approved by the Division of Adult Correction of the Department of Public Safety, for a minimum period of 90 days.

The restoree of a revoked drivers license who operates a motor vehicle upon the highways of the State without maintaining financial responsibility as provided by law shall be punished as for driving without a license."

SECTION 18B.14.(g) G.S. 20-35 reads as rewritten:

"**§ 20-35. Penalties for violating Article; defense to driving without a license.**

(a) Penalty. – ~~A~~Except as otherwise provided in subsection (a1) of this section, a violation of this Article is a Class 2 misdemeanor unless a statute in the Article sets a different punishment for the violation. If a statute in this Article sets a different punishment for a violation of the Article, the different punishment applies.

(a1) The following offenses are Class 3 misdemeanors:

(1) Failure to obtain a license before driving a motor vehicle, in violation of G.S. 20-7(a).

(2) Failure to carry a valid license while driving a motor vehicle, in violation of G.S. 20-7(a).

(3) Failure to comply with license restrictions, in violation of G.S. 20-7(e).

(4) Operation of a motor vehicle with an expired license, in violation of G.S. 20-7(f).
(5) Failure to notify the Division of Motor Vehicles of an address change for a drivers license within 60 days after the change occurs, in violation of G.S. 20-7.1.
(6) Permitting a motor vehicle owned by the person to be operated by an unlicensed person, in violation of G.S. 20-34.
...."

SECTION 18B.14.(h) G.S. 20-176 reads as rewritten:

"**§ 20-176. Penalty for misdemeanor or infraction.**

(a) Violation of a provision of Part 9, 10, 10A, or 11 of this Article is an infraction unless the violation is specifically declared by law to be a misdemeanor or felony. Violation of the remaining Parts of this Article is a misdemeanor unless the violation is specifically declared by law to be an infraction or a felony.

(b) Unless a specific penalty is otherwise provided by law, a person found responsible for an infraction contained in this Article may be ordered to pay a penalty of not more than one hundred dollars ($100.00).

(c) ~~Unless~~Except as otherwise provided in subsection (c2) of this section, and unless a specific penalty is otherwise provided by law, a person convicted of a misdemeanor contained in this Article is guilty of a Class 2 misdemeanor. A punishment is specific for purposes of this subsection if it contains a quantitative limit on the term of imprisonment or the amount of fine a judge can impose.

(c1) Notwithstanding any other provision of law, no person convicted of a misdemeanor for the violation of any provision of this Chapter except G.S. 20-28(a) and (b), G.S. 20-141(j), G.S. 20-141.3(b) and (c), G.S. 20-141.4, or a second or subsequent conviction of G.S. 20-138.1 shall be imprisoned in the State prison system unless the person previously has been imprisoned in a local confinement facility, as defined by G.S. 153A-217(5), for a violation of this Chapter.

(c2) A person who does any of the following is guilty of a Class 3 misdemeanor:
(1) Fails to carry the registration card in the vehicle, in violation of G.S. 20-57(c).
(2) Fails to sign the vehicle registration card, in violation of G.S. 20-57(c).
(3) Fails to notify the Division of Motor Vehicles of an address change for a vehicle registration card within 60 days after the change occurs, in violation of G.S. 20-67.

(d) For purposes of determining whether a violation of an offense contained in this Chapter constitutes negligence per se, crimes and infractions shall be treated identically."

SECTION 18B.14.(i) G.S. 20-111 reads as rewritten:

"**§ 20-111. Violation of registration provisions.**

It shall be unlawful for any person to commit any of the following acts:
(1) To drive a vehicle on a highway, or knowingly permit a vehicle owned by that person to be driven on a highway, when the vehicle is not registered with the Division in accordance with this Article or does not display a current registration plate. Violation of this subdivision is a Class 3 misdemeanor.
(2) To display or cause or permit to be displayed or to have in possession any registration card, certificate of title or registration number plate knowing the same to be fictitious or to have been canceled, revoked, suspended or altered, or to willfully display an expired license or registration plate on a vehicle knowing the same to be expired. Violation of this subdivision is a Class 3 misdemeanor.

(3) The giving, lending, or borrowing of a license plate for the purpose of using same on some motor vehicle other than that for which issued shall make the giver, lender, or borrower guilty of a Class 3 misdemeanor. Where license plate is found being improperly used, such plate or plates shall be revoked or canceled, and new license plates must be purchased before further operation of the motor vehicle.

(4) To fail or refuse to surrender to the Division, upon demand, any title certificate, registration card or registration number plate which has been suspended, canceled or revoked as in this Article provided. Service of the demand shall be in accordance with G.S. 20-48.

(5) To use a false or fictitious name or address in any application for the registration of any vehicle or for a certificate of title or for any renewal or duplicate thereof, or knowingly to make a false statement or knowingly to conceal a material fact or otherwise commit a fraud in any such application. A violation of this subdivision shall constitute a Class 1 misdemeanor.

(6) To give, lend, sell or obtain a certificate of title for the purpose of such certificate being used for any purpose other than the registration, sale, or other use in connection with the vehicle for which the certificate was issued. Any person violating the provisions of this subdivision shall be guilty of a Class 2 misdemeanor."

SECTION 18B.14.(j) G.S. 20-127(d) reads as rewritten:

"(d) Violations. – A person who does any of the following commits a ~~misdemeanor of the class set in G.S. 20-176:~~ Class 3 misdemeanor:

(1) Applies tinting to the window of a vehicle that is subject to a safety inspection in this State and the resulting tinted window does not meet the window tinting restrictions set in this section.

(2) Drives on a highway or a public vehicular area a vehicle that has a window that does not meet the window tinting restrictions set in this section."

SECTION 18B.14.(k) G.S. 20-141(j1) reads as rewritten:

"(j1) A person who drives a vehicle on a highway at a speed that is either more than 15 miles per hour more than the speed limit established by law for the highway where the offense occurred or over 80 miles per hour is guilty of a ~~Class 2 misdemeanor.~~ Class 3 misdemeanor."

SECTION 18B.14.(l) G.S. 20-313(a) reads as rewritten:

"(a) On or after July 1, 1963, any owner of a motor vehicle registered or required to be registered in this State who shall operate or permit such motor vehicle to be operated in this State without having in full force and effect the financial responsibility required by this Article shall be guilty of a ~~Class 1 misdemeanor.~~Class 3 misdemeanor."

SECTION 18B.14.(m) G.S. 113-135(a) reads as rewritten:

"(a) Any person who violates any provision of this Subchapter or any rule adopted by the Marine Fisheries Commission or the Wildlife Resources Commission, as appropriate, pursuant to the authority of this Subchapter, is guilty of a misdemeanor except that punishment for violation of the rules of the Wildlife Resources Commission is limited as set forth in G.S. 113-135.1. ~~Unless~~Fishing without a license in violation of G.S. 113-174.1(a) or G.S. 113-270.1B(a) is punishable as a Class 3 misdemeanor. Otherwise, unless a different level of punishment is elsewhere set out, anyone convicted of a misdemeanor under this section is punishable as follows:

(1) For a first conviction, as a Class 3 misdemeanor.

(2) For a second or subsequent conviction within three years, as a Class 2 misdemeanor."

SECTION 18B.14.(n) This section becomes effective December 1, 2013. Prosecutions for offenses committed before the effective date of this section are not abated or

affected by this section, and the statutes that would be applicable but for this section remain applicable to those prosecutions.

RECLASSIFY CERTAIN VIOLATIONS OF THE BOATING SAFETY ACT FROM CLASS 3 MISDEMEANORS TO INFRACTIONS

SECTION 18B.15.(a) G.S. 75A-6.1 reads as rewritten:

"(c) Violation of the navigation rules specified in subsection (a) of this section shall constitute ~~a Class 3 misdemeanor and is punishable only by a fine not to exceed one hundred dollars ($100.00).~~an infraction as provided in G.S. 14-3.1."

SECTION 18B.15.(b) G.S. 75A-13.1 reads as rewritten:

"**§ 75A-13.1. Skin and scuba divers.**

(a) No person shall engage in skin diving or scuba diving in the waters of this State that are open to boating, or assist in such diving, without displaying a diver's flag from a mast, buoy, or other structure at the place of diving; and no person shall display such flag except when diving operations are under way or in preparation.

(b) The diver's flag shall be square, not less than 12 inches on a side, and shall be of red background with a diagonal white stripe, of a width equal to one fifth of the flag's height, running from the upper corner adjacent to the mast downward to the opposite outside corner.

(c) No operator of a vessel under way in the waters of this State shall permit the vessel to approach closer than 50 feet to any structure from which a diver's flag is then being displayed, except where the flag is so positioned as to constitute an unreasonable obstruction to navigation; and no person shall engage in skin diving or scuba diving or display a diver's flag in any locality that will unreasonably obstruct vessels from making legitimate navigational use of the water.

(d) A person who violates a provision of this section is ~~guilty of a Class 3 misdemeanor and shall only be subject to a fine not to exceed twenty-five dollars ($25.00).~~responsible for an infraction as provided in G.S. 14-3.1."

SECTION 18B.15.(c) G.S. 75A-13.3(c3) reads as rewritten:

"(c3) A vessel livery shall provide the operator of a leased personal watercraft with basic safety instruction prior to allowing the operation of the leased personal watercraft. "Basic safety instruction" shall include direction on how to safely operate the personal watercraft and a review of the safety provisions of this section. A vessel livery that fails to provide basic safety instruction is ~~guilty of a Class 3 misdemeanor.~~responsible for an infraction as provided in G.S. 14-3.1."

SECTION 18B.15.(d) G.S. 75A-17(f) reads as rewritten:

"(f) Vessels operated on the waters of this State shall slow to a no-wake speed when passing within 100 feet of a law enforcement vessel that is displaying a flashing blue light unless the vessel is in a narrow channel. Vessels operated on the waters of this State in a narrow channel shall slow to a no-wake speed when passing within 50 feet of a law enforcement vessel that is displaying a flashing blue light. A person who violates this subsection is ~~guilty of a Class 3 misdemeanor.~~responsible for an infraction as provided in G.S. 14-3.1."

SECTION 18B.15.(e) G.S. 75A-18(a) reads as rewritten:

"(a) Except as otherwise provided, a person who violates a provision of this Article or who violates a rule adopted under authority of this Chapter is ~~guilty of a Class 3 misdemeanor and shall only be subject to a fine not to exceed two hundred and fifty dollars ($250.00) for each violation.~~responsible for an infraction as provided in G.S. 14-3.1. This limitation shall not apply in a case where a more severe penalty is prescribed in this Chapter."

SECTION 18B.15.(f) This section becomes effective December 1, 2013. Prosecutions for offenses committed before the effective date of this section are not abated or

affected by this section, and the statutes that would be applicable but for this section remain applicable to those prosecutions.

EXPUNCTION FEES

SECTION 18B.16.(a) G.S. 15A-145(e) reads as rewritten:

"(e) A person who files a petition for expunction of a criminal record under this section must pay the clerk of superior court a fee of ~~one hundred twenty-five dollars ($125.00)~~ one hundred seventy-five dollars ($175.00) at the time the petition is filed. Fees collected under this subsection shall be deposited in the General Fund. This subsection does not apply to petitions filed by an indigent."

SECTION 18B.16.(b) G.S. 15A-145.1 is amended by adding a new subsection to read:

"(d) A person who files a petition for expunction of a criminal record under this section must pay the clerk of superior court a fee of one hundred seventy-five dollars ($175.00) at the time the petition is filed. Fees collected under this subsection shall be deposited in the General Fund. This subsection does not apply to petitions filed by an indigent."

SECTION 18B.16.(c) G.S. 15A-145.2(d) reads as rewritten:

"(d) A person who files a petition for expunction of a criminal record under this section must pay the clerk of superior court a fee of ~~sixty-five dollars ($65.00)~~ one hundred seventy-five dollars ($175.00) at the time the petition is filed. Fees collected under this subsection shall be deposited in the General Fund. This subsection does not apply to petitions filed by an indigent."

SECTION 18B.16.(d) G.S. 15A-145.3 is amended by adding a new subsection to read:

"(d) A person who files a petition for expunction of a criminal record under this section must pay the clerk of superior court a fee of one hundred seventy-five dollars ($175.00) at the time the petition is filed. Fees collected under this subsection shall be deposited in the General Fund. This subsection does not apply to petitions filed by an indigent."

SECTION 18B.16.(e) G.S. 15A-145.4 is amended by adding a new subsection to read:

"(j) A person who files a petition for expunction of a criminal record under this section must pay the clerk of superior court a fee of one hundred seventy-five dollars ($175.00) at the time the petition is filed. Fees collected under this subsection shall be deposited in the General Fund. This subsection does not apply to petitions filed by an indigent."

SECTION 18B.16.(f) G.S. 15A-146 is amended by adding a new subsection to read:

"(d) A person charged with a crime that is dismissed pursuant to compliance with a deferred prosecution agreement and who files a petition for expunction of a criminal record under this section must pay the clerk of superior court a fee of one hundred seventy-five dollars ($175.00) at the time the petition is filed. Fees collected under this subsection shall be deposited in the General Fund. This subsection does not apply to petitions filed by an indigent."

SECTION 18B.16.(g) This section becomes effective December 1, 2013, and applies to petitions for expunction filed on or after that date.

AMEND MOTION FEES

SECTION 18B.17.(a) G.S. 7A-305(f) reads as rewritten:

"(f) For the support of the General Court of Justice, the sum of twenty dollars ($20.00) shall accompany any filing ~~containing one or more motions~~ of a notice of hearing on a motion not listed in G.S. 7A-308 that is filed with the clerk. No costs shall be assessed to a notice of hearing on a motion containing as a sole claim for relief the taxing of costs, including attorneys' fees."

SECTION 18B.17.(b) G.S. 7A-306(g) reads as rewritten:

"(g) For the support of the General Court of Justice, the sum of twenty dollars ($20.00) shall accompany any filing ~~containing one or more motions~~ of a notice of hearing on a motion not listed in G.S. 7A-308 that is filed with the clerk. No costs shall be assessed to a notice of hearing on a motion containing as a sole claim for relief the taxing of costs, including attorneys' fees."

SECTION 18B.17.(c) G.S. 7A-307(a)(4) reads as rewritten:

"(4) For the support of the General Court of Justice, the sum of twenty dollars ($20.00) shall accompany any filing ~~requiring a notice of hearing and containing one or more motions~~ of a notice of hearing on a motion not listed in G.S. 7A-308 that is filed with the clerk. No costs shall be assessed to a notice of hearing on a motion containing as a sole claim for relief the taxing of costs, including attorneys' fees."

SECTION 18B.17.(d) This section becomes effective August 1, 2013, and applies to notices of hearing on a motion not listed in G.S. 7A-308 filed on or after that date.

CRIMINAL JUSTICE EDUCATION AND STANDARDS COMMISSION COURT FEE

SECTION 18B.18.(a) G.S. 7A-304(a) reads as rewritten:

"(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected. No costs may be assessed when a case is dismissed. Only upon entry of a written order, supported by findings of fact and conclusions of law, determining that there is just cause, the court may (i) waive costs assessed under this section or (ii) waive or reduce costs assessed under subdivisions (7) or (8) of this section.

...

(3b) For the services, staffing, and operations of the Criminal Justice Education and Standards ~~Commission and the Sheriffs' Education and Training Standards~~Commission, the sum of two dollars ($2.00) to be remitted to the Department of Justice. ~~One dollar and thirty cents ($1.30) of this sum shall be used exclusively for the Criminal Justice Education and Standards Commission, and seventy cents (70¢) shall be used exclusively for the Sheriffs' Education and Training Standards Commission.~~

...."

SECTION 18B.18.(b) This section becomes effective July 1, 2013, and applies to all costs assessed or collected on or after that date.

PART XIX. DEPARTMENT OF CULTURAL RESOURCES

CULTURAL RESOURCES TO FIND ALTERNATIVE FUNDING FOR STATE HISTORIC SITES

SECTION 19.1. In an effort to reduce funding of the State's 27 Historic Sites, the Department of Cultural Resources shall find alternative funding sources to support these sites by actively seeking support from the following: (i) the local governments where these Historic Sites are located, (ii) the nonprofit groups associated with these Historic Sites, and (iii) other private sources.

ALLOW EXEMPTION TO RULE-MAKING PROCESS FOR ESTABLISHING AND CHANGING ADMISSION AND ACTIVITY FEES AT STATE HISTORIC SITES, MUSEUMS, AND TRYON PALACE HISTORIC SITES AND GARDENS

SECTION 19.2.(a) G.S. 121-7.3 reads as rewritten:

"**§ 121-7.3. Admission fees.**

The Department of Cultural Resources may charge a reasonable admission fee to any historic site and museum administered by the Department. Admission fees collected under this section are receipts of the Department and shall be deposited in a nonreverting account. The Department shall retain unbudgeted receipts at the end of each fiscal year, beginning June 30, 2004, and shall deposit these receipts into the account. Funds in the account shall be used to support a portion of ~~each museum's operation.~~the operation of each historic site and museum. The Secretary may adopt rules necessary to carry out the provisions of this section. The Department is exempt from the requirements of Chapter 150B of the General Statutes when adopting, amending, or repealing rules for admission fees or related activity fees at historic sites and museums. The Department shall ~~provide~~ submit a ~~quarterly~~ report to the Joint Legislative Commission on Governmental Operations ~~as to the Department's or museums' anticipated use of funds or expenditures of funds pursuant to this section.~~on the amount and purpose of a fee change within 30 days following its effective date."

SECTION 19.2.(b) G.S. 143B-71 reads as rewritten:

"**§ 143B-71. Tryon Palace Commission – creation, powers and duties.**

There is hereby created the Tryon Palace Commission of the Department of Cultural Resources with the power and duty to adopt, amend and rescind rules and regulations concerning the restoration and maintenance of the Tryon Palace complex, and such other powers and duties as provided in Article 2 of Chapter 121 of the General Statutes of North Carolina. The Commission is exempt from the requirements of Chapter 150B of the General Statutes when adopting, amending, or repealing rules for admission fees or related activity fees at Tryon Palace Historic Sites and Gardens. The Commission shall submit a report to the Joint Legislative Commission on Governmental Operations on the amount and purpose of a fee change within 30 days following its effective date."

SECTION 19.2.(c) G.S. 150B-1(d) is amended by adding the following new subdivisions to read:

"(23) The Department of Cultural Resources with respect to admission fees or related activity fees at historic sites and museums pursuant to G.S. 121-7.3.

(24) Tryon Palace Commission with respect to admission fees or related activity fees pursuant to G.S. 143B-71."

ALLOW MUSEUMS AND HISTORIC SITES TO GENERATE REVENUE FROM VENDOR SERVICES

SECTION 19.3.(a) Article 3 of Chapter 111 of the General Statutes is amended by adding a new section to read:

"**§ 111-47.2. Food service at museums and historic sites operated by the Department of Cultural Resources.**

Notwithstanding Article 3 of Chapter 111 of the General Statutes, the North Carolina Department of Cultural Resources may operate or contract for the operation of food or vending services at museums and historic sites operated by the Department. Notwithstanding G.S. 111-43, the net proceeds of revenue generated by food and vending services provided at museums and historic sites operated by the Department or a vendor with whom the Department has contracted shall be credited to the appropriate fund of the museum or historic site where the funds were generated and shall be used for the operation of that museum or historic site."

SECTION 19.3.(b) G.S. 111-47.2, as enacted by subsection (a) of this section, shall not be construed to alter any contract for food or vending services at any museum or historic site operated by the Department that is in force at the time this section becomes law.

ALLOW EXEMPTION FOR HISTORIC SITES AND MUSEUMS ADMINISTERED BY THE DEPARTMENT OF CULTURAL RESOURCES FROM THE

PROHIBITION OF THE SALE OF MERCHANDISE OR SERVICES BY GOVERNMENTAL UNITS

SECTION 19.4. G.S. 66-58 reads as rewritten:

"**§ 66-58. Sale of merchandise or services by governmental units.**

(a) Except as may be provided in this section, it shall be unlawful for any unit, department or agency of the State government, or any division or subdivision of the unit, department or agency, or any individual employee or employees of the unit, department or agency in his, or her, or their capacity as employee or employees thereof, to engage directly or indirectly in the sale of goods, wares or merchandise in competition with citizens of the State, or to engage in the operation of restaurants, cafeterias or other eating places in any building owned by or leased in the name of the State, or to maintain service establishments for the rendering of services to the public ordinarily and customarily rendered by private enterprises, or to provide transportation services, or to contract with any person, firm or corporation for the operation or rendering of the businesses or services on behalf of the unit, department or agency, or to purchase for or sell to any person, firm or corporation any article of merchandise in competition with private enterprise. The leasing or subleasing of space in any building owned, leased or operated by any unit, department or agency or division or subdivision thereof of the State for the purpose of operating or rendering of any of the businesses or services herein referred to is hereby prohibited.

(b) The provisions of subsection (a) of this section shall not apply to:

...

(9b) The Department of Cultural Resources for the sale of books, crafts, gifts, and other tourism-related items at historic sites and museums administered by the Department."

...."

MUSEUM OF ART CHALLENGE GRANT

SECTION 19.5.(a) Of the funds appropriated in this act to the Department of Cultural Resources for the North Carolina Museum of Art, the sum of one million dollars ($1,000,000) in recurring funds shall be allocated to the Museum of Art as provided by this section.

SECTION 19.5.(b) It is the intent of the General Assembly that the Museum of Art raise non-State funds for the 2013-2014 fiscal year that exceed the non-State receipts collected in the 2012-2013 fiscal year by at least one million dollars ($1,000,000). Receipts collected in the 2012-2013 fiscal year cannot be used as matching funds required by this section. The Museum of Art shall report to the Department of Cultural Resources by December 31, 2013, and June 30, 2014, on whether the funds required by this section were raised.

SECTION 19.5.(c) The Museum of Art shall receive allocations as follows:

(1) On July 1, 2013, a sum of five hundred thousand dollars ($500,000).

(2) On January 1, 2014, a sum of five hundred thousand dollars ($500,000), after demonstrating to the Department of Cultural Resources that it has raised at least a sum of five hundred thousand dollars ($500,000) in non-State funds to match this allotment on a dollar-for-dollar basis.

TRYON PALACE HISTORIC SITES AND GARDENS CHALLENGE GRANT

SECTION 19.6.(a) Of the funds appropriated in this act to the Department of Cultural Resources for Tryon Palace Historic Sites and Gardens, the sum of four hundred seventy-six thousand seven hundred twenty-five dollars ($476,725) in nonrecurring funds for the 2013-2014 fiscal year shall be allocated to Tryon Palace Historic Sites and Gardens in accordance with this section.

SECTION 19.6.(b) It is the intent of the General Assembly that Tryon Palace Historic Sites and Gardens raise non-State funds for the 2013-2014 fiscal year that exceed the non-State receipts collected in the 2012-2013 fiscal year by at least four hundred seventy-six thousand seven hundred twenty-five dollars ($476,725). Receipts collected in the 2012-2013 fiscal year cannot be used as matching funds required by this section. Tryon Palace Historic Sites and Gardens shall report to the Department of Cultural Resources by December 31, 2013, and June 30, 2014, on whether the funds required by this section were raised.

SECTION 19.6.(c) Tryon Palace Historic Sites and Gardens shall receive allocations as follows:

(1) On July 1, 2013, a sum of two hundred thirty-eight thousand three hundred sixty-two dollars and fifty cents ($238,362.50).

(2) On January 1, 2014, a sum of two hundred thirty-eight thousand three hundred sixty-two dollars and fifty cents ($238,362.50), after demonstrating to the Department of Cultural Resources that it has raised at least a sum of two hundred thirty-eight thousand three hundred sixty-two dollars and fifty cents ($238,362.50) in non-State funds to match this allotment on a dollar-for-dollar basis.

SECTION 19.6.(d) Non-State matching funds may come from any of the following: (i) friends support; (ii) corporate sponsorship; and (iii) rental income from weddings, corporate events, performances, movies, and photography.

ROANOKE ISLAND COMMISSION

SECTION 19.7.(a) G.S. 143B-131.1 reads as rewritten:

"**§ 143B-131.1. Commission established.**

There is established the Roanoke Island ~~Commission. The Commission shall be an independent, self-supporting commission, but shall be located~~Commission within the Department of Cultural ~~Resources for historic resource management, organizational, and budgetary purposes.~~Resources. All of the prescribed powers, duties, and functions of the Commission shall be performed under the direction and supervision of the Secretary of the Department."

SECTION 19.7.(b) G.S. 143B-131.2(a) reads as rewritten:

"(a) The Commission is created to combine various existing entities in the spirit of cooperation for a cohesive body to protect, preserve, develop, and interpret the historical and cultural assets of Roanoke Island. The Commission is further created to operate and administer the Elizabeth II State Historic Site and Visitor Center, the Elizabeth II, Ice Plant Island, and all other properties under the administration of the Department of Cultural Resources located on Roanoke Island having historical significance to the State of North Carolina, Dare County, or the Town of Manteo, except as otherwise determined by the ~~Commission.~~Commission or the Department."

PART XX. DEPARTMENT OF INSURANCE

CONSUMER PROTECTION FUND RETAINED AMOUNT

SECTION 20.1. G.S. 58-2-215 reads as rewritten:

"**§ 58-2-215. Consumer Protection Fund.**

...

(c) Moneys appropriated by the General Assembly shall be deposited in the Fund and shall become a part of the continuation budget of the Department of Insurance. Such continuation budget amount shall equal the actual expenditures drawn from the Fund during the prior fiscal year plus the official inflation rate designated by the Director of the Budget in the preparation of the State Budget for each ensuing fiscal year; provided that if interest income on

the Fund exceeds the amount yielded by the application of the official inflation rate, such continuation budget amount shall be the actual expenditures drawn from the Fund. In the event the amount in the Fund exceeds ~~five hundred thousand dollars ($500,000)~~two hundred fifty thousand dollars ($250,000) at the end of any fiscal year, such excess shall revert to the General Fund."

WORKERS' COMPENSATION FUND/ALLOCATION FOR VOLUNTEER SAFETY WORKERS

SECTION 20.2.(a) G.S. 105-228.5(d)(3) reads as rewritten:

"(d) Tax Rates; Disposition. –

...

(3) Additional Rate on Property Coverage Contracts. – An additional tax at the rate of seventy-four hundredths percent (0.74%) applies to gross premiums on insurance contracts for property coverage. The tax is imposed on ten percent (10%) of the gross premiums from insurance contracts for automobile physical damage coverage and on one hundred percent (100%) of the gross premiums from all other contracts for property coverage. ~~Thirty percent (30%)~~ Twenty-five percent (25%) of the net proceeds of this additional tax must be credited to the Volunteer Fire Department Fund established in Article 87 of Chapter 58 of the General Statutes. ~~Twenty-five percent (25%)~~ Twenty percent (20%) of the net proceeds must be credited to the Department of Insurance for disbursement pursuant to G.S. 58-84-25. ~~The remaining net proceeds must be credited to the General Fund.~~ Up to twenty percent (20%), as determined in accordance with G.S. 58-87-10(f), must be credited to the Workers' Compensation Fund. The remaining net proceeds must be credited to the General Fund.

The following definitions apply in this subdivision:

a. Automobile physical damage. – The following lines of business identified by the NAIC: private passenger automobile physical damage and commercial automobile physical damage.

b. Property coverage. – The following lines of business identified by the NAIC: fire, farm owners multiple peril, homeowners multiple peril, nonliability portion of commercial multiple peril, ocean marine, inland marine, earthquake, private passenger automobile physical damage, commercial automobile physical damage, aircraft, and boiler and machinery. The term also includes insurance contracts for wind damage.

c. NAIC. – National Association of Insurance Commissioners.

...."

SECTION 20.2.(b) G.S. 58-87-1 reads as rewritten:

"**§ 58-87-1. Volunteer Fire Department Fund.**

(a) Fund. – The Volunteer Fire Department Fund is created as an interest-bearing, nonreverting fund in the Department to provide matching grants to volunteer fire departments to purchase equipment and make capital improvements. The Commissioner shall administer the Fund. Up to ~~two percent (2%)~~one percent (1%) of the Fund may be used for additional staff and resources to administer the Fund in each fiscal year.

...."

SECTION 20.2.(c) G.S. 58-84-25 reads as rewritten:

"**§ 58-84-25. Disbursement of funds by Insurance Commissioner.**

(a) Distribution. – The Insurance Commissioner shall deduct the sum of three percent (3%) from the tax proceeds credited to the Department pursuant to G.S. 105-228.5(d)(3) and

pay the same over to the treasurer of the State Firemen's Association for general purposes. The Insurance Commissioner shall deduct the sum of ~~two percent (2%)~~one percent (1%) from the tax proceeds and retain the same in the budget of the Department of Insurance for the purpose of administering the disbursement of funds by the board of trustees in accordance with the provisions of G.S. 58-84-35. The Insurance Commissioner shall, pursuant to G.S. 58-84-50, credit the amount forfeited by nonmember fire districts to the North Carolina State Firemen's Association. The Insurance Commissioner shall distribute the remaining tax proceeds to the treasurer of each fire district as provided in subsections (b) and (c) of this section.

...."

SECTION 20.2.(d) G.S. 58-87-10 reads as rewritten:

"**§ 58-87-10. Workers' Compensation Fund for the benefit of volunteer safety workers.**

(a) Definition. – As used in this section, the term "eligible unit" means a volunteer fire department or volunteer rescue/EMS unit that is not part of a unit of local government and is exempt from State income tax under G.S. 105-130.11.

(b) Creation. – The Workers' Compensation Fund is created in the Department of Insurance as an expendable trust fund. Accordingly, interest and other investment income earned by the Fund accrues to it, and revenue in the Fund at the end of a fiscal year remains in the Fund and does not revert.

(c) Use. – Revenue in the Workers' Compensation Fund shall be used to provide workers' compensation benefits to members of eligible units. Chapter 97 of the General Statutes governs the payment of benefits from the Fund. Benefits are payable for compensable injuries or deaths that occur on or after July 1, 1996.

(d) Administration. – The State Fire and Rescue Commission, established under G.S. 58-78-1, shall administer the Workers' Compensation Fund and shall perform this duty by contracting with a third-party administrator. The contracting procedure is not subject to Article 3C of Chapter 143 of the General Statutes. The reasonable and necessary expenses incurred by the Commission in administering the Fund shall be paid out of the Fund by the State Treasurer. The Commission may adopt rules to implement this section.

(e) Revenue Source. – Revenue is credited to the Workers' Compensation Fund from ~~appropriations made to the Department of Insurance for this purpose.~~ a portion of the proceeds of the tax levied under G.S. 105-228.5(d)(3) and from an assessment on local governments served by one or more eligible units as set forth in subsection (g) of this section. In addition, every eligible unit that elects to participate shall pay into the Fund an amount set annually by the State Fire and Rescue Commission to ensure that the Fund will be able to meet its payment obligations under this section. The amount shall be set as a per capita fixed dollar amount for each member of the roster of the eligible unit.

The payment shall be made to the State Fire and Rescue Commission on or before July 1 of each year. The Commission shall remit the payments it receives to the State Treasurer, who shall credit the payments to the Fund.

(f) Funding Study. – The Department of Insurance shall conduct a periodic actuarial study to calculate the amount required to meet the needs of the Fund. The study shall be based on premiums that are the greater of the premiums paid by members of the Fund for the fiscal year to which the study applies or the premiums paid by members of the Fund in fiscal year 2012-2013. The study shall be reviewed by the Office of State Budget and Management. On or before March 1 of each year, the Office of State Budget and Management, in consultation with the Department of Insurance, must notify the Secretary of Revenue of the amount required to meet the needs of the Fund, as determined by the study, for the upcoming fiscal year. The Secretary of Revenue shall remit that amount, subject to the twenty percent (20%) limitation in G.S. 105-228.5(d)(3), to the Fund.

(g) Assessment for Shortfall. – If the amount remitted to the Fund by the Secretary of Revenue under subsection (f) of this section is insufficient to meet the needs of the Fund, the

Department of Insurance shall collect the remaining amount from units of local government by multiplying the remaining amount needed by a fraction, the numerator of which is the number of residents in the unit of government served by an eligible unit and the denominator of which is the number of residents in the State served by all eligible units. The Department shall provide written notification to the units of local government of the amount of the assessment no later than April 1 of each year, and the unit of local government shall have 90 days to remit the assessment to the Department for deposit into the Fund."

SET INSURANCE REGULATORY CHARGE

SECTION 20.3.(a) The percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 is six percent (6%) for the 2013 and 2014 calendar years.

SECTION 20.3.(b) This section is effective when it becomes law.

PART XXI. STATE BOARD OF ELECTIONS

ELIMINATE NORTH CAROLINA PUBLIC CAMPAIGN FUND

SECTION 21.1.(a) Article 22D of Chapter 163 of the General Statutes is repealed, except that G.S. 163-278.69 is repealed effective upon exhaustion of the funds for publication of the Judicial Voter Guide.

SECTION 21.1.(b) G.S. 84-34 reads as rewritten:

"**§ 84-34. Membership fees and list of members.**

Every active member of the North Carolina State Bar shall, prior to the first day of July of each year, pay to the secretary-treasurer an annual membership fee in an amount determined by the Council but not to exceed three hundred dollars ($300.00), ~~plus a surcharge of fifty dollars ($50.00) for the implementation of Article 22D of Chapter 163 of the General Statutes,~~ and every member shall notify the secretary-treasurer of the member's correct mailing address. Any member who fails to pay the required dues by the last day of June of each year shall be subject to a late fee in an amount determined by the Council but not to exceed thirty dollars ($30.00). All dues for prior years shall be as were set forth in the General Statutes then in effect. The membership fee shall be regarded as a service charge for the maintenance of the several services authorized by this Article, and shall be in addition to all fees required in connection with admissions to practice, and in addition to all license taxes required by law. The fee shall not be prorated: Provided, that no fee shall be required of an attorney licensed after this Article shall have gone into effect until the first day of January of the calendar year following that in which the attorney was licensed; but this proviso shall not apply to attorneys from other states admitted on certificate. The fees shall be disbursed by the secretary-treasurer on the order of the Council. ~~The fifty-dollar ($50.00) surcharge shall be sent on a monthly schedule to the State Board of Elections.~~ The secretary-treasurer shall annually, at a time and in a law magazine or daily newspaper to be prescribed by the Council, publish an account of the financial transactions of the Council in a form to be prescribed by it. The secretary-treasurer shall compile and keep currently correct from the names and mailing addresses forwarded to the secretary-treasurer and from any other available sources of information a list of members of the North Carolina State Bar and furnish to the clerk of the superior court in each county, not later than the first day of October in each year, a list showing the name and address of each attorney for that county who has not complied with the provisions of this Article. The name of each of the active members who are in arrears in the payment of membership fees shall be furnished to the presiding judge at the next term of the superior court after the first day of October of each year, by the clerk of the superior court of each county wherein the member or members reside, and the court shall thereupon take action that is necessary and proper. The names and addresses of attorneys so certified shall be kept available to the public. The Secretary of Revenue is hereby directed to supply the secretary-treasurer, from records of license tax payments, with

any information for which the secretary-treasurer may call in order to enable the secretary-treasurer to comply with this requirement.

The list submitted to several clerks of the superior court shall also be submitted to the Council at its October meeting of each year and it shall take the action thereon that is necessary and proper."

SECTION 21.1.(c) G.S. 105-159.2 is repealed.

SECTION 21.1.(d) G.S. 163-278.5 reads as rewritten:

"**§ 163-278.5. Scope of Article; severability.**

The provisions of this Article apply to primaries and elections for North Carolina offices and to North Carolina referenda and do not apply to primaries and elections for federal offices or offices in other States or to non-North Carolina referenda. Any provision in this Article that regulates a non-North Carolina entity does so only to the extent that the entity's actions affect elections for North Carolina offices or North Carolina referenda.

The provisions of this Article are severable. If any provision is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions of the Article that can be given effect without the invalid provision.

This section applies to Articles 22B, ~~22D, 22E, 22F,~~ 22G, 22H, 22J, and 22M of the General Statutes to the same extent that it applies to this Article."

SECTION 21.1.(e) G.S. 163-278.13(e) reads as rewritten:

"(e) Except as provided in subsections ~~(e2), (e3),~~(e3) and (e4) of this section, this section shall not apply to any national, State, district or county executive committee of any political party. For the purposes of this section only, the term "political party" means only those political parties officially recognized under G.S. 163-96."

SECTION 21.1.(f) G.S. 163-278.13(e2) is repealed.

SECTION 21.1.(g) G.S. 163-278.23 reads as rewritten:

"**§ 163-278.23. Duties of Executive Director of Board.**

...

This section applies to Articles 22B, ~~22D, 22E, 22F,~~ 22G, 22H, and 22M of the General Statutes to the same extent that it applies to this Article."

SECTION 21.1.(h) G.S. 163-278.97 reads as rewritten:

"**§ 163-278.97. Voter-Owned Elections Fund established; sources of funding.**

...

(c) Evaluation and Determination of Fund Amount. – By January 1, 2011, and every four years thereafter, the ~~Board, in conjunction with the Advisory Council established under G.S. 163-278.68(b),~~Board shall prepare and provide to the Joint Legislative Commission on Governmental Operations of the General Assembly a report documenting, evaluating, and making recommendations relating to the administration, implementation, and enforcement of this Article. In its report, the Board shall set out the funds received to date and the expected needs of the Fund during the next election cycle and make recommendations about the feasibility of expanding its provisions to include other candidates for State office based on the experience of this Article and the experience of similar programs in North Carolina and other states. The Board shall also evaluate and make recommendations regarding how to address activities that could undermine the purpose of this Article, including spending that appears to target candidates but is not reached by regulation."

SECTION 21.1.(i) G.S. 163-278.99E(d) is repealed effective upon exhaustion of the funds for publication of the Judicial Voter Guide in G.S. 163-278.69.

SECTION 21.1.(j) The State Board of Elections shall use the money in the North Carolina Campaign Fund to only publish Judicial Voter Guides as described in G.S. 163-278.69 until the funds have been exhausted.

SECTION 21.1.(k) The secretary-treasurer of the North Carolina State Bar shall remit any payments of the fifty-dollar ($50.00) surcharge payable for the taxable year January

1, 2013, to the State Board of Elections, and the State Board of Elections must credit the funds received to the North Carolina Public Campaign Fund.

SECTION 21.1.(l) The State Board of Elections shall notify the Revisor of Statutes when the funds have been exhausted for publication of the Judicial Voter Guide.

SECTION 21.1.(m) Subsection (c) of this section is effective for taxable years beginning on or after January 1, 2013. The remainder of this section becomes effective July 1, 2013.

PART XXII. GENERAL ASSEMBLY

DAILY BULLETIN

SECTION 22.1. The North Carolina General Assembly shall discontinue the interagency agreement with UNC School of Government for the production of the Daily Bulletin. The General Assembly shall not employ temporary staff for this service. The UNC School of Government may continue to use General Assembly facilities to publish the Daily Bulletin and receive revenues from its publications.

FOOD SERVICES

SECTION 22.2.(a) The Legislative Services Commission shall issue a Request for Information (RFI) to identify vendors that are interested in providing food services within the General Assembly's buildings. The RFI shall include the following:

(1) Require that the vendor take over the operations of the General Assembly's food services in the 2014-2015 fiscal year.

(2) Make available all existing restaurant wares to the vendor. All new equipment costs and repairs would be borne by the vendor.

(3) Require a plan for services, including days and hours of operations and number of food service outlets to be operational. The proposal of interest by the vendor shall identify any additional cost that must be covered by the General Assembly and any revenue sharing that may benefit the General Assembly's budget.

(4) Provide the menu items that would be offered at the food service outlets.

The Legislative Services Commission shall review the proposals, hold interviews with the vendors, and collect all of the necessary information to make a comprehensive report to the General Assembly. If House Bill 153 of the 2013 General Assembly becomes law, the Legislative Services Commission shall report the results of the RFI to the Joint Legislative Oversight Committee on General Government by November 1, 2013.

SECTION 22.2.(b) The Food Services Section of the General Assembly's Administrative Division may submit a proposal under subsection (a) of this section, and the proposal shall be reviewed and evaluated in the same manner as proposals submitted by other vendors.

LIMIT STUDY COMMITTEE AUTHORIZATIONS

SECTION 22.3. G.S. 120-19.6(a1) is repealed.

CLARIFY GENERAL ASSEMBLY'S AUTHORITY TO MAKE REPAIRS

SECTION 22.4. G.S. 120-32 reads as rewritten:

"**§ 120-32. Commission duties.**

The Legislative Services Commission is authorized to:

...

(11) To specify the operating and capital uses within the General Assembly budget of funds appropriated to the General Assembly which remain

available for expenditure after the end of the biennial fiscal period, and to revert funds under G.S. 143C-1-2.

...."

PART XXIII. OFFICE OF THE GOVERNOR

SECTION 23.0. This section is reserved.

PART XXIV. OFFICE OF STATE BUDGET AND MANAGEMENT

SYMPHONY CHALLENGE GRANT/OSBM-SPECIAL APPROPRIATIONS

SECTION 24.1.(a) Of the funds appropriated in this act to the Office of State Budget and Management-Special Appropriations, the sum of one million five hundred thousand dollars ($1,500,000) in nonrecurring funds for the 2013-2014 fiscal year and the sum of one million five hundred thousand dollars ($1,500,000) in nonrecurring funds for the 2014-2015 fiscal year shall be allocated to the North Carolina Symphony in accordance with this section. It is the intent of the General Assembly that the North Carolina Symphony raise at least eight million dollars ($8,000,000) in non-State funds for the 2013-2014 fiscal year and at least eight million dollars ($8,000,000) in non-State funds for the 2014-2015 fiscal year. The NC Symphony cannot use funds transferred from the organization's endowment to its operating budget to achieve the fund-raising targets set out in subsections (b) and (c) of this section.

SECTION 24.1.(b) For the 2013-2014 fiscal year, the North Carolina Symphony shall receive allocations from the Office of State Budget and Management as follows:

(1) Upon raising the initial sum of four million dollars ($4,000,000) in non-State funding, the NC Symphony shall receive the sum of five hundred thousand dollars ($500,000).

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

(3) Upon raising an additional sum of two million dollars ($2,000,000) in non-State funding for a total sum of eight million dollars ($8,000,000) in non-State funds, the NC Symphony shall receive the final sum of five hundred thousand dollars ($500,000) in the 2013-2014 fiscal year.

SECTION 24.1.(c) For the 2014-2015 fiscal year, the North Carolina Symphony shall receive allocations from the Office of State Budget and Management as follows:

(1) Upon raising the initial sum of four million dollars ($4,000,000) in non-State funding, the NC Symphony shall receive the sum of five hundred thousand dollars ($500,000).

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

(3) Upon raising an additional sum of two million dollars ($2,000,000) in non-State funding for a total sum of eight million dollars ($8,000,000) in non-State funds, the NC Symphony shall receive the final sum of five hundred thousand dollars ($500,000) in the 2014-2015 fiscal year.

SECTION 24.1.(d) Of the funds appropriated in this act to the Office of State Budget and Management-Special Appropriations, the sum of three hundred thousand dollars ($300,000) in nonrecurring funds for the 2013-2014 fiscal year shall be allocated to The Bridge Downeast, Inc., a nonprofit organization, to purchase a facility to house activities for the youth

and senior citizens on Harkers Island and surrounding areas. If these funds are not used for the purpose for which they were appropriated as of June 30, 2014, the funds shall revert to the General Fund.

PART XXV. OFFICE OF THE STATE AUDITOR

SECTION 25.0. This section is reserved.

PART XXVI. DEPARTMENT OF REVENUE

INCREASED FUNDING FOR REVENUE FOR TAX REFORM

SECTION 26.1. If a bill creating personnel positions in the Department of Revenue to implement a comprehensive change to the tax laws of the State passes during the Regular Session of the 2013 General Assembly and is enacted into law, the Department of Revenue shall use the sum of five million dollars ($5,000,000) appropriated for the 2013-2014 fiscal year and the sum of five million dollars ($5,000,000) appropriated for the 2014-2015 fiscal year to accomplish the provisions of that act.

PART XXVII. DEPARTMENT OF THE SECRETARY OF STATE

ELECTRONIC SUBMISSION OF ALL DOCUMENTS, REPORTS, AND PAYMENTS BY LOBBYISTS

SECTION 27.1.(a) G.S. 120C-200 reads as rewritten:

"**§ 120C-200. Lobbyist registration procedure.**

...

(b) The form of the registration shall be prescribed by the Secretary of ~~State~~State, be filed electronically, and shall include the registrant's full name, firm, complete address, and telephone number; the registrant's place of business; the full name, complete address, and telephone number of each principal the lobbyist represents; and a general description of the matters on which the registrant expects to act as a lobbyist.

(c) Each lobbyist shall electronically file an amended registration form with the Secretary of State no later than 10 business days after any change in the information supplied in the lobbyist's last registration under subsection (b) of this section. Each supplementary registration shall include a complete statement of the information that has changed.

...."

SECTION 27.1.(b) G.S. 120C-201(a) reads as rewritten:

"(a) Except as provided for in subsection (b) of this section, a fee of one hundred dollars ($100.00) is due and payable to the Secretary of State at the time of each lobbyist registration. Fees so collected shall be deposited in the General Fund of the State. The ~~Secretary of State shall allow~~ fees required under this section ~~to~~shall be paid ~~electronically but shall not require the fees to be paid electronically.~~electronically."

SECTION 27.1.(c) G.S. 120C-206 reads as rewritten:

"**§ 120C-206. Lobbyist principal's authorization.**

...

(b) The form of the written authorization shall be prescribed by the Secretary of ~~State~~State, be filed electronically, and shall include the lobbyist principal's full name, complete address, and telephone number, name and title of any official authorized to sign for the lobbyist principal, and the name of each lobbyist registered to represent that principal.

(c) An amended authorization shall be electronically filed with the Secretary of State no later than 10 business days after any change in the information on the principal's authorization.

Each supplementary authorization shall include a complete statement of the information that has changed."

SECTION 27.1.(d) G.S. 120C-207(a) reads as rewritten:

"(a) Except as provided for in subsection (b) of this section, a fee of one hundred dollars ($100.00) is due and payable to the Secretary of State at the time the principal's first authorization statement is filed each calendar year for a lobbyist. Fees so collected shall be deposited in the General Fund of the State. The ~~Secretary of State shall allow~~ fees required under this section ~~to~~shall be paid ~~electronically but shall not require the fees to be paid electronically.~~electronically."

SECTION 27.1.(e) G.S. 120C-401(d) reads as rewritten:

"(d) Each report required by this Article shall be in the form prescribed by the Secretary of ~~State, which may include electronic reports.~~State and filed electronically."

SECTION 27.1.(f) G.S. 120C-800(f) reads as rewritten:

"(f) Within 15 business days after the end of the quarter in which the reportable expenditure was made, reports required by this section shall be filed electronically with the Secretary of State in a ~~manner~~form prescribed by the Secretary of ~~State, which may include electronic reports.~~State. If the designated individual is required to file a statement of economic interest under G.S. 138A-24, then that designated individual may opt to report any information required by this section in the statement of economic interest."

SECTION 27.1.(g) This section becomes effective December 1, 2013, and applies to all filings and payments due on or after that date.

INCREASE REGISTRATION FEE FOR LOBBYIST/LOBBYIST PRINCIPAL

SECTION 27.2.(a) G.S. 120C-201 reads as rewritten:

"§ 120C-201. Lobbyist's registration fee.

(a) ~~Except as provided for in subsection (b) of this section, a~~A fee of ~~one hundred dollars ($100.00)~~two hundred fifty dollars ($250.00) is due and payable to the Secretary of State at the time of each lobbyist registration. Fees so collected shall be deposited in the General Fund of the State. The Secretary of State shall allow fees required under this section to be paid electronically but shall not require the fees to be paid electronically.

~~(b) The Secretary of State shall adopt rules providing for a waiver or reduction of the fees required by this section for lobbyists registering to represent persons who have been granted nonprofit status under 26 U.S.C. § 501(c)(3).~~"

SECTION 27.2.(b) G.S. 120C-207 reads as rewritten:

"§ 120C-207. Lobbyist principal's fees.

(a) ~~Except as provided for in subsection (b) of this section, a~~A fee of ~~one hundred dollars ($100.00)~~two hundred fifty dollars ($250.00) is due and payable to the Secretary of State at the time the principal's first authorization statement is filed each calendar year for a lobbyist. Fees so collected shall be deposited in the General Fund of the State. The Secretary of State shall allow fees required under this section to be paid electronically but shall not require the fees to be paid electronically.

~~(b) The Secretary of State shall adopt rules providing for a waiver or reduction of the fees required by this section for lobbyist principals that have been granted nonprofit status under 26 U.S.C. § 501(c)(3).~~"

SECTION 27.2.(c) This section becomes effective July 1, 2013, and applies to registrations on or after that date.

PART XXVIII. OFFICE OF THE LIEUTENANT GOVERNOR

SECTION 28.0. This section is reserved.

PART XXIX. OFFICE OF THE STATE CONTROLLER

OVERPAYMENTS AUDIT

SECTION 29.1.(a) During the 2013-2015 fiscal biennium, receipts generated by the collection of inadvertent overpayments by State agencies to vendors as a result of pricing errors, neglected rebates and discounts, miscalculated freight charges, unclaimed refunds, erroneously paid excise taxes, and related errors are to be deposited in Special Reserve Account 24172 as required by G.S. 147-86.22(c).

SECTION 29.1.(b) For each year of the 2013-2015 fiscal biennium, five hundred thousand dollars ($500,000) of the funds in the Special Reserve Account 24172 shall be used by the Office of the State Controller for data processing, debt collection, or e-commerce costs and are hereby appropriated for that purpose.

SECTION 29.1.(c) All funds available in Special Reserve Account 24172 on June 30 of each year of the 2013-2015 fiscal biennium shall revert to the General Fund on that date.

SECTION 29.1.(d) The State Controller shall report quarterly to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the revenue deposited into Special Reserve Account 24172 and the disbursement of that revenue.

PART XXX. DEPARTMENT OF ADMINISTRATION

ELIMINATE YOUTH ADVOCACY AND INVOLVEMENT OFFICE, YOUTH ADVISORY COUNCIL, STATE YOUTH COUNCIL, AND NC INTERNSHIP COUNCIL

SECTION 30.1.(a) The Youth Advocacy and Involvement Office in the Department of Administration is eliminated.

SECTION 30.1.(b) Parts 7 and 18 of Article 9 of Chapter 143B of the General Statutes, being G.S. 143B-385 through G.S. 143B-388 and G.S. 143B-417 through G.S. 143B-419, are repealed.

SECTION 30.1.(c) G.S. 7B-1402 reads as rewritten:

"**§ 7B-1402. Task Force – creation; membership; vacancies.**

(a) There is created the North Carolina Child Fatality Task Force within the Department of Health and Human Services for budgetary purposes only.

(b) The Task Force shall be composed of ~~35~~ 34 members, ~~11~~ 10 of whom shall be ex officio members, four of whom shall be appointed by the Governor, 10 of whom shall be appointed by the Speaker of the House of Representatives, and 10 of whom shall be appointed by the President Pro Tempore of the Senate. The ex officio members other than the Chief Medical Examiner shall be nonvoting members and may designate representatives from their particular departments, divisions, or offices to represent them on the Task Force. The members shall be as follows:

...

~~(6) The Director of the Governor's Youth Advocacy and Involvement Office;~~

...."

SECTION 30.1.(d) G.S. 143B-846 reads as rewritten:

"**§ 143B-846. Creation; method of appointment; membership; chair and vice-chair.**

(a) As a prerequisite for a county receiving funding for juvenile court services and delinquency prevention programs, the board of commissioners of a county shall appoint a Juvenile Crime Prevention Council. Each County Council is a continuation of the corresponding Council created under G.S. 147-33.61. The County Council shall consist of not more than ~~26~~ 24 members and should include, if possible, the following:

...

~~(12) Two persons under the age of 18 years, one of whom is a member of the State Youth Council;~~

...."

SECTION 30.1.(e) Any funds remaining in the North Carolina Youth Advocacy and Involvement Fund as of June 30, 2013, shall be returned to any person entitled to be reimbursed for registration fees, gifts, donations, or contributions that were made to or for the North Carolina Youth Legislative Assembly (YLA) and the North Carolina Students Against Destructive Decisions (SADD).

ELIMINATE DISPLACED HOMEMAKERS PROGRAM/FUND

SECTION 30.2.(a) G.S. 7A-305(a2) reads as rewritten:

"(a2) In every action for absolute divorce filed in the district court, a cost of seventy-five dollars ($75.00) shall be assessed against the person filing the divorce action. Costs collected by the clerk pursuant to this subsection shall be remitted to the State Treasurer, who shall deposit ~~fifty-five dollars ($55.00) to the North Carolina Fund for Displaced Homemakers established under G.S. 143B-394.10 and twenty dollars ($20.00)~~seventy-five dollars ($75.00) to the Domestic Violence Center Fund established under G.S. 50B-9. Costs assessed under this subsection shall be in addition to any other costs assessed under this section."

SECTION 30.2.(b) G.S. 143B-393 reads as rewritten:

"§ 143B-393. North Carolina Council for Women – creation; powers and duties.

There is hereby created the North Carolina Council for Women of the Department of Administration. The North Carolina Council for Women shall have the following functions and duties:

(1) To advise the Governor, the principal State departments, and the State legislature concerning the education and employment of women in the State of North ~~Carolina; and~~Carolina.

(2) To advise the Secretary of Administration upon any matter the Secretary may refer to ~~it; and~~the Council.

~~(3) To establish programs for the assistance of displaced homemakers as set forth in Part 10B of this Article.~~"

SECTION 30.2.(c) Part 10B of Article 9 of Chapter 143B of the General Statutes is repealed.

SECTION 30.2.(d) All unencumbered funds as of June 30, 2013, in the North Carolina Fund for Displaced Homemakers shall be transferred to the Domestic Violence Center Fund established under G.S. 50B-9.

REPEAL STATEWIDE CAPITAL RESERVE

SECTION 30.3. Section 20.4 of S.L. 2011-145 is repealed. Any funds remaining in the reserve established pursuant to that section shall be transferred to the capital project account associated with the capital project for which they were initially appropriated.

BIENNIAL REVIEW OF STATEMENTS OF ECONOMIC INTEREST BY SEC

SECTION 30.4.(a) G.S. 138A-10(a)(4) reads as rewritten:

"§ 138A-10. Powers and duties.

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

...

(4) Receive and review all statements of economic ~~interests~~ interest filed with the Commission by prospective and actual covered ~~persons and~~ persons as provided in G.S. 138A-28. ~~evaluate whether (i) the statements conform to the law and the rules of the Commission, and (ii) the financial interests and~~

~~other information reported reveals actual or potential conflicts of interest.~~Pursuant to G.S. 138A-24(e), this subdivision does not apply to statements of economic interest of legislators and judicial officers."

SECTION 30.4.(b) Article 3 of Chapter 138A of the General Statutes is amended by adding a new section to read:

"**§ 138A-28. Review and evaluation of statements of economic interest.**

(a) The Commission shall receive and review all statements of economic interest pursuant to G.S. 138A-10(a)(4) and shall evaluate whether (i) the statements conform to the law and the rules of the Commission, and (ii) the financial interests and other information reported by prospective and actual covered persons reveal actual or potential conflicts of interest.

(b) Beginning July 1, 2013, the Commission shall establish a biennial cycle for evaluating statements of economic interest. The Commission shall evaluate each initial filing as provided in subsection (a) of this section.

(c) Notwithstanding subsection (b) of this section, statements filed by the following prospective and actual public servants shall be evaluated on an annual basis:

(1) The University of North Carolina Board of Governors, subject to G.S. 138A-24(f).

(2) The State Board of Community Colleges, subject to G.S. 138A-24(f).

(3) The North Carolina Utilities Commission.

(4) The North Carolina Industrial Commission.

(5) Supplemental statements filed pursuant to Chapter 136 of the General Statutes.

(6) Any other board or commission whose members are elected or confirmed by the General Assembly.

(d) Notwithstanding subsections (a) and (b) of this section, statements of economic interest filed by Constitutional officers of the State and individuals elected or appointed as Constitutional officers of the State prior to taking office shall be evaluated every four years upon election or appointment to office.

(e) A public servant who simultaneously serves on more than one covered board may file one statement of economic interest and that statement shall serve as disclosure for all the covered boards. If, during the biennial cycle, a public servant leaves one covered board and begins membership on another covered board, the public servant is not required to file another statement of economic interest, and the Commission is not required to evaluate the statement again in light of the subsequent appointment. The public servant must make subsequent filings pursuant to G.S. 138A-22(a) upon the expiration of the biennial cycle.

(f) Nothing in this section shall be construed to impair the Commission's duties and authority under G.S. 138A-25 and G.S. 138A-26."

USE OF E-COMMERCE FUNDS FOR PURCHASE AND CONTRACT OPERATIONS

SECTION 30.5. Notwithstanding the provisions of G.S. 66-58.12(c), the sum of one million two hundred eighteen thousand six hundred fifty-nine dollars ($1,218,659) for the 2013-2014 fiscal year and the sum of one million four hundred seventy-six thousand five hundred forty-three dollars ($1,476,543) for the 2014-2015 fiscal year shall be transferred from the E-Commerce Fund in the Department of Administration Budget Code 24100, Fund 2514, to be used for each year of the 2013-2015 biennium, on a recurring basis, to pay the operating expenses of the Division of Purchase and Contract.

STUDY/E-PROCUREMENT FEE & VENDOR CONTRACT

SECTION 30.6.(a) The Department of Administration shall study the feasibility of reducing or eliminating the e-commerce fee authorized under G.S. 66-58.12(b). The

e-commerce fee supports the E-Procurement System operated by the Department. By February 1, 2014, the Department shall report its findings to the Senate Appropriations Committee on General Government and Information Technology, House of Representatives Appropriations Subcommittee on General Government, Joint Legislative Committee on Information Technology, and Office of State Budget and Management. The report shall include the following:

(1) The current rate of the fee and how it was calculated.
(2) The current revenue generated from the fee by departmental users.
(3) The current breakeven point for the operation of the E-Procurement System.
(4) The requirements for the operation and administration of the E-Procurement System, including the term of any contract with an outside vendor for the management of the E-Procurement System.
(5) Total payments to vendors since the initiation of the E-Procurement System.
(6) Total State receipts since the initiation of the E-Procurement System.
(7) Information on E-Procurement Systems currently in operation in other states and within North Carolina, including an analysis of the advantages and disadvantages of each.
(8) The feasibility and cost of utilizing E-Procurement Systems under management by any State institution.
(9) The feasibility of eliminating the fee supporting the E-Procurement System, E-Commerce Fund (2514), and moving the administration of the E-Procurement System to General Fund Support, including any cost savings to agencies as a result of vendors not assessing the fee on goods purchased through the System.
(10) The feasibility of reducing the fee by assessing the fee on goods and services only.
(11) The potential for savings from training State employees to operate and maintain the System.

SECTION 30.6.(b) If the contract with an outside vendor operating the E-Procurement System expires during the 2013-2015 biennium, the Department of Administration, under the supervision of the Enterprise Project Management Office and the Statewide Information Technology Procurement Office, shall issue a request for proposals and select a vendor through open competition. Any new contract shall comply with all State information technology procurement requirements, including G.S. 143-135.9, and shall include a requirement that the project be hosted on State infrastructure.

ELIMINATE AUTHORITY FOR STATE CONTRIBUTION TO COUNTY VETERANS SERVICE PROGRAMS

SECTION 30.7.(a) G.S. 165-6(9) is repealed.

SECTION 30.7.(b) This section becomes effective July 1, 2014.

PART XXXI. HOUSING FINANCE AGENCY

SECTION 31.0. This section is reserved.

PART XXXII. OFFICE OF ADMINISTRATIVE HEARINGS

SECTION 32.0. This section is reserved.

PART XXXIII. DEPARTMENT OF THE STATE TREASURER

SECTION 33.0. This section is reserved.

PART XXXIV. DEPARTMENT OF TRANSPORTATION

CASH FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND APPROPRIATION

SECTION 34.1.(a) The General Assembly authorizes and certifies anticipated revenues for the Highway Fund as follows:

For Fiscal Year 2015-2016	$1,946.7 million
For Fiscal Year 2016-2017	$2,027.6 million
For Fiscal Year 2017-2018	$2,103.3 million
For Fiscal Year 2018-2019	$2,140.4 million

SECTION 34.1.(b) The General Assembly authorizes and certifies anticipated revenues for the Highway Trust Fund as follows:

For Fiscal Year 2015-2016	$1,160.3 million
For Fiscal Year 2016-2017	$1,215.2 million
For Fiscal Year 2017-2018	$1,256 million
For Fiscal Year 2018-2019	$1,283.7 million

INCREASE DOT PRIVATIZATION

SECTION 34.2. The Department of Transportation shall seek to increase the use of contracts to further privatize preconstruction work where practical, economical, and likely to lead to increased efficiency. In doing so, the Department of Transportation shall meet each of the following privatization requirements:

(1) Increase the outsourcing of all activities performed by the Department's Preconstruction and Technical Services units to sixty percent (60%) of the total cost of activities performed by those units in each fiscal year, excluding the cost of activities performed by the Turnpike Authority, the Structures Design and Management unit, and the Bridge Program.

(2) The Right-of-Way, Project Development and Environmental Analysis and Roadway Design units shall increase the total cost of outsourced activity by five percent (5%) in fiscal year 2013-2014 and by an additional five percent (5%) in fiscal year 2014-2015, from a baseline of fiscal year 2012-2013 actual expenditures for those units.

SYSTEM PRESERVATION FUNDS PREFERENCE FOR DEFICIENT BRIDGES

SECTION 34.3. The funds allocated to the system preservation program (fund center 84210-7839) for fiscal years 2013-2014 and 2014-2015 shall be used for improvements to structurally deficient and functionally obsolete bridges.

CONTINGENCY FUND

SECTION 34.4.(a) Of the funds appropriated in this act to the Department of Transportation, the sum of twelve million dollars ($12,000,000) shall be allocated statewide in each fiscal year for rural or small urban highway improvements and related transportation enhancements to public roads and public facilities, industrial access roads, and spot safety projects, including pedestrian walkways that enhance highway safety. Projects funded pursuant to this subsection shall be approved by the Secretary of Transportation. None of these funds used for rural secondary road improvements during the 2013-2014 fiscal year are subject to the county allocation formulas in G.S. 136-44.5(b).

SECTION 34.4.(b) The Department of Transportation shall report to the members of the General Assembly on projects funded pursuant to this section in each member's district prior to construction. The Department shall make a quarterly comprehensive report on the use

of these funds to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division.

SECTION 34.4.(c) The sum of twenty-eight million dollars ($28,000,000) of the unallotted and unexpended balance of funds within the Contingency Fund (fund center 1500/157818) shall be transferred to the Highway Fund as appropriated and allocated by this act.

ELIMINATE DIVISION SMALL URBAN CONSTRUCTION PROGRAM

SECTION 34.5. The sum of twenty-five million dollars ($25,000,000) of the unallotted and unexpended balance of funds within the Division Small Urban Construction Program (fund center 1500/157837) shall be transferred to the Highway Fund as appropriated and allocated by this act. The Division Small Urban Construction Program shall be eliminated after all funds allotted as of June 30, 2013, have been expended. The remaining unallotted and unexpended balance of funds shall be transferred to the Reserve for General Maintenance (fund center 1500/150934).

ACCESS AND PUBLIC SERVICE ROAD FUNDS

SECTION 34.6. The sum of three million dollars ($3,000,000) of the unallotted and unexpended balance of funds within the Access and Public Service Road program (fund center 1500/157814) shall be transferred to the Highway Fund as appropriated and allocated by this act.

ECONOMIC DEVELOPMENT PROGRAM FUNDS

SECTION 34.7. The sum of three million one hundred thousand dollars ($3,100,000) of the unallotted and unexpended balance of funds within the Economic Development fund (fund center 1500/157838) shall be transferred to the Highway Fund as appropriated and allocated by this act. Funds appropriated to the Economic Development fund shall be used for prioritized highway improvements and infrastructure that support safety and mobility initiatives. Projects funded under this section shall be jointly approved by the Secretary of Transportation and the Secretary of Commerce.

CONGESTION AND MOBILITY REPORTING

SECTION 34.8. G.S. 136-44.3 reads as rewritten:

"§ 136-44.3. Maintenance program.

The Department shall establish performance standards for the maintenance and operation of the State highway system. In each even-numbered year, the Department of Transportation shall survey the condition of the State highway system and shall prepare a report of the findings of the survey. The report shall provide both quantitative and qualitative descriptions of the condition of the system and shall provide estimates of the following:

(1) The annual cost to meet and sustain the established performance standards for the primary and secondary highway system, to include: (i) routine maintenance and operations, (ii) system preservation, and (iii) pavement and bridge rehabilitation.

(2) Projected system condition and corresponding optimal funding requirements for a seven-year plan to sustain established performance standards.

(3) Any significant variations in system conditions among highway divisions.

(4) An assessment of the level of congestion throughout the primary highway system based on traffic data, and a ranking of the most congested areas based on travel time reliability and the average number of congested hours, together with the Department's recommendations for congestion reduction and mobility improvement.

On the basis of the report and from funds available, the Department of Transportation shall develop a statewide annual maintenance program for the State highway system, which shall be subject to the approval of the Board of Transportation and is consistent with performance standards.

The report on the condition of the State highway system and maintenance funding needs shall be presented to the Joint Legislative Transportation Oversight Committee by December 31 of each even-numbered year, and copies shall be made available to any member of the General Assembly upon request."

REPEAL INTERMODAL CONTINUING APPROPRIATIONS

SECTION 34.9. The following statutes are repealed:

(1) G.S. 136-16.4.
(2) G.S. 136-16.5.
(3) G.S. 136-16.7.
(4) G.S. 136-16.8.
(5) G.S. 136-16.9.

FLEXIBLE USE OF FUNDS TO LEVERAGE FEDERAL FUNDS FOR RURAL AND HUMAN SERVICE PUBLIC TRANSPORTATION

SECTION 34.10. In order to ensure maximum funding and to facilitate the use of funds available to the Department, the Department of Transportation, Public Transportation Division, shall have the flexibility to redistribute funding from the "rural capital" grant program and within the "urban technology, human service transportation management, and rural general public" grant program in order to leverage all eligible federal funds for operating assistance to rural and human service transportation systems. The distribution of funds to these systems shall be based on assessed system needs. This section applies only to the 2013-2015 fiscal biennium.

MAXIMIZE LEVERAGE OF FEDERAL PUBLIC TRANSPORTATION OPERATING AND CAPITAL FUNDS FOR LOCAL PUBLIC TRANSPORTATION SYSTEMS

SECTION 34.11. The Department of Transportation, Public Transportation Division, shall provide local public transportation systems with maximum flexibility to use State operating funds from the "urban and regional maintenance" and "urban technology, human service transportation management, and rural general public" grant programs to leverage all eligible federal transit operating assistance funds. This section applies only to the 2013-2015 fiscal biennium.

GRANT FLEXIBILITY FOR BICYCLE AND PEDESTRIAN IMPROVEMENTS

SECTION 34.12. The Department of Transportation, Division of Bicycle and Pedestrian Transportation, may redistribute funds appropriated to the Regional Bicycle Planning Grant program to the Municipal Planning Grant program to award grants to municipalities based on assessed need and the extent to which the Division finds that the municipality's application for grant funding fulfills applicable selection criteria.

UNIFORM FERRY TOLLING

SECTION 34.13.(a) Notwithstanding the date set forth in Section 24.18(b) of S.L. 2012-142, as rewritten by Section 6.2 of S.L 2012-145, by which the Department of Transportation is required to collect tolls based on the March 2012 amendment to 19 NCAC 02D .0532, the Department shall collect tolls as set forth in this section, beginning on November 1, 2013. Prior to November 1, 2013, the Department shall collect tolls on the same routes and in the same manner as it did prior to the March 2012 amendment to 19 NCAC 02D .0532.

SECTION 34.13.(b) G.S. 136-82 reads as rewritten:

"**§ 136-82. Department of Transportation to establish and maintain ferries.**

The Department of Transportation is vested with authority to provide for the establishment and maintenance of ferries connecting the parts of the State highway system, whenever in its discretion the public good may ~~so require,~~require, and shall collect tolls, as established by the Board of Transportation, on the ferry routes. ~~The Board of Transportation shall establish tolls for all ferry routes, except for the Ocracoke/Hatteras Ferry and the Knotts Island Ferry.~~ The establishment of tolls pursuant to the authority granted in this section shall be exempt from the provisions of Chapter 150B of the General Statutes. Identifying information obtained by the Department related to operation of the ferry system is not a public record under Chapter 132 of the General Statutes and is subject to the disclosure limitations in 18 U.S.C. § 2721 of the federal Driver's Privacy Protection Act. The Department shall maintain the confidentiality of all information required to be kept confidential under 18 U.S.C. § 2721(a), as well as any financial information, transaction history, and information related to the collection of a toll or user fee from a person, including, but not limited to, photographs or other recorded images or automatic vehicle identification or driver account information generated by radio-frequency identification or other electronic means. The Department may use identifying information only for purposes of collecting and enforcing tolls. Nothing in this section is intended to limit the right of any person to examine that person's own account information, or the right of any party, by authority of a proper court order, to inspect and examine identifying information.

The Department of Transportation shall credit the proceeds from tolls collected on North Carolina Ferry System routes to reserve accounts within the Highway Fund for each of the Highway Divisions in which system terminals are located and fares are earned. For the purposes of this subsection, fares are earned based on the terminal from which a passenger trip originates or at which fares are collected. Commuter pass receipts shall be credited proportionately to each reserve account based on the distribution of trips originating in each Highway Division. The proceeds credited to each reserve account shall be used exclusively for prioritized capital improvements to the North Carolina Ferry System in the Division in which the proceeds are earned and may be used to supplement funds allocated for projects approved as part of the Transportation Improvement Program.

To accomplish the purpose of this ~~section said~~ section, the Department of Transportation is authorized to acquire, own, lease, charter or otherwise control all necessary vessels, boats, terminals or other facilities required for the proper operation of ~~such~~ the ferries or to enter into contracts with persons, firms or corporations for the operation thereof and to pay ~~therefor such~~the reasonable sums ~~as may~~that in the opinion of ~~said~~the Department of Transportation represent the fair value of the public service rendered.

The Department of Transportation, notwithstanding any other provision of law, may operate, or contract for the operation of, concessions on the ferries and at ferry facilities to provide to passengers on the ferries food, drink, and other refreshments, personal comfort items, and souvenirs publicizing the ferry system."

SECTION 34.13.(c) G.S. 136-82, as rewritten by subsection (b) of this section, reads as rewritten:

"**§ 136-82. Department of Transportation to establish and maintain ferries.**

The Department of Transportation is vested with authority to provide for the establishment and maintenance of ferries connecting the parts of the State highway system, whenever in its discretion the public good may require, and shall collect tolls, as established by the Board of Transportation, on the ferry routes. The Board of Transportation shall establish tolls for all ferry routes, and the Department of Transportation shall collect the tolls. The establishment of tolls under the authority granted in this section shall be exempt from the provisions of Chapter 150B of the General Statutes. Identifying information obtained by the Department related to the collection of tolls, or the issuance of commuter passes or fare waivers is not a public record

under Chapter 132 of the General Statutes and is subject to the disclosure limitations in 18 U.S.C. § 2721, the federal Driver's Privacy Protection Act. The Authority shall maintain the confidentiality of all information required to be kept confidential under 18 U.S.C. § 2721(a), as well as any financial information, transaction history, and information related to the collection of a toll or issuance of a commuter pass or fare waiver from a person, including, but not limited to, photographs or other recorded images or automatic vehicle identification or driver account information generated by radio-frequency identification or other electronic means. The Department may use identifying information only for purposes of collecting and enforcing tolls. Nothing in this section is intended to limit the right of any person to examine that person's own account information, or the right of any party, by authority of a proper court order, to inspect and examine identifying information.

The Department of Transportation shall credit the proceeds from tolls collected on North Carolina Ferry System routes to reserve accounts within the Highway Fund for each of the Highway Divisions in which system terminals are located and fares are earned. For the purposes of this subsection, fares are earned based on the terminal from which a passenger trip originates or at which fares are collected. Commuter pass receipts shall be credited proportionately to each reserve account based on the distribution of trips originating in each Highway Division. The proceeds credited to each reserve account shall be used exclusively for prioritized capital improvements to the North Carolina Ferry System in the Division in which the proceeds are earned, and may be used to supplement funds allocated for projects approved as part of the Transportation Improvement Program.

To accomplish the purpose of this section the Department of Transportation is authorized to acquire, own, lease, charter or otherwise control all necessary vessels, boats, terminals or other facilities required for the proper operation of the ferries or to enter into contracts with persons, firms or corporations for the operation thereof and to pay the reasonable sums that in the opinion of said Department of Transportation represent the fair value of the public service rendered.

The Department of Transportation, notwithstanding any other provision of law, may operate, or contract for the operation of, concessions on the ferries and at ferry facilities to provide to passengers on the ferries food, drink, and other refreshments, personal comfort items, and souvenirs publicizing the ferry system."

SECTION 34.13.(d) In establishing tolls for ferry routes under G.S. 136-82, as amended by this section, the Board of Transportation shall consider the needs of commuters and other frequent passengers.

SECTION 34.13.(e) The Board of Transportation shall set the fares required by this section such that projected annual gross toll revenue is at least five million dollars ($5,000,000) but does not exceed ten million dollars ($10,000,000).

SECTION 34.13.(f) Subsection (c) of this section becomes effective November 1, 2013.

NORTH CAROLINA RAILROAD COMPANY REPORTING AND DIVIDENDS

SECTION 34.14.(a) Reporting and Oversight. – G.S. 124-1 reads as rewritten:

"**§ 124-1. Control of internal improvements.**

The Governor and Council of State shall have charge of all the State's interest in all railroads, canals and other works of internal improvements. The Board of Directors of a State-owned railroad company shall be responsible for managing its affairs and for reporting as set forth in ~~G.S. 124-3.~~G.S. 124-17."

SECTION 34.14.(b) Article 2 of Chapter 124 of the General Statutes is amended by adding a new section, G.S. 124-15. G.S. 124-6(b), as amended by Section 3.3(a) of S.L. 1999-431, is recodified as G.S. 124-15(a). G.S. 124-5(b) is recodified as G.S. 124-15(b). G.S. 124-15, as enacted and amended by this subsection, reads as rewritten:

"**§ 124-15. Board of directors; appointment and approval of encumbrances.**

(a) Notwithstanding subsection (a) of ~~this section,~~G.S. 124-6, for any State-owned railroad company ~~organized as a corporation in which the State is the owner of all the voting stock and which~~that has trackage in more than two counties, seven of the members of the Board of Directors shall be appointed by the Governor, three of the members of the Board of Directors shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, and three of the members of the Board of Directors shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121. The Board of Directors shall consist of 13 members. Of the Governor's seven appointments, one shall be from the appointees to the Board of Transportation, and one shall be the Secretary of Commerce or the Secretary's designee. Of the initial members appointed by the Governor, three shall be appointed for terms of four years and four shall be appointed for terms of two years. Of the initial members recommended to the General Assembly by the Speaker of the House of Representatives, two shall be appointed for terms of four years and one shall be appointed for a term of two years. Of the initial members recommended to the General Assembly by the President Pro Tempore of the Senate, two shall be appointed for terms of four years and one shall be appointed for a term of two years. Thereafter all Board members shall serve four-year terms. The Board shall elect the chairman from among its membership.

(b) No State-owned railroad company shall sell, lease, mortgage, or otherwise encumber its franchise, right-of-way, or other property, except by and with the approval and consent of the Board of Directors of that corporation. The president or other chief officer of the State-owned railroad company shall report any acquisitions and dispositions in accordance with G.S. 124-3(10)."

SECTION 34.14.(c) Article 2 of Chapter 124 of the General Statutes is amended by adding a new section to read as follows:

"**§ 124-16. Strategic plan and capital investment plan required of State-owned railroad company; performance management system.**

(a) Any State-owned railroad company shall prepare and maintain a comprehensive strategic plan and a capital investment plan. The strategic plan shall include a mission statement describing the purpose of the company and clear goals that address the strategic issues facing the company.

(b) Any State-owned railroad company shall develop and implement a formalized performance management system based on its strategic plan. The performance management system shall measure and monitor progress toward achieving strategic objectives. When performance fails to achieve strategic objectives within the time period established in the plan, a State-owned railroad company shall take corrective action."

SECTION 34.14.(d) Article 2 of Chapter 124 of the General Statutes is amended by adding a new section, G.S. 124-17. G.S. 124-3(b) is recodified as G.S. 124-17(b). G.S. 124-3(c) is recodified as G.S. 124-17(c). G.S. 124-17, as enacted and amended by this subsection, reads as rewritten:

"**§ 124-17. Enhanced annual report of State-owned railroad company; additional reporting requirements to Governor and General Assembly.**

(a) A State-owned railroad company shall submit an annual report to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Transportation Oversight Committee. The report shall include the following:

(1) The information required under G.S. 124-3.

(2) A copy of the strategic plan and the capital investment plan required under G.S. 124-16.

(3) Any failures to meet strategic objectives and what corrective actions were taken under G.S. 124-16(b).

(4) Anticipated dividends for the next three fiscal years.
(5) A description of the State-owned railroad company's business, subsidiaries, and markets in which it operates.
(6) A list of the properties owned by the State-owned railroad company.
(7) A list of the directors and executive officers of the State-owned railroad company and a description of the background and experience of each.
(8) A description of the State-owned railroad company's code of ethics and conflicts of interest policy.
(9) A summary of the fees paid to an accounting firm during the year.
(10) A list of the compensation paid to directors and officers of the State-owned railroad company.
(11) A description of the State-owned railroad company's disagreements with its accountants if there has been a change in accountants.
(12) A description of any transactions between the State-owned railroad company and its directors, officers, and their family members.

(b) Upon the request of the Governor or any committee of the General Assembly, a State-owned railroad company shall provide all additional information and data within its possession or ascertainable from its records. The State-owned railroad company shall not be deemed to have waived any attorney-client privilege when complying with this subsection. At the time a State-owned railroad company provides information under this section, it shall indicate whether the information is confidential. Confidential information shall be subject to subsection (c) of this section.

(c) Confidential information includes (i) information related to a proposed specific business transaction where inspection, examination, or copying of the records would frustrate the purpose for which the records were created, or (ii) information that is subject to confidentiality obligations of a railroad company. Confidential information is exempt from Chapter 132 of the General Statutes and shall not be subject to a request under G.S. 132-6(a)."

SECTION 34.14.(e) The Freight Rail & Rail Crossing Safety Improvement Fund is established within the Highway Fund.

SECTION 34.14.(f) One-time Cash Dividend. – Notwithstanding G.S. 124-5.1 and G.S. 136-16.6, any State-owned railroad company, as defined under G.S. 124-11, that has trackage in more than two counties shall issue a cash dividend in the amount of fifteen million five hundred thousand dollars ($15,500,000), which shall be deposited into the Freight Rail & Rail Crossing Safety Improvement Fund no later than January 15, 2014.

SECTION 34.14.(g) Annual Cash Dividend. – G.S. 124-5.1 reads as rewritten:

"**§ 124-5.1. ~~State use of~~ North Carolina Railroad Company ~~dividends.~~dividends deposited to Highway Fund.**

(a) ~~Notwithstanding the provisions of G.S. 136-16.6, in order to increase the capital of the North Carolina Railroad Company, any dividends of the North Carolina Railroad Company received by the State shall be applied to reduce the obligations described in subsection (c) of Section 32.30 of S.L. 1997-443, as amended by subsection (d) of Section 27.11 of S.L. 1999-237.~~ Any dividends of the North Carolina Railroad Company received by the State shall be ~~used by the Department of Transportation for the improvement of the property of the North Carolina Railroad Company as recommended and approved by the Board of Directors of the North Carolina Railroad Company. The improvements may include the following project types:~~deposited into the Freight Rail & Rail Crossing Safety Improvement Fund within the Highway Fund and administered by the Rail Division of the Department of Transportation. The Fund shall be used for the enhancement of freight rail service and railroad-roadway crossing safety, which may include the following project types:

(1) ~~Railroad and industrial track rehabilitation.~~Track and associated infrastructure improvements for freight service.

(2) ~~Railroad signal and grade crossing protection.~~Grade crossing protection, elimination, and hazard removal.

(3) ~~Bridge improvements.~~Signalization improvements.

(4) ~~Corridor protection.~~Assistance for projects to improve rail access to industrial, port, and military facilities and for freight intermodal facility improvements, provided that funding assistance under this subdivision shall be subject to the same limits as that for short-line railroads under G.S. 136-44.39.

~~(5) Industrial site acquisition.~~

The Fund may also be used to supplement funds allocated for freight rail or railroad-roadway crossing safety projects approved as part of the Transportation Improvement Program.

~~The Department of Transportation shall use the Fund to supplement funds allocated for projects approved as part of the Transportation Improvement Program.~~

~~(b) Effective January 1, 2000, interest shall not be accrued or otherwise charged on the remaining balance of the obligations described in subsection (c) of Section 32.30 of S.L. 1997-443, as amended by subsection (d) of Section 27.11 of S.L. 1999-237. Interest accrued on those obligations relating to periods prior to January 1, 2000, shall be deemed paid and contributed by the State to the capital of the North Carolina Railroad Company.~~"

SECTION 34.14.(h) Article 2 of Chapter 124 of the General Statutes is amended by adding the following new section:

"**§ 124-18. Dividends required of State-owned railroad company.**

Any State-owned railroad company that has trackage in more than two counties shall issue an annual cash dividend to the State. The amount of the annual dividend is twenty-five percent (25%) of the company's income from the prior year's trackage rights agreements. The dividend is due by January 15 of each year, and interest shall accrue at the annual rate of prime plus one percent (1%) if the payment is not paid by the due date. The Directors of any State-owned railroad company who vote for or assent to the dividend required under this section shall not be held liable under G.S. 55-8-33."

SECTION 34.14.(i) G.S. 136-16.6 is repealed.

SECTION 34.14.(j) Assess Certain Real Properties. – Any State-owned railroad company, as defined under G.S. 124-11, that has trackage in more than two counties shall assess the company's noncorridor real property that is among the following parcels:

Property Description	County	Nearest Town	Parcel ID
Burke Street Lot	Alamance	Gibsonville	107493
4th Street Lot	Carteret	Morehead	638620808907000
Bridges Street Lot	Carteret	Morehead	638620911461000
Newport Lot	Carteret	Newport	634814246231000
Station & Former Industrial Lot	Carteret	Morehead	638620718127000
Waterfront & Riparian Rights	Carteret	Morehead	638620708857000 & 638620709868000
Wye Property Extension	Carteret	Morehead	637616924807000
Wye Property	Carteret	Morehead	637620923019000
Clarks Lot	Craven	Clarks	8-221-035
N. Craven St. Lot	Craven	New Bern	8-003-241-A
Tiffany & Bright Sts. Property	Lenoir	Kinston	11185 & 26555
Morrisville Former Depot	Wake	Morrisville	0755-14-6475
Waynesboro Lot	Wayne	Goldsboro	2599119118

The assessment shall identify potential environmental issues; title, encroachment and other legal property issues; and any other characteristic of the property that would significantly impact the value of the parcels to a prospective purchaser. Any State-owned

railroad company, as defined under G.S. 124-11, that has trackage in more than two counties shall report no later than April 1, 2014, to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division. The report shall include the findings of the assessment required by this subsection, an estimate of the costs to mitigate any environmental issues to meet applicable federal or State standards, the estimated value of the parcels taking into account mitigation costs, and potential alternate State uses for the parcels.

SECTION 34.14.(k) Subsections (g), (h), and (i) of this section become effective January 1, 2014.

ELIMINATE TELECOMMUNICATIONS AND INSPECTIONS PROGRAM ACCOUNTS

SECTION 34.15.(a) The sum of ten million five hundred thousand dollars ($10,500,000) of the unallotted and unexpended balance of funds within the Inspection Program Account shall be transferred to the Highway Fund as appropriated and allocated by this act. The Inspection Program Account shall be eliminated after all funds allotted as of June 30, 2013, have been expended. The remaining unallotted and unexpended balance of funds shall be transferred to the Reserve for General Maintenance (fund center 1500/150934).

SECTION 34.15.(b) Effective June 30, 2014, G.S. 20-183.7(d1) is repealed, and the unallotted and unexpended balance of funds in the Telecommunications Account on that date shall be transferred to the Reserve for General Maintenance (fund center 1500/150934).

SECTION 34.15.(c) G.S. 20-183.7 reads as rewritten:

"**§ 20-183.7. Fees for performing an inspection and issuing an electronic inspection authorization to a vehicle; use of civil penalties.**

...

(c) Fee Distribution. – Fees collected for electronic inspection authorizations are payable to the Division of Motor Vehicles. The amount of each fee listed in the table below shall be credited to the Highway Fund, ~~the Inspection Program Account established in subsection (d) of this section, the Telecommunications Account established in subsection (d1) of this section,~~ the Volunteer Rescue/EMS Fund established in G.S. 58-87-5, the Rescue Squad Workers' Relief Fund established in G.S. 58-88-5, and the Division of Air Quality of the Department of Environment and Natural Resources:

Recipient	Safety Only Electronic Authorization	Emissions and Safety Electronic Authorization
Highway Fund	.55	~~.55~~5.30
~~Inspection Program Account~~	~~.00~~	~~3.00~~
~~Telecommunications Account~~	~~.00~~	~~1.75~~
Volunteer Rescue/EMS Fund	.18	.18
Rescue Squad Workers' Relief Fund	.12	.12
Division of Air Quality	.00	.65.

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

...."

DIVISION OF MOTOR VEHICLES TECHNOLOGY IMPROVEMENT ACCOUNT

SECTION 34.16.(a) The Division of Motor Vehicles Technology Improvement Account shall be eliminated after all funds allotted as of June 30, 2013, have been expended.

The unallotted and unexpended balance of funds in the Account shall be transferred to the Highway Fund as appropriated and allocated by this act.

SECTION 34.16.(b) G.S. 20-85 reads as rewritten:

"**§ 20-85 Schedule of fees.**

...

(a1) One dollar ($1.00) of the fee imposed for any transaction assessed a fee under subdivision (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), or (a)(9) of this section shall be credited to the North Carolina Highway Fund. ~~The Division shall use the fees derived from transactions with the Division for technology improvements.~~ The Division shall use the fees derived from transactions with commission contract agents for the payment of compensation to commission contract agents. An additional fifty cents (50¢) of the fee imposed for any transaction assessed a fee under subdivision (a)(1) of this section shall be credited to the Mercury Switch Removal Account in the Department of Environment and Natural Resources. An additional fifty cents (50¢) of the fee imposed for any transaction assessed a fee under subdivision (a)(1) of this section shall be credited as follows:

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

(2) Any additional funds collected shall be credited to the Highway Trust Fund and, notwithstanding G.S. 136-176(b), shall be allocated and used for urban loop projects.

...."

DEPARTMENT OF TRANSPORTATION CONTRACTED SERVICES

SECTION 34.17. The Department of Transportation, Business and Contractual Services Unit, shall, in collaboration with the Division of Motor Vehicles, evaluate current contractual models and compensation for the provision of registration, title, tax collection, and other vehicle service transactions by branch agents contracting with the Division of Motor Vehicles. As part of this evaluation, the Department shall conduct an analysis of transaction trends, completion and error rates, and service times by transaction type and branch agent type, and shall assess the appropriateness of the current basis for contractor compensation and rates relative to documented service requirements.

Based on its findings, the Department shall recommend alternatives to the current contractual models for branch agents to standardize contract types, enhance performance, and strengthen contract administration, taking into account citizen accessibility to service centers. In addition, the Department shall submit detailed proposals for alternate options for contractor compensation, including, at a minimum, competitive bidding of branch agent contracts. The Department shall identify anticipated programmatic and fiscal impacts, and include implementation plans for each alternative.

The Department shall report its findings and recommendations to the Joint Legislative Transportation Oversight Committee, Joint Legislative Program Evaluation Oversight Committee, and Fiscal Research Division no later than March 1, 2014.

ETHICS REQUIREMENTS FOR MPOS/RPOS

SECTION 34.18.(a) G.S. 136-202(e) is repealed.

SECTION 34.18.(b) G.S. 136-200.2 is amended by adding new subsections to read:

"(g) Ethics Provisions. – All individuals with voting authority serving on a metropolitan planning organization who are not members of the Board of Transportation shall do all of the following:

(1) Except as permitted under this subdivision, no MPO member acting in that capacity shall participate in an action if the member knows the member, the

member's extended family, or any business with which the member is associated may incur a reasonably foreseeable financial benefit from the matter under consideration, which financial benefit would impair the MPO member's independence of judgment or from which it could reasonably be inferred that the financial benefit would influence the member's participation in the action. An MPO member may participate in an action of the MPO under any of the following circumstances:

a. When action is ministerial only and does not require the exercise of discretion.

b. When the committee records in its minutes that it cannot obtain a quorum in order to take the action because the MPO member is disqualified from acting, the MPO member may be counted for purposes of a quorum but shall otherwise abstain from taking any further action.

(2) An MPO member shall have an affirmative duty to promptly disclose in writing to the MPO any conflict of interest or potential conflict of interest under subdivision (1) of this subsection. All written disclosures shall be a public record under Chapter 132 of the General Statutes and attached to the minutes of the meeting in which any discussion or vote was taken by the MPO related to that disclosure.

(3) File a statement of economic interest with the State Ethics Commission in accordance with Article 3 of Chapter 138A of the General Statutes, for which the State Ethics Commission shall prepare a written evaluation relative to conflicts of interest and potential conflicts of interest and provide a copy of that evaluation to the MPO member. All statements of economic interest and all written evaluations by the Commission of those statements are public records as provided in G.S. 138A-23. The penalties for failure to file shall be as set forth in G.S. 138A-25(a) and (b).

(4) File, with and in the same manner as the statement of economic interest filed under subdivision (3) of this subsection, an additional disclosure of a list of all real estate owned wholly or in part by the MPO member, the MPO member's extended family, or a business with which the MPO member is associated within the jurisdiction of the MPO on which the MPO member is serving. All additional disclosures of real estate filed by MPO members are public records under Chapter 132 of the General Statutes.

(h) Confidential Information. – An MPO member shall not use or disclose any nonpublic information gained in the course of or by reason of serving as a member of the MPO in a way that would affect a personal financial interest of the MPO member, the MPO member's extended family, or a business with which the MPO member is associated.

(i) Definitions. – For purposes of this section, "extended family" shall have the same meaning as in G.S. 138A-3(13), "business with which associated" shall have the same meaning as in G.S. 138A-3(3), and "financial benefit" shall mean a direct pecuniary gain or loss or a direct pecuniary loss to a business competitor.

(j) Violations. – A violation of subdivision (1) of subsection (g) of this section shall be a Class 1 misdemeanor. An MPO member who knowingly conceals or knowingly fails to disclose information that is required to be disclosed on a required filing under subdivision (3) or (4) of subsection (g) of this section shall be guilty of a Class 1 misdemeanor. An MPO member who provides false information on a required filing under subdivision (3) or (4) of subsection (g) of this section knowing that the information is false is guilty of a Class H felony.

(k) All individuals with voting authority serving on an MPO who are members of the Board of Transportation shall comply with Chapter 138A of the General Statutes and G.S. 143B-350 while serving on the MPO."

SECTION 34.18.(c) G.S. 136-211(e) is repealed.

SECTION 34.18.(d) G.S. 136-211 is amended by adding new subsections to read:

"(f) Ethics Provisions. – All individuals with voting authority serving on a rural transportation planning organization who are not members of the Board of Transportation shall do all of the following:

(1) Except as permitted under this subdivision, no rural transportation planning organization member acting in that capacity shall participate in an action of the rural transportation planning organization if the rural transportation planning organization member knows the rural transportation planning organization member, the rural transportation planning organization member's extended family, or any business with which the rural transportation planning organization member is associated may incur a reasonably foreseeable financial benefit from the matter under consideration, which financial benefit would impair the rural transportation planning organization member's independence of judgment or from which it could reasonably be inferred that the financial benefit would influence the rural transportation planning organization member's participation in the action of the rural transportation planning organization.

a. When action is ministerial only and does not require the exercise of discretion.

b. When the committee records in its minutes that it cannot obtain a quorum in order to take the action because the rural transportation planning organization member is disqualified from acting, the rural transportation planning organization member may be counted for purposes of a quorum but shall otherwise abstain from taking any further action.

(2) A rural transportation planning organization member shall have an affirmative duty to promptly disclose in writing to the rural transportation planning organization any conflict of interest or potential conflict of interest under subdivision (1) of this subsection. All written disclosures shall be a public record under Chapter 132 of the General Statutes and attached to the minutes of the meeting in which any discussion or vote was taken by the rural transportation planning organization related to that disclosure.

(3) File a statement of economic interest with the State Ethics Commission in accordance with Article 3 of Chapter 138A of the General Statutes for which the State Ethics Commission shall prepare a written evaluation relative to conflicts of interest and potential conflicts of interest and provide a copy of that evaluation to the rural transportation planning organization member. All statements of economic interest and all written evaluations by the Commission of those statements are public records as provided in G.S. 138A-23. The penalties for failure to file shall be as set forth in G.S. 138A-25(a) and (b).

(4) File, with and in the same manner as the statement of economic interest filed under subdivision (3) of this subsection, an additional disclosure of a list of all real estate owned wholly or in part by the rural transportation planning organization member, the rural transportation planning organization member's extended family, or a business with which the rural transportation planning organization member is associated within the jurisdiction of the

rural transportation planning organization on which the rural transportation planning organization member is serving. All additional disclosures of real estate filed by members are public records under Chapter 132 of the General Statutes.

(g) Confidential Information. – A rural transportation planning organization member shall not use or disclose any nonpublic information gained in the course of or by reason of serving as a member of the rural transportation planning organization in a way that would affect a personal financial interest of the rural transportation planning organization member, the rural transportation planning organization member's extended family, or a business with which the rural transportation planning organization member is associated.

(h) Definitions. – For purposes of this section, "extended family" shall have the same meaning as in G.S. 138A-3(13), "business with which associated" shall have the same meaning as in G.S. 138A-3(3), and "financial benefit" shall mean a direct pecuniary gain or loss or a direct pecuniary loss to a business competitor.

(i) Violations. – A violation of subdivision (1) of subsection (f) of this section shall be a Class 1 misdemeanor. A rural transportation planning organization member who knowingly conceals or knowingly fails to disclose information that is required to be disclosed on a required filing under subdivision (3) or (4) of subsection (f) of this section shall be guilty of a Class 1 misdemeanor. A rural transportation planning organization member who provides false information on a required filing under subdivision (3) or (4) of subsection (f) of this section knowing that the information is false is guilty of a Class H felony.

(j) All individuals with voting authority serving on a rural transportation planning organization who are members of the Board of Transportation shall comply with Chapter 138A of the General Statutes and G.S. 143B-350 while serving on the rural transportation planning organization."

SECTION 34.18.(e) This section is effective when it becomes law. All individuals with voting authority serving on a metropolitan planning organization or a rural transportation planning organization shall file statements of economic interest and additional real estate lists with the State Ethics Commission no later than April 15, 2014. Any member of a metropolitan planning organization or a rural transportation planning organization that filed a statement of economic interest in compliance with G.S. 136-202(e) or G.S. 136-211(e) shall not be required to file again, and the State Ethics Commission shall prepare the evaluation under G.S. 136-200.2(g) or G.S. 136-211(f) of that filing.

STRATEGIC TRANSPORTATION INVESTMENTS

SECTION 34.19.(a) Chapter 136 of the General Statutes is amended by adding a new Article to read:

"Article 14B.

"Strategic Prioritization Funding Plan for Transportation Investments.

"**§ 136-189.10. Definitions.**

The following definitions apply in this Article:

(1) Statewide strategic mobility projects. – Includes only the following:

a. Interstate highways and future interstate highways approved by the federal government.

b. Routes on the National Highway System as of July 1, 2012, excluding intermodal connectors.

c. Highway routes on the United States Department of Defense Strategic Highway Network (STRAHNET).

d. Interstate highway toll routes designated by the Department of Transportation, pursuant to its authority under State law, or extensions of highway toll projects in existence on July 1, 2013.

e. Highway projects listed in G.S. 136-179, as it existed on July 1, 2012, that are not authorized for construction as of July 1, 2015.
f. Appalachian Development Highway System.
g. Commercial service airports included in the Federal Aviation Administration's National Plan of Integrated Airport Systems (NPIAS) that provide international passenger service or 375,000 or more enplanements annually, provided that the State's annual financial participation in any single airport project included in this subdivision may not exceed five hundred thousand dollars ($500,000).
h. Freight capacity and safety improvements to Class I freight rail corridors.

(2) Regional impact projects. – Includes only the following:
a. Projects listed in subdivision (1) of this section, subject to the limitations noted in that subdivision.
b. U.S. highway routes not included in subdivision (1) of this section.
c. N.C. highway routes not included in subdivision (1) of this section.
d. Highway toll routes not included in subdivision (1) of this section.
e. Commercial service airports included in the NPIAS that are not included in subdivision (1) of this section, provided that the State's annual financial participation in any single airport project included in this subdivision may not exceed three hundred thousand dollars ($300,000).
f. The State-maintained ferry system, excluding passenger vessel replacement.
g. Freight capacity and safety improvements to rail corridors spanning two or more counties and not included in subdivision (1) of this section.

(3) Division needs projects. – Includes only the following:
a. Projects listed in subdivision (1) or (2) of this section, subject to the limitations noted in those subsections.
b. State highway routes not included in subdivision (1) or (2) of this section.
c. Airports included in the NPIAS that are not included in subdivision (1) or (2) of this section, provided that the State's total annual financial participation under this sub-subdivision shall not exceed eighteen million five hundred thousand dollars ($18,500,000).
d. Freight capacity and safety improvements to rail corridors not included in subdivision (1) or (2) of this section.
e. Public transportation service improvements, facilities, and equipment, including intercity rail, commuter rail, light rail, multimodal terminals and stations used for passenger transit.
f. Federally-funded bicycle and pedestrian improvements.
g. Replacement of State-maintained ferry vessels.
h. Federally-funded municipal road projects.

(4) Distribution Regions. – The following Distribution Regions apply to this Article:
a. Distribution Region A consists of the following counties: Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Johnston, Martin, Nash, Northampton, Pasquotank, Perquimans, Tyrrell, Washington, Wayne, and Wilson.

b. Distribution Region B consists of the following counties: Beaufort, Brunswick, Carteret, Craven, Duplin, Greene, Jones, Lenoir, New Hanover, Onslow, Pamlico, Pender, Pitt, and Sampson.

c. Distribution Region C consists of the following counties: Bladen, Columbus, Cumberland, Durham, Franklin, Granville, Harnett, Person, Robeson, Vance, Wake, and Warren.

d. Distribution Region D consists of the following counties: Alamance, Caswell, Davidson, Davie, Forsyth, Guilford, Orange, Rockingham, Rowan, and Stokes.

e. Distribution Region E consists of the following counties: Anson, Cabarrus, Chatham, Hoke, Lee, Mecklenburg, Montgomery, Moore, Randolph, Richmond, Scotland, Stanly, and Union.

f. Distribution Region F consists of the following counties: Alexander, Alleghany, Ashe, Avery, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Surry, Watauga, Wilkes, and Yadkin.

g. Distribution Region G consists of the following counties: Buncombe, Burke, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania, and Yancey.

"**§ 136-189.11. Transportation Investment Strategy Formula.**

(a) Funds Subject to Formula. – The following sources of funds are subject to this section:

(1) Highway Trust Fund funds, in accordance with G.S. 136-176.

(2) Federal aid funds.

(b) Funds Excluded From Formula. – The following funds are not subject to this section:

(1) Federal congestion mitigation and air quality improvement program funds appropriated to the State by the United States pursuant to 23 U.S.C. § 104(b)(2) and 23 U.S.C. § 149.

(2) Funds received through competitive awards or discretionary grants through federal appropriations either for local governments, transportation authorities, transit authorities, or the Department.

(3) Funds received from the federal government that under federal law may only be used for Appalachian Development Highway System projects.

(4) Funds used in repayment of "GARVEE" bonds related to Phase I of the Yadkin River Veterans Memorial Bridge project.

(5) Funds committed to gap funding for toll roads funded with bonds issued pursuant to G.S. 136-176.

(6) Funds obligated for projects in the State Transportation Improvement Program that are scheduled for construction as of April 1, 2013, in State fiscal year 2012-2013, 2013-2014, or 2014-2015.

(7) Toll collections from a turnpike project under Article 6H of this Chapter and other revenue from the sale of the Authority's bonds or notes or project loans, in accordance with G.S. 136-89.192.

(8) Toll collections from the State-maintained ferry system collected under the authority of G.S. 136-82.

(c) Funds With Alternate Criteria. – The following federal program activities shall be included in the applicable category of the Transportation Investment Strategy Formula set forth in subsection (d) of this section but shall not be subject to the prioritization criteria set forth in that subsection:

(1) Bridge replacement.

(2) Interstate maintenance.
(3) Highway safety improvement.

(d) Transportation Investment Strategy Formula. – Funds subject to the Formula shall be distributed as follows:

(1) Statewide Strategic Mobility Projects. – Forty percent (40%) of the funds subject to this section shall be used for Statewide Strategic Mobility Projects.

a. Criteria. – Transportation-related quantitative criteria shall be used by the Department to rank highway projects that address cost-effective Statewide Strategic Mobility needs and promote economic and employment growth. The criteria for selection of Statewide Strategic Mobility Projects shall utilize a numeric scale of 100 points, based on consideration of the following quantitative criteria:
1. Benefit-cost.
2. Congestion.
3. Safety.
4. Freight.
5. Multimodal.
6. Pavement condition.
7. Lane width.
8. Shoulder width.

b. Project cap. – No more than 10 percent (10%) of the funds projected to be allocated to the Statewide Strategic Mobility category over any five-year period may be assigned to any contiguous project or group of projects in the same corridor within a Highway Division or within adjoining Highway Divisions.

(2) Regional Impact Projects. – Thirty percent (30%) of the funds subject to this section shall be used for Regional Impact Projects and allocated by population of Distribution Regions, based on the most recent estimates certified by the Office of State Budget and Management.

a. Criteria. – A combination of transportation-related quantitative criteria, qualitative criteria, and local input shall be used to rank Regional Impact Projects involving highways that address cost-effective needs from a region-wide perspective and promote economic growth. Local input is defined as the rankings identified by the Department's Transportation Division Engineers, Metropolitan Planning Organizations, and Rural Transportation Planning Organizations. The criteria utilized for selection of Regional Impact Projects shall be based 30 percent (30%) on local input and 70 percent (70%) on consideration of a numeric scale of 100 points, based on the following quantitative criteria:
1. Benefit-cost.
2. Congestion.
3. Safety.
4. Freight.
5. Multimodal.
6. Pavement condition.
7. Lane width.
8. Shoulder width.

9. Accessibility and connectivity to employment centers, tourist destinations, and military installations.

(3) Division Need Projects. – Thirty percent (30%) of the funds subject to this section shall be allocated in equal share to each of the Department divisions, as defined in G.S. 136-14.1, and used for Division Need Projects.

a. Criteria. – A combination of transportation-related quantitative criteria, qualitative criteria, and local input shall be used to rank Division Need Projects involving highways that address cost-effective needs from a Division-wide perspective, provide access, and address safety-related needs of local communities. Local input is defined as the rankings identified by the Department's Transportation Division Engineers, Metropolitan Planning Organizations, and Rural Transportation Planning Organizations. The criteria utilized for selection of Division Need Projects shall be based 50 percent (50%) on local input and 50 percent (50%) on consideration of a numeric scale of 100 points, based on the following quantitative criteria, except as provided in sub-subdivision b. of this subdivision:

1. Benefit-cost.
2. Congestion.
3. Safety.
4. Freight.
5. Multimodal.
6. Pavement condition.
7. Lane width.
8. Shoulder width.
9. Accessibility and connectivity to employment centers, tourist destinations, and military installations.

b. Alternate criteria. – Funding from the following programs shall be included in the computation of each of the Department division equal shares but shall be subject to alternate quantitative criteria:

1. Federal Surface Transportation Program-Direct Attributable funds appropriated to the State.
2. Federal Transportation Alternatives funds appropriated to the State.
3. Federal Railway-highway crossings program funds appropriated to the State.
4. Projects requested from the Department in support of a time-critical job creation opportunity, when the opportunity would be classified as transformational under the Job Development Investment Grant program established pursuant to G.S. 143B-437.52, provided that the total State investment in each fiscal year for all projects funded under this sub-subdivision shall not exceed ten million dollars ($10,000,000) in the aggregate or two million dollars ($2,000,000) per project.
5. Federal funds for municipal road projects.

c. Bicycle and pedestrian limitation. – The Department shall not provide financial support for bicycle and pedestrian improvement projects, except for federal funds administered by the Department for that purpose. This sub-subdivision shall not apply to funds allocated

to a municipality pursuant to G.S. 136-41.1 which are committed by the municipality as matching funds for federal funds administered by the Department and used for bicycle and pedestrian improvement projects. This limitation shall not apply to projects under construction or authorized for construction on June 30, 2013.

(4) Criteria for nonhighway projects. – Nonhighway projects subject to this subsection shall be evaluated through a separate prioritization process established by the Department that complies with all of the following:

a. The criteria used for selection of projects for a particular transportation mode shall be based on a minimum of four quantitative criteria.

b. Local input shall include rankings of projects identified by the Department's Transportation Division Engineers, Metropolitan Planning Organizations, and Rural Transportation Planning Organizations.

c. The criteria shall be based on a scale not to exceed 100 points that includes no bonus points or other alterations favoring any particular mode of transportation.

(e) Authorized Formula Variance. – The Department may vary from the Formula set forth in this section if it complies with the following:

(1) Limitation on variance. – The Department, in obligating funds in accordance with this section, shall ensure that the percentage amount obligated to Statewide Strategic Mobility Projects, Regional Impact Projects, and Division Need Projects does not vary by more than five percent (5%) over any five-year period from the percentage required to be allocated to each of those categories by this section. Funds obligated among distribution regions or divisions pursuant to this section may vary up to 10 percent (10%) over any five-year period.

(2) Calculation of variance. – Each year the Secretary shall calculate the amount of Regional Impact and Division Need funds allocated in that year to each division and region, the amount of funds obligated, and the amount the obligations exceeded or were below the allocation. In the first variance calculation under this subdivision following the end of fiscal year 2015-2016, the target amounts obtained according to the Formula set forth in this section shall be adjusted to account for any differences between allocations and obligations reported for the previous year. In the first variance calculation under this subdivision following the end of fiscal year 2016-2017, the target amounts obtained according to the Formula set forth in this section shall be adjusted to account for any differences between allocations and obligations reported for the previous two fiscal years. In the first variance calculation under this subdivision following the end of fiscal year 2017-2018, the target amounts obtained according to the Formula set forth in this section shall be adjusted to account for any differences between allocations and obligations reported for the previous three fiscal years. In the first variance calculation under this subdivision following the end of fiscal year 2018-2019, the target amounts obtained according to the Formula set forth in this section shall be adjusted to account for any differences between allocations and obligations reported for the previous four fiscal years. The new target amounts shall be used to fulfill the requirements of subdivision (1) of this subsection for the next update of the Transportation Improvement

Program. The adjustment to the target amount shall be allocated by Distribution Region or Division, as applicable.

(f) Incentives for Local Funding and Highway Tolling. – The Department may revise highway project selection ratings based on local government funding initiatives and capital construction funding directly attributable to highway toll revenue. Projects authorized for construction after November 1, 2013, and contained in the 10-year Department of Transportation work program are eligible for a bonus allocation under this subsection.

(1) Definitions. – The following definitions apply in this subsection:

a. Bonus allocation. – The allocation obtained as a result of local government funding participation or highway tolling.

b. Local funding participation. – Non-State or nonfederal funds committed by local officials to leverage the commitment of State or federal transportation funds towards construction.

(2) Funds obtained from local government funding participation. – Upon authorization to construct a project with funds obtained by local government funding participation, the Department shall make available for allocation as set forth in subdivision (4) of this section an amount equal to one-half of the local funding commitment for other eligible highway projects that serve the local entity or entities that provided the local funding.

(3) Funds obtained through highway tolling. – Upon authorization to construct a project with funding from toll revenue, the Department shall make available for allocation an amount equal to one-half of the project construction cost derived from toll revenue bonds. The amount made available for allocation to other eligible highway projects shall not exceed one hundred million dollars ($100,000,000) of the capital construction funding directly attributable to the highway toll revenues committed in the Investment Grade Traffic and Revenue Study. If the toll project is located in one or more Metropolitan Planning Organization or Rural Transportation Planning Organization boundaries, based on the boundaries in existence at the time of letting of the project construction contract, the bonus allocation shall be distributed proportionately to lane miles of new capacity within the Organization's boundaries. The Organization shall apply the bonus allocation only within those counties in which the toll project is located.

(4) Use of bonus allocation. – The Metropolitan Planning Organization, Rural Transportation Planning Organization, or the local government may choose to apply its bonus allocation in one of the three categories or in a combination of the three categories as provided in this subdivision.

a. Statewide Strategic Mobility Projects category. – The bonus allocation shall apply over the five-year period in the State Transportation Improvement Program in the cycle following the contractual obligation.

b. Regional Impact Projects category. – The bonus allocation is capped at 10 percent (10%) of the regional allocation, or allocation to multiple regions, made over a five-year period and shall be applied over the five-year period in the State Transportation Improvement Program in the cycle following the contractual obligation.

c. Division Needs Projects category. – The bonus allocation is capped at 10 percent (10%) of the division allocation, or allocation to multiple divisions, made over a five-year period and shall be applied over the five-year period in the State Transportation Improvement Program in the cycle following the contractual obligation.

(g) Reporting. – The Department shall publish on its Web site, in a link to the "Strategic Transportation Investments" Web site linked directly from the Department's home page, the following information in an accessible format as promptly as possible:

(1) The quantitative criteria used in each highway and nonhighway project scoring, including the methodology used to define each criteria, the criteria presented to the Board of Transportation for approval, and any adjustments made to finalize the criteria.

(2) The quantitative and qualitative criteria in each highway or nonhighway project scoring that is used in each region or division to finalize the local input score, and shall include distinctions between Metropolitan Planning Organization and Rural Transportation Planning Organization scoring and methodologies.

(3) Notification of changes to the methodologies used to calculate quantitative criteria.

(4) The final quantitative formulas, including the number of points assigned to each criteria, used in each highway and nonhighway project scoring used to obtain project rankings in the Statewide, Regional, and Division categories. If the Department approves different formulas or point assignments regionally or by division, the final scoring for each area shall be noted.

(5) The project scorings associated with the release of the draft and final State Transportation Improvement Program."

SECTION 34.19.(b) (Effective July 1, 2019) G.S. 136-189.11(e)(2) reads as rewritten:

"(e) Authorized Formula Variance. – The Department may vary from the Formula set forth in this section if it complies with the following:

...

(2) Calculation of Variance. – Each year, the Secretary shall calculate the amount of Regional Impact and Division Need funds allocated in that year to each ~~division,~~division and region, the amount of funds obligated, and the amount the obligations exceeded or were below the allocation. ~~In the first variance calculation under this subdivision following the end of fiscal year 2015-16, the target amounts obtained according to the Formula set forth in this section shall be adjusted to account for any differences between allocations and obligations reported for the previous year. In the first variance calculation under this subdivision following the end of fiscal year 2016-17, the target amounts obtained according to the Formula set forth in this section shall be adjusted to account for any differences between allocations and obligations reported for the previous two fiscal years. In the first variance calculation under this subdivision following the end of fiscal year 2017-18, the target amounts obtained according to the Formula set forth in this section shall be adjusted to account for any differences between allocations and obligations reported for the previous three fiscal years. In the first variance calculation under this subdivision following the end of fiscal year 2018-19, the~~ The target amounts obtained according to the Formula set forth in this section shall be adjusted to account for any differences between allocations and obligations reported for the previous ~~four~~ five fiscal years. The new target amounts shall be used to fulfill the requirements of subdivision (1) of this subsection for the next update of the Transportation Improvement Program. The adjustment to the target amount shall be allocated by Distribution Region or Division, as applicable."

SECTION 34.19.(c) Strategic Prioritization Process Reporting. – The Department shall issue a draft revision to the State Transportation Improvement Program required by G.S. 143B-350(f)(4) no later than January 1, 2015. The Board of Transportation shall approve the revised State Transportation Improvement Program no later than July 1, 2015.

SECONDARY ROADS CHANGES

SECTION 34.19.(d) G.S. 20-85, as rewritten by Section 34.16 of this act, reads as rewritten:

"**§ 20-85. Schedule of fees.**

...

(a1) One dollar ($1.00) of the fee imposed for any transaction assessed a fee under subdivision (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), or (a)(9) of this section shall be credited to the North Carolina Highway Fund. The Division shall use the fees derived from transactions with commission contract agents for the payment of compensation to commission contract agents. An additional fifty cents (50¢) of the fee imposed for any transaction assessed a fee under subdivision (a)(1) of this section shall be credited to the Mercury Switch Removal Account in the Department of Environment and Natural Resources. ~~An additional fifty cents (50¢) of the fee imposed for any transaction assessed a fee under subdivision (a)(1) of this section shall be credited as follows:~~

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

~~(2) Any additional funds collected shall be credited to the Highway Trust Fund and, notwithstanding G.S. 136-176(b), shall be allocated and used for urban loop projects.~~

(a2) From the fees collected under subdivisions (a)(1) through (a)(9) of this section, the Department shall annually credit the sum of four hundred thousand dollars ($400,000) to the Reserve for Visitor Centers in the Highway Fund.

(b) Except as otherwise provided in ~~subsection (a1)~~subsections (a1) and (a2) of this section, the fees collected under subdivisions (a)(1) through (a)(9) of this section shall be credited to the North Carolina Highway Trust Fund. The fees collected under subdivision (a)(10) of this section shall be credited to the Highway Fund. ~~Fifteen dollars ($15.00) of each title fee credited to the Trust Fund under subdivision (a)(1) shall be added to the amount allocated for secondary roads under G.S. 136-176 and used in accordance with G.S. 136-44.5.~~

...."

SECTION 34.19.(e) G.S. 136-44.2 reads as rewritten:

"**§ 136-44.2. Budget and appropriations.**

(a) The Director of the Budget shall include in the "Current Operations Appropriations Act" an enumeration of the purposes or objects of the proposed expenditures for each of the ~~construction and maintenance~~construction, maintenance, and improvement programs for that budget period for the State primary, secondary, State parks road systems, and other transportation systems. The State primary system shall include all portions of the State highway system located both inside and outside municipal corporate limits that are designated by N.C., U.S. or Interstate numbers. The State secondary system shall include all of the State highway system located both inside and outside municipal corporate limits that is not a part of the State primary system. The State parks system shall include all State parks roads and parking lots that are not also part of the State highway system. The transportation systems shall also include State-maintained, nonhighway modes of ~~transportation as well.~~transportation.

(b) All ~~construction and maintenance~~ construction, maintenance, and improvement programs for which appropriations are requested shall be enumerated separately in the budget. Programs that are entirely State funded shall be listed separately from those programs involving

the use of federal-aid funds. Proposed appropriations of State matching funds for each of the federal-aid construction programs shall be enumerated separately as well as the federal-aid funds anticipated for each program in order that the total construction requirements for each program may be provided for in the budget. Also, proposed State matching funds for the highway planning and research program shall be included separately along with the anticipated federal-aid funds for that purpose.

(c) Other program categories for which appropriations are requested, such as, but not limited to, maintenance, channelization and traffic control, bridge maintenance, public service and access road construction, transportation projects and systems, and ferry operations shall be enumerated in the budget.

(d) The Department of Transportation shall have all powers necessary to comply fully with provisions of present and future federal-aid acts. For purposes of this section, "federally eligible construction project" means any construction project except secondary road projects developed pursuant to G.S. 136-44.7 and 136-44.8 eligible for federal funds under any federal-aid act, whether or not federal funds are actually available.

(e) The "Current Operations Appropriations Act" shall also contain the proposed appropriations of State funds for use in each county for ~~maintenance and construction~~construction, maintenance, and improvement of secondary roads, to be allocated in accordance with G.S. 136-44.5 and 136-44.6. State funds appropriated for secondary roads shall not be transferred nor used except for the ~~construction and maintenance~~construction, maintenance, and improvement of secondary roads in the county for which they are allocated pursuant to G.S. 136-44.5 and 136-44.6.

...."

SECTION 34.19.(f) (Effective July 1, 2014) G.S. 136-44.2, as rewritten by subsection (e) of this section, reads as rewritten:

"**§ 136-44.2. Budget and appropriations.**

(a) The Director of the Budget shall include in the "Current Operations Appropriations Act" an enumeration of the purposes or objects of the proposed expenditures for each of the ~~construction, maintenance,~~ maintenance and improvement programs for that budget period for the State primary, secondary, State parks road systems, and other transportation systems. The State primary system shall include all portions of the State highway system located both inside and outside municipal corporate limits that are designated by N.C., U.S. or Interstate numbers. The State secondary system shall include all of the State highway system located both inside and outside municipal corporate limits that is not a part of the State primary system. The State parks system shall include all State parks roads and parking lots that are not also part of the State highway system. The transportation systems shall also include State-maintained, nonhighway modes of transportation.

(b) All ~~construction, maintenance,~~maintenance and improvement programs for which appropriations are requested shall be enumerated separately in the budget. Programs that are entirely State funded shall be listed separately from those programs involving the use of federal-aid funds. ~~Proposed appropriations of State matching funds for each of the federal-aid construction programs shall be enumerated separately as well as the federal-aid funds anticipated for each program in order that the total construction requirements for each program may be provided for in the budget. Also, proposed~~ Proposed State matching funds for the highway planning and research program shall be included separately along with the anticipated federal-aid funds for that purpose.

(c) Other program categories for which appropriations are requested, such as, but not limited to, maintenance, channelization and traffic control, bridge maintenance, public service and access road construction, transportation projects and systems, and ferry operations shall be enumerated in the budget.

(d) The Department of Transportation shall have all powers necessary to comply fully with provisions of present and future federal-aid acts. For purposes of this section, "federally eligible construction project" means any construction project except secondary road projects developed pursuant to ~~G.S. 136-44.7 and 136-44.8~~G.S. 136-44.8 eligible for federal funds under any federal-aid act, whether or not federal funds are actually available.

(e) The "Current Operations Appropriations Act" shall also contain the proposed appropriations of State funds for use in each county for ~~construction, maintenance,~~ maintenance and improvement of secondary roads, to be allocated in accordance with ~~G.S. 136-44.5 and 136-44.6.~~G.S. 136-44.6. State funds appropriated for secondary roads shall not be transferred nor used except for the ~~construction, maintenance,~~ maintenance and improvement of secondary roads in the county for which they are allocated pursuant to ~~G.S. 136-44.5 and 136-44.6.~~G.S. 136-44.6.

...

(g) The Department of Transportation may provide for costs incurred or accrued for traffic control measures to be taken by the Department at major events which involve a high degree of traffic concentration on State highways, and which cannot be funded from regular budgeted items. This authorization applies only to events which are expected to generate 30,000 vehicles or more per day. The Department of Transportation shall provide for this funding by allocating and reserving up to one hundred thousand dollars ($100,000) before any other allocations from the appropriations for State maintenance for ~~primary, secondary, and urban~~primary and secondary road systems are made, based upon the same proportion as is appropriated to each system."

SECTION 34.19.(g) G.S. 136-44.2A reads as rewritten:

"**§ 136-44.2A. Secondary road ~~improvement~~ construction program.**

There shall be annually allocated from the Highway Fund to the Department of Transportation for secondary road ~~improvement~~ construction programs developed pursuant to G.S. ~~136-44.7 and~~ 136-44.8, a sum provided by law. ~~equal to that allocation made from the Highway Fund under G.S. 136-41.1(a). In addition, as provided in G.S. 136-176(b)(4) and G.S. 20-85(b), revenue is annually allocated from the Highway Trust Fund for secondary road construction. Of the funds allocated from the Highway Fund, the sum of sixty-eight million six hundred seventy thousand dollars ($68,670,000) shall be allocated among the counties in accordance with G.S. 136-44.5(b). All funds allocated from the Highway Fund for secondary road improvements in excess of that amount shall be allocated among the counties in accordance with G.S. 136-44.5(c). All funds allocated from the Highway Trust Fund for secondary road improvement programs shall be allocated in accordance with G.S. 136-182.~~"

SECTION 34.19.(h) (Effective July 1, 2014) G.S. 136-44.2A is repealed.

SECTION 34.19.(i) G.S. 136-44.2C is repealed.

SECTION 34.19.(j) (Expires June 30, 2018) Article 2A of Chapter 136 is amended by adding a new section to read:

"**§ 136-44.2D. Secondary unpaved road paving program.**

The Department of Transportation shall expend funds allocated to the paving of unpaved secondary roads for the paving of unpaved secondary roads based on a statewide prioritization. The Department shall pave the eligible unpaved secondary roads that receive the highest priority ranking within this statewide prioritization. Nothing in this subsection shall be interpreted to require the Department to pave any unpaved secondary roads that do not meet secondary road system addition standards as set forth in G.S. 136-44.10 and G.S. 136-102.6. The Highway Trust Fund shall not be used to fund the paving of unpaved secondary roads.

SECTION 34.19.(k) G.S. 136-44.5 reads as rewritten:

"**§ 136-44.5. Secondary roads; mileage study; allocation of funds.**

(a) Before July 1, in each calendar year, the Department of Transportation shall make a study of all State-maintained unpaved and paved secondary roads in the State. The study shall determine:

(1) The number of miles of unpaved State-maintained roads in each county eligible for paving and the total number of miles that are ineligible;

(2) The total number of miles of unpaved State-maintained roads in the State eligible for paving and the total number of miles that are ineligible; and

(3) The total number of paved State-maintained roads in each county, and the total number of miles of paved State-maintained roads in the State.

In this subsection, (i) ineligible unpaved mileage is defined as the number of miles of unpaved roads that have unavailable rights-of-way or for which environmental permits cannot be approved to allow for paving, and (ii) eligible unpaved mileage is defined as the number of miles of unpaved roads that have not been previously approved for paving by any funding source or has the potential to be programmed for paving when rights-of-way or environmental permits are secured. Except for federal-aid programs, the Department shall allocate all secondary road improvement funds on the basis of a formula using the study figures.

(b) ~~The first sixty-eight million six hundred seventy thousand dollars ($68,670,000) shall be allocated as follows: Each county shall receive a percentage of these funds, the percentage to be determined as a factor of the number of miles of paved and unpaved State-maintained secondary roads in the county divided by the total number of miles of paved and unpaved State-maintained secondary roads in the State, excluding those unpaved secondary roads that have been determined to be eligible for paving as defined in subsection (a) of this section. Beginning in fiscal year 2010-2011, allocations pursuant to this subsection shall be~~ The amounts appropriated by law for secondary road construction, excluding unpaved secondary road funds, shall be allocated among counties based on the total number of secondary miles in a county in proportion to the total State-maintained secondary road mileage.

~~(c) Funds allocated for secondary road construction in excess of sixty-eight million six hundred seventy thousand dollars ($68,670,000) shall be allocated to each county based on the percentage proportion that the number of miles in the county of State-maintained unpaved secondary roads bears to the total number of miles in the State of State-maintained unpaved secondary roads. In a county that has roads with eligible miles, these funds shall only be used for paving unpaved secondary road miles in that county. In a county where there are no roads eligible to be paved as defined in subsection (a) of this section, the funds may be used for improvements on the paved and unpaved secondary roads in that county. Beginning in fiscal year 2010-2011, allocations pursuant to this subsection shall be based on the total number of secondary miles in a county in proportion to the total State-maintained secondary road mileage.~~

~~(d) Copies of the Department study of unpaved and paved State-maintained secondary roads and copies of the individual county allocations shall be made available to newspapers having general circulation in each county.~~"

SECTION 34.19.(l) (Effective July 1, 2014) G.S. 136-44.5 is repealed.

SECTION 34.19.(m) G.S. 136-44.6 reads as rewritten:

"**§ 136-44.6. Uniformly applicable formula for the allocation of secondary roads maintenance and improvement funds.**

The Department of Transportation shall develop a uniformly applicable formula for the allocation of secondary roads maintenance and improvement funds for use in each county. The formula shall take into consideration the number of paved and unpaved miles of state-maintained secondary roads in each county and such other factors as experience may dictate. This section shall not apply to projects to pave unpaved roads under G.S. 136-44.2D."

SECTION 34.19.(n) Secondary Road Funding. – Of the funds appropriated in this act, the sum of fifteen million dollars ($15,000,000) in nonrecurring funds for the 2013-2014 fiscal year is allocated from the Highway Fund for the secondary road construction program

under G.S. 136-44.2A, as enacted by subsection (g) of this section, and the sum of ten million dollars ($10,000,000) in recurring funds for the 2013-2014 fiscal year is allocated from the Highway Fund for the paving of unpaved roads pursuant to G.S. 136-44.2D, as enacted by subsection (j) of this section.

SECTION 34.19.(o) G.S. 136-44.7 reads as rewritten:

"**§ 136-44.7. Secondary roads; ~~annual work program.~~right-of-way acquisition.**

~~(a) The Department of Transportation shall be responsible for developing criteria for improvements and maintenance of secondary roads. The criteria shall be adopted by the Board of Transportation before it shall become effective. The Department of Transportation shall be responsible for developing annual work programs for both construction and maintenance of secondary roads in each county in accordance with criteria developed. It shall reflect the long range and immediate goals of the Department of Transportation. Projects on the annual construction program for each county shall be rated according to their priority based upon the secondary road criteria and standards which shall be uniform throughout the State. Tentative construction projects and estimated funding shall also be listed in accordance to priority. The annual construction program shall be adopted by the Board of Transportation before it shall become effective.~~

~~(b) When a secondary road in a county is listed in the first 10 secondary roads to be paved during a year on a priority list issued by the Department of Transportation under this section, the secondary road cannot be removed from the top 10 of that list or any subsequent list until it is paved. All secondary roads in a county shall be paved, insofar as possible, in the priority order of the list. When a secondary road in the top 10 of that list is removed from the list because it has been paved, the next secondary road on the priority list shall be moved up to the top 10 of that list and shall remain there until it is paved.~~

(c) When it is necessary for the Department of Transportation to acquire a right-of-way ~~in accordance with (a) and (b) of this section~~ in order to pave a secondary road or undertake a maintenance project, the Department shall negotiate the acquisition of the right-of-way for a period of up to six months. At the end of that period, if one or more property owners have not dedicated the necessary right-of-way and at least seventy-five percent (75%) of the property owners adjacent to the project and the owners of the majority of the road frontage adjacent to the project have dedicated the necessary property for the right-of-way and have provided funds required by Department rule to the Department to cover the costs of condemning the remaining property, the Department shall initiate condemnation proceedings pursuant to Article 9 of this Chapter to acquire the remaining property necessary for the project.

(d) The Division Engineer is authorized to reduce the width of a right-of-way to less than 60 feet to pave an unpaved secondary road with the allocated funds, provided that in all circumstances the safety of the public is not compromised and the minimum accepted design practice is satisfied."

SECTION 34.19.(p) G.S. 136-44.8 reads as rewritten:

"**§ 136-44.8. Submission of secondary roads construction and unpaved roads paving programs to the Boards of County Commissioners.**

~~(a) The Department of Transportation shall post in the county courthouse a county map showing tentative secondary road paving projects rated according to the priority of each project in accordance with the criteria and standards adopted by the Board of Transportation. The map shall be posted at least two weeks prior to the public meeting of the county commissioners at which the Department of Transportation representatives are to meet and discuss the proposed secondary road construction program for the county as provided in subsection (c).~~

(a1) Representatives of the Department of Transportation shall provide to the board of county commissioners in each county the proposed secondary road construction program and, if applicable to that county, a list of roads proposed for the annual paving program approved by the Board of Transportation. If a paving priority list is presented, it shall include the priority

rating of each secondary road paving project included in the proposed paving program according to the criteria and standards adopted by the Board of Transportation.

~~(b) The Department of Transportation shall provide a notice to the public of the public meeting of the board of county commissioners at which the annual secondary road construction program for the county proposed by the Department is to be presented to the board and other citizens of the county as provided in subsection (c). The notice shall be published in a newspaper published in the county or having a general circulation in the county once a week for two succeeding weeks prior to the meeting. The notice shall also advise that a county map is posted in the courthouse showing tentative secondary road paving projects rated according to the priority of each project.~~

~~(c) Representatives of the Department of Transportation shall meet with the board of county commissioners at a regular or special public meeting of the board of county commissioners for each county and present to and discuss with the board of county commissioners and other citizens present, the proposed secondary road construction program for the county. The presentation and discussion shall specifically include the priority rating of each tentative secondary road paving project included in the proposed construction program, according to the criteria and standards adopted by the Board of Transportation.~~

~~At the same meeting after the presentation and discussion of the annual secondary road construction program for the county or at a later meeting, the board of county commissioners may (i) concur in the construction program as proposed, or (ii) take no action, or (iii) make recommendations for deviations in the proposed construction program, except as to paving projects and the priority of paving projects for which the board in order to make recommendations for deviations, must vote to consider the matter at a later public meeting as provided in subsection (d).~~

~~(d) The board of county commissioners may recommend deviations in the paving projects and the priority of paving projects included in the proposed secondary road construction program only at a public meeting after notice to the public that the board will consider making recommendations for deviations in paving projects and the priority of paving projects included in the proposed annual secondary road construction program. Notice of the public meeting shall be published by the board of county commissioners in a newspaper published in the county or having a general circulation in the county. After discussion by the members of the board of county commissioners and comments and information presented by other citizens of the county, the board of county commissioners may recommend deviations in the paving projects and in the paving priority of secondary road projects included in the proposed secondary road construction program. Any recommendation made by the board of county commissioners for a deviation in the paving projects or in the priority for paving projects in the proposed secondary road construction program shall state the specific reason for each such deviation recommended.~~

(e) The Board of Transportation shall adopt the annual secondary construction program for each county after having given the board of county commissioners of each county an opportunity to review the proposed construction program and to make recommendations as provided in this section. The Board of Transportation shall consider such recommendations insofar as they are compatible with its general plans, standards, criteria and available funds, but having due regard to development plans of the county and to the maintenance and improvement needs of all existing roads in the county. ~~However, no consideration shall be given to any recommendation by the board of county commissioners for a deviation in the paving projects or in the priority for paving secondary road projects in the proposed construction program that is not made in accordance with subsection (d).~~

(f) The secondary road construction ~~program~~ and unpaved roads paving programs adopted by the Board of Transportation shall be followed by the Department of Transportation unless changes are approved by the Board of Transportation and notice of any changes is given

to the board of county commissioners. ~~The Department of Transportation shall post a copy of the adopted program, including a map showing the secondary road paving projects rated according to the approved priority of each project, at the courthouse, within 10 days of its adoption by the Board of Transportation. The board of county commissioners may petition the Board of Transportation for review of any changes to which it does not consent and the determination of the Board of Transportation shall be final.~~ Upon request, the most recent secondary road construction and unpaved roads paving programs adopted shall be submitted to any member of the General Assembly. The Department of Transportation shall make the annual construction program for each county available to the newspapers having a general circulation in the county."

SECTION 34.19.(q) (Effective July 1, 2014) G.S. 136-44.8, as rewritten by subsection (p) of this section, reads as rewritten:

"**§ 136-44.8. Submission of unpaved secondary roads ~~construction and unpaved roads~~ paving programs to the Boards of County Commissioners.**

(a1) ~~Representatives~~ In each county having unpaved roads programmed for paving, representatives of the Department of Transportation shall annually provide to the board of county commissioners in ~~each county~~those counties ~~the proposed secondary road construction program and, if applicable to that county,~~ a list of roads proposed for the annual paving program approved by the Board of Transportation. ~~If a~~The paving priority list ~~is presented, it~~ shall include the priority rating of each secondary road paving project included in the proposed paving program according to the criteria and standards adopted by the Board of Transportation.

~~(e) The Board of Transportation shall adopt the annual secondary construction program for each county after having given the board of county commissioners of each county an opportunity to review the proposed construction program and to make recommendations as provided in this section. The Board of Transportation shall consider such recommendations insofar as they are compatible with its general plans, standards, criteria and available funds, but having due regard to development plans of the county and to the maintenance and improvement needs of all existing roads in the county.~~

(f) The ~~secondary road construction and~~ unpaved secondary roads paving programs adopted by the Board of Transportation shall be followed by the Department of Transportation unless changes are approved by the Board of Transportation and notice of any changes is given to the board of county commissioners. Upon request, the most recent unpaved secondary ~~road construction and unpaved~~ roads paving programs adopted shall be submitted to any member of the General Assembly. The Department of Transportation shall make the annual construction program for each affected county available to the newspapers having a general circulation in the county."

SECTION 34.19.(r) G.S. 136-182 is repealed.

STATE AID TO MUNICIPALITIES/POWELL BILL CHANGES

SECTION 34.19.(s) G.S. 136-41.1 reads as rewritten:

"**§ 136-41.1. Appropriation to municipalities; allocation of funds generally; allocation to Butner.**

(a) There is annually appropriated out of the State Highway Fund a sum equal to ten and four-tenths percent (10.4%) of the net amount after refunds that was produced during the fiscal year by ~~a one-and three-fourths cents (1 3/4¢) tax on each gallon of motor fuel taxed~~ the tax imposed under Article 36C of Chapter 105 of the General Statutes and on the equivalent amount of alternative fuel taxed under Article 36D of that Chapter. One-half of the amount appropriated shall be allocated in cash on or before October 1 of each year to the cities and towns of the State in accordance with this section. The second one-half of the amount appropriated shall be allocated in cash on or before January 1 of each year to the cities and towns of the State in accordance with this section. ~~In addition, as provided in~~

~~G.S. 136-176(b)(3), revenue is allocated and appropriated from the Highway Trust Fund to the cities and towns of this State to be used for the same purposes and distributed in the same manner as the revenue appropriated to them under this section from the Highway Fund. Like the appropriation from the Highway Fund, the appropriation from the Highway Trust Fund shall be based on revenue collected during the fiscal year preceding the date the distribution is made.~~

Seventy-five percent (75%) of the funds appropriated for cities and towns shall be distributed among the several eligible municipalities of the State in the percentage proportion that the population of each eligible municipality bears to the total population of all eligible municipalities according to the most recent annual estimates of population as certified to the Secretary of Revenue by the State Budget Officer. This annual estimation of population shall include increases in the population within the municipalities caused by annexations accomplished through July 1 of the calendar year in which these funds are distributed. Twenty-five percent (25%) of said fund shall be distributed among the several eligible municipalities of the State in the percentage proportion that the mileage of public streets in each eligible municipality which does not form a part of the State highway system bears to the total mileage of the public streets in all eligible municipalities which do not constitute a part of the State highway system.

It shall be the duty of the mayor of each municipality to report to the Department of Transportation such information as it may request for its guidance in determining the eligibility of each municipality to receive funds under this section and in determining the amount of allocation to which each is entitled. Upon failure of any municipality to make such report within the time prescribed by the Department of Transportation, the Department of Transportation may disregard such defaulting unit in making said allotment.

The funds to be allocated under this section shall be paid in cash to the various eligible municipalities on or before October 1 and January 1 of each ~~year.~~year as provided in this section. Provided that eligible municipalities are authorized within the discretion of their governing bodies to enter into contracts for the purpose of maintenance, repair, construction, reconstruction, widening, or improving streets of such municipalities at any time after January 1 of any calendar year in total amounts not to exceed ninety percent (90%) of the amount received by such municipality during the preceding fiscal year, in anticipation of the receipt of funds under this section during the next fiscal year, to be paid for out of such funds when received.

The Department of Transportation may withhold each year an amount not to exceed one percent (1%) of the total amount appropriated for distribution under this section for the purpose of correcting errors in allocations: Provided, that the amount so withheld and not used for correcting errors will be carried over and added to the amount to be allocated for the following year.

The word "street" as used in this section is hereby defined as any public road maintained by a municipality and open to use by the general public, and having an average width of not less than 16 feet. In order to obtain the necessary information to distribute the funds herein allocated, the Department of Transportation may require that each municipality eligible to receive funds under this section submit to it a statement, certified by a registered engineer or surveyor of the total number of miles of streets in such municipality. The Department of Transportation may in its discretion require the certification of mileage on a biennial basis.

...."

SECTION 34.19.(t) G.S. 136-181 is repealed.

SECTION 34.19.(u) G.S. 136-41.3 reads as rewritten:

"**§ 136-41.3. Use of funds; records and annual statement; excess accumulation of funds; contracts for maintenance, etc., of streets.**

(a) Uses of Funds. – The funds allocated to cities and towns under the provisions of G.S. 136-41.2 shall be expended by said cities and towns only for the purpose of maintaining, repairing, constructing, reconstructing or widening of any street or public thoroughfare including bridges, drainage, curb and gutter, and other necessary appurtenances within the corporate limits of the municipality or for meeting the municipality's proportionate share of assessments levied for such purposes, or for the planning, construction and maintenance of ~~bikeways located within the rights-of-way of public streets and highways,~~bikeways, greenways, or ~~for the planning, construction, and maintenance of sidewalks along public streets and highways.~~sidewalks.

(b) Records and Annual Statement. – Each municipality receiving funds by virtue of G.S. 136-41.1 and 136-41.2 shall maintain a separate record of accounts indicating in detail all receipts and expenditures of such funds. It shall be unlawful for any municipal employee or member of any governing body to authorize, direct, or permit the expenditure of any funds accruing to any municipality by virtue of G.S. 136-41.1 and 136-41.2 for any purpose not herein authorized. Any member of any governing body or municipal employee shall be personally liable for any unauthorized expenditures. On or before the first day of August each year, the treasurer, auditor, or other responsible official of each municipality receiving funds by virtue of G.S. 136-41.1 and 136-41.2 shall file a statement under oath with the Secretary of Transportation showing in detail the expenditure of funds received by virtue of G.S. 136-41.1 and 136-41.2 during the preceding year and the balance on hand.

(c) Excess Accumulation of Funds Prohibited. – No funds allocated to municipalities pursuant to G.S. 136-41.1 and 136-41.2 shall be permitted to accumulate for a period greater than permitted by this section. Interest on accumulated funds shall be used only for the purposes permitted by the provisions of G.S. 136-41.3. Except as otherwise provided in this section, any municipality having accumulated an amount greater than the sum of the past 10 allocations made, shall have an amount equal to such excess deducted from the next allocation after receipt of the report required by this section. Such deductions shall be carried over and added to the amount to be allocated to municipalities for the following year. Notwithstanding the other provisions of this section, the Department shall adopt a policy to allow small municipalities to apply to the Department to be allowed to accumulate up to the sum of the past 20 allocations if a municipality's allocations are so small that the sum of the past 10 allocations would not be sufficient to accomplish the purposes of this section.

(d) Contracts for Maintenance and Construction. – In the discretion of the local governing body of each municipality receiving funds by virtue of G.S. 136-41.1 and 136-41.2 it may contract with the Department of Transportation to do the work of maintenance, repair, construction, reconstruction, widening or improving the streets in such municipality; or it may let contracts in the usual manner as prescribed by the General Statutes to private contractors for the performance of said street work; or may undertake the work by force account. The Department of Transportation within its discretion is hereby authorized to enter into contracts with municipalities for the purpose of maintenance, repair, construction, reconstruction, widening or improving streets of municipalities. And the Department of Transportation in its discretion may contract with any city or town which it deems qualified and equipped so to do that the city or town shall do the work of maintaining, repairing, improving, constructing, reconstructing, or widening such of its streets as form a part of the State highway system.

In the case of each eligible municipality, as defined in G.S. 136-41.2, having a population of less than 5,000, the Department of Transportation shall upon the request of such municipality made by official action of its governing body, on or prior to June 1, 1953, or June 1 in any year thereafter, for the fiscal year beginning July 1, 1953, and for the years thereafter do such street construction, maintenance, or improvement on nonsystem streets as the municipality may request within the limits of the current or accrued payments made to the municipality under the provisions of G.S. 136-41.1.

In computing the costs, the Department of Transportation may use the same rates for equipment, rental, labor, materials, supervision, engineering and other items, which the Department of Transportation uses in making charges to one of its own department or against its own department, or the Department of Transportation may employ a contractor to do the work, in which case the charges will be the contract cost plus engineering and inspection. The municipality is to specify the location, extent, and type of the work to be done, and shall provide the necessary rights-of-way, authorization for the removal of such items as poles, trees, water and sewer lines as may be necessary, holding the Department of Transportation free from any claim by virtue of such items of cost and from such damage or claims as may arise therefrom except from negligence on the part of the Department of Transportation, its agents, or employees.

If a municipality elects to bring itself under the provisions of the two preceding paragraphs, it shall enter into a two-year contract with the Department of Transportation and if it desires to dissolve the contract at the end of any two-year period it shall notify the Department of Transportation of its desire to terminate said contract on or before April 1 of the year in which such contract shall expire; otherwise, said contract shall continue for an additional two-year period, and if the municipality elects to bring itself under the provisions of the two preceding paragraphs and thereafter fails to pay its account to the Department of Transportation for the fiscal year ending June 30, by August 1 following the fiscal year, then the Department of Transportation shall apply the said municipality's allocation under G.S. 136-41.1 to this account until said account is paid and the Department of Transportation shall not be obligated to do any further work provided for in the two preceding paragraphs until such account is paid.

Section 143-129 of the General Statutes relating to the procedure for letting of public contracts shall not be applicable to contracts undertaken by any municipality with the Department of Transportation in accordance with the provisions of the three preceding paragraphs.

(e) Permitted Offsets to Funding. – The Department of Transportation is authorized to apply a municipality's share of funds allocated to a municipality under the provisions of G.S. 136-41.1 to any of the following accounts of the municipality with the said Department of Transportation, which the municipality fails to pay:

(1) Cost sharing agreements for right-of-way entered into pursuant to G.S. 136-66.3, but not to exceed ten percent (10%) of any one year's allocation until the debt is repaid,

(2) The cost of relocating municipally owned waterlines and other municipally owned utilities on a State highway project which is the responsibility of the municipality,

(3) For any other work performed for the municipality by the Department of Transportation or its contractor by agreement between the Department of Transportation and the municipality, and

(4) For any other work performed that was made necessary by the construction, reconstruction or paving of a highway on the State highway system for which the municipality is legally responsible."

SECTION 34.19.(v) G.S. 136-41.4 reads as rewritten:

"**§ 136-41.4. Municipal use of allocated funds; election.**

(a) A municipality that qualifies for an allocation of funds pursuant to G.S. 136-41.1 shall have the ~~option~~ following options:

(1) ~~to accept~~Accept all or a portion of funds allocated to the municipality, under that section, for the repair, maintenance, construction, reconstruction, widening, or improving of the municipality's ~~streets,~~streets.

(2) Use some or all of its allocation to match federal funds administered by the Department for bicycle and pedestrian improvement projects within the

municipality's limits, or within the area of any metropolitan planning organization or rural transportation planning organization.

(3) ~~or the municipality may elect~~Elect to have some or all of the allocation reprogrammed for any Transportation Improvement Project currently on the approved project list within the municipality's limits or within the area of any metropolitan planning organization or rural transportation planning organization.

(b) If a municipality chooses to have its allocation reprogrammed, the ~~minimum~~ amount that may be reprogrammed is an amount equal to that amount necessary to complete one full phase of the project selected by the municipality or an amount that, when added to the amount already programmed for the Transportation Improvement Project selected, would permit the completion of at least one full phase of the project. The restriction set forth in this subsection shall not apply to any bicycle or pedestrian projects."

SECTION 34.19.(w) Notwithstanding G.S. 136-41.4 or any other provision of law, the Town of Caswell Beach may expend funds allocated to it pursuant to G.S. 136-41.1 for maintenance, repair, reconstruction, or improvement of streets within the Town's corporate limits that form a part of the State highway system. For purposes of this subsection, "maintenance, repair, reconstruction, or improvement of streets" shall include drainage, curb and gutter, and other necessary appurtenances as well as bikeways or sidewalks located within the right-of-way of any State highway system component and within the corporate limits of the Town.

SECTION 34.19.(x) DOT Municipal Lane Mile Study. – The Department of Transportation shall collect lane mile data from each municipality eligible to receive funds under this section no later than December 1, 2013. The Department shall report to the Joint Legislative Transportation Oversight Committee no later than March 1, 2014, on at least three options to shift the distribution formula to include lane mile data. The report shall include advantages and disadvantages, fiscal impacts to each municipality, and any other technical considerations in making such a change. The Joint Legislative Transportation Oversight Committee and the Fiscal Research Division shall include in its recommendations to the 2014 Session of the 2013 General Assembly a new distribution formula, if the Committee finds that a new formula is beneficial and practical.

CONFORMING CHANGES

SECTION 34.19.(y) G.S. 105-187.9 reads as rewritten:

"§ 105-187.9. Disposition of tax proceeds.

...

~~(b) (Repealed effective July 1, 2013) General Fund Transfer. In each fiscal year, the State Treasurer shall transfer the amounts provided below from the taxes deposited in the Trust Fund to the General Fund. The transfer of funds authorized by this section may be made by transferring one-fourth of the amount at the end of each quarter in the fiscal year or by transferring the full amount annually on July 1 of each fiscal year, subject to the availability of revenue.~~

~~(1) The sum of twenty-six million dollars ($26,000,000).~~

~~(2) In addition to the amount transferred under subdivision (1) of this subsection, the sum of one million seven hundred thousand dollars ($1,700,000) shall be transferred in the 2001-2002 fiscal year. The amount distributed under this subdivision shall increase in the 2002-2003 fiscal year to the sum of two million four hundred thousand dollars ($2,400,000). In each fiscal year thereafter, the sum transferred under this subdivision shall be the amount distributed in the previous fiscal year plus or minus a percentage of this sum equal to the percentage by which tax collections~~

~~under this Article increased or decreased for the most recent 12-month period for which data are available.~~

~~(c) (Effective July 1, 2013) Mobility Fund Transfer. In each fiscal year, the State Treasurer shall transfer fifty-eight million dollars ($58,000,000) from the taxes deposited in the Trust Fund to the Mobility Fund. The transfer of funds authorized by this section may be made by transferring one-fourth of the amount at the end of each quarter in the fiscal year or by transferring the full amount annually on July 1 of each fiscal year, subject to the availability of revenue.~~"

SECTION 34.19.(z) G.S. 136-18 reads as rewritten:

"**§ 136-18. Powers of Department of Transportation.**

The said Department of Transportation is vested with the following powers:

...

(12a) The Department of Transportation shall have such powers as are necessary to establish, administer, and receive federal funds for a transportation infrastructure banking program as authorized by the Intermodal Surface Transportation Efficiency Act of 1991, Pub. L. 102-240, as amended, and the National Highway System Designation Act of 1995, Pub. L. 104-59, as amended. The Department of Transportation is authorized to apply for, receive, administer, and comply with all conditions and requirements related to federal financial assistance necessary to fund the infrastructure banking program. The infrastructure banking program established by the Department of Transportation may utilize federal and available State funds for the purpose of providing loans or other financial assistance to governmental units, including toll authorities, to finance the costs of transportation projects authorized by the above federal aid acts. Such loans or other financial assistance shall be subject to repayment and conditioned upon the establishment of such security and the payment of such fees and interest rates as the Department of Transportation may deem necessary. The Department of Transportation is authorized to apply a municipality's share of funds allocated under G.S. 136-41.1 or G.S. 136-44.20 as necessary to ensure repayment of funds advanced under the infrastructure banking program. The Department of Transportation shall establish jointly, with the State Treasurer, a separate infrastructure banking account with necessary fiscal controls and accounting procedures. Funds credited to this account shall not revert, and interest and other investment income shall accrue to the account and may be used to provide loans and other financial assistance as provided under this subdivision. The Department of Transportation may establish such rules and policies as are necessary to establish and administer the infrastructure banking program. The infrastructure banking program authorized under this subdivision shall not modify the ~~regional distribution~~ formula for the distribution of funds established by ~~G.S. 136-17.2A.~~G.S. 136-189.10. Governmental units may apply for loans and execute debt instruments payable to the State in order to obtain loans or other financial assistance provided for in this subdivision. The Department of Transportation shall require that applicants shall pledge as security for such obligations revenues derived from operation of the benefited facilities or systems, other sources of revenue, or their faith and credit, or any combination thereof. The faith and credit of such governmental units shall not be pledged or be deemed to have been pledged unless the requirements of Article 4, Chapter 159 of the General Statutes have been met. The State Treasurer, with the assistance of the Local Government Commission, shall

develop and adopt appropriate debt instruments for use under this subdivision. The Local Government Commission shall develop and adopt appropriate procedures for the delivery of debt instruments to the State without any public bidding therefor. The Local Government Commission shall review and approve proposed loans to applicants pursuant to this subdivision under the provisions of Articles 4 and 5, Chapter 159 of the General Statutes, as if the issuance of bonds was proposed, so far as those provisions are applicable. Loans authorized by this subdivision shall be outstanding debt for the purpose of Article 10, Chapter 159 of the General Statutes.

...."

SECTION 34.19.(aa) G.S. 136-17.2A is repealed.

SECTION 34.19.(bb) G.S. 136-44.50(a) reads as rewritten:

"(a) A transportation corridor official map may be adopted or amended by any of the following:

(1) The governing board of any local government for any thoroughfare included as part of a comprehensive plan for streets and highways adopted pursuant to G.S. 136-66.2 or for any proposed public transportation corridor included in the adopted long-range transportation plan.

(2) The Board of Transportation, or the governing board of any county, for any portion of the existing or proposed State highway system or for any public transportation corridor, to include rail, that is in the Transportation Improvement Program.

(3) Regional public transportation authorities created pursuant to Article 26 of Chapter 160A of the General Statutes or regional transportation authorities created pursuant to Article 27 of Chapter 160A of the General Statutes for any portion of the existing or proposed State highway system, or for any proposed public transportation corridor, or adjacent station or parking lot, included in the adopted long-range transportation plan.

(4) The North Carolina Turnpike Authority for any project being studied pursuant to G.S. 136-89.183.

(5) The Wilmington Urban Area Metropolitan Planning Organization for ~~any project that is within its urbanized boundary and identified in G.S. 136-179.~~Department projects R-3300 and U-4751.

Before a city adopts a transportation corridor official map that extends beyond the extraterritorial jurisdiction of its building permit issuance and subdivision control ordinances, or adopts an amendment to a transportation corridor official map outside the extraterritorial jurisdiction of its building permit issuance and subdivision control ordinances, the city shall obtain approval from the Board of County Commissioners."

SECTION 34.19.(cc) G.S. 136-66.3 reads as rewritten:

"**§ 136-66.3. Local government participation in improvements to the State transportation system.**

...

~~(c1) No TIP Disadvantage for Participation. If a county or municipality participates in a State transportation system improvement project, as authorized by this section, or by G.S. 136-51 and G.S. 136-98, the Department shall ensure that the local government's participation does not cause any disadvantage to any other project in the Transportation Improvement Program under G.S. 143B-350(f)(4).~~

(c2) Distribution of State Funds Made Available by County or Municipal Participation. – Any State or federal funds allocated to a project that are made available by county or municipal participation in a project contained in the Transportation Improvement Program under

G.S. 143B-350(f)(4) shall ~~remain in the same funding region that the funding was allocated to under the distribution formula contained in G.S. 136-17.2A.~~be subject to G.S. 136-189.11.

~~(e3) Limitation on Agreements. The Department shall not enter into any agreement with a county or municipality to provide additional total funding for highway construction in the county or municipality in exchange for county or municipal participation in any project contained in the Transportation Improvement Program under G.S. 143B-350(f)(4).~~

...

(e1) Reimbursement Procedure. – Upon request of the county or municipality, the Department of Transportation shall allow the local government a period of not less than three years from the date construction of ~~the projecta~~ project undertaken under subsection (e) of this section is initiated to reimburse the Department their agreed upon share of the costs necessary for the project. The Department of Transportation shall not charge a local government any interest during the initial three years.

...."

SECTION 34.19.(dd) G.S. 136-89.192 reads as rewritten:

"**§ 136-89.192. ~~Equity distribution~~ Applicability of formula.**

Only those funds applied to a Turnpike Project from the State Highway Fund, State Highway Trust Fund, or federal-aid funds that might otherwise be used for other roadway projects within the State, and are otherwise already subject to the ~~distribution~~ formula under ~~G.S. 136-17.2A,~~ G.S. 136-189.11 shall be included in the ~~distribution~~ formula.

Other revenue from the sale of the Authority's bonds or notes, project loans, or toll collections shall not be included in the ~~distribution~~ formula."

SECTION 34.19.(ee) G.S. 136-175 reads as rewritten:

"**§ 136-175. Definitions.**

The following definitions apply in this Article:

~~(1) Intrastate System. The network of major, multilane arterial highways composed of those routes, segments, or corridors listed in G.S. 136-178, and any other route added by the Department of Transportation under G.S. 136-178.~~

(2) Transportation Improvement Program. The schedule of major transportation improvement projects required by G.S. 143B-350(f)(4).

(3) Trust Fund. The North Carolina Highway Trust Fund."

SECTION 34.19.(ff) G.S. 136-176 reads as rewritten:

"**§ 136-176. Creation, revenue sources, and purpose of North Carolina Highway Trust Fund.**

(a) A special account, designated the North Carolina Highway Trust Fund, is created within the State treasury. The Trust Fund consists of the following revenue:

(1) Motor fuel, alternative fuel, and road tax revenue deposited in the Fund under G.S. 105-449.125, 105-449.134, and 105-449.43, respectively.

(2) Motor vehicle use tax deposited in the Fund under G.S. 105-187.9.

(3) Revenue from the certificate of title fee and other fees payable under G.S. 20-85.

(4) Repealed by Session Laws 2001-424, s. 27.1.

(5) Interest and income earned by the Fund.

~~(a1) The Department shall use two hundred twenty million dollars ($220,000,000) in fiscal year 2001-2002, two hundred twelve million dollars ($212,000,000) in fiscal year 2002-2003, and two hundred fifty-five million dollars ($255,000,000) in fiscal year 2003-2004 of the cash balance of the Highway Trust Fund for the following purposes:~~

~~(1) For primary route pavement preservation. One hundred seventy million dollars ($170,000,000) in fiscal year 2001-2002, and one hundred fifty million dollars ($150,000,000) in each of the fiscal years 2002-2003 and~~

~~2003-2004. Up to ten percent (10%) of the amount for each of the fiscal years 2001-2002, 2002-2003, and 2003-2004 is available in that fiscal year, at the discretion of the Secretary of Transportation, for:~~

~~a. Highway improvement projects that further economic growth and development in small urban and rural areas, that are in the Transportation Improvement Program, and that are individually approved by the Board of Transportation; or~~

~~b. Highway improvements that further economic development in the State and that are individually approved by the Board of Transportation.~~

~~(2) For preliminary engineering costs not included in the current year Transportation Improvement Program. Fifteen million dollars ($15,000,000) in each of the fiscal years 2001-2002, 2002-2003, and 2003-2004. If any funds allocated by this subdivision, in the cash balance of the Highway Trust Fund, remain unspent on June 30, 2008, the Department may transfer within the Department up to twenty nine million dollars ($29,000,000) of available funds to contract for freight transportation system improvements for the Global TransPark.~~

~~(3) For computerized traffic signal systems and signal optimization projects. Fifteen million dollars ($15,000,000) in each of the fiscal years 2001-2002, 2002-2003, and 2003-2004.~~

~~(4) For public transportation twenty million dollars ($20,000,000) in fiscal year 2001-2002, twenty-five million dollars ($25,000,000) in fiscal year 2002-2003, and seventy-five million dollars ($75,000,000) in fiscal year 2003-2004.~~

~~(5) For small urban construction projects. Seven million dollars ($7,000,000) in fiscal year 2002-2003.~~

~~Funds authorized for use by the Department pursuant to this subsection shall remain available to the Department until expended.~~

(a2) Repealed by Session Laws 2002-126, s. 26.4(b), effective July 1, 2002.

~~(a3) The Department may obligate three hundred million dollars ($300,000,000) in fiscal year 2003-2004 and four hundred million dollars ($400,000,000) in fiscal year 2004-2005 of the cash balance of the Highway Trust Fund for the following purposes:~~

~~(1) Six hundred thirty million dollars ($630,000,000) for highway system preservation, modernization, and maintenance, including projects to enhance safety, reduce congestion, improve traffic flow, reduce accidents, upgrade pavement widths and shoulders, extend pavement life, improve pavement smoothness, and rehabilitate or replace deficient bridges; and for economic development transportation projects recommended by local officials and approved by the Board of Transportation.~~

~~(2) Seventy million dollars ($70,000,000) for regional public transit systems, rural and urban public transportation system facilities, regional transportation and air quality initiatives, rail system track improvements and equipment, and other ferry, bicycle, and pedestrian improvements. For any project or program listed in this subdivision for which the Department receives federal funds, use of funds pursuant to this subdivision shall be limited to matching those funds.~~

~~Funds authorized for obligation and use by the Department pursuant to this subsection shall remain available to the Department until expended.~~

~~(a4) Project selection pursuant to subsection (a3) of this section shall be based on identified and documented need. Funds expended pursuant to subdivision (1) of subsection (a3)~~

~~of this section shall be distributed in accordance with the distribution formula in G.S. 136-17.2A. No funds shall be expended pursuant to subsection (a3)(1) of this section on any project that does not meet Department of Transportation standards for road design, materials, construction, and traffic flow.~~

~~(a5) The Department shall report to the Joint Legislative Transportation Oversight Committee, on or before September 1, 2003, on its intended use of funds pursuant to subsection (a3) of this section. The Department shall report to the Joint Transportation Appropriations Subcommittee, on or before May 1, 2004, on its actual current and intended future use of funds pursuant to subsection (a3) of this section. The Department shall certify to the Joint Legislative Transportation Oversight Committee each year, on or before November 1, that use of the Highway Trust Fund cash balances for the purposes listed in subsection (a3) of this section will not adversely affect the delivery schedule of any Highway Trust Fund projects. If the Department cannot certify that the full amounts authorized in subsection (a3) of this section are available, then the Department may determine the amount that can be used without adversely affecting the delivery schedule and may proportionately apply that amount to the purposes set forth in subsection (a3) of this section.~~

(b) Funds in the Trust Fund are annually appropriated to the Department of Transportation to be allocated and used as provided in this subsection. A ~~sum, not to exceed four and eight tenths percent (4.8%) of the amount of revenue deposited in the Trust Fund under subdivisions (a)(1), (2), and (3) of this section~~ sum, in the amount appropriated by law, may be used each fiscal year by the Department for expenses to administer the Trust Fund. Operation and project development costs of the North Carolina Turnpike Authority are eligible administrative expenses under this subsection. Any funds allocated to the Authority pursuant to this subsection shall be repaid by the Authority from its toll revenue as soon as possible, subject to any restrictions included in the agreements entered into by the Authority in connection with the issuance of the Authority's revenue bonds. Beginning one year after the Authority begins collecting tolls on a completed Turnpike Project, interest shall accrue on any unpaid balance owed to the Highway Trust Fund at a rate equal to the State Treasurer's average annual yield on its investment of Highway Trust Fund funds pursuant to G.S. 147-6.1. Interest earned on the unpaid balance shall be deposited in the Highway Trust Fund upon repayment. The sum up to the amount anticipated to be necessary to meet the State matching funds requirements to receive federal-aid highway trust funds for the next fiscal year may be set aside for that purpose. The rest of the funds in the Trust Fund shall be allocated and used as ~~follows:~~specified in G.S. 136-189.11.

~~(1) Sixty-one and ninety-five hundredths percent (61.95%) to plan, design, and construct projects on segments or corridors of the Intrastate System as described in G.S. 136-178 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to these projects.~~

~~(2) Twenty-five and five hundredths percent (25.05%) to plan, design, and construct the urban loops described in G.S. 136-180 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to these urban loops.~~

~~(3) Six and one-half percent (6.5%) to supplement the appropriation to cities for city streets under G.S. 136-181.~~

~~(4) Six and one-half percent (6.5%) for secondary road construction as provided in G.S. 136-182 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to secondary road construction.~~

The Department must administer funds allocated under ~~subdivisions (1), (2), and (4) of this subsection~~ this section in a manner that ensures that sufficient funds are available to make the

debt service payments on bonds issued under the State Highway Bond Act of 1996 as they become due.

~~(b1) The Secretary may authorize the transfer of funds allocated under subdivisions (1) through (4) of subsection (b) of this section to other projects that are ready to be let and were to be funded from allocations to those subdivisions. The Secretary shall ensure that any funds transferred pursuant to this subsection are repaid promptly and in any event in no more than four years. The Secretary shall certify, prior to making any transfer pursuant to this subsection, that the transfer will not affect the delivery schedule of Highway Trust Fund projects in the current Transportation Improvement Program. No transfers shall be allowed that do not conform to the applicable provisions of the equity formula for distribution of funds, G.S. 136-17.2A. If the Secretary authorizes a transfer pursuant to this subsection, the Secretary shall report that decision to the next regularly scheduled meetings of the Joint Legislative Commission on Governmental Operations, the Joint Legislative Transportation Oversight Committee, and to the Fiscal Research Division.~~

(b2) **(Effective July 1, 2013)** There is annually appropriated to the North Carolina Turnpike Authority from the Highway Trust Fund the sum of ~~one hundred twelve million dollars ($112,000,000).~~forty-nine million dollars ($49,000,000). Of the amount allocated by this subsection, twenty-five million dollars ($25,000,000) shall be used to pay debt service or related financing costs and expenses on revenue bonds or notes issued for the construction of the Triangle Expressway, and twenty-four million dollars ($24,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the ~~Monroe Connector/Bypass, twenty eight million dollars ($28,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Mid Currituck Bridge, and thirty five million dollars ($35,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Garden Parkway.~~Monroe Connector/Bypass. The amounts appropriated to the Authority pursuant to this subsection shall be used by the Authority to pay debt service or related financing costs and expenses on revenue bonds or notes issued by the Authority to finance the costs of one or more Turnpike Projects, to refund such bonds or notes, or to fund debt service reserves, operating reserves, and similar reserves in connection therewith. The appropriations established by this subsection constitute an agreement by the State to pay the funds appropriated hereby to the Authority within the meaning of G.S. 159-81(4). Notwithstanding the foregoing, it is the intention of the General Assembly that the enactment of this provision and the issuance of bonds or notes by the Authority in reliance thereon shall not in any manner constitute a pledge of the faith and credit and taxing power of the State, and nothing contained herein shall prohibit the General Assembly from amending the appropriations made in this subsection at any time to decrease or eliminate the amount annually appropriated to the Authority. Funds transferred from the Highway Trust Fund to the Authority pursuant to this subsection are not subject to the ~~equity~~ formula in ~~G.S. 136-17.2A.~~G.S. 136-189.10.

~~(c) If funds are received under 23 U.S.C. Chapter 1, Federal Aid Highways, for a project for which funds in the Trust Fund may be used, the amount of federal funds received plus the amount of any funds from the Highway Fund that were used to match the federal funds may be transferred by the Secretary of Transportation from the Trust Fund to the Highway Fund and used for projects in the Transportation Improvement Program.~~

(d) A contract may be let for projects funded from the Trust Fund in anticipation of revenues pursuant to the cash-flow provisions of G.S. 143C-6-11 only for the two bienniums following the year in which the contract is let.

(e) **(Effective July 1, 2013)** Subject to ~~G.S. 136-17.2A and other funding distribution formulas, funds allocated under subdivisions (1), (3), and (4) of subsection (b) of this section~~

~~may also~~ G.S. 136-189.11, funds may be used for fixed guideway projects, including providing matching funds for federal grants for fixed guideway projects."

SECTION 34.19.(gg) The following statutes are repealed:

(1) G.S. 136-177.
(2) G.S. 136-177.1.
(3) G.S. 136-178.
(4) G.S. 136-179.
(5) G.S. 136-180.
(6) G.S. 136-184.
(7) G.S. 136-185.
(8) G.S. 136-187.
(9) G.S. 136-188.
(10) G.S. 136-189.

TURNPIKE AUTHORITY CHANGES

SECTION 34.19.(hh) G.S. 136-89.183(a)(2) reads as rewritten:

"**§ 136-89.183. Powers of the Authority.**

(a) The Authority shall have all of the powers necessary to execute the provisions of this Article, including the following:

...

(2) To study, plan, develop, and undertake preliminary design work on up to ~~eight~~ nine Turnpike Projects. At the conclusion of these activities, the Turnpike Authority is authorized to design, establish, purchase, construct, operate, and maintain the following projects:

a. Triangle Expressway, including segments also known as N.C. 540, Triangle Parkway, and the Western Wake Freeway in Wake and Durham ~~Counties, and Southeast Extension in Wake and Johnston Counties, except that no portion of the Southeast Extension shall be located north of an existing protected corridor established by the Department of Transportation circa 1995, except in the area of Interstate 40 East.~~Counties. The described segments constitute three projects.

~~b. Gaston East-West Connector, also known as the Garden Parkway.~~

c. Monroe Connector/Bypass.

~~d. Cape Fear Skyway.~~

~~e. A bridge of more than two miles in length going from the mainland to a peninsula bordering the State of Virginia, pursuant to G.S. 136-89.183A.~~

Any other project proposed by the Authority in addition to the projects listed in this ~~subdivision must be approved by the General Assembly prior to construction.~~subdivision requires prior consultation with the Joint Legislative Commission on Governmental Operations pursuant to G.S. 120-76.1 no less than 180 days prior to initiating the process required by Article 7 of Chapter 159 of the General Statutes.

~~A~~ With the exception of the four projects set forth in sub-subdivisions a. and c. of this subdivision, the Turnpike ~~Project~~ projects selected for construction by the Turnpike ~~Authority~~ Authority, prior to the letting of a contract for the project, shall meet the following conditions: (i) two of the projects must be ranked in the top 35 based on total score on the Department produced list entitled "Mobility Fund Project Scores", dated June 6, 2012, and, in addition, may be subject to G.S. 136-18(39a); (ii) of the projects not ranked as

provided in (i), one may be subject to G.S. 136-18(39a); (iii) the projects shall be included in any applicable locally adopted comprehensive transportation ~~plans and~~plans; (iv) the projects shall be shown in the current State Transportation Improvement ~~Plan prior to the letting of a contract for the Turnpike Project.~~Program; and (v) toll projects must be approved by all affected Metropolitan Planning Organizations and Rural Transportation Planning Organizations for tolling."

SECTION 34.19.(ii) G.S. 136-18 reads as rewritten:

"**§ 136-18. Powers of Department of Transportation.**

The said Department of Transportation is vested with the following powers:

...

(39a) a. The Department of Transportation or Turnpike Authority, as applicable, may enter into ~~a partnership agreement~~ up to three agreements with a private entity as provided under subdivision (39) of this section for which the provisions of this section apply. ~~The pilot project allowed under this subdivision must be one that is a candidate for funding under the Mobility Fund, that is planned for construction through a public-private partnership, and for which a Request for Qualifications has been issued by the Department no later than June 30, 2012.~~

b. A private entity or its contractors must provide performance and payment security in the form and in the amount determined by the Department of Transportation. The form of the performance and payment security may consist of bonds, letters of credit, parent guaranties, or other instruments acceptable to the Department of Transportation.

c. Notwithstanding the provisions of G.S. 143B-426.40A, an agreement entered into under this subdivision may allow the private entity to assign, transfer, sell, hypothecate, and otherwise convey some or all of its right, title, and interest in and to such agreement, and any rights and remedies thereunder, to a lender, bondholder, or any other party. However, in no event shall any such assignment create additional debt or debt-like obligations of the State of North Carolina, the Department, or any other agency, authority, commission, or similar subdivision of the State to any lender, bondholder, entity purchasing a participation in the right to receive the payment, trustee, trust, or any other party providing financing or funding of projects described in this section. The foregoing shall not preclude the Department from making any payments due and owing pursuant to an agreement entered into under this section.

d. ~~The Department of Transportation may fix, revise, charge, and collect tolls and fees to the same extent allowed under~~ Article 6H of Chapter 136 of the General ~~Statutes.~~Statutes shall apply to the Department of Transportation and to projects undertaken by the Department of Transportation under subdivision (39) of this section. The Department may assign its authority under that Article to fix, revise, charge, retain, enforce, and collect tolls and fees to the private entity.

e. Any contract under this subdivision or under Article 6H of the Chapter for the development, construction, maintenance, or operation of a project shall provide for revenue sharing between the private

party and the Department. Excess toll revenues from a Turnpike project shall be used for the funding or financing of transportation projects within the corridor where the Turnpike Project is located. For purposes of this subdivision, the term "excess toll revenues" means those toll revenues derived from a Turnpike Project that are not otherwise used or allocated to the Authority or a private entity pursuant to this subdivision. For purposes of this subdivision, the term "corridor" means (i) the right-of-way limits of the Turnpike Project and any facilities related to the Turnpike Project or any facility or improvement necessary for the use, design, construction, operation, maintenance, repair, rehabilitation, reconstruction, or financing of a Turnpike Project; (ii) the right-of-way limits of any subsequent improvements, additions, or extension to the Turnpike Project and facilities related to the Turnpike projects, including any improvements necessary for the use, design, construction, operation, maintenance, repair, rehabilitation, reconstruction, or financing of those subsequent improvements, additions, or extensions to the Turnpike Project; and (iii) roads used for ingress or egress to the toll facility or roads that intersect with the toll facility, whether by ramps or separated grade facility, and located within one mile in any direction.

f. Agreements entered into under this subdivision shall comply with the following additional provisions:

1. The Department shall solicit proposals for agreements.
2. Agreement shall be limited to no more than 50 years.
3. Notwithstanding the provisions of G.S. 136-89.183(a)(5), all initial tolls or fees to be charged by a private entity shall be reviewed by the Turnpike Board. Prior to setting a toll rate, either a set rate or a minimum and maximum rate set by the private entity, the private entity shall hold a public hearing on the toll rates, in accordance with guidelines for the hearing developed by the Department. After tolls go into effect, the private entity shall report to the Turnpike Authority Board 30 days prior to any increase in tolls by the private entity.
4. Financial advisors and attorneys retained by the Department on contract to work on projects pursuant to this subsection shall be subject to State law governing conflicts of interest.
5. Sixty days prior to the signing of a concession agreement subject to this subdivision, the Department shall report to the Joint Legislative Transportation Oversight Committee on the following:
   I. Project description.
   II. Number of years that tolls will be in place.
   III. Name and location of firms and parent companies, if applicable, including firm responsibility and stake, and assessment of audited financial statements.
   IV. Analysis of firm selection criteria.
   V. Name of any firm or individual under contract to provide counsel or financial analysis to the Department or Authority. The Department shall

disclose payments to these contractors related to completing the agreement under this subdivision.

VI. Demonstrated ability of the project team to deliver the project, by evidence of the project team's prior experience in delivering a project on schedule and budget, and disclosure of any unfavorable outcomes on prior projects.

VII. Detailed description of method of finance, including sources of funds, State contribution amounts, including schedule of availability payments and terms of debt payments.

VIII. Information on assignment of risk shared or assigned to State and private partner.

IX. Information on the feasibility of finance as obtained in traffic and revenue studies.

6. The Turnpike Authority annual report under G.S. 136-89.193 shall include reporting on all revenue collections associated with projects subject to this subdivision under the Turnpike Authority.

7. The Department shall develop standards for entering into comprehensive agreements with private entities under the authority of this subdivision and report those standards to the Joint Legislative Transportation Oversight Committee on or before October 1, 2013.

...

(43) For the purposes of financing an agreement under subdivision (39a) of this section, the Department of Transportation may act as a conduit issuer for private activity bonds to the extent the bonds do not constitute a debt obligation of the State. The issuance of private activity bonds under this subdivision and any related actions shall be governed by The State and Local Government Revenue Bond Act, Article 5 of Chapter 159 of the General Statutes, with G.S. 159-88 satisfied by adherence to the requirements of ~~subdivisions (39) and~~ subdivision (39a) of this section."

SECTION 34.19.(jj) G.S. 136-89.183(a)(5) reads as rewritten:

"**§ 136-89.183. Powers of the Authority.**

(a) The Authority shall have all of the powers necessary to execute the provisions of this Article, including the following:

...

(5) To fix, revise, charge, retain, enforce, and collect tolls and fees for the use of the Turnpike Projects. Prior to the effective date of any toll or fee for use of a Turnpike Facility, the Authority shall submit a description of the proposed toll or fee to the Board of Transportation, the Joint Legislative Transportation Oversight Committee and the Joint Legislative Commission on Governmental Operations for review.

...."

SECTION 34.19.(kk) G.S. 136-89.188 reads as rewritten:

"**§ 136-89.188. Use of revenues.**

(a) Revenues derived from Turnpike Projects authorized under this Article shall be used only for the following:

(1) Authority administration ~~costs;~~costs.

(2) Turnpike Project development, right-of-way acquisition, design, construction, operation, ~~and maintenance;~~ maintenance, reconstruction, rehabilitation, and replacement.~~and~~

(3) ~~debt~~ Debt service on the Authority's revenue bonds or related purposes such as the establishment of debt service reserve ~~funds.~~funds.

(4) Debt service, debt service reserve funds, and other financing costs related to any of the following:

a. A financing undertaken by a private entity under a partnership agreement with the entity for a Turnpike Project.

b. Private activity bonds issued under law related to a Turnpike Project.

c. Any federal or State loan, line of credit, or loan guarantee relating to a Turnpike Project.

(5) A return on investment of any private entity under a partnership agreement with the entity for a Turnpike Project.

(6) Any other uses granted to a private entity under a partnership agreement with the entity for a Turnpike Project.

(b) The Authority may use up to one hundred percent (100%) of the revenue derived from a Turnpike Project for debt service on the Authority's revenue bonds or for a combination of debt service and operation and maintenance expenses of the Turnpike Projects.

(c) The Authority shall use not more than five percent (5%) of total revenue derived from all Turnpike Projects for Authority administration costs.

(d) Notwithstanding the provisions of subsections (a) and (b) of this section, toll revenues generated from a converted segment of the State highway system previously planned for operation as a nontoll facility shall only be used for the funding or financing of the right of way acquisition, construction, expansion, operations, maintenance, and Authority administration costs associated with the converted segment or a contiguous toll facility."

SECTION 34.19.(ll) Part 1 of Article 6H of Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-89.199. Designation of high-occupancy toll and managed lanes.**

Notwithstanding any other provision of this Article, the Authority may designate one or more lanes of any highway, or portion thereof, within the State, including lanes that may previously have been designated as HOV lanes under G.S. 20-146.2, as high-occupancy toll (HOT) or other type of managed lanes; provided, however, that such designation shall not reduce the number of existing general purpose lanes. In making such designations, the Authority shall specify the high-occupancy requirement or other conditions for use of such lanes, which may include restricting vehicle types, access controls, or the payment of tolls for vehicles that do not meet the high-occupancy requirements or conditions for use."

SECTION 34.19.(mm) Part 2 of Article 6H of Chapter 136 of the General Statutes reads as rewritten:

"Part 2. Collection of Tolls on Turnpike Projects.

...

"**§ 136-89.212. Payment of toll required for use of Turnpike project.**

(a) A motor vehicle that is driven on a Turnpike project is subject to a toll imposed by the Authority for the use of the project. If the toll is an open road toll, the person who is the registered owner of the motor vehicle is liable for payment of the toll unless the registered owner establishes that the motor vehicle was in the care, custody, and control of another person when it was driven on the Turnpike project.

(b) A person establishes that a motor vehicle was in the care, custody, and control of another person when it was driven on a Turnpike project by submitting to the Authority a sworn affidavit stating one of the following:

(1) The name and address of the person who had the care, custody, and control of the motor vehicle when it was driven. If the motor vehicle was leased or rented under a long-term lease or rental, as defined in G.S. 105-187.1, the affidavit must be supported by a copy of the lease or rental agreement or other written evidence of the agreement.

(2) The motor vehicle was stolen. The affidavit must be supported by an insurance or police report concerning the theft or other written evidence of the theft.

(3) The person transferred the motor vehicle to another person by sale or otherwise before it was driven on the Turnpike project. The affidavit must be supported by insurance information, a copy of the certificate of title, or other evidence of the transfer.

(c) If a person establishes that a motor vehicle was in the care, custody, and control of another person under subsection (b) of this section, the other person shall be liable for the payment of the toll, and the Authority may send a bill to collect and enforce the toll in accordance with this Article; provided, however, that such other person may contest such toll in accordance with this Article.

"§ 136-89.213. Administration of tolls and requirements for open road tolls.

(a) Administration. – The Authority is responsible for collecting tolls on Turnpike projects. In exercising its authority under G.S. 136-89.183 to perform or procure services required by the Authority, the Authority may contract with one or more providers to perform part or all of the collection functions and may enter into agreements to exchange information, including confidential information under subsection (a1) of this section, that identifies motor vehicles and their owners with one or more of the following entities: the Division of Motor Vehicles of the Department of Transportation, another state, another toll operator, ~~or~~ a toll collection-related ~~organization.~~organization, or a private entity that has entered into a partnership agreement with the Authority pursuant to G.S. 136-89.183(a)(17). Further, the Authority may assign its authority to fix, revise, charge, retain, enforce, and collect tolls and fees under this Article to a private entity that has entered into a partnership agreement with the Authority pursuant to G.S. 136-89.183(a)(17).

...

(b) Open Road Tolls. – If a Turnpike project uses an open road tolling system, the Authority must operate a facility that is in the immediate vicinity of the Turnpike project ~~and that accepts~~or provide an alternate means to accept cash payment of the toll and must place signs on the Turnpike project that give drivers the following information:

(1) Notice that the driver is approaching a highway for which a toll is required. Signs providing this information must be placed before the toll is incurred.

(2) The methods by which the toll may be paid.

(3) ~~Directions~~ If applicable, directions to the nearby facility that accepts cash payment of the toll.

"§ 136-89.214. Bill for unpaid open road toll.

(a) Bill. – If a motor vehicle travels on a Turnpike project that uses an open road tolling system and a toll for traveling on the project is not paid prior to travel or at the time of travel, the Authority must send a bill by first-class mail to the registered owner of the motor vehicle or the person who had care, custody, and control of the vehicle as established under G.S. 136-89.212(b) for the amount of the unpaid toll. The Authority must send the bill within 90 days after the travel ~~occurs.~~occurs, or within 90 days of receipt of a sworn affidavit submitted under G.S. 136-89.212(b) identifying the person who had care, custody, and control of the motor vehicle. If a bill is not sent within the required time, the Authority waives collection of the toll. The Authority must establish a billing period for unpaid open road tolls

that is no shorter than 15 days. A bill for a billing period must include all unpaid tolls incurred by the same person during the billing period.

(b) Information on Bill. – A bill sent under this section must include all of the following information:

(1) The name and address of the registered owner of the motor vehicle that traveled on the Turnpike ~~project.~~project or of the person identified under G.S. 136-89.212(b).

(2) The date the travel occurred, the approximate time the travel occurred, and each segment of the Turnpike project on which the travel occurred.

(3) An image of the registration plate of the motor vehicle, if the Authority captured an electronic image of the motor vehicle when it traveled on the Turnpike project.

(4) The amount of the toll due and an explanation of how payment may be made.

(5) The date by which the toll must be paid to avoid the imposition of a processing fee under G.S. 136-89.215 and the amount of the processing fee.

(6) A statement that a vehicle owner who has unpaid tolls is subject to a civil penalty and may not renew the vehicle's registration until the tolls and civil penalties are paid.

(7) A clear and concise explanation of how to contest liability for the toll.

(8) If applicable, a copy of the affidavit submitted under G.S. 136-89.212(b) identifying the person with care, custody, and control of the motor vehicle.

"**§ 136-89.215. Required action upon receiving bill for open road toll and processing fee for unpaid toll.**

(a) Action Required. – A person who receives a bill from the Authority for an unpaid open road toll must take one of the following actions within 30 days of the date of the bill:

(1) Pay the bill.

(2) Send a written request to the Authority for a review of the toll.

(b) Fee. – If a person does not take one of the actions required under subsection (a) of this section within the required time, the Authority may add a processing fee to the amount the person owes. The processing fee may not exceed six dollars ($6.00). A person may not be charged more than forty-eight dollars ($48.00) in processing fees in a 12-month period.

The Authority must set the processing fee at an amount that does not exceed the costs of collecting the unpaid toll.~~identifying the owner of a motor vehicle that is subject to an unpaid toll and billing the owner for the unpaid toll. The fee is a receipt of the Authority and must be applied to these costs.~~

...."

SECTION 34.19.(nn) DOT/Southeast Extension-Triangle Expressway. – The Department of Transportation shall strive to expedite the federal environmental impact statement process to define the route for the Southeast Extension of the Triangle Expressway Turnpike Project by promptly garnering input from local officials and other stakeholders, accelerating any required State studies, promptly submitting permit applications to the federal government, working closely with the federal government during the permitting process, and taking any other appropriate actions to accelerate the environmental permitting process.

SECTION 34.19.(oo) Monitoring. – As part of its oversight of the Department of Transportation, the Joint Legislative Transportation Oversight Committee shall closely monitor the progress of the Southeast Extension of the Triangle Expressway Turnpike Project.

SECTION 34.19.(pp) G.S. 143B-350 reads as rewritten:

"**§ 143B-350. Board of Transportation – organization; powers and duties, etc.**

...

(b) Membership of the Board. –

(1) Number, appointment. – The Board of Transportation shall have ~~19~~21 voting members. Fourteen of the members shall be division members appointed by the Governor. Five shall be at-large members appointed by the Governor. One shall be an at-large member appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate, and one shall be an at-large member appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives. At least three members of the Board appointed by the Governor shall be registered voters of a political party other than the political party of the Governor. The Secretary of Transportation shall serve as an ex officio nonvoting member of the ~~Board.~~Board with the exception set forth in subsection (f3) of this section. No more than two members of the Board appointed by the Governor may reside in the same highway division.

(2) Division members. – One member shall be appointed from and be a resident of each of the 14 highway divisions. The Governor, in selecting division members, shall consider for appointment persons suggested by the Transportation Advisory Committees located within each division. Division members shall direct their primary effort to developing transportation policy and addressing transportation problems in the region they represent. Division members shall regularly consult with and consider the views of local government units and Transportation Advisory Committees in the region they represent.

(3) At-large members. – Five members shall be appointed by the Governor from the State at large. At-large members appointed pursuant to this subdivision shall develop transportation policy and address transportation problems with a statewide perspective. At-large members appointed under this subdivision shall possess the following qualifications:

a. One at-large member shall be a person with expertise in environmental issues affecting the State;

b. One at-large member shall be a person familiar with the State ports and aviation issues;

c. One at-large member shall be a person residing in a rural area of the State with broad knowledge of and experience in transportation issues affecting rural areas;

d. One at-large member shall be a person residing in an urban area with broad knowledge of and expertise in mass transit;

e. One at-large member shall be a person with broad knowledge of and expertise in government-related finance and accounting.

(c) ~~Staggered~~ Terms. – ~~The terms of all Board members serving on the Board prior to January 15, 2001, shall expire on January 14, 2001. A new board of 19 members shall be appointed with terms beginning on January 15, 2001. The Board shall serve the following terms: division members representing divisions 1, 3, 5, 7, 9, 11, and 13 and the three at-large members filling the positions designated in sub-subdivisions (b)(3)a., b., and e. of this section shall serve four-year terms beginning on January 15, 2001, and four-year terms thereafter; and division members representing divisions 2, 4, 6, 8, 10, 12, and 14 and the two at-large members filling the positions designated in sub-subdivisions (b)(3)c. and d. of this section shall serve two-year terms beginning January 15, 2001, and four-year terms thereafter.~~ The terms of members shall be for four years beginning January 15, 2013, and quadrennially thereafter, except that the terms of at-large members appointed by the General Assembly shall be for two years beginning on January 15, 2013, and biennially thereafter.

...

(f3) There is created the Turnpike Committee of the Board of Transportation. The Committee shall consist of the Secretary of Transportation, serving as a voting member ex officio, and the following six Board members:

(1) Three division board members selected by the Secretary, one from the members representing divisions 1 through 4, one from the members representing divisions 5 through 10, and one from the members representing divisions 11 through 14.

(2) The two at-large board members appointed by the General Assembly under subdivision (b)(1) of this section.

(3) The at-large board member appointed by the Governor under sub-subdivision (b)(3)e. of this section.

The Chair of the Committee shall be the Secretary of Transportation.

...."

SECTION 34.19.(qq) The terms of the nine members of the Board of Transportation previously appointed for terms expiring January 14, 2015, expire upon appointment of their replacements as provided in this section. The Governor shall designate for each of the nine new appointments which member is being replaced.

SECTION 34.19.(rr) G.S. 136-89.182 reads as rewritten:

"**§ 136-89.182. North Carolina Turnpike Authority.**

(a) Creation. – There is created a body politic and corporate to be known as the "North Carolina Turnpike Authority". The Authority is constituted as a public agency, and the exercise by the Authority of the powers conferred by this Article in the construction, operation, and maintenance of toll roads and bridges shall be deemed and held to be the performance of an essential governmental function.

(b) Administrative Placement. – The Authority shall be located within the Department of Transportation and shall be subject to and under the direct supervision of the Secretary of Transportation.

(c) Authority Board. – The Turnpike Committee of the Board of Transportation shall serve ex officio as the Authority Board of the North Carolina Turnpike Authority.

~~The North Carolina Turnpike Authority shall be governed by a nine-member Authority Board consisting of two members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121, two members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, four members appointed by the Governor, and the Secretary of Transportation. Each appointing authority shall appoint members who reside in diverse regions of the State. The Chair of the Authority shall be selected by the Authority Board.~~

~~(d) Board of Transportation Members. – Members of the North Carolina Board of Transportation may serve as members of the Authority Board.~~

~~(e) Staggered Terms. – One of the initial appointments to the Authority Board by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, one of the initial appointments to the Authority Board by the General Assembly upon the recommendation of the Speaker of the House of Representatives, and three of the initial appointments of the Governor shall be appointed to terms ending January 14, 2007. One of the initial appointments to the Authority Board by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, one of the initial appointments to the Authority Board by the General Assembly upon the recommendation of the Speaker of the House of Representatives, and one of the initial appointments of the Governor shall be appointed to terms ending January 14, 2005. The Secretary of Transportation shall serve as an ex officio voting member of the Board. Thereafter, at the expiration of each stipulated term of office, all appointments shall be to a term of four years from the date of the expiration of the term.~~

~~(f) Vacancies. All members of the Authority Board shall remain in office until their successors are appointed and qualified. The original appointing authority may appoint a member to serve out the unexpired term of any member.~~

~~(g) Removal of Board Members. Each member of the Authority Board, notwithstanding subsection (e) of this section, shall serve at the pleasure of the appointing authority. The Chair of the Authority serves at the pleasure of the Authority Board.~~

~~(h) Conflicts of Interest, Ethics. Members of the Authority Board shall be subject to the provisions of G.S. 136-13, 136-13.1, and 136-14.~~

(i) Compensation. – The ~~appointed~~ members of the Authority Board shall receive no salary for their services but shall be entitled to receive per diem and travel allowances in accordance with the provisions of G.S. 138-5 and G.S. 138-6 as appropriate.

(j) Bylaws. – The Authority Board shall adopt, change, or amend bylaws with respect to the calling of meetings, quorums, voting procedures, the keeping of records, and other organizational, staffing, and administrative matters as the Authority Board may determine. Any bylaws, or subsequent changes or amendments to the bylaws, shall be included in the Annual Report as required by G.S. 136-89.193.

(k) ~~Executive Director and Administrative Employees.~~Chief Administrative Officer. – ~~The Authority Board shall appoint an Executive Director, whose salary shall be fixed by the Authority, to serve at its pleasure.~~The Secretary of Transportation shall designate ~~The Executive Director shall be~~ the Authority's chief administrative ~~officer and~~officer, who shall be responsible for the daily administration of the toll roads and bridges constructed, maintained, or operated pursuant to this Article. ~~The Executive Director or his designee shall appoint, employ, dismiss, and, within the limits approved by the Authority Board, fix the compensation of administrative employees as the Executive Director deems necessary to carry out this Article.~~

(l) Office. – The offices of the Authority may be housed in one or more facilities of the Department of Transportation."

TRANSITION STUDY AND REPORTING REQUIREMENTS

SECTION 34.19.(ss) Formula Implementation Report. – The Department of Transportation shall report to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division no later than August 15, 2013, on the Department's recommended formulas that will be used in the prioritization process to rank highway and nonhighway projects. The Department of Transportation's Prioritization Office shall develop the prioritization processes and formulas for all modes of transportation. The report will include a statement on the process used by the Department to develop the formulas, include a listing of external partners consulted during this process, and include feedback from its 3.0 workgroup partners on the Department's proposed recommendations. The Department shall not finalize the formula without consulting with the Joint Legislative Transportation Oversight Committee. The Joint Legislative Transportation Oversight Committee has 30 days after the report is received to meet and consult on the Department's recommendations. If no meeting occurs within 30 days after the report is received, the consultation requirement will be met. If consultation occurs and a majority of members serving on the Committee request changes to the Department's recommended formulas for highway and nonhighway modes, the Department shall review the requests and provide to the Committee its response to the requested changes no later than October 1, 2013. A final report on the highway and intermodal formulas shall be submitted to the Joint Legislative Transportation Oversight Committee by January 1, 2014.

SECTION 34.19.(tt) State Transportation Improvement Program Transition Report. – The Department of Transportation shall submit transition reports to members of the Joint Legislative Transportation Oversight Committee, House Appropriations Subcommittee on Transportation and the Senate Appropriations Committee on Department of Transportation, and the Fiscal Research Division on March 1, 2014, and November 1, 2014. The reports shall

include information on the Department's transition to Strategic Prioritization, overview changes to the State Transportation Improvement Program (STIP) and other internal and external processes that feed into the STIP, and offer statutory and policy recommendations or items for consideration to the General Assembly that will enhance the prioritization process. The March 1, 2014, report shall also include an analysis of the distribution of tax and fee revenues between the Highway Fund and Highway Trust Fund and an analysis to determine if maintenance, construction, operations, administration, and capital expenditures are properly budgeted within the two funds and existing revenues are most effectively distributed between the two funds.

SECTION 34.19.(uu) This section shall become effective and applies as follows:

(1) Subsections (f), (h), (l), and (q) of this section become effective July 1, 2014.

(2) Subsection (b) of this section becomes effective July 1, 2019.

(3) Subsection (j) of this section expires June 30, 2018.

DRIVER EDUCATION

SECTION 34.20.(a) G.S. 115C-216(g) reads as rewritten:

"(g) Fee for Instruction. – The local boards of education may charge each student participating in a driver education course a fee of up to ~~forty-five dollars ($45.00)~~sixty-five dollars ($65.00) to offset the costs of providing the training and instruction."

SECTION 34.20.(b) The Division of Motor Vehicles and the Department of Public Instruction shall collaborate to revise the driver knowledge test and to create a process for administration of the test and certification of passage by public schools administering driver education programs. The Division and the Department shall report to the Joint Legislative Transportation Oversight Committee, the Joint Legislative Program Evaluation Oversight Committee, the Joint Legislative Education Oversight Committee, and the Fiscal Research Division no later than March 1, 2014, on their progress in meeting the requirements of this subsection.

SECTION 34.20.(c) Subsection (a) of this section becomes effective July 1, 2013, and applies to driver education courses beginning on or after that date.

ADDITIONAL ANNUAL FEE FOR ELECTRIC AND HYBRID VEHICLES

SECTION 34.21.(a) G.S. 20-87 is amended by adding the following new subdivisions to read:

"(13) Additional fee for certain electric vehicles. – At the time of an initial registration or registration renewal, the owner of a plug-in electric vehicle that is not a low-speed vehicle and that does not rely on a nonelectric source of power shall pay a fee in the amount of one hundred dollars ($100.00) in addition to any other required registration fees.

(14) Additional fee for certain hybrid vehicles. – At the time of an initial registration, or registration renewal, the owner of a hybrid vehicle that is not a low-speed vehicle shall pay a fee in the amount of fifty dollars ($50.00) in addition to any other required registration fees."

SECTION 34.21.(b) G.S. 20-4.01 reads as rewritten:

"**§ 20-4.01. Definitions.**

Unless the context requires otherwise, the following definitions apply throughout this Chapter to the defined words and phrases and their cognates:

...

(14) House Trailer. – Any trailer or semitrailer designed and equipped to provide living or sleeping facilities and drawn by a motor vehicle.

(14a) Hybrid Vehicle. – A vehicle that derives its transportation energy from electricity and from either a motor fuel (as defined in G.S. 105-449.60) or an alternative fuel (as defined in G.S. 105-449.130).

~~(14a)~~(14b) Impairing Substance. – Alcohol, controlled substance under Chapter 90 of the General Statutes, any other drug or psychoactive substance capable of impairing a person's physical or mental faculties, or any combination of these substances.

...."

SECTION 34.21.(c) Conforming Change. – G.S. 95-111.11 reads as rewritten:

"**§ 95-111.11. Operators.**

...

(b) No person shall operate any amusement device equipment while under the influence of alcohol or any other impairing substance as defined by ~~G.S. 20-4.01(14a).~~G.S. 20-4.01(14b) It shall be a violation of this subsection to knowingly permit the operation of any amusement device while the operator is under the influence of an impairing substance."

SECTION 34.21.(d) This section becomes effective January 1, 2014, and applies to initial or renewal motor vehicle registrations on or after that date.

VISITOR CENTERS FUNDING

SECTION 34.22.(a) G.S. 20-79.7(c)(2) reads as rewritten:

"(c) Use of Funds in Special Registration Plate Account. –

...

(2) From the funds remaining in the Special Registration Plate Account after the deductions in accordance with subdivision (1) of this subsection, there is annually appropriated from the Special Registration Plate Account the sum of ~~one million three hundred thousand dollars ($1,300,000)~~one million four hundred thousand dollars ($1,400,000) to provide operating assistance for the Visitor Centers:

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

SECTION 34.22.(b) Notwithstanding G.S. 20-79.7(c)(3), the remaining revenue in the Special Registration Plate Account appropriated to the Department of Transportation during the 2013-2015 fiscal biennium to be used for beautification of highways shall not be reduced below the amounts appropriated in the 2012-2013 fiscal year.

PART XXXV. SALARIES AND BENEFITS

GOVERNOR AND COUNCIL OF STATE

SECTION 35.1.(a) Effective for the 2013-2015 fiscal biennium, the annual salary of the Governor set by G.S. 147-11(a) shall remain unchanged at the amount of one hundred forty-one thousand two hundred sixty-five dollars ($141,265).

SECTION 35.1.(b) Effective for the 2013-2015 fiscal biennium, the annual salaries for members of the Council of State, payable monthly, shall remain unchanged as follows:

Council of State	Annual Salary
Lieutenant Governor	$124,676
Attorney General	124,676
Secretary of State	124,676
State Treasurer	124,676
State Auditor	124,676
Superintendent of Public Instruction	124,676
Agriculture Commissioner	124,676
Insurance Commissioner	124,676
Labor Commissioner	124,676

CERTAIN EXECUTIVE BRANCH OFFICIALS

SECTION 35.2. Effective for the 2013-2015 fiscal biennium, the annual salaries, payable monthly, for the following executive branch officials shall remain unchanged as follows:

Executive Branch Officials	Annual Salary
Chairman, Alcoholic Beverage Control Commission	$110,868
State Controller	155,159
Commissioner of Banks	124,676
Chair, Board of Review, Division of Employment Security	122,255
Members, Board of Review, Division of Employment Security	120,737
Chairman, Parole Commission	101,235
Members of the Parole Commission	93,464
Chairman, Utilities Commission	138,849
Members of the Utilities Commission	124,676
Executive Director, North Carolina Agricultural Finance Authority	107,915

JUDICIAL BRANCH

SECTION 35.3.(a) Effective for the 2013-2015 fiscal biennium, the annual salaries, payable monthly, for specified judicial branch officials shall remain unchanged as follows:

Judicial Branch Officials	Annual Salary
Chief Justice, Supreme Court	$142,623
Associate Justice, Supreme Court	138,896
Chief Judge, Court of Appeals	136,682
Judge, Court of Appeals	133,109
Judge, Senior Regular Resident Superior Court	129,492
Judge, Superior Court	125,875
Chief Judge, District Court	114,301
Judge, District Court	110,684
District Attorney	120,737
Administrative Officer of the Courts	128,259
Assistant Administrative Officer of the Courts	117,152
Public Defender	120,737

Director of Indigent Defense Services 124,498

SECTION 35.3.(b) Effective for the 2013-2015 fiscal biennium, the annual salaries of employees of the Judicial Department shall remain unchanged as follows:

(1) The annual salaries of permanent full-time and part-time employees of the Judicial Department whose salaries are not itemized in this act shall remain unchanged.

(2) Notwithstanding anything to the contrary, the annual salaries of clerks of superior court under G.S. 7A-101(a) shall not change when a county changes from one population group to another.

(3) The annual salaries of assistant and deputy clerks of court set under G.S. 7A-102(c1) shall remain unchanged.

(4) The annual salaries of magistrates set under G.S. 7A-171.1(a) or G.S. 7A-171.1(a1)(1) shall remain unchanged.

LEGISLATIVE BRANCH

SECTION 35.4. For the 2013-2015 fiscal biennium, the salaries of members and officers of the General Assembly shall remain unchanged at the amounts set under G.S. 120-3, as provided in 1994 by the 1993 General Assembly. Effective for the 2013-2015 fiscal biennium, salaries in the legislative branch shall remain unchanged, as follows:

(1) The annual salaries set by G.S. 120-37(c) for the principal clerks in each house shall remain unchanged.

(2) The annual salaries set by G.S. 120-37(b) of the sergeant-at-arms and the reading clerk in each house shall remain unchanged.

(3) The annual salaries of the Legislative Services Officer and of nonelected employees of the General Assembly set under G.S. 120-32 shall remain unchanged.

COMMUNITY COLLEGES PERSONNEL

SECTION 35.5.(a) The annual salaries of all community college nonfaculty and professional staff whose salaries are supported from the State's General Fund shall remain unchanged for the 2013-2015 fiscal biennium.

SECTION 35.5.(b) For the 2013-2015 fiscal biennium, the annual salaries of all community college faculty whose salaries are supported from the State's General Fund shall remain unchanged. The minimum salaries for nine-month, full-time curriculum community college faculty shall also remain unchanged as follows:

Education Level	Minimum Salary
Vocational Diploma/Certificate or Less	$34,314
Associate Degree or Equivalent	34,819
Bachelor's Degree	37,009
Masters Degree or Education Specialist	38,952
Doctoral Degree	41,753

No full-time faculty member shall earn less than the minimum salary for his or her education level.

The pro rata hourly rate of the minimum salary for each education level shall be used to determine the minimum salary for part-time faculty members.

UNIVERSITY OF NORTH CAROLINA SYSTEM

SECTION 35.6.(a) The annual compensation of all University of North Carolina EPA faculty, EPA nonfaculty, SPA employees, and teachers employed by the North Carolina School of Science and Mathematics shall remain unchanged for the 2013-2015 fiscal biennium.

SECTION 35.6.(b) The annual compensation of all employees of the University of North Carolina Health Care System and the Medical Faculty Practice Plan at East Carolina University shall remain unchanged for the 2013-2015 fiscal biennium.

MOST STATE EMPLOYEES

SECTION 35.7. For the 2013-2015 fiscal biennium, the salaries in effect June 30, 2013, for the following employees shall remain unchanged, effective July 1, 2013:

(1) Permanent full-time State officials and persons whose salaries are set in accordance with the State Personnel Act.

(2) Permanent full-time State officials and persons in positions exempt from the State Personnel Act.

(3) Permanent part-time State employees.

(4) Temporary and permanent hourly State employees.

SALARY ADJUSTMENTS FOR SPECIAL CIRCUMSTANCES ONLY/NO AUTOMATIC INCREASES

SECTION 35.8.(a) The annual compensation of all employees subject to or exempt from the State Personnel Act, including employees of local boards of education, community colleges, and The University of North Carolina, for the 2013-2015 fiscal biennium shall remain unchanged from that authorized on June 30, 2013, or the last date in pay status during the 2011- 2013 fiscal biennium, if earlier, except that an increase may be allowed during the 2013-2015 fiscal biennium under the following special circumstances:

(1) For all State employees regardless of funding source, and for employees of the North Carolina Community College System and local school boards who are paid from State funds, salaries may be increased for reallocations or promotions, in-range adjustments for job change, career progression adjustments for demonstrated competencies, or any other adjustment related to an increase in job duties or responsibilities, none of which are subject to the salary freeze otherwise provided by this Part. All other salary increases are prohibited.

(1a) For employees of the North Carolina Community College System, notwithstanding subdivision (1) of this subsection, salaries may be increased if the increase is funded from local funding sources.

(2) For The University of North Carolina, (i) faculty using funds from the Faculty Recruiting and Retention Fund, the Distinguished Professors Endowment Fund, or the University Cancer Research Fund in the case of faculty involved in cancer research supported by that fund and (ii) faculty, nonfaculty, and other employee adjustments, including retention adjustments, funded from non-State funding sources.

(3) For employees of the judicial branch, for local supplementation as authorized by G.S. 7A-300.1.

The cumulative salary adjustment allowed under this subsection for each fiscal year during the 2013-2015 fiscal biennium may exceed ten percent (10%) of annual salary only if the adjustment is approved in advance by the Office of State Budget and Management, The University of North Carolina Board of Governors, the Board of the North Carolina Community College System, the Legislative Services Commission, the local board of education, or other authorized body as appropriate.

SECTION 35.8.(b) The automatic salary step increases for assistant and deputy clerks of superior court and magistrates are suspended for the 2013-2015 fiscal biennium.

SECTION 35.8.(c) The salary increase provisions of G.S. 20-187.3 are suspended for the 2013-2015 fiscal biennium.

SECTION 35.8.(d) During the 2013-2015 fiscal biennium, notwithstanding G.S. 53C-2-3(c), employees of the Office of the Commissioner of Banks shall not be awarded (i) compensation increases unless allowed under subdivision (1) of subsection (a) of this section or (ii) compensation bonuses.

SECTION 35.8.(e) Employees of the Lottery Commission shall not receive compensation bonuses during the 2013-2015 fiscal biennium.

MONITOR MOST SALARY INCREASES

SECTION 35.9.(a) The Office of State Budget and Management and the Office of State Personnel shall monitor jointly the compliance of the following units of government with the provisions of Section 35.8 of this act and shall submit quarterly reports of their monitoring activities to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Fiscal Research Division: (i) State agencies, departments, and institutions, including authorities, boards, and commissions; (ii) the judicial branch; and (iii) The University of North Carolina and its constituent institutions.

The quarterly reports required by this section shall include the following information:

(1) For agencies reporting through the BEACON HR/Payroll system, (i) a breakdown by action type (including, but not limited to, promotion, reallocation, career progression, salary adjustment, and any similar actions increasing employee pay) of the number and annual amount of those increases and (ii) a breakdown by action reason (including in-range higher level, acting pay, trainee adjustment, and other similar action reasons) of the number and annual amount of those action types coded as salary adjustment.

(2) For The University of North Carolina and its constituent institutions, a breakdown of the number and annual amount of those increases categorized by the University as promotions, changes in job duties or responsibilities, Distinguished Professorships, retention pay, career progression, and any other similar actions increasing employee pay.

(3) A summary of actions taken by the Office of State Budget and Management and the Office of State Personnel with respect to unauthorized salary increases.

SECTION 35.9.(b) The Legislative Services Officer shall report quarterly to the President Pro Tempore of the Senate and the Speaker of the House of Representatives on compliance with Section 35.8 this act.

ESTABLISH SEVERANCE EXPENDITURE RESERVE

SECTION 35.10.(a) There are established in the Office of State Budget and Management General Fund and Highway Fund reserve budget codes for the purpose of funding severance-related obligations to State employees subject to the State Personnel Act, and employees exempt from the State Personnel Act, who are separated from service due to a reduction-in-force action. Severance-related expenditures from these reserves shall include obligations to fund:

(1) A State employee's severance salary continuation with an age adjustment factor as authorized by G.S. 126-8.5, including employer-related contributions for social security, and

(2) Noncontributory health premiums for up to 12 months as authorized by G.S. 135-48.40(b)(8) for employees of employing units as defined by G.S. 135-48.1(11).

SECTION 35.10.(b) The Director of the Budget shall allocate funds appropriated in Sections 2.1 and 3.1 of this act to the Severance Expenditure Reserve to public agencies to

fund severance-related obligations incurred by the agencies as a result of reduction-in-force actions that cause State-supported public employees to be terminated from public employment. Funds appropriated to the Severance Expenditure Reserve shall be expended in their entirety before funds appropriated to a public agency for State-supported personal services expenditures may be used to fund any severance-related obligations.

Funds appropriated to the Severance Expenditure Reserve may be allocated to public agencies for positions that are funded by the General Fund or Highway Fund. Funds appropriated to the Severance Expenditure Reserve may also be allocated to public agencies for positions that are funded partially from the General Fund or Highway Fund and partially from sources other than the General Fund or Highway Fund but only to the extent of the proportionate part of the salaries paid from the General Fund or Highway Fund.

For the purposes of this subsection, the term "public employee" means an employee of a State agency, department, or institution; The University of North Carolina; the North Carolina Community College System; or a local school administrative unit.

TEACHER SALARY SCHEDULES

SECTION 35.11.(a) The following monthly salary schedules shall apply for the 2013-2014 fiscal year to certified personnel of the public schools who are classified as teachers. The schedules contain 37 steps, with each step corresponding to one year of teaching experience. Public school employees paid according to this salary schedule and receiving NBPTS certification or obtaining a masters degree shall not be prohibited from receiving the appropriate increase in salary. Provided, however, teachers employed during the 2012-2013 school year who did not work the required number of months to acquire an additional year of experience shall not receive a decrease in salary as otherwise would be required by the salary schedule below.

2013-2014 Monthly Salary Schedule

Years of Experience	"A" Teachers	NBPTS Certification
	"A" Teachers	
0-2	$3,080	N/A
3-5	$3,080	$3,450
6	$3,122	$3,497
7	$3,167	$3,547
8	$3,303	$3,699
9	$3,445	$3,858
10	$3,580	$4,010
11	$3,711	$4,156
12	$3,816	$4,274
13	$3,865	$4,329
14	$3,914	$4,384
15	$3,965	$4,441
16	$4,015	$4,497
17	$4,066	$4,554
18	$4,118	$4,612
19	$4,171	$4,672
20	$4,226	$4,733
21	$4,282	$4,796
22	$4,337	$4,857
23	$4,397	$4,925
24	$4,456	$4,991
25	$4,515	$5,057

26	$4,577	$5,126
27	$4,639	$5,196
28	$4,706	$5,271
29	$4,771	$5,344
30	$4,836	$5,416
31	$4,903	$5,491
32	$4,972	$5,569
33	$5,044	$5,649
34	$5,116	$5,730
35	$5,215	$5,841
36+	$5,318	$5,956

2013-2014 Monthly Salary Schedule
"M" Teachers

Years of Experience	"M" Teachers	NBPTS Certification
0-2	$3,388	N/A
3-5	$3,388	$3,795
6	$3,434	$3,846
7	$3,484	$3,902
8	$3,633	$4,069
9	$3,790	$4,245
10	$3,938	$4,411
11	$4,082	$4,572
12	$4,198	$4,702
13	$4,252	$4,762
14	$4,305	$4,822
15	$4,362	$4,885
16	$4,417	$4,947
17	$4,473	$5,010
18	$4,530	$5,074
19	$4,588	$5,139
20	$4,649	$5,207
21	$4,710	$5,275
22	$4,771	$5,344
23	$4,837	$5,417
24	$4,902	$5,490
25	$4,967	$5,563
26	$5,035	$5,639
27	$5,103	$5,715
28	$5,177	$5,798
29	$5,248	$5,878
30	$5,320	$5,958
31	$5,393	$6,040
32	$5,469	$6,125
33	$5,548	$6,214
34	$5,628	$6,303
35	$5,737	$6,425
36+	$5,850	$6,552

SECTION 35.11.(b) Annual longevity payments for teachers shall be at the rate of one and one-half percent (1.5%) of base salary for 10 to 14 years of State service, two and twenty-five hundredths percent (2.25%) of base salary for 15 to 19 years of State service, three

and twenty-five hundredths percent (3.25%) of base salary for 20 to 24 years of State service, and four and one-half percent (4.5%) of base salary for 25 or more years of State service. The longevity payment shall be paid in a lump sum once a year.

SECTION 35.11.(c) Certified public schoolteachers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "M" teachers. Certified public schoolteachers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "M" teachers.

SECTION 35.11.(d) The first step of the salary schedule for school psychologists shall be equivalent to Step 10, corresponding to 10 years of experience, on the salary schedule established in this section for certified personnel of the public schools who are classified as "M" teachers. Certified psychologists shall be placed on the salary schedule at an appropriate step based on their years of experience. Certified psychologists shall receive longevity payments based on years of State service in the same manner as teachers.

Certified psychologists with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided for certified psychologists. Certified psychologists with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for certified psychologists.

SECTION 35.11.(e) Speech pathologists who are certified as speech pathologists at the masters degree level and audiologists who are certified as audiologists at the masters degree level and who are employed in the public schools as speech and language specialists and audiologists shall be paid on the school psychologist salary schedule.

Speech pathologists and audiologists with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided for speech pathologists and audiologists. Speech pathologists and audiologists with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for speech pathologists and audiologists.

SECTION 35.11.(f) Certified school nurses who are employed in the public schools as nurses shall be paid on the "M" salary schedule.

SECTION 35.11.(g) As used in this section, the term "teacher" shall also include instructional support personnel.

SECTION 35.11.(h) Public school employees and State agency employees paid on the teacher salary schedule shall not move up on salary schedules or receive automatic step increases, or other increments during the 2014-2015 Fiscal Year unless authorized by the General Assembly.

SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE

SECTION 35.12.(a) The following base salary schedule for school-based administrators shall apply only to principals and assistant principals. This base salary schedule shall apply for the 2013-2014 fiscal year, commencing July 1, 2013. Provided, however, school-based administrators (i) employed during the 2012-2013 school year who did not work the required number of months to acquire an additional year of experience and (ii) employed during the 2013-2014 school year in the same classification shall not receive a decrease in salary as otherwise would be required by the salary schedule below.

2013-2014 Principal and Assistant Principal Salary Schedules

Years of Exp	Classification: Assistant Principal	Prin I (0-10)	Prin II (11-21)	Prin III (22-32)	Prin IV (33-43)
0-9	$3,828	-	-	-	-
10	$3,977	-	-	-	-
11	$4,123	-	-	-	-
12	$4,240	-	-	-	-
13	$4,295	$4,295	-	-	-
14	$4,348	$4,348	-	-	-
15	$4,406	$4,406	$4,461	-	-
16	$4,461	$4,461	$4,518	-	-
17	$4,518	$4,518	$4,575	$4,634	-
18	$4,575	$4,575	$4,634	$4,695	$4,757
19	$4,634	$4,634	$4,695	$4,757	$4,819
20	$4,695	$4,695	$4,757	$4,819	$4,885
21	$4,757	$4,757	$4,819	$4,885	$4,951
22	$4,819	$4,819	$4,885	$4,951	$5,017
23	$4,885	$4,885	$4,951	$5,017	$5,085
24	$4,951	$4,951	$5,017	$5,085	$5,154
25	$5,017	$5,017	$5,085	$5,154	$5,229
26	$5,085	$5,085	$5,154	$5,229	$5,300
27	$5,154	$5,154	$5,229	$5,300	$5,373
28	$5,229	$5,229	$5,300	$5,373	$5,447
29	$5,300	$5,300	$5,373	$5,447	$5,524
30	$5,373	$5,373	$5,447	$5,524	$5,603
31	$5,447	$5,447	$5,524	$5,603	$5,684
32	$5,524	$5,524	$5,603	$5,684	$5,794
33	$5,603	$5,603	$5,684	$5,794	$5,909
34	$5,684	$5,684	$5,794	$5,909	$6,027
35	$5,794	$5,794	$5,909	$6,027	$6,148
36	$5,909	$5,909	$6,027	$6,148	$6,271
37	-	$6,027	$6,148	$6,271	$6,396
38	-	-	$6,271	$6,396	$6,524
39	-	-	$6,396	$6,524	$6,654
40	-	-	-	$6,654	$6,787
41	-	-	-	$6,787	$6,923
42	-	-	-	-	$7,061

2013-2014 Principal and Assistant Principal Salary Schedules

Years of Exp	Classification: Prin V (44-54)	Prin VI (55-65)	Prin VII (66-100)	Prin VIII (101+)
0-19	$4,885	-	-	-
20	$4,951	-	-	-
21	$5,017	$5,085	-	-
22	$5,085	$5,154	$5,300	-
23	$5,154	$5,229	$5,373	$5,447
24	$5,229	$5,300	$5,447	$5,524
25	$5,300	$5,373	$5,524	$5,603

26	$5,373	$5,447	$5,603	$5,684
27	$5,447	$5,524	$5,684	$5,794
28	$5,524	$5,603	$5,794	$5,909
29	$5,603	$5,684	$5,909	$6,027
30	$5,684	$5,794	$6,027	$6,148
31	$5,794	$5,909	$6,148	$6,271
32	$5,909	$6,027	$6,271	$6,396
33	$6,027	$6,148	$6,396	$6,524
34	$6,148	$6,271	$6,524	$6,654
35	$6,271	$6,396	$6,654	$6,787
36	$6,396	$6,524	$6,787	$6,923
37	$6,524	$6,654	$6,923	$7,061
38	$6,654	$6,787	$7,061	$7,202
39	$6,787	$6,923	$7,202	$7,346
40	$6,923	$7,061	$7,346	$7,493
41	$7,061	$7,202	$7,493	$7,643
42	$7,202	$7,346	$7,643	$7,796
43	$7,346	$7,493	$7,796	$7,952
44	-	$7,643	$7,952	$8,111
45	-	$7,796	$8,111	$8,273
46+	-	-	$8,273	$8,438

SECTION 35.12.(b) The appropriate classification for placement of principals and assistant principals on the salary schedule, except for principals in alternative schools and in cooperative innovative high schools, shall be determined in accordance with the following schedule:

Classification	Number of Teachers Supervised
Assistant Principal	
Principal I	Fewer than 11 Teachers
Principal II	11-21 Teachers
Principal III	22-32 Teachers
Principal IV	33-43 Teachers
Principal V	44-54 Teachers
Principal VI	55-65 Teachers
Principal VII	66-100 Teachers
Principal VIII	More than 100 Teachers

The number of teachers supervised includes teachers and assistant principals paid from State funds only; it does not include teachers or assistant principals paid from non-State funds or the principal or teacher assistants.

The beginning classification for principals in alternative schools and in cooperative innovative high school programs shall be the Principal III level. Principals in alternative schools who supervise 33 or more teachers shall be classified according to the number of teachers supervised.

SECTION 35.12.(c) A principal shall be placed on the step on the salary schedule that reflects total number of years of experience as a certificated employee of the public schools and an additional step for every three years of experience as a principal. Provided, however, a principal who acquires an additional step for the 2013-2014 or 2014-2015 fiscal years shall not receive a corresponding increase in salary during the 2013-2015 fiscal biennium. A principal or assistant principal shall also continue to receive any additional State-funded percentage

increases earned for the 1997-1998, 1998-1999, and 1999-2000 school years for improvement in student performance or maintaining a safe and orderly school.

SECTION 35.12.(d) Principals and assistant principals with certification based on academic preparation at the six-year degree level shall be paid a salary supplement of one hundred twenty-six dollars ($126.00) per month and at the doctoral degree level shall be paid a salary supplement of two hundred fifty-three dollars ($253.00) per month.

SECTION 35.12.(e) Longevity pay for principals and assistant principals shall be as provided for State employees under the State Personnel Act.

SECTION 35.12.(f) If a principal is reassigned to a higher job classification because the principal is transferred to a school within a local school administrative unit with a larger number of State-allotted teachers, the principal shall be placed on the salary schedule as if the principal had served the principal's entire career as a principal at the higher job classification.

If a principal is reassigned to a lower job classification because the principal is transferred to a school within a local school administrative unit with a smaller number of State-allotted teachers, the principal shall be placed on the salary schedule as if the principal had served the principal's entire career as a principal at the lower job classification.

This subsection applies to all transfers on or after the effective date of this section, except transfers in school systems that have been created, or will be created, by merging two or more school systems. Transfers in these merged systems are exempt from the provisions of this subsection for one calendar year following the date of the merger.

SECTION 35.12.(g) Participants in an approved full-time masters in-school administration program shall receive up to a 10-month stipend at the beginning salary of an assistant principal during the internship period of the masters program. The stipend shall not exceed the difference between the beginning salary of an assistant principal plus the cost of tuition, fees, and books and any fellowship funds received by the intern as a full-time student, including awards of the Principal Fellows Program. The Principal Fellows Program or the school of education where the intern participates in a full-time masters in-school administration program shall supply the Department of Public Instruction with certification of eligible full-time interns.

SECTION 35.12.(h) During the 2013-2015 fiscal biennium, the placement on the salary schedule of an administrator with a one-year provisional assistant principal's certificate shall be at the entry-level salary for an assistant principal or the appropriate step on the teacher salary schedule, whichever is higher.

SECTION 35.12.(i) Public school employees and State agency employees paid on the school based administrator salary schedule shall not move up on salary schedules or receive automatic step increases, or other increments during the 2014-2015 Fiscal Year unless authorized by the General Assembly.

CENTRAL OFFICE SALARIES

SECTION 35.13.(a) The monthly salary ranges that follow, which apply to assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers, shall remain unchanged for the 2013-2015 fiscal biennium, beginning July 1, 2013.

School Administrator I	$3,349	$6,281
School Administrator II	$3,550	$6,662
School Administrator III	$3,769	$7,068
School Administrator IV	$3,920	$7,349
School Administrator V	$4,078	$7,647
School Administrator VI	$4,326	$8,109
School Administrator VII	$4,500	$8,436

The local board of education shall determine the appropriate category and placement for each assistant superintendent, associate superintendent, director/coordinator, supervisor, or finance officer within the salary ranges and within funds appropriated by the General Assembly for central office administrators and superintendents. The category in which an employee is placed shall be included in the contract of any employee.

SECTION 35.13.(b) The monthly salary ranges that follow, which apply to public school superintendents, shall remain unchanged for the 2013-2015 fiscal biennium, beginning July 1, 2013.

Superintendent I	$4,777	$8,949
Superintendent II	$5,071	$9,490
Superintendent III	$5,380	$10,067
Superintendent IV	$5,710	$10,679
Superintendent V	$6,060	$11,330

The local board of education shall determine the appropriate category and placement for the superintendent based on the average daily membership of the local school administrative unit and within funds appropriated by the General Assembly for central office administrators and superintendents.

SECTION 35.13.(c) Longevity pay for superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers shall be as provided for State employees under the State Personnel Act.

SECTION 35.13.(d) Superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided pursuant to this section. Superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for under this section.

SECTION 35.13.(e) The State Board of Education shall not permit local school administrative units to transfer State funds from other funding categories for salaries for public school central office administrators.

SECTION 35.13.(f) The salaries of all permanent, full-time personnel paid from the Central Office Allotment shall remain unchanged for the 2013-2015 fiscal biennium.

NONCERTIFIED PERSONNEL SALARIES

SECTION 35.14. The annual salary for permanent, full-time and part-time noncertified public school employees whose salaries are supported from the State's General Fund shall be remain unchanged for the 2013-2015 fiscal biennium.

SALARY-RELATED CONTRIBUTIONS

SECTION 35.15.(a) Effective for the 2013-2015 fiscal biennium, required employer salary-related contributions for employees whose salaries are paid from department, office, institution, or agency receipts shall be paid from the same source as the source of the employee's salary. If an employee's salary is paid in part from the General Fund or Highway Fund and in part from department, office, institution, or agency receipts, required employer salary-related contributions may be paid from the General Fund or Highway Fund only to the extent of the proportionate part paid from the General Fund or Highway Fund in support of the salary of the employee, and the remainder of the employer's requirements shall be paid from the source that supplies the remainder of the employee's salary. The requirements of this section as to source of payment are also applicable to payments on behalf of the employee for hospital

medical benefits, longevity pay, unemployment compensation, accumulated leave, workers' compensation, severance pay, separation allowances, and applicable disability income benefits.

Notwithstanding any other provision of law, an employing unit, as defined in G.S. 135-48.1, that hires or has hired as an employee a retiree that is in receipt of monthly retirement benefits from any retirement system supported in whole or in part by contributions of the State shall enroll the retiree in the active group and pay the cost for the hospital medical benefits if that retiree is employed in a position that would require the employer to pay hospital medical benefits if the individual had not been retired.

SECTION 35.15.(b) Effective July 1, 2013, the State's employer contribution rates budgeted for retirement and related benefits as a percentage of covered salaries for the 2013-2015 fiscal biennium are (i) fourteen and sixty-eight hundredths percent (14.68%) – Teachers and State Employees; (ii) nineteen and sixty-eight hundredths percent (19.68%) – Law Enforcement Officers; (iii) fourteen and twenty-eight hundredths percent (14.28%) – Law Enforcement Officers with the Department of Public Safety; (iv) twelve and sixty-seven hundredths percent (12.67%) – University Employees' Optional Retirement System; (v) twelve and sixty-seven hundredths percent (12.67%) – Community College Optional Retirement Program; (vi) thirty-three and forty-one hundredths percent (33.41%) – Consolidated Judicial Retirement System; and (vii) five and forty hundredths percent (5.40%) – Legislative Retirement System. Each of the foregoing contribution rates includes five and forty hundredths percent (5.40%) for hospital and medical benefits except for the law enforcement officers with the Department of Public Safety. The rate for Teachers and State Employees, State Law Enforcement Officers, Law Enforcement Officers with the Department of Public Safety, Community College Optional Retirement Program, and the University Employees' Optional Retirement Program includes forty-three hundredths percent (0.43%) for the Disability Income Plan. The rates for Teachers and State Employees, State Law Enforcement Officers, and Law Enforcement Officers with the Department of Public Safety include sixteen hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law Enforcement Officers and Law Enforcement Officers with the Department of Public Safety includes five percent (5%) for Supplemental Retirement Income.

SECTION 35.15.(c) Effective July 1, 2013, the maximum annual employer contributions, payable monthly, by the State for each covered employee or retiree for the 2013-2014 fiscal year to the State Health Plan for Teachers and State Employees are (i) Medicare eligible employees and retirees – four thousand one hundred eight dollars ($4,108) and (ii) non-Medicare eligible employees and retirees – five thousand two hundred eighty-five dollars ($5,285).

SECTION 35.15.(d) Effective July 1, 2014, the maximum annual employer contributions, payable monthly, by the State for each covered employee or retiree for the 2014-2015 fiscal year to the State Health Plan for Teachers and State Employees are (i) Medicare eligible employees and retirees – four thousand one hundred ninety-eight dollars ($4,198) and (ii) non-Medicare eligible employees and retirees – five thousand four hundred two dollars ($5,402).

AMEND SALARY CONTINUATION LAWS FOR LAW ENFORCEMENT OFFICERS

SECTION 35.16.(a) Article 12B of Chapter 143 of the General Statutes reads as rewritten:

"Article 12B.

"Salary Continuation Plan for Certain State Law-Enforcement Officers.

"**§ 143-166.13. Persons entitled to benefits under Article.**

(a) The following persons who are subject to the Criminal Justice Training and Standards Act are entitled to benefits under this Article:

(1) State Government Security Officers, Department of Administration;

(2) State Correctional Officers, Division of Adult Correction of the Department of Public Safety;
(3) State Probation and Parole Officers, Division of Adult Correction of the Department of Public Safety;
(4) Sworn State Law-Enforcement Officers with the power of arrest, Division of Adult Correction of the Department of Public Safety;
(5) Alcohol Law-Enforcement Agents, Department of Public Safety;
(6) State Highway Patrol Officers, Department of Public Safety;
(7) General Assembly Special Police, General Assembly;
(8) Sworn State Law-Enforcement Officers with the power of arrest, Department of Health and Human Services;
(9) Juvenile Justice Officers, Division of Juvenile Justice of the Department of Public Safety;
(10) Insurance Investigators, Department of Insurance;
(11) State Bureau of Investigation Officers and Agents, Department of Justice;
(12) Director and Assistant Director, License and Theft Enforcement Section, Division of Motor Vehicles, Department of Transportation;
(13) Members of License and Theft Enforcement Section, Division of Motor Vehicles, Department of Transportation, designated by the Commissioner of Motor Vehicles as either "inspectors" or uniformed weigh station personnel;
(14) Utilities Commission Transportation Inspectors and Special Investigators;
(15) North Carolina Ports Authority Police, Department of Transportation;
(16) Sworn State Law-Enforcement Officers with the power of arrest, Department of Environment and Natural Resources;
(17) Sworn State Law-Enforcement Officers with the power of arrest, Department of Public Safety.
(18) Sworn State Law-Enforcement Officers with the power of arrest, Department of Revenue.
(19) Sworn State Law-Enforcement Officers with the power of arrest, University System.

(b) The following persons are entitled to benefits under this Article regardless of whether they are subject to the Criminal Justice Training and Standards Act:
(1) Driver License Examiners injured by accident arising out of and in the course of giving a road test, Division of Motor Vehicles, Department of Transportation;
(2) Employees of the Division of Adult Correction of the Department of Public Safety injured by a direct and deliberate act of an offender supervised by the Division or while performing supervisory duties over offenders which place the employees at risk of such injury.

(c) As used in this Article, the term "eligible person" or "person" shall mean any individual listed under subsection (a) or (b) of this section.

"§ 143-166.14. Payment of salary notwithstanding incapacity; Workers' Compensation Act applicable after two years; duration of payment.

The salary of any ~~of the above listed persons~~ eligible person shall be paid as long as ~~his~~ the person's employment in that position continues, notwithstanding ~~his~~ the person's total or partial incapacity to perform any duties to which ~~he~~ the person may be lawfully assigned, if that incapacity is the result of an injury ~~by accident or an occupational disease arising out of and in the course of the performance by him of his~~ or injuries due to extreme activity which occurred in the course and scope of the eligible person's official duties, except if that incapacity continues for more than two years from its inception, the person shall, during the further continuance of that incapacity, be subject to the provisions of Chapter 97 of the General

Statutes pertaining to workers' compensation. Salary paid to ~~a~~ an eligible person pursuant to this Article shall cease upon the resumption of ~~his~~ the person's regularly assigned duties, retirement, resignation, or death, whichever first occurs, except that temporary return to duty shall not prohibit payment of salary for a subsequent period of incapacity which can be shown to be directly related to the original injury.

"§ 143-166.15. Application of § 97-27; how payments made.

Notwithstanding the provisions of G.S. 143-166.14 of this Article, the persons entitled to benefits shall be subject to the provisions of G.S. 97-27 during the two-year period of payment of full salary. All payments of salary shall be made at the same time and in the same manner as other salaries are paid to other persons in the same department.

"§ 143-166.16. Effect on workers' compensation and other benefits; application of § 97-24.

The provisions of G.S. 143-166.14 shall be in lieu of all compensation provided for the first two years of incapacity by G.S. 97-29 and 97-30, but shall be in addition to any other benefits or compensation to which such person shall be entitled under the provisions of the Workers' Compensation Act. The provisions of G.S. 97-24 will commence at the end of the two-year period for which salary is paid pursuant to G.S. 143-166.14.

"§ 143-166.17. Period of incapacity not charged against sick leave or other leave.

The period for which the salary of any person is paid pursuant to G.S. 143-166.14 while ~~he~~ the person is incapacitated as a result of an injury ~~by accident or an occupational disease arising out of and in the course of the performance by him of his~~ or injuries due to extreme activity which occurred in the course and scope of the eligible person's official duties, shall not be charged against any sick or other leave to which ~~he~~ the person shall be entitled under any other provision of law.

"§ 143-166.18. Report of incapacity.

Any person designated in G.S. 143-166.13, who, as a result of an injury ~~by accident arising out of and in the course of the performance by him of his~~ or injuries due to extreme activity which occurred in the course and scope of the eligible person's official duties, is totally or partially incapacitated to perform any duties to which ~~he~~ the person may be lawfully assigned, shall report the incapacity as soon as practicable in the manner required by the secretary or other head of the department to which the agency is assigned by statute.

"§ 143-166.19. Determination of cause and extent of incapacity; hearing before Industrial Commission; appeal; effect of refusal to perform duties.

Upon the filing of the report, the secretary or other head of the department or, in the case of the General Assembly, the Legislative Services Officer, shall determine the cause of the incapacity and to what extent the claimant may be assigned to other than ~~his~~ the claimant's normal duties. The finding of the secretary or other head of the department shall determine the right of the claimant to benefits under this Article. Notice of the finding shall be filed with the North Carolina Industrial Commission. ~~Unless the claimant, within 30 days after he receives notice, files with the North Carolina Industrial Commission, upon the form it shall require, a request for a hearing, the finding of the secretary or other department head shall be final.~~ The finding of the secretary or other department head shall be final unless the claimant, within 30 days of receipt of the notice, files a request for a hearing with the North Carolina Industrial Commission using a form required by the Commission. Upon the filing of a request, the North Carolina Industrial Commission shall proceed to hear the matter in accordance with its regularly established procedure for hearing claims filed under the Worker's Compensation Act, and shall report its findings to the secretary or other head of the department. From the decision of the North Carolina Industrial Commission, an appeal shall lie as in other matters heard and determined by the Commission. Any person who refuses to perform any duties to which ~~he~~ the person may be properly assigned as a result of the finding of the secretary, other head of the

department or of the North Carolina Industrial Commission shall be entitled to no benefits pursuant to this Article as long as the refusal continues.

"**§ 143-166.20. Subrogation.**

The same rights and remedies set forth in G.S. 97-10.2 shall apply in all third party liability cases occurring under this Article, including cases involving the right of the affected State agency to recover the salary paid to an injured officer during ~~his~~ the officer's period of disability."

SECTION 35.16.(b) This section becomes effective October 1, 2013, and applies to incapacity commencing on or after that date.

SEPARATE INSURANCE BENEFITS PLAN ASSETS/PAYMENT OF HEALTH INSURANCE PREMIUMS FOR LAW ENFORCEMENT OFFICERS

SECTION 35.17.(a) G.S. 143-166.60 is amended by adding a new subsection to read:

"(d1) In addition to the benefits provided under subsection (d) of this section, the assets of the Plan may be used to pay the employer health insurance contributions and contribution rates on behalf of law enforcement officers, as defined in G.S. 135-1(11c), employed by the State and former law enforcement officers receiving a retirement allowance from the Teachers' and State Employees' Retirement System."

SECTION 35.17.(b) During the 2013-2015 fiscal biennium, the Department of Public Safety shall report monthly to the State Health Plan for Teachers and State Employees the total amount of employer premiums due on behalf of sworn law enforcement officers employed by the Department. The Plan shall reduce the total premiums the Department of Public Safety owes by this amount, and the Department of State Treasurer shall transfer the same amount from the Separate Insurance Benefit Plan established under G.S. 143-166.60 to the Plan.

SECTION 35.17.(c) For each fiscal year of the 2013-2015 fiscal biennium, the Department of State Treasurer shall calculate the total compensation for which the Department of Public Safety has paid retirement contributions on behalf of sworn law enforcement officers. The Department of State Treasurer shall multiply this total compensation by five and forty hundredths percent (5.40%) for months during the 2013-2014 fiscal year and five and fifty-one hundredths percent (5.51%) for months during the 2014-2015 fiscal year and shall transfer the resulting amount from the Separate Insurance Benefit Plan established under G.S. 143-166.60 to the Retiree Health Benefit Fund established under G.S. 135-7(f).

PART XXXVI. CAPITAL APPROPRIATIONS

GENERAL FUND CAPITAL APPROPRIATIONS/INTRODUCTION

SECTION 36.1. The appropriations made by the 2013 General Assembly for capital improvements are for constructing, repairing, or renovating State buildings, utilities, and other capital facilities, for acquiring sites for them where necessary, and for acquiring buildings and land for State government purposes.

CAPITAL APPROPRIATIONS/GENERAL FUND

SECTION 36.2.(a) There is appropriated from the General Fund for the 2013-2015 fiscal biennium the following amounts for capital improvements:

Capital Improvements – General Fund	**2013-2014**	**2014-2015**
Department of Administration		
Sandhills State Veterans Facility – Committal Enclosure	$ 125,000	-

Goldsboro State Veterans' Cemetery	600,000	-
Department of Agriculture and Consumer Services		
Agricultural Water Resources Assistance Program	500,000	-
Department of Environment and Natural Resources		
Water Resources Development Projects	6,917,000	5,000,000
Department of Public Safety		
National Guard	5,000,000	3,250,000
The University of North Carolina System		
Appalachian State University – Health Sciences Building Advance Planning	2,000,000	-
University of North Carolina Asheville – Land Purchases	2,000,000	-
TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND	**$ 17,142,000**	**8,250,000**

SECTION 36.2.(b) Funds appropriated in subsection (a) of this section for the Agricultural Water Resources Assistance Program shall revert in accordance with Section 13.2 of this act.

SECTION 36.2.(c) Funds appropriated in subsection (a) of this section for the Sandhills State Veterans Facility – Committal Enclosure shall be used to match non-State funds. The total project cost authorized is three hundred thousand dollars ($300,000).

SECTION 36.2.(d) Funds appropriated in subsection (a) of this section for the Goldsboro State Veterans' Cemetery shall be used to pay for environmental, architectural, and engineering costs associated with constructing a State Veterans' Cemetery in Goldsboro. The State shall establish, own, operate, maintain, expand, and improve a State Veterans' Cemetery in Goldsboro in accordance with 38 C.F.R. Part 39 unless subdivision (1) or (2) of subsection (e) of this section is true.

SECTION 36.2.(e) Any unspent and unencumbered funds appropriated in subsection (a) of this section for the Goldsboro State Veterans' Cemetery shall revert to the General Fund three years after the effective date of this act if on that date any of the following are true:

(1) The State has not received federal grant funds in an amount that, when added to the funds appropriated in subsection (a) of this section, is sufficient to pay for the cost of completing the State Veterans' Cemetery authorized in that subsection.

(2) Land in Wayne County sufficient in size and quality to build the State Veterans' Cemetery described in subsection (a) of this section has not been conveyed to the State by the County or some other party.

(3) Any of the funds are not required to complete the Goldsboro State Veterans' Cemetery.

SECTION 36.2.(f) G.S. 65-41 reads as rewritten:

"**§ 65-41. Land acquisition.**

The State may accept land for the establishment of not more than ~~three~~ four veterans cemeteries."

WATER RESOURCES DEVELOPMENT PROJECTS

SECTION 36.3.(a) The Department of Environment and Natural Resources shall allocate funds for water resources projects during the 2013-2015 biennium in accordance with

the schedule that follows. The amounts set forth in the schedule include funds appropriated in this act for water resources projects and funds carried forward from previous fiscal years in accordance with subsection (b) of this section. These funds will provide a State match for an estimated twenty-one million two hundred sixty thousand dollars ($21,260,000) in federal funds in the 2013-2014 fiscal year and will provide a State match for additional federal funds in the 2014-2015 fiscal year.

	Name of Project	**2013-2015**
(1)	B. Everett Jordan Lake Water Supply Storage A	$ 200,000
(2)	Wilmington Harbor Deepening (75/25)	2,266,000
(3)	Morehead City Harbor Maintenance	-
(4)	Wilmington Harbor Maintenance (Disposal Area 8 & 10)	2,000,000
(5)	Wilmington Harbor Improvements Feasibility (50/50)	500,000
(6)	Planning Assistance to Communities (50/50)	25,000
(7)	Manteo Old House Channel Cap Sec. 204 (65/35)	1,500,000
(8)	Wrightsville Beach Coastal Storm Damage Reduction Project (65/35)(Full Project)	1,077,000
(9)	Ocean Isle Beach Coastal Storm Damage Reduction Project (65/35)(Full Project)	1,453,000
(10)	Carolina Beach Coastal Storm Damage Reduction Project (65/35)(40% project)	215,000
(11)	Kure Beach Coastal Storm Damage Reduction Project (65/35)(40% project)	188,000
(12)	Surf City/NTB Coastal Storm Damage Reduction Study-PED (75/25)	37,000
TOTALS		**$ 9,461,000**

SECTION 36.3.(b) It is the intent of the General Assembly that funds carried forward from previous fiscal years be used to supplement the eleven million nine hundred seventeen thousand dollars ($11,917,000) appropriated for water resources development projects in Section 36.2(a) of this act. Therefore, the following funds carried forward from previous fiscal years shall be used for the following projects:

	Name of Project	**Amount Carried Forward**
(1)	Wilmington Harbor Maintenance (Disposal Area 8 & 10)	$ 1,200,000
(2)	Wilmington Harbor Improvements Feasibility (50/50)	57,000
(3)	Manteo Old House Channel Cap Sec. 204 (65/35)	1,250,000
(4)	Surf City/NTB Coastal Storm Damage Reduction Study-PED (75/25)	37,000
TOTALS		**$ 2,544,000**

SECTION 36.3.(c) Subject to the limitations imposed by Section 36.2(a) of this act, the Department of Environment and Natural Resources may determine which projects listed in subsection (a) of this section shall receive an allocation of State funds in each fiscal year of the biennium.

SECTION 36.3.(d) Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects funded under subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 2013-2015 fiscal biennium, or if the projects funded under subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

(1) U.S. Army Corps of Engineers project feasibility studies.

(2) U.S. Army Corps of Engineers projects whose schedules have advanced and require State-matching funds in the 2013-2015 fiscal biennium.

(3) State-local water resources development projects.

Funds subject to this subsection that are not expended or encumbered for the purposes set forth in subdivisions (1) through (3) of this subsection shall revert to the General Fund at the end of the 2014-2015 fiscal year.

SECTION 36.3.(e) The Department shall make semiannual reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include all of the following:

(1) All projects listed in this section.

(2) The estimated cost of each project.

(3) The date that work on each project began or is expected to begin.

(4) The date that work on each project was completed or is expected to be completed.

(5) The actual cost of each project.

The semiannual reports also shall show those projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

SECTION 36.3.(f) Notwithstanding any provision of law to the contrary, funds appropriated for a water resources development project shall be used to provide no more than fifty percent (50%) of the nonfederal portion of funds for the project. This subsection applies to funds appropriated in this act and to funds appropriated prior to the 2013-2015 fiscal biennium that are unencumbered and proposed for reallocation to provide the nonfederal portion of funds for water resources development projects. The limitation on fund usage contained in this subsection applies only to projects in which a local government or local governments participate.

NON-GENERAL FUND CAPITAL IMPROVEMENT AUTHORIZATIONS

SECTION 36.4.(a) The General Assembly authorizes the following capital projects to be funded with receipts or from other non-General Fund sources available to the appropriate department:

Name of Project	**Amount of Non-General Fund Funding Authorized for FY 2013-2014**
Department of Environment and Natural Resources	
Zoo Ocelot	$ 642,000
Zoo Storage Facility	490,000
Aquariums – Exhibit Improvements & Interior Renovations at Roanoke Island	5,000,000
Department of Public Safety	
Tabor Correctional Visitor Registration Center	121,754
Correction Enterprise Storage Buildings	75,000
NC National Guard	
Albemarle Readiness Center	410,000
Fort Fisher Training Site	1,138,000
Fort Bragg Regional Training Inst.	250,000
USPFO Administration Building	350,000
Camp Butner West Perimeter Road	495,000
J4 Annex Motor Pool New Latrine	30,000
High Point Readiness Center Maintenance Shop	70,000

Camp Butner Classroom Building Phase 1 Design	50,000
Department of Transportation	
Lexington Equipment Shop	2,288,000
Division 2 Equipment Shop	7,044,300
Clay County Equipment Shop	1,210,000
Halifax County Salt Storage Shed	186,000
Lake Junaluska Salt Storage Shed	266,000
Nantahala Salt Storage Shed	35,000
Currituck Ferry Welcome Center	1,200,000
McDowell County Maintenance/Bridge Maintenance Assembly Office	1,500,000
Huntersville Satellite Maintenance Facility	96,300
Elizabeth City District/Resident Engineers Office	1,000,000
Southport Dormitory	862,000
Asheboro Maintenance Warehouse and Sign Subshop	489,000
Hatteras Toll Booth	76,000
Graham County Maintenance Assembly	704,000
Division 8 Office	141,000
Wildlife Resources Commission	
Land Purchases	3,750,000
Table Rock Hatchery Building Replacement	500,000
Construction of New Fishing Access Areas	240,000
Construction of New Boating Access Areas	800,000
Construction of New Shooting Ranges	1,500,000
New Cold Water Hatchery – Advance Planning	100,000
Holly Shelter Game Lands – Maintenance Building Replacement	250,000
Sandhills Depot – Building Replacement	600,000
Renovations to Existing BAAs	800,000
ADA Initiative of Existing BAAs	280,000
Infrastructure R&R	1,500,000
Sandhills Depot Shop and Storage Building	435,000
Holly Shelter Shop and Secure Storage Building	250,000
Tiffany Depot Storage Shed and Shop	165,000
TOTAL AMOUNT OF NON-GENERAL FUND CAPITAL PROJECTS AUTHORIZED	**$37,389,354**

SECTION 36.4.(b) From funds deposited with the State Treasurer in a capital improvement account to the credit of the Department of Agriculture and Consumer Services pursuant to G.S. 146-30, the sum of thirty thousand dollars ($30,000) for the 2013-2014 fiscal year and the sum of thirty thousand dollars ($30,000) for the 2014-2015 fiscal year shall be transferred to the Department of Agriculture and Consumer Services to be used, notwithstanding G.S. 146-30, by the Department for its plant conservation program under Article 19B of Chapter 106 of the General Statutes for costs incidental to the acquisition of land, such as land appraisals, land surveys, title searches, and environmental studies, and for the management of the plant conservation program preserves owned by the Department.

REPAIRS AND RENOVATIONS RESERVE ALLOCATION

SECTION 36.5.(a) Of the funds in the Reserve for Repairs and Renovations for the 2013-2014 and the 2014-2015 fiscal year, the following allocations shall be made to the following agencies for repairs and renovations pursuant to G.S. 143C-4-3:

(1) Forty-six percent (46%) shall be allocated to the Board of Governors of The University of North Carolina.
(2) Fifty-four percent (54%) shall be allocated to the Office of State Budget and Management.

The Office of State Budget and Management shall consult with or report to the Joint Legislative Commission on Governmental Operations, as appropriate, in accordance with G.S. 143C-4-3(e). The Board of Governors shall report to the Joint Legislative Commission on Governmental Operations in accordance with G.S. 143C-4-3(d).

SECTION 36.5.(b) Notwithstanding G.S. 143C-4-3(d), of the funds allocated to the Board of Governors of The University of North Carolina in subsection (a) of this section, a portion shall be used each fiscal year by the Board of Governors for the installation of fire sprinklers in university residence halls. This portion shall be in addition to funds otherwise appropriated in this act for the same purpose. Such funds shall be allocated among the university's constituent institutions by the President of The University of North Carolina, who shall consider the following factors when allocating those funds:

(1) The safety and well-being of the residents of campus housing programs.
(2) The current level of housing rents charged to students and how that compares to an institution's public peers and other UNC institutions.
(3) The level of previous authorizations to constituent institutions for the construction or renovation of residence halls funded from the General Fund or from bonds or certificates of participation supported by the General Fund since 1996.
(4) The financial status of each constituent institution's housing system, including debt capacity, debt coverage ratios, credit rankings, required reserves, the planned use of cash balances for other housing system improvements, and the constituent institution's ability to pay for the installation of fire sprinklers in all residence halls.
(5) The total cost of each proposed project, including the cost of installing fire sprinklers and the cost of other construction, such as asbestos removal and additional water supply needs.

The Board of Governors shall submit progress reports to the Joint Legislative Commission on Governmental Operations. Reports shall include the status of completed, current, and planned projects. Reports also shall include information on the financial status of each constituent institution's housing system, the constituent institution's ability to pay for fire protection in residence halls, and the timing of installation of fire sprinklers. Reports shall be submitted on January 1 and July 1 until all residence halls have fire sprinklers.

SECTION 36.5.(c) Notwithstanding G.S. 143C-4-3(d), of the funds allocated to the Board of Governors of The University of North Carolina in subsection (a) of this section, a portion shall be used each fiscal year by the Board of Governors for campus public safety improvements allowable under G.S. 143C-4-3(b).

SECTION 36.5.(d) G.S. 143C-4-3(b), as rewritten by Section 6.12(l) of this act, reads as rewritten:

"(b) Use of Funds. – The funds in the Repairs and Renovations Reserve shall be used only for the repair and renovation of (i) State facilities and related infrastructure that are supported from the General ~~Fund.~~Fund or (ii) State Information Technology Services facilities and related infrastructure. Funds from the Repairs and Renovations Reserve shall be used only for the following types of projects:

(1) Roof repairs and replacements;
(2) Structural repairs;
(3) Repairs and renovations to meet federal and State standards;

(4) Repairs to electrical, plumbing, and heating, ventilating, and air-conditioning systems;
(5) Improvements to meet the requirements of the Americans with Disabilities Act, 42 U.S.C. § 12101, et seq., as amended;
(6) Improvements to meet fire safety needs;
(7) Improvements to existing facilities for energy efficiency;
(8) Improvements to remove asbestos, lead paint, and other contaminants, including the removal and replacement of underground storage tanks;
(9) Improvements and renovations to improve use of existing space;
(10) Historical restoration;
(11) Improvements to roads, walks, drives, utilities infrastructure; and
(12) Drainage and landscape improvements.

Funds from the Repairs and Renovations Reserve shall not be used for new construction or the expansion of the building area (sq. ft.) of an existing facility unless required in order to comply with federal or State codes or standards."

PROCEDURES FOR DISBURSEMENT OF CAPITAL FUNDS

SECTION 36.6. The appropriations made by the 2013 General Assembly for capital improvements shall be disbursed for the purposes provided by this act. Expenditure of funds shall not be made by any State department, institution, or agency until an allotment has been approved by the Governor as Director of the Budget. The allotment shall be approved only after full compliance with the State Budget Act, Chapter 143C of the General Statutes. Prior to the award of construction contracts for projects to be financed in whole or in part with self-liquidating appropriations, the Director of the Budget shall approve the elements of the method of financing of those projects, including the source of funds, interest rate, and liquidation period. Provided, however, that if the Director of the Budget approves the method of financing a project, the Director shall report that action to the Joint Legislative Commission on Governmental Operations at its next meeting.

Where direct capital improvement appropriations include the purpose of furnishing fixed and movable equipment for any project, those funds for equipment shall not be subject to transfer into construction accounts except as authorized by the Director of the Budget. The expenditure of funds for fixed and movable equipment and furnishings shall be reviewed and approved by the Director of the Budget prior to commitment of funds.

Capital improvement projects authorized by the 2013 General Assembly shall be completed, including fixed and movable equipment and furnishings, within the limits of the amounts of the direct or self-liquidating appropriations provided, except as otherwise provided in this act. Capital improvement projects authorized by the 2013 General Assembly for the design phase only shall be designed within the scope of the project as defined by the approved cost estimate filed with the Director of the Budget, including costs associated with site preparation, demolition, and movable and fixed equipment.

REPORTING ON CAPITAL PROJECTS

SECTION 36.7.(a) Definitions. – The following definitions apply in this section:

(1) Capital project. – Any capital improvement, as that term is defined in G.S. 143C-1-1, that is not complete by the effective date of this section and that is funded in whole or in part with State funds, including receipts, non-General Fund sources, or statutorily or constitutionally authorized indebtedness of any kind. This term includes only projects with a total cost of one hundred thousand dollars ($100,000) or more.

(2) Construction phase. – The status of a particular capital project as described using the terms customarily employed in the design and construction industries.

(3) New capital project. – A capital project that is authorized in this act or subsequent to the effective date of this act.

SECTION 36.7.(b) Reporting. – The following reports are required:

(1) By October 1, 2013, and every six months thereafter, each State agency shall report on the status of agency capital projects to the Joint Legislative Commission on Governmental Operations and to the Joint Legislative Oversight Committee on Capital Improvements.

(2) By October 1, 2013, and quarterly thereafter, each State agency shall report on the status of agency capital projects to the Fiscal Research Division and to the Office of State Budget and Management.

SECTION 36.7.(c) The reports required by subsection (b) of this section shall include at least the following information about every agency capital project:

(1) The current construction phase of the project.

(2) The anticipated time line from the current construction phase to project completion.

(3) Information about expenditures that have been made in connection with the project, regardless of source of the funds expended.

(4) Information about the adequacy of funding to complete the project, including estimates of how final expenditures will relate to initial estimates of expenditures, and whether or not scope reductions will be necessary in order to complete the project within its budget.

(5) For new capital projects only, an estimate of the operating costs for the project for the first five fiscal years of its operation.

SECTION 36.7.(d) In addition to the other reports required by this section, on October 1, 2013, and every six months thereafter, the Office of State Construction shall report on the status of the Facilities Condition Assessment Program (FCAP) to the Joint Legislative Commission on Governmental Operations. The report shall include (i) summary information about the average length of time that passes between FCAP assessments for an average State building; (ii) detailed information about when the last FCAP assessment was for each State building complex; and (iii) detailed information about the condition and repairs and renovations needs of each State building complex.

SECTION 36.7.(e) In addition to the other reports required by this section, on October 1, 2013, and quarterly thereafter, the State Construction Office shall report to the General Assembly on the status of plan review, approval, and permitting for each State capital improvement project and community college capital improvement project over which the Office exercises plan review, approval, and permitting authority. Each report shall include (i) summary information about the workload of the Office during the previous quarter, including information about the average length of time spent by the State Construction Office on each major function it performs that is related to capital project approval and (ii) detailed information about the amount of time spent engaged in those functions for each project that the State Construction Office worked on during the previous quarter.

REQUIRE PRIOR LEGISLATIVE AUTHORIZATION FOR SALES, LEASES, OR RENTALS OF CERTAIN PROPERTY BELOW FAIR MARKET VALUE

SECTION 36.8. G.S. 146-29.1 is amended by adding the following new subsections to read:

"(f) If the fair market value of State-owned real property exceeds one million dollars ($1,000,000), a gift of any interest in the property or a sale, lease, or rental of any interest in the property for below fair market value shall not be effective until the later of the following:

(1) If a bill that specifically disapproves the transaction is introduced in either house of the General Assembly before the 31st legislative day of the next regular session of the General Assembly that begins at least 25 days after the date that the agreement making the transfer is entered into, the earlier of (i) the day that an unfavorable final action is taken on the bill or (ii) the day that the General Assembly adjourns without ratifying the bill.

(2) The 31st legislative day of the session of the General Assembly described in subdivision (1) of this section, if a bill disapproving the transaction is not introduced before that day.

(f1) For the purpose of subsection (f) of this section:

(1) "Next regular session" means:

a. For odd-numbered years its initial convening.

b. For even-numbered years the first reconvening of the regular session as provided in the joint resolution setting the date for reconvening.

(2) "Adjourns" means:

a. For odd-numbered years the date the General Assembly adjourns by joint resolution for a period of more than 30 days.

b. For even-numbered years the date of sine die adjournment.

(f2) If the transaction is approved under subsection (f) of this section, but the agreement provides a later effective date, then it takes effect on the date specified in the agreement.

(f3) Nothing in subsection (f) of this section restricts the General Assembly from enacting a law specifically approving the transaction.

(g) If the General Assembly ratifies a disapproving bill, the disapproved transaction shall not be effective unless it is vetoed by the Governor and the veto is not overridden, and in such case the transaction is effective upon sine die adjournment of that regular session.

The terms of any agreement to transfer an interest in real property under this section are deemed to incorporate the provisions of subsections (f) through (f2) of this section, and any transaction that does not comply with these subsections is void."

AUTHORIZE UNC CARRYFORWARD FUNDS TO BE USED FOR REPAIRS AND RENOVATIONS

SECTION 36.9. Notwithstanding any other provision of law, for purposes of G.S. 143C-8-12, the term "non-General Fund money" includes funds carried forward from one fiscal year to another pursuant to G.S. 116-30.3. However, these funds shall only be used for projects listed in G.S. 143C-4-3(b). This section shall expire on June 30, 2014.

LIMIT UNC REPAIRS AND MAINTENANCE EXEMPTION

SECTION 36.10. G.S. 116-13.1(c) reads as rewritten:

"(c) Approval of Certain Repair and Maintenance Projects. – Notwithstanding G.S. 143C-8-7, the chancellor of a constituent institution may approve the expenditure of available operating funds in an amount not to exceed one million dollars ($1,000,000) per project ~~for repairs to institution facilities, renovations to institution facilities, maintenance of those facilities, and related equipment purchases.~~for projects that are of a type listed in G.S. 143C-4-3(b) and that are for State facilities and related infrastructure that are supported from the General Fund. Funds contractually obligated to an approved project shall not revert at the end of the fiscal year and will remain available to fund the completion of the project. Projects approved pursuant to this subsection shall in all other respects accord with applicable laws governing capital improvement projects. The chancellor of a constituent institution shall

report the approval of an expenditure under this subsection to the Office of State Budget and Management and to the Fiscal Research Division of the Legislative Services Commission within 60 days of the approval."

NATIONAL GUARD PROJECTS

SECTION 36.11.(a) The Department of Public Safety shall allocate funds for National Guard capital projects during the 2013-2015 fiscal biennium in accordance with the schedule that follows. These funds will provide a State match for an estimated twenty-one million dollars ($21,000,000) in federal funds. The projects authorized, the allocation of State funds for each project, and the total project cost authorized for each project are as follows:

	Name of Project	State Fund Allocation	Total Project Cost
(1)	Wilmington Building Expansion/Rehab	$ 375,000	$ 1,125,000
(2)	Wilmington Site Expansion/Rehab	250,000	1,250,000
(3)	Nashville Building Expansion/Rehab	375,000	1,125,000
(4)	Nashville Site Expansion/Rehab	250,000	1,250,000
(5)	Clinton Building Expansion/Rehab	375,000	1,125,000
(6)	Clinton Site Expansion/Rehab	250,000	1,250,000
(7)	Salisbury Building Expansion/Rehab	375,000	1,125,000
(8)	Salisbury Site Expansion/Rehab	250,000	1,250,000
(9)	Parkton Building Expansion/Rehab	375,000	1,125,000
(10)	Parkton Site Expansion/Rehab	250,000	1,250,000
(11)	Benson Building Expansion/Rehab	375,000	1,125,000
(12)	Benson Site Expansion/Rehab	250,000	1,250,000
(13)	Charlotte Building Expansion/Rehab	375,000	1,125,000
(14)	Asheboro Site Expansion/Rehab	250,000	1,250,000
(15)	Winston-Salem Building Expansion/Rehab	375,000	1,125,000
(16)	Winston-Salem Site Expansion/Rehab	250,000	1,250,000
(17)	Concord Building Expansion/Rehab	375,000	1,125,000
(18)	Concord Site Expansion/Rehab	250,000	1,250,000
(19)	Burlington Site Expansion/Rehab	375,000	1,125,000
(20)	Albemarle Site Expansion/Rehab	375,000	1,125,000
(21)	Belmont Building Rehab	375,000	1,125,000
(22)	Beulaville Building Expansion/Rehab	375,000	1,125,000
(23)	Boone Building Expansion/Rehab	375,000	1,125,000
(24)	Dunn Building Expansion/Rehab	375,000	1,125,000
(25)	Durham Building Expansion/Rehab	375,000	1,125,000
TOTALS		**$ 8,250,000**	**29,250,000**

SECTION 36.11.(b) Subject to the limitations imposed by Section 36.2(a) of this act, the Adjutant General of the National Guard may determine which projects listed in subsection (a) of this section shall receive an allocation of State funds in each fiscal year of the biennium.

SECTION 36.11.(c) Where the actual costs are different from the estimated costs under subsection (a) of this section, the Adjutant General of the National Guard may adjust the allocations among projects as needed. However, State funds shall not be allocated to a project in excess of the maximum amount of State funds authorized to be allocated to the project under subsection (a) of this section. If any projects funded under subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 2013-2015 fiscal biennium, or if the projects funded under subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

(1) Future project feasibility studies.

(2) Survey, testing, and permitting.

(3) Planning and execution for reversion of facilities no longer in use.

SECTION 36.11.(d) No later than June 1, 2015, and every two years thereafter, the Department shall report on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include all of the following:

(1) The status of all projects listed in this section.
(2) The estimated total cost of each project.
(3) The date that work on each project began or is expected to begin.
(4) The date that work on each project was completed or is expected to be completed.
(5) The actual cost of each project, including federal matching funds.
(6) Facilities planned for closure or reversion.
(7) A list of projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

SECTION 36.11.(e) Chapter 127A of the General Statutes is amended by adding a new Article to read:

"Article 17.

"Armory and Facility Development Projects and Plan.

"**§ 127A-210. Armory and facility development project plan.**

(a) Plan Prepared. – No later than July 1 of each year, the Department of Public Safety shall prepare a statewide plan for armories for a period of seven years into the future. The plan shall be known as the Armory and Facilities Development Plan. If the plan differs from the Armory and Facilities Development Plan adopted for the preceding calendar year, the Department shall indicate the changes and the reasons for such changes. The Department shall submit the plan to the Director of the Budget for review.

(b) Projects Listed. – The plan shall list the following armory and facilities projects based on their status as of May 1 of the year in which the plan is prepared:

(1) Projects approved by the Congress of the United States but for which federal funds have not been appropriated.
(2) Projects for which the Congress of the United States has appropriated funds.

(c) Project Priorities and Funding Recommendations. – The Department shall assign a priority to each project within each of the two categories listed under subsection (b) of this section, either by giving the project a number with "1" assigned to the highest priority, or by recommending no funding. The Department shall state its reasons for recommending the funding, deferral, or elimination of a project. The Department shall determine the priority of a project based on the following criteria: federal requirements, a project's proximity to transportation infrastructure and other critical State and federal assets, and a project's ability to further the mission of the National Guard.

(d) Distribution of the Plan. – The Director of the Budget shall provide copies of the plan to the General Assembly along with the recommended biennial budget and the recommended revised budget for the second year of the biennium.

(e) Budget Recommendations. – The Director of the Budget shall determine which projects, if any, will be included in the recommended biennial budget and in the recommended revised budget for the second year of the biennium. The budget document transmitted to the General Assembly shall identify the projects or types of projects recommended for funding.

(f) Definitions. – For purposes of this section, the terms "armory," "armory site," and "facilities" shall have the same meaning as in G.S. 127A-161."

SECTION 36.11.(f) G.S. 127A-169 reads as rewritten:

"**§ 127A-169. Unexpended portion of State appropriation.**

The unexpended portion of any appropriation from the General Fund of the State for the purposes set out in this ~~Article,~~Article, or in Article 17 of this Chapter, remaining at the end of any biennium, shall not revert to the General Fund of the State, but shall constitute part of a permanent fund to be expended from time to time in the manner and for the purposes set out in this Article."

TWO-THIRDS BONDS ACT OF 2013

SECTION 36.12.(a) Short Title. – This section may be cited as the "Two-Thirds Bonds Act of 2013."

SECTION 36.12.(b) Findings and Determinations. – It is the intent and purpose of the General Assembly by this section to provide for the issuance of general obligation bonds or notes of the State in order to provide funds for the cost of State capital facilities.

SECTION 36.12.(c) Definitions. – The following definitions apply in this section unless the context otherwise requires:

(1) Bonds. – Bonds issued under this section.

(2) Cost. – The term includes all of the following:

a. The cost of constructing, reconstructing, renovating, repairing, enlarging, acquiring, and improving State capital facilities, including the acquisition of land, rights-of-way, easements, franchises, equipment, machinery, furnishings, and other interests in real or personal property acquired or used in connection with a State capital facility.

b. The cost of engineering, architectural, and other consulting services as may be required.

c. Administrative expenses and charges.

d. The cost of providing personnel to ensure effective project management.

e. The cost of bond insurance, investment contracts, credit enhancement and liquidity facilities, interest-rate swap agreements or other derivative products, financial and legal consultants, and related costs of bond and note issuance, to the extent and as determined by the State Treasurer.

f. Finance charges, reserves for debt service and other types of reserves required pursuant to the terms of any bond or note or related documents, interest before and during construction or acquisition of a State capital facility and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.

g. The cost of bond insurance, investment contracts, credit enhancement facilities and liquidity facilities, interest-rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of any bond or note.

h. The cost of reimbursing the State for any payments made for any cost described in this subdivision.

i. Any other costs and expenses necessary or incidental to the purposes of this section.

(3) Credit facility. – An agreement entered into by the State Treasurer on behalf of the State with a bank, savings and loan association or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider

of a credit facility, which provider may be located within or without the United States, such agreement providing for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption premium, if any, and interest on any bonds or notes payable on demand or tender by the owner, in consideration of the State agreeing to repay the provider of the credit facility in accordance with the terms and provisions of such agreement.

(4) Notes. – Notes issued under this section.

(5) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne by any bonds or notes, including:

a. A provision providing for such adjustment so that the purchase price of such bonds or notes in the open market would be as close to par as possible.

b. A provision providing for such adjustment based upon a percentage or percentages of a prime rate or base rate, which percentage or percentages may vary or be applied for different periods of time.

c. Such other provisions as the State Treasurer may determine to be consistent with this section and will not materially and adversely affect the financial position of the State and the marketing of bonds or notes at a reasonable interest cost to the State.

(6) State. – The State of North Carolina, including any State agency.

(7) State agency. – Any agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.

SECTION 36.12.(d) Authorization of Bonds and Notes. – The State Treasurer is authorized, by and with the consent of the Council of State, to issue and sell at one time or from time to time general obligation bonds of the State to be designated "State of North Carolina General Obligation Bonds," with any additional designations as may be determined, or notes of the State, in the aggregate principal amount of one hundred million dollars ($100,000,000), this amount being not in excess of two-thirds of the amount by which the State's outstanding indebtedness was reduced during the biennium ended June 30, 2013, for the purpose of providing funds, with any other available funds, for the purposes authorized by this section.

If the one hundred million dollar ($100,000,000) maximum principal amount of bonds and notes authorized by this section shall be in excess of two-thirds of the amount by which the State's outstanding indebtedness shall have been reduced during the biennium ended June 30, 2013, then the maximum amount of bonds and notes authorized in this section is reduced by such excess.

SECTION 36.12.(e) Uses of Bond and Note Proceeds. – The proceeds of bonds and notes shall be used to finance the capital facility costs of repairing and renovating State facilities and related infrastructure as provided in this section.

The proceeds of bonds and notes may be used with any other moneys made available by the General Assembly for the capital facility costs of repairing and renovating State facilities and related infrastructure, including the proceeds of any other State bond issues, whether heretofore made available or which may be made available at the session of the General Assembly at which this section is ratified or any subsequent sessions. The proceeds of bonds and notes shall be expended and disbursed under the direction and supervision of the Director of the Budget. The funds provided by this section shall be disbursed for the purposes provided in this section upon warrants drawn on the State Treasurer by the State Controller,

which warrants shall not be drawn until requisition has been approved by the Director of the Budget and which requisition shall be approved only after full compliance with the State Budget Act, Chapter 143C of the General Statutes.

The Office of State Budget and Management shall provide semiannual reports to the Chairs of the Senate Appropriations/Base Budget Committee and the House of Representatives Appropriations Committee, and to the Fiscal Research Division on the expenditure of moneys authorized by this section. The reports shall continue until the completion of the projects provided for in this section.

SECTION 36.12.(f) Allocation of Proceeds. – The proceeds of bonds and notes shall be allocated to the Reserve for Repairs and Renovations and reallocated and expended pursuant to Section 36.5 of this act.

SECTION 36.12.(g) Issuance of Bonds and Notes. –

(1) Terms and conditions. – Bonds or notes may bear a date or dates, may be serial or term bonds or notes, or any combination thereof, may mature in such amounts and at such time or times, not exceeding 40 years from their date or dates, may be payable at such place or places, either within or without the United States of America, in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts, may bear interest at such rate or rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at such price or prices, including a price less than or greater than the face amount of the bonds or notes, and under such terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(2) Signatures; form and denomination; registration. – Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer or shall bear the State Treasurer's facsimile signature, and shall bear the Great Seal of the State, or a facsimile of the Seal shall be impressed or imprinted thereon. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. Should any officer whose signature or facsimile signature appears on bonds or notes cease to be such officer before the delivery of the bonds or notes, the signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until delivery. Bonds or notes may bear the facsimile signatures of persons who at the actual time of the execution of the bonds or notes shall be the proper officers to sign any bond or note, although at the date of the bond or note, such persons may not have been such officers. The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as the State Treasurer may determine in conformity with this section.

(3) Manner of sale; expenses. – Subject to the approval by the Council of State as to the manner in which bonds or notes shall be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of

purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at any rates of interest, which may vary from time to time, and at any prices, including a price less than or greater than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(4) Notes; repayment. –

a. By and with the consent of the Council of State, the State Treasurer is hereby authorized to borrow money and to execute and issue notes of the State for the same, but only in the following circumstances and under the following conditions:

1. For anticipating the sale of bonds, the issuance of which the Council of State has approved, if the State Treasurer considers it advisable to postpone the issuance of the bonds;
2. For the payment of interest on or any installment of principal of any bonds then outstanding, if there are not sufficient funds in the State treasury with which to pay the interest or installment of principal as they respectively become due;
3. For the renewal of any loan evidenced by notes authorized in this section;
4. For the purposes authorized in this section; and
5. For refunding bonds or notes as authorized in this section.

b. Funds derived from the sale of bonds or notes may be used in the payment of any bond anticipation notes issued under this section. Funds provided by the General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which shall have been used in paying interest on or principal of the bonds.

(5) Refunding bonds and notes. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes pursuant to the provisions of the State Refunding Bond Act for the purpose of refunding bonds or notes issued pursuant to this section. The refunding bonds and notes may be combined with any other issues of State bonds and notes similarly secured. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the bonds or notes being refunded or, if not required for the immediate payment of the bonds or notes being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the bonds or notes being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) obligations of any agency or instrumentality of the United States government if the timely payment of principal and interest on the obligations is unconditionally guaranteed by the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market

value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of bonds or notes being refunded but that have not matured and are not presently redeemable or, if presently redeemable, have not been called for redemption.

(6) Tax exemption. – Bonds and notes shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance or gift taxes, income taxes on the gain from the transfer of bonds or notes, and franchise taxes. The interest on bonds or notes is not subject to taxation as income.

(7) Investment eligibility. – Bonds and notes are securities in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions, all insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, other financial institutions engaged in business in the State, executors, administrators, trustees, and other fiduciaries. Bonds and notes are hereby made securities which may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may hereafter be authorized by law.

(8) Faith and credit. – The faith and credit and taxing power of the State are hereby pledged for the payment of the principal of and the interest on bonds and notes. The State expressly reserves the right to amend any provision of this section to the extent it does not impair any contractual right of a bond owner.

(9) Other agreements. – The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, interest-rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with issuance, incurrence, carrying, or securing of bonds or notes. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, and bond attorneys to be associated with any bond or note issue under this section as the State Treasurer considers necessary.

SECTION 36.12.(h) Variable Rate Demand Bonds and Notes. – In fixing the details of bonds and notes, the State Treasurer may provide that any of the bonds or notes may:

(1) Be made payable from time to time on demand or tender for purchase by the owner, if a credit facility supports the bonds or notes, unless the State Treasurer specifically determines that a credit facility is not required upon a finding and determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State and the marketing of the bonds or notes at a reasonable interest cost to the State;

(2) Be additionally supported by a credit facility;

(3) Be made subject to redemption or a mandatory tender for purchase prior to maturity;

(4) Bear interest at a rate or rates that may vary for any period of time, as may be provided in the proceedings providing for the issuance of the bonds or

notes, including, without limitation, such variations as may be permitted pursuant to a par formula; and

(5) Be made the subject of a remarketing agreement whereby an attempt is made to remarket bonds or notes to new purchasers prior to their presentment for payment to the provider of the credit facility or to the State.

If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of bonds or notes secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium or for any other reason, then the amount of authorized but unissued bonds or notes during the term of such credit facility shall not be less than the amount of such excess, unless the payment of such excess is otherwise provided for by agreement of the State executed by the State Treasurer.

SECTION 36.12.(i) Interpretation of Section. –

(1) Additional method. – The foregoing sections of this section shall be deemed to provide an additional and alternative method for the doing of the things authorized under it and shall be regarded as supplemental and additional to powers conferred by other laws and shall not be regarded as in derogation of any powers now existing.

(2) Statutory references. – References in this section to specific sections or Chapters of the General Statutes or to specific acts are intended to be references to such sections, Chapters, or acts as they may be amended from time to time by the General Assembly.

(3) Broad construction. – This section, being necessary for the health and welfare of the people of the State, shall be broadly construed to effect the purposes thereof.

(4) Inconsistent provisions. – Insofar as the provisions of this section are inconsistent with the provisions of any general, special, or local laws, or parts thereof, the provisions of this section shall be controlling.

(5) Severability. – If any provision of this section or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the section which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared to be severable.

SECTION 36.12.(j) Effective Date. – This section is effective when it becomes law.

PART XXXVII. FINANCE PROVISIONS

SECTION 37.0. This section is reserved.

PART XXXVIII. MISCELLANEOUS PROVISIONS

STATE BUDGET ACT APPLIES

SECTION 38.1. The provisions of the State Budget Act, Chapter 143C of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

MOST TEXT APPLIES ONLY TO THE 2013-2015 FISCAL BIENNIUM

SECTION 38.2. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2013-2015 fiscal biennium, the textual

provisions of this act apply only to funds appropriated for, and activities occurring during, the 2013-2015 fiscal biennium.

EFFECT OF HEADINGS

SECTION 38.3. The headings to the parts and sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act except for effective dates referring to a part.

COMMITTEE REPORT

SECTION 38.4.(a) The Senate Appropriations/Base Budget Committee Report on the Continuation, Expansion, and Capital Budgets dated May 21, 2013, which was distributed in the Senate and the House of Representatives and used to explain this act, shall indicate action by the General Assembly on this act and shall therefore be used to construe this act, as provided in the State Budget Act, Chapter 143C of the General Statutes, and for these purposes shall be considered a part of this act and as such shall be printed as a part of the Session Laws.

SECTION 38.4.(b) The budget enacted by the General Assembly is for the maintenance of the various departments, institutions, and other spending agencies of the State for the 2013-2015 biennial budget as provided in G.S. 143C-3-5. This budget includes the appropriations of State funds as defined in G.S. 143C-1-1(d)(25).

The Director of the Budget submitted a recommended continuation budget to the General Assembly on March 15 and 18, 2013, in the document "State of North Carolina Recommended Continuation Budget and Fund Purpose Statements, 2013-2015" and in the Budget Support Document for the various departments, institutions, and other spending agencies of the State. The adjustments to these documents made by the General Assembly are set out in the Committee Report.

SECTION 38.4.(c) The budget enacted by the General Assembly shall also be interpreted in accordance with G.S. 143C-5-5, the special provisions in this act, and other appropriate legislation.

In the event that there is a conflict between the line-item budget certified by the Director of the Budget and the budget enacted by the General Assembly, the budget enacted by the General Assembly shall prevail.

SEVERABILITY CLAUSE

SECTION 38.5. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

EFFECTIVE DATE

SECTION 38.6. Except as otherwise provided, this act becomes effective July 1, 2013.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 402

AMENDMENT NO. 1
(to be filled in by Principal Clerk)

S402-ALM-7 [v.5]

Comm. Sub. [YES]
Amends Title [NO]
S402-PCS15273-MDxf-9

Date 5/21 ,2013

Senator Brock

moves to amend the bill on page 244, line 14, by deleting the phrase "twelve one-hundredths of one percent (0.12%)" and substituting "thirteen one-hundredths of one percent (0.13%)".;

and by adjusting the appropriate totals accordingly.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 402

AMENDMENT NO. 2
(to be filled in by Principal Clerk)

S402-ARO-31 [v.2]

Comm. Sub. [YES]
Amends Title [NO]
S402-PCS15273-MDxf-9

Date 21 May ,2013

Senator Hartsell

moves to amend the bill on page 66, lines 17 – 40, by rewriting the lines to read:

"(a2) The State Board of Education shall ~~impose the following~~ establish a schedule of fees for teacher licensure and administrative ~~changes:~~changes. The fees established under this subsection shall not exceed the actual cost of providing the service. The schedule may include fees for any of the following services:

(1) Application for demographic or administrative changes to a ~~license, $30.00.~~license.

(2) Application for a duplicate license or for copies of documents in the licensure ~~files, $30.00.~~files.

(3) Application for a renewal, extension, addition, upgrade, reinstatement, and variation to a ~~license, $55.00.~~license.

(4) Initial application for a New, In-State Approved Program ~~Graduate, $55.00.~~Graduate.

(5) Initial application for an Out-of-State ~~license, $85.00.~~license.

(6) All other ~~applications, $85.00.~~applications.

~~The~~An applicant must pay ~~the fee~~ any nonrefundable service fees at the time ~~the~~an application is submitted.

(a3) For the purposes of subsection (a2) of this section only, the State Board of Education shall not be subject to Article 2A of Chapter 150B of the General Statutes.

(a4) The State Board of Education shall report to the Joint Legislative Education Oversight Committee by March 15 in any year that the amount of fees in the fee schedule established under subsection (a2) of this section has been modified during the previous 12 months. The report shall include the number of personnel paid from licensure receipts, any change in personnel paid from receipts, other related costs covered by the receipts, and the estimated unexpended receipts as of June 30 of the year reported.

...."

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 402

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S402-ARO-31 [v.2]

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 402

AMENDMENT NO. 3
(to be filled in by Principal Clerk)

S402-AMG-8 [v.2]

Comm. Sub. [YES]
Amends Title [NO]
PCS

Date 5/21 ,2013

Senator Hise

moves to amend the bill on page 144, line 43,
by inserting a new section on the line to read:
"**INCREASE NORTH CAROLINA MEDICAL EXAMINER AUTOPSY FEES**

SECTION 12E.8. G.S. 130A-389(a) reads as rewritten:

"(a) If, in the opinion of the medical examiner investigating the case or of the Chief Medical Examiner, it is advisable and in the public interest that an autopsy or other study be made; or, if an autopsy or other study is requested by the district attorney of the county or by any superior court judge, an autopsy or other study shall be made by the Chief Medical Examiner or by a competent pathologist designated by the Chief Medical Examiner. A complete autopsy report of findings and interpretations, prepared on forms designated for the purpose, shall be submitted promptly to the Chief Medical Examiner. Subject to the limitations of G.S. 130A-389.1 relating to photographs and video or audio recordings of an autopsy, a copy of the report shall be furnished to any person upon request. A fee for the autopsy or other study shall be paid by the State. However, if the deceased is a resident of the county in which the death or fatal injury occurred, that county shall pay the fee. The fee shall be one thousand two hundred fifty dollars ~~($1,000).~~($1,250)."

SECTION 12E.8.(b) This act becomes effective July 1, 2013, and applies to fees imposed for autopsies performed on or after that date.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

S402-AMG-8-V-2

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 402

AMENDMENT NO. 4
(to be filled in by Principal Clerk)

S402-AMC-19 [v.1]

Comm. Sub. [YES]
Amends Title [NO]
S402-PCS15273-MDxf-9

Date 9/21 ,2013

Senator Goolsby

moves to amend the bill on page 317, line 37, by inserting on that line the following language to read:

"COURT COSTS FOR SERVICES OF EXPERT WITNESS PROVIDING TESTIMONY ABOUT A CHEMICAL OR FORENSIC ANALYSIS AT TRIAL

SECTION 18B.19.(a) G.S. 7A-304(a) is amended by adding two new subdivisions to read:

'(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected. No costs may be assessed when a case is dismissed. Only upon entry of a written order, supported by findings of fact and conclusions of law, determining that there is just cause, the court may (i) waive costs assessed under this section or (ii) waive or reduce costs assessed under subdivisions ~~(7) or (8)~~(7), (8), (11), or (12) of this section.

...

(11) For the services of an expert witness employed by the North Carolina State Crime Laboratory who completes a chemical analysis pursuant to G.S. 20-139.1 or a forensic analysis pursuant to G.S. 8-58.20 and provides testimony about that analysis in a defendant's trial, the district or superior court judge shall, upon conviction of the defendant, order payment of the sum of six hundred dollars ($600.00) to be remitted to the Department of Justice for support of the State Crime Laboratory. This cost shall be assessed only in cases in which the expert witness provides testimony about the chemical or forensic analysis in the defendant's trial and shall be in addition to any cost assessed under subdivision (7) of this subsection.

(12) For the services of an expert witness employed by a crime laboratory operated by a local government or group of local governments who completes a chemical analysis pursuant to G.S. 20-139.1 or a forensic analysis pursuant to G.S. 8-58.20 and provides testimony about that analysis in a defendant's trial, the district or superior court judge shall, upon conviction of the defendant, order payment of the sum of six hundred dollars ($600.00) to be remitted to the general fund of the local governmental unit

that operates the laboratory to be used for local law enforcement. This cost shall be assessed only in cases in which the expert witness provides testimony about the chemical or forensic analysis in the defendant's trial and shall be in addition to any cost assessed under subdivision (8) of this subsection.'

SECTION 18B.19.(b) This section becomes effective July 1, 2013, and applies to fees assessed or collected on or after that date."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

SENATE APPROPRIATIONS/ BASE BUDGET COMMITTEE

REPORT ON THE CONTINUATION, EXPANSION, AND CAPITAL BUDGETS

Senate Bill 402
North Carolina General Assembly

May 21, 2013

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General Fund Availability Statement

		FY 2013-14	FY 2014-15
1	Unappropriated Balance Remaining from Previous Year	213,432,877	106,360,611
2	Anticipated Overcollections from FY 2012-13	405,700,000	0
3	Overcollections Due to MSA Disputed Payments	51,510,749	
4	Anticipated Reversions from FY 2012-13	170,000,000	0
5	Net Supplemental Medicaid Appropriations (H.B. 980)	(306,100,000)	
6	**Less Earmarkings of Year End Fund Balance**		
7	Savings Reserve	(165,075,883)	(74,244,692)
8	Repairs and Renovations	(100,000,000)	(25,502,274)
9	**Beginning Unreserved Fund Balance**	**269,467,743**	**6,613,645**
10			
11	**Revenues Based on Existing Tax Structure**	**19,628,100,000**	**20,549,000,000**
12			
13	**Non-tax Revenues**		
14	Investment Income	13,700,000	14,100,000
15	Judicial Fees	250,200,000	251,400,000
16	Disproportionate Share	110,000,000	109,000,000
17	Insurance	72,500,000	73,400,000
18	Other Non-Tax Revenues	173,000,000	175,000,000
19	Highway Trust Fund/Use Tax Reimbursement Transfer	0	0
20	Highway Fund Transfer	218,100,000	215,900,000
21	**Subtotal Non-tax Revenues**	**837,500,000**	**838,800,000**
22			
23	**Total General Fund Availability**	**20,735,067,743**	**21,394,413,645**
24			
25	**Adjustments to Availability: 2013 Session**		
26	Finance Package	(217,100,000)	(553,100,000)
27	Tobacco Master Settlement Agreement (MSA)	137,500,000	137,500,000
28	MSA Disputed Payments Erroneously Paid to Golden LEAF (S.L. 2011-145)	24,639,357	0
29	Repeal North Carolina Public Campaign Fund	3,500,000	0
30	Transfer from NC Flex FICA Fund Balance	2,000,000	0
31	Transfer from E-Commerce Reserve Fund Balance	5,111,585	4,000,000
32	Transfer from Misdemeanant Confinement Fund	1,000,000	1,000,000
33	Repeal Portion of Solid Waste Disposal Tax Earmark	2,300,000	2,300,000
34	Increase Lobbyist Fees	400,000	400,000
35	Adjust Transfer from Insurance Regulatory Fund	(460,589)	(460,589)
36	Adjust Transfer from Treasurer's Office	175,215	175,215
37	Adjust Gross Premiums Tax for Volunteer Safety Workers	(3,000,000)	(3,000,000)
38			
39	**Subtotal Adjustments to Availability: 2013 Session**	**(43,934,432)**	**(411,185,374)**
40			
41	**Revised General Fund Availability**	**20,691,133,311**	**20,983,228,271**
42			
43	Less: General Fund Appropriations	(20,584,772,700)	(20,955,157,819)
44			
44	**Unappropriated Balance Remaining**	**106,360,611**	**28,070,452**

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SUMMARY:

GENERAL FUND APPROPRIATIONS

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Summary of General Fund Appropriations Fiscal Year 2013-14 2013 Legislative Session						
		Legislative Adjustments				Revised
	Continuation Budget	Recurring	Nonrecurring	Net	FTE	Appropriation
	2013-14	Adjustments	Adjustments	Changes	Changes	2013-14
Education:						
Community Colleges	1,037,430,475	(23,115,008)	12,000,000	(11,115,008)	2.50	1,026,315,467
Public Education	7,984,924,757	(108,282,241)	(26,950,674)	(135,232,915)	(43.25)	7,849,691,842
University System	2,709,551,807	(69,907,058)	(26,280,156)	(96,187,214)	0.00	2,613,364,593
Total Education	**11,731,907,039**	**(201,304,307)**	**(41,230,830)**	**(242,535,137)**	**(40.75)**	**11,489,371,902**
Health and Human Services:						
Central Management and Support	54,028,354	1,511,658	9,529,134	11,040,792	(6.00)	65,069,146
Aging and Adult Services	54,443,196	(300,855)	0	(300,855)	0.00	54,142,341
Blind and Deaf / Hard of Hearing Services	8,178,618	0	0	0	0.00	8,178,618
Child Development and Early Education	259,254,083	(1,590,625)	(2,624,189)	(4,214,814)	(14.00)	255,039,269
Health Service Regulation	16,761,992	(300,000)	0	(300,000)	0.00	16,461,992
Medical Assistance	3,069,576,810	413,997,962	1,170,982	415,168,944	0.00	3,484,745,754
Mental Health, Devel. Disabilities, & Substance Abuse Svcs	706,797,747	(42,403,664)	11,344,203	(31,059,461)	(589.03)	675,738,286
NC Health Choice	80,131,026	(12,953,685)	0	(12,953,685)	0.00	67,177,341
Public Health	156,784,502	(7,605,505)	(2,000,000)	(9,605,505)	(48.00)	147,178,997
Social Services	170,629,904	(3,000,573)	4,826,346	1,825,773	0.00	172,455,677
Vocational Rehabilitation	39,284,143	(510,974)	0	(510,974)	0.00	38,773,169
Total Health and Human Services	**4,615,870,375**	**346,843,739**	**22,246,476**	**369,090,215**	**(657.03)**	**4,984,960,590**
Justice and Public Safety:						
Public Safety	1,722,061,784	(9,811,866)	371,399	(9,440,467)	(507.70)	1,712,621,317
Judicial	458,416,996	(4,290,254)	2,750,000	(1,540,254)	(24.50)	456,876,742
Judicial - Indigent Defense	114,505,898	(5,148,634)	5,000,000	(148,634)	(3.25)	114,357,264
Justice	77,773,575	(30,408,001)	111,424	(30,296,577)	(414.00)	47,476,998
Total Justice and Public Safety	**2,372,758,253**	**(49,658,755)**	**8,232,823**	**(41,425,932)**	**(949.45)**	**2,331,332,321**

Summary of General Fund Appropriations Fiscal Year 2013-14 2013 Legislative Session						
		Legislative Adjustments				Revised
	Continuation Budget 2013-14	Recurring Adjustments	Nonrecurring Adjustments	Net Changes	FTE Changes	Appropriation 2013-14
Natural And Economic Resources:						
Agriculture and Consumer Services	108,918,334	3,751,568	2,000,800	5,752,368	15.00	114,670,702
Commerce	33,469,442	6,119,468	3,072,946	9,192,414	(7.17)	42,661,856
Commerce - State Aid	59,714,814	(50,459,004)	250,000	(50,209,004)	0.00	9,505,810
Environment and Natural Resources	109,140,591	42,683,820	6,065,720	48,749,540	82.32	157,890,131
Labor	16,196,339	500,000	0	500,000	0.00	16,696,339
Wildlife Resources Commission	18,476,588	(9,000,000)	0	(9,000,000)	0.00	9,476,588
Total Natural and Economic Resources	**345,916,108**	**(6,404,148)**	**11,389,466**	**4,985,318**	**90.15**	**350,901,426**
General Government:						
Administration	68,316,992	(49,148)	(1,150,659)	(1,199,807)	(4.90)	67,117,185
Auditor	11,013,547	203,921	0	203,921	2.00	11,217,468
Cultural Resources	63,626,477	(1,713,559)	1,021,579	(691,980)	(3.00)	62,934,497
Cultural Resources - Roanoke Island	1,058,757	(1,058,757)	0	(1,058,757)	0.00	0
General Assembly	52,845,390	(499,499)	(896,608)	(1,396,107)	(3.60)	51,449,283
Governor	5,539,743	(419,693)	0	(419,693)	0.00	5,120,050
Housing Finance Agency	9,408,417	(32,168)	(876,785)	(908,953)	0.00	8,499,464
Insurance	38,454,593	(460,589)	0	(460,589)	(9.00)	37,994,004
Insurance - Workers' Compensation Fund	2,623,654	(2,623,654)	0	(2,623,654)	0.00	0
Lieutenant Governor	444,047	231,042	6,000	237,042	3.00	681,089
Office of Administrative Hearings	4,335,464	221,692	170,388	392,080	1.00	4,727,544
Revenue	80,031,575	5,285,510	19,660	5,305,170	3.00	85,336,745
Secretary of State	11,845,185	(229,184)	0	(229,184)	(2.00)	11,616,001
State Board of Elections	5,213,445	(20,313)	1,505,900	1,485,587	10.00	6,699,032
State Budget and Management	6,951,706	(114,634)	0	(114,634)	(2.00)	6,837,072
State Budget and Management - Special	49,000	(49,000)	1,800,000	1,751,000	0.00	1,800,000
State Controller	29,279,290	(1,118,599)	0	(1,118,599)	(15.00)	28,160,691
Treasurer - Operations	6,851,090	175,215	1,111,585	1,286,800	(1.00)	8,137,890
Treasurer - Retirement / Benefits	23,179,042	0	0	0	0.00	23,179,042
Total General Government	**421,067,414**	**(2,271,417)**	**2,711,060**	**439,643**	**(21.50)**	**421,507,057**
Statewide Reserves and Debt Service:						
Debt Service:						
Interest / Redemption	707,080,339	17,977,457	0	17,977,457		725,057,796
Federal Reimbursement	1,616,380	0	0	0		1,616,380
Subtotal Debt Service	**708,696,719**	**17,977,457**	**0**	**17,977,457**		**726,674,176**

Summary of General Fund Appropriations Fiscal Year 2013-14 2013 Legislative Session						
		Legislative Adjustments				Revised
	Continuation Budget 2013-14	Recurring Adjustments	Nonrecurring Adjustments	Net Changes	FTE Changes	Appropriation 2013-14
Statewide Reserves:						
Statewide Compensation Study	0	0	1,000,000	1,000,000	0.00	1,000,000
Severance Expenditure Reserve	0	0	37,126,314	37,126,314	0.00	37,126,314
Disability Income Plan of North Carolina	0	(1,100,000)	0	(1,100,000)	0.00	(1,100,000)
Teachers' & State Employees' Retirement Contribution	0	36,000,000	0	36,000,000	0.00	36,000,000
Judicial Retirement System Contribution	0	1,000,000	0	1,000,000	0.00	1,000,000
Information Technology Fund	6,053,142	0	0	0	0.00	6,053,142
Information Technology Reserve Fund	0	7,335,000	23,665,000	31,000,000	33.00	31,000,000
One North Carolina Fund	9,000,000	0	0	0	0.00	9,000,000
State Health Plan	0	34,000,000	0	34,000,000	0.00	34,000,000
Contingency and Emergency Fund	5,000,000	0	0	0	0.00	5,000,000
Firemen's and Rescue Squad Workers' Pension Fund	0	(820,000)	0	(820,000)	0.00	(820,000)
NC Government Efficiency and Reform Project	0	0	2,000,000	2,000,000	0.00	2,000,000
Unemployment Insurance Reserve	0	0	23,800,000	23,800,000	0.00	23,800,000
Job Development Investment Grants (JDIG)	27,400,000	24,423,772	0	24,423,772	0.00	51,823,772
Reserve for Escheat Fund Global TransPark Debt Repayment	0	0	27,000,000	27,000,000	0.00	27,000,000
Subtotal Statewide Reserves	**47,453,142**	**100,838,772**	**114,591,314**	**215,430,086**	**33.00**	**262,883,228**
Total Reserves and Debt Service	**756,149,861**	**118,816,229**	**114,591,314**	**233,407,543**	**33.00**	**989,557,404**
Total General Fund for Operations	**20,243,669,050**	**206,021,341**	**117,940,309**	**323,961,650**	**(1,545.58)**	**20,567,630,700**
Capital Improvements						
Water Resources Development Projects	0	0	6,917,000	6,917,000	0.00	6,917,000
Other Capital Improvements	0	0	10,225,000	10,225,000	0.00	10,225,000
Total Capital Improvements	**0**	**0**	**17,142,000**	**17,142,000**	**0.00**	**17,142,000**
Total General Fund Budget	**20,243,669,050**	**206,021,341**	**135,082,309**	**341,103,650**	**(1,545.58)**	**20,584,772,700**

Summary of General Fund Appropriations Fiscal Year 2014-15 2013 Legislative Session						
		Legislative Adjustments				Revised
	Continuation Budget 2014-15	Recurring Adjustments	Nonrecurring Adjustments	Net Changes	FTE Changes	Appropriation 2014-15
Education:						
Community Colleges	1,037,430,475	(23,115,008)	0	(23,115,008)	2.50	1,014,315,467
Public Education	8,111,097,830	(78,509,502)	0	(78,509,502)	(43.25)	8,032,588,328
University System	2,737,874,470	(110,005,310)	0	(110,005,310)	4.00	2,627,869,160
Total Education	**11,886,402,775**	**(211,629,820)**	**0**	**(211,629,820)**	**(36.75)**	**11,674,772,955**
Health and Human Services:						
Central Management and Support	54,718,515	7,072,041	864,655	7,936,696	(6.00)	62,655,211
Aging and Adult Services	54,443,196	(100,855)	0	(100,855)	0.00	54,342,341
Blind and Deaf / Hard of Hearing Services	8,178,618	0	0	0	0.00	8,178,618
Child Development and Early Education	259,254,083	(1,590,625)	(2,624,189)	(4,214,814)	(14.00)	255,039,269
Health Service Regulation	16,761,992	(300,000)	0	(300,000)	0.00	16,461,992
Medical Assistance	3,083,576,810	571,509,742	0	571,509,742	0.00	3,655,086,552
Mental Health, Devel. Disabilities, & Substance Abuse Svcs	706,797,747	(45,054,252)	16,848,589	(28,205,663)	(589.03)	678,592,084
NC Health Choice	80,131,026	(23,849,621)	0	(23,849,621)	0.00	56,281,405
Public Health	156,784,502	(17,804,004)	6,000,000	(11,804,004)	(208.00)	144,980,498
Social Services	170,629,904	(2,937,001)	4,826,346	1,889,345	0.00	172,519,249
Vocational Rehabilitation	39,284,143	(510,974)	0	(510,974)	0.00	38,773,169
Total Health and Human Services	**4,630,560,536**	**486,434,451**	**25,915,401**	**512,349,852**	**(817.03)**	**5,142,910,388**
Justice and Public Safety:						
Public Safety	1,732,859,184	(18,846,044)	(21,825,152)	(40,671,196)	(472.70)	1,692,187,988
Judicial	458,416,996	(4,290,254)	1,250,000	(3,040,254)	(24.50)	455,376,742
Judicial - Indigent Defense	114,505,898	(5,148,634)	0	(5,148,634)	(3.25)	109,357,264
Justice	80,773,575	(30,408,001)	1,000,000	(29,408,001)	(414.00)	51,365,574
Total Justice and Public Safety	**2,386,555,653**	**(58,692,933)**	**(19,575,152)**	**(78,268,085)**	**(914.45)**	**2,308,287,568**

Summary of General Fund Appropriations Fiscal Year 2014-15 2013 Legislative Session						
		Legislative Adjustments				Revised
	Continuation Budget	Recurring	Nonrecurring	Net	FTE	Appropriation
	2014-15	Adjustments	Adjustments	Changes	Changes	2014-15
Natural And Economic Resources:						
Agriculture and Consumer Services	108,918,334	4,351,568	1,500,000	5,851,568	15.00	114,769,902
Commerce	33,469,442	9,373,317	2,850,000	12,223,317	(8.17)	45,692,759
Commerce - State Aid	61,954,814	(52,699,004)	0	(52,699,004)	0.00	9,255,810
Environment and Natural Resources	109,220,682	48,355,081	(190,000)	48,165,081	67.32	157,385,763
Labor	16,196,339	500,000	0	500,000	0.00	16,696,339
Wildlife Resources Commission	18,476,588	(9,000,000)	0	(9,000,000)	0.00	9,476,588
Total Natural and Economic Resources	**348,236,199**	**880,962**	**4,160,000**	**5,040,962**	**74.15**	**353,277,161**
General Government:						
Administration	68,241,992	(194,212)	(1,476,543)	(1,670,755)	(5.90)	66,571,237
Auditor	11,013,547	203,921	0	203,921	2.00	11,217,468
Cultural Resources	63,629,480	(2,359,776)	156,725	(2,203,051)	(4.00)	61,426,429
Cultural Resources - Roanoke Island	1,058,757	(1,058,757)	0	(1,058,757)	0.00	0
General Assembly	52,845,390	(529,499)	(831,124)	(1,360,623)	(3.60)	51,484,767
Governor	5,541,825	(419,693)	0	(419,693)	0.00	5,122,132
Housing Finance Agency	9,408,417	(32,168)	(876,785)	(908,953)	0.00	8,499,464
Insurance	38,464,213	(460,589)	0	(460,589)	(9.00)	38,003,624
Insurance - Workers' Compensation Fund	2,623,654	(2,623,654)	0	(2,623,654)	0.00	0
Lieutenant Governor	444,047	231,042	0	231,042	3.00	675,089
Office of Administrative Hearings	4,350,431	222,150	80,000	302,150	1.00	4,652,581
Revenue	80,031,575	5,285,510	0	5,285,510	3.00	85,317,085
Secretary of State	11,845,185	(229,184)	0	(229,184)	(2.00)	11,616,001
State Board of Elections	5,213,445	(20,313)	828,400	808,087	10.00	6,021,532
State Budget and Management	7,034,217	(114,634)	0	(114,634)	(2.00)	6,919,583
State Budget and Management - Special	49,000	(49,000)	1,500,000	1,451,000	0.00	1,500,000
State Controller	29,279,290	(1,118,599)	0	(1,118,599)	(15.00)	28,160,691
Treasurer - Operations	6,851,090	175,215	0	175,215	(1.00)	7,026,305
Treasurer - Retirement / Benefits	23,179,042	0	0	0	0.00	23,179,042
Total General Government	**421,104,597**	**(3,092,240)**	**(619,327)**	**(3,711,567)**	**(23.50)**	**417,393,030**
Statewide Reserves and Debt Service:						
Debt Service:						
Interest / Redemption	707,080,339	38,391,499	0	38,391,499		745,471,838
Federal Reimbursement	1,616,380	0	0	0		1,616,380
Subtotal Debt Service	**708,696,719**	**38,391,499**	**0**	**38,391,499**		**747,088,218**

Summary of General Fund Appropriations Fiscal Year 2014-15 2013 Legislative Session						
		Legislative Adjustments				Revised
	Continuation Budget 2014-15	Recurring Adjustments	Nonrecurring Adjustments	Net Changes	FTE Changes	Appropriation 2014-15
Statewide Reserves:						
Firemen's and Rescue Squad Workers' Pension Fund	0	(820,000)	0	(820,000)	0.00	(820,000)
Disability Income Plan of North Carolina	0	(1,100,000)	0	(1,100,000)	0.00	(1,100,000)
Teachers' & State Employees' Retirement Contribution	0	36,000,000	0	36,000,000	0.00	36,000,000
Judicial Retirement System Contribution	0	1,000,000	0	1,000,000	0.00	1,000,000
Reserve for Future Benefit Needs	0	56,400,000	0	56,400,000	0.00	56,400,000
Information Technology Fund	6,053,142	0	0	0	0.00	6,053,142
Information Technology Reserve Fund	0	11,820,000	24,180,000	36,000,000	44.00	36,000,000
One North Carolina Fund	9,000,000	0	0	0	0.00	9,000,000
State Health Plan	0	77,000,000	0	77,000,000	0.00	77,000,000
Contingency and Emergency Fund	5,000,000	0	0	0	0.00	5,000,000
NC Government Efficiency and Reform Project	0	0	2,000,000	2,000,000	0.00	2,000,000
Unemployment Insurance Reserve	0	0	13,600,000	13,600,000	0.00	13,600,000
Job Development Investment Grants (JDIG)	27,400,000	35,645,357	0	35,645,357	0.00	63,045,357
Subtotal Statewide Reserves	**47,453,142**	**215,945,357**	**39,780,000**	**255,725,357**	**44.00**	**303,178,499**
Total Reserves and Debt Service	**756,149,861**	**254,336,856**	**39,780,000**	**294,116,856**	**44.00**	**1,050,266,717**
Total General Fund for Operations	**20,429,009,621**	**468,237,276**	**49,660,922**	**517,898,198**	**(1,673.58)**	**20,946,907,819**
Capital Improvements						
Water Resources Development Projects	0	0	5,000,000	5,000,000	0.00	5,000,000
Other Capital Improvements	0	0	3,250,000	3,250,000	0.00	3,250,000
Total Capital Improvements	**0**	**0**	**8,250,000**	**8,250,000**	**0.00**	**8,250,000**
Total General Fund Budget	**20,429,009,621**	**468,237,276**	**57,910,922**	**526,148,198**	**(1,673.58)**	**20,955,157,819**

EDUCATION
Section F

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Public Education

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$7,984,924,757**		**$8,111,097,830**	
Legislative Changes				
A. Technical Adjustments				
1 Average Daily Membership (ADM) Revises projected ADM to reflect 6,642 more students than originally projected in FY 2013-14 and 6,636 more students than originally projected in FY 2014-15. This adjustment includes revisions to all position, dollar, and categorical allotments. Total revised allotted ADM for FY 2013-14 is 1,509,985, an increase of 17,192 students over FY 2012-13. Total revised allotted ADM for FY 2014-15 is 1,526,591, an increase of 16,606 students over FY 2013-14.	$11,776,341	R	$12,316,344	R
2 Average Salaries for Certified Personnel Revises budgeted funding for certified personnel salaries based on actual salary data from December 2012. The adjustment does not reduce any salary paid to certified personnel, nor does it reduce the number of guaranteed State-funded teachers, administrators, or instructional support personnel.	($11,873,083)	R	($11,980,756)	R
3 Civil Penalties Increases budgeted receipts from Civil Penalties and takes a corresponding General Fund reduction to reflect one-time transfers from the Department of Transportation in FY 2012-13. These funds are used to support State Public School Fund requirements.	($25,950,674)	NR		
4 Small County Supplemental Funding Adjusts this supplemental allotment for small counties to align funding availability with actual school district eligibility. This adjustment will not reduce funding to eligible districts. $44.0 million will be available in this allotment in FY 2013-14 and FY 2014-15.	($1,555,885)	R	($1,555,885)	R
5 Sales Tax Receipts Transfer to State Public School Fund Increases the annual transfer from the Department of Revenue (DOR) to the State Public School Fund based on projected growth in State sales tax proceeds. This transfer was initiated in S.L. 2005-276 in lieu of a State sales tax refund to local school administrative units (LEAs). Funds from the DOR transfer are used to support State Public School Fund requirements. The total DOR transfer will be $51.3 million in FY 2013-14; $52.8 million in FY 2014-15.	($5,025,426)	R	($6,553,965)	R

	FY 13-14		FY 14-15	
6 Low Wealth Supplemental Funding Adjusts the supplemental allotment for school districts in low wealth communities to align funding availability with actual school district eligibility. This adjustment will not reduce funding to eligible districts. In addition, Section 8.3 of this act adjusts the Low Wealth formula to modify the income eligibility criteria of certain districts with a significant military presence. $212.5 million will be available in this allotment in FY 2013-14 and FY 2014-15.	($14,945,402)	R	($14,945,402)	R
B. Elimination of the LEA Adjustment				
7 LEA Adjustment Elimination Eliminates the LEA Adjustment completely. The elimination is accomplished by: 1) providing additional General Fund support to lower the recurring amount of the Adjustment, and, 2) reducing specific allotments in approximately the same proportion as school districts have done the last two years in implementing the Adjustment.	$376,124,279	R	$376,124,279	R
8 Classroom Teachers Adjusts funding to school districts for guaranteed Classroom Teachers positions, modifying this allotment in approximately the same proportion that school districts had done in previous fiscal years to implement the LEA Adjustment. Nearly 70% of all funds foregone by LEAs over the last two years to comply with the Adjustment came from the Classroom Teachers and Career Technical Education Months of Employment allotments. Revised ratios for distributing guaranteed positions from this allotment are as follows: FY 2013-14 K: 1 teacher per 19 students 1-3: 1 teacher per 18 students 4-6: 1 teacher per 24 students 7-8: 1 teacher per 23 students 9: 1 teacher per 26.5 students 10-12: 1 teacher per 29 students FY 2014-15 K: 1 teacher per 19 students 1: 1 teacher per 18 students 2-3: 1 teacher per 17 students 4-6: 1 teacher per 24 students 7-8: 1 teacher per 23 students 9: 1 teacher per 26.5 students 10-12: 1 teacher per 29 students	($286,433,312)	R	($245,897,168)	R
9 Instructional Support Personnel Adjusts funding to school districts for guaranteed Instructional Support positions, modifying this allotment in approximately the same proportion that school districts had done in previous fiscal years to implement the LEA Adjustment. Nearly 5% of all funds foregone by LEAs over the last two years to comply with the Adjustment came from this allotment. $323.0 million will be available in this allotment in FY 2013-14; $326.1 million will be available in FY 2014-15.	($16,990,590)	R	($17,186,802)	R

	FY 13-14		FY 14-15	
10 Instructional Supplies Adjusts funding to school districts for Instructional Supplies, modifying this allotment in approximately the same proportion that school districts had done in previous fiscal years to implement the LEA Flexibility Adjustment. LEAs gave up over $5 million in FY 2012-13 from this allotment to comply with the Adjustment. $43.2 million will be available in this allotment in FY 2013-14; $43.3 million will be available in FY 2014-15.	($6,919,008)	R	($7,372,550)	R
C. Other Public School Funding Adjustments				
11 Limited English Proficiency Reduces the allotment for Limited English Proficiency. Of the $6 million reduction, $3 million is reduced to account for declining enrollment based on revised student headcount figures. $75.3 million will be available in this allotment in FY 2013-14; $82.0 million will be available in FY 2014-15.	($6,000,000)	R	($6,000,000)	R
12 ACT Assessments Provides a dedicated source of State funding for the administration of the ACT testing suite, which include the ACT, PLAN, EXPLORE, and WorkKeys diagnostic assessments.	$7,500,000	R	$7,500,000	R
13 School Bus Replacement Reduces funding for school bus replacement and modifies the school bus replacement standards. Currently school buses are eligible for replacement after 20 years or 200,000 miles of service. This item modifies the mileage standard to 250,000 miles of service and appropriates sufficient funding to replace all school buses meeting the revised criteria. 604 buses will be replaced in FY 2013-14; 721 buses will be replaced in FY 2014-15. $39.1 million will be available for this purpose in FY 2013-14; $54.1 million will be available in FY 2014-15.	($28,425,435)	R	($34,560,126)	R
14 Education Value Added Assessment System (EVAAS) Increases General Fund support for EVAAS to continue expansion initially supported by receipts in FY 2012-13. That expansion enables: 1) direct access to value-added information for teachers who teach classes with an End of Course/End of Grade test, and 2) capability for users to export EVAAS data and merge it with other relevant analyses. Total EVAAS funding will be $2.7 million.	$850,000	R	$850,000	R
15 EVAAS School Performance Grades Provides funds for the data collection, analysis and calculation of school performance grades, as described in Section 9.4.	$300,000	NR	$100,000	R
16 Teacher Assistants Reduces and modifies Teacher Assistants funding. The current allotment provides LEAs with $1,182.69 per student in grades K-3 for teacher assistants. The revised allotment will provide the funding equivalent of a Teacher Assistant position for every 18 students in grades K-1, or $1,727.83 per student. In FY 2013-14, $428.4 million will remain in this allotment. In FY 2014-15, $438.2 million will remain in this allotment.	($142,329,582)	R	($149,188,180)	R

	FY 13-14		FY 14-15	
17 Education-Based Salary Supplements Phases out education-based salary supplements in FY 2014-15 for education personnel not compensated for such supplements in FY 2013-14, as directed in Section 8.22.			($23,500,000)	R
18 Education Services for Children at Certain Juvenile Facilities Transfers responsibility and funding for teachers in juvenile facilities to the Department of Public Instruction (DPI), effective July 1, 2014. Local Education Agencies with a Youth Development Center or a Detention Center within the district will be responsible for providing services and will receive funding from DPI to carry out these tasks.			$3,828,824	R
D. Pass-through Funds				
19 Teach for America Provides additional State support to Teach for America (TFA), an organization that focuses on new teacher recruitment, training and placement in high-need school districts. Funds will support the establishment of a TFA program in the Triad region, growth of existing efforts in Southeastern North Carolina, targeted subject-specific recruitment, and the assumption of management responsibilities for the NC Teacher Corps program beginning in FY 2014-15. State support for TFA will total $6 million in both years of the biennium.	$5,100,000	R	$5,100,000	R
20 Tarheel ChalleNGe Transfers funding from the Department of Public Instruction for Tarheel ChalleNGe, a National Guard program for at-risk youth, to the Department of Public Safety (DPS) budget. The State funds were transferred to DPI in 2009, but federal matching funds remain with DPS. This transfer consolidates all of the funding for Tarheel ChalleNGe in one place. A corresponding increase can be found in the Justice and Public Safety Section of this budget.	($767,719)	R	($767,719)	R
21 North Carolina Center for the Advancement of Teaching (NCCAT) Eliminates State support for the ongoing operations of this teacher professional development provider. $88,616 will remain available in FY 2013-14 for upkeep of the two NCCAT facilities until they are otherwise conveyed. Anticipated severance costs are included in the Severance Expenditure Reserve.	($3,130,606) -46.25	R	($3,219,222) -46.25	R
22 Teaching Fellows Continues the phase-out, begun in S.L. 2011-145, of State support for the Teaching Fellows program . This adjustment continues the reductions initiated in the preceding biennium while preserving the prior General Assembly's intent to support obligations made to previous Fellows classes until the State's scholarship commitment is completed. Additionally, this item reduces the cash balance of the Teaching Fellows Trust Fund by $1.3 million in FY 2013-14.	($3,095,000) ($1,300,000)	R NR	($6,190,000)	R

Senate Subcommittee on Education	FY 13-14		FY 14-15	
E. Department of Public Instruction				
23 Office of Charter Schools Adds three consultant positions to DPI's Office of Charter Schools. These positions will be used to keep pace with the increase of newly-established charter schools in North Carolina. Funds are included for salaries and benefits, travel, technology needs, and miscellaneous expenses.	$320,000 3.00	R	$320,000 3.00	R
24 DPI Flexible Reduction Reduces State support for Department of Public Instruction operations, including salaries and benefits, by 2.5%. The State Board of Education may allocate this reduction at its discretion.	($1,040,654)	R	($1,040,654)	R
F. Excellent Public Schools Act				
25 Excellent Public Schools Act Provides additional funds to the Department of Public Instruction to carry out the elements of the Excellent Public Schools Act contained in Section 7A.1 of S.L. 2012-142.	$18,578,841	R	$35,109,480	R
26 Merit Pay for Teachers Provides funds to allow superintendents to provide a $500 annual pay raise in FY 2014-15 for each teacher opting to enter into a four-year contract based on effectiveness, pursuant to Section 9.6.			$10,200,000	R
Total Legislative Changes	**($108,282,241)** **($26,950,674)**	R NR	**($78,509,502)**	R
Total Position Changes	-43.25		-43.25	
Revised Budget	**$7,849,691,842**		**$8,032,588,328**	

Community Colleges

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$1,037,430,475**		**$1,037,430,475**	
Legislative Changes				
A. Enrollment				
27 Enrollment Model Funding Change Modifies the community college enrollment funding model. Currently, community colleges are funded based on the higher of the prior year's actual enrollment or the three-year average enrollment. This adjustment shifts the three-year average to a two-year average, and accounts for varying enrollment among the tiered funding levels. The State Board of Community Colleges shall allocate the $4 million nonrecurring in FY 2013-14 to phase in the reduction for those colleges most affected by the policy change.	($19,893,462) $4,000,000	R NR	($19,893,462)	R
B. Tuition and Fees				
28 Curriculum Tuition Increases curriculum tuition by $2.50 per credit hour and makes a corresponding General Fund reduction in anticipation of increased tuition receipts. Tuition will increase from $69 to $71.50 per credit hour for residents and from $261 to $263.50 for nonresidents. Tuition for full-time resident students will increase by a maximum of $80 per year, from $2,208 to $2,288.	($10,433,065)	R	($10,433,065)	
29 Continuing Education Fee Increases continuing education fees by $5 per course and takes a corresponding General Fund reduction in anticipation of increased tuition receipts. The new fees will be as follows: Classes 1-24 hours - $70, Classes 25-50 hours - $125, Classes 51+ hours - $180.	($664,509)	R	($664,509)	R
30 Senior Citizens Tuition Waiver Eliminates the tuition waiver found in G.S. 115D-5(b)(11) that waives tuition for up to six hours of credit instruction and one course of noncredit instruction per academic semester for senior citizens age 65 or older who are qualified as legal residents of North Carolina.	($970,000)	R	($970,000)	R

	FY 13-14		FY 14-15	
C. State Aid Adjustments				
31 Restore Management Flexibility Reduction Provides funding to restore 12% of the management flexibility reduction. These funds will be distributed to colleges in accordance with the Community College Institutional Performance Accountability structure, as amended in Section 10.5. The remaining management flexibility reduction will be $73,233,302.	$10,000,000	R	$10,000,000	R
32 Equipment Provides funds for the purchase of instructional equipment and technology at all 58 colleges. These funds are in addition to the $49 million included in the base budget for this purpose. Funds shall be distributed in accordance with the existing equipment formula.	$10,000,000	NR		
33 Manufacturing Solutions Center Provides additional funding for the Manufacturing Solutions Center at Catawba Valley Community College. Total funding for this program will be $696,922.	$150,000	R	$150,000	R
34 Textile Technology Center Provides additional funding for the Textile Technology Center at Gaston College. Total funding for this program will be $503,954.	$150,000	R	$150,000	R
35 Customized Training Reduces the Customized Training budget on a one-time basis. Total recurring funding for the program is $12.5 million; however, per G.S. 115D-5.1(f2), unexpended funds for the program do not revert and are instead carried forward to the next year. The total amount available for expenditure in FY 2013-14 is projected to be $20.8 million.	($2,000,000)	NR		
36 Data Connectivity Eliminates a portion of the recurring funding for data connectivity at each community college's main campus. Due to their concentrated buying power, community colleges were able to negotiate lower rates and these funds have remained unspent. Total funding remaining for the initiative will be $4,986,528.	($647,972)	R	($647,972)	R
37 BioNetwork Reduces funds for the BioNetwork program. Total funding remaining for the program will be $4,159,611.	($100,000)	R	($100,000)	R
38 Botanical Laboratory Reduces support for the categorical allotment for the botanical laboratory at Fayetteville Technical Community College. The college will continue to receive regular FTE formula funding for enrollment at the botanical laboratory, and may use other State funding allocated to it to continue the program.	($164,000)	R	($164,000)	R
39 Mentoring Program Reduces funding for the Minority Male Mentoring program by 20% and expands the program mission to include all community college students with an increased likelihood of dropping out. Total funding remaining for the new program will be $648,000.	($162,000)	R	($162,000)	R

	FY 13-14		FY 14-15	
D. Community Colleges System Office Adjustments				
40 GED Program Office Shifts $104,266 in FY 2013-14 and $208,533 in FY 2014-15 from the Basic Skills Block Grant to the Community Colleges System Office to administer the Adult High School and General Education Development (GED) Programs. S.L. 2011-145 shifted this program's budget and the associated 2.5 positions from General Fund appropriations to receipt support from GED exam fees. Due to changes in the GED exam, these fees will no longer be paid to the System Office as of January 1, 2014. This item shifts the program budget, including two GED and Adult High School Tech positions and one-half of the Education Program Director position, back to General Fund appropriations.	2.50		2.50	
41 State Board of Community Colleges Budget Reduces funding for the State Board Reserve ($250,000) and State Board travel ($10,000). Section 10.10 reduces the annual number of required State Board meetings from ten to eight.	($260,000)	R	($260,000)	R
42 System Office Advertising and Travel Reduces the System Office budget for advertising ($100,000) and travel ($20,000).	($120,000)	R	($120,000)	R
Total Legislative Changes	**($23,115,008)** **$12,000,000**	R NR	**($23,115,008)**	
Total Position Changes	2.50		2.50	
Revised Budget	**$1,026,315,467**		**$1,014,315,467**	

UNC System

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$2,709,551,807**		**$2,737,874,470**	
Legislative Changes				
43 Management Flexibility Reduction Mandates a management flexibility reduction for the UNC operating budget. As directed in Section 11.5, the UNC Board of Governors shall not allocate this reduction on an across-the-board basis to constituent institutions.	($47,988,719)	R	($75,386,050)	R
44 Administrative and Operational Efficiencies Reduces funding in anticipation of savings from the implementation of administrative and operational efficiencies, including: - Shared services for residency determination, internal audit, financial aid review, and IT infrastructure; - Strategic purchasing; - Span of control evaluations; - Improved business practices; and - Energy efficiency measures.	($10,000,000)	R	($15,000,000)	R
45 Instructional Efficiencies Reduces funding in anticipation of savings from the implementation of system-wide academic programming measures, including system-wide section size guidelines and improved transferability of credits between UNC campuses.	($15,800,000)	R	($21,100,000)	R
46 Program Consolidation Reduces funding in anticipation of savings from the consolidation of small or duplicative programs within the UNC System.			($1,900,000)	R
47 Optional Retirement Program Forfeitures Reduces UNC's budget by $4 million annually. The UNC System shall offset this reduction by replacing contributions to the Optional Retirement Program with forfeitures the Program receives under G.S. 135-5.1(b)(5).	($4,000,000)	R	($4,000,000)	R
48 McNair Hall Building Reserve Eliminates recurring operating funds previously budgeted for an addition to McNair Hall at NCA&T State University. The McNair Hall addition was to be part of the Graduate Engineering School Project but has been cancelled.	($150,185)	R	($150,185)	R

	FY 13-14		FY 14-15	
49 WCU Engineering Degree Program at Biltmore Park			$719,844	R
Provides funding for a general engineering degree program at Western Carolina University's Biltmore Park Town Square location in Buncombe County. Funds will help support start-up costs, four full-time equivalent positions, and ongoing program operations.	$698,962	NR	4.00	
50 Tuition Grant for NC Science & Math Graduates	($1,248,310)	R	($2,469,075)	R
Completes the phase out of the UNC tuition grant for graduates of the North Carolina School of Science and Math (NCSSM). $1,220,765 will remain in the budget for FY 2013-14 to pay tuition for students who graduated from NCSSM in 2010; all funding is eliminated for FY 2014-15.				
51 National Board Certification Loan Program	($3,174,500)	R	($3,174,500)	R
Reduces recurring funding for this revolving loan program for teachers pursuing certification by the National Board for Professional Teaching Standards. Total remaining recurring funding will be $100,000. Additionally, Section 11.2 reduces the available fund balance for the program, leaving $1,300,000 to support ongoing operations.				
52 UNC Need-Based Grant Forward Funding Reserve	$3,454,656	R	$3,454,656	R
Provides additional funding for the UNC Need-Based Grant Forward Funding Reserve, in order to shift the entire program to forward funding for FY 2014-15. In addition to these funds, Section 11.2 appropriates an additional $60.2 million in FY 2013-14 to the reserve.	$20,882	NR		
A total of $122,475,842 will be available for scholarships for the 2013-14 academic year; $123,447,347 will be available in the 2014-15 academic year.				
53 UNC Need-Based Grant				
Decreases General Fund support for the program on a nonrecurring basis, to offset a one-time increase from the Escheat Fund. Total funding available for scholarships in the 2013-14 academic year will remain at $122,475,842.	($27,000,000)	NR		
54 Institute for Regenerative Medicine	$7,000,000	R	$7,000,000	R
Transfers funds for the Institute for Regenerative Medicine at Wake Forest University from the Commerce-State Aid budget to the UNC System budget.				
55 North Carolina Center for Vaccine Innovation	$2,000,000	R	$2,000,000	R
Provides start-up funding for the North Carolina Center for Vaccine Innovation, a non-profit consortium of the Schools of Medicine at UNC-Chapel Hill, East Carolina University, Wake Forest University, and Duke University; as well as North Carolina State University, UNC Charlotte, the North Carolina Biotechnology Center, the North Carolina Biosciences Organization, and the National Center for Biotechnology Workforce.				

	FY 13-14		FY 14-15	
Total Legislative Changes	($69,907,058)	R	($110,005,310)	R
	($26,280,156)	NR		
Total Position Changes			4.00	
Revised Budget	$2,613,364,593		$2,627,869,160	

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HEALTH
&
HUMAN SERVICES
Section G

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Health and Human Services

GENERAL FUND

	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$4,615,870,375**		**$4,630,560,536**	

Legislative Changes

(1.0) Division of Central Management and Support

1 Office of Citizen Services Positions Eliminates six positions associated with the elimination of the NC Care Line in S.L. 2011-145. 60037847 Processing Assistant III 60037849 Community Service Consultant 60037850 Administrative Officer I 60037854 Processing Assistant V 60037855 Human Service Planner/Evaluator II 60090103 Administrative Officer I	($339,787) -6.00	R	($339,787) -6.00	R
2 Adjustment Based on Historical Transfers Reduces funds based on transfers from the Division of Central Management to the Division of Medical Assistance. In FY 2010-11 approximately $3.7 million was transferred from lapsed salary, contracts and Division of Information and Resource Management (DIRM) administration accounts. In FY 2011-12 approximately $2.7 million was transferred from lapsed salary and indirect cost accounts. These funds were transferred to the Division of Medical Assistance to cover Medicaid shortfalls in both years.	($1,982,830)	R	($1,982,830)	R
3 North Carolina Families Accessing Services Through Technology (NC FAST) Provides funds to match federal receipts and continue the development and implementation of NC FAST.			$864,655	NR
4 Department of Justice Settlement Agreement Provides funds pursuant to the agreement between the State and the U.S. Department of Justice to develop and implement housing, support, and other services for people with mental illness. The funds will be used to provide services to an additional 150 people in FY 2013-14 and up to 708 people in FY 2014-15.	$3,834,275	R	$9,394,658	R
5 Medicaid Management Information System (MMIS) Directs the Department to use prior-year earned revenue to fund this system. FY 2013-14: $9,658,152 NR FY 2014-15: $1,666,625 NR				

	FY 13-14		FY 14-15	
6 DHHS Competitive Block Grant for Non-Profits				
Creates a performance-based, competitive block grant process to fund services historically provided by the non-State entities specifically designated for direct appropriation in S.L. 2012-142, Section 10.19(a). In FY 2012-13, funds were provided in specific amounts to these non-profit entities on a nonrecurring basis. Funds appropriated in FY 12-13 (approximately $9.2 million), funds provided to the High School Athletic Association (approximately $300,000), and the federal block funding indicated below have been consolidated into a State block grant to be administered by the Office of the Secretary in the Department of Health and Human Services. The Department is directed to create a Request For Application (RFA) process that will allow non-State entities to receive State funds on a competitive basis.	$9,529,134	NR		
Additional federal block grant funds available for this purpose include:				
Social Service Block Grant (SSBG) - $3,852,500 Maternal and Child Health Block Grant - $89,374 Preventive Health Services Block Grant - $1,331,961				
(2.0) Division of Child Development and Early Education				
7 Regulatory Positions Shifted from State to Federal Funding	($900,000)	R	($900,000)	R
Transfers $604,541 in salaries and $204,962 in benefits for14 positions as well as $90,497 in operating costs to receipt support by utilizing the Child Care Development Fund block grant. The Child Care Regulatory fund has $1.5 million remaining in state appropriations. The following positions are affected:	-14.00		-14.00	
60038736 Child Day Care Specialist 60038746 Child Day Care Specialist 60038747 Child Day Care Specialist 60038610 Child Day Care Specialist 60038743 Child Day Care Specialist 60038742 Child Day Care Specialist 60038735 Child Day Care Specialist 60038741 Child Day Care Specialist 60038745 Child Day Care Specialist 60038734 Child Day Care Specialist 60038739 Child Day Care Specialist 60038749 Child Day Care Specialist 60038730 Child Day Care Specialist 60038835 Program Assistant V				
8 Seat Management Funding Elimination	($38,125)	R	($38,125)	R
Eliminates funding for seat management, the outsourcing of management of workstation capabilities for employees, including hardware and software.				

	FY 13-14		FY 14-15	
9 Adjustments Based on Historical Transfers Reduces funds based on transfers from the Division of Child Development and Early Education to the Division of Medical Assistance. In FY 2011-12 approximately $870,000 was transferred from lapsed salary, contracts and administrative services to the Division of Medical Assistance to cover the Medicaid shortfall.	($652,500)	R	($652,500)	R
10 Pre-K Slot Transfers Transfers 2,500 Pre-K slots in FY 2013-14 and 5,000 in FY 2014-15 along with the General Fund appropriation to Child Care Subsidy. $52.6 million in General Fund appropriation is available for Pre-K in FY 2013-14, and $40.1 million General Fund appropriation is available for Pre-K in FY 2014-15.	($12,440,000)	R	($24,880,000)	R
11 Child Care Subsidy Increase Increases funding to address the waiting list for Child Care Subsidy. FY 2013-14 funding will serve approximately 2,600 additional children. FY 2014-15 funding will serve approximately 5,200 additional children.	$12,440,000	R	$24,880,000	R
12 State Funds for Child Care Subsidy Replacement Replaces the General Fund appropriation for child care subsidy with block grant funds and a transfer from the Pre-K Program. There is an overall net increase to child care subsidy of $9.8 million in FY 2013-14 and a net increase of $22.2 million in FY 2014-15. Total funds from all sources will be $360 million in FY 2013-14 and $372 million in FY 2014-15.	($2,624,189)	NR	($2,624,189)	NR
(4.0) Division of Social Services				
13 Seat Management Funding Elimination Eliminates funding for seat management, the outsourcing of management of workstation capabilities for employees, including hardware and software.	($606,695)	R	($606,695)	R
14 Adjustment Based on Historical Transfers Reduces funds based on historical transfers from the Division of Social Services to the Division of Medical Assistance. In FY 2010-11 $9.7 million was transferred from contracts, unused adoption and foster care services funding, and other administrative funds. In FY 2011-12 the division transferred approximately $15.3 million. Of this amount approximately $4.5 million was from unspent foster care and adoption services funding, $600,000 from lapsed salary, $1 million in contracts, and $4 million from non-recurring revenue from prior year earned revenue, indirect costs and prior year audit and adjustments. The remaining funds came from administration, including seat management. Some of the historical transfers are reduced in the seat management and contract and administrative reduction items. Foster Care and Adoption services funding was reduced in the continuation budget.	($1,875,000)	R	($1,875,000)	R

	FY 13-14		FY 14-15	
15 Contract and Administrative Savings Eliminates funds for the Child Welfare Multiple Response System (MRS) Conference that trained county staff on MRS. The conference is no longer needed as MRS has been implemented statewide. Also eliminates funds for the forms and supply warehouse that is no longer needed as the warehouse has closed. The remaining reduction is from administration and internet billing costs.	($1,066,123)	R	($1,066,123)	R
16 Federal Funds for County Child Welfare Services Replacement Provides funds to partially replace federal funding for child welfare administration due to a change in the application of federal policy. The State supports county DSS agencies at an overall rate of 31% of the non-federal share of their county budgets for public assistance and service programs. This appropriation replaces 33% of the lost federal funding on a nonrecurring basis to support the counties while the North Carolina Families Accessing Services through Technology (NCFAST) information system is being developed and implemented. Once fully implemented, NCFAST is projected to save administrative costs for counties.	$4,826,346	NR	$4,826,346	NR
17 NC Reach - Child Welfare Postsecondary Education Provides funds to support an additional 100 former foster care youth and children adopted after age 12 who attend college within the UNC and Community College systems. NC Reach funding is the payer of last resort and covers items such as books, supplies, transportation, and room and board not covered by other funding sources.	$547,245	R	$610,817	R
(6.0) Division of Vocational Rehabilitation				
18 Independent Living Program Administration Reduction Reduces the administrative budget for the Independent Living Program.	($10,000)	R	($10,000)	R
19 Vocational Rehabilitation Services Administration Funding Replaces General Fund appropriations budgeted for administrative expenses in the Vocational Rehabilitation Basic Support program with program receipts.	($102,236)	R	($102,236)	R
20 State Funding in the Assistive Technology Program Replaced Replaces the General Fund appropriation in the Assistive Technology Program with program receipts.	($98,738)	R	($98,738)	R
21 Historical Transfers to Medicaid Reduces funding based on transfers from the Division of Vocational Rehabilitation to the Division of Medical Assistance. In FY 2011-12 approximately $845,000 was transferred from indirect costs funds to the Division of Medical Assistance to cover the Medicaid shortfall.	($300,000)	R	($300,000)	R

	FY 13-14		FY 14-15	
(7.0) Division of Aging and Adult Services				
22 Seat Management Funding Elimination Eliminates funding for seat management within the Division. The Department discontinued outsourcing management of its workstation capabilities including hardware and software.	($855)	R	($855)	R
23 Adjustment Based on Historical Transfers Reduces funding based on transfers from the Division of Aging and Adult Services to the Division of Medical Assistance. In FY 2011-12 approximately $470,000 was transferred from lapsed salary and administration accounts were transferred to the Division of Medical Assistance to cover the Medicaid shortfall.	($300,000)	R	($300,000)	R
24 Home and Community Care Block Grant (HCCBG) Reduces the HCCBG and transfers the funds to expand Project C.A.R.E. statewide. $24.6 million in General Fund appropriation remains in the HCCBG to provide home and community-based services to seniors and disabled adults.	($2,900,000)	R	($2,900,000)	R
25 Caregiver Alternatives to Running on Empty (Project C.A.R.E.) Provides $500,000 to replace an expiring federal grant and an additional $2.4 million to expand Project C.A.R.E. statewide. The program provides respite and support services to families caring for a person with dementia at home.	$2,900,000	R	$2,900,000	R
26 Long-Term Care Ombudsman Replaces lost federal receipts and maintains the current level of service. In the FY 2011-13 budget, General Fund support for the Long-Term Care Ombudsman was replaced with federal civil monetary penalties receipts. Since then, the Centers for Medicare and Medicaid Services (CMS) has restricted the use of those federal receipts for this purpose.			$200,000	R
(8.0) Division of Public Health				
27 Early Intervention - Children's Developmental Services Agencies Reduces FY 2013-14 funding to the Division of Public Health based on historical transfers to the Division of Medical Assistance. In FY 2010-11, approximately $17.1 million was transferred from lapsed salary, administration, and contract accounts to address the Medicaid shortfall. In FY 2011-12, approximately $17.4 million was transferred. Of the amounts transferred, over half was lapsed salary and other unspent funds budgeted to the Early Intervention Branch. Also eliminates funding, effective July 1, 2014, for 4 of the 16 Children's Development Service Agencies (CDSAs). In determining which CDSAs to close, the Division shall make it a priority to maintain the CDSAs that have the highest caseloads of children who reside in rural or medically underserved areas of the State.	($8,000,000)	NR	($10,000,000) -160.00	R

	FY_13-14		FY_14-15	
28 AIDS Drug Assistance Program (ADAP) Drug Purchases Reduces ADAP funding to more accurately reflect current spending levels. ADAP provides pharmaceuticals to financially-eligible persons with AIDS. There are currently two ADAP funding sources: federal Ryan White CARE Act and State appropriations. Nonrecurring funds are provided in each year of the biennium to address potential waiting lists for AIDS pharmaceutical assistance.	($8,000,000) $6,000,000	R NR	($8,000,000) $6,000,000	R NR
29 Food and Lodging Permit Fee Reduces the General Fund appropriation and budgets increased food and lodging permit fee receipts. Effective July 1, 2013, the annual food and lodging permit fee increases from $75 to $120; the State's portion increases from $25 to $50.	($750,000)	R	($750,000)	R
30 Oral Health Section Eliminates 39 dental hygienist, 2 dental technician, and 7 administrative positions effective October 1, 2013, and reduces funding for administration. A portion of the savings will be allocated to local health department dental clinics to increase the number of dental hygienists and dental assistants providing clinical dental treatment and services. In addition to the 41 dental hygienist and dental equipment technician positions, the following administrative positions are eliminated: 60039581 Accounting Clerk V 60039585 Dental Hygienist Regional Coordinator 60039588 Public Health Regional Dentist Supervisor 60039589 Dental Hygienist Regional Coordinator 60039608 Public Health Regional Dentist Supervisor 60039627 Public Health Regional Dentist Supervisor 60039644 Education Media Specialist I	($2,865,762) -48.00	R	($3,583,681) -48.00	R
31 Local Health Department Dental Clinics Provides funding to local health departments that operate or sponsor dental clinics, effective October 1, 2013. The local health departments shall use the funds to hire dental hygienists to provide clinical dental treatment and services.	$1,558,257	R	$2,077,677	R
32 State Public Health Laboratory Provides funding for the State Public Health Laboratory to offset receipts lost due to FY 2010-11 Medicaid provider rate reductions.	$1,052,000	R	$1,052,000	R
33 NC Tobacco Use Quitline Provides funds to continue the operation of the North Carolina Tobacco Use Quitline (NC Quitline). NC Quitline provides free tobacco cessation services and treatment for NC residents.	$1,400,000	R	$1,400,000	R

	FY 13-14		FY 14-15	
(9.0) Division of Mental Health, Developmental Disabilities, and Substance Abuse Services				
34 LME/MCO Administration Reduces funds provided for Local Management Entities (LME)/Managed Care Organizations (MCO) administration funding formula. The LME/MCO transition phase will be fully implemented by July 1, 2013 resulting in savings to the General Fund.	($15,228,245)	R	($15,228,245)	R
35 Gambling Fund Balance Budgets accumulated lottery budget receipts transferred to the Division for gambling addiction education and treatment programs. This reduction is not anticipated to affect the level of services provided.	($416,264)	NR		
36 Alcohol and Drug Abuse Treatment Centers (ADATC) Closes the three State-operated ADATCs, effective July 1, 2013. Each ADATC has 80 beds, with average bed costs ranging from $570 to $670 per day. A portion of the resulting savings will be added to the single-stream funding and will be allocated to the Local Management Entities/Managed Care Organizations to be used for alcohol and substance abuse treatment services.	($37,951,761) -548.88	R	($50,602,349) -548.88	R
37 Alcohol and Substance Abuse Treatment Budgets a portion of the savings resulting from the closure of the three State-operated residential alcohol and drug abuse treatment facilities (ADATCs) to fund community-based and residential alcohol and substance abuse treatment services.	$10,000,000	R	$20,000,000	R
38 NC High School Athletic Association (NCHSAA) Eliminates the special appropriation for the NCHSAA and transfers the funding to the Division of Central Management and Support to be used for the performance-based, competitive block grant process, for which NCHSAA would be eligible to apply.	($332,491)	R	($332,491)	R
39 Wright School Closes the Wright School, a 24-bed residential school for children with mental health or behavioral disorders, effective July 1, 2013.	($2,709,912) -40.15	R	($2,709,912) -40.15	R
40 Broughton Hospital Beds Realigns the Division's base budget to transfer $3,513,000 recurring from Fund Code 1910 - Reserves and Transfers to Fund Code - 1561 Broughton Hospital to open 19 additional adult psychiatric care beds. These funds were originally appropriated by S.L. 2012-142 for this purpose but contingent upon the status of the Medicaid budget. Due to the contingency, FY 2012-13 funds were placed in the reserve account and then transferred to Budget Code 14445 to address the Medicaid budget shortfall. In the Division's FY 2013-15 continuation budget, the funds remain in Fund Code 1910.				

	FY 13-14		FY 14-15	
41 Three-Way Contracts Realigns the Division's base budget to transfer $9 million recurring from Fund Code 1910 Reserves and Transfers to Fund Code 1464, Crisis Services to increase the number of three-way contract community hospital beds available to Local Management Entities/Managed Care Organizations from 141 to 186. These funds were originally appropriated by S.L. 2012-142 for this purpose but contingent upon the status of the Medicaid budget. Due to the contingency, FY 2012-13 funds were placed in the reserve account and then transferred to Budget Code 14445 to address the Medicaid budget shortfall. In the Division's FY 2013-15 continuation budget, the funds remain in Fund Code 1910.				
42 Statewide Telepsychiatry Program Provides funds to establish a statewide telepsychiatry program to provide consultant services as an alternative to alleviate hospital emergency department wait times, involuntary commitments, and local law enforcement involvement in the transport of patients who have been involuntarily committed, especially in rural and medically underserved areas. The funds shall be used to establish and administer the program and to purchase telepsychiatry equipment for the State-owned hospitals.	$2,000,000	R	$2,000,000	R
43 New Broughton Hospital Provides funds to purchase medical equipment, furniture, and information technology infrastructure for the new, expanded Broughton Hospital scheduled to open in December 2014.	$11,510,467	NR	$16,598,589	---
44 NC Child Treatment Program Provides funds for the statewide implementation of the NC Child Treatment Program. Funds will be used to provide clinical training to Medicaid-certified physicians, child trauma treatment services, and to develop an online database system.	$1,818,745 $250,000	R NR	$1,818,745 $250,000	R NR
(10.0) Division of Health Service Regulation				
45 Adjustment Based on Historical Transfers Establishes a recurring reduction in the Division of Health Service Regulation at the level of historical transfers made to cover Medicaid shortfalls. Approximately $600,000 was transferred to the Division of Medical Assistance in FY 2010-11; approximately $800,000 was transferred to the Division of Medical Assistance in FY 2011-12.	($300,000)	R	($300,000)	R

(11.0) Division of Medical Assistance

46 Health Homes for the Chronically Ill

Reflects the last quarter of increased federal match under the Health Homes for the Chronically Ill program for qualified care management per member per month expenditures. Includes an enhanced federal match for all Medicaid care management payments for recipients with comorbid conditions including a chronic health condition and severe and persistent mental health conditions paid through September 30, 2013.

($3,757,682) NR

47 Mental Health Drug Management ($4,975,290) R ($11,258,127) R

Reduces funds for prescription drugs. Mental health drugs will be subject to prior authorization to ensure appropriate use and clinical outcomes effective January 1, 2014. A 72-hour emergency supply may be provided if a beneficiary is waiting for acknowledgement of the prior authorization request. This will put mental health drugs on parity with all other medications paid for by Medicaid.

48 Hospital Provider Assessment ($7,000,000) R ($7,140,000) R

Effective July 1, 2013 the hospital provider assessment will be modified so the State's retention of hospital assessments will be 15.6% of the total assessment paid by hospitals instead of a stated amount of $43 million.

49 Report Separately Payments to CCNC and CCNC Providers $59,340,923 R $62,046,013 R

Establishes a separate budget item for per member per month payments to the North Carolina Community Care Network for care management activities and to Community Care North Carolina (CCNC) physicians for CCNC activities for reporting and tracking purposes. The respective amounts are

	Total Requirements	State Funds
FY 2013-14		
Care Management	$125,800,000	$44,000,000
Provider Payments	$ 43,800,000	$15,300,000
FY 2014-15		
Care Management	$131,600,000	$46,100,000
Provider Payments	$ 45,700,000	$16,000,000

	FY 13-14		FY 14-15	
50 Physician Expenditures Adjustment to Appropriately Report CCNC Payments	($59,340,923)	R	($62,046,013)	R

Establishes a separate budget item for per member per month payments to the North Carolina Community Care Network for care management activities and to Community Care North Carolina (CCNC) physicians for CCNC activities for reporting and tracking purposes. The respective amounts are:

FY 2013-14	Total Requirements	State Funds
Care Management	($125,800,000)	($44,000,000)
Provider Payments	($ 43,800,000)	($15,300,000)
FY 2014-15		
Care Management	($131,600,000)	($46,100,000)
Provider Payments	($ 45,700,000)	($16,000,000)

51 Hospital Base Rates	$0	R	$0	R

Recalibrate the hospital inpatient payment system so that the base rates will be regionally set for all hospitals in that region to eliminate the disparity in rates for the same services between hospitals that exist in the current system. Hospital inpatient services are paid based on a diagnosis related group (DRG) system. There are 746 DRG's in the Medicaid program that represent classifications of services provided during an inpatient hospitalization. Each of the 746 DRG's has a weight that represents the relative resources required for services related to that diagnosis, recipient age, sex and the presence of complications or comorbidities. Hospital payment is determined by applying a base rate, unique to each hospital, to the DRG weight. The hospital base rates were developed using each hospital's costs in 1994. Changes to these base rates have only occurred when the General Assembly has approved an increase or decrease in rates. DHHS will work with hospitals to identify appropriate regional differences and define regional definitions.

52 Medicaid Co-payments	($3,308,100)	R	($4,962,150)	R

Increases nominal copays for eligible Medicaid services to the maximum allowed by the Centers for Medicare and Medicaid Services (CMS) effective November 1, 2013. Services that are excluded from copays by CMS are medical emergency services, family planning services, "preventative" services for children and pregnancy-related services. DHHS will maintain all nominal copays at the maximum allowed by CMS.

53 Medicaid Contract Reductions	$0	R	($2,016,771)	R

Adjusts contract expenditures in the second year of the biennium to reflect a reduced cost of operation and adjudication of claims related to the new Medicaid Management Information System that will be implemented July 1, 2013 .

	FY 13-14		FY 14-15	
54 Hospital Outpatient Payments at 70% of Costs Reduces interim outpatient payments to hospitals to reflect the impact of reducing the settlement to 70% of costs effective January 1, 2014. Hospitals are currently paid for outpatient services at 80% of costs. This will result in $17.1 million less spending for outpatient services in FY 2013-14 and $35.6 million in FY 2014-15. The Hospital GAP plan allows hospitals to receive supplemental payments to increase the overall payments for hospital outpatient services to 100% of costs. The reduction in the outpatient patient percentage will result in an increase in the hospital assessment, of which the State will retain 15.6% of the increase assessment, totaling $3.2 million in FY 2013-14 and $6.6 million in FY 2014-15.	($20,294,954)	R	($42,132,325)	R
55 Shared Savings Payment Plan Establishes a 4% withhold on selective services effective July 1, 2013. Services subject to the withhold include inpatient hospital, physician (excluding primary care physicians until January 1, 2015), dental, optical services and supplies, podiatry, chiropractors, hearing aids, personal care services, nursing homes, adult care homes and drugs. DHHS will work with providers to develop a shared savings plan that will be implemented by January 1, 2015 that will include incentives to provide effective and efficient care that results in positive outcomes for Medicaid recipients. In FY 2013-14 the State share of the amount withheld will be $24.8 million. This represents a total impact of $70.9 million in provider payments, including both the State and federal shares. In FY 2014-15 the State share of the withhold will be $49.5 million, providers will be eligible for shared savings that are projected to total $14.9 million and the impact of the shared savings plan on expenditures is projected to be $27.5 million.	($31,643,177)	R	($50,742,748)	R
56 Prescribed Drugs- Payment Based on Invoice Cost Implements a payment system for all medications based on an invoice cost that will be established through quarterly surveys to determine the actual cost of drugs to pharmacies effective January 1, 2014. Currently, brand drugs are paid a Wholesale Acquisition Cost (WAC) plus 6% and generic drugs are paid at 195% of the State Medicaid Average Costs (SMAC). The change to invoice pricing will reduce expenditures for drugs by $27 million and $55 million in FY 2014-15. Effective January 1, 2014, dispensing fees will be increased to an average payment of $9.87 for all drugs. The payment system for dispensing fees will retain a $2 incentive differential for generic drugs and those on the preferred drug list. This will increase expenditures by $9 million in FY 2013-14 and $18 million in FY 2014-15.	($18,498,384)	R	($36,996,767)	R
57 Private Duty Nursing Limitation Limits adult Private Duty Nursing (PDN) to a cost not to exceed $432 per day, effective January 1, 2014.	($5,001,351)	R	($5,001,351)	R
58 Rehabilitation Services Limitation Limits adult rehabilitative services for set up and training to three visits per year, effective January 1, 2014 .	($2,748,350)	R	($5,651,495)	R

	FY 13-14		FY 14-15	
59 Exchange Premiums for Selected Medicaid Eligibles Reduces funds by purchasing insurance on the Health Benefits Exchange (HBE) for selected Medicaid recipients that are between 133% and 185% of the Federal Poverty Level effective January 1, 2014. Providers providing services to these recipients will be reimbursed through the insurance product the individual purchases and not from Medicaid funding.	($4,089,627)	R	($20,735,543)	R
60 Physician Office Visits Limitation Reduces the limit on office visits for adults from 22 visits a year to 10 visits a year effective January 1, 2014. Prior authorization will be required for medically necessary visits in excess of 10 per year. Recipients with chronic conditions will be exempted from this limitation.	($3,676,525)	R	($7,560,122)	R
61 Rate Freeze for Services Subject to Automatic Increases Freezes rates for hospital outpatient services, nursing home services and other rates that contain an inflation or increase factor not specifically approved by the General Assembly at the rate in effect June 30, 2013. Hospital outpatient services percentage of cost will be adjusted to compensate for expected inflation for which hospitals would be eligible. The cost settlement will be limited to that percentage. Nursing direct care services will not receive case mix index increases after June 30, 2013 until reinstated. Federally Qualified Health Centers, Rural Health Centers, State Operated services, Hospice, Part B and D Premiums, third party and HMO premiums, drugs and MCO capitation payments are excluded.	($18,332,670)	R	($28,027,681)	R
62 Medicaid Rate Methodologies Modification for Acquired Providers Modifies Medicaid rate methodologies to ensure that rates paid to hospital or physician providers that were acquired, merged, leased or managed after December 31, 2011 will not exceed rates that would have been paid if the provider had not been acquired, merged, leased or managed.				
63 Non-emergency Fee for Emergency Services Establishes a triage fee for non-emergency services provided in a hospital-owned and operated emergency department on parity with similar services provided in a physician's office. The fee will be effective January 1, 2014.	($1,198,401)	R	($2,464,298)	R
64 Additional Personal Care Services for Qualified Individuals Establishes an increased limit of up to130 hours per month for qualified recipients with Alzheimer's Disease and other memory disorders in Special Care Units in Adult Care Homes (ACH). DHHS will implement an additional savings component that addresses the higher acuity level for Alzheimer's/memory care recipients in Adult Care Homes. The unit rate for all Personal Care Services will be reduced to $14.12.	$0	R	$0	R

	FY 13-14		FY 14-15	
65 Medicaid Rebase Provides Medicaid funding for the continuation of the program at the current level, adjusted for changes in enrollment, mix of enrollment, consumption, new service and new policy. Additionally, the rebase includes the impact of changes in federal match (FMAP), annualization of reductions not fully implemented during FY 2012-13, the extension of Medicaid to the former foster care children until age 26 beginning January 1, 2014, contracts and settlements.	$434,000,000	R	$607,000,000	R
66 Provider Cost Settlements Increases funding for Medicaid cost settlements to provide for the growth in Medicaid recipients and the cost of serving Medicaid recipients for those providers whose payments are cost settled after the providers fiscal year. Providers that are cost settled include hospitals, skilled nursing facilities, and Intermediate Care for the Mentally Retarded facilities (ICF-MRs).	$18,000,000	R	$18,000,000	R
67 Contracts Provides funding for Medicaid contracts that ensure the appropriate level of medical service is provided, including contracts that provide prior authorization, utilization reviews and assessments of individuals receiving medical care. This increase is due to estimated increases in the Medicaid population being served. Funding is also provided for the asset verification contract which will ensure Medicaid recipients are within the asset limit for eligibility determination purposes.	$11,000,000	R	$11,000,000	R
68 "Woodwork" and Affordable Care Act Provides funding for expenditures for new Medicaid recipients. Even though North Carolina has decided not to expand Medicaid eligibility under the Affordable Care Act (ACA) effective January 1, 2014, 69,683 new enrollees are expected to join Medicaid in FY 2013-14 and 72,426 are expected to join in FY 2014-15 as a result of provisions contained in the ACA related to penalties for non-coverage and outreach efforts.	$49,684,791	R	$114,119,120	R
69 Transfer of Health Choice Children Transfers all children under 133% of the Federal Poverty Level beginning January 1, 2014 in accordance with the Affordable Care Act which requires they be covered under Medicaid instead of Health Choice. Provides funding for the increase in costs that will be incurred as a result of these recipients being eligible for broader benefits under Medicaid than they had when covered under Health Choice. In FY 2013-14 there will be about 51,000 recipients impacted. The State will retain the State Children's Health Insurance Program federal match instead of the traditional Medicaid federal match. There is a partial offset in Health Choice for this amount.	$22,080,000	R	$46,080,000	R
70 MMIS Implementation Costs Provides funding to implement manual processes to ensure the appropriate payment of claims by hiring temporary staff or through external contracts. The new Medicaid Management Information System (MMIS) for the adjudication of claims is scheduled to be implemented July 1, 2013. The new system will not contain all of the functionality of the current MMIS.	$4,828,664	NR		

	FY 13-14		FY 14-15	
71 Community Care Of North Carolina Study Provides funding for a study to determine whether the Community Care of North Carolina model saves money and improves health outcomes. This was recommended by the State Auditor in the January 2013 performance audit of the Medicaid Program. Total funding available for the study is $200,000 as the State funds may be used to match federal Medicaid administrative funds.	$100,000	NR		
(12.0) NC Health Choice				
72 Mental Health Drug Management Reduces funds for prescription drugs. Mental health drugs will subject to prior authorization to ensure appropriate use and clinical outcomes, effective January 1, 2014. This will put mental health drugs on parity with all other medications paid for by Health Choice.	($254,504)	R	($356,861)	R
73 Transfer of Health Choice Children Reduces funds by transferring children to Medicaid. Beginning January 1, 2014 the Affordable Care Act requires all children under 133% of the Federal Poverty Level be covered under Medicaid instead of Health Choice. In FY 2013-14 there will be about 51,000 recipients impacted and the State will retain the State Children's Health Insurance Plan federal match instead of the traditional Medicaid federal match.	($12,348,000)	R	($25,480,000)	R
74 Contract Budget Adjustment Reduces Health Choice contract expenditures to actual amounts.	($2,800,000)	R	($2,800,000)	
75 Rates Freeze for Services Subject to Automatic Increases Freezes rates for hospital outpatient services, nursing home services and other rates that contain an inflation or increase factor not specifically approved by the General Assembly at the rate in effect June 30, 2013. Hospital outpatient services percentage of cost will be adjusted to compensate for expected inflation for which hospitals would be eligible. Cost settlement will be limited to that percentage. Nursing direct care services will not receive case mix index increases after June 30, 2013 until reinstated. Federally Qualified Health Centers, Rural Health Centers, State Operated services, Hospice, Part B and D Premiums, third party and HMO premiums, drugs and MCO capitation payments are excluded.	($1,265,912)	R	($1,405,614)	R
76 Shared Savings Payment Plan Establishes a 4% withhold on selective services effective January 1, 2014. Services subject to the withhold include inpatient hospital, physician services (excluding primary care until January 1, 2015), dental, optical services and supplies, podiatry, chiropractors, hearing aids, personal care services, nursing homes, adult care homes and drugs. DHHS will collaborate with providers to develop and implement a shared savings plan that will be implemented by January 1, 2015 to provide incentives for effective and efficient care that results in positive outcomes for Medicaid recipients.	($1,175,520)	R	($2,383,942)	R

	FY 13-14		FY 14-15	
77 Non-emergency Fee for Emergency Services Establishes a triage fee for non-emergency services provided in a hospital-owned and operated emergency department on parity with similar services provided in a physician's office. The fee will be effective January 1, 2014.	($88,796)	R	($183,809)	R
78 Prescribed Drugs- Payment Based on Invoice Costs Implements a payment system for all medications based on an invoice cost that will be established through quarterly surveys to determine the actual cost of drugs to pharmacies effective January 1, 2014. Currently, brand drugs are paid a Wholesale Acquisition Cost (WAC) plus 6% and generic drugs are paid at 195% of the State Medicaid Average Costs (SMAC). The change to invoice pricing will reduce expenditures for drugs by $1.2 million and $2.5 million in FY 2014-15. Effective January 1, 2014, dispensing fees will be increased to an average payment of $9.87 for all drugs. The payment system for dispensing fees will retain a $2 incentive differential for generic drugs and those on the preferred drug list. This will increase expenditures by $401,633 in FY 2013-14 and $803,265 in FY 2014-15.	($832,236)	R	($1,664,473)	R
79 Physician Expenditures Adjusted to Appropriately Report CCNC Payments Establishes a separate budget for per member per month payments to the North Carolina Community Care Network for care management activities and to Community Care North Carolina (CCNC) physicians for CCNC activities for reporting and tracking purposes. The respective amounts are	$2,557,144	R	$2,699,001	R

	Total Requirements	State Funds
FY2013-14		
CCNC Care Management	$5,800,000	$1,400,000
Provider Payments	$4,500,000	$1,100,000
FY 2014-15		
CCNC Care Management	$6,100,000	$1,500,000
Provider Payments	$4,700,000	$1,200,000

80 Physician Expenditures Adjustment to Appropriately Report CCNC Payments Establishes a separate budget for per member per month payments to the North Carolina Community Care Network for care management activities and to Community Care North Carolina (CCNC) physicians for CCNC activities for reporting and tracking purposes. The respective amounts are	($2,557,144)	R	($2,699,001)	R

	Total Requirements	State Funds
FY2013-14		
CCNC Care Management	($5,800,000)	($1,400,000)
Provider Payments	($4,500,000)	($1,100,000)
FY 2014-15		
CCNC Care Management	($6,100,000)	($1,500,000)
Provider Payments	($4,700,000)	($1,200,000)

Senate Subcommittee on Health and Human Services	FY 13-14		FY 14-15	
81 Health Choice Rebase Provides Health Choice funding to continue of the program at the current level, adjusted for changes in enrollment, mix of enrollment, consumption, new services and new policy. Additionally, the rebase includes the impact of changes in federal match (FMAP), annualization of reductions not fully implemented during FY 2012-13.	$6,176,522	R	$11,178,930	R
82 Cost Settle Hospital Outpatient Services to 70% of Cost Reduces interim outpatient payments to hospitals to reflect the impact of reducing the settlement to 70% of costs effective January 1, 2014. Hospitals are currently paid for outpatient services at 80% of costs.	($365,239)	R	($753,852)	R
Total Legislative Changes	**$346,843,739**	**R**	**$486,434,451**	**R**
	$22,246,476	**NR**	**$25,915,401**	**NR**
Total Position Changes	-657.03		-817.03	
Revised Budget	**$4,984,960,590**		**$5,142,910,388**	

NATURAL & ECONOMIC RESOURCES
Section H

Agriculture and Consumer Services

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$108,918,334**		**$108,918,334**	
Legislative Changes				
Department-wide				
1 Management Flexibility Reserve	($1,500,000)	R	($1,500,000)	R
Reduces operational support to encourage increased efficiency. The reduction equates to a 1.4% operating reduction from the Department's continuation budget.				
Food & Drug				
2 Food Compliance Officer Position	$64,338	R	$64,338	R
Provides funding to support a new position in the Food and Drug Division to improve the compliance inspection process in the Grade "A" Milk program.	$800 1.00	NR	 1.00	
Forest Service				
3 Forest Service Operational Support/Aircraft Maintenance	$350,000	R	$350,000	R
Provides an additional $350,000 in recurring funding for operational support. Of the recurring funds provided, the Department shall establish an administrative position whose primary responsibility will be the collection of Forest Service receipts. This section also provides a nonrecurring appropriation of $500,000 in FY 2013-14 for aircraft maintenance.	$500,000 1.00	NR	 1.00	
Markets				
4 Additional Marketing Funding	$1,500,000	R	$1,500,000	R
Provides an additional $1.5 million recurring to expand domestic and international marketing initiatives to support North Carolina agricultural products. The Department shall also use the additional funds to support the Wine and Grape Growers Council that was funded on nonrecurring basis in FY 2012-13. The time-limited position supporting the Wine & Grape Growers Council (60080945) will be made permanent and will be supported by funds allocated to the Wine and Grape Growers Council.	1.00		1.00	
5 Funding for Southeastern NC Agricultural Center	$362,230	R	$362,230	R
Restores recurring funding and positions to the Southeastern NC Agricultural Center in Lumberton. The Center was provided nonrecurring funding in FY 2012-13 and directed to study alternative operating models.	6.00		6.00	

Senate Subcommittee on Natural and Economic Resources	FY 13-14		FY 14-15	
Plant Industry				
6 Plant Conservation Continuation Provides recurring funding to restore the amount no longer transferred from the Natural Heritage Trust Fund. Shifts one position (60012489) previously supported by Natural Heritage Trust Fund receipts to General Fund support.	$75,000 1.00	R	$75,000 1.00	R
Research Stations				
7 Bioenergy Development Provides funding to the Department of Agriculture & Consumer Services to stimulate energy production from North Carolina agricultural or forestry based products. Funding is provided to support up to five new positions and a grant program. Operating expenses, including personnel and travel, are not to exceed $400,000 in FY 2013-14 and $500,000 in FY 2014-15.	$900,000 5.00	R	$1,500,000 5.00	R
8 Research Stations Equipment Provides funds to modernize farming equipment on Research Stations in each year of the biennium.	$2,500,000	NR	$2,500,000	NR
Reserves & Transfers				
9 Agricultural Development and Farmland Preservation Trust Fund Reduces the General Fund appropriation by $1 million on nonrecurring basis in each year of the biennium. Reduction in General Fund support will be offset by $1 million in each year of the biennium from TVA Settlement funds.	($1,000,000)	NR	($1,000,000)	
10 Tobacco Trust Fund Provides funding to the Tobacco Trust Fund to be evenly disbursed as grants and loans to displaced tobacco farmers. Administrative expenses may be deducted proportionately from all funds available, but shall not exceed $350,000 in any fiscal year.	$2,000,000	R	$2,000,000	R
Total Legislative Changes	**$3,751,568** **$2,000,800**	R NR	**$4,351,568** **$1,500,000**	R NR
Total Position Changes	15.00		15.00	
Revised Budget	**$114,670,702**		**$114,769,902**	

Labor

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$16,196,339**		**$16,196,339**	
Legislative Changes				
Occupational Safety & Health				
11 Partial Restoration of OSHA Federal Receipts Provides funds to offset federal funding reductions.	$500,000	R	$500,000	R
Standards & Inspections				
12 Apprenticeship Bureau Transfers $350,000 recurring in Workforce Investment Act funds from the Department of Commerce to the Department of Labor for the Apprenticeship program.				
Total Legislative Changes	**$500,000**	R	**$500,000**	R
Total Position Changes				
Revised Budget	**$16,696,339**		**$16,696,339**	

Environment & Natural Resources

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$109,140,591**		**$109,220,682**	
Legislative Changes				
Department-wide				
13 Management Flexibility Reserve Reduces funding to the Department by 2% and provides the Secretary with the flexibility to take the reduction to programs and activities that cause the least disruption in service.	($2,277,894)	R	($2,277,894)	R
Aquariums				
14 Admission Receipts Budgets over-realized admission fee receipts in the General Fund to offset the operating costs of the State's three aquariums at Roanoke Island, Fort Fisher, and Pine Knoll Shores.	($100,000)	R	($100,000)	R
Conservation, Planning, and Community Affairs				
15 Sustainable Communities Task Force Abolishes the Community Planner position (60031547) that supports the Sustainable Communities Task Force, which was created by the General Assembly in 2010 to lead and support the State's sustainable communities initiatives. Also, sunsets the Task Force on June 30, 2013.	($95,331) -1.00	R	($95,331) -1.00	
16 Operating Support Restores personnel and operating funds for the Office of Conservation, Planning and Community Affairs that had been previously supported with a transfer from the Natural Heritage Trust Fund. 60036191 Program Development Coordinator 60036192 Program Development Coordinator 60036213 Educational Development Coordinator	$325,000 3.00	R	$325,000 3.00	R
17 Water and Land Conservation Authority Provides funding to establish a new Water and Land Conservation Fund comprised of the former Natural Heritage Trust Fund and Clean Water Management Trust Fund, and creates a new Authority to oversee the expenditures from the Fund. Provides staff (13.50 FTE) to administer the new fund and continues funding for the Natural Heritage Program (15.75 FTE).	$12,000,000 29.25	R	$14,000,000 29.25	R

Senate Subcommittee on Natural and Economic Resources	FY 13-14		FY 14-15	
Energy, Mineral and Land Resources				
18 Energy Office Transfers the Energy Office from the Department of Commerce to the Department of Environment and Natural Resources as a Type I transfer, including 49.91 FTEs supported by receipts in special funds.	$1,762,714 6.17	R	$1,762,714 6.17	R
19 Pass-through Funding to Appalachian State University Reduces funding to Appalachian State University. Instead, provides nonrecurring funds from the Tennessee Valley Authority settlement, which must be spent in accordance with either the Consent Decree ("Categories of Projects," paragraph 128) or the Compliance Agreement ("Environmental Mitigation Projects," Appendix C).	($240,000)	NR	($240,000)	NR
20 Shale Gas Exploration Provides funding to support up to four positions to assist the Energy and Mining Commission as well as operating support including but not limited to annual membership dues to the Southern States Energy Board and marketing expenses related to shale gas resources. Also provides nonrecurring funding to provide for data collection and analysis of geological samples associated with the State's shale gas basins: Deep River Basin, Dan River Basin, and the Cumberland-Marlboro Basin.	$300,000 $300,000 4.00	R NR	$400,000 $250,000 4.00	R NR
Environmental Assistance and Outreach				
21 Small Business Assistance Program Budgets Air Quality permit fees to partially offset General Fund support of a Senior Environmental Specialist (60035965) in the federally mandated Small Business Assistance Program, which helps small businesses comply with the requirements of the Clean Air Act.	($19,422) -0.30	R	($19,422) -0.30	R
22 Solid Waste Management Provides funding for the activities of the Solid Waste Management Outreach Program (previously the Solid Waste Management Trust Fund), which now includes developing secondary markets for the reuse of scrap tires.	$1,100,000	R	$1,100,000	R
23 Operating Funds Provides funds to support personnel and operating costs that were previously funded from the Solid Waste Management Trust Fund.	$1,375,000 15.50	R	$1,375,000 15.50	R
Marine Fisheries				
24 Temporary Wages Reduces temporary wages in the License Administration and Trip Ticket programs, the Purchasing/Warehouse Unit and the Marine Patrol Section. Total funding remaining for temporary wages is $103,503.	($183,183)	R	($183,183)	R

Senate Subcommittee on Natural and Economic Resources	FY 13-14		FY 14-15	
25 Shellfish Rehabilitation Program Reduces funding for the Shellfish Rehabilitation Program by cutting temporary wages ($27,474). Also eliminates one Marine Biologist position (60032767), which supports the Oyster Shell Recycling program, and associated operating costs.	($81,605) -1.00	R	($81,605) -1.00	R
26 Fisheries Resource Grant Program Eliminates the remaining appropriation for the Fishery Resource Grant Program which promotes cooperative research among commercial fishers, recreational anglers, seafood businesses and university researchers.	($100,000)	R	($100,000)	R
27 Marine Patrol Budgets anticipated federal receipts due to the creation of a Joint Enforcement Agreement that would allow the Division of Marine Fisheries to receive federal funds for enforcing federal fisheries laws in federal waters and law enforcement officers to be cross-sworn as National Marine Fisheries Agents. North Carolina is the only coastal state without a Joint Enforcement Agreement.	($150,000)	NR	($200,000)	NR
28 At-Sea Observer Program Provides nonrecurring funding for six new positions to support a statewide at-sea observer program for all fisheries, with an emphasis on the commercial estuarine gill net fishery. These positions, combined with nine existing positions, are necessary to meet federal requirements to monitor multiple fisheries.	$1,100,000 15.00	NR		
Museum of Natural Sciences				
29 Grassroots Science Museums Transfers the funding and grant oversight for the Grassroots Science Museums to the Museum of Natural Sciences, the State's lead science museum.	$2,289,782	R	$2,286,043	R
30 Museum of Forestry Eliminates funding for the Museum of Forestry and transfers ownership of the Museum to the City of Whiteville. Provides funding for the Museum through the Grassroots Science Program. 60035027 Natural Science Museum Program Chief 60035029 Art Exhibits Technician. 60035033 Natural Science Curator II 60035028 Administrative Assistant	($357,397) -4.00	R	($357,397) -4.00	R
Parks and Recreation				
31 Adopt-a-Trails Eliminates funding for the Adopt-a-Trails Program. Grant funding for trail projects is still available through the NC Parks and Recreation Trust Fund.	($108,000)	R	($108,000)	R
32 Parks Operations Restores funding to the Division's operating budget which was reduced on a nonrecurring basis in the 2011-13 biennium.	$6,000,000	R	$6,000,000	R

	FY 13-14		FY 14-15	
33 Parks and Recreation Trust Fund Provides a recurring General Fund appropriation to the Parks and Recreation Trust Fund to replace the loss of the deed stamp tax revenue which will now be deposited in the State's General Fund. Continues funding for staff associated with Trust Fund activities.	$11,000,000 15.00	R	$13,000,000 15.00	R
Waste Management				
34 Texfi Site Contamination Provides nonrecurring funds to be used for the cleanup and monitoring of groundwater and other contamination located at the Texfi site in Fayetteville as well as any emergency cleanup activities at that site.	$50,000	NR		
35 Scrap Tire Program Provides recurring funding to support a portion of the salaries (.25 FTE) of four positions in four regional offices ($80,000) and $420,000 for scrap tire grants to counties. 60034594 Environmental Senior Specialist (0.25 FTE) 60034602 Environmental Program Supervisor (0.25 FTE) 60034608 Environmental Specialist (0.25 FTE) 60034595 Environmental Specialist (0.25 FTE)	$500,000 1.00	R	$500,000 1.00	R
36 Bernard Allen Memorial Emergency Drinking Water Fund Provides funds to replace the loss of scrap tire tax revenue, which will now be deposited into the State's General Fund.	$800,000	R	$800,000	R
37 Inactive Hazardous Waste Sites Provides funding for the Inactive Hazardous Sites Program to hire one engineer and one hydrogeologist to evaluate areas with known contamination that have limited data on water supply wells. The staff will sample water supply wells as well as investigate and abate contamination sources.	$250,000 2.00	R	$250,000 2.00	R
38 Noncommercial Fund Provides a nonrecurring appropriation for the Noncommercial Leaking Underground Storage Tank Fund to assist homeowners with the cleanup costs of petroleum releases from home heating oil tanks and smaller farm tanks.	$3,500,000	NR		
Water Infrastructure Authority				
39 Water Infrastructure Authority (WIA) Creates a new division and authority within the Department of Environment and Natural Resources for the purpose of addressing critical public water and wastewater infrastructure needs. Provides funding for a new Assistant Secretary for Infrastructure, a new Division Director, as well as a recurring General Fund appropriation for a water and sewer database and planning and supplemental grants to assist local governments. WIA will also administer the State Revolving Funds and the Community Development Block Grant Infrastructure Grant Program.	$4,000,000 2.00	R	$5,500,000 2.00	R

	FY 13-14		FY 14-15	
40 Drinking Water State Revolving Fund Provides funding to meet State match requirements of $4.71 million to allow the Department to draw down the maximum amount of federal funds available ($23.54 million) for the Drinking Water State Revolving Fund for FY 2013-14. State match will be provided by combining a nonrecurring General Fund appropriation of $1,255,720 with $3.8 million in State funds from the Drinking Water Reserve.	$1,255,720	NR		
41 Clean Water State Revolving Fund Provides funding for the required State match to draw down the maximum amount of federal funds available for the Clean Water State Revolving Fund. This program provides low-interest loans to local governments to construct wastewater facilities and provides $5 in federal capitalization grant funds for every $1 the state provides in matching funds.	$4,925,000	R	$5,000,000	R
Water Quality				
42 Clean Water State Revolving Fund Transfers the Clean Water State Revolving Fund program and staff to the newly created Division of Water Infrastructure.				
Water Resources				
43 Receipt Support Budgets additional federal receipts and shifts 4.3 positions from General Fund appropriation to receipt support.	($409,521) -4.30	R	($409,521) -4.30	R
60034385 Engineering Manager (1.00 FTE) 60034388 Engineer (0.80 FTE) 60034394 Engineering Supervisor (1.00 FTE) 60034398 Engineering Supervisor (1.00 FTE) 60034397 Geologist (0.50 FTE)				
44 Drinking Water State Revolving Fund Transfers the Drinking Water State Revolving Fund program and staff to the newly created Division of Water Infrastructure.				
Zoo				
45 Operating Reductions Reduces operating support for temporary wages, worker's compensation and equipment.	($211,323)	R	($211,323)	R
46 Zoo Tram Provides funding to support repair and replacement of zoo trams.	$250,000	NR		

Senate Subcommittee on Natural and Economic Resources	FY_13-14		FY_14-15	
Total Legislative Changes	**$42,683,820**	**R**	**$48,355,081**	**R**
	$6,065,720	**NR**	**($190,000)**	**NR**
Total Position Changes	82.32		67.32	
Revised Budget	**$157,890,131**		**$157,385,763**	

Wildlife Resources Commission

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$18,476,588**		**$18,476,588**	
Legislative Changes				
Commission-wide				
47 Wildlife Resources Commission Operations Reduces General Fund appropriations by 49% and allows the Wildlife Resources Commission to use other funds available to the Commission to offset the reduction at its discretion.	($9,000,000)	R	($9,000,000)	R
Total Legislative Changes	**($9,000,000)**	**R**	**($9,000,000)**	**R**
Total Position Changes				
Revised Budget	**$9,476,588**		**$9,476,588**	

Commerce

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$33,469,442**		**$33,469,442**	
Legislative Changes				
Department-wide				
48 Management Flexibility Reserve Reduces funding to the Department by 1.2% and provides the Secretary with the flexibility to take the reduction to programs and activities that cause the least disruption in service.	($354,200)	R	($354,200)	R
49 Indirect Cost Receipts Offsets the General Fund appropriation by maximizing the use of indirect cost receipts.	($205,786)	R	($205,786)	R
Administration				
50 Special Funds Offsets the General Fund appropriation for Administration by directing the unencumbered cash balance as of June 30, 2013 from the following funds toward operating costs: NC Green Business Fund (24609-2535) Energy Research Grants Special Fund (24609-2537) International Trade Show Special Fund (24610-2431). Closes the Internation Trade Show Special Fund after transfer.	($332,527)	NR		
51 Director of Internal Operations Eliminates the Director of Internal Operations (60077182) position.	($131,001) -1.00	R	($131,001) -1.00	R
52 Accountant I and Accountant II Eliminates an Account I position (60089502) and an Accountant II position (60077178). These positions are no longer required to monitor nonprofits.	($139,039) -2.00	R	($139,039) -2.00	R
53 Processing Assistant Eliminates a Processing Assistant position (60080973).	($47,581) -1.00	R	($47,581) -1.00	R
54 Base Realignment and Closure (BRAC) Provides nonrecurring funding for the State's preparation for Department of Defense BRAC activities.	$1,000,000	NR		

Senate Subcommittee on Natural and Economic Resources	FY 13-14		FY 14-15	
Business and Industry				
55 Regional Office Restructuring	($1,399,422)	R	($1,399,422)	R
Eliminates existing regional office resources; redirects support to new Rural Economic Development Division.	-19.00		-19.00	
56 Economic Developer	($83,651)	R	($83,651)	R
Eliminates an Economic Developer position (60080949).	-1.00		-1.00	
Commerce Finance Center				
57 Utility Account Proceeds				
Transfers anticipated proceeds from the Job Development Investment Grant's (JDIG) Industrial Development Fund (IDF) - Utility Account to offset Commerce operating expenses and thereby reduce the agency's General Fund appropriation.	($5,000,000)	NR	($5,000,000)	NR
58 Job Maintenance and Capital Development Fund (JMAC)				
Provides funds to fulfill JMAC agreements with Goodyear, Bridgestone, and Domtar.	$6,705,473	NR	$7,500,000	NR
Community Assistance				
59 Support Positions and Operating Budget	($43,481)	R	($43,481)	R
Reduces two part-time administrative positions (60081170) and lowers associated operating budget items.	-1.00		-1.00	
Energy				
60 Energy	($1,762,714)	R	($1,762,714)	R
Transfers the Energy Office from the Department of Commerce to the Department of Environment and Natural Resources as a Type I transfer.	-6.17		-6.17	
Industrial Commission				
61 Management Flexibility Reserve	($81,539)	R	($81,539)	R
Reduces funding to the Commission by 1.7% and provides the Commissioner with the flexibility to take the reduction in programs and activities that cause the least disruption in service.				
62 Commissioner	($150,029)	R	($150,029)	R
Eliminates a Commissioner position (60080616). Section 16 of S.L. 2011- 287 reduced the number of Commissioners from seven to six, but did not eliminate the associated funding.	-1.00		-1.00	
63 Insurance Compliance Program	$901,502	R	$901,502	R
Provides funds to the Industrial Commission to establish a compliance program that will apply data analytics received from North Carolina's Government Data Analytics Center (formerly the Government Business Intelligence Competency Center). This data and its application will enable the Industrial Commission to proactively identify noncompliant businesses and ensure these businesses obtain and maintain the required workers' compensation coverage.	13.00		13.00	

Senate Subcommittee on Natural and Economic Resources	FY 13-14		FY 14-15	
64 Investigation Management System	$75,000	R	$75,000	R
Provides the Industrial Commission's newly established compliance program with the technology necessary to process, prioritize and track investigations and results based on data provided by North Carolina's Government Data Analytics Center (formerly the Government Business Intelligence Competency Center).	$50,000	NR		
International Trade				
65 Position Reduction	($286,202)	R	($286,202)	R
Eliminates four positions:	-4.00		-4.00	
60081000 Administrative Assistant I Position 60081001 Events Coordinator Position 60081003 Business Development Manager Position 60081005 Business Development Manager Position				
66 High Point Office	($58,430)	R	($58,430)	R
Eliminates the High Point office and an Office Assistant position (60081007). The remaining Economic Developer position will co-locate with the High Point Market Authority.	-1.00		-1.00	
67 Trade Shows	($48,347)	R	($48,347)	R
Reduces the trade show advertising budget to align with prior year expenditures. Total budget remaining is $92,705.				
Labor and Economic Analysis Division				
68 Common Follow-Up System				
Provides funding for the Common Follow-Up System managed by the Labor and Economic Analysis Division (LEAD), which is used to track performance measures related to current and former participants in State job training, education and placement programs. Recurring funding will be contingent upon the findings of a legislative continuation review.	$500,000	NR		
Marketing				
69 Trade and Investment Event				
Provides funds for the 2014 Southeastern U.S. Canadian Strategic Trade and Investment Partnership Event. In an agreement signed in 2006, North Carolina agreed to host the event, which will identify opportunities to increase trade and investment between six southeastern U.S. States and seven Canadian provinces. The total cost is estimated at $400,000. It is expected that the remaining $250,000 will be raised from private sponsors.	$150,000	NR		

Senate Subcommittee on Natural and Economic Resources	FY 13-14		FY 14-15	
NC Broadband				
70 State Match Eliminates the State match for the federal grant provided by the U.S. Department of Commerce National Telecommunications and Information Administration for State Broadband Data and Development Grant, currently titled NC Broadband-Rigor in Mapping. The required State match has been satisfied and the project will be complete by October 2014.	($172,203)	R	($172,203)	R
Office of Science & Technology				
71 Division Elimination Eliminates the Office of Science and Technology, including the Director position (60081266) and the Executive Assistant (60081264). Directs Commerce Finance to administer outstanding grants.	($213,269) -2.00	R	($213,269) -2.00	R
Rural Economic Development				
72 Rural Economic Development Division Creates a new Division within the Department of Commerce for the purpose of addressing the economic development needs of the State's rural counties. Provides funding for a new Assistant Secretary for Rural Economic Development who will oversee administration of a new infrastructure grant program to local governments in Tier One and Two Counties. The Rural Economic Development Division may use up to three percent (3%) of the funds appropriated in this section to cover its expenses in administering the new infrastructure grant program. The Assistant Secretary will also oversee existing programs, including the Industrial Development Fund - Utility Account and the Community Development Block Grant for Economic Development. Also provides nonrecurring funding to encourage private sector broadband providers to extend connectivity to unserved areas that are otherwise not economically feasible for deployment.	$7,000,000	R	$10,000,000 $350,000	R NR
73 Regional Office Restructuring Establishes regional office resources under the Rural Economic Development Division and provides additional funding in an effort to enhance regional office presence in rural areas, focusing on new business recruitment and existing industry support.	$3,319,860 19.00	R	$3,713,790 19.00	R
Wanchese Seafood Industrial Park				
74 Receipt Support Eliminates funding for the Wanchese Seafood Industrial Park, including the Director position (60080846). The Park must be fully receipt supported beginning in FY 2014-15.			($140,081) -1.00	R

Senate Subcommittee on Natural and Economic Resources	FY_13-14		FY_14-15	
Workforce Solutions				
75 Workforce Investment Act Funds Transfers $350,000 recurring in federal Workforce Investment Act funds from the Department of Commerce to the Department of Labor to be used for the Apprenticeship Program.				
Total Legislative Changes	**$6,119,468**	**R**	**$9,373,317**	**R**
	$3,072,946	**NR**	**$2,850,000**	**NR**
Total Position Changes	-7.17		-8.17	
Revised Budget	**$42,661,856**		**$45,692,759**	

Commerce - State Aid

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$59,714,814**		**$61,954,814**	
Legislative Changes				
(1) State-Aid				
76 Biofuels Center Eliminates General Fund support for operational expenditures.	($2,063,035)	R	($4,303,035)	R
77 Community Development Initiative Eliminates General Fund support for operational expenditures.	($3,806,180)	R	($3,806,180)	R
78 Council of Governments (COGs) Eliminates General Fund support for operational expenditures.	($328,105)	R	($328,105)	R
79 Grassroots Science Museums Reduces General Fund support for operational expenditures and transfers funding of the program to the Department of Environment and Natural Resources.	($2,773,043)	R	($2,773,043)	R
80 Institute of Minority Economic Development Eliminates General Fund support for operational expenditures.	($2,046,080)	R	($2,046,080)	R
81 Land Loss Prevention Project Eliminates General Fund support for operational expenditures.	($575,050)	R	($575,050)	R
82 NC Agriculture Foundation (FFA Foundation) Eliminates General Fund support for operational expenditures from Commerce State-Aid. The Department of Agriculture and Consumer Services may use up to $50,000 of available administrative funds to support the program.	($35,855)	R	($35,855)	R
83 NC Association of Community Development Corporations (CDCs) Eliminates General Fund support for operational expenditures.	($797,102)	R	($797,102)	R
84 NC Farm Bureau - Ag in the Classroom Eliminates General Fund support for operational expenditures.	($21,175)	R	($21,175)	R
85 NC Indian Economic Development Initiative Eliminates General Fund support for operational expenditures.	($86,004)	R	($86,004)	R

Senate Subcommittee on Natural and Economic Resources	FY 13-14		FY 14-15	
86 Partnership for the Sounds Eliminates General Fund support for operational expenditures.	($391,408)	R	($391,408)	R
87 Regional Economic Development Commissions Eliminates General Fund support for operational expenditures.	($2,151,517)	R	($2,151,517)	R
88 Research Triangle Institute Provides funds for the Research Triangle Institute to leverage federal research funds.	$250,000	NR		
89 The Support Center Eliminates General Fund support for operational expenditures.	($2,543,021)	R	($2,543,021)	R
90 Wake Forest Institute of Regenerative Medicine Transfers General Fund support for operational expenditures to the University of North Carolina system.	($7,649,897)	R	($7,649,897)	R
91 Restore Negative Management Flexibility Reserve Provides funding to fill a budget gap created by making a FY 2012-13 nonrecurring reduction permanent in the FY 2013-14 continuation budget.	$28,000	R	$28,000	R
(2) Biotechnology Center				
92 Biotechnology Center Reduces General Fund support for operational expenditures by 50%.	($8,600,338)	R	($8,600,338)	R
(3) Rural Economic Development Center				
93 Rural Economic Development Center Eliminates General Fund support for operational expenditures.	($16,619,194)	R	($16,619,194)	R
Total Legislative Changes	**($50,459,004)**	**R**	**($52,699,004)**	**R**
	$250,000	**NR**		
Total Position Changes				
Revised Budget	**$9,505,810**		**$9,255,810**	

Drinking Water Reserve

Budget Code: 64324

	FY 2013-14		FY 2014-15	
Beginning Unreserved Fund Balance	**$13,298,248**		**$9,498,248**	
Recommended Budget				
Requirements	**$472,051**		**$472,051**	
Receipts	**$472,051**		**$472,051**	
Positions	**0.00**		**0.00**	
Legislative Changes				
Requirements:				
Drinking Water Reserve	$0	R	$0	R
Provides a portion of the State match required to draw down the maximum amount of federal funds available ($23.54 million) for the Drinking Water State Revolving Fund for FY 2013-14.	$3,800,000	NR	$0	NR
	0.00		0.00	
Subtotal Legislative Changes	**$0**	R	**$0**	R
	$3,800,000	NR	**$0**	NR
	0.00		0.00	
Receipts:				
Drinking Water Reserve	$0	R	$0	R
	$0	NR	$0	NR
Subtotal Legislative Changes	**$0**	R	**$0**	R
	$0	NR	**$0**	NR

	FY 2013-14	FY 2014-15
Revised Total Requirements	**$4,272,051**	**$472,051**
Revised Total Receipts	**$472,051**	**$472,051**
Change in Fund Balance	**($3,800,000)**	**$0**
Total Positions	**0.00**	**0.00**
Unappropriated Balance Remaining	**$9,498,248**	**$9,498,248**

Commerce - Special Revenue - GF

Budget Code: 24609

	FY 2013-14		FY 2014-15	
Beginning Unreserved Fund Balance	**$18,348,044**		**$17,797,898**	
Recommended Budget				
Requirements	**$28,711,556**		**$28,711,556**	
Receipts	**$28,476,737**		**$28,476,737**	
Positions	**6.00**		**6.00**	
Legislative Changes				
Requirements:				
NC Green Business Fund	$0	R	$0	R
Transfers a portion of the cash balance to Commerce's Administration Division to offset operating expenses.	$36,827	NR	$0	NR
	0.00		0.00	
Energy Research Grants	$0	R	$0	R
Transfers a portion of the cash balance to Commerce's Administration Division to offset operating expenses.	$278,500	NR	$0	NR
	0.00		0.00	
Subtotal Legislative Changes	**$0**	R	**$0**	R
	$315,327	NR	**$0**	NR
	0.00		0.00	
Receipts:				
NC Green Business Fund	$0	R	$0	R
	$0	NR	$0	NR
Energy Research Grants	$0	R	$0	R
	$0	NR	$0	NR
Subtotal Legislative Changes	**$0**	R	**$0**	R
	$0	NR	**$0**	NR

	FY 2013-14	FY 2014-15
Revised Total Requirements	**$29,026,883**	**$28,711,556**
Revised Total Receipts	**$28,476,737**	**$28,476,737**
Change in Fund Balance	**($550,146)**	**($234,819)**
Total Positions	**6.00**	**6.00**
Unappropriated Balance Remaining	**$17,797,898**	**$17,563,079**

Commerce- Special, Unbudgeted

Budget Code: 24610

	FY 2013-14		FY 2014-15	
Beginning Unreserved Fund Balance	**$698,929**		**$681,729**	
Recommended Budget				
Requirements	**$66,100**		**$66,100**	
Receipts	**$66,100**		**$66,100**	
Positions	**0.00**		**0.00**	
Legislative Changes				
Requirements:				
International Trade Show	$0	R	$0	R
Transfers the cash balance to Commerce's Administration Division to offset operating expenses. Closes fund 24610 - 2431.	$17,200	NR	$0	NR
	0.00		0.00	
Subtotal Legislative Changes	**$0**	R	**$0**	R
	$17,200	NR	**$0**	NR
	0.00		0.00	
Receipts:				
International Trade Show	$0	R	$0	R
	$0	NR	$0	NR
Subtotal Legislative Changes	**$0**	R	**$0**	R
	$0	NR	**$0**	NR

	FY 2013-14	FY 2014-15
Revised Total Requirements	$83,300	$66,100
Revised Total Receipts	$66,100	$66,100
Change in Fund Balance	($17,200)	$0
Total Positions	0.00	0.00
Unappropriated Balance Remaining	$681,729	$681,729

JUSTICE
&
PUBLIC SAFETY
Section I

Public Safety

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$1,722,061,784**		**$1,732,859,184**	
Legislative Changes				
A. Department-wide				
1 Consolidation Efficiencies Allows the Department to identify additional savings resulting from the consolidation of the Departments of Crime Control and Public Safety, Juvenile Justice, and Adult Correction that occurred January 1, 2012.	($5,000,000)	R	($5,000,000)	R
2 Vacant Positions Eliminates 15 vacant positions. No district level State Highway Patrol (SHP) Troopers, custody and security officers or probation and parole positions in the Division of Adult Correction, or court counselors in the Division of Juvenile Justice may be eliminated as a result of this reduction.	($952,582) -15.00	R	($952,582) -15.00	R
B. Administration				
3 Secretary's Office Positions Eliminates two vacant management positions in the Secretary's Office.	($292,384) -2.00	R	($292,384) -2.00	R
4 Operating Budget Reduces various line items from the operating budget for the Division of Administration.	($579,244)	R	($579,244)	R
C. Law Enforcement				
5 DPS Law Enforcement Health Benefits Pays employer health premiums and contributions for sworn law enforcement officers from funds available in the Separate Insurance Benefits Plan.	($16,510,611)	NR	($16,510,611)	NR
6 ALE Position Reduction Eliminates three positions in Alcohol Law Enforcement (ALE) administration:	($264,600) -3.00	R	($264,600) -3.00	R

Position	Title	Total Position Cost
60084333	ALE Assistant Director	$116,774
60084297	Asst. Special Agent in Charge	$ 84,963
60084287	Accreditation Manager	$ 62,863

7 ALE Permit Inspection Function Transfers responsibility for permit inspections from ALE to the Alcoholic Beverage Control (ABC) Commission.	($1,900,000) -29.00	R	($1,900,000) -29.00	R

	FY 13-14		FY 14-15	
8 Butner Public Safety Eliminates the State grant to the Butner Public Safety Authority. The Authority can receive State funds through the State Fire Protection Grant Fund. $100,000 is appropriated in the General Government Section of the budget to expand the program to Butner without reducing allotments to other fire departments.	($1,751,118)	R	($1,751,118)	R
9 SCP Positions Provides funding for four telecommunicator positions and four public safety officer positions in the State Capitol Police.	$336,122 $45,751 8.00	R NR	$336,122 8.00	R
10 SHP Vacant Trooper Positions Budgets all vacant trooper positions (including vacant Senior Trooper and vacant Master Trooper positions) at the starting pay for troopers ($37,500 plus benefits). Currently, 69 vacant trooper positions cannot be filled because they are budgeted at $0.10 as a result of reductions taken in FY 2011-12. This appropriation restores that reduction, increasing the total number of troopers statewide.	$2,147,463	R	$2,147,463	R
11 SHP Fuel Provides funding to increase the budget for State Highway Patrol fuel to actual expenditure levels.	$3,677,292	R	$3,677,292	R
12 SHP Aircards Provides funds to support air card connectivity for mobile data computers in trooper vehicles. The air card allows troopers to have mobile access to multiple criminal, court, and DMV databases.	$626,000	R	$626,000	R
13 SHP Mobile Computers Provides funds to replace outdated or failing mobile data computer equipment, including computers, printers, and docking stations, for State Highway Patrol troopers' vehicles.	$1,050,640	NR		
14 SHP Communication Center Consolidation Consolidates communication centers from three troops. Transfers eighteen telecommunicator positions to other troops and provides funding in the first year for equipment required to expand communication operations in two of the remaining troops. Consolidation of communication centers should be completed no later than October 1, 2013.	($1,141,480) -30.00	R	($1,662,707) -30.00	R
15 SHP Aviation Consolidates the Highway Patrol Aviation section from four hangars to two.	($901,900) -9.00	R	($901,900) -9.00	R
16 SHP Consolidation of Technology Services Functions Eliminates six civilian information technology related positions in the Highway Patrol. Consolidation of all law enforcement information technology functions in the Department of Public Safety should result in additional reductions in the future.	($506,517) -6.00	R	($506,517) -6.00	R
17 SHP Warehouse Leases Consolidates three State Highway Patrol warehouses into other existing Department of Public Safety warehouse space.	($191,474)	R	($191,474)	R

	FY 13-14		FY 14-15	
18 SHP Administration Eliminates various positions in State Highway Patrol administration. Positions that are eliminated should all be administrative and/or management positions. No district level positions should be eliminated as a result of this reduction.	($700,000)	R	($700,000)	R
19 SHP Accreditation Unit Eliminates two sworn law enforcement and three civilian positions responsible for overseeing the State Highway Patrol's accreditation process.	($402,978) -5.00	R	($402,978) -5.00	R

Position	Title	Total Position Cost
60084955	Quality Accreditation Unit Mgr.	$104,417
60086601	Policy & Procedure Manager	$ 87,923
60085343	Accreditation Manager	$ 87,923
60086920	Civilian Accreditation Mgr.	$ 74,689
60084612	Tech Support Technician	$ 48,026

20 SHP Support Positions Eliminates nine vacant civilian positions that provide support services to various units within the Highway Patrol.	($772,853) -9.00	R	($772,853) -9.00	R
21 SHP Traffic Safety Information Officers Eliminates the Traffic Safety Information Officer position in each Highway Patrol Troop.	($527,288) -8.00	R	($527,288) -8.00	R
22 VIPER Operations and Maintenance Provides additional funding for the operation and maintenance of the Voice Interoperability Plan for Emergency Responders (VIPER) system.	$2,825,471 13.00	R	$2,825,471 $580,000 13.00	R NR
23 SHP VIPER Technology Upgrade Provides $25 million nonrecurring in FY 2013-14 to upgrade the VIPER system to P-25 technology.	$25,000,000	NR		
24 SHP VIPER Tower Construction Provides $7 million recurring in FY 2014-15 to complete construction of 29 State-funded towers for the VIPER system. Tower construction should be complete in FY 2016-17, at which time this appropriation will be reduced to $2 million recurring to fully fund operation and maintenance of the completed VIPER system.			$7,000,000	R

	FY 13-14		FY 14-15	
25 State Bureau of Investigation	$32,954,964	R	$30,954,964	R
Transfers the State Bureau of Investigation to the Division of Law Enforcement in the Department of Public Safety.	423.00		423.00	
Removes the following from the SBI and places them under the direct control of the Attorney General:				
- NC State Crime Laboratory ($13.7 million, 182.80 FTE)				
- Public Corruption Investigation Unit ($393,723, 5.00 FTE)				
- DOJ Information Technology Positions ($1.1 million, 16.00 FTE)				
Consolidation of all of the State's major law enforcement agencies and criminal information sections under the Department of Public Safety should result in additional savings in the future. A reduction of $2 million in the second year reflects these anticipated savings.				
D. National Guard				
26 Armories Upgrade	$850,000	R	$850,000	R
Provides funds to address maintenance needs at the State's 93 National Guard Readiness Centers. Additional funds are appropriated in the Capital Section for repair and renovation of the armories.				
27 Tarheel ChalleNGe	$767,719	R	$767,719	R
Transfers funding from the Department of Public Instruction (DPI) for Tarheel ChalleNGe, a National Guard program for at-risk youth, back to the Department of Public Safety (DPS) budget. These funds were transferred to DPI in 2009, but federal matching funds are currently receipted to DPS. This transfer consolidates all of the funding for Tarheel ChalleNGe in one place. A corresponding reduction can be found in the Education Section of the budget.				
E. Adult Correction - General				
28 Purchased Services	($6,000,000)	R	($6,000,000)	R
Reduces the Purchased Services fund to FY 2011-12 actual expenditures.				
29 Budget Reserve Restoration				
Eliminates the partial restoration of a nonrecurring budget reserve reduction from FY 2011-12 that reflected a lower prison population.			($6,554,741)	NR
F. Adult Correction - Prisons				
30 Education Supplies	($36,000)	R	($36,000)	R
Reduces funding for prison substance abuse supplies to reflect actual expenditures, leaving $100,557.				
31 Inmate Health Care	($9,000,000)	R	($9,000,000)	R
Reduces Inmate Health Care funding to account for savings from completion of the new hospitals at Central Prison and NC Correctional Institution for Women, increased Medicaid reimbursements for treatment of qualified inmates, and the payment cap on billed charges to hospital and other providers.				

	FY 13-14		FY 14-15	
32 Morrison CI Electronic Intrusion Eliminates tower positions effective April 1, 2014 at Morrison Correctional Institution through the use of an electronic intrusion system that provides increased security.	($24,202) -12.00	R	($404,911) -12.00	R
33 Bladen Correctional Center Closes Bladen Correctional Center, a 172-bed minimum custody facility, effective October 1, 2013. The closure is part of a reduction in prison capacity to reflect the declining prison population.	($1,969,779) -52.00	R	($2,499,168) -52.00	R
34 Duplin Correctional Center Closes Duplin Correctional Center, a 328-bed minimum custody facility, effective August 1, 2013. The closure is part of a reduction in prison capacity to reflect the declining prison population.	($3,759,729) -80.00	R	($4,101,522) -80.00	R
35 Robeson Correctional Center Closes Robeson Correctional Center, a 276-bed minimum custody facility, effective August 1, 2013. The closure is part of a reduction in prison capacity to reflect the declining prison population.	($3,625,960) -80.00	R	($3,955,592) -80.00	R
36 Wayne Correctional Center Closes Wayne Correctional Center, a 428-bed medium custody facility, effective February 1, 2014. The closure is part of a reduction in prison capacity to reflect the declining prison population.	($3,014,444) -150.00	R	($7,234,666) -150.00	R
37 Western Youth Institution Closes Western Youth Institution, a 708-bed mixed custody facility, effective January 1, 2014. The closure is part of a reduction in prison capacity to reflect the declining prison population. $100,000 is left in the first year for DPS to repurpose the minimum custody portion of the facility.	($7,853,209) -323.00	R	($16,312,132) -323.00	R
38 Buncombe Correctional Center Closes Buncombe Correctional Center, a 182-bed minimum custody facility, effective October 1, 2013. The closure is part of a reduction in prison capacity to reflect the declining prison population.	($1,802,569) -48.00	R	($2,403,425) -48.00	R
39 Orange Correctional Center Closes Orange Correctional Center, a 200-bed minimum custody facility, effective October 1, 2013. The closure is part of a reduction in prison capacity to reflect the declining prison population.	($2,739,773) -73.00	R	($3,653,031) -73.00	R
40 Statewide Misdemeanant Confinement Fund Admin Reallocates the Statewide Misdemeanant Confinement Fund administration allotment to reduce the NC Sheriffs' Association percentage from 10% to 5% and to increase the percentage going to the Department of Public Safety from 1% to 5%. Budgets an additional $750,000 in receipts in the Division of Prisons' budget. Since the program's inception in August 2011, $39.5 million has been collected in the Fund. The Sheriff's Association has received $3.9 million and the Division of Adult Correction has received $394,881 to administer the program.	($750,000)	R	($750,000)	R

	FY 13-14		FY 14-15	
41 Statewide Misdemeanant Confinement Fund				
Transfers funds from the Statewide Misdemeanant Confinement Fund (Special Fund code 24500-2225) to the Department of Public Safety (General Fund budget code 14550) for the Division of Adult Correction. As of March 31, 2013, this fund has a balance of $20 million.	($7,700,000)	NR		
42 Tabor Correctional Institution Operating Reserve				
Reduces the operating reserve for the new minimum-custody dorm at Tabor Correctional Institution to reflect a delay in completion of construction.	($529,424)	NR		
G. Adult Correction - Community Corrections				
43 TECS Reduction				
Reduces the appropriation for Treatment for Effective Community Supervision (TECS) to adjust for delayed community programming start dates in some counties. The total funding for this program is $12.4 million after this non-recurring reduction.	($1,500,000)	NR		
44 Parole Commission	$374,497	R	$374,497	R
Increases funding for the Parole Commission in order to adequately manage the expected caseload of 12,500 to 15,000 offender records that will require review following implementation of the Justice Reinvestment Act. Total funding for this program will be $2.3 million.	$49,893 8.00	NR	 8.00	
45 Probation and Parole Positions	$5,761,119	R	$12,120,219	
Funds 175 new Probation Officer positions to adequately manage the increased caseloads created by the requirements of the Justice Reinvestment Act. In addition, provides funding for the reallocation of surveillance officers to probation officer positions.	$465,150 75.00	NR	$660,200 175.00	NR
H. Juvenile Justice				
46 Executive Management Staff	($363,183)	R	($363,183)	R
Eliminates three full-time executive positions in the Division of Juvenile Justice. These positions are currently filled.	-3.00		-3.00	

Position	Title	Total Position Cost
60000972	Deputy Comm Courts and Programs	$139,635
60001044	Deputy Comm Facilities	$129,992
60000891	Director of Detention Services	$ 93,556

47 YDC Operating Reduction	($100,000)	R	($100,000)	R
Reduces the total operating budget for Youth Development Centers.				
48 Lenoir Youth Development Center	($3,701,387)	R	($3,701,387)	R
Closes Lenoir Youth Development Center (YDC) and eliminates 71 full-time equivalent (FTE) positions. This facility shall be closed by October 1, 2013.	-71.00		-71.00	

Senate Subcommittee on Justice and Public Safety	FY 13-14		FY 14-15	
49 Richmond Detention Center	($407,074)	R	($407,074)	R
Closes Richmond Detention Center and eliminates 7.4 full-time equivalent (FTE) positions.	-7.40		-7.40	
50 Buncombe Detention Center	($1,250,786)	R	($1,250,786)	R
Closes Buncombe Detention Center and eliminates 19.3 full-time equivalent (FTE) positions.	-19.30		-19.30	
51 New Western Multipurpose Group Home	$650,000	R	$650,000	R
Appropriates funds for a new multipurpose group home in the Western district to provide youth services that may be needed following the closure of Buncombe Detention Center.				
52 Juvenile Justice Community Programs	$1,500,000	R	$1,500,000	R
Provides funding to the Division of Juvenile Justice for the expansion of contracted services for adjudicated juveniles.				
53 Educational Services Transfer to DPI			($3,828,824)	R
Transfers responsibility and funding for teachers in juvenile facilities to the Department of Public Instruction effective July 1, 2014.			-62.00	
54 Educational Administration Positions			($268,445)	R
Eliminates three educational administration positions in the Division of Juvenile Justice that will no longer be required when the responsibility for education at juvenile facilities is transferred to DPI in FY 2014-15.			-3.00	

Position	Title	Total Position Cost
60001388	YDC Regional Principal	$ 92,480
60001611	Detention Ctr Regional Principal	$ 81,786
60001945	YDC Assistant Principal	$ 94,179

Total Legislative Changes	**($9,811,866)**	**R**	**($18,846,044)**	**R**
	$371,399	**NR**	**($21,825,152)**	**NR**
Total Position Changes	-507.70		-472.70	
Revised Budget	**$1,712,621,317**		**$1,692,187,988**	

Justice

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$77,773,575**		**$80,773,575**	
Legislative Changes				
A. Department-wide				
55 Vacant Position Reduction	($947,698)	R	($947,698)	R
Eliminates vacant positions throughout the Department of Justice. No vacant positions are to be eliminated from the NC State Crime Laboratory.	-13.00		-13.00	
B. Legal Services				
56 Tobacco Attorney and Paralegal Positions	$244,661	R	$244,661	R
Transitions one attorney position (60010420) and two paralegal positions (60010422 and 60010421) from receipt support to General Fund support. These positions were previously supported by receipts from Golden L.E.A.F. and the Tobacco Trust Fund. Another receipt supported attorney position that was vacant (60010423) is eliminated.	3.00		3.00	
C. State Bureau of Investigation (SBI)				
57 Transfer to DPS	($32,954,964)	R	($32,954,964)	R
Transfers the State Bureau of Investigation to the Division of Law Enforcement in the Department of Public Safety.	-423.00		-423.00	
Removes the following from the SBI and places them under the direct control of the Attorney General: - NC State Crime Laboratory ($13.7 million , 182.80 FTE) - Public Corruption Investigation Unit ($393,723, 5.00 FTE) - DOJ Information Technology Positions ($1.1 million, 16.00 FTE)				
Consolidation of all of the State's major law enforcement agencies and criminal information sections under the Department of Public Safety should result in additional savings in the future.				
D. NC State Crime Laboratory				
58 Toxicology Positions	$1,500,000	R	$1,500,000	R
Provides funding for 19 new toxicology positions in the Crime Lab to serve the western part of the State. The Crime Lab is directed to work with the Office of State Personnel to create a new apprentice level analyst position at a pay grade lower than that of Forensic Analyst I for trainee analysts.	$111,424 19.00	NR	19.00	

	FY 13-14		FY 14-15	
59 Crime Lab Equipment Provides additional funds for equipment to expand the Crime Lab's ability to provide toxicology services in the western part of the State.			$1,000,000	NR
60 Toxicology Outsourcing Funds Provides funds for the outsourcing of toxicology cases to private lab service providers. Priority should be given to cases originating in the western part of the State to reduce the need for Crime Lab analysts from Raleigh and Greensboro to travel to those areas. If the Department determines that outsourcing of toxicology cases is not feasible due to legal concerns involving analyst testimony, these funds may be redirected to increase toxicology analysis capabilities within the Crime Lab.	$750,000	R	$750,000	R
E. Training and Standards				
61 Sheriffs' Education and Training Standards Appropriates funds to support the Sheriffs' Education and Training Standards Commission. Section 16C.6 transfers funds from the Statewide Misdemeanant Confinement Fund to the General Fund for this purpose. This Commission is currently supported by a portion of the $2 court fee designated for law enforcement training. Those funds will now wholly support the Criminal Justice Education and Training Standards Commission. These changes increase the funds available to DOJ to support both Standards Commissions.	$1,000,000	R	$1,000,000	R
62 Criminal Justice Education and Training Section 18B.18 changes the allocation of the $2 court fee designated for law enforcement training and standards by directing that all of the funds go to the Criminal Justice Education and Training Standards Commission (CJTS). Previously, those funds were split between the Sheriffs' Standards Commission and CJTS. The appropriation of funds to support Sheriffs' Standards in the previous item allows for the redirection of all of the $2 court fee to CJTS, increasing the amount available to DOJ for the support of both Standards Commissions.				
Total Legislative Changes	**($30,408,001)**	**R**	**($30,408,001)**	**R**
	$111,424	**NR**	**$1,000,000**	**NR**
Total Position Changes	-414.00		-414.00	
Revised Budget	**$47,476,998**		**$51,365,574**	

Judicial - Indigent Defense

GENERAL FUND

	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$114,505,898**		**$114,505,898**	
Legislative Changes				
63 Administrative Staff Operations Reduction	($258,634)	R	($258,634)	R
Reduces administrative staff through efficiencies gained by increased partnership with the School of Government for training, greater utilization of existing staff in lieu of contracted consultants, and more efficient distribution of workload. One position is being reduced to half-time (Special Counsel Legal Assistant, 60091441). The following three positions are being eliminated:	-3.25		-3.25	

Position	Title	Total Position Cost
60002264	IDS Admin Asst.	$44,473
60096765	IDS Research Staff	$28,000
60002229	Special Counsel	$52,739

64 Prisoner Legal Services Terminals	($2,890,000)	R	($2,890,000)	
Eliminates the State contract with Prisoner Legal Services in favor of prison legal terminals provided by the Department of Public Safety. Section 16C.9 directs the Department of Public Safety to look for an effective and efficient software alternative in prison libraries.				
65 Low-Level Misdemeanor Reclassification	($2,000,000)	R	($2,000,000)	R
Reclassifies low-level misdemeanors that rarely result in incarceration as Class 3 misdemeanors or infractions and modifies the sentencing structure for Class 3 misdemeanors so that the first three charges are fineable offenses. With no possibility of incarceration, these offenses do not require legal counsel.				
66 Additional Private Assigned Counsel Funds				
Allocates nonrecurring funds to pay private counsel assigned to represent indigent defendants, reducing a budget shortfall that has accumulated over several years. This budget shortfall creates a hardship for small business legal firms whose payments are delayed when State funding is exhausted before the end of the fiscal year.	$5,000,000	NR		
Total Legislative Changes	**($5,148,634)**	R	**($5,148,634)**	R
	$5,000,000	NR		
Total Position Changes	-3.25		-3.25	
Revised Budget	**$114,357,264**		**$109,357,264**	

Judicial

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$458,416,996**		**$458,416,996**	
Legislative Changes				
67 Magistrates Workload Formula	$1,795,776	R	$1,795,776	R
Restores 39.5 magistrate positions to fund a minimum number of four magistrates per county.	39.50		39.50	
68 State Court Reporters Reduction	($1,938,939)	R	($1,938,939)	R
Reduces the number of Court Reporters by half and redirects that half of the funds saved be used for contracts with private vendors. This change leaves $5.8 million for court reporter functions in each year of the 2013-15 biennium.	-52.00		-52.00	
69 Audio Equipment for Courts				
Provides funding for audio equipment in courtrooms in lieu of an assigned court reporter.	$1,000,000	NR		
70 Special Superior Court Judges Elimination	($2,156,347)	R	($2,156,347)	R
Eliminates 12 Special Superior Court Judges who are not assigned to Business Court.	-12.00		-12.00	
71 Administrative Budget Reduction	($3,000,000)	R	($3,000,000)	R
Reduces funding for the Administrative Office of the Courts' Administration Division. This reduction will not impact any county or district level court personnel. This changes leaves total funding of $46.3 million for the Division in each year of the 2013-15 biennium.				
72 Funds for Interpreters, Witnesses, and Juries	$1,009,256	R	$1,009,256	R
Increases the budget for interpreters, expert witnesses, and jury fees as necessary to operate the State court system. Funds for interpreters would increase by $342,821 over the current budget of $1.0 million. Funds for expert witnesses would increase by $203,458 over the current budget of $422,498. Funds for jury fees would increase by $462,977 over the current budget of $3.2 million.				
73 Electronic Court Information Pilot				
Provides funds for a pilot project in Pender County to create a paperless courtroom. These funds will expand the availability and use of e-filing and related information technology.	$500,000	NR	$500,000	NR
74 Local Hospital Toxicology Analysis				
Establishes a fund to be administered by the Conference of District Attorneys to allow district attorneys to use local hospitals for toxicology services in DWI cases.	$1,250,000	NR	$750,000	NR

Senate Subcommittee on Justice and Public Safety	FY 13-14		FY 14-15	
Total Legislative Changes	**($4,290,254)**	**R**	**($4,290,254)**	**R**
	$2,750,000	**NR**	**$1,250,000**	**NR**
Total Position Changes	-24.50		-24.50	
Revised Budget	**$456,876,742**		**$455,376,742**	

DPS Special Fund (Statewide Misdemeanant Confi

Budget Code: 24550

	FY 2013-14		FY 2014-15	
Beginning Unreserved Fund Balance	**$20,085,259**		**$6,385,259**	
Recommended Budget				
Requirements	**$0**		**$0**	
Receipts	**$0**		**$0**	
Positions	**0.00**		**0.00**	
Legislative Changes				
Requirements:				
Statewide Misdemeanant Confinement Fund		R		R
Transfers $7.7 million nonrecurring to the Department of Public Safety (General Fund budget code 14550) for the Division of Adult Correction.	$7,700,000	NR	$0	NR
	0.00		0.00	
Sheriffs' Education and Training Standards	$1,000,000	R	$1,000,000	R
Transfers $1 million recurring to the General Fund to support the Sheriffs' Education and Training Standards Commission.	$0	NR	$0	NR
	0.00		0.00	
Continuation Budget Correction	$0	R	$0	R
Corrects a $5 million nonrecurring transfer to the Division of Adult Correction for the Treatment of Effective Community Superivision that was inadvertently omitted from the Governor's Continuation Budget.	$5,000,000	NR	$0	NR
	0.00		0.00	
Subtotal Legislative Changes	**$1,000,000**	R	**$1,000,000**	R
	$12,700,000	NR	**$0**	NR
	0.00		0.00	
Receipts:				
Statewide Misdemeanant Confinement Fund	$0	R	$0	R
	$0	NR	$0	NR

	FY 2013-14		FY 2014-15	
Subtotal Legislative Changes	$0	R	$0	R
	$0	NR	$0	NR
Revised Total Requirements	$13,700,000		$1,000,000	
Revised Total Receipts	$0		$0	
Change in Fund Balance	($13,700,000)		($1,000,000)	
Total Positions	0.00		0.00	
Unappropriated Balance Remaining	$6,385,259		$5,385,259	

GENERAL GOVERNMENT
Section J

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(1.0) Cultural Resources

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$63,626,477**		**$63,629,480**	
Legislative Changes				
1100 - Administration				
1 Strategic Marketing Program				
Provides funding to create a department-wide marketing strategy. The Department shall coordinate these efforts with the Department of Commerce.	$53,000	NR		
1230 - Archives and Records				
2 Director of Division of Historical Resources	($119,190)	R	($119,190)	R
Eliminates one vacant supervisor position (60083302). The salary is $93,523 and benefits are $25,657.	-1.00		-1.00	
1241 - Historic Sites				
3 Savings at Historic Sites	($152,190)	R	($152,190)	R
Achieves savings at historic sites by implementing a policy of standard operating days, reducing contracts, and securing revenue enhancements. There will be a reduction of one position: Building and Environmental Technician (600083487).	-1.00		-1.00	
4 Historic Sites Partnerships	($85,454)	R	($170,908)	R
Reduces State appropriations for operations and eliminates a position in FY 2013-14 and another position in FY 2014-15 for the following historic sites: Aycock Birthplace, Polk Memorial, Vance Birthplace, and House in the Horseshoe. The appropriations for these sites are reduced by 25% in FY 2013-14 and 50% in FY 2014-15 in anticipation of increased local and private participation. The total State appropriations remaining for these sites is $170,908.	-1.00		-2.00	
1242 - Tryon Palace Historic Sites and Gardens				
5 Tryon Palace	($156,725)	R	($156,725)	R
Provides nonrecurring funding for Tryon Palace for FY 2013-14 and reduces recurring funds, leaving $2,475,196 in State appropriations.	$476,725	NR	$156,725	NR
The nonrecurring funding of $476,725 appropriated for Tryon Palace must be matched dollar for dollar in order to receive the entire State appropriation for FY 2013-14.				

Senate Subcommittee on General Government	FY 13-14		FY 14-15	
1320 - Museum of Art				
6 Museum of Art Operations Reduces the recurring State appropriations for the Museum of Art and adds nonrecurring funds for FY 2013-14. If private funds do not replace the State appropriations, positions may be eliminated. The remaining State appropriations total $5,329,866.	($450,000) $279,806	R NR	($730,383)	R
1330 - NC Arts Council				
7 NC Arts Council and Other Grants Reduces funds for the Grassroots grants program, the grant to the Lost Colony, and the Basic grant program. The current State appropriations for the Arts Council including its grants program totals $7.4 million, after these reductions the total budget will be $6.7 million, of which $5 million is grant funding.	($500,000)	R	($780,380)	R
8 Administration Reduces State appropriations available for administration of the Arts Council activities; remaining funding will be $1,325,049. Positions may be eliminated in this reduction.	($250,000)	R	($250,000)	R
Agency Wide				
9 Budget Gaps Provides non-recurring funds for workers' compensation and disability claims and corrects underfunded budget line items in Archives and Records and Historic Preservation. Workers' Compensation and Disability Claims $116,629 Account Code: 531631 Archives and Records and Historic Preservation $95,419	$212,048	NR		
Total Legislative Changes	**($1,713,559)** **$1,021,579**	**R** **NR**	**($2,359,776)** **$156,725**	**R** **NR**
Total Position Changes	-3.00		-4.00	
Revised Budget	**$62,934,497**		**$61,426,429**	

(2.0) Cultural Resources - Roanoke Island Commission

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$1,058,757**		**$1,058,757**	
Legislative Changes				
2584 - Roanoke Island Commission				
10 Roanoke Island Commission Eliminates recurring funds for the Roanoke Island Festival Park.	($1,058,757)	R	($1,058,757)	R
Total Legislative Changes	**($1,058,757)**	**R**	**($1,058,757)**	**R**
Total Position Changes				
Revised Budget	**$0**		**$0**	

(3.0) Insurance

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$38,454,593**		**$38,464,213**	
Legislative Changes				
1100 - Across Divisions				
11 Position Eliminations	($560,589)	R	($560,589)	R
Eliminates nine positions across the Department of Insurance.	-9.00		-9.00	
1500 - Fire Marshal				
12 Fire Protection Grants	$100,000	R	$100,000	R
Provides additional funds for the State Fire Protection Grant Fund. These funds will be used to provide fire protection for the State-owned facilities located in Butner.				
Total Legislative Changes	**($460,589)**	R	**($460,589)**	R
Total Position Changes	-9.00		-9.00	
Revised Budget	**$37,994,004**		**$38,003,624**	

(4.0) Insurance - Volunteer Safety Workers' Compensation Fund

GENERAL FUND

	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$2,623,654**		**$2,623,654**	
Legislative Changes				
Volunteer Safety Workers' Compensation Fund				
13 Fund Eliminates recurring State appropriations. This funds for the Volunteer Safety Workers' Compensation Fund will come from G.S. 105-228.5(d)(3). Up to 20% of the tax shall be deposited into this Fund to continue financial support.	($2,623,654)	R	($2,623,654)	R
Total Legislative Changes	**($2,623,654)**	R	**($2,623,654)**	R
Total Position Changes				
Revised Budget	**$0**		**$0**	

(5.0) State Board of Elections

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$5,213,445**		**$5,213,445**	
Legislative Changes				
1100 - Administration				
14 Voter Photo Identification Requirement Appropriates funds for the implementation of a voter identification program. These funds will be used for new staff for the State Board of Elections and for other activities related to implementation of the new requirement.	$1,505,900 10.00	NR	$828,400 10.00	NR
15 Operating Budget Reduces the operating budget across all divisions.	($20,313)	R	($20,313)	R
Total Legislative Changes	**($20,313)**	R	**($20,313)**	R
	$1,505,900	NR	**$828,400**	
Total Position Changes	10.00		10.00	
Revised Budget	**$6,699,032**		**$6,021,532**	

(6.0) General Assembly

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$52,845,390**		**$52,845,390**	
Legislative Changes				
1100 - Administration				
16 Furniture - Across Divisions Reduces the funds available for purchase of furniture for FY 2014-15.			($35,000)	NR
17 Management Flexibility Reduction - Agency Wide Creates a management flexibility reduction of $153,035 for the General Assembly.	($153,035)	R	($153,035)	R
18 Operating Budgets - All Divisions Reduces operating budgets to actual FY 2011-12 expenditures.			($31,500)	NR
19 Rental Parking Space Budget Reduces the rental parking space budget due to anticipated revenues to be generated from charging temporary staff a monthly parking fee.			($30,000)	R
20 Vacant Position Eliminations - Administrative Division Eliminates three positions that have been vacant over 180 days: 1.0 FTE Bill Room Supervisor (P30118) 0.6 FTE Housekeeper (P30549) 1.0 FTE Food Services Assistant I (P30615A)	($120,504) -2.60	R	($120,504) -2.60	R
21 School of Government Eliminates funds for the School of Government contract.	($185,000)	R	($185,000)	R
1213 - Research Division				
22 Vacant Position Eliminates one vacant positions that has been vacant for approximately 150 days: 1.0 FTE Senior Legislative Secretary (P30343)	($40,960) -1.00	R	($40,960) -1.00	R
House and Senate				
23 Subsistence Reduces the subsistence budget for FY 2014-15 based on the assumption that the long session end date of mid-July.			($123,760)	NR
24 Temporary Wages Reduces funding available for floaters during sessions.	($422,905)	NR	($640,864)	NR

Senate Subcommittee on General Government	FY 13-14		FY 14-15	
House and Senate				
25 Committee Reserves				
Reduces funds available for committee activities during FY 2013-14.	($473,703)	NR		
Total Legislative Changes	**($499,499)**	**R**	**($529,499)**	**R**
	($896,608)	**NR**	**($831,124)**	**NR**
Total Position Changes	-3.60		-3.60	
Revised Budget	**$51,449,283**		**$51,484,767**	

(7.0) Governor

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$5,539,743**		**$5,541,825**	
Legislative Changes				
26 Savings Reduces funds to achieve savings through reducing non-essential dues and memberships by $369,693 and the personnel budget by $50,000.	($419,693)	R	($419,693)	R
Total Legislative Changes	**($419,693)**	**R**	**($419,693)**	**R**
Total Position Changes				
Revised Budget	**$5,120,050**		**$5,122,132**	

(8.0) State Budget & Management

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$6,951,706**		**$7,034,217**	
Legislative Changes				
Across Divisions				
27 Position Eliminations	($114,634)	R	($114,634)	R
Eliminates two vacant positions:				
1.0 FTE Grants Assistant (60008975)	-2.00		-2.00	
1.0 FTE Management Analyst (60008594)				
Total Legislative Changes	**($114,634)**	R	**($114,634)**	R
Total Position Changes	-2.00		-2.00	
Revised Budget	**$6,837,072**		**$6,919,583**	

(9.0) State Budget and Management - Special

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$49,000**		**$49,000**	
Legislative Changes				
Grants-in-Aid				
28 Grants for Nonprofits Provides funding to the Office of State Budget and Management for nonprofits including the North Carolina Symphony and The Bridge Down East.	$1,800,000	NR	$1,500,000	NR
29 North Carolina Humanities Council Eliminates funds for the North Carolina Humanities Council.	($49,000)	R	($49,000)	R
Total Legislative Changes	**($49,000)**	**R**	**($49,000)**	**R**
	$1,800,000	**NR**	**$1,500,000**	**NR**
Total Position Changes				
Revised Budget	**$1,800,000**		**$1,500,000**	

(10.0) Auditor

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$11,013,547**		**$11,013,547**	
Legislative Changes				
30 Audit Positions Funds two auditor positions that will focus on IT security and fraud detection.	$203,921 2.00	R	$203,921 2.00	R
Total Legislative Changes	**$203,921**	R	**$203,921**	R
Total Position Changes	2.00		2.00	
Revised Budget	**$11,217,468**		**$11,217,468**	

(11.0) Revenue

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$80,031,575**		**$80,031,575**	
Legislative Changes				
1624 - Income Tax Division				
31 Income Tax Division Auditors	$190,027	R	$190,027	R
Adds two auditor positions in the Income Tax Division to help with backlogged cases. Backlogged cases are the result of requests for reviews of disputed audits.	$12,630	NR		
	2.00		2.00	
1627 - Sales and Use Tax				
32 Sales and Use Tax Division Auditor	$95,483	R	$95,483	R
Adds one auditor position to the Sales and Use Tax Division to help with backlogged cases. Backlogged cases are the result of requests for review of disputed audits.	$7,030	NR		
	1.00		1.00	
Agency Wide				
33 Funding for Tax Information Management System (TIMS)				
Uses receipts from prior project phases to continue the implementation of TIMS. Revenues equaling $8.9 million generated in prior years will support the internal costs of implementation.				
34 Support for Tax Law Changes	$5,000,000	R	$5,000,000	R
Provides funds to the Department to pay for staffing level increases and other costs associated with changes in tax law. This reserve is contingent on the passage of the Senate Tax Reform package.				
Total Legislative Changes	**$5,285,510**	R	**$5,285,510**	R
	$19,660	NR		
Total Position Changes	3.00		3.00	
Revised Budget	**$85,336,745**		**$85,317,085**	

(12.0) Secretary of State

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$11,845,185**		**$11,845,185**	
Legislative Changes				
1230 - Securities Registration				
35 Eliminate Vacant Positions in the Securities Registration Division	($81,091)	R	($81,091)	R
Eliminates two vacant positions (60008779 - Administrative Assistant II and 60008777 - Program Assistant IV) in the Securities Registration Division.	-2.00		-2.00	
Agency Wide				
36 Operations Reductions	($148,093)	R	($148,093)	R
Achieves savings throughout the Department by reducing various operating accounts.				
Total Legislative Changes	**($229,184)**	R	**($229,184)**	
Total Position Changes	-2.00		-2.00	
Revised Budget	**$11,616,001**		**$11,616,001**	

(13.0) Lieutenant Governor

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$444,047**		**$444,047**	
Legislative Changes				
1110 - Administration				
37 Support for Office Operations	$231,042	R	$231,042	R
Adds a Communication Director, Policy Director, and Director of Constituent Services to the Lieutenant Governor's Office.	$6,000	NR		
	3.00		3.00	
Total Legislative Changes	**$231,042**	R	**$231,042**	R
	$6,000	NR		
Total Position Changes	3.00		3.00	
Revised Budget	**$681,089**		**$675,089**	

(14.0) State Controller

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$29,279,290**		**$29,279,290**	

Legislative Changes

38 Operating Budget ($45,000) R ($45,000) R

Reduces various accounts across the office to achieve savings.

39 ITS Charges ($35,000) R ($35,000) R

Reflects the reduced Information Technology Services (ITS) charges that will result from a new help desk ticketing system.

1000 - Office of State Controller

40 BEACON Call Center ($210,900) R ($210,900) R

Eliminates four filled positions from the BEACON Call Center.

-4.00 -4.00

65000576	Call Center Lead
60013748	Call Center Representative
60037599	Call Center Associate
60091721	Call Center Representative

41 Eliminate Vacant BEACON Positions ($394,495) R ($394,495) R

Eliminates seven vacant BEACON positions.

-7.00 -7.00

60087198	Business & Technology Applications Spec.
60092195	Call Center Representative
65000578	Call Center Representative
60092192	BEST Payroll Specialist
60087120	Business Systems Support Specialist
60091137	BEST Garnishment Rep
65001910	BEST Payroll Specialist

42 Position Eliminations ($433,204) R ($433,204) R

Eliminates four filled positions.

-4.00 -4.00

60087108	State Controller Business Systems Specialist
60087134	Business And Technology Applications Specialist
60087157	State Controller Financial Specialist
60087158	State Controller Financial Specialist

Senate Subcommittee on General Government	FY 13-14		FY 14-15	
Total Legislative Changes	**($1,118,599)**	**R**	**($1,118,599)**	**R**
Total Position Changes	-15.00		-15.00	
Revised Budget	**$28,160,691**		**$28,160,691**	

(15.0) Administration

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$68,316,992**		**$68,241,992**	
Legislative Changes				
1411 - Office of State Construction				
43 Office of State Construction Receipts	$924,013	R	$924,013	R
Moves positions at the Office of State Construction back to General Fund support. In FY 2011-12, nine positions within the Office of State Construction and 0.85 positions within the Management Information System Division were placed on receipt support. The receipts were to be from various projects' contingency reserves. The collection of funds from the contingency reserve has been problematic and the receipt source is uncertain. The following positions are to be moved back to General Fund support:	9.85		9.85	
60014580 Engineer 60014582 Engineer 60014588 Engineer 60014589 Mechanical Engineer 60014590 Engineer 60014608 Engineering Technician 60014614 Engineer 60014700 Control System Technician 60089475 Engineer 60014137 Business & Technology Applications Analyst				
1421 - Facilities Management Division				
44 Public Health Lab/Office of the Chief Medical Examiner Reserve	$254,493	R	$254,493	R
Provides increased funding for the operation and maintenance of the Public Health Lab/Office of the Chief Medical Examiner building. The building first received funding in FY 2011-12.				
45 Utility Increases	$254,494	R	$254,494	R
Increases the budget in the utility line item (5322XX) to prepare for an upcoming rate increase to the water and sewer rate and any increase in the electric rate.				
1511 - Purchase and Contract Division				
46 E-Commerce Reserve				
Utilizes funds collected in the E-Commerce Reserve to fund the ongoing operations of the Purchase and Contract Division. The Reserve is funded by a charge paid on goods purchased through the State's E-Procurement System.	($1,218,659)	NR	($1,476,543)	NR

	FY 13-14		FY 14-15	
1732 - Displaced Homemakers Program				
47 Displaced Homemakers Program Elimination	($292,390)	R	($292,390)	R
Eliminates the Displaced Homemakers Program and transfers funds collected from the divorce filing fee to the Domestic Violence Center Fund. The Domestic Violence Center Fund provides funding related to domestic violence. In FY 2011-12, the Displaced Homemakers Program Fund received $1.8 million from the fee.	-2.00		-2.00	
1741 - Human Relations Commission				
48 Consolidation	($178,521)	R	($178,521)	R
Consolidates staff functions by reducing the Human Relations Commission by three FTEs.	-3.00		-3.00	
1761 - Youth Involvement Division				
49 Youth Involvement Elimination	($526,252)	R	($526,252)	R
Eliminates the Youth Involvement Division and reimburses any related registration fees and grant funds back to the original payee or grantor. The following positions and benefits are eliminated:	-5.00		-5.00	
60014061 Administrative Officer II 60014064 Advocacy Program Director 60014065 Administrative Officer II 60014502 Program Assistant IV 60014506 Administrative Secretary III				
1771 - Division of Veterans Affairs				
50 Veterans Affairs ITS Consolidation	$115,000	R	$115,000	R
Provides funding to complete the Information Technology Services consolidation for the Division of Veterans Affairs field offices.	$68,000	NR		
51 Grant in Aid Program	($48,082)	R	($138,000)	R
Eliminates the grant in aid program to county governments for the provision of veterans' services over a two year period.				
1810 - State Ethics Commission				
52 Operating Expenses	($22,434)	R	($22,434)	R
Achieves savings by reducing various operating accounts.				
53 Position Funding				
Uses receipts from the Highway Fund to fund one new attorney position in the State Ethics Commission.				
Attorney II $110,330				
54 Position			($55,146)	R
Eliminates recurring funding for one filled paralegal position (65012030) in FY 2014-15.			-1.00	

Senate Subcommittee on General Government	FY_13-14		FY_14-15	
1861 - Commission of Indian Affairs				
55 Commission of Indian Affairs Consolidation Eliminates a vacant Administrative Assistant II position (60013923) at the Commission of Indian Affairs.	($34,444) -0.75	R	($34,444) -0.75	R
1900 - Reserves and Transfers				
56 Reserve and Transfer Reduction Eliminates an unnecessary appropriation within the Reserve and Transfer budget.	($32,942)	R	($32,942)	R
Agency Wide				
57 Vacant Position Eliminations Eliminates four vacant positions and benefits throughout the Department. 65010199 Human Services Planner/Evaluator IV 65015257 Building Environmental Services Tech 60014593 Engineer Manager 60014715 Processing Assistant IV	($286,119) -4.00	R	($286,119) -4.00	R
Office of State Personnel				
58 Operations Reduces funds from various operating line items including: supplies, office furniture, office equipment, computer/data processing services, travel, and other contracted services within the Office of State Personnel.	($175,964)	R	($175,964)	
Total Legislative Changes	**($49,148)** **($1,150,659)**	R NR	**($194,212)** **($1,476,543)**	R NR
Total Position Changes	-4.90		-5.90	
Revised Budget	**$67,117,185**		**$66,571,237**	

Reserve for E-Commerce Initiative (2514)

Budget Code: 24100

	FY 2013-14		FY 2014-15	
Beginning Unreserved Fund Balance	**$15,318,833**		**$6,517,947**	
Recommended Budget				
Requirements	**$21,748,642**		**$21,748,642**	
Receipts	**$19,278,000**		**$19,278,000**	
Positions	**0.00**		**0.00**	
Legislative Changes				
Requirements:				
E-Commerce Fund Transfer	$0	R	$0	R
Transfers $5,111,585 in FY 2013-14 and $4,000,000 in FY 2014-15 to general availability.	$5,111,585	NR	$4,000,000	NR
	0.00		0.00	
Purchase and Contract Use of E-Commerce Reserve	$0	R	$0	R
Utilizes the E-Commerce Reserve to support operations within the Division of Purchase and Contract. Funds from the Reserve are to be transferred to the Division (1511) to support recurring operating requirements.	$1,218,659	NR	$1,476,543	NR
	0.00		0.00	
Subtotal Legislative Changes	**$0**	R	**$0**	R
	$6,330,244	NR	**$5,476,543**	NR
	0.00		0.00	
Receipts:				
E-Commerce Funds Transfer	$0	R	$0	R
	$0	NR	$0	NR
E-Commerce Funds Transfer	$0	R	$0	R
	$0	NR	$0	NR

	FY 2013-14		FY 2014-15	
Subtotal Legislative Changes	$0	R	$0	R
	$0	NR	$0	NR
Revised Total Requirements	$28,078,886		$27,225,185	
Revised Total Receipts	$19,278,000		$19,278,000	
Change in Fund Balance	($8,800,886)		($7,947,185)	
Total Positions	0.00		0.00	
Unappropriated Balance Remaining	$6,517,947		($1,429,238)	

(16.0) Housing Finance Agency

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$9,408,417**		**$9,408,417**	
Legislative Changes				
1100 - HOME Match				
59 HOME Match Reduction Reduces the State match for the HOME program by two percent.	($32,168)	R	($32,168)	R
1100 Housing Trust Fund				
60 Housing Trust Fund Reduces the General Fund appropriation to the Housing Trust Fund to $7,000,000 for each year of the FY 2013-15 Fiscal Biennium.	($876,785)	NR	($876,785)	NR
Total Legislative Changes	**($32,168)**	**R**	**($32,168)**	**R**
	($876,785)	**NR**	**($876,785)**	**NR**
Total Position Changes				
Revised Budget	**$8,499,464**		**$8,499,464**	

(17.0) Office of Administrative Hearings

GENERAL FUND

	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$4,335,464**		**$4,350,431**	
Legislative Changes				
1100 - Civil Rights Division				
61 Vacant Civil Rights Position and Contractual Services	($82,845)	R	($82,845)	R
Eliminates vacant Civil Rights Investigator position (60088609) in the Civil Rights Division and reduces contractual services (532199). The position to be eliminated is:	-1.00		-1.00	
62 Staffing for Hearings Division	$194,687	R	$194,687	R
Increases staffing for the Hearings Division in order to meet increased case filings. The increased funding will provide for one Administrative Law Judge and one Law Clerk.	$10,388 2.00	NR	2.00	
1100 - Hearings Division				
63 Case Management System	$109,850	R	$110,308	R
Provides funding to fully implement the AMCAD case management system. This system will reduce paper filing, clerical entry, and mail processing.	$160,000	NR	$80,000	
Total Legislative Changes	**$221,692**	R	**$222,150**	R
	$170,388	NR	**$80,000**	NR
Total Position Changes	1.00		1.00	
Revised Budget	**$4,727,544**		**$4,652,581**	

(18.0) Treasurer

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$6,851,090**		**$6,851,090**	
Legislative Changes				
1210 - Investment Division				
64 Operating Reduction to Investment Division Eliminates the appropriated position reserve (537199) for Investment Directors and Chief Investment Officer.	($45,416)	R	($45,416)	R
1310 - Local Government Division				
65 State and Local Government Automation Project Authorizes the use of receipts for the State and Local Government Automation Project. This project is a multi-year effort to replace outdated information systems used by local government units. Project components include infrastructure upgrades, audit package with document management capabilities, modernization of Annual Financial Information Reporting (AFIR) process, and implementation of audit software. The Automation Project is funded from fees paid by local governments for debt issuance. The first phase of this project was authorized in FY 2011-12. The nonrecurring costs for this project are $1,048,200 for FY 2013-14. There will be additional recurring costs of $200,419.				
1510 - Financial Operations				
66 Reduction to Operating Funds in Financial Operations Division Reduces transfers to the Information Management Division by $70,000 (538175) to reflect change in the allocation formula, and reduces miscellaneous contractual services (532199) by $25,000. In addition, a vacant Banking Specialist position (60009292) is eliminated. The position has been vacant over three years.	($133,221) -1.00	R	($133,221) -1.00	R
1510 - Financial Operations Division				
67 Core Banking System Upgrade Provides non-recurring funds for the upgrade of the State's Core Banking System. Appropriations to the Division for this item will not be subject to G.S. 147-68.1.	$1,111,585	NR		
68 Operation of State Core Banking System Allows the Financial Operations Division to access funds under management to fund the operations of the upgraded State's Core Banking System Upgrade. Appropriations to the Division will be reimbursed in accordance with G.S. 147-68.1.	$353,852	R	$353,852	R

Senate Subcommittee on General Government	FY 13-14		FY 14-15	
Total Legislative Changes	**$175,215**	**R**	**$175,215**	**R**
	$1,111,585	**NR**		
Total Position Changes	-1.00		-1.00	
Revised Budget	**$8,137,890**		**$7,026,305**	

(19.0) Fire Rescue Nat Guard Pensions & LDD Benefits

	GENERAL FUND	
	FY 13-14	FY 14-15
Recommended Continuation Budget	$23,179,042	$23,179,042

Legislative Changes

1412 - Fire Pension

69 General Fund Fire Contribution

Provides the General Fund contribution to the Firemen's Pension Fund. The payment of these pension benefits is made pursuant to G.S. 58-86. The amount of the recurring General Fund contribution in the continuation budget is $14,015,734.

1413 - Rescue Squad

70 General Fund Contribution to the Rescue Squad Workers Pension Fund

Provides the General Fund contribution to the Rescue Squad Workers' Pension Fund. The payment of these pension benefits is made pursuant to G.S. 58-86. The amount of the recurring General Fund contribution in the continuation budget is $1,430,865. The appropriation is reduced by $820,000 relative to the continuation budget in order to align with the Annual Required Contribution in the June 30, 2012 actuarial valuation. This reduction appears in a corresponding money item in the Statewide Reserves section of the Committee Report.

1414 - National Guard

71 General Fund Contribution to National Guard

Provides the General Fund contribution to the National Guard Pension Fund. The payment of these pension benefits is made pursuant to G.S. 127A-40. The amount of the recurring General Fund contribution to the fund is $7,007,443.

1432 - Line of Duty Death Benefits

72 General Fund Contribution to Line of Duty Death Benefits

Provides the General Fund contribution to the Line of Duty Death Benefits Fund. The Fund provides benefits to families of certain public servants who die in the line of duty. The payment of these death benefits is made pursuant to G.S. 143-12A. The amount of the recurring General Fund contribution to the fund is $725,000.

Senate Subcommittee on General Government	FY 13-14	FY 14-15
Total Legislative Changes		
Total Position Changes		
Revised Budget	**$23,179,042**	**$23,179,042**

TRANSPORTATION
Section K

Highway Fund

	HIGHWAY FUND	
	FY 13-14	FY 14-15
Recommended Continuation Budget	**$1,696,197,124**	**$1,692,322,459**

Legislative Changes

Adjustments to Availability

1 Inspection Program Account & Telecommunications Account

Appropriates $10.5 million of accumulated unencumbered fund balance in accordance with the elimination of the Inspection Program Account and Telecommunications Account upon completion of the Motor Vehicle Inspection and Law Enforcement System (MILES) information technology project. Projected recurring revenues from the consolidation of the Inspection ($3.00) and Telecommunications ($1.75) electronic authorization fees total $23.6 million in FY 2013-14 and $21.6 million in FY 2014-15.

2 Division of Motor Vehicles Technology Improvement Account

Appropriates $4.55 million of accumulated unencumbered fund balance in accordance with the elimination of the Technology Improvement Account. Additional recurring revenues to the Highway Fund total $634,000.

3 Access and Public Service Road Program

Appropriates $3.0 million of accumulated unencumbered fund balance from the Access and Public Service Road Program.

4 Division Small Urban Construction Program

Appropriates $25.0 million of accumulated unencumbered fund balance from the Division Small Urban Construction Program.

5 Contingency Fund

Appropriates $28.0 million of accumulated unencumbered fund balance from the Contingency Fund for maintenance projects.

6 Economic Development Program

Appropriates $3.1 million of accumulated unencumbered fund balance within the Economic Development Program for qualifying projects to be used in FY 2013-14.

7 Shallow Draft Navigation Channel Dredging Fund

Reduces Highway Fund revenue by $2,280,350 in FY 2013-14 and $2,193,500 in FY 2014-15 to reflect the crediting of one-sixth of one percent (1/6 of 1%) of motor fuel tax revenue to the Shallow Draft Navigation Channel Dredging Fund established by Section 14.22.

	FY 13-14		FY 14-15	
8 Registration Fee for Hybrid/Electric Vehicles Increases Highway Fund revenue by $1.5 million recurring resulting from the establishment of a $100 surcharge on registration fees for electric vehicles and a $50 surcharge on registration fees for hybrid-electric vehicles.				
9 Freight Rail & Rail Crossing Safety Improvement Fund Increases Highway Fund availability to reflect dividend payments issued by the North Carolina Railroad Company during the 2013-15 fiscal biennium. Estimated receipts total $19.2 million in FY 2013-14 and $3.75 million in FY 2014-15.				
Administration				
10 Facility Security Appropriates recurring funds to maintain the existing level of contract security at seven DOT buildings, as recommended in the Governor's Budget. Funds were previously allocated from the year-end credit balance within the Highway Fund for this purpose.	$303,896	R	$303,896	R
11 Fiscal Section - Appalachian Regional Commission Appropriates funding for the Department's share of the Appalachian Regional Commission Assessment, as recommended in the Governor's Budget. Funds were previously allocated from the Highway Fund year-end credit balance for this purpose.	$278,099	R	$278,099	R
12 Occupational Safety and Health (OSHA) Program Reduces funding for the Occupational Safety and Health (OSHA) Program, leaving $365,337, as recommended in the Governor's Budget.	($7,455)	R	($7,455)	
13 DOT-IT - Mainframe Application Modernization Appropriates funds to advance the development and implementation of replacement systems for Division of Motor Vehicles mainframe applications, including the State Titling and Registration System (STARS), State Automated Driver License System (SADLS), and Liability Insurance Tracking and Enforcement System (LITES). Funds are authorized for the procurement of contractual services, hardware and software for these replacement efforts.	$8,832,000	NR	$5,000,000 $8,798,400	R NR
14 Fiscal Section - Combined Registration and Tax Collection System Authorizes three additional receipt-supported positions to administer the collection of registration fees and property taxes upon implementation of the Combined Motor Vehicle Registration and Property Tax Collection System. Budgeted receipts are increased by $189,278 recurring in FY 2013-14 and $189,372 recurring in FY 2014-15. Costs incurred for project administration are supported by the administrative fee authorized in G.S. 105-330.5(b) and determined pursuant to the Memorandum of Understanding between the Department of Revenue and Division of Motor Vehicles, as required by G.S. 105-330.11. Total budgeted receipts for Fiscal Section project administration are $634,702 in FY 2013-14 and $634,796 in FY 2014-15.				

15 DOT-IT - Combined Registration and Tax Collection System

Authorizes two additional receipt-supported positions to support and maintain the Combined Motor Vehicle Registration and Property Tax Collection System. Budgeted receipts are increased by $240,296 recurring and $232,750 nonrecurring in FY 2013-14, and are reduced by $1,767,963 in FY 2014-15 per project close-out. Costs incurred for project administration are supported by the administrative fee authorized in G.S. 105-330.5(b) and determined pursuant to the Memorandum of Understanding between the Department of Revenue and Division of Motor Vehicles, as required by G.S. 105-330.11. Total budgeted receipts for DOT-IT project administration are $4,831,480 in FY 2013-14 and $2,861,062 in FY 2014-15.

	FY 13-14		FY 14-15	
16 Departmental Staffing Efficiencies	($1,374,402)	R	($1,374,402)	R
Eliminates 25 vacant administrative positions within the Department and 11 vacant receipt-supported positions:	-25.00		-25.00	

Position	Position Title
60019254	Office Assistant IV
60019645	Processing Assistant III
60019641	Processing Assistant IV
60020157	Processing Assistant III
60021214	Processing Assistant III
60022816	Processing Assistant III
60021741	Accounting Technician
60017652	Processing Assistant III
60027656	Engineering Manager
60021749	Processing Assistant III
60022317	Processing Assistant III
60019740	Processing Assistant III
60015796	Engineer
60015799	Engineer
60015802	Engineer
60015815	Engineer
60015819	Engineer
60015839	Engineer
60015335	Accountant
60015603	Transportation Program Section Chief
60015602	Aircraft Mechanic
60015443	Processing Assistant II
60015109	Business And Technology Applic Analyst
60015474	Processing Assistant III
60015532	Plant Maintenance Supervisor 1
60027024	Administrative Secretary III
60027234	Processing Assistant III
60015547	Plant Maintenance Supervisor 1
60025668	Executive Assistant I
60025676	Office Assistant III
60015364	Accounting Director
60015454	Accountant
60015412	Processing Assistant II
60015163	Transportation Planner III
65002114	Engineer Supervisor
65012864	Engineering Supervisor

Additionally, 303 vacant positions assigned to field and equipment units, of which 125 have been vacant longer than 600 days, are eliminated throughout the department. Projected savings associated with these position eliminations are returned to the funding programs.

Senate Subcommittee on Transportation	FY 13-14		FY 14-15	
Aid to Municipalities				
17 State Aid to Municipalities Appropriates additional funding from the consolidation of State Aid to Municipalities/Powell Bill allocations within the Highway Fund. Budgeted funds total $142,293,840 for FY 2013-14 and $136,874,010 for FY 2014-15.	$53,407,542	R	$48,165,484	R
Capital, Repairs & Renovations				
18 Repairs & Renovations Appropriates funds for repairs and renovations to eight Department of Transportation owned facilities during the 2013-15 fiscal biennium.	$3,532,900	NR	$2,792,000	NR
19 Capital Improvements Appropriates nonrecurring funds for capital improvement projects included in the Department of Transportation's 2013-2019 Capital Improvements Plan.	$14,522,600	NR	$17,145,700	NR
Construction				
20 Secondary Road Construction and Unpaved Secondary Road Paving Programs	($78,886,298)	R	($78,708,526)	R
Reduces funding for the Secondary Road Construction Program in FY 2013-14 and eliminates the program in FY 2014-15. The fund will be renamed in FY 2014-15 to the Unpaved Secondary Road Paving Program. The total budget is $25.0 million in FY 2013-14 and $10.0 million in FY 2014-15. The Department will allocate $10.0 million recurring beginning in FY 2013-14 for the paving of unpaved secondary roads based on the statewide prioritization list.	$15,000,000	NR		
21 Division Small Urban Construction Eliminates funding to the Division Small Urban Construction Program, as recommended in the Governor's Budget.	($7,000,000)	R	($7,000,000)	R
22 Access and Public Service Road Program Reduces funding for the Access and Public Service Roads Program by 2%, leaving $1,723,707, as recommended in the Governor's Budget.	($35,178)	R	($35,178)	R
23 Economic Development Program Fund Appropriates $3.1 million of accumulated unencumbered fund balance within the Economic Development Program for qualifying projects to be used in FY 2013-14. $4,036,171 nonrecurring is appropriated in FY 2014-15.	$3,100,000	NR	$4,036,171	NR

Senate Subcommittee on Transportation	FY 13-14		FY 14-15	
Division of Motor Vehicles				
24 Customer Service Improvement Initiative Appropriates funds to support part-time personnel, utilities, and other operating costs associated with the provision of extended weekday and Saturday hours of operation at 20 driver license offices during FY 2013-14, increasing to 30 offices by FY 2014-15, as recommended in the Governor's Budget. Nonrecurring funds are appropriated for the training of new personnel and to replace three digital scanners which are no longer supported by the manufacturer.	$889,782 $540,683	R NR	$963,829	R
25 Credit/Debit Transaction Costs Appropriates funds to support transaction costs incurred for the acceptance of credit and debit card payments for registration, title, and highway use tax transactions.	$6,646,233	R	$7,975,480	R
26 Combined Registration and Tax Collection System Continues funding for a total of 79 receipt-supported positions authorized by S.L. 2012-142, Sec. 24.10, of which 58 are time-limited, to administer the Combined Motor Vehicle Registration and Property Tax Collection System. Fifty-four of these authorized time-limited positions shall terminate no later than June 30, 2015. Vehicle Services personnel are responsible for system training, transaction and document processing, and resolution of branch agent and customer service requests. Budgeted receipts are increased by $8,151,788 in FY 2013-14 and $10,460,702 in FY 2014-15. Costs incurred for project administration are supported by the administrative fee authorized in G.S. 105-330.5(b) and determined pursuant to the Memorandum of Understanding between the Department of Revenue and Division of Motor Vehicles, as required by G.S. 105-330.11. Total budgeted receipts for DMV project administration are $11,591,432 in FY 2013-14 and $11,423,636 in FY 2014-15. Funding is reduced by $167,796 in FY 2014-15 due to the elimination of four positions responsible for initial training activities.				
27 Combined Registration and Tax Collection System - Receipts Reduces funding to account for additional receipts derived from compensation for property tax transactions performed by the Division of Motor Vehicles and from the administrative fee for the production of combined registration renewal notices and vehicle property tax bills (G.S. 105-330.5(b)). Receipts budgeted within Vehicle Services (Fund Center 1500/157055) are increased by $1,112,258 in FY 2013-14 and $1,334,710 in FY 2014-15, and will partially offset costs incurred for credit/debit transactions. Receipts budgeted within General Services (Fund Center 1500/157030) are increased by $2,358,157.	($3,470,415)	R	($3,692,867)	R

Senate Subcommittee on Transportation	FY 13-14		FY 14-15	
28 Division Staffing Efficiencies Eliminates 12 positions within the Division of Motor Vehicles which have been vacant longer than 180 days:	($817,202) -12.00	R	($817,202) -12.00	R

Position	Position Title
60031363	Administrative Assistant III
60029937	Title Examining Supervisor III
60029941	Information Processing Technician
60031316	Law Enforcement Manager
60030972	Law Enforcement Supervisor
60031068	Law Enforcement Supervisor
60031138	Law Enforcement Agent
60031108	Law Enforcement Agent
60031041	Law Enforcement Agent
60031173	Law Enforcement Agent
60031170	Law Enforcement Agent
60030097	Nurse Consultant

29 Inspection Program Increases funding to support the costs of administering the Inspection Program per the elimination of the Inspection Program Account and Telecommunications Account. Receipt-supported functions are converted to Highway Fund appropriation. Recurring funding for the Inspection Program (Fund Center 1500/150054) is increased by $8,964,895, for a total Program budget of $12,158,854 recurring. Receipts budgeted for split-funded positions within the License and Theft Bureau (Fund Center 1500/157060) are reduced by $6,475,642.	$15,440,537	R	$15,440,537	R
Intermodal				
30 Aviation Division - State Aid to Airports Reduces funding for grants to airports to $20.0 million recurring, a reduction of $2,311,031 from the FY 2012-13 Certified Budget. Amounts shown represent adjustments relative to the Continuation Budget for the 2013-15 fiscal biennium, in accordance with the repeal of G.S. 136-16.4.	$31,627	R	$2,128,306	R
31 Public Transportation Division - Grant Programs Reduces funding across all public transportation grant programs by 2%, leaving $83,351,374, as recommended in the Governor's Budget.	($1,692,861)	R	($1,692,861)	R
32 Ferry Division - Operating Efficiencies Reduces funding for Ferry Division operations by 2%, as recommended in the Governor's Budget.	($820,763)	R	($820,763)	R
33 Ferry Division - Operations Appropriates funds to offset the shifting of toll revenue to a reserve for capital improvements to the North Carolina Ferry System. Toll revenue previously offset recurring operating and maintenance costs. Recurring budgeted receipts in Fund Center 1500/157825 from other revenue sources, including memorabilia sales and vending receipts, total $370,742.	$4,629,258	R	$4,629,258	R

	FY 13-14		FY 14-15	
34 Ferry Division - Spoil Site Capacity Appropriates nonrecurring funds to re-establish capacity at spoil sites at Fort Fisher ($100,000), Southport ($150,000), Cherry Branch ($400,000), and Swan Quarter ($500,000), as recommended in the Governor's Budget.	$1,150,000	NR		
35 Ferry Division - Reserve for Capital Improvements Establishes a reserve for tolls collected on the North Carolina Ferry System. Proceeds shall be credited to separate accounts within the reserve for each Highway Division in which system terminals are located and revenue is earned. Gross annual revenue, based on the fare structure and rates determined by the Board of Transportation for system-wide implementation effective November 1, 2013, shall generate no less than $5 million and may not exceed $10 million. Toll proceeds shall be used exclusively for prioritized capital improvements to the North Carolina Ferry System.				
36 Rail Division - Operations Reduces funding for Rail Division programs by 2%, as recommended in the Governor's Budget.	($424,023)	R	($424,023)	R
37 Rail Division - Infrastructure Assistance Programs Eliminates funding for the Rail Industrial Access Program and Short Line Infrastructure Assistance Program. Eligible projects may qualify for funding through the Freight Rail and Rail Crossing Safety Fund and Strategic Prioritization Funding Plan for Transportation Investments.	($269,000)	R	($269,000)	R
38 Rail Division - Freight Rail & Rail Crossing Safety Improvement Fund	$3,700,000	R	$3,750,000	R
Appropriates receipts from dividend payments issued by the North Carolina Railroad Company. Funds shall be used for the enhancement of freight rail service and railroad-roadway crossing safety improvements, including projects which improve access to industrial, port, and military facilities. A total of $19.2 million is budgeted in FY 2013-14 and $3.75 million in FY 2014-15 from estimated dividend payments.	$15,500,000	NR		
39 Division of Bicycle & Pedestrian Transportation - Planning Grants Reduces funding for the Regional Bicycle Planning Grant Program to $250,000 recurring.	($129,447)	R	($129,447)	R
Maintenance				
40 Primary System Reduces funding for the Primary System Maintenance Program, leaving $146,864,736 in FY 2013-14 and $144,044,736 in FY 2014-15, as recommended in the Governor's Budget.	($16,488,083)	R	($19,308,083)	R

Senate Subcommittee on Transportation	FY 13-14		FY 14-15	
41 Secondary Road Maintenance and Improvement Program Reduces funding to the Secondary Road Maintenance and Improvement Program, leaving $270,244,518 in FY 2013-14 and $268,364,518 in FY 2014-15, as recommended in the Governor's Budget.	($12,755,795)	R	($14,635,795)	R
42 System Preservation Reduces funding for the System Preservation Program, consistent with new revenue estimates and G.S. 119-18(b).	($500,000)	R	($1,400,000)	R
43 System Preservation Increases funding for the System Preservation Program. Budgeted funds total $179,599,774 for FY 2013-14 and $155,008,350 for FY 2014-15.	$100,771,279	R	$76,779,855	R
44 Reserve for General Maintenance Increases funding for the Reserve for General Maintenance. Budgeted funds total $171,122,827 for FY 2013-14 and $114,580,168 for FY 2014-15.	$105,850,698 $27,471,817	R NR	$76,779,856	R
45 Contract Resurfacing Increases funding for the Contract Resurfacing Program. Budgeted funds total $375,655,932 for FY 2013-14 and $351,664,508 for FY 2014-15.	$100,771,279	R	$76,779,855	R
Reserves				
46 State Retirement System Contributions Increases the State's contribution to the Teachers' and State Employees' Retirement System for the 2013-15 biennium to fund the Annual Required Contribution.	$1,121,000	R	$1,121,000	R
47 State Health Plan Provides additional funding to increase maximum annual employer contributions for group health benefit coverage by the projected increase in the Consumer Price Index (CPI-U): 1.8% in FY 2013-14 and 2.2% in FY 2014-15.	$1,700,000	R	$3,800,000	R
48 Disability Income Plan of North Carolina Reduces the State's contribution to the Disability Income Plan from 0.44% to 0.43% of payroll as a result of the December 31, 2011 actuarial valuation.	($31,150)	R	($31,150)	R
49 Reserve for Future Benefit Needs Creates a reserve for increased contributions to existing employee benefits programs.			$1,745,000	R

Senate Subcommittee on Transportation	FY 13-14		FY 14-15	
Transfers				
50 Department of Public Instruction - Driver Education Program Reduces funds for transfer to the Department of Public Instruction in accordance with an authorized increase to the optional driver education fee, from $45.00 to $65.00 per participating student. Estimates adjust for projected increases in 9th grade average daily membership (ADM) and eligible private and federal school students over the 2013-15 fiscal biennium. Per student appropriations are reduced from $200.94 to $184.94. Transfers total $25,054,988 for FY 2013-14 and $25,575,792 for FY 2014-15.	($2,792,962)	R	($2,808,263)	R
51 State Ethics Commission Transfers $110,330 to the State Ethics Commission to support an Attorney II position for the implementation of Section 34.18.	$110,330	R	$110,330	R
Total Legislative Changes	**$268,156,526**	R	**$192,595,770**	R
	$89,650,000	NR	**$32,772,271**	NR
Total Position Changes	-37.00		-37.00	
Revised Budget	**$2,054,003,650**		**$1,917,690,500**	

Highway Trust Fund

	HIGHWAY TRUST FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$1,118,600,000**		**$1,152,000,000**	
Legislative Changes				
Administration				
52 Administration Eliminates the statutory adjustment to Administration and holds funding at the FY 2012-13 certified budget amount.	($8,008,320)	R	($9,611,520)	R
Aid to Municipalities				
53 Aid to Municipalities Eliminates the Highway Trust Fund allocation to the Aid to Municipalities program and transfers funds to the Strategic Prioritization Program. The Highway Fund allocation to the Aid to Municipalities program is increased to hold municipalities harmless over a five-year period.	($56,072,216)	R	($58,054,337)	R
Construction				
54 Strategic Prioritization Program Appropriates funding for highway and intermodal capital projects funded through the Highway Trust Fund per the new Strategic Prioritization Funding Plan for Transportation Investments.	$931,539,030	R	$950,101,672	R
55 Intrastate System Eliminates the Intrastate System program and transfers funds to the Strategic Prioritization Program.	($515,520,933)	R	($530,210,557)	R
56 Mobility Fund Eliminates the Mobility Fund program and transfers funds to the Strategic Prioritization Program.	($58,000,000)	R	($58,000,000)	R
57 Secondary Roads Eliminates the Secondary Road program and transfers funds to the Strategic Prioritization Program.	($78,972,723)	R	($86,253,540)	R
58 Urban Loops Eliminates the Urban Loops program and transfers funds to the Strategic Prioritization Program.	($164,864,838)	R	($191,571,718)	R

Senate Subcommittee on Transportation	FY 13-14		FY 14-15	
Turnpike Authority				
59 Gap Funding Eliminates gap funding in the amounts of $35 million for the Garden Parkway and $28 million for the Mid-Currituck Bridge projects. The projects are eligible to compete for funding based on the prioritization process established under the Strategic Prioritization Funding Plan for Transportation Improvements.	($63,000,000)	R	($63,000,000)	R
Total Legislative Changes	**($12,900,000)**	**R**	**($46,600,000)**	**R**
Total Position Changes				
Revised Budget	**$1,105,700,000**		**$1,105,400,000**	

Turnpike Authority

	TURNPIKE AUTHORITY	
	FY 13-14	FY 14-15
Recommended Continuation Budget	**$0**	**$0**
Legislative Changes		
Administration		
60 Departmental Staffing Efficiencies		
Eliminates two vacant receipt-supported positions within the Turnpike Authority. Recurring savings total $153,884.		
Position 65004790 Turnpike Marketing Manager		
Position 65002113 Information & Communication Specialist I		
Total Legislative Changes		
Total Position Changes		
Revised Budget	**$0**	**$0**

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RESERVES/ DEBT SERVICE/ ADJUSTMENTS Section L

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Statewide Reserves

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$756,149,861**		**$756,149,861**	
Legislative Changes				
A. Employee Benefits				
1 Severance Expenditure Reserve Provides funding for severance salary continuation payments and health benefits coverage under the State Health Plan for eligible employees who are reduced in force (RIF) during FY 2013-14. Any funds remaining in this reserve at the end of FY 2013-14 shall not revert and shall be used to pay severance salary continuation needs in FY 2014-15.	$37,126,314	NR		
2 Statewide Compensation Study Establishes a reserve to fund a statewide compensation study by the Office of State Personnel (OSP). OSP shall report the results of its study to the chairs of the Senate Appropriations/ Base Budget Committee, the chairs of the House of Representatives Appropriations Committee, and the Fiscal Research Division by May 1, 2014.	$1,000,000	NR		
3 State Retirement System Contributions Increases the State's contribution to the Teachers' and State Employees' Retirement System for the 2013-15 biennium to fund the Annual Required Contribution.	$36,000,000	R	$36,000,000	R
4 Judicial Retirement System Contributions Increases the State's contribution to the Consolidated Judicial Retirement System for the 2013-15 biennium to fund the Annual Required Contribution.	$1,000,000	R	$1,000,000	R
5 Highway Fund Retirement System Contributions Increases the State's contribution to the Teachers' and State Employees' Retirement System for positions supported by the Highway Fund by $1,121,000 for 2013-15 biennium to fund the Annual Required Contribution. The increased expenditures appear in a corresponding item in the Transportation section of the Committee Report.				
6 Reserve for Future Benefit Needs Creates a General Fund reserve for increased contributions to existing employee benefits programs.			$56,400,000	R
7 Highway Fund Reserve for Future Benefit Needs Creates a Highway Fund reserve of $1,745,000 for increased contributions to existing employee benefits programs. Funds for the reserve appear in a corresponding item in the Transportation section of the Committee Report.				

	FY 13-14		FY 14-15	
8 Disability Income Plan of North Carolina Reduces the State's contribution to the Disability Income Plan from 0.44% to 0.43% of payroll as a result of the December 31, 2011 actuarial valuation.	($1,100,000)	R	($1,100,000)	R
9 Highway Fund Disability Income Plan of North Carolina Reduces the Highway Fund's contribution to the Disability Income Plan from 0.44% to 0.43% of payroll as a result of the December 31, 2011 actuarial valuation. The reduction appears in a corresponding item in the Transportation section of the Committee Report.				
10 Firemen's and Rescue Squad Workers' Pension Fund Reduces contributions to the Firemen's and Rescue Squad Workers' Pension Fund for the 2013-15 biennium to match the Annual Required Contribution.	($820,000)	R	($820,000)	R
11 State Health Plan Provides additional funding to increase maximum annual employer contributions for group health benefit coverage by the projected increase in the Consumer Price Index (CPI-U): 1.8% in FY 2013-14 and 2.2% in FY 2014-15.	$34,000,000	R	$77,000,000	R
12 Highway Fund State Health Plan Contributions Increases maximum annual employer contributions for positions funded through the Highway Fund by the projected increase in the Consumer Price Index (CPI-U): 1.8% in FY 2013-14 and 2.2% in FY 2014-15. The additional funding required from the Highway Fund is $1.7 million for FY 2013-14 and $3.8 million for FY 2014-15. The increased expenditures appear in a corresponding item in the Transportation section of the Committee Report.				
B. Other Reserves				
13 Reserve for Escheat Fund Global TransPark Loan Repayment Provides General Fund appropriation to repay the Global TransPark's loan funded from the Escheat Fund. The Office of State Budget and Management shall transfer these funds to the Escheat Fund. Any excess funds remaining after the loan is paid in full shall remain in the Escheat Fund.	$27,000,000	NR		
14 IT Reserve Fund Provides additional funds for the Information Technology (IT) Reserve Fund in the Office of the State Chief Information Officer. Additional information about these funds is provided in the IT section of this report.	$7,335,000 $23,665,000 33.00	R NR	$11,820,000 $24,180,000 44.00	R NR
15 Job Development Investment Grant Reserve Increases funding for the Job Development Investment Grant (JDIG) Reserve to meet projected needs for FY 2013-14 and FY 2014-15. Total funding in FY 2013-14 will be $51,823,772; total funding in FY 2014-15 will be $63,045,357.	$24,423,772	R	$35,645,357	R

	FY 13-14		FY 14-15	
16 NC GEAR Establishes a statewide reserve in the Office of State Budget and Management for the NC Government Efficiency and Reform (NC GEAR) project.	$2,000,000	NR	$2,000,000	NR
17 Unemployment Insurance (UI) Reserve Establishes a reserve for the requirements of S.L. 2013-2, UI Fund Solvency and Program Changes. The Office of State Budget and Management shall distribute the reserve to State agencies to fund the 1% UI reserve requirements for General Fund-supported employees and State-funded teachers. These amounts are supplemented by an additional $17 million in FY 2013-14 from the Worker Training Trust Fund, the Training and Employment Account, and the Special Employment Security Administration Fund.	$23,800,000	NR	$13,600,000	NR
C. Debt Service				
18 Debt Service Adjustment Adjusts debt service appropriations based on updated cash flow requirements.	($34,949,705)	R	($18,648,784)	R
19 Debt Service Increase Increases debt service in anticipation of an additional $100 million issuance of general obligation bonds under Article V, Section 4(2) of the NC Constitution for repair and renovations of State buildings.	$4,318,572	R	$8,637,142	R
20 Clean Water, Parks and Recreation, and Natural Heritage Trust Fund Debt Provides a direct General Fund appropriation for debt service associated with the Clean Water Management Trust Fund, the Parks and Recreation Trust Fund, and the Natural Heritage Trust Fund.	$13,158,590	R	$13,113,417	R
21 Tobacco Master Settlement Agreement Debt Provides a direct General Fund appropriation for University projects' debt service that was previously funded by Tobacco Master Settlement Agreement receipts.	$35,450,000	R	$35,289,724	R
Total Legislative Changes	**$118,816,229**	**R**	**$254,336,856**	**R**
	$114,591,314	**NR**	**$39,780,000**	**NR**
Total Position Changes	33.00		44.00	
Revised Budget	**$989,557,404**		**$1,050,266,717**	

State Health Plan (Administration)

Budget Code: 28410

	FY 2013-14	FY 2014-15
Beginning Unreserved Fund Balance	**$5**	**$5**
Recommended Budget		
Requirements	**$195,380,187**	**$195,380,187**
Receipts	**$195,380,187**	**$195,380,187**
Positions	**46.00**	**46.00**

Legislative Changes

Requirements:

Medical Benefits/Claims Processing Contract	($19,507,650)	R	($15,997,012)	R
Adjusts the budgeted amounts for Third Party Administrative Services contracts based on newly effective contracts, changes in membership, and on-going administrative services.	$0	NR	$0	NR
	0.00		0.00	
Pharmacy Benefits Management (PBM) Contract	($3,020,918)	R	($11,804,511)	R
Adjusts the budgeted amount for the PBM contract based on anticipated contractual costs, changes in membership, and administrative services provided by the PBM. Reflects a full year of the Employer Group Waiver Plan (EGWP) in FY 2013-14.	$0	NR	$0	NR
	0.00		0.00	
Disease & Case Management Contracts	$1,830,916	R	$2,808,916	R
Adjusts the budgeted amount for Population Health Management Services contracts based on anticipated contractual costs, changes in membership, and on-going disease and case management services.	$0	NR	$0	NR
	0.00		0.00	
Wellness Initiatives and Programs	($177,425)	R	($379,250)	R
Adjusts the budgeted amount for Wellness Initiatives contracts based on on-going contracts, programs, and initiatives and reflecting the expiration of some contracts.	$0	NR	$0	NR
	0.00		0.00	

	FY 2013-14		FY 2014-15	
Other Administrative Costs	$6,841,519	R	$41,043,218	R
Adjusts the budgeted amounts for the Plan's other administrative costs to reflect increased member communications due to plan design changes, enhanced auditing efforts, and anticipated adjustments to contractual costs due to inflation and membership changes. Reflects the transitional reinsurance fee under the federal Affordable Care Act in FY 2014-15.	$0	NR	$0	NR
	0.00		0.00	
Department Overhead Allocation	$1,100,000	R	$1,100,000	R
Directs the Office of State Budget and Management to create a new fund code for the Department of State Treasurer core services allocation. The amounts in other fund codes may only be used for purposes directly related to the administration of the State Health Plan.	$0	NR	$0	NR
	0.00		0.00	
Subtotal Legislative Changes	**($12,933,558)**	R	**$16,771,361**	R
	$0	NR	**$0**	NR
	0.00		0.00	
Receipts:				
Adjust Transfers from Trust Funds	($12,933,558)	R	$16,771,361	R
Adjusts the amount of transfer from the Plan's health benefit trust fund budget codes to support administrative costs authorized for the 2013-15 fiscal biennium.	$0	NR	$0	NR
Subtotal Legislative Changes	**($12,933,558)**	R	**$16,771,361**	R
	$0	NR	**$0**	NR
Revised Total Requirements	**$182,446,629**		**$212,151,548**	
Revised Total Receipts	**$182,446,629**		**$212,151,548**	
Change in Fund Balance	**$0**		**$0**	
Total Positions	**46.00**		**46.00**	
Unappropriated Balance Remaining	**$5**		**$5**	

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CAPITAL
Section M

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Capital

	GENERAL FUND			
	FY 13-14		FY 14-15	
A. Department of Administration				
1 Division of Veterans Affairs - Sandhills State Veterans Cemetery Appropriates $125,000 to construct an enclosed committal structure for the Sandhills State Veterans Cemetery in Spring Lake, NC. The funding will match contributions from non-State entities. The total cost of the project is $300,000.	$125,000	NR		
2 Division of Veterans Affairs - New State Veterans Cemetery Appropriates funds to construct an additional State Veterans Cemetery in Goldsboro. The State currently has three cemeteries located in Black Mountain, Kinston, and Spring Lake.	$600,000	NR		
B. Department of Agriculture and Consumer Services				
3 Agriculture Water Resources Assistance Program Provides funding for the Agriculture Water Resources Assistance Program administered by the Soil and Water Conservation Commission.	$500,000	NR		
C. Department of Environment and Natural Resources				
4 Water Resources Development Projects Provides funds for the State's share of Water Resource Development Projects. Funds will provide a State match for $21.3 million in federal funds and $3.4 million in local funds in FY 2013-14. The projects are specified in a special provision. In FY 2014-15, additional State funds will be available for projects and to provide the State match for federal and local projects.	$6,917,000	NR	$5,000,000	NR
D. Department of Public Safety				
5 Armory and Facility Development Projects Appropriates $8.25 million in State funds over the fiscal biennium to expand and renovate National Guard Armories and Facilities located throughout the State. These funds will match $21 million in federal funds. The projects are specified in a special provision.	$5,000,000	NR	$3,250,000	NR

Senate Committee on Appropriations/Base Budget	FY 13-14		FY 14-15	
E. University of North Carolina				
6 University of North Carolina - Asheville - Land Purchases Appropriates funds for the University of North Carolina - Asheville for land purchases to allow for the long-term growth and expansion of the campus consistent with the strategic plans of the campus and the Board of Governors.	$2,000,000	NR		
7 Appalachian State University - Health Sciences Building Funds advance planning for Appalachian State University's College of Nursing and Health Sciences Building. The 200,000 sq. ft. facility will be constructed in association with the Watauga Medical Center. Planning funds for this project were originally appropriated in S.L. 2008-107 but were reverted by the Governor to cover the FY 2008-09 budgetary shortfall. The project is estimated to cost $80.2 million.	$2,000,000	NR		
F. General Obligation Bonds				
8 Repair and Renovations Authorizes the issuance of general obligation bonds under Article V, Section 4(2) of the NC Constitution to be allocated to the Reserve for Repair and Renovation. The University of North Carolina System will receive 46 percent of the allocation to be distributed to the various campuses. The Office of State Management and Budget will receive 54 percent of the allocation to be distributed to various State agencies. The total debt authorized is $100,000,000.				
Total Appropriation to Capital	**$17,142,000**	**NR**	**$8,250,000**	**NR**

INFORMATION TECHNOLOGY SERVICES
Section N

Information Technology Fund

Budget Code: 24667

	FY 2013-14	FY 2014-15
Beginning Unreserved Fund Balance	**$0**	**$2,200**
Recommended Budget		
Requirements	**$6,053,142**	**$6,053,142**
Receipts	**$6,053,142**	**$6,053,142**
Positions	**33.00**	**33.00**

Legislative Changes

Requirements:

Criminal Justice Information Network Provides $189,563 in each year of the biennium to the Criminal Justice Information Network (CJIN). The CJIN is a statewide criminal justice infrastructure that allows the sharing of information between State and local criminal justice agencies.		R NR		R NR
Center for Geographic Information and Analysis Provides $495,338 in each year of the biennium for the Center for Geographic Information and Analysis (CGIA). The CGIA is the lead agency for geographic information systems (GIS) services and GIS coordination for North Carolina. CGIA provides GIS services to State and local governments as well as the private sector.		R NR		R NR
Enterprise Security Risk Management Office Reduces funding for Enterprise Security Risk Management to 2011-2013 levels, leaving $864,148 (recurring) for each year of the biennium. The Enterprise Security and Risk Management Office (ESRMO) is responsible for the development, delivery and maintenance of an information security and risk management program that safeguards the State's information assets and the supporting infrastructure against unauthorized use, disclosure, modification, damage, or loss.	($248,746)	R NR	($248,746)	R NR

	FY 2013-14		FY 2014-15	
Enterprise Project Management Office Reduces funding for the Enterprise Project Management Office (EPMO) to 2011-13 levels, leaving $1,473,285 for FY 2013-14 and FY 2014-15. The EPMO was established to improve the management of IT projects in State government.	($219,116)	R NR	($219,116)	R NR
Architecture and Engineering Reduces funding for the Office of Enterprise Architecture to 2011-2013 levels, providing $851,986 for FY 2013-14 and FY 2014-15. The Office acts as a strategic planner and architect for the State's IT programs and is responsible for formulating and advancing a vision for those programs.	($48,354)	R NR	($48,354)	R NR
State Web Site Provides funding of $224,741 for FY 2013-14 and FY 2014-15 to support the operation and maintenance of the State's web site.		R NR		R NR
Enterprise Licenses Provides funding of $33,000 for FY 2013-14 and FY 2014-15 for enterprise license agreements. Enterprise license agreements support multiple agencies' IT projects and applications.		R NR		R NR
Consolidation Reduces funding for consolidation to $1,021,081 for each year of the biennium to offset other requirements within the Office of the State Chief Information Officer.	($383,784)	R NR	($383,784)	R NR
Electronic Forms and Digital Signatures Provides funding to continue the State's effort to develop and enterprise electronic forms and digital signatures capability.	$900,000	R NR	$900,000	R NR
Government Data Analytics Center Provides funding to continue the efforts of the Government Data Analytics Center (GDAC) and the North Carolina Financial Accountability and Compliance Technology System (NCFACTS) to develop an enterprise business intelligence capability.	$1,417,515 $1,582,485 8.00	R NR	$1,417,515 $3,000,000 8.00	R NR
Subtotal Legislative Changes	**$1,417,515** **$1,582,485** 8.00	R NR	**$1,417,515** **$3,000,000** 8.00	R NR

Senate Committee on Appropriations/Base Budget

	FY 2013-14		FY 2014-15	
Receipts:				
Interest	$2,200	R	$2,200	R
Accounts for interest generated by the Information Technology Fund during FY 2012-13 and 2013-14.	$0	NR	$0	NR
Funding for Government Data Analytics Center	$1,417,515	R	$1,417,515	R
Provides funding for the Government Data Analytics Center and the North Carolina Financial Accountability and Compliance Technology System to continue the State's efforts to develop an enterprise business intelligence capability.	$1,582,485	NR	$3,000,000	NR
Subtotal Legislative Changes	**$1,419,715**	R	**$1,419,715**	R
	$1,582,485	NR	**$3,000,000**	NR
Revised Total Requirements	**$9,053,142**		**$10,470,657**	
Revised Total Receipts	**$9,055,342**		**$10,472,857**	
Change in Fund Balance	**$2,200**		**$2,200**	
Total Positions	**41.00**		**41.00**	
Ending Unreserved Fund Balance	**$2,200**		**$4,400**	

Information Technology Reserve Fund

Budget Code: 00000

	FY 2013-14		FY 2014-15	
Beginning Unreserved Fund Balance	**$0**		**$0**	
Recommended Budget				
Requirements	**$35,000,000**		**$32,000,000**	
Receipts	**$27,000,000**		**$32,000,000**	
Positions	**0.00**		**0.00**	
Legislative Changes				
Requirements:				
Adjustment to IT Reserve Adjusts Information Technology Reserve requirements to reflect the availability of funding by moving requirements from FY 2013-14 to FY 2014-15. This includes delaying the hiring of two IT managers and one IT professional responsible for planning until second year ($450,000), delaying the hiring of five IT analysts responsible for the build function until the second year ($550,000), and delaying network simplification until the second year ($3,000,000).	($1,000,000) ($3,000,000)	R NR	$1,000,000 $3,000,000	R NR
Prepare/Focus (Strategic Plan) Provides $250,000 in FY 2013-14 to allow the State Chief Information Officer (CIO) to develop a new strategic plan that can be consistently implemented across State agencies, using a cross-agency working group to assess Statewide needs and formulate a plan. To support this effort, the State CIO will retain consultants with public and private sector expertise and estimates a requirement for 1,250 hours of support at $200 per hour.		R NR		R NR

	FY 2013-14		FY 2014-15	
Plan (Enterprise Architecture) Provides the State CIO with funding of $1,592,526 in FY 2013-14 and $2,232,321 in FY 2014-15 to hire personnel with the skills necessary to ensure that the State has an enterprise architecture that can be used as the basis for planning Statewide IT support and integrating agency requirements. As part of this effort, a consistent, detailed business case development process will be created that is based on best practices and ensures that the State acquires the best support at the lowest cost. To facilitate this process, the State CIO plans to recruit personnel with the necessary expertise. These will include the following: 1 IT Executive 4 IT Managers (2 hired in FY 2014-15) 11 IT Professionals (6 hired 10/01/2013) (1 hired in FY 2014-15)	R NR 13.00		R NR 16.00	
Build (Project Management) Provides funding of $1,602,433 in FY 2013-14 and $2,754,163 in FY 2014-15 to allow the State CIO to hire staff with the skills required to create and deploy a development model for Cabinet agencies that will assist them in defining software requirements and require standard methodologies for project management and system development. The State CIO has projected the following staffing requirements: 1 IT Executive 3 IT Managers (1 to be hired 10/01/2013, 1 to be hired 01/01/2014) 14 IT Analysts (6 to be hired 10/1/2013, 5 to be hired 01/01/2014) 8 IT Analysts for 2014 (1 to be hired 10/01/2014, 1 to be hired 01/01/2015)	R NR 18.00		R NR 26.00	
Remediation (Equipment Relocation) Provides the State CIO with funding to move information technology equipment from substandard facilities to State data centers. The associated costs are estimated as follows: Vendor support of $300,000 in FY 2013-2014 Equipment costs of $800,000 in FY 2013-14 & $600,000 in FY 2014-15	R NR		R NR	

	FY 2013-14		FY 2014-15	
Security Ensures that State agencies are meeting IT security requirements by providing nonrecurring funding of $1,500,000 in FY 2013-14 and $250,000 in FY 2014-15 to allow the State CIO to conduct an assessment of their current status, then implement improvements based on identified shortfalls. To accomplish this, the services of an outside consultant will be required. The State CIO has also identified shortfalls in the IT Security staff and requires an additional IT security specialist, to be hired in January 2014, with an annual salary and benefits totaling $142,788.		R NR		R NR
	1.00		1.00	
Network Simplification Provides nonrecurring funding of $5,250,000 in FY 2014-15 to allow for the upgrade, simplification, and modernization of the State's internal IT infrastructure to accommodate current technology. Applications will also be upgraded.		R NR		R NR
Desktop Remediation Provides funding of $16,000,000 (nonrecurring) in FY 2013-14 and $14,300,000 ($13,300,000 nonrecurring) in FY 2014-15 for the replacement of obsolete computers and applications.		R NR		R NR
MS Office Provides $4,000,000 in FY 2013-14 and $2,300,000 in FY 2014-15, as well as nonrecurring funding of $3,615,000 in FY 2013-14 to update approximately 50,000 agency software licenses to meet current standards.		R NR		R NR
Operate (Standards and Measures) Allows the State CIO to establish consistent, comparable IT standards and measures. To accomplish this, the State CIO has requested funding of $183,505 in FY 2013-14 and FY 2014-15 for an IT Executive to be responsible for managing the delivery of IT services for State agencies. To enable this executive to standardize IT, the State CIO will engage the services of a consultant with nonrecurring funding of $800,000 in FY 2013-14 and $500,000 in FY 2014-15.		R NR		R NR
	1.00		1.00	

	FY 2013-14		FY 2014-15	
Customer Data		R		R
Facilitates the State CIO developing a standard State policy regarding access to and use of data held by the State, using the services of a consultant at a nonrecurring cost of $400,000 in FY 2013-14 and $1 million in FY 2014-15.		NR		NR
Secure Sign-On		R		R
Provides recurring funding of $3,070,000 and nonrecurring funding of $3,280,000 in FY 2014-15 for the upgrade of the State's identity management system to accommodate increasing security requirements for anyone accessing certain types of data.		NR		NR
Innovation Center		R		R
Creates an innovation center to encourage collaboration between State agencies, institutions of higher learning, citizens, and the private sector to create information technology solutions with potential benefit to the State and anyone using government services.		NR		NR
Subtotal Legislative Changes	**($1,000,000)**	R	**$1,000,000**	R
	($3,000,000)	NR	**$3,000,000**	NR
	33.00		44.00	

Receipts:

Increase to IT Reserve Receipts	$0	R	$0	R
Increases Information Technology Reserve receipts by $4 million each year of the biennium to address Statewide critical information technology infrastructure and security deficiencies, and to provide additional resources to support Statewide oversight and enterprise planning.	$4,000,000	NR	$4,000,000	NR
Information Technology Reserve Receipts		R		R
Sets IT Reserve receipts at $31,000,000 in appropriations for FY 2013-14 and $36,000,000 for FY 2014-15.		NR		NR
Subtotal Legislative Changes	**$0**	R	**$0**	R
	$4,000,000	NR	**$4,000,000**	NR

Senate Committee on Appropriations/Base Budget

	FY 2013-14	FY 2014-15
Revised Total Requirements	$31,000,000	$36,000,000
Revised Total Receipts	$31,000,000	$36,000,000
Change in Fund Balance	$0	$0
Total Positions	33.00	44.00
Ending Unreserved Fund Balance	$0	$0

Information Technology Internal Service Fund

Budget Code: 74660

	FY 2013-14	FY 2014-15
Beginning Unreserved Fund Balance	**$16,656,521**	**$16,656,521**
Recommended Budget		
Requirements	**$190,000,000**	**$190,000,000**
Receipts	**$190,000,000**	**$190,000,000**
Positions	**507.00**	**507.00**

Legislative Changes

Requirements:

Information Technology Internal Service Fund Provides funding for the Office of Information Technology Services. For FY 2013-14 and FY 2014-15, the Fund is limited to $190 million.	$0 R $0 NR	$0 R $0 NR
Subtotal Legislative Changes	**$0** R **$0** NR	**$0** R **$0** NR

Receipts:

IT Internal Service Fund Receipts Limits receipts for SFY 2013-14 and 2014-15 to $190 million each year.	$0 R $0 NR	$0 R $0 NR
Subtotal Legislative Changes	**$0** R **$0** NR	**$0** R **$0** NR

Senate Committee on Appropriations/Base Budget

	FY 2013-14	FY 2014-15
Revised Total Requirements	$190,000,000	$190,000,000
Revised Total Receipts	$190,000,000	$190,000,000
Change in Fund Balance	$0	$0
Total Positions		
Ending Unreserved Fund Balance	$16,656,521	$16,656,521

SP Name/ Bill Section	Name	Change Fee Amt?	Current Law	Proposed Law	Notes	Fiscal Impact
CAPITAL PROJECTS						
CAP-S16 Sec. 36.12	2/3's Bonds Act of 2013	No			Provides for the issuance of general obligation bonds or notes in the aggregate principal amount of the lesser of $100,000,000 or 2/3's of the amount by which the State's outstanding indebtedness was reduced during the biennium ending June 30, 2013 (estimated to be over $500M), to provide funds to finance the capital facility costs of repairing and renovating State facilities and related infrastructure. The proceeds of bonds and notes are allocated to the Reserve for Repairs and Renovations, 46% of which goes to the UNC Bd. Of Governors and the remainder goes to OSBM.	
EDUCATION						
DPI-S24 Sec. 9.3	Excellent Public Schools Act	Yes	Application for demographic or administrative changes to a license: $30; Application for a duplicate license or for copies of documents in the licensure files: $30; Application for a renewal, extension, addition, upgrade, and variation to a license: $55; Initial application for New, In-State Approved Program Graduate: $55; Initial application for Out-of-State license: $85 All other applications: $85	All applications fees: Unlimited (set by the State Board of Education).	As proposed, the setting of fees by the Board would be exempt from rule-making procedures under the Administrative Procedure Act.	Fee last changed in 1998. Expected fee changes are estimated to increase receipts by $630,840 for each year of the biennium.

SP Name/ Bill Section	Name	Change Fee Amt?	Current Law	Proposed Law	Notes	Fiscal Impact
UNC-S9 Sec. 11.7	Student Charges at School of Science& Math	Yes		Authorizes Board of Governors to impose a new fee on nonresidents for distance education services provided by School of Science & Math /for anyone participating in extracurricular enrichment programs sponsored by the School.	Current law prohibits "mandatory" fees w/o GA approval but do not speak to fees for optional activities.	
UNC-S10 Sec. 11.8	Student Charges at School of the Arts	Yes	Fees may be charged in accordance with schedules adopted by the Board of Governors.	Confirms that UNCSA may charge fees, as set by the Board of Governors for in-State high school students.	In 2001 the General Assembly appropriated funds to allow UNCSA to waive approved charges for enrolled, in-State high school students; therefore, the students are not currently charged tuition or fees. Recently, appropriations for these fees are insufficient to fully cover the approved UNCSA fees.	
GENERAL GOVERNMENT						
GEN-S17 Sec. 5.1	Appropriation of Other Funds	No			Codifies certain disbursements from certain agencies to satisfy concerns regarding Constitutional limitations regarding moneys drawn from the Treasury.	
GEN-S20 Sec. 6.2	Establishing/ Increasing Fees Under Act	No			Expressly allows raising fees, commensurate with Budget Act, w/o consultation with LRC. Fee change allowed by emergency rule where rule making is req'd for change	
CULRES-S48 Sec. 19.2	Allow Exemption to Rule-Making Process for Est. & Changing Admission & Activity Fees at State Historic Sites,	Yes	Cultural Resources, including the Tryon Palace Commission, is permitted to charge reasonable admission fees for museums administered by the Department. Fee changes are governed by rule-making requirements under APA. Department reports quarterly to GovOps on how admission fees are	Cultural Resources, including the Tryon Palace Commission, is permitted to charge reasonable admission fees for museums <u>& historic sites</u> administered by the Department. Fee changes are <u>exempted from</u> rule-making requirements under APA. Department reports w/i 30 days of rule adoption that changes and admission fee		

SP Name/ Bill Section	Name	Change Fee Amt?	Current Law	Proposed Law	Notes	Fiscal Impact
	Museums, & Tryon Palace		used.	to GovOps on the amount and purpose of the fee change.		
INS-S4A Sec. 20.2	Workers' Comp Fund/Allocation for Volunteer Safety Workers	No	Gross premiums surtax[1] goes to Volunteer Fire Dept Fund (30%), State Firemans Assoc. (25%), and to GF (45%). DOI keeps 2% for costs related to disbursements.	Gross premiums surtax goes to Volunteer Fire Dept Fund (25%), and the State Firemans Assoc. (20%). The remainder is split between Workers' Compensation Fund for Volunteer Safety Workers (up to 20%) and the GF. DOI keeps 1% for costs related to disbursements.	Percentage to WCFVSW is annually determined by actuarial study by DOI. If percentage needed is greater than 20%, local governments are assessed the additional amount.	Reduces General Fund availability by $3 million annually.
INS-S6 Sec. 20.3	Set Insurance Regulatory Charge	No			First enacted in 1991 to defray the State's cost of regulating the insurance industry, the charge is 6% of each insurance company's gross premiums tax liability. The General Assembly must set this charge annually. It was last changed in 2010.	
SBE-S1C Sec. 21.1	Repeal NC Campaign Fund	Yes	NC State Bar membership surcharge includes $50 for NC Public Campaign Fund Tax Return Has Designation of $3 of Tax Liability to NC Public Campaign Fund	Eliminates the $50 surcharge Eliminates the Tax Return Designation	Repeals the NC Public Campaign Fund (judicial), makes conforming changes, and requires that the balance be spent only on voter guides until such funds are depleted.	Increases availability by $3.5 million.
SEC-S2 Sec. 27.2	Increase Registration Fee for Lobbyist/Lobbyist Principal	Yes	Registration fee for lobbyists and lobbyist principals: $100	Registration fee for lobbyists and lobbyist principals: $250	Eliminates waiver/reduction of fees required for lobbysts/lobbyist principals granted 501(c)(3) nonprofit status	$400,000 annually. First increase since fee was instituted in 2007.
ADMIN-S1A Sec. 30.1	Eliminate Youth Advocacy & Involvement Office, Youth	Yes	Participants of the Youth Legislative Assembly currently pay registration fees of up to $175 for room, etc.	Program (and associated registration fee) is eliminated.	Eliminates NC Youth Advocacy and Involvement Fund, which is funded by, inter alia, conference registration fees for the Youth Legislative Assembly. Any funds remaining in the Fund as of	

[1] Rate = .74% on certain insurance contracts for property coverage.

SP Name/ Bill Section	Name	Change Fee Amt?	Current Law	Proposed Law	Notes	Fiscal Impact
	Advisory Council, State Youth Council, & Internship Council				6/30/13 are returned to person entitled to be reimbursed for the registration fee.	
ADMIN-S2 Sec. 30.2	Eliminate Displaced Homemakers Program/Fund	No	Cost for filing action for absolute divorce: $75, split b/w the Displaced Homemakers Fund ($55) and the Domestic Violence Center Fund $20	Cost of $75 goes entirely to the Domestic Violence Center Fund	Eliminates Displaced Homemakers Program/Fund. Unencumbered funds (as of 6/30/13) go to the Domestic Violence Center Fund.	
HEALTH AND HUMAN SERVICES						
HHSADMN-S14 Sec. 12.4	Funds for replacement Medicaid Management Information System/Implementation of Replacement MMIS	Yes		Requires that DHHS use the replacement MMIS for all Medicaid claim adjudication and permits DHHS to charge entities under contract with the Department a fee for Medicaid claim adjudications in an amount necessary to cover the full operating cost of the adjudication performed by the replacement MMIS.	Appropriates money for implementation of a replacement MMIS.	Department will establish the fee.
DHSR-S4 Sec. 12G.3	CON Exemption for Replacement Equipment & Facilities On Main Campus of CON-Approved Health Service Facility	Yes	DHHS charges a fee for certain CON review unless exempted by law.	The need for CON review (and the accompanying application fee) is eliminated for purchases of replacement equipment > the existing $2M threshold and for capital expenditures > the existing $2M threshold if certain conditions are met.	Fee last changed 11/10/2003.	Net FY 2013-14: ($639,152) Net FY 2014-15: ($643,486)
DMA-S6	Codify	No	Medicaid provider application fee	Same	This fee has been charged	None

SP Name/ Bill Section	Name	Change Fee Amt?	Current Law	Proposed Law	Notes	Fiscal Impact
Sec. 12H.7	Preexisting Provider Application Fee		(including recredentialing, as required every 3 years): $100		continuously since 9/1/09 but has not been codified. Generates $2.5 m. in annual revenue.	
DMA-S20 Sec. 12H.19	Modify Hospital Provider Assessments		Hospital provider assessments are collected from hospitals so the State may distribute a portion of the collections back to the hospitals with a 65% federal Medicaid match. State retains $43M (total hospital assessment collections = $314M last yr.; varies from yr. to yr.)	The State would retain 15.6% of the collections (estimated to be $50 M in FY 2013-2014).		Estimated Revenue $322,000,000; Estimated Retained Portion $50,000,000
DPH-S1 Sec. 8.4	Increase Permit Fees for Certain Food and Lodging Establishments	Yes	Permit fee for establishments that prepare and sell meat food or poultry products: $75 (collected by Department, 1/3 of permit fee goes to support State health programs/activities, remainder to locals). Permit fee for temporary food and limited food services establishments: $75 collected & retained by local health dpts.	Permit fee for establishments that prepare and sell meat food or poultry products: $120 (collected by Department, no more than $50 of permit fee goes to support State health programs/activities, remainder to locals). Permit fee for temporary food and limited food services establishments: unchanged.	Expressly codifies current practice that late payment fees ($25) are not applicable to temporary food establishments and limited food services establishments.	Estimated Net Retained Portion $1,515,200; Estimated Retained State portion to support programs and activities $750,000.
JUSTICE AND PUBLIC SAFETY						
AOC-S19 Sec. 18B.16	Expunction Fees	Yes	Expunction for 1st offenders < 18 and certain misdemeanors: $125 Expunction for 1st offenders < 18 for certain gang offenses: $0 Expunction for 1st offenders < 21 for certain drug offenses: $65 Expunction for 1st offenders < 21 for certain toxic vapors offns: $0 Expunction for 1st offenders < 18 for nonviolent felony: $0 Expunction for crimes dismissed due to deferred prosecution agmt: $0	Expunction for 1st offenders < 18 and certain misdemeanors: $175 Expunction for 1st offenders < 18 for certain gang offenses: $175 Expunction for 1st offenders < 21 for certain drug offenses: $175 Expunction for 1st offenders < 21 for certain toxic vapors offenses: $175 Expunction for 1st offenders < 18 for nonviolent felony: $175 Expunction for crimes dismissed due to deferred prosecution agreement: $175		Estimated annual increase of $2,029,265 to GF. Created 2009 in S.L. 2009-577.
AOC-S21 Sec. 18B.17	Amend Motions Fees	No	Fee for any civil/special proceedings/ admin of estates filing containing one or more motions not listed in	Fee for any civil/special proceedings/ admin of estates filing of a notice of hearing on a motion not listed in G.S. 7A-		No estimate available. Created 2011 in S.L. 2011-145.

SP Name/ Bill Section	Name	Change Fee Amt?	Current Law	Proposed Law	Notes	Fiscal Impact
			G.S. 7A-308 of $20	308 of $20		
AOC-S12 Sec. 18B.18	Criminal Justice Education & Standards Commission Court Fee	No			Modifies distribution of $2 fee to DOJ. CURRENT: $1.30 for Criminal Justice Education and Standards Commission (CJESC) & .70 for Sheriffs' Education and Training Standards Commission. PROPOSED: Full $2 to CJESC	No fiscal impact. Changes the distribution, not the amount. Created 2009 in S.L. 2009-451.
NATURAL AND ECONOMIC RESOURCES						
AGRIC-S1A Sec. 13.1	Increase Certain Agronomic Testing Fees	Yes	**Fees for/ $ at least:** Plant analysis: $4 Nematode testing: $2 In-State Soil Testing-Peak Season: N/A Out-of-state soil testing: $5 Expedited soil testing: $100	**Fees for/ $ at least:** Plant analysis: $4 Nematode testing: $2 In-State Soil Testing-Peak Season: $4 Out-of-state soil testing: $5 Expedited soil testing: $200		$450,000 in new receipts
ENV-S2D Sec. 14.16	Portion of Scrap Tire Disposal Tax Credited to GF, Repeal Scrap Tire Disposal Acct	No	Scrap Tire Disposal Tax proceeds go, inter alia, to the Solid Waste Management Trust Fund (8%), Scrap Tire Disposal Account (17%), Inactive Hazardous Sites Cleanup Fund (2.5%), and the Bernard Allen Memorial Emergency Drinking Water Fund (2.5%).	Scrap Tire Disposal Tax proceeds go, inter alia, to the General Fund (30%).	Eliminates Scrap Tire Disposal Account. Creates Scrap Tire Disposal Program in DNER, which is funded from the GF.	$3,475,291
ENV-S3 Sec. 14.17	Portion of White Goods Tax Credited to GF	No	White Goods Disposal Tax proceeds go, inter alia, to the Solid Waste Management Trust Fund (8%) and the White Goods Management Account (20%).	White Goods Disposal Tax proceeds, go, inter alia, to the General Fund (28%).	Eliminates White Goods Management Account once funds are depleted.	$1,217,796
ENV-S4C Sec. 14.18	Portion of Solid Waste Disposal Tax Credited to GF, Repeal Solid Waste	No	Solid Waste Disposal Tax proceeds go, inter alia, to the Solid Waste Management Trust Fund (12.5%).	Solid Waste Disposal Tax proceeds go, inter alia, to the General Fund (12.5%).	Eliminates Solid Waste Management Trust Fund. Creates Solid Waste Management Outreach Program in DNER, funded from the GF.	$4,011,000

SP Name/ Bill Section	Name	Change Fee Amt?	Current Law	Proposed Law	Notes	Fiscal Impact
	Management Trust Fund					
ENV-S14B Sec. 14.26	Severance Tax on Energy Minerals; Use of proceeds	No	N/A	N/A	Contingent on passage of SB 76 (imposing an excise tax on those severing minerals in NC), this section permits DNER to use the tax proceeds for the biennium for administrative duties re: oil and gas conservation.	Unknown
ENV-S15 Sec. 14.22	Increase Funding for Dredging	Yes	Certificate of number fees: $15 for one year; $40 for three year certificates. New/transferred certificates: $20. Certificates for vessels with valid marine document issued by Bureau of Customs: not req'd. Commercial fishing vessels, as defined in 75A-5.1: exempted.	Certificate of number fees: $25/$50 for one year certificates for less than 26/26+feet; $75/150 for three year certificates for less than 26/26+. New/transferred certificates: $30. Certificates for vessels with valid marine document issued by Bureau of Customs: req'd. Commercial fishing vessels, as defined in 75A-5.1: no longer exempted.	Creates Shallow Draft Navigation Channel Dredging Fund and funding streams (45% of certificate of number fees, $10 of fee for new/transfer certificate of title; 1/6th of 1% of motor fuel excise tax allocated to Highway Fund)	Net increase from certificate of number fees: $4.6 million. Net increase from title fees: $463,000.
NATRES-S12H Sec. 14.3	Water & Land Conservation Fund/Grant Program Created; CWMTR and NHTF repealed	No			Modifies distribution of license plate fee from repealed National Heritage Trust Fund to newly created Water and Land Conservation Fund	
NATRES-S1A Sec. 14.4	Deed Stamp Tax Proceeds Credited to GF	No			Changes distribution of Deed Stamp Tax to GF (was to the Parks and Rec Fund (75%) and the Natural Heritage Trust Fund (25%))	$37,400,000
NATRES-S2C Sec. 14.8	Marine Fisheries License and Permit Fees	Yes	Lic. Replacement/Transfer: $10 SCFL: $200 RSCFL: $100 Recreat'l Tournament Lic.: $100 Comm. Fishing Vessel Reg.: $1-6/ft Albermarle Sound Mngt Area River Herring Dealer Permit: n/a Aquaculture Collection Permit: n/a	Lic. Replacement/Transfer: $12.5 SCFL: $250 RSCFL: $125 Recreat'l Tournament Lic.: $125 Comm. Fishing Vessel Reg.: $1.25-7.50/ft Albermarle Sound Mngt Area River Herring Dealer Permit: $100 Aquaculture Collection Permit: $100	No highlight means fee is set in statute. Highlight means the fee may not exceed the dollar amount listed.	$1,395.00 $346,298.50 (combined SCFL and RSCFL) $720.00 $78,341.00 $475.00 $200.00

SP Name/ Bill Section	Name	Change Fee Amt?	Current Law	Proposed Law	Notes	Fiscal Impact
			Aquaculture Operation Permit: n/a	Aquaculture Operation Permit: $100		$3,400.00
			Atlantic Ocean Flounder Dealer Permit: n/a	Atlantic Ocean Flounder Dealer Permit: $100		$650.00
			Black Sea Bass North of Cape Hatteras Dealer Permit: n/a	Black Sea Bass North of Cape Hatteras Dealer Permit: $100		$675.00
			Blue Crab Shedding Permit: n/a	Blue Crab Shedding Permit: $100		$7,175.00
			Certified Crustacea Plants: n/a	Certified Crustacea Plants: $100		$1,400.00
			Certified Shellfish Dealers: n/a	Certified Shellfish Dealers: $100		$24,700.00
			Depuration Permit: n/a	Depuration Permit: $100		$-
			For-Hire Fishing Permit: n/a	For-Hire Fishing Permit: $100		$-
			Horseshoe Crab Biomedical Use Permit: n/a	Horseshoe Crab Biomedical Use Permit: $100		$25.00
			Monkfish Large Mesh Gill Net Permit: n/a	Monkfish Large Mesh Gill Net Permit: $100		$225.00
			Pamlico Sound Gill Net Restricted Area Permit: n/a	Pamlico Sound Gill Net Restricted Area Permit: $100		$4,175.00
			Permit for Planting Shellfish from Prohibited (polluted) areas: n/a	Permit for Planting Shellfish from Prohibited (polluted) areas: $100		$6,800.00
			Permit to Harvest Rangia Clams from Prohibited (polluted) areas: n/a	Permit to Harvest Rangia Clams from Prohibited (polluted) areas: $100		$100.00
			Permit to Introduce or Transfer Marine and Estuarine Organisms into Coastal Waters: n/a	Permit to Introduce or Transfer Marine and Estuarine Organisms into Coastal Waters: $100		$400.00
			Permit to Waive Req. to Use Turtle Excluder Devices in Atlantic Ocean: n/a	Permit to Waive Req. to Use Turtle Excluder Devices in Atlantic Ocean: $100		$-
			Pound Net Set Permit: n/a	Pound Net Set Permit: $100		$29,000.00
			River Herring Discreationary Fishing Permit: n/a	River Herring Discretionary Fishing Permit: $100		$800.00
			Scientific and Educational Collecting Permit: n/a	Scientific and Educational Collecting Permit: $100		$-
			Spiny Dogfish Dealer Permit: n/a	Spiny Dogfish Dealer Permit: $100		$800.00
			Striped Bass Dealer Permit: n/a	Striped Bass Dealer Permit: $100		$2,100.00
			Permit to Use Mechanical Gear for Harvesting Oysters and Clams on Private Shellfish Leases and Franchises: n/a	Permit to Use Mechanical Gear for Harvesting Oysters and Clams on Private Shellfish Leases and Franchises: $100		$1,800.00

SP-Name/ Bill Section	Name	Change Fee Amt?	Current Law	Proposed Law	Notes	Fiscal Impact
			Atl. Ocean Striped Bass Commercial Gear Permit: $10 Shellfish for Residents: $25 Fish Dealer License: $50-300 Ocean Fishing Pier: $0.50/linear ft Land or Sell: $200 or equiv. Spotter Plan License: $100 RCGL-recreational commercial gear license: $35 Permit to Transplant Oysters from Seed Oyster Mgmt Areas: n/a Under Dock Oyster Culture Permit: n/a License to Land Flounder: n/a Menhaden for Non-residents: $2/ton	Atl. Ocean Striped Bass Commercial Gear Permit: $30 Shellfish for Residents: $31.25 Fish Dealer License: $62.5-$375 Ocean Fishing Pier: $4.50/linear ft Land or Sell: $250 or equiv. Spotter Plan License: $125 RCGL-recreational commercial gear license: $43.75 Permit to Transplant Oysters from Seed Oyster Mgmt Areas: $100 Under Dock Oyster Culture Permit: $100 License to Land Flounder: $500 Menhaden for Non-residents: $0		$15,020.00 $7,319.00 $21,173.00 $- $7,767.00 $200.00 $34,486.00 $4,200.00 $1,600.00 $75,500.00 $- TOTAL: $678,919.50
NATRES-S18 Sec. 14.27	Wildlife Endowment Fund	No			Expenditure of Wildlife Endowment Fund was limited to interest income only. Amendment allows expenditure of principal of ALL lifetime hunting and fishing licenses (including infant and youth lifetime licenses) once the fund exceeds $100,000,000.	
COMM-S4 Sec. 15.1	Set Regulatory Fee for Utilities Commission	No			Annual provision: maintains rate for each public utility (.12% of NC jurisdictional revenues earned during each quarter) and the $200,000 electric membership corporation regulatory fee	Fee generates approximately $13.5-14 million/year - no impact on General Fund.
COMM-S30 Sec. 15.20	JDIG Application Fee Increase	Yes	JDIG application fee: $5,000	JDIG application fee: $10,000		Fee will generate an additional $90,000, bringing the estimate to $180,000

SP Name/ Bill Section	Name	Change Fee Amt?	Current Law	Proposed Law	Notes	Fiscal Impact
COMM-S31 Sec. 15.21	JDIG Reporting Fee Increase	Yes	JDIG annual reporting fee: $1,500	JDIG annual reporting fee: Greater of $2,500 or .03% of grant amount awarded (not including Utility Account transfer)	Business that get a JDIG grant must submit an annual payroll report showing withholdings as a condition of its continuation in the grant program and identifying eligible positions that have been created during the base period that remain filled at the end of each year of the grant.	No estimate available. No FY14 Impact, possibly a FY15 impact, but unknowable as grant amount less Utility Account portion (the amount available to the company) ranges from just over $1 M to over $87 M
TRANSPORTATION						
TRANS-S11 Sec. 34.13	Uniform Ferry Tolling	Yes	Three of seven ferry routes are currently tolled.	Requires Board of Transportation to set tolls on all seven ferry routes by 11/1/13	Exempt from rule-making. Gross revenue generated must be b/w $5M and $10M	Subject to Board of Transportation determination.
TRANS-S17 Sec. 34.15	Eliminate Telecommunications and Inspections Program Accounts	No	Inspection fees go, inter alia, to the Inspection Program Account ($3 of emissions/safety) & to the Telecommunications Acct ($1.75 of emissions/safety)	Amounts directed to these 2 accounts go directly to Highway Fund.	The Inspections Program Acct and the Telecommunications Acct are accounts inside Highway Fund. Both accounts are eliminated when funds are exhausted.	No revenue change.
TRANS-S18 Sec. 34.16	DMV Tech. Improvement Acct.	No	License plate fees from transactions with DMV (not license plate agencies) go to Highway Fund for the DMV Tech. Improvement Acct. for tech. improvement.	License plate fees go to Highway Trust Fund.	As of 7/1/13, unalloted amounts in the Tech Imp. Acct. are swept into the Highway Fund. The Account is eliminated when allotted amounts as of 6/30/13 are expended.	No revenue change.
TRANS-S24 Sec. 34.19	Strategic Transportation Investments	No	$0.50 of License plate fees go to the Highway Fund for the Visitor Centers, up to $400k/yr. Remainder post-$400k goes to the Highway Trust Fund, designated for Urban Loop Projects 1.75 cents/gallon tax on gasoline, diesel, blends, and alternative fuels goes to cities and towns (Powell Bill funds) $15 of each title fee goes to Highway Trust Fund, designated for Secondary Roads	Funding for Visitor Centers: unchanged. Remainder after $400k to Visitors Center goes to Highway Trust Fund with no designation. 10.4% of taxes collected on gasoline, diesel, blends, and alternative fuels goes to cities and towns $15 of each title fee goes to Highway Trust Fund with no designation	Overhauls how transportation projects are selected by enacting a comprehensive, data-driven, prioritization process for funding.	No revenue change.

SP Name/ Bill Section	Name	Change Fee Amt?	Current Law	Proposed Law	Notes	Fiscal Impact
TRANS-S8 Sec. 34.20	Additional Annual Fee for Electrics/Hybrids	Yes		Adds new additional fee for registering electric vehicles ($100) and hybrid vehicles ($50)		New fee -- $1.5M (R)

Other Provisions of Note:

ADMIN-S9A Sec. 30.6	Study/E-Procurement Fee & Vendor Contract	No	Requires DOA to study feasibility of reducing/eliminating e-commerce fee used to support the E-Procurement System.		
ATTY-S1A Sec. 17.6	Transfer Most of SBI to DPS	No	As a result of the transfer, some fees will be administered by DPS instead of the SBI.		
GEN-S36 Sec. 6.11	Close Out Public School Bldg Capital Fund/ Appropriate Ed. Lottery Funds	No	Eliminates corporate income tax shunt to Public School Building Capital Fund and replaces funding with annual appropriations from lottery proceeds		
Sec. 2.2.(a)	GF Availability Statement	No	Reserves $217,100,000 for the finance package for FY 13-14 and $553,100,000 for FY 14-15.		
COMM-S15 Sec. 15.28	Regional ED Commissions/Statutes Creating Commissions Repealed		Repeals Articles 2 and 4 of Chapter 158, which create the Western NC Regional Economic Development Commission, NC Northeast Commission, Southeastern NC Regional Economic Development Commission, NC Eastern Region.		
COMM-S16 Sec. 15.13	CDBG Funds/Commerce Repeals Rules More Restrictive than HUD Rules		Disallows, and requires the repeal of, any rules that are more restrictive than HUD rules relating to CDBG funds.		
COMM-S18A Sec. 15.11	Prosperity Zones/Rural Satellite Offices within Zones		If SB 127 becomes law, establishes 8 Collaboration for Prosperity Zones across the State, establishes funding for a primary office in each zone and satellite offices, and requires Commerce to maintain liaison personnel within each zone. If SB 127 does not become law, provides for establishment of regional offices in rural areas.		

COMM-S19 Sec. 15.18	Modify IDF and Utility Account		Funds for 65 most economically distressed counties. Funds for projects that "will directly result" in the creation or retention of jobs. Funds only for projects in eligible industries.	Funds for all tier 1 and 2 counties (80 most economically distressed counties). Funds for projects "reasonably anticipated to result in the creation of jobs". Projects in eligible industries have priority but any project, regardless of industry, is eligible.	Eliminates IDF and Utility Account, as a special account inside IDF and creates the IDF Utility Account.
COMM-S29 Sec. 15.19	JDIG Modifications		Reinstates the cap at no more than 25 grants per calendar year; Requires information sharing with locals within 30 days of application if locals agree to confidentiality; Requires best efforts on Commerce's part to achieve the average of the range of percentage of withholding allowed in calculating max and min grants.		
COMM-S36B Sec. 15.10	Rural Economic Development Division Created		Provides funds for a new Assistant Secretary, provides funds to establish the rural economic development infrastructure program, directs new division to administer Utility Account & Community Development Block Grant funds for Economic Development and creates a new Rural Infrastructure Authority for oversight of awards and loans.		
COMM-S14 15.3	Unemployment Insurance Reserve		Requires unencumbered cash balance of Worker Training Trust Fund and the Training and Employment Account to be transferred into the Unemployment Insurance Reserve, along with a transfer of $10million from the Special Employment Security Administration Fund.		
COMM-S47 15.4(a)	Employment Security Reserve Fund		Appropriates from Employment Security Fund the amount of the interest payment due for the FY 2014-15 fiscal year.		

SENATE PAGES ATTENDING

COMMITTEE: Finance ROOM: 544

DATE: 5-21 TIME: 1 pm

PLEASE PRINT LEGIBILY!!!!!!!!!!!!!....*or else!*

Page Name	Hometown	Sponsoring Senator
1. Jineet Patel	Cary	Stein
2. Hannah Hardy	Whiteville	Walters
3. Cameron Bailey	Wilington	Brown
4. Chance Wade	Fayetteville	Clark
5.		
6.		
7.		
8.		
9.		
10.		

Do not add names below the grid.

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

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 21, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Sarah Lynn Miller	Self
Mary Murphy	NCCCS
Solari	DST
Matthew Moore	DST
Matthew Vioht	CW Consult
Alex Rodzwell	CSJ
Patrick Buffkin	NCAEC
Joy Hicks	NCDAPCS
Daniel VanLiere	Vibrant Health
Adam Shular	DHHS
Joe Lanier	Nelson Mullins

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 21, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
RC Pearson	CSS
Preston Howard	NCMA
Jeff Isaac	NC CHAMBER
Chuck Allen	US Airways
Gary Harris	NC Petroleum Mktrs & C-stores
Rick Harris	NWC
Gene Ainsworth	A & A
Breeden Blackwell	NC HA
Wendy Kelly	P? & Co
David Flink	ISA NC
Adam Prideaux	NCASA

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 21, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Carr McLamb	DENR
Keith Richardson	City of Charlotte
Mark Lanier	UNCW
Andy Chase	KMA
Elizabeth Robinson	NCRMA
Moore Sharpe	GSK
Amy McConkey	NC Rev Assn
Weldon Jones	Jordan Price
Henry Jones	Jordan Price
Allison Waller	Nelson Mullins
Jaime King Fogwell	NCEL

VISITOR REGISTRATION SHEET

Senate Finance Committee — **Name of Committee**

May 21, 2013 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Thomas C. Caves, Jr.	NC SBI
Lori Ann Harris	~~LANA~~
Tom BEAN	EDF, NCSEA, NLCV
	Troy Bank & Trust
	SOS
Mia Bailey	ElectriCities
Scott Mooneyham	The Insider
Jessica Jones	NWNC
Elizabeth Hoffmann	OSBM
Nathan Kauffman	OSBM

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 21, 2013
Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
~~Bob Ellis~~	EDA Inc
Tom West	Poyner Spruill LLP
Dyla Watts	SA
Will Grantham	MWC
~~Amanda Hanna~~	NCACC
Mitch Leonard	
Martha Hepler	NCNA - Nurse of Day
Jennifer Jones-Locklear	NCNA - Nurse of Day
Drew Morelz	UNCGA
Andrew Blackburn	SSG NC
Brian Balfour	Civitas

Name	Firm
Stephanie Hawco	WPTF
Jack Cozort	NSS
Jake Cashion	NCCGA
[illegible]	[illegible]
Cally Thomas	NCAR
Paul Meyer	NCLM
Karl Knapp	NCLM

Senate Committee on Finance
Wednesday, May 29, 2013, 1:00 PM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 32	Increase Year's Allowance.	Representative Hurley Representative Turner
HB 60	Transfer of Indian Cultural Center Property.	Representative Howard
HB 252	Asheville Transfers.	Representative Moffitt Representative Ramsey Representative McGrady
HB 449	State Contracts/Furniture.	Representative Starnes
HB 545	Modify Henderson Co. Occupancy Tax.	Representative McGrady
HB 671	Mills River/Deannexation.	Representative McGrady
HB 710	Water Utility Recovery.	Representative Hager
HB 788	Water/Sewer Authority/Rate Flexibility.	Representative Catlin Representative Hamilton

Adjournment

Senate Committee on Finance
Wednesday, May 29, 2013
Room 544 LOB, 1:00 p.m.

Minutes

The Senate Committee on Finance met at 1:00 p.m. on Wednesday, May 29, 2013 in room 544 of the Legislative Office Building. Thomas McBrayer of Hickory, Andrew Scott of Raleigh, Grimes Clark of Tarboro, Harrison Froelich of Greensboro, Logan Brooks of Pittsboro, Henry de St. Aubin of Siler City and Lillie Turlington of Clinton served as pages. Senator Rucho presided as chair.

H.B. 710 – Water Utility Recovery

Representative Hager was recognized to explain the bill. It would establish a procedure for the Utilities Commission to allow a water or sewer public utility to adjust its rates to reflect changes in costs and establish a mechanism to adjust rates based on infrastructure investments by such utilities. Senator Apodaca moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 60 – Transfer of Indian Cultural Center Property

Representative Howard was recognized to explain the bill and Senator Brock moved to adopt the proposed committee substitute (PCS) for discussion. The motion carried. The PCS would terminate two leases: (1) lease between the State and the North Carolina Indian Cultural Center, Inc. for the Indian Cultural Center, and (2) the lease between the State and Lumbee Land Development, Inc. for the maintenance of the Riverside Golf Course. The PCS would direct the Department of Administration, after obtaining an appraisal, offer approximately 386 acres to the Lumbee Tribal Administration for purchase subject to restrictive covenants (including that the land be available for public use) or offer the parcel to the public without restrictive covenants if the Lumbee Tribal Administration does not purchase the land. Proceeds of the sale will be divided as follows: $7,300 to the General Fund to reimburse the cost of the appraisal, 25% to the General Fund and appropriated to the Department of Environment and Natural Resources for improvements to the land; and 75% to the Savings Reserve Account. The PCS would allocate the remainder of the property to DENR to be used as part of the Lumber River State Park. David Harris, an attorney for the NC Indian Cultural Center Board, was recognized to speak in opposition to the bill. Reggie Holley, a lobbyist for the Lumbee Tribe of NC, was recognized to speak in favor of the bill. Senator Apodaca moved for a favorable report and the motion carried. A copy of the PCS and the summary is attached.

H.B. 252 – Asheville Transfers

Representative Moffitt was recognized to explain the bill. It would allow the City of Asheville to continue to use utility revenues that were dedicated for a specific project under S.L. 2009-114 for the 2012-2013 fiscal year and repeal S.L. 2009-114 for the 2013-2014 fiscal year and thereafter. Jack Cozort, a lobbyist for the City of Asheville, was recognized to speak in opposition to the bill. Senator Apodaca moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 545 – Modify Henderson Co. Occupancy Tax

Representative McGrady was recognized to explain the bill which would repeal the requirement that the additional 1% occupancy tax be remitted to the Vagabond School of the Drama, Inc. and makes a technical correction to the name of the tourism development authority. Senator Wade moved for a favorable report and the motion carried. A copy of the bill, the summary and the fiscal note is attached.

H.B. 671 – Mills River/Deannexation

Representative McGrady explained the bill which would deannex 12 home sites from the Town of Mills River and maintain the zoning authority of the Town of Mills over the property for 90 days to allow Henderson County an opportunity to determine a County zoning designation. Senator Newton moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 32 – Increase Year's Allowance

Representative Turner was recognized to explain the bill which would increase the year's allowance for a surviving spouse from $20,000 to $30,000. Senator McKissick moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 449 – State Contracts/Furniture

Representative Starnes was recognized to explain the bill. It would allow State agencies to buy furniture from vendors that meet specific requirements as outlined in the bill. Senator Cook moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 788 – Water/Sewer Authority Rate Flexibility

Representative Catlin was recognized to explain the bill which would authorize county water and sewer authorities to allow authorities to set rates for water resources storage and protection programs including aquifer or surficial storage. Senator Brown moved for a favorable report. The motion carried. A copy of the bill and the summary is attached.

The meeting adjourned at 1:32 p.m.

Senator Bob Rucho
Presiding Chair

DeAnne Mangum
Committee Assistant

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	May 29, 2013	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	
HB 32	Increase Year's Allowance.	Representative Hurley Representative Turner
HB 60	Transfer of Indian Cultural Center Property.	Representative Howard
HB 252	Asheville Transfers.	Representative Moffitt Representative Ramsey Representative McGrady
HB 449	State Contracts/Furniture.	Representative Starnes
HB 545	Modify Henderson Co. Occupancy Tax.	Representative McGrady
HB 671	Mills River/Deannexation.	House Rules, Calendar, and Operations of the House Committee
HB 710	Water Utility Recovery.	Representative Hager
HB 788	Water/Sewer Authority/Rate Flexibility.	Representative Catlin Representative Hamilton

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Wednesday, May 29, 2013

Senator Rucho,
submits the following with recommendations as to passage:

FAVORABLE

HB **32**
Increase Years Allowance.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

HB **252** **(CS#1)**
Asheville Transfers.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

HB **449** **(CS#1)**
State Contracts/Furniture.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

HB **545**
Modify Henderson Co. Occupancy Tax.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

HB **671** **(CS#1)**
Mills River/Deannexation.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

HB **710** **(CS#1)**
Water Utility Recovery.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

HB **788** **(CS#1)** Water/Sewer Authority/Rate Flexibility.

Draft Number:	None
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 7

Senator Shirley Randleman will handle HB 32
Senator Tom Apodaca will handle HB 252
Senator Daniel Soucek will handle HB 449
Senator Tom Apodaca will handle HB 545
Senator Tom Apodaca will handle HB 671
Senator E.S. Newton will handle HB 710
Senator Thomas Goolsby will handle HB 788

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Wednesday, May 29, 2013

Senator Rucho,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

HB **60** **(CS#2)** Transfer of Indian Cultural Center Property.

Draft Number:	H60-PCS10407-TM-40
Sequential Referral:	Appropriations/Base Budget
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Senator Fletcher Hartsell will handle HB 60

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H 3

HOUSE BILL 710
Committee Substitute Favorable 5/9/13
Third Edition Engrossed 5/15/13

Short Title: Water Utility Recovery. (Public)

Sponsors:

Referred to:

April 11, 2013

A BILL TO BE ENTITLED

AN ACT TO PERMIT WATER UTILITIES TO ADJUST RATES FOR CHANGES IN COSTS BASED ON THIRD-PARTY RATES AND TO AUTHORIZE THE UTILITIES COMMISSION TO APPROVE A RATE ADJUSTMENT MECHANISM FOR WATER AND SEWER UTILITIES TO RECOVER COSTS FOR WATER AND SEWER SYSTEM IMPROVEMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 62 of the General Statutes is amended by adding a new section to read:

"**§ 62-133.11. Rate adjustment for changes in costs based on third-party rates.**

(a) The Commission shall permit a water or sewer public utility to adjust its rates approved pursuant to G.S. 62-133 to reflect changes in costs based solely upon changes in the rates imposed by third-party suppliers of purchased water or sewer service, including applicable taxes and fees.

(b) Any water or sewer public utility seeking to adjust its rates pursuant to this section shall file a verified petition in such form and detail as the Commission may require.

(c) The Commission shall issue an order approving, denying, or approving with modifications a rate adjustment requested pursuant to this section within 60 days of the date of filing of a completed petition, unless that time is for good cause extended up to a maximum of 90 days."

SECTION 2. Chapter 62 of the General Statutes is amended by adding a new section to read:

"**§ 62-133.12. Rate adjustment mechanism based on investment in repair, improvement, and replacement of water and sewer facilities.**

(a) The Commission may approve a rate adjustment mechanism in a general rate proceeding pursuant to G.S. 62-133 to allow a water or sewer public utility to recover through a system improvement charge the incremental depreciation expense and capital costs associated with the utility's reasonable and prudently incurred investment in eligible water and sewer system improvements. The Commission shall approve a rate adjustment mechanism authorized by this section only upon a finding that the mechanism is in the public interest. The frequency and manner of rate adjustments under the mechanism shall be as prescribed by the Commission.

(b) For purposes of this section, "eligible water system improvements" or "eligible sewer system improvements" shall include only those improvements found necessary by the

Commission to enable the water or sewer utility to provide safe, reliable, and efficient service in accordance with applicable water quality and effluent standards.

(c) For purposes of this section, "eligible water system improvements" means:

(1) Distribution system mains, valves, utility service lines (including meter boxes and appurtenances), meters, and hydrants installed as in-kind replacements.

(2) Main extensions installed to eliminate dead ends and to implement solutions to regional water supply in order to comply with primary and, upon specific Commission approval, secondary drinking water standards.

(3) Equipment and infrastructure installed to comply with primary drinking water standards.

(4) Equipment and infrastructure installed at the direction of the Commission to comply with secondary drinking water standards.

(5) Unreimbursed costs of relocating facilities due to highway projects.

(d) For the purposes of this section, "eligible sewer system improvements" means:

(1) Collection main extensions installed to implement solutions to wastewater problems.

(2) Improvements necessary to reduce inflow and infiltration to the collection system to comply with applicable State and federal law and regulations.

(3) Unreimbursed costs of relocating facilities due to highway construction or relocation projects.

(4) Pumps, motors, blowers, and other mechanical equipment installed as in-kind replacements for customers.

(e) The Commission shall provide for audit and reconciliation procedures, including measures for refunds of any over-collections under the system improvement charge with interest pursuant to G.S. 62-130(e).

(f) The Commission may eliminate or modify any rate adjustment mechanism authorized pursuant to this section upon a finding that it is not in the public interest.

(g) Cumulative system improvement charges for a water or sewer utility pursuant to a rate adjustment mechanism approved by the Commission under this section may not exceed five percent (5%) of the total annual service revenues approved by the Commission in the water or sewer utility's last general rate case."

SECTION 3. This act is effective when it becomes law.

HOUSE BILL 710:
Water Utility Recovery

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	May 29, 2013
Introduced by:	Rep. Hager	**Prepared by:**	Heather Fennell
Analysis of:	Third Edition		Committee Counsel

SUMMARY: ***House Bill 710 would establish a procedure for the Utilities Commission to allow a water or sewer public utility to adjust its rates to reflect changes in costs and establish a mechanism to adjust rates based on infrastructure investments by such utilities.***

CURRENT LAW: G.S. 62-133 establishes the procedure for a general rate case before the Utilities Commission for all public utilities. In setting rates, the Commission is required to ascertain the cost of capital investments, estimate revenue, ascertain reasonable operating expenses, apply a rate of return to capital investments, discontinue capitalization of carrying costs, and allow a reasonable rate of return.

BILL ANALYSIS:

Section 1 of House Bill 710 would require the Commission permit water and sewer public utilities to adjust their rates to reflect certain changes in costs. The changes could only be based on changes in the rates charged by third-party suppliers of purchased water or sewer services, including taxes and fees. Water and sewer public utilities would be required to file a verified petition with the Commission, and the Commission would be required to issue an order on the petition approving, denying, or approving with modifications within 60 days of filing, or up to 90 days with good cause.

Section 2 would allow the Commission to establish a rate adjustment mechanism in a general rate case under G.S. 62-133 that would allow a water or sewer public utility to recover costs associated with infrastructure investments. The mechanism would only be allowed when it is in the public interest, and could be modified or eliminated by the Commission if it is no longer in the public interest. Allowable infrastructure investments would be limited to certain listed improvements found necessary by the Commission to enable the utility to provide safe, reliable, and efficient service in accordance with applicable water quality and wastewater standards. The section would allow for the Commission to establish procedures for truing up charges. The mechanism would be limited to five percent of the total annual service revenues approved by the Commission in a general rate case.

EFFECTIVE DATE: This act is effective when it becomes law.

Peter Ledford, counsel to House Public Utilities, substantially contributed to this summary.

O. Walker Reagan
Director

H710-SMTD-42 E3 -V1

Research Division
(919) 733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H D

HOUSE BILL 60*
Committee Substitute Favorable 3/13/13
Committee Substitute #2 Favorable 5/8/13
Fourth Edition Engrossed 5/13/13
PROPOSED SENATE COMMITTEE SUBSTITUTE H60-PCS10407-TM-40

Short Title: Transfer of Indian Cultural Center Property. (Public)

Sponsors:

Referred to:

February 5, 2013

A BILL TO BE ENTITLED

AN ACT TO TERMINATE LEASES AT THE INDIAN CULTURAL CENTER SITE AND THEN SELL OR ALLOCATE CERTAIN PORTIONS OF THE PROPERTY, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. Definitions. – The following definitions apply in this act:

(1) Indian Cultural Center site. – Parcel 1, less and except approximately 110 acres for the use and operation of the Riverside Golf Course within Parcel 1, as well as Parcel 2, Parcel 3, and Parcel 4, all of which are located in Maxton Township, Robeson County.

(2) Parcel 1. – 386.69 acres, more or less, by deed from the Riverside Country Club of Pembroke, Inc., dated April 14, 1983, recorded in Book 533, Page 164, Robeson County Registry and by deed dated August 24, 1984, recorded in Book 563, Page 254, Robeson County Registry.

(3) Parcel 2. – 91.5 acres, more or less, by deed from Evelyn S. Morgan Abbott, dated March 25, 1988, recorded in Book 575, Page 523, Robeson County Registry.

(4) Parcel 3. – 10 acres, more or less, by deed from H.C. Locklear, et ux, dated December 12, 1985, recorded in Book 586, Page 142, Robeson County Registry.

(5) Parcel 4. – 42.50 acres, more or less, by deed from Ronald Revels and wife, Dorisetta Revels, dated December 17, 1996, recorded in Book 931, Page 415, Robeson County Registry.

SECTION 2. Termination of leases. – (a) The Department of Administration shall terminate the lease between the State and the North Carolina Indian Cultural Center, Inc., for the Indian Cultural Center site. Notice of termination shall be given no later than 15 days after the effective date of this act.

SECTION 2.(b) The Department of Administration shall terminate the lease between the State and the Riverside Golf Center for the property known as the Riverside Golf Course, which is located within Parcel 1. Notice of termination shall be provided in accordance with the terms of the existing lease. Thirty days' notice shall be given, as required under the lease, and notice shall be given no later than 15 days after the effective date of this act.

SECTION 3. Appraisal of Parcel 1. – The Department of Administration shall obtain an appraisal for Parcel 1, for which the sum of seven thousand three hundred dollars ($7,300) is appropriated from the General Fund to the Department of Administration. This appraisal shall include both of the following:

(1) An appraisal of Parcel 1 subject to the restrictive covenants and reversion to the State provided in Section 4(a) of this act.

(2) An appraisal of Parcel 1 without the restrictive covenants and reversion to the State provided in Section 4(a) of this act.

SECTION 4. Sale of Parcel 1. – (a) The Department of Administration shall first offer Parcel 1 to the Lumbee Tribal Administration for purchase, subject to the following restrictive covenants that would run with the land, a violation of any of which would result in the property reverting to State ownership:

(1) The land must be made and remain open and available for public use.

(2) The land must be made and remain available for use by North Carolina tribes and American Indian urban organizations for free or at cost.

(3) The parcel cannot be subdivided.

(4) The natural resources cannot be sold or leased.

If any provision of this subsection or its application is held invalid, the invalidity does not affect other provisions or applications of this subsection that can be given effect without the invalid provisions or application, and to this end the provisions of this subsection are severable.

SECTION 4.(b) The Department of Administration shall provide a copy of the appraisal required under Section 3 of this act to the Lumbee Tribal Administration. The Lumbee Tribal Administration shall have 90 days from receipt of a copy of the appraisal to enter into a contract to purchase the property for the appraised price or a negotiated price based upon the appraised price.

SECTION 4.(c) If the Lumbee Tribal Administration does not enter into a contract with the State to purchase the property within 90 days of receiving the appraisal of Parcel 1, then the Department of Administration shall dispose of Parcel 1 according to the general laws for the sale of State land and without the restrictive covenants or reversionary interest discussed in subsection (a) of this section.

SECTION 4.(d) Although the Department of Administration may enter into a purchase contract with the Lumbee Tribal Administration under subsection (b) of this section, the sale shall not be finalized until after consultation with the Joint Legislative Program Evaluation Oversight Committee. The Department shall submit a detailed report of the transaction, including a copy of the purchase contract, to the Chairs of the Committee and to the Director of the Program Evaluation Division of the General Assembly. If the Committee does not hold a meeting to hear the consultation within 90 days of receiving the submission of the detailed report, the consultation requirement is satisfied. This consultation is in addition to any consultation with the Joint Legislative Commission on Governmental Operations that may be required under G.S. 146–27(b).

SECTION 5. Proceeds of sale of Parcel 1. – The net proceeds of the sale under Section 4 of this act shall be distributed as follows:

(1) The sum of seven thousand three hundred dollars ($7,300) shall be deposited into the General Fund in order to reimburse the General Fund for the appropriation made in Section 3 of this act.

(2) Any funds remaining after funds are deposited under subdivision (1) of this section shall be distributed as follows:

a. Twenty-five percent (25%) shall be deposited into the General Fund and shall be appropriated from the General Fund to the Department of Environment and Natural Resources, Division of Parks and Recreation, for improvements to Parcel 2, Parcel 3, and Parcel 4.

b. Seventy-five percent (75%) shall be deposited into the Savings Reserve Account established under G.S. 143C-4-2.

SECTION 6. Allocation of other parcels. – Parcel 2, Parcel 3, and Parcel 4 are allocated to the Department of Environment and Natural Resources, Division of Parks and Recreation, to be used as part of the Lumber River State Park.

SECTION 7. This act is effective when it becomes law.

HOUSE BILL 60:
Transfer of Indian Cultural Center Property

2013-2014 General Assembly

Committee:	Senate Ref to Finance. If fav, re-ref to Appropriations/Base Budget	**Date:**	May 29, 2013
Introduced by:	Rep. Howard	**Prepared by:**	Greg Roney Committee Counsel
Analysis of:	PCS to Fourth Edition H60-CSTM-40		

SUMMARY: ***The Proposed Committee Substitute (PCS) for House Bill 60 would terminate two leases: (1) lease between the State and the North Carolina Indian Cultural Center, Inc. (NCICC Inc.) for the Indian Cultural Center and (2) the lease between the State and Lumbee Land Development, Inc. for the maintenance of the Riverside Golf Course.***

The PCS would direct the Department of Administration (DOA), after obtaining an appraisal, offer approximately 386 acres to the Lumbee Tribal Administration for purchase subject to restrictive covenants (including that the land be available for public use) or offer the parcel to the public without restrictive covenants if the Lumbee Tribal Administration does not purchase the land. Proceeds of the sale will be divided as follows: $7,300 to the General Fund to reimburse the cost of the appraisal, 25% to the General Fund and appropriated to the Department of Environment and Natural Resources (DENR) for improvements to the land; and 75% to the Savings Reserve Account.

The PCS would allocate the remainder of the property to DENR to be used as part of the Lumber River State Park.

As introduced, this bill was identical to S30, as introduced by Sen. Hartsell, which is currently in Senate Finance. The PCS returns House Bill 60 to the same text as S30 with a typographical correction.

CURRENT LAW: In May 1994, the State entered into a 99-year lease agreement with NCICC Inc. In 2011, the North Carolina Department of Justice issued a letter to NCICC Inc. highlighting issues that placed the tenant in default of the lease terms.

On May 2011, the State entered into a temporary 60-day lease with Lumbee Land Development, Inc., a nonprofit organization. This lease is limited to maintaining and repairing the 110-acre Riverside Golf Course and is not intended for operation of the golf course. Any holding over after the expiration of the term or any extension is a month-to-month tenancy.

BILL ANALYSIS: The PCS for House Bill 60 would return the entire Indian Cultural Center site to State control by terminating the two leases affecting the site: the lease with NCICC Inc. for the Indian Cultural Center and the lease with Lumbee Land Development, Inc. for the Riverside Golf Course. The notice of termination for both leases must be given by DOA within 15 days after the effective date of the bill.

The PCS would appropriate $7,300 for DOA to obtain an appraisal of Parcel 1 (defined in the Background Section of this Summary). Based on the appraised price, DOA would offer Parcel 1 first to the Lumbee Tribal Administration. The offer to the Lumbee Tribal Administration is subject to the following restrictive covenants that would return the land to the State if violated:

- The land must be made and remain open and available for public use.

- The land must be made and remain available for use by North Carolina tribes and American Indian urban organizations for free or at cost.
- The parcel cannot be subdivided.
- The natural resources cannot be sold or leased.

Additionally, any sale to the Lumbee Tribal Administration requires DOA to consult the Joint Legislative Program Evaluation Oversight Committee and submit a detailed report of the transaction. If the Committee does not hold a meeting to hear the consultation within 90 days of receiving the submission of the detailed report, the consultation requirement is satisfied.

If the Lumbee Tribal Administration does not purchase the land, then DOA is directed to offer Parcel 1 for sale to the public without restrictive covenants.

The proceeds of any sale will be divided as follows: $7,300 to the General Fund to reimburse the cost of the appraisal; 25% to the General Fund and appropriated to DENR's Division of Parks and Recreation for improvements to the land; and 75% to the Savings Reserve Account.

The remainder of the property (Parcels 2, 3, and 4) are allocated to DENR's Division of Parks and Recreation to be used as part of the Lumber River State Park.

BACKGROUND: The PCS is a recommendation of the Joint Legislative Program Evaluation Oversight Committee based on Report No. 2012-13 (Report), "Options for the Indian Cultural Center Will Allow the Site to Meet its Cultural, Recreational, and Economic Development Intent," issued by the Program Evaluation Division (PED) of the General Assembly in December, 2012. The Report contains extensive history and analysis of the Cultural Center.

The North Carolina Indian Cultural Center site is located in Maxton, Robeson County. The Cultural Center site is composed of 4 parcels of land totaling 528 acres as follows:

Parcel 1. – 386.69 acres, contains a lake, the Riverside Golf Course, and other improvements.

Parcel 2. – 91.5 acres, contains woods with large sections of cleared farm land.

Parcel 3. – 10 acres, contains wetlands.

Parcel 4. – 42.50 acres, contains 2 buildings and access to Lumber River.

NCICC Inc. holds the lease on the property. The lease contemplated NCICC Inc. operating an attraction dedicated to the history, culture, and heritage of North Carolina American Indians. The Report determined that the existing facilities on the site are dilapidated.

EFFECTIVE DATE: The PCS for House Bill 60 would be effective when it becomes law.

Trina Griffin with the Research Division substantially contributed to this summary. Additionally, this summary draws from Report No. 2012-13 issued by the Program Evaluation Division.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H 2

HOUSE BILL 252
Committee Substitute Favorable 4/2/13

Short Title: Asheville Transfers. (Local)

Sponsors:

Referred to:

March 7, 2013

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FUNDING FOR PLANNED STREET AND SIDEWALK IMPROVEMENTS IN THE CITY OF ASHEVILLE FOR THE 2012-2013 FISCAL YEAR AND TO REPEAL S.L. 2009-114.

Whereas, the General Assembly authorized the City of Asheville to use up to five percent (5%) of utility revenues for street and sidewalk improvements associated with waterline improvements;

Whereas, the City of Asheville used $2,658,705 for fiscal years 2009-2010, 2010-2011, and 2011-2012;

Whereas, the City of Asheville used $2,658,705 to fund six projects: Dogwood Grove, Ridge Avenue, Azalea Road, Northwood Drive, S. Lexington Avenue, and Melrose Avenue;

Whereas, the City of Asheville planned to use $990,336 for fiscal year 2012-2013; and

Whereas, the City of Asheville planned to use $990,336 to fund six projects: resurfacing W.T. Weaver, resurfacing MLK Jr. Blvd, resurfacing Woodfin, sidewalk construction on Lakeshore Drive, and sidewalk construction on Sand Hill School Road; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1.(a) S.L. 2009-114 is repealed.

SECTION 1.(b) This section is effective June 30, 2013, and applies to the 2013-2014 fiscal year and thereafter.

SECTION 2. The City of Asheville may use utility revenues that were dedicated for a specific project under the authority of S.L. 2009-114 for street and sidewalk improvements associated with waterline improvements for the project.

SECTION 3. This act applies only to the City of Asheville.

SECTION 4. Except as otherwise provided, this act is effective when it becomes law.

HOUSE BILL 252:
Asheville Transfers

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	May 29, 2013
Introduced by:	Reps. Moffitt, Ramsey, McGrady	**Prepared by:**	Heather Fennell Committee Counsel
Analysis of:	Second Edition		

SUMMARY: House Bill 252 would allow the City of Asheville to continue to use utility revenues that were dedicated for a specific project under S.L. 2009-114 for the 2012-2013 fiscal year and repeal S.L. 2009-114 for the 2013-2014 fiscal year and thereafter.

CURRENT LAW: Session Law 2005-139 provides that the City of Asheville must place the funds from a "public enterprise" (utility revenues) in a separate fund and may only use those funds for the construction and replacement of assets for that public enterprise. The funds may not be used to pay for any obligations in the city's budget, such as sidewalk improvements.

The General Assembly later enacted Session Law 2009-114 that authorizes the City of Asheville to use up to 5% of utility revenues for street and sidewalk improvements associated with waterline improvements.

BILL ANALYSIS: For the 2012-2013 fiscal year, House Bill 252 would allow the City of Asheville to use utility revenues that were dedicated for a specific project under the authority of S.L. 2009-114 for street and sidewalk improvements associated with waterline improvements for the project

Starting June 30, 2013, House Bill 252 repeals the 2009 authority for the City of Asheville to use up to 5% of utility revenues for street and sidewalk improvements. The PCS allows the City of Asheville to continue to use utility revenues previously dedicated to specific projects.

EFFECTIVE DATE: The PCS for House Bill 252 would be effective when it becomes law.

Erika Churchill and Shelly DeAdder, counsel to House Government, substantially contributed to this summary.

O. Walker Reagan
Director

H252-SMTD-41 E2 -V1

Research Division
(919) 733-2578

HOUSE BILL 545

Short Title:	Modify Henderson Co. Occupancy Tax.	(Local)
Sponsors:	Representative McGrady (Primary Sponsor).	
	For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.	
Referred to:	Government, if favorable, Finance.	

April 4, 2013

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE HENDERSON COUNTY OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Sections 5 and 6 of Chapter 172 of the 1987 Session Laws, as amended by Chapter 55 of the 1991 Session Laws, Section 21(p) of S.L. 2007-527, and S.L. 2012-144, read as rewritten:

"**Sec. 5.** Occupancy Tax. (a) Authorization and Scope. – The Board of Commissioners of Henderson County may levy a room occupancy and tourism development tax of no less than three percent (3%) nor more than five percent (5%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations.

(a1) Authorization of Additional Tax. – In addition to the tax authorized by subsection (a) of this section, the Board of Commissioners of Henderson County may levy a room occupancy and tourism development tax of one percent (1%) of the gross receipts derived from the rental of accommodations taxable under subsection (a) of this section. The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with the provisions of this section. Henderson County may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section.

(b) Repealed.

(c) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

(d) Repealed.

(e) Use of Tax Revenue. – The county shall, on a quarterly basis, remit the net proceeds of the room occupancy and tourism development tax levied under this act to the Henderson County Tourism Development Authority. The Authority shall use ~~the net proceeds as follows:~~

~~(1) First five percent (5%). – At~~ at least two-thirds of the net proceeds of the room occupancy tax levied under ~~subsection (a) of this section shall be used~~ this act to promote travel and tourism in Henderson County and shall use the remainder ~~shall be used~~ for tourism-related expenditures.

~~(2) Additional one percent (1%). The net proceeds of the additional one percent room occupancy tax levied under subsection (a1) of this section shall~~

~~be used for the maintenance, operation, renovation, and promotion of The Vagabond School of the Drama, Inc., including the Mainstage and the Playhouse Downtown locations.~~

(e1) Definitions. – The following definitions apply in this act:

(1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the entity responsible for expending the net proceeds of the tax, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures.

"**Sec. 6.** Henderson County Tourism Development Authority. (a) Appointment and Membership. – When the board of commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating the Henderson County Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution adopted by the Board of Commissioners shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. However, no member shall serve on the Authority for more than five consecutive years. The Committee shall consist of nine voting members as follows:

(1) Three members who are registered to vote in Henderson County, appointed by the Henderson County Board of Commissioners.

(2) Three members who are registered to vote in Henderson County, appointed by the Hendersonville City Council.

(3) One member who is registered to vote in Henderson County, appointed by the Fletcher Town Council.

(4) One member who is registered to vote in Henderson County, appointed by the Flat Rock Village Council.

(5) One member appointed by the Henderson County Board of Commissioners upon a recommendation of the Henderson County Chamber of Commerce.

Of these members, at least one-third of the members shall be individuals who are affiliated with businesses that collect the tax in the county, and at least one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in the county.

The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority. The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The finance officer for Henderson County shall be the ex officio finance officer of the Authority.

(b) Duties. – The Authority shall expend the net proceeds of the tax levied under subsections (a) and (a1) of Section 5 of this act for the purposes provided in Section 5 of this act. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the board of commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require. The Vagabond School of the Drama, Inc., shall separately identify in its financial statements expenditures of funds that it receives pursuant to this act. The Vagabond School of the Drama, Inc., shall report annually by October 1 to the Authority expenditures of the funds received during the Authority's fiscal year pursuant to this act in such detail as required by the Authority or the Authority's Finance Officer."

SECTION 2. Section 2(b) of S.L. 2012-144 reads as rewritten:

"**SECTION 2.(b)** This section is effective when it becomes law, and the board of county commissioners shall adopt a resolution establishing the Henderson County Tourism Development Authority and make the changes to the membership as required by this section on or before September 1, 2012."

SECTION 3. Section 3 of S.L. 2012-144 is repealed.

SECTION 4. This act is effective when it becomes law.

HOUSE BILL 545:
Modify Henderson Co. Occupancy Tax

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	May 28, 2013
Introduced by:	Rep. McGrady	**Prepared by:**	Trina Griffin
Analysis of:	First Edition		Committee Counsel

SUMMARY: ***House Bill 545 repeals the requirement that the additional 1% occupancy tax be remitted to the Vagabond School of the Drama, Inc. and makes a technical correction to the name of the tourism development authority.***

CURRENT LAW: Henderson County may levy a room occupancy tax of no less than three percent (3%) and no more than six percent (6%). S.L. 2012-144 authorized an increase in the occupancy tax from 5% to 6%, with the net proceeds from the first 5% remitted to the Tourism Development Authority and the additional 1% tax remitted to the Vagabond School of the Drama, Inc., for maintenance, operations, renovations, and promotion. The provision designating that the additional 1% tax be remitted to the Vagabond School was set to expire July 1, 2014.

BILL ANALYSIS: House Bill 545 repeals the requirement that the additional 1% tax be remitted to the Vagabond School of the Drama, Inc. Under the bill, the total net proceeds of the occupancy tax would be distributed in accordance with the occupancy tax guidelines: at least two-thirds for the promotion of travel and tourism and the remainder for tourism-related expenditures.

House Bill 545 also corrects the name of the Henderson Tourism Development Authority to the Henderson County Tourism Development Authority.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: Since 1983, the General Assembly has authorized many units of local government to levy a room occupancy tax. In 1993, the House Finance Committee established the Occupancy Tax Guidelines, which address the rate of tax, the use of the tax proceeds, the administration of the tax, and the body with authority to determine how the proceeds will be spent. A summary of these provisions is detailed in the chart below.

UNIFORM OCCUPANCY TAX PROVISIONS
Rate – The county tax rate cannot exceed 6% and the city tax rate, when combined with the county rate, cannot exceed 6%.
Use – Two-thirds of the proceeds must be used to promote travel and tourism and the remainder must be used for tourism related expenditures.
Definitions The term "net proceeds", "promote travel and tourism", and "tourism related expenditures" are defined terms.
Administration – The net revenues must be administered by a local tourism development authority that has the authority to determine how the tax proceeds will be used, is created by a local ordinance, and at least 1/2 of the members must be currently active in the promotion of travel and tourism in the county and 1/3 of the members must be affiliated with organizations that collect the tax.
Costs of Collection – The taxing authority may retain from the revenues its actual costs of collection, not to exceed 3% of the first $500,000 collected each year plus 1% of the remainder collected each year.

Kelly Quick, Research Assistant, substantially contributed to this summary.

O. Walker Reagan
Director

H545-SMSV-57 E1 -V1

Research Division
(919) 733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Fiscal Note

BILL NUMBER: House Bill 545 (First Edition)

SHORT TITLE: Modify Henderson Co. Occupancy Tax.

SPONSOR(S): Representative McGrady

FISCAL IMPACT

($ in millions)

☐ Yes ☑ No ☐ No Estimate Available

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
Local Impact					
Revenues:					
Expenditures:					
NET LOCAL IMPACT	**$0.0**	**$0.0**	**$0.0**	**$0.0**	**$0.0**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:
Henderson County Tourism Development Authority

EFFECTIVE DATE: This act is effective when it becomes law.

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY:

House Bill 545 amends Sections 5 and 6 of SL 1987-172, as amended, to require that the Henderson County Tourism Development Authority use at least two-thirds of the net proceeds of the Henderson County room occupancy and tourism development tax to promote travel and tourism in the county, with the remainder for tourism expenses. It deletes the delineation of uses based on where the proceeds were from the first 5% or the additional 1% tax, thereby removing the allocation to the Vagabond School of the Drama Inc. The bill makes a technical correction to Section 2(b) of SL 2012-144. And it repeals Section 3, which required the Authority to use at least two-thirds of the funds remitted to it to promote travel and tourism in Henderson County and use the remainder for tourism-related expenditures.

ASSUMPTIONS AND METHODOLOGY:

House Bill 545 amends current law to eliminate the language allocating 1% of the Henderson County room occupancy tax to the maintenance, operation, renovation, and promotion of the

Vagabond School of the Drama Inc. Two-thirds of Henderson County's full 6% room occupancy rate will be required to promote travel and tourism in the county, while the remaining one-third shall be used for tourism expenses.

The bill is modifying how the Henderson County occupancy tax proceeds can be used, and there is no fiscal impact as a result of these changes.

SOURCES OF DATA:

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Brian Slivka

APPROVED BY:

Mark Trogdon, Director
Fiscal Research Division

DATE: May 6, 2013

Signed Copy Located in the NCGA Principal Clerk's Offices

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H 2

HOUSE BILL 671
Committee Substitute Favorable 5/2/13

Short Title: Mills River/Deannexation. (Local)

Sponsors:

Referred to:

April 10, 2013

A BILL TO BE ENTITLED

AN ACT REMOVING CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE TOWN OF MILLS RIVER.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is removed from the corporate limits of the Town of Mills River:

Beginning at a point located in the centerline of the 30-foot wide right-of-way of Old Pole Bridge Road, said point of beginning being the southernmost corner of that .84 acre parcel or tract identified as the "Zumstein Overlap" on that plat of survey recorded in Plat Slide 4340, Henderson County Registry, and running thence from said beginning point, North 11 degrees 34 minutes 35 seconds West 24.28 feet to a 12-inch iron pin; running thence, North 11 degrees 23 minutes 30 seconds West 554.47 feet to an iron pin; running thence, North 16 degrees 24 minutes 26 seconds East 100.51 feet to a capped rebar; running thence, North 16 degrees 32 minutes 22 seconds East 300.72 feet to a 1/2-inch rebar; continuing thence, North 16 degrees 32 minutes 22 seconds East 37.06 feet to an iron pin; running thence, South 77 degrees 20 minutes 16 seconds East 33.13 feet to a 3/4-inch iron pin; running thence, North 74 degrees 37 minutes 44 seconds East 227.12 feet to a 1/2-inch rebar; running thence, North 74 degrees 38 minutes 05 seconds East 312.05 feet to a 1/2-inch rebar; running thence, North 74 degrees 33 minutes 05 seconds East 512.33 feet to a 3/4-inch iron pin; running thence, North 51 degrees 40 minutes 38 seconds East 114.38 feet to an oval 3/4-inch iron pin; running thence, North 45 degrees 29 minutes 16 seconds East 156.87 feet to a capped rebar; running thence, North 45 degrees 18 minutes 44 seconds East 201.35 feet to an iron pin set at a stump hole; running thence, North 26 degrees 35 minutes 53 seconds East 238.42 feet to a 3/4-inch iron pin in branch; running thence, North 25 degrees 52 minutes 46 seconds East 205.13 feet to a 3/4-inch iron pin in the road bed of the Old Pole Bridge Road; running thence with the road bed, North 17 degrees 27 minutes 38 seconds West 233.80 feet to an iron pin, North 23 degrees 39 minutes 22 seconds East 254.60 feet to an iron pin and North 20 degrees 44 minutes 02 seconds East 171.22 feet, running thence, South 80 degrees 05 minutes 40 seconds East 439.55 feet to a 13-inch black oak snag; running thence, South 89 degrees 40 minutes 07 seconds East (passing a capped rebar at 15.01 feet) a total distance of 190.90 feet to a point in a branch (said point in a branch being located North 89 degrees 40 minutes 07 seconds West 68.31 feet from a capped rebar); running thence, South 20 degrees 34 minutes 32 seconds East 769.53 feet to a fence corner at a 10-inch red oak on top of the ridge.

SECTION 2. Section 1 of this act shall have no effect upon the validity of any liens of the Town of Mills River for ad valorem taxes or special assessments outstanding before the effective date of this act. Such liens may be collected or foreclosed upon after the effective

date of this act as though the property were still within the corporate limits of the Town of Mills River.

SECTION 3. The property area described in Section 1 of this act is located within the Etowah-Horse Shoe Fire District. The taxpayers in the property area described in Section 1 of this act shall no longer be required to pay taxes upon their property to the Town of Mills River after the effective date of this act. However, they shall continue to be required to pay taxes upon their property levied by Henderson County, including taxes levied by the County to finance, provide, or maintain the Etowah-Horse Shoe Fire District.

SECTION 4. Notwithstanding any other provisions of law, including the provisions of Article 19 of Chapter 160A of the General Statutes, the area described in Section 1 of this act shall continue to be subject to the zoning ordinances of the Town of Mills River for a maximum of 90 days after the effective date of this act to allow Henderson County an opportunity to determine and apply a County zoning designation for the property. Upon the expiration of the 90-day period, the Town of Mills River shall have no zoning or any other authority over the property area described in Section 1 of this act.

SECTION 5. This act becomes effective June 30, 2013.

HOUSE BILL 671:
Mills River/Deannexation

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	May 28, 2013
Introduced by:	Committee on Rules, Calendar, and Operations of the House	**Prepared by:**	Cindy Avrette Committee Counsel
Analysis of:	Second Edition		

SUMMARY: House Bill 671 would deannex 12 home sites ("property") from the Town of Mills River and maintain the zoning authority of the Town of Mills River over the property for 90 days to allow Henderson County an opportunity to determine a County zoning designation.

CURRENT LAW: Under Section 1 of Article VII of the NC Constitution, the General Assembly is empowered to "provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions, and, except as otherwise prohibited by this Constitution, may give such powers and duties to counties, cities and towns, and other governmental subdivisions as it may deem advisable."

Pursuant to this Section, the General Assembly enacted Article 4A of Chapter 160A of the General Statutes, which governs municipal annexations. The General Assembly has not enacted any method for municipalities to *deannex* property — that power remains with the General Assembly.

BILL ANALYSIS: House Bill 671 would deannex 12 home sites from the Town of Mills River. The bill would maintain the zoning authority of the Town of Mills River over the property for 90 days to allow Henderson County an opportunity to determine a County zoning designation.

The bill would not affect the duty of the owners to pay taxes for any prior year, and does not eliminate any liens for taxes for prior years. The property will continue to be subject to taxes levied by Henderson County, including taxes levied by the County to maintain the Etowah Horse Shoe Fire District.

EFFECTIVE DATE: The bill would become effective June 30, 2013.

BACKGROUND: When the Town of Mills River was incorporated in 2003, the property was erroneously included in the Town's corporate limits. The property was believed to be in a fire district that included the Town. The property was, in fact, in a fire district different than the Town.

The Town attempted to provide fire protection through an agreement with the responding fire district. The responding fire district had a different tax rate than the fire district covering the Town, and no long-term agreement was reached. De-annexing the property allows the property to receive fire protection from the fire district covering the property and pay the tax rate for the correct fire district. The Town supports the deannexation.

Erika Churchill, counsel to the House Government Committee, substantially contributed to this summary.

HOUSE BILL 32

Short Title:	Increase Year's Allowance.	(Public)
Sponsors:	Representatives Hurley and Turner (Primary Sponsors). *For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*	
Referred to:	Judiciary Subcommittee B.	

February 4, 2013

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE AMOUNT OF THE YEAR'S ALLOWANCE FOR A SURVIVING SPOUSE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 30-15 reads as rewritten:

"**§ 30-15. When spouse entitled to allowance.**

Every surviving spouse of an intestate or of a testator, whether or not the surviving spouse has petitioned for an elective share, shall, unless the surviving spouse has forfeited the surviving spouse's right thereto, as provided by law, be entitled, out of the personal property of the deceased spouse, to an allowance of the value of ~~twenty thousand dollars ($20,000)~~thirty thousand dollars ($30,000) for the surviving spouse's support for one year after the death of the deceased spouse. Such allowance shall be exempt from any lien, by judgment or execution, acquired against the property of the deceased spouse, and shall, in cases of testacy, be charged against the share of the surviving spouse."

SECTION 2. G.S. 30-29 reads as rewritten:

"**§ 30-29. What petition must show.**

In the petition the petitioner shall set forth, besides the facts entitling petitioner to a year's support and the value of the support claimed, the further facts that the personal estate of which the decedent died possessed exceeded ~~twenty thousand dollars ($20,000),~~thirty thousand dollars ($30,000), and also whether or not an allowance has been made to petitioner and the nature and value thereof."

SECTION 3. This act becomes effective January 1, 2014, and applies to estates of persons dying on or after that date.

HOUSE BILL 32:
Increase Year's Allowance

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	May 28, 2013
Introduced by:	Reps. Hurley, Turner	**Prepared by:**	Cindy Avrette
Analysis of:	First Edition		Committee Counsel

SUMMARY: ***House Bill 32 would increase the year's allowance for a surviving spouse from $20,000 to $30,000.***

CURRENT LAW: All states have some statutory provision for the support and maintenance of a decedent's spouse and minor children during the administration of the estate. North Carolina calls these payments for support and maintenance the "year's allowance." The payments are made from the decedent's personal property and are superior to claims of creditors.

G.S. 30-15 provides for a $20,000 allowance for a one-year period for every surviving spouse from the personal property of a deceased spouse, unless otherwise forfeited by law. If the decedent dies intestate, the allowance is in addition to the spouse's intestate share. If the decedent left a will, the allowance is charged against the share of the spouse given under the will.

G.S. 30-29 provides that, for a surviving spouse who applies to superior court for support, the complaint must set forth the following: facts entitling plaintiff to a year's support, the value of the support claimed, that the personal estate exceeded $20,000 and whether or not an allowance has been made to the plaintiff and the nature and value thereof.

BILL ANALYSIS: House Bill 312 would increase the allowance for the surviving spouse from the personal property of a deceased spouse from $20,000 to $30,000, and would make a conforming change in a statute which references the amount of the spousal share (G.S. 30-29).

EFFECTIVE DATE: The act becomes effective January 1, 2014, and applies to estates of persons dying on or after that date.

BACKGROUND: The year's allowance was last amended in 2009. S.L. 2009-183 raised the amount of the year's allowance from $10,000 to $20,000.

Brad Krehely, counsel to House Judiciary Subcommittee B, substantially contributed to this summary.

O. Walker Reagan
Director

Research Division
(919) 733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H 2

HOUSE BILL 449
Committee Substitute Favorable 4/17/13

Short Title: State Contracts/Furniture. (Public)

Sponsors:

Referred to:

March 28, 2013

A BILL TO BE ENTITLED

AN ACT PROVIDING THAT A VENDOR IS QUALIFIED FOR PURPOSES OF ANY STATE FURNITURE REQUIREMENTS CONTRACT IF THE VENDOR'S PRODUCTS ARE INCLUDED ON A UNITED STATES GENERAL SERVICES ADMINISTRATION (GSA) FURNITURE SCHEDULE, THE VENDOR IS A FEDERALLY QUALIFIED VENDOR FOR THE GSA FURNITURE SCHEDULE, AND THE VENDOR OFFERS PRODUCTS ON THE SAME PRICING AND SPECIFICATIONS AS THE GSA FURNITURE SCHEDULE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-57.1 reads as rewritten:

"**§ 143-57.1. Furniture requirements contracts.**

(a) State Furniture Requirements Contract. – To ensure agencies access to sufficient sources of furniture supply and service, to provide agencies the necessary flexibility to obtain furniture that is compatible with interior architectural design and needs, to provide small and disadvantaged businesses additional opportunities to participate on State requirements contracts, and to restore the traditional use of multiple award contracts for purchasing furniture requirements, each State furniture requirements contract shall be awarded on a multiple award basis, subject to the following conditions:

(1) Competitive, sealed bids must be solicited for the contract in accordance with Article 3 of Chapter 143 of the General Statutes unless otherwise provided for by the State Purchasing Officer pursuant to that Article. Bids shall be solicited on a historical weighted average of specific contract items and not on a single item within a class of items. Historical weighted average shall be based on information derived from the State's electronic procurement system, when available, or other available data.

(2) Subject to the provisions of this section, bids shall be evaluated and the contract awarded in accordance with Article 3 of Chapter 143 of the General Statutes.

(3) For each category of goods under each State requirements furniture contract, awards shall be made to at least three qualified vendors unless three qualified vendors are not available. Additionally, if the State Purchasing Officer determines that there are no qualified vendors within the three best qualified vendors who offer furniture manufactured or produced in North Carolina or who are incorporated in the State, the State Purchasing Officer shall expand the number of qualified vendors awarded contracts to as many qualified vendors as is necessary to include a qualified vendor who offers

furniture manufactured or produced in North Carolina or who is incorporated in the State, but the State Purchasing Officer shall not be required to expand the number of qualified vendors to more than six qualified vendors. A vendor is qualified under this ~~section~~ subsection if the vendor's products conform to the term contract specifications, the vendor is listed on the State's qualified products list, and the vendor submits a responsive bid.

~~(4) An agency may purchase from any vendor certified on the contract but shall make the most economical purchase that it determines meets its needs, based upon price, compatibility, service, delivery, freight charges, and other factors that it considers relevant.~~

(a1) GSA Furniture Schedule. – Vendors meeting the following requirements are treated as qualified vendors under any State furniture requirements contract:

(1) The vendor's products are included on a United States General Services Administration (GSA) Furniture Schedule.

(2) The vendor is a federally qualified vendor within the GSA Furniture Schedule.

(3) The vendor offers products on the same pricing and specifications as the vendor's products included on the GSA Furniture Schedule.

(4) The vendor is a resident bidder as defined in G.S. 143-59(c) or the vendor offers products manufactured or produced in North Carolina.

(b) Definition. – For purposes of this section, "furniture requirements contract" means State requirements contracts for casegoods, classroom furniture, bookcases, ergonomic chairs, office swivel and side chairs, computer furniture, mobile and folding furniture, upholstered seating, commercial dining tables, and related items.

(c) Authority to Purchase. – An agency may purchase from any vendor certified on the State furniture requirements contract, including vendors meeting the requirements of subsection (a1) of this section. An agency shall make the most economical purchase that it determines meets its needs, based upon price, compatibility, service, delivery, freight charges, contract terms, and other factors that it considers relevant."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 449:
State Contracts/Furniture

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	May 28, 2013
Introduced by:	Rep. Starnes	**Prepared by:**	Greg Roney
Analysis of:	Second Edition		Committee Counsel

SUMMARY: ***House Bill 449 allows State agencies to buy furniture from vendors that meet the following requirements:***

- ***The vendor's products are included on a United States General Services Administration (GSA) Furniture Schedule;***
- ***The vendor is a federally qualified vendor within the GSA Furniture Schedule;***
- ***The vendor offers products on the same pricing and specifications as the vendor's products included on the GSA Furniture Schedule; and***
- ***The vendor is a resident bidder or the vendor offers products manufactured or produced in North Carolina. To be a resident bidder, the vendor must pay unemployment taxes or income taxes in this State and have its principal place of business in this State.***

CURRENT LAW: G.S. 143-57.1 authorizes the Department of Administration (DOA) to set design standards for furniture that is purchased by State agencies. DOA negotiates State-wide contracts called furniture requirements contracts. The furniture requirements contracts set the terms of the sale including price and specifications. DOA periodically renews the furniture requirements contracts, and vendors submit bids to DOA seeking to be a qualified vendor.

Generally, State agencies are required to purchase furniture under the furniture requirements contracts. The State purchases significant amounts of furniture outside of the furniture requirements contracts such as when new buildings are furnished.

BILL ANALYSIS: House Bill 449 would allow State agencies to purchase furniture under the existing furniture requirements contracts or from federally-qualified vendors with products on the GSA Furniture Schedule. The vendor must offer its products on the same pricing and specifications as the vendor's products included on the GSA Furniture Schedule.

Additionally, the vendor must be a "resident bidder" or offer products manufactured or produced in North Carolina. "Resident bidder" is defined as a bidder that has paid unemployment taxes or income taxes in this State and whose principal place from which the trade or business of the bidder is directed or managed is located in this State.

BACKGROUND: DOA uses State-specific design standards for the furniture requirements contracts. The GSA uses national design standards. Some vendors offer products on the GSA Furniture Schedule that meet national quality standards but do not meet DOA's design standards. The bill allows State agencies to select furniture meeting either DOA's design standards or national design standards selected by GSA. Both DOA's contract and the GSA Furniture Schedule offer discounted price terms to State agencies.

EFFECTIVE DATE: House Bill 449 would be effective when it becomes law.

O. Walker Reagan
Director

H449-SMRB-35 E2 -V2

Research Division
(919) 733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H 2

HOUSE BILL 788
Committee Substitute Favorable 4/25/13

Short Title: Water/Sewer Authority/Rate Flexibility. (Public)

Sponsors:

Referred to:

April 11, 2013

A BILL TO BE ENTITLED

AN ACT TO AMEND THE STATUTE GOVERNING THE POWERS OF WATER AND SEWER AUTHORITIES TO ALLOW THE AUTHORITY TO SET RATES FOR WATER RESOURCES STORAGE OR PROTECTION PROGRAMS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 162A-6 reads as rewritten:

"**§ 162A-6. Powers of authority generally.**

(a) Each authority created hereunder shall be deemed to be a public instrumentality exercising public and essential governmental functions to provide for the public health and welfare, and each authority is authorized and empowered:

...

(9) To fix and revise from time to time and to collect rates, fees and other charges for the use of or for the services and facilities furnished by any system operated by the ~~authority;~~authority, including rates for water stored by the authority through programs to store and protect water resources in the region served by the authority. Schedules of rates, fees, and other charges may vary according to classes of service for programs to store and protect water resources. For purposes of this subdivision, "programs to store and protect water resources" includes aquifer or surficial storage.

...."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 788:
Water/Sewer Authority/Rate Flexibility

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	May 29, 2013
Introduced by:	Reps. Catlin, Hamilton	**Prepared by:**	Heather Fennell
Analysis of:	Second Edition		Committee Counsel

SUMMARY: House Bill 788 authorizes county water and sewer authorities to allow authorities to set rates for water resources storage and protection programs, including aquifer or surficial storage.

CURRENT LAW: Chapter 162A governs county water and sewer systems. Generally upon creation, each of the entities has a governing board appointed by the units of local government involved in the operation of the system, with specific authority to set rates and fees, power to sue and be sued, and authority to contract in the name of the entity, amongst other powers and duties.

G.S. 162A-6(9) specifically authorizes county water and sewer systems to fix, revise, and collect rates, fees, and other charges for the use of or for the services and facilities furnished by any system operated by the authority.

Currently, county water and sewer systems do not have the power to set differential rates. Cities already have the authority to set differential rates pursuant to G.S. 160A-314, and counties have the authority to set differential rates under G.S. 153A-277.

BILL ANALYSIS: House Bill 788 amends the provision that allows county water and sewer authorities to set rates, fees, and other charges by authorizing them to set rates for programs to store and protect water resources. The county water and sewer authority would be able to set differential rates for these programs, which would include aquifer or surficial storage.

EFFECTIVE DATE: This act is effective when it becomes law.

Kelly Quick, Legislative Analyst, substantially contributed to this summary.

SENATE PAGES ATTENDING

COMMITTEE: Finance ROOM: 544

DATE: 5-29 TIME: 1 pm

PLEASE PRINT LEGIBILY!!!!!!!!!!!!!....*or else!*

Page Name	Hometown	Sponsoring Senator
1. Thomas McBrayer	Hickory	Austin Allran
2. Andrew Scott	Raleigh	NesBit
3. Grimes Clark	Tarboro	Jenkins
4. Harrison Froelich	Greensboro	Wade
Logan Brooks	Pittsboro	Soucek
6. Henry de St Aubin	Siles City	Tarte
7. Lillie Turlington	Clinton	Jackson
8.		
9.		
10.		

Do not add names below the grid.

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

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 29, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Kathryn Trogdon	NCMME
Johanna Reese	NCACC
Jason Barbour	Sen. Apodaca
Joanne Sanford	Sanford Law Office
	Gov's Office
	GUEST OF SEN. RABIN
Sarah Lynn Miller	self
Kay Emanuel	School of Government
Bill Hadley	Pfizer
Dylan Watts	Smith A.
Spence Flaggs	DOA

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 29, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Kim Arnold	NCBA
BRUCE THOMPSON	PARKER POE

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 29, 2013
Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Karl Knapp	NCLM
Allison Walker	Nelson Mullins
Dana Fenton	CLT
TJ Brubee	NP
[signature]	NCAOM
Glen Michalske	Southport
GORDON CORLEW	SOUTH PORT
Jon Carr	Jordan Price law Firm
[signature]	[signature]
Benton Albritton	ABC Carolinas
Alex Badyrka	CSS

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 29, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Andy Chase	KMA
David McGowan	NCPC
Carr McLamb	DENR
David Harris	Lynch Harris
Drummond	NS

Senate Committee on Finance
Thursday, May 30, 2013, 10:00 AM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 394	Lower Tax Rates for a Stronger NC Economy.	Senator Clodfelter Senator Hartsell Senator Jenkins Senator Meredith
SB 677	Corporate Income Tax Reduction & Reform.	Senator Rucho Senator Rabon

Adjournment

Senate Committee on Finance
Thursday, May 30, 2013
Room 544 LOB, 10:00 a.m.

Minutes

The Senate Committee on Finance met at 10:00 a.m. on Thursday, May 30, 2013 in room 544 of the Legislative Office Building. Desmond Clark of Raeford, Harrison Froelich of Greensboro, Ariona Lindsey of Reidsville, Jacob Burnette of Canton and Grimes Clark of Tarboro served as pages. Senator Rabon presided as chair.

S.B. 394 – Lower Tax Rates for a Stronger NC Economy

Senator Hartsell and Senator Clodfelter were recognized to explain the bill. Senator Hise moved to adopt the proposed committee substitute (PCS) for discussion and the motion carried. The PCS would adopt a bipartisan tax reform plan to promote economic development in North Carolina by establishing a sound state tax structure that revises the existing structure on a revenue-neutral basis. It also lowers all major tax rates, taxes all income at the same rate and makes the structure simpler, fairer, and consistent with the modern economy. The bill was discussed only, no vote. A copy of the PCS and the summary chart is attached.

S.B. 677 – Corporate Income Tax Reduction & Reform

Senator Rucho was recognized to explain the bill and Senator Tucker moved to adopt the PCS for discussion. The motion carried. The PCS would amend corporate tax law to impose a tax on the state net income of every C Corporation doing business in the state at the following percentages: (1) 6.9% in 2013, (2) 6.5% in 2014, (3) 6.25% in 2015, and (4) 6% after 2015. The bill was discussed and no vote was taken. A copy of the PCS is attached.

The meeting adjourned at 10:21 a.m.

Senator Bill Rabon
Presiding Chair

DeAnne Mangum
Committee Assistant

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Thursday	May 30, 2013	10:00 AM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
SB 394	Lower Tax Rates for a Stronger NC Economy.	Senator Clodfelter Senator Hartsell Senator Jenkins Senator Meredith
SB 677	Corporate Income Tax Reduction & Reform.	Senator Rucho Senator Rabon

No votes will be taken.

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S D

SENATE BILL 394
Corrected Copy 3/27/13
PROPOSED COMMITTEE SUBSTITUTE S394-CSRBx-20 [v.4]

5/29/2013 9:13:27 PM

Short Title: Lower Tax Rates for a Stronger NC Economy. (Public)

Sponsors:

Referred to:

March 25, 2013

A BILL TO BE ENTITLED

AN ACT TO ADOPT A BIPARTISAN TAX REFORM PLAN TO PROMOTE ECONOMIC DEVELOPMENT IN NORTH CAROLINA BY ESTABLISHING A SOUND STATE TAX STRUCTURE THAT REVISES THE EXISTING STRUCTURE ON A REVENUE-NEUTRAL BASIS, LOWERS ALL MAJOR TAX RATES, TAXES ALL INCOME AT THE SAME RATE, AND MAKES THE STRUCTURE SIMPLER, FAIRER, AND CONSISTENT WITH THE MODERN ECONOMY, AS RECOMMENDED BY PAST TAX STUDIES.

The General Assembly of North Carolina enacts:

PART I. GENERAL FINDINGS AND PURPOSE

SECTION 1.(a) The General Assembly of North Carolina finds the following:

(1) North Carolina's current tax structure has not been comprehensively revised since the Great Depression. The tax structure adopted then, while amended extensively over the years in a piecemeal fashion, no longer reflects North Carolina's 21st Century economy.

(2) Over the years, the multiplication of credits, allowances, special rates, and exemptions has progressively narrowed the base of the State's individual and corporate income taxes, with the result that the rates for those income taxes are now among the highest in our region and among our peer states.

(3) North Carolina's current tax structure undermines the State's competitive position and acts as a deterrent to new business investment and the creation of new jobs.

(4) The State's reliance on temporary and expedient tax changes to meet budget shortfalls has created a tax structure that is unpredictable for taxpayers and a revenue stream that is unstable for the State.

SECTION 1.(b) It is the intent of this legislation to promote economic development by establishing broader tax bases and lowering tax rates in a comprehensive manner, as recommended by numerous study committees charged with developing a 21st Century tax policy for the State. Adoption of a modern tax structure will accomplish the following objectives:

(1) Make North Carolina's tax system more competitive relative to our peer states.

(2) Conform North Carolina's tax system to the current economy and not that of the 1933 economy.

(3) Stabilize North Carolina's tax base and provide a reliable revenue stream for the future.

(4) Make North Carolina's tax system fairer so that individual taxpayers and business taxpayers who are in very similar circumstances to one another are treated in roughly the same way by the tax system.

(5) Balance North Carolina's tax revenues among the different types of taxes and the different groups of taxpayers on a revenue-neutral basis. The consensus forecasted amounts for fiscal year 2014-2015 are used to establish the revenue-neutrality of the tax changes in this legislation.

SECTION 1.(c) This section is effective when it becomes law.

PART II. REDUCE INDIVIDUAL INCOME TAX RATES AND BROADEN TAX BASE

SECTION 2.(a) G.S. 105-134.6(b)(22) is repealed.

SECTION 2.(b) The following statutes are recodified as indicated:

Current Statute	Recodified Statute
G.S. 105-133	G.S. 105-153.1
G.S. 105-134	G.S. 105-153.2
G.S. 105-134.1	G.S. 105-153.3
G.S. 105-134.5	G.S. 105-153.4
G.S. 105-151	G.S. 105-153.9
G.S. 105-152	G.S. 105-153.8

SECTION 2.(c) The following statutes are repealed:

G.S. 105-134.2
G.S. 105-134.3
G.S. 105-134.6
G.S. 105-134.7
G.S. 105-134.8
G.S. 105-151.11
G.S. 105-151.18
G.S. 105-151.20
G.S. 105-151.21
G.S. 105-151.24
G.S. 105-151.26
G.S. 105-151.33

SECTION 2.(d) G.S. 105-134.1, recodified by this act as G.S. 105-153.3, reads as rewritten:

"**§ 105-153.3. Definitions.**

The following definitions apply in this Part:

(1) Adjusted gross income. – Defined in section 62 of the Code.

(1a) Code. – Defined in G.S. 105-228.90.

(2) Department. – The Department of Revenue.

~~(3) Educational institution. – An educational institution that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on.~~

(4) Fiscal year. – Defined in section 441(e) of the Code.

(5) Gross income. – Defined in section 61 of the Code.

(6) Head of household. – Defined in section 2(b) of the Code.

(7) Individual. – A human being.

(7a) Limited liability company. – Either a domestic limited liability company organized under Chapter 57C of the General Statutes or a foreign limited liability company authorized by that Chapter to transact business in this State that is classified for federal income tax purposes as a partnership. As applied to a limited liability company that is a partnership under this Part, the term "partner" means a member of the limited liability company.

(7b) Repealed by Session Laws 1998-98, s. 9, effective August 14, 1998.

(8) Married individual. – An individual who is married and is considered married as provided in section 7703 of the Code.

(9) Nonresident individual. – An individual who is not a resident of this State.

(10) North Carolina taxable income. – Defined in ~~G.S. 105-134.5.~~G.S. 105-153.4.

(10a) Partnership. – A domestic partnership, a foreign partnership, or a limited liability company.

(11) Person. – Defined in G.S. 105-228.90.

(12) Resident. – An individual who is domiciled in this State at any time during the taxable year or who resides in this State during the taxable year for other than a temporary or transitory purpose. In the absence of convincing proof to the contrary, an individual who is present within the State for more than 183 days during the taxable year is presumed to be a resident, but the absence of an individual from the state for more than 183 days raises no presumption that the individual is not a resident. A resident who removes from the State during a taxable year is considered a resident until he has both established a definite domicile elsewhere and abandoned any domicile in this State. The fact of marriage does not raise any presumption as to domicile or residence.

~~(13) Retirement benefits. Amounts paid to a former employee or the beneficiary of a former employee under a written retirement plan established by the employer to provide payments to an employee or the beneficiary of an employee after the end of the employee's employment with the employer where the right to receive the payments is based upon the employment relationship. With respect to a self-employed individual or the beneficiary of a self-employed individual, the term means amounts paid to the individual or beneficiary of the individual under a written retirement plan established by the individual to provide payments to the individual or the beneficiary of the individual after the end of the self-employment. In addition, the term includes amounts received from an individual retirement account described in section 408 of the Code or from an individual retirement annuity described in section 408 of the Code. For the purpose of this subdivision, the term "employee" includes a volunteer worker.~~

(14) S Corporation. – Defined in G.S. 105-131(b).

(15) Secretary. – The Secretary of Revenue.

(16) Repealed by Session Laws 2011-145, s. 31A.1(a), effective for taxable years beginning on or after January 1, 2012.

(17) Taxable year. – Defined in section 441(b) of the Code.

(18) Taxpayer. – An individual subject to the tax imposed by this Part.

(19) This State. – The State of North Carolina."

SECTION 2.(e) G.S. 105-134.5, recodified by this act as G.S. 105-153.4, reads as rewritten:

"**§ 105-153.4. North Carolina taxable income defined.**

(a) Residents. – For an individual who is a resident of this State, the term "North Carolina taxable income" means the taxpayer's adjusted gross income as modified in ~~G.S. 105-134.6.~~G.S. 105-153.5.

(b) Nonresidents. – For a nonresident individual, the term "North Carolina taxable income" means the taxpayer's adjusted gross income as modified in ~~G.S. 105-134.6,~~ G.S. 105-153.5, multiplied by a fraction the denominator of which is the taxpayer's gross income as modified in ~~G.S. 105-134.6,~~ G.S. 105-153.5, and the numerator of which is the amount of that gross income, as modified, that is derived from North Carolina sources and is attributable to the ownership of any interest in real or tangible personal property in this State, is derived from a business, trade, profession, or occupation carried on in this State, or is derived from gambling activities in this State.

(c) Part-year Residents. – If an individual was a resident of this State for only part of the taxable year, having moved into or removed from the State during the year, the term "North Carolina taxable income" has the same meaning as in subsection (b) of this section except that the numerator includes adjusted gross income, as modified under ~~G.S. 105-134.6,~~ G.S. 105-153.5, derived from all sources during the period the individual was a resident.

(d) S Corporations and Partnerships. – In order to calculate the numerator of the fraction provided in subsection (b) of this section, the amount of a shareholder's pro rata share of S Corporation income that is includable in the numerator is the shareholder's pro rata share of the S Corporation's income attributable to the State, as defined in G.S. 105-131(b)(4). In order to calculate the numerator of the fraction provided in subsection (b) of this section for a member of a partnership or other unincorporated business that has one or more nonresident members and operates in one or more other states, the amount of the member's distributive share of income of the business that is includable in the numerator is determined by multiplying the total net income of the business by the ratio ascertained under the provisions of G.S. 105-130.4. As used in this subsection, total net income means the entire gross income of the business less all expenses, taxes, interest, and other deductions allowable under the Code that were incurred in the operation of the business.

(e) Tax Year. – A taxpayer must compute North Carolina taxable income on the basis of the taxable year used in computing the taxpayer's income tax liability under the Code."

SECTION 2.(f) Part 2 of Article 4 of Chapter 105 of the General Statutes is amended by adding the following new sections to read:

"**§ 105-153.5. Modifications to adjusted gross income.**

(a) Personal Exemption. – In calculating North Carolina taxable income, a taxpayer may deduct from adjusted gross income an exemption amount equal to the amount listed in the table below based on the taxpayer's filing status and adjusted gross income. The taxpayer is allowed the same number of personal exemptions allowed under section 151 of the Code for the taxable year.

Filing Status	Adjusted Gross Income	Personal Exemption
Married, filing jointly	Up to $50,000	$5,000
	$50,001 up to $125,000	$3,000
	$125,001 up to $200,000	$1,000
	Over $200,000	$ 500
Head of Household	Up to $40,000	$4,000
	$40,001 up to $100,000	$2,400
	$100,001 up to $160,000	$ 800
	Over $160,000	$ 400
Single	Up to $25,000	$2,500
	$25,001 up to $62,500	$1,500
	$62,501 up to $100,000	$ 500
	Over $100,000	$ 250
Married, filing separately	Up to $25,000	$2,500
	$25,001 up to $62,500	$1,500

$62,501 up to $100,000	$ 500
Over $100,000	$ 250

(b) Household Deduction. – In calculating North Carolina taxable income, a taxpayer may deduct from adjusted gross income an amount equal to the amount listed in the table below based on the taxpayer's filing status:

Filing Status	Standard Deduction
Married, filing jointly	$1,000
Head of Household	$ 800
Single	$ 500
Married, filing separately	$ 500

(c) Housing Expense Allowance. – In calculating North Carolina taxable income, a taxpayer is allowed a deduction under this subsection from adjusted gross income. The deduction allowed under this subsection is equal to the greater of the amount listed in the table below based on the taxpayer's filing status or the amount claimed as a deduction for interest paid or accrued during the taxable year under section 163(h) of the Code with respect to a qualified residence that is the taxpayer's legal residence.. The deduction allowed under this subsection may not exceed the amount listed in the table below based on the taxpayer's filing status.

Filing Status	Minimum Amount	Maximum Amount
Married, filing jointly	$5,000	$10,000
Head of Household	$4,000	$ 8,000
Single	$2,500	$ 5,000
Married, filing separately	$2,500	$ 5,000

(d) Other Deductions. – In calculating North Carolina taxable income, a taxpayer must deduct from the taxpayer's adjusted gross income any of the following items that are included in the taxpayer's adjusted gross income:

(1) Interest upon the obligations of any of the following:
  a. The United States or its possessions.
  b. This State, a political subdivision of this State, or a commission, an authority, or another agency of this State or of a political subdivision of this State.

(2) Gain from the disposition of obligations issued before July 1, 1995, to the extent the gain is exempt from tax under the laws of this State.

(3) Benefits received under Title II of the Social Security Act and amounts received from retirement annuities or pensions paid under the provisions of the Railroad Retirement Act of 1937.

(4) Refunds of State, local, and foreign income taxes included in the taxpayer's gross income.

(5) The amount received during the taxable year from one or more State, local, or federal government retirement plans to the extent the amount is exempt from tax under this Part pursuant to a court order in settlement of any of the following cases:
  a. Bailey v. State, 92 CVS 10221, 94 CVS 6904, 95 CVS 6625, 95 CVS 8230.
  b. Emory v. State, 98 CVS 0738.
  c. Patton v. State, 95 CVS 04346.

(6) Income that meets both of the following requirements:
  a. Is earned or received by an enrolled member of a federally recognized Indian tribe.
  b. Is derived from activities on a federally recognized Indian reservation while the member resides on the reservation. Income

from intangibles having a situs on the reservation and retirement income associated with activities on the reservation are considered income derived from activities on the reservation.

(7) The amount by which the basis of property under this Article exceeds the basis of the property under the Code, in the year the taxpayer disposes of the property.

(8) The amount paid to the taxpayer by the State under G.S. 148-84 as compensation for pecuniary loss suffered by reason of erroneous conviction and imprisonment.

(9) The amount allowed as a deduction under G.S. 105-153.6 as a result of an add-back for federal accelerated depreciation and expensing.

(e) Additions. – In calculating North Carolina taxable income, a taxpayer must add to the taxpayer's adjusted gross income any of the following items that are not included in the taxpayer's adjusted gross income:

(1) Interest upon the obligations of states other than this State, political subdivisions of those states, and agencies of those states and their political subdivisions.

(2) The amount by which a shareholder's share of S Corporation income is reduced under section 1366(f)(2) of the Code for the taxable year by the amount of built-in gains tax imposed on the S Corporation under section 1374 of the Code.

(3) The amount by which the basis of property under the Code exceeds the basis of the property under this Article, in the year the taxpayer disposes of the property.

(4) The amount excluded from gross income under section 199 of the Code.

(5) The amount required to be added under G.S. 105-153.6 when the State decouples from federal accelerated depreciation and expensing.

"**§ 105-153.6. Adjustments when State decouples from federal accelerated depreciation and expensing.**

(a) Special Accelerated Depreciation. – A taxpayer who places property in service during a taxable year listed in the table below and who takes a special accelerated depreciation deduction for that property under section 168(k) or 168(n) of the Code must add to the taxpayer's federal taxable income or adjusted gross income, as appropriate, eighty-five percent (85%) of the amount taken for that year under those Code provisions. For taxable years before 2013, the taxpayer must add the amount to the taxpayer's federal taxable income. For taxable year 2013 and after, the taxpayer must add the amount to the taxpayer's adjusted gross income.

A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income. The table below indicates the applicable five-year period.

Taxable Year of 85% Add-Back	**Five Taxable Years of 20% Deduction**
2010	2011 through 2015
2011	2012 through 2016
2012	2013 through 2017
2013	2014 through 2018

(b) 2009 Depreciation Exception. – A taxpayer who placed property in service during the 2009 taxable year and whose North Carolina taxable income for the 2009 taxable year reflected a special accelerated depreciation deduction allowed for the property under section 168(k) of the Code must add eighty-five percent (85%) of the amount of the special accelerated depreciation deduction to its federal taxable income for the 2010 taxable year. A taxpayer is

allowed to deduct this add-back under subsection (a) of this section as if it were for property placed in service in 2010.

(c) Section 179 Expense. – For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 1, 2011. A taxpayer who places section 179 property in service during a taxable year listed in the table below must add to the taxpayer's federal taxable income or adjusted gross income as appropriate, eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code exceeds the amount that would have been allowed for that taxable year under section 179 of the Code as of May 1, 2010. For taxable years before 2013, the taxpayer must add the amount to the taxpayer's federal taxable income. For taxable year 2013 and after, the taxpayer must add the amount to the taxpayer's adjusted gross income.

A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income. The table in subsection (a) of this section indicates the applicable five-year period.

(d) Asset Basis. – The adjustments made in this section do not result in a difference in basis of the affected assets for State and federal income tax purposes.

"**§ 105-153.7. Individual income tax imposed.**

(a) Tax. – A tax is imposed for each taxable year on the North Carolina taxable income of an individual. The tax is five and ninety-five-hundredths percent (5.95%) of the taxpayer's North Carolina taxable income.

(b) Withholding Tables. – The Secretary may provide tables that compute the amount of tax due for a taxable year under this Part. The tables do not apply to an individual who files a return under section 443(a)(1) of the Code for a period of less than 12 months due to a change in the individual's annual accounting period, or to an estate or trust."

SECTION 2.(g) G.S. 105-152 and G.S. 105-151, recodified by this act as G.S. 105-153.8 and G.S. 105-153.9, read as rewritten:

"**§ 105-153.8. Income tax returns.**

(a) Who Must File. – The following individuals ~~shall~~ must file with the Secretary an income tax return under affirmation:

(1) Every resident required to file an income tax return for the taxable year under the ~~Code and every~~ Code.

(1a) Every nonresident individual who ~~(i) derived~~meets all of the following requirements:

a. Receives during the taxable year gross income that is derived from North Carolina sources ~~during the taxable year~~and is attributable to the ownership of any interest in real or tangible personal property in this ~~State or~~State, is derived from a business, trade, profession, or occupation carried on in this ~~State and (ii) is~~State, or is derived from gambling activities in this State.

b. Is required to file an income tax return for the taxable year under the Code.

(2) Repealed by Session Laws 1991 (Reg. Sess., 1992), c. 930, s. 1.

(3) Any individual whom the Secretary believes to be liable for a tax under this Part, when so notified by the Secretary and requested to file a return.

(b) Taxpayer Deceased or Unable to Make Return. – If ~~the~~ a taxpayer is unable to file ~~the~~ an income tax return, ~~the return shall be filed by~~ a duly authorized agent of the taxpayer or ~~by~~ a guardian or other person charged with the care of the person or property of the ~~taxpayer.~~taxpayer must file the return. If an individual who was required to file an income tax return for the taxable year while living has died before making the return, the administrator or executor of the estate ~~shall~~ must file the return in the decedent's name and behalf, and the tax ~~shall be levied upon and collected from~~is payable by the estate.

(c) Information Required With Return. – The income tax return ~~shall~~ must show the ~~taxable income and adjustments~~adjusted gross income and modifications required by this ~~Part~~ Part, and any other information the Secretary requires. The Secretary may require some or all individuals required to file an income tax return to attach to the return a copy of their federal income tax return for the taxable year. The Secretary may require a taxpayer to provide the Department with copies of any other return the taxpayer has filed with the Internal Revenue Service and to verify any information in the return.

(d) Secretary May Require Additional Information. – When the Secretary has reason to believe that any taxpayer conducts a trade or business in a way that directly or indirectly distorts the taxpayer's ~~taxable income~~adjusted gross income or North Carolina taxable income, the Secretary may require any additional information for the proper computation of the taxpayer's ~~taxable income~~adjusted gross income and North Carolina taxable income. In computing the taxpayer's ~~taxable income~~adjusted gross income and North Carolina taxable income, the Secretary ~~shall~~ must consider the fair profit that would normally arise from the conduct of the trade or business.

(e) Joint Returns. – A husband and wife whose ~~federal taxable income~~adjusted gross income is determined on a joint federal return ~~shall~~ must file a single income tax return jointly if each spouse either is a resident of this State or has North Carolina taxable income and may file a single income tax return jointly if one spouse is not a resident and has no North Carolina taxable income. Except as otherwise provided in this Part, a wife and husband filing jointly are treated as one taxpayer for the purpose of determining the tax imposed by this Part. A husband and wife filing jointly are jointly and severally liable for the tax imposed by this Part reduced by the sum of all credits allowable including tax payments made by or on behalf of the husband and wife. However, if a spouse qualifies for relief of liability for federal tax attributable to a substantial understatement by the other spouse pursuant to section 6015 of the Code, that spouse is not liable for the corresponding tax imposed by this Part attributable to the same substantial understatement by the other spouse. A wife and husband filing jointly have expressly agreed that if the amount of the payments made by them with respect to the taxes for which they are liable, including withheld and estimated taxes, exceeds the total of the taxes due, refund of the excess may be made payable to both spouses jointly or, if either is deceased, to the survivor alone.

(f) Repealed by Session Laws 1991.

"**§ 105-153.9. Tax credits for income taxes paid to other states by individuals.**

(a) An individual who is a resident of this State is allowed a credit against the taxes imposed by this Part for income taxes imposed by and paid to another state or country on income taxed under this Part, subject to the following conditions:

(1) The credit is allowed only for taxes paid to another state or country on income that is derived from sources within that state or country ~~that~~ and is taxed under its laws irrespective of the residence or domicile of the recipient, except that whenever a taxpayer who is ~~deemed to be~~ considered a resident of this State under ~~the provisions of~~ this Part is ~~deemed also to be~~ considered a resident of another state or country under the laws of that state or country, the Secretary may allow a credit against the taxes imposed by this Part for taxes imposed by and paid to the other state or country on income taxed under this Part.

(2) The fraction of the adjusted gross income, as ~~calculated under the Code and adjusted as provided in G.S. 105-134.6 and G.S. 105-134.7,~~ modified in G.S. 105-153.5, that is subject to income tax in another state or country shall be ascertained, and the North Carolina net income tax before credit under this section shall be multiplied by that fraction. The credit allowed is either

the product thus calculated or the income tax actually paid the other state or country, whichever is smaller.

(3) Receipts showing the payment of income taxes to another state or country and a true copy of a return or returns upon the basis of which the taxes are assessed shall be filed with the Secretary when the credit is claimed. If credit is claimed on account of a deficiency assessment, a true copy of the notice assessing or proposing to assess the deficiency, as well as a receipt showing the payment of the deficiency, shall be filed.

(b) If any taxes paid to another state or country for which a taxpayer has been allowed a credit under this section are at any time credited or refunded to the taxpayer, a tax equal to that portion of the credit allowed for the taxes so credited or refunded is due and payable from the taxpayer and is subject to the penalties and interest provided in Subchapter I of this Chapter."

SECTION 2.(h) Part 2 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-153.10. Other tax credits.**

(a) Sales Tax Reimbursement. – A taxpayer whose adjusted gross income is less than the amount listed in the table below is allowed a credit equal to twenty-five dollars ($25.00) against the tax imposed by this Part for the taxable year.

Filing Status	Adjusted Gross Income
Married, filing jointly	$50,000
Head of Household	$40,000
Single	$25,000
Married, filing separately	$25,000

(b) Charitable Contributions. – A taxpayer who makes charitable contributions during the taxable year that are deductible under section 170 of the Code is allowed a credit against the tax imposed by this Part for the taxable year. The credit is five and ninety-five hundredths percent (5.95%) of the amount deductible under section 170 of the Code, not to exceed three hundred dollars ($300.00).

(c) Limitations. – A credit allowed under this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer. A nonresident or part-year resident who claims a credit allowed by this section must reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-153.4(b) or (c), as appropriate."

SECTION 2.(i) Notwithstanding the provisions of G.S. 105-163.15, no addition to tax may be made under that statute for a taxable year beginning on or after January 1, 2015, and before January 1, 2016, with respect to any underpayment of individual income tax to the extent the underpayment was created or increased by this section.

SECTION 2.(j) Subsection (a) of this section becomes effective for taxable years beginning on or after January 1, 2013. Subsection (j) of this section is effective when it becomes law. The remainder of this section becomes effective for taxable years beginning on or after January 1, 2015.

PART III. REDUCE CORPORATE INCOME TAX RATE AND BROADEN THE TAX BASE

SECTION 3.1.(a) G.S. 105-130.3 reads as rewritten:

"**§ 105-130.3. Corporations.**

A tax is imposed on the State net income of every C Corporation doing business in this State. An S Corporation is not subject to the tax levied in this section. The tax is a percentage of the taxpayer's State net ~~income computed as follows:~~income. The percentage rate is the rate set in G.S. 105-153.7 for the individual income tax.

~~Income Years Beginning Tax~~

~~In 1997 7.5%~~
~~In 1998 7.25%~~
~~In 1999 7%~~
~~After 1999 6.9%.~~"

SECTION 3.1.(b) The corporate income tax rate under G.S. 105-130.3 for the taxable year beginning on or after January 1, 2014, and expiring for the taxable year beginning on or after January 1, 2015, is five and ninety-five hundredths percent (5.95%).

SECTION 3.1.(c) This section becomes effective for taxable years beginning on or after January 1, 2014.

SECTION 3.2.(a) G.S. 105-130.5 reads as rewritten:

"**§ 105-130.5. Adjustments to federal taxable income in determining State net income.**

(a) The following additions to federal taxable income shall be made in determining State net income:

...

(2a) That portion of a financial institution's interest expense that is allocable to interest income exempt from taxation under this Part. The allocable portion of the interest expense is the portion for which a deduction would be disallowed pursuant to section 265(b) of the Code if the interest were earned on a tax-exempt obligation as defined in section 265(b) of the Code.

...

(24) The amount required to be added under G.S. 105-130.5B when the State decouples from federal accelerated depreciation and expensing.

(b) The following deductions from federal taxable income shall be made in determining State net income:

...

(3a) Dividends treated as received from sources outside the United States as determined under section 862 of the Code, net of related expenses, to the extent included in federal taxable income. ~~Notwithstanding the proviso in subdivision (c)(3) of this section, the netting of related expenses shall be calculated in accordance with subdivision (c)(3) of this section and G.S. 105-130.6A.~~

...

(4) ~~Losses in the nature of net economic losses sustained by the corporation in any or all of the 15 preceding years pursuant to the provisions of G.S. 105-130.8. A corporation required to allocate and apportion its net income under the provisions of G.S. 105-130.4 shall deduct its allocable net economic loss only from total income allocable to this State pursuant to the provisions of G.S. 105-130.8.~~A net operating loss carried forward from a preceding taxable year pursuant to G.S. 105-130.8A and applied to the current taxable year.

...

(27) The amount allowed as a deduction under G.S. 105-130.5B as a result of an add-back for federal accelerated depreciation and expensing.

(c) The following other adjustments to federal taxable income shall be made in determining State net income:

...

(3) No deduction is allowed for any direct or indirect expenses related to income not taxed under this Part; provided, no adjustment shall be made under this subsection for adjustments addressed in G.S. 105-130.5(a) and (b). ~~G.S. 105-130.6A applies to the adjustment for expenses related to dividends received that are not taxed under this Part.~~

...

(d) Repealed by Session Laws 1987, c. 778, s. 3.

(e) Notwithstanding any other provision of this section, any recapture of depreciation required under the Code must be included in a corporation's State net income to the extent required for federal income tax purposes.

(f) Expired."

SECTION 3.2.(b) G.S. 105-130.5(a)(15), (15a), (15b), and (23) are repealed.

SECTION 3.2.(c) G.S. 105-130.5(b)(1a)b., (7), (19), (21), (21a), (21b), (22), (24), and (26) are repealed.

SECTION 3.2.(d) Part 1 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-130.5B. Adjustments when State decouples from federal accelerated depreciation and expensing.**

(a) Special Accelerated Depreciation. – A taxpayer that places property in service during a taxable year listed in the table below and who takes a special accelerated depreciation deduction for that property under section 168(k) or 168(n) of the Code must add to the taxpayer's federal taxable income eighty-five percent (85%) of the amount taken for that year under those Code provisions.

A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income. The table below indicates the applicable five-year period.

Taxable Year of 85% Add-Back	Five Taxable Years of 20% Deduction
2010	2011 through 2015
2011	2012 through 2016
2012	2013 through 2017
2013	2014 through 2018

(b) 2009 Depreciation Exception. – A taxpayer that placed property in service during the 2009 taxable year and whose North Carolina taxable income for the 2009 taxable year reflected a special accelerated depreciation deduction allowed for the property under section 168(k) of the Code must add eighty-five percent (85%) of the amount of the special accelerated depreciation deduction to its federal taxable income for the 2010 taxable year. A taxpayer is allowed to deduct this add-back under subsection (a) of this section as if it were for property placed in service in 2010.

(c) Section 179 Expense. – For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 1, 2011. A taxpayer that places section 179 property in service during a taxable year listed in the table below must add to the taxpayer's federal taxable income eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code exceeds the amount that would have been allowed for that taxable year under section 179 of the Code as of May 1, 2010.

A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income. The table in subsection (a) of this section indicates the applicable five-year period.

(d) Asset Basis. – The adjustments made in this section do not result in a difference in basis of the affected assets for State and federal income tax purposes."

SECTION 3.2.(e) G.S. 105-130.7A reads as rewritten:

"**§ 105-130.7A. Royalty income and interest expense reporting ~~option.~~options.**

(a) Purpose. – Royalty payments received for the use of intangible property in this State and interest payments received from a payer that also makes a North Carolina royalty payment to the recipient are income derived from doing business in this State. This section provides

taxpayers with an option concerning the method by which ~~these~~ royalties and interest expense can be reported for taxation when the recipient and the payer are related members. As provided in this section, ~~these~~ royalty payments and interest expenses can be either (i) deducted by the payer and included in the income of the recipient, or (ii) added back to the income of the payer and excluded from the income of the recipient.

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

...

(1b) Interest expense. – An amount directly or indirectly allowed as a deduction under section 163 of the Code.

...

(c) Election. – For the purpose of computing its State net income, a taxpayer must add royalty payments and interest expenses made to, or in connection with transactions with, a related member during the taxable year. This addition is not required for an amount of royalty payments or interest expenses that meets any of the following conditions:

(1) The related member includes the amount as income on a return filed under this Part for the same taxable year that the amount is deducted by the taxpayer, and the related member does not elect to deduct the amount pursuant to G.S. 105-130.5(b)(20).

(2) The taxpayer can establish that the related member during the same taxable year directly or indirectly paid, accrued, or incurred the amount to a person who is not a related member.

(3) The taxpayer can establish that the related member to whom the amount was paid is organized under the laws of a country other than the United States, the country has a comprehensive income tax treaty with the United States, and the country imposes a tax on the royalty income of the related member at a rate that equals or exceeds the rate set in G.S. 105-130.3.

(d) Indirect Transactions. – For the purpose of this section, an indirect transaction or relationship has the same effect as if it were direct."

SECTION 3.2.(f) G.S. 105-130.8 is repealed.

SECTION 3.2.(g) Part 1 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-130.8A. Net operating loss.**

(a) Definition. – A taxpayer's net operating loss for a taxable year is the amount determined under the Code as the taxpayer's net operating loss for that year, adjusted as provided in G.S. 105-130.5 and, in the case of a corporation that has income from business activity within and without this State, allocated and apportioned to this State in the year of the loss in accordance with G.S. 105-130.4.

(b) Transition from NEL. – A net economic loss determined under repealed G.S. 105-130.8 may be carried forward and applied to a taxable year that begins before January 1, 2014, but may not be carried forward and applied to a taxable year that begins on or after that date. A taxpayer that has a net economic loss for taxable year 2013 or earlier that has not been deducted as of the 2014 taxable year is allowed to redetermine the net economic loss as a net operating loss and to determine the amount of the resulting net operating loss that would have been deducted before the 2014 taxable year had the deduction allowed by this section been in effect for each taxable year since the taxpayer incurred the loss. A taxpayer must determine a net operating loss for taxable year 2013 or an earlier year in accordance with the provisions of G.S. 105-130.5 and G.S. 105-130.4 in effect for the year of the loss and must similarly determine the extent to which the resulting net operating loss would have been carried forward and applied to a subsequent taxable year in accordance with the law otherwise in effect for that year.

The calculations made under this subsection are for the sole purpose of determining the amount of a net operating loss resulting from the redetermination of a net economic loss that can be carried forward and applied to the 2014 taxable year or a subsequent year. A taxpayer is not allowed a refund for any taxable year preceding the 2014 taxable year based on the redetermination of a net economic loss under this subsection.

(c) Deduction. – A taxpayer may carry forward a net operating loss the taxpayer incurred in a prior taxable year and deduct it in the current taxable year, subject to the following restrictions:

(1) The loss was incurred in one of the preceding 15 taxable years.

(2) A loss for a taxable year is applied to the next succeeding taxable year before any portion of it is carried forward and applied to a subsequent taxable year.

(d) Administration. – A taxpayer claiming a deduction under this section must maintain and make available for inspection by the Secretary all records necessary to determine and verify the amount of the deduction. The Secretary or the taxpayer may redetermine a loss originating in a taxable year that is closed under the statute of limitations for the purpose of determining the amount of loss that can be carried forward to a taxable year that remains open under the statute of limitations."

SECTION 3.2.(h) This section becomes effective for taxable years beginning on or after January 1, 2014.

SECTION 3.3.(a) It is the intent of the General Assembly to have a single sales factor apportionment formula for corporate income tax and franchise tax purposes. This section moves from a double-weighted sales factor apportionment formula to an apportionment formula that is weighted seventy percent (70%) by sales.

SECTION 3.3.(b) G.S. 105-130.4(i) reads as rewritten:

"(i) All apportionable income of corporations other than public utilities, excluded corporations, and qualified capital intensive corporations shall be apportioned to this State by multiplying the income by a ~~fraction, the~~fraction. The numerator of ~~which~~ the fraction is the property factor multiplied by one and one-half plus the payroll factor multiplied by one and one-half plus ~~twice~~ the sales ~~factor, and the~~ factor multiplied by seven. The denominator of ~~which is four.~~ the fraction is the number 10. ~~If~~

If the sales factor does not exist, the numerator of the fraction is the property factor plus the payroll factor and the denominator of the fraction is the number ~~of existing factors and if~~ two. ~~the~~If the sales factor exists but the payroll factor or the property factor does not exist, the numerator of the fraction is the sales factor multiplied by six plus the remaining factor and the denominator of the fraction is the number of existing factors plus ~~one.~~six."

SECTION 3.3.(c) This section becomes for taxable years beginning on or after effective January 1, 2014.

SECTION 3.4.(a) The following statutes are repealed:

G.S. 105-130.22	G.S. 105-151.1
G.S. 105-130.25	
G.S. 105-130.34	G.S. 105-151.12
G.S. 105-130.36	G.S. 105-151.13
G.S. 105-130.37	G.S. 105-151.14
G.S. 105-130.43	
G.S. 105-130.44	G.S. 105-151.25

SECTION 3.4.(b) G.S. 105-130.5(a)(10) and (a)(20) are repealed.

SECTION 3.4.(c) G.S. 105-129.45 reads as rewritten:

"**§ 105-129.45. Sunset.**

This Article is repealed effective January 1, ~~2015.~~2020. The repeal applies to developments to which federal credits are allocated on or after ~~January 1, 2015.~~the date the Article is repealed."

SECTION 3.4.(d) G.S. 105-129.51(b) reads as rewritten:

"(b) This Article is repealed for taxable years beginning on or after ~~January 1, 2014.~~January 1, 2020."

SECTION 3.4.(d) Subsections (a) and (b) of this section become effective for taxable years beginning on or after January 1, 2014. The remainder of this section is effective when it becomes law.

PART IV. REPLACE FRANCHISE TAX WITH A LOWER BUSINESS PRIVILEGE TAX THAT INCLUDES ALL LIMITED LIABILITY ENTITIES.

SECTION 4.1.(a) The title of Article 3 of Chapter 105 of the General Statutes reads as rewritten:

"Article 3.

~~Franchise Tax.~~Business Privilege Tax."

SECTION 4.1.(b) G.S. 105-114, 105-114.1, 105-120.2, 105-121.1, 105-122, 105-122.1, 105-125, 105-127, 105-128, and 105-129 are repealed.

SECTION 4.1.(c) Article 3 of Chapter 105 of the General Statutes is amended by adding the following new sections to read:

"**§ 105-114.2. Definitions.**

The following definitions apply in this Article:

(1) Affiliate. – A person who directly or indirectly controls is controlled by, or is under common control with another person.

(2) Business entity. – Any of the following:

a. A domestic corporation organized under Chapter 55 of the General Statutes or a foreign corporation that has received a certificate of authority under that Chapter authorizing it to do business in this State.

b. An electric membership corporation organized under Chapter 117 of the General Statutes.

c. A domestic limited liability company formed under Chapter 57C of the General Statutes or a foreign limited liability company that is required to obtain a certificate of authority under one of those Chapters authorizing it to do business in this State.

d. A domestic limited partnership formed under Article 5 of Chapter 59 of the General Statutes or a foreign limited partnership that has received a certificate of authority under that Article authorizing it to do business in this State.

e. A domestic limited liability partnership registered under Article 3B of Chapter 59 of the General Statutes or a foreign limited liability partnership registered under Article 4A of that Chapter.

f. A domestic or foreign limited liability limited partnership registered under G.S. 59-210.

g. Any other business whose form of organization confers limited liability on one or more of its owners.

(3) Capital interest. – The right of the owner of a business entity that is not a corporation to receive a share of the business entity's assets upon dissolution after payments to creditors.

(4) City. – Defined in G.S. 105-228.90.

(5) Code. – Defined in G.S. 105-228.90.

(6) Doing business. – Each and every act, power, or privilege exercised or enjoyed in this State, as an incident to, or by virtue of the powers and privileges granted by the laws of this State.

(7) Holding company. – A business entity that satisfies at least one of the following conditions:

a. It has no assets other than ownership interests in business entities in which it owns, directly or indirectly, more than fifty percent (50%) of the outstanding voting stock or voting capital interests.

b. It receives during its taxable year more than eighty percent (80%) of its gross income from business entities in which it owns directly or indirectly more than fifty percent (50%) of the outstanding voting stock or voting capital interests.

(8) Ownership. – The direct or indirect control of more than fifty percent (50%) of the outstanding voting stock or voting capital interests of a business entity. Ownership of voting stock is determined by reference to the constructive ownership rules for stock under section 318 of the Code. Ownership of capital interests is determined by reference to the constructive ownership rules for partnerships, estates, and trusts in section 318(a)(2)(A) and (B) of the Code with the following modifications:

a. The term "capital interest" is substituted for "stock" each place it appears.

b. A noncorporate limited liability company and any noncorporate entity other than a partnership, estate, or trust is treated as a partnership. A noncorporate entity does not include a human being. A noncorporate limited liability company is a limited liability company that does not elect to be taxed as a corporation under the Code.

c. The operating rule of section 318(a)(5) of the Code applies without regard to section 318(a)(5)(C).

(9) Parent. – A business entity that has ownership of another business entity.

(10) Secretary. – Defined in G.S. 105-228.90.

(11) Subsidiary. – A business entity under the ownership of another business entity.

(12) Taxable year. – Defined in section 441(b) of the Code.

"**§ 105-114.3. Nature of tax.**

This Article imposes a privilege tax on a business entity for the privilege of doing business in this State in an organizational form that confers limited liability on one or more owners of the entity. The tax is an accrued tax and is imposed for the exercise of this privilege during the period covered by a tax return. Payment of the tax imposed by this Article is a condition precedent to the right to do business in this State and, for a business entity that is organized or formed in this State, to the right to continue in the entity's organizational form. When a noncorporate business entity is doing business in this State, each owner of the noncorporate business entity is doing business in this State.

"**§ 105-114.4. Business privilege tax imposed.**

(a) Rate. – An annual privilege tax is imposed on a business entity doing business in this State at the rate of one dollar ($1.25) per one thousand dollars ($1,000) of the higher of the business entity's adjusted net worth tax base, determined in accordance with G.S. 105-114.5, and the business entity's investment tax base, determined in accordance with G.S. 105-114.6. The tax payable by a business entity may not be less than two hundred dollars ($200.00). The tax payable by a holding company may not be more than seventy-five thousand dollars ($75,000).

After the end of the taxable year in which a business entity is dissolved, the entity is no longer subject to the tax levied in this Article unless the Secretary finds that the entity has engaged in business activities in this State not appropriate to winding up and liquidating its business.

"**§ 105-114.5. Adjusted net worth tax base.**

The net worth of a business entity is the entity's total assets less its total liabilities, computed in accordance with generally accepted accounting principles as of the end of the entity's taxable year. If the entity does not maintain its books and records in accordance with generally accepted accounting principles, then its net worth is computed in accordance with the accounting method used by the entity for federal tax purposes so long as the method fairly reflects the entity's net worth for purposes of the tax levied by this section. A business entity's net worth is subject to the following adjustments:

(1) A deduction for accumulated depreciation and amortization is determined in accordance with the method used for federal tax purposes.

(2) An addition for indebtedness the business entity owes to a parent, a subsidiary, or an affiliate. The amount added back to the business entity's net worth may be further adjusted as follows:

a. If part of the capital of the creditor business entity is capital borrowed from a source other than a parent, a subsidiary, or an affiliate, the debtor business entity may deduct a proportionate part of the indebtedness based on the ratio of the borrowed capital of the creditor business entity to the total assets of the creditor business entity.

b. If part of the capital of the creditor business entity consists of indebtedness owed to a parent, a subsidiary, or an affiliate that is directly traceable to capital borrowed from a source other than a parent, a subsidiary, or an affiliate, the debtor business entity may deduct a proportionate part of the indebtedness based on the ratio of the borrowed capital of the creditor business entity to the total assets of the creditor business entity.

c. If the creditor business entity is taxable under this Article, the creditor business entity may deduct the indebtedness from its net worth to the extent the debtor business entity was not allowed to deduct the indebtedness.

(3) A corporation may deduct the cost of treasury stock.

"**§ 105-114.6. Investment tax base.**

The investment tax base of a business entity is the entity's investment in real and tangible personal property in this State as of the end of the entity's taxable year. A business entity's investment in property is the original purchase price of or consideration for the property subject to the following adjustments:

(1) A deduction for depreciation or amortization is determined in accordance with the method used for federal tax purposes.

(2) The addition of improvements to the property.

(3) A deduction for indebtedness on the property or on an improvement to the property.

(4) For a business entity allowed a tax credit under Article 3E of this Chapter, a deduction for the value of the property for which the credit is allowed.

"**§ 105-114.7. Exclusions in calculating tax.**

(a) Disregarded LLC. – A single member limited liability company whose single member is a business entity is disregarded under this Article if it is disregarded for federal income tax purposes. The business entity that is the single member of the disregarded limited

liability company must include the net worth and property of the disregarded limited liability company in the business entity's tax base.

(b) No Tax Tiering. – A business entity's ownership interest in a noncorporate business entity that is taxable under this Article is excluded in determining the following:

(1) The owner's net worth under G.S. 105-114.5.

(2) The owner's apportionment fraction under G.S. 105-114.9, if the owner is doing business in one or more other states in addition to this State.

(c) Investment Companies. – The following exclusions apply to investment companies in determining their tax liability under this Article:

(1) A regulated investment company may deduct the value of its investments in stocks, bonds, debentures, or other securities or evidences of debt. A regulated investment company is an entity that qualifies as a regulated investment company under section 851 of the Code.

(2) A REIT may deduct the value of its investments in real property, unless the REIT is a captive REIT. The terms "REIT" and "captive REIT" have the same meanings as defined in G.S. 105-130.12.

(3) A venture capital company may deduct the value of its capital under management. A venture capital company is an entity whose purpose is to provide financing for start-up businesses and that obtains the capital it uses to provide financing only from investors who are accredited investors under 17 C.F.R. § 230.215 or are institutional investors.

(d) Short Year Adjustment. – A business entity that changes its taxable year and files a "short period" income tax return may deduct from its tax liability computed on an annual basis the amount of tax previously paid that is applicable to the period subsequent to the beginning of the new taxable year.

"**§ 105-114.8. Determination of ownership after certain transfers.**

(a) Transfers by Corporations. – Ownership of the capital interests in a noncorporate business entity is determined as of the last day of the business entity's taxable year. If a noncorporate business entity and a corporation or an affiliated group of corporations, as defined in section 1504 of the Code, have engaged in a pattern of transferring assets between them with the result that each did not own the capital interest on the last day of its taxable year, the ownership of the capital interests in the noncorporate business entity must be determined as of the last day of the corporation's or affiliated group of corporations' taxable year.

(b) Tax-Free Distribution. – If a noncorporate business entity receives from a person a tax-free contribution of assets under section 721 of the Code within 120 days after making a tax-free distribution of assets to that person under section 732 of the Code with the result that the business entity did not own the capital interests on the last day of its taxable year, the assets that were distributed tax-free are considered owned by the business entity as of the last day of its taxable year.

"**§ 105-114.9. Apportionment by multistate business entities.**

A business entity that is doing business in this State and in one or more other states must apportion its net worth to this State. A corporation must use the fraction it applies in apportioning its income under Part 1 of Article 4 of this Chapter, as modified by G.S. 105-114.7 for a corporation that has an ownership interest in a noncorporate business entity that is taxable under this Article. A business entity that is not a corporation must apportion its net worth by using the fraction that would apply if it were a corporation. A business entity that believes this apportionment method subjects a greater portion of its net worth to tax under this section than is attributable to its business in this State may make a written request to the Secretary for permission to use an alternative method of apportionment, in the same manner as provided in G.S. 105-130.4(t1).

"**§ 105-114.10. Return and payment.**

The tax imposed by G.S. 105-114.4 is due when a return is due. A return is due on or before the fifteenth day of the fourth month following the end of the business entity's income year. A taxpayer may ask the Secretary for an extension of time to file a return under G.S. 105-263. A business entity must file a return under affirmation with the Secretary at the place and in the manner prescribed by the Secretary. The return must be signed by the president, vice president, treasurer, or chief financial officer of the business entity.

...

"**§ 105-116.2. Distribution in lieu of local privilege license tax.**

(a) Findings. – The General Assembly finds that the authority formerly given to cities to levy local privilege license taxes led to inequities in taxation among entities engaged in the same business in different locations as well as among entities engaged in different types of business in the same location. The General Assembly further finds that numerous cities rely on local privilege license tax revenue. This section replaces local privilege license tax revenue with a portion of the State business privilege tax.

(b) Distribution. – Each fiscal year the Secretary must distribute to cities the net proceeds of tax collected in the preceding calendar year under G.S. 105-114.4 at the rate of ten cents ($0.10) per one thousand dollars ($1,000). The Secretary must distribute one-fourth of this amount within 75 days after the end of each calendar quarter. The Secretary must distribute the amount on a per capita basis according to the most recent annual population estimates certified by the State Budget Officer. The share of each city is its proportionate per capita share of the amount set in the following table for the city's population category.

City Population	Share of Net Proceeds
Up to 100,000	10%
Over 100,000 but less than 200,000	18%
Over 200,000	72%

(c) Local Revenue. – The General Assembly finds that the revenue distributed under this section is local revenue, not a State expenditure, for the purpose of Section 5(3) of Article III of the North Carolina Constitution. Therefore, the Governor may not reduce or withhold the distribution.

"**§ 105-116.3. Compensating privilege tax on seller that is not a registered retailer.**

(a) Tax. – An annual privilege tax is imposed on a person who meets all of the following descriptions:

(1) The person makes sales at retail of tangible personal property, digital property, or services that are taxable under Article 5 of this Chapter.

(2) The person is not registered as a retailer under Article 5 of this Chapter.

(3) The person reported gross sales of at least five million dollars ($5,000,000) on its most recent federal income tax return.

(b) Rate and Scope. – The tax is a percentage of the retailer's gross receipts derived from sales within this State. The percentage rate of the tax is the same as the combined rate under G.S. 105-164.3. This tax is in addition to the tax imposed by G.S. 105-114.4. The tax is payable in the same manner as provided in G.S. 105-114.10.

(c) Noncompliance. – A debt owed to a person that does not comply with this section is not collectible and is not subject to execution under Article 28 of Chapter 1 of the General Statutes or any other provision of law. An assignment of a debt is subject to the collection restrictions imposed by this subsection.

"**§ 105-116.4. Compensating privilege tax on unregulated electric power producer.**

(a) Tax. – An annual privilege tax is imposed on a person that meets all of the following descriptions:

(1) Produces electric power by using the public waters of this State and sells the electric it produces.

(2) Is not subject to regulation by the North Carolina Utilities Commission.

(3) Received at least five million dollars ($5,000,000) in gross receipts during the preceding calendar year from its sales of electric power.

(b) Rate. – The tax is a percentage of the person's gross receipts derived from sales of electric power produced by use of the State's public waters. The percentage rate of the tax is the same as the combined rate under G.S. 105-164.3. This tax is in addition to the tax imposed by G.S. 105-114.4. The tax is payable in the same manner as provided in G.S. 105-114.10.

"**§ 105-125.1. Exempt business entities.**

A business entity listed in this section is exempt from the privilege tax imposed by G.S. 105-114.4. Upon request of the Secretary, an exempt business entity must establish its claim for exemption in writing. The exempt entities are:

(1) A business entity exempt from federal income tax under section 501 of the Code.

(2) An insurance company subject to tax under Article 8B of this Chapter.

(3) A single member limited liability company that is disregarded for federal income tax purposes if the single member is a corporation and the disregarded limited liability company's net worth and property is included in that of its single member.

(4) A real estate mortgage investment conduit, as defined in section 860D of the Code.

"**§ 105-125.2. Transition for tax credits taken against franchise tax.**

For purposes of the application of tax credits, the privilege tax imposed by this Article is considered a continuation of the former franchise tax imposed by this Article. A binding election made by a taxpayer to apply apart of all of a tax credit against the former franchise tax binds the application of that credit to the privilege tax imposed under this Article effective for taxable years beginning on or after January 1, 2015."

SECTION 4.1.(d) G.S. 105-228.5(a) reads as rewritten:

"(a) Tax Levied. – A tax is levied in this section on insurers, Article 65 corporations, health maintenance organizations, and self-insurers. An insurer, health maintenance organization, or Article 65 corporation that is subject to the tax levied by this section is not subject to ~~franchise or~~ income taxes imposed by ~~Articles 3 and 4, respectively,~~ Article 4 of this Chapter."

SECTION 4.1.(e) Notwithstanding G.S. 105-116.2, as enacted by this section, for fiscal year 2014-2015, the Secretary must distribute forty-five million dollars ($45,000,000) to cities in accordance with the distribution formula in that statute.

SECTION 4.1.(f) This section is effective for taxable years beginning on or after January 1, 2015, and applies to taxes due in that year or a subsequent year.

SECTION 4.2.(a) G.S. 55-1-22 reads as rewritten:

"**§ 55-1-22. Filing, service, and copying fees.**

(a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to the Secretary for filing:

Document	Fee
...	
(23) Annual report ~~(paper)~~	~~25.00~~No fee
~~(23a) Annual report (electronic)~~	~~18.00~~
...	

(b) The Secretary of State shall collect a fee of ten dollars ($10.00) each time process is served on the Secretary under this Chapter. The party to a proceeding causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.

(c) The Secretary of State shall collect the following fees for copying, comparing, and certifying a copy of any filed document relating to a domestic or foreign corporation:

(1) One dollar ($1.00) a page for copying or comparing a copy to the original.
(2) Fifteen dollars ($15.00) for a paper certificate.
(3) Ten dollars ($10.00) for an electronic certificate.

~~(d) The fee for the annual report in subdivision (23) of this section is nonrefundable.~~"

SECTION 4.2.(b) G.S. 55-16-22 reads as rewritten:

"**§ 55-16-22. Annual report.**

(a) ~~Except as provided in subsections (a1) and (a2) of this section, each domestic corporation and each foreign corporation authorized to transact business in this State shall deliver an annual report to the Secretary of Revenue in paper form or, in the alternative, directly to the Secretary of State in electronic form as prescribed by the Secretary of State under this section.~~Requirement. – The following businesses must file an annual report with the Secretary of State on a form prescribed by the Secretary and in the manner required by the Secretary:

(1) A corporation that is incorporated under this Chapter.
(2) A corporation that has received a certificate of authority under this Chapter authorizing the corporation to transact business in this State.
(3) A company that is an insurance company regulated under Chapter 58 of the General Statutes.

~~(a1) Each insurance company subject to the provisions of Chapter 58 of the General Statutes shall deliver an annual report to the Secretary of State.~~

~~(a2) A domestic corporation governed by Chapter 55B of the General Statutes is exempt from this section.~~

~~(a3) The annual report required by this section shall be in a form jointly prescribed by the Secretary of Revenue and the Secretary of State. The Secretary of Revenue shall provide the form needed to file an annual report. The Secretary of State shall prescribe the form needed to file an annual report electronically and shall provide this form by electronic means. The annual report shall set forth all of the following:~~

~~(1) The name of the corporation and the state or country under whose law it is incorporated.~~
~~(2) The street address, and the mailing address if different from the street address, of the registered office, the county in which its registered office is located, and the name of its registered agent at that office in this State, and a statement of any change of such registered office or registered agent, or both.~~
~~(3) The address and telephone number of its principal office.~~
~~(4) The names, titles, and business addresses of its principal officers.~~
~~(4a) Repealed by Session Laws 1997-475, s. 6.1, effective January 1, 1998.~~
~~(5) A brief description of the nature of its business.~~

~~If the information contained in the most recently filed annual report has not changed, a certification to that effect may be made instead of setting forth the information required by subdivisions (2) through (5) of this subsection.~~

(b) Content. – An annual report must set out the information listed in this subsection. The information must be current as of the date the business completes the report.~~Information in the annual report must be current as of the date the annual report is executed on behalf of the corporation.~~ If the information set out in the business' most recent annual report has not changed, the business may certify on its annual report that the information has not changed in lieu of restating the information. A business may amend an annual report at any time to correct, update, or augment information included in a prior report.

The following information must be included on the annual report of a business:

(1) Its name.

(2) The state or country under whose law it is incorporated or, if it is an insurance company and is not a corporation, the state or country under whose law it is organized.

(3) The street address of its registered office in this State, the county in which the registered office is located, and the name of the registered agent at the registered office. If the registered office or registered agent differs from the registered office or registered agent listed on the preceding annual report, the report must indicate that the registered office or registered agent has changed. A change in registered office or registered agent that is indicated on an annual report is effective when the report is filed.

(4) The mailing address of its registered office, if the street address of the office is not the mailing address.

(5) The address and telephone number of its principal office.

(6) The name, title, and business address of each of its principal officers.

(7) A brief description of the nature of its business.

(c) Due Date. – An annual report is due by the 15th day of the fourth month following the close of the fiscal year of the business filing the report. An annual report is delinquent if it is not filed within 120 days after it is due.~~eligible to be delivered to the Secretary of Revenue is due by the due date for filing the corporation's income and franchise tax returns. An extension of time to file a return is an extension of time to file an annual report. At the option of the filer, an annual report may be filed directly with the Secretary of State in electronic form. An annual report required to be delivered to the Secretary of State is due by the fifteenth day of the fourth month following the close of the corporation's fiscal year.~~

(d) Incomplete Report. – If the Secretary of State determines that an annual report filed with the Secretary does not contain the information required by this section, the Secretary must send a written notice to the business that the report is incomplete. An annual report that is corrected to contain the information and filed with the Secretary within 30 days of the date of the notice is considered timely filed.~~If an annual report does not contain the information required by this section, the Secretary of State shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for correction. If the report is corrected to contain the information required by this section and delivered to the Secretary of State within 30 days after the effective date of notice, it is deemed to be timely filed.~~

~~(e) Amendments to any previously filed annual report may be filed with the Secretary of State at any time for the purpose of correcting, updating, or augmenting the information contained in the annual report.~~

~~(f) Expired.~~

~~(g) When a statement of change of registered office or registered agent is filed in the annual report, the change shall become effective when the statement is received by the Secretary of State.~~

~~(h) If the Secretary of State does not receive an annual report within 120 days of the date the return is due, the Secretary of State may presume that the annual report is delinquent. This presumption may be rebutted by receipt of the annual report from the Secretary of Revenue or by evidence of delivery presented by the filing corporation.~~"

SECTION 4.2.(c) G.S. 57C-1-22(a)(25) reads as rewritten:

"(a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to the Secretary of State for filing:

Document	Fee
...	
(25) Annual report	~~200.00~~No fee

...."

SECTION 4.2.(d) G.S. 59-35.2(a)(18) reads as rewritten:

"(a) The Secretary of State shall collect the following fees when the documents described in this subsection are submitted by a partnership to the Secretary of State for filing:

Document	Fee
...	
(18) Annual report	~~200.00~~No fee
...."	

SECTION 4.2.(e) G.S. 59-1106(a)(22) reads as rewritten:

"(a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to the Secretary of State for filing:

Document	Fee
...	
(22) Annual report for a limited liability limited partnership	~~200.00~~No fee
...."	

SECTION 4.2.(f) G.S. 105-122.1 is repealed.

SECTION 4.2.(g) G.S. 105-228.90(a) reads as rewritten:

"(a) Scope. – This Article applies to Subchapters I, V, and VIII of this Chapter, ~~to the annual report filing requirements of G.S. 55-16-22,~~ to the primary forest product assessment levied under Article 12 of Chapter 113A of the General Statutes, and to inspection taxes levied under Article 3 of Chapter 119 of the General Statutes."

SECTION 4.2.(h) G.S. 105-256.1 is repealed.

SECTION 4.2.(i) G.S. 105-259(a) reads as rewritten:

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

(1) Employee or officer. – The term includes a former employee, a former officer, and a current or former member of a State board or commission.

(2) Tax information. – Any information from any source concerning the liability of a taxpayer for a tax, as defined in G.S. 105-228.90. The term includes the following:

a. Information contained on a tax return, a tax report, or an application for a license for which a tax is imposed.

b. Information obtained through an audit of a taxpayer or by correspondence with a taxpayer.

c. Information on whether a taxpayer has filed a tax return or a tax report.

d. A list or other compilation of the names, addresses, social security numbers, or similar information concerning taxpayers.

The term does not include ~~(i)~~ statistics classified so that information about specific taxpayers cannot be ~~identified, (ii) an annual report required to be filed under G.S. 55-16-22 or (iii)~~ identified or the amount of tax refunds paid to either a governmental entity listed in G.S. 105-164.14(c) or ~~to~~ a State agency."

SECTION 4.2.(j) This section becomes effective January 1, 2015. Subsection (f) of this section applies to returns due on or after April 15, 2015, for taxable years beginning on or after January 1, 2015. The remaining sections apply to annual reports due on or after January 1, 2015.

PART V. REDUCE SALES TAX RATE AND BROADEN SALES TAX BASE

SECTION 5.1.(a) G.S. 105-164.13(13c), (28), (30), (36), (39), and (50) are repealed.

SECTION 5.1.(b) This section becomes effective July 1, 2013.

SECTION 5.2.(a) The following statutes are repealed:

G.S. 105-33 G.S. 105-103

G.S. 105-33.1	G.S. 105-105
G.S. 105-37.1	G.S. 105-106
G.S. 105-38.1	G.S. 105-108
G.S. 105-40	G.S. 105-109

SECTION 5.2.(b) This section becomes effective January 1, 2014, and applies to receipts from admission tickets sold on or after that date.

SECTION 5.3.(a) G.S. 105-116, 105-116.1, 105-164.21A, and 159B-27(b), (c), (d), and (e) are repealed.

SECTION 5.3.(b) G.S. 105-164.13(44) and Article 5E of Chapter 105 of the General Statutes are repealed.

SECTION 5.3.(c) Pursuant to G.S. 62-31 and G.S. 62-32, the Utilities Commission must lower the rate set for the following utilities:

(1) Electricity to reflect the repeal of G.S. 105-116 and the resulting liability of electric power companies for the tax imposed under G.S. 105-122 and for the increase in the rate of tax imposed on sales of electricity under G.S. 105-164.4.

(2) Piped natural gas to reflect the repeal of Article 5E of Chapter 105 of the General Statutes, the repeal of the credit formerly allowed under G.S. 105-122(d1), and the resulting liability of companies for the tax imposed on sales of piped natural gas under G.S. 105-164.4.

SECTION 5.3.(d) Notwithstanding G.S. 160A-211:

(1) No city shall impose or collect any greater franchise, privilege, or license taxes, in the aggregate, on an electric power company that was imposed and collected on or before January 1, 1947.

(2) A city may not levy a license, franchise, or privilege tax on a person engaged in the business of supplying piped natural gas.

SECTION 5.3.(e) This section becomes effective January 1, 2014. Subsection (a) of this section applies to taxes due in the 2014 tax year or a subsequent year. Subsection (b) of this section applies to piped natural gas received on or after January 1, 2014, pursuant to a sale made on or before that date. The remainder of this section is effective when it becomes law.

SECTION 5.4.(a) G.S. 105-164.3 reads as rewritten:

"**§ 105-164.3. Definitions.**

The following definitions apply in this Article:

...

(1c) Alteration, repair, maintenance, cleaning, and installation services. – The term includes the activities listed in this subdivision:

a. Altering tangible personal property by tailoring, monogramming, engraving, or making similar changes to the property.

b. Repairing tangible personal property to restore it to proper working order.

c. Maintaining tangible personal property to keep the property in working order, to avoid breakdown, or to prevent unnecessary repairs.

d. Cleaning tangible personal property.

e. Installing tangible personal property.

...

(2b) Capital equipment. – Equipment that is capitalized by the purchaser for tax purposes under the Code and attachments and repair parts for that equipment.

...

(4a) Combined ~~general~~ rate. – The State's general rate of tax set in G.S. 105-164.4(a) plus the sum of the rates of the local sales and use taxes authorized by Subchapter VIII of this Chapter for every county in this State.

...

(5e) Datacenter equipment. – Capital equipment that is located and used at a datacenter for any of the following:

a. For the provision of a service included in the business of the primary user of the datacenter, including equipment cooling systems for managing the performance of the property, hardware and software for distributed and mainframe computers and servers, data storage devices, network connectivity equipment, and peripheral components and equipment.

b. For the generation, transformation, transmission, distribution, or management of electricity, including exterior substations and other capital equipment used for these purposes.

c. To provide related computer engineering or computer science research.

...

(35) Retailer. – A person engaged in the business of any of the following:

a. Making sales at retail, offering to make sales at retail, or soliciting sales at retail of tangible personal property, digital property, or services for storage, use, or consumption in this State. When the Secretary finds it necessary for the efficient administration of this Article to regard any sales representatives, solicitors, representatives, consignees, peddlers, or truckers as agents of the dealers, distributors, consignors, supervisors, employers, or persons under whom they operate or from whom they obtain the items sold by them regardless of whether they are making sales on their own behalf or on behalf of these dealers, distributors, consignors, supervisors, employers, or persons, the Secretary may so regard them and may regard the dealers, distributors, consignors, supervisors, employers, or persons as "retailers" for the purpose of this Article. A person who sells tangible personal property, other than the person's own household personal property, at a specialty market as defined in G.S. 66-250 is a retailer.

b. Delivering, erecting, installing, or applying tangible personal property for use in this State, regardless of whether the property is permanently affixed to real property or other tangible personal property.

c. Making a remote sale, if one of the conditions listed in G.S. 105-164.8(b) is met.

...

(38b) Service contract. – A warranty agreement, a maintenance agreement, a repair contract, or a similar agreement or contract by which the seller agrees to maintain or repair tangible personal property.

(38d) Short-term lease or rental. – Defined in G.S. 105-187.1."

SECTION 5.4.(b) G.S. 105-164.4 reads as rewritten:

"**§ 105-164.4. ~~Tax imposed on retailers.~~Privilege tax imposed on retailer at various rates.**

(a) Tax Imposed. – A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales of tangible personal property, digital property, and services. The general rate of tax is four and three-quarters percent (4.75%). The general rate

applies to a taxable item unless the item is subject to tax at the combined rate of tax or to a rate of tax that differs from both the general rate and the combined rate. Subsection (b) of this section lists the items that are subject to the general rate. An item taxable under subsection (b) of this section is also subject to local sales and use tax. Subsection (c) of this section lists the items that are subject to the combined rate.

(b) General Rate. – The general rate of tax applies to a retailer's net taxable sales of the following:

(1) Tangible personal property. – Tangible personal property that is not subject to tax under another subsection of this section. If tangible personal property that is leased or rented is subject to a different rate under another subsection of this section, then the rate and the maximum tax, if any, set in the other subsection applies to the lease or rental of the property. A person who leases or rents property must collect the tax imposed by this section on the separate retail sale of the property.

(2) Digital property. – Digital property that is listed in this subdivision, is delivered or accessed electronically, is not considered tangible personal property, and would be taxable under this Article if sold in a tangible medium. The tax applies regardless of whether the purchaser of the item has a right to use it permanently or to use it without making continued payments. The tax does not apply to a service that is taxed under another subdivision of this subsection or to an information service. The following property is subject to tax under this subdivision:

a. An audio work.

b. An audiovisual work.

c. A book, a magazine, a newspaper, a newsletter, a report, or another publication.

d. A photograph or a greeting card.

e. Computer software.

(3) Accommodations. – The rental of an accommodation. These rentals are taxed in accordance with G.S. 105-164.4E.

(4) Prepaid telephone service. – The sale or recharge of prepaid telephone calling service. The tax applies regardless of whether tangible personal property, such as a card or a telephone, is transferred. The tax applies to a service that is sold in conjunction with prepaid wireless calling service. Prepaid telephone calling service is taxable at the point of sale instead of at the point of use and is sourced in accordance with G.S. 105-164.4B. Prepaid telephone calling service taxed under this subdivision is not subject to tax as a telecommunications service.

(5) Tangible personal property services. – Any of the following:

a. A service contract.

b. Alteration, repair, maintenance, cleaning, and installation services.

c. Short-term lease or rental of any of the following:

1. A mini-warehouse or other secure self-storage space.

2. Storage for furs and other clothing not held for sale.

3. Docking or storage for a boat or other watercraft.

4. Storage for an aircraft.

(6) Reserved.

(7) Reserved.

(8) Entertainment and recreation. – Charges for entertainment or recreational activities are taxed in accordance with G.S. 105-164.4F.

(9) Satellite radio. – Satellite digital auto radio service. For services received by a mobile or portable station, the service is sourced to the subscriber's business or home address.

(c) Combined Rate. – The combined rate of tax applies to a retailer's net taxable sales of the following:

(1) Telecommunications. – Providing telecommunications service and ancillary service. These services are taxed in accordance with G.S. 105-164.4C.

(2) Video programming. – Providing video programming to a subscriber in this State.

(3) Liquor. – Spirituous liquor other than mixed beverages. As used in this subdivision, the terms "spirituous liquor" and "mixed beverage" have the meanings provided in G.S. 18B-101.

(4) Electricity.

(d) Manufactured and Modular Home. – The sale of a manufactured home or a modular home is treated as if it were the sale of real property.

~~(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and three-quarters percent (4.75%).~~

~~(1) The general rate of tax applies to the sales price of each item or article of tangible personal property that is sold at retail and is not subject to tax under another subdivision in this section.~~

~~(1a) The rate of two percent (2%) applies to the sales price of each manufactured home sold at retail, including all accessories attached to the manufactured home when it is delivered to the purchaser. The maximum tax is three hundred dollars ($300.00) per article. Each section of a manufactured home that is transported separately to the site where it is to be erected is a separate article.~~

~~(1b) The rate of three percent (3%) applies to the sales price of each aircraft or boat sold at retail, including all accessories attached to the item when it is delivered to the purchaser. The maximum tax is one thousand five hundred dollars ($1,500) per article.~~

~~(1c), (1d) and (1e) Repealed by Session Laws 2005-276, s. 33.4(b), effective January 1, 2006.~~

~~(1f) The rate of two and eighty-three hundredths percent (2.83%) applies to the sales price of electricity that is measured by a separate meter or another separate device and sold to a commercial laundry or to a pressing and dry-cleaning establishment for use in machinery used in the direct performance of the laundering or the pressing and cleaning service.~~

~~a. Repealed by Session Laws 2007-397, s. 10(b), effective October 1, 2007, and applicable to sales occurring on or after that date.~~

~~b. Repealed by Session Laws 2006-66, s. 24.19(a), effective July 1, 2007, and applicable to sales made on or after that date.~~

~~c. Repealed by Session Laws 2007-397, s. 10(b), effective October 1, 2007, and applicable to sales occurring on or after that date.~~

~~(1g) Repealed by Session Laws 2004-110, s. 6.1, effective October 1, 2004, and applicable to sales of electricity made on or after that date.~~

~~(1h) Expired pursuant to Session Laws 2004-110, s. 6.4, effective for sales made on or after October 1, 2007.~~

~~(1i) Repealed by Session Laws 2007-397, s. 10(a), effective October 1, 2007, and applicable to sales occurring on or after that date.~~

~~(1j) Repealed by Session Laws 2007-397, s. 10(f), effective July 1, 2010, and applicable to sales occurring on or after that date.~~

~~a. Sales of electricity to manufacturing industries and manufacturing plants for use in connection with the operation of the industries and plants.~~

~~b. Sales of electricity to farmers to be used by them for any farming purposes other than preparing food, heating dwellings, and other household purposes.~~

~~(2) The applicable percentage rate applies to the gross receipts derived from the lease or rental of tangible personal property by a person who is engaged in the business of leasing or renting tangible personal property, or is a retailer and leases or rents property of the type sold by the retailer. The applicable percentage rate is the rate and the maximum tax, if any, that applies to a sale of the property that is leased or rented. A person who leases or rents property shall also collect the tax imposed by this section on the separate retail sale of the property.~~

~~(3) A tax at the general rate applies to the gross receipts derived from the rental of an accommodation. The tax does not apply to a private residence or cottage that is rented for fewer than 15 days in a calendar year or to an accommodation rented to the same person for a period of 90 or more continuous days.~~

~~Gross receipts derived from the rental of an accommodation include the sales price of the rental of the accommodation. The sales price of the rental of an accommodation is determined as if the rental were a rental of tangible personal property. The sales price of the rental of an accommodation marketed by a facilitator includes charges designated as facilitation fees and any other charges necessary to complete the rental.~~

~~A person who provides an accommodation that is offered for rent is considered a retailer under this Article. A facilitator must report to the retailer with whom it has a contract the sales price a consumer pays to the facilitator for an accommodation rental marketed by the facilitator. A retailer must notify a facilitator when an accommodation rental marketed by the facilitator is completed and, within three business days of receiving the notice, the facilitator must send the retailer the portion of the sales price the facilitator owes the retailer and the tax due on the sales price. A facilitator that does not send the retailer the tax due on the sales price is liable for the amount of tax the facilitator fails to send. A facilitator is not liable for tax sent to a retailer but not remitted by the retailer to the Secretary. Tax payments received by a retailer from a facilitator are held in trust by the retailer for remittance to the Secretary. A retailer that receives a tax payment from a facilitator must remit the amount received to the Secretary. A retailer is not liable for tax due but not received from a facilitator. The requirements imposed by this subdivision on a retailer and a facilitator are considered terms of the contract between the retailer and the facilitator.~~

~~A person who, by written contract, agrees to be the rental agent for the provider of an accommodation is considered a retailer under this Article and is liable for the tax imposed by this subdivision. The liability of a rental agent for the tax imposed by this subdivision relieves the provider of the accommodation from liability. A rental agent includes a real estate broker, as defined in G.S. 93A-2. The following definitions apply in this subdivision:~~

~~a. Accommodation. A hotel room, a motel room, a residence, a cottage, or a similar lodging facility for occupancy by an individual.~~

~~b. Facilitator. A person who is not a rental agent and who contracts with a provider of an accommodation to market the accommodation and to accept payment from the consumer for the accommodation.~~

~~(4) Every person engaged in the business of operating a dry cleaning, pressing, or hat blocking establishment, a laundry, or any similar business, engaged in the business of renting clean linen or towels or wearing apparel, or any similar business, or engaged in the business of soliciting cleaning, pressing, hat blocking, laundering or linen rental business for any of these businesses, is considered a retailer under this Article. A tax at the general rate of tax is levied on the gross receipts derived by these retailers from services rendered in engaging in any of the occupations or businesses named in this subdivision. The tax imposed by this subdivision does not apply to receipts derived from coin, token, or card-operated washing machines, extractors, and dryers. The tax imposed by this subdivision does not apply to gross receipts derived from services performed for resale by a retailer that pays the tax on the total gross receipts derived from the services.~~

~~(4a) The rate of three percent (3%) applies to the gross receipts derived from sales of electricity, other than sales of electricity subject to tax under another subdivision in this section. A person who sells electricity is considered a retailer under this Article.~~

~~(4b) A person who sells tangible personal property at a specialty market, other than the person's own household personal property, is considered a retailer under this Article. A tax at the general rate of tax is levied on the sales price of each article sold by the retailer at the specialty market. The term "specialty market" has the same meaning as defined in G.S. 66-250.~~

~~(4c) The combined general rate applies to the gross receipts derived from providing telecommunications service and ancillary service. A person who provides telecommunications service or ancillary service is considered a retailer under this Article. These services are taxed in accordance with G.S. 105-164.4C.~~

~~(4d) The sale or recharge of prepaid telephone calling service is taxable at the general rate of tax. The tax applies regardless of whether tangible personal property, such as a card or a telephone, is transferred. The tax applies to a service that is sold in conjunction with prepaid wireless calling service. Prepaid telephone calling service is taxable at the point of sale instead of at the point of use and is sourced in accordance with G.S. 105-164.4B. Prepaid telephone calling service taxed under this subdivision is not subject to tax as a telecommunications service.~~

~~(5) Repealed by Session Laws 1998-212, s. 29A.1(a), effective May 1, 1999.~~

~~(6) The combined general rate applies to the gross receipts derived from providing video programming to a subscriber in this State. A cable service provider, a direct-to-home satellite service provider, and any other person engaged in the business of providing video programming is considered a retailer under this Article.~~

~~(6a) The general rate applies to the gross receipts derived from providing satellite digital audio radio service. For services received by a mobile or portable station, the service is sourced to the subscriber's business or home address. A person engaged in the business of providing satellite digital audio radio service is a retailer under this Article.~~

~~(6b) The general rate applies to the digital property that is listed in this subdivision, is delivered or accessed electronically, is not considered tangible personal property, and would be taxable under this Article if sold in a tangible medium. The tax applies regardless of whether the purchaser of the item has a right to use it permanently or to use it without making continued payments. The tax does not apply to a service that is taxed under another subdivision of this subsection or to an information service. The following property is subject to tax under this subdivision:~~

~~a. An audio work.~~

~~b. An audiovisual work.~~

~~c. A book, a magazine, a newspaper, a newsletter, a report, or another publication.~~

~~d. A photograph or a greeting card.~~

~~(7) The combined general rate applies to the sales price of spirituous liquor other than mixed beverages. As used in this subdivision, the terms "spirituous liquor" and "mixed beverage" have the meanings provided in G.S. 18B-101.~~

~~(8) The rate of two and one-half percent (2.5%) applies to the sales price of each modular home sold at retail, including all accessories attached to the modular home when it is delivered to the purchaser. The sale of a modular home to a modular homebuilder is considered a retail sale. A person who sells a modular home at retail is allowed a credit against the tax imposed by this subdivision for sales or use tax paid to another state on tangible personal property incorporated in the modular home. The retail sale of a modular home occurs when a modular home manufacturer sells a modular home to a modular homebuilder or directly to the end user of the modular home.~~

~~(b) The tax levied in this section shall be collected from the retailer and paid by him at the time and in the manner as hereinafter provided. Provided, however, that any person engaging or continuing in business as a retailer shall pay the tax required on the net taxable sales of such business at the rates specified when proper books are kept showing separately the gross proceeds of taxable and nontaxable sales of tangible personal property in such form as may be accurately and conveniently checked by the Secretary or his duly authorized agent. If such records are not kept separately the tax shall be paid as a retailer on the gross sales of business and the exemptions and exclusions provided by this Article shall not be allowed. The tax levied in this section is in addition to all other taxes whether levied in the form of excise, license or privilege or other taxes.~~

~~(c) Certificate of Registration. Before a person may engage in business as a retailer or a wholesale merchant, the person must obtain a certificate of registration from the Department in accordance with G.S. 105-164.29.~~"

SECTION 5.4.(c) The following statutes are repealed:

G.S. 105-164.3(8e)
G.S. 105-164.12A
G.S. 105-164.13(49)
G.S. 105-164.13(49a)
G.S. 105-164.44G

SECTION 5.4.(d) Article 5 of Chapter 105 of the General Statutes is amended by adding the following new sections to read:

"**§ 105-164.4E. Accommodation rentals.**

(a) Definition. – The following definitions apply in this section:

(1) Accommodation. – A hotel room, a motel room, a residence, a cottage, or a similar lodging facility for occupancy by an individual.

(2) Facilitator. – A person who is not a rental agent and who contracts with a provider of an accommodation to market the accommodation and to accept payment from the consumer for the accommodation.

(3) Rental agent. – The term includes a real estate broker, as defined in G.S. 93A-2.

(b) Tax. – The gross receipts derived from the rental of an accommodation are taxed at the general rate set in G.S. 105-164.4. Gross receipts derived from the rental of an accommodation include the sales price of the rental of the accommodation. The sales price of the rental of an accommodation is determined as if the rental were a rental of tangible personal property. The sales price of the rental of an accommodation marketed by a facilitator includes charges designated as facilitation fees and any other charges necessary to complete the rental.

(c) Facilitator Transactions. – A facilitator must report to the retailer with whom it has a contract the sales price a consumer pays to the facilitator for an accommodation rental marketed by the facilitator. A retailer must notify a facilitator when an accommodation rental marketed by the facilitator is completed and, within three business days of receiving the notice, the facilitator must send the retailer the portion of the sales price the facilitator owes the retailer and the tax due on the sales price. A facilitator that does not send the retailer the tax due on the sales price is liable for the amount of tax the facilitator fails to send. A facilitator is not liable for tax sent to a retailer but not remitted by the retailer to the Secretary. Tax payments received by a retailer from a facilitator are held in trust by the retailer for remittance to the Secretary. A retailer that receives a tax payment from a facilitator must remit the amount received to the Secretary. A retailer is not liable for tax due but not received from a facilitator. The requirements imposed by this section on a retailer and a facilitator are considered terms of the contract between the retailer and the facilitator.

(d) Rental Agent. – A person who, by written contract, agrees to be the rental agent for the provider of an accommodation is considered a retailer under this Article and is liable for the tax imposed by this section. The liability of a rental agent for the tax imposed by this section relieves the provider of the accommodation from liability.

(e) Exemptions. – The tax imposed by this section does not apply to the following:

(1) A private residence or cottage that is rented for fewer than 15 days in a calendar year.

(2) An accommodation supplied to the same person for a period of 90 or more continuous days.

"**§ 105.164.4F. Entertainment and recreation.**

(a) Tax. – Charges for an entertainment or recreational activity listed in this subsection are taxed at the general rate set in G.S. 105-164.4. Charges include admission charges, user charges, registration charges, membership charges, and charges for amenities. Offering an activity listed in this subsection is a service.

(1) Charges for admittance to any of the following entertainment or recreational activities:

a. A live performance or live event of any kind.

b. A movie or another audiovisual work.

c. A museum, a cultural site, a garden, an exhibit, a show, or a similar attraction or a guided tour at any of these attractions.

(2) Charges that enable a consumer to play or participate in, or use property or a facility to play or participate in, any of the entertainment or recreational activities listed in this subdivision. A consumer's play or participation can be in person or online. Charges for online play or participation include charges to acquire virtual goods or attributes.

a. A game.

b. A sport.

c. A fitness activity.

(b) Exclusion for Membership Charges. – The tax imposed by this section does not apply to the portion of a membership charge that meets any of the following descriptions:

(1) It is deductible as a charitable contribution under section 170 of the Code.

(2) It allows access to a dining facility or other property that does not enable the member to play or participate in an entertainment or recreational activity listed in subdivision (a)(2) of this section.

(c) Ticket Resales. – When an admission ticket is resold and the price of the admission ticket is printed on the face of the ticket, the tax does not apply to the face price. When an admission ticket is resold and the price of the admission ticket is not printed on the face of the ticket, the tax applies to the difference between the amount the reseller paid for the ticket and the amount the reseller charges for the ticket."

SECTION 5.4.(e) Part 2 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.12D. Sale of manufactured home or modular home.**

The sale of a manufactured home or modular home is treated as if it were the sale of real property. The sale of tangible personal property that enters into or becomes an ingredient or component part of a manufactured or modular home is taxable unless otherwise exempt under G.S. 105-164.13."

SECTION 5.4.(f) G.S. 105-164.13 is amended by adding the following new subdivisions to read:

"(60) Any of the following provided for tangible personal property that is exempt from tax under this Article, other than an item exempt from tax under G.S. 105-164.13(32):

a. A service contract.

b. Alteration, repair, maintenance, cleaning, or installation services.

(61) Reserved.

(62) A service provided by a self-employed individual who is 17 years of age or younger.

(63) Admission charges to any of the following recreational or entertainment activities:

a. An event that is held at an elementary or secondary school and is sponsored by the school.

b. A commercial agricultural fair that meets the requirements of G.S. 106-520.1, as determined by the Commissioner of Agriculture.

c. A festival or other recreational or entertainment activity that lasts no more than seven consecutive days and is sponsored by a nonprofit entity that is exempt from tax under Article 4 of this Chapter and uses the entire proceeds of the activity exclusively for the entity's nonprofit purposes. This exemption applies to no more than two activities sponsored by the entity during a calendar year.

(64) Short-term lease or rental of a mini-warehouse or other secure self-storage space by a member of the Armed Forces of the United States."

SECTION 5.4.(g) Part 8 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.44K. Distribution of part of tax on electricity to cities.**

(a) Distribution. – The Secretary must distribute to cities forty-four percent (44%) of the net proceeds of the tax collected under G.S. 105-164.4 on electricity. Each city's share of the amount to be distributed is its franchise tax share calculated under subsection (b) of this section plus its ad valorem share calculated under subsection (c) of this section. The Secretary must make the distribution within 75 days after the end of each quarter.

(b) Franchise Tax Share. – The franchise tax share of a city is the amount of electricity gross receipts franchise tax distributed to the city under repealed G.S. 105-116.1 for the same quarter that was the last quarter in which taxes were imposed on electric power companies under repealed G.S. 105-116. The franchise tax share of a city that has dissolved, merged with another city, or divided into two or more cities since it received a distribution under repealed G.S. 105-116.1 is adjusted as follows:

(1) If a city dissolves and is no longer incorporated, the franchise tax share of the city is added to the amount distributed under subsection (c) of this section.

(2) If two or more cities merge or otherwise consolidate, their franchise tax shares are combined.

(3) If a city divides into two or more cities, the franchise tax share of the city that divides is allocated among the new cities in proportion to the total amount of ad valorem taxes levied by each on property having a tax situs in the city.

(c) Ad Valorem Share. – The ad valorem share of a city is its proportionate share of the amount that remains for distribution after determining each city's franchise tax share under subsection (b) of this section. A city's proportionate share is the amount of ad valorem taxes it levies on property having a tax situs in the city compared to the ad valorem taxes levied by all cities on property having a tax situs in the cities.

(d) Methodology. – The ad valorem method set out in G.S. 105-472(b)(2) applies in determining the share of a city under this section based on ad valorem taxes, except that the amount of ad valorem taxes levied by a city does not include ad valorem taxes levied in behalf of a taxing distribution and collected by the city.

(e) Ineligible Cities. – The prohibitions in G.S 105-472(d) on the receipt of funds by a city apply to the distribution under this section.

(f) Nature. – The General Assembly finds that the revenue distributed under this section is local revenue, not a State expenditure, for the purpose of Section 5(3) of Article III of the North Carolina Constitution. Therefore, the Governor may not reduce or withhold the distribution."

SECTION 5.4.(h) G.S. 105-187.3(a) reads as rewritten:

"(a) Amount. – The rate of the use tax imposed by this Article is three percent (3%) of the retail value of a motor vehicle for which a certificate of title is issued. The tax is payable as provided in G.S. 105-187.4. ~~The maximum tax is one thousand dollars ($1,000) for each certificate of title issued for a Class A or Class B motor vehicle that is a commercial motor vehicle, as defined in G.S. 20-4.01. The maximum tax is one thousand five hundred dollars ($1,500) for each certificate of title issued for a recreational vehicle that is not subject to the one thousand dollar ($1,000) maximum tax.~~

(b) Retail Value. – The retail value of a motor vehicle for which a certificate of title is issued because of a sale of the motor vehicle ~~by a retailer is the sales price of the motor vehicle, including all accessories attached to the vehicle when it is delivered to the purchaser, less the amount of any allowance given by the retailer for a motor vehicle taken in trade as a full or partial payment for the purchased motor vehicle.~~

~~The retail value of a motor vehicle for which a certificate of title is issued because of a sale of the motor vehicle~~ by a seller who is not a retailer is the market value of the vehicle, less the amount of any allowance given by the seller for a motor vehicle taken in trade as a full or partial payment for the purchased motor vehicle. A transaction in which two parties exchange motor vehicles is considered a sale regardless of whether either party gives additional consideration as part of the transaction.

The retail value of a motor vehicle for which a certificate of title is issued because of a reason other than the sale of the motor vehicle is the market value of the vehicle. The market

value of a vehicle is presumed to be the value of the vehicle set in a schedule of values adopted by the Commissioner.

The retail value of a vehicle for which a certificate of title is issued because of a transfer by a State agency that assists the United States Department of Defense with purchasing, transferring, or titling a vehicle to another State agency, a unit of local government, a volunteer fire department, or a volunteer rescue squad is the sales price paid by the State agency, unit of local government, volunteer fire department, or volunteer rescue squad.

The retail value of a motor vehicle for which a certificate of title is issued because of a sale of the motor vehicle by a retailer is the sales price of the motor vehicle, including all accessories attached to the vehicle when it is delivered to the purchaser, adjusted as follows:

(1) Documentation fees and other administrative charges are included in the sales price.

(2) The amount of any allowance given by the retailer for a motor vehicle taken in trade as a full or partial payment for the purchased motor vehicle is not included in the sales price.

(c) Schedules. – In adopting a schedule of values for motor vehicles, the Commissioner shall adopt a schedule whose values do not exceed the wholesale values of motor vehicles as published in a recognized automotive reference manual."

SECTION 5.4.(i) G.S. 105-187.9(a) reads as rewritten:

"(a) Distribution. – Taxes collected under this Article at the rate of eight percent (8%) shall be credited to the General Fund. ~~Taxes~~ Of the taxes collected under this Article at the rate of three percent ~~(3%)~~(3%), ninety-five percent (95%) shall be credited to the North Carolina Highway Trust ~~Fund.~~ Fund and five percent (5%) shall be credited to the General Fund."

SECTION 5.4.(j) This section becomes effective January 1, 2014, and applies to sales made on or after that date and to gross receipts received on or after January 1, 2014, from admissions purchased on or after that date. Gross receipts received on or after January 1, 2014, from admissions purchased before that date are taxable under G.S. 105-37.1 or G.S. 105-38.1, as appropriate.

SECTION 5.5.(a) G.S. 105-164.4(a), as amended by Section 5.4(b) of this act, is further amended by adding the following new subdivisions to read:

"(6) Property care and maintenance services. – Any of the following:

a. Exterminating and controlling birds, mosquitoes, rodents, termites, and other insects and pests.

b. Providing any of the following landscaping services:

1. Installing a tree, shrub, plant, lawn, or garden, either indoors or outdoors, or providing other similar landscape care and maintenance services.

2. Maintaining on a contract basis a tree, shrub, plant, lawn, or garden, either indoors or outdoors.

2. Installing or maintaining a walkway, retaining wall, deck, fence, water feature, or other similar structure to enhance the landscape of an area.

c. Cleaning the interior or exterior of a building or other structure.

d. Cleaning an item, such as a carpet or gutter, that is attached to a structure.

e. Cleaning a driveway, a parking lot, a swimming pool, the grounds at a building or other structure, or another outdoor area.

(7) Security services. – Any of the following:

a. Guard or security patrol service.

b. Armored car service.

c. Remote monitoring of a security alarm system.

d. Locksmith service.
e. Telematic service that provides communication, tracking, and emergency response services to motor vehicle owners."

SECTION 5.5.(b) Part 2 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.12D. Tangible personal property installed by a person who provides a landscaping service.**

A person who provides a landscaping service and who installs a tree, shrub, or other tangible personal property in the course of providing the service may do so as a performance contractor or as an installing retailer. A person who provides a landscaping service as a performance contractor is the consumer of all tangible personal property installed in the course of providing the service. When a person provides a landscaping service as an installing retailer, the purchaser of the service and not the provider of the service is considered the consumer of tangible personal property installed in the course of providing the service.

A person is considered to provide a landscaping service as an installing retailer when the person installs tangible personal property in the course of providing a landscaping service and the person gives the purchaser a bill that separately states the sales price of the tangible personal property that is installed. In this circumstance, tax applies to the sales price of the tangible personal property that is separately stated and to the sales price of any other charges for the service, and the service provider's prior purchase of the separately stated tangible personal property is a purchase for resale. In the absence of a bill that separately states the sales price of tangible personal property that is installed by a person who provides a landscaping service, tax applies to the sales price of the service, and the provider's prior purchase of the tangible personal property that is installed is a purchase for use or consumption."

SECTION 5.5.(c) G.S. 105-164.13 is amended by adding the following subdivisions to read:

"(4h) A service provided to a farmer, as defined in subdivision (1) of this section, to control pests in crops grown for commercial purposes.

...

(61) A property maintenance service described in G.S. 105-164.4(a)(6) that is provided for any of the following:
a. A newly constructed building or other structure.
b. A right-of-way or utility easement."

SECTION 5.5.(d) This section becomes effective July 1, 2014.

SECTION 5.6.(a) G.S. 105-164.13(1a)b., (4c), and (4d) are repealed.

SECTION 5.6.(b) Article 5F of Chapter 105 of the General Statutes and G.S. 105-164.13(5a) are repealed.

SECTION 5.6.(c) G.S. 105-164.13 reads as rewritten:

"**§ 105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property, digital property, and services are specifically exempted from the tax imposed by this Article:

(1) Any of the following items sold to a farmer for use by the farmer in the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals. A "farmer" includes a dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a farmer of an aquatic species, as defined in G.S. 106-758.
a. Commercial fertilizer, lime, land plaster, plastic mulch, plant bed covers, potting soil, baler twine, and seeds.
b. Farm ~~machinery, attachment and repair parts for farm machinery, and lubricants applied to farm machinery. The term "machinery"~~

~~includes implements that have moving parts or are operated or drawn by an animal. The term does not include implements operated wholly by hand or~~machinery that is capital equipment, other than a motor ~~vehicles~~vehicle required to be registered under Chapter 20 of the General Statutes.

c. A horse or mule.

d. Fuel.

...

(4f) Sales of the following to a person who is engaged in the commercial logging business:

a. Logging machinery. – ~~Logging machinery is machinery~~ Machinery that is used to harvest raw forest products for transport to first ~~market.~~market and is capital equipment.

~~b. Attachments and repair parts for logging machinery.~~

~~c. Lubricants applied to logging machinery.~~

d. Fuel used to operate logging machinery.

...

(5b) Sales to a telephone company regularly engaged in providing telecommunications service to subscribers on a commercial basis of the following equipment that is capital equipment:

a. ~~central~~ Central office ~~equipment, switchboard~~ equipment.

b. Switchboard ~~equipment, private~~ equipment.

c. Private branch exchange ~~equipment, terminal~~ equipment.

d. Terminal equipment other than public pay telephone terminal ~~equipment, and parts and accessories attached to the~~ equipment.

(5c) Sales to a radio or television company licensed by the Federal Communications Commission of ~~towers,~~ towers and broadcasting ~~equipment, and parts and accessories attached to the equipment to a radio or television company licensed by the Federal Communications Commission.~~equipment that is capital equipment.

(5d) Sales to a cable service provider of broadcasting equipment ~~and parts and accessories attached to the equipment to a cable service provider.~~ that is capital equipment. For the purposes of this subdivision, "broadcasting equipment" ~~does not include~~includes cable.

(5e) Sales to a major recycling facility of the following for use in connection with the facility:

a. Cranes, structural steel crane support systems, and foundations related to the cranes and support systems.

b. Port and dock facilities.

c. Rail equipment.

d. Material handling equipment.

(5f) Sales of mill machinery that is capital equipment and is purchased by one of the following:

a. A manufacturer. A manufacturer does not include a delicatessen, café, cafeteria, restaurant, or another similar retailer that is principally engaged in the retail sale of foods prepared by it for consumption on or off its premises.

b. A contractor or subcontractor for use in the performance of a contract with a manufacturer.

c. A subcontractor for use in the performance of a contract with a general contractor that has a contract with a manufacturer.

(5g) Sales of capital equipment that is purchased by one of the following and would be considered mill machinery if purchased by a manufacturing industry or plant and used in manufacturing tangible personal property or in the research and development of tangible personal property manufactured by the industry or plant:

a. A research and development company in the physical, engineering, and life sciences that is included in industry group 54171 of NAICS for use by the company in the research and development of tangible personal property.

b. A software publishing company that is included in industry group 5112 of NAICS for use by the company in the research and development of tangible personal property.

c. An industrial machinery refurbishing company that is included in industry group 811310 of NAICS for use by the company in repairing or refurbishing tangible personal property.

(5h) Sales to a company located at a ports facility for waterborne commerce of capital equipment for use at the facility to unload or process bulk cargo to make the cargo suitable for delivery to and use by a manufacturer.

(5i) Datacenter machinery and equipment exempt from sales and use tax under G.S. 105-164.13E.

...

(10) Sales of the following to commercial laundries or to pressing and dry cleaning establishments:

a. Articles or materials used for the identification of garments being laundered or dry cleaned, wrapping paper, bags, hangers, starch, soaps, detergents, cleaning fluids and other compounds or chemicals applied directly to the garments in the direct performance of the laundering or the pressing and cleaning service.

b. Laundry and dry-cleaning ~~machinery, parts and accessories attached to the machinery, and lubricants applied to the machinery.~~machinery that is capital equipment.

c. ~~Fuel, other than electricity,~~Fuel used in the direct performance of the laundering or the pressing and cleaning service. Electricity qualifies for this exemption only if it is measured by a separate meter or another separate device.

....

(45d) Sales to an interstate passenger air carrier of fuel in excess of two million five hundred thousand dollars ($2,500,000).

..."

SECTION 5.6.(d) G.S. 105-164.13 reads as rewritten:

"**§ 105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property, digital property, and services are specifically exempted from the tax imposed by this Article:

...

(3) Products of forests and mines in their original ~~or unmanufactured~~ state when such sales are made by the producer in the capacity of producer.

...

(7) Sales of products of waters in their original ~~or unmanufactured~~ state when such sales are made by the producer in the capacity of producer. Fish and seafoods are likewise exempt when sold by the fisherman in that capacity.

...."

SECTION 5.6.(e) Part 3 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.13E. Exemption for datacenter.**

(a) Exemption. – Datacenter equipment is exempt from sales and use tax if it is located and used at a datacenter that meets the requirements of subsection (b), (c), or (d) of this section. Electricity used by a datacenter is exempt from sales and use tax if it is used at a datacenter that meets the requirements of subsection (d) of this section.

(b) All Datacenters. – A datacenter qualifies under this subsection if it has received a written determination from the Secretary of Commerce that it meets all of the following requirements:

(1) The wage standard and health insurance requirements of G.S. 143B-437.08A.

(2) The minimum investment level set in this subdivision for its location. The level of investment must consist of private funds that have been or will be invested in real and tangible property for the datacenter within five years of the date the datacenter's owner makes its first property investment in the datacenter.

a. For a datacenter in a development tier one area, the minimum investment level is one hundred fifty million dollars ($150,000,000).

b. For a datacenter located in a development tier two area or a development tier three area, the minimum investment level is two hundred twenty-five million dollars ($225,000,000).

(c) Second Datacenter. – A datacenter qualifies under this subsection if it is owned by or under common control with the owner of a datacenter that qualified under subsection (b) of this section and it meets all of the following requirements:

(1) The Secretary of Commerce certifies that it meets the same requirements that apply to the first datacenter under subsection (b) of this section except that the minimum investment level is seventy-five million dollars ($75,000,000) and must be made within five years after the first datacenter is placed in service.

(2) The two datacenters are linked through a fiber-optic connection or a similar connection.

(3) The two datacenters are placed in service within five years of each other.

(d) Publishers and Portals. – A datacenter qualifies under this subsection if it meets all of the following requirements:

(1) It is to be used primarily by a business engaged in software publishing included in industry 511210 of NAICS or an Internet activity included in industry 519130 of NAICS.

(2) It is comprised of a structure or series of structures located or to be located on a single parcel of land or on contiguous parcels of land that are commonly owned or owned by affiliation with the operator of the datacenter.

(3) It is located or to be located in a county that was designated an enterprise tier one, two, or three area or a development tier one or two area.

(4) It has received a written determination from the Secretary of Commerce that at least two hundred fifty million dollars ($250,000,000) in private funds has been or will be invested in real property or datacenter property within five years after the commencement of construction of the datacenter.

(e) County Designation. – The enterprise or tier area of a county is determined as of the date the datacenter applies to the Secretary of Commerce for a written determination of whether it meets the requirements of those subsections. A change in a designation after certification by

the Secretary of Commerce does not affect the eligibility of a datacenter for the exemption allowed under this section.

(f) Sunset. – The exemptions provided in subsections (b) and (c) of this section expire for sales occurring on or after July 1, 2015."

SECTION 5.6.(f) This section becomes effective January 1, 2014.

SECTION 5.7.(a) G.S. 105-164.4(a), as amended by Section 5.4(b) of this act, reads as rewritten:

"(a) Tax Imposed. – A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales of tangible personal property, digital property, and services. The general rate of tax is four and ~~three quarters~~ one-half percent ~~(4.75%).~~(4.5%). The general rate applies to a taxable item unless the item is subject to tax at the combined rate of tax or to a rate of tax that differs from both the general rate and the combined rate. Subsection (b) of this section lists the items that are subject to the general rate. An item taxable under subsection (b) of this section is also subject to local sales and use tax. Subsection (c) of this section lists the items that are subject to the combined rate."

SECTION 5.7.(b) This section becomes effective September 1, 2014.

SECTION 5.8.(a) G.S. 105-467(a) reads as rewritten:

"(a) Sales Tax. – The sales tax that may be imposed under this Article is limited to a tax at the rate of one percent (1%) of the ~~transactions listed in this subsection. The sales tax authorized by this Article does not apply to sales that are taxable by the State under G.S. 105-164.4 but are not specifically included in this subsection.~~following:

(1) A retailer's net taxable sales and gross receipts that are ~~The sales price of tangible personal property~~ subject to the general rate of sales tax imposed by the State under ~~G.S. 105-164.4(a)(1) and (a)(4b).~~G.S. 105-164.4.

~~(2) The gross receipts derived from the lease or rental of tangible personal property when the lease or rental of the property is subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(2).~~

~~(3) The gross receipts derived from the rental of any room or other accommodations subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(3).~~

~~(4) The gross receipts derived from services rendered by laundries, dry cleaners, and other businesses subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(4).~~

(5) The sales price of food that is not otherwise exempt from tax pursuant to G.S. 105-164.13 but is exempt from the State sales and use tax pursuant to G.S. 105-164.13B.

(5a) The sales price of a bundled transaction that includes food subject to tax under subdivision (5) of this subsection, if the price of the food exceeds ten percent (10%) of the price of the bundle. A retailer must determine the price of food in a bundled transaction in accordance with G.S. 105-164.4D.

(5b) The sales price of bread, rolls, and buns that are sold at a bakery thrift store and are exempt from State tax under G.S.105-164.13(27a).

~~(6) The sales price of prepaid telephone calling service taxed as tangible personal property under G.S. 105-164.4(a)(4d).~~

~~(7) The gross receipts derived from providing satellite digital audio radio service subject to the general rate of tax under G.S. 105-164.4(a)(6a).~~"

SECTION 5.8.(b) G.S. 105-469 reads as rewritten:

"**§ 105-469. Secretary to collect and administer local sales and use tax.**

(a) Administration. – The Secretary ~~shall~~ must collect and administer a tax levied by a county pursuant to this Article. Except as provided in this section, the net proceeds must be allocated as provided in G.S. 105-472.

(a1) Food. – ~~As directed by G.S. 105-164.13B, taxes levied by a county on food are administered as if they were levied by the State under Article 5 of this Chapter.~~ The Secretary must, on a monthly basis, distribute local taxes levied on food to the taxing counties as follows:

(1) The Secretary must allocate one-half of the net proceeds on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer. ~~The Secretary must then adjust the amount allocated to each county as provided in G.S. 105-486(b). The Secretary must include one-half of the amount allocated under this subdivision in the distribution made under Article 40 of this Chapter and must include the remaining one-half in the distribution made under Article 42 of this Chapter.~~

(2) The Secretary must allocate the remaining net proceeds ~~proportionately~~ to each taxing county based ~~upon the amount of sales tax on food collected in the taxing county in the 1997-1998 fiscal year under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws relative to the total amount of sales tax on food collected in all taxing counties in the 1997-1998 fiscal year under Article 39 of this Chapter and under Chapter 1096 of the 1967 Session Laws. The Secretary must include the amount allocated under this subdivision in the distribution made under Article 39 of this Chapter.~~on the county of collection.

(a2) Piped Natural Gas. – The Secretary must, on a monthly basis, allocate to each taxing county for which the Secretary collects the tax the net proceeds of the tax collected in that county on piped natural gas. The term "net proceeds" has the same meaning as defined in G.S. 105-472. The Secretary must divide the amount allocated to each taxing county among the county and its municipalities in accordance with this subsection:

(1) Eighty percent (80%) to the municipalities in proportion to the total amount of ad valorem taxes levied by each on property having a tax situs in the taxing municipality during the fiscal year next preceding the distribution. The provisions in G.S. 105-472(b)(2) for determining the amount of ad valorem taxes by a municipality apply to this distribution.

(2) Twenty percent (20%) to the county.

(b) The Secretary shall require retailers who collect use tax on sales to North Carolina residents to ascertain the county of residence of each buyer and provide that information to the Secretary along with any other information necessary for the Secretary to allocate the use tax proceeds to the correct taxing county."

SECTION 5.8.(c) G.S. 105-486 is amended by adding a new subsection to read:

"(e) Piped Natural Gas. – The Secretary must allocate and distribute the net proceeds of the tax collected on piped natural gas in accordance with G.S. 105-469(a2)."

SECTION 5.8.(d) G.S. 105-501 is amended by adding a new subsection to read:

"(c) Piped Natural Gas. – The Secretary must allocate and distribute the net proceeds of the tax collected on piped natural gas in accordance with G.S. 105-469(a2). The amounts deductible under subsection (b) of this section may not be deducted from these tax proceeds."

SECTION 5.8.(e) This section becomes effective January 1, 2014.

SECTION 5.9.(a) G.S. 105-164.14(c) reads as rewritten:

"(c) Certain Governmental Entities. – A governmental entity listed in this subsection is allowed an annual refund of local sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services, other than electricity, telecommunications service, and ancillary service. Sales and use tax liability indirectly incurred by a governmental entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the governmental entity and is being erected, altered, or repaired for use by the governmental entity is considered a sales or use tax

liability incurred on direct purchases by the governmental entity for the purpose of this subsection. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the governmental entity's fiscal year.

This subsection applies only to the following governmental entities:

...".

SECTION 5.9.(b) This section becomes effective July 1, 2014, and applies to purchases made on or after that date.

SECTION 5.10.(a) G.S. 105-522 reads as rewritten:

"**§ 105-522. City hold harmless for repealed local taxes.**

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

(1) Eligible municipality. – A municipality that was incorporated on or before October 1, 2008, and receives a distribution of sales and use taxes under G.S. 105-472.

(2) Hold harmless amount. – The sum of the following amounts ~~allocated for distribution to a municipality for a month:~~plus or minus the percentage of that amount by which the total collection of local state sales and use taxes imposed on food increased or decreased during the preceding fiscal year, divided by twelve:

a. The amount of sales and use tax revenue allocated for distribution to a municipality under ~~G.S. 105-486.~~ G.S. 105-486 for the period July 1, 2013, through June 30, 2014. This calculation determines the effect of repealing a one-half percent (1/2%) sales and use tax distributed on a per capita basis.

b. An amount determined by subtracting twenty-five percent (25%) of the amount of sales and use tax revenue allocated for distribution to a municipality under G.S. 105-472 or Chapter 1096 of the 1967 Session Laws from fifty percent (50%) of the amount of sales and use tax revenue allocated for distribution to the municipality under ~~G.S. 105-486.~~ G.S. 105-486 for the period July 1, 2013, through Jne 30, 2014. This calculation determines the effect of distributing a one-quarter percent (.25%) tax on the basis of point of origin instead of on a per capita basis.

(b) Requirement. – A county is required to hold the eligible municipalities in the county harmless from the repeal of the local sales and use taxes formerly imposed under this Article. The Secretary must add an eligible municipality's hold harmless amount to the amount distributed to the municipality under this Subchapter. To obtain the revenue for the hold harmless distribution, the Secretary must reduce each county's monthly allocation under G.S. 105-472(b) or under Chapter 1096 of the 1967 Session Laws by the hold harmless amounts for the municipalities in that county."

SECTION 5.10.(b) This section becomes effective July 1, 2014, and applies to distributions for months beginning on or after that date.

SECTION 5.11.(a) Section 3 of Chapter 347 of the 1965 Session Laws reads as rewritten:

"Sec. 3. All property owned by Cape Hatteras Electric Membership Corporation ~~and used exclusively for the purpose of said corporation shall be held in the same manner and subject to the same taxes and assessments~~ is exempt from property taxes to the same extent as property owned by any county or municipality of the State so long as ~~said~~ the property is owned by ~~said~~ Cape Hatteras Electric Membership Corporation and is held and used by it solely for the furnishing of electric energy to consumers on Hatteras Island and Ocracoke Island. Cape

Hatteras Electric Membership Corporation is subject to any other taxes to the same extent as other electric membership corporations established under Chapter 117 of the General Statutes."

SECTION 5.11.(b) This section becomes effective January 1, 2014.

PART VI. ELIMINATE ARCHAIC BUSINESS PRIVILEGE TAXES

SECTION 6.1.(a) The following statutes are repealed:

G.S. 105-41
G.S. 105-83
G.S. 105-88
G.S. 105-102.3
G.S. 105-102.6

SECTION 6.1.(b) This section becomes effective January 1, 2014, and applies as follows:

(1) For taxes payable under G.S. 105-41, 105-88, or 105-102.3, the section applies to taxes imposed under those statutes for taxable years beginning on or after July 1, 2014.

(2) For taxes payable under G.S. 105-102.6, the section applies to taxes due on or after January 31, 2014.

(3) For taxes payable under G.S. 105-83, the section applies to obligation dealt in, bought, or discounted on or after January 1, 2014.

SECTION 6.2.(a) The title of Article 2C of Chapter 105 of the General Statutes reads as rewritten:

"Article 2C.

Local Alcoholic Beverage ~~License And~~ Licenses and State Excise Taxes."

SECTION 6.2.(b) G.S. 105-113.69 reads as rewritten:

"**§ 105-113.69. ~~License tax; effect~~ Effect of license.**

~~The taxes imposed in Part 3 of this Article are license taxes on the privilege of engaging in the activity authorized by the license.~~ Licenses issued under this Article authorize the licensee to engage in only those activities that are authorized by the corresponding ABC permit. The activities authorized by each retail ABC permit are described in Article 10 of Chapter 18B of the General Statutes and the activities authorized by each commercial ABC permit are described in Article 11 of that Chapter."

SECTION 6.2.(c) G.S. 105-113.70(a) reads as rewritten:

"**§ 105-113.70. Issuance, duration, transfer of license.**

(a) Issuance, Qualifications. – Each person who receives an ABC permit shall obtain the corresponding local license, if any, under this Article. All local licenses are issued by the city or county where the establishment for which the license is sought is located. The information required to be provided and the qualifications for a local license are the same as the information and qualifications required for the corresponding ABC permit. Upon proper ~~application and payment of the prescribed tax,~~ application, issuance of a local license is mandatory if the applicant holds the corresponding ABC permit. No local license may be issued under this Article until the applicant has received from the ABC Commission the applicable permit for that activity, and no county license may be issued for an establishment located in a city in that county until the applicant has received from the city the applicable license for that activity."

SECTION 6.2.(d) G.S. 105-113.77 reads as rewritten:

"**§ 105-113.77. City beer and wine retail licenses.**

(a) ~~License and Tax.~~ License. – A person holding any of the following retail ABC permits for an establishment located in a city ~~shall~~ must obtain from the city a city license for that activity. ~~The annual tax for each license is as stated.~~

ABC Permit	~~Tax for Corresponding License~~

On-premises malt beverage ..... ~~$15.00~~
Off-premises malt beverage ..... ~~5.00~~
On-premises unfortified wine,
on-premises fortified wine, or both ..... ~~15.00~~
Off-premises unfortified wine,
off-premises fortified wine, or both ..... ~~10.00~~

~~(b) Tax on Additional License. The tax stated in subsection (a) is the tax for the first license issued to a person. The tax for each additional license of the same type issued to that person for the same year is one hundred ten percent (110%) of the base license tax, that increase to apply progressively for each additional license.~~"

SECTION 6.2.(e) G.S. 105-113.78 reads as rewritten:

"**§ 105-113.78. County beer and wine retail licenses.**

A person holding any of the following retail ABC permits for an establishment located in a county ~~shall~~ must obtain from the county a county license for that activity. ~~The annual tax for each license is as stated.~~

ABC Permit	~~Tax for Corresponding License~~
On-premises malt beverage	~~$25.00~~
Off-premises malt beverage	~~5.00~~
On-premises unfortified wine, on-premises fortified wine, or both	~~25.00~~
Off-premises unfortified wine, off-premises fortified wine, or both	~~25.00~~"

SECTION 6.2.(f) G.S. 105-113.79 reads as rewritten:

"**§ 105-113.79. City wholesaler license.**

A city may require city malt beverage and wine wholesaler licenses for businesses located inside the city, but may not require a license for a business located outside the city, regardless whether that business sells or delivers malt beverages or wine inside the city. ~~The city may charge an annual tax of not more than thirty-seven dollars and fifty cents ($37.50) for a city malt beverage wholesaler or a city wine wholesaler license.~~"

SECTION 6.2(g) This section becomes effective January 1, 2014, and applies to taxes for periods beginning on or after May 1, 2014.

SECTION 6.3.(a) G.S. 153A-152 reads as rewritten:

"**§ 153A-152. ~~Privilege~~ No general authority for privilege license taxes.**

~~(a) Authority. A county may levy privilege license taxes on trades, occupations, professions, businesses, and franchises to the extent authorized by Article 2 of Chapter 105 of the General Statutes and any other acts of the General Assembly. A county may levy privilege license taxes to the extent formerly authorized by the following sections of Article 2 of Chapter 105 of the General Statutes before they were repealed:~~

~~G.S. 105-50~~	~~Pawnbrokers.~~
~~G.S. 105-53~~	~~Peddlers, itinerant merchants, and specialty market operators.~~
~~G.S. 105-55~~	~~Installing elevators and automatic sprinkler systems.~~
~~G.S. 105-58~~	~~Fortune tellers, palmists, etc.~~
~~G.S. 105-65~~	~~Music machines.~~
~~G.S. 105-66.1~~	~~Electronic video games.~~
~~G.S. 105-80~~	~~Firearms dealers and dealers in other weapons.~~
~~G.S. 105-89~~	~~Automobiles, wholesale supply dealers and service stations.~~
~~G.S. 105-89.1~~	~~Motorcycle dealers.~~
~~G.S. 105-90~~	~~Emigrant and employment agents.~~
~~G.S. 105-102.5~~	~~General business license.~~

~~(b) Telecommunications Restriction. A county may not impose a license, franchise, or privilege tax on a company taxed under G.S. 105-164.4(a) (4c).~~A county may not levy a license, franchise, or privilege tax on a trade, occupation, profession, business, or franchise carried on within the county unless a statute or an act of the General Assembly authorizes the county to do so."

SECTION 6.3.(b) G.S. 160A-211 reads as rewritten:

"**§ 160A-211. ~~Privilege~~ No general authority for privilege license taxes.**

~~(a) Authority. Except as otherwise provided by law, a city shall have power to levy privilege license taxes on all trades, occupations, professions, businesses, and franchises carried on within the city. A city may levy privilege license taxes on the businesses that were formerly taxed by the State under the following sections of Article 2 of Chapter 105 of the General Statutes only to the extent the sections authorized cities to tax the businesses before the sections were repealed:~~

~~G.S. 105-36~~	~~Amusements — Manufacturing, selling, leasing, or distributing moving picture films.~~
~~G.S. 105-36.1~~	~~Amusements — Outdoor theatres.~~
~~G.S. 105-37~~	~~Amusements — Moving pictures — Admission.~~
~~G.S. 105-42~~	~~Private detectives and investigators.~~
~~G.S. 105-45~~	~~Collecting agencies.~~
~~G.S. 105-46~~	~~Undertakers and retail dealers in coffins.~~
~~G.S. 105-50~~	~~Pawnbrokers.~~
~~G.S. 105-51.1~~	~~Alarm systems.~~
~~G.S. 105-53~~	~~Peddlers, itinerant merchants, and specialty market operators.~~
~~G.S. 105-54~~	~~Contractors and construction companies.~~
~~G.S. 105-55~~	~~Installing elevators and automatic sprinkler systems.~~
~~G.S. 105-61~~	~~Hotels, motels, tourist courts and tourist homes.~~
~~G.S. 105-62~~	~~Restaurants.~~
~~G.S. 105-65~~	~~Music machines.~~
~~G.S. 105-65.1~~	~~Merchandising dispensers and weighing machines.~~
~~G.S. 105-66.1~~	~~Electronic video games.~~
~~G.S. 105-74~~	~~Pressing clubs, dry cleaning plants, and hat blockers.~~
~~G.S. 105-77~~	~~Tobacco warehouses.~~
~~G.S. 105-80~~	~~Firearms dealers and dealers in other weapons.~~
~~G.S. 105-85~~	~~Laundries.~~
~~G.S. 105-86~~	~~Outdoor advertising.~~
~~G.S. 105-89~~	~~Automobiles, wholesale supply dealers, and service stations.~~
~~G.S. 105-89.1~~	~~Motorcycle dealers.~~
~~G.S. 105-90~~	~~Emigrant and employment agents.~~
~~G.S. 105-91~~	~~Plumbers, heating contractors, and electricians.~~
~~G.S. 105-97~~	~~Manufacturers of ice cream.~~
~~G.S. 105-98~~	~~Branch or chain stores.~~
~~G.S. 105-99~~	~~Wholesale distributors of motor fuels.~~
~~G.S. 105-102.1~~	~~Certain cooperative associations.~~
~~G.S. 105-102.5~~	~~General business license.~~

~~(b) Barbershop and Salon Restriction. A privilege license tax levied by a city on a barbershop or a beauty salon may not exceed two dollars and fifty cents ($2.50) for each barber, manicurist, cosmetologist, beautician, or other operator employed in the barbershop or beauty salon.~~

~~(c) Prohibition. – A city may not impose a license, franchise, or privilege tax on a person engaged in any of the businesses listed in this subsection. These businesses are subject to a State tax for which the city receives a share of the tax revenue.~~

~~(1) Supplying piped natural gas taxed under Article 5E of Chapter 105 of the General Statutes.~~

~~(2) Providing telecommunications service taxed under G.S. 105-164.4(a)(4c).~~

~~(3) Providing video programming taxed under G.S. 105-164.4(a)(6).~~

~~(d) Repealed by Session Laws 2006-151, s. 12, effective January 1, 2007.~~A city may not levy a license, franchise, or privilege tax on a trade, occupation, profession, business, or franchise carried on within the city unless a statute or an act of the General Assembly authorizes the city to do so."

SECTION 6.3.(c) This section becomes effective July 1, 2014, and applies to taxes imposed for fiscal years beginning on or after that date.

SECTION 6.4.(a) G.S. 105-113.21 reads as rewritten:

"**§ 105-113.21. Discount; refund.**

...

~~(a1) Discount. – A distributor who files a timely report under G.S. 105-113.18 and who sends a timely payment may deduct from the amount due with the report a discount of two percent (2%). This discount covers expenses incurred in preparing the records and reports required by this Part, and the expense of furnishing a bond.~~

(b) Refund. – A distributor in possession of packages of stale or otherwise unsalable cigarettes upon which the tax has been paid may return the cigarettes to the manufacturer as provided in this subsection and apply to the Secretary for refund of the tax. The application ~~shall~~ must be in the form prescribed by the Secretary and ~~shall~~ must be accompanied by an affidavit from the manufacturer stating the number of cigarettes returned to the manufacturer by the applicant. The Secretary ~~shall~~ must refund the tax ~~paid, less the discount allowed,~~ paid on the unsalable cigarettes. The distributor must return the cigarettes to the manufacturer of the cigarettes or to the affiliated manufacturer who is contracted by the manufacturer of the cigarettes to serve as the manufacturer's agent for the purposes of validating quantities and disposing of unsalable cigarettes."

SECTION 6.4.(b) G.S. 105-113.39 reads as rewritten:

"**§ 105-113.39. Discount; refund.**

~~(a) Discount. – A wholesale dealer or a retail dealer who is primarily liable under G.S. 105-113.35(b) for the excise taxes imposed by this Part, who files a timely report under G.S. 105-113.37, and who sends a timely payment may deduct from the amount due with the report a discount of two percent (2%). This discount covers expenses incurred in preparing the records and reports required by this Part and the expense of furnishing a bond.~~

(b) Refund. – A wholesale dealer or retail dealer who is primarily liable under G.S. 105-113.35(b) for the excise taxes imposed by this Part and is in possession of stale or otherwise unsalable tobacco products upon which the tax has been paid may return the tobacco products to the manufacturer and apply to the Secretary for refund of the tax. The application ~~shall~~ must be in the form prescribed by the Secretary and ~~shall~~ must be accompanied by an affidavit from the manufacturer listing the tobacco products returned to the manufacturer by the applicant. The Secretary ~~shall~~ must refund the tax ~~paid, less the discount allowed,~~ paid on the listed products."

SECTION 6.4.(c) G.S. 105-113.85 is repealed.

SECTION 6.4.(d) This section becomes effective July 1, 2014, and applies to returns filed for periods beginning on or after that date.

PART VII. REPLACE LOCAL DISTRIBUTIONS WITH EXPANDED LOCAL SALES TAX BASE

SECTION 7.1.(a) G.S. 105-113.82 is repealed.

SECTION 7.1.(b) G.S. 108A-93 reads as rewritten:

"**§ 108A-93. Withholding of State moneys from counties failing to pay public assistance costs.**

The Director of the Budget may withhold from any county that does not pay its full share of public assistance costs to the State and has not obtained a loan for repayment under G.S. 108A-89, any State moneys appropriated from the General Fund for public assistance and related administrative costs, or may direct the Secretary of Revenue and State Controller to withhold any tax owed to a county under ~~G.S. 105-113.82,~~ Subchapter VIII of Chapter 105 of the General ~~Statutes,~~ Statutes or Chapter 1096 of the Session Laws of 1967. The Director of the Budget ~~shall~~ must notify the chair of the board of county commissioners of the proposed action prior to the withholding of funds."

SECTION 7.1.(c) This section becomes effective July 1, 2014.

SECTION 7.2.(a) G.S. 105-486(b) is repealed.

SECTION 7.2.(b) This section becomes effective January 1, 2014.

SECTION 7.3.(a) G.S. 105-523 reads as rewritten:

"**§ 105-523. County hold harmless for repealed local taxes.**

(a) Intent. – It is the intent of the General Assembly ~~that each county benefit by at least five hundred thousand dollars ($500,000) annually from the exchange of~~ to relieve counties of the burden of fund the non-administrative costs of Medicaid by exchanging a portion of the local sales and use taxes for the State's agreement to assume the responsibility for ~~the non-administrative costs of Medicaid.~~these costs. It is the further intent of the General Assembly to ensure that no county's revenues decrease as a result of this exchange.

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

...

(2) Hold harmless threshold. – The amount of a county's Medicaid service costs and Medicare Part D clawback payments assumed by the State under G.S. 108A-54 for the fiscal ~~year, less five hundred thousand dollars ($500,000). A county's Medicaid service costs for fiscal years 2008-2009, 2009-2010, and 2010-2011 are determined without regard to the changes made to the Federal Medical Assistance Percentage by section 5001 of the American Recovery and Reinvestment Act of 2009.~~year.

...

..."

SECTION 7.3.(b) This section becomes effective July 1, 2014, and applies to distributions for fiscal years beginning on or after that date.

SECTION 7.4.(a) G.S. 115C-546.1 reads as rewritten:

"**§ 115C-546.1. Creation of Fund; administration.**

(a) There is created the Public School Building Capital Fund. The Fund shall be used to assist county governments in meeting their public school building capital needs and their equipment needs under their local school technology plans.

~~(b) Each calendar quarter, the Secretary of Revenue shall remit to the State Treasurer for credit to the Public School Building Capital Fund an amount equal to the applicable fraction provided in the table below of the net collections received during the previous quarter by the Department of Revenue under G.S. 105-130.3. All funds deposited in the Public School Building Capital Fund shall be invested as provided in G.S. 147-69.2 and G.S. 147-69.3.~~

~~Period~~	~~Fraction~~
~~10/1/97 to 9/30/98~~	~~One-fifteenth (1/15)~~
~~10/1/98 to 9/30/99~~	~~Two-twenty-ninths (2/29)~~
~~10/1/99 to 9/30/00~~	~~One-fourteenth (1/14)~~
~~After 9/30/00~~	~~Five-sixty-ninths (5/69)~~

(c) The Fund shall be administered by the Department of Public Instruction."

SECTION 7.4.(b) G.S. 115C-546.2(a) is repealed.

SECTION 7.4.(c) This section becomes effective April 1, 2014, and applies to distributions for collections for quarters beginning on or after that date.

SECTION 7.5.(a) G.S. 105-228.30 reads as rewritten:

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

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

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

(b) Distribution. – The register of deeds of each county must remit the proceeds of the tax levied by this section to the county finance officer. The finance officer of each county must credit the proceeds as follows:

(1) ~~one-half~~ Forty percent (40%) of the proceeds to the county's general ~~fund~~ fund.

(2) Ten percent (10%) of the proceeds to the municipalities in the county on a per capita basis according to the total population of the municipalities in the county. In the case of a municipality located in more than one county, only that part of the population living in the taxing county is considered its "total population". To determine the population of each municipality, the finance officer must use the most recent annual estimate of population certified by the State Budget Officer.

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

PART VIII. TRANSITIONAL PROVISIONS

SECTION 8.(a) G.S. 105-237.1(a) reads as rewritten:

"(a) Authority. – The Secretary may compromise a taxpayer's liability for a tax that is collectible under G.S. 105-241.22 when the Secretary determines that the compromise is in the best interest of the State and makes one or more of the following findings:

...

(6) The taxpayer is a retailer or a consumer under Article 5 of this Chapter, the assessment is for sales or use tax the retailer failed to collect or the consumer failed to pay on an item that first became taxable under that Article on or after January 1, 2014, and the retailer or consumer made a good faith effort to comply with the sales and use tax laws."

SECTION 8.(b) The Revenue Laws Study Committee is directed to study the fiscal impact of the changes proposed by this act and to recommend to the General Assembly any adjustments needed. The Committee is specifically directed to address the following:

(1) The application of the business privilege tax on related business entities and to recommend to the General Assembly any changes needed to prevent vertical or horizontal pyramiding of the tax.

(2) The amount of additional revenue received by counties and cities as a result of the expansion of the sales tax base in this act and the amount by which local revenue is reduced by the repeal of local privilege license taxes and other taxes.

(3) The reasons for the remaining distributions of State tax revenue to local governments and ways to eliminate as many of these distributions as possible.

SECTION 8.(c) This act does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this act before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal.

SECTION 8.(d) This section is effective when it becomes law. Subsection (a) of this section expires January 1, 2024.

PART IX. PRIVILEGE TAX CONFORMING CHANGES

SECTION 9.(a) G.S. 93-12(12) and G.S. 105-259(b)(4) are repealed.

SECTION 9.(b) G.S. 53-165 reads as rewritten:

"**§ 53-165. Definitions.**

The following definitions apply in this Article:

~~(a)~~(1) ~~"Amount of the loan" shall mean the~~ Amount of the loan. – The aggregate of the cash advance and the charges authorized by G.S. 53-173 and G.S. 53-176.

~~(b)~~(2) ~~"Borrower" shall mean any~~ Borrower. – A person who borrows money ~~from any licensee or who pays or obligates himself to pay any money~~ from, pays or is obligated to pay money to, or otherwise furnishes any valuable consideration to any licensee for any act of the licensee as a licensee.

~~(c)~~(3) ~~"Cash advance" shall mean the~~ Cash advance. – The amount of cash or its equivalent ~~that the~~ a borrower actually receives or is paid out at ~~his discretion or on his behalf.~~ the discretion of the borrower or on behalf of the borrower.

~~(d)~~(4) ~~"Commission" shall mean the~~ Commission. – The State Banking Commission.

~~(e)~~(5) ~~"Commissioner" shall mean the~~ Commissioner. – The Commissioner of Banks.

~~(f)~~(6) ~~"Deputy commissioner" shall mean the~~ Deputy commissioner. – The deputy commissioner of banks.

(7) Installment paper dealer. – A person who buys or discounts notes or other evidences of debt secured, at the time the debt is incurred, by personal property located in this State.

~~(g)~~(8) ~~"License" shall mean the~~ License. – The certificate issued by the Commissioner under the authority of this Article to conduct a consumer finance business.

~~(h)~~(9) ~~"Licensee" shall mean a~~ Licensee. – A person to whom one or more licenses have been issued.

~~(i)~~(10) ~~"Loanable assets" shall mean cash or bank deposits or installment loans made as a licensee pursuant to this Article or installment loans made as a licensee pursuant to the Article which this Article supersedes or such other loans payable on an installment basis as the Commissioner of Banks may approve, or any combination of two or more thereof.~~Loanable assets. – Cash, bank deposits, installment loans, or any combination of these.

~~(j)~~(11) ~~"Person" shall include any person,~~ Person. – An individual, a firm, a partnership, ~~association or corporation.~~ an association, a limited liability company, a corporation, or another group acting as a unit."

SECTION 9.(c) G.S. 53-172(a) reads as rewritten:

"(a) No licensee shall conduct the business of making loans under this Article within any office, suite, room, or place of business in which any other business is solicited or transacted. The business of making loans includes acting as an installment paper dealer and collecting a loan made by a government regulated lender.

~~Installment paper dealers as defined in G.S. 105-83, and the collection by a licensee of loans legally made in North Carolina, or another state by another government regulated lender or lending agency, shall not be considered as being any other business within the meaning of this section.~~"

SECTION 9.(d) G.S. 53-191 reads as rewritten:

"**§ 53-191. Businesses exempted.**

~~Nothing in this~~ This Article ~~shall be construed to~~ does not apply to any ~~person, firm or corporation~~ person doing business under the authority of any law of this State or of the United States relating to banks, trust companies, savings and loan associations, cooperative credit unions, agricultural credit corporations or associations organized under the laws of North Carolina, production credit associations organized under the ~~act of Congress known as the~~ federal Farm Credit Act of 1933, pawnbrokers lending or advancing money on specific articles of personal property, industrial banks, ~~the business of negotiating~~ businesses that negotiate or solicit loans on real estate as ~~defined in G.S. 105-41,~~ agent for another for compensation, ~~nor to~~ or installment paper dealers ~~as defined in G.S. 105-83 other than persons, firms and corporations~~ other than persons engaged in the business of accepting fees for endorsing or otherwise securing loans or contracts for the repayment of loans."

SECTION 9.(e) G.S. 95-47.2(d)(3)c. reads as rewritten:

"(d) Upon the receipt of an application for a license the Commissioner:

...

(3) Upon completion of the investigation, or 60 days after the application was received, whichever is later, but in no case more than 75 days after the application was received, shall determine whether or not a license should be issued. The license shall be denied for any of the following reasons:

...

c. If the employment agency will be operated on the same premises as a ~~loan agency (as defined in G.S. 105-88) or collection agency (as defined in G.S. 58-70-15).~~any of the following:

1. A business that makes loans and takes as security for repayment of the loans an assignment of wages or any other type of security.
2. A check cashing business regulated under Article 22 of Chapter 53 of the General Statutes.
3. A pawnbroker business regulated under Chapter 91A of the General Statutes.
4. A collection agency, as defined in G.S. 58-70-15."

SECTION 9.(f) G.S. 105-130.6A(a)(2) reads as rewritten:

"(a) Definitions. – The provisions of G.S. 105-130.6 govern the determination of whether a corporation is a subsidiary or an affiliate of another corporation. In addition, the following definitions apply in this section:

...

(2) Bank holding company. – A holding company with an affiliate that is ~~subject to the privilege tax on banks levied in G.S. 105-102.3.~~engaged in the business of banking.

...."

SECTION 9.(g) This section becomes effective January 1, 2014.

PART X. FRANCHISE AND CORPORATE INCOME TAX CONFORMING CHANGES

SECTION 10.(a) G.S. 105-129.17(a) reads as rewritten:

"(a) Tax Election. – The credit allowed in G.S. 105-129.16A is allowed against the ~~franchise~~ privilege tax levied in Article 3 of this Chapter, the income taxes levied in Article 4 of this Chapter, or the gross premiums tax levied in Article 8B of this Chapter. All other credits allowed in this Article are allowed against the franchise tax levied in Article 3 of this Chapter or the income taxes levied in Article 4 of this Chapter. The taxpayer must elect the tax against which a credit will be claimed when filing the return on which the first installment of the credit is claimed. This election is binding. Any carryforwards of a credit must be claimed against the same tax."

SECTION 10.(b) G.S. 105-129.27(b) reads as rewritten:

"(b) Taxes Credited. – The credit provided in this section is allowed against the ~~franchise~~ privilege tax levied in Article 3 of this Chapter and the income tax levied in Part 1 of Article 4 of this Chapter. Any other nonrefundable credits allowed the owner are subtracted before the credit allowed by this section."

SECTION 10.(c) G.S. 105-129.41(a1) reads as rewritten:

"(a1) Tax Election. – The credit allowed in this section is allowed against the ~~franchise~~ privilege tax levied in Article 3 of this Chapter, the income taxes levied in Article 4 of this Chapter, or the gross premiums tax levied in Article 8B of this Chapter. The taxpayer must elect the tax against which the credit will be claimed when filing the return on which the first installment of the credit is claimed. This election is binding. Any carryforwards of the credit must be claimed against the same tax."

SECTION 10.(d) G.S. 105-129.50 reads as rewritten:

"**§ 105-129.50. Definitions.**

The definitions in section 41 of the Code apply in this Article. In addition, the following definitions apply in this Article:

(1) Development tier one area. – Defined in G.S. 143B-437.08.

(1a) Establishment. – Defined in 29 C.F.R. § 1904.46, as it existed on January 1, 2002.

(2) Full-time job. – Defined in G.S. 105-129.81.

(3) Reserved.

(4) North Carolina university research expenses. – Any amount the taxpayer paid or incurred to a research university for qualified research performed in this State or basic research performed in this State.

(4a) Participating community college. – A community college, as defined in G.S. 115D-2, that offers an associate in applied science degree in simulation and game development.

(5) Period of measurement. – Defined in the Small Business Size Regulations of the federal Small Business Administration.

(6) Qualified North Carolina research expenses. – Qualified research expenses, other than North Carolina university research expenses, for research performed in this State.

(7) Receipts. – Defined in the Small Business Size Regulations of the federal Small Business Administration.

(8) Related person. – ~~Defined in G.S. 105-163.010.~~A person described in one of the relationships set forth in section 267(b) or 707(b) of the Code.

(9) Research university. – An institution of higher education that meets one or both of the following conditions:

a. It is classified as one of the following in the most recent edition of "A Classification of Institutions of Higher Education", the official report of The Carnegie Foundation for the Advancement of Teaching:

1. Doctoral/Research Universities, Extensive or Intensive.
2. Masters Colleges and Universities, I or II.
3. Baccalaureate Colleges, Liberal Arts or General.

b. It is a constituent institution of The University of North Carolina.

(10) Small business. – A business whose annual receipts, combined with the annual receipts of all related persons, for the applicable period of measurement did not exceed one million dollars ($1,000,000)."

SECTION 10.(e) G.S. 105-129.51 reads as rewritten:

"**§ 105-129.51. ~~Administration;~~ Additional eligibility requirements and sunset.**

(a) Requirements. – A taxpayer is eligible for the credit allowed in this Article if it satisfies the ~~requirements of G.S. 105-129.83(c), (d), (e), and (f) relating to wage standard, health insurance, environmental impact, and safety and health programs, respectively.~~following standards:

(1) Wage. – For research performed at an establishment in a development tier two or development tier three area, the taxpayer must meet the general wage standard or, if applicable, the zone wage standard published by the Secretary of Commerce under G.S. 143B-437.010A. For research performed at an establishment in a development tier one area, no wage standard applies.

(2) Health insurance. – The health insurance standard set in G.S. 143B-437.010A applies to all the jobs at an establishment for which a credit or a carryforward of a credit is claimed under this Article. If a taxpayer qualifies for a credit under this Article and then fails to meet the health insurance standard during a taxable year, the credit expires, and the taxpayer may not take any remaining carryforwards of the credit.

(3) Environmental impact. – The environmental standard set in G.S. 143B-437.010A applies to a taxpayer who claims a credit under this Article. A taxpayer must meet the standard at the time the taxpayer claims the credit.

(4) Employee safety and health. – The employee safety and health standard set in G.S. 143B-437.010A applies to a taxpayer who claims a credit under this Article. A taxpayer must meet the standard at the time the taxpayer claims the credit.

(b) Sunset. – This Article is repealed for taxable years beginning on or after January 1, 2014.

(c) Repealed by Session Laws 2004-124, s. 32D.4, effective for taxable years beginning on or after January 1, 2006."

SECTION 10.(f) G.S. 105-129.73(a) reads as rewritten:

"(a) Taxes Credited. – The credits allowed by this Article may be claimed against the ~~franchise~~ privilege tax imposed under Article 3 of this Chapter, the income taxes imposed under Article 4 of this Chapter, or the gross premiums tax imposed under Article 8B of this Chapter. The taxpayer may take the credits allowed by this Article against only one of the taxes against which it is allowed. The taxpayer must elect the tax against which a credit will be claimed when filing the return on which it is claimed. This election is binding. Any carryforwards of the credit must be claimed against the same tax."

SECTION 10.(g) G.S. 105-129.96(b) reads as rewritten:

"(b) Taxes Credited. – The credit provided in this section is allowed against the ~~franchise~~ privilege tax levied in Article 3 of this Chapter or the income taxes levied in Article 4 of this Chapter. The taxpayer must elect the tax against which a credit will be claimed when filing the return on which the first installment of the credit is claimed. This election is binding. The credit may not exceed fifty percent (50%) of the tax against which it is applied. Any unused portion of a credit may be carried forward for the succeeding 10 years. Any carryforwards of a credit must be claimed against the same tax."

SECTION 10.(h) G.S. 105-130.6A(a) reads as rewritten:

"(a) Definitions. – The provisions of G.S. 105-130.6 govern the determination of whether a corporation is a subsidiary or an affiliate of another corporation. In addition, the following definitions apply in this section:

(1) Affiliated group. – A group that includes a corporation, all other corporations that are affiliates or subsidiaries of that corporation, and all other corporations that are affiliates or subsidiaries of another corporation in the group.

(2) Bank holding company. – A holding company with an affiliate that is engaged in the banking business.~~subject to the privilege tax on banks levied in G.S. 105-102.3.~~

(3) Dividends. – Dividends received that are not taxed under this Part.

(4) Electric power holding company. – A holding company with an affiliate or a subsidiary that is engaged in the business of producing electric power.~~subject to the franchise tax on electric power companies levied in G.S. 105-116.~~

(5) Expense adjustment. – The adjustment required by G.S. 105-130.5(c)(3) for expenses related to dividends not taxed under this Part.

(6) Holding company. – Defined in ~~G.S. 105-120.2.~~G.S. 105-114.2."

SECTION 10.(i) G.S. 105-130.6A(h) reads as rewritten:

"(h) Limitation on Credits. – The credits provided in this section are allowed against the tax levied in this Part and the ~~franchise~~ privilege tax levied in Article 3 of this Chapter. A taxpayer may claim a credit against only one of the taxes against which it is allowed. Each taxpayer must elect the tax against which the credit will be taken when filing the return on which the first installment of the credit is claimed. This election is binding. All installments and carryforwards of the credit must be taken against the same tax.

In order for a member of an affiliated group to take a credit, each member of the affiliated group that is required to file a return under this Part or under Article 3 of this Chapter must attach a schedule to its return that shows for every member of the group the amount of the credit taken by it, the tax against which it is taken, and the amount of the resulting tax. In addition, each member must provide any other documentation required by the Secretary.

A credit allowed in this section may not exceed the amount of tax against which it is taken for the taxable year reduced by the sum of all credits allowable, except tax payments made by or on behalf of the taxpayer. Any unused portion of the credit may be carried forward to succeeding taxable years."

SECTION 10.(j) G.S. 105-130.9(4) is repealed.

SECTION 10.(k) G.S. 105-130.46(f) reads as rewritten:

"(f) Allocation. – The credit allowed by this section may be taken against the income taxes levied under this Part or the ~~franchise~~ privilege taxes levied under Article 3 of this Chapter. When the taxpayer claims a credit under this section, the taxpayer must elect the percentage of the credit to be applied against the taxes levied under this Part with any remaining percentage to be applied against the taxes levied under Article 3 of this Chapter. This election is binding for the year in which it is made and for any carryforwards. A taxpayer may elect a different allocation for each year in which the taxpayer qualifies for a credit."

SECTION 10.(l) G.S. 105-230 reads as rewritten:

"**§ 105-230. ~~Charter suspended for failure to report.~~Suspension of business entity's right to do business for noncompliance.**

(a) Suspension. – ~~If a corporation or a limited liability company fails to file any~~ Failure of a business entity, as defined in G.S. 105-114.2, to file a report or return or to pay ~~any~~ a tax or fee required by this Subchapter for 90 days after it is ~~due, the Secretary shall inform the Secretary of State of this failure. The Secretary of State shall~~ due is grounds to suspend the business entity's articles of incorporation, articles of organization, ~~or~~ certificate of authority, ~~as appropriate, of the corporation or limited liability company. The Secretary of State shall immediately notify by mail every domestic or foreign corporation or limited liability company so suspended of its suspension.~~ or certificate of registration, as appropriate. The Secretary must notify the Secretary of State when a business entity's authority to transact business is subject to suspension. The Secretary of State must then immediately suspend the business entity's articles of incorporation or other authority to transact business and must notify the business entity by mail of the suspension. The powers, privileges, and franchises conferred upon the ~~corporation or limited liability company by the articles of incorporation, the articles of organization, or the certificate of authority~~ business entity by its articles of incorporation or other authority to transact business terminate upon suspension.

(b) Effect. – Any act performed or attempted to be performed during the period ~~of suspension~~ the business entity's authority to transact business is suspended under this section is invalid and of no effect, unless the Secretary of State reinstates the ~~corporation or limited liability company~~ business entity's authority pursuant to G.S. 105-232."

SECTION 10.(m) G.S. 105-232 reads as rewritten:

"**§ 105-232. ~~Rights restored; receivership and liquidation.~~Procedure for reinstatement after suspension of business entity's authority to do business for noncompliance.**

~~(a) Any corporation or limited liability company whose articles of incorporation, articles of organization, or certificate of authority to do business in this State has been suspended by the Secretary of State under G.S. 105-230, that complies with all the requirements of this Subchapter and pays all State taxes, fees, or penalties due from it (which total amount due may be computed, for years prior and subsequent to the suspension, in the same manner as if the suspension had not taken place), and pays to the Secretary of Revenue a fee of twenty-five dollars ($25.00) to cover the cost of reinstatement, is entitled to exercise again its rights, privileges, and franchises in this State. The Secretary of Revenue shall notify the Secretary of State of this compliance and the Secretary of State shall reinstate the corporation or limited liability company by appropriate entry upon the records of the office of the Secretary of State. Upon entry of reinstatement, it relates back to and takes effect as of the date of the suspension by the Secretary of State and the corporation or limited liability company resumes carrying on its business as if the suspension had never occurred, subject to the rights of any person who reasonably relied, to that person's prejudice, upon the suspension. The Secretary of State shall immediately notify by mail the corporation or limited liability company of the reinstatement.~~ The suspension under G.S. 105-230 of the authority of a business entity to transact business terminates when the business entity resolves the noncompliance that

resulted in the suspension and pays a reinstatement fee of fifty dollars ($50.00) to the Secretary of Revenue. The Secretary of Revenue must notify the Secretary of State when a business entity whose authority is suspended resolves the noncompliance. The Secretary of State must then immediately reinstate the business entity's authority and must notify the business entity by mail of the reinstatement. Reinstatement of a business entity's authority to do business relates back to and takes effect as of the date of the suspension, subject to the rights of a person who reasonably relied to that person's prejudice on the suspension.

~~(b) When the articles of incorporation, articles of organization, or certificate of authority to do business in this State has been suspended by the Secretary of State under G.S. 105-230, and the corporation or limited liability company has ceased to operate as a going concern, if there remains property held in the name of the corporation or limited liability company or undisposed of at the time of the suspension, or there remain future interests that may accrue to the corporation, the limited liability company, or its successors, members, or stockholders, any interested party may apply to the superior court for the appointment of a receiver. Application for the receiver may be made in a civil action to which all stockholders, members, or their representatives or next of kin shall be made parties. Stockholders or members whose whereabouts are unknown, unknown stockholders or members, unknown heirs and next of kin of deceased stockholders, members, creditors, dealers, and other interested persons may be served by publication. A guardian ad litem may be appointed for any stockholders, members, or their representatives who are infants or incompetent. The receiver shall enter into a bond if the court requires one and shall give notice to creditors by publication or otherwise as the court may prescribe. Any creditor who fails to file a claim with the receiver within the time set shall be barred of the right to participate in the distribution of the assets. The receiver may (i) sell the property interests of the corporation or limited liability company upon such terms and in such manner as the court may order, (ii) apply the proceeds to the payment of any debts of the corporation or limited liability company, and (iii) distribute the remainder among the stockholders, the members, or their representatives in proportion to their interests in the property interests. Shares due to any stockholder or member who is unknown or whose whereabouts are unknown shall be paid into the office of the clerk of the superior court, to be disbursed according to law. In the event the records of the corporation or limited liability company are lost or do not reflect the owners of the property interests, the court shall determine the owners from the best evidence available, and the receiver shall be protected in acting in accordance with the court's finding. This proceeding is authorized for the sole purpose of providing a procedure for disposing of the assets of the corporation or limited liability company by the payment of its debts and by the transfer to its stockholders, its members, or their representatives their proportionate shares of its assets.~~"

SECTION 10.(n) G.S. 105-259(b)(24), (37), and (38) are repealed.

SECTION 10.(o) G.S. 105-269.13 is repealed.

SECTION 10.(p) Article 10 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-437.08A. Wage, health insurance, and other standards applicable to economic development incentives.**

(a) Wage. – The Department must annually determine the average weekly wage for a calendar year for all insured private employers in each county and in the State and must publish the following wage standards applicable to economic development incentives:

(1) General wage standard. – A job meets the general wage standard if it pays an average weekly wage that is at least equal to the lesser of one hundred ten percent (110%) of the average wage for all insured private employers in the State and ninety percent (90%) of the average wage for all insured private employers in the county.

(2) Zone wage standard. – A job that is located within an urban progress zone or an agrarian growth zone in a development tier two or tier three area satisfies the wage standard if it pays an average weekly wage that is at least equal to ninety percent (90%) of the lesser of the average wage for all insured private employers in the State and the average wage for all insured private employers in the county.

(3) Calculation. – In determining whether an employer meets a wage standard, the employer may include only full-time jobs and must include any jobs that were filled for at least 1,600 hours during the calendar year even if the jobs are not filled at the time the employer applies for or claims an economic incentive benefit. An employer whose taxable year is not a calendar year must use the wage standard for the calendar year in which the taxable year begins. A full-time job is a position that requires at least 1,600 hours of work per year and is intended to be held by one employee during the entire year. A full-time employee is an employee who holds a full-time job.

(b) Health Insurance. – An employer meets the health insurance standard if the employer does all of the following:

(1) Provides health insurance for all of its full-time jobs. A full-time job is a position that requires at least 1,600 hours of work per year and is intended to be held by one employee during the entire year.

(2) Pays at least fifty percent (50%) of the premiums for health care coverage that equals or exceeds the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee pursuant to G.S. 58-50-125.

(c) Environmental Impact. – A person meets the environmental standard if the person has no pending administrative, civil, or criminal enforcement action based on alleged significant violations of any program implemented by an agency of the Department of Environment and Natural Resources and has had no final determination of responsibility for any significant administrative, civil, or criminal violation of any program implemented by an agency of the Department of Environment and Natural Resources within the last five years. A significant violation is a violation or alleged violation that does not satisfy any of the conditions of G.S. 143-215.6B(d). The Secretary of Environment and Natural Resources must notify the Department of Commerce and the Department of Revenue annually of every person that currently has any of these pending actions and every person that has had any of these final determinations within the last five years.

(d) Employee Safety and Health. – An employer meets the employee safety and health standard if the employer has no citations under the Occupational Safety and Health Act that have become a final order within the past three years for willful serious violations or for failing to abate serious violations. As used in this subsection, the term "serious violation" has the same meaning as in G.S. 95-127. The Commissioner of Labor must notify the Department of Commerce and the Department of Revenue annually of every person that has had these citations become final orders within the past three years."

SECTION 10.(q) G.S. 143B-437.01(a) and (a1) read as rewritten:

"(a) Creation and Purpose of Fund. – There is created in the Department of Commerce the Industrial Development Fund to provide funds to assist the local government units of the most economically distressed counties in the State in creating and retaining jobs in certain industries. The Department of Commerce shall adopt rules providing for the administration of the program. Those rules shall include the following provisions, which shall apply to each grant from the fund:

...

(6) The funds shall not be used for any nonmanufacturing project that does not meet the general wage standard set out in ~~G.S. 105-129.4(b).~~G.S. 143B-437.08A.

(a1) Definitions. – The following definitions apply in this section:

(1) Air courier services. – ~~Defined in G.S. 105-129.81.~~The furnishing of air delivery of individually addressed letters and packages for compensation, in interstate commerce, except by the United States Postal Service.

(2) Repealed by Session Laws 2006-252, s. 2.4, effective January 1, 2007.

(2a) Company headquarters. – ~~Defined in G.S. 105-129.81.~~A corporate, subsidiary, or regional managing office, as defined by NAICS in United States industry 551114, that is responsible for strategic or organizational planning and decision making for the business on an international, national, or multistate regional basis.

...

(6) Information technology and services. – ~~Defined in G.S. 105-129.81.~~An industry in one of the following, as defined by NAICS:

a. Data processing industry group 518.

b. Software publishers industry group 5112.

c. Computer systems design and related services industry group 5415.

d. An Internet activity included in industry group 519130.

...

(8) Manufacturing. – ~~Defined in G.S. 105-129.81.~~An industry in manufacturing sectors 31 through 33, as defined by NAICS, but not including quick printing or retail bakeries.

(9) NAICS. – Defined in G.S. 105-228.90.

(10) Warehousing. – ~~Defined in G.S. 105-129.81.~~An industry in warehousing and storage subsector 493 as defined by NAICS.

(11) Wholesale trade. – ~~Defined in G.S. 105-129.81.~~An industry in wholesale trade sector 42 as defined by NAICS."

SECTION 10.(r) This section becomes effective January 1, 2014.

PART XI. INDIVIDUAL INCOME TAX CONFORMING CHANGES

SECTION 11.(a) G.S. 105-131.2 reads as rewritten:

"**§ 105-131.2. Adjustment and characterization of income.**

(a) Adjustment. – Each shareholder's pro rata share of an S Corporation's income is subject to the adjustments provided in ~~G.S. 105-134.6.~~G.S. 105-153.5.

(b) Repealed by Session Laws 1989, c. 728, s. 1.35.

(c) Characterization of Income. – S Corporation items of income, loss, deduction, and credit taken into account by a shareholder pursuant to G.S. 105-131.1(b) are characterized as though received or incurred by the S Corporation and not its shareholder."

SECTION 11.(b) G.S. 105-131.5 reads as rewritten:

"**§ 105-131.5. Part-year resident shareholder.**

If a shareholder of an S Corporation is both a resident and nonresident of this State during any taxable period, the shareholder's pro rata share of the S Corporation's income attributable to the State and income not attributable to the State for the taxable period shall be further prorated between the shareholder's periods of residence and nonresidence, in accordance with the number of days in each period, as provided in ~~G.S. 105-134.5.~~G.S. 105-153.4."

SECTION 11.(c) G.S. 105-131.7(c) reads as rewritten:

"(c) An S Corporation ~~shall~~ must file with the Department, on a form prescribed by the Secretary, the agreement of each nonresident shareholder of the corporation (i) to file a return and make timely payment of all taxes imposed by this State on the shareholder with respect to

the income of the S Corporation, and (ii) to be subject to personal jurisdiction in this State for purposes of the collection of any unpaid income tax, together with related interest and penalties, owed by the nonresident shareholder. If the corporation fails to timely file an agreement required by this subsection on behalf of any of its nonresident shareholders, then the corporation ~~shall~~ must at the time specified in subsection (d) of this section pay to the Department on behalf of each nonresident shareholder with respect to whom an agreement has not been timely filed an estimated amount of the tax due the State. The estimated amount of tax due the State ~~shall be~~ is computed at the ~~rates~~ rate levied in ~~G.S. 105-134.2(a)(3)~~ G.S. 105-153.7 on the shareholder's pro rata share of the S Corporation's income attributable to the State reflected on the corporation's return for the taxable period. An S Corporation may recover a payment made pursuant to the preceding sentence from the shareholder on whose behalf the payment was made."

SECTION 11.(d) G.S. 105-131.8(a) reads as rewritten:

"(a) For purposes of ~~G.S. 105-151~~ G.S. 105-153.9 and G.S. 105-160.4, each resident shareholder is considered to have paid a tax imposed on the shareholder in an amount equal to the shareholder's pro rata share of any net income tax paid by the S Corporation to a state that does not measure the income of S Corporation shareholders by the income of the S Corporation. For purposes of the preceding sentence, the term "net income tax" means any tax imposed on or measured by a corporation's net income."

SECTION 11.(e) G.S. 105-154(d) reads as rewritten:

"(d) Payment of Tax on Behalf of Nonresident Owner or Partner. – If a business conducted in this State is owned by a nonresident individual or by a partnership having one or more nonresident members, the manager of the business ~~shall~~ must report the earnings of the business in this State, the distributive share of the income of each nonresident owner or partner, and any other information required by the Secretary. The manager of the business ~~shall~~ must pay with the return the tax on each nonresident owner or partner's share of the income computed at the rate levied on individuals under ~~G.S. 105-134.2(a)(3).~~ G.S. 105-153.7. The business may deduct the payment for each nonresident owner or partner from the owner or partner's distributive share of the profits of the business in this State. If the nonresident partner is not an individual and the partner has executed an affirmation that the partner will pay the tax with its corporate, partnership, trust, or estate income tax return, the manager of the business is not required to pay the tax on the partner's share. In this case, the manager ~~shall~~ must include a copy of the affirmation with the report required by this subsection."

SECTION 11.(f) G.S. 105-159 reads as rewritten:

"**§ 105-159. Federal corrections.**

If a taxpayer's ~~federal taxable income~~ adjusted gross income or federal tax credit is corrected or otherwise determined by the federal government, the taxpayer must, within six months after being notified of the correction or final determination by the federal government, file an income tax return with the Secretary reflecting the corrected or determined ~~taxable income.~~ adjusted gross income or federal tax credit. The Secretary must propose an assessment for any additional tax due from the taxpayer as provided in Article 9 of this Chapter. The Secretary must refund any overpayment of tax as provided in Article 9 of this Chapter. A taxpayer who fails to comply with this section is subject to the penalties in G.S. 105-236 and forfeits the right to any refund due by reason of the determination."

SECTION 11.(g) G.S. 105-163.1 reads as rewritten:

"**§ 105-163.1. Definitions.**

The following definitions apply in this Article:

...

(6) Individual. – Defined in ~~G.S. 105-134.1.~~ G.S. 105-153.3.

...

(13) Wages. – The term has the same meaning as in section 3401 of the Code except it does not include ~~either of the following:~~

~~a. The amount of severance wages paid to an employee during the taxable year that is exempt from State income tax for that taxable year under G.S. 105-134.6(b)(11).~~

~~b.~~ ~~The~~ the amount an employer pays an employee as reimbursement for ordinary and necessary expenses incurred by the employee on behalf of the employer and in the furtherance of the business of the employer.

...."

SECTION 11.(h) G.S. 105-163.22 reads as rewritten:

"**§ 105-163.22. Reciprocity.**

The Secretary may, with the approval of the Attorney General, enter into agreements with the taxing authorities of states having income tax withholding statutes with such agreements to govern the amounts to be withheld from the wages and salaries of residents of such other state or states under the provisions of this Article when such other state or states grant similar treatment to the residents of this State. ~~Such~~ The agreements may provide for recognition of the anticipated tax credits allowed under the provisions of ~~G.S. 105-151~~ G.S. 105-153.9 in determining the amounts to be withheld."

SECTION 11.(i) Effective for taxable years beginning on or after January 1, 2014, G.S. 105-259(b)(34) and (36) are repealed.

SECTION 11.(j) G.S. 105-277.3(d1) reads as rewritten:

"(d1) ~~Exception for Easements on Qualified~~ Conservation ~~Lands Previously Appraised at Use Value.~~ Exception. – Property that is appraised at its present-use value under G.S. 105-277.4(b) shall continue to qualify for appraisal, assessment, and taxation as provided in G.S. 105-277.2 through G.S. 105-277.7 as long as ~~(i) the property is subject to an enforceable conservation easement that would qualify for the conservation tax credit provided in G.S. 105-130.34 and G.S. 105-151.12, without regard to actual production or income requirements of this section; and (ii) the taxpayer received no more than seventy-five percent (75%) of the fair market value of the donated property interest in compensation.~~ the property is subject to a conservation easement that meets the property eligibility requirements under G.S. 113A-232. Notwithstanding G.S. 105-277.3(b) and (b1), subsequent transfer of the property does not extinguish its present-use value eligibility as long as the property remains subject to ~~an enforceable~~ a qualifying conservation ~~easement that qualifies for the conservation tax credit provided in G.S. 105-130.34 and G.S. 105-151.12.~~ easement. The exception provided in this subsection applies only to that part of the property that is subject to the easement."

SECTION 11.(k) G.S. 105-309(d) reads as rewritten:

"(d) Personal property shall be listed to indicate the township and municipality, if any, in which it is taxable and shall be itemized by the taxpayer in such detail as may be prescribed by an abstract form approved by the Department of Revenue. ~~Personal property shall also be listed to indicate which property, if any, is subject to a tax credit under G.S. 105-151.21.~~

(1) If the assessor considers it necessary to obtain a complete listing of personal property, the assessor may require a taxpayer to submit additional information, inventories, or itemized lists of personal property.

(2) At the request of the assessor, the taxpayer shall furnish any information the taxpayer has with respect to the true value of the personal property the taxpayer is required to list."

SECTION 11.(l) G.S. 105-320(a)(16) is repealed.

SECTION 11.(m) G.S. 110-130.1(a) reads as rewritten:

"(a) All child support collection and paternity determination services provided under this Article to recipients of public assistance shall be made available to any individual not receiving

public assistance in accordance with federal law and as contractually authorized by the nonrecipient, upon proper application and payment of a nonrefundable application fee of twenty-five dollars ($25.00). The fee shall be reduced to ten dollars ($10.00) if the individual applying for the services is indigent. An indigent individual is an individual whose gross income does not exceed one hundred percent (100%) of the federal poverty guidelines issued each year in the Federal Register by the U.S. Department of Health and Human Services. For the purposes of this subsection, the term "gross income" has the same meaning as defined in ~~G.S. 105-134.1.~~section 61 of the Code, and the term "Code" has the same meaning as defined in G.S. 105-228.90.

In the case of an individual who has never received assistance under a State program funded pursuant to Title IV-A of the Social Security Act and for whom the State has collected and disbursed to the family in a federal fiscal year at least five hundred dollars ($500.00) of support, the State shall impose an annual fee of twenty-five dollars ($25.00) for each case in which services are furnished. The child support agency shall retain the fee from support collected on behalf of the individual. However, the child support agency shall not retain the fee from the first five hundred dollars ($500.00) collected. The child support agency shall use the fee to support the ongoing operation of the program."

SECTION 11.(n) G.S. 113-77.9(d) reads as rewritten:

"(d) Acquisition. – The Department of Administration may, pursuant to G.S. 143-341, acquire by purchase, gift, or devise all lands selected by the Trustees for acquisition pursuant to this Article. Title to any land acquired pursuant to this Article shall be vested in the State. A State agency with management responsibility for land acquired pursuant to this Article may enter into a management agreement or lease with a county, city, town, or private nonprofit organization ~~qualified under G.S. 105-151.12 and G.S. 105-130.34 and~~ certified under section 501(c)(3) of the Internal Revenue Code to aid in managing the land. A management agreement or lease shall be executed by the Department of Administration pursuant to G.S. 143-341."

SECTION 11.(o) G.S. 113A-231 reads as rewritten:

"**§ 113A-231. Program to accomplish conservation purposes.**

The Department of Environment and Natural Resources shall develop a nonregulatory program ~~that uses conservation tax credits as a prominent tool~~ to accomplish conservation purposes, including the maintenance of ecological systems. As a part of this program, the Department shall exercise its powers to protect real property and interests in real ~~property:~~ property donated for ~~tax credit under G.S. 105-130.34 or G.S. 105-151.12; conserved with the use of other financial incentives; or, conserved through nonregulatory programs.~~ conservation or conserved by other means. The Department shall call upon the Attorney General for legal assistance in developing and implementing the program."

SECTION 11.(p) G.S. 113A-232 reads as rewritten:

"**§ 113A-232. Conservation Grant Fund.**

(a) Fund Created. – The Conservation Grant Fund is created within the Department of Environment and Natural Resources. The Fund shall be administered by the Department. The purpose of the Fund is to stimulate the use of conservation ~~easements and conservation tax credits,~~ easements, to improve the capacity of private nonprofit land trust organizations to successfully accomplish conservation projects, to better equip real estate related professionals to pursue opportunities for conservation, to increase landowner participation in land and water conservation, and to provide an opportunity to leverage private and other public monies for conservation easements.

(b) Fund Sources. – The Conservation Grant Fund shall consist of any monies appropriated to it by the General Assembly and any monies received from public or private sources. Unexpended monies in the Fund that were appropriated from the General Fund by the General Assembly shall revert at the end of the fiscal year unless the General Assembly

otherwise provides. Unexpended monies in the Fund from other sources shall not revert and shall remain available for expenditure in accordance with this Article.

(c) Property Eligibility. – In order for real property or an interest in real property to be the subject of a grant under this Article, the real property or interest in real property must meet all of the following conditions:

(1) ~~possess~~ Possess or have a high potential to possess ecological ~~value, must be~~ value.

(2) Be reasonably ~~restorable, and must qualify for tax credits under G.S. 105-130.34 or G.S. 105-151.12.~~restorable.

(3) Be useful for one or more of the following purposes:

a. Public beach access or use.

b. Public access to public waters or trails.

c. Fish and wildlife conservation.

d. Forestland or farmland conservation.

e. Watershed protection.

f. Conservation of natural areas as that term is defined in G.S. 113A-164.3(3).

g. Conservation of predominantly natural parkland.

(4) Be donated in perpetuity to and accepted by the State, a local government, or a body that is both organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions under G.S. 105-130.9. Land required to be dedicated pursuant to local governmental regulation or ordinance and dedications made to increase building density levels permitted under a regulation or ordinance do not qualify.

(c1) Grant Eligibility. – State conservation land management agencies, local government conservation land management agencies, and private nonprofit land trust organizations are eligible to receive grants from the Conservation Grant Fund. Private nonprofit land trust organizations must be ~~qualified pursuant to G.S. 105-130.34 and G.S. 105-151.12 and must be~~ certified under section 501(c)(3) of the Internal Revenue ~~Code.~~Code to aid in managing the land.

(d) Use of Revenue. – Revenue in the Conservation Grant Fund may be used only for the following purposes:

(1) The administrative costs of the Department in administering the Fund.

(2) Conservation grants made in accordance with this Article.

(3) To establish an endowment account, the interest from which will be used for a purpose described in G.S. 113A-233(a)."

SECTION 11.(q) G.S. 113A-233 reads as rewritten:

"**§ 113A-233. Uses of a grant from the Conservation Grant Fund.**

(a) Allowable Uses. – A grant from the Conservation Grant Fund may be used only to pay for one or more of the following costs:

(1) Reimbursement for total or partial transaction costs for a donation of real property or an interest in real property from an individual or corporation satisfying either of the following:

a. Insufficient financial ability to pay all costs or insufficient taxable income to allow these costs to be included in the donated value.

b. Insufficient tax burdens to allow these costs to be offset by ~~the value of tax credits under G.S. 105-130.34 or G.S. 105-151.12 or by~~ charitable deductions.

(2) Management support, including initial baseline inventory and planning.

(3) Monitoring compliance with conservation easements, the related use of riparian buffers, natural areas, and greenways, and the presence of ecological integrity.
(4) Education on conservation, including information materials intended for landowners and education for staff and volunteers.
(5) Stewardship of land.
(6) Transaction costs for recipients, including legal expenses, closing and title costs, and unusual direct costs, such as overnight travel.
(7) Administrative costs for short-term growth or for building capacity.

(b) Prohibition. – The Fund shall not be used to pay the purchase price of real property or an interest in real property."

SECTION 11.(r) G.S. 113A-256(g) is repealed.

SECTION 11.(s) This section becomes effective January 1, 2015.

PART XII. SALES TAX CONFORMING CHANGES

SECTION 12.1.(a) The following statutes are repealed:

G.S. 106-507
G.S. 106-516
G.S. 106-517
G.S. 106-518
G.S. 106-519
G.S. 106-520
G.S. 140-10.1

SECTION 12.1.(b) G.S. 105-164.9 is repealed.

SECTION 12.1.(c) G.S. 105-164.10 reads as rewritten:

"**§ 105-164.10. Retail bracket system.**

For the convenience of the retailer in collecting the tax due under this Article, the Secretary ~~shall~~ must prescribe tables that compute the tax due on sales by rounding off the amount of tax due to the nearest whole cent. The Secretary ~~shall~~ must issue a separate table for each rate of tax that may apply to a ~~sale, including the general rate established in G.S. 105-164.4, preferential rates, and combined State and local rates. Use of the tables prescribed by the Secretary does not relieve a retailer of liability for the applicable rate of tax due on the gross receipts or net taxable sales of the retailer.~~sale."

SECTION 12.1.(d) G.S. 105-164.44F(a) reads as rewritten:

"(a) Amount. – The Secretary must distribute part of the taxes imposed by ~~G.S. 105-164.4(a)(4c)~~ G.S. 105-164.4 on telecommunications service and ancillary service. The Secretary must make the distribution within 75 days after the end of each calendar quarter. The amount the Secretary must distribute is the following percentages of the net proceeds of the taxes collected during the quarter:

...."

SECTION 12.1.(e) G.S. 105-164.44I(a) reads as rewritten:

"(a) Distribution. – The Secretary must distribute to the counties and cities part of the taxes imposed by ~~G.S. 105-164.4(a)(4c)~~ G.S. 105-164.4 on telecommunications service and ~~G.S. 105-164.4(a)(6) on~~ video programming service. The Secretary must make the distribution within 75 days after the end of each calendar quarter. The amount the Secretary must distribute is the sum of the revenue listed in this subsection. ~~The~~ From this amount, the Secretary must ~~distribute two million dollars ($2,000,000) of this amount in accordance with~~ first make the distribution required by subsection (b) of this section and then distribute the remainder in accordance with subsections (c) and (d) of this section. The revenue to be distributed under this section consists of the following:

...."

SECTION 12.1.(f) G.S. 105-449.106(c) reads as rewritten:

"(c) Special Mobile Equipment. – A person who purchases and uses motor fuel to operate special mobile equipment off-highway may receive a quarterly refund, for the excise tax paid during the preceding quarter, at a rate equal to the flat cents-per-gallon rate plus the variable cents-per-gallon rate in effect during the quarter for which the refund is claimed, less the amount of sales and use tax ~~or privilege tax~~ due on the fuel under this Chapter, as determined in accordance with G.S. 105-449.107(c). An application for a refund must be made in accordance with this Part."

SECTION 12.1.(g) G.S. 105-449.107 reads as rewritten:

"**§ 105-449.107. Annual refunds for off-highway use and use by certain vehicles with power attachments.**

(a) Off-Highway. – A person who purchases and uses motor fuel for a purpose other than to operate a licensed highway vehicle may receive an annual refund for the excise tax the person paid on fuel used during the preceding calendar year. The amount of refund allowed is the amount of the flat cents-per-gallon rate in effect during the year for which the refund is claimed plus the average of the two variable cents-per-gallon rates in effect during that year, less the amount of sales and use tax ~~or privilege tax~~ due on the fuel under this Chapter. An application for a refund allowed under this section must be made in accordance with this Part.

(b) Certain Vehicles. – A person who purchases and uses motor fuel in one of the vehicles listed below may receive an annual refund for the amount of fuel consumed by the vehicle:

(1) A concrete mixing vehicle.
(2) A solid waste compacting vehicle.
(3) A bulk feed vehicle that delivers feed to poultry or livestock and uses a power takeoff to unload the feed.
(4) A vehicle that delivers lime or fertilizer in bulk to farms and uses a power takeoff to unload the lime or fertilizer.
(5) A tank wagon that delivers alternative fuel, as defined in G.S. 105-449.130, or motor fuel or another type of liquid fuel into storage tanks and uses a power takeoff to make the delivery.
(6) A commercial vehicle that delivers and spreads mulch, soils, composts, sand, sawdust, and similar materials and that uses a power takeoff to unload, blow, and spread the materials.
(7) A commercial vehicle that uses a power takeoff to remove and dispose of septage and for which an annual fee is required to be paid to the Department of Environment and Natural Resources under G.S. 130A-291.1.
(8) A sweeper.

The amount of refund allowed is thirty-three and one-third percent (33 1/3%) of the following: the sum of the flat cents-per-gallon rate in effect during the year for which the refund is claimed and the average of the two variable cents-per-gallon rates in effect during that year, less the amount of sales and use tax ~~or privilege tax~~ due on the fuel under this Chapter. An application for a refund allowed under this section must be made in accordance with this Part. This refund is allowed for the amount of fuel consumed by the vehicle in its mixing, compacting, or unloading operations, as distinguished from propelling the vehicle, which amount is considered to be one-third of the amount of fuel consumed by the vehicle.

(c) Sales Tax Amount. – Article 5 of this Chapter determines the amount of sales and use tax to be deducted under this section from a motor fuel excise tax refund. ~~Article 5F of this Chapter determines the amount of privilege tax to be deducted under this section from a motor fuel excise tax refund.~~ The sales price and the cost price of motor fuel to be used in determining the amount to deduct is the average of the wholesale prices used under G.S. 105-449.80 to

determine the excise tax rates in effect for the two six-month periods of the year for which the refund is claimed."

SECTION 12.1.(h) This section becomes effective January 1, 2014. Subsections (f) and (g) of this section apply to a claim for refund of taxes paid on motor fuel on or after January 1, 2014.

SECTION 12.2.(a) G.S. 105-164.14(c) reads as rewritten:

"(c) Certain Governmental Entities. – A governmental entity listed in this subsection is allowed an annual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services, other than electricity, telecommunications service, ~~and ancillary service.~~ ancillary service, and piped natural gas. Sales and use tax liability indirectly incurred by a governmental entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the governmental entity and is being erected, altered, or repaired for use by the governmental entity is considered a sales or use tax liability incurred on direct purchases by the governmental entity for the purpose of this subsection. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the governmental entity's fiscal year.

This subsection applies only to the following governmental entities:

...."

SECTION 12.2.(b) This section becomes effective January 1, 2014.

PART XIII. LOCAL GOVERNMENT DISTRIBUTION CONFORMING CHANGES

SECTION 13.(a) G.S. 153A-134 reads as rewritten:

"**§ 153A-134. Regulating and licensing businesses, trades, etc.**

A county may by ordinance, subject to the general law of the State, regulate and license occupations, businesses, trades, professions, and forms of amusement or entertainment and prohibit those that may be inimical to the public health, welfare, safety, order, or convenience. In licensing trades, occupations, and professions, the county may, consistent with the general law of the State, require applicants for licenses to be examined and charge a reasonable fee ~~therefor.~~ for the examination. ~~This~~

This section does not authorize a county to ~~examine~~ do any of the following:

(1) Examine or license a person holding a license issued by an occupational licensing board of this State as to the profession or trade ~~that he~~ the person has been licensed to practice or pursue by the State.

(2) Levy a privilege license tax on an entity that is subject to regulation and license under this section.

~~This section does not impair the county's power to levy privilege license taxes on occupations, businesses, trades, professions, and other activities pursuant to G.S. 153A-152.~~"

SECTION 13.(b) The catch line to G.S. 153A-156 reads as rewritten:

"**§ 153A-156. ~~Gross receipts tax on short-term leases or rentals.~~ Motor vehicle gross receipts tax in lieu of property tax.**"

SECTION 13.(c) G.S. 153A-156(a) reads as rewritten:

"(a) ~~As a substitute for and in replacement of the ad valorem tax, which is excluded by G.S. 105-275(42), a~~ A county may levy a gross receipts tax on the gross receipts from the short-term lease or rental of vehicles at retail to the general public. The tax rate shall not exceed one and one-half percent (1.5%) of the gross receipts from ~~such~~ the short-term leases or rentals. Motor vehicles subject to this tax are exempt from property tax under G.S. 105-275, and this tax provides an alternative to the property tax on the motor vehicles."

SECTION 13.(d) G.S. 160A-194 reads as rewritten:

"**§ 160A-194. Regulating and licensing businesses, trades, etc.**

A city may by ordinance, subject to the general law of the State, regulate and license occupations, businesses, trades, professions, and forms of amusement or entertainment and prohibit those that may be inimical to the public health, welfare, safety, order, or convenience. In licensing trades, occupations, and professions, the city may, consistent with the general law of the State, require applicants for licenses to be examined and charge a reasonable fee ~~therefor.~~ for the examination. ~~Nothing in this section shall impair the city's power to levy privilege license taxes on occupations, businesses, trades, professions, and other activities pursuant to G.S. 160A-211.~~

~~Nothing in this section shall~~ This section does not authorize a city to ~~examine~~ do any of the following:

(1) Examine or license a person holding a license issued by an occupational licensing board of this State as to the profession or trade ~~that he~~ the person has been licensed to practice or pursue by the State.

(2) Levy a privilege license tax on an entity that is subject to regulation and license under this section."

SECTION 13.(e) The catch line to G.S. 160A-215.1 reads as rewritten:

"**§ 160A-215.1. ~~Gross receipts tax on short-term leases or rentals.~~Motor vehicle gross receipts tax in lieu of property tax.**"

SECTION 13.(f) G.S. 160A-215.1(a) reads as rewritten:

"(a) ~~As a substitute for and in replacement of the ad valorem tax, which is excluded by G.S. 105-275(42), a~~ A city may levy a gross receipts tax on the gross receipts from the short-term lease or rental of vehicles at retail to the general public. The tax rate shall not exceed one and one-half percent (1.5%) of the gross receipts from ~~such~~ the short-term leases or rentals. ~~This tax on gross receipts is in addition to the privilege taxes authorized by G.S. 160A-211.~~ Motor vehicles subject to this tax are exempt from property tax under G.S. 105-275, and this tax provides an alternative to the property tax on the motor vehicles."

SECTION 13.(g) This section becomes effective July 1, 2014.

PART XIV. UNEMPLOYMENT INSURANCE DEBT REDUCTION AND BENEFIT CHANGES

SECTION 14.(a) There is appropriated from the General Fund to the Unemployment Insurance Fund the sum of three hundred twenty-five million dollars ($325,000,000) for the 2013-2014 fiscal year and the sum of three hundred fifty million dollars ($350,000,000) for the 2014-2015 fiscal year to be used to make principal payments on advances made by the federal government under Title XII of the Social Security Act to the Unemployment Insurance Fund to pay unemployment compensation benefits.

SECTION 14.(b) Section 11 of S.L. 2013-2 reads as rewritten:

"**SECTION 11.** This act becomes effective July 1, 2013. Changes made by this act to unemployment benefits apply to claims for benefits filed on or after ~~July 1, 2013.~~ January 1, 2014. Changes made by this act to require an account balance by an employer that is a governmental entity or a nonprofit organization and that elects to finance benefits by making reimbursable payments in lieu of contributions apply to advance payments payable for calendar quarters beginning on or after July 1, 2013. Changes made by this act to the determination and application of the contribution rate apply to contributions payable for calendar quarters beginning on or after January 1, 2014."

SECTION 14.(c) Subsection (a) of this section becomes effective July 1, 2013. The remainder of this section is effective when it becomes law.

PART XV. EFFECTIVE DATE

SECTION 15. Except as otherwise provided, this act is effective when it becomes law.

Senate Bill 394:
Lower Tax Rates for a Stronger NC Economy

Sponsored by Senators Clodfelter, Hartsell, Jenkins, and Meredith

A proposed committee substitute was presented to the Senate Finance Committee on April 3, 2015. The attached proposed committee substitute, S394-CSRBx-20, is a revision of the one presented in April.

- Bill Contents
- Fiscal Impact Summary
- Personal Income Tax Incidence Chart
- Differences between the revised proposal and the one distributed in April.

SB 394: Lower Tax Rates for a Stronger NC Economy

Revised PCS – May 30, 2013

S394-CSRBx-20

Summary

	Eff. Date
Individual Income Tax Changes	
Eliminate $50,000 business deduction	01/01/2013
5.95% Flat Rate	01/01/2015
New household deduction ranging from $500 to $5,000 (MFJ)	
Amend Personal Exemption	
New housing expense allowance equal to greater of $5,000 or the mortgage interest amount attributable to the taxpayer's legal residence, not to exceed $10,000 (MFJ)	
Eliminate Standard and Itemized Deductions	
Eliminate Other Retirement Benefits Deduction	
Eliminate all Credits, except for the following:	
NEW: Charitable Contributions Credit – 5.95% Rate and $300 Credit Cap ($5,042 in contributions)	
NEW: Sales tax credit equal to $25 if AGI less than $50,000	
Business Tax Changes	
Repeal State and Local Privilege License Tax	Various
Expand franchise tax base and reduce rate to $1.25/$1,000	01/01/2015
Moves to single sales factor apportionment formula with sales factor 70% weighting	01/01/2014
Replaces NEL with modified NOL deduction (no carryback)	01/01/2014
Expand corporate income tax base and reduce rate to 5.95%	01/01/2014
Repeal ineffective tax credits and extend sunset on others	01/01/2014
Repeal 1%, $80 excise tax	01/01/2014
Repeal piped gas excise tax	01/01/2014
Repeal electricity franchise tax	01/01/2014
Repeal discounts	07/01/2014
Eliminate annual report fees	01/01/2015
Sales Tax Changes	
Repeal vending, newspaper, and various other exemptions	07/01/2013
Transfer entertainment from privilege tax and expand to include other recreation charges	07/01/2013
Include tangible personal property services	01/01/2014
Include real property care and maintenance services	07/01/2014
Limit equipment exemptions to capital equipment	01/01/2014
Modify other exemptions and rates for consistency	01/01/2014
Eliminate electricity preferential rates and tax at combined State rate	01/01/2014

Include piped natural gas in State and local tax base	01/01/2014
Reduce State Sales Tax Rate To 4.5%	09/01/2014

State/Local Distribution Changes	
Repeal distribution to Public School Capital Fund	04/01/2014
Repeal distribution of State excise tax on beer and wine	07/01/2014
Distribute a portion of the franchise tax revenues to cities	January 1, 2015 FY14-15
Retain local government sales tax refund	07/01/2015
Require counties to distribute 10% of revenue from excise tax on conveyances to cities on a per capita basis	
Reduce Medicaid hold-harmless	07/01/2013

SB 394 (CS-RBx-20): Lower Rates for a Stronger NC Economy

Summary	Eff. Date	State $Millions 13-14	14-15	15-16	16-17	Local $Millions 13-14	14-15	15-16	16-17
Business Tax Changes									
Repeal state and local privilege license tax	Various	(50.0)	(51.3)	(52.5)	(53.8)		(54.7)	(54.7)	(54.7)
Expand franchise tax base to LLCs and insurance companies and reduce rate to $1.25/$1,000 with $200 minimum fee	01/01/2015		140.0	142.0	145.0		66.0	67.0	68.0
Expand corporate income tax base and reduce rate to 5.95%	01/01/2014	(65.1)	(158.6)	(167.5)	(176.3)				
Increase sales factor apportionment weight from 50% to 70%	01/01/2014	(37.8)	(84.7)	(86.2)	(87.9)				
Repeal ineffective tax credits and extend sunset on others	01/01/2014	6.3	(21.4)	(54.7)	(54.7)				
Repeal 1%, $80 excise tax	01/01/2014	(17.4)	(39.2)	(40.2)					
Repeal piped gas excise tax	01/01/2014	(11.4)	(25.6)	(26.0)	(26.7)	(20.0)	(20.1)	(20.4)	(20.7)
Repeal electricity franchise tax	01/01/2014	(78.5)	(157.0)	(157.0)	(160.9)	(93.5)	(187.0)	(189.0)	(190.9)
Repeal discounts	07/01/2014		12.0	12.0	12.0				
Adopt federal NOL, but with no carryback provision	01/01/2014	(1.3)	(2.8)	(2.9)	(3.1)	(0.1)	(0.2)	(0.2)	(0.2)
Eliminate annual report fees	01/01/2015		(30.0)	(31.2)	(32.4)				
Total Business Tax Changes		(255.2)	(418.5)	(464.2)	(438.8)	(113.6)	(196.0)	(197.3)	(198.5)
Individual Income Tax Changes									
5.95% Flat Rate	01/01/2015		(352.2)	(920.1)	(950.6)				
Household Deduction: $1,000 / $800 / $500 (MFJ / HOH / S)									
Establish new personal exemptions: (AGI amounts shown are for Married Filing Jointly)									
AGI < $50,000: $5,000									
AGI between $50,000 and $125,000: $3,000									
AGI between $125,000 and $200,000: $1,000									
AGI > $200,000: $500									
Housing Expense Allowance									
Greater of $5,000/$4,000/$2500 (MFJ/HoH/S) or Mortgage Interest									
Mortgage Interest capped at $10,000/$8,000/$5,000 (MFJ/HoH/S)									
Eliminate Other Retirement Benefits Deduction									
Eliminate all Credits, except for the following:									
Charitable Contributions Credit - 5.95% Rate and $300 Credit Cap ($5,042 in contributions)									
Sales Tax Credit: (AGI amounts shown are for Married Filing Jointly)									
AGI < $50,000: $25									
AGI > $50,000: $0									
Eliminate $50K business exemption	01/01/2013	365.7	385.7	421.4	442.0				
		365.7	33.5	(498.7)	(508.6)				
Sales Tax Changes									
Repeal vending, newspaper, and various other exemptions	07/01/2013	28.9	31.4	32.2	33.0	12.2	13.2	13.6	13.9
Transfer entertainment from privilege tax and expand to include other recreation charges	07/01/2013	55.0	125.7	133.0	136.2	23.2	52.9	56.0	57.4
Include tangible personal property services	01/01/2014	100.2	230.6	237.7	245.9	42.2	97.1	100.1	103.5
Include real property care and maintenance services	07/01/2014	0.0	179.7	195.4	200.1	0.0	75.7	82.3	84.2
Limit equipment exemptions to capital equipment	01/01/2014	3.3	7.7	7.9	8.1	1.4	3.2	3.3	3.4
Remove vehicle caps, include doc fees in vehicle pricing	01/01/2014	16.9	39.0	40.0	41.0				
Retain local government sales tax refunds	07/01/2015			92.6	95.4			(92.6)	(95.4)
Modify other exemptions and rates for consistency	01/01/2014	6.7	15.3	15.7	16.1	3.4	7.8	8.0	8.2
Subtotal Sales Tax Changes		211.1	629.5	754.5	775.7	82.3	249.9	170.6	175.2
Air Passenger Fuel Exemption	01/01/2014	(1.6)	(3.1)	(3.2)	(3.3)		(1.3)	(1.3)	(1.4)
Include electricity/preserve local distribution	01/01/2014	92.1	230.0	239.3	248.2	93.5	187.0	189.0	190.9
Include piped natural gas	01/01/2014	32.0	68.5	69.9	71.6	13.5	30.3	31.1	31.8
Reduce State Sales Tax Rate To 4.5%	09/01/2014		(269.1)	(366.4)	(382.8)				
Marketplace Fairness Act, S743	01/01/2014		70.0	70.0	70.0		29.5	29.5	29.5
Total Sales Tax Changes		333.6	725.8	764.2	779.4	189.3	496.8	420.2	427.4
State/Local Distribution Changes									
Repeal distribution to Public School Capital Fund	04/01/2014	0.0	85.5	89.0	92.6	0.0	(85.5)	(89.0)	(92.6)
Repeal distribution of State excise tax on beer and wine	07/01/2014		36.8	37.8	37.8		(36.8)	(37.8)	(37.8)
Medicaid hold-harmless $0 vs $500K gain	41,456.0	1.8	19.6	22.2	25.2	(1.8)	(19.6)	(22.2)	(25.2)
Counties share 10% of real estate conveyance									
Total State/Local Distribution Changes		1.8	141.9	149.0	155.6	(1.8)	(141.9)	(149.0)	(155.6)
Reserves									
Accelerated unemployment payback		(200.0)	(350.0)						
Implementation and transitional adjustments		(40.0)							
Reserve (FY 15-16)		(62.2)							
Total Reserves		(302.2)	(350.0)						
Total All Changes		143.7	132.6	(49.8)	(12.4)	73.9	158.9	73.9	73.4

05/29/2013

2015 Estimated Impact of Individual Income Tax Proposal

TOTAL RETURNS

Federal AGI[1]	Total Returns	Current - Returns with Tax Due	Proposal - Returns with Tax Due	Change in Returns with Tax Due	Current - Revenue ($Millions)	Proposal - Revenue ($Millions)	Change - Revenue ($Millions)	Current - Average Tax Due	Proposal - Average Tax Due	Change - Average Tax Due	Percent Change
Infinity (-) < 9,999	665,646	203,686	160,299	(43,387)	28.9	20.8	(8.11)	43	31	(12)	-28.1%
9,999 < 19,999	526,951	358,431	285,512	(72,919)	129.3	86.1	(43.26)	245	163	(82)	-33.5%
19,999 < 29,999	637,908	569,227	541,327	(27,900)	464.8	359.1	(105.75)	729	563	(166)	-22.8%
29,999 < 39,999	689,369	643,240	654,378	11,138	864.9	730.5	(134.43)	1,255	1,060	(195)	-15.5%
39,999 < 49,999	316,249	289,939	303,800	13,861	514.6	475.0	(39.61)	1,627	1,502	(125)	-7.7%
49,999 < 59,999	232,238	215,560	225,664	10,104	479.4	464.3	(15.08)	2,064	1,999	(65)	-3.1%
59,999 < 69,999	197,592	185,697	193,775	8,078	496.9	499.4	2.52	2,515	2,528	13	0.5%
69,999 < 79,999	166,804	157,831	164,139	6,308	499.4	505.7	6.33	2,994	3,032	38	1.3%
79,999 < 99,999	253,423	244,662	250,715	6,053	942.3	944.6	2.39	3,718	3,728	9	0.3%
99,999 < 199,999	537,776	530,719	536,379	5,660	3,469.0	3,542.6	73.88	6,451	6,588	137	2.1%
199,999 < 499,999	124,187	123,387	124,143	756	1,923.9	1,848.4	(75.50)	15,492	14,884	(608)	-3.9%
499,999 < 999,999	15,318	15,161	15,313	152	651.6	592.0	(59.64)	42,541	38,647	(3,893)	-9.2%
999,999 < Infinity	7,795	7,665	7,793	128	1,564.9	1,497.5	(67.35)	200,752	192,112	(8,640)	-4.3%
TOTAL	4,371,256	3,545,205	3,463,237	(81,968)	12,029.66	11,566.03	(463.63)	2,752	2,646	(106)	-3.9%

5.95% Flat Rate
Standard Deduction: $1,000 / $800 / $500 (MFJ / HOH / S)
Eliminate Other Retirement Benefits Deduction

Establish new personal exemptions: (AGI amounts shown are for Married Filing Jointly)
- AGI < $50,000: $5,000
- AGI between $50,000 and $125,000: $3,000
- AGI between $125,000 and $200,000: $1,000
- AGI > $200,000: $500

Eliminate $50,000 Business Exemption
Mortgage Interest or Housing Exemption:
- Greater of Mortgage Interest or $5,000 / $4,000 / $2,500 (MFJ / HOH / S) Housing Exemption capped at $10,000 / $8,000 / $5,000 (MFJ / HOH / S).

Eliminate all Credits, except for the following:
- Charitable Contributions Credit - 5.95% Rate and $300 Credit Cap ($5,042 in contributions)
- Sales Tax Credit: (AGI amounts shown are for Married Filing Jointly)
  - AGI < $50,000: $25
  - AGI > $50,000: $0

1/ Federal AGI is prorated to capture only portion that is North Carolina income

** The distribution tables are based on the BearingPoint Tax Model. The distributions do not reflect the additional adjustments, based on the most recent data from the Department of Revenue, necessary to estimate the total fiscal impact. **

SINGLE

Federal AGI[1]	Total Returns	Current - Returns with Tax Due	Proposal - Returns with Tax Due	Change in Returns with Tax Due	Current - Revenue ($Millions)	Proposal - Revenue ($Millions)	Change - Revenue ($Millions)	Current - Average Tax Due	Proposal - Average Tax Due	Change - Average Tax Due	Percent Change
Infinity (-) < 9,999	420,712	168,832	128,642	(40,190)	22.72	15.46	(7.26)	54	37	(17)	-32.0%
9,999 < 19,999	244,793	206,584	201,902	(4,682)	93.09	71.49	(21.60)	380	292	(88)	-23.2%
19,999 < 29,999	260,230	239,421	247,932	8,511	260.35	229.99	(30.36)	1,000	884	(117)	-11.7%
29,999 < 39,999	319,456	306,100	313,656	7,556	507.38	457.69	(49.69)	1,588	1,433	(156)	-9.8%
39,999 < 49,999	142,208	134,041	138,545	4,504	281.67	265.21	(16.46)	1,981	1,865	(116)	-5.8%
49,999 < 59,999	90,240	85,368	88,230	2,862	221.80	213.33	(8.47)	2,458	2,364	(94)	-3.8%
59,999 < 69,999	63,228	60,182	62,435	2,253	187.26	194.90	7.64	2,962	3,082	121	4.1%
69,999 < 79,999	49,309	47,379	49,030	1,651	173.26	181.83	8.57	3,514	3,688	174	4.9%
79,999 < 99,999	54,682	52,929	54,522	1,593	230.94	240.92	9.98	4,223	4,406	183	4.3%
99,999 < 199,999	66,898	65,812	66,805	993	455.22	441.50	(13.72)	6,805	6,600	(205)	-3.0%
199,999 < 499,999	12,517	12,401	12,503	102	205.37	192.44	(12.93)	16,407	15,374	(1,033)	-6.3%
499,999 < 999,999	1,752	1,709	1,747	38	74.08	68.23	(5.85)	42,283	38,944	(3,339)	-7.9%
999,999 < Infinity	1,301	1,264	1,301	37	268.09	270.87	2.78	208,065	208,201	2,137	1.0%
TOTAL	1,727,326	1,382,022	1,367,250	(14,772)	2,981.23	2,843.86	(137.37)	2,157	2,080	(77)	-3.6%

MARRIED FILING JOINTLY

Federal AGI[1]	Total Returns	Current - Returns with Tax Due	Proposal - Returns with Tax Due	Change in Returns with Tax Due	Current - Revenue ($Millions)	Proposal - Revenue ($Millions)	Change - Revenue ($Millions)	Current - Average Tax Due	Proposal - Average Tax Due	Change - Average Tax Due	Percent Change
Infinity (-) < 9,999	99,030	22,938	23,128	190	4.69	4.40	(0.29)	47	44	(3)	-6.2%
9,999 < 19,999	83,806	31,924	22,923	(9,001)	5.28	2.96	(2.32)	63	35	(28)	-43.9%
19,999 < 29,999	126,548	90,802	72,623	(18,179)	44.32	25.20	(19.12)	350	199	(151)	-43.1%
29,999 < 39,999	167,171	139,743	142,265	2,522	125.68	93.50	(32.18)	752	559	(192)	-25.6%
39,999 < 49,999	118,384	101,841	110,012	8,171	139.32	124.46	(14.86)	1,177	1,051	(126)	-10.7%
49,999 < 59,999	113,604	102,407	109,192	6,785	193.31	191.15	(2.16)	1,702	1,683	(19)	-1.1%
59,999 < 69,999	117,263	108,801	114,305	5,504	261.92	258.24	(3.68)	2,234	2,202	(31)	-1.4%
69,999 < 79,999	109,155	102,310	106,802	4,492	298.57	296.48	(2.09)	2,735	2,716	(19)	-0.7%
79,999 < 99,999	190,491	183,603	187,951	4,348	677.13	670.36	(6.77)	3,555	3,519	(36)	-1.0%
99,999 < 199,999	483,033	457,179	461,749	4,570	2,982.82	3,048.34	65.52	6,399	6,583	185	2.9%
199,999 < 499,999	110,012	109,350	109,986	636	1,692.26	1,630.70	(61.56)	15,383	14,823	(560)	-3.6%
499,999 < 999,999	13,348	13,237	13,348	111	568.33	515.41	(52.92)	42,578	38,613	(3,965)	-9.3%
999,999 < Infinity	6,215	6,144	6,213	69	1,213.95	1,134.26	(79.69)	195,326	182,504	(12,822)	-6.6%
TOTAL	1,718,060	1,470,279	1,480,497	10,218	8,187.68	7,995.46	(192.12)	5,569	5,401	(168)	-3.0%

** T[illegible]bution tables are based on the BearingPoint Tax Model. The distributions do not reflect the addit[illegible]istments, based on the most recent data from the Department of Revenue, necessary to estimate t[illegible]iscal imp[illegible]

MARRIED FILING SEPARATELY

Federal AGI[1]	Total Returns	Current - Returns with Tax Due	Proposal - Returns with Tax Due	Change in Returns with Tax Due	Current - Revenue ($Millions)	Proposal - Revenue ($Millions)	Change - Revenue ($Millions)	Current - Average Tax Due	Proposal - Average Tax Due	Change - Average Tax Due	Percent Change
Infinity (-) < 9,999	19,335	5,669	4,468	(1,201)	0.97	0.65	(0.32)	50	34	(17)	-33.0%
9,999 < 19,999	13,318	10,995	11,111	116	4.57	3.34	(1.23)	343	251	(92)	-26.9%
19,999 < 29,999	16,338	15,042	15,702	660	14.46	12.65	(1.81)	885	774	(111)	-12.5%
29,999 < 39,999	17,627	16,639	17,416	777	24.55	22.75	(1.80)	1,393	1,291	(102)	-7.3%
39,999 < 49,999	9,349	8,804	9,238	434	18.74	18.50	(0.24)	1,791	1,765	(26)	-1.4%
49,999 < 59,999	5,605	5,345	5,538	193	12.95	12.73	(0.22)	2,310	2,271	(39)	-1.7%
59,999 < 69,999	3,662	3,520	3,652	132	10.43	11.37	0.94	2,848	3,105	257	9.0%
69,999 < 79,999	2,124	2,018	2,114	96	7.12	7.89	0.77	3,352	3,715	363	10.8%
79,999 < 99,999	2,372	2,305	2,372	67	9.81	10.84	1.03	4,051	4,486	434	10.7%
99,999 < 199,999	3,389	3,316	3,374	58	22.33	23.02	0.69	6,589	6,793	204	3.1%
199,999 < 499,999	857	848	853	7	13.13	12.74	(0.39)	15,321	14,866	(455)	-3.0%
499,999 < 999,999	87	87	87	0	3.24	3.12	(0.12)	37,241	35,862	(1,379)	-3.7%
999,999 < Infinity	206	184	206	22	70.00	81.12	11.12	339,806	393,786	53,981	15.9%
TOTAL	94,269	74,770	76,131	1,361	210.10	218.52	8.42	2,810	2,870	60	2.1%

HEAD OF HOUSEHOLD

Federal AGI[1]	Total Returns	Current - Returns with Tax Due	Proposal - Returns with Tax Due	Change in Returns with Tax Due	Current - Revenue ($Millions)	Proposal - Revenue ($Millions)	Change - Revenue ($Millions)	Current - Average Tax Due	Proposal - Average Tax Due	Change - Average Tax Due	Percent Change
Infinity (-) < 9,999	126,569	6,247	4,061	(2,186)	0.49	0.25	(0.24)	4	2	(2)	-49.0%
9,999 < 19,999	185,034	108,928	49,576	(59,352)	26.37	8.26	(18.11)	143	45	(98)	-68.7%
19,999 < 29,999	234,792	223,962	205,070	(18,892)	145.67	91.21	(54.46)	620	388	(232)	-37.4%
29,999 < 39,999	165,115	160,758	161,041	283	207.32	156.56	(50.76)	1,120	846	(274)	-24.5%
39,999 < 49,999	46,308	45,253	46,005	752	76.87	68.82	(8.05)	1,660	1,486	(174)	-10.5%
49,999 < 59,999	22,789	22,440	22,704	264	51.29	47.06	(4.23)	2,251	2,065	(186)	-8.2%
59,999 < 69,999	13,439	13,194	13,383	189	37.29	34.91	(2.38)	2,775	2,598	(177)	-6.4%
69,999 < 79,999	6,216	6,124	6,193	69	20.40	19.48	(0.92)	3,282	3,134	(148)	-4.5%
79,999 < 99,999	5,878	5,825	5,870	45	24.57	22.72	(1.85)	4,180	3,865	(315)	-7.5%
99,999 < 199,999	4,456	4,412	4,451	39	28.58	29.95	1.37	6,414	6,721	307	4.8%
199,999 < 499,999	801	790	801	11	13.09	12.47	(0.62)	16,342	15,568	(774)	-4.7%
499,999 < 999,999	131	128	131	3	5.99	5.24	(0.75)	45,725	40,000	(5,725)	-12.5%
999,999 < Infinity	73	73	73	0	12.82	11.26	(1.56)	175,616	154,247	(21,370)	-12.2%
TOTAL	831,601	618,134	539,359	(78,775)	650.75	508.19	(142.56)	1,053	942	(111)	-10.5%

** The distribution tables are based on the BearingPoint Tax Model. The distributions do not reflect the additional adjustments, based on the most recent data from the Department of Revenue, necessary to estimate the total fiscal impact. **

2nd Proposed Committee Substitute for SB 394

S394-CSRBx-20, May 30, 2013

Changes from 1st Committee Substitute Distributed on April 3, 2013

Individual Income Tax Changes

- Changes effective date of repeal of the $50K business deduction from 2015 tax year to 2013
- Redesigns tax to further reduce flat rate from 6.0 to 5.95%
- Preserves the full exemption for social security income
- Replaces zero bracket with household deduction and modified personal exemptions
- Replaces child credit with increased personal exemption
- Caps charitable contributions credit at $300 instead of $600
- Replaces "personal expense" credit with personal exemptions
- Provides a sales tax credit of $25 for MFJ with AGI<$50K
- Provides a housing expense deduction based in part on the federal mortgage interest deduction

Business Tax Changes

- Further reduces corporate income tax rate from 6.0 to 5.95%
- Changes increased sales factor weighting from 75% to 70% (current law is 50%) (Done to balance revenue)
- Replaces net economic loss (NEL) with modified net operating loss (NOL) deduction (no carryback but otherwise conforms to federal NOL)
- Eliminates franchise (business privilege) tax exemption for insurance companies

Sales Tax Changes

- Keeps farming facilities sales tax exemption as in current law (1st PCS repealed the exemptions)
- Preserves 2% food tax in local base
- Eliminates local government sales tax refunds in lieu of State taking 1% of the 2% food tax
- Preserves current distribution to locals of electricity taxes through formulas
- Exempts jet fuel for passenger air carriers
- Anticipates Congressional enactment of Main Street Fairness Act
- Preserves the sales tax holidays

State/Local Distribution Changes

- Preserves Medicaid hold-harmless to extent required to cover losses (bring to zero) rather than provide $500K (1st PCS eliminates Medicaid hold-harmless)
- Distributes to cities 10% of the current county portion of the deed stamp tax

Reserves

- Accelerates repayment of the State's debt to the federal Unemployment Trust Fund by making a $325 payment in FY 2013-14 and a $350 payment in FY 2014-15 and makes the effective date of the benefit changes made in the 2013 legislation the same as the effective date of the unemployment tax changes (January 1, 2014)

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S D

SENATE BILL 677
PROPOSED COMMITTEE SUBSTITUTE S677-CSRBx-22 [v.3]

5/30/2013 7:25:04 AM

Short Title: NC Fair Tax Act. (Public)

Sponsors:

Referred to:

April 4, 2013

A BILL TO BE ENTITLED

AN ACT TO TRANSITION NORTH CAROLINA TO A STABLE AND TRANSPARENT CONSUMPTION-BASED TAX SYSTEM THAT WILL FOSTER ECONOMIC GROWTH AND PROSPERITY.

The General Assembly of North Carolina enacts:

PART I. SIMPLE, FLAT RATE PERSONAL INCOME TAX

SECTION 1.1(a) The following statutes are recodified as indicated:

Current Statute	Recodified Statute
G.S. 105-133	G.S. 105-153.1
G.S. 105-134	G.S. 105-153.2
G.S. 105-134.1	G.S. 105-153.3
G.S. 105-134.5	G.S. 105-153.4
G.S. 105-151	G.S. 105-153.9
G.S. 105-151.24	G.S. 105-153.10
G.S. 105-152	G.S. 105-153.8

SECTION 1.1(b) The following statutes are repealed:

G.S. 105-134.2
G.S. 105-134.3
G.S. 105-134.6
G.S. 105-134.7
G.S. 105-134.8
G.S. 105-151.11
G.S. 105-151.18
G.S. 105-151.20
G.S. 105-151.21
G.S. 105-151.26
G.S. 105-151.33

SECTION 1.1(c) G.S. 105-134.1, recodified by this act as G.S. 105-153.3, reads as rewritten:

"**§ 105-153.3 Definitions.**

The following definitions apply in this Part:

(1) Adjusted gross income. – Defined in section 62 of the Code.
(1a) Code. – Defined in G.S. 105-228.90.
(2) Department. – The Department of Revenue.

(3) Educational institution. – An educational institution that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on.

(4) Fiscal year. – Defined in section 441(e) of the Code.

(5) Gross income. – Defined in section 61 of the Code.

(6) Head of household. – Defined in section 2(b) of the Code.

(7) Individual. – A human being.

(7a) Limited liability company. – Either a domestic limited liability company organized under Chapter 57C of the General Statutes or a foreign limited liability company authorized by that Chapter to transact business in this State that is classified for federal income tax purposes as a partnership. As applied to a limited liability company that is a partnership under this Part, the term "partner" means a member of the limited liability company.

(7b) Repealed by Session Laws 1998-98, s. 9, effective August 14, 1998.

(8) Married individual. – An individual who is married and is considered married as provided in section 7703 of the Code.

(9) Nonresident individual. – An individual who is not a resident of this State.

(10) North Carolina taxable income. – Defined in G.S. 105-134.5.

(10a) Partnership. – A domestic partnership, a foreign partnership, or a limited liability company.

(11) Person. – Defined in G.S. 105-228.90.

(12) Resident. – An individual who is domiciled in this State at any time during the taxable year or who resides in this State during the taxable year for other than a temporary or transitory purpose. In the absence of convincing proof to the contrary, an individual who is present within the State for more than 183 days during the taxable year is presumed to be a resident, but the absence of an individual from the state for more than 183 days raises no presumption that the individual is not a resident. A resident who removes from the State during a taxable year is considered a resident until he has both established a definite domicile elsewhere and abandoned any domicile in this State. The fact of marriage does not raise any presumption as to domicile or residence.

~~(13) Retirement benefits. – Amounts paid to a former employee or the beneficiary of a former employee under a written retirement plan established by the employer to provide payments to an employee or the beneficiary of an employee after the end of the employee's employment with the employer where the right to receive the payments is based upon the employment relationship. With respect to a self-employed individual or the beneficiary of a self-employed individual, the term means amounts paid to the individual or beneficiary of the individual under a written retirement plan established by the individual to provide payments to the individual or the beneficiary of the individual after the end of the self-employment. In addition, the term includes amounts received from an individual retirement account described in section 408 of the Code or from an individual retirement annuity described in section 408 of the Code. For the purpose of this subdivision, the term "employee" includes a volunteer worker.~~

(14) S Corporation. – Defined in G.S. 105-131(b).

(15) Secretary. – The Secretary of Revenue.

(16) Repealed by Session Laws 2011-145, s. 31A.1(a), effective for taxable years beginning on or after January 1, 2012.

(17) Taxable year. – Defined in section 441(b) of the Code.

(18) Taxpayer. – An individual subject to the tax imposed by this Part.
(19) This State. – The State of North Carolina.

SECTION 1.1(d) Part 2 of Article 4 of Chapter 105 of the General Statutes is amended by adding the following new sections to read:

"**§ 105-153.5. Modifications to adjusted gross income.**

(a) Deductions. – In calculating North Carolina taxable income, a taxpayer must deduct from the taxpayer's adjusted gross income any of the following items that are included in the taxpayer's adjusted gross income:

(1) Interest upon the obligations of any of the following:
a. The United States or its possessions.
b. This State, a political subdivision of this State, or a commission, an authority, or another agency of this State or of a political subdivision of this State.
c. A nonprofit educational institution organized or chartered under the laws of this State.

(2) Gain from the disposition of obligations issued before July 1, 1995, to the extent the gain is exempt from tax under the laws of this State.

(3) Amounts received from retirement annuities or pensions paid under the provisions of the Railroad Retirement Act of 1937.

(4) Refunds of State, local, and foreign income taxes included in the taxpayer's gross income.

(5) The amount received during the taxable year from one or more State, local, or federal government retirement plans to the extent the amount is exempt from tax under this Part pursuant to a court order in settlement of any of the following cases:
a. Bailey v. State, 92 CVS 10221, 94 CVS 6904, 95 CVS 6625, 95 CVS 8230.
b. Emory v. State, 98 CVS 0738.
c. Patton v. State, 95 CVS 04346.

(6) Income that meets both of the following requirements:
a. Is earned or received by an enrolled member of a federally recognized Indian tribe.
b. Is derived from activities on a federally recognized Indian reservation while the member resides on the reservation. Income from intangibles having a situs on the reservation and retirement income associated with activities on the reservation are considered income derived from activities on the reservation.

(7) The amount by which the basis of property under this Article exceeds the basis of the property under the Code, in the year the taxpayer disposes of the property.

(8) The amount allowed as a deduction under G.S. 105-153.6 as a result of an add-back for federal accelerated depreciation and expensing.

(b) Additions. – In calculating North Carolina taxable income, a taxpayer must add to the taxpayer's adjusted gross income any of the following items that are not included in the taxpayer's adjusted gross income:

(1) Interest upon the obligations of states other than this State, political subdivisions of those states, and agencies of those states and their political subdivisions.

(2) The amount by which a shareholder's share of S Corporation income is reduced under section 1366(f)(2) of the Code for the taxable year by the

amount of built-in gains tax imposed on the S Corporation under section 1374 of the Code.

(3) The amount by which the basis of property under the Code exceeds the basis of the property under this Article, in the year the taxpayer disposes of the property.

(4) The amount excluded from gross income under section 199 of the Code.

(5) The amount required to be added under G.S. 105-153.6 when the State decouples from federal accelerated depreciation and expensing.

"**§ 105-153.6. Adjustments when State decouples from federal accelerated depreciation and expensing.**

(a) Special Accelerated Depreciation. – A taxpayer who places property in service during a taxable year listed in the table below and who takes a special accelerated depreciation deduction for that property under section 168(k) or 168(n) of the Code must add to the taxpayer's federal taxable income or adjusted gross income, as appropriate, eighty-five percent (85%) of the amount taken for that year under those Code provisions. For taxable years before 2013, the taxpayer must add the amount to the taxpayer's federal taxable income. For taxable year 2013 and after, the taxpayer must add the amount to the taxpayer's adjusted gross income.

A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income. The table below indicates the applicable five-year period.

Taxable year of 85% Add-back	**Five taxable years of 20% Deduction**
2010	2011 through 2015
2011	2012 through 2016
2012	2013 through 2017
2013	2014 through 2018

(b) 2009 Depreciation Exception. – A taxpayer who placed property in service during the 2009 taxable year and whose North Carolina taxable income for the 2009 taxable year reflected a special accelerated depreciation deduction allowed for the property under section 168(k) of the Code must add eighty-five percent (85%) of the amount of the special accelerated depreciation deduction to its federal taxable income for the 2010 taxable year. A taxpayer is allowed to deduct this add-back under subsection (a) of this section as if it wer for property placed in service in 2010.

(c) Section 179 Expense. – For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 1, 2011. A taxpayer who places section 179 property in service during a taxable year listed in the table below must add to the taxpayer's federal taxable income or adjusted gross income as appropriate, eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code exceeds the amount that would have been allowed for that taxable year under section 179 of the Code as of May 1, 2010. For taxable years before 2013, the taxpayer must add the amount to the taxpayer's federal taxable income. For taxable year 2013 and after, the taxpayer must add the amount to the taxpayer's adjusted gross income.

A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income. The table in subsection (a) of this section indicates the applicable five-year period.

(d) Asset Basis. – The adjustments made in this section do not result in a difference in basis of the affected assets for State and federal income tax purposes.

"**§ 105-153.7. Individual income tax imposed.**

(a) Tax. – A tax is imposed for each taxable year on the North Carolina taxable income of an individual. For purposes of Section 2 of Article V of the North Carolina Constitution, the zero tax bracket provides an exemption so that only net incomes are taxed.

The tax is computed at the following percentages of the taxpayer's North Carolina taxable income:

(1) For married individuals who file a joint return under G.S. 105-153.7 and for surviving spouses, as defined in section 2(a) of the Code:

Over	Up To	Rate
0	$10,000	0%
$10,000	N/A	5.5%

(2) For heads of households, as defined in section 2(b) of the Code:

Over	Up To	Rate
0	$8,000	0%
$8,000	N/A	5.5%

(3) For unmarried individuals other than surviving spouses and heads of households:

Over	Up To	Rate
0	$5,000	0%
$5,000	N/A	5.5%

(4) For married individuals who do not file a joint return under G.S. 105-153.7:

Over	Up To	Rate
0	$5,000	0%
$5,000	N/A	5.5%.

(b) Withholding Tables. – The Secretary may provide tables that compute the amount of tax due for a taxable year under this Part. The tables do not apply to an individual who files a return under section 443(a)(1) of the Code for a period of less than 12 months due to a change in the individual's annual accounting period, or to an estate or trust."

SECTION 1.1(e) This section becomes effective for taxable years beginning on or after January 1, 2014.

SECTION 1.2.(a) G.S. 105-153.7(a), as enacted by Section 1.1 of this Part, reads as rewritten:

"(a) Tax. – A tax is imposed for each taxable year on the North Carolina taxable income of an individual. For purposes of Section 2 of Article V of the North Carolina Constitution, the zero tax bracket provides an exemption so that only net incomes are taxed.

The tax is computed at the following percentages of the taxpayer's North Carolina taxable income:

(1) For married individuals who file a joint return under G.S. 105-153.7 and for surviving spouses, as defined in section 2(a) of the Code:

Over	Up To	Rate
0	~~$10,000~~$12,500	0%
~~$10,000~~$12,500	N/A	~~5.5%~~5%

(2) For heads of households, as defined in section 2(b) of the Code:

Over	Up To	Rate
0	~~$8,000~~$10,000	0%
~~$8,000~~$10,000	N/A	~~5.5%~~5%

(3) For unmarried individuals other than surviving spouses and heads of households:

Over	Up To	Rate
0	~~$5,000~~$6,250	0%
~~$5,000~~$6,250	N/A	~~5.5%~~5%

(4) For married individuals who do not file a joint return under G.S. 105-153.7:

Over	Up To	Rate
0	~~$5,000~~$6,250	0%
~~$5,000~~$6,250	N/A	~~5.5%.~~5%."

SECTION 1.2.(b) G.S. 105-153.7(a), as amended by subsection (a) of this section, reads as rewritten:

"(a) Tax. – A tax is imposed for each taxable year on the North Carolina taxable income of an individual. For purposes of Section 2 of Article V of the North Carolina Constitution, the zero tax bracket provides an exemption so that only net incomes are taxed.

The tax is computed at the following percentages of the taxpayer's North Carolina taxable income:

(1) For married individuals who file a joint return under G.S. 105-153.7 and for surviving spouses, as defined in section 2(a) of the Code:

Over	Up To	Rate
0	$12,500	0%
$12,500	N/A	~~5%~~4.5%

(2) For heads of households, as defined in section 2(b) of the Code:

Over	Up To	Rate
0	$10,000	0%
$10,000	N/A	~~5%~~4.5%

(3) For unmarried individuals other than surviving spouses and heads of households:

Over	Up To	Rate
0	$6,250	0%
$6,250	N/A	~~5%~~4.5%

(4) For married individuals who do not file a joint return under G.S. 105-153.7:

Over	Up To	Rate
0	$6,250	0%
$6,250	N/A	~~5%.~~4.5%"

SECTION 1.2.(c) Subsection (a) of this section becomes effective for taxable years beginning on or after January 1, 2015. Subsection (b) of this section becomes effective for taxable years beginning on or after January 1, 2016. The remainder of this section is effective when it becomes law.

SECTION 1.3.(a) Part 2 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-153.6A. Transitional adjustment to reduce tax burden on middle-income taxpayers.**

In calculating North Carolina taxable income, a taxpayer may deduct an exemption amount equal to the amount listed in the table below based on the taxpayer's filing status and adjusted gross income.

(1) For married individuals who file a joint return under G.S. 105-153.8 and for surviving spouses, as defined in the section 2(a) of the Code:

Over	Up to	Exemption amount
$30,000	$45,000	$8,500
$45,000	$60,000	$7,500
$60,000	$75,000	$5,000
$75,000	$80,000	$2,500

(2) For heads of household, as defined in section 2(b) of the Code:

Over	Up to	Exemption amount
$30,000	$45,000	$6,800
$45,000	$60,000	$6,000
$60,000	$75,000	$4,000
$75,000	$80,000	$2,000

(3) For unmarried individuals other than surviving spouses and heads of household:

Over	Up to	Exemption amount
$30,000	$45,000	$4,250
$45,000	$60,000	$3,750
$60,000	$75,000	$2,500
$75,000	$80,000	$1,250

(4) For married individuals who do not file a joint return under G.S. 105-153.8:

Over	Up to	Exemption amount
$30,000	$45,000	$4,200
$45,000	$60,000	$3,750
$60,000	$75,000	$2,500
$75,000	$80,000	$1,250".

SECTION 1.3.(b) This section becomes effective for taxable years beginning on or after January 1, 2015.

PART II. EXPAND STATE REVENUE RELIANCE ON CONSUMPTION BY BROADENING THE SALES TAX BASE

SECTION 2.1.(a) G.S. 105-37.1, 105-38.1, 105-40, and 105-164.3(8e) are repealed.

SECTION 2.1.(b) This section becomes effective January 1, 2015, and applies to receipts from admission tickets sold on or after that date.

SECTION 2.2.(a) G.S. 105-116, 105-116.1, 105-164.21A, and 159B-27(b), (c), (d), (e) are repealed.

SECTION 2.2.(b) G.S. 105-164.13(44) and Article 5E of Chapter 105 of the General Statutes are repealed.

SECTION 2.2.(c) Pursuant to G.S. 62-31 and G.S. 62-32, the Utilities Commission must lower the rate set for the following utilities:

(1) Electricity to reflect the repeal of G.S. 105-116 and the resulting liability of electric power companies for the tax imposed under G.S. 105-122 and for the increase in the rate of tax imposed on sales of electricity under G.S. 105-164.4.

(2) Piped natural gas to reflect the repeal of Article 5E of Chapter 105 of the General Statutes, the repeal of the credit formerly allowed under G.S. 105-122(d1), and the resulting liability of companies for the tax imposed on sales of piped natural gas under G.S. 105-164.4.

SECTION 2.2.(d) Notwithstanding G.S. 160A-211:

(1) No city shall impose or collect any greater franchise, privilege, or license taxes, in the aggregate, on an electric power company that was imposed and collected on or before January 1, 1947.

(2) A city may not levy a license, franchise, or privilege tax on a person engaged in the business of supplying piped natural gas.

SECTION 2.2.(e) This section becomes effective January 1, 2015, and applies to sales billed on or after that date.

SECTION 2.3.(a) G.S. 105-164.3 reads as rewritten:

"**§ 105-164.3. Definitions.**

The following definitions apply in this Article:

...

(1c) Alteration, repair, maintenance, cleaning, and installation services. – The term includes the activities listed in this subdivision:

a. Altering tangible personal property by tailoring, monogramming, engraving, or making similar changes to the property.

b. Repairing tangible personal property to restore it to proper working order.
c. Maintaining tangible personal property to keep the property in working order, to avoid breakdown, or to prevent unnecessary repairs.
d. Cleaning tangible personal property.
e. Installing tangible personal property or a fixture that becomes part of real property.

...

(2b) Capital equipment. – Equipment that is capitalized by the purchaser for tax purposes under the Code and attachments and repair parts for that equipment.

...

(4a) Combined ~~general~~ rate. – The State's general rate of tax set in G.S. 105-164.4(a) plus the sum of the rates of the local sales and use taxes authorized by Subchapter VIII of this Chapter for every county in this State.

...

(17c) Lottery ticket. – A share or a ticket, as those terms are defined in G.S. 18C-103.

...

(23a) NAICS. – Defined in G.S. 105-228.90. The description of a service listed in NAICS determines its taxability.

...

(35) Retailer. – A person engaged in the business of any of the following:
a. Making sales at retail, offering to make sales at retail, or soliciting sales at retail of tangible personal property, digital property, or services for storage, use, or consumption in this State. When the Secretary finds it necessary for the efficient administration of this Article to regard any sales representatives, solicitors, representatives, consignees, peddlers, or truckers as agents of the dealers, distributors, consignors, supervisors, employers, or persons under whom they operate or from whom they obtain the items sold by them regardless of whether they are making sales on their own behalf or on behalf of these dealers, distributors, consignors, supervisors, employers, or persons, the Secretary may so regard them and may regard the dealers, distributors, consignors, supervisors, employers, or persons as "retailers" for the purpose of this Article. A person who sells tangible personal property, other than the person's own household personal property, at a specialty market as defined in G.S. 66-250 is a retailer.
b. Delivering, erecting, installing, or applying tangible personal property for use in this State, regardless of whether the property is permanently affixed to real property or other tangible personal property.
c. Making a remote sale, if one of the conditions listed in G.S. 105-164.8(b) is met.

...

(38b) Service contract. – A warranty agreement, a maintenance agreement, a repair contract, or a similar agreement or contract by which the provider agrees to maintain or repair tangible personal property."

SECTION 2.3.(b) G.S. 105-164.4 reads as rewritten:

"§ 105-164.4. ~~Tax imposed on retailers.~~Privilege tax imposed on retailer at various rates.

(a) Tax Imposed. – A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales of tangible personal property, digital property, and services. The general rate of tax is five percent (5%). The general rate applies to a taxable item unless the item is subject to tax at the combined rate of tax or to a rate of tax that differs from both the general rate and the combined rate. Subsection (b) of this section lists the items that are subject to the general rate. An item taxable under subsection (b) of this section is also subject to local sales and use tax. Subsection (c) of this section lists the items that are subject to the general rate. An item taxable under subsection (c) of this section is not subject to local sales and use tax. Subsection (d) of this section lists the items that are subject to the combined rate.

(b) General Rate. – The general rate of tax applies to a retailer's net taxable sales of the following:

(1) Tangible personal property. – Tangible personal property that is not subject to tax under another subsection of this section. If tangible personal property that is leased or rented is subject to a different rate under another subsection of this section, then the rate and the maximum tax, if any, set in the other subsection applies to the lease or rental of the property. A person who leases or rents property must collect the tax imposed by this section on the separate retail sale of the property.

(2) Digital property. – Digital property that is listed in this subdivision, is delivered or accessed electronically, is not considered tangible personal property, and would be taxable under this Article if sold in a tangible medium. The tax applies regardless of whether the purchaser of the item has a right to use it permanently or to use it without making continued payments. The tax does not apply to a service that is taxed under another subdivision of this subsection. The following property is subject to tax under this subdivision:

a. An audio work.

b. An audiovisual work.

c. A book, a magazine, a newspaper, a newsletter, a report, or another publication.

d. A photograph or a greeting card.

e. Computer software.

(3) Accommodations. – The rental of an accommodation. These rentals are taxed in accordance with G.S. 105-164.4E.

(4) Prepaid telephone service. – The sale or recharge of prepaid telephone calling service. The tax applies regardless of whether tangible personal property, such as a card or a telephone, is transferred. The tax applies to a service that is sold in conjunction with prepaid wireless calling service. Prepaid telephone calling service is taxable at the point of sale instead of at the point of use and is sourced in accordance with G.S. 105-164.4B. Prepaid telephone calling service taxed under this subdivision is not subject to tax as a telecommunications service.

(5) Satellite radio. – Satellite digital auto radio service. For services received by a mobile or portable station, the service is sourced to the subscriber's business or home address.

(6) Entertainment and recreation. – Charges for entertainment or recreational activities are taxed in accordance with G.S. 105-164.4F.

(7) Lottery ticket. – The tax does not apply to a lottery ticket to participate in an interstate lottery game that the State has contractually agreed with other participating states not to tax.

(8) Personal care services. – Any of the following:
a. Hair care, hair replacement, hair removal.
b. Nail care.
c. Skin care.
d. Massages.
e. Weight loss centers and programs.
f. Tattoos, ear piercings, and any other body modification.
g. Tanning, massages, saunas.
h. Teeth whitening.
i. Any other services included in industry 8121 of NAICS.

(9) Other personal services. – Any of the following:
a. Personal trainer services.
b. Event planning services.
c. Consumer buying services.
d. Any other services included in industry 8129 of NAICS.

(10) Health care services. – Any of the following:
a. Medical, dental, mental, and other health care.
b. Outpatient and home health care.
c. Medical and diagnostic care.
d. Hospital, nursing, and residential care.
e. Any other services included in industry group 62 of NAICS.

(11) Death care services. – Any of the following:
a. Mortician services.
b. Embalming services.
c. Cemeteries, crematories, and mausoleums .
d. Any other services included in industry 8122 of NAICS.

(12) Instructional services. – Any of the following:
a. Instruction in music, dance, drama, photography, and other fine arts.
b. Instruction in sports, martial arts, yoga, swimming, and other athletic activities.
c. Any other instructional services included in industry 6116 of NAICS.

(13) Animal care services. – Any of the following:
a. Boarding animals.
b. Training animals.
c. Grooming animals.
d. Any other similar services included in industry 115210 and industry 812910 of NAICS.

(14) Travel services. – Any of the following:
a. Arranging and assembling tours.
b. Providing guide services.
c. Selling travel, tour, and accommodation services.
d. Providing reservation services.

(15) Tangible personal property services. – Any of the following:
a. A service contract.
b. Alteration, repair, maintenance, cleaning, and installation services.
c. Lease or rental of any of the following:
1. A mini-warehouse or other secure self-storage space.
2. Storage for tangible personal property not held for sale.
3. Parking or dead storage for a motor vehicle.
3. Docking or storage for a boat or other watercraft.
4. Storage for an aircraft.

d. Towing service, roadside service, or marine service for a motor vehicle or a boat or other watercraft.
e. Gift wrapping, packing and crating, labeling, and moving of tangible personal property.
f. Water softening and conditioning.

(16) Real property services. – Any of the following:
a. Exterminating and pest control services.
b. Landscape services.
c. Cleaning the interior or exterior of a building or other structure.
d. Cleaning an item, such as a carpet or gutter, that is attached to a structure.
e. Cleaning a driveway, a parking lot, a swimming pool, the grounds at a building or other structure, or another outdoor area.
f. Any other activities listed as services to buildings and dwellings in NAICS 5617.

(17) Security services. – Any of the following:
a. Guard or security patrol service.
b. Armored car service.
c. Remote monitoring of a security alarm system.
d. Locksmith service.
e. Telematic service that provides communication, tracking, and emergency response services to motor vehicle owners.
f. Investigation services.

(18) Delivery services. – Providing messenger and delivery services originating in this State for tangible personal property.

(19) Information services. – The tax does not apply to the following:
a. The collection, compilation, or analysis of information the retailer received from the purchaser of the service.
b. A public record or other document provided by a unit of local government.

(20) Transportation services. – Any of the following ground passenger transportation services originating in this State:
a. Taxi services.
b. Limousine services.
c. Shuttle services.
d. Bus services.
e. Commuter rail services.
f. Charter bus services.

(21) Insurance premiums paid for property coverage insurance contracts.

(22) Business services. – Any of the following:
a. Legal services, notary public services, process services, bail bond services, and all other legal services.
b. Accounting and tax preparation services.
c. Architectural, engineering, and related services.
d. Land surveying services.
e. Specialized design services.
f. Veterinary services.
g. Advertising services
h. Public relations, lobbying, and consulting services.
i. Employment placement services.
j. Message and answering service.

k. Telemarketing and telephone solicitation services.
l. Any other services included in industry group 541 of NAICS.

(23) Construction services. – Any of the following:
a. Remodeling existing residential buildings.
b. Performing specialized construction work on houses and other residential buildings.
c. Painting, wallpapering, and floor covering.
d. Electrical, plumbing, heating, siding, roofing, and other specialty trade contract services.

(24) Special Trade Services.
a. Billboard construction and installation services.
b. Manufacturing home set up and tie down services.
c. Boat lift installation services.
d. Any other specialty trade services included in industry group 238990 of NAICS.

(25) Site preparation construction services.
a. Water well digging, drilling, boring, or sinking and sewer pumping services.
b. Excavating, earthmoving, or other land clearing services.
c. Blasting, building demolition services.

(c) State Rate. – The general rate of tax applies to a retailer's net taxable sales of the following, including all accessories attached to the item when it is delivered to the purchaser:
(1) An aircraft.
(2) A boat.
(3) A manufactured home.
(4) A modular home.

(d) Combined Rate. – The combined rate of tax applies to a retailer's net taxable sales of the following:
(1) Telecommunications. – Providing telecommunications service and ancillary service. These services are taxed in accordance with G.S. 105-164.4C.
(2) Video programming. – Providing video programming to a subscriber in this State.
(3) Liquor. – Spirituous liquor other than mixed beverages. As used in this subdivision, the terms "spirituous liquor" and "mixed beverage" have the meanings provided in G.S. 18B-101.

~~(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and three quarters percent (4.75%).~~
~~(1) The general rate of tax applies to the sales price of each item or article of tangible personal property that is sold at retail and is not subject to tax under another subdivision in this section.~~
~~(1a) The rate of two percent (2%) applies to the sales price of each manufactured home sold at retail, including all accessories attached to the manufactured home when it is delivered to the purchaser. The maximum tax is three hundred dollars ($300.00) per article. Each section of a manufactured home that is transported separately to the site where it is to be erected is a separate article.~~
~~(1b) The rate of three percent (3%) applies to the sales price of each aircraft or boat sold at retail, including all accessories attached to the item when it is delivered to the purchaser. The maximum tax is one thousand five hundred dollars ($1,500) per article.~~

~~(1c), (1d) and (1e) Repealed by Session Laws 2005-276, s. 33.4(b), effective January 1, 2006.~~

~~(1f) The rate of two and eighty-three hundredths percent (2.83%) applies to the sales price of electricity that is measured by a separate meter or another separate device and sold to a commercial laundry or to a pressing and dry-cleaning establishment for use in machinery used in the direct performance of the laundering or the pressing and cleaning service.~~

~~a. Repealed by Session Laws 2007-397, s. 10(b), effective October 1, 2007, and applicable to sales occurring on or after that date.~~

~~b. Repealed by Session Laws 2006-66, s. 24.19(a), effective July 1, 2007, and applicable to sales made on or after that date.~~

~~c. Repealed by Session Laws 2007-397, s. 10(b), effective October 1, 2007, and applicable to sales occurring on or after that date.~~

~~(1g) Repealed by Session Laws 2004-110, s. 6.1, effective October 1, 2004, and applicable to sales of electricity made on or after that date.~~

~~(1h) Expired pursuant to Session Laws 2004-110, s. 6.4, effective for sales made on or after October 1, 2007.~~

~~(1i) Repealed by Session Laws 2007-397, s. 10(a), effective October 1, 2007, and applicable to sales occurring on or after that date.~~

~~(1j) Repealed by Session Laws 2007-397, s. 10(f), effective July 1, 2010, and applicable to sales occurring on or after that date.~~

~~a. Sales of electricity to manufacturing industries and manufacturing plants for use in connection with the operation of the industries and plants.~~

~~b. Sales of electricity to farmers to be used by them for any farming purposes other than preparing food, heating dwellings, and other household purposes.~~

~~(2) The applicable percentage rate applies to the gross receipts derived from the lease or rental of tangible personal property by a person who is engaged in the business of leasing or renting tangible personal property, or is a retailer and leases or rents property of the type sold by the retailer. The applicable percentage rate is the rate and the maximum tax, if any, that applies to a sale of the property that is leased or rented. A person who leases or rents property shall also collect the tax imposed by this section on the separate retail sale of the property.~~

~~(3) A tax at the general rate applies to the gross receipts derived from the rental of an accommodation. The tax does not apply to a private residence or cottage that is rented for fewer than 15 days in a calendar year or to an accommodation rented to the same person for a period of 90 or more continuous days.~~

~~Gross receipts derived from the rental of an accommodation include the sales price of the rental of the accommodation. The sales price of the rental of an accommodation is determined as if the rental were a rental of tangible personal property. The sales price of the rental of an accommodation marketed by a facilitator includes charges designated as facilitation fees and any other charges necessary to complete the rental.~~

~~A person who provides an accommodation that is offered for rent is considered a retailer under this Article. A facilitator must report to the retailer with whom it has a contract the sales price a consumer pays to the facilitator for an accommodation rental marketed by the facilitator. A retailer must notify a facilitator when an accommodation rental marketed by the~~

~~facilitator is completed and, within three business days of receiving the notice, the facilitator must send the retailer the portion of the sales price the facilitator owes the retailer and the tax due on the sales price. A facilitator that does not send the retailer the tax due on the sales price is liable for the amount of tax the facilitator fails to send. A facilitator is not liable for tax sent to a retailer but not remitted by the retailer to the Secretary. Tax payments received by a retailer from a facilitator are held in trust by the retailer for remittance to the Secretary. A retailer that receives a tax payment from a facilitator must remit the amount received to the Secretary. A retailer is not liable for tax due but not received from a facilitator. The requirements imposed by this subdivision on a retailer and a facilitator are considered terms of the contract between the retailer and the facilitator.~~

~~A person who, by written contract, agrees to be the rental agent for the provider of an accommodation is considered a retailer under this Article and is liable for the tax imposed by this subdivision. The liability of a rental agent for the tax imposed by this subdivision relieves the provider of the accommodation from liability. A rental agent includes a real estate broker, as defined in G.S. 93A-2.~~

~~The following definitions apply in this subdivision:~~

~~a. Accommodation. A hotel room, a motel room, a residence, a cottage, or a similar lodging facility for occupancy by an individual.~~

~~b. Facilitator. A person who is not a rental agent and who contracts with a provider of an accommodation to market the accommodation and to accept payment from the consumer for the accommodation.~~

~~(4) Every person engaged in the business of operating a dry cleaning, pressing, or hat blocking establishment, a laundry, or any similar business, engaged in the business of renting clean linen or towels or wearing apparel, or any similar business, or engaged in the business of soliciting cleaning, pressing, hat blocking, laundering or linen rental business for any of these businesses, is considered a retailer under this Article. A tax at the general rate of tax is levied on the gross receipts derived by these retailers from services rendered in engaging in any of the occupations or businesses named in this subdivision. The tax imposed by this subdivision does not apply to receipts derived from coin, token, or card operated washing machines, extractors, and dryers. The tax imposed by this subdivision does not apply to gross receipts derived from services performed for resale by a retailer that pays the tax on the total gross receipts derived from the services.~~

~~(4a) The rate of three percent (3%) applies to the gross receipts derived from sales of electricity, other than sales of electricity subject to tax under another subdivision in this section. A person who sells electricity is considered a retailer under this Article.~~

~~(4b) A person who sells tangible personal property at a specialty market, other than the person's own household personal property, is considered a retailer under this Article. A tax at the general rate of tax is levied on the sales price of each article sold by the retailer at the specialty market. The term "specialty market" has the same meaning as defined in G.S. 66-250.~~

~~(4c) The combined general rate applies to the gross receipts derived from providing telecommunications service and ancillary service. A person who provides telecommunications service or ancillary service is considered a retailer under this Article. These services are taxed in accordance with G.S. 105-164.4C.~~

~~(4d) The sale or recharge of prepaid telephone calling service is taxable at the general rate of tax. The tax applies regardless of whether tangible personal property, such as a card or a telephone, is transferred. The tax applies to a service that is sold in conjunction with prepaid wireless calling service. Prepaid telephone calling service is taxable at the point of sale instead of at the point of use and is sourced in accordance with G.S. 105-164.4B. Prepaid telephone calling service taxed under this subdivision is not subject to tax as a telecommunications service.~~

~~(5) Repealed by Session Laws 1998-212, s. 29A.1(a), effective May 1, 1999.~~

~~(6) The combined general rate applies to the gross receipts derived from providing video programming to a subscriber in this State. A cable service provider, a direct-to-home satellite service provider, and any other person engaged in the business of providing video programming is considered a retailer under this Article.~~

~~(6a) The general rate applies to the gross receipts derived from providing satellite digital audio radio service. For services received by a mobile or portable station, the service is sourced to the subscriber's business or home address. A person engaged in the business of providing satellite digital audio radio service is a retailer under this Article.~~

~~(6b) The general rate applies to the digital property that is listed in this subdivision, is delivered or accessed electronically, is not considered tangible personal property, and would be taxable under this Article if sold in a tangible medium. The tax applies regardless of whether the purchaser of the item has a right to use it permanently or to use it without making continued payments. The tax does not apply to a service that is taxed under another subdivision of this subsection or to an information service. The following property is subject to tax under this subdivision:~~

~~a. An audio work.~~

~~b. An audiovisual work.~~

~~c. A book, a magazine, a newspaper, a newsletter, a report, or another publication.~~

~~d. A photograph or a greeting card.~~

~~(7) The combined general rate applies to the sales price of spirituous liquor other than mixed beverages. As used in this subdivision, the terms "spirituous liquor" and "mixed beverage" have the meanings provided in G.S. 18B-101.~~

~~(8) The rate of two and one-half percent (2.5%) applies to the sales price of each modular home sold at retail, including all accessories attached to the modular home when it is delivered to the purchaser. The sale of a modular home to a modular homebuilder is considered a retail sale. A person who sells a modular home at retail is allowed a credit against the tax imposed by this subdivision for sales or use tax paid to another state on tangible personal property incorporated in the modular home. The retail sale of a modular home occurs when a modular home manufacturer sells a modular home to a modular homebuilder or directly to the end user of the modular home.~~

~~(b) The tax levied in this section shall be collected from the retailer and paid by him at the time and in the manner as hereinafter provided. Provided, however, that any person engaging or continuing in business as a retailer shall pay the tax required on the net taxable sales of such business at the rates specified when proper books are kept showing separately the gross proceeds of taxable and nontaxable sales of tangible personal property in such form as may be accurately and conveniently checked by the Secretary or his duly authorized agent. If~~

~~such records are not kept separately the tax shall be paid as a retailer on the gross sales of business and the exemptions and exclusions provided by this Article shall not be allowed. The tax levied in this section is in addition to all other taxes whether levied in the form of excise, license or privilege or other taxes.~~

~~(c) Certificate of Registration. Before a person may engage in business as a retailer or a wholesale merchant, the person must obtain a certificate of registration from the Department in accordance with G.S. 105-164.29.~~"

SECTION 2.3.(c) Article 5 of Chapter 105 of the General Statutes is amended by adding the following new sections to read:

"**§ 105-164.4E. Accommodation rentals.**

(a) Definition. – The following definitions apply in this section:

(1) Accommodation. – A hotel room, a motel room, a residence, a cottage, a campground, a camp site, or a similar lodging facility or site for occupancy by an individual.

(2) Facilitator. – A person who is not a rental agent and who contracts with a provider of an accommodation to market the accommodation and to accept payment from the consumer for the accommodation.

(3) Rental agent. – The term includes a real estate broker, as defined in G.S. 93A-2.

(b) Tax. – The gross receipts derived from the rental of an accommodation are taxed at the rate set in G.S. 105-164.4. Gross receipts derived from the rental of an accommodation include the sales price of the rental of the accommodation. The sales price of the rental of an accommodation is determined as if the rental were a rental of tangible personal property. The sales price of the rental of an accommodation marketed by a facilitator includes charges designated as facilitation fees and any other charges necessary to complete the rental.

(c) Facilitator Transactions. – A facilitator must report to the retailer with whom it has a contract the sales price a consumer pays to the facilitator for an accommodation rental marketed by the facilitator. A retailer must notify a facilitator when an accommodation rental marketed by the facilitator is completed and, within three business days of receiving the notice, the facilitator must send the retailer the portion of the sales price the facilitator owes the retailer and the tax due on the sales price. A facilitator that does not send the retailer the tax due on the sales price is liable for the amount of tax the facilitator fails to send. A facilitator is not liable for tax sent to a retailer but not remitted by the retailer to the Secretary. Tax payments received by a retailer from a facilitator are held in trust by the retailer for remittance to the Secretary. A retailer that receives a tax payment from a facilitator must remit the amount received to the Secretary. A retailer is not liable for tax due but not received from a facilitator. The requirements imposed by this section on a retailer and a facilitator are considered terms of the contract between the retailer and the facilitator.

(d) Rental Agent. – A person who, by written contract, agrees to be the rental agent for the provider of an accommodation is considered a retailer under this Article and is liable for the tax imposed by this section. The liability of a rental agent for the tax imposed by this section relieves the provider of the accommodation from liability.

(e) Exemptions. – The tax imposed by this section does not apply to the following:

(1) A private residence or cottage that is rented for fewer than 15 days in a calendar year.

(2) An accommodation supplied to the same person for a period of 90 or more continuous days.

"**§ 105.164.4F. Entertainment and recreation.**

(a) Tax. – Charges for an entertainment or recreational activity listed in this subsection are taxed at the general rate set in G.S. 105-164.4. Charges include admission charges, user

charges, registration charges, membership charges, and charges for amenities. Offering an activity listed in this subsection is a service.

(1) Charges for admittance to any of the following entertainment or recreational activities:

a. A live performance or live event of any kind.

b. A movie.

c. A museum, a cultural site, a garden, an exhibit, a show, or a similar attraction or a guided tour at any of these attractions.

(2) Charges that enable a consumer to play or participate in, or use property or a facility to play or participate in, any of the entertainment or recreational activities listed in this subdivision. A consumer's play or participation can be in person or online. Charges for online play or participation include charges to acquire virtual goods or attributes.

a. A game.

b. A sport.

c. A fitness activity.

d. A dining facility.

(b) Exclusion for Charitable Contribution. – The tax imposed by this section does not apply to the portion of a membership charge that is deductible as a charitable contribution under section 170 of the Code.

(c) Ticket Resales. – When an admission ticket is resold and the price of the admission ticket is printed on the face of the ticket, the tax does not apply to the face price. When an admission ticket is resold and the price of the admission ticket is not printed on the face of the ticket, the tax applies to the difference between the amount the reseller paid for the ticket and the amount the reseller charges for the ticket."

SECTION 2.3.(d) G.S. 105-164.13 reads as rewritten:

"**§ 105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property, digital property, and services are specifically exempted from the tax imposed by this Article:

Agricultural Group.

(1) Any of the following items sold to a farmer for use by the farmer in the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals. A "farmer" includes a dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a farmer of an aquatic species, as defined in G.S. 106-758.

a. Commercial fertilizer, lime, land plaster, plastic mulch, plant bed covers, potting soil, baler twine, and seeds.

~~b. Farm machinery, attachment and repair parts for farm machinery, and lubricants applied to farm machinery. The term "machinery" includes implements that have moving parts or are operated or drawn by an animal. The term does not include implements operated wholly by hand or motor vehicles required to be registered under Chapter 20 of the General Statutes.~~

~~c. A horse or mule.~~

~~d. Fuel.~~

~~(1a) Sales of the following to a farmer, as defined in subdivision (1) of this section:~~

~~a. A container used for a purpose set out in subdivision (1) of this section or in packaging and transporting the farmer's product for sale.~~

~~b. A grain, feed, or soybean storage facility, and parts and accessories attached to the facility.~~

(1b) Electricity sold to a farmer to be used for any farming purpose other than preparing food, heating dwellings, and other household purposes.

(2) Repealed by Session Laws 2001, c. 514, s. 1, effective February 1, 2002.

(2a) ~~Any of the following substances when~~ Feed purchased for ~~use on~~ animals ~~or plants, as appropriate,~~ held or produced for commercial purposes. ~~This exemption does not apply to any equipment or devices used to administer, release, apply, or otherwise dispense these substances:~~

~~a. Remedies, vaccines, medications, litter materials, and feeds for animals.~~

~~b. Rodenticides, insecticides, herbicides, fungicides, and pesticides.~~

~~c. Defoliants for use on cotton or other crops.~~

~~d. Plant growth inhibitors, regulators, or stimulators, including systemic and contact or other sucker control agents for tobacco and other crops.~~

~~e. Semen.~~

(3) Products of forests and mines in their original ~~or unmanufactured~~ state when such sales are made by the producer in the capacity of producer.

(4) Cotton, tobacco, peanuts or other farm products sold to manufacturers for further manufacturing or processing.

(4a) Baby chicks and poults sold for commercial poultry or egg production.

(4b) Products of a farm sold in their original state by the producer of the products if the producer is not primarily a retail ~~merchant and ice used to preserve agriculture, aquaculture and commercial fishery products until the products are sold at retail.~~merchant.

~~(4c) Any of the following items concerning the housing, raising, or feeding of animals:~~

~~a. Commercially manufactured facilities to be used for commercial purposes for housing, raising, or feeding animals or for housing equipment necessary for these commercial activities.~~

~~b. Building materials, supplies, fixtures, and equipment that become a part of and are used in the construction, repair, or improvement of an enclosure or a structure specifically designed, constructed, and used for housing, raising, or feeding animals or for housing equipment necessary for one of these commercial activities.~~

~~c. Commercially manufactured equipment, and parts and accessories for the equipment, used in a facility that is exempt from tax under this subdivision or in an enclosure or a structure whose building materials are exempt from tax under this subdivision.~~

~~(4d) Any of the following tobacco items:~~

~~a. The lease or rental of tobacco sheets used in handling tobacco in the warehouse and transporting tobacco to and from the warehouse.~~

~~b. A metal flue sold for use in curing tobacco, whether the flue is attached to a handfired furnace or used in connection with a mechanical burner.~~

~~c. A bulk tobacco barn or rack, parts and accessories attached to the tobacco barn or rack, and any similar apparatus, part, or accessory used to cure or dry tobacco or another crop.~~

(4e) Repealed by Session Laws 2006-162, s. 8(b), effective July 24, 2006.

~~(4f) Sales of the following to a person who is engaged in the commercial logging business:~~

~~a. Logging machinery. Logging machinery is machinery used to harvest raw forest products for transport to first market.~~

~~b. Attachments and repair parts for logging machinery.~~

~~c. Lubricants applied to logging machinery.~~

~~d. Fuel used to operate logging machinery.~~

Industrial Group.

~~(4g) A wood chipper that meets all of the following requirements:~~

~~a. It is designed to be towed by a motor vehicle.~~

~~b. It is assigned a 17-digit vehicle identification number by the National Highway Transportation Safety Association.~~

~~c. It is sold to a person who purchases a motor vehicle in this State that is to be registered in another state and who uses the purchased motor vehicle to tow the wood chipper to the state in which the purchased motor vehicle is to be registered.~~

(5) Manufactured products produced and sold by manufacturers or producers to other manufacturers, producers, or registered retailers or wholesale merchants, for the purpose of resale except as modified by G.S. 105-164.3(51). This exemption does not extend to or include retail sales to users or consumers not for resale.

~~(5a) Products that are subject to tax under Article 5F of this Chapter.~~

~~(5b) Sales to a telephone company regularly engaged in providing telephone service to subscribers on a commercial basis of central office equipment, switchboard equipment, private branch exchange equipment, terminal equipment other than public pay telephone terminal equipment, and parts and accessories attached to the equipment.~~

~~(5c) Sales of towers, broadcasting equipment, and parts and accessories attached to the equipment to a radio or television company licensed by the Federal Communications Commission.~~

~~(5d) Sales of broadcasting equipment and parts and accessories attached to the equipment to a cable service provider. For the purposes of this subdivision, "broadcasting equipment" does not include cable~~

(5e) Sales of capital equipment purchased by a business subject to the franchise tax under Article 3 of this Chapter or to a farmer for use by the farmer in the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals.

(5f) Services that are an integral, inseparable component of services involving the manufacture, fabrication, processing or manipulation of tangible personal property if the following conditions are met:

a. The purchaser of the service does not use the service in any manner other than for resale.

b. The service is delivered or resold to the ultimate consumer without any alteration or change.

(5h) Services purchased by a service provider for resale if the following conditions are met:

a. The service purchased is on behalf of a current customer.

b. The purchase of the service does not use the service in any manner.

c. The service is delivered or resold to the customer without any alteration or change.

(6) Repealed by Session Laws 1989 (Regular Session, 1990), c. 1068, s. 1.

(7) Sales of products of waters in their original ~~or unmanufactured~~ state when such sales are made by the producer in the capacity of producer. Fish and seafoods are likewise exempt when sold by the fisherman in that capacity.

(8) Sales to a manufacturer of tangible personal property that enters into or becomes an ingredient or component part of tangible personal property that is manufactured. This exemption does not apply to sales of electricity.

(8a) Sales to a small power production facility, as defined in 16 U.S.C. § 796(17)(A), of fuel used by the facility to generate electricity.

~~(9) Boats, fuel oil, lubricating oils, machinery, equipment, nets, rigging, paints, parts, accessories, and supplies sold to any of the following:~~.

~~a. The holder of a standard commercial fishing license issued under G.S. 113-168.2 for principal use in commercial fishing operations.~~

~~b. The holder of a shellfish license issued under G.S. 113-169.2 for principal use in commercial shellfishing operations.~~

~~c. The operator of a for-hire boat, as defined in G.S. 113-174, for principal use in the commercial use of the boat.~~

~~(10) Sales of the following to commercial laundries or to pressing and dry cleaning establishments:~~

~~a. Articles or materials used for the identification of garments being laundered or dry cleaned, wrapping paper, bags, hangers, starch, soaps, detergents, cleaning fluids and other compounds or chemicals applied directly to the garments in the direct performance of the laundering or the pressing and cleaning service.~~

~~b. Laundry and dry cleaning machinery, parts and accessories attached to the machinery, and lubricants applied to the machinery.~~

~~c. Fuel, other than electricity, used in the direct performance of the laundering or the pressing and cleaning service.~~

Motor Fuels Group.

(10a) Sales of ~~the following~~ electricity to a major recycling ~~facility:~~facility.

~~a. Lubricants and other additives for motor vehicles or machinery and equipment used at the facility.~~

~~b. Materials, supplies, parts, and accessories, other than machinery and equipment, that are not capitalized by the taxpayer and are used or consumed in the manufacturing and material handling processes at the facility.~~

~~c. Electricity used at the facility.~~

(10b) Recodified as G.S. 105-164.13(10a)c. by Session Laws 2005-276, s. 33.9, effective January 1, 2006.

(11) Any of the following fuel:

a. Motor fuel, as taxed in Article 36C of this Chapter, except motor fuel for which a refund of the per gallon excise tax is allowed under G.S. 105-449.105A or G.S. 105-449.107.

b. Alternative fuel taxed under Article 36D of this Chapter, unless a refund of that tax is allowed under G.S. 105-449.107.

~~(11a) Sales of diesel fuel to railroad companies for use in rolling stock other than motor vehicles. The definitions in G.S. 105-333 apply in this subdivision.~~

Medical Group.

(12) Sales of any of the following ~~items:~~items to the extent the items are purchased with insurance proceeds and the amounts purchased with insurance proceeds are separately identified on the billing document given to the consumer:

a. Prosthetic devices for human use.
b. Mobility enhancing equipment sold on a prescription.
c. Durable medical equipment sold on prescription.
d. Durable medical supplies sold on prescription.

(13) All of the following drugs, including their packaging materials and any instructions or information about the drugs included in the package with ~~them:~~them, to the extent the drugs are purchased with insurance proceeds and the amounts purchased with insurance proceeds are separately identified on the billing document given to the consumer:
a. Drugs required by federal law to be dispensed only on prescription.
b. Over-the-counter drugs sold on prescription.
c. Insulin.

(13a) Repealed by Session Laws 1996, Second Extra Session, c. 14, s. 16.

(13b) Repealed by Session Laws 1999, c. 438, s. 7, effective October 1, 1999.

~~(13c) Nutritional supplements sold by a chiropractic physician at a chiropractic office to a patient as part of the patient's plan of treatment, as authorized by G.S. 90-151.1.~~

(13d) Health care and dental care services, to the extent the services are purchased with insurance proceeds and the services purchased with insurance proceeds are separately identified on the billing document given to the purchaser.

Printed Materials Group.

~~(14) Public school books on the adopted list, the selling price of which is fixed by State contract.~~

(14a) Recodified as subdivision (33a) by Session Laws 2000-120, s. 5, effective July 14, 2000.

Transactions Group.

(15) Accounts of purchasers, representing taxable sales, on which the tax imposed by this Article has been paid, that are found to be worthless and actually charged off for income tax purposes may, at corresponding periods, be deducted from gross sales. In the case of a municipality that sells electricity, the account may be deducted if it meets all the conditions for charge-off that would apply if the municipality were subject to income tax. Any accounts deducted pursuant to this subdivision must be added to gross sales if afterwards collected.

(16) Sales of an article repossessed by the vendor if tax was paid on the sales price of the article.

Exempt Status Group.

(17) Sales which a state would be without power to tax under the limitations of the Constitution or laws of the United States or under the Constitution of this State.

Unclassified Group.

(18) Repealed by Session Laws 2005-276, s. 33.9, effective January 1, 2006.

(19) Repealed by Session Laws 1991, c. 618, s. 1.

~~(20) Sales by blind merchants operating under supervision of the Department of Health and Human Services.~~

~~(21) The lease or rental of motion picture films used for exhibition purposes where the lease or rental of such property is an established business or part of an established business or the same is incidental or germane to said business of the lessee.~~

~~(22) The lease or rental of films, motion picture films, transcriptions and recordings to radio stations and television stations operating under a certificate from the Federal Communications Commission.~~

~~(22a) Sales of audiovisual masters made or used by a production company in making visual and audio images for first generation reproduction. For the purpose of this subdivision, an "audiovisual master" is an audio or video film, tape, or disk or another audio or video storage device from which all other copies are made.~~

~~(23) Sales of the following packaging items:~~

~~a. Wrapping paper, labels, wrapping twine, paper, cloth, plastic bags, cartons, packages and containers, cores, cones or spools, wooden boxes, baskets, coops and barrels, including paper cups, napkins and drinking straws and like articles sold to manufacturers, producers and retailers, when such materials are used for packaging, shipment or delivery of tangible personal property which is sold either at wholesale or retail and when such articles constitute a part of the sale of such tangible personal property and are delivered with it to the customer.~~

~~b. A container that is used as packaging by the owner of the container or another person to enclose tangible personal property for delivery to a purchaser of the property and is required to be returned to its owner for reuse.~~

(24) Sales of fuel and other items of tangible personal property for use or consumption by or on ocean-going vessels ~~which~~ that ply the high seas in interstate or foreign commerce in the transport of freight and/or passengers for hire exclusively, when delivered to an officer or agent of such vessel for the use of such vessel; provided, however, that sales of fuel and other items of tangible personal property made to officers, agents, members of the crew or passengers of such vessels for their personal use shall not be exempted from payment of the sales tax.

(25) Sales by merchants on the Cherokee Indian Reservation when such merchants are authorized to do business on the Reservation and are paying the tribal gross receipts levy to the Tribal Council.

(26) Food sold not for profit by public or private school cafeterias within school buildings during the regular school day.

(26a) Food sold not for profit by a public school cafeteria to a child care center that participates in the Child and Adult Care Food Program of the Department of Health and Human Services.

~~(27) Meals and food products served to students in dining rooms regularly operated by State or private educational institutions or student organizations thereof.~~

~~(27a) Bread, rolls, and buns sold at a bakery thrift store. A "bakery thrift store" is a retail outlet of a bakery that sells at wholesale over ninety percent (90%) of the items it makes and sells at the retail outlet day old bread, rolls, and buns returned to it by retailers that acquired these items from the bakery.~~

~~(28) Sales of newspapers by newspaper street vendors, by newspaper carriers making door to door deliveries, and by means of vending machines.~~

(29) Repealed by Session Laws 2005-435, s. 30, effective September 27, 2005.

(29a) Repealed by Session Laws 1995 (Regular Session, 1996), c. 646, s. 5.

~~(30) Sales from vending machines when sold by the owner or lessee of said machines at a price of one cent (1¢) per sale.~~

(31) Sales of meals not for profit to elderly and incapacitated persons by charitable or religious organizations not operated for profit which are entitled to the refunds provided by G.S. 105-164.14(b), when such meals are delivered to the purchasers at their places of abode.

~~(31a) Food sold by a church or religious organization not operated for profit when the proceeds of the sales are actually used for religious activities.~~

(31b) Repealed by Session Laws 1996, Second Extra Session, c. 14, s. 16.

(32) ~~Sales of motor vehicles, the sale of a motor vehicle body to be mounted on a motor vehicle chassis when a certificate of title has not been issued for the chassis, and the sale of a~~ A motor vehicle body mounted on a motor vehicle chassis that temporarily enters the State so the manufacturer of the body can mount the body on the chassis.

~~(33) Tangible personal property purchased solely for the purpose of export to a foreign country for exclusive use or consumption in that or some other foreign country, either in the direct performance or rendition of professional or commercial services, or in the direct conduct or operation of a trade or business, all of which purposes are actually consummated, or purchased by the government of a foreign country for export which purpose is actually consummated. "Export" shall include the acts of possessing and marshalling such property, by either the seller or the purchaser, for transportation to a foreign country, but shall not include devoting such property to any other use in North Carolina or the United States. "Foreign country" shall not include any territory or possession of the United States.~~

~~In order to qualify for this exemption, an affidavit of export indicating compliance with the terms and conditions of this exemption, as prescribed by the Secretary of Revenue, must be submitted by the purchaser to the seller, and retained by the seller to evidence qualification for the exemption.~~

~~If the purposes qualifying the property for exemption are not consummated, the purchaser shall be liable for the tax which was avoided by the execution of the aforesaid affidavit as well as for applicable penalties and interest and the affidavit shall contain express provision that the purchaser has recognized and assumed such liability.~~

~~The principal purpose of this exemption is to encourage the flow of commerce through North Carolina ports that is now moving through out-of-state ports. However, it is not intended that property acquired for personal use or consumption by the purchaser, including gifts, shall be exempt hereunder.~~

~~(33a) Tangible personal property sold by a retailer to a purchaser within or without this State, when the property is delivered by the retailer in this State to a common carrier or to the United States Postal Service for delivery to the purchaser or the purchaser's designees outside this State and the purchaser does not subsequently use the property in this State.~~

~~(34) Sales of items by a nonprofit civic, charitable, educational, scientific or literary organization when the net proceeds of the sales will be given or contributed to the State of North Carolina or to one or more of its agencies or instrumentalities, or to one or more nonprofit charitable organizations, one of whose purposes is to serve as a conduit through which such net proceeds will flow to the State or to one or more of its agencies or instrumentalities.~~

(35) Sales by a nonprofit civic, charitable, educational, scientific, literary, or fraternal organization when all of the following conditions are met:

a. The sales are conducted only upon an annual basis for the purpose of raising funds for the organization's activities.
b. The proceeds of the sale are actually used for the organization's activities.
c. The products sold are delivered to the purchaser within 60 days after the first solicitation of any sale made during the organization's annual sales period.

~~(36) Advertising supplements and any other printed matter ultimately to be distributed with or as part of a newspaper.~~

(37) Repealed by Session Laws 2001-424, s. 34.23(a), effective December 1, 2001, and applicable to sales made on or after that date.

(38) Food and other items lawfully purchased under the Food Stamp Program, 7 U.S.C. § 2011, and supplemental foods lawfully purchased with a food instrument issued under the Special Supplemental Nutrition Program, 42 U.S.C. § 1786, and supplemental foods purchased for direct distribution by the Special Supplemental Nutrition Program.

~~(39) Sales of paper, ink, and other tangible personal property to commercial printers and commercial publishers for use as ingredients or component parts of free distribution periodicals and sales by printers of free distribution periodicals to the publishers of these periodicals. As used in this subdivision, the term "free distribution periodical" means a publication that is continuously published on a periodic basis monthly or more frequently, is provided without charge to the recipient, and is distributed in any manner other than by mail.~~

(40) Sales to the Department of Transportation.

~~(41) Sales of mobile classrooms to local boards of education or to local boards of trustees of community colleges.~~

~~(42) Tangible personal property that is purchased by a retailer for resale or is manufactured or purchased by a wholesale merchant for resale and then withdrawn from inventory and donated by the retailer or wholesale merchant to either a governmental entity or a nonprofit organization, contributions to which are deductible as charitable contributions for federal income tax purposes.~~

(43) Custom computer software. – Custom computer software and the portion of prewritten computer software that is modified or enhanced if the modification or enhancement is designed and developed to the specifications of a specific purchaser and the charges for the modification or enhancement are separately stated.

(43a) Computer software that meets any of the following descriptions:
a. It is designed to run on an enterprise server operating system.
b. It is sold to a person who operates a datacenter and is used within the datacenter.
c. It is sold to a person who provides cable service, telecommunications service, or video programming and is used to provide ancillary service, cable service, Internet access service, telecommunications service, or video programming.

(43b) Computer software or digital property that becomes a component part of other computer software or digital property that is offered for sale or of a service that is offered for sale.

~~(44) Piped natural gas. – This item is exempt because it is taxed under Article 5E of this Chapter.~~

~~(45) Sales of aircraft lubricants, aircraft repair parts, and aircraft accessories to an interstate passenger air carrier for use at its hub.~~

~~(45a) Sales to an interstate air business of tangible personal property that becomes a component part of or is dispensed as a lubricant into commercial aircraft during its maintenance, repair, or overhaul. For the purpose of this subdivision, commercial aircraft includes only aircraft that has a certified maximum take-off weight of more than 12,500 pounds and is regularly used to carry for compensation passengers, commercial freight, or individually addressed letters and packages.~~

~~(45b) Sales of the following items to an interstate air courier for use at its hub:~~

~~a. Aircraft lubricants, aircraft repair parts, and aircraft accessories.~~

~~b. Materials handling equipment, racking systems, and related parts and accessories for the storage or handling and movement of tangible personal property at an airport or in a warehouse or distribution facility.~~

~~(45c) Sales of aircraft simulators to a company for flight crew training and maintenance training.~~

(46) Sales of electricity by a municipality whose only wholesale supplier of electric power is a federal agency and who is required by a contract with that federal agency to make payments in lieu of taxes.

~~(47) An amount charged as a deposit on a beverage container that is returnable to the vendor for reuse when the amount is refundable or creditable to the vendee, whether or not the deposit is separately charged.~~

~~(48) An amount charged as a deposit on an aeronautic, automotive, industrial, marine, or farm replacement part that is returnable to the vendor for rebuilding or remanufacturing when the amount is refundable or creditable to the vendee, whether or not the deposit is separately charged. This exemption does not include tires or batteries.~~

~~(49) Installation charges when the charges are separately stated on an invoice or similar billing document given to the purchaser at the time of sale.~~

~~(49a) Delivery charges for delivery of direct mail if the charges are separately stated on an invoice or similar billing document given to the purchaser at the time of sale.~~

~~(50) Fifty percent (50%) of the sales price of tangible personal property sold through a coin-operated vending machine, other than tobacco.~~

(51) Water delivered by or through main lines or pipes for either commercial or domestic use or consumption.

(52) Items subject to sales and use tax under G.S. 105-164.4, other than electricity, telecommunications service, and ancillary service as defined in G.S. 105-164.4, if all of the following conditions are met:

a. The items are purchased by a State agency for its own use and in accordance with G.S. 105-164.29A.

b. The items are purchased pursuant to a valid purchase order issued by the State agency that contains the exemption number of the agency and a description of the property purchased, or the items purchased are paid for with a State-issued check, electronic deposit, credit card, procurement card, or credit account of the State agency.

c. For all purchases other than by an agency-issued purchase order, the agency must provide to or have on file with the retailer the agency's exemption number.

~~(53) Sales to a professional land surveyor of tangible personal property on which custom aerial survey data is stored in digital form or is depicted in graphic form. Data is custom if it was created to the specifications of the professional land surveyor purchasing the property. A professional land surveyor is a person licensed as a surveyor under Chapter 89C of the General Statutes.~~

(54) The following telecommunications services and charges:

a. Telecommunications service that is a component part of or is integrated into a telecommunications service that is resold. This exemption does not apply to service purchased by a pay telephone provider who uses the service to provide pay telephone service. Examples of services that are resold include carrier charges for access to an intrastate or interstate interexchange network, interconnection charges paid by a provider of mobile telecommunications service, and charges for the sale of unbundled network elements. An unbundled network element is a network element, as defined in 47 U.S.C. § 153(29), to which access is provided on an unbundled basis pursuant to 47 U.S.C. § 251(c)(3).

b. Pay telephone service.

c. 911 charges imposed under G.S. 62A-43 and remitted to the 911 Fund under that section.

d. Charges for telecommunications service made by a hotel, motel, or another entity whose gross receipts are taxable under G.S. 105-164.4(a)(3) when the charges are incidental to the occupancy of the entity's accommodations.

e. Telecommunications service purchased by a State agency or a unit of local government for the North Carolina Information Highway or another data network owned or leased by the State or unit of local government.

(55) Sales of electricity for use at an eligible Internet datacenter and eligible business property to be located and used at an eligible Internet datacenter. As used in this subdivision, "eligible business property" is property that is capitalized for tax purposes under the Code and is used either:

a. For the provision of a service included in the business of the primary user of the datacenter, including equipment cooling systems for managing the performance of the property.

b. For the generation, transformation, transmission, distribution, or management of electricity, including exterior substations and other business personal property used for these purposes.

c. To provide related computer engineering or computer science research.

If the level of investment required by G.S. 105-164.3(8e)d. is not timely made, then the exemption provided under this subdivision is forfeited. If the level of investment required by G.S. 105-164.3(8e)d. is timely made but any specific eligible business property is not located and used at an eligible Internet datacenter, then the exemption provided for such eligible business property under this subdivision is forfeited. If the level of investment required by G.S. 105-164.3(8e)d. is timely made but any portion of the electricity is not used at an eligible Internet datacenter, then the exemption provided for such electricity under this subdivision is forfeited. A taxpayer that forfeits an exemption under this subdivision is liable for all past taxes

avoided as a result of the forfeited exemption, computed from the date the taxes would have been due if the exemption had not been allowed, plus interest at the rate established under G.S. 105-241.21. If the forfeiture is triggered due to the lack of a timely investment required by G.S. 105-164.3(8e)d., then interest is computed from the date the taxes would have been due if the exemption had not been allowed. For all other forfeitures, interest is computed from the time as of which the eligible business property or electricity was put to a disqualifying use. The past taxes and interest are due 30 days after the date the exemption is forfeited. A taxpayer that fails to pay the past taxes and interest by the due date is subject to the provisions of G.S. 105-236.

~~(56) Sales to the owner or lessee of an eligible railroad intermodal facility of intermodal cranes, intermodal hostler trucks, and railroad locomotives that reside on the premises of the facility and are used at the facility.~~

(57) ~~Fuel and electricity~~ Electricity sold to a manufacturer for use in connection with the operation of a manufacturing facility.

~~(58) Tangible personal property purchased with a client assistance debit card issued for disaster assistance relief by a State agency or a federal agency or instrumentality.~~

~~(59) Interior design services provided in conjunction with the sale of tangible personal property.~~

(60) A service taxable under G.S. 105-164.4(b)(13) through (25) that is provided to a business subject to the franchise tax under Article 3 of this Chapter for use in that business.

(61) Any of the following provided for tangible personal property that is exempt from tax under this Article, other than an item exempt from tax under G.S. 105-164.13(32):

a. A service contract.

b. Alteration, repair, maintenance, cleaning, or installation services.

(62) A service provided by a self-employed individual who is 17 years of age or younger.

(63) Admission charges to any of the following recreational or entertainment activities:

a. An event that is held at an elementary or secondary school and is sponsored by the school.

b. A commercial agricultural fair that meets the requirements of G.S. 106-520.1, as determined by the Commissioner of Agriculture.

c. A festival that lasts no more than seven consecutive days and is sponsored by a nonprofit entity that is exempt from tax under Article 4 of this Chapter and uses the entire proceeds of the activity exclusively for the entity's nonprofit purposes. This exemption applies to no more than two activities sponsored by the entity during a calendar year.

d. A youth athletic contest with an admissions price that does not exceed ten dollars ($10.00) and is sponsored by a nonprofit entity that is exempt from tax under Article 4 of this Chapter. For the purpose of this subdivision, a youth athletic contest is a contest in which each participating athlete is less than 20 years of age.

(64) Construction services provided for a newly constructed building or other structure."

SECTION 2.3.(e) G.S. 105-164.13B, 105-164.13C, and 105-164.13D are repealed.

SECTION 2.3(f) Article 5F of Chapter 105 of the General Statutes is repealed.

SECTION 2.3(g) G.S. 105-228.90(b)(4b) reads as rewritten:

"(4b) NAICS. – The North American Industry Classification System adopted by the United States Office of Management and Budget as of December 31, ~~2007.~~2012."

SECTION 2.3.(h) G.S. 105-237.1(a) reads as rewritten:

"(a) Authority. – The Secretary may compromise a taxpayer's liability for a tax that is collectible under G.S. 105-241.22 when the Secretary determines that the compromise is in the best interest of the State and makes one or more of the following findings:

...

(6) The taxpayer is a retailer or a consumer under Article 5 of this Chapter, the assessment is for sales or use tax the retailer failed to collect or the consumer failed to pay on an item that first became taxable under that Article on or after January 1, 2015, and the retailer or consumer made a good faith effort to comply with the sales and use tax laws. This subdivision expires January 1, 2025."

SECTION 2.3.(i) G.S. 105-467(a) reads as rewritten:

"(a) Sales Tax. – The sales tax that may be imposed under this Article is limited to a tax at the rate of one percent (1%) of the following:

(1) A retailer's net taxable sales and gross receipts that are subject to the general rate of sales tax imposed by the State under ~~G.S. 105-164.4.~~G.S. 105-164.4(b).

(2) through (4) Repealed by Session Laws 2011-330, s. 45, effective June 27, 2011.

~~(5) The sales price of food that is not otherwise exempt from tax pursuant to G.S. 105-164.13 but is exempt from the State sales and use tax pursuant to G.S. 105-164.13B.~~

~~(5a) The sales price of a bundled transaction that includes food subject to tax under subdivision (5) of this subsection, if the price of the food exceeds ten percent (10%) of the price of the bundle. A retailer must determine the price of food in a bundled transaction in accordance with G.S. 105-164.4D.~~

~~(5b) The sales price of bread, rolls, and buns that are sold at a bakery thrift store and are exempt from State tax under G.S. 105-164.13(27a).~~

(6), (7) Repealed by Session Laws 2011-330, s. 45, effective June 27, 2011."

SECTION 2.3.(j) This section becomes effective January 1, 2015, and applies to sales made on or after that date and to gross receipts received on or after January 1, 2015, from admissions purchased on or after that date. Gross receipts received on or after January 1, 2015, from admissions purchased before that date are taxable under G.S. 105-37.1 or G.S. 105-38.1, as appropriate.

SECTION 2.4(a) G.S. 105-164.14(c) and G.S. 105-164.14A are repealed.

SECTION 2.4(b) G.S. 105-164.14(b) reads as rewritten:

"(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed a semiannual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services, other than electricity, telecommunications service, and ancillary service, for use in carrying on the work of the nonprofit entity. Sales and use tax liability indirectly incurred by a nonprofit entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the nonprofit entity and is being erected, altered, or repaired for use by the nonprofit entity for carrying on its nonprofit activities is considered a sales or use tax liability incurred on direct purchases by the nonprofit entity. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund for the

first six months of a calendar year is due the following October 15; a request for a refund for the second six months of a calendar year is due the following April 15. The aggregate annual refund amount allowed under this subsection for a fiscal may not exceed the amount set in the table below:

Fiscal Year	Amount
Beginning July 1, 2014	$5,000,000
Beginning July 1, 2015	$1,000,000
Beginning on or after July 1, 2016	$ 100,000.

The refunds allowed under this subsection do not apply to an entity that is owned and controlled by the United States or to an entity that is owned or controlled by the State and is not listed in this subsection. A hospital that is not listed in this subsection is allowed a semiannual refund of sales and use taxes paid by it on medicines and drugs purchased for use in carrying out its work. The following nonprofit entities are allowed a refund under this subsection:

(1) Hospitals not operated for profit, including hospitals and medical accommodations operated by an authority or other public hospital described in Article 2 of Chapter 131E of the General Statutes.

(2) An organization that is exempt from income tax under section 501(c)(3) of the Code, other than an organization that is properly classified in any of the following major group areas of the National Taxonomy of Exempt Entities:
   a. Community Improvement and Capacity Building.
   b. Public and Societal Benefit.
   c. Mutual and Membership Benefit.

(2a) An organization that is exempt from income tax under the Code and is one of the following:
   a. A volunteer fire department.
   b. A volunteer emergency medical services squad.

(3) Repealed by Session Laws 2008-107, s. 28.22(a), effective July 1, 2008, and applicable to purchases made on or after that date.

(4) Qualified retirement facilities whose property is excluded from property tax under G.S. 105-278.6A.

(5) A university affiliated nonprofit organization that procures, designs, constructs, or provides facilities to, or for use by, a constituent institution of The University of North Carolina. For purposes of this subdivision, a nonprofit organization includes an entity exempt from taxation as a disregarded entity of the nonprofit organization."

SECTION 2.4.(c) This section becomes effective July 1, 2014, and applies to purchases made on or after that date.

PART III. EXPAND STATE REVENUE RELIANCE ON CONSUMPTION BY INCREASING THE STATE'S SHARE OF THE REAL ESTATE CONVEYANCE TAX

SECTION 3.(a) G.S. 105-228.30(b) reads as rewritten:

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

~~G.S. 113-44.15 and twenty-five percent (25%) to the Natural Heritage Trust Fund established under G.S. 113-77.7.~~"

SECTION 3.(b) G.S. 113-44.15 reads as rewritten:

"**§ 113-44.15. Parks and Recreation Trust Fund.**

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

...

(d) Debt. – The Authority may allocate up to fifty percent (50%) of the portion of the annual appropriation identified in subdivision (b)(1) of this section to reimburse the General Fund for debt service on special indebtedness to be issued or incurred under Article 9 of Chapter 142 of the General Statutes for the purposes provided in subdivision (b)(1) of this section and for waterfront access. In order to allocate funds for debt service reimbursement, the Authority must identify to the State Treasurer the specific parks projects for which it would like special indebtedness to be issued or incurred and the annual amount it intends to make available, and request the State Treasurer to issue or incur the indebtedness. After special indebtedness has been issued or incurred for a parks project requested by the Authority, the Authority must credit to the General Fund each year the actual aggregate principal and interest payments to be made in that year on the special indebtedness, as identified by the State Treasurer."

SECTION 3.(c) G.S. 113-77.9 reads as rewritten:

"**§ 113-77.9. Acquisition of lands with funds from the Natural Heritage Trust Fund.**

...

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

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

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

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

...

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

~~(b3) Debt. – Of the funds credited annually to the Fund pursuant to G.S. 105-228.30, the Trustees may authorize expenditure of up to sixty percent (60%) to reimburse the General Fund for debt service on special indebtedness to be issued or incurred under Article 9 of Chapter 142~~

~~of the General Statutes for the purposes provided in subdivisions (b)(1) and (2) of this section. In order to authorize expenditure of funds for debt service reimbursement, the Trustees must identify to the State Treasurer and the Department of Administration the specific natural heritage projects for which they would like special indebtedness to be issued or incurred and the annual amount they intend to make available, and request the State Treasurer to issue or incur the indebtedness. After special indebtedness has been issued or incurred for a natural heritage project requested by the Trustees, the Trustees must direct the State Treasurer to credit to the General Fund each year the actual aggregate principal and interest payments to be made in that year on the special indebtedness, as identified by the State Treasurer.~~

...".

SECTION 3.(d) This section becomes effective January 1, 2015, and applies to transfers made on or after that date.

PART IV. SIMPLIFY AND REDUCE CORPORATE INCOME TAXES

SECTION 4.1.(a) G.S. 105-130.3 reads as rewritten:

"**§ 105-130.3. Corporations.**

A tax is imposed on the State net income of every C Corporation doing business in this State. An S Corporation is not subject to the tax levied in this section. The tax is a percentage of the taxpayer's State net income computed as follows:

Income Years Beginning	Tax
~~In 1997~~	~~7.5%~~
~~In 1998~~	~~7.25%~~
~~In 1999~~	~~7%~~
~~After 1999~~	~~6.9%.~~
In 2014	6.5%
In 2015	6.25%
After 2015	6%."

SECTION 4.1.(b) This section becomes effective for taxable years beginning on or after January 1, 2014.

SECTION 4.2.(a) Effective for taxable years beginning on or after January 1, 2014, G.S. 105-130.4(i) reads as rewritten:

"(i) All apportionable income of corporations other than public utilities, excluded corporations, and qualified capital intensive corporations shall be apportioned to this State by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus ~~twice~~ three times the sales factor, and the denominator of which is ~~four.~~ five. If the sales factor does not exist, the denominator of the fraction is the number of existing factors and if the sales factor exists but the payroll factor or the property factor does not exist, the denominator of the fraction is the number of existing factors plus ~~one.~~two."

SECTION 4.2.(b) Effective for taxable years beginning on or after January 1, 2015, G.S. 105-130.4(i), as amended by subsection (a) of this section, reads as rewritten:

"(i) All apportionable income of corporations other than public utilities, excluded corporations, and qualified capital intensive corporations shall be apportioned to this State by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus ~~three~~ five times the sales factor, and the denominator of which is ~~five.~~ seven. If the sales factor does not exist, the denominator of the fraction is the number of existing factors and if the sales factor exists but the payroll factor or the property factor does not exist, the denominator of the fraction is the number of existing factors plus ~~two.~~four."

SECTION 4.2.(c) Effective for taxable years beginning on or after January 1, 2016, G.S. 105-130.4(i), as amended by subsection (b) of this section reads as rewritten:

"(i) All apportionable income of corporations other than public ~~utilities, excluded corporations, and qualified capital intensive corporations~~ utilities shall be apportioned to this

State by multiplying the income by ~~a fraction, the numerator of which is the property factor plus the payroll factor plus five times the sales factor, and the denominator of which is seven.~~ the sales factor as determined under subsection (l) of this section.~~If the sales factor does not exist, the denominator of the fraction is the number of existing factors and if the sales factor exists but the payroll factor or the property factor does not exist, the denominator of the fraction is the number of existing factors plus four.~~"

SECTION 4.2.(d) Effective for taxable years beginning on or after January 1, 2016, G.S. 105-130.4(a)(4), (r), and (s1) are repealed.

SECTION 4.2.(e) Except as otherwise provided, this section is effective when it becomes law.

SECTION 4.3.(a) G.S. 105-130.5, as amended by S.L. 2013-10, reads as rewritten:

"**§ 105-130.5. Adjustments to federal taxable income in determining State net income.**

(a) The following additions to federal taxable income shall be made in determining State net income:

(1) Taxes based on or measured by net income by whatever name called and excess profits taxes.

(2) Interest paid in connection with income exempt from taxation under this Part.

(3) The contributions deduction allowed by the Code.

(4) Interest income earned on bonds and other obligations of other states or their political subdivisions, less allowable amortization on any bond acquired on or after January 1, 1963.

~~(5) The amount by which gains have been offset by the capital loss carryover allowed under the Code. All gains recognized on the sale or other disposition of assets must be included in determining State net income or loss in the year of disposition.~~

~~(6) Any amount allowed as a net operating loss deduction under the Code.~~

(7) Repealed by Session Laws 2001-327, s. 3(a), effective for taxable years beginning on or after January 1, 2001.

(8) Repealed by Session Laws 1987, c. 778, s. 2.

(9) Payments to or charges by a parent, subsidiary or affiliated corporation in excess of fair compensation in all intercompany transactions of any kind whatsoever pursuant to the Revenue Laws of this State.

(10) The total amounts allowed under this Chapter during the taxable year as a credit against the taxpayer's income tax. This subdivision does not apply to a credit allowed under G.S. 105-130.47. A corporation that apportions part of its income to this State shall make the addition required by this subdivision after it determines the amount of its income that is apportioned and allocated to this State and shall not apply to a credit taken under this Chapter the apportionment factor used by it in determining the amount of its apportioned income.

(11) The amount by which the percentage depletion allowance allowed by sections 613 and 613A of the Code for mines, oil and gas wells, and other natural deposits exceeds the cost depletion allowance for these items under the Code, except as otherwise provided herein. This subdivision does not apply to depletion deductions for clay, gravel, phosphate rock, lime, shells, stone, sand, feldspar, gemstones, mica, talc, lithium compounds, tungsten, coal, peat, olivine, pyrophyllite, and other solid minerals or rare earths extracted from the soil or waters of this State. Corporations required to apportion income to North Carolina shall first add to federal taxable income the amount of all percentage depletion in excess of cost depletion that was

subtracted from the corporation's gross income in computing its federal income taxes and shall then subtract from the taxable income apportioned to North Carolina the amount by which the percentage depletion allowance allowed by sections 613 and 613A of the Code for solid minerals or rare earths extracted from the soil or waters of this State exceeds the cost depletion allowance for these items.

(12) The amount allowed under the Code for depreciation or as an expense in lieu of depreciation for a utility plant acquired by a natural gas local distribution company, to the extent the plant is included in the company's rate base at zero cost in accordance with G.S. 62-158.

(13) Repealed by Session Laws 2001-427, s. 4(b), effective for taxable years beginning on or after January 1, 2002.

(14) Royalty payments required to be added by G.S. 105-130.7A, to the extent deducted in calculating federal taxable income.

~~(15) For taxable years 2002-2005, the applicable percentage of the amount allowed as a special accelerated depreciation deduction under section 168(k) or section 1400L of the Code, as set out in the table below. In addition, a taxpayer who was allowed a special accelerated depreciation deduction under section 168(k) or section 1400L of the Code in a taxable year beginning before January 1, 2002, and whose North Carolina taxable income in that earlier year reflected that accelerated depreciation deduction must add to federal taxable income in the taxpayer's first taxable year beginning on or after January 1, 2002, an amount equal to the amount of the deduction allowed in the earlier taxable year. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes. The applicable percentage is as follows:~~

~~Taxable Year~~	~~Percentage~~
~~2002~~	~~100%~~
~~2003~~	~~70%~~
~~2004~~	~~70%~~
~~2005~~	~~0%~~

~~(15a) The applicable percentage of the amount allowed as a special accelerated depreciation deduction under section 168(k) or 168(n) of the Code for property placed in service after December 31, 2007, but before January 1, 2010. The applicable percentage under this subdivision is eighty-five percent (85%).~~

~~In addition, a taxpayer who was allowed a special accelerated depreciation deduction in taxable year 2007 or 2008 for property placed in service during that year, and whose North Carolina taxable income for that year reflected that accelerated depreciation deduction must make the adjustments set out below. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes.~~

~~a. A taxpayer must add to federal taxable income in the taxpayer's 2008 taxable year an amount equal to the applicable percentage of the accelerated depreciation deduction reflected in the taxpayer's 2007 North Carolina taxable income.~~

~~b. A taxpayer must add to federal taxable income in the taxpayer's 2009 taxable year an amount equal to the applicable percentage of the accelerated depreciation deduction reflected in the taxpayer's 2008 North Carolina taxable income.~~

~~(15b) For taxable years 2010 through 2013, eighty five percent (85%) of the amount allowed as a special accelerated depreciation deduction under section 168(k) or 168(n) of the Code for property placed in service during the taxable year. In addition, for taxable year 2010, a taxpayer who placed property in service during the 2009 taxable year and whose North Carolina taxable income for the 2009 taxable year reflected a special accelerated depreciation deduction allowed for the property under section 168(k) of the Code must add eighty five percent (85%) of the amount of the special accelerated depreciation deduction. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes.~~

(16) The amount excluded from gross income under Subchapter R of Chapter 1 of the Code.

(17) The amount excluded from gross income under section 199 of the Code.

(18) Repealed by Session Laws 2006-220, s. 1, effective for taxable years beginning on and after January 1, 2007.

(19) The dividend paid deduction allowed under the Code to a captive REIT, as defined in G.S. 105-130.12.

(20) The amount of a donation made to a nonprofit organization or a unit of State or local government for which a credit is claimed under G.S. 105-129.16H.

(21) The amount of income deferred under section 108(i)(1) of the Code from the discharge of indebtedness in connection with a reacquisition of an applicable debt instrument.

(22) The amount allowed as a deduction under section 163(e)(5)(F) of the Code for an original issue discount on an applicable high yield discount obligation.

~~(23) For taxable years 2010 and 2011, eighty five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code for property placed in service in taxable year 2010 or 2011 exceeds the amount that would have been allowed for the respective taxable year under section 179 of the Code as of May 1, 2010. For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 1, 2011. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes.~~

~~(23a) For taxable years 2012 and 2013, eighty five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code for property placed in service in taxable year 2012 or 2013 exceeds the amount that would have been allowed for the respective taxable year under section 179 of the Code as of May 1, 2010. For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 2, 2013. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes.~~

(24) The amount required to be added under G.S. 105-130.5B when the State decouples from federal accelerated depreciation and expensing.

(b) The following deductions from federal taxable income shall be made in determining State net income:

(1) Interest upon the obligations of the United States or its possessions, to the extent included in federal taxable income: Provided, interest upon the obligations of the United States shall not be an allowable deduction unless

interest upon obligations of the State of North Carolina or any of its political subdivisions is exempt from income taxes imposed by the United States.

(1a) Interest upon the obligations of any of the following, net of related expenses, to the extent included in federal taxable income:

a. This State, a political subdivision of this State, or a commission, an authority, or another agency of this State or of a political subdivision of this State.

b. A nonprofit educational institution organized or chartered under the laws of this State.

(2) Payments received from a parent, subsidiary or affiliated corporation in excess of fair compensation in intercompany transactions which in the determination of the net income or net loss of such corporation were not allowed as a deduction under the Revenue Laws of this State.

(3) Repealed by Session Laws 2003-349, s. 1.1, effective January 1, 2003.

(3a) Dividends treated as received from sources outside the United States as determined under section 862 of the Code, net of related expenses, to the extent included in federal taxable income. ~~Notwithstanding the proviso in subdivision (c)(3) of this section, the netting of related expenses shall be calculated in accordance with subdivision (c)(3) of this section and G.S. 105-130.6A.~~

(3b) Any amount included in federal taxable income under section 78 or section 951 of the Code, net of related expenses.

(4) Losses in the nature of State net economic losses sustained by the corporation in any or all of the 15 preceding years pursuant to the provisions of G.S. 105-130.8. A corporation required to allocate and apportion its net income under the provisions of G.S. 105-130.4 shall deduct its allocable and apportionable State net ~~economic~~ loss only from total income allocable and apportionable to this State pursuant to the provisions of G.S. 105-130.8.

(4a) Any unused portion of a net economic loss sustained by the corporation in taxable years beginning before January 1, 2014, pursuant to the provisions of G.S. 105-130.8. This subdivision expires for taxable years beginning on or after January 1, 2029.

~~(5) Contributions or gifts made by any corporation within the income year to the extent provided under G.S. 105-130.9.~~

~~(6) Amortization in excess of depreciation allowed under the Code on the cost of any sewage or waste treatment plant, and facilities or equipment used for purposes of recycling or resource recovery of or from solid waste, or for purposes of reducing the volume of hazardous waste generated as provided in G.S. 105-130.10.~~

~~(7) Depreciation of emergency facilities acquired prior to January 1, 1955. Any corporation shall be permitted to depreciate any emergency facility, as such is defined in section 168 of the Code, over its useful life, provided such facility was acquired prior to January 1, 1955, and no amortization has been claimed on such facility for State income tax purposes.~~

~~(8) The amount of losses realized on the sale or other disposition of assets not allowed under section 1211(a) of the Code. All losses recognized on the sale or other disposition of assets must be included in determining State net income or loss in the year of disposition.~~

(9) With respect to a shareholder of a regulated investment company, the portion of undistributed capital gains of such regulated investment company included in such shareholder's federal taxable income and on which the

federal tax paid by the regulated investment company is allowed as a credit or refund to the shareholder under section 852 of the Code.

(10) Repealed by Session Laws 1987, c. 778, s. 2.

(11) If a deduction for an ordinary and necessary business expense was required to be reduced or was not allowed under the Code because the corporation claimed a federal tax credit against its federal income tax liability for the income year in lieu of a deduction, the amount by which the deduction was reduced and the amount of the deduction that was disallowed. This deduction is allowed only to the extent that a similar credit is not allowed by this Chapter for the amount.

~~(12) Reasonable expenses, in excess of deductions allowed under the Code, paid for reforestation and cultivation of commercially grown trees; provided, that this deduction shall be allowed only to those corporations in which the real owners of all the shares of such corporation are natural persons actively engaged in the commercial growing of trees, or the spouse, siblings, or parents of such persons. Provided, further, that in no case shall a corporation be allowed a deduction for the same reforestation or cultivation expenditure more than once.~~

~~(13) The eligible income of an international banking facility to the extent included in determining federal taxable income, determined as follows:~~

~~a. "International banking facility" shall have the same meaning as is set forth in the laws of the United States or regulations of the board of governors of the federal reserve system.~~

~~b. The eligible income of an international banking facility for the taxable year shall be an amount obtained by multiplying State taxable income as determined under G.S. 105-130.3 (determined without regard to eligible income of an international banking facility and allocation and apportionment, if applicable) for such year by a fraction, the denominator of which shall be the gross receipts for such year derived by the bank from all sources, and the numerator of which shall be the adjusted gross receipts for such year derived by the international banking facility from:~~

~~1. Making, arranging for, placing or servicing loans to foreign persons substantially all the proceeds of which are for use outside the United States;~~

~~2. Making or placing deposits with foreign persons which are banks or foreign branches of banks (including foreign subsidiaries or foreign branches of the taxpayer) or with other international banking facilities; or~~

~~3. Entering into foreign exchange trading or hedging transactions related to any of the transactions described in this paragraph.~~

~~c. The adjusted gross receipts shall be determined by multiplying the gross receipts of the international banking facility by a fraction the numerator of which is the average amount for the taxable year of all assets of the international banking facility which are employed outside the United States and the denominator of which is the average amount for the taxable year of all assets of the international banking facility.~~

~~d. For the purposes of this subsection the term "foreign person" means:~~

~~1. An individual who is not a resident of the United States;~~

~~2. A foreign corporation, a foreign partnership or a foreign trust, as defined in section 7701 of the Code, other than a domestic branch thereof;~~

~~3. A foreign branch of a domestic corporation (including the taxpayer);~~

~~4. A foreign government or an international organization or an agency of either, or~~

~~5. An international banking facility.~~

~~For purposes of this paragraph, the terms "foreign" and "domestic" shall have the same meaning as set forth in section 7701 of the Code.~~

(14) The amount by which the basis of a depreciable asset is required to be reduced under the Code for federal tax purposes because of a tax credit allowed against the corporation's federal income tax liability or because of a grant allowed under section 1603 of the American Recovery and Reinvestment Tax Act of 2009, P.L. 111-3. This deduction may be claimed only in the year in which the Code requires that the asset's basis be reduced. In computing gain or loss on the asset's disposition, this deduction shall be considered as depreciation.

~~(15) The amount paid during the income year, pursuant to 7 U.S.C. § 1445-2, as marketing assessments on tobacco grown by the corporation in North Carolina.~~

(16) The amount of natural gas expansion surcharges collected by a natural gas local distribution company under G.S. 62-158.

(17) To the extent included in federal taxable income, 911 charges imposed under G.S. 62A-43 and remitted to the 911 Fund under that section.

~~(18) Interest, investment earnings, and gains of a trust, the settlors of which are two or more manufacturers that signed a settlement agreement with this State to settle existing and potential claims of the State against the manufacturers for damages attributable to a product of the manufacturers, if the trust meets all of the following conditions:~~

~~a. The purpose of the trust is to address adverse economic consequences resulting from a decline in demand of the manufactured product potentially expected to occur because of market restrictions and other provisions in the settlement agreement.~~

~~b. A court of this State approves and retains jurisdiction over the trust.~~

~~c. Certain portions of the distributions from the trust are made in accordance with certifications that meet the criteria in the agreement creating the trust and are provided by a nonprofit entity, the governing board of which includes State officials.~~

~~(19) To the extent included in federal taxable income, the amount paid to the taxpayer during the taxable year from the Hurricane Floyd Reserve Fund in the Office of State Budget and Management for hurricane relief or assistance, but not including payments for goods or services provided by the taxpayer.~~

(20) Royalty payments received from a related member who added the payments to income under G.S. 105-130.7A for the same taxable year.

~~(21) In each of the taxpayer's first five taxable years beginning on or after January 1, 2005, an amount equal to twenty percent (20%) of the amount added to taxable income in a previous year as accelerated depreciation under subdivision (a)(15) of this section.~~

~~(21a) An amount equal to twenty percent (20%) of the amount added to federal taxable income as accelerated depreciation under subdivision (a)(15a) of this section. For a taxpayer who made the addition for accelerated depreciation in the 2008 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2009. For a taxpayer who made the addition for accelerated depreciation in the 2009 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2010.~~

~~(21b) An amount equal to twenty percent (20%) of the amount added to federal taxable income as accelerated depreciation under subdivision (a)(15b) of this section. For the amount added to taxable income in the 2010 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2011. For the amount added to taxable income in the 2011 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2012. For the amount added to taxable income in the 2012 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2013. For the amount added to taxable income in the 2013 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2014.~~

~~(22) To the extent included in federal taxable income, the amount paid to the taxpayer during the taxable year from the Disaster Relief Reserve Fund in the Office of State Budget and Management for hurricane relief or assistance, but not including payments for goods or services provided by the taxpayer.~~

(23) A dividend received from a captive REIT, as defined in G.S. 105-130.12.

~~(24) Five percent (5%) of the gross purchase price of a qualified sale of a manufactured home community. A qualified sale is a transfer of land comprising a manufactured home community in a single purchase to a group composed of a majority of the manufactured home community leaseholders or to a nonprofit organization that represents such a group. To be eligible for this deduction, a taxpayer must give notice of the sale to the North Carolina Housing Finance Agency under G.S. 42-14.3.~~

(25) The amount added to federal taxable income as deferred income under section 108(i)(1) of the Code. This deduction applies to taxable years beginning on or after January 1, 2014.

~~(26) An amount equal to twenty percent (20%) of the amount added to federal taxable income under subdivision (a)(23) of this section. For the amount added to taxable income in the 2010 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2011. For the amount added to taxable income in the 2011 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2012.~~

~~(26a) An amount equal to twenty percent (20%) of the amount added to federal taxable income under subdivision (a)(23a) of this section. For the amount added to taxable income in the 2012 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2013. For the amount added to taxable income in the 2013 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2014.~~

(27) The amount allowed as a deduction under G.S. 105-130.5B as a result of an add-back for federal accelerated depreciation and expensing.

(c) The following other adjustments to federal taxable income shall be made in determining State net income:

(1) In determining State net income, no deduction shall be allowed for annual amortization of bond premiums applicable to any bond acquired prior to January 1, 1963. The amount of premium paid on any such bond shall be deductible only in the year of sale or other disposition.

(2) Federal taxable income must be increased or decreased to account for any difference in the amount of depreciation, amortization, or gains or losses applicable to property which has been depreciated or amortized by use of a different basis or rate for State income tax purposes than used for federal income tax purposes prior to the effective date of this Part.

(3) No deduction is allowed for any direct or indirect expenses related to income not taxed under this Part; provided, no adjustment shall be made under this subsection for adjustments addressed in G.S. 105-130.5(a) and (b). ~~G.S. 105-130.6A applies to the adjustment for expenses related to dividends received that are not taxed under this Part.~~

(4) The taxpayer shall add to federal taxable income the amount of any recovery during the taxable year not included in federal taxable income, to the extent the taxpayer's deduction of the recovered amount in a prior taxable year reduced the taxpayer's tax imposed by this Part but, due to differences between the Code and this Part, did not reduce the amount of the taxpayer's tax imposed by the Code. The taxpayer may deduct from federal taxable income the amount of any recovery during the taxable year included in federal taxable income under section 111 of the Code, to the extent the taxpayer's deduction of the recovered amount in a prior taxable year reduced the taxpayer's tax imposed by the Code but, due to differences between the Code and this Part, did not reduce the amount of the taxpayer's tax imposed by this Part.

(5) A savings and loan association may deduct interest earned on deposits at the Federal Home Loan Bank of Atlanta, or its successor, to the extent included in federal taxable income.

(d) Repealed by Session Laws 1987, c. 778, s. 3.

(e) Notwithstanding any other provision of this section, any recapture of depreciation required under the Code must be included in a corporation's State net income to the extent required for federal income tax purposes.

(f) Expired."

SECTION 4.3.(b) Part 1 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-130.5B. Adjustments when State decouples from federal accelerated depreciation and expensing.**

(a) Special Accelerated Depreciation. – A taxpayer who places property in service during a taxable year listed in the table below and who takes a special accelerated depreciation deduction for that property under section 168(k) or 168(n) of the Code must add to the taxpayer's federal taxable income eighty-five percent (85%) of the amount taken for that year under those Code provisions.

A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income. The table below indicates the applicable five-year period.

Taxable Year of	Five Taxable Years of

85% Add-Back	20% Deduction
2010	2011 through 2015
2011	2012 through 2016
2012	2013 through 2017
2013	2014 through 2018

(b) 2009 Depreciation Exception. – A taxpayer who placed property in service during the 2009 taxable year and whose North Carolina taxable income for the 2009 taxable year reflected a special accelerated depreciation deduction allowed for the property under section 168(k) of the Code must add eighty-five percent (85%) of the amount of the special accelerated depreciation deduction to its federal taxable income for the 2010 taxable year. A taxpayer is allowed to deduct this add-back under subsection (a) of this section as if it were for property placed in service in 2010.

(c) Section 179 Expense. – For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 1, 2011. A taxpayer who places section 179 property in service during a taxable year in subsection (a) of this section must add to the taxpayer's federal taxable income eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code exceeds the amount that would have been allowed for that taxable year under section 179 of the Code as of May 1, 2010.

A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income. The table in subsection (a) of this section indicates the applicable five-year period.

(d) Asset Basis. – The adjustments made in this section do not result in a difference in basis of the affected assets for State and federal income tax purposes."

SECTION 4.3.(c) G.S. 105-130.8 reads as rewritten:

"**§ 105-130.8. Net ~~economic loss.~~loss provisions.**

(a) Net ~~economic~~ losses sustained by a corporation in any or all of the 15 preceding income years shall be allowed as a deduction to the corporation subject to the following limitations:

(1) ~~The purpose in allowing the deduction of a net economic loss of a prior year is to grant some measure of relief to the corporation that has incurred economic misfortune or is otherwise materially affected by strict adherence to the annual accounting rule in the determination of net income. The deduction allowed in this section does not authorize the carrying forward of any particular items or category of loss except to the extent that the loss results in the impairment of the net economic situation of the corporation so as to result in a net economic loss as defined in this section.~~A State net loss means the taxpayer's federal taxable income (loss) as determined under the Code, adjusted as provided in G.S. 105-130.5 and, in the case of a corporation that has income from business activity that is taxable both within and without this State, allocated and apportioned to this State as provided in G.S. 105-130.4. For purposes of this deduction, a State net loss does not include prior year losses.

~~(2) The net economic loss for any year means the amount by which allowable deductions for the year other than prior year losses exceed income from all sources in the year including any income not taxable under this Part.~~

~~(3) Any net economic loss of prior years brought forward and claimed as a deduction in any income year may be deducted from net income of the year only to the extent that the loss carried forward from the prior years exceeds any income not taxable under this Part received in the same year in which the deduction is claimed, except that in the case of a corporation required to~~

~~allocate and apportion to North Carolina its net income, only that proportionate part of the net economic loss of a prior year shall be deductible from total income allocable to this State as would be determined by the use of the allocation and apportionment provisions of G.S. 105-130.4 for the year of the loss.~~

~~(4)~~(2) A ~~net economic~~ loss carried forward from any year shall first be applied ~~to, or offset by, any income taxable or nontaxable of~~ to the next succeeding year before any portion of the loss may be carried forward to a succeeding year.

~~(5) For purposes of this section, any income item deductible in determining State net income under the provisions of G.S. 105-130.5 and any nonapportionable income not allocable to this State under the provisions of G.S. 105-130.4 shall be considered as income not taxable under this Part. The amount of the income item considered income not taxable under this Part is determined after subtracting related expenses for which a deduction was allowed under this Part.~~

~~(6)~~(3) No loss shall either directly or indirectly be carried forward more than 15 years.

(b) A corporation claiming a deduction for a loss for the current year or carried forward from a prior year must maintain and make available for inspection by the Secretary all records necessary to determine and verify the amount of the deduction. The Secretary or the taxpayer may redetermine an item originating in a taxable year that is closed under the statute of limitations for the purpose of determining the amount of ~~net economic~~ loss that can be carried forward to a taxable year that remains open under the statute of limitations."

SECTION 4.3.(d) This section is effective for taxable years beginning on or after January 1, 2014.

SECTION 4.4.(a) Article 3C of Chapter 105 of the General Statutes is repealed.

SECTION 4.4.(b) The following statutes are repealed:

G.S. 105-130.6A	(Adjustments for expenses related to dividends)
G.S. 105-130.9	(Contributions)
G.S. 105-130.10	(Amortization of air-cleaning devices, waste treatment facilities, and recycling facilities)
G.S. 105-130.10A	(Amortization of equipment mandated by OSHA)
G.S. 105-130.22	(Tax credit for construction of dwelling units for handicapped person)
G.S. 105-151.1	
G.S. 105-130.25	(Credit against corporate income tax for construction of cogenerating power plants)
G.S. 105-130.34	(Credit for certain real property donations)
G.S. 105-151.12	
G.S. 105-130.36	(Credit for conservation tillage equipment)
G.S. 105-151.13	
G.S. 105-130.37	(Credit for gleaned crop)
G.S. 105-151.14	
G.S. 105-130.39	(Credit for certain telephone subscriber line charges)
G.S. 105-130.43	(Credit for savings and loan supervisory fees)
G.S. 105-130.44	(Credit for construction of poultry composting facility)
G.S. 105-151.25	

SECTION 4.4.(c) This section becomes effective for taxable years beginning on or after January 1, 2014.

SECTION 4.5.(a) Article 3K of Chapter 105 of the General Statutes is repealed.

SECTION 4.5.(b) This section becomes effective for taxable years beginning on or after January 1, 2015.

PART V. ADJUST LOCAL TAX RATES, MODIFY LOCAL DISTRIBUTIONS, AND AUTHORIZE MUNICIPALITIES TO IMPOSE AN ANNUAL PRIVILEGE TAX NOT TO EXCEED FIVE HUNDRED DOLLARS ON A BUSINESS OPERATING WITHIN THE MUNICIPALITY

SECTION 5.1.(a) Article 42 of Chapter 105 of the General Statutes is repealed.

SECTION 5.1.(b) This section becomes effective January 1, 2015, and applies to sales made on or after that date.

SECTION 5.2.(a) G.S. 105-472 reads as rewritten:

"**§ 105-472. Disposition and distribution of taxes collected.**

(a) County Allocation. – The Secretary shall, on a monthly basis, allocate ~~to each taxing county for which the Secretary collects the tax~~ the net proceeds of the tax collected ~~in that county under this Article.~~ under this Article to the taxing counties as provided in this subsection. For the purpose of this section, "net proceeds" means the gross proceeds of the tax collected in each county under this Article less taxes refunded, the cost to the State of collecting and administering the tax in the county as determined by the Secretary, and other deductions that may be charged to the county. If the Secretary collects local sales or use taxes in a month and the taxes cannot be identified as being attributable to a particular taxing county, the Secretary shall allocate the taxes among the taxing counties in proportion to the amount of taxes collected in each county under this Article during that month and shall include them in the monthly distribution. Amounts collected by electronic funds transfer payments are included in the distribution for the month in which the return that applies to the payment is received. The net proceeds are allocated as follows:

(1) Sixty percent (60%) to the taxing county where the tax was collected.

(2) Forty percent (40%) to the taxing county on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer.

...

(e) Deductions. – The costs incurred by the State to provide the functions listed in this subsection that support local governments are deductible from the collections to be allocated each month for distribution.

(1) The Department's cost of the following for the preceding month must be deducted and credited to the Department:

a. The Local Government Division.

b. The Property Tax Commission.

(2) The Department of State Treasurer's costs for personnel and operations of the Local Government Commission.

(3) One-twelfth of the costs of the following for the preceding fiscal year must be deducted and credited to the General Fund:

a. The School of Government at the University of North Carolina at Chapel Hill in operating a training program in property tax appraisal and assessment.

b. Seventy percent (70%) of the expenses of the Department of Revenue in performing the duties imposed by Article 2D of this Chapter."

SECTION 5.2.(b) G.S. 105-486(a) reads as rewritten:

"(a) County Allocation. – The Secretary shall, on a monthly basis, allocate the net proceeds of the additional one-half percent (1/2%) sales and use taxes levied under this Article to the taxing counties as follows:

(1) Sixty percent (60%) to the taxing county where the tax was collected.
(2) Forty percent (40%) to the taxing county on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer."

SECTION 5.2.(c) This section becomes effective January 1, 2015, and applies to distributions for collections for quarters beginning on or after that date.

SECTION 5.3.(a) G.S. 105-469 reads as rewritten:

"**§ 105-469. Secretary to collect and administer local sales and use tax.**

(a) Collection and Administration. – The Secretary ~~shall~~ must collect and administer a tax levied by a county pursuant to this Article. Except as provided in this section, the net tax proceeds must be allocated and distributed as provided in G.S. 105-472.

(a1) Food. – As directed by G.S. 105-164.13B, taxes levied by a county on food are administered as if they were levied by the State under Article 5 of this Chapter. The Secretary must, on a monthly basis, distribute local taxes levied on food to the taxing counties as follows:

(1) The Secretary must allocate one-half of the net proceeds on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer. The Secretary must then adjust the amount allocated to each county as provided in G.S. 105-486(b). The Secretary must include one-half of the amount allocated under this subdivision in the distribution made under Article 40 of this Chapter and must include the remaining one-half in the distribution made under Article 42 of this Chapter.

(2) The Secretary must allocate the remaining net proceeds proportionately to each taxing county based upon the amount of sales tax on food collected in the taxing county in the 1997-1998 fiscal year under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws relative to the total amount of sales tax on food collected in all taxing counties in the 1997-1998 fiscal year under Article 39 of this Chapter and under Chapter 1096 of the 1967 Session Laws. The Secretary must include the amount allocated under this subdivision in the distribution made under Article 39 of this Chapter.

(a2) Electricity and Piped Natural Gas. – The Secretary must, on a monthly basis, allocate to each taxing county for which the Secretary collects the tax the net proceeds of the tax collected in that county on electricity and piped natural gas. The Secretary must divide one hundred percent (100%) of the amount allocated to each taxing county among the municipalities in that county on a per capita basis, as determined under G.S. 105-472(b)(1). The term "net proceeds" has the same meaning as defined in G.S. 105-472.

(b) The Secretary shall require retailers who collect use tax on sales to North Carolina residents to ascertain the county of residence of each buyer and provide that information to the Secretary along with any other information necessary for the Secretary to allocate the use tax proceeds to the correct taxing county."

SECTION 5.3.(b) G.S. 105-486 is amended by adding a new subsection to read:

"(e) Electricity and Piped Natural Gas. – The Secretary must allocate and distribute the net proceeds of the tax collected on electricity and piped natural gas in accordance with G.S. 105-469(a2)."

SECTION 5.3.(c) This section becomes effective January 1, 2015, and applies to distributions for collections for quarters beginning on or after that date.

SECTION 5.4.(a) G.S. 105-113.82 is repealed.

SECTION 5.4.(b) G.S. 108A-93 reads as rewritten:

"**§ 108A-93. Withholding of State moneys from counties failing to pay public assistance costs.**

The Director of the Budget may withhold from any county that does not pay its full share of public assistance costs to the State and has not obtained a loan for repayment under G.S. 108A-89, any State moneys appropriated from the General Fund for public assistance and related administrative costs, or may direct the Secretary of Revenue and State Controller to withhold any tax owed to a county under ~~G.S. 105-113.82,~~ Subchapter VIII of Chapter 105 of the General ~~Statutes,~~ Statutes or Chapter 1096 of the Session Laws of 1967. The Director of the Budget ~~shall~~ must notify the chair of the board of county commissioners of the proposed action prior to the withholding of funds."

SECTION 5.4.(c) This section becomes effective July 1, 2015.

SECTION 5.5.(a) G.S. 105-523 is repealed.

SECTION 5.5.(b) This section becomes effective July 1, 2015.

SECTION 5.6.(a) G.S. 115C-546.1 reads as rewritten:

"**§ 115C-546.1. Creation of Fund; administration.**

(a) There is created the Public School Building Capital Fund. The Fund shall be used to assist county governments in meeting their public school building capital needs and their equipment needs under their local school technology plans.

~~(b) Each calendar quarter, the Secretary of Revenue shall remit to the State Treasurer for credit to the Public School Building Capital Fund an amount equal to the applicable fraction provided in the table below of the net collections received during the previous quarter by the Department of Revenue under G.S. 105-130.3. All funds deposited in the Public School Building Capital Fund shall be invested as provided in G.S. 147-69.2 and G.S. 147-69.3.~~

~~Period~~	~~Fraction~~
~~10/1/97 to 9/30/98~~	~~One-fifteenth (1/15)~~
~~10/1/98 to 9/30/99~~	~~Two-twenty-ninths (2/29)~~
~~10/1/99 to 9/30/00~~	~~One-fourteenth (1/14)~~
~~After 9/30/00~~	~~Five-sixty-ninths (5/69)~~

(c) The Fund shall be administered by the Department of Public Instruction."

SECTION 5.6.(b) G.S. 115C-546.2(a) is repealed.

SECTION 5.6.(c) This section becomes effective April 1, 2015, and applies to distributions for collections for quarters beginning on or after that date.

SECTION 5.7.(a) G.S. 160A-211 is repealed.

SECTION 5.7.(b) Article 9 of Chapter 160A is amended by adding the following new section:

"**§160A-211.2. Privilege license tax.**

(a) Levy. – Except as otherwise provided by law, a city may levy an annual privilege license tax of up to five hundred dollars ($500.00) on a business operating within a city if the business does any of the following activities within the city limits:

(1) Maintains a permanent or temporary business location.

(2) Solicits business, either personally or through agents.

(3) Picks up or delivers goods or services.

(b) Limitations. – A city may not impose a privilege license tax on any of the following businesses but may require that the business obtain a license:

(1) A business that is exempt from federal income tax under section 501 of the Code.

(2) A business engaged in the wholesale sales of alcoholic beverages.

(3) A business that supplies electricity.

(4) A business that supplies piped natural gas.

(5) A business that provides telecommunications service.

(6) A business that provides video programming.

(c) Administration. – If a city levies a tax under this section, a business must obtain the required license and pay the tax before it begins to operate within a city. The tax is due by July

1 of each year. The tax is imposed for the privilege of engaging in business during the fiscal year that begins on the July 1 due date of the tax. The full amount of the privilege license tax applies to a business that, during a fiscal year, begins to operate a business for which a license is required. If a licensee discontinues its business during the license year, the licensee is not entitled to a refund.

(d) Multiple Locations. – A separate license is required and a separate license tax must be paid for each place of business unless two or more places of business under common ownership are contiguous to each other, communicate directly with and open into each other, and are operated as a unit.

(e) Penalties. – The penalties in G.S. 105-236 apply to this section. A city may collect a tax due in any manner allowed under Article 9 of Chapter 105 of the General Statutes.

(f) Definition. – For purposes of this section, the term "business" means a retailer, wholesale merchant, service provider, or franchise, whether it is a sole proprietorship, partnership, LLC, or corporation; whether it is home-based or at another location, whether it is full-time, part-time, or seasonal, and regardless of size."

SECTION 5.7.(c) This section becomes effective July 1, 2015, and applies to licenses issued or renewed on or after that date.

SECTION 5.8.(a) Article 44 of Chapter 105 of the General Statutes is amended by adding two new subsections to read:

"**§ 105-522A. Transitional city hold harmless for repealed local taxes.**

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

(1) Eligible municipality. – A municipality that was incorporated on or before October 1, 2008, and was receives a distribution of sales and use taxes under G.S. 105-472.

(1) Hold harmless threshold. – The amount of sales and use tax revenue allocated for distribution to a municipality under G.S. 105-472 and G.S. 105-486.

(2) Repealed tax amounts. – The sum of the following amounts divided by twelve:

a. The amount of beer and wine taxes distributed to a municipality under G.S. 105-113.82 for the twelve-month period ending March 31, 2015.

b. The amount of electricity franchise tax distributed to a municipality under G.S. 105-116.1 for the twelve-month period ending December 31, 2014.

c. The amount of excise tax from piped natural gas distributed to a municipality under G.S. 105-187.44 for the twelve-month period ending December 31, 2014.

d. The annual refund amount of sales and use taxes received by a municipality under G.S. 105-164.14(c) for fiscal year 2013-2014.

e. The amount of sales and use tax revenue allocated for distribution to a municipality under G.S. 105-501 for the twelve-month period ending December 31, 2014.

f. An amount determined by subtracting the amount allocated to a municipality for distribution under G.S. 105-472 and G.S. 105-486 for the 12-month period ending December 31, 2014, from the amount that would have been allocated to the municipality for distribution if the sales and use tax revenues collected under G.S. 105-472 and G.S. 105-486 for that same 12-month period had been allocated for distribution to the counties on the following basis: sixty percent

(60%) on the basis of point of origin and forty percent (40%) on a per capita basis.

(b) Requirement. – If an eligible municipality's repealed tax amount for a month exceeds the municipality's hold harmless threshold for that month, the State is required to pay the municipality a percentage of the difference. The Secretary must withhold from sales and use tax collection under Article 5 of this Chapter the amount needed to make the city hold harmless payments required by this section.

Fiscal Year	Percentage of Hold Harmless Payment
2014-2015	100%
2015-2016	100%
2016-2017	90%
2017-2018	80%
2018-2019	70%
2019-2020	60%
2020-2021	50%
2021-2022	40%
2022-2023	30%
2023-2024	20%
2024-2025	10%

(c) Sunset. –This section expires July 1, 2025.

...

"**§ 105-523A. Transitional county hold harmless for repealed local taxes.**

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

(1) Hold harmless threshold. – The amount of sales and use tax revenue allocated for distribution to the county under G.S. 105-472 and G.S. 105-486.

(2) Repealed tax amounts. – The sum of the following amounts divided by twelve:

a. The amount of beer and wine taxes distributed to the county under G.S. 105-113.82 for the twelve-month period ending March 31, 2015.

b. The amount of excise tax retained by the county under G.S. 105-228.30 for the twelve-month period ending December 31, 2014.

c. The annual refund amount of sales and use taxes received by the county under G.S. 105-164.14(c) for fiscal year 2013-2014.

d. The amount of hold harmless payment received by the county under G.S. 105-523 for fiscal year 2013-14.

e. The amount of sales and use tax revenue allocated for distribution to the county under G.S. 105-501 for the twelve-month period ending December 31, 2014.

f. An amount determined by subtracting the amount allocated to the county for distribution under G.S. 105-472 and G.S. 105-486 for the 12-month period ending December 31, 2014, from the amount that would have been allocated to the county for distribution if the sales and use tax revenues collected under G.S. 105-472 and G.S. 105-486 for that same 12-month period had been distributed on the following basis: sixty percent (60%) on the basis of point of origin and forty percent (40%) on a per capita basis.

(b) Requirement. – If a county's repealed tax amount for a month exceeds the county's hold harmless threshold for that month, the State is required to pay the county a percentage of

the difference. The Secretary must withhold from sales and use tax collection under Article 5 of this Chapter the amount needed to make the county hold harmless payments required by this section.

Fiscal Year	Percentage of Hold Harmless Payment
2014-2015	100%
2015-2016	100%
2016-2017	90%
2017-2018	80%
2018-2019	70%
2019-2020	60%
2020-2021	50%
2021-2022	40%
2022-2023	30%
2023-2024	20%
2024-2025	10%

(c) Sunset. –This section expires July 1, 2025.

SECTION 5.8.(b) This section becomes effective January 1, 2015, and applies to distributions for collections for quarters beginning on or after that date.

PART VI. TRANSITIONAL PROVISIONS

SECTION 6.(a) The Revenue Laws Study Committee is directed to study the fiscal impact of the changes proposed by this act and to recommend to the General Assembly any adjustments needed. The Committee is specifically directed to address the following:

(1) The amount of additional revenue received by the State as a result of the expansion of the sales tax base in the act and to recommend to the General Assembly any adjustment to the tax rate sufficient to offset a phased down of the personal income tax rate to zero.

(2) The application of the business privilege tax on related business entities and to recommend to the General Assembly any changes needed to prevent vertical or horizontal pyramiding of the tax.

(3) The amount of additional revenue received by counties and cities as a result of the expansion of the sales tax base in this act and the amount by which local revenue is reduced by the repeal of local privilege license taxes.

(4) The reasons for the remaining distributions of State tax revenue to local governments and ways to eliminate as many of these distributions as possible.

SECTION 6.(b) This act does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this act before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal.

SECTION 6.(c) This section is effective when it becomes law.

PART VII. CORPORATE INCOME TAX CONFORMING CHANGES

SECTION 7.(a) G.S. 105-129.50 reads as rewritten:

"**§ 105-129.50. Definitions.**

The definitions in section 41 of the Code apply in this Article. In addition, the following definitions apply in this Article:

(1) Reserved.

(2) Development tier. – The classification assigned to an area pursuant to G.S. 143B-437.08.

(3) Establishment. – Defined in 29 C.F.R. § 1904.46, as it existed on January 1, 2002.

(4) North Carolina university research expenses. – Any amount the taxpayer paid or incurred to a research university for qualified research performed in this State or basic research performed in this State.

(5) Period of measurement. – Defined in the Small Business Size Regulations of the federal Small Business Administration.

(6) Qualified North Carolina research expenses. – Qualified research expenses, other than North Carolina university research expenses, for research performed in this State.

(7) Receipts. – Defined in the Small Business Size Regulations of the federal Small Business Administration.

(8) Related person. – ~~Defined in G.S. 105-163.010.~~A person described in one of the relationships set forth in section 267(b) or 707(b) of the Code.

(9) Research university. – An institution of higher education that meets one or both of the following conditions:

a. It is classified as one of the following in the most recent edition of "A Classification of Institutions of Higher Education", the official report of The Carnegie Foundation for the Advancement of Teaching:

1. Doctoral/Research Universities, Extensive or Intensive.
2. Masters Colleges and Universities, I or II.
3. Baccalaureate Colleges, Liberal Arts or General.

b. It is a constituent institution of The University of North Carolina.

(10) Small business. – A business whose annual receipts, combined with the annual receipts of all related persons, for the applicable period of measurement did not exceed one million dollars ($1,000,000)."

SECTION 7.(b) G.S. 105-129.51, as amended by Section 4 of this act, reads as rewritten:

"**§ 105-129.51. ~~Administration;~~ Additional eligibility requirements and sunset.**

(a) Requirements. – A taxpayer is eligible for the credit allowed in this Article if it satisfies the ~~requirements of G.S. 105-129.83(c), (d), (e), and (f) relating to wage standard, health insurance, environmental impact, and safety and health programs, respectively.~~following standards:

(1) Wage. – For research performed at an establishment in a development tier two or development tier three area, the taxpayer must meet the general wage standard or, if applicable, the zone wage standard published by the Secretary of Commerce under G.S. 143B-437.010A. For research performed at an establishment in a development tier one area, no wage standard applies.

(2) Health insurance. – The health insurance standard set in G.S. 143B-437.010A applies to all the jobs at an establishment for which a credit or a carryforward of a credit is claimed under this Article. If a taxpayer qualifies for a credit under this Article and then fails to meet the health insurance standard during a taxable year, the credit expires, and the taxpayer may not take any remaining carryforwards of the credit.

(3) Environmental impact. – The environmental standard set in G.S. 143B-437.010A applies to a taxpayer who claims a credit under this Article. A taxpayer must meet the standard at the time the taxpayer claims the credit.

(4) Employee safety and health. – The employee safety and health standard set in G.S. 143B-437.010A applies to a taxpayer who claims a credit under this

Article. A taxpayer must meet the standard at the time the taxpayer claims the credit.

(b) Sunset. – This Article is repealed for taxable years beginning on or after January 1, 2020.

(c) Repealed by Session Laws 2004-124, s. 32D.4, effective for taxable years beginning on or after January 1, 2006."

SECTION 7.(c) G.S. 105-130.9(4) is repealed.

SECTION 7.(d) G.S. 105-230 reads as rewritten:

"**§ 105-230. ~~Charter suspended for failure to report.~~Suspension of business entity's right to do business for noncompliance.**

(a) Suspension. ~~If a corporation or a limited liability company fails to file any~~ Failure of a business entity, as defined in G.S. 105-114.2, to file a report or return or to pay ~~any~~ a tax or fee required by this Subchapter for 90 days after it is ~~due, the Secretary shall inform the Secretary of State of this failure. The Secretary of State shall~~ due is grounds to suspend the business entity's articles of incorporation, articles of organization, ~~or~~ certificate of authority, ~~as appropriate, of the corporation or limited liability company. The Secretary of State shall immediately notify by mail every domestic or foreign corporation or limited liability company so suspended of its suspension.~~ or certificate of registration, as appropriate. The Secretary must notify the Secretary of State when a business entity's authority to transact business is subject to suspension. The Secretary of State must then immediately suspend the business entity's articles of incorporation or other authority to transact business and must notify the business entity by mail of the suspension. The powers, privileges, and franchises conferred upon the ~~corporation or limited liability company by the articles of incorporation, the articles of organization, or the certificate of authority~~ business entity by its articles of incorporation or other authority to transact business terminate upon suspension.

(b) Effect. – Any act performed or attempted to be performed during the period ~~of suspension~~ the business entity's authority to transact business is suspended under this section is invalid and of no effect, unless the Secretary of State reinstates the ~~corporation or limited liability company~~ business entity's authority pursuant to G.S. 105-232."

SECTION 7.(e) G.S. 105-232 reads as rewritten:

"**§ 105-232. ~~Rights restored; receivership and liquidation.~~Procedure for reinstatement after suspension of business entity's authority to do business for noncompliance.**

~~(a) Any corporation or limited liability company whose articles of incorporation, articles of organization, or certificate of authority to do business in this State has been suspended by the Secretary of State under G.S. 105-230, that complies with all the requirements of this Subchapter and pays all State taxes, fees, or penalties due from it (which total amount due may be computed, for years prior and subsequent to the suspension, in the same manner as if the suspension had not taken place), and pays to the Secretary of Revenue a fee of twenty-five dollars ($25.00) to cover the cost of reinstatement, is entitled to exercise again its rights, privileges, and franchises in this State. The Secretary of Revenue shall notify the Secretary of State of this compliance and the Secretary of State shall reinstate the corporation or limited liability company by appropriate entry upon the records of the office of the Secretary of State. Upon entry of reinstatement, it relates back to and takes effect as of the date of the suspension by the Secretary of State and the corporation or limited liability company resumes carrying on its business as if the suspension had never occurred, subject to the rights of any person who reasonably relied, to that person's prejudice, upon the suspension. The Secretary of State shall immediately notify by mail the corporation or limited liability company of the reinstatement.~~The suspension under G.S. 105-230 of the authority of a business entity to transact business terminates when the business entity resolves the noncompliance that resulted in the suspension and pays a reinstatement fee of fifty dollars ($50.00) to the Secretary

of Revenue. The Secretary of Revenue must notify the Secretary of State when a business entity whose authority is suspended resolves the noncompliance. The Secretary of State must then immediately reinstate the business entity's authority and must notify the business entity by mail of the reinstatement. Reinstatement of a business entity's authority to do business relates back to and takes effect as of the date of the suspension, subject to the rights of a person who reasonably relied to that person's prejudice on the suspension.

~~(b) When the articles of incorporation, articles of organization, or certificate of authority to do business in this State has been suspended by the Secretary of State under G.S. 105-230, and the corporation or limited liability company has ceased to operate as a going concern, if there remains property held in the name of the corporation or limited liability company or undisposed of at the time of the suspension, or there remain future interests that may accrue to the corporation, the limited liability company, or its successors, members, or stockholders, any interested party may apply to the superior court for the appointment of a receiver. Application for the receiver may be made in a civil action to which all stockholders, members, or their representatives or next of kin shall be made parties. Stockholders or members whose whereabouts are unknown, unknown stockholders or members, unknown heirs and next of kin of deceased stockholders, members, creditors, dealers, and other interested persons may be served by publication. A guardian ad litem may be appointed for any stockholders, members, or their representatives who are infants or incompetent. The receiver shall enter into a bond if the court requires one and shall give notice to creditors by publication or otherwise as the court may prescribe. Any creditor who fails to file a claim with the receiver within the time set shall be barred of the right to participate in the distribution of the assets. The receiver may (i) sell the property interests of the corporation or limited liability company upon such terms and in such manner as the court may order, (ii) apply the proceeds to the payment of any debts of the corporation or limited liability company, and (iii) distribute the remainder among the stockholders, the members, or their representatives in proportion to their interests in the property interests. Shares due to any stockholder or member who is unknown or whose whereabouts are unknown shall be paid into the office of the clerk of the superior court, to be disbursed according to law. In the event the records of the corporation or limited liability company are lost or do not reflect the owners of the property interests, the court shall determine the owners from the best evidence available, and the receiver shall be protected in acting in accordance with the court's finding. This proceeding is authorized for the sole purpose of providing a procedure for disposing of the assets of the corporation or limited liability company by the payment of its debts and by the transfer to its stockholders, its members, or their representatives their proportionate shares of its assets.~~"

SECTION 7.(f) G.S. 105-259(b)(24), (37), and (38) are repealed.

SECTION 7.(g) G.S. 105-269.13 is repealed.

SECTION 7.(h) Article 10 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-437.08A. Wage, health insurance, and other standards applicable to economic development incentives.**

(a) Wage. – The Department must annually determine the average weekly wage for a calendar year for all insured private employers in each county and in the State and must publish the following wage standards applicable to economic development incentives:

(1) General wage standard. – A job meets the general wage standard if it pays an average weekly wage that is at least equal to the lesser of one hundred ten percent (110%) of the average wage for all insured private employers in the State and ninety percent (90%) of the average wage for all insured private employers in the county.

(2) Zone wage standard. – A job that is located within an urban progress zone or an agrarian growth zone in a development tier two or tier three area satisfies

the wage standard if it pays an average weekly wage that is at least equal to ninety percent (90%) of the lesser of the average wage for all insured private employers in the State and the average wage for all insured private employers in the county.

(3) Calculation. – In determining whether an employer meets a wage standard, the employer may include only full-time jobs and must include any jobs that were filled for at least 1,600 hours during the calendar year even if the jobs are not filled at the time the employer applies for or claims an economic incentive benefit. An employer whose taxable year is not a calendar year must use the wage standard for the calendar year in which the taxable year begins. A full-time job is a position that requires at least 1,600 hours of work per year and is intended to be held by one employee during the entire year. A full-time employee is an employee who holds a full-time job.

(b) Health Insurance. – An employer meets the health insurance standard if the employer does all of the following:

(1) Provides health insurance for all of its full-time jobs. A full-time job is a position that requires at least 1,600 hours of work per year and is intended to be held by one employee during the entire year.

(2) Pays at least fifty percent (50%) of the premiums for health care coverage that equals or exceeds the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee pursuant to G.S. 58-50-125.

(c) Environmental Impact. – A person meets the environmental standard if the person has no final determination of responsibility for an environmental disqualifying event. For the purposes of this section, a "final determination unfavorable to the taxpayer" occurs when there is no further opportunity for the taxpayer to seek administrative or judicial appeal, review, certiorari, or rehearing of the environmental disqualifying event and the disqualifying event has not been reversed or withdrawn. The Secretary of Environment and Natural Resources must notify the Department of Commerce and the Department of Revenue annually of every person that currently has any of these pending actions and every person that has had any of these final determinations within the last five years.

An environmental disqualifying event is any of the following occurrences:

(1) A civil penalty was assessed against the person by the Department of Environment and Natural Resources for failure to comply with an order issued by an agency of the Department to abate or remediate a violation of any program administered by the agency.

(2) Any of the following that occurs within current year or in the prior two years:

a. A finding was made by the Department of Environment and Natural Resources that the taxpayer knowingly and willfully, as defined in G.S. 143-215.6B, including all limitations thereto, committed a violation of any program implemented by an agency of the Department.

b. An assessment for damages to fish or wildlife pursuant to G.S. 143-215.3(a)(7) was made against the taxpayer.

c. A judicial order for injunctive relief was issued against the taxpayer in connection with a violation of any program implemented by an agency of the Department of Environment and Natural Resources.

(3) A criminal penalty was imposed on the person in connection with a violation of any program implemented by an agency of the Department of

Environment and Natural Resources within the current year or within the past four years.

(d) Employee Safety and Health. – An employer meets the employee safety and health standard if the employer has no citations under the Occupational Safety and Health Act that have become a final order within the past three years for willful serious violations or for failing to abate serious violations. As used in this subsection, the term "serious violation" has the same meaning as in G.S. 95-127. The Commissioner of Labor must notify the Department of Commerce and the Department of Revenue annually of every person that has had these citations become final orders within the past three years."

SECTION 7.(i) G.S. 143B-437.01(a) and (a1) read as rewritten:

(a) Creation and Purpose of Fund. – There is created in the Department of Commerce the Industrial Development Fund to provide funds to assist the local government units of the most economically distressed counties in the State in creating and retaining jobs in certain industries. The Department of Commerce shall adopt rules providing for the administration of the program. Those rules shall include the following provisions, which shall apply to each grant from the fund:

...

(6) The funds shall not be used for any nonmanufacturing project that does not meet the general wage standard set out in ~~G.S. 105-129.4(b).~~G.S. 143B-437.08A.

(a1) Definitions. – The following definitions apply in this section:

(1) Air courier services. – ~~Defined in G.S. 105-129.81.~~ The furnishing of air delivery of individually addressed letters and packages for compensation, in interstate commerce, except by the United States Postal Service.

(2) Repealed by Session Laws 2006-252, s. 2.4, effective January 1, 2007.

(2a) Company headquarters. – ~~Defined in G.S. 105-129.81.~~ A corporate, subsidiary, or regional managing office, as defined by NAICS in United States industry 551114, that is responsible for strategic or organizational planning and decision making for the business on an international, national, or multistate regional basis.

...

(6) Information technology and services. – ~~Defined in G.S. 105-129.81.~~ An industry in one of the following:

a. Internet service providers, Web search portals, and data processing subsector 518 as defined by NAICS.

b. Software publishers industry group 5112 as defined by NAICS.

c. Computer systems design and related services industry group 5415 as defined by NAICS.

...

(8) Manufacturing. – ~~Defined in G.S. 105-129.81.~~ An industry in manufacturing sectors 31 through 33, as defined by NAICS, but not including quick printing or retail bakeries.

(9) NAICS. – Defined in G.S. 105-228.90.

(10) Warehousing. – ~~Defined in G.S. 105-129.81.~~ An industry in warehousing and storage subsector 493 as defined by NAICS.

(11) Wholesale trade. – ~~Defined in G.S. 105-129.81.~~ An industry in wholesale trade sector 42 as defined by NAICS."

SECTION 7.(j) This section becomes effective January 1, 2015.

PART VIII. INDIVIDUAL INCOME TAX CONFORMING CHANGES

SECTION 8.(a) G.S. 105-131.2 reads as rewritten:

"**§ 105-131.2. Adjustment and characterization of income.**

(a) Adjustment. – Each shareholder's pro rata share of an S Corporation's income is subject to the adjustments provided in ~~G.S. 105-134.6.~~G.S. 105-153.5.

(b) Repealed by Session Laws 1989, c. 728, s. 1.35.

(c) Characterization of Income. – S Corporation items of income, loss, deduction, and credit taken into account by a shareholder pursuant to G.S. 105-131.1(b) are characterized as though received or incurred by the S Corporation and not its shareholder."

SECTION 8.(b) G.S. 105-131.5 reads as rewritten:

"**§ 105-131.5. Part-year resident shareholder.**

If a shareholder of an S Corporation is both a resident and nonresident of this State during any taxable period, the shareholder's pro rata share of the S Corporation's income attributable to the State and income not attributable to the State for the taxable period shall be further prorated between the shareholder's periods of residence and nonresidence, in accordance with the number of days in each period, as provided in ~~G.S. 105-134.5.~~G.S. 105-153.4."

SECTION 8.(c) G.S. 105-131.7(c) reads as rewritten:

"(c) An S Corporation ~~shall~~ must file with the Department, on a form prescribed by the Secretary, the agreement of each nonresident shareholder of the corporation (i) to file a return and make timely payment of all taxes imposed by this State on the shareholder with respect to the income of the S Corporation, and (ii) to be subject to personal jurisdiction in this State for purposes of the collection of any unpaid income tax, together with related interest and penalties, owed by the nonresident shareholder. If the corporation fails to timely file an agreement required by this subsection on behalf of any of its nonresident shareholders, then the corporation ~~shall~~ must at the time specified in subsection (d) of this section pay to the Department on behalf of each nonresident shareholder with respect to whom an agreement has not been timely filed an estimated amount of the tax due the State. The estimated amount of tax due the State ~~shall be~~ is computed at the rates levied in ~~G.S. 105-134.2(a)(3)~~ G.S. 105-153.6(a)(3) on the shareholder's pro rata share of the S Corporation's income attributable to the State reflected on the corporation's return for the taxable period. An S Corporation may recover a payment made pursuant to the preceding sentence from the shareholder on whose behalf the payment was made."

SECTION 8.(d) G.S. 105-131.8(a) reads as rewritten:

"(a) For purposes of ~~G.S. 105-151~~ G.S. 105-153.8 and G.S. 105-160.4, each resident shareholder is considered to have paid a tax imposed on the shareholder in an amount equal to the shareholder's pro rata share of any net income tax paid by the S Corporation to a state that does not measure the income of S Corporation shareholders by the income of the S Corporation. For purposes of the preceding sentence, the term "net income tax" means any tax imposed on or measured by a corporation's net income."

SECTION 8.(e) G.S. 105-134.5, recodified by Section 5 of this act as G.S. 105-153.4, reads as rewritten:

"**§ 105-153.4. North Carolina taxable income defined.**

(a) Residents. – For an individual who is a resident of this State, the term "North Carolina taxable income" means the taxpayer's adjusted gross income as modified in ~~G.S. 105-134.6.~~G.S. 105-153.5.

(b) Nonresidents. – For a nonresident individual, the term "North Carolina taxable income" means the taxpayer's adjusted gross income as modified in ~~G.S. 105-134.6,~~ G.S. 105-153.5, multiplied by a fraction the denominator of which is the taxpayer's gross income as modified in ~~G.S. 105-134.6,~~ G.S. 105-153.5, and the numerator of which is the amount of that gross income, as modified, that is derived from North Carolina sources and is attributable to the ownership of any interest in real or tangible personal property in this State, is derived from a business, trade, profession, or occupation carried on in this State, or is derived from gambling activities in this State.

(c) Part-year Residents. – If an individual was a resident of this State for only part of the taxable year, having moved into or removed from the State during the year, the term "North Carolina taxable income" has the same meaning as in subsection (b) of this section except that the numerator includes adjusted gross income, as modified under ~~G.S. 105-134.6,~~ G.S. 105-153.5, derived from all sources during the period the individual was a resident.

(d) S Corporations and Partnerships. – In order to calculate the numerator of the fraction provided in subsection (b) of this section, the amount of a shareholder's pro rata share of S Corporation income that is includable in the numerator is the shareholder's pro rata share of the S Corporation's income attributable to the State, as defined in G.S. 105-131(b)(4). In order to calculate the numerator of the fraction provided in subsection (b) of this section for a member of a partnership or other unincorporated business that has one or more nonresident members and operates in one or more other states, the amount of the member's distributive share of income of the business that is includable in the numerator is determined by multiplying the total net income of the business by the ratio ascertained under the provisions of G.S. 105-130.4. As used in this subsection, total net income means the entire gross income of the business less all expenses, taxes, interest, and other deductions allowable under the Code that were incurred in the operation of the business.

(e) Tax Year. – A taxpayer must compute North Carolina taxable income on the basis of the taxable year used in computing the taxpayer's income tax liability under the Code."

SECTION 8.(f) G.S. 105-152 and G.S. 105-151, recodified by Section 5 of this act as G.S. 105-153.7 and G.S. 105-153.8, read as rewritten:

"**§ 105-153.7. Income tax returns.**

(a) Who Must File. – The following individuals ~~shall~~ must file with the Secretary an income tax return under affirmation:

(1) Every resident ~~required to file an income tax return for the taxable year under the Code and every~~ whose North Carolina taxable income exceeds the exemption amount under G.S. 105-153.6.

(1a) Every nonresident individual who ~~(i) derived~~meets all of the following requirements:

a. Receives during the taxable year gross income that is derived from North Carolina sources ~~during the taxable year~~and is attributable to the ownership of any interest in real or tangible personal property in this ~~State or~~State, is derived from a business, trade, profession, or occupation carried on in this ~~State and (ii) is~~State, or is derived from gambling activities in this State.

b. Is required to file an income tax return for the taxable year under the Code.

(2) Repealed by Session Laws 1991 (Reg. Sess., 1992), c. 930, s. 1.

(3) Any individual whom the Secretary believes to be liable for a tax under this Part, when so notified by the Secretary and requested to file a return.

(b) Taxpayer Deceased or Unable to Make Return. – If ~~the~~ a taxpayer is unable to file ~~the~~ an income tax return, ~~the return shall be filed by~~ a duly authorized agent of the taxpayer or ~~by~~ a guardian or other person charged with the care of the person or property of the ~~taxpayer.~~taxpayer must file the return. If an individual who was required to file an income tax return for the taxable year while living has died before making the return, the administrator or executor of the estate ~~shall~~ must file the return in the decedent's name and behalf, and the tax ~~shall be levied upon and collected from~~is payable by the estate.

(c) Information Required With Return. – The income tax return ~~shall~~ must show the ~~taxable income and adjustments~~adjusted gross income and modifications required by this ~~Part~~ Part, and any other information the Secretary requires. The Secretary may require some or all individuals required to file an income tax return to attach to the return a copy of their federal

income tax return for the taxable year. The Secretary may require a taxpayer to provide the Department with copies of any other return the taxpayer has filed with the Internal Revenue Service and to verify any information in the return.

(d) Secretary May Require Additional Information. – When the Secretary has reason to believe that any taxpayer conducts a trade or business in a way that directly or indirectly distorts the taxpayer's ~~taxable income~~adjusted gross income or North Carolina taxable income, the Secretary may require any additional information for the proper computation of the taxpayer's ~~taxable income~~adjusted gross income and North Carolina taxable income. In computing the taxpayer's ~~taxable income~~adjusted gross income and North Carolina taxable income, the Secretary ~~shall~~ must consider the fair profit that would normally arise from the conduct of the trade or business.

(e) Joint Returns. – A husband and wife whose ~~federal taxable income~~adjusted gross income is determined on a joint federal return ~~shall~~ must file a single income tax return jointly if each spouse either is a resident of this State or has North Carolina taxable income and may file a single income tax return jointly if one spouse is not a resident and has no North Carolina taxable income. Except as otherwise provided in this Part, a wife and husband filing jointly are treated as one taxpayer for the purpose of determining the tax imposed by this Part. A husband and wife filing jointly are jointly and severally liable for the tax imposed by this Part reduced by the sum of all credits allowable including tax payments made by or on behalf of the husband and wife. However, if a spouse qualifies for relief of liability for federal tax attributable to a substantial understatement by the other spouse pursuant to section 6015 of the Code, that spouse is not liable for the corresponding tax imposed by this Part attributable to the same substantial understatement by the other spouse. A wife and husband filing jointly have expressly agreed that if the amount of the payments made by them with respect to the taxes for which they are liable, including withheld and estimated taxes, exceeds the total of the taxes due, refund of the excess may be made payable to both spouses jointly or, if either is deceased, to the survivor alone.

(f) Repealed by Session Laws 1991.

"§ 105-153.8. Tax credits for income taxes paid to other states by individuals.

(a) An individual who is a resident of this State is allowed a credit against the taxes imposed by this Part for income taxes imposed by and paid to another state or country on income taxed under this Part, subject to the following conditions:

(1) The credit is allowed only for taxes paid to another state or country on income that is derived from sources within that state or country ~~that~~ and is taxed under its laws irrespective of the residence or domicile of the recipient, except that whenever a taxpayer who is ~~deemed to be~~ considered a resident of this State under ~~the provisions of~~ this Part is ~~deemed also to be~~ considered a resident of another state or country under the laws of that state or country, the Secretary may allow a credit against the taxes imposed by this Part for taxes imposed by and paid to the other state or country on income taxed under this Part.

(2) The fraction of the adjusted gross income, as ~~calculated under the Code and adjusted as provided in G.S. 105-134.6 and G.S. 105-134.7,~~ modified in G.S. 105-153.5, that is subject to income tax in another state or country shall be ascertained, and the North Carolina net income tax before credit under this section shall be multiplied by that fraction. The credit allowed is either the product thus calculated or the income tax actually paid the other state or country, whichever is smaller.

(3) Receipts showing the payment of income taxes to another state or country and a true copy of a return or returns upon the basis of which the taxes are assessed shall be filed with the Secretary when the credit is claimed. If credit

is claimed on account of a deficiency assessment, a true copy of the notice assessing or proposing to assess the deficiency, as well as a receipt showing the payment of the deficiency, shall be filed.

(b) If any taxes paid to another state or country for which a taxpayer has been allowed a credit under this section are at any time credited or refunded to the taxpayer, a tax equal to that portion of the credit allowed for the taxes so credited or refunded is due and payable from the taxpayer and is subject to the penalties and interest provided in Subchapter I of this Chapter."

SECTION 8.(g) G.S. 105-154(d) reads as rewritten:

"(d) Payment of Tax on Behalf of Nonresident Owner or Partner. – If a business conducted in this State is owned by a nonresident individual or by a partnership having one or more nonresident members, the manager of the business ~~shall~~ must report the earnings of the business in this State, the distributive share of the income of each nonresident owner or partner, and any other information required by the Secretary. The manager of the business ~~shall~~ must pay with the return the tax on each nonresident owner or partner's share of the income computed at the rate levied on individuals under ~~G.S. 105-134.2(a)(3).~~ G.S. 105-153.6(a)(3). The business may deduct the payment for each nonresident owner or partner from the owner or partner's distributive share of the profits of the business in this State. If the nonresident partner is not an individual and the partner has executed an affirmation that the partner will pay the tax with its corporate, partnership, trust, or estate income tax return, the manager of the business is not required to pay the tax on the partner's share. In this case, the manager ~~shall~~ must include a copy of the affirmation with the report required by this subsection."

SECTION 8.(h) G.S. 105-159 reads as rewritten:

"**§ 105-159. Federal corrections.**

If a taxpayer's ~~federal taxable income~~ adjusted gross income or federal tax credit is corrected or otherwise determined by the federal government, the taxpayer must, within six months after being notified of the correction or final determination by the federal government, file an income tax return with the Secretary reflecting the corrected or determined ~~taxable income.~~ adjusted gross income or federal tax credit. The Secretary must propose an assessment for any additional tax due from the taxpayer as provided in Article 9 of this Chapter. The Secretary must refund any overpayment of tax as provided in Article 9 of this Chapter. A taxpayer who fails to comply with this section is subject to the penalties in G.S. 105-236 and forfeits the right to any refund due by reason of the determination."

SECTION 8.(i) G.S. 105-163.1 reads as rewritten:

"**§ 105-163.1. Definitions.**

The following definitions apply in this Article:

...

(6) Individual. – Defined in ~~G.S. 105-134.1.~~G.S. 105-153.3.

...

(13) Wages. – The term has the same meaning as in section 3401 of the Code except it does not include ~~either of the following:~~

~~a. The amount of severance wages paid to an employee during the taxable year that is exempt from State income tax for that taxable year under G.S. 105-134.6(b)(11).~~

~~b.~~ ~~The~~ the amount an employer pays an employee as reimbursement for ordinary and necessary expenses incurred by the employee on behalf of the employer and in the furtherance of the business of the employer.

...."

SECTION 8.(j) G.S. 105-163.22 reads as rewritten:

"**§ 105-163.22. Reciprocity.**

The Secretary may, with the approval of the Attorney General, enter into agreements with the taxing authorities of states having income tax withholding statutes with such agreements to govern the amounts to be withheld from the wages and salaries of residents of such other state or states under the provisions of this Article when such other state or states grant similar treatment to the residents of this State. Such agreements may provide for recognition of the anticipated tax credits allowed under the provisions of ~~G.S. 105-151~~ G.S. 105-153.8 in determining the amounts to be withheld."

SECTION 8.(k) G.S. 105-259(b) reads as rewritten:

(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person except as provided in this subsection. Standards used or to be used for the selection of returns for examination and data used or to be used for determining the standards may not be disclosed for any purpose. All other tax information may be disclosed only if the disclosure is made for one of the following purposes:

...

(34) To exchange information concerning a tax credit claimed under G.S. 105-130.47 or ~~G.S. 105-151.29~~ G.S. 105-153.12 with the North Carolina Film Office of the Department of Commerce and with the regional film commissions.

...

(36) To furnish to a taxpayer claiming a credit under G.S. 105-130.47 or ~~G.S. 105-151.29~~G.S. 105-153.12 information used by the Secretary to adjust the amount of the credit claimed by the taxpayer.

..."

SECTION 8.(l) G.S. 105-277.3(d1) reads as rewritten:

"(d1) ~~Exception for Easements on Qualified~~ Conservation ~~Lands Previously Appraised at Use Value.~~ Exception. – Property that is appraised at its present-use value under G.S. 105-277.4(b) shall continue to qualify for appraisal, assessment, and taxation as provided in G.S. 105-277.2 through G.S. 105-277.7 as long as ~~(i) the property is subject to an enforceable conservation easement that would qualify for the conservation tax credit provided in G.S. 105-130.34 and G.S. 105-151.12, without regard to actual production or income requirements of this section; and (ii) the taxpayer received no more than seventy-five percent (75%) of the fair market value of the donated property interest in compensation.~~the property is subject to a conservation easement that meets the property eligibility requirements under G.S. 113A-232. Notwithstanding G.S. 105-277.3(b) and (b1), subsequent transfer of the property does not extinguish its present-use value eligibility as long as the property remains subject to ~~an enforceable~~ a qualifying conservation ~~easement that qualifies for the conservation tax credit provided in G.S. 105-130.34 and G.S. 105-151.12.~~ easement. The exception provided in this subsection applies only to that part of the property that is subject to the easement."

SECTION 8.(m) G.S. 105-309(d) reads as rewritten:

"(d) Personal property shall be listed to indicate the township and municipality, if any, in which it is taxable and shall be itemized by the taxpayer in such detail as may be prescribed by an abstract form approved by the Department of Revenue. ~~Personal property shall also be listed to indicate which property, if any, is subject to a tax credit under G.S. 105-151.21.~~

(1) If the assessor considers it necessary to obtain a complete listing of personal property, the assessor may require a taxpayer to submit additional information, inventories, or itemized lists of personal property.

(2) At the request of the assessor, the taxpayer shall furnish any information the taxpayer has with respect to the true value of the personal property the taxpayer is required to list."

SECTION 8.(n) G.S. 105-320(a)(16) is repealed.

SECTION 8.(o) G.S. 110-130.1(a) reads as rewritten:

"(a) All child support collection and paternity determination services provided under this Article to recipients of public assistance shall be made available to any individual not receiving public assistance in accordance with federal law and as contractually authorized by the nonrecipient, upon proper application and payment of a nonrefundable application fee of twenty-five dollars ($25.00). The fee shall be reduced to ten dollars ($10.00) if the individual applying for the services is indigent. An indigent individual is an individual whose gross income does not exceed one hundred percent (100%) of the federal poverty guidelines issued each year in the Federal Register by the U.S. Department of Health and Human Services. For the purposes of this subsection, the term "gross income" has the same meaning as defined in ~~G.S. 105-134.1.~~section 61 of the Code, and the term "Code" has the same meaning as defined in G.S. 105-228.90.

In the case of an individual who has never received assistance under a State program funded pursuant to Title IV-A of the Social Security Act and for whom the State has collected and disbursed to the family in a federal fiscal year at least five hundred dollars ($500.00) of support, the State shall impose an annual fee of twenty-five dollars ($25.00) for each case in which services are furnished. The child support agency shall retain the fee from support collected on behalf of the individual. However, the child support agency shall not retain the fee from the first five hundred dollars ($500.00) collected. The child support agency shall use the fee to support the ongoing operation of the program."

SECTION 8.(p) G.S. 113-77.9(d) reads as rewritten:

"(d) Acquisition. – The Department of Administration may, pursuant to G.S. 143-341, acquire by purchase, gift, or devise all lands selected by the Trustees for acquisition pursuant to this Article. Title to any land acquired pursuant to this Article shall be vested in the State. A State agency with management responsibility for land acquired pursuant to this Article may enter into a management agreement or lease with a county, city, town, or private nonprofit organization ~~qualified under G.S. 105-151.12 and G.S. 105-130.34 and~~ certified under section 501(c)(3) of the Internal Revenue Code to aid in managing the land. A management agreement or lease shall be executed by the Department of Administration pursuant to G.S. 143-341."

SECTION 8.(q) G.S. 113A-231 reads as rewritten:

"**§ 113A-231. Program to accomplish conservation purposes.**

The Department of Environment and Natural Resources shall develop a nonregulatory program ~~that uses conservation tax credits as a prominent tool~~ to accomplish conservation purposes, including the maintenance of ecological systems. As a part of this program, the Department shall exercise its powers to protect real property and interests in real ~~property:~~ property donated for ~~tax credit under G.S. 105-130.34 or G.S. 105-151.12; conserved with the use of other financial incentives; or, conserved through nonregulatory programs.~~ conservation or conserved by other means. The Department shall call upon the Attorney General for legal assistance in developing and implementing the program."

SECTION 8.(r) G.S. 113A-232 reads as rewritten:

"**§ 113A-232. Conservation Grant Fund.**

(a) Fund Created. – The Conservation Grant Fund is created within the Department of Environment and Natural Resources. The Fund shall be administered by the Department. The purpose of the Fund is to stimulate the use of conservation ~~easements and conservation tax credits,~~ easements, to improve the capacity of private nonprofit land trust organizations to successfully accomplish conservation projects, to better equip real estate related professionals to pursue opportunities for conservation, to increase landowner participation in land and water conservation, and to provide an opportunity to leverage private and other public monies for conservation easements.

(b) Fund Sources. – The Conservation Grant Fund shall consist of any monies appropriated to it by the General Assembly and any monies received from public or private

sources. Unexpended monies in the Fund that were appropriated from the General Fund by the General Assembly shall revert at the end of the fiscal year unless the General Assembly otherwise provides. Unexpended monies in the Fund from other sources shall not revert and shall remain available for expenditure in accordance with this Article.

(c) Property Eligibility. – In order for real property or an interest in real property to be the subject of a grant under this Article, the real property or interest in real property must meet all of the following conditions:

(1) ~~possess~~ Possess or have a high potential to possess ecological ~~value, must be~~ value.

(2) Be reasonably ~~restorable, and must qualify for tax credits under G.S. 105-130.34 or G.S. 105-151.12.~~restorable.

(3) Be useful for one or more of the following purposes:

a. Public beach access or use.

b. Public access to public waters or trails.

c. Fish and wildlife conservation.

d. Forestland or farmland conservation.

e. Watershed protection.

f. Conservation of natural areas as that term is defined in G.S. 113A-164.3(3).

g. Conservation of predominantly natural parkland.

(4) Be donated in perpetuity to and accepted by the State, a local government, or a body that is both organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions under G.S. 105-130.9. Land required to be dedicated pursuant to local governmental regulation or ordinance and dedications made to increase building density levels permitted under a regulation or ordinance do not qualify.

(c1) Grant Eligibility. – State conservation land management agencies, local government conservation land management agencies, and private nonprofit land trust organizations are eligible to receive grants from the Conservation Grant Fund. Private nonprofit land trust organizations must be ~~qualified pursuant to G.S. 105-130.34 and G.S. 105-151.12 and must be~~ certified under section 501(c)(3) of the Internal Revenue ~~Code.~~ Code to aid in managing the land.

(d) Use of Revenue. – Revenue in the Conservation Grant Fund may be used only for the following purposes:

(1) The administrative costs of the Department in administering the Fund.

(2) Conservation grants made in accordance with this Article.

(3) To establish an endowment account, the interest from which will be used for a purpose described in G.S. 113A-233(a)."

SECTION 8.(s) G.S. 113A-233 reads as rewritten:

"**§ 113A-233. Uses of a grant from the Conservation Grant Fund.**

(a) Allowable Uses. – A grant from the Conservation Grant Fund may be used only to pay for one or more of the following costs:

(1) Reimbursement for total or partial transaction costs for a donation of real property or an interest in real property from an individual or corporation satisfying either of the following:

a. Insufficient financial ability to pay all costs or insufficient taxable income to allow these costs to be included in the donated value.

b. Insufficient tax burdens to allow these costs to be offset by ~~the value of tax credits under G.S. 105-130.34 or G.S. 105-151.12 or by~~ charitable deductions.

(2) Management support, including initial baseline inventory and planning.
(3) Monitoring compliance with conservation easements, the related use of riparian buffers, natural areas, and greenways, and the presence of ecological integrity.
(4) Education on conservation, including information materials intended for landowners and education for staff and volunteers.
(5) Stewardship of land.
(6) Transaction costs for recipients, including legal expenses, closing and title costs, and unusual direct costs, such as overnight travel.
(7) Administrative costs for short-term growth or for building capacity.

(b) Prohibition. – The Fund shall not be used to pay the purchase price of real property or an interest in real property."

SECTION 8.(t) G.S. 113A-256(g) is repealed.

SECTION 8.(u) This section becomes effective January 1, 2015.

PART IX. SALES TAX CONFORMING CHANGES

SECTION 9.(a) The following statutes are repealed:

G.S. 106-507
G.S. 106-516
G.S. 106-517
G.S. 106-518
G.S. 106-519
G.S. 106-520
G.S. 140-10.1

SECTION 9.(b) G.S. 105-164.9 is repealed.

SECTION 9.(c) G.S. 105-164.10 reads as rewritten:

"**§ 105-164.10. Retail bracket system.**

For the convenience of the retailer in collecting the tax due under this Article, the Secretary ~~shall~~ must prescribe tables that compute the tax due on sales by rounding off the amount of tax due to the nearest whole cent. The Secretary ~~shall~~ must issue a separate table for each rate of tax that may apply to a sale, including the general rate established in G.S. 105-164.4, preferential rates, and combined State and local rates. Use of the tables prescribed by the Secretary does not relieve a retailer of liability for the applicable rate of tax due on the ~~gross receipts or~~ net taxable sales of the retailer."

SECTION 9.(d) G.S. 105-164.44F(a) reads as rewritten:

"(a) Amount. – The Secretary must distribute part of the taxes imposed by ~~G.S. 105-164.4(a)(4c)~~ G.S. 105-164.4 on telecommunications service and ancillary service. The Secretary must make the distribution within 75 days after the end of each calendar quarter. The amount the Secretary must distribute is the following percentages of the net proceeds of the taxes collected during the quarter:

(1) ~~Eighteen and seventy one hundredths percent (18.70%)~~ Nineteen and thirty-nine one-hundredths percent (19.39%) minus two million six hundred twenty thousand nine hundred forty-eight dollars ($2,620,948), must be distributed to cities in accordance with this section. The deduction is one-fourth of the annual amount by which the distribution to cities of the gross receipts franchise tax on telephone companies, imposed by former G.S. 105-20, was required to be reduced beginning in fiscal year 1995-96 as a result of the "freeze deduction."
(2) ~~Seven and seven tenths percent (7.7%)~~ Seven and ninety-nine one-hundredths percent (7.99%) must be distributed to counties and cities as provided in G.S. 105-164.44I."

SECTION 9.(e) G.S. 105-164.44I(a) reads as rewritten:

"(a) Distribution. – The Secretary must distribute to the counties and cities part of the taxes imposed by ~~G.S. 105-164.4(a)(4c)~~ G.S. 105-164.4 on telecommunications service and ~~G.S. 105-164.4(a)(6) on~~ video programming service. The Secretary must make the distribution within 75 days after the end of each calendar quarter. The amount the Secretary must distribute is the sum of the revenue listed in this subsection. The Secretary must distribute two million dollars ($2,000,000) of this amount in accordance with subsection (b) of this section and the remainder in accordance with subsections (c) and (d) of this section. The revenue to be distributed under this section consists of the following:

(1) The amount specified in G.S. 105-164.44F(a)(2).

(2) ~~Twenty-three and six-tenths percent (23.6%)~~ Twenty-four and forty-seven one-hundredths percent (24.47%) of the net proceeds of the taxes collected during the quarter on video programming, other than on direct-to-home satellite service.

(3) ~~Thirty-seven and one-tenths percent (37.1%)~~ Thirty-eight and forty-seven one hundredths percent (38.47%) of the net proceeds of the taxes collected during the quarter on direct-to-home satellite service."

SECTION 9.(f) G.S. 105-449.106(c) reads as rewritten:

"(c) Special Mobile Equipment. – A person who purchases and uses motor fuel to operate special mobile equipment off-highway may receive a quarterly refund, for the excise tax paid during the preceding quarter, at a rate equal to the flat cents-per-gallon rate plus the variable cents-per-gallon rate in effect during the quarter for which the refund is claimed, less the amount of sales and use tax ~~or privilege tax~~ due on the fuel under this Chapter, as determined in accordance with G.S. 105-449.107(c). An application for a refund must be made in accordance with this Part."

SECTION 9.(g) G.S. 105-449.107 reads as rewritten:

"**§ 105-449.107. Annual refunds for off-highway use and use by certain vehicles with power attachments.**

(a) Off-Highway. – A person who purchases and uses motor fuel for a purpose other than to operate a licensed highway vehicle may receive an annual refund for the excise tax the person paid on fuel used during the preceding calendar year. The amount of refund allowed is the amount of the flat cents-per-gallon rate in effect during the year for which the refund is claimed plus the average of the two variable cents-per-gallon rates in effect during that year, less the amount of sales and use tax ~~or privilege tax~~ due on the fuel under this Chapter. An application for a refund allowed under this section must be made in accordance with this Part.

(b) Certain Vehicles. – A person who purchases and uses motor fuel in one of the vehicles listed below may receive an annual refund for the amount of fuel consumed by the vehicle:

(1) A concrete mixing vehicle.

(2) A solid waste compacting vehicle.

(3) A bulk feed vehicle that delivers feed to poultry or livestock and uses a power takeoff to unload the feed.

(4) A vehicle that delivers lime or fertilizer in bulk to farms and uses a power takeoff to unload the lime or fertilizer.

(5) A tank wagon that delivers alternative fuel, as defined in G.S. 105-449.130, or motor fuel or another type of liquid fuel into storage tanks and uses a power takeoff to make the delivery.

(6) A commercial vehicle that delivers and spreads mulch, soils, composts, sand, sawdust, and similar materials and that uses a power takeoff to unload, blow, and spread the materials.

(7) A commercial vehicle that uses a power takeoff to remove and dispose of septage and for which an annual fee is required to be paid to the Department of Environment and Natural Resources under G.S. 130A-291.1.

(8) A sweeper.

The amount of refund allowed is thirty-three and one-third percent (33 1/3%) of the following: the sum of the flat cents-per-gallon rate in effect during the year for which the refund is claimed and the average of the two variable cents-per-gallon rates in effect during that year, less the amount of sales and use tax ~~or privilege tax~~ due on the fuel under this Chapter. An application for a refund allowed under this section must be made in accordance with this Part. This refund is allowed for the amount of fuel consumed by the vehicle in its mixing, compacting, or unloading operations, as distinguished from propelling the vehicle, which amount is considered to be one-third of the amount of fuel consumed by the vehicle.

(c) Sales Tax Amount. – Article 5 of this Chapter determines the amount of sales and use tax to be deducted under this section from a motor fuel excise tax refund. ~~Article 5F of this Chapter determines the amount of privilege tax to be deducted under this section from a motor fuel excise tax refund.~~ The sales price and the cost price of motor fuel to be used in determining the amount to deduct is the average of the wholesale prices used under G.S. 105-449.80 to determine the excise tax rates in effect for the two six-month periods of the year for which the refund is claimed."

SECTION 9.(h) This section becomes effective January 1, 2015. Subsections (d) and (e) of this section apply to distributions for months beginning on or after this date. Subsections (f) and (g) of this section apply to a claim for refund of taxes paid on motor fuel on or after January 1, 2015.

PART X. LOCAL GOVERNMENT DISTRIBUTION CONFORMING CHANGES

SECTION 10.(a) G.S. 153A-134 reads as rewritten:

"**§ 153A-134. Regulating and licensing businesses, trades, etc.**

A county may by ordinance, subject to the general law of the State, regulate and license occupations, businesses, trades, professions, and forms of amusement or entertainment and prohibit those that may be inimical to the public health, welfare, safety, order, or convenience. In licensing trades, occupations, and professions, the county may, consistent with the general law of the State, require applicants for licenses to be examined and charge a reasonable fee ~~therefor.~~ for the examination. ~~This~~

This section does not authorize a county to ~~examine~~ do any of the following:

(1) Examine or license a person holding a license issued by an occupational licensing board of this State as to the profession or trade ~~that he~~ the person has been licensed to practice or pursue by the State.

(2) Levy a privilege license tax on an entity that is subject to regulation and license under this section.

~~This section does not impair the county's power to levy privilege license taxes on occupations, businesses, trades, professions, and other activities pursuant to G.S. 153A-152.~~"

SECTION 10.(b) The catch line to G.S. 153A-156 reads as rewritten:

"**§ 153A-156. ~~Gross receipts tax on short-term leases or rentals.~~Motor vehicle gross receipts tax in lieu of property tax.**"

SECTION 10.(c) G.S. 153A-156(a) reads as rewritten:

"(a) ~~As a substitute for and in replacement of the ad valorem tax, which is excluded by G.S. 105-275(42), a~~ A county may levy a gross receipts tax on the gross receipts from the short-term lease or rental of vehicles at retail to the general public. The tax rate shall not exceed one and one-half percent (1.5%) of the gross receipts from ~~such~~ the short-term leases or rentals. Motor vehicles subject to this tax are exempt from property tax under G.S. 105-275, and this tax provides an alternative to the property tax on the motor vehicles."

SECTION 10.(d) G.S. 160A-194 reads as rewritten:

"**§ 160A-194. Regulating and licensing businesses, trades, etc.**

A city may by ordinance, subject to the general law of the State, regulate and license occupations, businesses, trades, professions, and forms of amusement or entertainment and prohibit those that may be inimical to the public health, welfare, safety, order, or convenience. In licensing trades, occupations, and professions, the city may, consistent with the general law of the State, require applicants for licenses to be examined and charge a reasonable fee ~~therefor.~~ for the examination. ~~Nothing in this section shall impair the city's power to levy privilege license taxes on occupations, businesses, trades, professions, and other activities pursuant to G.S. 160A-211.~~

~~Nothing in this section shall~~ This section does not authorize a city to ~~examine~~ do any of the following:

(1) Examine or license a person holding a license issued by an occupational licensing board of this State as to the profession or trade ~~that he~~ the person has been licensed to practice or pursue by the State.

(2) Levy a privilege license tax on an entity that is subject to regulation and license under this section."

SECTION 10.(e) The catch line to G.S. 160A-215.1 reads as rewritten:

"**§ 160A-215.1. ~~Gross receipts tax on short-term leases or rentals.~~Motor vehicle gross receipts tax in lieu of property tax.**"

SECTION 10.(f) G.S. 160A-215.1(a) reads as rewritten:

"(a) ~~As a substitute for and in replacement of the ad valorem tax, which is excluded by G.S. 105-275(42), a~~ A city may levy a gross receipts tax on the gross receipts from the short-term lease or rental of vehicles at retail to the general public. The tax rate shall not exceed one and one-half percent (1.5%) of the gross receipts from ~~such~~ the short-term leases or rentals. ~~This tax on gross receipts is in addition to the privilege taxes authorized by G.S. 160A-211.~~Motor vehicles subject to this tax are exempt from property tax under G.S. 105-275, and this tax provides an alternative to the property tax on the motor vehicles."

SECTION 10.(g) This section becomes effective July 1, 2015.

PART XI. EFFECTIVE DATE

SECTION 11. Except as otherwise provided, this act becomes effective when it becomes law.

SENATE SERGEANT-AT-ARMS

COMMITTEE: **SENATE FINANCE**

DATE: 05/30/13 ROOM: 544

1. ERNIE SHERRELL
2. CANTON LEWIS
3. DONNA BLAKE
4. ANDERSON MEADOWS

SENATE PAGES ATTENDING

COMMITTEE: Finance **ROOM:** 544

DATE: 5-30 **TIME:** 10 am

PLEASE PRINT LEGIBILY!!!!!!!!!!!!!....*or else!*

Page Name	Hometown	Sponsoring Senator
1. Desmond Clark	Raeford	Clark
2. Harrison Froelich	Greensboro	Wade
3. Avima Lindsey	Reidsville	Berger
4. Jacob Burnette	Clanton	J. Davis
5. Grimes Clark	[redacted]c Tarboro	Jenkins
6.		
7.		
8.		
9.		
10.		

Do not add names below the grid.

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

Senate Committee on Finance
Wednesday, June 5, 2013
Room 544 LOB, 1:00 p.m.

Minutes

The Senate Committee on Finance met at 1:00 p.m. on Wednesday, June 5, 2013 in room 544 of the Legislative Office Building. Lilly Kinney of Reidsville, Hailey Webb of Summerfield, Amelia Mangan of Granite Falls, Mary Catherine Starnes of Hickory, Max Toney of Reidsville, Kevin Treacy of Oxford, and Will Finch of Reidsville served as pages. Senator Rabon presided as chair.

H.B. 200 – Require Certain General Reappraisals

Representative Brawley was recognized to explain the bill which requires counties to retroactively change appraisals valued during the county's last general reappraisal if certain conditions are met. Senator Apodaca moved for a favorable report and the motion carried. A copy of the bill, the summary and the fiscal note is attached.

H.B. 817 – Strategic Transportation Investments

Representative Brawley explained the bill. Senator Brunstetter moved to adopt the proposed committee substitute (PCS) for discussion and the motion carried. The PCS would enact a new Strategic Prioritization funding plan governing use of Highway Trust Fund and federal aid funds for State transportation construction and capital needs; phase out the Highway Fund secondary road construction program; require statewide prioritization for secondary unpaved road paving; provide that the Highway Fund is the sole source of funds for State aid to municipalities/Powell Bill funds, and holds harmless the amount allocated for that purpose; would modify the authorized Turnpike Authority Project list; and would authorize up to three partnership agreements with private entities for DOT or Authority projects. Senator Hise moved for a favorable report and the motion carried. A copy of the PCS, the summary and the fiscal note is attached.

H.B. 248 – Taxpayer Debt Information Act

Representative Conrad was recognized to explain the bill. It would make the estimation of interest on a proposed bond issuance of voted debt by a local government part of the Local Government Commission review process and would require the ballot question for the authorization of bonds to state the authorization includes interest and that additional taxes may be levied to repay the debt. Senator Brunstetter was recognized to offer a technical amendment which changed to effective date to September 1, 2013. He moved for its adoption and the motion carried. Senator Tillman moved to adopt the bill as amended. The motion carried. A copy of the bill, the summary and the amendment is attached.

H.B. 664 – Cell Tower Deployment Act

Representative Hager was recognized to explain the bill. Senator Newton moved to adopt the PCS for discussion and the motion carried. The PCS would amend local government authority to regulate the equipment and facilities used for the provision of wireless service. The bill would also amend the authority for the State to lease land for communication purpose. The PCS

makes two changes. First, the PCS clarifies the authority of local governments to impose a fee to review an eligible facilities request. Second, the PCS requires the approval of the Secretary of DENR to lease land in a State park for the purpose of installing and operating communications equipment. Senator Tillman moved for a favorable report and the motion carried. A copy of the PCS and the summary is attached.

H.B. 743 – UI Laws Administrative Changes

Representative Howard was recognized to explain the bill. Senator Apodaca moved to adopt the PCS for discussion and the motion carried. The PCS would make administrative and technical changes to S.L. 2013-2 and corrects cross references in Chapter 96 of the General Statutes. Senator Apodaca moved for a favorable report. The motion carried. A copy of the PCS and the summary is attached.

H.B. 439 – Economic Development Jobsites Program

Representative Howard explained the bill. It would create a property tax deferral program to defer a portion of taxes on a parcel of property if the parcel (i) is at least 100 contiguous acres, (ii) is zoned for industrial and/or office use, (iii) does not have a building permit for a primary building or structure issued for it, and (iv) is classified under the present use value (PUV) property tax deferral program or was classified under the PUV program within the previous six months. The portion of taxes to be deferred is the sum of the value of any improvements on the site and the difference between the true value of the site and the value of the site treated as agricultural land in the present-use value program. Senator Jenkins moved for a favorable report and the motion carried. A copy of the PCS and the summary is attached.

S.B. 571 – Authorize Various Special Plates

Senator Brock was recognized to explain the bill. Senator Tillman moved to adopt the PCS for discussion and the motion carried. The PCS would authorize the Division of Motor Vehicles to issue various special license plates and would make various other changes to the statutes concerning special plates. Senator Tillman was recognized to offer an amendment which would transfer specific plate funds to the Speedway Children's Charities. He moved for its adoption and the motion carried. Senator Rabin offered an amendment which would revise the fees charged for certain military plates. The amendment was tabled since the language was included in the PCS. Heather Fennell, a staff attorney with the Research Division, was recognized to answer questions. Senator Tillman moved to adopt the PCS as amended and the motion carried. A copy of the PCS, the summary, the fiscal note, and the amendments is attached.

S.B. 312 – Referendum on Incorporating Lake James

Senator Daniel was recognized to explain the bill. Senator Wade moved to adopt the PCS for discussion. The motion carried. The bill would incorporate the Village of Lake James in Burke County, subject to the approval of the qualified voters at an election held on November 5, 2013 and requires that an election for the initial Village Council be held at the same time as the election on incorporation. The PCS would make changes to the corporate boundaries be deleting all described property west of Mallard Pointe development. It would make changes regarding commencement of tax collection. It would make changes regarding ad valorem taxes where the Village Council is prohibited from approving an ad valorem tax rate greater than seven and one-half cents per one hundred dollars valuation unless the tax rate is approved by

an affirmative vote of the majority of the qualified voters of the Village of Lake James. Jim Powers, an area resident, was recognized to speak in opposition to the bill. Derinda Stein, an area resident, was recognized to speak in favor of the bill. Senator Newton moved for a favorable report and the motion carried. A copy of the PCS and the summary is attached.

The meeting adjourned at 1:48 p.m.

Senator Bill Rabon
Presiding Chair

DeAnne Mangum
Committee Assistant

Principal Clerk ____
Reading Clerk ____

Corrected #1: S407 - Electronic Vehicle Lien/Title has been removed from the agenda.

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	June 5, 2013	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	
HB 200	Require Certain General Reappraisals.	Representative W. Brawley Representative Cotham
HB 248	Taxpayer Debt Information Act.	Representative Conrad Representative Fulghum Representative Cleveland Representative Blust
HB 664	Cell Tower Deployment Act.	Representative Hager Representative Moffitt Representative W. Brawley Representative Alexander
HB 743	UI Laws Administrative Changes.	Representative Howard Representative Warren
HB 817	Strategic Transportation Investments.	Representative W. Brawley Representative Torbett Representative Iler Representative Shepard
SB 312	Referendum on Incorporating Lake James.	Senator Daniel
SB 571	Authorize Various Special Plates.	Senator Brock

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

Principal Clerk ____
Reading Clerk ____

SENATE
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HB 817	Strategic Transportation Investments.	Representative W. Brawley Representative Torbett Representative Iler Representative Shepard
SB 312	Referendum on Incorporating Lake James.	Senator Daniel
SB 407	Electronic Vehicle Lien/Title.	Senator Brunstetter Senator Rabon
SB 571	Authorize Various Special Plates.	Senator Brock

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

Senate Committee on Finance
Wednesday, June 5, 2013, 1:00 PM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 200	Require Certain General Reappraisals.	Rep. W. Brawley Rep. Cotham
HB 248	Taxpayer Debt Information Act.	Rep. Conrad Rep. Fulghum Rep. Cleveland Rep. Blust
HB 664	Cell Tower Deployment Act.	Rep. Hager Rep. Moffitt Rep. W. Brawley Rep. Alexander
HB 743	UI Laws Administrative Changes.	Rep. Howard Rep. Warren
HB 817	Strategic Transportation Investments.	Rep. W. Brawley Rep. Torbett Rep. Iler Rep. Shepard
SB 312	Referendum on Incorporating Lake James.	Sen. Daniel
SB 571	Authorize Various Special Plates.	Sen. Brock

Adjournment

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Wednesday, June 05, 2013

Senator Rabon,
submits the following with recommendations as to passage:

FAVORABLE

HB **200** **(CS#1)** Require Certain General Reappraisals.

Draft Number:	None
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Senator Jeffery Tarte will handle HB 200

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Thursday, June 06, 2013

Senator Rabon,
submits the following with recommendations as to passage:

FAVORABLE

HB **439** **(CS#1)** Economic Development Jobsites Program.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

FAVORABLE, AS AMENDED

HB **248** **(CS#1)** Taxpayer Debt Information Act.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

SB **312** Referendum on Incorporating Lake James.
Draft Number: S312-PCS35359-RWx-60
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

SB **571** Authorize Various Special Plates.
Draft Number: S571-PCS75340-TDf-25
Sequential Referral: None
Recommended Referral: None
Long Title Amended: Yes

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

HB **664** **(CS#1)** Cell Tower Deployment Act.

Draft Number:	H664-PCS30570-TDf-27
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

HB **743** **(CS#1)** UI Laws Administrative Changes.

Draft Number:	H743-PCS30568-TMx-43
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

UNFAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 2

HB **817** **(SCS#1)** Strategic Transportation Investments.

Draft Number:	H817-PCS30569-RWx-61
Sequential Referral:	Appropriations/Base Budget
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 7

Senator Trudy Wade will handle HB 439
Senator Peter Brunstetter will handle HB 248
Senator Warren Daniel will handle SB 312
Senator Andrew Brock will handle SB 571
Senator Richard Gunn will handle HB 664
Senator Robert Rucho will handle HB 743
Senator Kathryn Harrington will handle HB 817

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H 2

HOUSE BILL 200*
Committee Substitute Favorable 4/8/13

Short Title: Require Certain General Reappraisals. (Public)

Sponsors:

Referred to:

March 5, 2013

A BILL TO BE ENTITLED

AN ACT TO CORRECT GENERAL REAPPRAISALS RESULTING IN PROPERTY VALUES THAT DO NOT COMPLY WITH THE REQUIREMENTS OF NORTH CAROLINA LAW BY SETTING FORTH THE STEPS REQUIRED TO BRING THE GENERAL REAPPRAISAL INTO COMPLIANCE WITH THE APPLICABLE PROPERTY TAX MANDATES.

Whereas, the Great Recession has had deleterious effects on the economy and especially on the housing market; and

Whereas, valuation data for a calendar year is used to determine market value for a general reappraisal as of January 1 of the following year; and

Whereas, there were a total of 3,825,637 foreclosure filings during the 2010 calendar year, and 2.23% of all households were in some stage of foreclosure during 2010; and

Whereas, annual analysis of the housing market in North Carolina in 2011 shows tax assessments in nearly half of the counties in the State were higher, on average, than actual market values; and

Whereas, the General Assembly has previously required accelerated general reappraisals when sales values deviated too much from assessed values, but such countywide analyses can fail to properly account for pockets of improperly valued properties or where properties have values that offset improperly valued properties located elsewhere within the county; and

Whereas, these unique and extraordinary conditions have increased the difficulty of accurately appraising real property for tax purposes and increased the number of actual errors in conducting reappraisals; and

Whereas, independent evidence shows instances of high degrees of inequity in valuations among like properties of a type that is not acceptable by widely accepted mass appraisal standards; and

Whereas, independent evidence shows, among other things, that there exist concrete examples of erroneous valuations, for example, that resulted both from the values accepted as initial values and from other inequities produced during the property tax appeals process; and

Whereas, these examples prove the existence of errors that give rise to significant issues that must be addressed to resolve inequities among like and similar properties; and

Whereas, the General Assembly recognizes that the confluence of these issues arising during the time when general reappraisals of real property were occurring has resulted not only in a higher risk but in a higher incidence of assessed values failing to accurately and fairly reflect true market values; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 105-287, 105-325, 105-380, any provision of law restricting the time for which a change in appraisal or valuation may be made, or any other provision of Subchapter II of Chapter 105 of the General Statutes inconsistent with the provisions of this act, a board of county commissioners shall undertake the measures required by this act if all of the following conditions are met:

(1) The county has independent evidence that the majority of commercial neighborhoods in the county reviewed by a qualified appraisal company possess significant issues of inequity.

(2) The county has independent evidence that for residential neighborhoods instances of inequity or erroneous data had an impact on the valuation of the neighborhood as a whole.

(3) The county's last general reappraisal was performed for the 2008 tax year, 2009 tax year, 2010 tax year, 2011 tax year, or 2012 tax year.

(4) The independent evidence resulted from a review performed by a qualified appraisal company selected and retained by the county and registered with the Department of Revenue and had a sample size of no less than 375 properties, the relevant characteristics of which were reviewed on location at the property.

SECTION 2. If all of the conditions of Section 1 of this act are met, a board of county commissioners shall either (i) conduct a reappraisal, using no less than one person certified by the Department of Revenue for mass valuations per 4,250 parcels, pursuant to G.S. 105-286 within 18 months, applicable to all tax years from and including the tax year when the last general reappraisal was performed pursuant to G.S. 105-286 or (ii) have a qualified appraisal company, which may be the same company that provides the evidence in Section 1, conduct a review of all the values in the county by neighborhoods and make recommendations as to the true value of the properties as of January 1 of the year of the last general reappraisal performed pursuant to G.S. 105-286. After the reappraisal or after each neighborhood review required by this section is complete, the board of county commissioners shall make any change on the abstracts and tax records to ensure that the assessed values of incorrectly appraised properties in the county reflect the true values of those properties effective for the year of the last general reappraisal performed pursuant to G.S. 105-286 and shall apply the adjusted values for those properties for each tax year until the next general reappraisal for real property is performed by the county pursuant to G.S. 105-286 unless those adjusted values are changed in accordance with G.S. 105-287. In making changes to the abstracts and tax records mandated by this act, the board of county commissioners shall make adjustments for previous errors prioritized as follows:

(1) Adjustments to parcels with errors that resulted in the parcels having a significantly overstated value.

(2) Adjustments to parcels with errors that resulted in the parcels having a significantly understated value.

(3) Adjustments to parcels with errors that resulted in the parcels having an overstated value.

(4) Adjustments to parcels with errors that resulted in the parcels having an understated value.

In instances of parcels with errors that resulted in an overpayment of taxes, the governing board shall require that notice of refund and the refund amount be sent to the owner of record as of the date the payment was made. The provisions of G.S. 105-380 do not apply to the issuance of any refund under the provisions of this act.

SECTION 3. Interest on taxes paid on parcels with errors that resulted in the parcels having an overstated value shall be calculated at a rate of five percent (5%) per annum. Additional taxes levied on parcels as a result of errors causing the parcels to have an

understated value shall be treated as taxes on discovered property pursuant to G.S. 105-312, except that the discovery penalties set forth in subsection (h) of G.S. 105-312 shall not apply.

SECTION 4. This act is effective when it becomes law. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

HOUSE BILL 200:
Require Certain General Reappraisals

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 5, 2013
Introduced by:	Reps. W. Brawley, Cotham	**Prepared by:**	Dan Ettefagh
Analysis of:	Second Edition		Committee Counsel

SUMMARY: ***House Bill 200 requires counties to retroactively change appraisals valued during the county's last general reappraisal if certain conditions are met.***

[As introduced, this bill was identical to S159, as introduced by Sens. Tarte, Rucho, which is currently in House Government, if favorable, Regulatory Reform, if favorable, Finance.]

CURRENT LAW: Under current law, the value of real property must be appraised as of January 1 by each county at least once every 8 years. Unless another standard applies for limited circumstances, the value to be determined is the true value of the property, or the price at which the property would change hands between a willing and financially able buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of all the uses to which the property is adapted and capable of being used. With limited exceptions, this value must be used by the county until the county conducts its next general reappraisal, and property tax appraisals may not be changed for tax years other than the current tax year, regardless of whether such changes are sought by the taxpayer from the assessor, the board of equalization and review, or the board of county commissioners.[1] While G.S. 105-381 permits refunds or releases if the tax in question was levied illegally or due to clerical error and while G.S. 105-394 permits retroactive changes to property tax records to correct "immaterial irregularities" in the listing, appraisal, levy, or collection process, neither provision likely authorizes retroactive changes to appraisals based on the alleged misjudgments of market value by the county.[2]

BILL ANALYSIS: The bill would supersede the time limitations disallowing retroactive changes where the following conditions are met:

- The county has evidence that the majority of commercial neighborhoods reviewed by a qualified appraisal company possess significant issues of inequity.
- The county has evidence that instances of inequity or erroneous data had an impact on the valuation of residential neighborhoods in the county.

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[1] (See G.S. 105-287(c) (any change in appraisals made in non-general-revaluation years may take effect in the current tax year only and not retroactively; G.S. 105-296(i) (changes made informally by the assessor prior to the first meeting of the Bd of E&R may affect only current-year appraisals); G.S. 105-322 (authorizes board of E&R to make changes as permitted by G.S. 105-287 and as needed to resolve timely filed appeals of current year's appraisals); G.S. 105-325 (authorizes board of county commissioners to make changes only to current-year appraisals).

[2] Neither provision has been the subject of much litigation. The leading cases are *Ammons v. Wake County*, 127 N.C. App. 426 (1997), which makes clear that a misjudgment of market value under G.S. 105-381 cannot justify a refund under the "clerical error" standard but does not address the "levied illegally" standard, and *In re: Morgan*, 362 N.C. 339 (2008), which deals with immaterial irregularities. An argument that a misjudgment of market value was either an illegal tax or an immaterial irregularity would render the appeal deadline created by G.S. 105-322 unnecessary, and courts strive to avoid interpreting a statute in a manner that eliminates the relevance of another statute.

- The county's last general reappraisal was performed in one of the years when the economic downturn most severely affected home prices (2008-2012).
- The county's evidence (i) resulted from a review performed by an appraisal service retained and selected by the county and registered with the Department of Revenue and (ii) resulted from a sample size of not less than 375 properties that were examined on site.

If all of the conditions are met, the county must undertake one of the two following options:

- The county must conduct a general reappraisal pursuant to G.S. 105-286 within 18 months with at least 1 appraiser certified by the Department for mass valuations per 4,250 parcels.
- The county must have a qualified appraisal service expand the county's evidence of inequity to cover the entire county.

Once one of the two options has been completed, the county must change the abstracts and tax records so that the assessed value reflects the true value for each tax year until the next general reappraisal required by G.S. 105-286. In making these changes, the county must prioritize significantly overvalued parcels first, significantly undervalued parcels second, other overvalued parcels third, and other undervalued parcels last, and, in making refunds, the governing board of the county (and city, where applicable), must direct that a notice of refund and the refund amount be sent to the owner of record as of the date the payment was made. For overvalued parcels, the county would be required to repay the overpayment with interest in the same manner as if there were an order of the Property Tax Commission reducing a valuation on property resulting in an overpayment under G.S. 105-290(b)(4), which is currently 5% per annum. For undervalued parcels, the additional taxes would be treated as taxes on discovered properties pursuant to G.S. 105-312, on which interest does not begin to accrue until the next calendar date of delinquency, which would be the next January 6th. Penalties associated with discovered properties are expressly made non-applicable.

EFFECTIVE DATE: Effective when it becomes law and the provisions of the bill are severable.

BACKGROUND: In 2011, Mecklenburg County conducted a general reappraisal, which has been a source of controversy and debate. In response to a significantly higher rate of appeal and public criticism, the county commissioned a review of the reappraisal data. The resulting report indicated that many of the neighborhoods throughout the county had valuations that had either major or minor issues affecting the calculation.[3]

The report is available online at the following website:

http://charmeck.org/mecklenburg/county/AssessorsOffice/Pages/RevaluationReview.aspx

The bill seeks to provide a remedy by conforming the previously established valuations to true or market values as of the date for which the reappraisal was to be effective coupled with a retroactive adjustment to tax liabilities. Laws amending property tax statutes must adhere to two North Carolina Constitutional provisions:

- Art. II, Sec. 24 of the NC Constitution prohibits local bills that "extend the time for the levy or collection of taxes or otherwise relieving any collector of tax from the due performance of his official duties."
- Art. V, Sec. 2 of the NC Constitution requires that any "classification" of property for tax purposes "be made by general law uniformly applicable in every county, city, and town."

[3] For example, in the neighborhood review, the report indicated major or minor issues in 49 of 150 neighborhoods, and in the land increase neighborhood review, the report indicated major or minor issues in 38 of 52 neighborhoods.

North Carolina courts have not addressed the question of whether a bill permitting or ordering the retroactive changing of property tax assessments in some (but not all) counties would violate either of these constitutional provisions. Although the bill addresses primarily a local issue and Mecklenburg County is the only county known to meet all of the conditions set forth in the bill, any county that conducted a revaluation between 2008 and 2012 can meet the bill conditions. A taxpayer or a county in the State may have standing to challenge a law that violated a Constitutional provision. It is unknown whether a court would find the bill to be local in nature or non-uniform.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: June 4, 2013

TO: Senate Finance Committee

FROM: Rodney Bizzell
Fiscal Research Division

RE: House Bill 200 (Second Edition)

FISCAL IMPACT

($ in millions)

☑ Yes ☐ No ☑ No Estimate Available

State Impact	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
General Fund Revenues:					
General Fund Expenditures:					
Special Fund Revenues:					
Special Fund Expenditures:					
State Positions:					
NET STATE IMPACT	$0.0	$0.0	$0.0	$0.0	$0.0

Local Impact					
Revenues:					
Expenditures:					
NET LOCAL IMPACT	$0.0	$0.0	$0.0	$0.0	$0.0

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Mecklenburg County; NC Dept of Revenue

EFFECTIVE DATE: Becomes effective when law.

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY:
HB 200 would require counties to retroactively change appraisals valued during the county's last general reappraisal if the county has independent evidence of significant inequity issues or erroneous data related to a reappraisal performed for one of the previous five tax years. Affected counties would have the option to conduct a reappraisal or have a qualified appraisal company conduct a review of values and make recommendations for adjustments.

If the county determines that a parcel has been overvalued, the county must repay the overpayment with 5% interest per annum. If a property was found to be undervalued, additional taxes will be treated as taxes on discovered property pursuant to 105-312.

ASSUMPTIONS AND METHODOLOGY:
According to the Department of Revenue, Mecklenburg County is the only county that would be affected by the bill. The county commissioned a report which concluded the 2011 reappraisal was impacted by commercial and residential neighborhoods with significant inequity issues or

erroneous data that affected valuations. HB 200 would require Mecklenburg County to conduct a reappraisal or contract with an appraisal company to make any adjustments to tax values necessary to ensure that the assessed values reflect the true values effective for the year of the last general reappraisal.

In the case of overvalued properties, the county must refund overpayments. The interest rate for overpayments is 5% per annum. For undervalued parcels, the taxpayer would be responsible for the amount of underpayment; interest would not accrue until the following due date for tax payments, which would be January 6th.

Data sufficient to determine the fiscal impact to Mecklenburg County will not be available until appraisal adjustments are made and corrected property values are determined. Therefore, Fiscal Research is unable to estimate the fiscal impact of the legislation.

SOURCES OF DATA: NC Department of Revenue

TECHNICAL CONSIDERATIONS: None

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 817

Committee Substitute Favorable 5/1/13
Committee Substitute #2 Favorable 5/2/13
Committee Substitute #3 Favorable 5/8/13
Fifth Edition Engrossed 5/8/13
Senate Transportation Committee Substitute Adopted 5/22/13
PROPOSED SENATE COMMITTEE SUBSTITUTE H817-CSRWx-61 [v.2]
6/4/2013 7:49:31 PM

Short Title: Strategic Transportation Investments. (Public)

Sponsors:

Referred to:

April 11, 2013

A BILL TO BE ENTITLED

AN ACT TO STRENGTHEN THE ECONOMY THROUGH STRATEGIC TRANSPORTATION INVESTMENTS.

The General Assembly of North Carolina enacts:

STRATEGIC TRANSPORTATION INVESTMENTS

SECTION 1.1.(a) Chapter 136 of the General Statutes is amended by adding a new Article to read:

"Article 14B.

"Strategic Prioritization Funding Plan for Transportation Investments.

"**§ 136-189.10. Definitions.**

The following definitions apply in this Article:

(1) Statewide strategic mobility projects. – Includes only the following:

a. Interstate highways and future interstate highways approved by the federal government.

b. Routes on the National Highway System as of July 1, 2012, excluding intermodal connectors.

c. Highway routes on the United States Department of Defense Strategic Highway Network (STRAHNET).

d. Highway toll routes designated by State law or by the Department of Transportation, pursuant to its authority under State law.

e. Highway projects listed in G.S. 136-179, as it existed on July 1, 2012, that are not authorized for construction as of July 1, 2015.

f. Appalachian Development Highway System.

g. Commercial service airports included in the Federal Aviation Administration's National Plan of Integrated Airport Systems (NPIAS) that provide international passenger service or 375,000 or more enplanements annually, provided that the State's annual financial participation in any single airport project included in this subdivision may not exceed five hundred thousand dollars ($500,000).

h. Freight capacity and safety improvements to Class I freight rail corridors.

(2) Regional impact projects. – Includes only the following:

a. Projects listed in subdivision (1) of this section, subject to the limitations noted in that subdivision.

b. U.S. highway routes not included in subdivision (1) of this section.

c. N.C. highway routes not included in subdivision (1) of this section.

d. Commercial service airports included in the NPIAS that are not included in subdivision (1) of this section, provided that the State's annual financial participation in any single airport project included in this subdivision may not exceed three hundred thousand dollars ($300,000).

e. The State-maintained ferry system, excluding passenger vessel replacement.

f. Freight capacity and safety improvements to rail corridors spanning two or more counties and not included in subdivision (1) of this section.

(3) Division needs projects. – Includes only the following:

a. Projects listed in subdivision (1) or (2) of this section, subject to the limitations noted in those subsections.

b. State highway routes not included in subdivision (1) or (2) of this section.

c. Airports included in the NPIAS that are not included in subdivision (1) or (2) of this section, provided that the State's total annual financial participation under this sub-subdivision shall not exceed eighteen million five hundred thousand dollars ($18,500,000).

d. Freight capacity and safety improvements to rail corridors not included in subdivision (1) or (2) of this section.

e. Public transportation service improvements, facilities, and equipment, including intercity rail, commuter rail, light rail, multimodal terminals and stations used for passenger transit.

f. Federally funded independent bicycle and pedestrian improvements.

g. Replacement of State-maintained ferry vessels.

h. Federally funded municipal road projects.

(4) Distribution Regions. – The following Distribution Regions apply to this Article:

a. Distribution Region A consists of the following counties: Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Johnston, Martin, Nash, Northampton, Pasquotank, Perquimans, Tyrrell, Washington, Wayne, and Wilson.

b. Distribution Region B consists of the following counties: Beaufort, Brunswick, Carteret, Craven, Duplin, Greene, Jones, Lenoir, New Hanover, Onslow, Pamlico, Pender, Pitt, and Sampson.

c. Distribution Region C consists of the following counties: Bladen, Columbus, Cumberland, Durham, Franklin, Granville, Harnett, Person, Robeson, Vance, Wake, and Warren.

d. Distribution Region D consists of the following counties: Alamance, Caswell, Davidson, Davie, Forsyth, Guilford, Orange, Rockingham, Rowan, and Stokes.

e. Distribution Region E consists of the following counties: Anson, Cabarrus, Chatham, Hoke, Lee, Mecklenburg, Montgomery, Moore, Randolph, Richmond, Scotland, Stanly, and Union.

f. Distribution Region F consists of the following counties: Alexander, Alleghany, Ashe, Avery, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Surry, Watauga, Wilkes, and Yadkin.

g. Distribution Region G consists of the following counties: Buncombe, Burke, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania, and Yancey.

"**§ 136-189.11. Transportation Investment Strategy Formula.**

(a) Funds Subject to Formula. – The following sources of funds are subject to this section:

(1) Highway Trust Fund funds, in accordance with G.S. 136-176.

(2) Federal aid funds.

(b) Funds Excluded From Formula. – The following funds are not subject to this section:

(1) Federal congestion mitigation and air quality improvement program funds appropriated to the State by the United States pursuant to 23 U.S.C. § 104(b)(2) and 23 U.S.C. § 149.

(2) Funds received through competitive awards or discretionary grants through federal appropriations either for local governments, transportation authorities, transit authorities, or the Department.

(3) Funds received from the federal government that under federal law may only be used for Appalachian Development Highway System projects.

(4) Funds used in repayment of "GARVEE" bonds related to Phase I of the Yadkin River Veterans Memorial Bridge project.

(5) Funds committed to gap funding for toll roads funded with bonds issued pursuant to G.S. 136-176.

(6) Funds obligated for projects in the State Transportation Improvement Program that are scheduled for construction as of April 1, 2013, in State fiscal year 2012-2013, 2013-2014, or 2014-2015.

(7) Toll collections from a turnpike project under Article 6H of this Chapter and other revenue from the sale of the Authority's bonds or notes or project loans, in accordance with G.S. 136-89.192.

(8) Toll collections from the State-maintained ferry system collected under the authority of G.S. 136-82.

(b1) Funds Excluded From Regional Impact Project Category. – Federal Surface Transportation Program-Direct Attributable funds expended on eligible projects in the Regional Impact Project category are excluded from that category.

(c) Funds With Alternate Criteria. – The following federal program activities shall be included in the applicable category of the Transportation Investment Strategy Formula set forth in subsection (d) of this section but shall not be subject to the prioritization criteria set forth in that subsection:

(1) Bridge replacement.

(2) Interstate maintenance.

(3) Highway safety improvement.

(d) Transportation Investment Strategy Formula. – Funds subject to the Formula shall be distributed as follows:

(1) Statewide Strategic Mobility Projects. – Forty percent (40%) of the funds subject to this section shall be used for Statewide Strategic Mobility Projects.

a. Criteria. – Transportation-related quantitative criteria shall be used by the Department to rank highway projects that address cost-effective Statewide Strategic Mobility needs and promote economic and employment growth. The criteria for selection of Statewide Strategic Mobility Projects shall utilize a numeric scale of 100 points, based on consideration of the following quantitative criteria:

1. Benefit cost.
2. Congestion.
3. Safety.
4. Economic competitiveness.
5. Freight.
6. Multimodal.
7. Pavement condition.
8. Lane width.
9. Shoulder width.

b. Project cap. – No more than ten percent (10%) of the funds projected to be allocated to the Statewide Strategic Mobility category over any five-year period may be assigned to any contiguous project or group of projects in the same corridor within a Highway Division or within adjoining Highway Divisions.

(2) Regional Impact Projects. – Thirty percent (30%) of the funds subject to this section shall be used for Regional Impact Projects and allocated by population of Distribution Regions based on the most recent estimates certified by the Office of State Budget and Management.

a. Criteria. – A combination of transportation-related quantitative criteria, qualitative criteria, and local input shall be used to rank Regional Impact Projects involving highways that address cost-effective needs from a region-wide perspective and promote economic growth. Local input is defined as the rankings identified by the Department's Transportation Division Engineers, Metropolitan Planning Organizations, and Rural Transportation Planning Organizations. The criteria utilized for selection of Regional Impact Projects shall be based thirty percent (30%) on local input and seventy percent (70%) on consideration of a numeric scale of 100 points based on the following quantitative criteria:

1. Benefit cost.
2. Congestion.
3. Safety.
4. Freight.
5. Multimodal.
6. Pavement condition.
7. Lane width.
8. Shoulder width.
9. Accessibility and connectivity to employment centers, tourist destinations, or military installations.

(3) Division Need Projects. – Thirty percent (30%) of the funds subject to this section shall be allocated in equal share to each of the Department divisions, as defined in G.S. 136-14.1, and used for Division Need Projects.

a. Criteria. – A combination of transportation-related quantitative criteria, qualitative criteria, and local input shall be used to rank Division Need Projects involving highways that address cost-effective needs from a Division-wide perspective, provide access, and address safety-related needs of local communities. Local input is defined as the rankings identified by the Department's Transportation Division Engineers, Metropolitan Planning Organizations, and Rural Transportation Planning Organizations. The criteria utilized for selection of Division Need Projects shall be based fifty percent (50%) on local input and fifty percent (50%) on consideration of a numeric scale of 100 points based on the following quantitative criteria, except as provided in sub-subdivision b. of this subdivision:

1. Benefit cost.
2. Congestion.
3. Safety.
4. Freight.
5. Multimodal.
6. Pavement condition.
7. Lane width.
8. Shoulder width.
9. Accessibility and connectivity to employment centers, tourist destinations, or military installations.

b. Alternate criteria. – Funding from the following programs shall be included in the computation of each of the Department division equal shares but shall be subject to alternate quantitative criteria:

1. Federal Surface Transportation Program-Direct Attributable funds expended on eligible projects in the Division Need Projects category.
2. Federal Transportation Alternatives funds appropriated to the State.
3. Federal Railway-Highway Crossings Program funds appropriated to the State.
4. Projects requested from the Department in support of a time-critical job creation opportunity, when the opportunity would be classified as transformational under the Job Development Investment Grant program established pursuant to G.S. 143B-437.52, provided that the total State investment in each fiscal year for all projects funded under this sub-subdivision shall not exceed ten million dollars ($10,000,000) in the aggregate or two million dollars ($2,000,000) per project.
5. Federal funds for municipal road projects.

c. Bicycle and pedestrian limitation. – The Department shall not provide financial support for independent bicycle and pedestrian improvement projects, except for federal funds administered by the Department for that purpose. This sub-subdivision shall not apply to funds allocated to a municipality pursuant to G.S. 136-41.1 that are

committed by the municipality as matching funds for federal funds administered by the Department and used for bicycle and pedestrian improvement projects. This limitation shall not apply to projects for which funds have been obligated on or before October 1, 2013 for construction in State fiscal years 2012-2013, 2013-2014, or 2014-2015.

(4) Criteria for nonhighway projects. – Nonhighway projects subject to this subsection shall be evaluated through a separate prioritization process established by the Department that complies with all of the following:

a. The criteria used for selection of projects for a particular transportation mode shall be based on a minimum of four quantitative criteria.

b. Local input shall include rankings of projects identified by the Department's Transportation Division Engineers, Metropolitan Planning Organizations, and Rural Transportation Planning Organizations.

c. The criteria shall be based on a scale not to exceed 100 points that includes no bonus points or other alterations favoring any particular mode of transportation.

(e) Authorized Formula Variance. – The Department may vary from the Formula set forth in this section if it complies with the following:

(1) Limitation on variance. – The Department, in obligating funds in accordance with this section, shall ensure that the percentage amount obligated to Statewide Strategic Mobility Projects, Regional Impact Projects, and Division Need Projects does not vary by more than five percent (5%) over any five-year period from the percentage required to be allocated to each of those categories by this section. Funds obligated among distribution regions or divisions pursuant to this section may vary up to ten percent (10%) over any five-year period.

(2) Calculation of variance. – Each year the Secretary shall calculate the amount of Regional Impact and Division Need funds allocated in that year to each division and region, the amount of funds obligated, and the amount the obligations exceeded or were below the allocation. In the first variance calculation under this subdivision following the end of fiscal year 2015-2016, the target amounts obtained according to the Formula set forth in this section shall be adjusted to account for any differences between allocations and obligations reported for the previous year. In the first variance calculation under this subdivision following the end of fiscal year 2016-2017, the target amounts obtained according to the Formula set forth in this section shall be adjusted to account for any differences between allocations and obligations reported for the previous two fiscal years. In the first variance calculation under this subdivision following the end of fiscal year 2017-2018, the target amounts obtained according to the Formula set forth in this section shall be adjusted to account for any differences between allocations and obligations reported for the previous three fiscal years. In the first variance calculation under this subdivision following the end of fiscal year 2018-2019, the target amounts obtained according to the Formula set forth in this section shall be adjusted to account for any differences between allocations and obligations reported for the previous four fiscal years. The new target amounts shall be used to fulfill the requirements of subdivision (1) of this subsection for the next update of the Transportation Improvement

Program. The adjustment to the target amount shall be allocated by Distribution Region or Division, as applicable.

(f) Incentives for Local Funding and Highway Tolling. – The Department may revise highway project selection ratings based on local government funding initiatives and capital construction funding directly attributable to highway toll revenue. Projects authorized for construction after November 1, 2013, and contained in the 10-year Department of Transportation work program are eligible for a bonus allocation under this subsection.

(1) Definitions. – The following definitions apply in this subsection:

a. Bonus allocation. – The allocation obtained as a result of local government funding participation or highway tolling.

b. Local funding participation. – Non-State or nonfederal funds committed by local officials to leverage the commitment of State or federal transportation funds towards construction.

(2) Funds obtained from local government funding participation. – Upon authorization to construct a project with funds obtained by local government funding participation, the Department shall make available for allocation as set forth in subdivision (4) of this section an amount equal to one-half of the local funding commitment for other eligible highway projects that serve the local entity or entities that provided the local funding.

(3) Funds obtained through highway tolling. – Upon authorization to construct a project with funding from toll revenue, the Department shall make available for allocation an amount equal to one-half of the project construction cost derived from toll revenue bonds. The amount made available for allocation to other eligible highway projects shall not exceed two hundred million dollars ($200,000,000) of the capital construction funding directly attributable to the highway toll revenues committed in the Investment Grade Traffic and Revenue Study, for a project for which funds have been committed on or before July 1, 2015. The amount made available for allocation to other eligible highway projects shall not exceed one hundred million dollars ($100,000,000) of the capital construction funding directly attributable to the highway toll revenues committed in the Investment Grade Traffic and Revenue Study, for a project for which funds are committed after July 1, 2015. If the toll project is located in one or more Metropolitan Planning Organization or Rural Transportation Planning Organization boundaries, based on the boundaries in existence at the time of letting of the project construction contract, the bonus allocation shall be distributed proportionately to lane miles of new capacity within the Organization's boundaries. The Organization shall apply the bonus allocation only within those counties in which the toll project is located.

(4) Use of bonus allocation. – The Metropolitan Planning Organization, Rural Transportation Planning Organization, or the local government may choose to apply its bonus allocation in one of the three categories or in a combination of the three categories as provided in this subdivision.

a. Statewide Strategic Mobility Projects category. – The bonus allocation shall apply over the five-year period in the State Transportation Improvement Program in the cycle following the contractual obligation.

b. Regional Impact Projects category. – The bonus allocation is capped at ten percent (10%) of the regional allocation, or allocation to multiple regions, made over a five-year period and shall be applied

over the five-year period in the State Transportation Improvement Program in the cycle following the contractual obligation.

c. Division Needs Projects category. – The bonus allocation is capped at ten percent (10%) of the division allocation, or allocation to multiple divisions, made over a five-year period and shall be applied over the five-year period in the State Transportation Improvement Program in the cycle following the contractual obligation.

(g) Reporting. – The Department shall publish on its Web site, in a link to the "Strategic Transportation Investments" Web site linked directly from the Department's home page, the following information in an accessible format as promptly as possible:

(1) The quantitative criteria used in each highway and nonhighway project scoring, including the methodology used to define each criteria, the criteria presented to the Board of Transportation for approval, and any adjustments made to finalize the criteria.

(2) The quantitative and qualitative criteria in each highway or nonhighway project scoring that is used in each region or division to finalize the local input score and shall include distinctions between Metropolitan Planning Organization and Rural Transportation Planning Organization scoring and methodologies.

(3) Notification of changes to the methodologies used to calculate quantitative criteria.

(4) The final quantitative formulas, including the number of points assigned to each criteria, used in each highway and nonhighway project scoring used to obtain project rankings in the Statewide, Regional, and Division categories. If the Department approves different formulas or point assignments regionally or by division, the final scoring for each area shall be noted.

(5) The project scorings associated with the release of the draft and final State Transportation Improvement Program."

SECTION 1.1.(b) Effective July 1, 2019, G.S. 136-189.11(e)(2), as enacted by subsection (a) of this section, reads as rewritten:

"(e) Authorized Formula Variance. – The Department may vary from the Formula set forth in this section if it complies with the following:

...

(2) Calculation of Variance. – Each year, the Secretary shall calculate the amount of Regional Impact and Division Need funds allocated in that year to each ~~division,~~division and region, the amount of funds obligated, and the amount the obligations exceeded or were below the allocation. ~~In the first variance calculation under this subdivision following the end of fiscal year 2015-16, the target amounts obtained according to the Formula set forth in this section shall be adjusted to account for any differences between allocations and obligations reported for the previous year. In the first variance calculation under this subdivision following the end of fiscal year 2016-17, the target amounts obtained according to the Formula set forth in this section shall be adjusted to account for any differences between allocations and obligations reported for the previous two fiscal years. In the first variance calculation under this subdivision following the end of fiscal year 2017-18, the target amounts obtained according to the Formula set forth in this section shall be adjusted to account for any differences between allocations and obligations reported for the previous three fiscal years. In the first variance calculation under this subdivision following the end of fiscal year 2018-19, the~~ The target amounts obtained according to the Formula set

forth in this section shall be adjusted to account for any differences between allocations and obligations reported for the previous ~~four~~ five fiscal years. The new target amounts shall be used to fulfill the requirements of subdivision (1) of this subsection for the next update of the Transportation Improvement Program. The adjustment to the target amount shall be allocated by Distribution Region or Division, as applicable."

SECTION 1.2. Strategic Prioritization Process Reporting. – The Department shall issue a draft revision to the State Transportation Improvement Program required by G.S. 143B-350(f)(4) no later than January 1, 2015. The Board of Transportation shall approve the revised State Transportation Improvement Program no later than July 1, 2015.

SECONDARY ROADS CHANGES

SECTION 2.1. G.S. 20-85 reads as rewritten:

"**§ 20-85. Schedule of fees.**

...

(a1) One dollar ($1.00) of the fee imposed for any transaction assessed a fee under subdivision (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), or (a)(9) of this section shall be credited to the North Carolina Highway Fund. The Division shall use the fees derived from transactions with the Division for technology improvements. The Division shall use the fees derived from transactions with commission contract agents for the payment of compensation to commission contract agents. An additional fifty cents (50¢) of the fee imposed for any transaction assessed a fee under subdivision (a)(1) of this section shall be credited to the Mercury Switch Removal Account in the Department of Environment and Natural Resources. ~~An additional fifty cents (50¢) of the fee imposed for any transaction assessed a fee under subdivision (a)(1) of this section shall be credited as follows:~~

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

~~(2) Any additional funds collected shall be credited to the Highway Trust Fund and, notwithstanding G.S. 136-176(b), shall be allocated and used for urban loop projects.~~

(a2) From the fees collected under subdivisions (a)(1) through (a)(9) of this section, the Department shall annually credit the sum of four hundred thousand dollars ($400,000) to the Reserve for Visitor Centers in the Highway Fund.

(b) Except as otherwise provided in ~~subsection (a1)~~subsections (a1) and (a2) of this section, the fees collected under subdivisions (a)(1) through (a)(9) of this section shall be credited to the North Carolina Highway Trust Fund. The fees collected under subdivision (a)(10) of this section shall be credited to the Highway Fund. ~~Fifteen dollars ($15.00) of each title fee credited to the Trust Fund under subdivision (a)(1) shall be added to the amount allocated for secondary roads under G.S. 136-176 and used in accordance with G.S. 136-44.5.~~

...."

SECTION 2.2.(a) G.S. 136-44.2 reads as rewritten:

"**§ 136-44.2. Budget and appropriations.**

(a) The Director of the Budget shall include in the "Current Operations Appropriations Act" an enumeration of the purposes or objects of the proposed expenditures for each of the ~~construction and maintenance~~construction, maintenance, and improvement programs for that budget period for the State primary, secondary, State parks road systems, and other transportation systems. The State primary system shall include all portions of the State highway system located both inside and outside municipal corporate limits that are designated by N.C., U.S. or Interstate numbers. The State secondary system shall include all of the State highway system located both inside and outside municipal corporate limits that is not a part of the State primary system. The State parks system shall include all State parks roads and parking lots that

are not also part of the State highway system. The transportation systems shall also include State-maintained, nonhighway modes of ~~transportation as well.~~transportation.

(b) All ~~construction and maintenance~~ construction, maintenance, and improvement programs for which appropriations are requested shall be enumerated separately in the budget. Programs that are entirely State funded shall be listed separately from those programs involving the use of federal-aid funds. Proposed appropriations of State matching funds for each of the federal-aid construction programs shall be enumerated separately as well as the federal-aid funds anticipated for each program in order that the total construction requirements for each program may be provided for in the budget. Also, proposed State matching funds for the highway planning and research program shall be included separately along with the anticipated federal-aid funds for that purpose.

(c) Other program categories for which appropriations are requested, such as, but not limited to, maintenance, channelization and traffic control, bridge maintenance, public service and access road construction, transportation projects and systems, and ferry operations shall be enumerated in the budget.

(d) The Department of Transportation shall have all powers necessary to comply fully with provisions of present and future federal-aid acts. For purposes of this section, "federally eligible construction project" means any construction project except secondary road projects developed pursuant to G.S. 136-44.7 and 136-44.8 eligible for federal funds under any federal-aid act, whether or not federal funds are actually available.

(e) The "Current Operations Appropriations Act" shall also contain the proposed appropriations of State funds for use in each county for ~~maintenance and construction~~construction, maintenance, and improvement of secondary roads, to be allocated in accordance with G.S. 136-44.5 and 136-44.6. State funds appropriated for secondary roads shall not be transferred nor used except for the ~~construction and maintenance~~construction, maintenance, and improvement of secondary roads in the county for which they are allocated pursuant to G.S. 136-44.5 and 136-44.6.

...."

SECTION 2.2.(b) Effective July 1, 2014, G.S. 136-44.2, as rewritten by subsection (a) of this section, reads as rewritten:

"**§ 136-44.2. Budget and appropriations.**

(a) The Director of the Budget shall include in the "Current Operations Appropriations Act" an enumeration of the purposes or objects of the proposed expenditures for each of the ~~construction, maintenance,~~ maintenance and improvement programs for that budget period for the State primary, secondary, State parks road systems, and other transportation systems. The State primary system shall include all portions of the State highway system located both inside and outside municipal corporate limits that are designated by N.C., U.S. or Interstate numbers. The State secondary system shall include all of the State highway system located both inside and outside municipal corporate limits that is not a part of the State primary system. The State parks system shall include all State parks roads and parking lots that are not also part of the State highway system. The transportation systems shall also include State-maintained, nonhighway modes of transportation.

(b) All ~~construction, maintenance,~~maintenance and improvement programs for which appropriations are requested shall be enumerated separately in the budget. Programs that are entirely State funded shall be listed separately from those programs involving the use of federal-aid funds. ~~Proposed appropriations of State matching funds for each of the federal-aid construction programs shall be enumerated separately as well as the federal-aid funds anticipated for each program in order that the total construction requirements for each program may be provided for in the budget. Also, proposed~~ Proposed State matching funds for the highway planning and research program shall be included separately along with the anticipated federal-aid funds for that purpose.

(c) Other program categories for which appropriations are requested, such as, but not limited to, maintenance, channelization and traffic control, bridge maintenance, public service and access road construction, transportation projects and systems, and ferry operations shall be enumerated in the budget.

(d) The Department of Transportation shall have all powers necessary to comply fully with provisions of present and future federal-aid acts. For purposes of this section, "federally eligible construction project" means any construction project except secondary road projects developed pursuant to ~~G.S. 136-44.7 and 136-44.8~~G.S. 136-44.8 eligible for federal funds under any federal-aid act, whether or not federal funds are actually available.

(e) The "Current Operations Appropriations Act" shall also contain the proposed appropriations of State funds for use in each county for ~~construction, maintenance,~~ maintenance and improvement of secondary roads, to be allocated in accordance with ~~G.S. 136-44.5 and 136-44.6.~~G.S. 136-44.6. State funds appropriated for secondary roads shall not be transferred nor used except for the ~~construction, maintenance,~~ maintenance and improvement of secondary roads in the county for which they are allocated pursuant to ~~G.S. 136-44.5 and 136-44.6.~~G.S. 136-44.6.

...

(g) The Department of Transportation may provide for costs incurred or accrued for traffic control measures to be taken by the Department at major events which involve a high degree of traffic concentration on State highways, and which cannot be funded from regular budgeted items. This authorization applies only to events which are expected to generate 30,000 vehicles or more per day. The Department of Transportation shall provide for this funding by allocating and reserving up to one hundred thousand dollars ($100,000) before any other allocations from the appropriations for State maintenance for ~~primary, secondary, and urban~~primary and secondary road systems are made, based upon the same proportion as is appropriated to each system."

SECTION 2.3.(a) G.S. 136-44.2A reads as rewritten:

"**§ 136-44.2A. Secondary road ~~improvement~~ construction program.**

There shall be annually allocated from the Highway Fund to the Department of Transportation for secondary road ~~improvement~~ construction programs developed pursuant to G.S. ~~136-44.7 and~~ 136-44.8, a sum provided by law. ~~equal to that allocation made from the Highway Fund under G.S. 136-41.1(a). In addition, as provided in G.S. 136-176(b)(4) and G.S. 20-85(b), revenue is annually allocated from the Highway Trust Fund for secondary road construction. Of the funds allocated from the Highway Fund, the sum of sixty-eight million six hundred seventy thousand dollars ($68,670,000) shall be allocated among the counties in accordance with G.S. 136-44.5(b). All funds allocated from the Highway Fund for secondary road improvements in excess of that amount shall be allocated among the counties in accordance with G.S. 136-44.5(c). All funds allocated from the Highway Trust Fund for secondary road improvement programs shall be allocated in accordance with G.S. 136-182.~~"

SECTION 2.3.(b) Effective July 1, 2014, G.S. 136-44.2A is repealed.

SECTION 2.4. G.S. 136-44.2C is repealed.

SECTION 2.5. Article 2A of Chapter 136 is amended by adding a new section to read:

"**§ 136-44.2D. Secondary unpaved road paving program.**

(a) The Department of Transportation shall expend funds allocated to the paving of unpaved secondary roads for the paving of unpaved secondary roads based on a statewide prioritization. The Department shall pave the eligible unpaved secondary roads that receive the highest priority ranking within this statewide prioritization. Nothing in this subsection shall be interpreted to require the Department to pave any unpaved secondary roads that do not meet secondary road system addition standards as set forth in G.S. 136-44.10 and G.S. 136-102.6. The Highway Trust Fund shall not be used to fund the paving of unpaved secondary roads."

SECTION 2.6.(a) G.S. 136-44.5 reads as rewritten:

"**§ 136-44.5. Secondary roads; mileage study; allocation of funds.**

(a) Before July 1, in each calendar year, the Department of Transportation shall make a study of all State-maintained unpaved and paved secondary roads in the State. The study shall determine:

(1) The number of miles of unpaved State-maintained roads in each county eligible for paving and the total number of miles that are ineligible;

(2) The total number of miles of unpaved State-maintained roads in the State eligible for paving and the total number of miles that are ineligible; and

(3) The total number of paved State-maintained roads in each county, and the total number of miles of paved State-maintained roads in the State.

In this subsection, (i) ineligible unpaved mileage is defined as the number of miles of unpaved roads that have unavailable rights-of-way or for which environmental permits cannot be approved to allow for paving, and (ii) eligible unpaved mileage is defined as the number of miles of unpaved roads that have not been previously approved for paving by any funding source or has the potential to be programmed for paving when rights-of-way or environmental permits are secured. Except for federal-aid programs, the Department shall allocate all secondary road improvement funds on the basis of a formula using the study figures.

(b) ~~The first sixty-eight million six hundred seventy thousand dollars ($68,670,000) shall be allocated as follows: Each county shall receive a percentage of these funds, the percentage to be determined as a factor of the number of miles of paved and unpaved State-maintained secondary roads in the county divided by the total number of miles of paved and unpaved State-maintained secondary roads in the State, excluding those unpaved secondary roads that have been determined to be eligible for paving as defined in subsection (a) of this section. Beginning in fiscal year 2010-2011, allocations pursuant to this subsection shall be~~ The amounts appropriated by law for secondary road construction, excluding unpaved secondary road funds, shall be allocated among counties based on the total number of secondary miles in a county in proportion to the total State-maintained secondary road mileage.

~~(c) Funds allocated for secondary road construction in excess of sixty-eight million six hundred seventy thousand dollars ($68,670,000) shall be allocated to each county based on the percentage proportion that the number of miles in the county of State-maintained unpaved secondary roads bears to the total number of miles in the State of State-maintained unpaved secondary roads. In a county that has roads with eligible miles, these funds shall only be used for paving unpaved secondary road miles in that county. In a county where there are no roads eligible to be paved as defined in subsection (a) of this section, the funds may be used for improvements on the paved and unpaved secondary roads in that county. Beginning in fiscal year 2010-2011, allocations pursuant to this subsection shall be based on the total number of secondary miles in a county in proportion to the total State-maintained secondary road mileage.~~

~~(d) Copies of the Department study of unpaved and paved State-maintained secondary roads and copies of the individual county allocations shall be made available to newspapers having general circulation in each county.~~"

SECTION 2.6.(b) Effective July 1, 2014, G.S. 136-44.5 is repealed.

SECTION 2.6.(c) G.S. 136-44.6 reads as rewritten:

"**§ 136-44.6. Uniformly applicable formula for the allocation of secondary roads maintenance and improvement funds.**

The Department of Transportation shall develop a uniformly applicable formula for the allocation of secondary roads maintenance and improvement funds for use in each county. The formula shall take into consideration the number of paved and unpaved miles of state-maintained secondary roads in each county and such other factors as experience may dictate. This section shall not apply to projects to pave unpaved roads under G.S. 136-44.2D."

SECTION 2.6.(d) Secondary Road Funding. – The sum of fifteen million dollars ($15,000,000) in nonrecurring funds for the 2013-2014 fiscal year is allocated from the Highway Fund for the secondary road construction program under G.S. 136-44.2A, as enacted by Section 2.3 of this act, and the sum of twelve million dollars ($12,000,000) in recurring funds for the 2013-2014 fiscal year is allocated from the Highway Fund for the paving of unpaved roads pursuant to G.S. 136-44.2D, as enacted by Section 2.5 of this act.

SECTION 2.7. G.S. 136-44.7 reads as rewritten:

"**§ 136-44.7. Secondary roads; ~~annual work program.~~right-of-way acquisition.**

~~(a) The Department of Transportation shall be responsible for developing criteria for improvements and maintenance of secondary roads. The criteria shall be adopted by the Board of Transportation before it shall become effective. The Department of Transportation shall be responsible for developing annual work programs for both construction and maintenance of secondary roads in each county in accordance with criteria developed. It shall reflect the long-range and immediate goals of the Department of Transportation. Projects on the annual construction program for each county shall be rated according to their priority based upon the secondary road criteria and standards which shall be uniform throughout the State. Tentative construction projects and estimated funding shall also be listed in accordance to priority. The annual construction program shall be adopted by the Board of Transportation before it shall become effective.~~

~~(b) When a secondary road in a county is listed in the first 10 secondary roads to be paved during a year on a priority list issued by the Department of Transportation under this section, the secondary road cannot be removed from the top 10 of that list or any subsequent list until it is paved. All secondary roads in a county shall be paved, insofar as possible, in the priority order of the list. When a secondary road in the top 10 of that list is removed from the list because it has been paved, the next secondary road on the priority list shall be moved up to the top 10 of that list and shall remain there until it is paved.~~

(c) When it is necessary for the Department of Transportation to acquire a right-of-way ~~in accordance with (a) and (b) of this section~~ in order to pave a secondary road or undertake a maintenance project, the Department shall negotiate the acquisition of the right-of-way for a period of up to six months. At the end of that period, if one or more property owners have not dedicated the necessary right-of-way and at least seventy-five percent (75%) of the property owners adjacent to the project and the owners of the majority of the road frontage adjacent to the project have dedicated the necessary property for the right-of-way and have provided funds required by Department rule to the Department to cover the costs of condemning the remaining property, the Department shall initiate condemnation proceedings pursuant to Article 9 of this Chapter to acquire the remaining property necessary for the project.

(d) The Division Engineer is authorized to reduce the width of a right-of-way to less than 60 feet to pave an unpaved secondary road with the allocated funds, provided that in all circumstances the safety of the public is not compromised and the minimum accepted design practice is satisfied."

SECTION 2.8.(a) G.S. 136-44.8 reads as rewritten:

"**§ 136-44.8. Submission of secondary roads construction and unpaved roads paving programs to the Boards of County Commissioners.**

~~(a) The Department of Transportation shall post in the county courthouse a county map showing tentative secondary road paving projects rated according to the priority of each project in accordance with the criteria and standards adopted by the Board of Transportation. The map shall be posted at least two weeks prior to the public meeting of the county commissioners at which the Department of Transportation representatives are to meet and discuss the proposed secondary road construction program for the county as provided in subsection (c).~~

(a1) Representatives of the Department of Transportation shall provide to the board of county commissioners in each county the proposed secondary road construction program and,

if applicable to that county, a list of roads proposed for the annual paving program approved by the Board of Transportation. If a paving priority list is presented, it shall include the priority rating of each secondary road paving project included in the proposed paving program according to the criteria and standards adopted by the Board of Transportation.

~~(b) The Department of Transportation shall provide a notice to the public of the public meeting of the board of county commissioners at which the annual secondary road construction program for the county proposed by the Department is to be presented to the board and other citizens of the county as provided in subsection (c). The notice shall be published in a newspaper published in the county or having a general circulation in the county once a week for two succeeding weeks prior to the meeting. The notice shall also advise that a county map is posted in the courthouse showing tentative secondary road paving projects rated according to the priority of each project.~~

~~(c) Representatives of the Department of Transportation shall meet with the board of county commissioners at a regular or special public meeting of the board of county commissioners for each county and present to and discuss with the board of county commissioners and other citizens present, the proposed secondary road construction program for the county. The presentation and discussion shall specifically include the priority rating of each tentative secondary road paving project included in the proposed construction program, according to the criteria and standards adopted by the Board of Transportation.~~

~~At the same meeting after the presentation and discussion of the annual secondary road construction program for the county or at a later meeting, the board of county commissioners may (i) concur in the construction program as proposed, or (ii) take no action, or (iii) make recommendations for deviations in the proposed construction program, except as to paving projects and the priority of paving projects for which the board in order to make recommendations for deviations, must vote to consider the matter at a later public meeting as provided in subsection (d).~~

~~(d) The board of county commissioners may recommend deviations in the paving projects and the priority of paving projects included in the proposed secondary road construction program only at a public meeting after notice to the public that the board will consider making recommendations for deviations in paving projects and the priority of paving projects included in the proposed annual secondary road construction program. Notice of the public meeting shall be published by the board of county commissioners in a newspaper published in the county or having a general circulation in the county. After discussion by the members of the board of county commissioners and comments and information presented by other citizens of the county, the board of county commissioners may recommend deviations in the paving projects and in the paving priority of secondary road projects included in the proposed secondary road construction program. Any recommendation made by the board of county commissioners for a deviation in the paving projects or in the priority for paving projects in the proposed secondary road construction program shall state the specific reason for each such deviation recommended.~~

(e) The Board of Transportation shall adopt the annual secondary construction program for each county after having given the board of county commissioners of each county an opportunity to review the proposed construction program and to make recommendations as provided in this section. The Board of Transportation shall consider such recommendations insofar as they are compatible with its general plans, standards, criteria and available funds, but having due regard to development plans of the county and to the maintenance and improvement needs of all existing roads in the county. ~~However, no consideration shall be given to any recommendation by the board of county commissioners for a deviation in the paving projects or in the priority for paving secondary road projects in the proposed construction program that is not made in accordance with subsection (d).~~

(f) The secondary road construction ~~program~~ and unpaved roads paving programs adopted by the Board of Transportation shall be followed by the Department of Transportation unless changes are approved by the Board of Transportation and notice of any changes is given to the board of county commissioners. ~~The Department of Transportation shall post a copy of the adopted program, including a map showing the secondary road paving projects rated according to the approved priority of each project, at the courthouse, within 10 days of its adoption by the Board of Transportation. The board of county commissioners may petition the Board of Transportation for review of any changes to which it does not consent and the determination of the Board of Transportation shall be final.~~ Upon request, the most recent secondary road construction and unpaved roads paving programs adopted shall be submitted to any member of the General Assembly. The Department of Transportation shall make the annual construction program for each county available to the newspapers having a general circulation in the county."

SECTION 2.8.(b) Effective July 1, 2014, G.S. 136-44.8, as rewritten by subsection (a) of this section, reads as rewritten:

"**§ 136-44.8. Submission of unpaved secondary roads ~~construction and unpaved roads~~ paving programs to the Boards of County Commissioners.**

(a1) ~~Representatives~~ In each county having unpaved roads programmed for paving, representatives of the Department of Transportation shall annually provide to the board of county commissioners in ~~each county~~those counties ~~the proposed secondary road construction program and, if applicable to that county,~~ a list of roads proposed for the annual paving program approved by the Board of Transportation. ~~If a~~The paving priority list ~~is presented, it~~ shall include the priority rating of each secondary road paving project included in the proposed paving program according to the criteria and standards adopted by the Board of Transportation.

...

~~(e) The Board of Transportation shall adopt the annual secondary construction program for each county after having given the board of county commissioners of each county an opportunity to review the proposed construction program and to make recommendations as provided in this section. The Board of Transportation shall consider such recommendations insofar as they are compatible with its general plans, standards, criteria and available funds, but having due regard to development plans of the county and to the maintenance and improvement needs of all existing roads in the county.~~

(f) The ~~secondary road construction and~~ unpaved secondary roads paving programs adopted by the Board of Transportation shall be followed by the Department of Transportation unless changes are approved by the Board of Transportation and notice of any changes is given to the board of county commissioners. Upon request, the most recent unpaved secondary ~~road construction and unpaved~~ roads paving programs adopted shall be submitted to any member of the General Assembly. The Department of Transportation shall make the annual construction program for each affected county available to the newspapers having a general circulation in the county."

SECTION 2.9. G.S. 136-182 is repealed.

STATE AID TO MUNICIPALITIES/POWELL BILL CHANGES

SECTION 3.1. G.S. 136-41.1 reads as rewritten:

"**§ 136-41.1. Appropriation to municipalities; allocation of funds generally; allocation to Butner.**

(a) There is annually appropriated out of the State Highway Fund a sum equal to ten and four-tenths percent (10.4%) of the net amount after refunds that was produced during the fiscal year by ~~a one-and-three-fourths cents (1 3/4¢) tax on each gallon of motor fuel taxed~~ the tax imposed under Article 36C of Chapter 105 of the General Statutes and on the equivalent amount of alternative fuel taxed under Article 36D of that Chapter. One-half of the amount

appropriated shall be allocated in cash on or before October 1 of each year to the cities and towns of the State in accordance with this section. The second one-half of the amount appropriated shall be allocated in cash on or before January 1 of each year to the cities and towns of the State in accordance with this section. ~~In addition, as provided in G.S. 136-176(b)(3), revenue is allocated and appropriated from the Highway Trust Fund to the cities and towns of this State to be used for the same purposes and distributed in the same manner as the revenue appropriated to them under this section from the Highway Fund. Like the appropriation from the Highway Fund, the appropriation from the Highway Trust Fund shall be based on revenue collected during the fiscal year preceding the date the distribution is made.~~

Seventy-five percent (75%) of the funds appropriated for cities and towns shall be distributed among the several eligible municipalities of the State in the percentage proportion that the population of each eligible municipality bears to the total population of all eligible municipalities according to the most recent annual estimates of population as certified to the Secretary of Revenue by the State Budget Officer. This annual estimation of population shall include increases in the population within the municipalities caused by annexations accomplished through July 1 of the calendar year in which these funds are distributed. Twenty-five percent (25%) of said fund shall be distributed among the several eligible municipalities of the State in the percentage proportion that the mileage of public streets in each eligible municipality which does not form a part of the State highway system bears to the total mileage of the public streets in all eligible municipalities which do not constitute a part of the State highway system.

It shall be the duty of the mayor of each municipality to report to the Department of Transportation such information as it may request for its guidance in determining the eligibility of each municipality to receive funds under this section and in determining the amount of allocation to which each is entitled. Upon failure of any municipality to make such report within the time prescribed by the Department of Transportation, the Department of Transportation may disregard such defaulting unit in making said allotment.

The funds to be allocated under this section shall be paid in cash to the various eligible municipalities on or before October 1 and January 1 of each ~~year.~~year as provided in this section. Provided that eligible municipalities are authorized within the discretion of their governing bodies to enter into contracts for the purpose of maintenance, repair, construction, reconstruction, widening, or improving streets of such municipalities at any time after January 1 of any calendar year in total amounts not to exceed ninety percent (90%) of the amount received by such municipality during the preceding fiscal year, in anticipation of the receipt of funds under this section during the next fiscal year, to be paid for out of such funds when received.

The Department of Transportation may withhold each year an amount not to exceed one percent (1%) of the total amount appropriated for distribution under this section for the purpose of correcting errors in allocations: Provided, that the amount so withheld and not used for correcting errors will be carried over and added to the amount to be allocated for the following year.

The word "street" as used in this section is hereby defined as any public road maintained by a municipality and open to use by the general public, and having an average width of not less than 16 feet. In order to obtain the necessary information to distribute the funds herein allocated, the Department of Transportation may require that each municipality eligible to receive funds under this section submit to it a statement, certified by a registered engineer or surveyor of the total number of miles of streets in such municipality. The Department of Transportation may in its discretion require the certification of mileage on a biennial basis.

...."

SECTION 3.2. G.S. 136-181 is repealed.

SECTION 3.3. G.S. 136-41.3 reads as rewritten:

"**§ 136-41.3. Use of funds; records and annual statement; excess accumulation of funds; contracts for maintenance, etc., of streets.**

(a) Uses of Funds. – The funds allocated to cities and towns under the provisions of G.S. 136-41.2 shall be expended by said cities and towns only for the purpose of maintaining, repairing, constructing, reconstructing or widening of any street or public thoroughfare including bridges, drainage, curb and gutter, and other necessary appurtenances within the corporate limits of the municipality or for meeting the municipality's proportionate share of assessments levied for such purposes, or for the planning, construction and maintenance of ~~bikeways located within the rights-of-way of public streets and highways,~~bikeways, greenways, or ~~for the planning, construction, and maintenance of sidewalks along public streets and highways.~~sidewalks.

(b) Records and Annual Statement. – Each municipality receiving funds by virtue of G.S. 136-41.1 and 136-41.2 shall maintain a separate record of accounts indicating in detail all receipts and expenditures of such funds. It shall be unlawful for any municipal employee or member of any governing body to authorize, direct, or permit the expenditure of any funds accruing to any municipality by virtue of G.S. 136-41.1 and 136-41.2 for any purpose not herein authorized. Any member of any governing body or municipal employee shall be personally liable for any unauthorized expenditures. On or before the first day of August each year, the treasurer, auditor, or other responsible official of each municipality receiving funds by virtue of G.S. 136-41.1 and 136-41.2 shall file a statement under oath with the Secretary of Transportation showing in detail the expenditure of funds received by virtue of G.S. 136-41.1 and 136-41.2 during the preceding year and the balance on hand.

(c) Excess Accumulation of Funds Prohibited. – No funds allocated to municipalities pursuant to G.S. 136-41.1 and 136-41.2 shall be permitted to accumulate for a period greater than permitted by this section. Interest on accumulated funds shall be used only for the purposes permitted by the provisions of G.S. 136-41.3. Except as otherwise provided in this section, any municipality having accumulated an amount greater than the sum of the past 10 allocations made, shall have an amount equal to such excess deducted from the next allocation after receipt of the report required by this section. Such deductions shall be carried over and added to the amount to be allocated to municipalities for the following year. Notwithstanding the other provisions of this section, the Department shall adopt a policy to allow small municipalities to apply to the Department to be allowed to accumulate up to the sum of the past 20 allocations if a municipality's allocations are so small that the sum of the past 10 allocations would not be sufficient to accomplish the purposes of this section.

(d) Contracts for Maintenance and Construction. – In the discretion of the local governing body of each municipality receiving funds by virtue of G.S. 136-41.1 and 136-41.2 it may contract with the Department of Transportation to do the work of maintenance, repair, construction, reconstruction, widening or improving the streets in such municipality; or it may let contracts in the usual manner as prescribed by the General Statutes to private contractors for the performance of said street work; or may undertake the work by force account. The Department of Transportation within its discretion is hereby authorized to enter into contracts with municipalities for the purpose of maintenance, repair, construction, reconstruction, widening or improving streets of municipalities. And the Department of Transportation in its discretion may contract with any city or town which it deems qualified and equipped so to do that the city or town shall do the work of maintaining, repairing, improving, constructing, reconstructing, or widening such of its streets as form a part of the State highway system.

In the case of each eligible municipality, as defined in G.S. 136-41.2, having a population of less than 5,000, the Department of Transportation shall upon the request of such municipality made by official action of its governing body, on or prior to June 1, 1953, or June 1 in any year thereafter, for the fiscal year beginning July 1, 1953, and for the years thereafter

do such street construction, maintenance, or improvement on nonsystem streets as the municipality may request within the limits of the current or accrued payments made to the municipality under the provisions of G.S. 136-41.1.

In computing the costs, the Department of Transportation may use the same rates for equipment, rental, labor, materials, supervision, engineering and other items, which the Department of Transportation uses in making charges to one of its own department or against its own department, or the Department of Transportation may employ a contractor to do the work, in which case the charges will be the contract cost plus engineering and inspection. The municipality is to specify the location, extent, and type of the work to be done, and shall provide the necessary rights-of-way, authorization for the removal of such items as poles, trees, water and sewer lines as may be necessary, holding the Department of Transportation free from any claim by virtue of such items of cost and from such damage or claims as may arise therefrom except from negligence on the part of the Department of Transportation, its agents, or employees.

If a municipality elects to bring itself under the provisions of the two preceding paragraphs, it shall enter into a two-year contract with the Department of Transportation and if it desires to dissolve the contract at the end of any two-year period it shall notify the Department of Transportation of its desire to terminate said contract on or before April 1 of the year in which such contract shall expire; otherwise, said contract shall continue for an additional two-year period, and if the municipality elects to bring itself under the provisions of the two preceding paragraphs and thereafter fails to pay its account to the Department of Transportation for the fiscal year ending June 30, by August 1 following the fiscal year, then the Department of Transportation shall apply the said municipality's allocation under G.S. 136-41.1 to this account until said account is paid and the Department of Transportation shall not be obligated to do any further work provided for in the two preceding paragraphs until such account is paid.

Section 143-129 of the General Statutes relating to the procedure for letting of public contracts shall not be applicable to contracts undertaken by any municipality with the Department of Transportation in accordance with the provisions of the three preceding paragraphs.

(e) Permitted Offsets to Funding. – The Department of Transportation is authorized to apply a municipality's share of funds allocated to a municipality under the provisions of G.S. 136-41.1 to any of the following accounts of the municipality with the said Department of Transportation, which the municipality fails to pay:

(1) Cost sharing agreements for right-of-way entered into pursuant to G.S. 136-66.3, but not to exceed ten percent (10%) of any one year's allocation until the debt is repaid,

(2) The cost of relocating municipally owned waterlines and other municipally owned utilities on a State highway project which is the responsibility of the municipality,

(3) For any other work performed for the municipality by the Department of Transportation or its contractor by agreement between the Department of Transportation and the municipality, and

(4) For any other work performed that was made necessary by the construction, reconstruction or paving of a highway on the State highway system for which the municipality is legally responsible."

SECTION 3.4. G.S. 136-41.4 reads as rewritten:

"**§ 136-41.4. Municipal use of allocated funds; election.**

(a) A municipality that qualifies for an allocation of funds pursuant to G.S. 136-41.1 shall have the ~~option~~ following options:

(1) ~~to accept~~Accept all or a portion of funds allocated to the ~~municipality, under that section, for the repair, maintenance, construction, reconstruction,~~

~~widening, or improving of the municipality's streets.~~ municipality for use as authorized by G.S. 136-41.3(a).

(2) Use some or all of its allocation to match federal funds administered by the Department for independent bicycle and pedestrian improvement projects within the municipality's limits, or within the area of any metropolitan planning organization or rural transportation planning organization.

(3) ~~or the municipality may elect~~Elect to have some or all of the allocation reprogrammed for any Transportation Improvement Project currently on the approved project list within the municipality's limits or within the area of any metropolitan planning organization or rural transportation planning organization.

(b) If a municipality chooses to have its allocation reprogrammed, the ~~minimum~~ amount that may be reprogrammed is an amount equal to that amount necessary to complete one full phase of the project selected by the municipality or an amount that, when added to the amount already programmed for the Transportation Improvement Project selected, would permit the completion of at least one full phase of the project. The restriction set forth in this subsection shall not apply to any bicycle or pedestrian projects."

SECTION 3.5. DOT Municipal Lane Mile Study. – The Department of Transportation shall collect lane mile data from each municipality eligible to receive funds under this section no later than December 1, 2013. The Department shall report to the Joint Legislative Transportation Oversight Committee no later than March 1, 2014, on at least three options to shift the distribution formula to include lane mile data. The report shall include advantages and disadvantages, fiscal impacts to each municipality, and any other technical considerations in making such a change. The Joint Legislative Transportation Oversight Committee and the Fiscal Research Division shall include in its recommendations to the 2014 Session of the 2013 General Assembly a new distribution formula, if the Committee finds that a new formula is beneficial and practical.

CONFORMING CHANGES

SECTION 4.1. G.S. 105-187.9 reads as rewritten:

"**§ 105-187.9. Disposition of tax proceeds.**

...

~~(b) (Repealed effective July 1, 2013) General Fund Transfer. In each fiscal year, the State Treasurer shall transfer the amounts provided below from the taxes deposited in the Trust Fund to the General Fund. The transfer of funds authorized by this section may be made by transferring one fourth of the amount at the end of each quarter in the fiscal year or by transferring the full amount annually on July 1 of each fiscal year, subject to the availability of revenue.~~

~~(1) The sum of twenty six million dollars ($26,000,000).~~

~~(2) In addition to the amount transferred under subdivision (1) of this subsection, the sum of one million seven hundred thousand dollars ($1,700,000) shall be transferred in the 2001 2002 fiscal year. The amount distributed under this subdivision shall increase in the 2002 2003 fiscal year to the sum of two million four hundred thousand dollars ($2,400,000). In each fiscal year thereafter, the sum transferred under this subdivision shall be the amount distributed in the previous fiscal year plus or minus a percentage of this sum equal to the percentage by which tax collections under this Article increased or decreased for the most recent 12 month period for which data are available.~~

~~(c) (Effective July 1, 2013) Mobility Fund Transfer. In each fiscal year, the State Treasurer shall transfer fifty eight million dollars ($58,000,000) from the taxes deposited in the~~

~~Trust Fund to the Mobility Fund. The transfer of funds authorized by this section may be made by transferring one-fourth of the amount at the end of each quarter in the fiscal year or by transferring the full amount annually on July 1 of each fiscal year, subject to the availability of revenue.~~"

SECTION 4.2. G.S. 136-18 reads as rewritten:

"**§ 136-18. Powers of Department of Transportation.**

The said Department of Transportation is vested with the following powers:

...

(12a) The Department of Transportation shall have such powers as are necessary to establish, administer, and receive federal funds for a transportation infrastructure banking program as authorized by the Intermodal Surface Transportation Efficiency Act of 1991, Pub. L. 102-240, as amended, and the National Highway System Designation Act of 1995, Pub. L. 104-59, as amended. The Department of Transportation is authorized to apply for, receive, administer, and comply with all conditions and requirements related to federal financial assistance necessary to fund the infrastructure banking program. The infrastructure banking program established by the Department of Transportation may utilize federal and available State funds for the purpose of providing loans or other financial assistance to governmental units, including toll authorities, to finance the costs of transportation projects authorized by the above federal aid acts. Such loans or other financial assistance shall be subject to repayment and conditioned upon the establishment of such security and the payment of such fees and interest rates as the Department of Transportation may deem necessary. The Department of Transportation is authorized to apply a municipality's share of funds allocated under G.S. 136-41.1 or G.S. 136-44.20 as necessary to ensure repayment of funds advanced under the infrastructure banking program. The Department of Transportation shall establish jointly, with the State Treasurer, a separate infrastructure banking account with necessary fiscal controls and accounting procedures. Funds credited to this account shall not revert, and interest and other investment income shall accrue to the account and may be used to provide loans and other financial assistance as provided under this subdivision. The Department of Transportation may establish such rules and policies as are necessary to establish and administer the infrastructure banking program. The infrastructure banking program authorized under this subdivision shall not modify the ~~regional distribution~~ formula for the distribution of funds established by ~~G.S. 136-17.2A.~~G.S. 136-189.11. Governmental units may apply for loans and execute debt instruments payable to the State in order to obtain loans or other financial assistance provided for in this subdivision. The Department of Transportation shall require that applicants shall pledge as security for such obligations revenues derived from operation of the benefited facilities or systems, other sources of revenue, or their faith and credit, or any combination thereof. The faith and credit of such governmental units shall not be pledged or be deemed to have been pledged unless the requirements of Article 4, Chapter 159 of the General Statutes have been met. The State Treasurer, with the assistance of the Local Government Commission, shall develop and adopt appropriate debt instruments for use under this subdivision. The Local Government Commission shall develop and adopt appropriate procedures for the delivery of debt instruments to the State without any public bidding therefor. The Local Government Commission

shall review and approve proposed loans to applicants pursuant to this subdivision under the provisions of Articles 4 and 5, Chapter 159 of the General Statutes, as if the issuance of bonds was proposed, so far as those provisions are applicable. Loans authorized by this subdivision shall be outstanding debt for the purpose of Article 10, Chapter 159 of the General Statutes.

...."

SECTION 4.3. G.S. 136-17.2A is repealed.

SECTION 4.4. G.S. 136-44.50(a) reads as rewritten:

"(a) A transportation corridor official map may be adopted or amended by any of the following:

(1) The governing board of any local government for any thoroughfare included as part of a comprehensive plan for streets and highways adopted pursuant to G.S. 136-66.2 or for any proposed public transportation corridor included in the adopted long-range transportation plan.

(2) The Board of Transportation, or the governing board of any county, for any portion of the existing or proposed State highway system or for any public transportation corridor, to include rail, that is in the Transportation Improvement Program.

(3) Regional public transportation authorities created pursuant to Article 26 of Chapter 160A of the General Statutes or regional transportation authorities created pursuant to Article 27 of Chapter 160A of the General Statutes for any portion of the existing or proposed State highway system, or for any proposed public transportation corridor, or adjacent station or parking lot, included in the adopted long-range transportation plan.

(4) The North Carolina Turnpike Authority for any project being studied pursuant to G.S. 136-89.183.

(5) The Wilmington Urban Area Metropolitan Planning Organization for ~~any project that is within its urbanized boundary and identified in G.S. 136-179.~~Department projects R-3300 and U-4751.

Before a city adopts a transportation corridor official map that extends beyond the extraterritorial jurisdiction of its building permit issuance and subdivision control ordinances, or adopts an amendment to a transportation corridor official map outside the extraterritorial jurisdiction of its building permit issuance and subdivision control ordinances, the city shall obtain approval from the Board of County Commissioners."

SECTION 4.5. G.S. 136-66.3 reads as rewritten:

"**§ 136-66.3. Local government participation in improvements to the State transportation system.**

...

~~(c1) No TIP Disadvantage for Participation. If a county or municipality participates in a State transportation system improvement project, as authorized by this section, or by G.S. 136-51 and G.S. 136-98, the Department shall ensure that the local government's participation does not cause any disadvantage to any other project in the Transportation Improvement Program under G.S. 143B-350(f)(4).~~

(c2) Distribution of State Funds Made Available by County or Municipal Participation. – Any State or federal funds allocated to a project that are made available by county or municipal participation in a project contained in the Transportation Improvement Program under G.S. 143B-350(f)(4) shall ~~remain in the same funding region that the funding was allocated to under the distribution formula contained in G.S. 136-17.2A.~~be subject to G.S. 136-189.11.

~~(c3) Limitation on Agreements. The Department shall not enter into any agreement with a county or municipality to provide additional total funding for highway construction in~~

~~the county or municipality in exchange for county or municipal participation in any project contained in the Transportation Improvement Program under G.S. 143B-350(f)(4).~~

...

(e1) Reimbursement Procedure. – Upon request of the county or municipality, the Department of Transportation shall allow the local government a period of not less than three years from the date construction of ~~the project~~a project undertaken under subsection (e) of this section is initiated to reimburse the Department their agreed upon share of the costs necessary for the project. The Department of Transportation shall not charge a local government any interest during the initial three years.

...."

SECTION 4.6. G.S. 136-89.192 reads as rewritten:

"**§ 136-89.192. ~~Equity distribution~~ Applicability of formula.**

Only those funds applied to a Turnpike Project from the State Highway Fund, State Highway Trust Fund, or federal-aid funds that might otherwise be used for other roadway projects within the State, and are otherwise already subject to the ~~distribution~~ formula under ~~G.S. 136-17.2A,~~ G.S. 136-189.11 shall be included in the ~~distribution~~ formula.

Other revenue from the sale of the Authority's bonds or notes, project loans, or toll collections shall not be included in the ~~distribution~~ formula."

SECTION 4.7. G.S. 136-175 reads as rewritten:

"**§ 136-175. Definitions.**

The following definitions apply in this Article:

~~(1) Intrastate System. The network of major, multilane arterial highways composed of those routes, segments, or corridors listed in G.S. 136-178, and any other route added by the Department of Transportation under G.S. 136-178.~~

(2) Transportation Improvement Program. The schedule of major transportation improvement projects required by G.S. 143B-350(f)(4).

(3) Trust Fund. The North Carolina Highway Trust Fund."

SECTION 4.8. G.S. 136-176 reads as rewritten:

"**§ 136-176. Creation, revenue sources, and purpose of North Carolina Highway Trust Fund.**

(a) A special account, designated the North Carolina Highway Trust Fund, is created within the State treasury. The Trust Fund consists of the following revenue:

(1) Motor fuel, alternative fuel, and road tax revenue deposited in the Fund under G.S. 105-449.125, 105-449.134, and 105-449.43, respectively.

(2) Motor vehicle use tax deposited in the Fund under G.S. 105-187.9.

(3) Revenue from the certificate of title fee and other fees payable under G.S. 20-85.

(4) Repealed by Session Laws 2001-424, s. 27.1.

(5) Interest and income earned by the Fund.

~~(a1) The Department shall use two hundred twenty million dollars ($220,000,000) in fiscal year 2001-2002, two hundred twelve million dollars ($212,000,000) in fiscal year 2002-2003, and two hundred fifty-five million dollars ($255,000,000) in fiscal year 2003-2004 of the cash balance of the Highway Trust Fund for the following purposes:~~

~~(1) For primary route pavement preservation. One hundred seventy million dollars ($170,000,000) in fiscal year 2001-2002, and one hundred fifty million dollars ($150,000,000) in each of the fiscal years 2002-2003 and 2003-2004. Up to ten percent (10%) of the amount for each of the fiscal years 2001-2002, 2002-2003, and 2003-2004 is available in that fiscal year, at the discretion of the Secretary of Transportation, for:~~

a. Highway improvement projects that further economic growth and development in small urban and rural areas, that are in the Transportation Improvement Program, and that are individually approved by the Board of Transportation; or

b. Highway improvements that further economic development in the State and that are individually approved by the Board of Transportation.

(2) For preliminary engineering costs not included in the current year Transportation Improvement Program. Fifteen million dollars ($15,000,000) in each of the fiscal years 2001-2002, 2002-2003, and 2003-2004. If any funds allocated by this subdivision, in the cash balance of the Highway Trust Fund, remain unspent on June 30, 2008, the Department may transfer within the Department up to twenty-nine million dollars ($29,000,000) of available funds to contract for freight transportation system improvements for the Global TransPark.

(3) For computerized traffic signal systems and signal optimization projects. Fifteen million dollars ($15,000,000) in each of the fiscal years 2001-2002, 2002-2003, and 2003-2004.

(4) For public transportation twenty million dollars ($20,000,000) in fiscal year 2001-2002, twenty five million dollars ($25,000,000) in fiscal year 2002-2003, and seventy-five million dollars ($75,000,000) in fiscal year 2003-2004.

(5) For small urban construction projects. Seven million dollars ($7,000,000) in fiscal year 2002-2003.

Funds authorized for use by the Department pursuant to this subsection shall remain available to the Department until expended.

(a2) Repealed by Session Laws 2002-126, s. 26.4(b), effective July 1, 2002.

(a3) The Department may obligate three hundred million dollars ($300,000,000) in fiscal year 2003-2004 and four hundred million dollars ($400,000,000) in fiscal year 2004-2005 of the cash balance of the Highway Trust Fund for the following purposes:

(1) Six hundred thirty million dollars ($630,000,000) for highway system preservation, modernization, and maintenance, including projects to enhance safety, reduce congestion, improve traffic flow, reduce accidents, upgrade pavement widths and shoulders, extend pavement life, improve pavement smoothness, and rehabilitate or replace deficient bridges; and for economic development transportation projects recommended by local officials and approved by the Board of Transportation.

(2) Seventy million dollars ($70,000,000) for regional public transit systems, rural and urban public transportation system facilities, regional transportation and air quality initiatives, rail system track improvements and equipment, and other ferry, bicycle, and pedestrian improvements. For any project or program listed in this subdivision for which the Department receives federal funds, use of funds pursuant to this subdivision shall be limited to matching those funds.

Funds authorized for obligation and use by the Department pursuant to this subsection shall remain available to the Department until expended.

(a4) Project selection pursuant to subsection (a3) of this section shall be based on identified and documented need. Funds expended pursuant to subdivision (1) of subsection (a3) of this section shall be distributed in accordance with the distribution formula in G.S. 136-17.2A. No funds shall be expended pursuant to subsection (a3)(1) of this section on

~~any project that does not meet Department of Transportation standards for road design, materials, construction, and traffic flow.~~

~~(a5) The Department shall report to the Joint Legislative Transportation Oversight Committee, on or before September 1, 2003, on its intended use of funds pursuant to subsection (a3) of this section. The Department shall report to the Joint Transportation Appropriations Subcommittee, on or before May 1, 2004, on its actual current and intended future use of funds pursuant to subsection (a3) of this section. The Department shall certify to the Joint Legislative Transportation Oversight Committee each year, on or before November 1, that use of the Highway Trust Fund cash balances for the purposes listed in subsection (a3) of this section will not adversely affect the delivery schedule of any Highway Trust Fund projects. If the Department cannot certify that the full amounts authorized in subsection (a3) of this section are available, then the Department may determine the amount that can be used without adversely affecting the delivery schedule and may proportionately apply that amount to the purposes set forth in subsection (a3) of this section.~~

(b) Funds in the Trust Fund are annually appropriated to the Department of Transportation to be allocated and used as provided in this subsection. A ~~sum, not to exceed four and eight tenths percent (4.8%) of the amount of revenue deposited in the Trust Fund under subdivisions (a)(1), (2), and (3) of this section~~ sum, in the amount appropriated by law, may be used each fiscal year by the Department for expenses to administer the Trust Fund. Operation and project development costs of the North Carolina Turnpike Authority are eligible administrative expenses under this subsection. Any funds allocated to the Authority pursuant to this subsection shall be repaid by the Authority from its toll revenue as soon as possible, subject to any restrictions included in the agreements entered into by the Authority in connection with the issuance of the Authority's revenue bonds. Beginning one year after the Authority begins collecting tolls on a completed Turnpike Project, interest shall accrue on any unpaid balance owed to the Highway Trust Fund at a rate equal to the State Treasurer's average annual yield on its investment of Highway Trust Fund funds pursuant to G.S. 147-6.1. Interest earned on the unpaid balance shall be deposited in the Highway Trust Fund upon repayment. The sum up to the amount anticipated to be necessary to meet the State matching funds requirements to receive federal-aid highway trust funds for the next fiscal year may be set aside for that purpose. The rest of the funds in the Trust Fund shall be allocated and used as ~~follows:~~specified in G.S. 136-189.11.

~~(1) Sixty-one and ninety-five hundredths percent (61.95%) to plan, design, and construct projects on segments or corridors of the Intrastate System as described in G.S. 136-178 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to these projects.~~

~~(2) Twenty-five and five hundredths percent (25.05%) to plan, design, and construct the urban loops described in G.S. 136-180 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to these urban loops.~~

~~(3) Six and one-half percent (6.5%) to supplement the appropriation to cities for city streets under G.S. 136-181.~~

~~(4) Six and one-half percent (6.5%) for secondary road construction as provided in G.S. 136-182 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to secondary road construction.~~

The Department must administer funds allocated under ~~subdivisions (1), (2), and (4) of this subsection~~ this section in a manner that ensures that sufficient funds are available to make the debt service payments on bonds issued under the State Highway Bond Act of 1996 as they become due.

~~(b1) The Secretary may authorize the transfer of funds allocated under subdivisions (1) through (4) of subsection (b) of this section to other projects that are ready to be let and were to be funded from allocations to those subdivisions. The Secretary shall ensure that any funds transferred pursuant to this subsection are repaid promptly and in any event in no more than four years. The Secretary shall certify, prior to making any transfer pursuant to this subsection, that the transfer will not affect the delivery schedule of Highway Trust Fund projects in the current Transportation Improvement Program. No transfers shall be allowed that do not conform to the applicable provisions of the equity formula for distribution of funds, G.S. 136-17.2A. If the Secretary authorizes a transfer pursuant to this subsection, the Secretary shall report that decision to the next regularly scheduled meetings of the Joint Legislative Commission on Governmental Operations, the Joint Legislative Transportation Oversight Committee, and to the Fiscal Research Division.~~

(b2) **(Effective July 1, 2013)** There is annually appropriated to the North Carolina Turnpike Authority from the Highway Trust Fund the sum of ~~one hundred twelve million dollars ($112,000,000).~~forty-nine million dollars ($49,000,000). Of the amount allocated by this subsection, twenty-five million dollars ($25,000,000) shall be used to pay debt service or related financing costs and expenses on revenue bonds or notes issued for the construction of the Triangle Expressway, and twenty-four million dollars ($24,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the ~~Monroe Connector/Bypass, twenty-eight million dollars ($28,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Mid-Currituck Bridge, and thirty-five million dollars ($35,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Garden Parkway.~~Monroe Connector/Bypass. The amounts appropriated to the Authority pursuant to this subsection shall be used by the Authority to pay debt service or related financing costs and expenses on revenue bonds or notes issued by the Authority to finance the costs of one or more Turnpike Projects, to refund such bonds or notes, or to fund debt service reserves, operating reserves, and similar reserves in connection therewith. The appropriations established by this subsection constitute an agreement by the State to pay the funds appropriated hereby to the Authority within the meaning of G.S. 159-81(4). Notwithstanding the foregoing, it is the intention of the General Assembly that the enactment of this provision and the issuance of bonds or notes by the Authority in reliance thereon shall not in any manner constitute a pledge of the faith and credit and taxing power of the State, and nothing contained herein shall prohibit the General Assembly from amending the appropriations made in this subsection at any time to decrease or eliminate the amount annually appropriated to the Authority. Funds transferred from the Highway Trust Fund to the Authority pursuant to this subsection are not subject to the ~~equity~~ formula, in ~~G.S. 136-17.2A.~~G.S. 136-189.11.

~~(c) If funds are received under 23 U.S.C. Chapter 1, Federal Aid Highways, for a project for which funds in the Trust Fund may be used, the amount of federal funds received plus the amount of any funds from the Highway Fund that were used to match the federal funds may be transferred by the Secretary of Transportation from the Trust Fund to the Highway Fund and used for projects in the Transportation Improvement Program.~~

(d) A contract may be let for projects funded from the Trust Fund in anticipation of revenues pursuant to the cash-flow provisions of G.S. 143C-6-11 only for the two bienniums following the year in which the contract is let.

(e) **(Effective July 1, 2013)** Subject to ~~G.S. 136-17.2A and other funding distribution formulas, funds allocated under subdivisions (1), (3), and (4) of subsection (b) of this section may also~~ G.S. 136-189.11, funds may be used for fixed guideway projects, including providing matching funds for federal grants for fixed guideway projects."

SECTION 4.9. The following statutes are repealed:

(1) G.S. 136-177.
(2) G.S. 136-177.1.
(3) G.S. 136-178.
(4) G.S. 136-179.
(5) G.S. 136-180.
(6) G.S. 136-184.
(7) G.S. 136-185.
(8) G.S. 136-187.
(9) G.S. 136-188.
(10) G.S. 136-189.

TURNPIKE AUTHORITY CHANGES

SECTION 5.1. G.S. 136-89.183(a)(2) reads as rewritten:

"**§ 136-89.183. Powers of the Authority.**

(a) The Authority shall have all of the powers necessary to execute the provisions of this Article, including the following:

...

(2) To study, plan, develop, and undertake preliminary design work on up to ~~eight~~ nine Turnpike Projects. At the conclusion of these activities, the Turnpike Authority is authorized to design, establish, purchase, construct, operate, and maintain the following projects:

a. Triangle Expressway, including segments also known as N.C. 540, Triangle Parkway, and the Western Wake Freeway in Wake and Durham ~~Counties, and Southeast Extension in Wake and Johnston Counties, except that no portion of the Southeast Extension shall be located north of an existing protected corridor established by the Department of Transportation circa 1995, except in the area of Interstate 40 East.~~Counties. The described segments constitute three projects.

~~b. Gaston East-West Connector, also known as the Garden Parkway.~~

c. Monroe Connector/Bypass.

~~d. Cape Fear Skyway.~~

~~e. A bridge of more than two miles in length going from the mainland to a peninsula bordering the State of Virginia, pursuant to G.S. 136-89.183A.~~

Any other project proposed by the Authority in addition to the projects listed in this ~~subdivision must be approved by the General Assembly prior to construction.~~subdivision requires prior consultation with the Joint Legislative Commission on Governmental Operations pursuant to G.S. 120-76.1 no less than 180 days prior to initiating the process required by Article 7 of Chapter 159 of the General Statutes.

~~A~~ With the exception of the four projects set forth in sub-subdivisions a. and c. of this subdivision, the Turnpike ~~Project~~ projects selected for construction by the Turnpike ~~Authority~~ Authority, prior to the letting of a contract for the project, shall meet the following conditions: (i) two of the projects must be ranked in the top 35 based on total score on the Department-produced list entitled "Mobility Fund Project Scores" dated June 6, 2012, and, in addition, may be subject to G.S. 136-18(39a); (ii) of the projects not ranked as provided in (i), one may be subject to G.S. 136-18(39a); (iii) the projects shall be included in any applicable locally adopted comprehensive transportation ~~plans and~~plans; (iv) the projects shall be shown in the current

State Transportation Improvement ~~Plan prior to the letting of a contract for the Turnpike Project.~~Program; and (v) toll projects must be approved by all affected Metropolitan Planning Organizations and Rural Transportation Planning Organizations for tolling."

SECTION 5.2. G.S. 136-18 reads as rewritten:

"**§ 136-18. Powers of Department of Transportation.**

The said Department of Transportation is vested with the following powers:

...

(39a) a. The Department of Transportation or Turnpike Authority, as applicable, may enter into ~~a partnership agreement~~ up to three agreements with a private entity as provided under subdivision (39) of this section for which the provisions of this section apply. ~~The pilot project allowed under this subdivision must be one that is a candidate for funding under the Mobility Fund, that is planned for construction through a public private partnership, and for which a Request for Qualifications has been issued by the Department no later than June 30, 2012.~~

b. A private entity or its contractors must provide performance and payment security in the form and in the amount determined by the Department of Transportation. The form of the performance and payment security may consist of bonds, letters of credit, parent guaranties, or other instruments acceptable to the Department of Transportation.

c. Notwithstanding the provisions of G.S. 143B-426.40A, an agreement entered into under this subdivision may allow the private entity to assign, transfer, sell, hypothecate, and otherwise convey some or all of its right, title, and interest in and to such agreement, and any rights and remedies thereunder, to a lender, bondholder, or any other party. However, in no event shall any such assignment create additional debt or debt-like obligations of the State of North Carolina, the Department, or any other agency, authority, commission, or similar subdivision of the State to any lender, bondholder, entity purchasing a participation in the right to receive the payment, trustee, trust, or any other party providing financing or funding of projects described in this section. The foregoing shall not preclude the Department from making any payments due and owing pursuant to an agreement entered into under this section.

d. ~~The Department of Transportation may fix, revise, charge, and collect tolls and fees to the same extent allowed under~~ Article 6H of Chapter 136 of the General ~~Statutes.~~Statutes shall apply to the Department of Transportation and to projects undertaken by the Department of Transportation under subdivision (39) of this section. The Department may assign its authority under that Article to fix, revise, charge, retain, enforce, and collect tolls and fees to the private entity.

e. Any contract under this subdivision or under Article 6H of this Chapter for the development, construction, maintenance, or operation of a project shall provide for revenue sharing between the private party and the Department, notwithstanding the provisions of G.S. 136-89.188(d). Excess toll revenues from a Turnpike project shall be used for the funding or financing of transportation projects

within the corridor where the Turnpike Project is located. For purposes of this subdivision, the term "excess toll revenues" means those toll revenues derived from a Turnpike Project that are not otherwise used or allocated to the Authority or a private entity pursuant to this subdivision. For purposes of this subdivision, the term "corridor" means (i) the right-of-way limits of the Turnpike Project and any facilities related to the Turnpike Project or any facility or improvement necessary for the use, design, construction, operation, maintenance, repair, rehabilitation, reconstruction, or financing of a Turnpike Project; (ii) the right-of-way limits of any subsequent improvements, additions, or extension to the Turnpike Project and facilities related to the Turnpike projects, including any improvements necessary for the use, design, construction, operation, maintenance, repair, rehabilitation, reconstruction, or financing of those subsequent improvements, additions, or extensions to the Turnpike Project; and (iii) roads used for ingress or egress to the toll facility or roads that intersect with the toll facility, whether by ramps or separated grade facility, and located within one mile in any direction.

f. Agreements entered into under this subdivision shall comply with the following additional provisions:

1. The Department shall solicit proposals for agreements.
2. Agreement shall be limited to no more than 50 years from the date of the beginning of operations on the toll facility.
3. Notwithstanding the provisions of G.S. 136-89.183(a)(5), all initial tolls or fees to be charged by a private entity shall be reviewed by the Turnpike Board. Prior to setting a toll rate, either a set rate or a minimum and maximum rate set by the private entity, the private entity shall hold a public hearing on the toll rates, in accordance with guidelines for the hearing developed by the Department. After tolls go into effect, the private entity shall report to the Turnpike Authority Board 30 days prior to any increase in tolls by the private entity.
4. Financial advisors and attorneys retained by the Department on contract to work on projects pursuant to this subsection shall be subject to State law governing conflicts of interest.
5. 60 days prior to the signing of a concession agreement subject to this subdivision, the Department shall report to the Joint Legislative Transportation Oversight Committee on the following for the presumptive concessionaire:
   I. Project description.
   II. Number of years that tolls will be in place.
   III. Name and location of firms and parent companies, if applicable, including firm responsibility and stake, and assessment of audited financial statements.
   IV. Analysis of firm selection criteria.
   V. Name of any firm or individual under contract to provide counsel or financial analysis to the Department or Authority. The Department shall disclose payments to these contractors related to completing the agreement under this subdivision.

VI. Demonstrated ability of the project team to deliver the project, by evidence of the project team's prior experience in delivering a project on schedule and budget, and disclosure of any unfavorable outcomes on prior projects.

VII. Detailed description of method of finance, including sources of funds, State contribution amounts, including schedule of availability payments and terms of debt payments.

VIII. Information on assignment of risk shared or assigned to State and private partner.

IX. Information on the feasibility of finance as obtained in traffic and revenue studies.

6. The Turnpike Authority annual report under G.S. 136-89.193 shall include reporting on all revenue collections associated with projects subject to this subdivision under the Turnpike Authority.

7. The Department shall develop standards for entering into comprehensive agreements with private entities under the authority of this subdivision and report those standards to the Joint Legislative Transportation Oversight Committee on or before October 1, 2013.

...

(43) For the purposes of financing an agreement under subdivision (39a) of this section, the Department of Transportation may act as a conduit issuer for private activity bonds to the extent the bonds do not constitute a debt obligation of the State. The issuance of private activity bonds under this subdivision and any related actions shall be governed by The State and Local Government Revenue Bond Act, Article 5 of Chapter 159 of the General Statutes, with G.S. 159-88 satisfied by adherence to the requirements of ~~subdivisions (39) and~~ subdivision (39a) of this section."

SECTION 5.3. G.S. 136-89.183(a)(5) reads as rewritten:

"**§ 136-89.183. Powers of the Authority.**

(a) The Authority shall have all of the powers necessary to execute the provisions of this Article, including the following:

...

(5) To fix, revise, charge, retain, enforce, and collect tolls and fees for the use of the Turnpike Projects. Prior to the effective date of any toll or fee for use of a Turnpike Facility, the Authority shall submit a description of the proposed toll or fee to the Board of Transportation, the Joint Legislative Transportation Oversight Committee and the Joint Legislative Commission on Governmental Operations for review.

...."

SECTION 5.4. G.S. 136-89.188 reads as rewritten:

"**§ 136-89.188. Use of revenues.**

(a) Revenues derived from Turnpike Projects authorized under this Article shall be used only for the following:

(1) Authority administration ~~costs;~~costs.

(2) Turnpike Project development, right-of-way acquisition, design, construction, operation, ~~and maintenance;~~maintenance, reconstruction, rehabilitation, and replacement.~~and~~

(3) ~~debt~~ Debt service on the Authority's revenue bonds or related purposes such as the establishment of debt service reserve ~~funds.~~ funds.

(4) Debt service, debt service reserve funds, and other financing costs related to any of the following:

a. A financing undertaken by a private entity under a partnership agreement with the entity for a Turnpike Project.

b. Private activity bonds issued under law related to a Turnpike Project.

c. Any federal or State loan, line of credit, or loan guarantee relating to a Turnpike Project.

(5) A return on investment of any private entity under a partnership agreement with the entity for a Turnpike Project.

(6) Any other uses granted to a private entity under a partnership agreement with the entity for a Turnpike Project.

(b) The Authority may use up to one hundred percent (100%) of the revenue derived from a Turnpike Project for debt service on the Authority's revenue bonds or for a combination of debt service and operation and maintenance expenses of the Turnpike Projects.

(c) The Authority shall use not more than five percent (5%) of total revenue derived from all Turnpike Projects for Authority administration costs.

(d) Notwithstanding the provisions of subsections (a) and (b) of this section, toll revenues generated from a converted segment of the State highway system previously planned for operation as a nontoll facility shall only be used for the funding or financing of the right of way acquisition, construction, expansion, operations, maintenance, and Authority administration costs associated with the converted segment or a contiguous toll facility."

SECTION 5.5. Part 1 of Article 6H of Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-89.199. Designation of high-occupancy toll and managed lanes.**

Notwithstanding any other provision of this Article, the Authority may designate one or more lanes of any highway, or portion thereof, within the State, including lanes that may previously have been designated as HOV lanes under G.S. 20-146.2, as high-occupancy toll (HOT) or other type of managed lanes; provided, however, that such designation shall not reduce the number of existing general purpose lanes. In making such designations, the Authority shall specify the high-occupancy requirement or other conditions for use of such lanes, which may include restricting vehicle types, access controls, or the payment of tolls for vehicles that do not meet the high-occupancy requirements or conditions for use."

SECTION 5.6. Part 2 of Article 6H of Chapter 136 of the General Statutes reads as rewritten:

"Part 2. Collection of Tolls on Turnpike Projects.

...

"**§ 136-89.212. Payment of toll required for use of Turnpike project.**

(a) A motor vehicle that is driven on a Turnpike project is subject to a toll imposed by the Authority for the use of the project. If the toll is an open road toll, the person who is the registered owner of the motor vehicle is liable for payment of the toll unless the registered owner establishes that the motor vehicle was in the care, custody, and control of another person when it was driven on the Turnpike project.

(b) A person establishes that a motor vehicle was in the care, custody, and control of another person when it was driven on a Turnpike project by submitting to the Authority a sworn affidavit stating one of the following:

(1) The name and address of the person who had the care, custody, and control of the motor vehicle when it was driven. If the motor vehicle was leased or rented under a long-term lease or rental, as defined in G.S. 105-187.1, the

affidavit must be supported by a copy of the lease or rental agreement or other written evidence of the agreement.

(2) The motor vehicle was stolen. The affidavit must be supported by an insurance or police report concerning the theft or other written evidence of the theft.

(3) The person transferred the motor vehicle to another person by sale or otherwise before it was driven on the Turnpike project. The affidavit must be supported by insurance information, a copy of the certificate of title, or other evidence of the transfer.

(c) If a person establishes that a motor vehicle was in the care, custody, and control of another person under subsection (b) of this section, the other person shall be liable for the payment of the toll, and the Authority may send a bill to collect and enforce the toll in accordance with this Article; provided, however, that such other person may contest such toll in accordance with this Article.

"§ 136-89.213. Administration of tolls and requirements for open road tolls.

(a) Administration. – The Authority is responsible for collecting tolls on Turnpike projects. In exercising its authority under G.S. 136-89.183 to perform or procure services required by the Authority, the Authority may contract with one or more providers to perform part or all of the collection functions and may enter into agreements to exchange information, including confidential information under subsection (a1) of this section, that identifies motor vehicles and their owners with one or more of the following entities: the Division of Motor Vehicles of the Department of Transportation, another state, another toll operator, ~~or~~ a toll collection-related ~~organization.~~organization, or a private entity that has entered into a partnership agreement with the Authority pursuant to G.S. 136-89.183(a)(17). Further, the Authority may assign its authority to fix, revise, charge, retain, enforce, and collect tolls and fees under this Article to a private entity that has entered into a partnership agreement with the Authority pursuant to G.S. 136-89.183(a)(17).

...

(b) Open Road Tolls. – If a Turnpike project uses an open road tolling system, the Authority must operate a facility that is in the immediate vicinity of the Turnpike project ~~and that accepts~~or provide an alternate means to accept cash payment of the toll and must place signs on the Turnpike project that give drivers the following information:

(1) Notice that the driver is approaching a highway for which a toll is required. Signs providing this information must be placed before the toll is incurred.

(2) The methods by which the toll may be paid.

(3) ~~Directions~~ If applicable, directions to the nearby facility that accepts cash payment of the toll.

"§ 136-89.214. Bill for unpaid open road toll.

(a) Bill. – If a motor vehicle travels on a Turnpike project that uses an open road tolling system and a toll for traveling on the project is not paid prior to travel or at the time of travel, the Authority must send a bill by first-class mail to the registered owner of the motor vehicle or the person who had care, custody, and control of the vehicle as established under G.S. 136-89.212(b) for the amount of the unpaid toll. The Authority must send the bill within 90 days after the travel ~~occurs.~~occurs, or within 90 days of receipt of a sworn affidavit submitted under G.S. 136-89.212(b) identifying the person who had care, custody, and control of the motor vehicle. If a bill is not sent within the required time, the Authority waives collection of the toll. The Authority must establish a billing period for unpaid open road tolls that is no shorter than 15 days. A bill for a billing period must include all unpaid tolls incurred by the same person during the billing period.

(b) Information on Bill. – A bill sent under this section must include all of the following information:

(1) The name and address of the registered owner of the motor vehicle that traveled on the Turnpike ~~project.~~project or of the person identified under G.S. 136-89.212(b).
(2) The date the travel occurred, the approximate time the travel occurred, and each segment of the Turnpike project on which the travel occurred.
(3) An image of the registration plate of the motor vehicle, if the Authority captured an electronic image of the motor vehicle when it traveled on the Turnpike project.
(4) The amount of the toll due and an explanation of how payment may be made.
(5) The date by which the toll must be paid to avoid the imposition of a processing fee under G.S. 136-89.215 and the amount of the processing fee.
(6) A statement that a vehicle owner who has unpaid tolls is subject to a civil penalty and may not renew the vehicle's registration until the tolls and civil penalties are paid.
(7) A clear and concise explanation of how to contest liability for the toll.
(8) If applicable, a copy of the affidavit submitted under G.S. 136-89.212(b) identifying the person with care, custody, and control of the motor vehicle.

"**§ 136-89.215. Required action upon receiving bill for open road toll and processing fee for unpaid toll.**

(a) Action Required. – A person who receives a bill from the Authority for an unpaid open road toll must take one of the following actions within 30 days of the date of the bill:
(1) Pay the bill.
(2) Send a written request to the Authority for a review of the toll.

(b) Fee. – If a person does not take one of the actions required under subsection (a) of this section within the required time, the Authority may add a processing fee to the amount the person owes. The processing fee may not exceed six dollars ($6.00). A person may not be charged more than forty-eight dollars ($48.00) in processing fees in a 12-month period.

The Authority must set the processing fee at an amount that does not exceed the costs of collecting the unpaid toll.~~identifying the owner of a motor vehicle that is subject to an unpaid toll and billing the owner for the unpaid toll. The fee is a receipt of the Authority and must be applied to these costs.~~

...."

SECTION 5.7. DOT/Southeast Extension-Triangle Expressway. – The Department of Transportation shall strive to expedite the federal environmental impact statement process to define the route for the Southeast Extension of the Triangle Expressway Turnpike Project by promptly garnering input from local officials and other stakeholders, accelerating any required State studies, promptly submitting permit applications to the federal government, working closely with the federal government during the permitting process, and taking any other appropriate actions to accelerate the environmental permitting process.

SECTION 5.8. Monitoring. – As part of its oversight of the Department of Transportation, the Joint Legislative Transportation Oversight Committee shall closely monitor the progress of the Southeast Extension of the Triangle Expressway Turnpike Project.

TRANSITION STUDY AND REPORTING REQUIREMENTS

SECTION 6.1. Formula Implementation Report. – The Department of Transportation shall report to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division no later than August 15, 2013, on the Department's recommended formulas that will be used in the prioritization process to rank highway and nonhighway projects. The Department of Transportation's Prioritization Office shall develop the prioritization processes and formulas for all modes of transportation. The report will include a

statement on the process used by the Department to develop the formulas, include a listing of external partners consulted during this process, and include feedback from its 3.0 workgroup partners on the Department's proposed recommendations. The Department shall not finalize the formula without consulting with the Joint Legislative Transportation Oversight Committee. The Joint Legislative Transportation Oversight Committee has 30 days after the report is received to meet and consult on the Department's recommendations. If no meeting occurs within 30 days after the report is received, the consultation requirement will be met. If consultation occurs and a majority of members serving on the Committee request changes to the Department's recommended formulas for highway and nonhighway modes, the Department shall review the requests and provide to the Committee its response to the requested changes no later than October 1, 2013. A final report on the highway and intermodal formulas shall be submitted to the Joint Legislative Transportation Oversight Committee by January 1, 2014.

SECTION 6.2. State Transportation Improvement Program Transition Report. – The Department of Transportation shall submit transition reports to members of the Joint Legislative Transportation Oversight Committee, House of Representatives Appropriations Subcommittee on Transportation and the Senate Appropriations Committee on Department of Transportation, and the Fiscal Research Division on March 1, 2014, and November 1, 2014. The reports shall include information on the Department's transition to Strategic Prioritization, overview changes to the State Transportation Improvement Program (STIP) and other internal and external processes that feed into the STIP, and offer statutory and policy recommendations or items for consideration to the General Assembly that will enhance the prioritization process. The March 1, 2014, report shall also include an analysis of the distribution of tax and fee revenues between the Highway Fund and Highway Trust Fund and an analysis to determine if maintenance, construction, operations, administration, and capital expenditures are properly budgeted within the two funds and existing revenues are most effectively distributed between the two funds.

EFFECTIVE DATE

SECTION 7.1.(a) Except as provided herein, this act becomes effective July 1, 2013.

SECTION 7.1.(b) This act is effective only if the General Assembly appropriates funds in the Current Operations and Capital Improvements Appropriations Act of 2013 to implement this act.

HOUSE BILL 817:
Strategic Transportation Investments

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 4, 2013
Introduced by:	Reps. W. Brawley, Torbett, Iler, Shepard	**Prepared by:**	Giles S. Perry Committee Counsel
Analysis of:	PCS to Sixth Edition H817-CSRWx-61		

SUMMARY: ***House Bill 817 (proposed committee substitute) enacts a new Strategic Prioritization funding plan governing use of Highway Trust Fund and Federal aid funds for State transportation construction and capital needs; phases out the Highway Fund secondary road construction program; requires Statewide prioritization for secondary unpaved road paving; provides that the Highway Fund is the sole source of funds for State aid to municipalities/Powell Bill funds, and holds harmless the amount allocated for that purpose; modifies the authorized Turnpike Authority project list; and authorizes up to three partnership agreements with private entities for DOT or Authority projects.***

The proposed committee substitute makes the following changes:

- ***Page 1, line 20-21, and Page 2, line 8: moves highway toll routes from the Regional to Statewide projects tier.***
- ***Page 2, line 32: clarifies that federally funded independent bicycle and pedestrian projects are authorized in the Division project tier.***
- ***Page 5, line 48: clarifies that bicycle and pedestrian State funding limitation applies to independent bicycle and pedestrian improvement projects.***
- ***Page 6, lines 3-6: provides that bicycle and pedestrian State funding limitation does not apply to projects for which funds have been obligated on or before October 1, 2013, for construction in State fiscal years 2012-2012, 2013-2014, or 2014-2015.***
- ***Page 18, line 50 to page 19, line 2: clarifies that Powell bill funds may be used by a municipality for streets, sidewalks, bikeways, and greenways.***

BILL ANALYSIS:

Strategic Prioritization Funding Plan for Transportation Investments

Section 1.1(a) enacts a new formula governing use of State transportation construction funding, the "Strategic Prioritization Funding Plan for Transportation Investments". Highway Trust Fund revenues and Federal Aid funds are subject to the new formula, except for listed exemptions. Funds subject to the formula are to be distributed as follows: 40% to Statewide strategic mobility projects, 30% to Regional impact projects, and 30% to Division needs projects. Project types eligible for funds in each category are listed. The criteria to be used by DOT to prioritize each category are specified. A formula variance with readjustments, over a five year period, is specified. Incentives for local funding and tolling are included.

Section 1.1(b), effective July 1, 2019, revises the calculation of the formula variance.

Section 1.2 requires DOT to issue a revised draft TIP by January 1, 2015, reflecting the effect of the new formula.

Secondary Road Changes

Section 2.1 repeals a requirement that $15 of each vehicle title application fee deposited in the Highway Trust Fund be used for secondary road paving.

Section 2.2(a), effective July 1, 2013 for one year, continues the secondary road construction program in the Highway Fund for one year.

Section 2.2(b), effective July 1, 2014, limits the secondary road program in the Highway Fund to maintenance and improvement.

Section 2.3(a), effective July 1, 2013 for one year, continues the secondary road construction program in the Highway Fund for one year.

Section 2.3(b), effective July 1, 2014, repeals the secondary road construction program in the Highway Fund.

Section 2.4 repeals a provision exempting special appropriations for secondary road construction from statutory allocation formulas.

Section 2.5 creates a secondary road unpaved road paving program in the Highway Fund, distributed based on a DOT Statewide prioritization.

Section 2.6(a), effective July 1, 2013 for one year, continues the secondary road construction program in the Highway Fund for one year.

Section 2.6(b), effective July 1, 2014, repeals the secondary road construction program in the Highway Fund.

Section 2.6(c) continues a requirement that the DOT secondary road maintenance and improvement program be based on a uniformly applicable formula, and clarifies that it does not apply to paving of unpaved roads.

Section 2.6(d) appropriates $15 million in nonrecurring funds in FY 2013-2014 from the Highway Fund to the secondary road construction program, and appropriates $12 million in recurring funds in FY 2013-2014 from the Highway Fund for paving unpaved secondary roads.

Section 2.7 repeals county prioritization of unpaved road projects, and reenacts a provision repealed by Section 2.9 of the bill that authorizes paving of a ROW of less than 60 ft, in some cases.

Section 2.8(a), effective July 1, 2013 for one year, revises the statute governing submission of the secondary construction and unpaved road paving program to Boards of County Commissioners.

Section 2.8(b), effective July 1, 2014, revises the statute governing submission of the secondary construction and unpaved road paving program to Boards of County Commissioners to reflect the limitation of the process to only paving unpaved secondary roads, beginning July 1, 2014. In counties where unpaved secondary road paving is programmed for paving, the Department will be required to annually submit a list of roads programmed for paving to the board of county commissioners.

Section 2.9 repeals provisions for use of the Highway Trust Fund allocation to secondary road paving. Part of this repealed statute, authorizing paving of a ROW of less than 60 ft. in some cases, is reenacted in Section 2.7 of the bill. The Highway Trust Fund percentage allocation to secondary road paving is repealed in Section 4.8 of the bill.

State Aid to Municipalities/Powell Bill Changes

Section 3.1 changes the amount of Highway Fund revenues allocated for State aid to municipalities for city streets, known as Powell Bill funds, from 1¾ ¢/gallon of the motor fuels tax to 10.4% of the net

amount produced during the fiscal year. Section 4.8 of the bill repeals the Highway Trust Fund supplement to Powell Bill funds.

Section 3.2 is a conforming change repealing a requirement that the Highway Trust Fund supplement for city streets (Powell Bill funds) be distributed in accordance with the Powell Bill statute.

Section 3.3 changes the authorized uses of Powell Bill funds to allow their use for greenways and bikeways.

Section 3.4 authorizes use of Powell Bill funds as a match for federal funds for bicycle and pedestrian improvement projects, as well as for streets, sidewalks, greenways, bikeways, or TIP projects in the municipal limits.

Section 3.5 directs the Department to collect lane mile data from all municipalities eligible for Powell Bill funds, and report to the General Assembly by December 1, 2013.

Conforming Changes

Section 4.1 amends the statute governing the disposition of the Highway Use Tax, to repeal a transfer from the Highway Trust Fund to the Mobility Fund.

Section 4.2 updates a statutory reference in the statute setting out the powers of DOT.

Section 4.3 repeals the 1989 distribution formula for funds expended for Highway Trust Fund Intrastate projects, and specified State and federal aid funds expended under the TIP.

Section 4.4 revises a statutory and project reference in the law authorizing limited use of the Transportation Official Corridor Map Act by the Wilmington MPO.

Section 4.5 amends statute governing local participation in a State transportation project to repeal provisions prohibiting disadvantage to other projects, and limiting DOT funding in exchange for the participation.

Section 4.6 updates a statutory reference in the Turnpike Authority statutes.

Section 4.7 repeals a definition of the Intrastate system.

Section 4.8 repeals expired provisions concerning use of Highway Trust Fund cash balances; modifies the amount of the Highway Trust Fund revenues that may be used for administration from 4.8% to the amount appropriated by law; repeals statutory percentage allocations of Highway Trust Fund revenues to intrastate projects, urban loops, State-aid for city streets (Powell Bill), and secondary road paving; and repeals gap funding for the mid Currituck bridge and Garden Parkway projects.

Section 4.9 repeals an expired limitation on funding obligations of the Highway Trust Fund.

Section 4.10 repeals expired provision concerning use of specified federal funds for the Intrastate system and urban loops.

Section 4.11 repeals description of the Intrastate system.

Section 4.12 repeals the Highway Trust Fund project list.

Section 4.13 repeals requirement that the Highway Trust Fund allocation for urban loops can only be used on urban loops.

Section 4.14 repeals an annual DOT reporting requirement on Highway Trust Fund projects.

Section 4.15 repeals a statute that would have created a maintenance reserve after completion of the Intrastate system.

Sections 4.16, 4.17, and 4.18 repeal the North Carolina Mobility Fund.

Turnpike Authority Changes

Section 5.1 amends the Turnpike Authority's authorized projects list to authorize nine projects: Four of the projects are in existing law: portions of the Triangle Expressway (constituting 3 segment projects) and the Monroe Connector. Any additional project proposal by the Authority would require prior consultation with the Joint Legislative Commission on Governmental Operations. The five remaining authorized projects must meet the following conditions: two must be DOT-ranked top 35 projects, and either may be subject to a partnership agreement. Of the others, one may be subject to a partnership agreement. All five must be included in the local transportation plan, in the current State TIP, and toll projects must also be approved by the affected MPO and RPO.

Section 5.2 authorizes DOT or the Turnpike Authority to enter into up to three partnership agreements with private entities for projects, subject to provisions for revenue sharing, excess revenue, an agreement time limit of 50 years from the beginning of toll operations, reporting to the General Assembly prior to entering into an agreement, and public hearings on applicable toll rates.

Section 5.3 amends the powers of the Turnpike Authority to authorize it to retain and enforce tolls and fees.

Section 5.4 authorizes the Turnpike Authority to use revenues derived from Turnpike Projects for design, reconstruction, rehabilitation, and replacement; for debt service, financing costs, return on investment, and other authorized uses under a partnership agreement; and for private activity bonds, and federal or State loans.

Section 5.5 authorizes the Turnpike Authority to designate high-occupancy toll (HOT) lanes.

Section 5.6 amends State law concerning collection of tolls on turnpike projects to clarify that tolls on vehicles in the custody of another person are the liability of that person; authorizes private entities to fix and collects pursuant to a partnership agreement with the Turnpike Authority; clarifies the Turnpike's Authority to provide alternate means to accept cash payments for tolls; and provides that toll processing fees cannot exceed the costs of collecting the unpaid toll.

Sections 5.7 directs DOT to strive to expedite the federal environmental impact statement process to define the route for the Southeast Extension of the Triangle Expressway Turnpike Project.

Section 5.8 directs the Joint Legislative Transportation Oversight Committee to closely monitor the progress of the Southeast Extension of the Triangle Expressway Turnpike Project.

Transition Study and Reporting Requirements

Section 6.1 requires DOT to submit reports to the General Assembly on its recommended formulas for ranking projects in the new Strategic Prioritization Plan on August 15, 2013, October 1, 2013, and January 1, 2014.

Section 6.2 requires DOT to submit reports to the General Assembly on its transition to the new Strategic Prioritization Plan on March 1, 2014, and November 1, 2014.

EFFECTIVE DATE:

Section 7.1 provides that the bill generally becomes effective July 1, 2013, except for those sections noted above. The bill is effective only if the General Assembly appropriates funds in the Current Operations Appropriations Act of 2013 to implement the bill.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: June 5, 2013
TO: **Senators Harrington and Rabon**
FROM: Amna Cameron
Fiscal Research Division
RE: **House Bill 817 PCS to 6th Edition**

FISCAL IMPACT

($ in millions)

☑ Yes ☐ No ☐ No Estimate Available

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
State Impact					
HF/HTF Revenues:	0.0	0.0	0.0	0.0	0.0
HF/HTF Expenditures:	0.0	0.0	0.0	0.0	0.0
State Positions:	0.0	0.0	0.0	0.0	0.0
NET STATE IMPACT	$0.0	$0.0	$0.0	$0.0	$0.0
Local Impact					
Revenues:	(298,254)	(4,976,746)	(2,211,306)	(1,901,514)	(6,391,350)
Expenditures:	0	0	0	0	0
NET LOCAL IMPACT	(298,254)	(4,976,746)	(2,211,306)	(1,901,514)	(6,391,350)

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Transportation

EFFECTIVE DATE Varies.

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY:

Strategic Prioritization Funding Plan for Transportation Investments

Section 1.1(a) enacts a new formula governing use of State transportation construction funding, the "Strategic Prioritization Funding Plan for Transportation Investments". Highway Trust Fund revenues and Federal Aid funds are subject to the new formula, except for listed exemptions. Funds subject to the formula are to be distributed as follows: 40% to Statewide strategic mobility projects, 30% to Regional impact projects, and 30% to Division needs projects. Project types eligible for funds in each category are listed. The criteria to be used by DOT to prioritize each category are specified. A formula variance with readjustments, over a five year period, is specified. Incentives for local funding and tolling are included.

Section 1.1(b), effective July 1, 2019, revises the calculation of the formula variance.

Section 1.2 requires DOT to issue a revised draft TIP by January 1, 2015, reflecting the effect of the new formula.

Secondary Road Changes

Section 2.1 repeals a requirement that $15 of each vehicle title application fee deposited in the Highway Trust Fund be used for secondary road paving.

Section 2.2(a), effective July 1, 2013 for one year, continues the secondary road construction program in the Highway Fund for one year.

Section 2.2(b), effective July 1, 2014, limits the secondary road program in the Highway Fund to maintenance and improvement.

Section 2.3(a), effective July 1, 2013 for one year, continues the secondary road construction program in the Highway Fund for one year.

Section 2.3(b), effective July 1, 2014, repeals the secondary road construction program in the Highway Fund.

Section 2.4 repeals a provision exempting special appropriations for secondary road construction from statutory allocation formulas.

Section 2.5 creates a secondary road unpaved road paving program in the Highway Fund, distributed based on a DOT Statewide prioritization.

Section 2.6(a), effective July 1, 2013 for one year, continues the secondary road construction program in the Highway Fund for one year.

Section 2.6(b), effective July 1, 2014, repeals the secondary road construction program in the Highway Fund.

Section 2.6(c) continues a requirement that the DOT secondary road maintenance and improvement program be based on a uniformly applicable formula, and clarifies that it does not apply to paving of unpaved roads.

Section 2.6(d) appropriates $15 million in nonrecurring funds in FY 2013-2014 from the Highway Fund to the secondary road construction program, and appropriates $12 million in recurring funds in FY 2013-2014 from the Highway Fund for paving unpaved secondary roads.

Section 2.7 repeals county prioritization of unpaved road projects, and reenacts a provision repealed by Section 2.9 of the bill that authorizes paving of a ROW of less than 60 ft, in some cases.

Section 2.8(a), effective July 1, 2013 for one year, revises the statute governing submission of the secondary construction and unpaved road paving program to Boards of County Commissioners.

Section 2.8(b), effective July 1, 2014, revises the statute governing submission of the secondary construction and unpaved road paving program to Boards of County Commissioners to reflect the limitation of the process to only paving unpaved secondary roads, beginning July 1, 2014. In counties where unpaved secondary road paving is programmed for paving, the Department will be required to annually submit a list of roads programmed for paving to the board of county commissioners.

Section 2.9 repeals provisions for use of the Highway Trust Fund allocation to secondary road paving. Part of this repealed statute, authorizing paving of a ROW of less than 60 ft. in some cases, is reenacted in Section 2.7 of the bill. The Highway Trust Fund percentage allocation to secondary road paving is repealed in Section 4.8 of the bill.

State Aid to Municipalities/Powell Bill Changes

Section 3.1 changes the amount of Highway Fund revenues allocated for State aid to municipalities for city streets, known as Powell Bill funds, from 1¾ ¢/gallon of the motor fuels tax to 10.4% of the net amount produced during the fiscal year. Section 4.8 of the bill repeals the Highway Trust Fund supplement to Powell Bill funds.

Section 3.2 is a conforming change repealing a requirement that the Highway Trust Fund supplement for city streets (Powell Bill funds) be distributed in accordance with the Powell Bill statute.

Section 3.3 changes the authorized uses of Powell Bill funds to allow their use for greenways and bikeways.

Section 3.4 authorizes use of Powell Bill funds as a match for federal funds for bicycle and pedestrian improvement projects, as well as for streets, sidewalks, greenways, bikeways, or TIP projects in the municipal limits.

Section 3.5 directs the Department to collect lane mile data from all municipalities eligible for Powell Bill funds, and report to the General Assembly by December 1, 2013.

Conforming Changes

Section 4.1 amends the statute governing the disposition of the Highway Use Tax, to repeal a transfer from the Highway Trust Fund to the Mobility Fund.

Section 4.2 updates a statutory reference in the statute setting out the powers of DOT.

Section 4.3 repeals the 1989 distribution formula for funds expended for Highway Trust Fund Intrastate projects, and specified State and federal aid funds expended under the TIP.

Section 4.4 revises a statutory and project reference in the law authorizing limited use of the Transportation Official Corridor Map Act by the Wilmington MPO.

Section 4.5 amends statute governing local participation in a State transportation project to repeal provisions prohibiting disadvantage to other projects, and limiting DOT funding in exchange for the participation.

Section 4.6 updates a statutory reference in the Turnpike Authority statutes.

Section 4.7 repeals a definition of the Intrastate system.

Section 4.8 repeals expired provisions concerning use of Highway Trust Fund cash balances; modifies the amount of the Highway Trust Fund revenues that may be used for administration from 4.8% to the amount appropriated by law; repeals statutory percentage allocations of Highway Trust Fund revenues to intrastate projects, urban loops, State-aid for city streets (Powell Bill), and secondary road paving; and repeals gap funding for the mid Currituck bridge and Garden Parkway projects.

Section 4.9 repeals an expired limitation on funding obligations of the Highway Trust Fund.

Section 4.10 repeals expired provision concerning use of specified federal funds for the Intrastate system and urban loops.

Section 4.11 repeals description of the Intrastate system.

Section 4.12 repeals the Highway Trust Fund project list.

Section 4.13 repeals requirement that the Highway Trust Fund allocation for urban loops can only be used on urban loops.

Section 4.14 repeals an annual DOT reporting requirement on Highway Trust Fund projects.

Section 4.15 repeals a statute that would have created a maintenance reserve after completion of the Intrastate system.

Sections 4.16, 4.17, and 4.18 repeal the North Carolina Mobility Fund.

Turnpike Authority Changes

Section 5.1 amends the Turnpike Authority's authorized projects list to authorize nine projects: Four of the projects are in existing law: portions of the Triangle Expressway (constituting 3 segment projects) and the Monroe Connector. Any additional project proposal by the Authority would require prior consultation with the Joint Legislative Commission on Governmental Operations. The five remaining authorized projects must meet the following conditions: two must be DOT-ranked top 35 projects, and either may be subject to a partnership agreement. Of the others, one may be subject to a partnership agreement. All five must be included in the local transportation plan, in the current State TIP, and toll projects must also be approved by the affected MPO and RPO.

Section 5.2 authorizes DOT or the Turnpike Authority to enter into up to three partnership agreements with private entities for projects, subject to provisions for revenue sharing, excess revenue, an agreement time limit of 50 years from the beginning of toll operations, reporting to the General Assembly prior to entering into an agreement, and public hearings on applicable toll rates.

Section 5.3 amends the powers of the Turnpike Authority to authorize it to retain and enforce tolls and fees.

Section 5.4 authorizes the Turnpike Authority to use revenues derived from Turnpike Projects for design, reconstruction, rehabilitation, and replacement; for debt service, financing costs, return on

investment, and other authorized uses under a partnership agreement; and for private activity bonds, and federal or State loans.

Section 5.5 authorizes the Turnpike Authority to designate high-occupancy toll (HOT) lanes.

Section 5.6 amends State law concerning collection of tolls on turnpike projects to clarify that tolls on vehicles in the custody of another person are the liability of that person; authorizes private entities to fix and collects pursuant to a partnership agreement with the Turnpike Authority; clarifies the Turnpike's Authority to provide alternate means to accept cash payments for tolls; and provides that toll processing fees cannot exceed the costs of collecting the unpaid toll.

Sections 5.7 directs DOT to strive to expedite the federal environmental impact statement process to define the route for the Southeast Extension of the Triangle Expressway Turnpike Project.

Section 5.8 directs the Joint Legislative Transportation Oversight Committee to closely monitor the progress of the Southeast Extension of the Triangle Expressway Turnpike Project.

Transition Study and Reporting Requirements

Section 6.1 requires DOT to submit reports to the General Assembly on its recommended formulas for ranking projects in the new Strategic Prioritization Plan on August 15, 2013, October 1, 2013, and January 1, 2014.

Section 6.2 requires DOT to submit reports to the General Assembly on its transition to the new Strategic Prioritization Plan on March 1, 2014, and November 1, 2014.

EFFECTIVE DATE:

Section 7.1 provides that the bill generally becomes effective July 1, 2013, except for those sections noted above. The bill is effective only if the General Assembly appropriates funds in the Current Operations Appropriations Act of 2013 to implement the bill.

ASSUMPTIONS AND METHODOLOGY:

Impact to Highway Fund

Section 2.1 through Section 2.9 impact the secondary road construction program and Sections 3.1 and 3.5 impact the Aid to Municipalities/Powell Bill program. As shown in Table One, these sections make appropriation changes to the FY 2013-14 and FY 2014-15 budgets. The appropriations process will determine where to budget the $8,478,756 in FY 2013-14 and $28,543,042 in FY 2014-15, which is the difference between the Aid to Municipalities and Secondary Road Construction adjustments.

Table One: Proposed Changes to Highway Fund

		FY2013-14			FY2014-15		
		Base Budget	HB 817 Proposed Increase/ Decrease	HB 817 Proposed Total	Base Budget	HB 817 Proposed Increase/ Decrease	HB 817 Proposed Total
1	Aid To Municipalities	$ 88,886,298	$ 53,407,542	$ 142,293,840	$ 88,708,526	$ 48,165,484	$ 136,874,010
2	Secondary Road Construction	$ 88,886,298	$ (61,886,298)	$ 27,000,000	$ 88,708,526	$ (76,708,526)	$ 12,000,000

Secondary Road Construction Program:
Currently, secondary roads receive funding for construction from the Highway Fund and Highway Trust Fund. G.S. 136-189.10.(3)(b) in Section 1.1.(a) enables secondary road construction to continue in the "Division" category in the Highway Trust Fund. Per Section 2.6.(d), the construction program is funded at $15 million non-recurring in the Highway Fund in FY 2013-14.

Unpaved Secondary Road Paving Program:
Currently, the unpaved secondary road paving program is funded from the Highway Fund and Highway Trust Fund within the secondary road construction programs. The Department of Transportation funded this program at $12 million in the current fiscal year. Per Section 2.6.(d), the unpaved secondary road paving program is funded at $12 million recurring in FY 2013-14. Section 2.5 prohibits the Highway Trust Fund from being used to fund the paving of unpaved secondary roads beginning in FY 2013-14. Section 2.5 makes permanent the one-year pilot program implemented in Section 24.15 of S.L. 2012-142 to pave unpaved secondary roads based on a State-wide prioritization process.

Aid to Municipalities:
Currently, the Aid to Municipalities program receives 6.5% of funds from the Highway Trust Fund after administration, debt service, Mobility Fund appropriations, and Turnpike Authority gap funds are removed and 1¾ ¢/gallon of motor fuels revenues deposited in the Highway Fund. Section 3.1 eliminates the Highway Trust Fund allocation and attempts to hold municipalities harmless over a five-year period based on the forecasted statutory allocations from the Highway Fund and Highway Trust Fund. Section 3.1 establishes the Aid to Municipalities allocation rate at 10.4% of total motor fuels tax revenues deposited in the Highway Fund.

The amounts shown in the "Local Impact" section of the "Fiscal Impact" chart, located on page 1 of this analysis, represent the difference from the base budget amounts. Therefore, these amounts do not reflect the statutory adjustment amounts that were used to determine the hold harmless at five-year amounts. If current statutory allocations were upheld, Aid to Municipalities allocations would be reduced by $2,366,421 in FY 2013-14 and $4,912,107 in FY 2014-15 in the Highway Fund and Highway Trust Fund. Table Two shows the impact of the new allocation rate in Section 3.1 in comparison to the forecasted statutory adjustments in the first two fiscal years.

Table Two: Comparison of Current and Proposed Aid To Municipalities Funding

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	Five-Year Difference
Forecasted HF/HTF Statutory Allocations (Current Law)	$ 142,592,094	$ 141,850,756	$ 144,064,537	$ 147,708,392	$ 150,420,581	
10.4% HF Motor Fuel Revenues (HB 817)	$ 142,293,840	$ 136,874,010	$ 141,853,231	$ 149,609,906	$ 156,811,931	
Difference	$ (298,254)	$ (4,976,746)	$ (2,211,306)	$ 1,901,514	$ 6,391,350	$ 806,558

Impact to Highway Trust Fund
Section 1.1 establishes the Strategic Prioritization Funding Plan for Transportation Investments. G.S. 136-176(b)(1) through G.S. 136-176(b)(4) in Section 4.8 eliminate the statutory formulas that appropriate funding to the Interstate System, Urban Loops, Aid to Municipalities, and Secondary

Road Construction programs. These appropriations are allocated to a new fund that will be established to administer the Transportation Investment Strategy Formula, as set forth in G.S. 136-189.11. Table Three shows the adjustments within the Highway Trust Fund in FY 2013-14 and FY 2014-15 as a result of this bill.

Administration:

G.S. 136-176(b) in Section 4.8 eliminates the statutory formula that appropriates 4.8% of total Highway Trust Fund monies for administration. The Appropriations Act will determine the amount of funds appropriated to administration in FY 2013-14 and FY 2014-15. Reductions or additions to the amount appropriated from administration will impact the amount appropriated to the new fund, as set forth in G.S. 136-189.11.

Table Three: Proposed Changes to Highway Trust Fund							
		FY2013-14			FY2014-15		
		Base Budget	HB 817 Proposed Increase/ Decrease	HB 817 Proposed Total	Base Budget	HB 817 Proposed Increase/ Decrease	HB 817 Proposed Total
1	Administration	$ 53,599,200	UNKNOWN	UNKNOWN	$ 55,202,400	UNKNOWN	UNKNOWN
	Repeals Statutory Amount of 4.8%. Amount to be determined in Budget.						
2	Intrastate System	$ 515,520,933	$ (515,520,933)	$ -	$ 530,210,557	$ (530,210,557)	$ -
3	Urban Loop System	$ 164,864,838	$ (164,864,838)	$ -	$ 191,571,718	$ (191,571,718)	$ -
4	State Secondary System	$ 78,972,723	$ (78,972,723)	$ -	$ 86,253,540	$ (86,253,540)	$ -
5	HTF State Aid to Municipalities	$ 56,072,216	$ (56,072,216)	$ -	$ 58,054,337	$ (58,054,337)	$ -
6	NC Mobility Fund	$ 58,000,000	$ (58,000,000)	$ -	$ 58,000,000	$ (58,000,000)	$ -
7	Turnpike Authority	$ 112,000,000	$ (63,000,000)	$ -	$ 112,000,000	$ (63,000,000)	$ -
	Eliminates $35m (Garden Parkway) and $28m (Mid-Currituck) in gap funds.						
8	NEW Strategic Transportation Infrastructure Fund	n/a	$ 936,430,710	$ 936,430,710	n/a	$ 987,090,152	$ 987,090,152
	Changes to Administration will impact new fund.						

Mobility Fund

Sections 4.16, 4.17, and 4.18 repeal the Mobility Fund. The Mobility Fund appropriation is allocated to the new fund, as set forth in G.S. 136-189.11.

Secondary Roads

Section 2.1 changes the distribution of the $15 of each title fee allocated to the secondary road programs in the Highway Trust Fund to the new fund as set forth in G.S. 136-189.11.

Turnpike Authority and Public Private Partnerships:

Sections 5.1 – 5.8 make changes to the Turnpike Authority and authorize additional public private partnerships. Section 5.1 removes Garden Parkway, Mid-Currituck Bridge, Cape Fear Skyway, and the NC-540 Southeast Extension from the list of Turnpike Projects. Section 5.1 enables DOT to construct an additional five toll projects, based on varying criteria. G.S. 136-176(b2) in Section 4.8 eliminates gap funding in the amount of $35 million for the Garden Parkway and $28 million for the Mid-Currituck Bridge beginning in FY 2013-14. The associated $63 million in gap funds are allocated to the new fund, as set forth in G.S. 136-189.11.

Section 5.2 raises the number of partnership agreements DOT may enter into with a private entity from one to three agreements.

SOURCES OF DATA: Department of Transportation

TECHNICAL CONSIDERATIONS: None

Strategic Transportation Investments

Senate PCS to HB 817 (for Senate Finance Committee)

Revenues Subject to Formula (G.S. 136-189.11(a)): Highway Trust Fund revenue and Federal-aid funds		
"OFF-THE-TOP" (G.S. 136-176 (b))		Administrative Costs, Bond Interest and Bond Redemption
Exemptions from 40/30/30 Allocations (G.S. 136-189.11(b))	1	CMAQ (Equity Formula exemption authorized in 2000)
	2	Competitive and discretionary federal grants (Equity Formula exemption authorized in 1999)
	3	Pre-MAP 21 federal funds specifically designated for Appalachian Development Highway System projects (Equity Formula exemption authorized in 2010)
	4	GARVEE debt service for Phase 1 of Yadkin River Bridge (Equity Formula exemption authorized in 2010)
	5	Gap funds that support bonds for any toll road project (Equity Formula exemption authorized in 2002)
	6	Hold-harmless funds for STIP projects scheduled for construction (letting stage) between FY2013 - FY2015
	7	Toll collections and bond proceeds related to Turnpike projects (Equity Formula exemption authorized in 2002)
	8	Ferry toll collections
	9	STP-DA (In regional category for regional projects)

Projects subject to different prioritizations. 40/30/30 tier depends on type of road system (G.S. 136-189.11(c))	1. Federal bridge replacement
	2. Federal interstate maintenance
	3. Federal highway safety improvements

Prioritization Process: Highway - G.S. 136-189.11(d)(1-3) Non-highway - G.S. 136-189.11 (d)(4)	
Modes	Criteria and Score
Highways	Criteria: Benefit-cost; Congestion; Safety; Freight; Multi-modal; Pavement condition; Lane width; and Shoulder width (Accessibility and Connectivity to employment centers, tourist destinations, or military installations-Regional/Division category)(Economic Competitiveness in Statewide category only). Scale totals 100 points.
Aviation	Non-highway prioritizations require a minimum of four quantitative criteria, to be determined by NCDOT Prioritization Office. Scale may not exceed 100 points. Some non-highway modes may require two prioritization processes.
Bike and pedestrian	
Ferry	
Public Transportation	
Rail	

Strategic Transportation Investments

Senate PCS to HB 817 (for Senate Finance Committee)

		Statewide Strategic Mobility Projects	Regional Impact Projects	Division Needs Projects
%		40%	30%	30%
Statutory Ref.		136-189.10(1)	136-189.10(2)	136-189.10(3)
Scoring		100% data	70% data/30% local	50% data/50% local
Distribution		Statewide	By Population in 7 Regions (G.S. 136-189.10(4))	By Equal Share to 14 Highway Divisions
Allowable Systems	1	Interstates	Included	Included
	2	NHS routes, excluding intermodal connectors	Included, plus all US and NC routes	All State-maintained highways
	3	STRAHNET (Military)	Included	Included
	4	Tolled routes	Included	Included
	5	Unfinished Intrastate projects	Included	Included
	6	ADHS routes	Included	Included
	7	Airports: 4 largest with international service ($500,000 cap each)	All commercial service airports ($300,000 cap each)	All airports (total funding cap of $18.5m)
	8	Rail: Class I freight improvements	Frieght rail lines spanning 2 or more counties	All freight rail lines
	9		Ferry: State maintained ferry system, excluding passenger vessel replacement	Included, plus passenger vessel replacement
	10			All public transportation services includes inter-city, commuter, and light rail
	11			Multi-modal terminals and stations servicing passenger transit systems
	12			Federally-funded bicycle and pedestrian projects

Projects subject to different prioritizations specific to 30% Division Needs tier (G.S. 136-189.11(d)(3)(b))	1. Federal STP-DA: Div. projects
	2. Federal Transportation Alternatives
	3. Federal rail-highway crossings
	4. Ec dev projects ($2m project cap; $10m total funding cap)
	5. Federally-funded municipal road projects

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H 2

HOUSE BILL 248
Committee Substitute Favorable 4/17/13

Short Title: Taxpayer Debt Information Act. (Public)

Sponsors:

Referred to:

March 7, 2013

A BILL TO BE ENTITLED

AN ACT TO REQUIRE DISCLOSURE ON THE BALLOT THAT AUTHORIZATION OF INDEBTEDNESS INCLUDES INTEREST AND THAT TAXES MAY BE LEVIED TO REPAY THE INDEBTEDNESS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 159-55 reads as rewritten:

"**§ 159-55. Sworn statement of debt; debt ~~limitation.~~limitation; statement of estimated interest on the bonds.**

...

(d) At the time the bond order is introduced, the finance officer (or some other officer designated by the governing board for this purpose) shall file with the clerk a statement of the finance officer estimating the total amount of interest that will be paid on the bonds over the expected term of the bonds, if issued, and a summary of the assumptions upon which the estimate is based. The statement shall include a statement to the effect that the amount estimated is preliminary and is for general informational purposes only, that there is no assurance that the assumptions upon which the estimate is based will occur, that the occurrence of certain of the assumptions is beyond the control of the unit, and that differences between the actual circumstances at the time the bonds are issued from the assumptions included in the estimate could result in significant differences between the estimated interest and the actual interest on the bonds. The statement may include other qualifications as the finance officer deems appropriate. The validity of the bonds authorized by the order is not subject to challenge on the grounds that the actual interest cost of the bonds when issued is different than the amount set forth in the statement. The statement shall be filed with the Local Government Commission and maintained by the Clerk."

SECTION 2. G.S. 159-56 reads as rewritten:

"**§ 159-56. Publication of bond order as introduced.**

After the introduction of the bond order, the clerk shall publish it once with the following statement appended:

"The foregoing order has been introduced and a sworn statement of debt has been filed under the Local Government Bond Act showing the appraised value of the [issuing unit] to be $ _____ and the net debt thereof, including the proposed bonds, to be $ _____. The finance officer of the [issuing unit] has filed a statement estimating that the total amount of interest that will be paid on the bonds over the expected term of the bonds, if issued, is $ _____. The estimate is preliminary, is for general informational purposes only, and may differ from the actual interest paid on the bonds. A tax will [may] be levied to pay the principal of and interest on the bonds if they are issued. Anyone who wishes to be heard on the

questions of the validity of the bond order and the advisability of issuing the bonds may appear at a public hearing or an adjournment thereof to be held at _____

_____

Clerk"

The publication may include a summary of the assumptions upon which the estimate of the total amount of interest that will be paid on the bonds over the expected term of the bonds, if issued, is based, and may further state that there is no assurance that the circumstances included in the assumptions will occur, that the occurrence of certain of the assumptions is beyond the control of the issuing unit, and that differences between the actual circumstances at the time the bonds are issued from the assumptions included in the estimate could result in significant differences between the estimated interest and the actual interest on the bonds. The statement may include additional qualifications as the unit deems appropriate. The validity of bonds authorized to be issued pursuant to this act is not subject to challenge on the grounds that the actual interest cost of the bonds when issued is different than the amount set forth in the estimate referenced in the publication of the bond order as introduced."

SECTION 3. G.S. 159-58 reads as rewritten:

"**§ 159-58. Publication of bond order as adopted.**

After adoption, the clerk shall publish the bond order once, with the following statement appended:

"The foregoing order was adopted on the _____ day of _____, _____, and is hereby published this _____ day of _____, _____. Any action or proceeding questioning the validity of the order must be begun within 30 days after the date of publication of this notice. The finance officer of the [issuing unit] has filed a statement estimating that the total amount of interest that will be paid on the bonds over the expected term of the bonds, if issued, is $_____. The estimate is preliminary, is for general informational purposes only, and may differ from the actual interest paid on the bonds.

_____

Clerk"

The publication may include a summary of the assumptions upon which the estimate of the total amount of interest that will be paid on the bonds over the expected term of the bonds, if issued, is based, and may further state that there is no assurance that the circumstances included in the assumptions will occur, that the occurrence of certain of the assumptions is beyond the control of the issuing unit, and that differences between the actual circumstances at the time the bonds are issued from the assumptions included in the estimate could result in significant differences between the estimated interest and the actual interest on the bonds. The statement may include such additional qualifications as the unit deems appropriate. The validity of bonds authorized to be issued pursuant to this act is not subject to challenge on the grounds that the actual interest cost of the bonds when issued is different than the amount set forth in the estimate referenced in the publication of the bond order as adopted."

SECTION 4. G.S. 159-61(d) reads as rewritten:

"(d) The form of the question as stated on the ballot shall be in substantially the following words: "Shall the order authorizing $ _____ bonds plus interest for (briefly stating the purpose) and providing that additional taxes may be levied in an amount sufficient to pay the principal of and interest on the bonds be approved?

[ ] YES

[ ] NO""

SECTION 5. This act is effective when it becomes law and applies to bonds for which a bond order authorizing the issuance of such bonds is introduced on or after that date. This act does not affect the validity of any bonds that are issued under bond orders introduced prior to the effective date of this act.

HOUSE BILL 248:
Taxpayer Debt Information Act

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 4, 2013
Introduced by:	Reps. Conrad, Fulghum, Cleveland, Blust	**Prepared by:**	Cindy Avrette Committee Counsel
Analysis of:	Second Edition		

SUMMARY: ***House Bill 315 would make the estimation of interest on a proposed bond issuance of voted debt by a local government part of the LGC review process and would require the ballot question for the authorization of bonds to state that the authorization includes interest and that additional taxes may be levied to repay the debt.***

CURRENT LAW: Article 4 of Chapter 159 of the General Statutes (Local Government Bond Act) governs the ability of units of local government to borrow money secured by a pledge of the taxing power. When a local government proposes to issue bonds that must be approved by a vote of the people,[1] it must publish a notice of intent to apply to the Local Government Commission (LGC) for approval. After considering an application, the LGC enters an order either approving or denying the application after considering several factors. The LGC must approve the application if it determines the following:

- The proposed bond issue is necessary or expedient.
- The proposed amount is adequate for the proposed purpose.
- The unit's debt management procedures are good, or that reasonable assurances have been given that its debt will be managed in strict compliance with the law.
- The increase in taxes, if necessary to service the proposed debt will not be excessive.
- The proposed bonds can be marketed at reasonable rates of interest.

Upon approval, the local government must hold a public hearing, followed by a bond referendum. Bonds may be issued under a bond order at any time within seven years after the order takes effect and up to 10 years with LGC approval. Any action contesting the validity of a bond referendum must begin within 30 days after the publication of the results. After this time period, no right of action may be brought. Chapter 142 governs the issuance of State debt.

BILL ANALYSIS:

Statement of Estimated Interest. – After or at the same time the application is filed, a bond order must be introduced before the governing board of the local government. Once introduced, the board must schedule a public hearing.

[1] Bonds issued for the following purposes do not require voter approval: (1) to suppress riots, insurrections, or any extraordinary breach of law and order; (2) to supply an unforeseen deficiency in the revenue when taxes actually received or collected during the fiscal year fall below collection estimates made in the annual budget ordinance; (3) to meet emergencies threatening the public health or safety, as conclusively determined in writing by the Governor; (4) to refund outstanding general obligation bonds or general obligation bond anticipation notes; (5) bonds as described in G.S. 159-49(2). There are also certain other purposes for which no vote is required to the extent of two-thirds of the amount by which the outstanding indebtedness of the issuing county, county water and sewer district, metro water district, or city was reduced in the preceding fiscal year.

Section 1 of the bill would require that, after the bond order has been introduced but before the public hearing, the finance officer of the local government unit file a statement with the clerk and the LGC indicating the estimated total amount of interest that will be paid on the bonds over the expected term of the bonds and a summary of the assumptions upon which the estimate is based. It must also include a statement to the effect that the estimate is preliminary, that there is no assurance that the assumptions upon which the estimate is based will occur, and that the actual circumstances at the time the bonds are issued from the assumptions could result in significant differences between the estimated interest and the actual interest. **Section 1** also provides that the validity of the bonds is not subject to challenge on the grounds that the actual interest when issued is different than the amount set forth in the statement.

Publication of Bond Order. – The bond order must be published after it has been introduced and again after it has been approved. Upon publication after introduction, it must include a statement describing the amount of the proposed bonds, indicating that a tax may be levied to pay the principal and interest on the bonds, and announcing when the public hearing will be held. Upon publication after adoption, it must include a statement that any action challenging the validity of the order must commence within 30 days after the date of publication of the notice.

Sections 2 and 3 of the bill would add similar language to each of the statutes related to the publication of the bond order. They would require inclusion of a statement in the order that the finance officer has filed a statement of estimated interest and indicating what the estimated amount is. The changes would permit a summary of the assumptions to be included in the publication and would include disclaimer language to the effect that the estimated amount of interest is preliminary, is for general informational purposes only, and that the validity of the bonds may not be challenged on the basis of the actual interest being different than the estimated interest once the bonds are issued.

Ballot Question. – Under current law, the form of the question on the ballot for a local bond order is as follows:

"Shall the order authorizing $ _____ bonds for (briefly stating the purpose) be approved?
[ ] YES
[ ] NO"

Section 4 of the bill would require that the ballot question also indicate that the approval includes the application of interest to the principal debt amount authorized, but would not state a specific amount of estimated interest. The ballot would also include a statement that additional taxes may be levied in an amount necessary to pay the principal and interest on the bonds.

EFFECTIVE DATE: This act is effective when it becomes law and applies to bonds proposed on or after that date.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 248 DATE 6/5/13

S. B. No. _____ Amendment No. 1

COMMITTEE SUBSTITUTE _____ (to be filled in by Principal Clerk)

Rep.) Brubnstetter
)
Sen.)

moves to amend the bill on page 2, line 47

( ) WHICH CHANGES THE TITLE

by deleting "This act is effective when it becomes law" and substituting the following language to read: "This act becomes effective September 1, 2013,".

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H D

HOUSE BILL 664
Committee Substitute Favorable 5/8/13
PROPOSED SENATE COMMITTEE SUBSTITUTE H664-CSTDf-27 [v.3]
6/4/2013 5:55:34 PM

Short Title: Cell Tower Deployment Act. (Public)

Sponsors:

Referred to:

April 10, 2013

A BILL TO BE ENTITLED

AN ACT TO FACILITATE THE DEPLOYMENT OF MOBILE BROADBAND AND OTHER ENHANCED WIRELESS COMMUNICATIONS SERVICES BY STREAMLINING THE PROCESSES USED BY STATE AGENCIES AND LOCAL GOVERNMENTS TO APPROVE THE PLACEMENT OF WIRELESS FACILITIES IN THEIR JURISDICTIONS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 19 of Chapter 160A of the General Statutes reads as rewritten:

"Part 3E. Wireless Telecommunications Facilities.

"**§ 160A-400.50. Purpose and compliance with federal law.**

(a) The purpose of this section is to ensure the safe and efficient integration of facilities necessary for the provision of advanced mobile broadband and wireless telecommunications services throughout the community and to ensure the ready availability of reliable wireless service to the public, government agencies, and first responders, with the intention of furthering the public safety and general welfare.

(a1) The deployment of wireless infrastructure is critical to ensuring first responders can provide for the health and safety of all residents of North Carolina and that, consistent with section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), which creates a national wireless emergency communications network for use by first responders that in large measure will be dependent on facilities placed on existing wireless communications support structures, it is the policy of this State to facilitate the placement of wireless communications support structures in all areas of North Carolina. The following standards shall apply to a city's actions, as a regulatory body, in the regulation of the placement, construction, or modification of a wireless communications facility.

(b) The placement, construction, or modification of wireless communications facilities shall be in conformity with the Federal Communications Act, 47 U.S.C. § 332 as amended, section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), and in accordance with the rules promulgated by the Federal Communications Commission.

"**§ 160A-400.51. Definitions.**

The following definitions apply in this Part.

(1) Antenna. – Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.

(2) Application. – A formal request submitted to the city to construct or modify a wireless support structure or a wireless facility.

(2a) Base station. – A station at a specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies, and other associated electronics.

(3) Building permit. – An official administrative authorization issued by the city prior to beginning construction consistent with the provisions of G.S. 160A-417.

(4) Collocation. – The placement or installation of wireless facilities on existing structures, including electrical transmission towers, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes. ~~The installation of new wireless facilities on previously approved structures, including towers, buildings, utility poles, and water tanks.~~

(4a) Eligible facilities request. – A request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.

(5) Equipment compound. – An area surrounding or near the base of a wireless support structure within which a wireless facility is located. ~~Equipment enclosure. An enclosed structure, cabinet, or shelter used to contain radio or other equipment necessary for the transmission or reception of wireless communication signals.~~

(5a) Fall zone. – The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

(6) Land development regulation. – Any ordinance enacted pursuant to this Part.

(7) Search ring. – The area within which a wireless support facility or wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure.

(7a) Substantial modification. – The mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the criteria listed below. The burden is on the local government to demonstrate that a mounting that does not meet the listed criteria constitutes a substantial change to the physical dimensions of the wireless support structure.

a. Increasing the existing vertical height of the structure by the greater of (i) more than ten percent (10%) or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.

b. Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance.

c. Increasing the square footage of the existing equipment compound by more than 2,500 square feet.

(8) Utility pole. – A structure that is designed for and used to carry lines, cables, or wires for telephone, cable television, or electricity, or to provide lighting.

(8a) Water tower. – A water storage tank, a standpipe, or an elevated tank situated on a support structure originally constructed for use as a reservoir or facility to store or deliver water.

(9) Wireless facility. – The set of equipment and network components, exclusive of the underlying wireless support structure or tower, including antennas, transmitters, receivers, ~~receivers~~ base stations, power supplies, cabling, and associated equipment necessary to provide wireless data and wireless telecommunications services to a discrete geographic area.

(10) Wireless support structure. – A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole is not a wireless support structure.

"**§ 160A-400.51A. Local authority.**

A city may plan for and regulate the siting or modification of wireless support structures and wireless facilities in accordance with land development regulations and in conformity with this Part. Except as expressly stated, nothing in this Part shall limit a city from regulating applications to construct, modify, or maintain wireless support structures, or construct, modify, maintain, or collocate wireless facilities on a wireless support structure based on consideration of land use, public safety, and zoning considerations, including aesthetics, landscaping, structural design, setbacks, and fall zones, or State and local building code requirements, consistent with the provisions of federal law provided in G.S. 160A-400.50. For purposes of this Part, public safety includes, without limitation, federal, State, and local safety regulations but does not include requirements relating to radio frequency emissions of wireless facilities.

"**§ 160A-400.52. Construction of new wireless support structures or substantial modifications of ~~facilities and~~ wireless support structures.**

~~(a) A city may plan for and regulate the siting or modification of wireless support structures and wireless facilities in accordance with land development regulations and in conformity with this Part. Except as expressly stated, nothing in this Part shall limit a city from regulating applications to construct, modify, or maintain wireless support structures, or construct, modify, maintain, or collocate wireless facilities on a wireless support structure based on consideration of land use, public safety, and zoning considerations, including aesthetics, landscaping, structural design, setbacks, and fall zones, or State and local building code requirements, consistent with the provisions of federal law provided in G.S. 160A-400.50. For purposes of this Part, public safety shall not include requirements relating to radio frequency emissions of wireless facilities.~~

(b) Any person that proposes to construct a new wireless support structure or substantially modify a wireless support structure ~~or wireless facility~~ within the planning and land-use jurisdiction of a city must do both of the following:

(1) Submit a completed application with the necessary copies and attachments to the appropriate planning authority.

(2) Comply with any local ordinances concerning land use and any applicable permitting processes.

(c) A city's review of an application for the ~~placement, construction,~~ placement or construction of a new wireless support structure or substantial modification of a ~~wireless facility or~~ wireless support structure shall only address public safety, land development, or zoning issues. In reviewing an application, the city may not require information on or evaluate an applicant's business decisions about its designed service, customer demand for its service, or quality of its service to or from a particular area or site. A city may not require information that concerns the specific need for the wireless support structure, including if the service to be provided from the wireless support structure is to add additional wireless coverage or additional wireless capacity. A city may not require proprietary, confidential, or other business

information to justify the need for the new wireless support structure, including propagation maps and telecommunication traffic studies. In reviewing an application, the city may review the following:

(1) Applicable public safety, land use, or zoning issues addressed in its adopted regulations, including aesthetics, landscaping, land-use based location priorities, structural design, setbacks, and fall zones.

(2) Information or materials directly related to an identified public safety, land development, or zoning issue including evidence that no existing or previously approved wireless support structure can reasonably be used for the ~~antenna~~ wireless facility placement instead of the construction of a new ~~tower,~~wireless support structure, that residential, historic, and designated scenic areas cannot be served from outside the area, or that the proposed height of a new ~~tower~~ wireless support structure or initial ~~antenna~~ wireless facility placement or a proposed height increase of a substantially modified ~~tower,~~wireless support structure, or replacement ~~tower,~~wireless support structure ~~or collocation~~ is necessary to provide the applicant's designed service.

(3) A city may require applicants for new wireless facilities to evaluate the reasonable feasibility of collocating new antennas and equipment on an existing wireless support structure or structures within the applicant's search ring. Collocation on an existing wireless support structure is not reasonably feasible if collocation is technically or commercially impractical or the owner of the ~~tower~~ existing wireless support structure is unwilling to enter into a contract for such use at fair market value. Cities may require information necessary to determine whether collocation on existing wireless support structures is reasonably feasible.

~~(d) A collocation application entitled to streamlined processing under G.S. 160A-400.53 shall be deemed complete unless the city provides notice in writing to the applicant within 45 days of submission or within some other mutually agreed upon timeframe. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The application shall be deemed complete on resubmission if the additional materials cure the deficiencies identified.~~

(e) The city shall issue a written decision approving or denying an application ~~within 45 days in the case of collocation applications entitled to streamlined processing under G.S. 160A-400.53 and~~ under this section within a reasonable period of time consistent with the issuance of other land-use permits in the case of other applications, each as measured from the time the application is deemed complete.

(f) A city may fix and charge an application fee, consulting fee, or other fee associated with the submission, review, processing, and approval of an application to site new wireless support structures or to substantially modify wireless support structures or wireless facilities that is based on the costs of the services provided and does not exceed what is usual and customary for such services. Any charges or fees assessed by a city on account of an outside consultant shall be fixed in advance and incorporated into a permit or application fee and shall be based on the reasonable costs to be incurred by the city in connection with the regulatory review authorized under this section. The foregoing does not prohibit a city from imposing additional reasonable and cost based fees for costs incurred should an applicant amend its application. On request, the amount of the consultant charges incorporated into the permit or application fee shall be separately identified and disclosed to the applicant. The fee imposed by a city for review of the application may not be used for either of the following:

(1) Travel time or expenses, meals, or overnight accommodations incurred in the review of an application by a consultant or other third party.

(2) Reimbursements for a consultant or other third party based on a contingent fee basis or a results-based arrangement.

(g) The city may condition approval of an application for a new wireless support structure on the provision of documentation prior to the issuance of a building permit establishing the existence of one or more parties, including the owner of the wireless support structure, who intend to locate wireless facilities on the wireless support structure. A city shall not deny an initial land-use or zoning permit based on such documentation. A city may condition a permit on a requirement to construct facilities within a reasonable period of time, which shall be no less than 24 months.

(h) The city may not require the placement of wireless support structures or wireless facilities on city owned or leased property, but may develop a process to encourage the placement of wireless support structures or facilities on city owned or leased property, including an expedited approval process.

(i) This section shall not be construed to limit the provisions or requirements of any historic district or landmark regulation adopted pursuant to Part 3C of this Article.

"**§ 160A-400.53. Collocation and eligible facilities requests of wireless support structures. ~~facilities.~~**

(a) Pursuant to section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), a city may not deny and shall approve any eligible facilities request as provided in this section. Nothing in this Part requires an application and approval for routine maintenance or limits the performance of routine maintenance on wireless support structures and facilities, including in-kind replacement of wireless facilities. Routine maintenance includes activities associated with regular and general upkeep of transmission equipment, including the replacement of existing wireless facilities with facilities of the same size. A city may require an application for collocation or an eligible facilities request. ~~Applications for collocation entitled to streamlined processing under this section shall be reviewed for conformance with applicable site plan and building permit requirements but shall not otherwise be subject to zoning requirements, including design or placement requirements, or public hearing review.~~

(a1) A collocation or eligible facilities request application is deemed complete unless the city provides notice that the application is incomplete in writing to the applicant within 45 days of submission or within some other mutually agreed upon time frame. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. A city may deem an application incomplete if there is insufficient evidence provided to show that the proposed collocation or eligible facilities request will comply with federal, State, and local safety requirements. A city may not deem an application incomplete for any issue not directly related to the actual content of the application and subject matter of the collocation or eligible facilities request. An application is deemed complete on resubmission if the additional materials cure the deficiencies indicated.

(a2) The city shall issue a written decision approving an eligible facilities request application within 45 days of such application being deemed complete. For a collocation application that is not an eligible facilities request, the city shall issue its written decision to approve or deny the application within 45 days of the application being deemed complete.

(a3) A city may impose a fee not to exceed one thousand dollars ($1,000) for technical consultation and the review of a collocation or eligible facilities request application. The fee must be based on the actual, direct, and reasonable administrative costs incurred for the review, processing, and approval of a collocation application. A city may engage a third-party consultant for technical consultation and the review of a collocation application. The fee imposed by a city for the review of the application may not be used for either of the following:

(1) Travel expenses incurred in a third party's review of a collocation application.

(2) Reimbursement for a consultant or other third party based on a contingent fee basis or results-based arrangement.

~~(b) Applications for collocation of wireless facilities are entitled to streamlined processing if the addition of the additional wireless facility does not exceed the number of wireless facilities previously approved for the wireless support structure on which the collocation is proposed and meets all the requirements and conditions of the original approval. This provision applies to wireless support structures which are approved on or after December 1, 2007.~~

~~(c) The streamlined process set forth in subsection (a) of this section shall apply to all collocations, in addition to collocations qualified for streamlined processing under subsection (b) of this section, that meet the following requirements:~~

~~(1) The collocation does not increase the overall height and width of the tower or wireless support structure to which the wireless facilities are to be attached.~~

~~(2) The collocation does not increase the ground space area approved in the site plan for equipment enclosures and ancillary facilities.~~

~~(3) The wireless facilities in the proposed collocation comply with applicable regulations, restrictions, or conditions, if any, applied to the initial wireless facilities placed on the tower or other wireless support structure.~~

~~(4) The additional wireless facilities comply with all federal, State and local safety requirements.~~

~~(5) The collocation does not exceed the applicable weight limits for the wireless support structure.~~"

SECTION 2. Article 18 of Chapter 153A of the General Statutes reads as rewritten:

"Part 3B. Wireless Telecommunications Facilities.

"§ 153A-349.50. Purpose and compliance with federal law.

(a) Purpose. – The purpose of this section is to ensure the safe and efficient integration of facilities necessary for the provision of advanced mobile broadband and wireless telecommunications services throughout the community and to ensure the ready availability of reliable wireless service to the public, government agencies, and first responders, with the intention of furthering the public safety and general welfare.

(a1) The deployment of wireless infrastructure is critical to ensuring first responders can provide for the health and safety of all residents of North Carolina and that, consistent with section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), which creates a national wireless emergency communications network for use by first responders that in large measure will be dependent on facilities placed on existing wireless communications support structures, it is the policy of this State to facilitate the placement of wireless communications support structures in all areas of North Carolina. The following standards shall apply to a county's actions, as a regulatory body, in the regulation of the placement, construction, or modification of a wireless communications facility.

(b) Compliance with the Federal Communications Act. – The placement, construction, or modification of wireless communications facilities shall be in conformity with the Federal Communications Act, 47 U.S.C. § 332 as amended, section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), and in accordance with the rules promulgated by the Federal Communications Commission.

"§ 153A-349.51. Definitions.

The following definitions apply in this Part:

(1) Antenna. – Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.

(2a) Base station. – A station at a specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies, and other associated electronics.

(2) Application. – A formal request submitted to the county to construct or modify a wireless support structure or a wireless facility.

(3) Building permit. – An official administrative authorization issued by the county prior to beginning construction consistent with the provisions of G.S. 153A-357.

(4) Collocation. – The placement or installation of wireless facilities on existing structures, including electrical transmission towers, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes. ~~The installation of new wireless facilities on previously approved structures, including towers, buildings, utility poles, and water tanks.~~

(4a) Eligible facilities request. – A request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.

(5) Equipment compound. – An area surrounding or near the base of a wireless support structure within which a wireless facility is located. ~~Equipment enclosure. – An enclosed structure, cabinet, or shelter used to contain radio or other equipment necessary for the transmission or reception of wireless communication signals.~~

(5a) Fall zone. – The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

(6) Land development regulation. – Any ordinance enacted pursuant to this Part.

(7) Search ring. – The area within which a wireless support facility or wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure.

(7a) Substantial modification. – The mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the criteria listed below. The burden is on the local government to demonstrate that a mounting that does not meet the listed criteria constitutes a substantial change to the physical dimensions of the wireless support structure.

a. Increasing the existing vertical height of the structure by the greater of (i) more than ten percent (10%) or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.

b. Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance.

c. Increasing the square footage of the existing equipment compound by more than 2,500 square feet.

(8) Utility pole. – A structure that is designed for and used to carry lines, cables, or wires for telephone, cable television, or electricity, or to provide lighting.

(8a) Water tower. – A water storage tank, a standpipe, or an elevated tank situated on a support structure originally constructed for use as a reservoir or facility to store or deliver water.

(9) Wireless facility. – The set of equipment and network components, exclusive of the underlying wireless support structure or tower, including antennas, transmitters, receivers, ~~receivers~~ base stations, power supplies, cabling, and associated equipment necessary to provide wireless data and wireless telecommunications services to a discrete geographic area.

(10) Wireless support structure. – A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole is not a wireless support structure.

"**§ 153A-349.51A. Local authority.**

A county may plan for and regulate the siting or modification of wireless support structures and wireless facilities in accordance with land development regulations and in conformity with this Part. Except as expressly stated, nothing in this Part shall limit a county from regulating applications to construct, modify, or maintain wireless support structures, or construct, modify, maintain, or collocate wireless facilities on a wireless support structure based on consideration of land use, public safety, and zoning considerations, including aesthetics, landscaping, structural design, setbacks, and fall zones, or State and local building code requirements, consistent with the provisions of federal law provided in G.S. 153A-349.50. For purposes of this Part, public safety includes, without limitation, federal, State, and local safety regulations but does not include requirements relating to radio frequency emissions of wireless facilities.

"**§ 153A-349.52. Construction of new wireless support structures or substantial modifications of ~~facilities and~~ wireless support structures.**

~~(a) A county may plan for and regulate the siting or modification of wireless support structures and wireless facilities in accordance with land development regulations and in conformity with this Part. Except as expressly stated, nothing in this Part shall limit a county from regulating applications to construct, modify, or maintain wireless support structures, or construct, modify, maintain, or collocate wireless facilities on a wireless support structure based on consideration of land use, public safety, and zoning considerations, including aesthetics, landscaping, structural design, setbacks, and fall zones, or State and local building code requirements, consistent with the provisions of federal law provided in G.S. 153A-349.50. For purposes of this Part, public safety shall not include requirements relating to radio frequency emissions of wireless facilities.~~

(b) Any person that proposes to construct a new wireless support structure or substantially modify a wireless support structure or ~~wireless facility~~ within the planning and land-use jurisdiction of a county must do both of the following:

(1) Submit a completed application with the necessary copies and attachments to the appropriate planning authority.

(2) Comply with any local ordinances concerning land use and any applicable permitting processes.

(c) A county's review of an application for the ~~placement, construction,~~ placement or construction of a new wireless support structure or substantial modification of a ~~wireless facility or~~ wireless support structure shall only address public safety, land development, or zoning issues. In reviewing an application, the county may not require information on or evaluate an applicant's business decisions about its designed service, customer demand for its service, or quality of its service to or from a particular area or site. A county may not require information that concerns the specific need for the wireless support structure, including if the service to be provided from the wireless support structure is to add additional wireless coverage or additional wireless capacity. A county may not require proprietary, confidential, or other

business information to justify the need for the new wireless support structure, including propagation maps and telecommunication traffic studies. In reviewing an application the county may review the following:

(1) Applicable public safety, land use, or zoning issues addressed in its adopted regulations, including aesthetics, landscaping, land-use based location priorities, structural design, setbacks, and fall zones.

(2) Information or materials directly related to an identified public safety, land development or zoning issue including evidence that no existing or previously approved wireless support structure can reasonably be used for the ~~antenna~~ wireless facility placement instead of the construction of a new ~~tower,~~ wireless support structure, that residential, historic, and designated scenic areas cannot be served from outside the area, or that the proposed height of a new ~~tower~~ wireless support structure or initial ~~antenna~~ wireless facility placement or a proposed height increase of a substantially modified ~~tower,~~ wireless support structure, or replacement ~~tower,~~ wireless support structure or collocation is necessary to provide the applicant's designed service.

(3) A county may require applicants for new wireless facilities to evaluate the reasonable feasibility of collocating new antennas and equipment on an existing wireless support structure or structures within the applicant's search ring. Collocation on an existing wireless support structure is not reasonably feasible if collocation is technically or commercially impractical or the owner of the ~~tower~~ existing wireless support structure is unwilling to enter into a contract for such use at fair market value. Counties may require information necessary to determine whether collocation on existing wireless support structures is reasonably feasible.

~~(d) A collocation application entitled to streamlined processing under G.S. 153A-349.53 shall be deemed complete unless the city provides notice in writing to the applicant within 45 days of submission or within some other mutually agreed upon timeframe. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The application shall be deemed complete on resubmission if the additional materials cure the deficiencies identified.~~

(e) The county shall issue a written decision approving or denying an application ~~within 45 days in the case of collocation applications entitled to streamlined processing under G.S. 153A-349.53 and~~ under this section within a reasonable period of time consistent with the issuance of other land-use permits in the case of other applications, each as measured from the time the application is deemed complete.

(f) A county may fix and charge an application fee, consulting fee, or other fee associated with the submission, review, processing, and approval of an application to site new wireless support structures or to substantially modify wireless support structures or wireless facilities that is based on the costs of the services provided and does not exceed what is usual and customary for such services. Any charges or fees assessed by a county on account of an outside consultant shall be fixed in advance and incorporated into a permit or application fee and shall be based on the reasonable costs to be incurred by the county in connection with the regulatory review authorized under this section. The foregoing does not prohibit a county from imposing additional reasonable and cost based fees for costs incurred should an applicant amend its application. On request, the amount of the consultant charges incorporated into the permit or application fee shall be separately identified and disclosed to the applicant. The fee imposed by a county for review of the application may not be used for either of the following:

(1) Travel time or expenses, meals, or overnight accommodations incurred in the review of an application by a consultant or other third party.

(2) Reimbursements for a consultant or other third party based on a contingent fee basis or a results-based arrangement.

(g) The county may condition approval of an application for a new wireless support structure on the provision of documentation prior to the issuance of a building permit establishing the existence of one or more parties, including the owner of the wireless support structure, who intend to locate wireless facilities on the wireless support structure. A county shall not deny an initial land-use or zoning permit based on such documentation. A county may condition a permit on a requirement to construct facilities within a reasonable period of time, which shall be no less than 24 months.

(h) The county may not require the placement of wireless support structures or wireless facilities on county owned or leased property, but may develop a process to encourage the placement of wireless support structures or facilities on county owned or leased property, including an expedited approval process.

(i) This section shall not be construed to limit the provisions or requirements of any historic district or landmark regulation adopted pursuant to Part 3C of this Article.

"**§ 153A-349.53. Collocation and eligible facilities requests of wireless support structures. ~~facilities.~~**

(a) Pursuant to section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), a county may not deny and shall approve any eligible facilities request as provided in this section. Nothing in this Part requires an application and approval for routine maintenance or limits the performance of routine maintenance on wireless support structures and facilities, including in-kind replacement of wireless facilities. Routine maintenance includes activities associated with regular and general upkeep of transmission equipment, including the replacement of existing wireless facilities with facilities of the same size. A county may require an application for collocation or an eligible facilities request.~~Applications for collocation entitled to streamlined processing under this section shall be reviewed for conformance with applicable site plan and building permit requirements but shall not otherwise be subject to zoning requirements, including design or placement requirements, or public hearing review.~~

(a1) A collocation or eligible facilities request application is deemed complete unless the county provides notice that the application is incomplete in writing to the applicant within 45 days of submission or within some other mutually agreed upon time frame. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. A county may deem an application incomplete if there is insufficient evidence provided to show that the proposed collocation or eligible facilities request will comply with federal, State, and local safety requirements. A county may not deem an application incomplete for any issue not directly related to the actual content of the application and subject matter of the collocation or eligible facilities request. An application is deemed complete on resubmission if the additional materials cure the deficiencies indicated.

(a2) The county shall issue a written decision approving an eligible facilities request application within 45 days of such application being deemed complete. For a collocation application that is not an eligible facilities request, the county shall issue its written decision to approve or deny the application within 45 days of the application being deemed complete.

(a3) A county may impose a fee not to exceed one thousand dollars ($1,000) for technical consultation and the review of a collocation application. The fee must be based on the actual, direct, and reasonable administrative costs incurred for the review, processing, and approval of a collocation application. A county may engage a third-party consultant for technical consultation and the review of a collocation or eligible facilities request application. The fee imposed by a county for the review of the application may not be used for either of the following:

(1) Travel expenses incurred in a third party's review of a collocation application.

(2) Reimbursement for a consultant or other third party based on a contingent fee basis or results-based arrangement.

~~(b) Applications for collocation of wireless facilities are entitled to streamlined processing if the addition of the additional wireless facility does not exceed the number of wireless facilities previously approved for the wireless support structure on which the collocation is proposed and meets all the requirements and conditions of the original approval. This provision applies to wireless support structures which are approved on or after December 1, 2007.~~

~~(c) The streamlined process set forth in subsection (a) of this section shall apply to all collocations, in addition to collocations qualified for streamlined processing under subsection (b) of this section, that meet the following requirements:~~

~~(1) The collocation does not increase the overall height and width of the tower or wireless support structure to which the wireless facilities are to be attached.~~

~~(2) The collocation does not increase the ground space area approved in the site plan for equipment enclosures and ancillary facilities.~~

~~(3) The wireless facilities in the proposed collocation comply with applicable regulations, restrictions, or conditions, if any, applied to the initial wireless facilities placed on the tower or other wireless support structure.~~

~~(4) The additional wireless facilities comply with all federal, State, and local safety requirements.~~

~~(5) The collocation does not exceed the applicable weight limits for the wireless support structure.~~"

SECTION 3. G.S. 146-29.2 reads as rewritten:

"**§ 146-29.2. Lease ~~provisions for communications towers.~~or interest in real property for communication purposes.**

(a) The following definitions apply in this section:

(1) Antenna. – Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.

(2) Buildings. – Structures owned or leased by the State on which equipment may be placed or attached.

(3) Collocation. – The placement or installation of wireless facilities on existing structures, including electrical transmission towers, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable building and line safety codes.

(4) Equipment. – Antennas, transmitters, receivers, cables, wires, transformers, power supplies, electric and communication lines necessary for the provision of television broadcast signals, radio wave signals, wireless data or wireless telecommunication services to a discrete geographic area, and all other apparatuses and appurtenances, including shelters, cabinets, buildings, platforms, and ice bridges used to house or otherwise protect equipment.

(5) Ground area. – The area of real property surrounding the base of towers on which the equipment and appurtenances necessary for the operation and stability of the towers, including guy wires and security fencing, is constructed or installed.

(6) Provider. – Any person that is engaged in the transmission, reception, or dissemination of television broadcast signals, radio wave signals or

electromagnetic radio signals used in the provision of wireless communications service, or the provisioning of wireless infrastructure.

(7) Tower. – New or existing structures, such as a monopole, lattice tower, guyed tower, fire observation tower or water tower that are designed to support or are capable of supporting equipment used in the transmission or receipt of televisions broadcast signals, radio wave signals, or electromagnetic radio signals used in the provision of wireless communication service.

(b) The State may lease real property, or may grant an easement or license with an interest in real property for the following communication purposes:~~any interest in real property, for the purposes of~~

(1) ~~construction and placement of communications~~Constructing, installing, and operating towers and equipment on State land.~~land or for placement of antennas upon State-owned structures.~~

(2) Installing and operating equipment on towers, buildings, or ground area owned or leased by the State.

(c) If otherwise feasible and determined by the Department of Administration to be in the best interest of the State:

(1) New towers constructed on State land shall be designed for collocation. This requirement shall not apply to towers constructed on State land by the State or any of its agencies or by a "public entity" as that term is defined in G.S. 146-29.1(b).

(2) The State shall encourage the collocation of equipment on existing towers and buildings owned by the State.

(3) The State shall sublease for collocation purposes space on any tower or ground area leased by the State, if allowed under the terms of the lease.

(4) The State shall, to the extent practicable, adopt standard terms and conditions for applications to lease, easements, or other conveyances of an interest in real property for communication purposes.

(d) Pursuant to G.S. 143-341(4)f., the Governor, acting with the approval of the Council of State, may adopt rules authorizing the Department of Administration to enter into or approve classes of leases, easements, or licenses with an interest in real property for the purposes set forth in this section. The rules may allow for execution of leases or other instruments by the Department of Administration rather than execution of the instruments in the manner prescribed in G.S. 146-74 through G.S. 146-78.

(e) Land in the State Parks System, as defined in G.S. 113-449.9, may only be leased or conveyed for the purposes of this section upon the approval of the Secretary of the Department of Environment and Natural Resources. Lease or conveyance of land in the State Parks System for the purposes of this section shall comply with the requirements of Articles 2 and 2C of Chapter 113 of the General Statutes. When selecting a location for a communications tower or antenna in the State Parks System, the State shall choose a location that minimizes the visual impact on the surrounding landscape. No land acquired or developed using funds from the Federal Land and Water Conservation Fund shall be leased or conveyed for the purposes of this section.

~~The following additional requirements shall apply to such leases:~~

~~(1) The lease shall require the lessee to permit other telecommunications carriers to co-locate on the communications tower on commercially reasonable terms between the lessee and the co-locating carrier until the communications tower reaches its capacity. Unless the State determines that co-location is not feasible at that location, the communications tower shall be designed and constructed to accommodate other carriers on the tower.~~

~~(2) The State shall, in determining the location of lands to be leased for communications towers, encourage communications towers to be located near other communications towers to the extent technically desirable.~~

~~(3) The State shall, when choosing a communications tower or antenna location, choose a location which minimizes the visual impact on surrounding landscape.~~

~~(4) The State shall not lease lands of the State Parks System for such purposes.~~

~~For purposes of this section, "co-locate and co-location" mean the sharing of a communications tower by two or more services.~~

(e) City and county ordinances apply to communications towers and antennas authorized under this section."

SECTION 4. Sections 1 and 2 of this act become effective October 1, 2013, and apply to applications received on or after that date. The remainder of this act is effective when it becomes law.

HOUSE BILL 664:
Cell Tower Deployment Act

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 5, 2013
Introduced by:	Reps. Hager, Moffitt, W. Brawley, Alexander	**Prepared by:**	Heather Fennell Committee Counsel
Analysis of:	PCS to Second Edition H664-CSTDf-27		

SUMMARY: ***The PCS to House Bill 664 would amend local government authority to regulate the equipment and facilities used for the provision of wireless service. The bill would also amend the authority for the State to lease land for communication purpose.***

The PCS makes two changes. First, the PCS clarifies the authority of local governments to impose a fee to review an eligible facilities request. Second, the PCS requires the approval of the Secretary of DENR is required to lease land in a State Park for the purpose of installing and operating communications equipment.

CURRENT LAW: Article 19 of Chapter 160A and Article 18 of Chapter 153A of the General Statutes provides for local government regulation of the equipment and network components necessary to provide wireless service and new or existing structures designed to support wireless facilities.

Local governments may regulate the location and modification of wireless facilities and wireless support structures based on considerations of land use, public safety and zoning considerations. These regulations may include aesthetics, landscaping, structural design, setbacks, and State and local building code requirements. The regulations must be consistent with federal law. Any person that proposes to construct or modify a wireless facility or wireless support structure must comply with local ordinances concerning land use and applicable permitting processes. Applications for wireless facilities and support structures must be submitted to the appropriate local government.

Collocation is the installation of new wireless facilities on previously-approved structures. Applications for collocation that meet the requirements are eligible for streamlined processing and are reviewed for conformance with applicable site plans and building permits, but are not subject to zoning requirements or public hearing review.

Applications eligible for the streamlined approval process are deemed complete unless the city or county provides written notice within 45 days of the submission of the application. Other applications are deemed complete within a reasonable time consistent with other land use permits for other uses. Local governments may charge application fees and consulting fees for the review of applications. Any charges or fees in relation to consultant services must be fixed in advance and included in the permit or application fee.

G.S. 146-29.2 authorizes the State to lease property for the placement of communication equipment on State land or State-owned structures. When feasible, leases must allow for collocation of equipment. The State must also minimalize visual impact on the landscape when locating a tower or antenna. The State cannot lease land in the State Parks System for communication towers.[1]

[1] G.S. 143-260.10 provides and exception to the prohibition of towers on State park land. The State may lease space in Mount Jefferson State Natural Area to local governments in Ashe County for public communications purposes.

The Federal Middle Class Tax Relief and Job Creation Act of 2012 preempts certain State and local regulation of wireless facilities. The Act provides, in part, "a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station." The Act also provides a definition of "eligible facilities request" to include a request to modify an existing wireless facility that involves collocation of new transmission equipment, removal of transmission equipment, or replacement of transmission equipment.

BILL ANALYSIS: Sections 1 and 2 of House Bill 664 provide identical modifications to the authority of cities and counties to regulate the construction and modification of wireless facilities.

Local Authority. – Except as otherwise limited by law, local governments may regulate the location and modification of wireless facilities and wireless support structures based on considerations of land use, public safety and zoning considerations.

The application and approval process for wireless facilities is divided into two categories: (1) construction of new facilities and substantial modification of facilities or (2) collocation and eligible facilities requests.

Construction of new facilities and substantial modification. – Applications must be filed to construct a new facility or to substantially modify an existing facility. To be considered a substantial modification, the change must meet certain criteria. If the change does not meet the criteria, the burden is on the local government to demonstrate that the modification is substantial. The criteria are:

- Increasing the existing vertical height of the structure by the greater of (i) more than ten percent (10%), or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.
- Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than 20 feet, or (ii) more than the width of the wireless support structure at the level of the appurtenance.
- Increasing the square footage of the existing equipment compound by more than 2,500 square feet.

The bill provides that certain information may not be requested in an application for new construction or a substantial modification to an existing structure. The city or county may not request information that concerns the specific need for the facility, including whether the facility is needed to add additional wireless coverage or capacity. A city or county may not request proprietary, confidential or other business information including propagation maps and telecommunication traffic studies.

The bill also provides that the fee for review of applications for new facilities and substantial modifications cannot be used for either:

- Travel expenses, meals, or overnight accommodations for consultants or third-parties.
- Reimbursements for consultants or third-parties that are paid on a contingent fee basis, or a results based arrangement.

Collocation and eligible facilities requests. – A city or county may also require applications for collocation and eligible facilities requests. Applications and approval are not required for routine maintenance requests or in-kind replacement of wireless facilities.

Applications for eligible facilities requests must be approved. Eligible facilities requests do not include substantial modifications to existing structures. Eligible facilities requests do include requests to modify

an existing tower or base station, including the collocation of new transmission equipment or replacement of transmission equipment.

Applications for collocation or eligible facilities requests are considered complete, unless the local government notifies the applicant within 45 days, or another mutually agreed upon time frame. Notice of an incomplete application must provide notice of the deficiencies in the application. Applications may not be deemed incomplete for any information that is not related to the content of the application or the subject matter of the application. An application may be deemed incomplete if the application lacks sufficient evidence to show the proposed action would comply with safety requirements.

Written notice of whether the application for collocation is approved or denied must be issued with 45 days of submission of a complete application. Written approval of applications for eligible facilities requests must be issued in 45 days of submission of a complete application.

A local government may impose a fee to review an application for collocation or an eligible facilities request. The fee may not exceed $1000 and must be based on the actual, direct, and reasonable administrative costs of the review of the application. The local government may use a third-party consultant for review of the application. The fee may not be used for either:

- Travel expenses, meals, or overnight accommodations for consultants or third-parties.
- Reimbursements for consultants or third-parties that are paid on a contingent fee basis, or a results based arrangement.

Section 3 of the bill amends the provisions related to the State's authority to lease State land for communications purposes. The State may lease real property, or grant an easement or license with an interest in real property for the purpose of constructing towers or other communications equipment on State land, or installing and operating equipment on towers or buildings on State land.

If otherwise feasible and determined to be in the best interest of the State, new towers shall be designed for collocation, the State shall encourage collocation, and the State shall sublease for collocation purposes. The State must also adopt standard terms and conditions for leases, easements, or other conveyances for communications purposes.

The Governor, with approval of the Council of State, may adopt rules authorizing the Department of Administration to enter into leases, easements, or licenses for communication purposes. The rules may allow for the execution of these documents by the Department.

The Secretary of DENR must approve leases and conveyances for communications purposes for land on the State Parks System. When locating communications equipment on land in the State Parks System, the State must choose a location that minimizes the visual impact on the surrounding landscape.

EFFECTIVE DATE: Sections 1 and 2 of the bill are effective October 1, 2013, and applies to applications received on or after that date. The remainder of the bill is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H D

HOUSE BILL 743

Committee Substitute Favorable 5/14/13
PROPOSED SENATE COMMITTEE SUBSTITUTE H743-CSTMx-43 [v.5]
6/4/2013 8:45:08 PM

Short Title: UI Laws Administrative Changes. (Public)

Sponsors:

Referred to:

April 11, 2013

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL, ADMINISTRATIVE, AND CLARIFYING CHANGES TO THE UNEMPLOYMENT INSURANCE LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 96-4(q), as enacted by S.L. 2013-2, reads as rewritten:

"(q) The ~~Division~~ Board of Review after due notice shall have the right and power to hold and conduct hearings for the purpose of determining the rights, status and liabilities of an employer. The Board of Review shall have the power and authority to determine any and all questions and issues of fact or questions of law that may arise under the Employment Security Law that may affect the rights, liabilities and status of an employer including the right to determine the amount of contributions, if any, which may be due the Division by any employer. Hearings may be before the Board of Review and shall be held in the central office of the Board of Review or at any other designated place within the State. They shall be open to the public and shall consist of a review of the evidence taken by a hearing officer designated by the Board of Review and a determination of the law applicable to that evidence. The Board of Review shall provide for the taking of evidence by a hearing officer employed in the capacity of an attorney by the Department. Such hearing officer shall have the same power to issue subpoenas, administer oaths, conduct hearings and take evidence as is possessed by the Board of Review and such hearings shall be recorded, and he shall transmit all testimony and records of such hearings to the Board for its determination. All such hearings conducted by such hearing officer shall be scheduled and held in any county in this State in which the employer resides, maintains a place of business, or conducts business; however, the Board of Review may require additional testimony at any hearings held by it at its office. From all decisions or determinations made by the Board of Review, any party affected thereby shall be entitled to an appeal to the superior court. Before a party shall be allowed to appeal, the party shall within 10 days after notice of such decision or determination, file with the Board of Review exceptions to the decision or the determination, which exceptions will state the grounds of objection to the decision or determination. If any one of the exceptions shall be overruled then the party may appeal from the order overruling the exceptions, and shall, within 10 days after the decision overruling the exceptions, give notice of his appeal. When an exception is made to the facts as found by the Board of Review, the appeal shall be to the superior court in term time but the decision or determination of the Board of Review upon such review in the superior court shall be conclusive and binding as to all questions of fact supported by any competent evidence. When an exception is made to any rulings of law, as determined by the Board of Review, the appeal shall be to the judge of the superior court at chambers. The party appealing shall, within

10 days after the notice of appeal has been served, file with the Board of Review exceptions to the decision or determination overruling the exception which statement shall assign the errors complained of and the grounds of the appeal. Upon the filing of such statement the Board of Review shall, within 30 days, transmit all the papers and evidence considered by it, together with the assignments of errors filed by the appellant to a judge of the superior court holding court or residing in some district in which such appellant either resides, maintains a place of business or conducts business, or, unless the appellant objects after being given reasonable opportunity to object, to a judge of the Superior Court of Wake County: Provided, however, the 30-day period specified herein may be extended by agreement of parties."

SECTION 2. G.S. 96-4(u), as enacted by S.L. 2013-2, reads as rewritten:

"(u) Notices of hearing shall be issued by the ~~Division~~ Board of Review or its authorized representative and sent by registered mail, return receipt requested, to the last known address of employer, employers, persons, or firms involved. The notice shall be sent at least 15 days prior to the hearing date and shall contain notification of the place, date, hour, and purpose of the hearing. Subpoenas for witnesses to appear at any hearing shall be issued by the Division or its authorized representative and shall order the witness to appear at the time, date and place shown thereon. Any bond or other undertaking required to be given in order to suspend or stay any execution shall be given payable to the Department of Commerce. Any such bond or other undertaking may be forfeited or sued upon as are any other undertakings payable to the State."

SECTION 3. G.S. 96-5.1(a), as enacted by S.L. 2013-2, reads as rewritten:

"(a) Fund Established. – The Supplemental Employment Security Administration Fund is created as a special revenue fund. The fund consists of all interest and penalties paid under this Chapter by employers on overdue contributions and any appropriations made to the fund by the General Assembly. Penalties collected on unpaid taxes imposed by this section must be transferred to the Civil Penalty and Forfeiture Fund established in G.S. 115C-457.1."

SECTION 4. G.S. 96-6.1(a), as enacted by S.L. 2013-2, reads as rewritten:

"(a) Establishment and Use. – The Unemployment Insurance Reserve Fund is established as an enterprise fund.~~a special revenue fund.~~ The Fund consists of the revenues derived from the surtax imposed under G.S. 96-9.7. Moneys in the Fund may be used only for the following purposes:

...."

SECTION 5. G.S. 96-9.2(b), as enacted by S.L. 2013-2, reads as rewritten:

"(b) Standard Beginning Rate. – The standard beginning rate applies to an employer until the employer's account has been chargeable with benefits for at least 12 calendar months ending July 31 immediately preceding the computation date. An employer's account has been chargeable with benefits for at least 12 calendar months if the employer has reported wages paid in four completed calendar quarters and ~~these quarters are in~~ its liability extends over all or part of two consecutive calendar years."

SECTION 6. G.S. 96-9.6(e), as enacted by S.L. 2013-2, reads as rewritten:

"(e) Annual Reconciliation. – A reimbursing employer must maintain an account balance equal to one percent (1%) of its taxable wages. The Division must determine the balance of each employer's account on the computation date. If there is a deficit in the account, the Division must bill the employer for the amount necessary to bring its account to one percent (1%) of its taxable wages for the ~~preceding calendar year.~~ immediate four quarters preceding July 1. Any amount in the account in excess of the one percent (1%) of taxable wages will be retained in the employer's account as a credit and will not be refunded to the employer. The Division must send a bill as soon as practical. Payment is due within 30 days from the date a bill is mailed. Amounts unpaid by the due date accrue interest and penalties in the same manner as past-due contributions and are subject to the same collection remedies provided under G.S. 96-10 for past-due contributions."

SECTION 7. G.S. 96-9.6(i), as enacted by S.L. 2013-2, reads as rewritten:

"(i) Transition. – This subsection provides a transitional adjustment period for an employer that elected to be a reimbursing employer prior to January 1, 2013, and was not required to submit an advance payment with its first four quarterly reports equal to one percent (1%) of its reported taxable wages. This subsection expires January 1, 2016.

(1) Governmental entities. – An employer that is a State or local governmental unit must reimburse the Division in the amount required by subsection (c) of this section for benefits paid on its behalf, as determined on the computation date in 2013, but it does not have to reconcile its account balance, as required under subsection (e) of this section, until 2014. If the employer's account balance on the computation date in 2014 does not equal one percent (1%) of its taxable wages reported for the ~~2013 calendar year,~~preceding fiscal year, the Division will bill the employer for the deficiency.

...."

SECTION 8. G.S. 96-9.7(a), as enacted by S.L. 2013-2, reads as rewritten:

"(a) Surtax Imposed. – A surtax is imposed on an employer who is required to make a contribution to the Unemployment Insurance Fund equal to twenty percent (20%) of the contribution due under G.S. 96-9.2. Except as provided in this section, the surtax is collected and administered in the same manner as contributions. Surtaxes collected under this section must be credited to the Unemployment Insurance Reserve Fund established under ~~G.S. 96-6.~~ G.S. 96-6.1. Interest and penalties collected on unpaid surtaxes imposed by this section must be credited to the Supplemental Employment Security Administration Fund. Penalties collected on unpaid surtaxes imposed by this section must be transferred ~~credited~~ to the Civil Penalty and Forfeiture Fund established in G.S. 115C-457.1."

SECTION 9. G.S. 96-10(g) reads as rewritten:

"(g) Upon the motion of the Division, any employer refusing to submit any report required under this Chapter, after 10 days' written notice sent by the Division by registered or certified mail to the employer's last known address, may be enjoined by any court of competent jurisdiction from hiring and continuing in employment any employees until such report is properly submitted. When an execution has been returned to the Division unsatisfied, and the employer, after 10 days' written notice sent by the Division by registered or certified mail to the employer's last known address, refuses to pay the contributions covered by the execution, such employer shall upon the motion of the Division be enjoined by any court of competent jurisdiction from hiring and continuing in employment any employees until such contributions have been paid.

An employer who fails to file a report within the required time shall be assessed a late filing penalty of five percent (5%) of the amount of contributions due with the report for each month or fraction of a month the failure continues. The penalty may not exceed twenty-five percent (25%) of the amount of contributions due. An employer who fails to file a report within the required time but owes no contributions shall not be assessed a penalty unless the employer's failure to file continues for more than 30 days."

SECTION 10. G.S. 96-11.2, as enacted by S.L. 2013-2, reads as rewritten:

"**§ 96-11.2. Allocation of charges to base period employers.**

Benefits paid to an individual are charged to an employer's account when the individual's benefit year has expired. Benefits paid to an individual must be allocated to the account of each base period employer in the proportion that the base period wages paid to the individual in a calendar quarter by each base period employer bears to the total wages paid to the individual in ~~that quarter~~ the base period by all base period employers. The amount allocated to an employer that pays contributions is multiplied by one hundred twenty percent (120%) and charged to that employer's account. The amount allocated to an employer that elects to reimburse the Unemployment Insurance Fund in lieu of paying contributions is the amount of benefits charged to that employer's account."

SECTION 11. G.S. 96-11.4(a), as enacted by S.L. 2013-2, reads as rewritten:

"(a) ...

(2) The employer or agent has a pattern of failing to respond timely or adequately to requests from the Division for information relating to claims for unemployment compensation. In determining whether the employer or agent has a pattern of failing to respond timely or adequately, the Division must consider the number of documented instances of that employer's or agent's failures to respond in relation to the total requests made to that employer or agent. An employer or agent may not be determined to have a pattern of failing to respond if the number of failures during the year prior to the request is ~~less~~ fewer than two or less than two percent (2%) of the total requests made to that employer or agent, whichever is greater.~~agent.~~"

SECTION 12. G.S. 96-14.1(e), as enacted by S.L. 2013-2, reads as rewritten:

"(e) Federal Restrictions. – Benefits are not payable for services performed by the following individuals, to the extent prohibited by section 3304 of the Code:

(1) Instructional, research, or principal administrative employees of educational institutions.

(2) Services in any other capacity for an educational institution.

~~(2)~~(3) Professional athletes.

~~(3)~~(4) Aliens."

SECTION 13. G.S. 96-14.3, as enacted by S.L. 2013-2, reads as rewritten:

"**§ 96-14.3. Minimum and maximum duration of benefits.**

The minimum and maximum number of weeks an individual is allowed to receive unemployment benefits depends on the seasonal adjusted statewide unemployment rate that applies to the six-month base period in which the claim is filed. One six-month base period begins on January 1 and one six-month base period begins on July 1. For the base period that begins January 1, the average of the seasonal adjusted unemployment ~~rate~~ rates for the State for the preceding ~~month~~ months of ~~October~~ July, August, and September applies. For the base period that begins July 1, the average of the seasonal adjusted unemployment ~~rate~~ rates for the State for the preceding ~~month~~ months of ~~April~~ January, February, and March applies. The Division must use the most recent seasonal adjusted unemployment rate determined by the U.S. Department of Labor, Bureau of Labor Statistics, and not the rate as revised in the annual benchmark. The number of weeks allowed for an individual is determined in accordance with G.S. 96-14.4.

...."

SECTION 14. G.S. 96-14.9(d), as enacted by S.L. 2013-2, reads as rewritten:

"(d) ...

(4) The individual is on disciplinary suspension for ~~more than~~ 30 or fewer days based on acts or omissions that constitute fault on the part of the employee and are connected with the work."

SECTION 15. G.S. 96-14.10, as enacted by S.L. 2013-2, reads as rewritten:

"**§ 96-14.10. Disciplinary suspension.**

The disciplinary suspension of an employee for 30 or fewer consecutive calendar days does not constitute good cause for leaving work. An individual who is on suspension is not available for work and is not eligible for benefits for any week during any part of the disciplinary suspension. If the disciplinary suspension exceeds 30 days, the individual is considered to have been discharged from work because of the acts or omissions that caused the suspension and the issue is whether the discharge was for disqualifying reasons. During the period of suspension of ~~up to~~ 30 or fewer days, the individual is considered to be attached to the employer's payroll, and the issue of separation from work is held in abeyance until a claim is filed for a week to which this section does not apply."

SECTION 16. G.S. 96-15(a1), as enacted by S.L. 2013-2, reads as rewritten:

"(a1) Attached Claims. – An employer may file claims for employees through the use of automation in the case of partial unemployment. An employer may file an attached claim for an employee only once during a ~~calendar year,~~ benefit year, and the period of partial unemployment for which the claim is filed may not exceed six weeks. To file an attached claim, an employer must pay the Division an amount equal to the full cost of unemployment benefits payable to the employee under the attached claim at the time the attached claim is filed. The Division must credit the amounts paid to the Unemployment Insurance Fund.

An employer may file an attached claim under this subsection only if the employer has a positive credit balance in its account as determined under Article 2B of this Chapter. If an employer does not have a positive credit balance in its account, the employer must remit to the Division an amount equal to the amount necessary to bring the employer's negative credit balance to at least zero at the time the employer files the attached claim."

SECTION 17. G.S. 96-15(b), as enacted by S.L. 2013-2, reads as rewritten:

"(b) ...

(2) Adjudication. – When a protest is made by the claimant to the initial or monetary determination, or a question or issue is raised or presented as to the eligibility of a claimant, or whether any disqualification should be imposed, or benefits denied or adjusted pursuant to G.S. 96-18, the matter shall be referred to an adjudicator. The adjudicator may consider any matter, document or statement deemed to be pertinent to the issues, including telephone conversations, and after such consideration shall render a conclusion as to the claimant's benefit entitlements. The adjudicator shall notify the claimant and all other interested parties of the conclusion reached. The conclusion of the adjudicator shall be deemed the final decision of the Division unless within 30 days after the date of notification or mailing of the conclusion, whichever is earlier, a written appeal is filed pursuant to rules adopted by the Division. The Division shall be deemed an interested party for such purposes and may remove to itself or transfer to an appeals referee the proceedings involving any claim pending before an adjudicator.

Provided, any interested employer shall be allowed ~~10~~14 days from the mailing or delivery of the notice of the filing of a claim against the employer's account, whichever first occurs, to file with the Division its ~~account to~~ protest of the claim in order to ~~and~~ have the claim referred to an adjudicator for a decision on the question or issue raised. Any protest filed must contain a basis for the protest and supporting statement of facts, and the protest may not be amended after the 14-day period from the mailing or delivery of the notice of filing of a claim has expired. A copy of the notice of the filing shall be sent contemporaneously to the employer by telefacsimile transmission if a fax number is on file. No payment of benefits shall be made by the Division to a claimant until one of the following occurs:

a. The employer has filed a timely protest to the claim.

b. The 14-day period for the filing of a protest by the employer has expired.

c. A determination under this subdivision has been made.

Provided further, no question or issue may be raised or presented by the Division as to the eligibility of a claimant, or whether any disqualification should be imposed, after 45 days from the first day of the first week after the question or issue occurs with respect to which week an individual filed a claim for benefits. None of the provisions of this subsection shall have the

force and effect nor shall the same be construed or interested as repealing any other provisions of G.S. 96-18.

An employer shall receive written notice of the employer's appeal rights and any forms that are required to allow the employer to protest the claim. The forms shall include a section referencing the appropriate rules pertaining to appeals and the instructions on how to appeal."

SECTION 18. G.S. 96-9.15(d), as enacted by S.L. 2013-2, reads as rewritten:

"(d) Form of Report. – An employer must complete the tax form prescribed by the Division. An employer or an agent of an employer that reports wages for at least 25 employees must file the portion of the "Employer's Quarterly Tax and Wage Report" that contains the name, social security number, and gross wages of each employee in ~~a~~ an electronic format prescribed by the Division. For failure of an employer to comply with this subsection, the Division must assess a penalty of twenty-five dollars ($25.00). For failure of an agent of an employer to comply with this subsection, the Division may deny the agent the right to report wages and file reports for that employer for a period of one year following the calendar quarter in which the agent filed the improper report. The Division may reduce or waive a penalty for good cause shown."

SECTION 19. Section 11 of S.L. 2013-2 reads as rewritten:

"**SECTION 11.** This act becomes effective July 1, 2013. Changes made by this act to unemployment benefits apply to claims for benefits filed on or after ~~July 1, 2013.~~ June 30, 2013. The requirements of G.S. 96-15(a1), as enacted by S.L. 2013-2 and amended by Section 14 of this act, apply to any week of an attached claim filed on or after June 30, 2013. Changes made by this act to require an account balance by an employer that is a governmental entity or a nonprofit organization and that elects to finance benefits by making reimbursable payments in lieu of contributions apply to advance payments payable for calendar quarters beginning on or after July 1, 2013. Changes made by this act to the determination and application of the contribution rate apply to contributions payable for calendar quarters beginning on or after January 1, 2014."

SECTION 20.(a) G.S. 96-4(x)(6), as enacted by S.L. 2013-2, reads as rewritten:

"(6) Nothing in this subsection (x)~~(t)~~ shall operate to relieve any claimant or employer from disclosing any information required by this Chapter or by regulations promulgated thereunder."

SECTION 20.(b) G.S. 96-4(x)(7) reads as rewritten:

"(7) Nothing in this subsection (x)~~(t)~~ shall be construed to prevent the Division from allowing any individual or entity to examine and copy any report, return, or any other written communication made by that individual or entity to the Division, its agents, or its employees."

SECTION 20.(c) G.S. 96-9.5(4)(c.), as enacted by S.L. 2013-2, reads as rewritten:

"c. The employer has elected coverage in this State in accordance with ~~G.S. 96-9.9.~~G.S. 96-9.8."

SECTION 20.(d) G.S. 96-10(d) reads as rewritten:

"(d) Collections of Contributions upon Transfer or Cessation of Business. – The contribution or tax imposed by G.S. 96-9.2,~~G.S. 96-9,~~ and subsections thereunder, of this Chapter shall be a lien upon the assets of the business of any employer subject to the provisions hereof who shall lease, transfer or sell out his business, or shall cease to do business and such employer shall be required, by the next reporting date as prescribed by the Division, to file with the Division all reports and pay all contributions due with respect to wages payable for employment up to the date of such lease, transfer, sale or cessation of the business and such employer's successor in business shall be required to withhold sufficient of the purchase money to cover the amount of said contributions due and unpaid until such time as the former owner or employer shall produce a receipt from the Division showing that the contributions have been

paid, or a certificate that no contributions are due. If the purchaser of a business or a successor of such employer shall fail to withhold purchase money or any money due to such employer in consideration of a lease or other transfer and the contributions shall be due and unpaid after the next reporting date, as above set forth, such successor shall be personally liable to the extent of the assets of the business so acquired for the payment of the contributions accrued and unpaid on account of the operation of the business by the former owner or employer."

SECTION 20.(e) G.S. 96-14.11(c)(2), as enacted by S.L. 2013-2, reads as rewritten:

"(2) The individual was recalled in a week in which the work search requirements were satisfied under ~~G.S. 96-14.7(g)~~ G.S. 96-14.9(g) due to job attachment."

SECTION 20.(f) G.S. 96-14.14(c)(2), as recodified by S.L. 2013-2, reads as rewritten:

"(2) The individual has satisfied the requirements of this Chapter for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits. Provided, however, that for purposes of disqualification for extended benefits for weeks of unemployment beginning after March 31, 1981, the term "suitable work" means any work which is within the individual's capabilities to perform if: (i) The gross average weekly remuneration payable for the work exceeds the sum of the individual's weekly extended benefit amount plus the amount, if any, of supplemental unemployment benefits (as defined in section 501(C)(17)(D) of the Internal Revenue Code of 1954) payable to such individual for such week; and (ii) the gross wages payable for the work equal the higher of the minimum wages provided by section 6(a)(1) of the Fair Labor Standards Act of 1938 as amended (without regard to any exemption), or the State minimum wage; and (iii) the work is offered to the individual in writing and is listed with the State employment service; and (iv) the considerations contained in G.S. 96-14.9(f)~~G.S. 96-14(3)~~ for determining whether or not work is suitable are applied to the extent that they are not inconsistent with the specific requirements of this subdivision; and (v) the individual cannot furnish evidence satisfactory to the Division that his prospects for obtaining work in his customary occupation within a reasonably short period of time are good, but if the individual submits evidence which the Division deems satisfactory for this purpose, the determination of whether or not work is suitable with respect to such individual shall be made in accordance with G.S. 96-14.9(f)~~G.S. 96-14(3)~~ without regard to the definition contained in this subdivision. Provided, further, that no work shall be deemed to be suitable work for an individual which does not accord with the labor standard provisions set forth in this subdivision, but the employment service shall refer any individual claiming extended benefits to any work which is deemed suitable hereunder. Provided, further, that any individual who has been disqualified for voluntarily leaving employment, being discharged for misconduct or substantial fault, or refusing suitable work under G.S. 96-14.11~~G.S. 96-14~~ and who has had the disqualification terminated, shall have such disqualification reinstated when claiming extended benefits unless the termination of the disqualification was based upon employment subsequent to the date of the disqualification."

SECTION 20.(g) G.S. 96-14.14(c)(3), as recodified by S.L. 2013-2, reads as rewritten:

"(3) After March 31, 1981, he has not failed either to apply for or to accept an offer of suitable work, as defined in G.S. 96-14.14(c)(2),~~G.S. 96-12.01(c)(2),~~ to which he was referred by an employment office of the Division, and he has furnished the Division with tangible evidence that he has actively engaged in a systematic and sustained effort to find work. If an individual is found to be ineligible hereunder, he shall be ineligible beginning with the week in which he either failed to apply for or to accept the offer of suitable work or failed to furnish the Division with tangible evidence that he has actively engaged in a systematic and sustained effort to find work and such individual shall continue to be ineligible for extended benefits until he has been employed in each of four subsequent weeks (whether or not consecutive) and has earned remuneration equal to not less than four times his weekly benefit amount."

SECTION 20.(h) G.S. 96-14.14(e)(1), as recodified by S.L. 2013-2, reads as rewritten:

"(1) Total Extended Benefit Amount. – Except as provided in subdivision (2) hereof, the total extended benefit amount payable to any eligible individual with respect to his applicable benefit year shall be the least of the following amounts:

a. Fifty percent (50%) of the total amount of regular benefits which were payable to him under this Chapter in his applicable benefit year; or

b. Thirteen times his weekly benefit amount which was payable to him under this Chapter for a week of total unemployment in the applicable benefit year.

Provided, that during any fiscal year in which federal payments to states under Section 204 of the Federal-State Extended Unemployment Compensation Act of 1970, P.L. 91-373, are reduced under an order issued under Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, P.L. 99-177, the total extended benefit amount payable to an individual with respect to his applicable benefit year shall be reduced by an amount equal to the aggregate of the reductions under G.S. 96-14.14(d)~~G.S. 96-12.01(d)~~ and the weekly amounts paid to the individual."

SECTION 20.(i) G.S. 96-14.14(g), as recodified by S.L. 2013-2, reads as rewritten:

"(g) Prior to January 1, 1978, any extended benefits paid to any claimant under G.S. 96-14.14~~G.S. 96-12.01~~ shall not be charged to the account of the base period employer(s) who pay taxes as required by this Chapter. However, fifty percent (50%) of any such benefits paid shall be allocated as provided in G.S. 96-11.2~~G.S. 96-9(c)(2) a~~ (except that G.S. 96-11.3~~G.S. 96-9(c)(2) b~~ shall not apply), and the applicable amount shall be charged to the account of the appropriate employer paying on a reimbursement basis in lieu of taxes.

On and after January 1, 1978, the federal portion of any extended benefits shall not be charged to the account of any employer who pays taxes as required by this Chapter but the State portion of such extended benefits shall be:

(1) Charged to the account of such employer; or

(2) Not charged to the account of the employer under the provisions of G.S. 96-11.3.~~G.S. 96-9(c)(2).~~

All state portions of the extended benefits paid shall be charged to the account of governmental entities or other employers not liable for FUTA taxes who are the base period employers."

SECTION 20.(j) G.S. 96-14.14(h), as recodified by S.L. 2013-2, reads as rewritten:

"(h) Notwithstanding the provisions of G.S. 96-9.6, G.S. 96-14.14(g), ~~G.S. 96-9(d)(1)a, 96-9(d)(2)c, 96-12.01(g),~~ or any other provision of this Chapter, any extended benefits paid which are one hundred percent (100%) federally financed shall not be charged in any percentage to any employer's account."

SECTION 20.(k) G.S. 96-16(a), as enacted by S.L. 2013-2, reads as rewritten:

"(a) A seasonal pursuit is one which, because of seasonal conditions making it impracticable or impossible to do otherwise, customarily carries on production operations only within a regularly recurring active period or periods of less than an aggregate of 36 weeks in a calendar year. No pursuit shall be deemed seasonal unless and until so found by the Division; except that any successor under ~~G.S. 96-11.6~~ G.S. 96-11.7 to a seasonal pursuit shall be deemed seasonal unless such successor shall within 120 days after the acquisition request cancellation of the determination of status of such seasonal pursuit; provided further that this provision shall not be applicable to pending cases nor retroactive in effect."

SECTION 20.(l) G.S. 96-16(d) reads as rewritten:

"(d) A seasonal determination shall become effective unless an interested party files an application for review within 10 days after the beginning date of the first period of production operations to which it applies. Such an application for review shall be deemed to be an application for a determination of status, as provided in G.S. 96-4, subsections (q) through (u), ~~(m) through (q),~~ of this Chapter, and shall be heard and determined in accordance with the provisions thereof."

SECTION 21. G.S. 96-4, as amended by S.L. 2011-145, created a Board of Review to determine appeals policies and procedures and to hear appeals arising from the decisions and determinations of the Division of Employment Security. The Board is comprised of three members appointed by the Governor and confirmed by the General Assembly. The Governor is directed to appoint the members of the Board of Review by September 1, 2013. Notwithstanding G.S. 96-4(b), the initial Board of Review appointments made pursuant to this section do not require confirmation by the General Assembly.

SECTION 22. This act is effective when it becomes law.

HOUSE BILL 743:
UI Laws Administrative Changes

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 5, 2013
Introduced by:	Reps. Howard, Warren	**Prepared by:**	Greg Roney Committee Counsel
Analysis of:	PCS to Second Edition H743-CSTMx-43		

SUMMARY: ***The Proposed Committee Substitute (PCS) for House Bill 743 would make administrative and technical changes to S.L. 2013-2, UI Fund Solvency & Program Changes (House Bill 4) and correct cross references in Chapter 96 of the General Statutes.***

CURRENT LAW: S.L. 2013-2, UI Fund Solvency & Program Changes (House Bill 4) made changes to the State unemployment insurance program (UI) to accelerate the repayment of the $2.5 billion advance the State borrowed from the federal government to pay UI benefits. The Governor signed S.L. 2013-2 on February 19, 2013.

BILL ANALYSIS: The PCS for House Bill 743 would make the following technical changes to S.L. 2013-2, UI Fund Solvency & Program Changes (House Bill 4):

- Correct references to "Board of Review."
- Clarify that penalties are paid into the Supplemental Employment Security Administration Fund then transferred to the Civil Penalty and Forfeiture Fund.
- Correct reference to the Unemployment Insurance Reserve Fund as an enterprise fund – not a special revenue fund.
- Correct references to fiscal years.
- Clarify that amounts in the account of a reimbursing employer in excess of 1% of taxable wages will not be refunded to the employer and will be retained as a credit.
- Correct language taken from Internal Revenue Code section 3304.
- Determine the minimum and maximum number of weeks of benefits based on the seasonal adjusted statewide unemployment rate over a 3-month period. S.L. 2013-2 used the unemployment rate for a single month to determine the weeks of benefits. Using an average of 3 months avoids administrative delays when the US Department of Labor adjusts the unemployment rate for a month subsequent to the announcement.
- Correct definition of disciplinary suspension to less than 30 days from more than 30 days.
- Require by statute that employers must state a basis for a protest of a claim within 15 days from the delivery of the notice of filing of a claim.
- Require by statute that benefits are not paid until one of the following occurs: the employer files a protest, the 14-day period to file a protest expires, or the claim is adjudicated.
- Require by statute that employers with 25 employees file wage reports in an electronic format.
- Move the effective date from Monday, July 1, 2013 to Sunday, June 30, 2013 because claims for unemployment benefits are based on weeks beginning on Sundays.

- Direct the Governor to appoint the members of the Board of Review by September 1, 2013 and allow the initial Board of Review appointments to serve without confirmation by the General Assembly.
- Correct statutory cross references and other technical errors.

The PCS for House Bill 743 would also correct cross references in Chapter 96 of the General Statutes.

EFFECTIVE DATE: The PCS to House Bill 743 would be effective when it becomes law.

HOUSE BILL 439
Committee Substitute Favorable 4/9/13

Short Title: Economic Development Jobsites Program. (Public)

Sponsors:

Referred to:

March 27, 2013

A BILL TO BE ENTITLED

AN ACT TO CREATE AN INFRASTRUCTURE PROPERTY TAX DEFERRAL PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. Article 12 of Subchapter II of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-277.15A. Taxation of site infrastructure land.**

(a) Classification. – Site infrastructure land is designated a special class of property under Section 2(2) of Article V of the North Carolina Constitution and must be appraised, assessed, and taxed in accordance with this section.

(b) Requirements. – Land qualifies as site infrastructure land if it meets the following size and use requirements:

(1) Size. – The land must consist of at least 100 contiguous acres.

(2) Use. – The land must meet all of the following requirements:

a. It must be zoned for industrial use, office use, or both.

b. A building permit for a primary building or structure must not have been issued for the land, and there is no primary building or structure on the land.

c. It must be classified under G.S. 105-277.3 or have been classified under G.S. 105-277.3 within the previous six months.

(c) Deferred Taxes. – An owner may defer a portion of tax imposed on site infrastructure land that represents the sum of the increase in value of the property attributable solely to improvements made to the site infrastructure land, if any, and the difference between the true value of the site infrastructure land and the value of the site infrastructure land as if it were classified under G.S. 105-277.3 as agricultural land. The difference between the taxes due under this section and the taxes that would have been payable in the absence of this section is a lien on the site infrastructure land as provided in G.S. 105-355(a). The difference in taxes must be carried forward in the records of each taxing unit as deferred taxes. The deferred taxes are due and payable in accordance with G.S. 105-277.1F when the site infrastructure land loses its eligibility for deferral because of the occurrence of a disqualifying event as follows:

(1) The deferred taxes for the preceding five fiscal years are due and payable when an amount equal to the deferred taxes is not invested in improvements to make the land suitable for industrial use, office use, or both within five years from the first day of the fiscal year the property was classified under this section.

(2) The deferred taxes for the preceding five fiscal years are due and payable when the minimum investment required by subdivision (1) of this subsection is timely made, but the land has been classified under this section for 10 years.

(3) All deferred taxes are due and payable when some or all of the site infrastructure land is rezoned for a use other than for industrial use, office use, or both.

(4) The deferred taxes for the preceding year are due and payable when the land is transferred or when a building permit for a primary building or structure for the land is issued.

(d) Notice. – On or before September 1 of each year, the collector shall notify each owner to whom a tax deferral has previously been granted of the accumulated sum of deferred taxes and interest. An owner who fails to notify the county assessor when land classified under this section loses its eligibility for classification is subject to a penalty in the amount set in G.S. 105-277.5.

(e) Exception to Payment. – No deferred taxes are due in the following circumstances, and the deferred taxes remain a lien on the land:

(1) When the owner of site infrastructure land that was previously classified under G.S. 105-277.3 does not transfer the land, and the land again becomes eligible for classification under G.S. 105-277.3. In this circumstance, the deferred taxes are payable in accordance with G.S. 105-277.3.

(2) When a portion of the site infrastructure land is transferred for industrial use, office use, or both or has issued for the land a building permit for a primary building or structure for industrial use, office use, or both, and the remainder of the site infrastructure land no longer meets the size requirement of this section. In this circumstance, the deferred taxes for the remainder are payable in accordance with this section without application of the size requirement of subdivision (b)(1) of this section.

(f) Application. – An application for property tax relief provided by this section should be filed during the regular listing period but may be filed after the regular listing period upon a showing of good cause by the applicant for failure to make a timely application, as determined and approved by the board of equalization and review or, if that board is not in session, by the board of county commissioners. An untimely application approved under this subsection applies only to property taxes levied by the county or municipality in the calendar year in which the untimely application is filed. Decisions of the county board may be appealed to the Property Tax Commission. Persons may apply for this property tax relief by entering the appropriate information on a form made available by the assessor under G.S. 105-282.1. An application for property tax relief provided by this section may not be approved for any portion of site infrastructure land which has previously lost eligibility for the program.

(g) Report. – On August 1 of each year, the Secretary shall report to the Department of Commerce the number and location of site infrastructure lands qualified under this section."

SECTION 2. G.S. 105-277.3 is amended by adding a new subsection to read:

"(d3) Site Infrastructure Exception. – When an owner of land classified under this section (i) does not transfer the land and the land becomes eligible for classification under G.S. 105-277.15A or (ii) does transfer the land but the land becomes eligible for classification under G.S. 105-277.15A within six months of the transfer, no deferred taxes are due. The deferred taxes remain a lien on the land and are payable in accordance with G.S. 105-277.15A."

SECTION 3. G.S. 105-277.1F(a) reads as rewritten:

"(a) Scope. – This section applies to the following deferred tax programs:

(1) G.S. 105-275(12), real property owned by a nonprofit corporation held as a protected natural area.

(1a) G.S. 105-275(29a), historic district property held as future site of historic structure.
(2) G.S. 105-277.1B, the property tax homestead circuit breaker.
(2a) G.S. 105-277.1D, the inventory property tax deferral.
(3) G.S. 105-277.4(c), present-use value property.
(4) G.S. 105-277.14, working waterfront property.
(4a) G.S. 105-277.15, wildlife conservation land.
(4b) G.S. 105-277.15A, site infrastructure land.
(5) G.S. 105-278(b), historic property.
(6) G.S. 105-278.6(e), nonprofit property held as future site of low- or moderate-income housing."

SECTION 4. G.S. 143B-437.02(k) reads as rewritten:

"(k) Monitoring and Reports. – The Department is responsible for monitoring compliance with the performance criteria under each site development agreement and for administering the repayment in case of default. The Department shall pay for the cost of this monitoring from funds appropriated to it for that purpose or for other economic development purposes.

On September 1 of each year until all funds have been expended, the Department shall report to the Joint Legislative Commission on Governmental Operations regarding the Site Infrastructure Development Program. This report shall include a listing of each agreement negotiated and entered into during the preceding year, including the name of the business, the cost/benefit analysis conducted by the Committee during the application process, a description of the project, and the amount of the site development incentive expected to be paid under the agreement during the current fiscal year. The report shall also include detailed information about any defaults and repayment during the preceding ~~year.~~year and the information contained in the report required by G.S. 105-277.15A(g). The Department shall publish this report on its web site and shall make printed copies available upon request."

SECTION 5. Sections 1, 2, and 3 of this act are effective for taxes imposed for taxable years beginning on or after July 1, 2013. The remainder of this act is effective when it becomes law.

HOUSE BILL 439:
Economic Development Jobsites Program

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 5, 2013
Introduced by:	Reps. Howard, Moffitt, Murry, Tine	**Prepared by:**	Dan Ettefagh Committee Counsel
Analysis of:	Second Edition		

SUMMARY: ***This act creates a property tax deferral program to defer a portion of taxes on a parcel of property if the parcel (i) is at least 100 contiguous acres, (ii) is zoned for industrial and/or office use, (iii) does not have a building permit for a primary building or structure issued for it, and (iv) is classified under the present use value (PUV) property tax deferral program or was classified under the PUV program within the previous 6 months. The portion of taxes to be deferred is the sum of the value of any improvements on the site and the difference between the true value of the site and the value of the site treated as agricultural land in the present-use value program.***

CURRENT LAW: North Carolina currently has seven property tax deferral programs: (i) historic district property held as a future site of historic structures, (ii) the circuit breaker tax deferral program, (iii) nonprofit property held as a future site of low or moderate income housing, (iv) PUV property, (v) working waterfront property, (vi) historic property, and (vii) the inventory deferral program. Uniform tax provisions for all deferral programs include the following:

- Taxes that are deferred under one of these programs become a lien on the property, which is extinguished when the taxes are paid.
- The deferred taxes are due and payable on the day the property loses its eligibility for deferral as a result of a disqualifying event.
- Interest accrues during the deferral period as of the date the taxes would have originally become due without the deferral program.
- Upon disqualification, the tax for a year in which a disqualifying event occurs is computed without the benefit of the deferral program.

BILL ANALYSIS: This bill would create an eighth property tax deferral program for sites with potential to be developed for office or industrial applications and encourage horizontal improvement so as to make them more readily adapted to those uses in a shorter timeframe. In order to qualify, the site must be zoned for office and/or industrial use, must consist of at least 100 acres, may not have a building permit for a primary building or structure issued for it, and must be or have been enrolled within the previous six months in the PUV program. The amount of property tax liability that can be deferred is the portion of tax that represents the increase in the property value resulting from any existing horizontal improvement plus the difference between the property valued at its true value and the property valued as agricultural land in the present use value system.

The deferred taxes are carried forward in the records of the county and, if applicable, the city in which the property is located until the occurrence of a disqualifying event. A disqualifying event causes the current years' tax liability (without benefit of the program) and some previous years' deferred tax liability to be due and payable as follows:

- If, within five years of classification, an amount equal to the deferred taxes is not invested in improvements to make the land suitable for office and/or industrial use ("minimum investment"), the deferred taxes for the preceding five years are due and payable.
- If the minimum investment is made but the property is classified for 10 years in the program, the deferred taxes for the preceding five years are due and payable.
- If some or all of the land is rezoned for a use other than office and/or industrial use, all deferred taxes are due and payable.
- If land is transferred or a building permit issues for the land, the deferred taxes (for only that portion transferred or to which the permit applies) for the preceding year are due and payable. The remaining parcel continues to receive treatment under this classification, even if it no longer meets the size requirement.

The tax collector must annually notify the owner of the accumulated sum of deferred taxes and interest. The owner must notify the county assessor if the land loses eligibility for the program, or the owner will be subject to a penalty of 10% of the total amount of deferred taxes and interest. The uniform provisions for deferral programs apply to this tax deferral program. Annual applications should be filed within the regular listing period and may be filed later if the board of equalization and review determines there is good cause for the lack of timely filing.

Deferred taxes are not triggered if land enrolled in the program is eligible and is transitioned back into a PUV program. The Secretary must annually report the number and location of lands enrolled in the program to the Department of Commerce, and the Department of Commerce must include that information in an annual publication.

EFFECTIVE DATE: This bill would be effective for taxes imposed for taxable years beginning on or after July 1, 2013.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 571*
PROPOSED COMMITTEE SUBSTITUTE S571-CSTDf-25 [v.4]
6/4/2013 5:38:22 PM

Short Title: Authorize Various Special Plates. (Public)

Sponsors:

Referred to:

April 2, 2013

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE VARIOUS SPECIAL REGISTRATION PLATES AND TO AMEND PROVISIONS FOR VARIOUS SPECIAL REGISTRATION PLATES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-79.4(b) reads as rewritten:

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

"(b) Types. – The Division shall issue the following types of special registration plates:

...

() Flag of the United States of America. – Issuable to the registered owner of a motor vehicle. The plate shall bear an image of a waving American flag. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

...

() I.B.P.O.E.W. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "The Improved Benevolent and Protective Order of Elks of the World" and the logo of the Improved Benevolent and Protective Order of Elks of the World.

...

() Municipality Plate. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear a graphic selected by the municipality represented by the plate and approved by the Division.

...

() National Law Enforcement Officers Memorial. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "National Law Enforcement Officers Memorial" and the logo of the National Law Enforcement Officers Memorial.

...

() NC FIRST Robotics. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the logo of NC FIRST Robotics and the phrase "NC FIRST Robotics.

...

() NCSC. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "NC Sportsmen's Caucus" and a logo provided by the Congressional Sportsmen's Foundation.

...

() North Carolina Cattlemen's Association. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the seal of the North Carolina Cattlemen's Association.

...

() Operation Coming Home. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Operation Coming Home" with a logo designed by Operation Coming Home, Inc.

...

() Pancreatic Cancer Awareness. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear a representation of a purple ribbon and the letters "ML" on the right side of the plate.

...

(172) Register of Deeds. – Issuable to a register of deeds. The plate shall bear the words "Register of Deeds" and the letter "R" followed by a number representing the county of the register of deeds. The number of a county shall be the order of the county in an alphabetical list of counties that assigns number one to the first county in the list. A plate issued to a retired register of deeds shall bear the phrase "Register of Deeds, Retired," followed by a number that indicates the county where the register of deeds served and a designation indicating the retired status of the register of deeds.

...

(175) Retired Legislator. – Issuable to a retired member of the North Carolina General Assembly in accordance with G.S. 20-81.12. A person who has served in the North Carolina General Assembly. The plate shall bear "The Great Seal of the State of North Carolina" and, as appropriate, the phrase "Retired Senate Member" or "Retired House Member" followed by a number representing the retired member's district with the letters "RM". If more than one retired member is from the same district, then the number shall be followed by a letter from A through Z. The plates shall be issued in the order applications are received.

...

() RiverLink. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "RiverLink.org" and a logo representing RiverLink, Inc.

...

(224) Vietnam Veterans of America. – Issuable to a member of the Vietnam Veterans of America. The plate shall bear the words "Vietnam Veterans of America" or "VVA" and the emblem of the VVA. A person may obtain from the Division a special registration plate under this subdivision for a motor vehicle or a motorcycle registered in that person's name. The registration fees and the restrictions on the issuance of a specialized registration plate for a motorcycle are the same as for any motor vehicle. The Division may not issue either type of the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

....

() YMCA – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the logo of the YMCA and the letters "SA" on the right side of the plate.

..."

SECTION 2. G.S. 20-79.7(a) reads as rewritten:

"(a) Fees. – Upon request, the Division shall provide and issue free of charge a single Legion of Valor, 100% Disabled Veteran, and Ex-Prisoner of War registration plate to a recipient of a Legion of Valor award, a 100% disabled veteran, and an ex-prisoner of war each year. The preceding special registration plates are subject to the regular motor vehicle registration fees in G.S. 20-88, if the registered weight of the vehicle is greater than 6,000 pounds. All other special registration plates are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

Special Plate	Additional Fee Amount
American Red Cross	$30.00
Animal Lovers	$30.00
Arthritis Foundation	$30.00
ARTS NC	$30.00
Back Country Horsemen of NC	$30.00
Boy Scouts of America	$30.00
Brenner Children's Hospital	$30.00
Carolina Raptor Center	$30.00
Carolinas Credit Union Foundation	$30.00
Carolinas Golf Association	$30.00
Coastal Conservation Association	$30.00
Coastal Land Trust	$30.00
Crystal Coast	$30.00
Daniel Stowe Botanical Garden	$30.00
El Pueblo	$30.00
Farmland Preservation	$30.00
First in Forestry	$30.00
Girl Scouts	$30.00
Greensboro Symphony Guild	$30.00
Historical Attraction	$30.00
Home Care and Hospice	$30.00
Home of American Golf	$30.00
HOMES4NC	$30.00
Hospice Care	$30.00
In God We Trust	$30.00
Maggie Valley Trout Festival	$30.00
Morgan Horse Club	$30.00
Mountains-to-Sea Trail	$30.00
Municipality Plate	$30.00
NC Civil War	$30.00
NC Coastal Federation	$30.00
NC FIRST Robotics	$30.00
NCSC	$30.00
NC Veterinary Medical Association	$30.00
National Kidney Foundation	$30.00
North Carolina 4-H Development Fund	$30.00
National Law Enforcement Officers Memorial	$30.00
North Carolina Cattlemen's Association	$30.00
North Carolina Emergency Management Association	$30.00
North Carolina Green Industry Council	$30.00
North Carolina Libraries	$30.00
Operation Coming Home	$30.00

1	Outer Banks Preservation Association	$30.00
2	Pamlico-Tar River Foundation	$30.00
3	Pancreatic Cancer Awareness	$30.00
4	P.E.O. Sisterhood	$30.00
5	Personalized	$30.00
6	Retired Legislator	$30.00
7	RiverLink	$30.00
8	Ronald McDonald House	$30.00
9	Share the Road	$30.00
10	S.T.A.R.	$30.00
11	State Attraction	$30.00
12	Stock Car Racing Theme	$30.00
13	Support NC Education	$30.00
14	Support Our Troops	$30.00
15	Sustainable Fisheries	$30.00
16	Toastmasters Club	$30.00
17	Topsail Island Shoreline Protection	$30.00
18	Travel and Tourism	$30.00
19	YMCA	$30.00
20	AIDS Awareness	$25.00
21	Buffalo Soldiers	$25.00
22	Choose Life	$25.00
23	Collegiate Insignia	$25.00
24	First in Turf	$25.00
25	Goodness Grows	$25.00
26	High School Insignia	$25.00
27	I.B.P.O.E.W.	$25.00
28	Kids First	$25.00
29	National Multiple Sclerosis Society	$25.00
30	National Wild Turkey Federation	$25.00
31	NC Agribusiness	$25.00
32	NC Children's Promise	$25.00
33	Nurses	$25.00
34	Olympic Games	$25.00
35	Rocky Mountain Elk Foundation	$25.00
36	Special Olympics	$25.00
37	Support Soccer	$25.00
38	Surveyor Plate	$25.00
39	The V Foundation for Cancer Research Division	$25.00
40	University Health Systems of Eastern Carolina	$25.00
41	Alpha Phi Alpha Fraternity	$20.00
42	ALS Association, Jim "Catfish" Hunter Chapter	$20.00
43	ARC of North Carolina	$20.00
44	Audubon North Carolina	$20.00
45	Autism Society of North Carolina	$20.00
46	Battle of Kings Mountain	$20.00
47	Be Active NC	$20.00
48	Brain Injury Awareness	$20.00
49	Breast Cancer Earlier Detection	$20.00
50	Buddy Pelletier Surfing Foundation	$20.00
51	Concerned Bikers Association/ABATE of North Carolina	$20.00

Daughters of the American Revolution	$20.00
Donate Life	$20.00
Ducks Unlimited	$20.00
Fraternal Order of Police	$20.00
Greyhound Friends of North Carolina	$20.00
Guilford Battleground Company	$20.00
Harley Owners' Group	$20.00
Jaycees	$20.00
Juvenile Diabetes Research Foundation	$20.00
Kappa Alpha Order	$20.00
Litter Prevention	$20.00
March of Dimes	$20.00
Native American	$20.00
NC Fisheries Association	$20.00
NC Horse Council	$20.00
NC Mining	$20.00
NC Tennis Foundation	$20.00
NC Trout Unlimited	$20.00
NC Victim Assistance	$20.00
NC Wildlife Federation	$20.00
NC Wildlife Habitat Foundation	$20.00
NC Youth Soccer Association	$20.00
North Carolina Master Gardener	$20.00
Omega Psi Phi Fraternity	$20.00
Phi Beta Sigma Fraternity	$20.00
Piedmont Airlines	$20.00
Prince Hall Mason	$20.00
Save the Sea Turtles	$20.00
Scenic Rivers	$20.00
School Technology	$20.00
SCUBA	$20.00
Soil and Water Conservation	$20.00
Special Forces Association	$20.00
Support Public Schools	$20.00
US Equine Rescue League	$20.00
USO of NC	$20.00
Wildlife Resources	$20.00
Zeta Phi Beta Sorority	$20.00
Carolina Regional Volleyball Association	$15.00
Carolina's Aviation Museum	$15.00
Leukemia & Lymphoma Society	$15.00
Lung Cancer Research	$15.00
NC Beekeepers	$15.00
Shag Dancing	$15.00
Active Member of the National Guard	None
Bronze Star Combat Recipient	None
Bronze Star Recipient	None
Combat Veteran	None
100% Disabled Veteran	None
Ex-Prisoner of War	None
Gold Star Lapel Button	None

Legion of Merit	None
Legion of Valor	None
Military Veteran	None
Military Wartime Veteran	None
Partially Disabled Veteran	None
Pearl Harbor Survivor	None
Purple Heart Recipient	None
All Other Special Plates	$10.00."

SECTION 3. G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) of this section among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, and the Parks and Recreation Trust Fund, which is established under G.S. 113-44.15, as follows:

Special Plate	SRPA	CCAPA	NHTF	PRTF
AIDS Awareness	$10	$15	0	0
Alpha Phi Alpha Fraternity	$10	$10	0	0
ALS Association, Jim "Catfish" Hunter Chapter	$10	$10	0	0
American Red Cross	$10	$20	0	0
Animal Lovers	$10	$20	0	0
ARC of North Carolina	$10	$10	0	0
Arthritis Foundation	$10	$20	0	0
ARTS NC	$10	$20	0	0
Audubon North Carolina	$10	$10	0	0
Autism Society of North Carolina	$10	$10	0	0
Back Country Horsemen of NC	$10	$20	0	0
Battle of Kings Mountain	$10	$10	0	0
Be Active NC	$10	$10	0	0
Boy Scouts of America	$10	$20	0	0
Brain Injury Awareness	$10	$10	0	0
Breast Cancer Earlier Detection	$10	$10	0	0
Brenner Children's Hospital	$10	$20	0	0
Buddy Pelletier Surfing Foundation	$10	$10	0	0
Buffalo Soldiers	$10	$15	0	0
Carolina Raptor Center	$10	$20	0	0
Carolina Regional Volleyball Association	$10	$5	0	0
Carolina's Aviation Museum	$10	$5	0	0
Carolinas Credit Union Foundation	$10	$20	0	0
Carolinas Golf Association	$10	$20	0	0
Choose Life	$10	$15	0	0
Coastal Conservation Association	$10	$20	0	0
Coastal Land Trust	$10	$20	0	0
Concerned Bikers Association/				

ABATE of North Carolina	$10	$10	0	0
Crystal Coast	$10	$20	0	0
Daniel Stowe Botanical Gardens	$10	$20	0	0
Daughters of the American Revolution	$10	$10	0	0
Donate Life	$10	$10	0	0
Ducks Unlimited	$10	$10	0	0
El Pueblo	$10	$20	0	0
Farmland Preservation	$10	$20	0	0
First in Forestry	$10	$10	$10	0
First in Turf	$10	$15	0	0
Fraternal Order of Police	$10	$10	0	0
Girl Scouts	$10	$20	0	0
Goodness Grows	$10	$15	0	0
Greensboro Symphony Guild	$10	$20	0	0
Greyhound Friends of North Carolina	$10	$10	0	0
Guilford Battleground Company	$10	$10	0	0
Harley Owners' Group	$10	$10	0	0
High School Insignia	$10	$15	0	0
Historical Attraction	$10	$20	0	0
Home Care and Hospice	$10	$20	0	0
Home of American Golf	$10	$20	0	0
HOMES4NC	$10	$20	0	0
Hospice Care	$10	$20	0	0
I.B.P.O.E.W.	$10	$15	0	0
In God We Trust	$10	$20	0	0
In-State Collegiate Insignia	$10	$15	0	0
Jaycees	$10	$10	0	0
Juvenile Diabetes Research Foundation	$10	$10	0	0
Kappa Alpha Order	$10	$10	0	0
Kids First	$10	$15	0	0
Leukemia & Lymphoma Society	$10	$5	0	0
Litter Prevention	$10	$10	0	0
Lung Cancer Research	$10	$5	0	0
Maggie Valley Trout Festival	$10	$20	0	0
March of Dimes	$10	$10	0	0
Morgan Horse Club	$10	$20	0	0
Mountains-to-Sea Trail	$10	$20	0	0
Municipality Plate	$10	$20	0	0
National Kidney Foundation	$10	$20	0	0
National Law Enforcement Officers Memorial	$10	$20	0	0
National Multiple Sclerosis Society	$10	$15	0	0
National Wild Turkey Federation	$10	$15	0	0
Native American	$10	$10	0	0

1	NC Agribusiness	$10	$15	0	0
2	NC Beekeepers	$10	$5	0	0
3	NC Children's Promise	$10	$15	0	0
4	NC Civil War	$10	$20	0	0
5	NC Coastal Federation	$10	$20	0	0
6	NC 4-H Development Fund	$10	$20	0	0
7	NC FIRST Robotics	$10	$20	0	0
8	NC Fisheries Association	$10	$10	0	0
9	NC Horse Council	$10	$10	0	0
10	NC Mining	$10	$10	0	0
11	NCSC	$10	$20	0	0
12	NC Tennis Foundation	$10	$10	0	0
13	NC Trout Unlimited	$10	$10	0	0
14	NC Veterinary Medical				
15	Association	$10	$20	0	0
16	NC Victim Assistance	$10	$10	0	0
17	NC Wildlife Federation	$10	$10	0	0
18	NC Wildlife Habitat				
19	Foundation	$10	$10	0	0
20	NC Youth Soccer				
21	Association	$10	$10	0	0
22	North Carolina Cattlemen's Association	$10	$20	0	0
23	North Carolina Emergency				
24	Management Association	$10	$20	0	0
25	North Carolina Green Industry				
26	Council	$10	$20	0	0
27	North Carolina Libraries	$10	$20	0	0
28	North Carolina Master Gardener	$10	$10	0	0
29	Nurses	$10	$15	0	0
30	Olympic Games	$10	$15	0	0
31	Omega Psi Phi Fraternity	$10	$10	0	0
32	Operation Coming Home	$10	$20	0	0
33	Out-of-state Collegiate Insignia	$10	0	$15	0
34	Outer Banks Preservation				
35	Association	$10	$20	0	0
36	Pamlico-Tar River Foundation	$10	$20	0	0
37	Pancreatic Cancer Awareness	$10	$20	0	0
38	P.E.O. Sisterhood	$10	$20	0	0
39	Personalized	$10	0	$15	$5
40	Phi Beta Sigma Fraternity	$10	$10	0	0
41	Piedmont Airlines	$10	$10	0	0
42	Prince Hall Mason	$10	$10	0	0
43	Retired Legislator	$10	$20	0	0
44	RiverLink	$10	$20	0	0
45	Rocky Mountain Elk				
46	Foundation	$10	$15	0	0
47	Ronald McDonald House	$10	$20	0	0
48	Save the Sea Turtles	$10	$10	0	0
49	Scenic Rivers	$10	$10	0	0
50	School Technology	$10	$10	0	0
51	SCUBA	$10	$10	0	0

Shag Dancing	$10	$5	0	0
Share the Road	$10	$20	0	0
Soil and Water Conservation	$10	$10	0	0
Special Forces Association	$10	$10	0	0
Special Olympics	$10	$15	0	0
S.T.A.R.	$10	$20	0	0
State Attraction	$10	$20	0	0
Stock Car Racing Theme	$10	$20	0	0
Support NC Education	$10	$20	0	0
Support Our Troops	$10	$20	0	0
Support Public Schools	$10	$10	0	0
Support Soccer	$10	$15	0	0
Surveyor Plate	$10	$15	0	0
Sustainable Fisheries	$10	$20	0	0
The V Foundation for Cancer Research	$10	$15	0	0
Toastmasters Club	$10	$20	0	0
Topsail Island Shoreline Protection	$10	$20	0	0
Travel and Tourism	$10	$20	0	0
University Health Systems of Eastern Carolina	$10	$15	0	0
US Equine Rescue League	$10	$10	0	0
USO of NC	$10	$10	0	0
Wildlife Resources	$10	$10	0	0
YMCA	$10	$20	0	0
Zeta Phi Beta Sorority	$10	$10	0	0
All other Special Plates	$10	0	0	0."

SECTION 4. G.S. 20-81.12(b2) reads as rewritten:

"(b2) State Attraction Plates. – The Division must receive 300 or more applications for a State attraction plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of State attraction plates to the organizations named below in proportion to the number of State attraction plates sold representing that organization:

(1) Aurora Fossil Museum. – The revenue derived from the special plate shall be transferred quarterly to the Aurora Fossil Museum Foundation, Inc., to be used for educational programs, for enhancing collections, and for operating expenses of the Aurora Fossil Museum.

(2) Blue Ridge Parkway Foundation. – The revenue derived from the special plate shall be transferred quarterly to Blue Ridge Parkway Foundation for use in promoting and preserving the Blue Ridge Parkway as a scenic attraction in North Carolina. A person may obtain from the Division a special registration plate under this subdivision for the registered owner of a motor vehicle or a motorcycle. The registration fees and the restrictions on the issuance of a specialized registration plate for a motorcycle are the same as for any motor vehicle. The Division must receive a minimum of 300 applications to develop a special registration plate for a motorcycle.

(3) Friends of the Great Smoky Mountains National Park. – The revenue derived from the special plate shall be transferred quarterly to the Friends of the Great Smoky Mountains National Park, Inc., to be used for educational materials, preservation programs, capital improvements for the portion of the

Great Smoky Mountains National Park that is located in North Carolina, and operating expenses of the Great Smoky Mountains National Park.

(4) Friends of the Appalachian Trail. – The revenue derived from the special plate shall be transferred quarterly to The Appalachian Trail Conference to be used for educational materials, preservation programs, trail maintenance, trailway and viewshed acquisitions, trailway and viewshed easement acquisitions, capital improvements for the portions of the Appalachian Trail and connecting trails that are located in North Carolina, and related administrative and operating expenses.

(5) North Carolina State Parks. – One-half of the revenue derived from the special plate shall be transferred quarterly to Natural Heritage Trust Fund established under G.S. 113-77.7, and the remaining revenue shall be transferred quarterly to the Parks and Recreation Trust Fund established under G.S. 113-44.15.

(6) "Old Baldy," Bald Head Island Lighthouse. – The revenue derived from the special plate shall be transferred quarterly to the Old Baldy Foundation, Inc., for its programs in support of the Bald Head Island Lighthouse.

(7) The North Carolina Aquariums. – The revenue derived from the special plate shall be transferred quarterly to the North Carolina Aquarium Society, Inc., for its programs in support of the North Carolina Aquariums.

(8) The North Carolina Arboretum. – The revenue derived from the special plate shall be transferred quarterly to The North Carolina Arboretum Society and used to help the Society obtain grants for the North Carolina Arboretum and for capital improvements to the North Carolina Arboretum.

(9) The North Carolina Maritime Museum. – The revenue derived from the special plate shall be transferred quarterly to Friends of the Museum, North Carolina Maritime Museum, Inc., to be used for educational programs and conservation programs and for operating expenses of the North Carolina Maritime Museum.

(10) The North Carolina Museum of Natural Sciences. – The revenue derived from the special plate shall be transferred quarterly to the Friends of the North Carolina State Museum of Natural Sciences for its programs in support of the museum.

(11) The North Carolina Transportation Museum. – The revenue derived from the special plate shall be transferred quarterly to the North Carolina Transportation Museum Foundation to be used for educational programs and conservation programs and for operating expenses of the North Carolina Transportation Museum.

~~(11)~~(12) The North Carolina Zoological Society. – The revenue derived from the special plate shall be transferred quarterly to The North Carolina Zoological Society, Incorporated, to be used for educational programs and conservation programs at the North Carolina Zoo at Asheboro and for operating expenses of the North Carolina Zoo at Asheboro.

~~(12)~~(13) U.S.S. North Carolina Battleship Commission. – The revenue derived from the special plate shall be transferred quarterly to the U.S.S. North Carolina Battleship Commission to be used for educational programs and preservation programs on the U.S.S. North Carolina (BB-55) and for operating expenses of the U.S.S. North Carolina Battleship Commission."

SECTION 5. G.S. 20-81.12 is amended by adding the following new subsections to read:

"(b126) North Carolina Cattlemen's Association. – The Division must receive 300 or more applications for the "North Carolina Cattlemen's Association" plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of "North Carolina Cattlemen's Association" plates to the North Carolina Cattlemen's Association, Inc.

(b127) RiverLink. – The Division must receive 300 or more applications for a "RiverLink" plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of "RiverLink" plates to RiverLink, Inc., to support the economic and environmental revitalization of the French Broad River and its tributaries as a place to work, live, and play.

(b128) Municipality Plate. – The Division must receive 300 or more applications for a municipality plate for a municipality before a municipality plate may be developed. The color, design, and material for the plate must be approved by both the Division and the municipality. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of a municipality plate to the municipality represented by the plate.

(b129) National Law Enforcement Officers Memorial. – The Division must receive 300 or more applications for a "National Law Enforcement Officers Memorial" plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of "National Law Enforcement Officers Memorial" plates to the National Law Enforcement Officers Memorial Fund to support the National Law Enforcement Officers Memorial in Washington, DC.

(b130) Fraternal Order of Police. –The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Fraternal Order of Police plates to The North Carolina Fraternal Order of Police to support the State Lodge.

(b131) Pancreatic Cancer Awareness. – The Division must receive 300 or more applications for a Pancreatic Cancer Awareness plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Pancreatic Cancer Awareness plates to the Mark Daidone Cancer Research Endowment maintained by the Levine Cancer Institute at the Carolinas HealthCare System to provide funding for research in the management of the early stages of cancer.

(b132) YMCA. – The Division must receive 300 or more applications for a YMCA plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of YMCA plates to the North Carolina State Alliance of YMCAs to support its mission of fighting childhood obesity, eliminating the achievement gap, and eradicating diabetes.

(b133) NC FIRST Robotics. – The Division must receive 300 or more applications for an NC FIRST Robotics plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of NC FIRST Robotics plates to NC FIRST Robotics to support its mission of inspiring youths to pursue further studies and careers in science and technology and helping students acquire the knowledge and skills needed to compete in the technologically driven global economy.

(b134) Operation Coming Home. – The Division must receive 300 or more applications for an "Operation Coming Home" plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of "Operation Coming Home" plates to the Operation Coming Home Foundation, Inc., to support its mission of providing free, custom-built homes to injured combat veterans.

(b135) NCSC. – The Division must receive 300 or more applications for an NCSC plate before the plate may be developed. The Division shall transfer quarterly the money in the

Collegiate and Cultural Attraction Plate Account derived from the sale of NCSC plates to the Congressional Sportsmen's Foundation to support its mission of protecting and advancing the rights of hunters, recreational anglers, shooters, and trappers in North Carolina.

(b136) I.B.P.O.E.W. – The Division must receive 300 or more applications for an I.B.P.O.E.W. plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of I.B.P.O.E.W. plates to the North Carolina Alliance of Boys and Girls Clubs to support its mission of promoting the social welfare of boys and girls as served by various Boys and Girls Clubs in North Carolina that are affiliated with the Boys and Girls Clubs of America."

SECTION 6. G.S. 20-81.12(b4) reads as rewritten:

"(b4) Olympic Games. – The Division may not issue an Olympic Games special plate unless it receives 300 or more applications for the plate and the U.S. Olympic Committee licenses, without charge, the State to develop a plate bearing the Olympic Games symbol and name. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Olympic Games plates to ~~the N.C. Health and Fitness Foundation, Inc.,~~North Carolina Amateur Sports, which will allocate the funds as follows:

(1) ~~Fifty percent (50%)~~Sixty-seven percent (67%) to the U.S. Olympic Committee to assist in training ~~olympic~~Olympic athletes.

(2) ~~Twenty-five percent (25%)~~Thirty-three percent (33%) to North Carolina Amateur Sports to assist with administration of the State Games of North Carolina.

~~(3) Twenty-five percent (25%) to the Governor's Council on Physical Fitness and Health to support local fitness council development throughout North Carolina.~~"

SECTION 7. G.S. 20-81.12(b38) reads as rewritten:

"(b38) Stock Car Racing Theme. – The Division may issue any plate in this series without a minimum number of applications if the person providing the State with the license to use the words, logos, trademarks, or designs associated with the plate produces the plate for the State without a minimum order quantity.

The cost of the Stock Car Racing Theme plate shall include all costs to produce blank plates for issuance by the Division. Notwithstanding G.S. 66-58(b), the Division or the Division of Adult Correction of the Department of Public Safety may contract for the production of the blank plates in this series to be issued by the Division, provided the plates meet or exceed the State's specifications including durability and retroreflectivity, and provided the plates are manufactured using high-quality embossable aluminum. The cost of the blank plates to the State shall be substantially equivalent to the price paid to the Division of Adult Correction of the Department of Public Safety for license tags, as provided in G.S. 66-58(b)(15).

The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Stock Car Racing Theme plates to the North Carolina Motorsports Foundation, ~~Inc.~~Inc., or Speedway Children's Charities."

SECTION 8. The Revisor of Statutes is authorized to alphabetize, number, and renumber the special registration plates listed in G.S. 20-79.4(b) to ensure that all the special registration plates are listed in alphabetical order and numbered accordingly.

SECTION 9. This act is effective when it becomes law.

SENATE BILL 571:
Authorize Various Special Plates

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 5, 2013
Introduced by:	Sen. Brock	**Prepared by:**	Heather Fennell Committee Counsel
Analysis of:	PCS to First Edition S571-CSTDf-25		

SUMMARY: ***The PCS to Senate Bill 571 authorizes the Division of Motor Vehicles to issue various special license plates and makes various other change to the statutes concerning special plates.***

[As introduced, this bill was identical to H22, as introduced by Reps. Warren, Stevens, Torbett, Ford, which is currently in House Transportation, if favorable, Finance.]

CURRENT LAW: G.S. 29-79.4 provides that upon application and payment of the required registration fees, a person may obtain from the Department of Motor Vehicles (DMV) a special registration plate for a motor vehicle registered in that person's name if the person qualifies for the registration plate. The issuance of most authorized plates is contingent upon the receipt by DMV of at least 300 applications for the particular plate.

As a general rule, the fee for a special registration plate is the regular vehicle registration fee plus a $10 special registration plate fee. The Division may issue one free registration plate to a recipient of the Legion of Valor award, a 100% disabled veteran, or an ex-prisoner of war. All other special registration plates, including additional Legion of Valor, 100% Disabled Veteran, and Ex-Prisoner of War plates, are subject to the regular motor vehicle registration fee of $28, and the additional special registration plate fee of $10.

The $10 special registration plate fee is credited to the Special Registration Plate Account. After deducting the cost of the plates from this account, $1.3 million is appropriated to provide operating assistance for Visitor Centers. The remaining revenue in the account is transferred quarterly to the Department of Commerce for advertising (33%), the Department of Transportation for highway beautification (50%), and the Department of Human Resources to promote travel accessibility for disabled persons (17%).

The cost of some special plates includes a fee in addition to the $10 special registration plate fee. In those instances, the first $10 goes to the special registration plate fund and the remainder is transferred quarterly to designated beneficiaries of the additional fee amount.

BILL ANALYSIS: Sections 1 through 5 of the PCS to Senate Bill 571 authorizes the Division of Motor Vehicles to issue the following new special license plates, and specifies the use of the additional special plate fee in excess of $10. The additional fee authorized for each plate follows the name of the plate:

- Flag of the United States of America - $10.
- Improved Benevolent and Protective Order of the Elks of the World (I.B.P.O.E.W) - $25.
- Municipality Plate - $30.
- National Law Enforcement Officers Memorial - $30.

- NC First Robotics - $30.
- NC Sportsmen's Caucus - $30.
- North Carolina's Cattlemen's Association - $30.
- Operation Coming Home - $30.
- Pancreatic Cancer Awareness - $30.
- Retired Register of Deeds - $10.
- RiverLink - $30.
- Motorcycle plate for Vietnam Veterans of America - $10.
- YMCA - $30.

The PCS to Senate Bill 571 also makes the additional changes to the authority for special plates:

- Clarifies the issuance of a plate to a retired legislator plate. A retired legislator is defined as a person who has served in the North Carolina General Assembly.
- Authorizes a new fee of $20 for the Fraternal Order of Police Plate.
- Adds the following plates to the list of plates for which there is not subject to a special plate fee in excess of $10 – Bronze Star Combat Recipient, Bronze Star Recipient, Combat Veteran, Legion of Merit, Military Veteran, Partially Disabled Veteran, and Pearl Harbor Survivor.
- Adjusts the proceeds from the Olympic Games plate.
- Provides that the proceeds from Carolina Motor Speedway plates in the Collegiate and Cultural Attractions Plate Account be transferred to the Speedway Children's Charities.
- Expands the list of State Attraction Plates by adding the North Carolina Transportation Museum and designates the use of revenue derived from the sale of the plate.

EFFECTIVE DATE: This act is effective when it becomes law.

Giles Perry, counsel to House Transportation, substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Fiscal Note

BILL NUMBER: Senate Bill 571 (First Edition)

SHORT TITLE: Authorize Various Special Plates.

SPONSOR(S): Senator Brock

FISCAL IMPACT
($ in millions)

☐ Yes ☐ No ☑ No Estimate Available

State Impact	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
General Fund Revenues:					
General Fund Expenditures:					
		SEE ASSUMPTIONS AND METHODOLOGY			
Special Fund Revenues:					
Special Fund Expenditures:					
State Positions:					
NET STATE IMPACT	$0.0	$0.0	$0.0	$0.0	$0.0

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Division of Motor Vehicles

EFFECTIVE DATE: This act is effective when it becomes law.

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY:

Senate Bill 571 enacts new subdivisions to GS 20-79.4(b) to authorize the following types of special registration plates:

- Flag of the United States of America
- Municipality Plate
- NC Cattlemen's Association
- Riverlink

Each plate issuance is contingent on the receipt of at least 300 plate applications. The bill makes revisions to the Register of Deeds and the Vietnam Veterans of America plates. It sets out the special plate fees and distribution amounts for each plate. And SB 571 amends GS 20-81.12(b2) to add the NC Transportation Museum plate as a state attraction plate.

ASSUMPTIONS AND METHODOLOGY:

Fiscal Research is unable to estimate the demand and the number of applications for each of the newly authorized plates. If each of the special plates achieves the 300 plate application mark, they will be issued and accompanied by the fees that are listed below.

Special Plate	Additional Fee Amount	SRPA	CCAPA
Flag of the United States of America	$10.00	$10.00	$0.00
Municipality Plate	$20.00	$10.00	$20.00
North Carolina Cattlemen's Association	$30.00	$10.00	$20.00
North Carolina Transportation Museum	$30.00	$10.00	$20.00
RiverLink	$30.00	$10.00	$20.00

The Special Registration Plate Account (SRPA) and the Collegiate and Cultural Attraction Plate Account (CCAPA) are established within the Highway Fund. The revenue derived from the North Carolina Transportation Museum special plate will be transferred quarterly to the North Carolina Transportation Museum Foundation, to be used for educational programs and conservation programs and for operating expenses of the North Carolina Transportation Museum.

SOURCES OF DATA: Division of Motor Vehicles

TECHNICAL CONSIDERATIONS: For the Municipality Plate, either the additional fee amount or the sum of the account distributions needs to be changed to be equal.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Brian Slivka

APPROVED BY: Mark Trogdon, Director
Fiscal Research Division

DATE: June 4, 2013

Signed Copy Located in the NCGA Principal Clerk's Offices

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 571*

AMENDMENT NO. 1
(to be filled in by Principal Clerk)

S571-ATD-62 [v.1]

Comm. Sub. [YES]
Amends Title [NO]
PCS to First Edition

Date June 5 ,2013

Senator Tillman

moves to amend the bill on page 12, line 40, by rewriting the line to read:

"Motorsports Foundation, ~~Inc.~~Inc.; except that the Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Charlotte Motor Speedway plates to Speedway Children's Charities.'".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED N FAILED _____ TABLED _____

S571-ATD-62-V-1

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 571*

AMENDMENT NO. 2
(to be filled in by Principal Clerk)

S571-ATD-61 [v.2]

Comm. Sub. [YES]
Amends Title [NO]
PCS to First Edition

Date June 5 ,2013

Senator Rabin

moves to amend the bill on page 5, line 45, through page 6, line 7, by writing the lines to read:

"Active Member of the National Guard	None
Armed Forces Expeditionary Medal Recipient	None
Bronze Star Combat Recipient	None
Bronze Star Recipient	None
Cold War Veteran	None
Combat Infantry Badge Recipient	None
Combat Veteran	None
100% Disabled Veteran	None
Ex-Prisoner of War	None
Gold Star Lapel Button	None
Legion of Merit	None
Legion of Valor	None
Military Reservist	None
Military Veteran	None
Military Wartime Veteran	None
Partially Disabled Veteran	None
Pearl Harbor Survivor	None
Purple Heart Recipient	None
Silver Star Recipient	None
US Navy Submarine Veteran	None".

SIGNED Ron Rabin
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

S571-ATD-61-V-2

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S D

SENATE BILL 312*
PROPOSED COMMITTEE SUBSTITUTE S312-CSRWx-60 [v.3]

6/4/2013 2:49:36 PM

Short Title: Referendum on Incorporating Lake James. (Local)

Sponsors:

Referred to:

March 14, 2013

A BILL TO BE ENTITLED

AN ACT REQUIRING A REFERENDUM ON WHETHER TO INCORPORATE THE VILLAGE OF LAKE JAMES.

The General Assembly of North Carolina enacts:

SECTION 1. The Burke County Board of Elections shall conduct an election on November 5, 2013, for the purpose of submission to the qualified voters for the area described in Section 2.1 of the proposed Charter of the Village of Lake James the question of whether or not the area shall be incorporated as the Village of Lake James. Registration for the election shall be conducted in accordance with G.S. 163-288.2.

SECTION 2. In the election, the question on the ballot shall be:

"[ ] FOR [ ] AGAINST
Incorporation of the Village of Lake James."

SECTION 3. In the election, if a majority of the votes are cast "FOR Incorporation of the Village of Lake James," Section 5 of this act shall become effective on the date that the Burke County Board of Elections certifies the results of the election. Otherwise, Section 5 of this act shall have no force and effect.

SECTION 4. At the same time as the election held under Section 1 of this act, the Burke County Board of Elections shall hold an election for the initial Village Council as provided in Articles III and IV of the proposed Charter of the Village of Lake James. If the majority of votes is not cast "FOR Incorporation of the Village of Lake James," the election of officers is null and void. The filing period for candidacies is the same as provided by G.S. 163-294.2.

SECTION 5. A Charter for the Village of Lake James is enacted to read:

"CHARTER OF THE VILLAGE OF LAKE JAMES.

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Village of Lake James are a body corporate and politic under the name "Village of Lake James." The Village of Lake James has all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general laws of North Carolina.

"ARTICLE II. CORPORATE BOUNDARIES.

"Section 2.1. **Village Boundaries.** Until modified in accordance with law, the boundaries of the Village of Lake James are as follows:

Benfield's Landing Road to Powerhouse Rd to Laurel Ridge road to 1200' contour to beginning: Beginning at the intersection of Duke Power Project Boundary 1200' contour interval at its intersection with NC 126 at the bridge known as Canal Bridge: thence going South along the center of NC 126 approximately 450 feet to the center of SR 1234 also known

as Benfield's Landing Road: thence continuing along the center of Benfield's Landing Road in an easterly direction approximately 2.2 miles to the intersection of Benfield's Landing Road with SR 1233 also known as North Powerhouse Road: thence turning in a northerly direction and continuing along the center of North Powerhouse Road, crossing the Paddy's Creek Dam, then the Duke Power Lake James Spillway, then crossing the Linville Dam with Power Plant: thence continuing northerly along North Powerhouse Road to where the intersection of North Powerhouse Road would intersect with the eastern right-of-way of Laurel Ridge Court if extended, a private right-of-way: thence continuing in a northerly direction along the eastern right-of-way of Laurel Ridge Court to a pipe in the southern lot line of Lot 6 of Laurel Ridge Subdivision recorded in Plat Book 16 page 248: thence S 53°24'39" E a distance of 64.43' to the SE corner of Lot 6 recorded in Plat Book 16 page 248: thence N 54°18'11" E a distance of 208.98' to a point in the land leased by Mimosa: thence continuing in a westerly direction along the northern line of Lot 6 to the point where Lot 6 intersects the Duke Power Project Boundary 1200' contour interval as shown on Plat Book 16 page 248: thence in a general westerly direction along the Duke Power Project Boundary 1200' contour interval, to the point and place of beginning, excluding a 39.86 acre parcel, number 16952, Book 1728, Page 444.

East Shores: Beginning at a northern Point in Lot 56 of East Shores Subdivision, phase 6, as recorded in the Burke County Register of Deeds Plat Book 11 page 39, said point also being the Duke Power Project Boundary 1200' contour interval at its intersection with Lot 56 and property owned by Stephen McCall as described in Deed Book 665 page 496: thence proceeding in an easterly direction to the southeastern corner of McCall as described in Deed Book 665 page 496: thence proceeding South along the eastern line of Lot 53 of East Shores Subdivision, a boundary with Ora Lee Love as described in Deed Book 127 page 558 to the southwestern corner of Love: thence turning East along the line of Love and Lots 69A, 70A, and 71A of East Shores to a northeastern corner of East Shores Subdivision: thence in a general southwesterly direction along the easternmost boundary of East Shores subdivision to a point where it joins Mimosa Fishing Club Incorporated at the Duke Power Project Boundary 1200 ft. contour interval: thence to close and fully encompass all of East Shores Subdivision by proceeding along the Duke Power Project Boundary 1200 ft. contour interval and the western side of East Shores Subdivision to the point and place of beginning.

SouthPointe: Beginning at the northwestern corner of Lot 63 SouthPointe Subdivision, phase 8, as shown on Plat Book 34 pages 56-57, said point also being the Duke Power Project Boundary 1200 ft. contour interval: thence in a northeasterly direction along the northern boundary of Lots 63, 64, and COS 10 as shown on Plat Book 34 pages 56-57 to the northeastern corner of COS 10, said point being in vicinity of the southern right-of-way of NC 126: thence in a southeasterly direction and parallel with the right-of-way of NC 126 to a point in the eastern right-of-way of SouthPointe Drive: thence in a southerly direction along the eastern right-of-way of SouthPointe Drive to the southwestern corner of Lot 260 of SouthPointe Subdivision, phase 4, as shown in Plat Book 25 page 84: thence N 51°00'42" E a distance of 231.74' to the northern corner of Lot 260: thence S 77°00'05" E a distance of 171.58' to a point in the line of Lot 259: thence N 47°35'38" E a distance of 28.12' to the northwestern corner of Lot 259, said point located on the Duke Power Project Boundary 1200 ft. contour interval: thence proceeding in a southeasterly direction along the Duke Power Project Boundary 1200 ft. contour interval around and including all phases of SouthPointe subdivision to the point and place of beginning. Excluded from the above description, however, is any territory in McDowell County.

"ARTICLE III. GOVERNING BODY.

"Section 3.1. **Structure of Governing Body; Number of Members.** The governing body of the Village of Lake James is the Village Council, which shall have five members.

"Section 3.2. **Manner of Electing Village Council; Term of Office.** The qualified voters of the entire Village shall elect the members of the Village Council and, except as provided in

this section, they shall serve four-year terms. In 2013, the three candidates receiving the highest numbers of votes shall be elected to four-year terms, and the two candidates receiving the next highest numbers of votes shall be elected to two-year terms. In 2015, and quadrennially thereafter, two members shall be elected to four-year terms. In 2017, and quadrennially thereafter, three members shall be elected to four-year terms. Vacancies on the Village Council shall be filled in accordance with G.S. 160A-63.

"Section 3.3. **Manner of Electing Mayor; Term of Office; Duties.** The Mayor shall be elected from among the members of the Village Council at the organizational meeting after the initial election in 2013, and shall serve for a term of two years. Thereafter, a Mayor shall be elected biennially as provided in this section. The Mayor shall attend and preside over meetings of the Village Council, shall advise the Village Council from time to time as to matters involving the Village of Lake James, and shall have the right to vote as a member of the Village Council on all matters before the Council, but shall have no right to break a tie vote in which the Mayor has participated. In the case of a vacancy in the office of Mayor, the remaining members of the Village Council shall choose from their own number a successor for the unexpired term.

"Section 3.4. **Manner of Electing Mayor Pro Tempore; Term of Office; Duties.** The Mayor Pro Tempore shall be elected from among the members of the Village Council at the organizational meeting after the initial election in 2013, and shall serve for a term of two years. Thereafter, a Mayor Pro Tempore shall be elected biennially as provided in this section. The Mayor Pro Tempore shall act in the absence or disability of the Mayor. If the Mayor and Mayor Pro Tempore are both absent from a meeting of the Village Council, the members of the Village Council present may elect a temporary chair to preside in the absence. The Mayor Pro Tempore shall have the right to vote on all matters before the Village Council and shall be considered a member of the Village Council for all purposes.

"Section 3.5. **Compensation of Mayor and Village Council.** The Mayor and members of the Village Council shall be reimbursed for ordinary and necessary expenses and may receive salary and honoraria only upon a majority vote of the qualified voters of the Village who vote on the question in a special referendum.

"ARTICLE IV. ELECTIONS.

"Section 4.1. **Conduct of Village Elections.** Elections shall be conducted on a nonpartisan basis and results determined by a plurality as provided in G.S. 163-292.

"Section 4.2. **Date of Election.** Elections shall be conducted in accordance with Chapter 163 of the General Statutes, with the first regular municipal election to be held on November 5, 2013.

"Section 4.3. **Special Elections and Referenda.** Special elections and referenda may be held only as provided by general law or applicable local acts of the General Assembly.

"ARTICLE V. ORGANIZATION AND ADMINISTRATION.

"Section 5.1. **Form of Government.** The Village shall operate under the Mayor-Council form of government as provided in Part 3 of Article 7 of Chapter 160A of the General Statutes.

"Section 5.2. **Village Attorney.** The Village Council shall appoint a Village Attorney licensed to practice law in North Carolina. It shall be the duty of the Village Attorney to represent the Village, advise Village officials, and perform other duties as required by law or as directed by the Village Council. The Village Attorney shall serve at the pleasure of the Village Council.

"Section 5.3. **Village Clerk.** The Village Council shall appoint a Village Clerk who shall perform duties as required by law or as directed by the Village Council. The Village Clerk shall serve at the pleasure of the Village Council.

"ARTICLE VI. TAXES AND BUDGET ORDINANCE.

"Section 6.1. **Powers of the Village Council.** The Village Council may levy those taxes and fees authorized by general law. An affirmative vote equal to a majority of all the members

of the Village Council shall be required to change the ad valorem tax rate from the rate established during the prior fiscal year.

"Section 6.2. **Commencement of Tax Collection.** From and after the date of approval of the incorporation, the citizens and property in the Village of Lake James shall be subject to pro-rated municipal taxes levied for tax year 2013-2014, in accordance with the pro-rating procedure in G.S. 160A-58.10, and for that purpose the Village shall obtain from Burke County a record of property in the area herein incorporated.

"Section 6.3. **Budget.** The Village may adopt a budget ordinance for fiscal year 2013-2014 without following the timetable in the Local Government Budget and Fiscal Control Act, but shall follow the sequence of actions in the spirit of the act insofar as is practical. For fiscal year 2013-2014, ad valorem taxes may be paid at par or face amount within 90 days of adoption of the budget ordinance.

"Section 6.4. **Ad Valorem Taxes.** Notwithstanding Section 6.1 of this Charter, the Village Council shall not approve an ad valorem tax rate greater than seven and one-half cents (7 1/2¢) per one hundred dollars ($100.00) valuation unless the tax rate is approved by an affirmative vote of majority of the qualified voters of the Village of Lake James. The procedures of G.S. 160A-209 shall be followed for any such election.

"ARTICLE VII. ORDINANCES.

"Section 7.1. **Ordinances.** Except as otherwise provided in this Charter, the Village of Lake James is authorized to adopt such ordinances as the Village Council deems necessary for the governance of the Village.

"ARTICLE VIII. SPECIAL PROVISIONS.

"Section 8.1. **Extraterritorial Jurisdiction.** Notwithstanding any other provision of law, the Village of Lake James shall not exercise any powers of extraterritorial jurisdiction as provided in Article 19 of Chapter 160A of the General Statutes.

"Section 8.2. **Zoning.** Notwithstanding any other provision of law, any zoning ordinance adopted by the Village of Lake James shall provide regulations and restrictions on matters authorized in Part 3 of Article 19 of Chapter 160A of the General Statutes that are equal to or greater than the regulations and restrictions that are in the Shoreline Protection Plan of the Burke County zoning ordinance that was in effect on January 1, 2009.

"Section 8.3. **Public Access to Lake James.** Notwithstanding any other provision of law, the Village of Lake James shall not adopt any ordinances, resolutions, or rules that restrict public access to Lake James.

"Section 8.4. **Federal Energy Regulatory Commission Relicensing.** Notwithstanding any other provision of law, the Village of Lake James shall not engage in any activity that interferes with the Federal Energy Regulatory Commission (FERC) relicensing process for the Catawba-Wateree Hydroelectric Project (Commission Project No. 2232). Prohibited activities include intervening in the relicensing process, filing documents, or otherwise advocating for license conditions inconsistent with the Catawba-Wateree Comprehensive Relicensing Agreement (CRA), or enlisting the support of any other entity or elected official to advocate for license conditions or other changes that are inconsistent with the CRA. Upon the issuance of a new license by FERC for the Catawba-Wateree Hydroelectric Project, the Village shall not engage in activities or enlist the support of any other entity or elected official to seek changes that are inconsistent with the provisions of the new license or CRA. Upon the expiration of the new license for the Catawba-Wateree Hydroelectric Project, nothing in this section shall be construed as prohibiting the Village from participating in any subsequent relicensing process for the Catawba-Wateree Hydroelectric Project.

"Section 8.5. **Greenways; Other Public Areas.** Notwithstanding any other provision of law, the Village of Lake James shall not adopt any ordinances, resolutions, or rules that restrict, repeal, or interfere in any way with the terms of any agreements between Burke County and the

federal government or any other entity that are (i) related to greenways, bicycle or walking trails, and parking areas and (ii) in existence or being negotiated on March 11, 2009.

"Section 8.6. **Alcoholic Beverages.** Notwithstanding any other provision of law, the Village of Lake James shall not hold a malt beverage, unfortified wine, ABC store, or mixed beverage election under Chapter 18B of the General Statutes or any other general or local law.

"Section 8.7. **Eminent Domain.** Notwithstanding any other provision of law, the Village of Lake James may exercise the power of eminent domain as provided in Chapter 40A of the General Statutes only for the public use or benefit. The Village shall not take private property for the purpose of thereafter conveying an interest in the property to a third party for economic development."

SECTION 6. This act is effective when it becomes law.

SENATE BILL 312:
Referendum on Incorporating Lake James

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 5, 2013
Introduced by:	Sen. Daniel	**Prepared by:**	Judy Collier
Analysis of:	PCS to First Edition S312-CSRWx-60		Research Assistant

SUMMARY: ***Senate Bill 312 incorporates the Village of Lake James in Burke County, subject to the approval of the qualified voters at an election held on November 5, 2013 and requires that an election for the initial Village Council be held at the same time as the election on incorporation.***

The Proposed Committee Substitute (PCS) for Senate Bill 312 does the following:

- ***Makes changes to the corporate boundaries by deleting all described property west of Mallard Pointe development.***
- ***Makes changes regarding commencement of tax collection. From and after the date of approval of the incorporation (was July 1,2013), the citizens and property in the Village of Lake James shall be subject to pro-rated municipal taxes (was municipal taxes), levied for tax year 2013-2014 in accordance with the pro-rating procedure in G.S. 160A-58.10 (was levied for the year beginning July 1, 2013)***
- ***Makes changes regarding ad valorem taxes where the Village Council is prohibited from approving an ad valorem tax rate greater than seven and one-half cents (7 1/2¢) per one hundred dollars ($100.00) valuation unless the tax rate is approved by an affirmative vote of majority (was two-thirds) of the qualified voters of the Village of Lake James.***

CURRENT LAW: Municipalities may be created by the General Assembly, with powers and duties it deems advisable, pursuant to Article VII, Section 1 of the North Carolina Constitution.

Rule 42.3(b) of the Senate Rules requires that every legislative proposal introduced in the Senate, or received in the Senate from the House, proposing the incorporation of a municipality shall have attached to the jacket of the original bill at the time of its consideration on second or third readings by the Senate or by any committee of the Senate prior to a favorable report, a recommendation from the Municipal Incorporations Subcommittee of the Joint Legislative Committee on Local Government established by Article 20 of Chapter 120 of the General Statutes. The recommendation of that subcommittee shall be made in accordance with the provisions and criteria set forth in Article 20 of Chapter 120 of the General Statutes and shall include the findings required to be made by G.S. 120-166 through G.S. 120-170.

BILL ANALYSIS: Senate Bill 312 would incorporate the Village of Lake James in Burke County, subject to a referendum.

The proposed Charter of Lake James provides:

- That the Village of Lake James has all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general laws of North Carolina.
- A metes and bounds description of the corporate boundaries of the Village of Lake James.

- A Village Council of five members, elected on a nonpartisan at-large basis for staggered four year terms. The mayor is to elected from among the Council members. Salary for the Council members must be approved in a special referendum.
- A $0.075/$100.00 tax rate limitation, unless approved by an affirmative vote of majority of the qualified voters of the Village of Lake James.
- A prohibition on extraterritorial jurisdiction (ETJ) powers.
- A prohibition on involuntary annexation within Burke County and a prohibition on voluntary or involuntary annexation in McDowell County.
- That any zoning ordinance adopted by the Village shall be equal to or greater than the regulations and restrictions that are in the Shoreline Protection Plan of the Burke County zoning ordinance that was in effect on January 1, 2009.
- That the Village shall not adopt any ordinances, resolutions, or rules that restrict public access to Lake James.
- That the Village will not engage in any activity that interferes with the Federal Energy Regulatory Commission (FERC) relicensing process for the Catawba Wateree Hydroelectric Project.
- That the Village shall not adopt any ordinances, resolutions, or rules that restrict, repeal, or interfere in any way with the terms of any specified agreements between Burke County and the federal government or any other entity related to greenways, bicycle or walking trails, and parking areas and in existence or being negotiated on March 11, 2009.
- That the Village shall not hold a malt beverage, unfortified wine, ABC store, or mixed beverage election.
- That the Village may exercise the power of eminent domain only for the public use, and shall not take private property for the purpose of conveying an interest in the property to a third party for economic development.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: The proposed incorporation of the Village of Lake James did not receive a favorable recommendation from the Joint Legislative Commission on Municipal Incorporation in its report, dated July 29, 2009, because the Commission found that the proposed Village did not meet the Commission standards for contiguity.

Giles Perry, counsel to House Government Committee substantially contributed to this summary.

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 5, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Bobby Lewis	NCDOT
Jason Sopek	NCDOT
Dale Folwell	Commerce - DES
Lockhart Taylor	Commerce - DES
Scott Mooney	The Insider
John Hardy	MF&S
Michelle Frazier	MF&S
Karen Ray	Kemper Casualty
Berry Jenkins	Carolinas AGC
Andrew Tripp	Senate Staff
Beau Memory	NCFA

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 5, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Kay Emanuel	School of Government
Craig E. Sanchez	AT&T
LaVoy Spooner	AT&T
Todd Lanham	AT&T
Liz Hill	ATC
Bryan Lanier	ATC
Dan Sipes	SA
Chris Campbell	CAPA
Ken Melton	K. M.A.
Elizabeth Biser	Brooks Pierce
Chris Valiani	Nuvy 17 Assoc of NC

VISITOR REGISTRATION SHEET

Senate Finance Committee
Name of Committee

June 5, 2013
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Matt Violet	CD Consult
Lauren Whaley	NCACC
Seth Pichon	
Johanna Reese	NCACC
[illegible]	[illegible]
Rachel Dekk	LA
Walter Weer	CSR -
Alex Badger	CSS.
Sarah Wolfe	MWC LLC
Sarah L. Miller	Self
[illegible]	Forsyth Co.

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 5, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Bill Rowe.	NC Justice Center
MaryBe McMillan	NC AFL-CIO
John Lyon	AT+T
John Tyler	"
Julie White	NCMNC
DERINDA STIENE	VILLAGE OF LAKE JAMES TASK FORCE
Craig Lian	Village of Lake James
	NCPCM
DAVID LAIRD	LOWES
Chuck Greene	AT+T
	[illegible]

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 5, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Gary Harris	NC Petroleum & Convenience Marketers
Steven Webb	NCHBA
Jim Kent	NC Beer & Wine

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 5, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Paula Woodley	NCDMV
Sherry Lea	NCDMV
Andy Chase	KMA

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 5, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
[illegible]	NCRMA
Canaan Hurie	MVA
Solari	DST
David Baker	NCDOR
Tom Ruble	TOG
[illegible]	[illegible]
J Hackett	WCBC / NCCA
Graham Morgan	South Pointe Village of Lake James
BJ Morgan	South Pointe
Ron Kendrick	South Pointe
Linda Combs	Winston-Salem, NC

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 5, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Jimmy Broughton	Womble Carlyle
David McGowan	NCPC
John Mitchell	Policy Group
Britton Allen	Allen Law Offices PLLC
Sarah Hardin	CTL
Crystal Collins	NC Trucking Assn
John Poltrone	NCDOT
[illegible]	Jordan Price
[illegible]	Dom. Assn.
Willo Kelly	NC-20
Alison Roach	NCDMV

SENATE PAGES ATTENDING

COMMITTEE: Finance ROOM: 544

DATE: 6-5 TIME: 1 PM

PLEASE PRINT LEGIBILY!!!!!!!!!!!!!!....*or else!*

Page Name	Hometown	Sponsoring Senator
1. Lilly Kinney	Reidsville	Berger
2. Haley Webb	Summerfield	Berger
3. Amelia Mangan	Granite Falls	Soucek
4. Mary Catherine Gaines	Hickory	Soucek
5. Max Toney	Reidsville	Berger
6. Kevin Treacy	Oxford	McKissick
7. Will Finch	Reidsville	Berger
8.		
9.		
10.		

Do not add names below the grid.

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

FINANCE
COMM.
Pages

Senate Committee on Finance
Tuesday, June 11, 2013, 1:00 PM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Presentations

- Benjamin Russo, Ph.D, Belk College of Business - UNC - Charlotte
- Michael L. Walden, Ph.D, North Carolina State University
- Roby Sawyers, Ph.D, Poole College of Management, North Carolina State University
- Brent Lane, M.B.A, Executive Director, Carolina Center for Competitive Economies, UNC - Chapel Hill

Adjournment

Senate Committee on Finance
Tuesday, June 11, 2013
Room 544 LOB, 1:00 p.m.

Minutes

The Senate Committee on Finance met at 1:00 p.m. on Tuesday, June 11, 2013 in room 544 of the Legislative Office Building. Jonathan Coby of Wake Forest, Amanda Davis of Red Oak, Ali Clary of Battleboro, William Cheung of Taylorsville, Spencer Zachary of Taylorsville, Tyler Hendricks of Greensboro, Daniel Rangel of Greensboro and Griffin Evans of Wilmington served as pages. Senator Rucho presided as chair.

Dr. Michael Walden, North Carolina State University; Dr. Benjamin Russo, Belk College of Business – UNC Charlotte; Dr. Roby Sawyers, Poole College of Management – North Carolina State University; and Brent Lane, Executive Director, Carolina Center for Competitive Economies, UNC Chapel Hill, were recognized. They expressed concern over the ineffective, current tax code. They pointed out that North Carolina has the 10th largest economy in the nation and that tax reform should be equitable for all, not just a few. They explained that a 5-6% corporate and individual tax rate would make North Carolina competitive in the Southeast, but how broad a tax base to get to that rate remains to be seen. They admonished legislators for expecting the tax code to do more than possible and that updates do not necessarily fix all of North Carolina's challenges. They said that broadening the tax base would alleviate current volatility (since the State relies too much on the individual income tax). Finally, they pointed out that states are moving to single sales factor apportionment and feel that eventually all states will be there. A copy of Dr. Russo's and Dr. Sawyer's presentations and the NC Fair Tax Act report is attached.

The meeting adjourned at 2:20 p.m.

Bob Rucho

Senator Bob Rucho
Presiding Chair

DeAnne Mangum

DeAnne Mangum
Committee Assistant

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Tuesday	June 11, 2013	1:00 PM	544 LOB

Tax Reform presentations by Brent Lane, Ben Russo, Roby Sawyer, and Mike Walden.

Please note that the meeting is scheduled from 1p to 2:30p.

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

Comments Prepared for the Senate Finance Committee,
North Carolina General Assembly

June 11, 2013

An Economic Rationale for North Carolina Tax Reform

Benjamin Russo
Belk College of Business
The University of North Carolina at Charlotte
brusso@uncc.edu

1) Introduction

Long-run demographic and technological changes in North Carolina's economy are reducing the tax system's capacity to generate revenue sufficient to support state services. As currently structured the sales and use tax base is eroding. The income tax base also is at risk. However, I believe that by broadening North Carolina tax bases, and lowering marginal tax rates, the NC Fair Tax Act (Bill Draft 2013-RBx-21C, April 25, 2013) would shore-up the foundation of North Carolina's tax system, reduce revenue volatility that occurs during business cycles, and increase tax efficiency.

2) The Sales and Use Tax Base

Threats to the sales tax base have been widely documented. The composition of household consumption spending is undergoing a long-run transition away from tangible goods toward intangible services. The sales tax is levied, for the most part, on the former. Therefore, the proportion of spending on taxable commodities is slowly declining.

Demographic change and technological innovation play large roles in the transition away from tangible goods. Both sources of change are beneficial for society at large, but not for North Carolina's tax base.

The role played by the demographic transition is easiest to see. North Carolina's population is aging. Older taxpayers tend to spend relatively large fractions of their economic resources on medical services, most of which are untaxed. At the same time, the price of medical services tends to rise faster than the prices of other commodities. As a result, the share of household spending on medical services has increased from about two and one-half percent in 1947 to more than eighteen percent today.

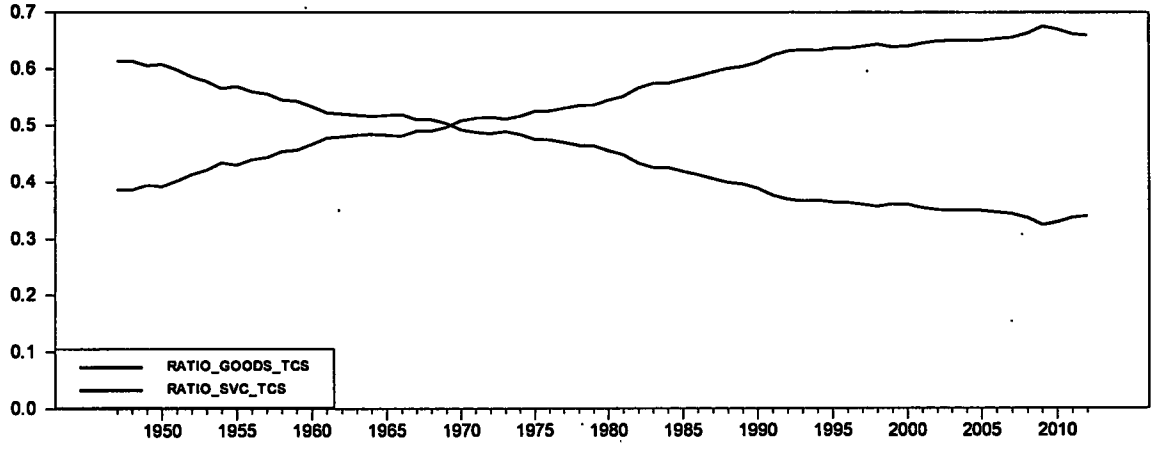
The demographic transition eventually will end. However, the technological transition almost surely will continue. The role played by technology is less obvious than the demographic transition, but no less real, so an analogy based on recent history is useful. Manufacturing of tangibles is "suffering" from a fate similar to that of agriculture. In a recent newspaper column George Will points out that a little over one hundred years ago

most Americans were employed in agriculture. Today, employment in agriculture is about two percent of the labor force. At one point in our history, five farmers produced enough food for a single person. Today, a single farmer's production feeds three hundred and fifty. Productivity growth in farming outpaced productivity growth in other industries. Therefore, the amount of labor required to produce food declined relative to the amount of labor required elsewhere. The relative decline in labor required to produce tangibles has reduced the relative price of tangibles. Because demand for food is relatively insensitive to the price decline, spending on food has declined as a fraction of total household spending.

Technology and productivity growth has a similar effect on production and consumption of tangible goods relative to services. William Baumol, an NYU economist has shown that it is relatively easy to increase manufacturing productivity. As a result, less labor is required to produce tangibles, causing the relative price of tangible goods to decline: Computing power and memory are examples. In 1947 more than sixty-one percent of total household consumption spending was devoted to tangibles: In 2013 about thirty-four percent of household consumption will be spent on tangibles. If the future is like the past, in twenty years tangibles will decline to about twenty-six percent of consumption spending. In forty years tangibles will be less than eighteen percent of consumption.

The figure below illustrates the transition from tangible goods to services. The solid line in the figure shows the ratio of tangible goods spending in the U.S. to total consumption spending, in percent, between 1947 and 2002. The dashed line shows the fraction of spending on services.[1] Although there have been temporary pauses in the transition to services, the long-run trend dominates changes in the composition of spending.

Figure: Ratios of Goods and Services to Total Consumption Spending



Source: Bureau of Economic Analysis

[1] Because some services are taxed and some tangible goods are exempt, this overstates somewhat the decline in the share of taxed commodities.

3) The Income Tax Base

The income tax base faces risks, as well. At least part of the risk to the income tax also results from demographics and technology. As the population ages, the fraction of income from untaxed Social Security is rising. In addition, the fraction of income whose source is personal or employer retirement funds will rise. Pension income tends to be easier than earned income to shelter from taxes. Technology plays a role here because it has increased the fraction of net worth that is intangible. Intangible capital is more mobile than the tangible kind, and, therefore, is easier to shelter from taxation. As a result of innovations in the form that high-income taxpayers receive income, sheltered unearned income has grown as a share of total income.

4) Shoring Up North Carolina's Tax Base

I believe that while the challenges faced by North Carolina's tax base are large they are not impervious to solution. Broader tax bases and lower marginal tax rates can help shore up the revenue stream. Broader taxation of services would reduce erosion of the sales tax base. The more services taxed, the slower the pace of base erosion. Broader taxation of income, via curtailment of deductions, credits, and special tax treatment would strengthen the income tax base. Revenue held constant, broader bases permit declines in marginal tax rates. Lower marginal tax rates reduce the incentive for income tax avoidance. Past experience suggests that when marginal income tax rates change, everything else held constant, any resulting change in revenue is smaller than changes predicted by standard economic models. For example, Martin Feldstein, former president of the National Bureau of Economic Research, argues that increases in marginal income tax rates during President Clinton's Administration generated only about sixty percent of the revenue predicted by the Congressional Budget Office. Feldstein's studies suggest a large part of the difference between actual and predicted revenue resulted from an increase in tax avoidance, which is not accounted for in the models.

5) Conclusion

I believe the NC Fair Tax Act would have effects on the simplicity and equity of the tax system that are difficult to predict with great confidence. At the same time, I am confident that by broadening North Carolina tax bases, and lowering marginal tax rates, the Act would produce many benefits for North Carolina.

First and foremost, the Act would reduce erosion of tax bases, putting them on a more sustainable foundation. As well, base broadening would reduce revenue volatility that occurs in the course of business cycles. Finally, by reducing marginal tax rates and shifting the tax base toward consumption, the Act would tend to reduce the tax-induced inefficiencies that occur when taxpayers substitute untaxed commodities and activities for commodities that are taxed.

Comments Prepared for the Senate Finance Committee,
North Carolina General Assembly

June 11, 2013

An Economic Rationale for North Carolina Tax Reform

Benjamin Russo
Belk College of Business
The University of North Carolina at Charlotte
brusso@uncc.edu

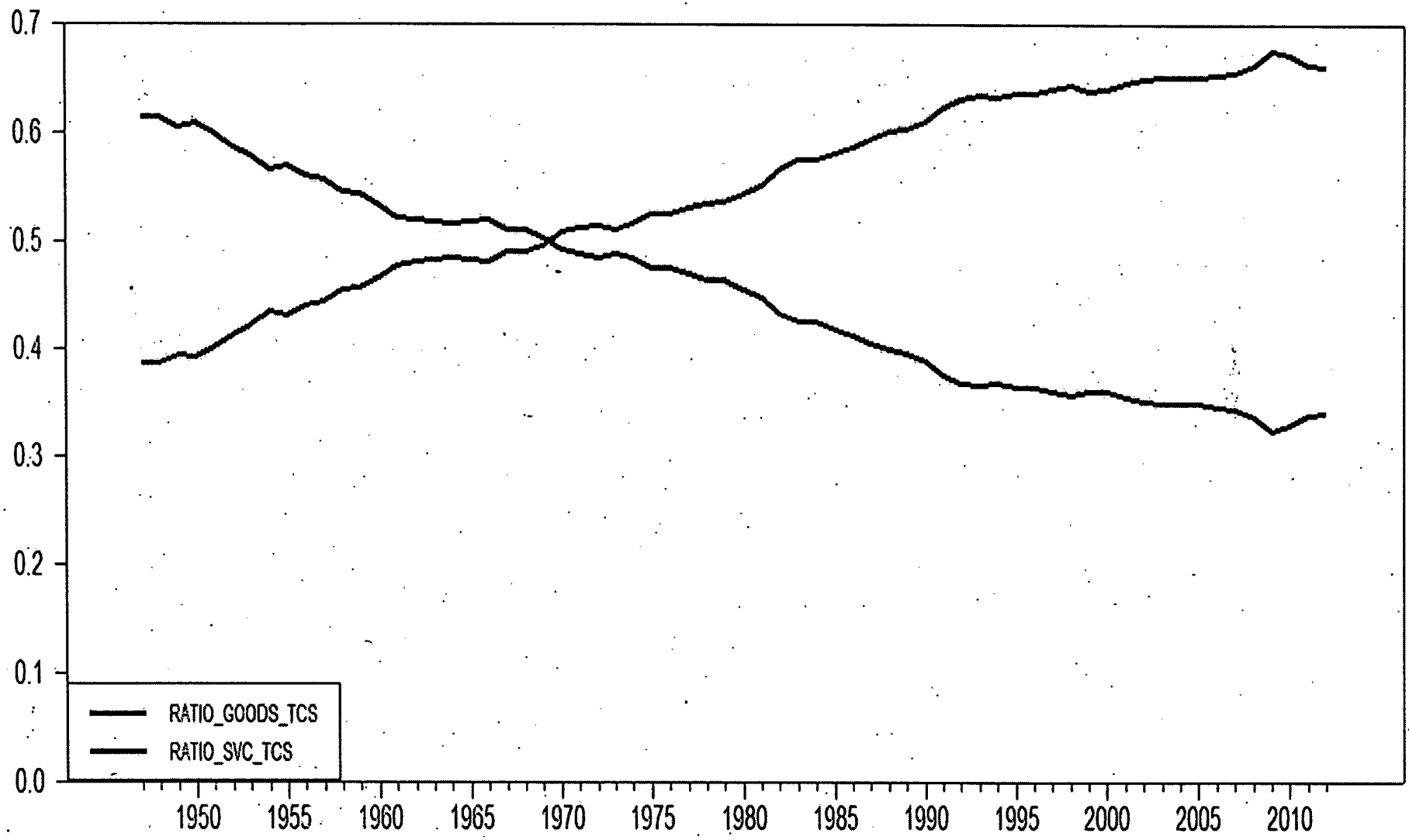
1) Introduction

- Demographic and technological changes are eroding North Carolina's tax base
- By broadening tax bases, and lowering marginal tax rates, tax reform could:
  - reduce base erosion
  - reduce revenue volatility
  - increase tax efficiency

2) Erosion of the Sales & Use Tax Base

- Demographics
  - Population aging
    - Increases fraction of spending taxpayers devote to med. services
      - » 2.5% in 1947
      - » More than 18% in 2012
- Technical innovation
  - Productivity growth in tangibles exceeds productivity growth in services
    - Reduces labor required to produce tangibles relative to services
    - Reduces the relative price of tangibles
    - Demand for tangibles not price sensitive, so fraction of spending on tangibles declines

Ratios of Goods and Services to Total Consumption Spending



3) The Income Tax Base

- Demographics
  - Population aging
    - Increase in fraction of income from untaxed Social Security
    - Increase in fraction of income in tax sheltered pensions

- Innovation
  - Increase in the fraction of capital that is intangible and mobile
  - Increase in tax shelters
  - Increase in tax avoidance

4) Shoring Up Tax Bases

- Challenges facing North Carolina's tax system can be reduced by broadening tax bases, lowering marginal tax rates
    - Broader taxation of services would reduce erosion of the sales tax base
    - Broader income taxation would strengthen the income tax base
    - Revenue held constant, broader bases permit lower marginal tax rates
        - Lower marginal tax rates reduce incentives for income tax avoidance
        - Past experience: when marginal income tax rates change, all else constant, revenue change is less than changes predicted by standard economic models
            - » models don't account for tax avoidance

5) Conclusion

- I believe tax reforms being considered, by broadening bases and lowering marginal tax rates, would
    - increase long-run revenue sufficiency
    - reduce volatility
    - increase tax efficiency
- I believe it is not possible to confidently predict the effect on simplicity and equity

Thank You

Single Sales Factor Apportionment

Roby B. Sawyers, CPA, Ph.D.
Poole College of Management

NC STATE UNIVERSITY

Allocation and Apportionment of Income

- Apportionment is the means by which **business income** is divided among states in which a business operates

Allocation and Apportionment of Income

- Allocation is a method used to directly assign **nonbusiness income** to a specific state

Business vs. Nonbusiness Income

- Apportionable business income arises from the regular course of business from activities that are an integral part of a taxpayer's regular business
- Allocable nonbusiness income generally includes:
  - Income or loss from sale of **nonbusiness** property
  - Income or losses from rents or royalties from **nonbusiness** real or tangible personal property

Apportionment Formulas

- Apportionment formulas vary among states
  - Traditionally, states used a three-factor formula that equally weights sales, property, and payroll
    - However, today only a dozen or so states use an equally weighted 3-factor test
    - 14 states use 3 factors and double weight sales
    - 14 states utilize a sales-only formula
  - Trend is towards increasing the weight on sales

Why this trend?

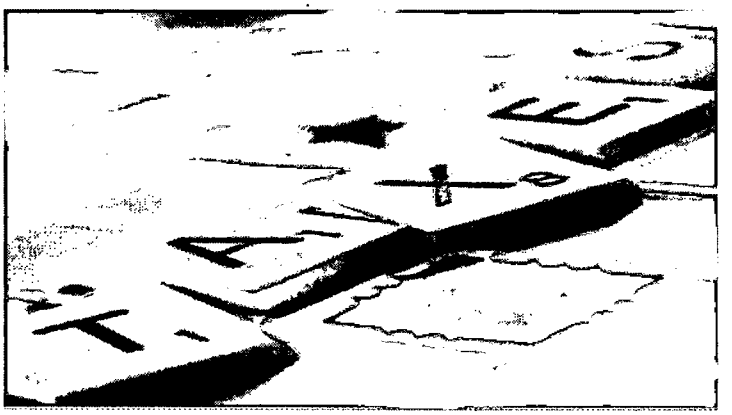
- Reduces production costs for "in-state" companies relative to competitors in states with higher weights on property and payroll
- Incentive to increase presence in NC
- Tends to pull larger amount of "out-of state" corporation's income into the state
- May provide tax relief to "in-state" corps that make large % of sales to other states

Revenue Effects

- In the short run, corporate tax revenue is likely to decrease
- In the long run, increasing the weight on sales can have a positive effect
  - Previous studies have found a 1 to 3% increase in job growth
    - higher individual income tax revenue
    - higher sales tax revenue
    - higher property tax revenue to local governments

Caveats

- There will be winners and losers
- Changing apportionment does not affect a purely in-state business – unless you also change the rate!
- Difficult to quantify the long-run impact
- Benefits become less certain the longer you wait!



The North Carolina Fair Tax Act:

A Preliminary Analysis of the Proposal for Its Adherence to Sound Tax Principles, Potential Economic Impacts and Role in Economic Recovery

Observations from Selected Faculty and Staff of the University of North Carolina

May 24, 2013

The University of North Carolina

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May 24, 2013

The Honorable Bob Rucho
North Carolina Senate
300 N. Salisbury Street, Room 300-A
Raleigh, NC 27603-5925

Dear Senator Rucho:

Earlier this month, you asked that the University of North Carolina organize an expert panel to analyze the potential impact of proposed changes to North Carolina tax law, specifically the North Carolina Fair Tax Act (2013-RBx-21c, v.4).

In response to the request, we assembled a small team of faculty that has worked quickly to provide four perspectives on the proposed changes. Let me underscore that their analysis of the tax plan is not exhaustive—that was not possible given the time allotted—and their findings do not represent the official opinion of the University of North Carolina. The panel makes no recommendations about the specific merits of this particular tax plan as compared to any other plan currently being discussed, nor does it attempt to predict the "wealth effects" on taxpayers who might behave differently based on the increased or decreased amounts taxpayers would have to spend. We were not asked to make judgments about the "fairness" of the draft plan or its impact on particular groups of North Carolinians. Rather, the panel offers lenses through which tax reform may be viewed in order to assist lawmakers as they attempt to assess the merits and potential drawbacks of proposed changes.

In the following pages we present the panel members' findings. First, Dr. Ben Russo of UNC Charlotte's Belk College of Business describes how the law intersects with some principles of sound tax policy. Second, Dr. Michael Walden of NC State University's College of Agriculture and Life Sciences examines what we can know about the likely impacts of the proposed changes on state gross product, employment and income. Dr. Roby Sawyers of N C State's Poole College of Management then reviews studies analyzing the short-term and long-term effects of the proposed switch to a single sales factor apportionment on tax revenue and employment. Finally, Brent Lane from UNC-Chapel Hill's Carolina Center for Competitive Economies assesses the role of tax reform in North Carolina's larger efforts to strengthen its economy. Review of these separate chapters, along with other feedback and contributions, has been provided by Dr. John Connaughton of UNC Charlotte's Belk College of Business and David Brown of UNC-Chapel Hill's School of Government. Additional review and logistical support for the effort has come from Donnie Charleston of the Institute for Emerging Issues at NC State and Leslie Boney, Vice President for International, Community, and Economic Engagement at UNC General Administration.

We appreciate the opportunity to review this tax plan. Our University system – its faculty, staff, and students – has valuable perspective and analytical abilities on a wide range of topics that can be brought to bear on many different matters of public policy issues to help inform discussion and debate.

The lead authors of the analysis would be happy to provide additional information or clarifications about their review as part of your ongoing deliberations. Please let them know if you have questions concerning this matter.

Sincerely,

Thomas W. Ross

Thomas W. Ross

EXECUTIVE SUMMARY

The North Carolina General Assembly is considering substantial changes in state tax policy. A proposal has been made to shift the mix of state tax revenues away from individual income and corporate income taxes to sales taxes. The North Carolina General Assembly asked the University of North Carolina to analyze the potential effects of the NC Fair Tax Act.[1] In the following papers faculty members from N.C. State University, UNC-Chapel Hill and UNC Charlotte assess the tax plan for its adherence to important principles of sound tax policy and for its impact on the state's economic growth, specifically on aggregate economic measures such as employment, total output and income. We also note that other economic factors not addressed by the new tax plan will likely play an important role in the future growth of the economy.

WHAT THE PLAN DOES

After full implementation in 2017, the NC Fair Tax Act would reduce the highest individual marginal income tax rate to 4.5%, reduce the number of income tax brackets, eliminate deductions and credits, and add a personal tax credit. The proposal would reduce the corporate income tax rate to 6% and change the way corporate taxes are computed, from the current formula that apportions taxes based on property, payroll and sales, with a double weight on sales, to a formula that would apportion corporate tax solely based on sales by 2016. It would reduce the franchise tax rate from 0.15% to 0.135%. The proposal would also reduce the combined (state plus local) sales and use tax rate to 6.5%. The Act would broaden the combined sales tax base to many services, as well as to cover food for home consumption.

THE PLAN AND THE PRINCIPLES OF SOUND TAX POLICY

Any tax reform proposal should be evaluated along criteria that include efficiency, equity, simplicity, revenue stability and revenue sufficiency. Dr. Benjamin Russo, professor of economics at UNC Charlotte, finds that the net effect of the changes proposed in the NC Fair Tax Act on efficiency, stability and sufficiency would be positive. The net effects on simplicity and equity are harder to gauge. The Fair Tax Act would simplify individual income taxes by replacing the deductions, exemption, and credits with a single personal tax credit. But it would require service firms that do not now collect sales tax to do so. Therefore, the net effect on simplicity is difficult to assess. The Act would tend to improve horizontal equity[2] by eliminating special tax treatment of some taxpayers and activities. However, estimates made by the Fiscal Research Division indicate an increase in the tax burden on lower income taxpayers in relative and absolute dollar terms. This would tend to reduce vertical equity.[3] As described in Dr. Russo's paper, the net effect on equity is unclear.

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[1] The UNC System was asked to specifically review "NC Fair Tax Act" (2013-Rbx-21c, v. 4).

[2] *A method of collecting income tax in which those* who have the same wealth, or are in the same income bracket, face the same tax rate.

[3] A method of collecting income tax in which the taxes paid increase with the amount of earned income.

THE PLAN'S POTENTIAL IMPACT ON THE ECONOMY

A key component of this analysis is the quantitative assessment of the potential effects of the proposed policy. Dr. Mike Walden, Professor of Economics at NC State University, analyzed the potential effect of moving away from taxing income to taxing spending and the implications for the state's long run economic growth. Following a review of the most comprehensive academic analyses of the effect of state taxes on economic growth, he applied the reports' findings to the specific changes to the "tax mix" being proposed in North Carolina.[4]

The results of the analysis of tax reform vary dependent on which methodology is used. For example, focusing on the employment effects, for the decade after the full implementation of the tax-mix proposal (2017-2027), the results from the studies range from a high of 864,000 net additional jobs created in the state in 2027 to a low of 198,000 net jobs lost in 2027. Comparable ranges were found for state aggregate output (gross state output) and aggregate income. Dr. Walden indicates that a main distinction between the studies he included in his analysis was their divergent finding for the economic impacts from transitioning to a greater reliance on the sales tax. Some studies found moving from "taxing income" to "taxing spending" accelerated economic growth, while other studies found the opposite.

Dr. Roby Sawyers of NC State's Poole College of Management provides analysis of the proposal to change to a "single sales factor" apportionment formula for corporate income taxes. State government projections suggest revenue loss under this plan, though the experience of many states finds increases in revenue following such a change. IN the longer run, he concludes that such a change can have positive long-term benefits for a state, including job growth, increased individual income tax and sales tax revenue, as well as increased property tax revenue for local governments.

THE PLAN IN THE CONTEXT OF ECONOMIC GROWTH

Brent Lane of UNC-Chapel Hill's Kenan Institute of Private Enterprise provides a basis for understanding the extent to which tax reform can achieve the goal of improving the state's economic competitiveness. In his paper, he endorses the necessity of tax reform and applauds the strategy of looking beyond programmatic efforts like simplistic economic growth strategies. But he notes that states mounting tax reform efforts have achieved widely varied results.

Given the broad range of macro-economic forces facing North Carolina, Lane cautions that tax reform can only accomplish some of the economic results policy makers are seeking. North Carolina's struggles predate the economic recession, and tax reform alone cannot assure long-term economic recovery.

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[4] Importantly, Dr. Walden's analysis assumed "revenue neutrality," meaning no projections of impacts of changes in state spending were included.

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TAX REFORM AND ITS RELATIONSHIP TO PRINCIPLES OF SOUND TAX POLICY

PREPARED BY:

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This chapter has benefited greatly from very helpful comments and suggestions by Leslie Boney, Donnie Charleston, John Connaughton, and Michael Walden.

INTRODUCTION: A BRIEF OVERVIEW OF PRINCIPLES OF SOUND TAX POLICY

Tax analysts generally cite three fundamental characteristics of an economically sound tax system. These are efficiency, equity, and simplicity. However, because states must balance their budgets, state tax analysts include two additional principles that are important for a reliable state tax system. These are revenue stability and revenue sufficiency.

Efficiency. An efficient tax system minimizes intrusion into consumers' and producers' economic choices, thereby maximizing their economic value, and encouraging enterprise.

Equity. Standards for tax equity hold that taxpayers with equal real incomes face equal tax liabilities, taxpayers with higher real incomes face higher tax liabilities, and, where possible, costs and benefits of government services received by a taxpayer are equal.

Simplicity. A simple tax system is relatively easy for taxpayers to understand and comply with, and for government officials to administer.

Revenue Stability. A stable tax system minimizes the declines and expansions of tax revenue that occur as a result of short-run business cycle contractions and expansions.

Revenue Sufficiency. A state tax system is sufficient if its capacity to generate revenue required to meet the state's funding objectives is impervious to long-run structural changes in the economy.

DISCUSSION OF PRINCIPLES AND THE EFFECTS OF TAXES

Taxation and Economic Efficiency

An efficient tax system minimizes intrusion into consumers' and producers' economic choices, thereby maximizing their economic value, and encouraging enterprise. By their nature, taxes impose costs that exceed the amount of revenue collected. This extra cost reduces

economic value and is an inefficiency imposed by taxes. Although it is impossible to eliminate tax-induced inefficiency, taxes can be structured in a way that tends to reduce it.

The financial costs of administering and complying with tax laws are obvious types of inefficiency. However, an important but often hidden inefficiency arises also when taxation intrudes into individual economic choices. For example, taxpayers in jurisdictions with relatively high sales tax rates have been known to travel to lower tax jurisdictions to avoid taxes.[5] Here, part of the economic cost of higher taxation is the value of the extra time spent in travel. That cost is hard to measure and does not appear on a balance sheet, yet is no less real to the consumer.

Inefficiency and the Income Tax

Relatively high marginal income tax rates encourage tax avoidance. For example, relatively well-off taxpayers have an incentive to shelter income. This is one reason stock options have replaced substantial fractions of wage income for high earners, and why deferred income arrangements are popular. In the modern knowledge economy a substantial and growing proportion of capital is intangible. Patents and trademarks are examples. Intangible capital is easily transferred to low tax jurisdictions. Tax avoidance consumes scarce resources that could otherwise be put to productive use, so it is inefficient.

Private income is either used to purchase commodities, is saved, or is invested. Therefore, a tax on income taxes both commodity purchases and saving. Taxpayers can avoid the tax on saving by saving less. In contrast, a tax dedicated to retail sales would not tax saving,

[5] J. Mikesell and C. Zorn. "Impact of the Sales Tax Rate on Its Base: Evidence from a Small Town," *Public Finance Quarterly*, 1983, 329-38.

so the retail sales tax does not discourage saving. This is a main reason many tax analysts support shifting the state tax base away from income and toward consumption. Saving is the foundation of capital formation, which, in turn, is one of the main supports of the standard of living in a modern economy. By discouraging saving and investment, the income tax tends to have a negative effect on the standard of living and economic growth. This inefficient loss in economic value may explain empirical results reported by Carroll et al. indicating that the personal income tax inhibits the growth of small firms.[6]

A pernicious characteristic of tax inefficiency is that it increases more than proportionately with the marginal tax rate. A one percentage point increase in a tax rate generates an increase in inefficiency that exceeds one percentage point. This has an important implication for the social benefit of state marginal income tax rates. North Carolina's corporate income tax generates inefficiency per se. The personal income tax compounds that inefficiency. However, because inefficiency increases faster than marginal tax rates, when added to the federal income tax rates on corporate and personal income, the state income taxes can generate very large amounts of inefficiency.

It follows that a decline in state marginal income tax rates can reduce tax inefficiency by relatively large amounts, even if the reductions appear to be relatively modest.

Inefficiency and the Sales Tax

Consider a taxpayer who will choose between repairing a faulty product or purchasing a new one. The purchase is a taxable event. Because of the exemption of services from sales tax,

[6] Carroll, R., Holtz-Eakin, D., Rider, M., Rosen, H. "Personal Income Taxes and the Growth of Small Firms," *Tax Policy and the Economy, 2001,* 121-148.

servicing the product is not. If, in this example, the taxpayer would prefer a new product, but chooses service to avoid the tax, she is worse off although the tax raises no revenue. This is a tax-induced inefficiency. The choice to avoid tax would not only impose a cost on this taxpayer, it also would contribute to the long-run trend away from manufacturing production, which has been a stalwart of North Carolina productivity in the past. In fact, empirical evidence suggests that state sales tax exemptions for most services have reinforced the trend away from spending on tangibles toward spending on services.[7]

Nonetheless, a sales tax can also create avoidable inefficiency. This occurs when certain categories of goods are exempted and when the tax falls on business inputs. Business inputs are a cost of production, so taxing them discourages production. A tax on all business inputs, for example a gross receipts tax, is inefficient because it creates *tax cascading*, which occurs when a commodity used in production is taxed multiple times as it is transferred between stages of production. For example, consider electricity sold to a manufacturer who sells computers to accounting firms, which in turn provide tax services to furniture manufacturers. The electricity is taxed when sold to the computer manufacturer, again because it is a cost of producing computers, again as a component in the cost of the accounting service, and again in the cost of furniture sold to a consumer. Thus the electricity and the tax itself are each taxed multiple times. In this example, if the statutory tax rate were three percent, the effective tax rate would cascade upwards to about six percent. Because the inefficiency increases faster than the tax rate, it would more than double.

[7] Merriman, D., and M. Skidmore, "Did Distortionary Sales Taxation Contribute to the Growth of the Services Sector?" *National Tax Journal*, 2000, 125-142.

The last argument suggests that business inputs should be spared the sales tax. It is worth noting that North Carolina's current sales tax on business inputs collects a substantial amount of revenue.[8] Therefore, eliminating the part of the tax levied on inputs would reduce revenue. Nonetheless, a computer simulation of the effect of eliminating the sales tax on business inputs indicates a net increase in efficiency.[9]

Broadening the sales tax to food for home consumption and to services would contribute to tax efficiency to the extent that it supports a decline in marginal tax rates and reduces the bias against purchases of tangible products.[10] It should also be noted that a substantial amount of tax saved due to the food exemption accrues to middle and high income earners, who are not the intended beneficiaries of exempting food: this creates a relatively large revenue cost with relatively little offsetting social benefit.

Equity and Taxation

Tax equity includes a benefit principle and an ability-to-pay principle. The benefit principle recommends that, to the extent possible, individuals benefitting from government services should pay fees commensurate with the benefits. In cases where taxpayers receive in-kind benefits or government transfers, the benefits or payments should be accounted for when evaluating tax equity.

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[8] R. Ring, "estimates that nearly forty percent of North Carolina sales tax revenue results from its sales tax on business inputs. See Ring, "Consumer's Share and Producers' Share of the General Sales Tax," *National Tax Journal*, 1999, 79-90.

[9] B. Russo, "An Efficiency Analysis of Proposed State and Local Sales Tax Reforms," *Southern Economic Journal*, 2005, 443-462.

[10] Broadening the sales tax to food for home consumption would also effect equity. This is discussed below.

The ability-to-pay principle recommends that taxpayers with equal real incomes face equal tax liabilities: This is called horizontal equity. Taxpayers with greater real incomes should face higher tax liabilities: This is called vertical equity.

North Carolina's graduated personal income tax system together with its itemized deduction feature provides a relatively large benefit to relatively high income earners. This is true because the higher the marginal income tax rate, the larger the reduction in tax liability per dollar of deduction. This is a vertical inequity that reduces income tax progressivity.[11] Flattening personal income tax rates and increasing the household exemption would reduce this inequity.

Horizontal equity tends to be violated by tax deductions, exemptions, credits, and special tax treatment that reduce tax liability for only select groups of taxpayers. For example, the sales tax exemption for most services tends to generate a smaller tax liability for one spending a relatively large amount on services than another spending the same amount, but mostly on tangible goods. Certain businesses and activities receive special treatment, both by the corporate income tax and the sales tax. This creates disparities between taxes owed by taxpayers with similar incomes. Elimination of special exemptions and credits tend to reduce horizontal inequity.

It has often been pointed out that retail sales taxes tend to place a higher burden on households earning relatively low annual incomes, because low income households tend to spend relatively large fractions of income on commodities. The relative burden is offset somewhat during retirement when higher income households tend to spend more than their

[11] In a progressive tax system the average tax rate (ratio of tax liability to income) increases with income.

incomes. [12] Therefore, over entire lifetimes, sales taxes are less regressive than in any particular year. Broadening the sales tax to services also would tend to offset the relative burden on low income households because high earners tend to spend relatively large fractions of income on services, such as those provided by attorneys, lawyers, on travel, etc. In contrast, broadening the sales tax to food for home consumption would tend to increase the burden on low income taxpayers. While middle and high income earners may spend more actual dollars on food, as noted above, low income earners spend a relatively larger fraction of their incomes on food.

The Fiscal Research Division of the North Carolina General Assembly has studied the effects of proposals in the NC Fair Tax Act on the tax liabilities of taxpayers in different tax brackets. Fiscal Research estimates that after the plan is fully implemented in 2017, the total (income plus sales) tax liability of the typical taxpayer whose Adjusted Gross Income is less than $51,000 will be higher than at present. The estimated tax liability of a typical taxpayer with income above that threshold will be lower than at present. This indicates a decline in progressivity (decline in vertical equity) in the tax system. However, the estimates do not account for the value of improvements in horizontal equity that would result from eliminating tax exemptions and credits. [13]

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[12] The excess of spending over income is financed by drawing upon previously accumulated wealth. See D. Fullerton and D. Rogers, 1996, "Lifetime Effects of Fundamental Tax Reform," *Economic Effects of Fundamental Tax Reform*, ed. Aaron and Gale (Washington: Brookings Institution).

[13] In order to calculate the net effect on equity, one would need estimates of the social value of the improvement in horizontal equity, as well as a way of weighting that value against the decline in vertical equity. Unfortunately, such estimates are unavailable. We are reluctant to speculate on the net equity effects because doing so could be highly inaccurate and misleading.

Simplicity and Taxation

A simple tax system is transparent and relatively easy for tax administrators to understand and implement, and for taxpayers to comply with. Unnecessarily complicated taxes tend to cause administrator and taxpayer errors, which can reduce confidence in the system's accuracy and fairness. The uncertainty that results tends to discourage risk taking and the entrepreneurial spirit requisite for capital development and a high standard of living. Moreover, because errors occur, the Department of Revenue must monitor taxpayers closely. Monitoring is costly and promotes friction between administrators and taxpayers.

Sales tax exemptions and exclusions complicate administration and compliance. For example, retailers must distinguish between taxed and exempt products. Prepared meals are taxed, but food for home consumption is not. Modern supermarkets sell both, so they must distinguish between food products. Broadening the tax to food for home consumption would reduce complexity.

Broadening the sales tax to more services would require collection and remittance of sales tax on the part of some service firms who do not now perform these functions. Thus, some service firms who previously were not required to register with the Department of Revenue would have to, reducing simplicity.

Revenue Stability and Taxation

A stable tax system minimizes the declines and expansions of tax revenue that occur as a result of short-run business cycle expansions and contractions. As revenue declines in a downturn, policymakers must make short-run adjustments to balance budgets. This often has

led to changes in tax rates and adjustments in the tax base (what is taxed). For example, in each of the past three recessions, North Carolina has resorted to increasing tax rates. These unexpected tax changes tend to create uncertainty and reinforce downturns. Short-run revenue shortfalls can lead to ad hoc changes in policy that undermine the ability of the state of North Carolina to provide a predictable stream of public services.

The state sales tax exemption of food for home consumption and the general (state and local) exemption of services magnifies short-run volatility of the sales tax base. This is true partly because durable goods, like cars and home appliances, are the most volatile type of private spending. Taxpayers tend to conserve resources during economic contractions by reducing purchases of durables. In contrast, spending on services is relatively stable. In a typical contraction spending on durables declines by about thirty-three percent more than services spending. Spending on food for home consumption is among the most stable types of private spending. Income taxes with graduated marginal tax rates also are relatively responsive to economic contractions.[14] The corporate income tax is particularly volatile in this way.

Broadening the sales tax base to more services and food for home consumption, and reducing reliance on the income tax in favor of the broadened sales tax, would increase the stability of North Carolina's tax revenue.

Tax Sufficiency

A state tax system is sufficient if its capacity to generate revenue required to meet the state's funding objectives is impervious to long-run structural changes in the economy. In an

[14] R. Dye and T. McGuire provide empirical support for these claims. See "Growth and Variability of State Individual Income and General Sales Tax," 1991, *National Tax Journal*, V. XLIV, pp. 55-66.

important sense, sufficiency is fundamental. If the capacity of the tax system to generate revenue policymakers deem necessary to meet the state's financial obligations is impaired by structural economic changes, achievement of many of the other criteria is likely to be undermined. For example, the often observed erosion in North Carolina's sales tax base has led to repeated increases in the sales tax rate.

The need for public services and the revenue required to finance them tends to grow along with the economy in the long run. Therefore, sufficiency requires a tax revenue stream that also grows along the economy's long-run upward trend. All else constant, a sufficient tax system would maintain a constant ratio of tax revenue to GDP in the long run. Mainly due to erosion in the sales tax base, North Carolina's current tax system does not satisfy this criterion. This has occurred in large part because the fraction of private spending on tangible goods has trended downward since the end of WWII, with only a few temporary interruptions. Because the sales tax is levied primarily on tangible goods, exempting most services, the long-run trend toward services is eroding the sales tax base.

Broadening the sales tax base to more services would tend to forestall further sales tax base erosion by automatically adjusting to the long-run shift from tangibles to services.

CONCLUSION

After full implementation, the NC Fair Tax Act would reduce the individual and corporate income tax rates, the franchise tax rate, and the combined (state plus local) sales tax rate. The Act would reduce the number of income tax brackets, eliminate income tax deductions and credits, and add a personal tax credit. In the next chapter of this report Dr. Mike Walden reports his estimate that the sales tax base would expand by about 40 percent.

For the reasons described in the text above, the net effect of these changes on efficiency, stability, and sufficiency would be positive. The net effects on simplicity and equity are harder to gauge. The Fair Tax Act would simplify individual income taxes by replacing the deductions, exemptions, and credits by a single personal tax credit. However, it would require service firms that do not now collect sales tax to do so. Therefore, the net effect on simplicity is unclear at this reading. The Act would tend to improve horizontal equity by eliminating special tax treatment of some taxpayers and activities. However, estimates made by the Fiscal Research Division indicate an increase in the tax burden on lower income taxpayers in relative and absolute dollar terms. This would tend to reduce vertical equity. As described earlier in this chapter, the net effect on equity is unclear.

In general, no single type of tax is capable of simultaneously achieving all the criteria set out in the principles of sound tax policy—there are always tradeoffs. For example, by reducing taxation of income in favor of taxation of retail sales the NC Fair Tax Act will improve efficiency (by reducing taxation of saving); however, estimates made by the Fiscal Research Division indicate the tax burden on lower income taxpayers will increase. Nevertheless, there is a solution to this tradeoff dilemma: broadening tax bases and lowering marginal tax rates. Broadening tax bases can improve horizontal equity by reducing tax disparities among similarly situated taxpayers, while simultaneously providing revenue that can be used to lower rates, thereby increasing efficiency. By carefully calibrating base broadening and marginal tax rate reductions there is a potential to make changes that tend to support efficiency and equity.

Finally, noted tax economist Martin Feldstein argues that tax reform tends to be difficult to achieve because taxpayers have adjusted to the existing system.[15] Reform always produces hardships for some. Feldstein suggests that the transition can be eased by introducing reforms gradually, so taxpayers have time to adjust, and that reforms be presented as transparently as possible, so taxpayers can understand the economic consequences.

[15] Feldstein, "On the Theory of Tax Reform," *Journal of Public Economics*, 1976, 77-104.

ESTIMATES OF THE ECONOMIC IMPACT OF CHANGES IN THE COMPOSITION OF NORTH CAROLINA TAXES

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North Carolina's economy has been impacted by several economic "shocks" in recent decades. Two national recessions hit the state in the 2000's decade, resulting in severe job losses and economic dislocation. The reduction in trade barriers and the resultant increase in international trade – while benefitting some sectors – hastened output and employment losses in some of the state's traditional industries. Globalization and the development of technology have increased the skill demands of businesses and created challenges for low-skilled workers finding adequate-paying employment.

Among the many ideas discussed to improve the long-run economic condition of North Carolina are proposals to alter the state's tax structure. Several issues have been debated. As consumer spending has shifted to services and away from tangible products, growth in sales tax revenues has not kept pace with economic growth. This trend has led to proposals to expand the sales tax base to include more services. Also, with national and – indeed – international competition for business location seemingly more intense today, concerns have been expressed that states taxing income-earning activities at a higher level will be at a competitive disadvantage for generating economic development. Last, there is a viewpoint that simpler tax systems with more transparency and fewer complications reduce tax compliance costs and preparation time and allow resources to be better directed to income-enhancing activities.

The combination of these ideas has led to three major tax proposals. First, for any tax, combine a lower tax rate with a broader tax base (what is taxed). This system will result in less tax per dollar of tax base and therefore will – on average – reduce the influence of taxes on economic decision-making. Second, for any particular tax, make tax rates flatter – that is –

move away from "progressive" tax systems to "proportional" tax systems. Such a system reduces the likelihood of additional income-earning activities being deterred by higher tax rates. Third, shift the allocation of taxes away from taxing income and to taxing consumption (spending). While taxing consumption more might reduce economic activity today, the theory is that taxing income-earning less (and, by implication, taxing saving and investing less) will grow economic activity faster and ultimately lead to even higher levels of consumption.

There are a number of prominent economists supporting the tax principles outlined in the above paragraph. However, there are also noted economists who have questioned these proposals, resulting in a vigorous debate over the principles of tax policy.[16] The debate centers on the classic economic tradeoff of "efficiency versus equity." Measures that might improve economic efficiency (growth) may – in the short run at least – be detrimental to equity. For example, moving from an income-based tax system to more of a consumption-based system, or reducing the progressivity of any tax type, may reduce the relative tax payments of higher-income taxpayers and increase the relative tax payments of lower-income taxpayers.

This report focuses on the effects of altering North Carolina's state tax structure and mix on measures of economic growth – specifically gross state product (GSP), income to workers, and total employment. The purpose of the analysis in the paper is not to take a position on the proposed changes to North Carolina's tax structure, but – instead – to provide information on potential consequences of the proposals for the state's aggregate economy. This focus does

[16] Harvard University economist and former chair of the President's Council of Economic Advisers N. Gregory Mankiw has publicly supported the ideas of a broader tax base with lower rates and a shift from taxing income to taxing spending, while Princeton University economist and Nobel Prize winner Paul Krugman supports a progressive income tax system.

not deny the importance and relevance of the efficiency versus equity argument. Equity issues are important and hopefully are addressed in other forums. However, measures of economic growth impacts are necessary in order to conduct debates about "efficiency versus equity."

The paper only considers the economic impact of changes in the mix of state taxes; economic impacts of any resulting changes in spending are *not* addressed – one important reason being that *where* spending changes might occur are not known, and research shows the economic impact of state spending varies between spending programs. So, implicitly, the analysis is based on "revenue-neutral" tax mix changes. Also, only *aggregate* economic impacts – for the state economy in total - are calculated. Economic impacts for individual sectors will likely vary. Lastly, evaluation of possible "wealth effects" of the tax proposals and impacts of changing the sales factor apportionment formula for the corporate income tax are not presented. Changing the deductibility status of some household or business expenditure, changing the rate at which assets are taxed, and changing the tax status of some transactions can each impact the market value of associated assets. The proposals, if adopted, would likely have positive impacts on some asset values and negative impacts on others.

Following are four sections of the report: a summary of the major state tax proposals; a review of the considerable academic literature examining the impacts of state and local taxes on state economic growth; estimates of the impacts from changing the state tax mix on state employment, aggregate state output (GSP), and income using findings from several of the studies in the previous section; and a final section offering discussion and conclusions. An appendix is included detailing the calculations of the impacts.

THE PROPOSALS

Several bills have been introduced into the 2013 session of the North Carolina General Assembly to alter the state's tax structure. The bills focus on changing three taxes, together which account for 90% of the revenues for the General Fund: the individual income tax, business taxes (corporate income tax, franchise tax), and the sales and use tax. The proposed changes are numerous and detailed. Only the major components are summarized here, and they are based on the draft bill titled "NC Fair Tax Act." (2013-RBx-21C, v.4)

Proposed Changes to the Individual Income Tax: The plan would reduce the highest individual tax rate by over 40% (from 7.75% to 4.5%), reduce the number of tax brackets, eliminate current deductions and credits, and add a personal tax credit. Hence, the new individual income tax would be lower, flatter, and simpler.

Proposed Changes to Business Taxes: The plan would reduce the corporate income tax rate by 13% (6.9% to 6%) and also reduce the business franchise tax.

Proposed Changes to the Sales and Use Tax: The plan would broaden the sales tax base by adding spending on over 150 services, thereby expanding the sales tax base by approximately 50%. The state sales tax rate would rise from 4.75% to 5%, but the combined state and local sales tax rate would fall from 6.75% to 6.5%.

It is estimated these changes would alter the tax mix from sales, individual income, and businesses (corporate income tax and franchise tax) in a major way (Table 1).

Table 1. Proposed Shifts in North Carolina State Tax Revenue Shares.

	Fiscal Year 2013/14	Fiscal Year 2017/18
Percentage of GF revenues from:[a]		
Sales tax	26.7%	41.3%
Individual income tax	54.5%	40.8%
Corporate income and franchise taxes	8.6%	7.9%

[a] GF = General Fund

Source: North Carolina Senate Finance Committee, "Timing Model," Draft, May 1, 2013.

STUDIES OF THE ECONOMIC IMPACT OF STATE TAXES

The impact of a state's tax structure on state economic growth has long been a focus of academic study, with scores of articles published in peer-reviewed journals and in working papers in recent decades. However, researchers confront several challenges in attempting to develop links between tax structure and economic growth.

Perhaps the biggest challenge is recognizing that many factors other than state taxes affect the economic trends of a state. Among them are labor, land, and energy costs, the regulatory environment, the strength of unions, the educational attainment and skill levels of the workforce in the state, the physical environment (number of days of sunshine!), the

transportation network and access to markets, levels of private and public investments, the quality of educational institutions, the tax structure of neighboring states, and the economic structure of the state. The last factor simply means that – at any point in time – each state has a unique composition of sectors and industries that are impacted by factors and forces beyond the state's control.[17] The studies also use different statistical techniques, different time periods to derive estimates of the impacts of state taxes on economic growth, and different measures of both economic activity and taxes. Hence, as this review will show, there is a wide variation in findings for the links between state tax structure and state economic growth.

The next section summarizes the findings by type of tax. Where possible, ranges for the quantitative impact of taxes on growth are given.

Corporate income tax: The literature examining the effects of different levels of the corporate income tax rate on economic activity is, perhaps, the most consistent among all tax types, but still there is significant variation in the results. Recent studies looking at international comparisons or national studies for one country over time find, for example, that a **1% *point* reduction** in the corporate income tax rate leads to a **0.06 % *point* increase** in the real (inflation –adjusted) per capita annual GDP growth rate, and a **1% decrease** in the corporate income tax rate is associated with a **0.5% increase** in real wage rates.[18] The studies

[17] Two examples illustrate this point for North Carolina. The textile and apparel industry was long a mainstay of economic growth in the state in the early and mid-20th century. International trade agreements and the weakening of tariff protections caused the domestic industry to significantly decline in the last third of the 20th century. Similarly, the banking and financial services sector was a source of growth in the state beginning in the mid-1990s. However, the collapse of the financial sector in the 2007-2009 national recession created enormous losses for the state.

[18] Young, Lee and Roger H. Gordon. "Tax Structure and Economic Growth," *Journal of Public Economics*, Vol. 89, 2005, 1027-1043; Hassett, Kevin and Agarna Mathur. *Spatial Tax Competition and Domestic Wages*. American Enterprise Institute, December 2010.

comparing economic growth across regions of a country (states in the U.S, provinces in Canada) generally find similar impacts, such as a **1% *point* cut** in the state corporate income tax rate being associated with a **0.1 to 0.2% *point* increase** in the real per capita annual GSP growth rate.[19] Other analyses – using different methods – are also consistent with these findings.[20]

There are, however, studies finding both larger and smaller economic impacts from altering the state corporate income tax rate. Chirinko and Wilson's simulation model specifically for North Carolina resulted in a **1% *point* reduction** in the corporate income tax rate leading to a **0.40% increase** in GSP.[21] However, both work by Ojede and Yamarik and by Alm and Rogers for U.S. states found no link between state corporate income tax rates and state economic growth.[22]

Importantly, all these studies do attempt to "control" for the multitude of other factors impacting economic growth either between countries, in a country over time, or within subdivisions (states, provinces) of a country.

Individual (personal) income tax: At the national level, there have been relatively small, yet statistically significant, relationships found between the individual income tax and various measures of economic activity, with a **1% reduction** in the income tax measure associated with

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[19] R. Alison Felix. "Do State Corporate Income Taxes Reduce Wages?" *Federal Reserve Bank of Kansas City Economic Review*, 2nd quarter, 2009, Vol. 94, No. 2, 77-102; Ferede, Ergete and Bev Dahlby. "The Impact of Tax Cuts on Economic Growth: Evidence from the Canadian Provinces," *National Tax Journal*, Vol. 65, No. 3, September 2012, 563-594.

[20] Harden, J. William and William Hoyt. "Do States Choose Their Mix of Taxes to Minimize Employment Losses?" *National Tax Journal*, Vol. 55, No. 1, March 2003, 7-26.

[21] Chirinko, Robert and Daniel Wilson. "State Business Taxes and Investment: State by State Simulations," *Federal Reserve Bank of San Francisco Economic Review*, 2010, 13-28.

[22] Ojede, Andrew and Steven Yamarik. "Tax Policy and State Economic Growth: The Long and Short-Run of It," *Economic Letters*, Vol. 116, 2012, 161-165; Alm, James and Janet Rogers. "Do State Fiscal Policies Affect State Economic Growth?" *Public Finance Review*, Vol. 39, No. 4, 2011, 483-526.

between a **0.1% and 0.3% increase** in economic activity.[23] At the state level, Poulson and Kaplan found that states with a lower average marginal income tax rate – implying less "progressivity" in the individual income tax code – had faster economic growth.[24] Statistically, a **1% reduction** in a state's marginal income tax rate relative to the average marginal income tax rate for all states **increases the state's gross state product (GSP) growth rate relative to the growth rate for all states by 0.3%.**[25]

But once again, all studies are not in agreement that differences in individual income taxes make a significant difference to a state's economic growth. Specifically, research by Harden and Hoyt, by Ojede and Yamarik, and by Alm and Rogers – each using different statistical methods – did not find a link between a state's individual income tax structure and state economic growth.[26] Ojede/Yamarik use data incorporating the most recent years, so their results may imply something different about state economies and the reaction of state economies to tax changes in the early 21st century.

Once again, all the studies include "control variables" for non-tax factors.

Sales Tax: Inconsistent results have also been found for the impact of variation in sales taxes on state economic growth. Alm/Rogers and Ferede/Dahlby find statistical support for

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[23] Keane, Michael P. "Labor Supply and Taxes: A Survey," *Journal of Economic Literature*, Vol. 49, No. 4, 2011, 961-1075; Bakija, Jon, Adam Cole, and Bradley Heim. "Jobs and Income Growth of Top Earners and the Causes of Changing Income Inequality: Evidence from U.S. Tax Return Data," U.S. Department of Treasury, November 2010; and Romer, Christina and David Romer. "The Incentive Effects of Marginal Tax Rates: Evidence from the Interwar Era," National Bureau of Economic Research Working Paper 17860, February 2012. Keane measured the impact of tax changes through changes in after-tax wage rates, while Bakija/Cole/Heim and Romer/Romer considered how tax changes influence after-tax income.

[24] A "progressive" tax system is one in which tax rates rise for higher segments of taxable income.

[25] Poulson, Barry and Jules G. Kaplan. "State Income Taxes and Economic Growth," *Cato Journal*, Vol. 28, No. 1, Winter 2008, 53-71.

[26] Harden and Hoyt, *op. cit.*; Ojede and Yamarik, *op. cit.*; Alm and Rogers, *op. cit.*

faster economic growth in states (or provinces) with higher sales taxes. Conversely, Ojede/Yamarik, Harden/Hoyt, and Felix found the opposite – **lower economic growth in state with higher sales taxes.** Ferede/Dahlby's findings suggest a **1% point increase** in the sales tax rate prompts a **0.5% point increase** in the average annual growth rate of real GSP per capita, while Felix's results translate to a **1% point reduction** in the sales tax rate being associated with a **0.1 % increase in the wage rate** – an impact smaller than for the corporate income tax rate but larger than for the individual income tax rate. Both Alm/Rogers and Ojede/Yamarik found no impact of individual income and corporate income taxes on state economic growth. "Controls" for non-tax factors were included in the studies.

CHANGING THE NORTH CAROLINA TAX MIX: ESTIMATES OF ECONOMIC IMPACTS

This section of the report presents alternative estimates of proposed changes in North Carolina's tax structure on three key economic measures: state gross product (GSP), employment, and income. The estimates are derived from research results in five studies: Felix, Ferede/Dahlby, Harden/Hoyt, Ojede/Yamarik, and Alm/Rogers. These five studies are used for several reasons. First, they are recent, having been published within the last decade; therefore they are current with respect to the latest tax issues, statistical methodologies, and data. Second, the studies have each been published in peer-reviewed academic journals, so they received scrutiny by reviewers not associated with the study prior to its publication. Third, the analyses in the studies include individual results for the three major tax types involved in North Carolina's proposals – the corporate income, individual income, and sales

taxes - therefore allowing investigation of impacts when the mix of tax types is changed. Fourth, the studies include "controls" for the large number of non-tax factors affecting state economic growth – meaning the results for the tax measures exclude impacts from other non-tax factors. Fifth, the studies give a range of estimates of economic impact, thereby reinforcing the point that academic research is not settled on a standard expectation of how the tax system impacts economic behavior and outcomes.

The forecasted impacts from the five studies are presented in Table 1. All impacts are calibrated for the year 2027, a decade after the tax changes would be fully implemented. All dollar values are measured in 2012 purchasing power dollars. Details of the calculations are given in the Appendix. The results should be interpreted as the economic impact of "revenue-neutral" changes in the mix of North Carolina state taxes.

The obvious conclusion is that the estimated impacts span a wide range. The estimated net job impact in 2027 ranges from a high of over 800,000 to a low of almost -200,000. Two of the studies produce positive economic impacts, two studies give negative impacts, and one study shows little impact. There are comparable ranges for the GSP and income forecasts.

These results suggest many features, components, and impacts from altering the state tax mix – in addition to those on economic growth - should be considered by decision-makers.

Table 2. Forecasted Impacts in 2027 of the Proposed New North Carolina Tax Revenue Mix, Assuming Revenue-Neutrality (negative values are in *italics*)

Study	Change in Gross State Product (2012 $)	Change in Income (2012 $)	Change in Employment
Felix	*-$0.4 billion*	*-$0.2 billion*[a]	*-3743*
Ferede/Dahlby	$96 billion	$49 billion[a]	864,000
Harden/Hoyt	*-$0.09 billion*	*-$0.04 billion*[a]	*-1047*
Ojede/Yamarik	*-$22 billion*	*-$17 billion*[b]	*-198,000*
Alm/Rogers	$8 billion	$6 billion[c]	71,451

Source: Appendix.

[a] compensation; [b] private personal income [c] total personal income

DISCUSSION AND CONCLUSIONS

It should – perhaps – not be surprising that the results from the five studies are not consistent. The studies use different measures of taxes and spending, different time periods, and different statistical methods. Also, it should be emphasized, none of the studies model all the specifics of the North Carolina proposals – which would likely be very challenging in an analysis based on comparing results for states (or provinces) over time. Finally, it should be understood the studies are attempting to calibrate the responses of individuals and businesses to economic factors. Modeling and predicting human behavior has always been challenging.

Still, the studies do provide some considerations for policy makers in the debate over tax structure and mix. The five studies are most consistent in their findings for changes in tax revenue from corporate income. Even using different measures, three of the five studies

showed more revenues from corporate income were related to less economic growth, two showed no relationship, and none of the studies indicated greater corporate income tax revenues being related to greater economic growth. However – to emphasize – these results from changing the corporate income tax would have to be combined with the results from simultaneously changing other taxes if "revenue-neutrality" and unchanged spending are to be maintained. Indeed, this is what the analysis in this paper of altering the tax mix accomplishes.

These results for the corporate income tax are in contrast to those for the individual income tax – where four of the five studies suggest no relationship between the level of the tax and economic activity in a state.

The results for the sales tax are very mixed – with two studies finding more sales tax revenues are related to more economic growth, two studies showing more sales tax revenues are associated with less economic growth, and one study suggesting the relationship depends on what other tax source is changed. Interestingly, two of the three studies with analysis including years in the 21st century conclude greater sales tax revenues lead to slower economic growth (and the third study showing the opposite effect is based on Canadian data, so there may be questions of applicability to U.S. states). One explanation may be the effect of increased on-line-buying, particularly since 2000. With on-line purchases from out-of-state sellers largely untaxed by state sales taxes, higher state sales taxes may motivate more on-line-buying, thereby reducing economic activity within states through lost economic activity at "brick and mortar" stores located in states.

Therefore, the potential adverse impact on state economic growth of higher sales taxes may be muted if the federal government approves state taxation of on-line sales from out-of-state companies. Conversely, the adverse impact may be maintained if the increased reliance on sales taxes is from expanding the base to services – which are more difficult to purchase from out-of-state companies – rather than from increasing the sales tax rate.

APPENDIX

The Appendix gives the details for the calculations of economic impact from altering North Carolina's tax structure (from the draft of the proposed "NC Fair Tax Act") based on the five studies.

Felix

The estimates based on Felix's study are from her third equation, which controls for the level of government services in the state in deriving the impact of tax changes and uses state level data from 1977 to 2005. The dependent variable is the wage rate of workers in the state. Felix's results show a 1% point decrease in the state corporate income tax rate is associated with a 0.17% increase in the wage rate, a 1% point increase in the state sales tax rate is associated with a 0.10% decrease in the wage rate, and no impact from the individual income tax rate.

The proposed percentage point change (reduction) in the North Carolina corporate income tax rate is 0.9 (6.9% to 6.0%). The total sales tax rate is scheduled to fall from 6.75% to 6.5%, a decrease of 0.25 percentage points. However, this reduction is countered by the expansion of the sales tax base, which is estimated to increase by 40%.[27] Therefore, the rate that incorporates the expanded base is 6.5% x 1.40, or 9.1%, implying an increase of 2.6%

[27] Revenue from the sales tax is the product of the sales tax rate and the tax base. In FY13, prior to the proposed tax changes, state sales tax revenue is $5.49 billion and the state rate is 0.0475 (4.75%), implying a base of $115.58 billion. In FY17, after the proposals would be fully implemented, state revenue is projected at $9.47 billion, the state rate is 0.05 (5%), and the resulting implied base is $187.40 (North Carolina Senate Finance Committee, *op. cit.*). However, this base is in nominal dollars, and it also reflects increased spending from population growth. Assuming an annual inflation rate of 2% and an annual population growth rate of 1.7% (the North Carolina average in the 2000s decade, from the North Carolina State Data Center), the inflation-adjusted and population-adjusted sales tax base in FY 17 is $162.11 billion, meaning a 40% increase from FY14.

points. Applying these numbers to Felix's wage rate effects from corporate income and sales tax rates, and using an average North Carolina hourly wage rate of $21.87,[28] gives an implied change in the wage rate of (0.9 x 0.0017 x $21.87) – (2.6 x 0.0010 x $21.87) = -0.02, or a decline of 2 cents per hour.

This decline in the average wage rate will have two broad economic effects. First, it will reduce the income earned from working a certain number of hours. But it will also motivate a decline in total work hours – along with a commensurate decline in income – if workers respond to lower wage rates by working less. Economic evidence suggests this response to changing wage rates is exactly the case, with (on average) a 1% decrease in the wage rate leading to a 0.31% decline in labor supply.[29]

Therefore, the change in aggregate North Carolina income resulting from the 2 cent decrease in the wage rate can be estimated by:

(1) ($0.02 x yearly hours worked per worker x # workers) + (proportional change in the wage rate x 0.31 x yearly hours worked per worker x $21.87 x # workers).

The number of yearly hours worked per worker is set at 1920[30], and the estimated number of workers in 2017 is 4,278,000.[31] The percentage change in the wage rate is -0.09%, or -0.0009 in proportional terms. The result of the calculations is a **one-time income loss of $214,393,346**. Furthermore, using a GSP to worker compensation ratio of 1.94 and a total

[28] The wage rate is based on calculations from the latest (2011) *American Community Survey* from the U.S. Census.
[29] Keane, Michael. "Labor Supply and Taxes: A Survey," *Journal of Economic Literature*, Vol. 49, No. 4; December 2011, 961-1075.
[30] *American Community Survey, op. cit.*
[31] The employment number for 2017 is derived by applying the long-run (1990-2012) annual employment growth rate in North Carolina (1.19%) to the 2012 employment number of 4,032,300 (U.S. Bureau of Labor Statistics).

state employment to $1 million of GSP ratio of 9, the **one-time loss in GSP is $415,923,080 and the one-time loss in employment is 3743 jobs.**[32]

Ferede/Dahlby

The calculations based on Ferede/Dahlby's study using Canadian provincial data for 1977-2006 is from their second equation, using fixed effects and including provincial government expenditure data. Their results show a 1% point reduction in the corporate income tax rate leads to a 0.163% point increase in the annual real GDP (GSP for North Carolina) growth rate per capita, and a 1% point increase in the sales tax rate results in a 0.587% point increase in the annual real GDP growth rate per capita. They found no statistically significant impact on the annual real GDP growth rate from changing the individual income tax rate. Hence, with the proposal in North Carolina to reduce the corporate income tax rate and increase the effective sales tax rate, using Ferede/Dahlby's results will lead to an increase in state economic activity.

Numerically calibrating the implications of Ferede/Dahlby's study for the North Carolina economy is done using this equation:

(2) (-% point change in corporate income tax rate x 0.163) + (% point change in effective sales tax rate x 0.587) = change in real GSP growth rate per capita in percentage points.

Applying the corporate income tax rate change of -0.9% points and the sales tax rate

[32] The GSP to worker compensation ratio is for 2010, the latest year available, and is from the U.S. Bureau of Economic Analysis. The employment to GSP ratio is for 2011 (latest year available for both series) and is from the U.S. Bureau of Labor Statistics and the U.S. Bureau of Economic Analysis.

change accounting for the expanded base of 2.6% points leads to a significant 1.67% point increase in the annual real GSP growth rate per capita. Using a projected real GSP per capita in 2017 of $48,982 (2012$), the additional tax-change-induced growth would imply an additional $8823 (2012$) of real GSP per capita in North Carolina in 2027.[33] Multiplying by the state's projected population in 2017 gives $92 billion of additional real GSP in 2027 due to the faster economic growth from the proposed tax changes. Accounting for faster economic growth related to projected population growth between 2017 and 2027 adds another $4 billion for a **total estimated additional GSP in 2027 of $96 billion.**[34] Using the rate of 9 jobs per $1 million of real GSP and an income to GSP ratio of 0.515[35] gives an estimated **additional 864,000 jobs and $49 billion of income (compensation) in the state in 2027.**

Harden/Hoyt

Harden/Hoyt looked directly at the impact of different state tax mixes on employment growth using state data spanning 1977 to 1994. Based on their empirical results, they calculated how shifts in the tax mix (that is, shifts in the percentage of state revenue from each tax type) affected employment growth.

Harden/Hoyt found that every 1% shift in state revenue from the corporate income tax to the sales tax would increase the annual growth rate in employment by 0.32%. Every 1%

[33] Real GSP per capita in 2017 is derived by applying the long-run (1997-2011) average annual real GSP growth rate to actual North Carolina GSP in 2012 (2012$) to project real GSP in 2017 (2012$; data are from the U.S. Bureau of Economic Analysis). Dividing the estimated 2017 real GSP value by North Carolina's projected population in 2017 (North Carolina State Data Center) gives the projected real GSP per capita value in 2017.

[34] The additional $5 billion of GSP is derived by applying the previously estimated additional real GSP per capita to the decadal mid-point average of projected state population growth from 2017-2027 (North Carolina State Data Center).

[35] This is the inverse of the GSP to income ratio of 1.94.

shift in state revenues from the corporate income tax to the individual income tax would increase the annual growth rate in employment by 0.28%. Every 1% shift in state revenues from the individual income tax to the sales tax would *decrease* the annual growth rate in employment by 0.03%.

The proposed shifts in the tax mix for North Carolina were presented in Table 1, and these shifts can be applied to the Harden/Hoyt findings. Two "mix" shifts are proposed, from business taxes to the sales tax, and from the individual income tax to the sales tax[36]. Hence, only the Harden/Hoyt equations for these two shifts are used.

The shift from business taxes to sales taxes is from 8.6% of General Fund revenues to 7.9% of General Fund revenues, equal to a 0.7% shift in the share of General Fund revenues. The shift from the individual income tax to the sales tax is from 54.5% of General Fund revenues to 40.8% of General Fund revenues, equivalent to a 13.7% shift in the share of General Fund revenues. The estimated change in the annual employment growth rate (in %) is:

(3) $(0.7 \times 0.32) - (13.7 \times 0.03) = -0.187\%$.

Using the long-run average annual employment growth rate for North Carolina of 1.19%,

[36] By including the change in the franchise tax share with the corporate income tax share, it is implicitly assumed both taxes have the same type of impact on employment growth.

the calculation implies the annual employment growth rate falls from 1.19% to 1.1878%.[37] Using the forecasted 2017 total state employment of 4,278,000[38], the estimated difference in jobs in 2027, using the annual growth rate, would be:

jobs with faster growth: $4{,}278{,}000 \times (1.0119)^{10} = 4{,}815{,}227$

jobs with slower growth: $4{,}278{,}000 \times (1.011878)^{10} = 4{,}814{,}180,$

for a loss of 1047 jobs.

To derive estimated additional income, 1047 is multiplied by an average annual salary of $42,008,[39] and to obtain estimated additional GSP, additional income is multiplied by the GSP/income ratio of 1.94.[40] These results are:

-1047 x $42,008 = **$43,982,376 in lower income (compensation) in 2027,**

$1,494,528,000 x 1.94 = **$87,325,809 in lower GSP in 2027.**

Given the always present problem of measurement error, the Harden/Hoyt results can be interpreted as suggesting no long-run economic impact from the tax mix shift.

Ojede/Yamarik

Ojede/Yamarik used data for states over the period 1968-2008. They used the annual growth rate in real private personal income (net of transfers) and measured taxes as a ratio to

[37] See footnote 16 for the source of the state's long-run annual average employment growth rate. The calculation is (1-0.00187) x 1.19%
[38] See footnote 16.
[39] For North Carolina, from the *American Community Survey, 2011.*
[40] See footnotes 16 and 17.

personal income. Among corporate income, individual income, and sales taxes, they found a statistically significant relationship only for the sales tax, and the relationship was negative with growth. Specifically, Ojede/Yamarik's results (using their first equation) suggest an increase of 1% in the (sales tax/personal income) ratio *reduces* the annual growth rate of real private personal income by 0.4%.

Ojede/Yamarik's findings will result in a decline in economic activity for states shifting their tax mix to the sales tax. The following equation implements Ojede/Yamarik's results.

(4) (((salespr2017/salespr2013) -1)x 100) x 0.4 = percentage reduction in annual growth rate, where:

salespr2017 = sales tax revenue as a proportion of NC personal income in 2017, and

salespr2013 = sales tax revenue as a proportion of NC personal income in 2013.

Incorporating the tax proposals, salespr2017 is estimated at 0.02, and salespr2013 is estimated at 0.014, a 42.9% increase.[41] Multiplying by 0.4 gives a predicted 17.2% reduction in the annual real growth rate of private personal income. The average annual real growth rate in North Carolina private personal income is 2.2%.[42] A reduction of 17.2% reduces the rate to 1.82%. Using $329 billion as the estimated private personal income of North Carolina in

[41] The numerators for salespr2013 and salespr2017 are from the North Carolina Senate Finance Committee, *op. cit.* Projections for North Carolina personal income (nominal) in 2013 and 2017 are derived by applying the average annual personal income growth rate from 1990 to 2012 to the actual 2012 level (U.S. Bureau of Economic Analysis).

[42] Based on 1990-2011 data.

2017[43], the difference in total private personal income in the state in 2027 using the two alternative growth rates is:

$379 billon x $(1.022)^{10}$ = $471 billion

$379 billion x $(1.0182)^{10}$ = $454 billion,

implying a **loss of $17 billion (2012$) in private personal income in 2027**. Applying a factor of 1.28 for the ratio of GSP to private personal income[44] and a rate of 9 jobs per $1 million of GSP gives the complementary impacts of:

(5) $17 billion x 1.28 = **$22 billion loss of GSP in 2027**, and

(6) 22,000 (millions) x 9 = **198,000 job loss in 2027.**

Alm/Rogers

The Alm/Rogers study is unique for the number of explanatory variables it includes – over 130 – in examining differences in real per capita personal income growth rates for states over the period 1947 to 1997. Alm/Rogers found two statistically significant results of importance to North Carolina's tax proposals. Increases in both real individual income tax revenue per capita and in real sales tax revenue per capita are associated with increases in the real per capita personal income growth rate. Their results imply that every 1% increase in North Carolina's individual income tax revenue per capita leads to a little more than one-tenth of a percentage point (0.0115) increase in the real per capita personal income annual growth

[43] Derived by applying the average 2.2% real average annual growth rate in private personal income in North Carolina to the 2011 (actual) base and projecting to 2017, all in 2012$.
[44] From U.S. Bureau of Economic Analysis data.

rate, and every 1% increase in North Carolina's sales tax revenue per capita results in a little less than one-tenth of a percentage point (0.009) increase in the real per capita personal income annual growth rate. With the state's long-run annual per capita real personal income growth rate at 0.9%, this means it would increase to 0.1015 for a 1% increase in individual income tax revenue per capita, and it would increase to 0.099 for a 1% increase in sales tax revenue per capita.[45]

The North Carolina proposals for changing North Carolina's tax mix imply a 50% increase in real sales tax revenues per capita and a 28% decrease in real individual income tax revenues per capita between 2013 and 2017.[46] The net change in North Carolina's real per capita personal income growth rate would then be:

(7) $50 \times 0.009 - 28 \times 0.0115 = 0.13\%$.

Thus, based on the Alm/Rogers analysis, North Carolina's long-run real per capita personal income growth rate would rise from 0.9% to 1.03%.

North Carolina's per capita personal income in 2012 was $37,049. Using the existing long-run real annual per capita growth rate of 0.9%, in 2027 the state's real (2012$) per capita personal income would be $42,378. Using a 0.9% annual growth rate from 2012 to 2017 and then the higher annual growth rate of 1.03%, from 2017 to 2027, per capita personal income in 2027 (2012$) would be $42,927, an increase of $549 per capita. North Carolina's population in

[45] The long-run real annual personal income growth rate per capita for North Carolina is based on 1990-2012 data (U.S. Bureau of Economic Analysis).

[46] Calculated using data from the North Carolina Senate Finance Committee, *op. cit.*, the North Carolina State Data Center for population and population forecasts, and using a 2% annual inflation rate between 2013 and 2017.

2027 is projected to be 11,387,152.[47] Applying the $549 increase to 2027's projected population **gives additional personal income in 2027 of $6,251,546,400.** Using the GSP to personal income ratio of 1.27 and 9 jobs per $1 million of GSP **gives $7,939,464,000 additional GSP and 71,451 additional jobs in 2027.**[48]

[47] North Carolina State Data Center.
[48] The GSP to personal income ratio is from the U.S. Bureau of Economic Analysis.

THE EFFECTS OF A SINGLE SALES FACTOR APPORTIONMENT FORMULA ON NORTH CAROLINA CORPORATE INCOME TAX REVENUE AND THE ECONOMY

PREPARED BY:

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Most large corporations conduct business in more than one state and are subject to corporate income tax in more than one state. Accordingly, it is necessary to divide or apportion the total income of the company to the various states in which it operates. Most states use a variation of a three-factor formula based on the amount of sales, property and payroll in the state compared to total sales, property and payroll.

Under current law, corporations that do business in North Carolina generally use a three-factor apportionment formula (property, payroll and sales with a double-weight on the sales factor) to apportion business income and determine the amount of income subject to tax in the state. Under this approach, a multistate business would determine the amount of its income subject to tax in North Carolina by calculating the ratio of property, payroll and sales in North Carolina to the property, payroll and sales nationwide. If a corporation has 100% of its property located in North Carolina, 100% of its payroll located in North Carolina but makes only 80% of its sales in North Carolina, under the current formula, North Carolina would tax 90% of the corporation's apportionable business income. Note that the sales factor is weighted twice in the following calculation: [(100% + 100% + (80% x 2)) / 4 = 90%].

The North Carolina Fair Tax Act (2013-RBx-21C, v.4) would modify the current three-factor formula by increasing the weight placed on the sales factor culminating in single-sales factor apportionment beginning in 2016. In the previous example, the company with 100% of its property and payroll in the state but only 80% of its sales would apportion 80% of its income to North Carolina rather than the 90% using a double-weighted sales factor apportionment formula.

APPORTIONMENT FACTORS AND WEIGHTS

Historically, the most common apportionment formula used by states has been a three-factor equally weighted formula that considers the ratio of in-state property, payroll and sales to overall property, payroll and sales. However, at present only 12 states use an equally weighted three-factor test

while 14 states utilize a three-factor formula with sales double-weighted, and another 14 states utilize a one-factor sales formula.[49] Since the late 1990s, the definite trend has been for states to increase the weight on the sales factor.

Other states use different weighting schemes (triple weighting sales, for example) or allow companies to choose among formulas. Several states require different formulas for specific industries including airlines, financial institutions, telecommunication companies, railroad and trucking companies, etc.[50]

POTENTIAL BEHAVIORAL EFFECTS OF MOVING TO SINGLE SALES FACTOR APPORTIONMENT

Why would a state double-weight sales or use sales as the only apportionment factor? An increase in the weight on sales and the simultaneous reduction of the weights on payroll and property reduces the production costs for in-state companies relative to companies in states with higher weights on property and payroll.[51] Generally, taxes paid by in-state companies that export to other states and small in-state companies with little presence in other states will decrease[52] while taxes paid by companies with little physical presence that sell into a state from an out-of-state location will increase. For example, a South Carolina company with 90% of its property and payroll but only 50% of its sales in South Carolina and 10% of its property and payroll and 50% of its sales in North Carolina would apportion 30% of its income to North Carolina under a double-weighted sales formula [(10% + 10% + (50% x 2)) / 4 = 30%] while 50% would be apportioned to North Carolina under a sales-only

[49] In the southeast, South Carolina and Georgia use single sales factor apportionment, Virginia has recently adopted single sales factor apportionment for certain businesses (see Footnote 2) and Tennessee and Florida use a three factor formula with sales double weighted.

[50] For example, Virginia has recently adopted a phase-in of single sales factor apportionment for qualified manufacturers and retailers.

[51] E. Dubin, "Changes in State Corporate Income Tax Apportionment Formulas and Changes in State Corporate Income Tax Bases," 2010 (Winter), Multistate Tax Commission.

[52] However, single factor apportionment creates no advantages for a small company if the state has a throwback rule. While North Carolina does not technically have a throwback rule, it requires a company that makes sales into a state where it is not required to file a tax return to include those sales as North Carolina sales.

apportionment formula. It should be noted that a North Carolina company that does not sell across state boundaries would not be affected by the change in apportionment as 100% of the company's income is subject to North Carolina tax regardless of the apportionment method used. However, a purely in-state company would see its tax liability decrease under the NC Fair Tax Act as a result of reductions in the corporate income tax rate.

In addition, single sales factor apportionment may serve as an incentive for a North Carolina company to increase its presence in North Carolina or for an out-of-state company to relocate operations into the state (at least from a state that includes property and payroll in its formula) since its property and payroll will not be included in the apportionment formula thereby decreasing the amount of income subject to tax in the state.[53]

REVENUE AND ECONOMIC EFFECTS OF MOVING TO SINGLE-SALES FACTOR APPORTIONMENT

In the short run, increasing the weight of the sales factor is expected to reduce corporate tax revenue. This is consistent with the Legislative Fiscal Note prepared by the Fiscal Research Division of the North Carolina General Assembly for Senate Bill 677 which estimates the fiscal impact to exceed $150 million in annual lost tax revenue by the time single sales factor apportionment is fully phased in (2016). However, even this expectation is not uniformly held and evidence suggests that the expected short-term effect is more complicated. Studying 18 states that increased the weight of the sales tax factor between 2001 and 2008, Dubin (2010) finds that 13 experienced greater corporate income tax capacity in the short term. For the most part, these states could be characterized as market states (which generally import

[53] R. Simafranca, 1995, "The Double-Weighted Sales Formula – A Plague on Interstate Commerce," *Tax Notes Today*, December 4, p. 1263.

more goods and services) rather than production states (which generally import more goods and services).[54]

In addition, some academic studies have found that adopting a higher sales factor weight can have positive long-term economic benefits for a state. In the long run, it is expected that increased economic activity from the shift to single sales factor apportionment will result in job growth and ultimately higher individual income tax revenue and sales tax revenue. Using data from 1978 to 1994, Goolsbee and Maydew (2000) found that "for the average state, reducing the payroll weight from one-third to one-quarter [which increases the weight on sales form one quarter to one half] increases manufacturing employment around 1.1%."[55] In a separate study conducted for the Public Policy Institute of New York State, the same authors estimated that switching to a single sales factor would have a long-run impact of increasing manufacturing jobs in New York by 3.5% and non-manufacturing jobs by 1.3%.[56] Around the same time, Edmiston (2002) found that "when imposed independently, single-factor sales policies may have substantially positive economic development impacts in the very long run, but that the magnitude of these effects varies considerably across regions."[57] In a more recent

[54] E. Dubin, "Changes in State Corporate Tax Apportionment Formulas and Changes in State Corporate Income Tax Bases," (2010), *Multistate Tax Commission Review*, Volume XXI, No. 1, Winter.
[55] A. Goolsbee and E. Maydew, "Coveting thy neighbor's manufacturing" the dilemma of state income apportionment," 2000, *Journal of Public Economics*, Volume 75, pa. 125-143.
[56] A. Goolsbee and E. Maydew, "The Economic Impact of Single Factor Sales Apportionment for the State of New York," January 2001, The Public Policy Institute of New York State, Inc.
[57] K. Edmiston, "Strategic Apportionment of the State Corporate Income Tax: An Applied General Equilibrium Analysis," 2002, *National Tax Journal*, Vol. LV, No. 2, June.

study prepared for the Wisconsin Department of Revenue, Bernthal et al. (2012) predicted a 1.22% increase in manufacturing jobs when moving the sales weight from one-third to 100%.[58]

However, in certain circumstances, shifting to single sales factor apportionment could have a negative effect on job growth. For example, Mazerov (2001) points out that a company with little physical presence (a small sales office for example) but significant sales in a state might elect to close the sales office and do business remotely in order to avoid creating tax liability in the state.[59]

Adopting single sales factor apportionment may also affect other taxes collected in the state. For example, to the extent the policy encourages the movement of property into the state, higher property tax revenues may result, benefiting local governments in North Carolina.[60]

CONCLUSION

Fourteen states now use a single sales factor apportionment formula for their corporate income taxes. The North Carolina Fair Tax Act would replace this state's current double-weighting of sales with single sales factor apportionment. This would tend to reduce tax liabilities of firms with substantial property and employment in North Carolina, and increase taxes on out-of-state firms with substantial sales in North Carolina. While this change will likely reduce corporate tax revenue in the short run,

[58] J. Bernthal, D. Gavrila, K. Shumacher, S. Spencer and K. Sydor, 2012, "Single Sales-Factor Corporate Income Tax Apportionment: Evaluating the Impact in Wisconsin."
[59] M. Mazerov, "The Single Sales Factor Formula for State Corporate Taxes: A Boon to Economic Development or a Costly Giveaway?," 2001, Center on Budget and Policy Priorities.
[60] S. Gupta, J. Moore, J. Gramlich and M.A. Hoffman, "Empirical Evidence on the Revenue Effects of State Corporate Income Tax Policies," 2009, *National Tax Journal*, Vol. LXII, No. 2 (June), p. 243.

empirical evidence has shown that moving to sales only apportionment could lead to higher employment in the state and possibly increase revenue in the long run.

THE RELEVANCE OF TAX REFORM TO ECONOMIC GROWTH

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North Carolina's leaders face difficult and complex decisions over a broad range of issues that affect the economic well-being of our citizens. Tax reform in particular has emerged as a policy priority for those who perceive it as an opportunity to improve the state's economic competitiveness. In their respective analyses, my colleagues have described the probable ranges of economic outcomes and their mechanisms of proposed changes included in *The North Carolina Fair Tax Act*. It is also useful that such expected outcomes of the proposed tax reform be viewed in the context of the state's economic needs to achieve an informed understanding of the necessity of tax reform and of its significance as an economic growth strategy.

The assessments of my colleagues suggest that proposed tax reforms included in *The North Carolina Fair Tax Act* may yield economic benefits that will increase job growth in the state, but not to a certainty. In his paper, "Estimates of the Economic Impact of Changes in the Composition of North Carolina Taxes," our colleague, Dr. Michael L. Walden, a William Neal Reynolds Distinguished Professor in the Department of Agricultural and Resource Economics at North Carolina State University, reviewed recent academic literature from five studies addressing the effects of state taxes on state economic growth. His assessment of those findings when applied to proposed tax reforms, yielded estimates for additional job creation that ranged from a high of 864,000 net additional jobs in 2027 to a low of 198,000 net jobs lost. His conclusion that desired job creation gains of proposed tax reforms were uncertain, while not an insurmountable obstacle to reform, does necessitate careful oversight of intended and unintended outcomes enabling corrective actions are needed in the implementation of any reforms.

Specific elements of the proposed tax reform may offer more certain economic benefits. In his paper "The Effects of a Single Sales Factor Apportionment Formula on North Carolina Corporate Income Tax Revenue and the Economy," Dr. Roby B. Sawyers, Professor of Accounting at North Carolina State

University's Poole College of Management assessed the likely effects of changing the way North Carolina calculates the basis for corporate taxation, especially for companies with income generated or received in multiple states. As Professor Sawyer explained, most large corporations conduct business in more than one state and are therefore subject to corporate income tax in more than one state. In such instances it is necessary to divide or apportion the total income of the company to the various states in which it operates.

Under current law, corporations that do business in North Carolina generally use a three-factor apportionment formula (property, payroll and sales with a double-weight on the sales factor) to apportion business income and determine the amount of income subject to tax in the state. The proposed *North Carolina Fair Tax Act* would replace this state's current double-weighting of sales with single sales factor apportionment.

Fourteen other states now use such a single sales factor apportionment formula for their corporate income taxes. Dr. Sawyer's assessment concluded that implementing single sales factor apportionment in North Carolina would tend to reduce tax liabilities of firms with substantial property and employment in the state, while increasing taxes on out-of-state firms with substantial in-state sales. While this change will likely reduce corporate tax revenue in the short run, empirical evidence has shown that moving to sales only apportionment could lead to higher employment in the state and possibly increase revenue in the long run.

While these evaluations indicate it would be difficult to forecast with precision and/or accuracy most economic effects of the *North Carolina Fair Tax Act* tax reforms, it is possible, and constructive, to describe the mechanisms by which fundamentally sound tax reforms can produce economic benefits. In his paper "Tax Reform and Its Relationships to the Principles of Sound Tax Policy," Dr. Benjamin Russo, Professor of Economics at the Belk College of Business of the University of North Carolina at Charlotte,

described three fundamental characteristics – efficiency, equity, and simplicity - of a reformed tax system that could enhance economic outcomes.

Dr. Russo explained that an *efficient* tax system maximizes economic value and encourages enterprise by minimizing distorting effects on consumer and producer economic choices. He cited examples of effective reforms including reductions in compliance costs, reduction of high marginal tax rates that induce wasteful tax avoidance behaviors, and addressing taxes that discourage savings and capital formation. Dr. Russo described how achieving *equity* in tax policies ensures that taxpayers with equal real incomes face equal tax liabilities. He also cited examples of how violations of equity, such as selective deductions, exemptions, credits and special tax treatments, create disparities. His principle of *simplicity* emphasizes the value of transparency in facilitating understanding, implementation and compliance. This quality contributes to the economy by minimizing uncertainty that tends to exacerbates risk and discourages entrepreneurship. He described how existing exemptions in North Carolina's sales taxes introduced complexity and associated costs, while acknowledging that though broadening the sales tax would reduce complexity it would also impose new collection burdens.

Dr. Russo concluded that there can be no optimal tax structure achieving all three principles. Trade-offs are inevitable as policy makers seek to achieve oft-times competing economic and social objectives. Greater reliance on sale taxes risks equity imbalances for the sake of increasing efficiency. But he saw the potential achieving both efficiency and equity through a careful calibration of base broadening and marginal rate reductions.

Whether through the proposed *North Carolina Fair Tax Act* or through other proposals under consideration in the current tax reform effort, the General Assembly is recognizing the need to look beyond specific programmatic efforts – such economic development "incentives" to targeted firms - to address systemic policy areas that affect growth by businesses of every form in the broader economy.

Such an approach is insightful as the scale of the North Carolina economy inevitably renders more simplistic economic growth strategies insufficient.

It has long been easy for North Carolinians and non-citizens alike to underestimate the size and scope of the state's economy. For decades North Carolina had the paradoxical distinction of simultaneously being the nation's most rural population and its most industrialized. North Carolina's image as the "small town state" was appropriate, as its traditional industries of textiles, tobacco and furniture sustained a relatively dispersed population.

Such breadth of distribution masks the true size of the state economy. During the past decade, when for the first time North Carolina's population tilted from majority rural to majority urban, the state's economy surpassed those of Georgia, Michigan and Massachusetts. By 2011 North Carolina's estimated gross state product (GSP) exceeded $400 billion, making it the 10th largest in the country. In fact, if it were a separate country, North Carolina's economy would be the 28th largest in the World Bank's 2012 ranking of national economies.

With such scale comes complexity. North Carolina is home to more than 200,000 employer businesses and many more small businesses in a variety of legal forms. So while the state has invested heavily in economic development programs, direct assistance is possible to only a few thousand firms and high profile economic incentives go to just a few dozen companies annually. As a result even the greatest economic development success through these projects has only small direct effects on the larger economy.

By some highly visible measures the state has succeeded economically. Few states rival North Carolina's track record in the recruitment and location of new industry. The state has been ranked #1 for "Best Business Climate" 12 out of the past 13 years by industry leader "Site Selection" magazine. In

2012, when North Carolina was once again at the top of that ranking, the NC Department of Commerce's "Annual Sales Report" cited 146 projects announcements accounting for 16,487 new jobs.

It is important to recognize that in the nation's 10th largest state economy, such "announcements" constitute only a fraction of the new jobs required each year by North Carolina's rapidly growing workforce. Despite its well-publicized economic successes, for the past 5 years North Carolina has had one of the highest unemployment rates in the US because job growth in the state has failed to keep up with workforce growth. In January 2013 North Carolina's labor force totaled nearly 4.8 million. Of that number only 4.3 million people were employed, leaving almost a half million unemployed North Carolinians actively seeking jobs.

This situation is not simply attributable to a slow recovery from the 2008 recession. Job growth has lagged behind workforce growth in the state for nearly two decades, even during period of relative prosperity nationally. Since the beginning of the current economic recovery in 2009, the state's workforce has grown by an average of 56,000 annually, but jobs have grown by only an average of 36,000 per year. So even as employment in the state in 2012 has finally recovered to pre-recession levels, adding a net 15,000 jobs since 2008, its workforce grew by more than 240,000 over the same period.

With North Carolina's population projected to grow by more than 1 million between 2010 and 2020, the state will need to add 700,000 new jobs over the next 7 years to reduce unemployment to a goal of 5.5%. Adding 100,000 new jobs annually would require doubling the job creation rate North Carolina has achieved since 2000. Reliance on economic development efforts, however successful, has proven inadequate to the task. Proposed tax reforms such as those in *North Carolina Fair Tax Act* are intended to positively influence broad-based employment growth throughout North Carolina's business

community in a less intrusive, more efficient manner than targeted incentives and special exemptions in the current North Carolina tax code.

The failure of numerous past reform efforts may have imbued tax reform with exaggerated import among legislators in its potential to positively affect economic growth. Evaluations suggests that while proposed reforms have the potential to contribute positively to future economic growth, the effects are not certain and cannot be quantified with confidence. Therefore tax reform should be seen not as a panacea to North Carolina's economic ills, but as one of several fundamental policy concerns that affect every employer, employee and citizen. In that context, tax reform is a necessary, significant, but insufficient means to address our state's economic growth challenges.

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BJ Miller	Cone Health
George Smith	NP
Sandy Sero	NP

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 10, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
LESLIE BONEY	UNC System
Sarah Stone	NCSU
Ed Sturgeon	NP
Crystal Collins	NC Trucking Assn.
Marina Fennell	Kt2 Gates
Cam Brawley	Grant Thornton
Brian Bolf	Civitas
BRUCE THOMPSON	PARKER POE
Dave Horn	Smith Anderson
Eric Wayne	NCDOR
Tenisha Jacobs	NCDOJ
DONNIE CHARLESTON	NC STATE
Mary Bode	AARP NC
Cedric Johnson	NC BTC

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 10, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Bona Chung	DOJ
William Leister	DOI
Josh Levy	NC Commerce
Tom Harvey	CFNC
Chris Sigmann	Intern - Sen. Kinnaird
Sarah L. Miller	Self
Wm W Nelson	Smith Anderson
Alexandra Sirota	Budget & Tax Center
	NCACPA
Michael Houser	The Houser Consulting Group
Mark Carpenter	NCCBA

Senate Committee on Finance
Tuesday, June 11, 2013, 4:00 PM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 998	Tax Simplification and Reduction Act. For discussion only.	Representative Lewis Representative Setzer Representative Moffitt Representative Szoka

Adjournment

Senate Committee on Finance
Tuesday, June 11, 2013
Room 544 LOB, 4:00 p.m.

Minutes

The Senate Committee on Finance met at 4:00 p.m. on Tuesday, June 11, 2013 in room 544 of the Legislative Office Building. Senator Rabon presided as chair.

H.B. 998 – Tax Simplification and Reduction Act

Senator Berger was recognized to explain the bill which was taken up for discussion only. Senator Apodaca moved to adopt the proposed committee substitute (PCS) for discussion. The motion carried. The PCS would simplify the State's tax structure, and reduce individual and business tax rates. Cindy Avrette, a staff attorney with the Research Division, was recognized to explain the PCS part by part. Jonathan Tart, an analyst with the Fiscal Research Division, was recognized to answer questions on reduced revenues. Dr. Barry Boardman, Chief Economist with the Fiscal Research Division, was recognized to explain growth forecasts. Scott Drenkard, an economist with the Tax Foundation, was recognized discuss the tax reform plan. A copy of the PCS, the summary chart, and the Tax Foundation remarks is attached.

The meeting adjourned at 5:00 p.m.

Senator Bill Rabon
Presiding Chair

DeAnne Mangum
Committee Assistant

Principal Clerk
Reading Clerk

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Tuesday	June 11, 2013	4:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	
HB 998	Tax Simplification and Reduction Act. For discussion only.	Representative Lewis Representative Setzer Representative Moffitt Representative Szoka

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H D

HOUSE BILL 998
Committee Substitute Favorable 6/4/13
Committee Substitute #2 Favorable 6/6/13
PROPOSED SENATE COMMITTEE SUBSTITUTE H998-CSRBx-31 [v.9]
6/11/2013 3:12:39 PM

Short Title: Tax Simplification and Reduction Act. (Public)

Sponsors:

Referred to:

April 18, 2013

A BILL TO BE ENTITLED

AN ACT TO SIMPLIFY THE NORTH CAROLINA TAX STRUCTURE AND TO REDUCE INDIVIDUAL AND BUSINESS TAX RATES.

The General Assembly of North Carolina enacts:

PART I. INDIVIDUAL INCOME TAX CHANGES

SECTION 1.1.(a) The following statutes are recodified as indicated:

Current Statute	Recodified Statute
G.S. 105-133	G.S. 105-153.1
G.S. 105-134	G.S. 105-153.2
G.S. 105-134.1	G.S. 105-153.3
G.S. 105-134.5	G.S. 105-153.4
G.S. 105-151	G.S. 105-153.9
G.S. 105-151.24	G.S. 105-153.10
G.S. 105-152	G.S. 105-153.8

SECTION 1.1.(b) The following statutes are repealed:

G.S. 105-134.2
G.S. 105-134.3
G.S. 105-134.6
G.S. 105-134.7
G.S. 105-134.8
G.S. 105-151.1 and G.S. 105-130.22
G.S. 105-151.11
G.S. 105-151.12 and G.S. 105-130.34
G.S. 105-151.13 and G.S. 105-130.36
G.S. 105-151.14 and G.S. 105-130.37
G.S. 105-151.18
G.S. 105-151.20
G.S. 105-151.21
G.S. 105-151.25 and G.S. 105-130.44
G.S. 105-151.26
G.S. 105-151.33

SECTION 1.1.(c) G.S. 105-134.1, recodified by this Part as G.S. 105-153.3, reads as rewritten:

"**§ 105-153.3 Definitions.**

The following definitions apply in this Part:

(1) Adjusted gross income. – Defined in section 62 of the Code.

(1a) Code. – Defined in G.S. 105-228.90.

(2) Department. – The Department of Revenue.

(3) Educational institution. – An educational institution that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on.

(4) Fiscal year. – Defined in section 441(e) of the Code.

(5) Gross income. – Defined in section 61 of the Code.

(6) Head of household. – Defined in section 2(b) of the Code.

(7) Individual. – A human being.

(7a) Limited liability company. – Either a domestic limited liability company organized under Chapter 57C of the General Statutes or a foreign limited liability company authorized by that Chapter to transact business in this State that is classified for federal income tax purposes as a partnership. As applied to a limited liability company that is a partnership under this Part, the term "partner" means a member of the limited liability company.

(7b) Repealed by Session Laws 1998-98, s. 9, effective August 14, 1998.

(8) Married individual. – An individual who is married and is considered married as provided in section 7703 of the Code.

(9) Nonresident individual. – An individual who is not a resident of this State.

(10) North Carolina taxable income. – Defined in G.S. 105-134.5.

(10a) Partnership. – A domestic partnership, a foreign partnership, or a limited liability company.

(11) Person. – Defined in G.S. 105-228.90.

(12) Resident. – An individual who is domiciled in this State at any time during the taxable year or who resides in this State during the taxable year for other than a temporary or transitory purpose. In the absence of convincing proof to the contrary, an individual who is present within the State for more than 183 days during the taxable year is presumed to be a resident, but the absence of an individual from the state for more than 183 days raises no presumption that the individual is not a resident. A resident who removes from the State during a taxable year is considered a resident until he has both established a definite domicile elsewhere and abandoned any domicile in this State. The fact of marriage does not raise any presumption as to domicile or residence.

~~(13) Retirement benefits. – Amounts paid to a former employee or the beneficiary of a former employee under a written retirement plan established by the employer to provide payments to an employee or the beneficiary of an employee after the end of the employee's employment with the employer where the right to receive the payments is based upon the employment relationship. With respect to a self-employed individual or the beneficiary of a self-employed individual, the term means amounts paid to the individual or beneficiary of the individual under a written retirement plan established by the individual to provide payments to the individual or the beneficiary of the individual after the end of the self-employment. In addition, the term includes amounts received from an individual retirement account described in section 408 of the Code or from an individual retirement annuity described in section 408 of the Code. For the purpose of this subdivision, the term "employee" includes a volunteer worker.~~

(14) S Corporation. – Defined in G.S. 105-131(b).

(15) Secretary. – The Secretary of Revenue.
(16) Repealed by Session Laws 2011-145, s. 31A.1(a), effective for taxable years beginning on or after January 1, 2012.
(17) Taxable year. – Defined in section 441(b) of the Code.
(18) Taxpayer. – An individual subject to the tax imposed by this Part.
(19) This State. – The State of North Carolina.

SECTION 1.1.(d) Part 2 of Article 4 of Chapter 105 of the General Statutes is amended by adding the following new sections to read:

"**§ 105-153.5. Modifications to adjusted gross income.**

(a) Other Deductions. – In calculating North Carolina taxable income, a taxpayer must deduct from the taxpayer's adjusted gross income any of the following items that are included in the taxpayer's adjusted gross income:

(1) Interest upon the obligations of any of the following:
a. The United States or its possessions.
b. This State, a political subdivision of this State, or a commission, an authority, or another agency of this State or of a political subdivision of this State.
c. A nonprofit educational institution organized or chartered under the laws of this State.

(2) Gain from the disposition of obligations issued before July 1, 1995, to the extent the gain is exempt from tax under the laws of this State.

(3) Amounts received from retirement annuities or pensions paid under the provisions of the Railroad Retirement Act of 1937.

(4) Refunds of State, local, and foreign income taxes included in the taxpayer's gross income.

(5) The amount received during the taxable year from one or more State, local, or federal government retirement plans to the extent the amount is exempt from tax under this Part pursuant to a court order in settlement of any of the following cases:
a. Bailey v. State, 92 CVS 10221, 94 CVS 6904, 95 CVS 6625, 95 CVS 8230.
b. Emory v. State, 98 CVS 0738.
c. Patton v. State, 95 CVS 04346.

(6) Income that meets both of the following requirements:
a. Is earned or received by an enrolled member of a federally recognized Indian tribe.
b. Is derived from activities on a federally recognized Indian reservation while the member resides on the reservation. Income from intangibles having a situs on the reservation and retirement income associated with activities on the reservation are considered income derived from activities on the reservation.

(7) The amount by which the basis of property under this Article exceeds the basis of the property under the Code, in the year the taxpayer disposes of the property.

(8) The amount allowed as a deduction under G.S. 105-153.6 as a result of an add-back for federal accelerated depreciation and expensing.

(b) Additions. – In calculating North Carolina taxable income, a taxpayer must add to the taxpayer's adjusted gross income any of the following items that are not included in the taxpayer's adjusted gross income:

(1) Interest upon the obligations of states other than this State, political subdivisions of those states, and agencies of those states and their political subdivisions.
(2) The amount by which a shareholder's share of S Corporation income is reduced under section 1366(f)(2) of the Code for the taxable year by the amount of built-in gains tax imposed on the S Corporation under section 1374 of the Code.
(3) The amount by which the basis of property under the Code exceeds the basis of the property under this Article, in the year the taxpayer disposes of the property.
(4) The amount excluded from gross income under section 199 of the Code.
(5) The amount required to be added under G.S. 105-153.6 when the State decouples from federal accelerated depreciation and expensing.

"**§ 105-134.6A. Adjustments when State decouples from federal accelerated depreciation and expensing.**

(a) Special Accelerated Depreciation. – A taxpayer who places property in service during a taxable year listed in the table below and who takes a special accelerated depreciation deduction for that property under section 168(k) or 168(n) of the Code must add to the taxpayer's federal taxable income or adjusted gross income, as appropriate, eighty-five percent (85%) of the amount taken for that year under those Code provisions. For taxable years before 2012, the taxpayer must add the amount to the taxpayer's federal taxable income. For taxable year 2012 and after, the taxpayer must add the amount to the taxpayer's adjusted gross income.

A taxpayer who made the addition is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income. The table below indicates the applicable five-year period.

Taxable Year of 85% Add-Back	Five Taxable Years of 20% Deduction
2010	2011 through 2015
2011	2012 through 2016
2012	2013 through 2017
2013	2014 through 2018

(b) 2009 Depreciation Exception. – A taxpayer who placed property in service during the 2009 taxable year and whose North Carolina taxable income for the 2009 taxable year reflected a special accelerated depreciation deduction allowed for the property under section 168(k) of the Code must add eighty-five percent (85%) of the amount of the special accelerated depreciation deduction to its federal taxable income for the 2010 taxable year. A taxpayer who made the addition is allowed to deduct this add-back under subsection (a) of this section as if it were for property placed in service in 2010.

(c) Section 179 Expense. – For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 1, 2011. A taxpayer who places section 179 property in service during a taxable year listed in the table below must add to the taxpayer's federal taxable income or adjusted gross income as appropriate, eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code exceeds the amount that would have been allowed for that taxable year under section 179 of the Code as of May 1, 2010. For taxable years before 2012, the taxpayer must add the amount to the taxpayer's federal taxable income. For taxable year 2012 and after, the taxpayer must add the amount to the taxpayer's adjusted gross income.

A taxpayer who made the addition is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income. The table in subsection (a) of this section indicates the applicable five-year period."

(d) Asset Basis. – The adjustments made in this section do not result in a difference in basis of the affected assets for State and federal income tax purposes."

"**§ 105-153.7. Individual income tax imposed.**

(a) Tax. – A tax is imposed for each taxable year on the North Carolina taxable income of an individual. The tax is five and four-tenths percent (5.4%) of the taxpayer's North Carolina taxable income that exceeds the zero tax bracket for the taxpayer's filing status. For purposes of Section 2 of Article V of the North Carolina Constitution, the zero tax bracket provides an exemption so that only net incomes are taxed.

The zero tax brackets are as follows:

(1) For married individuals who file a joint return under G.S. 105-153.8 and for surviving spouses, as defined in section 2(a) of the Code:

Over	Up To	Rate
0	$15,000	0.0%

(2) For heads of households, as defined in section 2(b) of the Code:

Over	Up To	Rate
0	$12,000	0.0%

(3) For unmarried individuals other than surviving spouses and heads of households:

Over	Up To	Rate
0	$7,500	0.0%

(4) For married individuals who do not file a joint return under G.S. 105-153.7:

Over	Up To	Rate
0	$7,500	0.0%

(b) Withholding Tables. – The Secretary may provide tables that compute the amount of tax due for a taxable year under this Part. The tables do not apply to an individual who files a return under section 443(a)(1) of the Code for a period of less than 12 months due to a change in the individual's annual accounting period, or to an estate or trust."

SECTION 1.1.(e) This section becomes effective for taxable years beginning on or after January 1, 2014.

SECTION 1.2.(a) G.S. 105-153.7(a), as enacted by Section 1.1 of this Part, reads as rewritten:

"(a) Tax. – A tax is imposed for each taxable year on the North Carolina taxable income of an individual. The tax is ~~five and four-tenths percent (5.4%)~~ five and twenty-five hundreds percent (5.25%) of the taxpayer's North Carolina taxable income that exceeds the zero tax bracket for the taxpayer's filing status. For purposes of Section 2 of Article V of the North Carolina Constitution, the zero tax bracket provides an exemption so that only net incomes are taxed.

...".

SECTION 1.2.(b) This section becomes effective for taxable years beginning on or after January 1, 2015.

SECTION 1.3.(a) G.S. 105-152 and G.S. 105-151, recodified by this Part as G.S. 105-153.8 and G.S. 105-153.9, read as rewritten:

"**§ 105-153.8. Income tax returns.**

(a) Who Must File. – The following individuals ~~shall~~ must file with the Secretary an income tax return under affirmation:

(1) Every resident required to file an income tax return for the taxable year under the ~~Code and every~~ Code.

(1a) Every nonresident individual who ~~(i) derived~~meets all of the following requirements:

a. Receives during the taxable year gross income that is derived from North Carolina sources ~~during the taxable year~~and is attributable to

the ownership of any interest in real or tangible personal property in this ~~State or~~State, is derived from a business, trade, profession, or occupation carried on in this ~~State and (ii) is~~State, or is derived from gambling activities in this State.

b. Is required to file an income tax return for the taxable year under the Code.

(2) Repealed by Session Laws 1991 (Reg. Sess., 1992), c. 930, s. 1.

(3) Any individual whom the Secretary believes to be liable for a tax under this Part, when so notified by the Secretary and requested to file a return.

(b) Taxpayer Deceased or Unable to Make Return. – If ~~the~~ a taxpayer is unable to file ~~the~~ an income tax return, ~~the return shall be filed by~~ a duly authorized agent of the taxpayer or ~~by~~ a guardian or other person charged with the care of the person or property of the ~~taxpayer.~~taxpayer must file the return. If an individual who was required to file an income tax return for the taxable year while living has died before making the return, the administrator or executor of the estate ~~shall~~ must file the return in the decedent's name and behalf, and the tax ~~shall be levied upon and collected from~~is payable by the estate.

(c) Information Required With Return. – The income tax return ~~shall~~ must show the ~~taxable income and adjustments~~adjusted gross income and modifications required by this ~~Part~~ Part, and any other information the Secretary requires. The Secretary may require some or all individuals required to file an income tax return to attach to the return a copy of their federal income tax return for the taxable year. The Secretary may require a taxpayer to provide the Department with copies of any other return the taxpayer has filed with the Internal Revenue Service and to verify any information in the return.

(d) Secretary May Require Additional Information. – When the Secretary has reason to believe that any taxpayer conducts a trade or business in a way that directly or indirectly distorts the taxpayer's ~~taxable income~~adjusted gross income or North Carolina taxable income, the Secretary may require any additional information for the proper computation of the taxpayer's ~~taxable income~~adjusted gross income and North Carolina taxable income. In computing the taxpayer's ~~taxable income~~adjusted gross income and North Carolina taxable income, the Secretary ~~shall~~ must consider the fair profit that would normally arise from the conduct of the trade or business.

(e) Joint Returns. – A husband and wife whose ~~federal taxable income~~adjusted gross income is determined on a joint federal return ~~shall~~ must file a single income tax return jointly if each spouse either is a resident of this State or has North Carolina taxable income and may file a single income tax return jointly if one spouse is not a resident and has no North Carolina taxable income. Except as otherwise provided in this Part, a wife and husband filing jointly are treated as one taxpayer for the purpose of determining the tax imposed by this Part. A husband and wife filing jointly are jointly and severally liable for the tax imposed by this Part reduced by the sum of all credits allowable including tax payments made by or on behalf of the husband and wife. However, if a spouse qualifies for relief of liability for federal tax attributable to a substantial understatement by the other spouse pursuant to section 6015 of the Code, that spouse is not liable for the corresponding tax imposed by this Part attributable to the same substantial understatement by the other spouse. A wife and husband filing jointly have expressly agreed that if the amount of the payments made by them with respect to the taxes for which they are liable, including withheld and estimated taxes, exceeds the total of the taxes due, refund of the excess may be made payable to both spouses jointly or, if either is deceased, to the survivor alone.

(f) Repealed by Session Laws 1991.

"§ 105-153.9. Tax credits for income taxes paid to other states by individuals.

(a) An individual who is a resident of this State is allowed a credit against the taxes imposed by this Part for income taxes imposed by and paid to another state or country on income taxed under this Part, subject to the following conditions:

(1) The credit is allowed only for taxes paid to another state or country on income that is derived from sources within that state or country ~~that~~ and is taxed under its laws irrespective of the residence or domicile of the recipient, except that whenever a taxpayer who is ~~deemed to be~~ considered a resident of this State under ~~the provisions of~~ this Part is ~~deemed also to be~~ considered a resident of another state or country under the laws of that state or country, the Secretary may allow a credit against the taxes imposed by this Part for taxes imposed by and paid to the other state or country on income taxed under this Part.

(2) The fraction of the adjusted gross income, as ~~calculated under the Code and adjusted as provided in G.S. 105-134.6 and G.S. 105-134.7,~~ modified in G.S. 105-153.5, that is subject to income tax in another state or country shall be ascertained, and the North Carolina net income tax before credit under this section shall be multiplied by that fraction. The credit allowed is either the product thus calculated or the income tax actually paid the other state or country, whichever is smaller.

(3) Receipts showing the payment of income taxes to another state or country and a true copy of a return or returns upon the basis of which the taxes are assessed shall be filed with the Secretary when the credit is claimed. If credit is claimed on account of a deficiency assessment, a true copy of the notice assessing or proposing to assess the deficiency, as well as a receipt showing the payment of the deficiency, shall be filed.

(b) If any taxes paid to another state or country for which a taxpayer has been allowed a credit under this section are at any time credited or refunded to the taxpayer, a tax equal to that portion of the credit allowed for the taxes so credited or refunded is due and payable from the taxpayer and is subject to the penalties and interest provided in Subchapter I of this Chapter."

SECTION 1.3.(b) This section becomes effective for taxable years beginning on or after January 1, 2014.

SECTION 1.4.(a) G.S. 105-131.2 reads as rewritten:

"**§ 105-131.2. Adjustment and characterization of income.**

(a) Adjustment. – Each shareholder's pro rata share of an S Corporation's income is subject to the adjustments provided in ~~G.S. 105-134.6.~~G.S. 105-153.5.

(b) Repealed by Session Laws 1989, c. 728, s. 1.35.

(c) Characterization of Income. – S Corporation items of income, loss, deduction, and credit taken into account by a shareholder pursuant to G.S. 105-131.1(b) are characterized as though received or incurred by the S Corporation and not its shareholder."

SECTION 1.4.(b) G.S. 105-131.5 reads as rewritten:

"**§ 105-131.5. Part-year resident shareholder.**

If a shareholder of an S Corporation is both a resident and nonresident of this State during any taxable period, the shareholder's pro rata share of the S Corporation's income attributable to the State and income not attributable to the State for the taxable period shall be further prorated between the shareholder's periods of residence and nonresidence, in accordance with the number of days in each period, as provided in ~~G.S. 105-134.5.~~G.S. 105-153.4."

SECTION 1.4.(c) G.S. 105-131.7(c) reads as rewritten:

"(c) An S Corporation ~~shall~~ must file with the Department, on a form prescribed by the Secretary, the agreement of each nonresident shareholder of the corporation (i) to file a return and make timely payment of all taxes imposed by this State on the shareholder with respect to the income of the S Corporation, and (ii) to be subject to personal jurisdiction in this State for

purposes of the collection of any unpaid income tax, together with related interest and penalties, owed by the nonresident shareholder. If the corporation fails to timely file an agreement required by this subsection on behalf of any of its nonresident shareholders, then the corporation ~~shall~~ must at the time specified in subsection (d) of this section pay to the Department on behalf of each nonresident shareholder with respect to whom an agreement has not been timely filed an estimated amount of the tax due the State. The estimated amount of tax due the State ~~shall be~~ is computed at the ~~rates~~ rate levied in ~~G.S. 105-134.2(a)(3)~~ G.S. 105-153.7 on the shareholder's pro rata share of the S Corporation's income attributable to the State reflected on the corporation's return for the taxable period. An S Corporation may recover a payment made pursuant to the preceding sentence from the shareholder on whose behalf the payment was made."

SECTION 1.4.(d) G.S. 105-131.8(a) reads as rewritten:

"(a) For purposes of ~~G.S. 105-151~~ G.S. 105-153.9 and G.S. 105-160.4, each resident shareholder is considered to have paid a tax imposed on the shareholder in an amount equal to the shareholder's pro rata share of any net income tax paid by the S Corporation to a state that does not measure the income of S Corporation shareholders by the income of the S Corporation. For purposes of the preceding sentence, the term "net income tax" means any tax imposed on or measured by a corporation's net income."

SECTION 1.4.(e) G.S. 105-154(d) reads as rewritten:

"(d) Payment of Tax on Behalf of Nonresident Owner or Partner. – If a business conducted in this State is owned by a nonresident individual or by a partnership having one or more nonresident members, the manager of the business ~~shall~~ must report the earnings of the business in this State, the distributive share of the income of each nonresident owner or partner, and any other information required by the Secretary. The manager of the business ~~shall~~ must pay with the return the tax on each nonresident owner or partner's share of the income computed at the rate levied on individuals under ~~G.S. 105-134.2(a)(3).~~ G.S. 105-153.7. The business may deduct the payment for each nonresident owner or partner from the owner or partner's distributive share of the profits of the business in this State. If the nonresident partner is not an individual and the partner has executed an affirmation that the partner will pay the tax with its corporate, partnership, trust, or estate income tax return, the manager of the business is not required to pay the tax on the partner's share. In this case, the manager ~~shall~~ must include a copy of the affirmation with the report required by this subsection."

SECTION 1.4.(g) G.S. 105-163.1 reads as rewritten:

"**§ 105-163.1. Definitions.**

The following definitions apply in this Article:

...

(6) Individual. – Defined in ~~G.S. 105-134.1.~~ G.S. 105-153.3.

...

(13) Wages. – The term has the same meaning as in section 3401 of the Code except it does not include ~~either of the following:~~

~~a. The amount of severance wages paid to an employee during the taxable year that is exempt from State income tax for that taxable year under G.S. 105-134.6(b)(11).~~

~~b.~~ ~~The~~ the amount an employer pays an employee as reimbursement for ordinary and necessary expenses incurred by the employee on behalf of the employer and in the furtherance of the business of the employer.

...."

SECTION 1.4.(h) G.S. 105-163.22 reads as rewritten:

"**§ 105-163.22. Reciprocity.**

The Secretary may, with the approval of the Attorney General, enter into agreements with the taxing authorities of states having income tax withholding statutes with such agreements to govern the amounts to be withheld from the wages and salaries of residents of such other state or states under the provisions of this Article when such other state or states grant similar treatment to the residents of this State. ~~Such~~ The agreements may provide for recognition of the anticipated tax credits allowed under the provisions of ~~G.S. 105-151~~ G.S. 105-153.9 in determining the amounts to be withheld."

SECTION 1.4.(j) G.S. 105-309(d) reads as rewritten:

"(d) Personal property shall be listed to indicate the township and municipality, if any, in which it is taxable and shall be itemized by the taxpayer in such detail as may be prescribed by an abstract form approved by the Department of Revenue. ~~Personal property shall also be listed to indicate which property, if any, is subject to a tax credit under G.S. 105-151.21.~~

(1) If the assessor considers it necessary to obtain a complete listing of personal property, the assessor may require a taxpayer to submit additional information, inventories, or itemized lists of personal property.

(2) At the request of the assessor, the taxpayer shall furnish any information the taxpayer has with respect to the true value of the personal property the taxpayer is required to list."

SECTION 1.4.(k) G.S. 105-320(a)(16) is repealed.

SECTION 1.4.(l) G.S. 110-130.1(a) reads as rewritten:

"(a) All child support collection and paternity determination services provided under this Article to recipients of public assistance shall be made available to any individual not receiving public assistance in accordance with federal law and as contractually authorized by the nonrecipient, upon proper application and payment of a nonrefundable application fee of twenty-five dollars ($25.00). The fee shall be reduced to ten dollars ($10.00) if the individual applying for the services is indigent. An indigent individual is an individual whose gross income does not exceed one hundred percent (100%) of the federal poverty guidelines issued each year in the Federal Register by the U.S. Department of Health and Human Services. For the purposes of this subsection, the term "gross income" has the same meaning as defined in ~~G.S. 105-134.1.~~section 61 of the Code, and the term "Code" has the same meaning as defined in G.S. 105-228.90.

In the case of an individual who has never received assistance under a State program funded pursuant to Title IV-A of the Social Security Act and for whom the State has collected and disbursed to the family in a federal fiscal year at least five hundred dollars ($500.00) of support, the State shall impose an annual fee of twenty-five dollars ($25.00) for each case in which services are furnished. The child support agency shall retain the fee from support collected on behalf of the individual. However, the child support agency shall not retain the fee from the first five hundred dollars ($500.00) collected. The child support agency shall use the fee to support the ongoing operation of the program."

SECTION 1.4.(m) This section becomes effective January 1, 2014.

SECTION 1.5.(a) G.S. 105-277.3(d1) reads as rewritten:

"(d1) ~~Exception for Easements on Qualified~~ Conservation ~~Lands Previously Appraised at Use Value.~~ Exception. – Property that is appraised at its present-use value under G.S. 105-277.4(b) shall continue to qualify for appraisal, assessment, and taxation as provided in G.S. 105-277.2 through G.S. 105-277.7 as long as ~~(i) the property is subject to an enforceable conservation easement that would qualify for the conservation tax credit provided in G.S. 105-130.34 and G.S. 105-151.12, without regard to actual production or income requirements of this section; and (ii) the taxpayer received no more than seventy-five percent (75%) of the fair market value of the donated property interest in compensation.~~the property is subject to a conservation easement that meets the property eligibility requirements under G.S. 113A-232. Notwithstanding G.S. 105-277.3(b) and (b1), subsequent transfer of the

property does not extinguish its present-use value eligibility as long as the property remains subject to ~~an enforceable~~ a qualifying conservation ~~easement that qualifies for the conservation tax credit provided in G.S. 105-130.34 and G.S. 105-151.12.~~ easement. The exception provided in this subsection applies only to that part of the property that is subject to the easement."

SECTION 1.5.(b) G.S. 113-77.9(d) reads as rewritten:

"(d) Acquisition. – The Department of Administration may, pursuant to G.S. 143-341, acquire by purchase, gift, or devise all lands selected by the Trustees for acquisition pursuant to this Article. Title to any land acquired pursuant to this Article shall be vested in the State. A State agency with management responsibility for land acquired pursuant to this Article may enter into a management agreement or lease with a county, city, town, or private nonprofit organization ~~qualified under G.S. 105-151.12 and G.S. 105-130.34 and~~ certified under section 501(c)(3) of the Internal Revenue Code to aid in managing the land. A management agreement or lease shall be executed by the Department of Administration pursuant to G.S. 143-341."

SECTION 1.5.(c) G.S. 113A-231 reads as rewritten:

"**§ 113A-231. Program to accomplish conservation purposes.**

The Department of Environment and Natural Resources shall develop a nonregulatory program ~~that uses conservation tax credits as a prominent tool~~ to accomplish conservation purposes, including the maintenance of ecological systems. As a part of this program, the Department shall exercise its powers to protect real property and interests in real ~~property.~~ property donated for ~~tax credit under G.S. 105-130.34 or G.S. 105-151.12; conserved with the use of other financial incentives; or, conserved through nonregulatory programs.~~ conservation or conserved by other means. The Department shall call upon the Attorney General for legal assistance in developing and implementing the program."

SECTION 1.5.(d) G.S. 113A-232 reads as rewritten:

"**§ 113A-232. Conservation Grant Fund.**

(a) Fund Created. – The Conservation Grant Fund is created within the Department of Environment and Natural Resources. The Fund shall be administered by the Department. The purpose of the Fund is to stimulate the use of conservation ~~easements and conservation tax credits,~~ easements, to improve the capacity of private nonprofit land trust organizations to successfully accomplish conservation projects, to better equip real estate related professionals to pursue opportunities for conservation, to increase landowner participation in land and water conservation, and to provide an opportunity to leverage private and other public monies for conservation easements.

(b) Fund Sources. – The Conservation Grant Fund shall consist of any monies appropriated to it by the General Assembly and any monies received from public or private sources. Unexpended monies in the Fund that were appropriated from the General Fund by the General Assembly shall revert at the end of the fiscal year unless the General Assembly otherwise provides. Unexpended monies in the Fund from other sources shall not revert and shall remain available for expenditure in accordance with this Article.

(c) Property Eligibility. – In order for real property or an interest in real property to be the subject of a grant under this Article, the real property or interest in real property must meet all of the following conditions:

(1) ~~possess~~ Possess or have a high potential to possess ecological ~~value, must be~~ value.

(2) Be reasonably ~~restorable, and must qualify for tax credits under G.S. 105-130.34 or G.S. 105-151.12.~~ restorable.

(3) Be useful for one or more of the following purposes:

a. Public beach access or use.

b. Public access to public waters or trails.

c. Fish and wildlife conservation.

d. Forestland or farmland conservation.

e. Watershed protection.
f. Conservation of natural areas as that term is defined in G.S. 113A-164.3(3).
g. Conservation of predominantly natural parkland.

(4) Be donated in perpetuity to and accepted by the State, a local government, or a body that is both organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions under G.S. 105-130.9. Land required to be dedicated pursuant to local governmental regulation or ordinance and dedications made to increase building density levels permitted under a regulation or ordinance do not qualify.

(c1) Grant Eligibility. – State conservation land management agencies, local government conservation land management agencies, and private nonprofit land trust organizations are eligible to receive grants from the Conservation Grant Fund. Private nonprofit land trust organizations must be ~~qualified pursuant to G.S. 105-130.34 and G.S. 105-151.12 and must be~~ certified under section 501(c)(3) of the Internal Revenue ~~Code.~~Code to aid in managing the land.

(d) Use of Revenue. – Revenue in the Conservation Grant Fund may be used only for the following purposes:

(1) The administrative costs of the Department in administering the Fund.
(2) Conservation grants made in accordance with this Article.
(3) To establish an endowment account, the interest from which will be used for a purpose described in G.S. 113A-233(a)."

SECTION 1.5.(e) G.S. 113A-233 reads as rewritten:

"**§ 113A-233. Uses of a grant from the Conservation Grant Fund.**

(a) Allowable Uses. – A grant from the Conservation Grant Fund may be used only to pay for one or more of the following costs:

(1) Reimbursement for total or partial transaction costs for a donation of real property or an interest in real property from an individual or corporation satisfying either of the following:
a. Insufficient financial ability to pay all costs or insufficient taxable income to allow these costs to be included in the donated value.
b. Insufficient tax burdens to allow these costs to be offset by ~~the value of tax credits under G.S. 105-130.34 or G.S. 105-151.12 or by~~ charitable deductions.

(2) Management support, including initial baseline inventory and planning.
(3) Monitoring compliance with conservation easements, the related use of riparian buffers, natural areas, and greenways, and the presence of ecological integrity.
(4) Education on conservation, including information materials intended for landowners and education for staff and volunteers.
(5) Stewardship of land.
(6) Transaction costs for recipients, including legal expenses, closing and title costs, and unusual direct costs, such as overnight travel.
(7) Administrative costs for short-term growth or for building capacity.

(b) Prohibition. – The Fund shall not be used to pay the purchase price of real property or an interest in real property."

SECTION 1.5.(f) G.S. 113A-256(g) is repealed.

SECTION 1.5.(g) This section becomes effective January 1, 2014.

PART II. PHASED ELIMINATION OF THE CORPORATE INCOME TAX

SECTION 2.1.(a) G.S. 105-130.3 reads as rewritten:

"**§ 105-130.3. Corporations.**

A tax is imposed on the State net income of every C Corporation doing business in this State. An S Corporation is not subject to the tax levied in this section. The tax is a percentage of the taxpayer's State net income computed as follows:

Income Years Beginning	Tax
~~In 1997~~	~~7.5%~~
~~In 1998~~	~~7.25%~~
~~In 1999~~	~~7%~~
~~After 1999~~	~~6.9%.~~
In 2014	6%
In 2015	4%
In 2016	2%."

SECTION 2.1.(b) This section becomes effective for taxable years beginning on or after January 1, 2014.

SECTION 2.2(a) Part 1 of Article 4 of Chapter 105 of the General Statutes is repealed.

SECTION 2.2.(b) Article 3C and Article 3K of Chapter 105 of the General Statutes is repealed.

SECTION 2.2.(c) This section becomes effective for taxable years beginning on or after January 1, 2017.

SECTION 2.3.(a) G.S. 115C-546.1 reads as rewritten:

"**§ 115C-546.1. Creation of Fund; administration.**

(a) There is created the Public School Building Capital Fund. The Fund shall be used to assist county governments in meeting their public school building capital needs and their equipment needs under their local school technology plans.

~~(b) Each calendar quarter, the Secretary of Revenue shall remit to the State Treasurer for credit to the Public School Building Capital Fund an amount equal to the applicable fraction provided in the table below of the net collections received during the previous quarter by the Department of Revenue under G.S. 105-130.3. All funds deposited in the Public School Building Capital Fund shall be invested as provided in G.S. 147-69.2 and G.S. 147-69.3.~~

~~Period~~	~~Fraction~~
~~10/1/97 to 9/30/98~~	~~One-fifteenth (1/15)~~
~~10/1/98 to 9/30/99~~	~~Two-twenty-ninths (2/29)~~
~~10/1/99 to 9/30/00~~	~~One-fourteenth (1/14)~~
~~After 9/30/00~~	~~Five-sixty-ninths (5/69)~~

(c) The Fund shall be administered by the Department of Public Instruction."

SECTION 2.3.(b) G.S. 115C-546.2(a) is repealed.

SECTION 2.3.(c) This section is effective when it becomes law.

PART III. BUSINESS PRIVILEGE TAX ON CORPORATIONS, LLCS, AND OTHER LIMITED LIABILITY ENTITIES

SECTION 3.1.(a) Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 3L.

"Business Privilege Tax

"**§ 105-129.100. Business privilege tax.**

(a) Nature of Tax. – This Article imposes a privilege tax on a business entity for the privilege of doing business in this State in an organizational form that confers limited liability on one or more owners of the entity. The tax is imposed for the exercise of this privilege during the income year of the business entity in which the taxes become due. Payment of the tax

imposed by this Article is a condition precedent to the right to do business in this State and, for a business entity that is organized or formed in this State, to the right to continue in the entity's organizational form.

(b) Tax Imposed. – An annual privilege tax is imposed on a business entity doing business in this State in the amount set in the table below:

Income Year	Amount
2015	$400
2016	$600
After 2016	$750

(c) Return and Payment. – The tax is due when a return is due. A return is due on or before the fifteenth day of the fourth month following the end of the business entity's income year. A taxpayer may ask the Secretary for an extension of time to file a return under G.S. 105-263. A business entity must file a return under affirmation with the Secretary at the place and in the manner prescribed by the Secretary. The return must be signed by the president, vice-president, treasurer, or chief financial officer of the business entity.

(d) Income Year. – For purposes of this Article, the income year of a business entity is the calendar year or the fiscal year upon the basis of which the net income is computed for federal income tax purposes under the Code. After the end of the income year in which a business entity is dissolved, the business entity is no longer subject to the tax levied in this Article unless the Secretary finds that the business entity has engaged in business activities in this State not appropriate to winding up and liquidating its business and affairs.

"**§ 105-129.101. Definitions.**

The following definitions apply in this Article:

(1) Business entity. – All of the following:

a. A S corporation organized under Chapter 55 of the General Statutes.

b. Reserved.

c. A domestic limited liability company formed under Chapter 57C of the General Statutes or a foreign limited liability company that is required to obtain a certificate of authority under one of those Chapters authorizing it to do business in this State.

d. A domestic limited partnership formed under Article 5 of Chapter 59 of the General Statutes or a foreign limited partnership that has received a certificate of authority under that Article authorizing it to do business in this State.

e. A domestic limited liability partnership registered under Article 3B of Chapter 59 of the General Statutes or a foreign limited liability partnership registered under Article 4A of that Chapter.

f. A domestic or foreign limited liability limited partnership registered under G.S. 59-210.

g. Any other business whose form of organization confers limited liability on one or more of its owners that is not a C corporation.

(2) C Corporation. – Defined in G.S. 105-131.

(3) Code. – Defined in G.S. 105-228.90.

(4) Person. – Defined in G.S. 105-228.90.

(5) S Corporation. – Defined in G.S. 105-131.

(6) Secretary. – Defined in G.S. 105-228.90.

"**§ 105-129.101. Exempt business entities.**

A business entity listed in this section is exempt from the business privilege tax imposed by this Article. Upon request of the Secretary, an exempt business entity must establish its claim for exemption in writing. The exempt entities are:

(1) A business entity exempt from federal income tax under section 501 of the Code.

(2) An insurance company subject to tax under Article 8B of this Chapter."

SECTION 3.1.(b) This section becomes effective for taxable years beginning on or after January 1, 2015, and applies to taxes due in that year or a subsequent year.

SECTION 3.2.(a) G.S. 105-129.100(b), as enacted by this Part, reads as rewritten:

"(b) Tax Imposed. – An annual privilege tax is imposed on a business entity doing business in this ~~State in the amount set in the table below:~~State. The tax for a C Corporation is five thousand dollars ($5,000). The tax for all other business entities is seven hundred fifty dollars ($750).

~~Income Years Beginning~~	~~Amount~~
~~In 2014~~	~~$400~~
~~In 2015~~	~~$600~~
~~After 2015~~	~~$750~~".

SECTION 3.2.(b) G.S. 105-129.101, as enacted by this Part, reads as rewritten:

"(1) Business entity. – All of the following:

a. ~~A S corporation organized under Chapter 55 of the General Statutes.~~ A domestic corporation organized under Chapter 55 of the General Statutes or a foreign corporation that has received a certificate of authority under that Chapter authorizing it to do business in this State.

b. ~~Reserved.~~An electric membership corporation organized under Chapter 117 of the General Statutes.

...

g. Any other business whose form of organization confers limited liability on one or more of its ~~owners that is not a C corporation.~~owners.".

SECTION 3.2.(c) This section becomes effective for taxable years beginning on or after January 1, 2018, and applies to taxes due in that year or a subsequent year.

PART IV. PHASED ELIMINATION OF THE FRANCHISE TAX

SECTION 4.1.(a) G.S. 105-114(a) and G.S. 105-122.1 are repealed.

SECTION 4.1.(b) G.S. 105-125(a) is amended by adding a new subdivision to read:

"(a) Exemptions. – The following corporations are exempt from the taxes levied by this Article. Upon request of the Secretary, an exempt corporation must establish its claim for exemption in writing:

...

(2a) A S corporation subject to the privilege license tax under Article 2 of this Chapter. For purposes of this subdivision, a S corporation has the same meaning as defined in G.S. 105-33.1.

...".

SECTION 4.1.(c) This section is effective for taxable years beginning on or after January 1, 2015, and applies to taxes due in that year or a subsequent year.

SECTION 4.2.(a) G.S. 105-122 reads as rewritten:

"**§ 105-122. Franchise or privilege tax on domestic and foreign corporations.**

...

(d) After determining the proportion of its total capital stock, surplus and undivided profits as set out in subsection (c) of this section, which amount shall not be less than fifty-five percent (55%) of the appraised value as determined for ad valorem taxation of all the real and tangible personal property in this State of each corporation nor less than its total actual

investment in tangible property in this State, every corporation taxed under this section shall annually pay to the Secretary of Revenue, at the time the report and statement are due, a franchise or privilege tax at the rate ~~of one dollar and fifty cents ($1.50) per one thousand dollars ($1,000) of the total amount of capital stock, surplus and undivided profits as provided in this section. The tax imposed in this section shall not be less than thirty-five dollars ($35.00) and shall be~~ provided in subsection (d2) of this section. The tax is imposed for the privilege of carrying on, doing business, and/or the continuance of articles of incorporation or domestication of each corporation in this State. Appraised value of tangible property including real estate is the ad valorem valuation for the calendar year next preceding the due date of the franchise tax return. The term "total actual investment in tangible property" as used in this section means the total original purchase price or consideration to the reporting taxpayer of its tangible properties, including real estate, in this State plus additions and improvements thereto less reserve for depreciation as permitted for income tax purposes, and also less any indebtedness incurred and existing by virtue of the purchase of any real estate and any permanent improvements made thereon. In computing "total actual investment in tangible personal property" there shall also be deducted reserves for the entire cost of any air-cleaning device or sewage or waste treatment plant, including waste lagoons, and pollution abatement equipment purchased or constructed and installed which reduces the amount of air or water pollution resulting from the emission of air contaminants or the discharge of sewage and industrial wastes or other polluting materials or substances into the outdoor atmosphere or into streams, lakes, or rivers, upon condition that the corporation claiming this deduction shall furnish to the Secretary a certificate from the Department of Environment and Natural Resources or from a local air pollution control program for air-cleaning devices located in an area where the Environmental Management Commission has certified a local air pollution control program pursuant to G.S. 143-215.112 certifying that said Department or local air pollution control program has found as a fact that the air-cleaning device, waste treatment plant or pollution abatement equipment purchased or constructed and installed as above described has actually been constructed and installed and that the device, plant or equipment complies with the requirements of the Environmental Management Commission or local air pollution control program with respect to the devices, plants or equipment, that the device, plant or equipment is being effectively operated in accordance with the terms and conditions set forth in the permit, certificate of approval, or other document of approval issued by the Environmental Management Commission or local air pollution control program and that the primary purpose is to reduce air or water pollution resulting from the emission of air contaminants or the discharge of sewage and waste and not merely incidental to other purposes and functions. The cost of constructing facilities of any private or public utility built for the purpose of providing sewer service to residential and outlying areas is treated as deductible for the purposes of this section; the deductible liability allowed by this section shall apply only with respect to pollution abatement plants or equipment constructed or installed on or after January 1, 1955.

...

(d2) Tax Rate. – The rate is the amount set in the table below for each one thousand dollars ($1,000) of the total amount of capital stock, surplus and undivided profits as provided in subsection (d) of this section. The tax imposed in this section may not be less than the amount set in the table below.

Income Year	Tax Rate	Minimum Tax Due
2015	$1.20	$ 500
2016	$0.90	$1,000
2017	$0.60	$2,000".

SECTION 4.2.(b) This section is effective for taxable years beginning on or after January 1, 2015, and applies to taxes due in that year or a subsequent year.

SECTION 4.3.(a) Article 3 of Chapter 105 of the General Statutes is repealed.

SECTION 4.3.(b) This section is effective for taxable years beginning on or after January 1, 2018.

PART V. ELIMINATE ANNUAL REPORT FILING FEES

SECTION 5.(a) G.S. 55-1-22 reads as rewritten:

"**§ 55-1-22. Filing, service, and copying fees.**

(a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to the Secretary for filing:

Document		Fee
...		
(23)	Annual report ~~(paper)~~	~~25.00~~No fee
~~(23a)~~	~~Annual report (electronic)~~	~~18.00~~
...		

(b) The Secretary of State shall collect a fee of ten dollars ($10.00) each time process is served on the Secretary under this Chapter. The party to a proceeding causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.

(c) The Secretary of State shall collect the following fees for copying, comparing, and certifying a copy of any filed document relating to a domestic or foreign corporation:

(1) One dollar ($1.00) a page for copying or comparing a copy to the original.

(2) Fifteen dollars ($15.00) for a paper certificate.

(3) Ten dollars ($10.00) for an electronic certificate.

~~(d) The fee for the annual report in subdivision (23) of this section is nonrefundable.~~"

SECTION 5.(b) G.S. 55-16-22 reads as rewritten:

"**§ 55-16-22. Annual report.**

(a) ~~Except as provided in subsections (a1) and (a2) of this section, each domestic corporation and each foreign corporation authorized to transact business in this State shall deliver an annual report to the Secretary of Revenue in paper form or, in the alternative, directly to the Secretary of State in electronic form as prescribed by the Secretary of State under this section.~~Requirement. – The following businesses must file an annual report with the Secretary of State on a form prescribed by the Secretary and in the manner required by the Secretary:

(1) A corporation that is incorporated under this Chapter.

(2) A corporation that has received a certificate of authority under this Chapter authorizing the corporation to transact business in this State.

(3) A company that is an insurance company regulated under Chapter 58 of the General Statutes.

~~(a1) Each insurance company subject to the provisions of Chapter 58 of the General Statutes shall deliver an annual report to the Secretary of State.~~

~~(a2) A domestic corporation governed by Chapter 55B of the General Statutes is exempt from this section.~~

~~(a3) The annual report required by this section shall be in a form jointly prescribed by the Secretary of Revenue and the Secretary of State. The Secretary of Revenue shall provide the form needed to file an annual report. The Secretary of State shall prescribe the form needed to file an annual report electronically and shall provide this form by electronic means. The annual report shall set forth all of the following:~~

~~(1) The name of the corporation and the state or country under whose law it is incorporated.~~

~~(2) The street address, and the mailing address if different from the street address, of the registered office, the county in which its registered office is located, and the name of its registered agent at that office in this State, and a~~

~~statement of any change of such registered office or registered agent, or both.~~

~~(3) The address and telephone number of its principal office.~~

~~(4) The names, titles, and business addresses of its principal officers.~~

~~(4a) Repealed by Session Laws 1997-475, s. 6.1, effective January 1, 1998.~~

~~(5) A brief description of the nature of its business.~~

~~If the information contained in the most recently filed annual report has not changed, a certification to that effect may be made instead of setting forth the information required by subdivisions (2) through (5) of this subsection.~~

(b) Content. – An annual report must set out the information listed in this subsection. The information must be current as of the date the business completes the report.~~Information in the annual report must be current as of the date the annual report is executed on behalf of the corporation.~~ If the information set out in the business' most recent annual report has not changed, the business may certify on its annual report that the information has not changed in lieu of restating the information. A business may amend an annual report at any time to correct, update, or augment information included in a prior report.

The following information must be included on the annual report of a business:

(1) Its name.

(2) The state or country under whose law it is incorporated or, if it is an insurance company and is not a corporation, the state or country under whose law it is organized.

(3) The street address of its registered office in this State, the county in which the registered office is located, and the name of the registered agent at the registered office. If the registered office or registered agent differs from the registered office or registered agent listed on the preceding annual report, the report must indicate that the registered office or registered agent has changed. A change in registered office or registered agent that is indicated on an annual report is effective when the report is filed.

(4) The mailing address of its registered office, if the street address of the office is not the mailing address.

(5) The address and telephone number of its principal office.

(6) The name, title, and business address of each of its principal officers.

(7) A brief description of the nature of its business.

(c) Due Date. – An annual report is due by the 15th day of the fourth month following the close of the fiscal year of the business filing the report. An annual report is delinquent if it is not filed within 120 days after it is due.~~eligible to be delivered to the Secretary of Revenue is due by the due date for filing the corporation's income and franchise tax returns. An extension of time to file a return is an extension of time to file an annual report. At the option of the filer, an annual report may be filed directly with the Secretary of State in electronic form. An annual report required to be delivered to the Secretary of State is due by the fifteenth day of the fourth month following the close of the corporation's fiscal year.~~

(d) Incomplete Report. – If the Secretary of State determines that an annual report filed with the Secretary does not contain the information required by this section, the Secretary must send a written notice to the business that the report is incomplete. An annual report that is corrected to contain the information and filed with the Secretary within 30 days of the date of the notice is considered timely filed.~~If an annual report does not contain the information required by this section, the Secretary of State shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for correction. If the report is corrected to contain the information required by this section and delivered to the Secretary of State within 30 days after the effective date of notice, it is deemed to be timely filed.~~

~~(e) Amendments to any previously filed annual report may be filed with the Secretary of State at any time for the purpose of correcting, updating, or augmenting the information contained in the annual report.~~

~~(f) Expired.~~

~~(g) When a statement of change of registered office or registered agent is filed in the annual report, the change shall become effective when the statement is received by the Secretary of State.~~

~~(h) If the Secretary of State does not receive an annual report within 120 days of the date the return is due, the Secretary of State may presume that the annual report is delinquent. This presumption may be rebutted by receipt of the annual report from the Secretary of Revenue or by evidence of delivery presented by the filing corporation.~~"

SECTION 5.(c) G.S. 57C-1-22(a)(25) reads as rewritten:

"(a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to the Secretary of State for filing:

Document	Fee
...	
(25) Annual report	~~200.00~~No fee

...."

SECTION 5.(d) G.S. 59-35.2(a)(18) reads as rewritten:

"(a) The Secretary of State shall collect the following fees when the documents described in this subsection are submitted by a partnership to the Secretary of State for filing:

Document	Fee
...	
(18) Annual report	~~200.00~~No fee

...."

SECTION 5.(e) G.S. 59-1106(a)(22) reads as rewritten:

"(a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to the Secretary of State for filing:

Document	Fee
...	
(22) Annual report for a limited liability limited partnership	~~200.00~~No fee

...."

SECTION 5.(f) G.S. 105-122.1 is repealed.

SECTION 5.(g) G.S. 105-228.90(a) reads as rewritten:

"(a) Scope. – This Article applies to Subchapters I, V, and VIII of this Chapter, ~~to the annual report filing requirements of G.S. 55-16-22,~~ to the primary forest product assessment levied under Article 12 of Chapter 113A of the General Statutes, and to inspection taxes levied under Article 3 of Chapter 119 of the General Statutes."

SECTION 5.(h) G.S. 105-256.1 is repealed.

SECTION 5.(i) G.S. 105-259(a) reads as rewritten:

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

(1) Employee or officer. – The term includes a former employee, a former officer, and a current or former member of a State board or commission.

(2) Tax information. – Any information from any source concerning the liability of a taxpayer for a tax, as defined in G.S. 105-228.90. The term includes the following:

a. Information contained on a tax return, a tax report, or an application for a license for which a tax is imposed.

b. Information obtained through an audit of a taxpayer or by correspondence with a taxpayer.

c. Information on whether a taxpayer has filed a tax return or a tax report.

d. A list or other compilation of the names, addresses, social security numbers, or similar information concerning taxpayers.

The term does not include ~~(i)~~ statistics classified so that information about specific taxpayers cannot be ~~identified, (ii) an annual report required to be filed under G.S. 55-16-22 or (iii)~~ identified or the amount of tax refunds paid to either a governmental entity listed in G.S. 105-164.14(c) or ~~to~~ a State agency."

SECTION 5.(j) This section becomes effective January 1, 2015. Subsection (f) of this section applies to returns due on or after April 15, 2015, for taxable years beginning on or after January 1, 2015. The remaining sections apply to annual reports due on or after January 1, 2015.

PART VI. ELIMINATE ARCHAIC STATE AND LOCAL PRIVILEGE LICENSE TAXES

SECTION 6.1.(a) Article 2 of Chapter 105 of the General Statutes is repealed.

SECTION 6.1.(b) This section becomes effective January 1, 2018, and applies as follows:

(1) For taxes payable under G.S. 105-41, 105-88, or 105-102.3, the section applies to taxes imposed under those statutes for taxable years beginning on or after July 1, 2018.

(2) For taxes payable under G.S. 105-102.6, the section applies to taxes due on or after January 31, 2018.

(3) For taxes payable under G.S. 105-83, the section applies to obligation dealt in, bought, or discounted on or after January 1, 2018.

SECTION 6.2.(a) G.S. 153JluA-152 reads as rewritten:

"**§ 153A-152. ~~Privilege~~ No general authority for privilege license taxes.**

~~(a) Authority. A county may levy privilege license taxes on trades, occupations, professions, businesses, and franchises to the extent authorized by Article 2 of Chapter 105 of the General Statutes and any other acts of the General Assembly. A county may levy privilege license taxes to the extent formerly authorized by the following sections of Article 2 of Chapter 105 of the General Statutes before they were repealed:~~

~~G.S. 105-50~~	~~Pawnbrokers.~~
~~G.S. 105-53~~	~~Peddlers, itinerant merchants, and specialty market operators.~~
~~G.S. 105-55~~	~~Installing elevators and automatic sprinkler systems.~~
~~G.S. 105-58~~	~~Fortune tellers, palmists, etc.~~
~~G.S. 105-65~~	~~Music machines.~~
~~G.S. 105-66.1~~	~~Electronic video games.~~
~~G.S. 105-80~~	~~Firearms dealers and dealers in other weapons.~~
~~G.S. 105-88~~	~~Loan agencies.~~
~~G.S. 105-89~~	~~Automobiles, wholesale supply dealers and service stations.~~
~~G.S. 105-89.1~~	~~Motorcycle dealers.~~
~~G.S. 105-90~~	~~Emigrant and employment agents.~~
~~G.S. 105-102.5~~	~~General business license.~~

~~(b) Telecommunications Restriction. A county may not impose a license, franchise, or privilege tax on a company taxed under G.S. 105-164.4(a) (4c).~~ A county may not levy a license, franchise, or privilege tax on a trade, occupation, profession, business, or franchise

carried on within the county unless a statute or an act of the General Assembly authorizes the county to do so."

SECTION 6.2.(b) G.S. 160A-211 reads as rewritten:

"**§ 160A-211. ~~Privilege~~ No general authority for privilege license taxes.**

~~(a) Authority. Except as otherwise provided by law, a city shall have power to levy privilege license taxes on all trades, occupations, professions, businesses, and franchises carried on within the city. A city may levy privilege license taxes on the businesses that were formerly taxed by the State under the following sections of Article 2 of Chapter 105 of the General Statutes only to the extent the sections authorized cities to tax the businesses before the sections were repealed:~~

~~G.S. 105-36~~	~~Amusements — Manufacturing, selling, leasing, or distributing moving picture films.~~
~~G.S. 105-36.1~~	~~Amusements — Outdoor theatres.~~
~~G.S. 105-37~~	~~Amusements — Moving pictures — Admission.~~
~~G.S. 105-41~~	~~Attorneys at law and other professionals.~~
~~G.S. 105-42~~	~~Private detectives and investigators.~~
~~G.S. 105-45~~	~~Collecting agencies.~~
~~G.S. 105-46~~	~~Undertakers and retail dealers in coffins.~~
~~G.S. 105-50~~	~~Pawnbrokers.~~
~~G.S. 105-51.1~~	~~Alarm systems.~~
~~G.S. 105-53~~	~~Peddlers, itinerant merchants, and specialty market operators.~~
~~G.S. 105-54~~	~~Contractors and construction companies.~~
~~G.S. 105-55~~	~~Installing elevators and automatic sprinkler systems.~~
~~G.S. 105-61~~	~~Hotels, motels, tourist courts and tourist homes.~~
~~G.S. 105-62~~	~~Restaurants.~~
~~G.S. 105-65~~	~~Music machines.~~
~~G.S. 105-65.1~~	~~Merchandising dispensers and weighing machines.~~
~~G.S. 105-66.1~~	~~Electronic video games.~~
~~G.S. 105-74~~	~~Pressing clubs, dry cleaning plants, and hat blockers.~~
~~G.S. 105-77~~	~~Tobacco warehouses.~~
~~G.S. 105-80~~	~~Firearms dealers and dealers in other weapons.~~
~~G.S. 105-83~~	~~Installment paper dealers.~~
~~G.S. 105-85~~	~~Laundries.~~
~~G.S. 105-86~~	~~Outdoor advertising.~~
~~G.S. 105-88~~	~~Loan agencies.~~
~~G.S. 105-89~~	~~Automobiles, wholesale supply dealers, and service stations.~~
~~G.S. 105-89.1~~	~~Motorcycle dealers.~~
~~G.S. 105-90~~	~~Emigrant and employment agents.~~
~~G.S. 105-91~~	~~Plumbers, heating contractors, and electricians.~~
~~G.S. 105-97~~	~~Manufacturers of ice cream.~~
~~G.S. 105-98~~	~~Branch or chain stores.~~
~~G.S. 105-99~~	~~Wholesale distributors of motor fuels.~~
~~G.S. 105-102.1~~	~~Certain cooperative associations.~~
~~G.S. 105-102.3~~	~~Banks.~~
~~G.S. 105-102.5~~	~~General business license.~~

~~(b) Barbershop and Salon Restriction. A privilege license tax levied by a city on a barbershop or a beauty salon may not exceed two dollars and fifty cents ($2.50) for each barber, manicurist, cosmetologist, beautician, or other operator employed in the barbershop or beauty salon.~~

~~(c) Prohibition. A city may not impose a license, franchise, or privilege tax on a person engaged in any of the businesses listed in this subsection. These businesses are subject to a State tax for which the city receives a share of the tax revenue.~~

~~(1) Supplying piped natural gas taxed under Article 5E of Chapter 105 of the General Statutes.~~

~~(2) Providing telecommunications service taxed under G.S. 105-164.4(a)(4c).~~

~~(3) Providing video programming taxed under G.S. 105-164.4(a)(6).~~

~~(d) Repealed by Session Laws 2006-151, s. 12, effective January 1, 2007.~~A city may not levy a license, franchise, or privilege tax on a trade, occupation, profession, business, or franchise carried on within the city unless a statute or an act of the General Assembly authorizes the city to do so."

SECTION 6.2.(c) This section becomes effective July 1, 2018, and applies to taxes imposed for fiscal years beginning on or after that date.

SECTION 6.3.(a) G.S. 93-12(12) and G.S. 105-259(b)(4) are repealed.

SECTION 6.3.(b) G.S. 53-165 reads as rewritten:

"**§ 53-165. Definitions.**

The following definitions apply in this Article:

~~(a)~~(1) ~~"Amount of the loan" shall mean the~~ Amount of the loan. – The aggregate of the cash advance and the charges authorized by G.S. 53-173 and G.S. 53-176.

~~(b)~~(2) ~~"Borrower" shall mean any~~ Borrower. – A person who borrows money ~~from any licensee or who pays or obligates himself to pay any money~~ from, pays or is obligated to pay money to, or otherwise furnishes any valuable consideration to any licensee for any act of the licensee as a licensee.

~~(c)~~(3) ~~"Cash advance" shall mean the~~ Cash advance. – The amount of cash or its equivalent ~~that the~~ a borrower actually receives or is paid out at ~~his discretion or on his behalf.~~the discretion of the borrower or on behalf of the borrower.

~~(d)~~(4) ~~"Commission" shall mean the~~ Commission. – The State Banking Commission.

~~(e)~~(5) ~~"Commissioner" shall mean the~~ Commissioner. – The Commissioner of Banks.

~~(f)~~(6) ~~"Deputy commissioner" shall mean the~~ Deputy commissioner. – The deputy commissioner of banks.

(7) Installment paper dealer. – A person who buys or discounts notes or other evidences of debt secured, at the time the debt is incurred, by personal property located in this State.

~~(g)~~(8) ~~"License" shall mean the~~ License. – The certificate issued by the Commissioner under the authority of this Article to conduct a consumer finance business.

~~(h)~~(9) ~~"Licensee" shall mean a~~ Licensee. – A person to whom one or more licenses have been issued.

~~(i)~~(10) ~~"Loanable assets" shall mean cash or bank deposits or installment loans made as a licensee pursuant to this Article or installment loans made as a licensee pursuant to the Article which this Article supersedes or such other loans payable on an installment basis as the Commissioner of Banks may approve, or any combination of two or more thereof.~~Loanable assets. – Cash, bank deposits, installment loans, or any combination of these.

~~(j)~~(11) ~~"Person" shall include any person,~~ Person. – An individual, a firm, a partnership, ~~association or corporation.~~ an association, a limited liability company, a corporation, or another group acting as a unit."

SECTION 6.3.(c) G.S. 53-172(a) reads as rewritten:

"(a) No licensee shall conduct the business of making loans under this Article within any office, suite, room, or place of business in which any other business is solicited or transacted. The business of making loans includes acting as an installment paper dealer and collecting a loan made by a government regulated lender.

~~Installment paper dealers as defined in G.S. 105-83, and the collection by a licensee of loans legally made in North Carolina, or another state by another government regulated lender or lending agency, shall not be considered as being any other business within the meaning of this section.~~"

SECTION 6.3.(d) G.S. 53-191 reads as rewritten:

"**§ 53-191. Businesses exempted.**

~~Nothing in this~~ This Article ~~shall be construed to~~ does not apply to any ~~person, firm or corporation~~ person doing business under the authority of any law of this State or of the United States relating to banks, trust companies, savings and loan associations, cooperative credit unions, agricultural credit corporations or associations organized under the laws of North Carolina, production credit associations organized under the ~~act of Congress known as the~~ federal Farm Credit Act of 1933, pawnbrokers lending or advancing money on specific articles of personal property, industrial banks, ~~the business of negotiating~~ businesses that negotiate or solicit loans on real estate as ~~defined in G.S. 105-41,~~ agent for another for compensation, ~~nor to~~ or installment paper dealers ~~as defined in G.S. 105-83 other than persons, firms and corporations~~ other than persons engaged in the business of accepting fees for endorsing or otherwise securing loans or contracts for the repayment of loans."

SECTION 6.3.(e) G.S. 95-47.2(d)(3)c. reads as rewritten:

"(d) Upon the receipt of an application for a license the Commissioner:

...

(3) Upon completion of the investigation, or 60 days after the application was received, whichever is later, but in no case more than 75 days after the application was received, shall determine whether or not a license should be issued. The license shall be denied for any of the following reasons:

...

c. If the employment agency will be operated on the same premises as ~~a loan agency (as defined in G.S. 105-88) or collection agency (as defined in G.S. 58-70-15).~~ any of the following:

1. A business that makes loans and takes as security for repayment of the loans an assignment of wages or any other type of security.
2. A check cashing business regulated under Article 22 of Chapter 53 of the General Statutes.
3. A pawnbroker business regulated under Chapter 91A of the General Statutes.
4. A collection agency, as defined in G.S. 58-70-15."

SECTION 6.3.(f) This section becomes effective July 1, 2018.

PART VII. ELECTRICITY AND PIPED NATURAL GAS TAX CHANGES

SECTION 7.1.(a) G.S. 105-116, 105-116.1, 105-164.21A, and 159B-27(b), (c), (d), and (e) are repealed.

SECTION 7.1.(b) G.S. 105-130.6A(a)(4) reads as rewritten:

"(a) Definitions. – The provisions of G.S. 105-130.6 govern the determination of whether a corporation is a subsidiary or an affiliate of another corporation. In addition, the following definitions apply in this section:

...

(4) Electric power holding company. – A holding company with an affiliate or a subsidiary that is engaged in the business of producing electric power.~~subject to the franchise tax on electric power companies levied in G.S. 105-116.~~

...".

SECTION 7.1.(c) G.S. 105-164.4(a)(1f) and (a)(4a) are repealed.

SECTION 7.1.(d) G.S. 105-164.13(44) and Article 5E of Chapter 105 of the General Statutes are repealed.

SECTION 7.1.(e) G.S. 105-164.4(a) is amended by adding a new subdivision to read:

"(10) The combined general rate applies to the gross receipts derived from sales of electricity and piped natural gas."

SECTION 7.1.(f) G.S. 160A-211 reads as rewritten:

"(c) Prohibition. – A city may not impose a license, franchise, or privilege tax on a person engaged in any of the businesses listed in this subsection. These businesses are subject to ~~a State tax~~ sales tax at the combined general rate for which the city receives a share of the tax ~~revenue.~~revenue or they are subject to the local sales tax.

(1) Supplying piped natural ~~gas taxed under Article 5E of Chapter 105 of the General Statutes.~~gas.

(2) Providing telecommunications service taxed under G.S. 105-164.4(a)(4c).

(3) Providing video programming taxed under G.S. 105-164.4(a)(6).

(4) Providing electricity. A city may continue to impose and collect the license, franchise, or privilege taxes on an electric power company that it imposed and collected on or before January 1, 1947, but it may not impose or collect any greater franchise, privilege, or license taxes, in the aggregate, on an electric power company that was imposed and collected on or before January 1, 1947."

SECTION 7.1.(g) This section becomes effective July 1, 2014, and applies to bills issued on or after that date.

SECTION 7.2.(a) Pursuant to G.S. 62-31 and G.S. 62-32, the Utilities Commission must adjust the rate set for the following utilities:

(1) Electricity to reflect the repeal of G.S. 105-116 and the resulting liability of electric power companies for the tax imposed under G.S. 105-122 and for the increase in the rate of tax imposed on sales of electricity under G.S. 105-164.4.

(2) Piped natural gas to reflect the repeal of Article 5E of Chapter 105 of the General Statutes, the repeal of the credit formerly allowed under G.S. 105-122(d1), and the resulting liability of companies for the tax imposed on sales of piped natural gas under G.S. 105-164.4.

SECTION 7.2.(b) This section is effective when it becomes law.

SECTION 7.3.(a) Part 8 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.44K. Distribution of part of tax on electricity to cities.**

(a) Distribution. – The Secretary must distribute to cities forty-four percent (44%) of the net proceeds of the tax collected under G.S. 105-164.4 on electricity. Each city's share of the amount to be distributed is its franchise tax share calculated under subsection (b) of this section plus its ad valorem share calculated under subsection (c) of this section. The Secretary must make the distribution within 75 days after the end of each quarter.

(b) Franchise Tax Share. – The quarterly franchise tax share of a city is the amount of electricity gross receipts franchise tax distributed to the city under repealed G.S. 105-116.1 for

the same related quarter that was the last quarter in which taxes were imposed on electric power companies under repealed G.S. 105-116.

The franchise tax share of a city that has dissolved, merged with another city, or divided into two or more cities since it received a distribution under repealed G.S. 105-116.1 is adjusted as follows:

(1) If a city dissolves and is no longer incorporated, the franchise tax share of the city is added to the amount distributed under subsection (c) of this section.

(2) If two or more cities merge or otherwise consolidate, their franchise tax shares are combined.

(3) If a city divides into two or more cities, the franchise tax share of the city that divides is allocated among the new cities in proportion to the total amount of ad valorem taxes levied by each on property having a tax situs in the city.

(c) Ad Valorem Share. – The ad valorem share of a city is its proportionate share of the amount that remains for distribution after determining each city's franchise tax share under subsection (b) of this section. A city's proportionate share is the amount of ad valorem taxes it levies on property having a tax situs in the city compared to the ad valorem taxes levied by all cities on property having a tax situs in the cities.

(d) Methodology. – The ad valorem method set out in G.S. 105-472(b)(2) applies in determining the share of a city under this section based on ad valorem taxes, except that the amount of ad valorem taxes levied by a city does not include ad valorem taxes levied on behalf of a taxing district and collected by the city.

(e) Determination Final. – The determination made by the Department with respect to a city's franchise tax share is final and is not subject to administrative or judicial review.

(f) Nature. – The General Assembly finds that the revenue distributed under this section is local revenue, not a State expenditure, for the purpose of Section 5(3) of Article III of the North Carolina Constitution. Therefore, the Governor may not reduce or withhold the distribution."

SECTION 7.3.(b) Part 8 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.44L. Distribution of part of tax on piped natural gas to cities.**

(a) Distribution. – The Secretary must distribute to cities twenty percent (20%) of the net proceeds of the tax collected under G.S. 105-164.4 on piped natural gas. Each city's share of the amount to be distributed is its excise tax share calculated under subsection (b) of this section plus its ad valorem share calculated under subsection (c) of this section. The Secretary must make the distribution within 75 days after the end of each quarter.

(b) Excise Tax Share. – The quarterly excise tax share of a city that is not a gas city is the amount of piped natural gas excise tax distributed to the city under repealed G.S. 105-187.44 for the same related quarter that was the last quarter in which taxes were imposed on piped natural gas under repealed Article 5E of this Chapter. The Secretary must determine the excise tax share of a gas city and divide that amount by four to calculate the quarterly distribution amount for a gas city. The excise tax share of a gas city is the amount the gas city would have received under repealed G.S. 105-187.44 for the last year in which taxes were imposed under repealed Article 5E of this Chapter if piped natural gas consumed by the city or delivered by the city to a customer had not been exempt from tax under repealed G.S. 105-187.41(c)(1) and (c)(2). A gas city must report the information required by the Secretary to make the distribution under this section in the form, manner, and time required by the Secretary. For purposes of this subsection, the term "gas city" has the same meaning as defined in repealed G.S. 105-187.40.

The excise tax share of a city that has dissolved, merged with another city, or divided into two or more cities since it received a distribution under repealed G.S. 105-187.44 is adjusted as follows:

(1) If a city dissolves and is no longer incorporated, the excise tax share of the city is added to the amount distributed under subsection (c) of this section.

(2) If two or more cities merge or otherwise consolidate, their excise tax shares are combined.

(3) If a city divides into two or more cities, the excise tax share of the city that divides is allocated among the new cities in proportion to the total amount of ad valorem taxes levied by each on property having a tax situs in the city.

(c) Ad Valorem Share. – The ad valorem share of a city is its proportionate share of the amount that remains for distribution after determining each city's excise tax share under subsection (b) of this section. A city's proportionate share is the amount of ad valorem taxes it levies on property having a tax situs in the city compared to the ad valorem taxes levied by all cities on property having a tax situs in the cities.

(d) Methodology. – The ad valorem method set out in G.S. 105-472(b)(2) applies in determining the share of a city under this section based on ad valorem taxes, except that the amount of ad valorem taxes levied by a city does not include ad valorem taxes levied on behalf of a taxing district and collected by the city.

(e) Determination Final. – The determination made by the Department with respect to a city's excise tax share is final and is not subject to administrative or judicial review.

(f) Nature. – The General Assembly finds that the revenue distributed under this section is local revenue, not a State expenditure, for the purpose of Section 5(3) of Article III of the North Carolina Constitution. Therefore, the Governor may not reduce or withhold the distribution."

SECTION 7.3.(c) This section is effective for quarters beginning on or after July 1, 2014.

PART VIII. ELIMINATE SALES TAX SPECIAL EXEMPTIONS

SECTION 8.1.(a) G.S. 105-164.13(13c), (28), (30), and (50) are repealed.

SECTION 8.1.(b) This section becomes effective October 1, 2013, and applies to sales made on or after that date.

SECTION 8.2.(a) G.S. 105-164.13(27) and (27a), 105-164.13C, and 105-164.13D are repealed.

SECTION 8.2.(b) This section become effective July 1, 2014, and applies to sales made on or after that date.

SECTION 8.3.(a) G.S. 105-37.1, 105-38.1, and 105-40 are repealed.

SECTION 8.3.(b) G.S. 105-164.4(a) is amended by adding the following new subdivision to read:

"**§ 105-164.4. Tax imposed on retailers.**

(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and three-quarters percent (4.75%).

...

(9) The general rate of tax applies to admission charges to an entertainment activity listed in this subdivision. Offering any of these listed activities is a service. An admission charge includes a charge for a single ticket, a multi-occasion ticket, a seasonal pass, an annual pass, and a cover charge.

An admission charge does not include a charge for amenities. If charges for amenities are not separately stated on the face of an admission ticket, then the charge for admission is considered to be equal to the admission

charge for a ticket to the same event that does not include amenities and is for a seat located directly in front of or closest to a seat that includes amenities.

When an admission ticket is resold and the price of the admission ticket is printed on the face of the ticket, the tax does not apply to the face price. When an admission ticket is resold and the price of the admission ticket is not printed on the face of the ticket, the tax applies to the difference between the amount the reseller paid for the ticket and the amount the reseller charges for the ticket.

Admission charges to the following entertainment activities are subject to tax:

a. A live performance or other live event of any kind.

b. A movie.

c. A museum, a cultural site, a garden, an exhibit, a show, or a similar attraction or a guided tour at any of these attractions."

SECTION 8.3.(c) G.S. 105-164.13 is amended by adding the following new subdivision to read:

"**§ 105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property, digital property, and services are specifically exempted from the tax imposed by this Article:

...

(60) Admission charges to any of the following recreational or entertainment activities:

a. An event that is held at an elementary or secondary school and is sponsored by the school.

b. A commercial agricultural fair that meets the requirements of G.S. 106-520.1, as determined by the Commissioner of Agriculture.

c. A festival or other recreational or entertainment activity that lasts no more than seven consecutive days and is sponsored by a nonprofit entity that is exempt from tax under Article 4 of this Chapter and uses the entire proceeds of the activity exclusively for the entity's nonprofit purposes. This exemption applies to no more than two activities sponsored by the entity during a calendar year.

d. A youth athletic contest sponsored by a nonprofit entity that is exempt from tax under Article 4 of this Chapter. For the purpose of this subdivision, a youth athletic contest is a contest in which each participating athlete is less than 20 years of age."

SECTION 8.3.(d) The following statutes are repealed:

G.S. 106-507
G.S. 106-516
G.S. 106-517
G.S. 106-518
G.S. 106-519
G.S. 106-520
G.S. 140-10.1

SECTION 8.3.(e) G.S. 105-164.9 is repealed.

SECTION 8.3.(f) G.S. 105-164.10 reads as rewritten:

"**§ 105-164.10. Retail bracket system.**

For the convenience of the retailer in collecting the tax due under this Article, the Secretary ~~shall~~ must prescribe tables that compute the tax due on sales by rounding off the amount of tax

due to the nearest whole cent. The Secretary ~~shall~~ must issue a separate table for each rate of tax that may apply to a ~~sale, including the general rate established in G.S. 105-164.4, preferential rates, and combined State and local rates. Use of the tables prescribed by the Secretary does not relieve a retailer of liability for the applicable rate of tax due on the gross receipts or net taxable sales of the retailer.~~sale."

SECTION 8.3.(g) This section becomes effective October 1, 2013, and applies to admissions purchased on or after that date. For admissions to a live event, the tax applies to the initial sale or resale of tickets occurring on or after that date; gross receipts received on or after October 1, 2013, for admission to a live event, for which the initial sale of tickets occurred before that date, other than gross receipts received by a ticket reseller, are taxable under G.S. 105-37.1.

SECTION 8.4.(a) G.S. 105-164.14(c) is repealed.

SECTION 8.4.(b) G.S. 105-164.14(b) reads as rewritten:

"(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed a semiannual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services, other than electricity, telecommunications service, and ancillary service, for use in carrying on the work of the nonprofit entity. Sales and use tax liability indirectly incurred by a nonprofit entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the nonprofit entity and is being erected, altered, or repaired for use by the nonprofit entity for carrying on its nonprofit activities is considered a sales or use tax liability incurred on direct purchases by the nonprofit entity. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund for the first six months of a calendar year is due the following October 15; a request for a refund for the second six months of a calendar year is due the following April 15. The aggregate annual refund amount allowed for a nonprofit entity under this subsection for a fiscal year may not exceed the amount set in the table below:

Fiscal Year	Amount
Beginning July 1, 2014	$5,000,000
Beginning July 1, 2015	$1,000,000
Beginning on or after July 1, 2016	$ 100,000.

The refunds allowed under this subsection do not apply to an entity that is owned and controlled by the United States or to an entity that is owned or controlled by the State and is not listed in this subsection. A hospital that is not listed in this subsection is allowed a semiannual refund of sales and use taxes paid by it on medicines and drugs purchased for use in carrying out its work. The following nonprofit entities are allowed a refund under this subsection:

(1) Hospitals not operated for profit, including hospitals and medical accommodations operated by an authority or other public hospital described in Article 2 of Chapter 131E of the General Statutes.

(2) An organization that is exempt from income tax under section 501(c)(3) of the Code, other than an organization that is properly classified in any of the following major group areas of the National Taxonomy of Exempt Entities:
   a. Community Improvement and Capacity Building.
   b. Public and Societal Benefit.
   c. Mutual and Membership Benefit.

(2a) An organization that is exempt from income tax under the Code and is one of the following:
   a. A volunteer fire department.
   b. A volunteer emergency medical services squad.

(3) Repealed by Session Laws 2008-107, s. 28.22(a), effective July 1, 2008, and applicable to purchases made on or after that date.

(4) Qualified retirement facilities whose property is excluded from property tax under G.S. 105-278.6A.

(5) A university affiliated nonprofit organization that procures, designs, constructs, or provides facilities to, or for use by, a constituent institution of The University of North Carolina. For purposes of this subdivision, a nonprofit organization includes an entity exempt from taxation as a disregarded entity of the nonprofit organization."

SECTION 8.4.(c) G.S. 105-164.14(d) reads as rewritten:

"(d) Late Applications. – Refunds applied for more than ~~three years~~ one year after the due date are barred."

SECTION 8.4.(d) G.S. 105-467(b) reads as rewritten:

"(b) Exemptions and Refunds. – The State exemptions and exclusions contained in ~~G.S. 105-164.13, the State sales and use tax holidays contained in G.S. 105-164.13C and G.S. 105-164.13D, and the State refund provisions contained in G.S. 105-164.14 through G.S. 105-164.14B~~ G.S. 105-164.13 apply to the local sales and use tax authorized to be levied and imposed under this Article. The State refund provisions contained in G.S. 105-164.14 through G.S. 105-164.14B apply to the local sales and use tax authorized to be levied and imposed under this Article. ~~Except~~ The aggregate local refund amount allowed to a nonprofit entity under G.S. 105-164.14(b) for a fiscal year may not exceed the amount set in the table below:

Fiscal Year	Amount
Beginning July 1, 2014	$1,500,000
Beginning July 1, 2015	$ 300,000
Beginning on or after July 1, 2016	$ 30,000.

(b1) Additional Refunds. – Except as provided in this subsection, a taxing county may not allow an exemption, exclusion, or refund that is not allowed under the State sales and use tax. A local school administrative unit and a joint agency created by interlocal agreement among local school administrative units pursuant to G.S. 160A-462 to jointly purchase food service-related materials, supplies, and equipment on their behalf is allowed an annual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services, other than electricity, telecommunications service, and ancillary service. Sales and use tax liability indirectly incurred by the entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the entity and is being erected, altered, or repaired for use by the entity is considered a sales or use tax liability incurred on direct purchases by the entity for the purpose of this subsection. A request for a refund shall be in writing and shall include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the entity's fiscal year. Refunds applied for more than ~~three years~~ one year after the due date are barred."

SECTION 8.4.(e) This section becomes effective July 1, 2014, and applies to purchases made on or after that date.

SECTION 8.5.(a) G.S. 105-164.4(a) reads as rewritten:

(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and three-quarters percent (4.75%).

...

(1a) The general rate ~~of two percent (2%)~~ applies to the sales price of each manufactured home sold at retail, including all accessories attached to the manufactured home when it is delivered to the purchaser. ~~The maximum tax is three hundred dollars ($300.00) per article. Each section of a~~

~~manufactured home that is transported separately to the site where it is to be erected is a separate article.~~

...

(8) The general rate ~~of two and one-half percent (2.5%)~~ applies to the sales price of each modular home sold at retail, including all accessories attached to the modular home when it is delivered to the purchaser. The sale of a modular home to a modular homebuilder is considered a retail sale. A person who sells a modular home at retail is allowed a credit against the tax imposed by this subdivision for sales or use tax paid to another state on tangible personal property incorporated in the modular home. The retail sale of a modular home occurs when a modular home manufacturer sells a modular home to a modular homebuilder or directly to the end user of the modular home."

SECTION 8.5.(b) G.S. 105-164.44G repealed.

SECTION 8.5.(c) G.S. 105-467(a) reads as rewritten:

"(a) Sales Tax. – The sales tax that may be imposed under this Article is limited to a tax at the rate of one percent (1%) of the following:

(1) A retailer's net taxable sales and gross receipts that are subject to the general rate of sales tax imposed by the State under ~~G.S. 105-164.4.~~G.S. 105-164.4 except the tax does not apply to the sales price of a manufactured home or a modular home.

(2) through (4) Repealed by Session Laws 2011-330, s. 45, effective June 27, 2011.

(5) The sales price of food that is not otherwise exempt from tax pursuant to G.S. 105-164.13 but is exempt from the State sales and use tax pursuant to G.S. 105-164.13B.

(5a) The sales price of a bundled transaction that includes food subject to tax under subdivision (5) of this subsection, if the price of the food exceeds ten percent (10%) of the price of the bundle. A retailer must determine the price of food in a bundled transaction in accordance with G.S. 105-164.4D.

(5b) The sales price of bread, rolls, and buns that are sold at a bakery thrift store and are exempt from State tax under G.S. 105-164.13(27a).

(6), (7) Repealed by Session Laws 2011-330, s. 45, effective June 27, 2011."

SECTION 8.5.(d) This section becomes effective October 1, 2014, and applies to sales made on or after that date.

PART IX. ELIMINATE SALES TAX ON FOOD AND AUTHORIZE COUNTIES TO LEVY A LOCAL SALES TAX ON FOOD

SECTION 9.1.(a) G.S. 105-483 reads as rewritten:

"**§ 105-483. Levy and collection of additional taxes.**

Any county subject to this Article may levy one-half percent (1/2%) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to law. Except as provided in this Article, the adoption, levy, collection, distribution, administration, and repeal of these additional taxes shall be in accordance with Article 39 of this Chapter. A tax levied under this Article does not apply to the sales price of food that is exempt from tax pursuant to G.S. 105-164.13B or to the sales price of a bundled transaction taxable pursuant to G.S. 105-467(a)(5a). In applying the provisions of Article 39 of this Chapter to this Article, references to "this Article" mean Article 40 of this Chapter. The exemption for building materials in G.S. 105-468.1 does not apply to taxes levied under this Article."

SECTION 9.1.(b) G.S. 105-498 reads as rewritten:

"**§ 105-498. Levy and collection of additional taxes.**

Any county subject to this Article may levy one-half percent (1/2%) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to law. Except as provided in this Article, the adoption, levy, collection, distribution, administration, and repeal of these additional taxes shall be in accordance with Article 39 of this Chapter. A tax levied under this Article does not apply to the sales price of food that is exempt from tax pursuant to G.S. 105-164.13B or to the sales price of a bundled transaction taxable pursuant to G.S. 105-467(a)(5a). In applying the provisions of Article 39 of this Chapter to this Article, references to "this Article" mean Article 42 of this Chapter. The exemption for building materials in G.S. 105-468.1 does not apply to taxes levied under this Article."

SECTION 9.1.(c) This section becomes effective November 1, 2014, and applies to sales made on or after that date.

SECTION 9.2.(a) G.S. 105-164.13 is amended by adding a new subdivision to read:

"**§ 105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property, digital property, and services are specifically exempted from the tax imposed by this Article:

...

(38a) Food, unless the food is included in one of the food items listed below:

a. Dietary supplements.

b. Food sold through a vending machine.

c. Prepared food.

f. Soft drinks.

g. Candy."

SECTION 9.2.(b) G.S. 105-164.13B is repealed.

SECTION 9.2.(c) G.S. 105-467(a), as amended by Part VIII of this act, reads as rewritten:

"(a) Sales Tax. – The sales tax that may be imposed under this Article is limited to a tax at the rate of one percent (1%) ~~of the following:~~

~~(1)~~ ~~A~~ of a retailer's net taxable sales and gross receipts that are subject to the general rate of sales tax imposed by the State under G.S. 105-164.4 except the tax does not apply to the sales price of a manufactured home or a modular home.

~~(2) through (4) Repealed by Session Laws 2011-330, s. 45, effective June 27, 2011.~~

~~(5) The sales price of food that is not otherwise exempt from tax pursuant to G.S. 105-164.13 but is exempt from the State sales and use tax pursuant to G.S. 105-164.13B.~~

~~(5a) The sales price of a bundled transaction that includes food subject to tax under subdivision (5) of this subsection, if the price of the food exceeds ten percent (10%) of the price of the bundle. A retailer must determine the price of food in a bundled transaction in accordance with G.S. 105-164.4D.~~

~~(5b) The sales price of bread, rolls, and buns that are sold at a bakery thrift store and are exempt from State tax under G.S. 105-164.13(27a).~~

(6), (7) Repealed by Session Laws 2011-330, s. 45, effective June 27, 2011."

SECTION 9.2.(d) G.S. 105-469(a) reads as rewritten:

"(a) The Secretary shall collect and administer a tax levied by a county pursuant to this Article. ~~As directed by G.S. 105-164.13B, taxes levied by a county on food are administered as if they were levied by the State under Article 5 of this Chapter. The Secretary must, on a monthly basis, distribute local taxes levied on food to the taxing counties as follows:~~

~~(1) The Secretary must allocate one-half of the net proceeds on a per capita basis according to the most recent annual population estimates certified to~~

~~the Secretary by the State Budget Officer. The Secretary must then adjust the amount allocated to each county as provided in G.S. 105-486(b). The Secretary must include one-half of the amount allocated under this subdivision in the distribution made under Article 40 of this Chapter and must include the remaining one-half in the distribution made under Article 42 of this Chapter.~~

~~(2) The Secretary must allocate the remaining net proceeds proportionately to each taxing county based upon the amount of sales tax on food collected in the taxing county in the 1997-1998 fiscal year under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws relative to the total amount of sales tax on food collected in all taxing counties in the 1997-1998 fiscal year under Article 39 of this Chapter and under Chapter 1096 of the 1967 Session Laws. The Secretary must include the amount allocated under this subdivision in the distribution made under Article 39 of this Chapter.~~"

SECTION 9.2.(e) This section becomes effective November 1, 2016, and applies to sales made on or after that date.

SECTION 9.3.(a) Subchapter VIII of Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 47.

" Local Government Sales and Use Tax on Food.

"**§ 105-540. Short title.**

This Article is the Local Government Sales and Use Tax on Food Act.

"**§ 105-541. Levy.**

(a) Authority. – If the majority of those voting in a referendum held pursuant to this section vote for the levy of the tax on food, the board of commissioners of the county may, by resolution, levy local sales and use taxes on food. In addition, the board of county commissioners may, in the event no election has been held within five years under subsection (b) of this section in which the tax has been defeated, after not less than 10 days' public notice and after a public hearing held pursuant thereto, by resolution, impose and levy the local sales and use tax on food to the same extent and with the same effect as if the levy of the tax had been approved in an election held pursuant to subsection (b) of this section.

(b) Vote. – The board of commissioners of a county may direct the county board of elections to conduct an advisory referendum on the question of whether to levy local sales and use taxes in the county on food as provided in this Article. The election must be held in accordance with the procedures of G.S. 163-287 on the same date as the general election in an even numbered year. The form of the question to be presented on a ballot for a special election concerning the levy of the taxes authorized by this Article shall be:

'[ ] FOR [ ] AGAINST

Local sales and use taxes on food.'

(c) Rate. – The local sales and use tax rate on food is the sum of the rates of the local sales and use taxes authorized and levied by the county under Subchapter VIII of this Chapter and under Chapter 1096 of the 1967 Session Laws.

"**§ 105-542. Administration.**

Except as provided in this Article, the adoption, levy, collection, administration, and repeal of the tax authorized by this Article shall be in accordance with Article 39 of this Chapter.

"**§ 105-543. Distribution of tax.**

The Secretary must, on a monthly basis, allocate to each taxing county the net proceeds of the sales and use taxes collected in that county on food. If the Secretary collects taxes under this Article in a month and the taxes cannot be identified as being attributable to a particular taxing county, the Secretary must allocate the net proceeds of these taxes among the taxing

counties in proportion to the amount of taxes collected in each county under this Article in that month.

The Secretary must divide and distribute the funds allocated to a taxing county each month under this section between the county and the municipalities located in the county in accordance with the method by which the one percent (1%) sales and use taxes levied in that county pursuant to Article 39 of this Chapter or Chapter 1096 of the 1967 Session Laws are distributed. No municipality may receive any funds under this section if it was incorporated with an effective date of on or after January 1, 2000, and is disqualified from receiving funds under G.S. 136-41.2. No municipality may receive any funds under this section, incorporated with an effective date on or after January 1, 2000, unless a majority of the mileage of its streets are open to the public."

SECTION 9.3.(b) This section becomes effective January 1, 2017.

PART X. SALES TAX PREFERENCES FOR FARMERS

SECTION 10.(a) Part 3 of Article 5 of Chapter 105 of the General statutes is amended by adding a new section to read:

"**§ 105-163.13E. Exemption for farmer.**

The following tangible personal property, digital property, and services are exempt from sales and use tax if purchased by a farmer and used for a farming. A farmer qualifies for this exemption if the farmer has an annual gross income of ten thousand dollars ($10,000) or more from farming operations for the preceding calendar year. For purposes of this section, a farmer includes a dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a farmer of an aquatic species, as defined in G.S. 106-758.

(1) Fuel and electricity.

(2) Commercial fertilizer, lime, land plaster, plastic mulch, plant bed covers, potting soil, baler twine, and seeds.

(3) Farm machinery, attachment and repair parts for farm machinery, and lubricants applied to farm machinery. The term "machinery" includes implements that have moving parts or are operated or drawn by an animal. The term does not include implements operated wholly by hand or motor vehicles required to be registered under Chapter 20 of the General Statutes.

(4) Any of the following substances when purchased for use on animals or plants, as appropriate, held or produced for commercial purposes. This exemption does not apply to any equipment or devices used to administer, release, apply, or otherwise dispense these substances:

a. Remedies, vaccines, medications, litter materials, and feeds for animals.

b. Rodenticides, insecticides, herbicides, fungicides, and pesticides.

c. Defoliants for use on cotton or other crops.

d. Plant growth inhibitors, regulators, or stimulators, including systemic and contact or other sucker control agents for tobacco and other crops.

e. Semen.

(5) Baby chicks and poults sold for commercial poultry or egg production.

(6) Any of the following tobacco items:

a. The lease or rental of tobacco sheets used in handling tobacco in the warehouse and transporting tobacco to and from the warehouse.

b. A metal flue sold for use in curing tobacco, whether the flue is attached to a hand fired furnace or used in connection with a mechanical burner.

c. A bulk tobacco barn or rack, parts and accessories attached to the tobacco barn or rack, and any similar apparatus, part, or accessory used to cure or dry tobacco or another crop."

SECTION 10.(b) G.S. 105-164.13(1), (1b), (2a), (4a), and (4d) are repealed.

SECTION 10.(c) This section becomes effective July 1, 2015, and applies to sales made on or after that date.

PART XI. PHASED ELIMINATION OF VARIOUS SALES TAX EXEMPTIONS AND REFUNDS

SECTION 11.1.(a) Part 3 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.14C. Phase out of sales tax preferences.**

(a) Refund Amount. – The refund amount allowed under this section for a fiscal year is the percentage amount of sales and use taxes paid during the fiscal year as provided in the table below:

Fiscal Year	Percentage Allowed
Beginning July 1, 2014	75%
Beginning July 1, 2015	50%
Beginning July 1, 2016	25%

(b) Administration. – A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the State's fiscal year. Refunds applied for after the due date are barred.

(c) Not an Overpayment. – Taxes for which a refund is allowed under this section is not an overpayment of tax and do not accrue interest as provided in G.S. 105-241.21.

(d) Refund Allowed. – The following taxpayers are allowed an annual refund of sales and use taxes paid under this Article in the amount provided in subsection (a) of this section.

(1) Farmer. – A farmer that qualifies for a sales tax exemption under G.S. 105-164.13DE is allowed a refund of the sales and use tax paid by the farmer on the following items purchased for use in farming operations:

a. A container used for commercial fertilizer, lime, land plaster, plastic mulch, plant bed covers, potting soil, baler twine, and seeds.

b. A container used in packaging and transporting the farmer's product for sale.

c. A grain, feed, or soybean storage facility, and parts and accessories attached to the facility.

d. A commercially manufactured facility to be used for commercial purposes for housing, raising, or feeding animals or for housing equipment necessary for these commercial activities. The refund also applies to commercially manufactured equipment, and parts and accessories for the equipment, used in the facility

e. Building materials, supplies, fixtures, and equipment that become a part of and are used in the construction, repair, or improvement of an enclosure or a structure specifically designed, constructed, and used for housing, raising, or feeding animals or for housing equipment necessary for one of these commercial activities. The refund also applies to commercially manufactured equipment, and parts and accessories for the equipment, used in the enclosure or a structure.

(2) Commercial logging. – A person engaged in the commercial logging business is allowed a refund of the sales and use tax by it on the following:

a. Logging machinery. – Logging machinery is machinery used to harvest raw forest products for transport to first market.
b. Attachments and repair parts for logging machinery.
c. Lubricants applied to logging machinery.
d. Fuel used to operate logging machinery.

(3) Wood chippers. – A person is allowed a refund of the sales and use tax paid by it on a wood chipper that meets all of the following requirements:
a. It is designed to be towed by a motor vehicle.
b. It is assigned a 17-digit vehicle identification number by the National Highway Transportation Safety Association.
c. It is sold to a person who purchases a motor vehicle in this State that is to be registered in another state and who uses the purchased motor vehicle to tow the wood chipper to the state in which the purchased motor vehicle is to be registered.

(4) Telephone company. – A telephone company regularly engaged in providing telecommunications service to subscribers on a commercial basis is allowed a refund of the sales and use tax paid by it on central office equipment, switchboard equipment, private branch exchange equipment, terminal equipment other than public pay telephone terminal equipment, and parts and accessories attached to the equipment.

(5) Radio or television company. – A radio or television company licensed by the Federal Communications Commission is allowed a refund of the sales and use tax paid by it on towers, broadcasting equipment, and parts and accessories attached to the equipment.

(6) Cable service provider. – A cable service provider is allowed a refund of the sales and use tax paid by it on broadcasting equipment and parts and accessories attached to the equipment. For the purposes of this subdivision, "broadcasting equipment" does not include cable.

(7) Commercial fishing. – A person listed in this subdivision is allowed a refund of the sales and use tax paid by it on boats, fuel oil, lubricating oils, machinery, equipment, nets, rigging, paints, parts, accessories, and supplies.
a. The holder of a standard commercial fishing license issued under G.S. 113-168.2 for principal use in commercial fishing operations.
b. The holder of a shellfish license issued under G.S. 113-169.2 for principal use in commercial shellfishing operations.
c. The operator of a for-hire boat, as defined in G.S. 113-174, for principal use in the commercial use of the boat.

(8) Commercial laundries and dry cleaners. – A commercial laundry or dry cleaning establishment is allowed a refund of the sales and use tax paid by it on the following:
a. Articles or materials used for the identification of garments being laundered or dry cleaned, wrapping paper, bags, hangers, starch, soaps, detergents, cleaning fluids and other compounds or chemicals applied directly to the garments in the direct performance of the laundering or the pressing and cleaning service.
b. Laundry and dry-cleaning machinery, parts and accessories attached to the machinery, and lubricants applied to the machinery.
c. Fuel used in the direct performance of the laundering or the pressing and cleaning service.

(9) Packaging items. – A manufacturer, producer, or retailer is allowed a refund of the sales and use tax paid by it on wrapping paper, labels, wrapping twine,

paper, cloth, plastic bags, cartons, packages and containers, cores, cones or spools, wooden boxes, baskets, coops and barrels, including paper cups, napkins and drinking straws and like articles, when such materials are used for packaging, shipment or delivery of tangible personal property which is sold either at wholesale or retail and when such articles constitute a part of the sale of such tangible personal property and are delivered with it to the customer.

(10) Commercial printer and publisher. – A commercial printer or a commercial publisher is allowed a refund of the sales and use tax paid by it on paper, ink, and other tangible personal property for use as ingredients or component parts of free distribution periodicals and sales by printers of free distribution periodicals to the publishers of these periodicals. As used in this subdivision, the term "free distribution periodical" means a publication that is continuously published on a periodic basis monthly or more frequently, is provided without charge to the recipient, and is distributed in any manner other than by mail.

(11) Railroad company. – A railroad company is allowed a refund of the sales and use tax paid by it on diesel fuel for use in rolling stock other than motor vehicles. The definitions in G.S. 105-333 apply in this subdivision.

(12) Passenger air carrier. – An interstate passenger air carrier is allowed a refund of the sales and use tax paid by it on fuel in excess of two million five hundred thousand dollars ($2,500,000). The amount of sales and use tax paid does not include a refund allowed to the interstate passenger air carrier under G.S. 105-164.14(a)."

SECTION 11.1.(b) G.S. 105-164.13(1a), (4c), (4f), (4g), (5b), (5c), (5d), (9), (10), (11a), (23)a, and (39) are repealed.

SECTION 11.1.(c) G.S. 105-467(b), as amended in Part VIII of this act, reads as rewritten:

"(b) Exemptions and Refunds. – The State exemptions and exclusions contained in G.S. 105-164.13 apply to the local sales and use tax authorized to be levied and imposed under this Article. The State refund provisions contained in G.S. 105-164.14 through ~~G.S. 105-164.14B~~ 105-164.14C apply to the local sales and use tax authorized to be levied and imposed under this Article. The amount of a refund allowed under G.S. 105-164.14C is the same percentage refund amount allowed for a State refund under that section. The aggregate local refund amount allowed to a nonprofit entity under G.S. 105-164.14(b) for a fiscal year may not exceed the amount set in the table below:

Fiscal Year	**Amount**
Beginning July 1, 2014	$1,500,000
Beginning July 1, 2015	$ 300,000
Beginning on or after July 1, 2016	$ 30,000."

SECTION 11.1.(d) This section becomes effective July 1, 2014, and applies to sales and purchases made on or after that date.

SECTION 11.2.(a) G.S. 105-164.14C, as enacted by this Part, is repealed.

SECTION 11.2.(b) G.S. 105-467(b), as amended by this Part, reads as rewritten:

"(b) Exemptions and Refunds. – The State exemptions and exclusions contained in G.S. 105-164.13 apply to the local sales and use tax authorized to be levied and imposed under this Article. The State refund provisions contained in G.S. 105-164.14 through ~~105-164.14C~~ 105-164.14B apply to the local sales and use tax authorized to be levied and imposed under this Article. ~~The amount of a refund allowed under G.S. 105-164.14C is the same percentage refund amount allowed for a State refund under that section.~~ The aggregate local refund amount

allowed to a nonprofit entity under G.S. 105-164.14(b) for a fiscal year may not exceed the amount set in the table below:

Fiscal Year	Amount
Beginning July 1, 2014	$1,500,000
Beginning July 1, 2015	$ 300,000
Beginning on or after July 1, 2016	$ 30,000."

SECTION 11.2.(c) This section becomes effective July 1, 2017, and applies to purchases made on or after that date.

PART XII. ELIMINATE ESTATE TAX

SECTION 12.(a) Article 1A of Chapter 105 of the General Statutes is repealed.

SECTION 12.(b) G.S. 105-241.10 reads as rewritten:

"**§ 105-241.10. Limit on refunds and assessments after a federal determination.**

The limitations in this section apply when a taxpayer files a timely return reflecting a federal determination that affects the amount of State tax payable and the general statute of limitations for requesting a refund or proposing an assessment of the State tax has expired. A federal determination is a correction or final determination by the federal government of the amount of a federal tax due. A return reflecting a federal determination is timely if it is filed within the time required by G.S. ~~105-32.8,~~ 105-130.20, 105-159, 105-160.8, or 105-163.6A, as appropriate. The limitations are:

(1) Refund. – A taxpayer is allowed a refund only if the refund is the result of adjustments related to the federal determination.

(2) Assessment. – A taxpayer is liable for additional tax only if the additional tax is the result of adjustments related to the federal determination. A proposed assessment may not include an amount that is outside the scope of this liability."

SECTION 12.(c) G.S. 105-236(a)(5) reads as rewritten:

"(a) Penalties. – The following civil penalties and criminal offenses apply:

...

(5) Negligence. –

...

~~e. Estate tax deficiencies. – This subdivision does not apply to estate tax deficiencies that are the result of valuation understatements.~~

...."

SECTION 12.(d) This section becomes effective January 1, 2013, and applies to the estates of decedents dying on or after that date.

PART XIII. DEED STAMP TAX PROCEEDS CREDITED TO GENERAL FUND

SECTION 13.(a) G.S. 105-228.30(b) reads as rewritten:

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

SECTION 13.(b) G.S. 113-44.15(a) reads as rewritten:

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

SECTION 13.(c) G.S. 113-77.9 reads as rewritten:

"**§ 113-77.9. Acquisition of lands with funds from the Natural Heritage Trust Fund.**

...

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

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

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

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

...

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

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

...".

SECTION 13.(d) This section becomes effective July 1, 2013, and applies to transfers made on or after that date.

PART XIV. SCRAP TIRE DISPOSAL TAX PROCEEDS CREDITED TO GENERAL FUND

SECTION 14.(a) G.S. 105-187.19(b) reads as rewritten:

"(b) Each quarter, the Secretary shall credit ~~eight percent (8%) of the net tax proceeds to the Solid Waste Management Trust Fund, seventeen percent (17%) of the net tax proceeds to the Scrap Tire Disposal Account, two and one-half percent (2.5%) of the net tax proceeds to the Inactive Hazardous Sites Cleanup Fund, and two and one-half percent (2.5%) of the net tax proceeds to the Bernard Allen Memorial Emergency Drinking Water Fund.~~thirty percent (30%) of the net tax proceeds to the General Fund. The Secretary shall distribute the remaining seventy percent (70%) of the net tax proceeds among the counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer."

SECTION 14.(b) G.S. 130A-309.63 is repealed.

SECTION 14.(c) Part 2B of Article 9 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-309.64. Scrap Tire Disposal Program; other Department activities related to scrap tires.**

(a) The Department may make grants to units of local government to assist them in disposing of scrap tires. To administer the grants, the Department shall establish procedures for applying for a grant and the criteria for selecting among grant applicants. The criteria shall include the financial ability of a unit of local government to provide for scrap tire disposal, the severity of a unit of local government's scrap tire disposal problem, the effort made by a unit of local government to ensure that only tires generated in the normal course of business in this State are provided free disposal, and the effort made by a unit of local government to provide for scrap tire disposal within the resources available to it.

(b) A unit of local government is not eligible for a grant under subsection (a) of this section unless its costs for disposing of scrap tires for the six-month period preceding the date the unit of local government files an application for a grant exceeded the amount the unit of local government received during that period from the proceeds of the scrap tire tax under G.S. 105-187.19. A grant to a unit of local government for scrap tire disposal may not exceed the unit of local government's unreimbursed cost for the six-month period.

(c) The Department may support a position to provide local governments with assistance in developing and implementing scrap tire management programs designed to complete the cleanup of nuisance tire collection sites and prevent scrap tires generated from outside of the State from being presented for free disposal in the State.

(d) The Department may clean up scrap tire collection sites that the Department has determined are a nuisance. The Department may use funds to clean up a nuisance tire collection site only if no other funds are available for that purpose.

(e) The Department shall include in the report to be delivered to the Environmental Review Commission on or before January 15 of each year pursuant to G.S. 130A-309.06(c) a description of the implementation of the North Carolina Scrap Tire Disposal Act under this Part for the fiscal year ending the preceding June 30. The description of the implementation of the North Carolina Scrap Tire Disposal Act shall include a list of the recipients of grants under subsection (a) of this section and the amount of each grant for the previous 12-month period. The report also shall include the amount of funds used to clean up nuisance sites under subsection (d) of this section.

(f) The Department may adopt any rules necessary to implement this section."

SECTION 14.(d) G.S. 130A-309.06(c) reads as rewritten:

"(c) The Department shall report to the Environmental Review Commission on or before 15 January of each year on the status of solid waste management efforts in the State. The report shall include:

...

(10) A description of the implementation of the North Carolina Scrap Tire Disposal Act that includes ~~the beginning and ending balances in the Scrap~~

~~Tire Disposal Account for the reporting period, the amount credited to the Scrap Tire Disposal Account during the reporting period, and~~the amount of revenue used for grants and to clean up nuisance tire collection ~~sites, as required by G.S. 130A-309.63(e),~~under the provisions of G.S 130A-309.64.

...."

SECTION 14.(e) G.S. 130A-309.09C(g) reads as rewritten:

"(g) In addition to any other penalties provided by law, a unit of local government that does not comply with the requirements of G.S. 130A-309.09A(b) and G.S. 130A-309.09B(a) shall not be eligible for grants from the Solid Waste Management Trust ~~Fund, the Scrap Tire Disposal Account,~~Fund or the White Goods Management Account and shall not receive the proceeds of the scrap tire disposal tax imposed by Article 5B of Chapter 105 of the General Statutes or the proceeds of the white goods disposal tax imposed by Article 5C of Chapter 105 of the General Statutes to which the unit of local government would otherwise be entitled. The Secretary shall notify the Secretary of Revenue to withhold payment of these funds to any unit of local government that fails to comply with the requirements of G.S. 130A-309.09A(b) and G.S. 130A-309.09B(a). Proceeds of the scrap tire disposal tax that are withheld pursuant to this subsection shall be credited to the ~~Scrap Tire Disposal Account~~General Fund and may be used as provided in ~~G.S. 130A-309.63.~~G.S. 130A-309.64. Proceeds of the white goods disposal tax that are withheld pursuant to this subsection shall be credited to the White Goods Management Account and may be used as provided in G.S. 130A-309.83."

SECTION 14.(f) Any tax proceeds remaining in the Scrap Tire Disposal Account, repealed under subsection (b) of this section, as of the effective date of this section shall continue to be used for the same purposes and in the same manner as the Scrap Tire Disposal Account, except the funds in the Scrap Tire Disposal Account shall not be used for grants to encourage the use of processed scrap tire materials.

SECTION 14.(g) This section becomes effective July 1, 2013.

PART XV. EFFECTIVE DATE

SECTION 15.(a) This act does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this act before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal.

SECTION 15.(b) G.S. 105-237.1(a) reads as rewritten:

"(a) Authority. – The Secretary may compromise a taxpayer's liability for a tax that is collectible under G.S. 105-241.22 when the Secretary determines that the compromise is in the best interest of the State and makes one or more of the following findings:

...

(6) The taxpayer is a retailer or a person under Article 5 of this Chapter, the assessment is for sales or use tax the retailer failed to collect or the person failed to pay on an item taxable under G.S. 105-164.4(a)(9) and the retailer or person made a good-faith effort to comply with the sales and use tax laws. This subdivision expires for assessments issued after July 1, 2020."

SECTION 15.(c) Except as otherwise provided, this act is effective when it becomes law.

FISCAL IMPACT ($ in millions)					
State General Fund Revenues:	**FY 13-14**	**FY 14-15**	**FY 15-16**	**FY 16-17**	**FY 17-18**
Income, Franchise, and Estate Taxes					
Flat Tax of 5.4% in 2014, then 5.25% in 2015 on Federal Adjusted Gross Income[FAGI] - no exemptions, deductions, or credits (01/01/2014); $15,000 zero bracket MFJ, $12,000 HOH, $7,500 single; child credit $100	(239.1)	(683.0)	(1044.9)	(1089.8)	(1136.7)
Eliminate the corporate income tax in 2017, 6.0% in 2014, 4.0% in 2015, 2.0% in 2016	0.0	(261.5)	(661.7)	(1101.2)	(1210.4)
End transfer to public school capital fund	85.9	71.9	47.4	20.3	17.4
Repeal excise tax on piped natural gas		(31.5)	(32.0)	(32.5)	(32.9)
Repeal franchise tax on electricity		(157.0)	(159.0)	(160.6)	(162.2)
Replace franchise with privilege tax		(23.0)	(4.0)	37.0	98.0
Repeal estate tax	(52.0)	(57.0)	(60.0)	(62.0)	(65.0)
TOTAL INCOME, FRANCHISE, ESTATE TAX	**$ (205.2)**	**$ (1,141.2)**	**$ (1,914.2)**	**$ (2,388.8)**	**$ (2,491.8)**
Sales and Privilege License Taxes					
Make electricity subject to combined general sales tax rate		417.1	427.7	440.5	453.8
Make piped natural gas subject to combined general sales tax rate		102.3	103.9	105.4	107.0
Distribution to municipalities for franchise tax and piped natural gas		(207.1)	(209.4)	(211.6)	(213.8)
Nonprofit refunds, $5 M cap 2014, $1 M 2015, $100k in 201€		59.0	139.5	235.5	295.5
Refunds for local governments (01/01/2015)		67.8	140.9	146.5	152.4
End transfer of real estate conveyance (07/01/2014)		37.4	39.0	39.0	39.0
End transfer of scrap tire disposal (01/01/2014)	2.7	5.5	5.6	5.7	5.7
Repeal exemption for chiropractor's nutritional supplements (10/01/2013)	0.1	0.1	0.1	0.1	0.1
Repeal Energy Star sales tax holiday (07/01/2014)		1.6	1.7	1.8	1.8
Repeal Sales and use tax holiday (7/01/2014)		14.7	15.1	16.1	17.1
Repeal food sold in dining rooms operated by educational institutions (07/01/2014)		34.0	35.0	36.1	37.1
Repeal exemption for certain bakery items (07/01/2014)		3.9	4.1	4.2	4.4
Repeal exemption for vending machines (10/01/2013)	7.8	11.6	12.0	12.4	12.8
Repeal exemption for certain sales of newspapers (10/01/2013)	5.0	7.8	8.0	8.3	8.6
Repeal gross receipts tax on live entertainment and movies and other amusements, include admission fees in tax base (10/01/2013)	9.3	16.5	17.2	17.9	18.6
Add a gross receipts requirement for farmers of $10,000 for the purpose of receiving tax exemptions and refunds (1/1/2015)		4.5	9.2	9.4	9.6
Change various exemptions to refunds and phase-out over 3 years		44.0	120.8	186.6	203.9
Repeal preferential rate for manufactured homes (10/01/2014)	4.5	7.2	7.2	7.2	7.2
Tax modular homes at state rate (10/01/2014)	1.9	3.0	3.0	3.0	3.0
TOTAL SALES and PRIVILEGE LICENSE TAXES	**$31.4**	**$630.9**	**$880.6**	**$1,064.0**	**$1,163.7**
STATE IMPACT	**$ (173.8)**	**$ (510.2)**	**$ (1,033.6)**	**$ (1,324.8)**	**$ (1,328.1)**

FISCAL IMPACT ($ in millions)					
	FY 13-14	**FY 14-15**	**FY 15-16**	**FY 16-17**	**FY 17-18**
Local Revenues					
Local food tax phase out (11/01/2014, 11/01/2016); local option		(77.4)	(134.5)	(224.5)	(234.2)
Repeal franchise tax on electricity		(187.0)	(189.0)	(190.9)	(192.8)
Repeal excise tax on piped natural gas		(20.1)	(20.4)	(20.7)	(21.0)
Distribution to municipalities for electric and piped natural gas		207.1	209.4	211.6	213.8
Nonprofit refunds, $5 M cap 2014, $1 M 2015, $100k in 201€		24.8	58.7	99.2	124.4
Refunds for local governments (01/01/2015)		(67.8)	(140.9)	(146.5)	(152.4)
Repeal exemption for chiropractor's nutritional supplements (10/01/2013)		0.0	0.0	0.0	0.0
Repeal Energy Star sales tax holiday (07/01/2014)		0.7	0.7	0.7	0.8
Repeal Sales and use tax holiday (7/01/2014)		6.2	6.4	6.8	7.2
Repeal exemption for vending machines (10/01/2013)	3.3	4.9	5.1	5.2	5.4
Repeal exemption for certain sales of newspapers (10/01/2013)	2.1	3.3	3.4	3.5	3.6
Repeal gross receipts tax on live entertainment and movies and other amusements, include admission fees in tax base (10/01/2013)	3.9	7.0	7.2	7.5	7.8
Add a gross receipts requirement for farmers of $10,000 for the purpose of receiving tax exemptions and refunds (1/1/2015)		6.9	7.3	7.4	7.6
Change various exemptions to refunds and phase-out over 3 years		18.5	50.9	78.6	85.9
Repeal preferential rate for manufactured homes (10/01/2014)	1.9	3.0	3.0	3.0	3.0
LOCAL IMPACT	**$ 11.2**	**$ (69.9)**	**$ (132.7)**	**$ (159.2)**	**$ (140.9)**

House Bill 998 (Senate PCS)
"Tax Simplification and Reduction Act"
Sponsors: Rep. Lewis, Moffitt, Setzer, Szoka

PART I: PERSONAL INCOME TAX CHANGES		
Section	Explanation	Effective Date
1.1	Flat 5.4% tax rate Zero tax bracket of $15,000 (MJF), $12,000 (H/H), $7,500 (single and MFS) Eliminate marriage penalty by adjusting tax brackets Broad base • Eliminate all credits but the child credit • Eliminate all exemptions and deductions except those required by court decisions (*Bailey*) or federal law or to prevent double taxation	January 1, 2014
1.2	Flat 5.25% tax rate.	January 1, 2015
1.3	Conforming changes re: recodified statutes	January 1, 2014
1.4	Conforming changes re: other statutes	January 1, 2014
1.5	Conforming changes re: elimination of tax credit for real property donations	January 1, 2014
PART II: CORPORATE INCOME TAX CHANGES		
Section	Explanation	Effective Date
2.1	Reduction of tax rate over three years: 6%, 4%, 2%	January 1, 2014
2.2(a)	Elimination of corporate income tax	January 1, 2017
2.2(b)	Elimination of tax credits that do not sunset prior to 2017 and that are outside the repealed CIT part	January 1, 2017
2.3	Repeal earmarking of corporate tax revenues for Public School Building Capital Fund. The funds have not been applied to this purpose since 2008.	Aril 1, 2014
PART III: BUSINESS PRIVILEGE TAX (new)		
Section	Explanation	Effective Date
3.1	Impose flat business privilege tax on all limited liability entities, except C corporations • 2015 = $400 • 2016 = $600 • 2017 = $750 (and thereafter)	January 1, 2015, and applies to taxes due in that year
3.2	Impose flat business privilege tax on C corporations, $5,000	January 1, 2018, and applies to taxes due in that year
PART IV: FRANCHISE TAX CHANGES		
Section	Explanation	Effective Date

4.1	Exempt S corporations from the franchise tax, because subject to flat business privilege tax	January 1, 2015
4.2	Phased elimination of the franchise tax on C corporations 2015 - $1.20 per $1,000, minimum tax of $500 2016 - $0.90 per $1,000, minimum tax of $1,000 2017 - $0.60 per $1,000, minimum tax of $2,000	January 1, 2015, and applies to taxes due in that year
4.3	Elimination of franchise tax	January 1, 2018

PART V: ANNUAL REPORT FILING FEES

Section	Explanation	Effective Date
5	Eliminate filing fees payable to Secretary of State Makes conforming changes in other statutes	January 1, 2015

PART VI: STATE AND LOCAL PRIVILEGE LICENSE TAXES

Section	Explanation	Effective Date
6.1	Eliminate various State privilege license taxes	January 1, 2018 & July 1, 2018
6.2	Eliminate local authority to impose privilege license taxes	July 1, 2018
6.3	Conforming changes to other statutes	July 1, 2018

PART VII: ELECTRICITY AND PIPE NATURAL GAS

Section	Explanation	Effective Date
7.1(a)	Repeal 3.22% gross receipts franchise tax on electricity Repeal distribution of part of the proceeds to cities	July 1, 2014
7.1(b)	Conforming change	July 1, 2014
7.1(c)	Repeal preferential sales tax rate on electricity: 2.83% under 105-164.4(a)(1f) for dry cleaning establishments and 3% under 105-164.4(a)(4a) for other taxable users (manufacturers, farmers, and datacenters are exempt from sales tax on electricity)	July 1, 2014
7.1(d)	Repeal excise tax on piped natural gas and distribution of a portion of that tax to cities Repeal sales tax exemption for piped natural gas	July 1, 2014
7.1(e)	Impose State combined general rate of 7% on electricity and piped natural gas	July 1, 2014
7.2	Directs the Utilities Commission to adjust the rates set for electricity and piped natural gas to reflect the changes made in the bill	
7.3	Provides a distribution formula of State sales tax revenue collected on electricity and piped natural gas to cities based on the current distribution amounts they receive and directs Revenue to make the distribution quarterly	July 1, 2014

PART VIII: SALES TAX CHANGES

Section	Explanation	Effective Date
8.1	Repeals the following sales tax exemptions • Nutritional supplements sold by chiropractors (13c)	October 1, 2013

	• Newspapers (28) • Vending machines (30) and (50)	
8.2	Repeals the following sales tax exemptions • Meals sold to students in dining halls operated by educational institutions (27) • Bread sold at a bakery thrift store (27a) • Back-to-school sales tax holiday (-164.13C) • Energy star sales tax holiday (-164.13D)	July 1, 2014
8.3(a)	Repeal 3% gross receipts tax on live entertainment Repeal 1% gross receipts tax on movies	October 1, 2013
8.3(b)	Impose sales tax on admission charges to live entertainment and movies Impose sales tax on admission charges to an attraction An admission charge does not include a charge for amenities, as provided under current law	October 1, 2013
8.3(c)	Exempts the following entertainment from sales tax: • Events held at elementary and secondary schools • Agricultural fairs • Nonprofit fund-raising events • Youth (under 20) athletic contests sponsored by a nonprofit	October 1, 2013
8.3(d)-(f)	Conforming changes to other statutes	
8.3(e)	Provides the tax applies to admissions to a live event for which the initial sale of tickets occurred before October 1, 2013	
8.4(a)	Repeal sales tax refund for local governments	July 1, 2014
8.4(b), (d)	Caps the sales tax refund for nonprofit entities as follows: • 2014 – State = $5m; Local = $3m • 2015 – State = $1m; Local = $300k • 2016 and thereafter – State = $100k; Local = $30k	July 1, 2014
8.4(c)	Changes the late application time period from 3 years to 1 year. Nonprofits are allowed a semi-annual refund. The refund application for the first 6 months is due by October 15; a refund for the second 6 months is due by April 15. Changes more than 3 years (changed to 1 year) after the due date is barred	July 1, 2014
8.5(a)	• Increases the State sales tax rate on manufactured home from 2%, with a $300 cap to the State general rate (4.75%) without a cap • Increases the State sales tax rate on modular home from 2.5% to the State general rate (4.75%)	October 1, 2014
8.5(b)	Eliminates tax-sharing of sales tax collected on modular homes with counties	October 1, 2014
8.5(c)	Excludes manufactured homes and modular homes from the local sales tax base (no change from current law)	October 1, 2014
PART IX: ELIMINATE LOCAL SALES TAX ON FOOD		
Section	Explanation	Effective Date
9.1	Removes food from the first ½ cent and the second ½ cent local sales tax base so the effective local sales tax rate on food is 1%	November 1, 2014

9.2(a)	Exempt food from State sales tax base (same as current law) so that it is effectively eliminated from the local sales tax base	November 1, 2016
9.2(b)-(d)	Repeal local sales tax on of food	November 1, 2016
9.3	Authorize counties to levy a sales tax on food • Could levy with or without an advisory referendum • Rate would be the sum of the rates of the local sales tax authorized and levied by the county (ranges from 2%-2.5%) • Distribute with cities	January 1, 2017

PART X: GROSS INCOME REQUIREMENT FOR FARMERS TO QUALIFY FOR SALES TAX PREFERENCES

Section	Explanation	Effective Date
10(a)	Imposes an annual gross income requirement of $10,000 from farming operations to obtain a sales tax exemption certificate	July 1, 2014
10(b)	Repeals exemptions that are included in the newly created statute: commercial fertilizer, lime, land plaster, plastic mulch, plant bed covers, potting soil, baler twine, seeds, farm machinery (1), electricity (1b), substances used on animals or plants (2a), baby chicks (4a), tobacco items (4d)	July 1, 2014

PART XI: PHASED ELIMINATION OF VARIOUS SALES TAX PREFERENCES

Section	Explanation	Effective Date
11.1(a), (c)	Phased elimination of State and local sales tax refunds by reducing refunds by 75% in 2014, 50% in 2015, and 25% in 2016	July 1, 2014
11.1(b)	Repeals existing exemptions and refunds that are included in the newly created statute: containers used by farmers and storage facilities (1a), facilities used in housing animals (4c), commercial logging (4f), wood chippers (4g), telephone companies (5b), radio and television companies (5c), cable service providers (5d), commercial fishing (9), dry cleaning establishments (10), diesel fuel for railroads (11), packaging items (23.a), commercial printers (39)	July 1, 2014
11.2	Repeals the refund provisions for the items listed above	July 1, 2017

PART XII: REPEAL ESTATE TAX

Section	Explanation	Effective Date
12	Repeal estate tax	January 1, 2013

PARTS XIII AND XIV: ELIMINATE EARMARKING OF REVENUES

(Included in the Senate version of the budget)

Section	Explanation	Effective Date
13	Credit deed stamp proceeds to the General Fund; currently 75% earmarked for the Parks and Recreation Fund and 25% earmarked for the Natural Heritage Trust Fund	July 1, 2013
14	Credit 30% of scrap tire disposal tax proceeds to the General Fund; currently distributed to various funds.	July 1, 2013

Tax Reform Comparisons
June 11, 2013

	HB 998 ***Lewis*** ***Third Edition***	***Senate PCS to HB 998*** ***H998-CSRBx-31*** ***Distributed in Senate Finance June 11, 2013***
INDIVIDUAL INCOME TAX CHANGE		
Rates	Flat rate of 5.9%, 2014	Flat rate of 5.4%, 2014 Reduces rate to 5.25%, 2015
Zero Tax Bracket	N/A	$15,000 (MFJ); $12,000 (H/H); $7,500 (MFS & Single)
Standard deduction	$12,000 (MFJ)	Eliminate
Itemized deductions	Unlimited charitable contributions Mtg. interest + property taxes paid on real estate (not to exceed $25,000)	Eliminate
Personal exemption	Eliminate	Eliminate
Social security	No change	Included to the extent included in federal AGI
$4,000 retirement income exemption	No change	Eliminate
Deduction for severance wages	Eliminate	Eliminate
$50k business deduction	Eliminate , 2013	Eliminate, 2014
Child credit	AGI =/< $100K = $250 AGI > $100K = $100	No change
Credit for real property donation	No change	Eliminate
Credit for non-itemizers charitable deductions	Eliminate	Eliminate
Credits scheduled to sunset 2014 ***LT care, EITC, Adoption***	No change	No change
Credits with no sunset ***Child care, disabled, 529 Plan***	No change	Eliminate
Effective date	• 2013 for business deduction	• No change 2013

	HB 998 *Lewis* *Third Edition*	*Senate PCS to HB 998* *H998-CSRBx-31* *Distributed in Senate Finance June 11, 2013*
	• 2014 for general changes	• 2014 for general changes • 2015 for lower PIT rate of 5.25%
CORPORATE INCOME TAX CHANGES		
Rate	2014 – 6.5% 2015 – 2.35% 2016 – 6.2% 2017 – 5.6% Thereafter – 5.4%	2014 – 6% 2015 – 4% 2016 – 2% 2017 – Eliminate CIT
Credit for real property donation	No change	Eliminate
Credit – low-income housing	Limit to Tier 1 and 2 Remove sunset Rename it	No change
Credit – dwelling units for handicap	No change	Eliminate, 2017 when CIT eliminated
Credit – cogenerating power plant	No change	Eliminate, 2017 when CIT eliminated
Credit – gleaned crop	No change	Eliminate, 2017 when CIT eliminated
Credit – Conservation tillage equipment	No change	Eliminate, 2017 when CIT eliminated
Credit – S&L supervisory fees	No change	Eliminate, 2017 when CIT eliminated
Credit – poultry composting facility	No change	Eliminate, 2017 when CIT eliminated
Credit – manufacturing cigarettes for exportation	No change, sunsets 2018	Eliminate, 2017 when CIT eliminated
Credit – Recycling facilities Article 3C	No change	Eliminate, 2017 when CIT eliminated
Credit – Intermodal RR Facilities	No change, sunsets 2038	Eliminate, 2017 when CIT eliminated
Effective date	2014	2014
Business Privilege Tax (New)		
Taxpayers	N/A	All limited liability entities except C corporations, 2015

	HB 998 *Lewis* *Third Edition*	*Senate PCS to HB 998* *H998-CSRBx-31* *Distributed in Senate Finance June 11, 2013*
		All limited liability entities, 2018
Rate	N/A	2015 - $400 2016 - $600 2017 - $750 2018 – C corporations = $5,000; all others = $750
Effective date	N/A	2015
	FRANCHISE TAX CHANGES	
Rate **$1.50 per $1000** **Minimum tax = $35** **Maximum tax for holding company = $5,000**	$1.35 per $1000 No change to min. tax of $35	2015 - $1.20 per $1,000 with minimum tax of $500 2016 - $0.90 per $1,000 with minimum tax of $1,000 2017 - $0.60 per $1,000 with minimum tax of $2,000 2018 – eliminated & replaced with business privilege tax
GR tax on electricity	Eliminate, include it in the sales tax base July 1, 2014	Eliminate, include it in the sales tax base July 1, 2014
Taxpayers	No change	Exclude S corporations, 2015
Annual report filing fee	No change	Eliminate, 2015
Effective Date	Returns filed in 2015	Returns filed in 2015
	PRIVILEGE TAX CHANGES	
Local authority in 153A and 160A	No change	Eliminate, 2018
Amusements, movies	Eliminate, include in the sales tax base	Eliminate, include in sales tax base
Various State taxes	No change	Eliminate, 2018
Effective date		July 1, 2018
	SALES TAX CHANGES	
State Rate = 4.75%	No change	No change
Local Rate = 2% ***Optional ¼ cent***	No change	No change
Tax rate: manufactured home **2%, $300 maximum**	No change	State general rate; not in local base
Tax rate: modular homes 2.5%	No change	State general rate; not in local base

	HB 998 *Lewis* *Third Edition*	*Senate PCS to HB 998* *H998-CSRBx-31* *Distributed in Senate Finance June 11, 2013*
Tax rate: Electricity • 3% • 2.83% - dry cleaners • Exempt – mfgs, farmers, datacenters	State tax only Combined general rate July 1, 2014 Retain current exemptions for farmers, eligible internet datacenter, and manufacturing	State tax only Combined general rate July 1, 2014 Retain current exemptions for farmers, eligible internet datacenter, and manufacturing
Add service contracts	Yes July 1, 2014	No
Add - Amusements from privilege GR tax	Yes October 1, 2013	Yes October 1, 2013
Add – Attractions for which admission charged	Yes October 1, 2013	Yes October 1, 2013
Amusement exemptions	14	4
Add – PNG	State tax only Combined general rate July 1, 2014	State tax only Combined general rate July 1, 2014
Exemption – nutritional supplements	Eliminate July 1, 2013	Eliminate October 1, 2013
Exemption – newspapers	No change	Eliminate October 1, 2013
Exemption – vending machines	No change	Eliminate October 1, 2013
Exemption – 50% of sales from vending machines	No change	Eliminate October 1, 2013
Exemption – free distribution periodicals	No change	Phased elimination
Sales tax holiday for school	No change	Eliminate July 1, 2014
Sales tax holiday for Energy Star	Eliminate July 1, 2013	Eliminate July 1, 2014
Exemption – Food	No change	Eliminate from local tax base, Nov 2014. Locals have option of imposing tax on food, January 2015.
Exemptions – farm related	No change	Annual gross income requirement of $10,000

	HB 998 *Lewis* *Third Edition*	*Senate PCS to HB 998* *H998-CSRBx-31* *Distributed in Senate Finance June 11, 2013*
Various exemptions/refunds ***Packaging, laundries, railroad, passenger air carrier, commercial fishing, wood chippers,***	No change	Phased elimination
Exemptions – special industries ***Telephone, cable, radio, farm, logging***	No change	Phased elimination
Add – machinery (Art. 5F) Exempt capital equipment	No change	No change
Add – service contracts	Yes July 1, 2014 Exempt if for an item exempt from tax	No
Add – alteration, repair, maintenance, cleaning, installation	Yes July 1, 2014 Exempt if to an item exempt from tax	No
Tax refunds – existing sunset of 2014 ***Passenger air carrier, motorsports, analytical services, industrial***	No change	No change
Tax refunds – nonprofits	No change	Capped 2014 - $5M State, $1.5M local 2015 - $1M State, $300,000 local 2016 - $100,000 State, $30,000 local
Tax refunds – local governments	No change	Eliminate
Effective Date	Varying dates	Varying dates
EXCISE TAX CHANGES		
Excise tax on PNG	Eliminate, include in the sales tax base July 1, 2014	Eliminate, include in the sales tax base July 1, 2014
LOCAL GOVERNMENT DISTRIBUTIONS		
CIT earmark for Public	Eliminate	Eliminate

	HB 998 *Lewis* *Third Edition*	*Senate PCS to HB 998* *H998-CSRBx-31* *Distributed in Senate Finance June 11, 2013*
School Building Capital Fund (No funds applied since 2008)		
GR tax on electricity distributed to cities	Formula to preserve local distribution Re-calculate formula every 5 years, beginning 2020	Formula to preserve local distribution
Excise tax on PNG distributed to cities	Formula to preserve local distribution	Formula to preserve local distribution.
Earmarking 20% of sales tax from modular homes	No change	Eliminate
ESTATE TAX		
Tax Levy	Eliminate, HB 101 2013	Eliminate 2013
EARMARKING		
Real estate conveyance tax	No change	Eliminate, State proceeds credited to General Fund
Scrap tire disposal tax	No change	Eliminate, proceeds credited to General Fund
TOTAL PLAN		
Fiscal year 2013-15 biennium	Reduces General Fund revenue by $358.1 million (this includes the repeal of the estate tax passed in HB 101)	Reduces General Fund revenue by $684 million

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Tax Reform in North Carolina: Simple, Neutral, Pro-Growth

Scott Drenkard
Economist, Tax Foundation

Hearing of the Finance Committee of the North Carolina Senate

June 11, 2013

Chairman Rabon and Chairman Rucho, Members of the Committee:

My name is Scott Drenkard, and I'm an economist at the Tax Foundation. For those unfamiliar with the Tax Foundation, we are a non-partisan, non-profit organization that has monitored fiscal policy at all levels of government since 1937. We have produced the Facts & Figures handbook since 1941, we calculate Tax Freedom Day each year, and have a wealth of data, rankings, and other information at our website, www.TaxFoundation.org.

I'm pleased to have the opportunity to speak today with regard to the Senate Finance Committee Substitute to H.B. 998, a comprehensive bill to restructure North Carolina's tax code. While we take no position on the bill, I hope to give some perspective based on our research.

In January of this year, my colleague Joe Henchman and I released a book titled *North Carolina Tax Reform Options: A Guide to Fair, Simple, Pro-Growth Reform.* In it, we detail reform recommendations in line with the principles of sound tax policy: simplicity, neutrality, transparency and stability.

The focus of my testimony today is that tax structures matter just as much as tax collections. In other words, *how* North Carolina collects taxes can have fundamental impacts on economic growth and deadweight loss. With careful consideration, the Tar Heel state can collect the revenue it needs for necessary government services without stalling the engine of economic growth.

Taxes and Economic Growth

Rarely does empirical economic literature speak so strongly in unison as it does about the effect of taxes on economic growth. In 2012, my colleague Will McBride conducted a comprehensive study of peer-reviewed literature on economic growth and tax levels. He found that of the 26 studies written on the topic, 23 find that raising taxes hurts economic growth.

The three studies that disagree had statistically insignificant results, and all studies published in the last 15 years find that raising taxes hurts growth. This last fact is especially convincing, as these more recent articles address statistical problems with early studies on the topic.

The bill before the committee cuts taxes to the tune of $1.4 billion, and keeping that money in the private sector will create economic growth immediately and in the long run.

The Corporate Income Tax

A central element of this bill is the elimination of the corporate income tax by the year 2017, a move that would make North Carolina one of just four states without a corporate income tax or gross receipts tax. This reform is beneficial for a few reasons. First, corporate income taxes are generally considered to be the most economically destructive. Of the economic literature that distinguishes between types of taxes, the consensus is that corporate income taxes hurt economic growth most, followed by personal income taxes, then sales taxes, and finally property taxes least.

Add to this the fact that corporate income taxes represented just 4 percent of statewide state and local collections in 2010, and in many ways corporate tax elimination is a high "bang-for-your buck" option to increasing growth. As opposed to simply cutting tax rates, elimination of an entire tax also reaps benefits in compliance costs.

Each year, corporate entities spend millions on attorneys, accountants, and tax consultants to comply with the corporate income tax, carefully structuring their income to achieve lower tax bills through the use of special credits even if doing so doesn't make business sense otherwise. Elimination of the tax entirely removes these costs and allows businesses to spend that money on other resources that better serve the economy.

Finally, economists agree that corporate income taxes are not even borne by corporations themselves. They are passed on in one of three ways: to consumers in the form of higher prices, to workers in the form of lower wages, and to shareholders in the form of lower dividends. To review, state corporate income taxes are the most damaging tax to growth, they don't collect very much revenue, they have large compliance costs, and they are ultimately passed on.

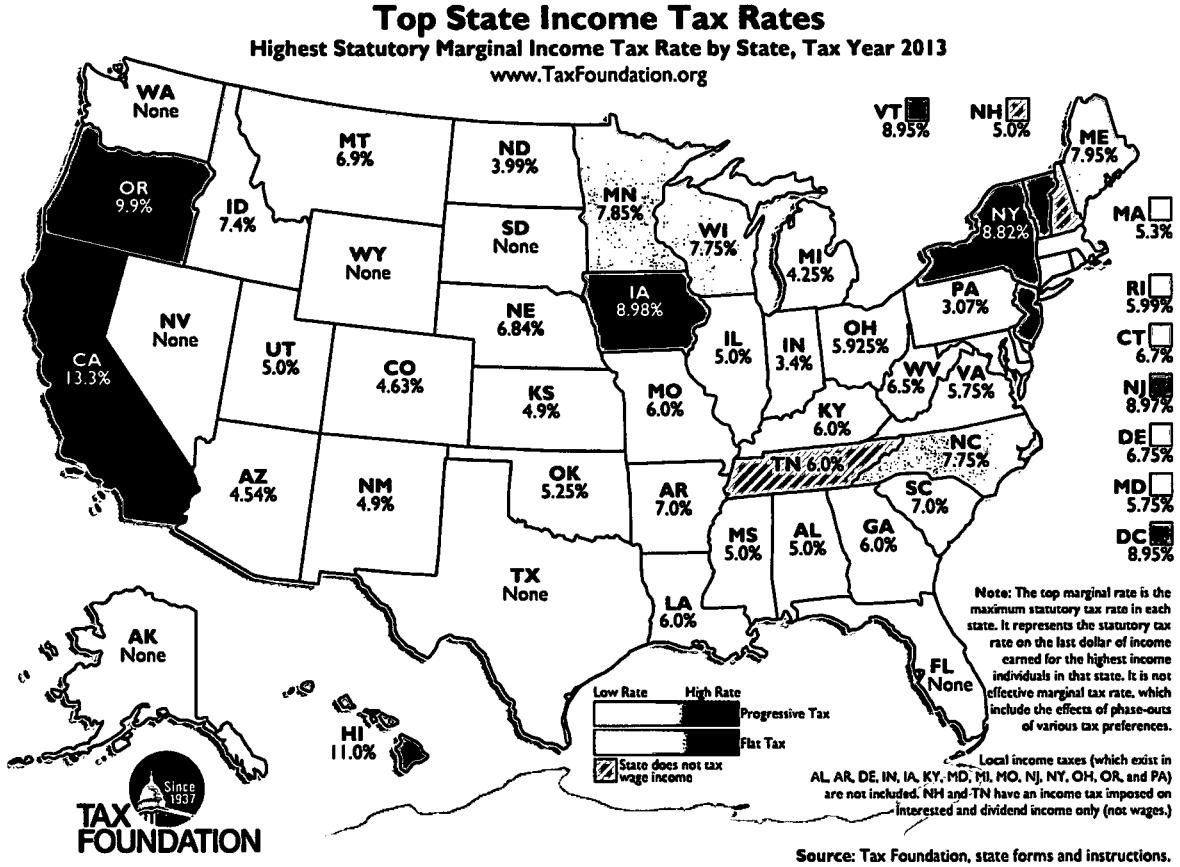
Cutting and Flattening the Income Tax

North Carolina's individual income tax, first enacted in 1921, has a graduated rate structure, meaning that taxable income above each threshold (after subtracting deductions and exemptions) is taxed at progressively higher percentages.

North Carolina's top income tax rate is the highest in the region, and the other lower rates are still relatively high and kick in at low levels of income (see Figure 1). As North Carolina grows its finance sector, many prospective employees will have income levels above the top bracket,

so the comparison to other states in the region (and other finance centers) is important for relocation decisions.

Figure 1: Top State Income Tax Rates, Tax Year 2013



Excessive taxes on income are also generally less desirable than taxes on consumption because they discourage wealth creation. In a comprehensive summary of international econometric tax studies, an OECD study found that personal income taxes are among the most destructive to growth, being outdone only by corporate income taxes. The authors found that consumption and property taxes are the least harmful.

The economic literature on progressive income taxes is especially unkind. For example, the OECD study finds that reductions in the top marginal rate of income taxes would be beneficial to long term growth. Examining the period 1969-1986, Mullen and Williams (1994) found that higher marginal tax rates reduce gross state product growth. This finding even adjusts for the overall tax burden of the state, lending credence to the principle of broad bases and low rates.

For these reasons, I'm pleased to see that this bill and several of the other bills being considered in North Carolina are pushing for a flat income tax.

Estate Tax Repeal

While estate taxes are often a polarizing issue, a 2009 poll by the Tax Foundation found that they are viewed as the most "unfair" of all federal taxes. Though our poll didn't ask, I think this is largely because of the posthumous nature of the tax and the fact that it taxes income that has already been taxed once.

While these elements make the tax unfair, they also hurt the economy. As pointed out by the Joint Economic Committee in a 2012 report, the federal estate tax has since its inception decreased capital stock by $1.1 trillion due to discouragement of savings and the taxing of intergenerational transfers, which are perhaps the largest source of aggregate capital in the economy. The estate tax discourages savings by promoting a "die broke" mentality, as untaxed consumption becomes relatively cheaper than savings for those who intend to build wealth and bequeath a gift to inheritors, such as children or grandchildren.

Further, the tax is among the most complex taxes; some estimates show that the compliance costs of collecting the tax (estate and gift planning) actually exceed the amount the tax brings in. State estate taxes just add to the complexity.

Reforming the Sales Tax: Taxing Business Inputs Distorts the Economy

North Carolina is not alone in needing to modernize its sales tax. In the 1930s, when sales taxes were first created, they were placed on sales of "tangible personal property," or goods. Services have not been traditionally subject to sales taxes. This base worked well for a time, as goods represented about two-thirds of the economy. But today, the U.S. economy is fundamentally service-based, with goods representing only one-third of trade and services comprising the other two-thirds.

The result is that instead of expanding the base of the sales tax to services as the economy has changed, states have just raised rates on the existing base defined back in the 1930s, meaning states tax goods at very high rates, while services largely pay no sales tax. For the sales tax to remain a viable revenue source in the next two decades, services will have to be included sooner or later in all states that rely on the sales tax.

The bill introduced today is different than other bills the Senate and House have considered in that it doesn't include expansion to services. My hope is that if that this legislative body is not able to make room for that reform in this session that they will flag that reform for future examination.

But another equally important sales tax reform is the exemption of business-to-business transactions from the sales tax. Business inputs should be exempt not because businesses deserve special treatment, but because failure to do so results in "tax pyramiding," the process whereby taxes stack on top of each other as raw goods move through the production process.

As an example, if one were to build a car under a sales tax regime that taxes business-to business transactions, the rubber of the tire would be taxed once when it was sold from the rubber producers to the tire company, then taxed again when the tire is sold to the car company, then taxed a final time when the finished car is sold to the end consumer. This practice inordinately burdens industries with long production lines.

Finally, taxing business-to-business transactions reduces tax transparency, because while a statutory rate paid by the consumer at the point of final sale may be low, the business-to-business taxes are already embedded in the price of the product.

Many states try to avoid these problems by engaging in the laborious task of picking products that are frequently used as business inputs and individually carving out exemptions for them in the sales tax code. This approach is a step in the right direction but does not and cannot ever comprehensively address all the items that businesses use in the production process and should therefore not pay sales taxes on.

In the materials I've been able to obtain on the current bill before the committee, it seems to be moving in the opposite direction, with some of the new expansions to the sales tax falling on business-to-business transactions.

I'd like to hold out the sales tax treatment laid out in an earlier version of S.B. 677 as a straightforward solution to this problem. That bill expressly excludes businesses from paying sales taxes on products that are used in production with the following language included in the exemption section:

> Sales of capital equipment purchased by a business subject to the franchise tax under Article 3 of this Chapter or to a farmer for use by the farmer in the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals.
>
> A service taxable under G.S. 105-164.4(b)(13) through (25) that is provided to a business subject to the franchise tax under Article 3 of this Chapter for use in that business.

The State Business Climate Index

As an informational tool, I've run the various plans through our State Business Tax Climate Index. As you can see, the new Senate plan scores the best on our Index, and the score is driven mainly by the elimination of the corporate income tax. The Rucho and Rabon bill scores very well in the sales tax component of the Index, mainly for its correct treatment of business input exemptions.

Figure 2: State Business Tax Climate Index Rankings

	Current Law	H.B. 998 (Lewis et. al.)	S.B. 677 (Rucho & Rabon)	S.B. 394 (Clodfelter & Hartsell)	H.B. 998 Substitute
Overall	44	19	13	22	6
Corporate	29	20	25	25	1
Individual	43	17	13	17	16
Sales	47	48	16	47	47
Unemployment Insurance	5	5	5	5	5
Property	36	27	27	36	26

Conclusion

In closing, this session represents a unique opportunity for North Carolina to enact serious, growth-maximizing tax reform. I'm excited to see so many good ideas on the table, and I look forward to your questions.

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www.TaxFoundation.org

ABOUT THE TAX FOUNDATION

One of the oldest think tanks in the United States, the Tax Foundation is a non-profit, non-partisan organization that provides research and analysis on tax policy issues and the size of the tax burden at all levels of government. Based in Washington, D.C., our work advances the principles of simplicity, neutrality, transparency, and stability.

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The Tax Foundation's Center for State Fiscal Policy produces timely, high-quality, and user-friendly research and analysis for policymakers and the public, shaping the state policy debate toward economically principled tax policies.

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Senate Finance Committee — June 10, 2013 PM

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William Leister	DOJ
Bona Chuuy	DOJ
Tenisha Jacobs	DOI
Andy Elle	NCPWA
Mae Shaw	GSL
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[signature]	Rich
Crystal Collins	NC Trucking Assn.
[signature]	K&L Gates
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[signature]	NCBA
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ART POPE	CITIZEN
David Ferrell	NB
[signature]	SA
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Rita Harris	MWC
Tom Dixon	NCDOR

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Alex Miller	KCG
Patrick Buffkin	NCAEC
J Goodman	NC Chamber
Hannah Ledford	NHC
Kevin Leonard	Kaufman Consulting
John Fallaw	NCBA
JD Blanier	Nelson Mullins

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Susan Vick	FSP
Tom Fetzer	FSP
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Bill Rowe	NCJC
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Jake Cashion	NC Chamber
Matthew Babcock	"
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Bill Holman	TCF
Will Magan	TWC
Angel Sams	CR
Cody Ansley	NCAHA
Elizabeth Biser	Brooks Pierce

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Senate Finance Committee — June 10, 2013 PM

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Chip Boyd	NCMS
Ed Turlington	BP America
[illegible]	NCRR
Daniel VanLoore	Vidant Health
Becki Gray	DZ
Grant Smith	NP
Bo Heath	McGuireWoods
JAKE PARKER	NCFB
[illegible]	NCFPC
Ken Melton	K.M.A.

Senate Committee on Finance
Wednesday, June 12, 2013, 1:00 PM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 998	Tax Simplification and Reduction Act.	Rep. Lewis Rep. Setzer Rep. Moffitt Rep. Szoka

Adjournment

Senate Committee on Finance
Wednesday, June 12, 2013
Room 544 LOB, 1:00 p.m.

Minutes

The Senate Committee on Finance met at 1:00 p.m. on Wednesday, June 12, 2013 in room 544 of the Legislative Office Building. Maggie Powell of Wilmington, Jelisa Murray of Raleigh, Darnel Rangel of Greensboro, Ashlyn Murray of Laurinburg, Spencer Zachary of Taylorsville, William Zheung of Taylorsville and Tyler Hendricks of Greensboro served as pages. Senator Rabon presided as chair.

H.B. 998 – Tax Simplification and Reduction Act

Senator Berger was recognized to explain the proposed committee substitute (PCS) which was adopted for discussion at the previous meeting. Senator Brunstetter was recognized to offer an amendment which would change the fee schedule by adding a year and a tier to sales tax execution. Senator Berger commended the amendment and Senator Tillman moved for its adoption. The motion carried. Dr. Barry Boardman, Chief Economist, and Jonathan Tart, a fiscal analyst with the Fiscal Research Division, were recognized to answer questions. Senator Rucho was recognized to speak in opposition to the bill, pointing out that it is not a comprehensive tax reform package. Senator Clodfelter was recognized to express concerns about the pyramiding of sales taxes in Section 11.1. Lew Ebert, President of the NC Chamber, was recognized to speak in favor of the PCS. Herman Stone, a Charlotte movie theater owner, was recognized to oppose increased taxes on movie tickets. Alexandra Sirota, Director of the NC Budget and Tax Center, was recognized to express concerns with the current proposals and oppose the PCS. Mary Bethel, a lobbyist for the AARP, was recognized. She applauded tax reform efforts, but was concerned about the taxing of Social Security benefits, increasing the tax burden on retirees, reducing services (Meal on Wheels, in home care, etc.), and the proposed property tax increase. Senator Hartsell was recognized to offer and amend to clarify the tobacco discount for filing returns. Senator Jenkins moved for a favorable report and the motion carried. Senator Brown moved for a favorable report for the PCS and to roll the approved amendments into a new PCS. The motion carried. A copy of the PCS, the summary chart, the amendments, and the fiscal note is attached.

The meeting adjourned at 2:06 p.m.

Senator Bill Rabon
Presiding Chair

DeAnne Mangum
Committee Assistant

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	June 12, 2013	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	
HB 998	Tax Simplification and Reduction Act.	Representative Lewis Representative Setzer Representative Moffitt Representative Szoka
SB 164	Autopsy Fee Increase.	Senator Parmon

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

Principal Clerk ____
Reading Clerk ____

Corrected #1: S164 - Autopsy Fee Increase has been removed from the agenda.

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

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DAY	DATE	TIME	ROOM
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Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Wednesday, June 12, 2013

Senator Rabon,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

HB **998** **(CS#2)** Tax Simplification and Reduction Act.

Draft Number:	H998-PCS70458-RBx-33
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Senator Philip Berger will handle HB 998

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H D

HOUSE BILL 998

Committee Substitute Favorable 6/4/13
Committee Substitute #2 Favorable 6/6/13
PROPOSED SENATE COMMITTEE SUBSTITUTE H998-CSTDx-29 [v.3]
6/12/2013 8:59:40 AM

Short Title: Tax Simplification and Reduction Act. (Public)

Sponsors:

Referred to:

April 18, 2013

A BILL TO BE ENTITLED

AN ACT TO SIMPLIFY THE NORTH CAROLINA TAX STRUCTURE AND TO REDUCE INDIVIDUAL AND BUSINESS TAX RATES.

The General Assembly of North Carolina enacts:

PART I. INDIVIDUAL INCOME TAX CHANGES

SECTION 1.1.(a) The following statutes are recodified as indicated:

Current Statute	Recodified Statute
G.S. 105-133	G.S. 105-153.1
G.S. 105-134	G.S. 105-153.2
G.S. 105-134.1	G.S. 105-153.3
G.S. 105-134.5	G.S. 105-153.4
G.S. 105-151	G.S. 105-153.9
G.S. 105-151.24	G.S. 105-153.10
G.S. 105-152	G.S. 105-153.8

SECTION 1.1.(b) The following statutes are repealed:

G.S. 105-134.2
G.S. 105-134.3
G.S. 105-134.6
G.S. 105-134.7
G.S. 105-134.8
G.S. 105-151.1 and G.S. 105-130.22
G.S. 105-151.11
G.S. 105-151.12 and G.S. 105-130.34
G.S. 105-151.13 and G.S. 105-130.36
G.S. 105-151.14 and G.S. 105-130.37
G.S. 105-151.18
G.S. 105-151.20
G.S. 105-151.21
G.S. 105-151.25 and G.S. 105-130.44
G.S. 105-151.26
G.S. 105-151.33

SECTION 1.1.(c) G.S. 105-134.1, recodified by this Part as G.S. 105-153.3, reads as rewritten:

"**§ 105-153.3 Definitions.**

The following definitions apply in this Part:

(1) Adjusted gross income. – Defined in section 62 of the Code.

(1a) Code. – Defined in G.S. 105-228.90.

(2) Department. – The Department of Revenue.

(3) Educational institution. – An educational institution that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on.

(4) Fiscal year. – Defined in section 441(e) of the Code.

(5) Gross income. – Defined in section 61 of the Code.

(6) Head of household. – Defined in section 2(b) of the Code.

(7) Individual. – A human being.

(7a) Limited liability company. – Either a domestic limited liability company organized under Chapter 57C of the General Statutes or a foreign limited liability company authorized by that Chapter to transact business in this State that is classified for federal income tax purposes as a partnership. As applied to a limited liability company that is a partnership under this Part, the term "partner" means a member of the limited liability company.

(7b) Repealed by Session Laws 1998-98, s. 9, effective August 14, 1998.

(8) Married individual. – An individual who is married and is considered married as provided in section 7703 of the Code.

(9) Nonresident individual. – An individual who is not a resident of this State.

(10) North Carolina taxable income. – Defined in G.S. 105-134.5.

(10a) Partnership. – A domestic partnership, a foreign partnership, or a limited liability company.

(11) Person. – Defined in G.S. 105-228.90.

(12) Resident. – An individual who is domiciled in this State at any time during the taxable year or who resides in this State during the taxable year for other than a temporary or transitory purpose. In the absence of convincing proof to the contrary, an individual who is present within the State for more than 183 days during the taxable year is presumed to be a resident, but the absence of an individual from the state for more than 183 days raises no presumption that the individual is not a resident. A resident who removes from the State during a taxable year is considered a resident until he has both established a definite domicile elsewhere and abandoned any domicile in this State. The fact of marriage does not raise any presumption as to domicile or residence.

~~(13) Retirement benefits. – Amounts paid to a former employee or the beneficiary of a former employee under a written retirement plan established by the employer to provide payments to an employee or the beneficiary of an employee after the end of the employee's employment with the employer where the right to receive the payments is based upon the employment relationship. With respect to a self-employed individual or the beneficiary of a self-employed individual, the term means amounts paid to the individual or beneficiary of the individual under a written retirement plan established by the individual to provide payments to the individual or the beneficiary of the individual after the end of the self-employment. In addition, the term includes amounts received from an individual retirement account described in section 408 of the Code or from an individual retirement annuity described in section 408 of the Code. For the purpose of this subdivision, the term "employee" includes a volunteer worker.~~

(14) S Corporation. – Defined in G.S. 105-131(b).

(15) Secretary. – The Secretary of Revenue.
(16) Repealed by Session Laws 2011-145, s. 31A.1(a), effective for taxable years beginning on or after January 1, 2012.
(17) Taxable year. – Defined in section 441(b) of the Code.
(18) Taxpayer. – An individual subject to the tax imposed by this Part.
(19) This State. – The State of North Carolina.

SECTION 1.1.(d) Part 2 of Article 4 of Chapter 105 of the General Statutes is amended by adding the following new sections to read:

"**§ 105-153.5. Modifications to adjusted gross income.**

(a) Other Deductions. – In calculating North Carolina taxable income, a taxpayer must deduct from the taxpayer's adjusted gross income any of the following items that are included in the taxpayer's adjusted gross income:

(1) Interest upon the obligations of any of the following:
a. The United States or its possessions.
b. This State, a political subdivision of this State, or a commission, an authority, or another agency of this State or of a political subdivision of this State.
c. A nonprofit educational institution organized or chartered under the laws of this State.

(2) Gain from the disposition of obligations issued before July 1, 1995, to the extent the gain is exempt from tax under the laws of this State.

(3) Amounts received from retirement annuities or pensions paid under the provisions of the Railroad Retirement Act of 1937.

(4) Refunds of State, local, and foreign income taxes included in the taxpayer's gross income.

(5) The amount received during the taxable year from one or more State, local, or federal government retirement plans to the extent the amount is exempt from tax under this Part pursuant to a court order in settlement of any of the following cases:
a. Bailey v. State, 92 CVS 10221, 94 CVS 6904, 95 CVS 6625, 95 CVS 8230.
b. Emory v. State, 98 CVS 0738.
c. Patton v. State, 95 CVS 04346.

(6) Income that meets both of the following requirements:
a. Is earned or received by an enrolled member of a federally recognized Indian tribe.
b. Is derived from activities on a federally recognized Indian reservation while the member resides on the reservation. Income from intangibles having a situs on the reservation and retirement income associated with activities on the reservation are considered income derived from activities on the reservation.

(7) The amount by which the basis of property under this Article exceeds the basis of the property under the Code, in the year the taxpayer disposes of the property.

(8) The amount allowed as a deduction under G.S. 105-153.6 as a result of an add-back for federal accelerated depreciation and expensing.

(b) Additions. – In calculating North Carolina taxable income, a taxpayer must add to the taxpayer's adjusted gross income any of the following items that are not included in the taxpayer's adjusted gross income:

(1) Interest upon the obligations of states other than this State, political subdivisions of those states, and agencies of those states and their political subdivisions.
(2) The amount by which a shareholder's share of S Corporation income is reduced under section 1366(f)(2) of the Code for the taxable year by the amount of built-in gains tax imposed on the S Corporation under section 1374 of the Code.
(3) The amount by which the basis of property under the Code exceeds the basis of the property under this Article, in the year the taxpayer disposes of the property.
(4) The amount excluded from gross income under section 199 of the Code.
(5) The amount required to be added under G.S. 105-153.6 when the State decouples from federal accelerated depreciation and expensing.

"**§ 105-134.6A. Adjustments when State decouples from federal accelerated depreciation and expensing.**

(a) Special Accelerated Depreciation. – A taxpayer who places property in service during a taxable year listed in the table below and who takes a special accelerated depreciation deduction for that property under section 168(k) or 168(n) of the Code must add to the taxpayer's federal taxable income or adjusted gross income, as appropriate, eighty-five percent (85%) of the amount taken for that year under those Code provisions. For taxable years before 2012, the taxpayer must add the amount to the taxpayer's federal taxable income. For taxable year 2012 and after, the taxpayer must add the amount to the taxpayer's adjusted gross income.

A taxpayer who made the addition is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income. The table below indicates the applicable five-year period.

Taxable Year of 85% Add-Back	**Five Taxable Years of 20% Deduction**
2010	2011 through 2015
2011	2012 through 2016
2012	2013 through 2017
2013	2014 through 2018

(b) 2009 Depreciation Exception. – A taxpayer who placed property in service during the 2009 taxable year and whose North Carolina taxable income for the 2009 taxable year reflected a special accelerated depreciation deduction allowed for the property under section 168(k) of the Code must add eighty-five percent (85%) of the amount of the special accelerated depreciation deduction to its federal taxable income for the 2010 taxable year. A taxpayer who made the addition is allowed to deduct this add-back under subsection (a) of this section as if it were for property placed in service in 2010.

(c) Section 179 Expense. – For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 1, 2011. A taxpayer who places section 179 property in service during a taxable year listed in the table below must add to the taxpayer's federal taxable income or adjusted gross income as appropriate, eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code exceeds the amount that would have been allowed for that taxable year under section 179 of the Code as of May 1, 2010. For taxable years before 2012, the taxpayer must add the amount to the taxpayer's federal taxable income. For taxable year 2012 and after, the taxpayer must add the amount to the taxpayer's adjusted gross income.

A taxpayer who made the addition is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income. The table in subsection (a) of this section indicates the applicable five-year period.

(d) Asset Basis. – The adjustments made in this section do not result in a difference in basis of the affected assets for State and federal income tax purposes."

"**§ 105-153.7. Individual income tax imposed.**

(a) Tax. – A tax is imposed for each taxable year on the North Carolina taxable income of an individual. The tax is five and four-tenths percent (5.4%) of the taxpayer's North Carolina taxable income that exceeds the zero tax bracket for the taxpayer's filing status. For purposes of Section 2 of Article V of the North Carolina Constitution, the zero tax bracket provides an exemption so that only net incomes are taxed.

The zero tax brackets are as follows:

(1) For married individuals who file a joint return under G.S. 105-153.8 and for surviving spouses, as defined in section 2(a) of the Code:

Over	Up To	Rate
0	$15,000	0.0%

(2) For heads of households, as defined in section 2(b) of the Code:

Over	Up To	Rate
0	$12,000	0.0%

(3) For unmarried individuals other than surviving spouses and heads of households:

Over	Up To	Rate
0	$7,500	0.0%

(4) For married individuals who do not file a joint return under G.S. 105-153.7:

Over	Up To	Rate
0	$7,500	0.0%

(b) Withholding Tables. – The Secretary may provide tables that compute the amount of tax due for a taxable year under this Part. The tables do not apply to an individual who files a return under section 443(a)(1) of the Code for a period of less than 12 months due to a change in the individual's annual accounting period, or to an estate or trust."

SECTION 1.1.(e) This section becomes effective for taxable years beginning on or after January 1, 2014.

SECTION 1.2.(a) G.S. 105-153.7(a), as enacted by Section 1.1 of this Part, reads as rewritten:

"(a) Tax. – A tax is imposed for each taxable year on the North Carolina taxable income of an individual. The tax is ~~five and four-tenths percent (5.4%)~~ five and twenty-five hundreds percent (5.25%) of the taxpayer's North Carolina taxable income that exceeds the zero tax bracket for the taxpayer's filing status. For purposes of Section 2 of Article V of the North Carolina Constitution, the zero tax bracket provides an exemption so that only net incomes are taxed.

...".

SECTION 1.2.(b) This section becomes effective for taxable years beginning on or after January 1, 2015.

SECTION 1.3.(a) G.S. 105-152 and G.S. 105-151, recodified by this Part as G.S. 105-153.8 and G.S. 105-153.9, read as rewritten:

"**§ 105-153.8. Income tax returns.**

(a) Who Must File. – The following individuals ~~shall~~ must file with the Secretary an income tax return under affirmation:

(1) Every resident required to file an income tax return for the taxable year under the ~~Code and every~~ Code.

(1a) Every nonresident individual who ~~(i) derived~~meets all of the following requirements:

a. Receives during the taxable year gross income that is derived from North Carolina sources ~~during the taxable year~~and is attributable to

the ownership of any interest in real or tangible personal property in this ~~State or~~State, is derived from a business, trade, profession, or occupation carried on in this ~~State and (ii) is~~State, or is derived from gambling activities in this State.

b. Is required to file an income tax return for the taxable year under the Code.

(2) Repealed by Session Laws 1991 (Reg. Sess., 1992), c. 930, s. 1.

(3) Any individual whom the Secretary believes to be liable for a tax under this Part, when so notified by the Secretary and requested to file a return.

(b) Taxpayer Deceased or Unable to Make Return. – If ~~the~~ a taxpayer is unable to file ~~the~~ an income tax return, ~~the return shall be filed by~~ a duly authorized agent of the taxpayer or ~~by~~ a guardian or other person charged with the care of the person or property of the ~~taxpayer.~~taxpayer must file the return. If an individual who was required to file an income tax return for the taxable year while living has died before making the return, the administrator or executor of the estate ~~shall~~ must file the return in the decedent's name and behalf, and the tax ~~shall be levied upon and collected from~~is payable by the estate.

(c) Information Required With Return. – The income tax return ~~shall~~ must show the ~~taxable income and adjustments~~adjusted gross income and modifications required by this ~~Part~~ Part, and any other information the Secretary requires. The Secretary may require some or all individuals required to file an income tax return to attach to the return a copy of their federal income tax return for the taxable year. The Secretary may require a taxpayer to provide the Department with copies of any other return the taxpayer has filed with the Internal Revenue Service and to verify any information in the return.

(d) Secretary May Require Additional Information. – When the Secretary has reason to believe that any taxpayer conducts a trade or business in a way that directly or indirectly distorts the taxpayer's ~~taxable income~~adjusted gross income or North Carolina taxable income, the Secretary may require any additional information for the proper computation of the taxpayer's ~~taxable income~~adjusted gross income and North Carolina taxable income. In computing the taxpayer's ~~taxable income~~adjusted gross income and North Carolina taxable income, the Secretary ~~shall~~ must consider the fair profit that would normally arise from the conduct of the trade or business.

(e) Joint Returns. – A husband and wife whose ~~federal taxable income~~adjusted gross income is determined on a joint federal return ~~shall~~ must file a single income tax return jointly if each spouse either is a resident of this State or has North Carolina taxable income and may file a single income tax return jointly if one spouse is not a resident and has no North Carolina taxable income. Except as otherwise provided in this Part, a wife and husband filing jointly are treated as one taxpayer for the purpose of determining the tax imposed by this Part. A husband and wife filing jointly are jointly and severally liable for the tax imposed by this Part reduced by the sum of all credits allowable including tax payments made by or on behalf of the husband and wife. However, if a spouse qualifies for relief of liability for federal tax attributable to a substantial understatement by the other spouse pursuant to section 6015 of the Code, that spouse is not liable for the corresponding tax imposed by this Part attributable to the same substantial understatement by the other spouse. A wife and husband filing jointly have expressly agreed that if the amount of the payments made by them with respect to the taxes for which they are liable, including withheld and estimated taxes, exceeds the total of the taxes due, refund of the excess may be made payable to both spouses jointly or, if either is deceased, to the survivor alone.

(f) Repealed by Session Laws 1991.

"§ 105-153.9. Tax credits for income taxes paid to other states by individuals.

(a) An individual who is a resident of this State is allowed a credit against the taxes imposed by this Part for income taxes imposed by and paid to another state or country on income taxed under this Part, subject to the following conditions:

(1) The credit is allowed only for taxes paid to another state or country on income that is derived from sources within that state or country ~~that~~ and is taxed under its laws irrespective of the residence or domicile of the recipient, except that whenever a taxpayer who is ~~deemed to be~~ considered a resident of this State under ~~the provisions of~~ this Part is ~~deemed also to be~~ considered a resident of another state or country under the laws of that state or country, the Secretary may allow a credit against the taxes imposed by this Part for taxes imposed by and paid to the other state or country on income taxed under this Part.

(2) The fraction of the adjusted gross income, as ~~calculated under the Code and adjusted as provided in G.S. 105-134.6 and G.S. 105-134.7,~~ modified in G.S. 105-153.5, that is subject to income tax in another state or country shall be ascertained, and the North Carolina net income tax before credit under this section shall be multiplied by that fraction. The credit allowed is either the product thus calculated or the income tax actually paid the other state or country, whichever is smaller.

(3) Receipts showing the payment of income taxes to another state or country and a true copy of a return or returns upon the basis of which the taxes are assessed shall be filed with the Secretary when the credit is claimed. If credit is claimed on account of a deficiency assessment, a true copy of the notice assessing or proposing to assess the deficiency, as well as a receipt showing the payment of the deficiency, shall be filed.

(b) If any taxes paid to another state or country for which a taxpayer has been allowed a credit under this section are at any time credited or refunded to the taxpayer, a tax equal to that portion of the credit allowed for the taxes so credited or refunded is due and payable from the taxpayer and is subject to the penalties and interest provided in Subchapter I of this Chapter."

SECTION 1.3.(b) This section becomes effective for taxable years beginning on or after January 1, 2014.

SECTION 1.4.(a) G.S. 105-131.2 reads as rewritten:

"**§ 105-131.2. Adjustment and characterization of income.**

(a) Adjustment. – Each shareholder's pro rata share of an S Corporation's income is subject to the adjustments provided in ~~G.S. 105-134.6.~~G.S. 105-153.5.

(b) Repealed by Session Laws 1989, c. 728, s. 1.35.

(c) Characterization of Income. – S Corporation items of income, loss, deduction, and credit taken into account by a shareholder pursuant to G.S. 105-131.1(b) are characterized as though received or incurred by the S Corporation and not its shareholder."

SECTION 1.4.(b) G.S. 105-131.5 reads as rewritten:

"**§ 105-131.5. Part-year resident shareholder.**

If a shareholder of an S Corporation is both a resident and nonresident of this State during any taxable period, the shareholder's pro rata share of the S Corporation's income attributable to the State and income not attributable to the State for the taxable period shall be further prorated between the shareholder's periods of residence and nonresidence, in accordance with the number of days in each period, as provided in ~~G.S. 105-134.5.~~G.S. 105-153.4."

SECTION 1.4.(c) G.S. 105-131.7(c) reads as rewritten:

"(c) An S Corporation ~~shall~~ must file with the Department, on a form prescribed by the Secretary, the agreement of each nonresident shareholder of the corporation (i) to file a return and make timely payment of all taxes imposed by this State on the shareholder with respect to the income of the S Corporation, and (ii) to be subject to personal jurisdiction in this State for

purposes of the collection of any unpaid income tax, together with related interest and penalties, owed by the nonresident shareholder. If the corporation fails to timely file an agreement required by this subsection on behalf of any of its nonresident shareholders, then the corporation ~~shall~~ must at the time specified in subsection (d) of this section pay to the Department on behalf of each nonresident shareholder with respect to whom an agreement has not been timely filed an estimated amount of the tax due the State. The estimated amount of tax due the State ~~shall be~~ is computed at the ~~rates~~ rate levied in ~~G.S. 105-134.2(a)(3)~~ G.S. 105-153.7 on the shareholder's pro rata share of the S Corporation's income attributable to the State reflected on the corporation's return for the taxable period. An S Corporation may recover a payment made pursuant to the preceding sentence from the shareholder on whose behalf the payment was made."

SECTION 1.4.(d) G.S. 105-131.8(a) reads as rewritten:

"(a) For purposes of ~~G.S. 105-151~~ G.S. 105-153.9 and G.S. 105-160.4, each resident shareholder is considered to have paid a tax imposed on the shareholder in an amount equal to the shareholder's pro rata share of any net income tax paid by the S Corporation to a state that does not measure the income of S Corporation shareholders by the income of the S Corporation. For purposes of the preceding sentence, the term "net income tax" means any tax imposed on or measured by a corporation's net income."

SECTION 1.4.(e) G.S. 105-154(d) reads as rewritten:

"(d) Payment of Tax on Behalf of Nonresident Owner or Partner. – If a business conducted in this State is owned by a nonresident individual or by a partnership having one or more nonresident members, the manager of the business ~~shall~~ must report the earnings of the business in this State, the distributive share of the income of each nonresident owner or partner, and any other information required by the Secretary. The manager of the business ~~shall~~ must pay with the return the tax on each nonresident owner or partner's share of the income computed at the rate levied on individuals under ~~G.S. 105-134.2(a)(3).~~ G.S. 105-153.7. The business may deduct the payment for each nonresident owner or partner from the owner or partner's distributive share of the profits of the business in this State. If the nonresident partner is not an individual and the partner has executed an affirmation that the partner will pay the tax with its corporate, partnership, trust, or estate income tax return, the manager of the business is not required to pay the tax on the partner's share. In this case, the manager ~~shall~~ must include a copy of the affirmation with the report required by this subsection."

SECTION 1.4.(g) G.S. 105-163.1 reads as rewritten:

"**§ 105-163.1. Definitions.**

The following definitions apply in this Article:

...

(6) Individual. – Defined in ~~G.S. 105-134.1.~~G.S. 105-153.3.

...

(13) Wages. – The term has the same meaning as in section 3401 of the Code except it does not include ~~either of the following:~~

~~a. The amount of severance wages paid to an employee during the taxable year that is exempt from State income tax for that taxable year under G.S. 105-134.6(b)(11).~~

~~b.~~ ~~The~~ the amount an employer pays an employee as reimbursement for ordinary and necessary expenses incurred by the employee on behalf of the employer and in the furtherance of the business of the employer.

...."

SECTION 1.4.(h) G.S. 105-163.22 reads as rewritten:

"**§ 105-163.22. Reciprocity.**

The Secretary may, with the approval of the Attorney General, enter into agreements with the taxing authorities of states having income tax withholding statutes with such agreements to govern the amounts to be withheld from the wages and salaries of residents of such other state or states under the provisions of this Article when such other state or states grant similar treatment to the residents of this State. ~~Such~~ The agreements may provide for recognition of the anticipated tax credits allowed under the provisions of ~~G.S. 105-151~~ G.S. 105-153.9 in determining the amounts to be withheld."

SECTION 1.4.(j) G.S. 105-309(d) reads as rewritten:

"(d) Personal property shall be listed to indicate the township and municipality, if any, in which it is taxable and shall be itemized by the taxpayer in such detail as may be prescribed by an abstract form approved by the Department of Revenue. ~~Personal property shall also be listed to indicate which property, if any, is subject to a tax credit under G.S. 105-151.21.~~

(1) If the assessor considers it necessary to obtain a complete listing of personal property, the assessor may require a taxpayer to submit additional information, inventories, or itemized lists of personal property.

(2) At the request of the assessor, the taxpayer shall furnish any information the taxpayer has with respect to the true value of the personal property the taxpayer is required to list."

SECTION 1.4.(k) G.S. 105-320(a)(16) is repealed.

SECTION 1.4.(l) G.S. 110-130.1(a) reads as rewritten:

"(a) All child support collection and paternity determination services provided under this Article to recipients of public assistance shall be made available to any individual not receiving public assistance in accordance with federal law and as contractually authorized by the nonrecipient, upon proper application and payment of a nonrefundable application fee of twenty-five dollars ($25.00). The fee shall be reduced to ten dollars ($10.00) if the individual applying for the services is indigent. An indigent individual is an individual whose gross income does not exceed one hundred percent (100%) of the federal poverty guidelines issued each year in the Federal Register by the U.S. Department of Health and Human Services. For the purposes of this subsection, the term "gross income" has the same meaning as defined in ~~G.S. 105-134.1.~~section 61 of the Code, and the term "Code" has the same meaning as defined in G.S. 105-228.90.

In the case of an individual who has never received assistance under a State program funded pursuant to Title IV-A of the Social Security Act and for whom the State has collected and disbursed to the family in a federal fiscal year at least five hundred dollars ($500.00) of support, the State shall impose an annual fee of twenty-five dollars ($25.00) for each case in which services are furnished. The child support agency shall retain the fee from support collected on behalf of the individual. However, the child support agency shall not retain the fee from the first five hundred dollars ($500.00) collected. The child support agency shall use the fee to support the ongoing operation of the program."

SECTION 1.4.(m) This section becomes effective January 1, 2014.

SECTION 1.5.(a) G.S. 105-277.3(d1) reads as rewritten:

"(d1) ~~Exception for Easements on Qualified~~ Conservation ~~Lands Previously Appraised at Use Value.~~ Exception. – Property that is appraised at its present-use value under G.S. 105-277.4(b) shall continue to qualify for appraisal, assessment, and taxation as provided in G.S. 105-277.2 through G.S. 105-277.7 as long as ~~(i) the property is subject to an enforceable conservation easement that would qualify for the conservation tax credit provided in G.S. 105-130.34 and G.S. 105-151.12, without regard to actual production or income requirements of this section; and (ii) the taxpayer received no more than seventy-five percent (75%) of the fair market value of the donated property interest in compensation.~~ the property is subject to a conservation easement that meets the property eligibility requirements under G.S. 113A-232. Notwithstanding G.S. 105-277.3(b) and (b1), subsequent transfer of the

property does not extinguish its present-use value eligibility as long as the property remains subject to ~~an enforceable~~ a qualifying conservation ~~easement that qualifies for the conservation tax credit provided in G.S. 105-130.34 and G.S. 105-151.12.~~ easement. The exception provided in this subsection applies only to that part of the property that is subject to the easement."

SECTION 1.5.(b) G.S. 113-77.9(d) reads as rewritten:

"(d) Acquisition. – The Department of Administration may, pursuant to G.S. 143-341, acquire by purchase, gift, or devise all lands selected by the Trustees for acquisition pursuant to this Article. Title to any land acquired pursuant to this Article shall be vested in the State. A State agency with management responsibility for land acquired pursuant to this Article may enter into a management agreement or lease with a county, city, town, or private nonprofit organization ~~qualified under G.S. 105-151.12 and G.S. 105-130.34 and~~ certified under section 501(c)(3) of the Internal Revenue Code to aid in managing the land. A management agreement or lease shall be executed by the Department of Administration pursuant to G.S. 143-341."

SECTION 1.5.(c) G.S. 113A-231 reads as rewritten:

"**§ 113A-231. Program to accomplish conservation purposes.**

The Department of Environment and Natural Resources shall develop a nonregulatory program ~~that uses conservation tax credits as a prominent tool~~ to accomplish conservation purposes, including the maintenance of ecological systems. As a part of this program, the Department shall exercise its powers to protect real property and interests in real ~~property:~~ property donated for ~~tax credit under G.S. 105-130.34 or G.S. 105-151.12; conserved with the use of other financial incentives; or, conserved through nonregulatory programs.~~ conservation or conserved by other means. The Department shall call upon the Attorney General for legal assistance in developing and implementing the program."

SECTION 1.5.(d) G.S. 113A-232 reads as rewritten:

"**§ 113A-232. Conservation Grant Fund.**

(a) Fund Created. – The Conservation Grant Fund is created within the Department of Environment and Natural Resources. The Fund shall be administered by the Department. The purpose of the Fund is to stimulate the use of conservation ~~easements and conservation tax credits,~~ easements, to improve the capacity of private nonprofit land trust organizations to successfully accomplish conservation projects, to better equip real estate related professionals to pursue opportunities for conservation, to increase landowner participation in land and water conservation, and to provide an opportunity to leverage private and other public monies for conservation easements.

(b) Fund Sources. – The Conservation Grant Fund shall consist of any monies appropriated to it by the General Assembly and any monies received from public or private sources. Unexpended monies in the Fund that were appropriated from the General Fund by the General Assembly shall revert at the end of the fiscal year unless the General Assembly otherwise provides. Unexpended monies in the Fund from other sources shall not revert and shall remain available for expenditure in accordance with this Article.

(c) Property Eligibility. – In order for real property or an interest in real property to be the subject of a grant under this Article, the real property or interest in real property must meet all of the following conditions:

(1) ~~possess~~ Possess or have a high potential to possess ecological ~~value, must be~~ value.

(2) Be reasonably ~~restorable, and must qualify for tax credits under G.S. 105-130.34 or G.S. 105-151.12.~~ restorable.

(3) Be useful for one or more of the following purposes:

a. Public beach access or use.

b. Public access to public waters or trails.

c. Fish and wildlife conservation.

d. Forestland or farmland conservation.

e. Watershed protection.
f. Conservation of natural areas as that term is defined in G.S. 113A-164.3(3).
g. Conservation of predominantly natural parkland.

(4) Be donated in perpetuity to and accepted by the State, a local government, or a body that is both organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions under G.S. 105-130.9. Land required to be dedicated pursuant to local governmental regulation or ordinance and dedications made to increase building density levels permitted under a regulation or ordinance do not qualify.

(c1) Grant Eligibility. – State conservation land management agencies, local government conservation land management agencies, and private nonprofit land trust organizations are eligible to receive grants from the Conservation Grant Fund. Private nonprofit land trust organizations must be ~~qualified pursuant to G.S. 105-130.34 and G.S. 105-151.12 and must be~~ certified under section 501(c)(3) of the Internal Revenue ~~Code.~~Code to aid in managing the land.

(d) Use of Revenue. – Revenue in the Conservation Grant Fund may be used only for the following purposes:

(1) The administrative costs of the Department in administering the Fund.
(2) Conservation grants made in accordance with this Article.
(3) To establish an endowment account, the interest from which will be used for a purpose described in G.S. 113A-233(a)."

SECTION 1.5.(e) G.S. 113A-233 reads as rewritten:

"**§ 113A-233. Uses of a grant from the Conservation Grant Fund.**

(a) Allowable Uses. – A grant from the Conservation Grant Fund may be used only to pay for one or more of the following costs:

(1) Reimbursement for total or partial transaction costs for a donation of real property or an interest in real property from an individual or corporation satisfying either of the following:
a. Insufficient financial ability to pay all costs or insufficient taxable income to allow these costs to be included in the donated value.
b. Insufficient tax burdens to allow these costs to be offset by ~~the value of tax credits under G.S. 105-130.34 or G.S. 105-151.12 or by~~ charitable deductions.

(2) Management support, including initial baseline inventory and planning.
(3) Monitoring compliance with conservation easements, the related use of riparian buffers, natural areas, and greenways, and the presence of ecological integrity.
(4) Education on conservation, including information materials intended for landowners and education for staff and volunteers.
(5) Stewardship of land.
(6) Transaction costs for recipients, including legal expenses, closing and title costs, and unusual direct costs, such as overnight travel.
(7) Administrative costs for short-term growth or for building capacity.

(b) Prohibition. – The Fund shall not be used to pay the purchase price of real property or an interest in real property."

SECTION 1.5.(f) G.S. 113A-256(g) is repealed.

SECTION 1.5.(g) This section becomes effective January 1, 2014.

PART II. PHASED ELIMINATION OF THE CORPORATE INCOME TAX

SECTION 2.1.(a) G.S. 105-130.3 reads as rewritten:

"**§ 105-130.3. Corporations.**

A tax is imposed on the State net income of every C Corporation doing business in this State. An S Corporation is not subject to the tax levied in this section. The tax is a percentage of the taxpayer's State net income computed as follows:

Income Years Beginning	Tax
~~In 1997~~	~~7.5%~~
~~In 1998~~	~~7.25%~~
~~In 1999~~	~~7%~~
~~After 1999~~	~~6.9%.~~
In 2014	6%
In 2015	4%
In 2016	2%."

SECTION 2.1.(b) This section becomes effective for taxable years beginning on or after January 1, 2014.

SECTION 2.2(a) Part 1 of Article 4 of Chapter 105 of the General Statutes is repealed.

SECTION 2.2.(b) Article 3C and Article 3K of Chapter 105 of the General Statutes is repealed.

SECTION 2.2.(c) This section becomes effective for taxable years beginning on or after January 1, 2017.

SECTION 2.3.(a) G.S. 115C-546.1 reads as rewritten:

"**§ 115C-546.1. Creation of Fund; administration.**

(a) There is created the Public School Building Capital Fund. The Fund shall be used to assist county governments in meeting their public school building capital needs and their equipment needs under their local school technology plans.

~~(b) Each calendar quarter, the Secretary of Revenue shall remit to the State Treasurer for credit to the Public School Building Capital Fund an amount equal to the applicable fraction provided in the table below of the net collections received during the previous quarter by the Department of Revenue under G.S. 105-130.3. All funds deposited in the Public School Building Capital Fund shall be invested as provided in G.S. 147-69.2 and G.S. 147-69.3.~~

~~Period~~	~~Fraction~~
~~10/1/97 to 9/30/98~~	~~One fifteenth (1/15)~~
~~10/1/98 to 9/30/99~~	~~Two twenty-ninths (2/29)~~
~~10/1/99 to 9/30/00~~	~~One fourteenth (1/14)~~
~~After 9/30/00~~	~~Five sixty-ninths (5/69)~~

(c) The Fund shall be administered by the Department of Public Instruction."

SECTION 2.3.(b) G.S. 115C-546.2(a) is repealed.

SECTION 2.3.(c) This section is effective when it becomes law.

PART III. BUSINESS PRIVILEGE TAX ON CORPORATIONS, LLCS, AND OTHER LIMITED LIABILITY ENTITIES

SECTION 3.1.(a) Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 3L.

"Business Privilege Tax

"**§ 105-129.100. Business privilege tax.**

(a) Nature of Tax. – This Article imposes a privilege tax on a business entity for the privilege of doing business in this State in an organizational form that confers limited liability on one or more owners of the entity. The tax is imposed for the exercise of this privilege during the income year of the business entity in which the taxes become due. Payment of the tax

imposed by this Article is a condition precedent to the right to do business in this State and, for a business entity that is organized or formed in this State, to the right to continue in the entity's organizational form.

(b) Tax Imposed. – An annual privilege tax is imposed on a business entity doing business in this State in the amount set in the table below:

Income Year	Amount
2015	$400
2016	$600
After 2016	$750

(c) Return and Payment. – The tax is due when a return is due. A return is due on or before the fifteenth day of the fourth month following the end of the business entity's income year. A taxpayer may ask the Secretary for an extension of time to file a return under G.S. 105-263. A business entity must file a return under affirmation with the Secretary at the place and in the manner prescribed by the Secretary. The return must be signed by the president, vice-president, treasurer, or chief financial officer of the business entity.

(d) Income Year. – For purposes of this Article, the income year of a business entity is the calendar year or the fiscal year upon the basis of which the net income is computed for federal income tax purposes under the Code. After the end of the income year in which a business entity is dissolved, the business entity is no longer subject to the tax levied in this Article unless the Secretary finds that the business entity has engaged in business activities in this State not appropriate to winding up and liquidating its business and affairs.

"**§ 105-129.101. Definitions.**

The following definitions apply in this Article:

(1) Business entity. – All of the following:

a. A S corporation organized under Chapter 55 of the General Statutes.

b. Reserved.

c. A domestic limited liability company formed under Chapter 57C of the General Statutes or a foreign limited liability company that is required to obtain a certificate of authority under one of those Chapters authorizing it to do business in this State.

d. A domestic limited partnership formed under Article 5 of Chapter 59 of the General Statutes or a foreign limited partnership that has received a certificate of authority under that Article authorizing it to do business in this State.

e. A domestic limited liability partnership registered under Article 3B of Chapter 59 of the General Statutes or a foreign limited liability partnership registered under Article 4A of that Chapter.

f. A domestic or foreign limited liability limited partnership registered under G.S. 59-210.

g. Any other business whose form of organization confers limited liability on one or more of its owners that is not a C corporation.

(2) C Corporation. – Defined in G.S. 105-131.

(3) Code. – Defined in G.S. 105-228.90.

(4) Person. – Defined in G.S. 105-228.90.

(5) S Corporation. – Defined in G.S. 105-131.

(6) Secretary. – Defined in G.S. 105-228.90.

"**§ 105-129.101. Exempt business entities.**

A business entity listed in this section is exempt from the business privilege tax imposed by this Article. Upon request of the Secretary, an exempt business entity must establish its claim for exemption in writing. The exempt entities are:

(1) A business entity exempt from federal income tax under section 501 of the Code.

(2) An insurance company subject to tax under Article 8B of this Chapter."

SECTION 3.1.(b) This section becomes effective for taxable years beginning on or after January 1, 2015, and applies to taxes due in that year or a subsequent year.

SECTION 3.2.(a) G.S. 105-129.100(b), as enacted by this Part, reads as rewritten:

"(b) Tax Imposed. – An annual privilege tax is imposed on a business entity doing business in this ~~State in the amount set in the table below:~~State. The tax for a C Corporation is five thousand dollars ($5,000). The tax for all other business entities is seven hundred fifty dollars ($750).

~~Income Years Beginning~~	~~Amount~~
~~In 2014~~	~~$400~~
~~In 2015~~	~~$600~~
~~After 2015~~	~~$750~~".

SECTION 3.2.(b) G.S. 105-129.101, as enacted by this Part, reads as rewritten:

"(1) Business entity. – All of the following:

a. ~~A S corporation organized under Chapter 55 of the General Statutes.~~ A domestic corporation organized under Chapter 55 of the General Statutes or a foreign corporation that has received a certificate of authority under that Chapter authorizing it to do business in this State.

b. ~~Reserved.~~An electric membership corporation organized under Chapter 117 of the General Statutes.

...

g. Any other business whose form of organization confers limited liability on one or more of its ~~owners that is not a C corporation.~~owners.".

SECTION 3.2.(c) This section becomes effective for taxable years beginning on or after January 1, 2018, and applies to taxes due in that year or a subsequent year.

PART IV. PHASED ELIMINATION OF THE FRANCHISE TAX

SECTION 4.1.(a) G.S. 105-114(a) and G.S. 105-122.1 are repealed.

SECTION 4.1.(b) G.S. 105-125(a) is amended by adding a new subdivision to read:

"(a) Exemptions. – The following corporations are exempt from the taxes levied by this Article. Upon request of the Secretary, an exempt corporation must establish its claim for exemption in writing:

...

(2a) A S corporation subject to the privilege license tax under Article 2 of this Chapter. For purposes of this subdivision, a S corporation has the same meaning as defined in G.S. 105-33.1.

...".

SECTION 4.1.(c) This section is effective for taxable years beginning on or after January 1, 2015, and applies to taxes due in that year or a subsequent year.

SECTION 4.2.(a) G.S. 105-122 reads as rewritten:

"§ 105-122. Franchise or privilege tax on domestic and foreign corporations.

...

(d) After determining the proportion of its total capital stock, surplus and undivided profits as set out in subsection (c) of this section, which amount shall not be less than fifty-five percent (55%) of the appraised value as determined for ad valorem taxation of all the real and tangible personal property in this State of each corporation nor less than its total actual

investment in tangible property in this State, every corporation taxed under this section shall annually pay to the Secretary of Revenue, at the time the report and statement are due, a franchise or privilege tax at the rate ~~of one dollar and fifty cents ($1.50) per one thousand dollars ($1,000) of the total amount of capital stock, surplus and undivided profits as provided in this section. The tax imposed in this section shall not be less than thirty-five dollars ($35.00) and shall be~~ provided in subsection (d2) of this section. The tax is imposed for the privilege of carrying on, doing business, and/or the continuance of articles of incorporation or domestication of each corporation in this State. Appraised value of tangible property including real estate is the ad valorem valuation for the calendar year next preceding the due date of the franchise tax return. The term "total actual investment in tangible property" as used in this section means the total original purchase price or consideration to the reporting taxpayer of its tangible properties, including real estate, in this State plus additions and improvements thereto less reserve for depreciation as permitted for income tax purposes, and also less any indebtedness incurred and existing by virtue of the purchase of any real estate and any permanent improvements made thereon. In computing "total actual investment in tangible personal property" there shall also be deducted reserves for the entire cost of any air-cleaning device or sewage or waste treatment plant, including waste lagoons, and pollution abatement equipment purchased or constructed and installed which reduces the amount of air or water pollution resulting from the emission of air contaminants or the discharge of sewage and industrial wastes or other polluting materials or substances into the outdoor atmosphere or into streams, lakes, or rivers, upon condition that the corporation claiming this deduction shall furnish to the Secretary a certificate from the Department of Environment and Natural Resources or from a local air pollution control program for air-cleaning devices located in an area where the Environmental Management Commission has certified a local air pollution control program pursuant to G.S. 143-215.112 certifying that said Department or local air pollution control program has found as a fact that the air-cleaning device, waste treatment plant or pollution abatement equipment purchased or constructed and installed as above described has actually been constructed and installed and that the device, plant or equipment complies with the requirements of the Environmental Management Commission or local air pollution control program with respect to the devices, plants or equipment, that the device, plant or equipment is being effectively operated in accordance with the terms and conditions set forth in the permit, certificate of approval, or other document of approval issued by the Environmental Management Commission or local air pollution control program and that the primary purpose is to reduce air or water pollution resulting from the emission of air contaminants or the discharge of sewage and waste and not merely incidental to other purposes and functions. The cost of constructing facilities of any private or public utility built for the purpose of providing sewer service to residential and outlying areas is treated as deductible for the purposes of this section; the deductible liability allowed by this section shall apply only with respect to pollution abatement plants or equipment constructed or installed on or after January 1, 1955.

...

(d2) Tax Rate. – The rate is the amount set in the table below for each one thousand dollars ($1,000) of the total amount of capital stock, surplus and undivided profits as provided in subsection (d) of this section. The tax imposed in this section may not be less than the amount set in the table below.

Income Year	Tax Rate	Minimum Tax Due
2015	$1.20	$ 500
2016	$0.90	$1,000
2017	$0.60	$2,000".

SECTION 4.2.(b) This section is effective for taxable years beginning on or after January 1, 2015, and applies to taxes due in that year or a subsequent year.

SECTION 4.3.(a) Article 3 of Chapter 105 of the General Statutes is repealed.

SECTION 4.3.(b) This section is effective for taxable years beginning on or after January 1, 2018.

PART V. ELIMINATE ANNUAL REPORT FILING FEES

SECTION 5.(a) G.S. 55-1-22 reads as rewritten:

"**§ 55-1-22. Filing, service, and copying fees.**

(a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to the Secretary for filing:

Document	Fee
...	
(23) Annual report ~~(paper)~~	~~25.00~~No fee
~~(23a) Annual report (electronic)~~	~~18.00~~
...	

(b) The Secretary of State shall collect a fee of ten dollars ($10.00) each time process is served on the Secretary under this Chapter. The party to a proceeding causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.

(c) The Secretary of State shall collect the following fees for copying, comparing, and certifying a copy of any filed document relating to a domestic or foreign corporation:

(1) One dollar ($1.00) a page for copying or comparing a copy to the original.

(2) Fifteen dollars ($15.00) for a paper certificate.

(3) Ten dollars ($10.00) for an electronic certificate.

~~(d) The fee for the annual report in subdivision (23) of this section is nonrefundable.~~"

SECTION 5.(b) G.S. 55-16-22 reads as rewritten:

"**§ 55-16-22. Annual report.**

(a) ~~Except as provided in subsections (a1) and (a2) of this section, each domestic corporation and each foreign corporation authorized to transact business in this State shall deliver an annual report to the Secretary of Revenue in paper form or, in the alternative, directly to the Secretary of State in electronic form as prescribed by the Secretary of State under this section.~~Requirement. – The following businesses must file an annual report with the Secretary of State on a form prescribed by the Secretary and in the manner required by the Secretary:

(1) A corporation that is incorporated under this Chapter.

(2) A corporation that has received a certificate of authority under this Chapter authorizing the corporation to transact business in this State.

(3) A company that is an insurance company regulated under Chapter 58 of the General Statutes.

~~(a1) Each insurance company subject to the provisions of Chapter 58 of the General Statutes shall deliver an annual report to the Secretary of State.~~

~~(a2) A domestic corporation governed by Chapter 55B of the General Statutes is exempt from this section.~~

~~(a3) The annual report required by this section shall be in a form jointly prescribed by the Secretary of Revenue and the Secretary of State. The Secretary of Revenue shall provide the form needed to file an annual report. The Secretary of State shall prescribe the form needed to file an annual report electronically and shall provide this form by electronic means. The annual report shall set forth all of the following:~~

~~(1) The name of the corporation and the state or country under whose law it is incorporated.~~

~~(2) The street address, and the mailing address if different from the street address, of the registered office, the county in which its registered office is located, and the name of its registered agent at that office in this State, and a~~

~~statement of any change of such registered office or registered agent, or both.~~

~~(3) The address and telephone number of its principal office.~~

~~(4) The names, titles, and business addresses of its principal officers.~~

~~(4a) Repealed by Session Laws 1997-475, s. 6.1, effective January 1, 1998.~~

~~(5) A brief description of the nature of its business.~~

~~If the information contained in the most recently filed annual report has not changed, a certification to that effect may be made instead of setting forth the information required by subdivisions (2) through (5) of this subsection.~~

(b) Content. – An annual report must set out the information listed in this subsection. The information must be current as of the date the business completes the report.~~Information in the annual report must be current as of the date the annual report is executed on behalf of the corporation.~~ If the information set out in the business' most recent annual report has not changed, the business may certify on its annual report that the information has not changed in lieu of restating the information. A business may amend an annual report at any time to correct, update, or augment information included in a prior report.

The following information must be included on the annual report of a business:

(1) Its name.

(2) The state or country under whose law it is incorporated or, if it is an insurance company and is not a corporation, the state or country under whose law it is organized.

(3) The street address of its registered office in this State, the county in which the registered office is located, and the name of the registered agent at the registered office. If the registered office or registered agent differs from the registered office or registered agent listed on the preceding annual report, the report must indicate that the registered office or registered agent has changed. A change in registered office or registered agent that is indicated on an annual report is effective when the report is filed.

(4) The mailing address of its registered office, if the street address of the office is not the mailing address.

(5) The address and telephone number of its principal office.

(6) The name, title, and business address of each of its principal officers.

(7) A brief description of the nature of its business.

(c) Due Date. – An annual report is due by the 15th day of the fourth month following the close of the fiscal year of the business filing the report. An annual report is delinquent if it is not filed within 120 days after it is due.~~eligible to be delivered to the Secretary of Revenue is due by the due date for filing the corporation's income and franchise tax returns. An extension of time to file a return is an extension of time to file an annual report. At the option of the filer, an annual report may be filed directly with the Secretary of State in electronic form. An annual report required to be delivered to the Secretary of State is due by the fifteenth day of the fourth month following the close of the corporation's fiscal year.~~

(d) Incomplete Report. – If the Secretary of State determines that an annual report filed with the Secretary does not contain the information required by this section, the Secretary must send a written notice to the business that the report is incomplete. An annual report that is corrected to contain the information and filed with the Secretary within 30 days of the date of the notice is considered timely filed.~~If an annual report does not contain the information required by this section, the Secretary of State shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for correction. If the report is corrected to contain the information required by this section and delivered to the Secretary of State within 30 days after the effective date of notice, it is deemed to be timely filed.~~

~~(e) Amendments to any previously filed annual report may be filed with the Secretary of State at any time for the purpose of correcting, updating, or augmenting the information contained in the annual report.~~

~~(f) Expired.~~

~~(g) When a statement of change of registered office or registered agent is filed in the annual report, the change shall become effective when the statement is received by the Secretary of State.~~

~~(h) If the Secretary of State does not receive an annual report within 120 days of the date the return is due, the Secretary of State may presume that the annual report is delinquent. This presumption may be rebutted by receipt of the annual report from the Secretary of Revenue or by evidence of delivery presented by the filing corporation.~~"

SECTION 5.(c) G.S. 57C-1-22(a)(25) reads as rewritten:

"(a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to the Secretary of State for filing:

Document	Fee
...	
(25) Annual report	~~200.00~~No fee

...."

SECTION 5.(d) G.S. 59-35.2(a)(18) reads as rewritten:

"(a) The Secretary of State shall collect the following fees when the documents described in this subsection are submitted by a partnership to the Secretary of State for filing:

Document	Fee
...	
(18) Annual report	~~200.00~~No fee

...."

SECTION 5.(e) G.S. 59-1106(a)(22) reads as rewritten:

"(a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to the Secretary of State for filing:

Document	Fee
...	
(22) Annual report for a limited liability limited partnership	~~200.00~~No fee

...."

SECTION 5.(f) G.S. 105-122.1 is repealed.

SECTION 5.(g) G.S. 105-228.90(a) reads as rewritten:

"(a) Scope. – This Article applies to Subchapters I, V, and VIII of this Chapter, ~~to the annual report filing requirements of G.S. 55-16-22,~~ to the primary forest product assessment levied under Article 12 of Chapter 113A of the General Statutes, and to inspection taxes levied under Article 3 of Chapter 119 of the General Statutes."

SECTION 5.(h) G.S. 105-256.1 is repealed.

SECTION 5.(i) G.S. 105-259(a) reads as rewritten:

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

(1) Employee or officer. – The term includes a former employee, a former officer, and a current or former member of a State board or commission.

(2) Tax information. – Any information from any source concerning the liability of a taxpayer for a tax, as defined in G.S. 105-228.90. The term includes the following:

a. Information contained on a tax return, a tax report, or an application for a license for which a tax is imposed.

b. Information obtained through an audit of a taxpayer or by correspondence with a taxpayer.

c. Information on whether a taxpayer has filed a tax return or a tax report.

d. A list or other compilation of the names, addresses, social security numbers, or similar information concerning taxpayers.

The term does not include ~~(i)~~ statistics classified so that information about specific taxpayers cannot be ~~identified, (ii) an annual report required to be filed under G.S. 55-16-22 or (iii)~~ identified or the amount of tax refunds paid to either a governmental entity listed in G.S. 105-164.14(c) or ~~to~~ a State agency."

SECTION 5.(j) This section becomes effective January 1, 2015. Subsection (f) of this section applies to returns due on or after April 15, 2015, for taxable years beginning on or after January 1, 2015. The remaining sections apply to annual reports due on or after January 1, 2015.

PART VI. ELIMINATE ARCHAIC STATE AND LOCAL PRIVILEGE LICENSE TAXES

SECTION 6.1.(a) Article 2 of Chapter 105 of the General Statutes is repealed.

SECTION 6.1.(b) This section becomes effective January 1, 2018, and applies as follows:

(1) For taxes payable under G.S. 105-41, 105-88, or 105-102.3, the section applies to taxes imposed under those statutes for taxable years beginning on or after July 1, 2018.

(2) For taxes payable under G.S. 105-102.6, the section applies to taxes due on or after January 31, 2018.

(3) For taxes payable under G.S. 105-83, the section applies to obligation dealt in, bought, or discounted on or after January 1, 2018.

SECTION 6.2.(a) G.S. 153JluA-152 reads as rewritten:

"**§ 153A-152. ~~Privilege~~ No general authority for privilege license taxes.**

~~(a) Authority. A county may levy privilege license taxes on trades, occupations, professions, businesses, and franchises to the extent authorized by Article 2 of Chapter 105 of the General Statutes and any other acts of the General Assembly. A county may levy privilege license taxes to the extent formerly authorized by the following sections of Article 2 of Chapter 105 of the General Statutes before they were repealed:~~

~~G.S. 105-50~~	~~Pawnbrokers.~~
~~G.S. 105-53~~	~~Peddlers, itinerant merchants, and specialty market operators.~~
~~G.S. 105-55~~	~~Installing elevators and automatic sprinkler systems.~~
~~G.S. 105-58~~	~~Fortune tellers, palmists, etc.~~
~~G.S. 105-65~~	~~Music machines.~~
~~G.S. 105-66.1~~	~~Electronic video games.~~
~~G.S. 105-80~~	~~Firearms dealers and dealers in other weapons.~~
~~G.S. 105-88~~	~~Loan agencies.~~
~~G.S. 105-89~~	~~Automobiles, wholesale supply dealers and service stations.~~
~~G.S. 105-89.1~~	~~Motorcycle dealers.~~
~~G.S. 105-90~~	~~Emigrant and employment agents.~~
~~G.S. 105-102.5~~	~~General business license.~~

~~(b) Telecommunications Restriction. A county may not impose a license, franchise, or privilege tax on a company taxed under G.S. 105-164.4(a) (4c).~~ A county may not levy a license, franchise, or privilege tax on a trade, occupation, profession, business, or franchise

carried on within the county unless a statute or an act of the General Assembly authorizes the county to do so."

SECTION 6.2.(b) G.S. 160A-211 reads as rewritten:

"**§ 160A-211. ~~Privilege~~ No general authority for privilege license taxes.**

~~(a) Authority. Except as otherwise provided by law, a city shall have power to levy privilege license taxes on all trades, occupations, professions, businesses, and franchises carried on within the city. A city may levy privilege license taxes on the businesses that were formerly taxed by the State under the following sections of Article 2 of Chapter 105 of the General Statutes only to the extent the sections authorized cities to tax the businesses before the sections were repealed:~~

~~G.S. 105-36~~	~~Amusements – Manufacturing, selling, leasing, or distributing moving picture films.~~
~~G.S. 105-36.1~~	~~Amusements – Outdoor theatres.~~
~~G.S. 105-37~~	~~Amusements – Moving pictures – Admission.~~
~~G.S. 105-41~~	~~Attorneys at law and other professionals.~~
~~G.S. 105-42~~	~~Private detectives and investigators.~~
~~G.S. 105-45~~	~~Collecting agencies.~~
~~G.S. 105-46~~	~~Undertakers and retail dealers in coffins.~~
~~G.S. 105-50~~	~~Pawnbrokers.~~
~~G.S. 105-51.1~~	~~Alarm systems.~~
~~G.S. 105-53~~	~~Peddlers, itinerant merchants, and specialty market operators.~~
~~G.S. 105-54~~	~~Contractors and construction companies.~~
~~G.S. 105-55~~	~~Installing elevators and automatic sprinkler systems.~~
~~G.S. 105-61~~	~~Hotels, motels, tourist courts and tourist homes.~~
~~G.S. 105-62~~	~~Restaurants.~~
~~G.S. 105-65~~	~~Music machines.~~
~~G.S. 105-65.1~~	~~Merchandising dispensers and weighing machines.~~
~~G.S. 105-66.1~~	~~Electronic video games.~~
~~G.S. 105-74~~	~~Pressing clubs, dry cleaning plants, and hat blockers.~~
~~G.S. 105-77~~	~~Tobacco warehouses.~~
~~G.S. 105-80~~	~~Firearms dealers and dealers in other weapons.~~
~~G.S. 105-83~~	~~Installment paper dealers.~~
~~G.S. 105-85~~	~~Laundries.~~
~~G.S. 105-86~~	~~Outdoor advertising.~~
~~G.S. 105-88~~	~~Loan agencies.~~
~~G.S. 105-89~~	~~Automobiles, wholesale supply dealers, and service stations.~~
~~G.S. 105-89.1~~	~~Motorcycle dealers.~~
~~G.S. 105-90~~	~~Emigrant and employment agents.~~
~~G.S. 105-91~~	~~Plumbers, heating contractors, and electricians.~~
~~G.S. 105-97~~	~~Manufacturers of ice cream.~~
~~G.S. 105-98~~	~~Branch or chain stores.~~
~~G.S. 105-99~~	~~Wholesale distributors of motor fuels.~~
~~G.S. 105-102.1~~	~~Certain cooperative associations.~~
~~G.S. 105-102.3~~	~~Banks.~~
~~G.S. 105-102.5~~	~~General business license.~~

~~(b) Barbershop and Salon Restriction. A privilege license tax levied by a city on a barbershop or a beauty salon may not exceed two dollars and fifty cents ($2.50) for each barber, manicurist, cosmetologist, beautician, or other operator employed in the barbershop or beauty salon.~~

~~(c) Prohibition. A city may not impose a license, franchise, or privilege tax on a person engaged in any of the businesses listed in this subsection. These businesses are subject to a State tax for which the city receives a share of the tax revenue.~~

~~(1) Supplying piped natural gas taxed under Article 5E of Chapter 105 of the General Statutes.~~

~~(2) Providing telecommunications service taxed under G.S. 105-164.4(a)(4c).~~

~~(3) Providing video programming taxed under G.S. 105-164.4(a)(6).~~

~~(d) Repealed by Session Laws 2006-151, s. 12, effective January 1, 2007.~~A city may not levy a license, franchise, or privilege tax on a trade, occupation, profession, business, or franchise carried on within the city unless a statute or an act of the General Assembly authorizes the city to do so."

SECTION 6.2.(c) This section becomes effective July 1, 2018, and applies to taxes imposed for fiscal years beginning on or after that date.

SECTION 6.3.(a) G.S. 93-12(12) and G.S. 105-259(b)(4) are repealed.

SECTION 6.3.(b) G.S. 53-165 reads as rewritten:

"**§ 53-165. Definitions.**

The following definitions apply in this Article:

~~(a)~~(1) ~~"Amount of the loan" shall mean the~~ Amount of the loan. – The aggregate of the cash advance and the charges authorized by G.S. 53-173 and G.S. 53-176.

~~(b)~~(2) ~~"Borrower" shall mean any~~ Borrower. – A person who borrows money ~~from any licensee or who pays or obligates himself to pay any money~~ from, pays or is obligated to pay money to, or otherwise furnishes any valuable consideration to any licensee for any act of the licensee as a licensee.

~~(c)~~(3) ~~"Cash advance" shall mean the~~ Cash advance. – The amount of cash or its equivalent ~~that the~~ a borrower actually receives or is paid out at ~~his discretion or on his behalf.~~the discretion of the borrower or on behalf of the borrower.

~~(d)~~(4) ~~"Commission" shall mean the~~ Commission. – The State Banking Commission.

~~(e)~~(5) ~~"Commissioner" shall mean the~~ Commissioner. – The Commissioner of Banks.

~~(f)~~(6) ~~"Deputy commissioner" shall mean the~~ Deputy commissioner. – The deputy commissioner of banks.

(7) Installment paper dealer. – A person who buys or discounts notes or other evidences of debt secured, at the time the debt is incurred, by personal property located in this State.

~~(g)~~(8) ~~"License" shall mean the~~ License. – The certificate issued by the Commissioner under the authority of this Article to conduct a consumer finance business.

~~(h)~~(9) ~~"Licensee" shall mean a~~ Licensee. – A person to whom one or more licenses have been issued.

~~(i)~~(10) ~~"Loanable assets" shall mean cash or bank deposits or installment loans made as a licensee pursuant to this Article or installment loans made as a licensee pursuant to the Article which this Article supersedes or such other loans payable on an installment basis as the Commissioner of Banks may approve, or any combination of two or more thereof.~~Loanable assets. – Cash, bank deposits, installment loans, or any combination of these.

~~(j)~~(11) ~~"Person" shall include any person,~~ Person. – An individual, a firm, a partnership, ~~association or corporation.~~ an association, a limited liability company, a corporation, or another group acting as a unit."

SECTION 6.3.(c) G.S. 53-172(a) reads as rewritten:

"(a) No licensee shall conduct the business of making loans under this Article within any office, suite, room, or place of business in which any other business is solicited or transacted. The business of making loans includes acting as an installment paper dealer and collecting a loan made by a government regulated lender.

~~Installment paper dealers as defined in G.S. 105-83, and the collection by a licensee of loans legally made in North Carolina, or another state by another government regulated lender or lending agency, shall not be considered as being any other business within the meaning of this section.~~"

SECTION 6.3.(d) G.S. 53-191 reads as rewritten:

"**§ 53-191. Businesses exempted.**

~~Nothing in this~~ This Article ~~shall be construed to~~ does not apply to any ~~person, firm or corporation~~ person doing business under the authority of any law of this State or of the United States relating to banks, trust companies, savings and loan associations, cooperative credit unions, agricultural credit corporations or associations organized under the laws of North Carolina, production credit associations organized under the ~~act of Congress known as the~~ federal Farm Credit Act of 1933, pawnbrokers lending or advancing money on specific articles of personal property, industrial banks, ~~the business of negotiating~~ businesses that negotiate or solicit loans on real estate as ~~defined in G.S. 105-41,~~ agent for another for compensation, ~~nor to~~ or installment paper dealers ~~as defined in G.S. 105-83 other than persons, firms and corporations~~ other than persons engaged in the business of accepting fees for endorsing or otherwise securing loans or contracts for the repayment of loans."

SECTION 6.3.(e) G.S. 95-47.2(d)(3)c. reads as rewritten:

"(d) Upon the receipt of an application for a license the Commissioner:

...

(3) Upon completion of the investigation, or 60 days after the application was received, whichever is later, but in no case more than 75 days after the application was received, shall determine whether or not a license should be issued. The license shall be denied for any of the following reasons:

...

c. If the employment agency will be operated on the same premises as ~~a loan agency (as defined in G.S. 105-88) or collection agency (as defined in G.S. 58-70-15).~~ any of the following:

1. A business that makes loans and takes as security for repayment of the loans an assignment of wages or any other type of security.
2. A check cashing business regulated under Article 22 of Chapter 53 of the General Statutes.
3. A pawnbroker business regulated under Chapter 91A of the General Statutes.
4. A collection agency, as defined in G.S. 58-70-15."

SECTION 6.3.(f) This section becomes effective July 1, 2018.

PART VII. ELECTRICITY AND PIPED NATURAL GAS TAX CHANGES

SECTION 7.1.(a) G.S. 105-116, 105-116.1, 105-164.21A, and 159B-27(b), (c), (d), and (e) are repealed.

SECTION 7.1.(b) G.S. 105-130.6A(a)(4) reads as rewritten:

"(a) Definitions. – The provisions of G.S. 105-130.6 govern the determination of whether a corporation is a subsidiary or an affiliate of another corporation. In addition, the following definitions apply in this section:

...

(4) Electric power holding company. – A holding company with an affiliate or a subsidiary that is engaged in the business of producing electric power.~~subject to the franchise tax on electric power companies levied in G.S. 105-116.~~

...".

SECTION 7.1.(c) G.S. 105-164.4(a)(1f) and (a)(4a) are repealed.

SECTION 7.1.(d) G.S. 105-164.13(44) and Article 5E of Chapter 105 of the General Statutes are repealed.

SECTION 7.1.(e) G.S. 105-164.4(a) is amended by adding a new subdivision to read:

"(10) The combined general rate applies to the gross receipts derived from sales of electricity and piped natural gas."

SECTION 7.1.(f) G.S. 160A-211 reads as rewritten:

"(c) Prohibition. – A city may not impose a license, franchise, or privilege tax on a person engaged in any of the businesses listed in this subsection. These businesses are subject to ~~a State tax~~ sales tax at the combined general rate for which the city receives a share of the tax ~~revenue.~~revenue or they are subject to the local sales tax.

(1) Supplying piped natural ~~gas taxed under Article 5E of Chapter 105 of the General Statutes.~~gas.

(2) Providing telecommunications service taxed under G.S. 105-164.4(a)(4c).

(3) Providing video programming taxed under G.S. 105-164.4(a)(6).

(4) Providing electricity. A city may continue to impose and collect the license, franchise, or privilege taxes on an electric power company that it imposed and collected on or before January 1, 1947, but it may not impose or collect any greater franchise, privilege, or license taxes, in the aggregate, on an electric power company that was imposed and collected on or before January 1, 1947."

SECTION 7.1.(g) This section becomes effective July 1, 2014, and applies to bills issued on or after that date.

SECTION 7.2.(a) Pursuant to G.S. 62-31 and G.S. 62-32, the Utilities Commission must adjust the rate set for the following utilities:

(1) Electricity to reflect the repeal of G.S. 105-116 and the resulting liability of electric power companies for the tax imposed under G.S. 105-122 and for the increase in the rate of tax imposed on sales of electricity under G.S. 105-164.4.

(2) Piped natural gas to reflect the repeal of Article 5E of Chapter 105 of the General Statutes, the repeal of the credit formerly allowed under G.S. 105-122(d1), and the resulting liability of companies for the tax imposed on sales of piped natural gas under G.S. 105-164.4.

SECTION 7.2.(b) This section is effective when it becomes law.

SECTION 7.3.(a) Part 8 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.44K. Distribution of part of tax on electricity to cities.**

(a) Distribution. – The Secretary must distribute to cities forty-four percent (44%) of the net proceeds of the tax collected under G.S. 105-164.4 on electricity. Each city's share of the amount to be distributed is its franchise tax share calculated under subsection (b) of this section plus its ad valorem share calculated under subsection (c) of this section. The Secretary must make the distribution within 75 days after the end of each quarter.

(b) Franchise Tax Share. – The quarterly franchise tax share of a city is the amount of electricity gross receipts franchise tax distributed to the city under repealed G.S. 105-116.1 for

the same related quarter that was the last quarter in which taxes were imposed on electric power companies under repealed G.S. 105-116.

The franchise tax share of a city that has dissolved, merged with another city, or divided into two or more cities since it received a distribution under repealed G.S. 105-116.1 is adjusted as follows:

(1) If a city dissolves and is no longer incorporated, the franchise tax share of the city is added to the amount distributed under subsection (c) of this section.

(2) If two or more cities merge or otherwise consolidate, their franchise tax shares are combined.

(3) If a city divides into two or more cities, the franchise tax share of the city that divides is allocated among the new cities in proportion to the total amount of ad valorem taxes levied by each on property having a tax situs in the city.

(c) Ad Valorem Share. – The ad valorem share of a city is its proportionate share of the amount that remains for distribution after determining each city's franchise tax share under subsection (b) of this section. A city's proportionate share is the amount of ad valorem taxes it levies on property having a tax situs in the city compared to the ad valorem taxes levied by all cities on property having a tax situs in the cities.

(d) Methodology. – The ad valorem method set out in G.S. 105-472(b)(2) applies in determining the share of a city under this section based on ad valorem taxes, except that the amount of ad valorem taxes levied by a city does not include ad valorem taxes levied on behalf of a taxing district and collected by the city.

(e) Determination Final. – The determination made by the Department with respect to a city's franchise tax share is final and is not subject to administrative or judicial review.

(f) Nature. – The General Assembly finds that the revenue distributed under this section is local revenue, not a State expenditure, for the purpose of Section 5(3) of Article III of the North Carolina Constitution. Therefore, the Governor may not reduce or withhold the distribution."

SECTION 7.3.(b) Part 8 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.44L. Distribution of part of tax on piped natural gas to cities.**

(a) Distribution. – The Secretary must distribute to cities twenty percent (20%) of the net proceeds of the tax collected under G.S. 105-164.4 on piped natural gas. Each city's share of the amount to be distributed is its excise tax share calculated under subsection (b) of this section plus its ad valorem share calculated under subsection (c) of this section. The Secretary must make the distribution within 75 days after the end of each quarter.

(b) Excise Tax Share. – The quarterly excise tax share of a city that is not a gas city is the amount of piped natural gas excise tax distributed to the city under repealed G.S. 105-187.44 for the same related quarter that was the last quarter in which taxes were imposed on piped natural gas under repealed Article 5E of this Chapter. The Secretary must determine the excise tax share of a gas city and divide that amount by four to calculate the quarterly distribution amount for a gas city. The excise tax share of a gas city is the amount the gas city would have received under repealed G.S. 105-187.44 for the last year in which taxes were imposed under repealed Article 5E of this Chapter if piped natural gas consumed by the city or delivered by the city to a customer had not been exempt from tax under repealed G.S. 105-187.41(c)(1) and (c)(2). A gas city must report the information required by the Secretary to make the distribution under this section in the form, manner, and time required by the Secretary. For purposes of this subsection, the term "gas city" has the same meaning as defined in repealed G.S. 105-187.40.

The excise tax share of a city that has dissolved, merged with another city, or divided into two or more cities since it received a distribution under repealed G.S. 105-187.44 is adjusted as follows:

(1) If a city dissolves and is no longer incorporated, the excise tax share of the city is added to the amount distributed under subsection (c) of this section.

(2) If two or more cities merge or otherwise consolidate, their excise tax shares are combined.

(3) If a city divides into two or more cities, the excise tax share of the city that divides is allocated among the new cities in proportion to the total amount of ad valorem taxes levied by each on property having a tax situs in the city.

(c) Ad Valorem Share. – The ad valorem share of a city is its proportionate share of the amount that remains for distribution after determining each city's excise tax share under subsection (b) of this section. A city's proportionate share is the amount of ad valorem taxes it levies on property having a tax situs in the city compared to the ad valorem taxes levied by all cities on property having a tax situs in the cities.

(d) Methodology. – The ad valorem method set out in G.S. 105-472(b)(2) applies in determining the share of a city under this section based on ad valorem taxes, except that the amount of ad valorem taxes levied by a city does not include ad valorem taxes levied on behalf of a taxing district and collected by the city.

(e) Determination Final. – The determination made by the Department with respect to a city's excise tax share is final and is not subject to administrative or judicial review.

(f) Nature. – The General Assembly finds that the revenue distributed under this section is local revenue, not a State expenditure, for the purpose of Section 5(3) of Article III of the North Carolina Constitution. Therefore, the Governor may not reduce or withhold the distribution."

SECTION 7.3.(c) This section is effective for quarters beginning on or after July 1, 2014.

PART VIII. ELIMINATE SALES TAX SPECIAL EXEMPTIONS

SECTION 8.1.(a) G.S. 105-164.13(13c), (28), (30), and (50) are repealed.

SECTION 8.1.(b) This section becomes effective October 1, 2013, and applies to sales made on or after that date.

SECTION 8.2.(a) G.S. 105-164.13(27) and (27a), 105-164.13C, and 105-164.13D are repealed.

SECTION 8.2.(b) This section become effective July 1, 2014, and applies to sales made on or after that date.

SECTION 8.3.(a) G.S. 105-37.1, 105-38.1, and 105-40 are repealed.

SECTION 8.3.(b) G.S. 105-164.4(a) is amended by adding the following new subdivision to read:

"**§ 105-164.4. Tax imposed on retailers.**

(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and three-quarters percent (4.75%).

...

(9) The general rate of tax applies to admission charges to an entertainment activity listed in this subdivision. Offering any of these listed activities is a service. An admission charge includes a charge for a single ticket, a multi-occasion ticket, a seasonal pass, an annual pass, and a cover charge.

An admission charge does not include a charge for amenities. If charges for amenities are not separately stated on the face of an admission ticket, then the charge for admission is considered to be equal to the admission

charge for a ticket to the same event that does not include amenities and is for a seat located directly in front of or closest to a seat that includes amenities.

When an admission ticket is resold and the price of the admission ticket is printed on the face of the ticket, the tax does not apply to the face price. When an admission ticket is resold and the price of the admission ticket is not printed on the face of the ticket, the tax applies to the difference between the amount the reseller paid for the ticket and the amount the reseller charges for the ticket.

Admission charges to the following entertainment activities are subject to tax:

a. A live performance or other live event of any kind.

b. A movie.

c. A museum, a cultural site, a garden, an exhibit, a show, or a similar attraction or a guided tour at any of these attractions."

SECTION 8.3.(c) G.S. 105-164.13 is amended by adding the following new subdivision to read:

"**§ 105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property, digital property, and services are specifically exempted from the tax imposed by this Article:

...

(60) Admission charges to any of the following recreational or entertainment activities:

a. An event that is held at an elementary or secondary school and is sponsored by the school.

b. A commercial agricultural fair that meets the requirements of G.S. 106-520.1, as determined by the Commissioner of Agriculture.

c. A festival or other recreational or entertainment activity that lasts no more than seven consecutive days and is sponsored by a nonprofit entity that is exempt from tax under Article 4 of this Chapter and uses the entire proceeds of the activity exclusively for the entity's nonprofit purposes. This exemption applies to no more than two activities sponsored by the entity during a calendar year.

d. A youth athletic contest sponsored by a nonprofit entity that is exempt from tax under Article 4 of this Chapter. For the purpose of this subdivision, a youth athletic contest is a contest in which each participating athlete is less than 20 years of age."

SECTION 8.3.(d) The following statutes are repealed:

G.S. 106-507
G.S. 106-516
G.S. 106-517
G.S. 106-518
G.S. 106-519
G.S. 106-520
G.S. 140-10.1

SECTION 8.3.(e) G.S. 105-164.9 is repealed.

SECTION 8.3.(f) G.S. 105-164.10 reads as rewritten:

"**§ 105-164.10. Retail bracket system.**

For the convenience of the retailer in collecting the tax due under this Article, the Secretary ~~shall~~ must prescribe tables that compute the tax due on sales by rounding off the amount of tax

due to the nearest whole cent. The Secretary ~~shall~~ must issue a separate table for each rate of tax that may apply to a ~~sale, including the general rate established in G.S. 105-164.4, preferential rates, and combined State and local rates. Use of the tables prescribed by the Secretary does not relieve a retailer of liability for the applicable rate of tax due on the gross receipts or net taxable sales of the retailer.~~sale."

SECTION 8.3.(g) This section becomes effective October 1, 2013, and applies to admissions purchased on or after that date. For admissions to a live event, the tax applies to the initial sale or resale of tickets occurring on or after that date; gross receipts received on or after October 1, 2013, for admission to a live event, for which the initial sale of tickets occurred before that date, other than gross receipts received by a ticket reseller, are taxable under G.S. 105-37.1.

SECTION 8.4.(a) G.S. 105-164.14(c) is repealed.

SECTION 8.4.(b) G.S. 105-164.14(b) reads as rewritten:

"(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed a semiannual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services, other than electricity, telecommunications service, and ancillary service, for use in carrying on the work of the nonprofit entity. Sales and use tax liability indirectly incurred by a nonprofit entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the nonprofit entity and is being erected, altered, or repaired for use by the nonprofit entity for carrying on its nonprofit activities is considered a sales or use tax liability incurred on direct purchases by the nonprofit entity. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund for the first six months of a calendar year is due the following October 15; a request for a refund for the second six months of a calendar year is due the following April 15. The aggregate annual refund amount allowed for a nonprofit entity under this subsection for a fiscal year may not exceed the amount set in the table below:

Fiscal Year	Amount
Beginning July 1, 2014	$5,000,000
Beginning July 1, 2015	$1,000,000
Beginning on or after July 1, 2016	$ 100,000.

The refunds allowed under this subsection do not apply to an entity that is owned and controlled by the United States or to an entity that is owned or controlled by the State and is not listed in this subsection. A hospital that is not listed in this subsection is allowed a semiannual refund of sales and use taxes paid by it on medicines and drugs purchased for use in carrying out its work. The following nonprofit entities are allowed a refund under this subsection:

(1) Hospitals not operated for profit, including hospitals and medical accommodations operated by an authority or other public hospital described in Article 2 of Chapter 131E of the General Statutes.

(2) An organization that is exempt from income tax under section 501(c)(3) of the Code, other than an organization that is properly classified in any of the following major group areas of the National Taxonomy of Exempt Entities:
   a. Community Improvement and Capacity Building.
   b. Public and Societal Benefit.
   c. Mutual and Membership Benefit.

(2a) An organization that is exempt from income tax under the Code and is one of the following:
   a. A volunteer fire department.
   b. A volunteer emergency medical services squad.

(3) Repealed by Session Laws 2008-107, s. 28.22(a), effective July 1, 2008, and applicable to purchases made on or after that date.

(4) Qualified retirement facilities whose property is excluded from property tax under G.S. 105-278.6A.

(5) A university affiliated nonprofit organization that procures, designs, constructs, or provides facilities to, or for use by, a constituent institution of The University of North Carolina. For purposes of this subdivision, a nonprofit organization includes an entity exempt from taxation as a disregarded entity of the nonprofit organization."

SECTION 8.4.(c) G.S. 105-164.14(d) reads as rewritten:

"(d) Late Applications. – Refunds applied for more than ~~three years~~ one year after the due date are barred."

SECTION 8.4.(d) G.S. 105-467(b) reads as rewritten:

"(b) Exemptions and Refunds. – The State exemptions and exclusions contained in ~~G.S. 105-164.13, the State sales and use tax holidays contained in G.S. 105-164.13C and G.S. 105-164.13D, and the State refund provisions contained in G.S. 105-164.14 through G.S. 105-164.14B~~ G.S. 105-164.13 apply to the local sales and use tax authorized to be levied and imposed under this Article. The State refund provisions contained in G.S. 105-164.14 through G.S. 105-164.14B apply to the local sales and use tax authorized to be levied and imposed under this Article. ~~Except~~ The aggregate local refund amount allowed to a nonprofit entity under G.S. 105-164.14(b) for a fiscal year may not exceed the amount set in the table below:

Fiscal Year	Amount
Beginning July 1, 2014	$1,500,000
Beginning July 1, 2015	$ 300,000
Beginning on or after July 1, 2016	$ 30,000.

(b1) Additional Refunds. – Except as provided in this subsection, a taxing county may not allow an exemption, exclusion, or refund that is not allowed under the State sales and use tax. A local school administrative unit and a joint agency created by interlocal agreement among local school administrative units pursuant to G.S. 160A-462 to jointly purchase food service-related materials, supplies, and equipment on their behalf is allowed an annual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services, other than electricity, telecommunications service, and ancillary service. Sales and use tax liability indirectly incurred by the entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the entity and is being erected, altered, or repaired for use by the entity is considered a sales or use tax liability incurred on direct purchases by the entity for the purpose of this subsection. A request for a refund shall be in writing and shall include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the entity's fiscal year. Refunds applied for more than ~~three years~~ one year after the due date are barred."

SECTION 8.4.(e) This section becomes effective July 1, 2014, and applies to purchases made on or after that date.

SECTION 8.5.(a) G.S. 105-164.4(a) reads as rewritten:

(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and three-quarters percent (4.75%).

...

(1a) The general rate ~~of two percent (2%)~~ applies to the sales price of each manufactured home sold at retail, including all accessories attached to the manufactured home when it is delivered to the purchaser. ~~The maximum tax is three hundred dollars ($300.00) per article. Each section of a~~

~~manufactured home that is transported separately to the site where it is to be erected is a separate article.~~

...

(8) The general rate ~~of two and one-half percent (2.5%)~~ applies to the sales price of each modular home sold at retail, including all accessories attached to the modular home when it is delivered to the purchaser. The sale of a modular home to a modular homebuilder is considered a retail sale. A person who sells a modular home at retail is allowed a credit against the tax imposed by this subdivision for sales or use tax paid to another state on tangible personal property incorporated in the modular home. The retail sale of a modular home occurs when a modular home manufacturer sells a modular home to a modular homebuilder or directly to the end user of the modular home."

SECTION 8.5.(b) G.S. 105-164.44G repealed.

SECTION 8.5.(c) G.S. 105-467(a) reads as rewritten:

"(a) Sales Tax. – The sales tax that may be imposed under this Article is limited to a tax at the rate of one percent (1%) of the following:

(1) A retailer's net taxable sales and gross receipts that are subject to the general rate of sales tax imposed by the State under ~~G.S. 105-164.4.~~G.S. 105-164.4 except the tax does not apply to the sales price of a manufactured home or a modular home.

(2) through (4) Repealed by Session Laws 2011-330, s. 45, effective June 27, 2011.

(5) The sales price of food that is not otherwise exempt from tax pursuant to G.S. 105-164.13 but is exempt from the State sales and use tax pursuant to G.S. 105-164.13B.

(5a) The sales price of a bundled transaction that includes food subject to tax under subdivision (5) of this subsection, if the price of the food exceeds ten percent (10%) of the price of the bundle. A retailer must determine the price of food in a bundled transaction in accordance with G.S. 105-164.4D.

(5b) The sales price of bread, rolls, and buns that are sold at a bakery thrift store and are exempt from State tax under G.S. 105-164.13(27a).

(6), (7) Repealed by Session Laws 2011-330, s. 45, effective June 27, 2011."

SECTION 8.5.(d) This section becomes effective October 1, 2014, and applies to sales made on or after that date.

PART IX. ELIMINATE SALES TAX ON FOOD AND AUTHORIZE COUNTIES TO LEVY A LOCAL SALES TAX ON FOOD

SECTION 9.1.(a) G.S. 105-164.13 is amended by adding a new subdivision to read:

"**§ 105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property, digital property, and services are specifically exempted from the tax imposed by this Article:

...

(38a) Food, unless the food is included in one of the food items listed below:

a. Dietary supplements.

b. Food sold through a vending machine.

c. Prepared food.

f. Soft drinks.

g. Candy."

SECTION 9.1.(b) G.S. 105-164.13B is repealed.

SECTION 9.1.(c) G.S. 105-467(a), as amended by Part VIII of this act, reads as rewritten:

"(a) Sales Tax. – The sales tax that may be imposed under this Article is limited to a tax at the rate of one percent (1%) ~~of the following:~~

~~(1)~~ ~~A~~ of a retailer's net taxable sales and gross receipts that are subject to the general rate of sales tax imposed by the State under G.S. 105-164.4 except the tax does not apply to the sales price of a manufactured home or a modular home.

~~(2) through (4) Repealed by Session Laws 2011-330, s. 45, effective June 27, 2011.~~

~~(5) The sales price of food that is not otherwise exempt from tax pursuant to G.S. 105-164.13 but is exempt from the State sales and use tax pursuant to G.S. 105-164.13B.~~

~~(5a) The sales price of a bundled transaction that includes food subject to tax under subdivision (5) of this subsection, if the price of the food exceeds ten percent (10%) of the price of the bundle. A retailer must determine the price of food in a bundled transaction in accordance with G.S. 105-164.4D.~~

~~(5b) The sales price of bread, rolls, and buns that are sold at a bakery thrift store and are exempt from State tax under G.S. 105-164.13(27a).~~

(6), (7) Repealed by Session Laws 2011-330, s. 45, effective June 27, 2011."

SECTION 9.1.(d) G.S. 105-469(a) reads as rewritten:

"(a) The Secretary shall collect and administer a tax levied by a county pursuant to this Article. ~~As directed by G.S. 105-164.13B, taxes levied by a county on food are administered as if they were levied by the State under Article 5 of this Chapter. The Secretary must, on a monthly basis, distribute local taxes levied on food to the taxing counties as follows:~~

~~(1) The Secretary must allocate one-half of the net proceeds on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer. The Secretary must then adjust the amount allocated to each county as provided in G.S. 105-486(b). The Secretary must include one-half of the amount allocated under this subdivision in the distribution made under Article 40 of this Chapter and must include the remaining one-half in the distribution made under Article 42 of this Chapter.~~

~~(2) The Secretary must allocate the remaining net proceeds proportionately to each taxing county based upon the amount of sales tax on food collected in the taxing county in the 1997-1998 fiscal year under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws relative to the total amount of sales tax on food collected in all taxing counties in the 1997-1998 fiscal year under Article 39 of this Chapter and under Chapter 1096 of the 1967 Session Laws. The Secretary must include the amount allocated under this subdivision in the distribution made under Article 39 of this Chapter.~~"

SECTION 9.1.(e) This section becomes effective November 1, 2014, and applies to sales made on or after that date.

SECTION 9.2.(a) Subchapter VIII of Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 47.

" Local Government Sales and Use Tax on Food.

"**§ 105-540. Short title.**

This Article is the Local Government Sales and Use Tax on Food Act.

"**§ 105-541. Levy.**

(a) Authority. – If the majority of those voting in a referendum held pursuant to this section vote for the levy of the tax on food, the board of commissioners of the county may, by

resolution, levy local sales and use taxes on food. In addition, the board of county commissioners may, in the event no election has been held within five years under subsection (b) of this section in which the tax has been defeated, after not less than 10 days' public notice and after a public hearing held pursuant thereto, by resolution, impose and levy the local sales and use tax on food to the same extent and with the same effect as if the levy of the tax had been approved in an election held pursuant to subsection (b) of this section.

(b) Vote. – The board of commissioners of a county may direct the county board of elections to conduct an advisory referendum on the question of whether to levy local sales and use taxes in the county on food as provided in this Article. The election must be held in accordance with the procedures of G.S. 163-287 on the same date as the general election in an even numbered year. The form of the question to be presented on a ballot for a special election concerning the levy of the taxes authorized by this Article shall be:

'[ ] FOR [ ] AGAINST

Local sales and use taxes on food.'

(c) Rate. – The local sales and use tax rate on food is the sum of the rates of the local sales and use taxes authorized and levied by the county under Subchapter VIII of this Chapter and under Chapter 1096 of the 1967 Session Laws.

"**§ 105-542. Administration.**

Except as provided in this Article, the adoption, levy, collection, administration, and repeal of the tax authorized by this Article shall be in accordance with Article 39 of this Chapter.

"**§ 105-543. Distribution of tax.**

The Secretary must, on a monthly basis, allocate to each taxing county the net proceeds of the sales and use taxes collected in that county on food. If the Secretary collects taxes under this Article in a month and the taxes cannot be identified as being attributable to a particular taxing county, the Secretary must allocate the net proceeds of these taxes among the taxing counties in proportion to the amount of taxes collected in each county under this Article in that month.

The Secretary must divide and distribute the funds allocated to a taxing county each month under this section between the county and the municipalities located in the county in accordance with the method by which the one percent (1%) sales and use taxes levied in that county pursuant to Article 39 of this Chapter or Chapter 1096 of the 1967 Session Laws are distributed. No municipality may receive any funds under this section if it was incorporated with an effective date of on or after January 1, 2000, and is disqualified from receiving funds under G.S. 136-41.2. No municipality may receive any funds under this section, incorporated with an effective date on or after January 1, 2000, unless a majority of the mileage of its streets are open to the public."

SECTION 9.2.(b) This section becomes effective January 1, 2015.

PART X. SALES TAX PREFERENCES FOR FARMERS

SECTION 10.(a) Part 3 of Article 5 of Chapter 105 of the General statutes is amended by adding a new section to read:

"**§ 105-164.13E. Exemption for farmer.**

The following tangible personal property, digital property, and services are exempt from sales and use tax if purchased by a farmer and used for a farming. A farmer qualifies for this exemption if the farmer has an annual gross income of ten thousand dollars ($10,000) or more from farming operations for the preceding calendar year. For purposes of this section, a farmer includes a dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a farmer of an aquatic species, as defined in G.S. 106-758.

(1) Fuel and electricity.

(2) Commercial fertilizer, lime, land plaster, plastic mulch, plant bed covers, potting soil, baler twine, and seeds.

(3) Farm machinery, attachment and repair parts for farm machinery, and lubricants applied to farm machinery. The term "machinery" includes implements that have moving parts or are operated or drawn by an animal. The term does not include implements operated wholly by hand or motor vehicles required to be registered under Chapter 20 of the General Statutes.

(4) Any of the following substances when purchased for use on animals or plants, as appropriate, held or produced for commercial purposes. This exemption does not apply to any equipment or devices used to administer, release, apply, or otherwise dispense these substances:

a. Remedies, vaccines, medications, litter materials, and feeds for animals.

b. Rodenticides, insecticides, herbicides, fungicides, and pesticides.

c. Defoliants for use on cotton or other crops.

d. Plant growth inhibitors, regulators, or stimulators, including systemic and contact or other sucker control agents for tobacco and other crops.

e. Semen.

(5) Baby chicks and poults sold for commercial poultry or egg production.

(6) Any of the following tobacco items:

a. The lease or rental of tobacco sheets used in handling tobacco in the warehouse and transporting tobacco to and from the warehouse.

b. A metal flue sold for use in curing tobacco, whether the flue is attached to a hand fired furnace or used in connection with a mechanical burner.

c. A bulk tobacco barn or rack, parts and accessories attached to the tobacco barn or rack, and any similar apparatus, part, or accessory used to cure or dry tobacco or another crop."

SECTION 10.(b) G.S. 105-164.13(1), (1b), (2a), (4a), and (4d) are repealed.

SECTION 10.(c) This section becomes effective July 1, 2014, and applies to sales made on or after that date.

PART XI. PHASED ELIMINATION OF VARIOUS SALES TAX EXEMPTIONS AND REFUNDS

SECTION 11.1.(a) Part 3 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.14C. Phase out of sales tax preferences.**

(a) Refund Amount. – The refund amount allowed under this section for a fiscal year is the percentage amount of sales and use taxes paid during the fiscal year as provided in the table below:

Fiscal Year	Percentage Allowed
Beginning July 1, 2014	75%
Beginning July 1, 2015	50%
Beginning July 1, 2016	25%

(b) Administration. – A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the State's fiscal year. Refunds applied for after the due date are barred.

(c) Not an Overpayment. – Taxes for which a refund is allowed under this section is not an overpayment of tax and do not accrue interest as provided in G.S. 105-241.21.

(d) Refund Allowed. – The following taxpayers are allowed an annual refund of sales and use taxes paid under this Article in the amount provided in subsection (a) of this section.

(1) Farmer. – A farmer that qualifies for a sales tax exemption under G.S. 105-164.13E is allowed a refund of the sales and use tax paid by the farmer on the following items purchased for use in farming operations:
  a. A container used for commercial fertilizer, lime, land plaster, plastic mulch, plant bed covers, potting soil, baler twine, and seeds.
  b. A container used in packaging and transporting the farmer's product for sale.
  c. A grain, feed, or soybean storage facility, and parts and accessories attached to the facility.
  d. A commercially manufactured facility to be used for commercial purposes for housing, raising, or feeding animals or for housing equipment necessary for these commercial activities. The refund also applies to commercially manufactured equipment, and parts and accessories for the equipment, used in the facility
  e. Building materials, supplies, fixtures, and equipment that become a part of and are used in the construction, repair, or improvement of an enclosure or a structure specifically designed, constructed, and used for housing, raising, or feeding animals or for housing equipment necessary for one of these commercial activities. The refund also applies to commercially manufactured equipment, and parts and accessories for the equipment, used in the enclosure or a structure.

(2) Commercial logging. – A person engaged in the commercial logging business is allowed a refund of the sales and use tax by it on the following:
  a. Logging machinery. – Logging machinery is machinery used to harvest raw forest products for transport to first market.
  b. Attachments and repair parts for logging machinery.
  c. Lubricants applied to logging machinery.
  d. Fuel used to operate logging machinery.

(3) Wood chippers. – A person is allowed a refund of the sales and use tax paid by it on a wood chipper that meets all of the following requirements:
  a. It is designed to be towed by a motor vehicle.
  b. It is assigned a 17-digit vehicle identification number by the National Highway Transportation Safety Association.
  c. It is sold to a person who purchases a motor vehicle in this State that is to be registered in another state and who uses the purchased motor vehicle to tow the wood chipper to the state in which the purchased motor vehicle is to be registered.

(4) Telephone company. – A telephone company regularly engaged in providing telecommunications service to subscribers on a commercial basis is allowed a refund of the sales and use tax paid by it on central office equipment, switchboard equipment, private branch exchange equipment, terminal equipment other than public pay telephone terminal equipment, and parts and accessories attached to the equipment.

(5) Radio or television company. – A radio or television company licensed by the Federal Communications Commission is allowed a refund of the sales and use tax paid by it on towers, broadcasting equipment, and parts and accessories attached to the equipment.

(6) Cable service provider. – A cable service provider is allowed a refund of the sales and use tax paid by it on broadcasting equipment and parts and accessories attached to the equipment. For the purposes of this subdivision, "broadcasting equipment" does not include cable.

(7) Commercial fishing. – A person listed in this subdivision is allowed a refund of the sales and use tax paid by it on boats, fuel oil, lubricating oils, machinery, equipment, nets, rigging, paints, parts, accessories, and supplies.
a. The holder of a standard commercial fishing license issued under G.S. 113-168.2 for principal use in commercial fishing operations.
b. The holder of a shellfish license issued under G.S. 113-169.2 for principal use in commercial shellfishing operations.
c. The operator of a for-hire boat, as defined in G.S. 113-174, for principal use in the commercial use of the boat.

(8) Commercial laundries and dry cleaners. – A commercial laundry or dry cleaning establishment is allowed a refund of the sales and use tax paid by it on the following:
a. Articles or materials used for the identification of garments being laundered or dry cleaned, wrapping paper, bags, hangers, starch, soaps, detergents, cleaning fluids and other compounds or chemicals applied directly to the garments in the direct performance of the laundering or the pressing and cleaning service.
b. Laundry and dry-cleaning machinery, parts and accessories attached to the machinery, and lubricants applied to the machinery.
c. Fuel used in the direct performance of the laundering or the pressing and cleaning service.

(9) Packaging items. – A manufacturer, producer, or retailer is allowed a refund of the sales and use tax paid by it on wrapping paper, labels, wrapping twine, paper, cloth, plastic bags, cartons, packages and containers, cores, cones or spools, wooden boxes, baskets, coops and barrels, including paper cups, napkins and drinking straws and like articles, when such materials are used for packaging, shipment or delivery of tangible personal property which is sold either at wholesale or retail and when such articles constitute a part of the sale of such tangible personal property and are delivered with it to the customer.

(10) Commercial printer and publisher. – A commercial printer or a commercial publisher is allowed a refund of the sales and use tax paid by it on paper, ink, and other tangible personal property for use as ingredients or component parts of free distribution periodicals and sales by printers of free distribution periodicals to the publishers of these periodicals. As used in this subdivision, the term "free distribution periodical" means a publication that is continuously published on a periodic basis monthly or more frequently, is provided without charge to the recipient, and is distributed in any manner other than by mail.

(11) Railroad company. – A railroad company is allowed a refund of the sales and use tax paid by it on diesel fuel for use in rolling stock other than motor vehicles. The definitions in G.S. 105-333 apply in this subdivision.

(12) Passenger air carrier. – An interstate passenger air carrier is allowed a refund of the sales and use tax paid by it on fuel in excess of two million five hundred thousand dollars ($2,500,000). The amount of sales and use tax paid does not include a refund allowed to the interstate passenger air carrier under G.S. 105-164.14(a)."

SECTION 11.1.(b) G.S. 105-164.13(1a), (4c), (4f), (4g), (5b), (5c), (5d), (9), (10), (11a), (23)a, and (39) are repealed.

SECTION 11.1.(c) G.S. 105-467(b), as amended in Part VIII of this act, reads as rewritten:

"(b) Exemptions and Refunds. – The State exemptions and exclusions contained in G.S. 105-164.13 apply to the local sales and use tax authorized to be levied and imposed under this Article. The State refund provisions contained in G.S. 105-164.14 through ~~G.S. 105-164.14B~~ 105-164.14C apply to the local sales and use tax authorized to be levied and imposed under this Article. The amount of a refund allowed under G.S. 105-164.14C is the same percentage refund amount allowed for a State refund under that section. The aggregate local refund amount allowed to a nonprofit entity under G.S. 105-164.14(b) for a fiscal year may not exceed the amount set in the table below:

Fiscal Year	Amount
Beginning July 1, 2014	$1,500,000
Beginning July 1, 2015	$ 300,000
Beginning on or after July 1, 2016	$ 30,000."

SECTION 11.1.(d) This section becomes effective July 1, 2014, and applies to sales and purchases made on or after that date.

SECTION 11.2.(a) G.S. 105-164.14C, as enacted by this Part, is repealed.

SECTION 11.2.(b) G.S. 105-467(b), as amended by this Part, reads as rewritten:

"(b) Exemptions and Refunds. – The State exemptions and exclusions contained in G.S. 105-164.13 apply to the local sales and use tax authorized to be levied and imposed under this Article. The State refund provisions contained in G.S. 105-164.14 through ~~105-164.14C~~ 105-164.14B apply to the local sales and use tax authorized to be levied and imposed under this Article. ~~The amount of a refund allowed under G.S. 105-164.14C is the same percentage refund amount allowed for a State refund under that section.~~ The aggregate local refund amount allowed to a nonprofit entity under G.S. 105-164.14(b) for a fiscal year may not exceed the amount set in the table below:

Fiscal Year	Amount
Beginning July 1, 2014	$1,500,000
Beginning July 1, 2015	$ 300,000
Beginning on or after July 1, 2016	$ 30,000."

SECTION 11.2.(c) This section becomes effective July 1, 2017, and applies to purchases made on or after that date.

PART XII. ELIMINATE ESTATE TAX

SECTION 12.(a) Article 1A of Chapter 105 of the General Statutes is repealed.

SECTION 12.(b) G.S. 105-241.10 reads as rewritten:

"**§ 105-241.10. Limit on refunds and assessments after a federal determination.**

The limitations in this section apply when a taxpayer files a timely return reflecting a federal determination that affects the amount of State tax payable and the general statute of limitations for requesting a refund or proposing an assessment of the State tax has expired. A federal determination is a correction or final determination by the federal government of the amount of a federal tax due. A return reflecting a federal determination is timely if it is filed within the time required by G.S. ~~105-32.8,~~ 105-130.20, 105-159, 105-160.8, or 105-163.6A, as appropriate. The limitations are:

(1) Refund. – A taxpayer is allowed a refund only if the refund is the result of adjustments related to the federal determination.

(2) Assessment. – A taxpayer is liable for additional tax only if the additional tax is the result of adjustments related to the federal determination. A proposed assessment may not include an amount that is outside the scope of this liability."

SECTION 12.(c) G.S. 105-236(a)(5) reads as rewritten:

"(a) Penalties. – The following civil penalties and criminal offenses apply:

...

(5) Negligence. –

...

~~e. Estate tax deficiencies. This subdivision does not apply to estate tax deficiencies that are the result of valuation understatements.~~

...."

SECTION 12.(d) This section becomes effective January 1, 2013, and applies to the estates of decedents dying on or after that date.

PART XIII. DEED STAMP TAX PROCEEDS CREDITED TO GENERAL FUND

SECTION 13.(a) G.S. 105-228.30(b) reads as rewritten:

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

SECTION 13.(b) G.S. 113-44.15(a) reads as rewritten:

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

SECTION 13.(c) G.S. 113-77.9 reads as rewritten:

"**§ 113-77.9. Acquisition of lands with funds from the Natural Heritage Trust Fund.**

...

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

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

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

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

...

~~(b2) Historic Properties. The Trustees may authorize expenditure of up to twenty-five percent (25%) of the funds credited to the Fund pursuant to G.S. 105-228.30 during the~~

~~preceding fiscal year to acquire land under subdivision (3) of subsection (b) of this section. No other funds in the Fund may be used for expenditures to acquire land under subdivision (3) of subsection (b) of this section.~~

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

...".

SECTION 13.(d) This section becomes effective July 1, 2013, and applies to transfers made on or after that date.

PART XIV. SCRAP TIRE DISPOSAL TAX PROCEEDS CREDITED TO GENERAL FUND

SECTION 14.(a) G.S. 105-187.19(b) reads as rewritten:

"(b) Each quarter, the Secretary shall credit ~~eight percent (8%) of the net tax proceeds to the Solid Waste Management Trust Fund, seventeen percent (17%) of the net tax proceeds to the Scrap Tire Disposal Account, two and one-half percent (2.5%) of the net tax proceeds to the Inactive Hazardous Sites Cleanup Fund, and two and one-half percent (2.5%) of the net tax proceeds to the Bernard Allen Memorial Emergency Drinking Water Fund.~~thirty percent (30%) of the net tax proceeds to the General Fund. The Secretary shall distribute the remaining seventy percent (70%) of the net tax proceeds among the counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer."

SECTION 14.(b) G.S. 130A-309.63 is repealed.

SECTION 14.(c) Part 2B of Article 9 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-309.64. Scrap Tire Disposal Program; other Department activities related to scrap tires.**

(a) The Department may make grants to units of local government to assist them in disposing of scrap tires. To administer the grants, the Department shall establish procedures for applying for a grant and the criteria for selecting among grant applicants. The criteria shall include the financial ability of a unit of local government to provide for scrap tire disposal, the severity of a unit of local government's scrap tire disposal problem, the effort made by a unit of local government to ensure that only tires generated in the normal course of business in this State are provided free disposal, and the effort made by a unit of local government to provide for scrap tire disposal within the resources available to it.

(b) A unit of local government is not eligible for a grant under subsection (a) of this section unless its costs for disposing of scrap tires for the six-month period preceding the date the unit of local government files an application for a grant exceeded the amount the unit of local government received during that period from the proceeds of the scrap tire tax under G.S. 105-187.19. A grant to a unit of local government for scrap tire disposal may not exceed the unit of local government's unreimbursed cost for the six-month period.

(c) The Department may support a position to provide local governments with assistance in developing and implementing scrap tire management programs designed to complete the cleanup of nuisance tire collection sites and prevent scrap tires generated from outside of the State from being presented for free disposal in the State.

(d) The Department may clean up scrap tire collection sites that the Department has determined are a nuisance. The Department may use funds to clean up a nuisance tire collection site only if no other funds are available for that purpose.

(e) The Department shall include in the report to be delivered to the Environmental Review Commission on or before January 15 of each year pursuant to G.S. 130A-309.06(c) a description of the implementation of the North Carolina Scrap Tire Disposal Act under this Part for the fiscal year ending the preceding June 30. The description of the implementation of the North Carolina Scrap Tire Disposal Act shall include a list of the recipients of grants under subsection (a) of this section and the amount of each grant for the previous 12-month period. The report also shall include the amount of funds used to clean up nuisance sites under subsection (d) of this section.

(f) The Department may adopt any rules necessary to implement this section."

SECTION 14.(d) G.S. 130A-309.06(c) reads as rewritten:

"(c) The Department shall report to the Environmental Review Commission on or before 15 January of each year on the status of solid waste management efforts in the State. The report shall include:

...

(10) A description of the implementation of the North Carolina Scrap Tire Disposal Act that includes ~~the beginning and ending balances in the Scrap Tire Disposal Account for the reporting period, the amount credited to the Scrap Tire Disposal Account during the reporting period, and~~the amount of revenue used for grants and to clean up nuisance tire collection ~~sites, as required by G.S. 130A-309.63(e).~~under the provisions of G.S 130A-309.64.

...."

SECTION 14.(e) G.S. 130A-309.09C(g) reads as rewritten:

"(g) In addition to any other penalties provided by law, a unit of local government that does not comply with the requirements of G.S. 130A-309.09A(b) and G.S. 130A-309.09B(a) shall not be eligible for grants from the Solid Waste Management Trust ~~Fund, the Scrap Tire Disposal Account,~~Fund or the White Goods Management Account and shall not receive the proceeds of the scrap tire disposal tax imposed by Article 5B of Chapter 105 of the General Statutes or the proceeds of the white goods disposal tax imposed by Article 5C of Chapter 105 of the General Statutes to which the unit of local government would otherwise be entitled. The Secretary shall notify the Secretary of Revenue to withhold payment of these funds to any unit of local government that fails to comply with the requirements of G.S. 130A-309.09A(b) and G.S. 130A-309.09B(a). Proceeds of the scrap tire disposal tax that are withheld pursuant to this subsection shall be credited to the ~~Scrap Tire Disposal Account~~General Fund and may be used as provided in ~~G.S. 130A-309.63.~~G.S. 130A-309.64. Proceeds of the white goods disposal tax that are withheld pursuant to this subsection shall be credited to the White Goods Management Account and may be used as provided in G.S. 130A-309.83."

SECTION 14.(f) Any tax proceeds remaining in the Scrap Tire Disposal Account, repealed under subsection (b) of this section, as of the effective date of this section shall continue to be used for the same purposes and in the same manner as the Scrap Tire Disposal Account, except the funds in the Scrap Tire Disposal Account shall not be used for grants to encourage the use of processed scrap tire materials.

SECTION 14.(g) This section becomes effective July 1, 2013.

PART XV. EFFECTIVE DATE

SECTION 15.(a) This act does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this act before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal.

SECTION 15.(b) G.S. 105-237.1(a) reads as rewritten:

"(a) Authority. – The Secretary may compromise a taxpayer's liability for a tax that is collectible under G.S. 105-241.22 when the Secretary determines that the compromise is in the best interest of the State and makes one or more of the following findings:

...

(6) The taxpayer is a retailer or a person under Article 5 of this Chapter, the assessment is for sales or use tax the retailer failed to collect or the person failed to pay on an item taxable under G.S. 105-164.4(a)(9) and the retailer or person made a good-faith effort to comply with the sales and use tax laws. This subdivision expires for assessments issued after July 1, 2020."

SECTION 15.(c) Except as otherwise provided, this act is effective when it becomes law.

House Bill 998 (Senate PCS)

"Tax Simplification and Reduction Act"

Senate PCS H998-CSRDx-29 differs from the one distributed yesterday in the following ways:

- *Corrects citation errors*
- *Repeals food from the local tax base in November 2014, as reducing it b 1% in 2014.*

PART I: PERSONAL INCOME TAX CHANGES		
Section	Explanation	Effective Date
1.1	Flat 5.4% tax rate Zero tax bracket of $15,000 (MJF), $12,000 (H/H), $7,500 (single and MFS) Eliminate marriage penalty by adjusting tax brackets Broad base • Eliminate all credits but the child credit • Eliminate all exemptions and deductions except those required by court decisions (*Bailey*) or federal law or to prevent double taxation	January 1, 2014
1.2	Flat 5.25% tax rate.	January 1, 2015
1.3	Conforming changes re: recodified statutes	January 1, 2014
1.4	Conforming changes re: other statutes	January 1, 2014
1.5	Conforming changes re: elimination of tax credit for real property donations	January 1, 2014
PART II: CORPORATE INCOME TAX CHANGES		
Section	Explanation	Effective Date
2.1	Reduction of tax rate over three years: 6%, 4%, 2%	January 1, 2014
2.2(a)	Elimination of corporate income tax	January 1, 2017
2.2(b)	Elimination of tax credits that do not sunset prior to 2017 and that are outside the repealed CIT part	January 1, 2017
2.3	Repeal earmarking of corporate tax revenues for Public School Building Capital Fund. The funds have not been applied to this purpose since 2008.	Aril 1, 2014
PART III: BUSINESS PRIVILEGE TAX (new)		
Section	Explanation	Effective Date
3.1	Impose flat business privilege tax on all limited liability entities, except C corporations • 2015 = $400 • 2016 = $600 • 2017 = $750 (and thereafter)	January 1, 2015, and applies to taxes due in that year
3.2	Impose flat business privilege tax on C corporations, $5,000	January 1, 2018, and applies to taxes due in that year
PART IV: FRANCHISE TAX CHANGES		

Section	Explanation	Effective Date
4.1	Exempt S corporations from the franchise tax, because subject to flat business privilege tax	January 1, 2015
4.2	Phased elimination of the franchise tax on C corporations 2015 - $1.20 per $1,000, minimum tax of $500 2016 - $0.90 per $1,000, minimum tax of $1,000 2017 - $0.60 per $1,000, minimum tax of $2,000	January 1, 2015, and applies to taxes due in that year
4.3	Elimination of franchise tax	January 1, 2018
PART V: ANNUAL REPORT FILING FEES		
Section	Explanation	Effective Date
5	Eliminate filing fees payable to Secretary of State Makes conforming changes in other statutes	January 1, 2015
PART VI: STATE AND LOCAL PRIVILEGE LICENSE TAXES		
Section	Explanation	Effective Date
6.1	Eliminate various State privilege license taxes	January 1, 2018 & July 1, 2018
6.2	Eliminate local authority to impose privilege license taxes	July 1, 2018
6.3	Conforming changes to other statutes	July 1, 2018
PART VII: ELECTRICITY AND PIPE NATURAL GAS		
Section	Explanation	Effective Date
7.1(a)	Repeal 3.22% gross receipts franchise tax on electricity Repeal distribution of part of the proceeds to cities	July 1, 2014
7.1(b)	Conforming change	July 1, 2014
7.1(c)	Repeal preferential sales tax rate on electricity: 2.83% under 105-164.4(a)(1f) for dry cleaning establishments and 3% under 105-164.4(a)(4a) for other taxable users (manufacturers, farmers, and datacenters are exempt from sales tax on electricity)	July 1, 2014
7.1(d)	Repeal excise tax on piped natural gas and distribution of a portion of that tax to cities Repeal sales tax exemption for piped natural gas	July 1, 2014
7.1(e)	Impose State combined general rate of 7% on electricity and piped natural gas	July 1, 2014
7.2	Directs the Utilities Commission to adjust the rates set for electricity and piped natural gas to reflect the changes made in the bill	
7.3	Provides a distribution formula of State sales tax revenue collected on electricity and piped natural gas to cities based on the current distribution amounts they receive and directs Revenue to make the distribution quarterly	July 1, 2014

PART VIII: SALES TAX CHANGES		
Section	Explanation	Effective Date
8.1	Repeals the following sales tax exemptions • Nutritional supplements sold by chiropractors (13c) • Newspapers (28) • Vending machines (30) and (50)	October 1, 2013
8.2	Repeals the following sales tax exemptions • Meals sold to students in dining halls operated by educational institutions (27) • Bread sold at a bakery thrift store (27a) • Back-to-school sales tax holiday (-164.13C) • Energy star sales tax holiday (-164.13D)	July 1, 2014
8.3(a)	Repeal 3% gross receipts tax on live entertainment Repeal 1% gross receipts tax on movies	October 1, 2013
8.3(b)	Impose sales tax on admission charges to live entertainment and movies Impose sales tax on admission charges to an attraction An admission charge does not include a charge for amenities, as provided under current law	October 1, 2013
8.3(c)	Exempts the following entertainment from sales tax: • Events held at elementary and secondary schools • Agricultural fairs • Nonprofit fund-raising events • Youth (under 20) athletic contests sponsored by a nonprofit	October 1, 2013
8.3(d)-(f)	Conforming changes to other statutes	
8.3(e)	Provides the tax applies to admissions to a live event for which the initial sale of tickets occurred before October 1, 2013	
8.4(a)	Repeal sales tax refund for local governments	July 1, 2014
8.4(b), (d)	Caps the sales tax refund for nonprofit entities as follows: • 2014 – State = $5m; Local = $3m • 2015 – State = $1m; Local = $300k • 2016 and thereafter – State = $100k; Local = $30k	July 1, 2014
8.4(c)	Changes the late application time period from 3 years to 1 year. Nonprofits are allowed a semi-annual refund. The refund application for the first 6 months is due by October 15; a refund for the second 6 months is due by April 15. Changes more than 3 years (changed to 1 year) after the due date is barred	July 1, 2014
8.5(a)	• Increases the State sales tax rate on manufactured home from 2%, with a $300 cap to the State general rate (4.75%) without a cap • Increases the State sales tax rate on modular home from 2.5% to the State general rate (4.75%)	October 1, 2014
8.5(b)	Eliminates tax-sharing of sales tax collected on modular homes with counties	October 1, 2014
8.5(c)	Excludes manufactured homes and modular homes from the local sales tax base (no change from current law)	October 1, 2014

PART IX: ELIMINATE LOCAL SALES TAX ON FOOD (new)		
Section	Explanation	Effective Date
9.1(a)	Exempt food from State sales tax base (same as current law) so that it is effectively eliminated from the local sales tax base	November 1, 2014
9.1(b)-(d)	Repeal local sales tax on of food	November 1, 2014
9.2	Authorize counties to levy a sales tax on food • Could levy with or without an advisory referendum • Rate would be the sum of the rates of the local sales tax authorized and levied by the county (ranges from 2%-2.75%) • Distribute with cities	January 1, 2015
PART X: GROSS INCOME REQUIREMENT FOR FARMERS TO QUALIFY FOR SALES TAX PREFERENCES (new)		
Section	Explanation	Effective Date
10(a)	Imposes an annual gross income requirement of $10,000 from farming operations to obtain a sales tax exemption certificate. Lists the various agricultural items exempt from tax (see list below)	July 1, 2014
10(b)	Subsection (a) lists the following items as exempt from tax if purchased by a qualifying farmer: commercial fertilizer, lime, land plaster, plastic mulch, plant bed covers, potting soil, baler twine, seeds, farm machinery, and fuel (1), electricity (1b), substances used on animals or plants (2a), baby chicks (4a), tobacco items (4d); this subsection repeals them from the existing exemption statute	July 1, 2014
PART XI: PHASED ELIMINATION OF VARIOUS SALES TAX PREFERENCES (new)		
Section	Explanation	Effective Date
11.1(a), (c)	Phased elimination of State and local sales tax refunds by reducing refunds by 75% in 2014, 50% in 2015, and 25% in 2016	July 1, 2014
11.1(b)	Repeals existing exemptions and refunds that are included in the newly created statute: containers used by farmers and storage facilities (1a), facilities used in housing animals (4c), commercial logging (4f), wood chippers (4g), telephone companies (5b), radio and television companies (5c), cable service providers (5d), commercial fishing (9), dry cleaning establishments (10), diesel fuel for railroads (11), packaging items (23.a), commercial printers (39)	July 1, 2014
11.2	Repeals the refund provisions for the items listed above	July 1, 2017
PART XII: REPEAL ESTATE TAX		
Section	Explanation	Effective Date
12	Repeal estate tax	January 1, 2013
PARTS XIII AND XIV: ELIMINATE EARMARKING OF REVENUES *(Included in the Senate version of the budget, SB 402, Sections 14.14 and 14.16)*		
Section	Explanation	Effective Date
13 -14	Credit deed stamp proceeds and scrap tire disposal tax proceeds to the General Fund	July 1, 2013

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: June 12, 2013

TO: Senate Finance Committee

FROM: Jonathan Tart, Brian Slivka, Barry Boardman, and Sandra Johnson
Fiscal Research Division

RE: Senate PCS to House Bill 998

Please see the fiscal impact table on the following pages.

FISCAL IMPACT ($ in millions)					
State General Fund Revenues:	**FY 13-14**	**FY 14-15**	**FY 15-16**	**FY 16-17**	**FY 17-18**
Income, Franchise, and Estate Taxes					
Flat Tax of 5.4% in 2014, then 5.25% in 2015 on Federal Adjusted Gross Income[FAGI] - no exemptions, deductions, or credits (01/01/2014); $15,000 zero bracket MFJ, $12,000 HOH, $7,500 single; child credit $100	(239.1)	(683.0)	(1044.9)	(1089.8)	(1136.7)
Eliminate the corporate income tax in 2017, 6.0% in 2014, 4.0% in 2015, 2.0% in 2016	0.0	(261.5)	(661.7)	(1101.2)	(1210.4)
End transfer to public school capital fund	85.9	71.9	47.4	20.3	17.4
Repeal excise tax on piped natural gas		(31.5)	(32.0)	(32.5)	(32.9)
Repeal franchise tax on electricity		(157.0)	(159.0)	(160.6)	(162.2)
Replace franchise with privilege tax		(23.0)	(4.0)	37.0	98.0
Repeal estate tax	(52.0)	(57.0)	(60.0)	(62.0)	(65.0)
TOTAL INCOME, FRANCHISE, ESTATE TAX	**$ (205.2)**	**$ (1,141.2)**	**$ (1,914.2)**	**$ (2,388.8)**	**$ (2,491.8)**
Sales and Privilege License Taxes					
Make electricity subject to combined general sales tax rate		417.1	427.7	440.5	453.8
Make piped natural gas subject to combined general sales tax rate		102.3	103.9	105.4	107.0
Distribution to municipalities for franchise tax and piped natural gas		(207.1)	(209.4)	(211.6)	(213.8)
Nonprofit refunds, $5 M cap 2014, $1 M 2015, $100k in 2016		59.0	139.5	235.5	295.5
Refunds for local governments (01/01/2015)		67.8	140.9	146.5	152.4
End transfer of real estate conveyance (07/01/2014)		37.4	39.0	39.0	39.0
End transfer of scrap tire disposal (01/01/2014)	2.7	5.5	5.6	5.7	5.7
Repeal exemption for chiropractor's nutritional supplements (10/01/2013)	0.1	0.1	0.1	0.1	0.1
Repeal Energy Star sales tax holiday (07/01/2014)		1.6	1.7	1.8	1.8
Repeal Sales and use tax holiday (7/01/2014)		14.7	15.1	16.1	17.1
Repeal food sold in dining rooms operated by educational institutions (07/01/2014)		34.0	35.0	36.1	37.1
Repeal exemption for certain bakery items (07/01/2014)		3.9	4.1	4.2	4.4
Repeal exemption for vending machines (10/01/2013)	7.8	11.6	12.0	12.4	12.8
Repeal exemption for certain sales of newspapers (10/01/2013)	5.0	7.8	8.0	8.3	8.6
Repeal gross receipts tax on live entertainment and movies and other amusements, include admission fees in tax base (10/01/2013)	9.3	16.5	17.2	17.9	18.6
Add a gross receipts requirement for farmers of $10,000 for the purpose of receiving tax exemptions and refunds (1/1/2015)		4.5	9.2	9.4	9.6
Change various exemptions to refunds and phase-out over 3 years		44.0	120.8	186.6	203.9
Repeal preferential rate for manufactured homes (10/01/2014)	4.5	7.2	7.2	7.2	7.2
Tax modular homes at state rate (10/01/2014)	1.9	3.0	3.0	3.0	3.0
TOTAL SALES and PRIVILEGE LICENSE TAXES	**$31.4**	**$630.9**	**$880.6**	**$1,064.0**	**$1,163.7**
STATE IMPACT	**$ (173.8)**	**$ (510.2)**	**$ (1,033.6)**	**$ (1,324.8)**	**$ (1,328.1)**

FISCAL IMPACT ($ in millions)	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18
Local Revenues					
Local food tax phase out (11/01/2014, 11/01/2016); local option		(77.4)	(134.5)	(224.5)	(267.6)
Repeal franchise tax on electricity		(187.0)	(189.0)	(190.9)	(192.8)
Repeal excise tax on piped natural gas		(20.1)	(20.4)	(20.7)	(21.0)
Distribution to municipalities for electric and piped natural gas		207.1	209.4	211.6	213.8
Nonprofit refunds, $5 M cap 2014, $1 M 2015, $100k in 2016		24.8	58.7	99.2	124.4
Refunds for local governments (01/01/2015)		(67.8)	(140.9)	(146.5)	(152.4)
Repeal exemption for chiropractor's nutritional supplements (10/01/2013)		0.0	0.0	0.0	0.0
Repeal Energy Star sales tax holiday (07/01/2014)		0.7	0.7	0.7	0.8
Repeal Sales and use tax holiday (7/01/2014)		6.2	6.4	6.8	7.2
Repeal exemption for vending machines (10/01/2013)	3.3	4.9	5.1	5.2	5.4
Repeal exemption for certain sales of newspapers (10/01/2013)	2.1	3.3	3.4	3.5	3.6
Repeal gross receipts tax on live entertainment and movies and other amusements, include admission fees in tax base (10/01/2013)	3.9	7.0	7.2	7.5	7.8
Add a gross receipts requirement for farmers of $10,000 for the purpose of receiving tax exemptions and refunds (1/1/2015)		6.9	7.3	7.4	7.6
Change various exemptions to refunds and phase-out over 3 years		18.5	50.9	78.6	85.9
LOCAL IMPACT	$ 9.3	$ (72.9)	$ (135.7)	$ (162.2)	$ (177.3)

BILL SUMMARY:

PERSONAL INCOME TAX

Part I makes the changes described below to the personal income tax. Unless otherwise indicated, the changes are effective for the 2014 tax year.

- Eliminates the $50,000 business income deduction, effective for the 2013 tax year
- Establishes a $15,000 zero bracket for married filing jointly taxpayers ($12,000 for head of household and $7,500 for single and married filing separately)
- Establishes a flat 5.40% tax rate
- Lowers rate to a flat 5.25% tax rate beginning January 1st 2015
- Eliminates the NC standard and itemized deductions
- Eliminates the personal exemption
- Eliminates deduction for severance wages
- Eliminates deduction for benefits received under Title II of the Social Security Act
- Eliminates deduction for other retirement benefits
- Eliminates deduction for contributions to the Parental Savings Trust Fund of the State Education Assistance Authority
- Eliminates deduction for an eligible firefighter or an eligible rescue squad worker
- Eliminates deduction for educator expenses
- Eliminates deduction for compensation for erroneous conviction and imprisonment
- Eliminates deduction for amount paid from the Hurricane Floyd Reserve Fund
- Eliminates deduction for amount paid from the Disaster Relief Reserve Fund
- Repeals tax credit for construction of dwelling units for handicapped persons
- Repeals tax credit for child care and certain employment-related expenses

- Repeals tax credit for certain real property donations
- Repeals tax credit for conservation tillage equipment
- Repeals tax credit for gleaned crop
- Repeals tax credit for the disabled
- Repeals tax credit for non-itemizer charitable contributions
- Repeals tax credit for partial refund for tax paid on certain federal retirement benefits
- Repeals tax credit for property taxes paid on farm machinery
- Repeals tax credit for construction of a poultry composting facility
- Repeals tax credit for education expenses

CORPORATE INCOME TAX

Part II reduces the corporate income tax rate from 6.9% to 6% in 2014, to 4% in 2015, to 2% in 2016, and eliminates the tax in 2017. It repeals earmarking of corporate income tax revenues for the Public School Building Capital Fund. Part II repeals the following corporate income tax credits:

- Repeals tax credit for construction of dwelling units for handicapped persons
- Repeals tax credit for certain real property donations
- Repeals tax credit for conservation tillage equipment
- Repeals tax credit for gleaned crop
- Repeals tax credit for construction of a poultry composting facility

FRANCHISE/PRIVILEGE TAX

Part III eliminates Secretary of State annual report fees for all business types and eliminates franchise tax on S corporations, effective for fees or taxes otherwise due to be paid in 2015. It imposes a privilege tax on S corporations, and on LLCs and similar types of unincorporated entities with limited liability protection. The privilege tax is due on the 15th day of the 4th month after the close of the income year, and is for the privilege of doing business for the income year in which the tax is due. The business privilege tax is $400 for tax due in 2015, $600 for tax due in 2016, $750 for tax due in 2017 and after.

Part III reduces the franchise tax rate on C corporations from $1.50/1,000 to $1.20/1,000 for tax due in 2015, to $.90/1,000 for tax due in 2016, and to $.60/1,000 for tax due in 2017. It increases the minimum franchise tax on C corporations from $35 to $500 for tax due in 2015, to $1,000 for tax due in 2016, and to $2,000 for tax due in 2017. It eliminates the franchise tax on C corporations for tax otherwise due in 2018. It imposes privilege tax on C corporations effective for tax due in 2018. The privilege tax amount for C corporations is $5,000.

TAX PAID IN:	2014	2015	2016	2017	201
LLCs	$200	$400	$600	$750	$750
S-Corps	$1.50/1000	400	$600	$750	$750
C-Corp Franchise Rate	$1.50/1000	$1.20/1000	$0.90/1000	$0.60/1000	0
C-Corp Minimum Fee (2018 priv. tax)	$35	$500	$1,000	$2,000	$5,000

SALES AND USE TAX

- Subjects electricity to the combined general sales tax rate, 7%; July 1, 2014
- Taxes piped natural gas at the combined general sales tax rate, 7%; July 1, 2014
- Preserves the municipal distribution of franchise taxes and piped natural gas taxes; July 1, 2014
- Repeals the following sales tax exemptions within G.S. 105-164.13 on October 1, 2013:
  - Nutritional supplements sold by chiropractors (13c),
  - Newspapers (28), and
  - Vending machines (30) and (50).
- Repeals the following sales tax exemptions within G.S. 105-164.13 on July 1, 2014:
  - Meals sold to students in dining halls operated by educational institutions (27)
  - Bread sold at a bakery thrift store (27a)
  - Back-to-school sales tax holiday (-164.13C)
  - Energy star sales tax holiday (-164.13D)
- Makes the following changes to the taxation of entertainment, as of October 1, 2013:
  - Repeals the 3% gross receipts tax on live entertainment, October 1, 2013
  - Repeals the 1% gross receipts tax on movies, October 1, 2013
  - Imposes a sales tax on admission charges to live entertainment and movies
  - Imposes a sales tax on admission charges to an attraction
- Exempts the following events from sales tax as of October 1, 2013:
  - Events held at elementary and secondary schools,
  - Agricultural fairs,
  - Nonprofit fund-raising events, and
  - Youth (under 20) athletic contests sponsored by a nonprofit.
- Makes the following changes to the eligibility of sales tax refunds, as of July 1, 2014:
  - Repeal sales tax refund for local governments
  - Caps the sales tax refund for nonprofit entities as follows:
    - 2014 – State = $5m; Local = $3m
    - 2015 – State = $1m; Local = $300k
    - 2016 and thereafter – State = $100k; Local = $30k July 1, 2014
    - Changes the refund time period from 3 years to 1 year.
- Increases the State sales tax rate on manufactured homes from 2%, with a $300 cap to the State general rate (4.75%) without a cap, October 1, 2014.
- Increases the State sales tax rate on modular homes from 2.5% to the State general rate (4.75%), October 1, 2014.

- Repeals the local sales tax on food, 1% repeal November 1, 2014, full exemption November 1, 2016.
- Authorizes counties to levy a sales tax on food at the full local rate ranging from 2% to 2.5%.

ASSUMPTIONS AND METHODOLOGY:

Personal Income, Corporate Income, and Franchise Taxes

The estimated impact of the individual income tax changes is based on the North Carolina BearingPoint Individual Income Tax Model and on information obtained from the Department of Revenue.

The estimated impact of the corporate income and franchise tax changes is based on queries of tax collection data obtained from the Department of Revenue, the Consensus Forecast, on the Tax Expenditure Report, and on Economic Incentive Reports.

Sales and Use and Privilege License Taxes

Fiscal Research utilized data from the North Carolina Department of Revenue's 2011 Tax Expenditure Report as well as the information provided in the 2010 Statistical Abstract to calculate the impact of repealing various tax exemptions. The estimated impact of the sales and use tax base expansion is based on industry sales data compiled from the 2007 Economic Census, as reported by the US Census Bureau.

Repeal Sales Tax Exemption convert to a Refund: Phase out over 4 years. 75% refund in FY 2014, 50% in FY 2015, 25% in FY 2016, repealed in FY 2017.	**Statute**
Items Used by Laundries and Dry Cleaning Businesses	164.13(10)
Tangible Property Purchased for Commercial Fishing	164.13(9)
Radio and Television Broadcast Equipment	164.13(5c)
Refund for Passenger Air Carrier	164.14A(a)(1)
Commercial Logging Machinery	164.13(4f)
Components of Free Distribution Periodicals	164.13(39)
Manufactured Facilities, Building Materials and Related Equipment for Commercial Housing of Animals	164.13(4c)
Containers and Certain Storage Facilities Sold to a Farmer	164.13(1a)
Cable Service Broadcast Equipment	164.13(5d)
Telephone Equipment	164.13(5b)
Packaging Items for Manufacturers, Producers and Retailers	164.13(23)a

Wood Chippers for Out-of-State Use	164.13(4g)
Diesel Fuel for Railroads	164.13(44)

SOURCES OF DATA: NC Department of Revenue, North American Industry Classification System, U.S. Census Bureau, North Carolina BearingPoint Individual Income Tax Model

TECHNICAL CONSIDERATIONS: None

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 998

AMENDMENT NO. 1
(to be filled in by Principal Clerk)

H998-ARB-52 [v.1]

Comm. Sub. [YES]
Amends Title [NO]
H998-CSTDx-29

Date June 12 ,2013

Senator Brunstetter

moves to amend the bill on page 27, lines 29-31 by rewriting the lines to read:

"Beginning July 1, 2014	$7,500,000
Beginning July 1, 2015	$5,000,000
Beginning July 1, 2016	$1,000,000
Beginning on or after July 1, 2017	$ 100,000.";

And on page 28, lines 22-24, by rewriting the lines to read:

Beginning July 1, 2014	$2,250,000
Beginning July 1, 2015	$1,500,000
Beginning July 1, 2016	$ 300,000
Beginning on or after July 1, 2017	$ 30,000.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 998

AMENDMENT NO. 2
(to be filled in by Principal Clerk)

H998-ATDx-70 [v.3]

Comm. Sub. [YES]
Amends Title [NO]
PCS to Third Edition

Date 11 June ,2013

Senator Hartsell

moves to amend the bill on page 38, lines 50 and 51, by inserting between the lines:
"PART XV. REPEAL TOBACCO DISCOUNT.
SECTION 15.(a) G.S. 105-113.21 reads as rewritten:
"**§ 105-113.21. Discount; refund.**
...
~~(a1) Discount. – A distributor who files a timely report under G.S. 105-113.18 and who sends a timely payment may deduct from the amount due with the report a discount of two percent (2%). This discount covers expenses incurred in preparing the records and reports required by this Part, and the expense of furnishing a bond.~~
(b) Refund. – A distributor in possession of packages of stale or otherwise unsalable cigarettes upon which the tax has been paid may return the cigarettes to the manufacturer as provided in this subsection and apply to the Secretary for refund of the tax. The application ~~shall~~ must be in the form prescribed by the Secretary and ~~shall~~ must be accompanied by an affidavit from the manufacturer stating the number of cigarettes returned to the manufacturer by the applicant. The Secretary ~~shall~~ must refund the tax ~~paid, less the discount allowed,~~ paid on the unsalable cigarettes. The distributor must return the cigarettes to the manufacturer of the cigarettes or to the affiliated manufacturer who is contracted by the manufacturer of the cigarettes to serve as the manufacturer's agent for the purposes of validating quantities and disposing of unsalable cigarettes."
SECTION 15.(b) G.S. 105-113.39 reads as rewritten:
"**§ 105-113.39. Discount; refund.**
~~(a) Discount. – A wholesale dealer or a retail dealer who is primarily liable under G.S. 105-113.35(b) for the excise taxes imposed by this Part, who files a timely report under G.S. 105-113.37, and who sends a timely payment may deduct from the amount due with the report a discount of two percent (2%). This discount covers expenses incurred in preparing the records and reports required by this Part and the expense of furnishing a bond.~~
(b) Refund. – A wholesale dealer or retail dealer who is primarily liable under G.S. 105-113.35(b) for the excise taxes imposed by this Part and is in possession of stale or otherwise unsalable tobacco products upon which the tax has been paid may return the tobacco products to the manufacturer and apply to the Secretary for refund of the tax. The application ~~shall~~ must be in the form prescribed by the Secretary and ~~shall~~ must be accompanied by an affidavit from the manufacturer listing the tobacco products returned to the manufacturer by the

applicant. The Secretary ~~shall~~ must refund the tax ~~paid, less the discount allowed,~~ paid on the listed products."

SECTION 15.(c) This section becomes effective July 1, 2014, and applies to returns filed for periods beginning on or after that date.";

and by renumbering the remaining sections.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

SENATE PAGES ATTENDING

COMMITTEE: Finance ROOM: 544

DATE: 6-12 TIME: 1 pm

PLEASE PRINT LEGIBILY!!!!!!!!!!!!!....*or else!*

Page Name	Hometown	Sponsoring Senator
1. Maggie Powell	Wilmington	Goolsby
2. Jelisa Murray	Raleigh	Blue
3. Daniel Rangel	Greensboro	Berger
4. Ashlyn Murray	Laurinburg	Mcaurin
5. Spencer Zachary	Taylorsville	Allran
6. William Cherung	Taylorsville	Allran
7. Tyler Hendricks	Greensboro	Berger
8.		
9.		
10.		

Do not add names below the grid.

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

F

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 12, 2013
Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Tenisha Jacobs	NC DOJ
Kay Emanuel	School of Government
Susan Cashwell	WakeMed
Gail Borawski	WakeMed Health & Hosp.
Carl. Santos	WakeMed Health + Hospitals
Judy Orgar	WakeMed H + H
Bob Fitzgerald	" "
Mary Bethea	AARP-NC
Mike Caputo	NCMA
Allen Hardison	CIRSWMA
Susan Valauri	NCL
Jennifer Mallory	NCBIO
Hugh Tilson	NCHA

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 12, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Mark Griffin	self
[illegible]	NMRS
David Heinen	NC Center for Nonprofits
April Culver	Johnston Health
Jack Nichols	Wake Med
Ryan Minto	NC DOR
Tony Dixon	NCDOR
Mark Simmons	NCAR
Cindy Thomas	NCAR
Burton Gunnells	NC Bar
Jim Johnson	BSA

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 12, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
John T. Bode	BCS
[signature]	NCHA
Gene Ainsworth	AEA
Michelle Frazier	MFTS
[signature]	EUN
[signature]	NCAN
David Cuson	Staff
Kathy Harris	Dr-1c
Bruce Thompson	Parker Poe
Joe Lanier	Nelson Mullins
William Lester	DOI

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 12, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Cindy Hamm	NCHA
Gretchen Kelly	FirstHealth
Chuck Allen	US Airways
Nancy Thompson	Wyrebrausen
Edgar Mills	CTNC
Bona Chung	DOJ
Dallas Woodhouse	AFP-NC
Donald Bryson	AFP-NC
Bria Balf	Civitas
Bill Rowe	NCJC
Alexandra Sirota	Budget & Tax Center

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 12, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Kelly Cuthrell	Duke Energy
L C Bryan	CSS
Tom	UR
Angel Sims	CR
Bo Hatch	MW
Ross Howard	NCMA
Greg Thompson	NFIB
Dana Sipe	SA
Christine Crean	WakeMed
Fred Baker	Bryan Assoc.
Heather Monackey	WakeMed

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 12, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Ed Turlington	BP
Doug Hawkins	NCPCH
Michael Hauser	The Hauser Consulting Group
Kevin Bolton	LCA
Gary Harris	NCPCH
Sharon Miller	CUCA
Robbie Roberts	WakeMed
George Smith	NP
Adam Pridemore	NCHCA
Chris McDuffie	Brooks Pierce
Heather Densmore	Merck
Tom Bean	EDF, NCSEA, NCWF

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Senate Finance Committee — June 12, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Carley Ruff	NCHC
Lauren Knott	NCHC
Marissa Jewell	K+L Gates
Anna Beavon Bradley	AFP
Bill Peebles	Ambassador Ent.
Wendy Kelly	Policy Group
Herman Stone	Stone Theatres
Lew Ebert	North Carolina Chamber

VISITOR REGISTRATION SHEET

Senate Finance Committee — **Name of Committee**

June 12, 2013 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Alan Briggs	NC Food Banks
Steven Webb	NCMBA
Lisa Martin	NCMBA
Gary Salamido	NC Chamber
Matthew Babcock	"
Crystal Collins	NC Trucking Assn
Sammy Roberson	TWC
Ameli Curtis	WakeMed
Coleen Smith	WakeMed
Cathy Smith	WakeMed
Betsy Bailey	PENC

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 12, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
David Crawford	AIA NC
Maeve Gardner	GSK
JJ DARAY	JNJ
Jill Batkiewicz	WakeMed
Rebecca Scalia	WakeMed
Kristin Kelly	WakeMed
Kate Griesmann	WakeMed
Kathey Thompson	WakeMed
Jon Royall	NC Small Policy Council
JAKE PARKER	NCFB
BJ Miller	Cone Health
Nani Wilder	Novant Health
Erica Nelson	NCHA

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 12, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Debbie Fox	WakeMed
JEANENE MARTIN	WAKEMED
Carla Stevens	WakeMed
Amy Hutchinson	WakeMed
Deb Laughery	WakeMed
Ed Regan	NCRGEA
Rick Zechini	DPH
Maggie Sandrak	Harnett County
DAVID WARD	LOWE'S
Elizabeth Robinson	NCRMA
DANIEL VAN LIERE	VIBRANT HEALTH

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 12, 2013
Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Jason Carter	Vidant Health
Andy Chase	KMA
MICHAEL TARWATER	CAROLINAS HEALTHCARE SYSTEM
Matthew McConnell	Carolinas HealthCare System
[signature]	AP
[signature]	NCRSP
Kevin Sola	[illegible]
[signature]	CAPD
Elizabeth Bise	Brooks Pierce
Heather Barnett	Ward & Smith
David McGowan	NCPC
Patrick Baffin	NCAEC

Box Contents for 2013-2014 Standing Committee Minutes (Item 25894)

Box #	Year Begin	Year End	Chamber	Committee
10	2013	2014	Senate	Finance (cont. June 19, 2013)
10	2013	2014	Senate	Health Care
10	2013	2014	Senate	Insurance
10	2013	2013	Senate	Judiciary I
10	2013	2014	Senate	Judiciary II

Senate Committee on Finance
Wednesday, June 19, 2013, 1:00 PM
544 Legislative Office Building

AGENDA

Welcome and Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 143	Eden Payment in Lieu of Taxes.	Rep. Jones
HB 229	Holden Beach/Canal Dredging District Fee.	Rep. Iler
HB 234	Clarify Pender County ABC Laws.	Rep. Millis
HB 261	Kannapolis/Deannexation.	Rep. Ford
HB 302	Repeal Kannapolis Annexation.	Rep. Ford
HB 412	Eden/Duke Energy/Annexation Agreement.	Rep. Jones
HB 421	Marshville Deannexation.	Rep. Brody
HB 526	Chadbourn Voluntary Annexation.	Rep. Waddell
HB 553	Amend Carteret Co. Occupancy Tax.	Rep. McElraft
HB 567	Lumberton Deannexation.	Rep. Waddell Rep. C. Graham Rep. Goodman Rep. Pierce
SB 18	Amend Locksmith License Act/Raise Fee Ceiling.	Senator Bingham
SB 305	DMV Commission Contract Changes.	Senator Tillman Senator Jenkins Senator Rabin
SB 328	Solid Waste Management Reform Act of 2013.	Senator Wade Senator Brown Senator Jackson
SB 407	Electronic Vehicle Lien/Title.	Senator Brunstetter Senator Rabon
SB 488	Amend Nursing Home Administrator Act/Fees.	Senator Tucker

Adjournment

Senate Committee on Finance
Tuesday, June 19, 2013
Room 544 LOB, 1:00 p.m.

Minutes

The Senate Committee on Finance met at 1:00 p.m. on Tuesday, June 19, 2013 in room 544 of the Legislative Office Building. Jackson Valentine of Nashville, Austin Bright of Morrisville, Brandon Thiboudeau of Burlington, Austin Kirley of Apex, David Andres of Morrisville, Parker Lee of Fuquay-Varina and Bradley Anderton of Wake Forest served as pages. Senator Rabon presided as chair.

S.B. 407 – Electronic Vehicle Lien/Title

Senator Berger was recognized to explain the bill. Senator Apodaca moved to adopt the proposed committee substitute (PCS) for discussion and the motion carried. The PCS would require the Division of Motor Vehicles to implement a statewide electronic lien system for dealing with security interests and certificate of title data under the motor vehicle statues. The Division would have to report to the Chairs of the Joint Legislative Transportation Oversight Committee on the status of implementation by October 1, 2013. The Division would be required to implement the system by July 1, 2014. Participation by those engaged in the business of financing motor vehicles would be required beginning July 1, 2015. Senator Tillman moved for a favorable report and the motion carried. A copy of the PCS, the summary, and the fiscal note is attached.

H.B. 143 – Eden Payment in Lieu of Taxes

Representative Jones was recognized to explain the bill which would authorize the City of Eden to agree by contract not to annex two described tracts and accept payment in lieu of taxes as part of the agreement. Senator Tillman moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 412 – Eden/Duke Energy/Annexation Agreement

Representative Jones explained the bill which would authorize the City of Eden to agree by contract not to annex two described tracts, and accept payment in lieu of taxes as part of the agreement. Senator Tillman moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 229 – Holden Beach/Canal Dredging District Fee

Representative Iler was recognized to explain the bill. It would extend from five years to ten years the amount of time the Towns of Holden Beach and Ocean Isle Beach may accumulate funds in a capital reserve for canal dredging. Senator Tillman moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 234 – Clarify Pender County ABC Laws

Representative Millis was recognized to explain the bill which would clarify that the Pender County ABC Board has authority to make distributions of 5-15% of the net profits from Pender

County ABC Stores to law enforcement. Senator Brown moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 261 – Kannapolis/Deannexation

Representative Ford was recognized to explain the bill which would deannex a 1.85 acre tract from the City of Kannapolis and add the tract to the City of Landis. Senator Brock moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 302 – Repeal Kannapolis Annexation

Representative Ford explained the bill which would repeal S.L. 2009-113 that placed the Southland Development property (approximately 327 acres) in the City of Kannapolis. Senator Brock moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 421 – Marshville Deannexation

Representative Brody was recognized to explain the bill which would deannex 118.95 acres from the Town of Marshville. Senator Tillman moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 526 – Chadbourn Voluntary Annexation

Representative Waddell was recognized to explain the bill which would annex 39.63 acres as a satellite parcel into the Town of Chadbourn. Senator Jenkins moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 567 – Lumberton Deannexation

Representative Waddell explained the bill which would deannex two tracts from the City of Lumberton. Senator Tillman moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 553 – Amend Carteret Co. Occupancy Tax

Representative McElraft was recognized to explain the bill. It would authorize Carteret County to levy an additional 1% occupancy tax and modify the distribution of the proceeds. Fifty percent of the proceeds may be used for tourism promotion and fifty percent may be used for beach nourishment. The county may not accumulate more than $30 million for beach nourishment. Senator Brown moved for a favorable report and the motion carried. A copy of the bill, the summary and the fiscal note is attached.

S.B. 18 – Amend Locksmith License Act/Raise Fee Ceiling

Senator Bingham was recognized to explain the bill. Senator Jenkins moved to adopt the PCS for discussion and the motion carried. The PCS would require the licensure of individuals providing locksmith services to institutions, prohibit the possession of locksmith tools by individuals not licensed as locksmiths, increase the penalty for performing locksmith services in this State without a license from a Class 3 to a Class 1 misdemeanor for the first offense, and a Class I felony for second and subsequent offenses, expand the definition of locksmith services

to include any method of bypassing a locking mechanism whether in a commercial, residential, or automotive setting for compensation), and increase the fees for issuance, renewal, late renewal, and reinstatement of a license and the fee for an apprentice license. It would also authorize the Locksmith Board to assess the costs of disciplinary actions against a licensee and modifies the exemptions from licensure. Steve Stroud, Chair of the Locksmith Board, was recognized to answer questions. Heather Fennell, a staff attorney with the Research Division, was recognized to further explain the bill and answer questions. Senator Tillman moved for a favorable report and the motion carried. A copy of the PCS and the summary is attached.

S.B. 305 – DMV Commission Contract Changes

Senator Tillman was recognized to explain the bill. It sets the rate license plate tag agents may be compensated for the collection of property taxes paid at the time a person renews a license plate registration. Beginning July 1, 2013, taxpayers will be required to pay the property tax on a vehicle at the same time the vehicle's registration is renewed. Senator Walters was recognized to offer a clarifying amendment and moved for its adoption. The motion carried. Senator Rabin moved for a favorable report and the motion carried. A copy of the bill, the summary, the fiscal memo and the amendment is attached.

S.B. 328 – Solid Waste Management Reform Act of 2013

Senator Wade was recognized to explain the bill. Senator Rucho moved to adopt the PCS for discussion and the motion carried. Jennifer McGinnis, a staff attorney with the Research Division, was recognized to explain the bill. The PCS would: (1) extend the duration of permits for sanitary landfills and transfer stations for a period up to thirty years; (2) modify the Department of Environment and Natural Resources' authority to issue and transfer permits for solid waste management facilities; (3) modify certain requirements governing sanitary landfills including applicable buffers, cleaning and inspection of leachate collection lines, alternative daily cover, and required studies for owners and operators of certain sanitary landfills; (4) modify requirements for financial responsibility applicable to applicants and permit holders for solid waste management facilities; (5) amend the rule governing collection and transport of solid waste to require that containers be "leak-resistant" rather than "leak-proof" and amend a statute that requires vehicles to be constructed and loaded to prevent leakage; (6) define the term "leachate" and clarify that it excludes liquid adhering to tires of vehicles leaving sanitary landfills; and (7) make related clarifying, conforming, and technical changes to the statutes and rules governing solid waste matters. Senator Brown was recognized to offer a technical amendment which Ms. McGinnis explained. Senator Rucho moved for its adoption and the motion carried. Senator Wade was recognized to offer a technical amendment regarding wetlands. Senator Rabin moved for a favorable report and the motion carried. Senator Rabin was recognized to offer an amendment which would increase the buffer to protect homeowners' property values. After much discussion, the amendment was withdrawn. Dexter Matthews, Director – Division of Waste Management, was recognized to answer questions. Brian Plumlee, a representative from the town of Chesapeake, Virginia, was recognized to oppose the bill wince a proposed landfill will about the town and affect its watershed and jobs. Brooks Person, Southern Environmental Law Center, expressed concern about mega landfills and permits for out-of-state waste. Mitch Gillespie, Assistant Secretary – DENR, was recognized and expressed no concerns about environmental damage. Senator Rucho moved for a favorable report and the motion carried. A copy of the PCS, the summary, the fiscal memo and the amendments is attached.

S.B. 488 – Amend Nursing Home Administrator Act/ Fees

Due to time constraints, the Committee was unable to hear this bill.

The meeting adjourned at 2:06 p.m.

Senator Bill Rabon
Presiding Chair

DeAnne Mangum
Committee Assistant

Principal Clerk
Reading Clerk

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	June 19, 2013	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	
HB 143	Eden Payment in Lieu of Taxes.	Representative Jones
HB 229	Holden Beach/Canal Dredging District Fee.	Representative Iler
HB 234	Clarify Pender County ABC Laws.	Representative Millis
HB 261	Kannapolis/Deannexation.	Representative Ford
HB 302	Repeal Kannapolis Annexation.	Representative Ford
HB 412	Eden/Duke Energy/Annexation Agreement.	Representative Jones
HB 421	Marshville Deannexation.	Representative Brody
HB 526	Chadbourn Voluntary Annexation.	Representative Waddell
HB 553	Amend Carteret Co. Occupancy Tax.	Representative McElraft
HB 567	Lumberton Deannexation.	Representative Waddell Representative C. Graham Representative Goodman Representative Pierce
SB 18	Amend Locksmith License Act/Raise Fee Ceiling.	Senator Bingham
SB 305	DMV Commission Contract Changes.	Senator Tillman Senator Jenkins Senator Rabin
SB 328	Solid Waste Management Reform Act of 2013.	Senator Wade Senator Brown Senator Jackson
SB 407	Electronic Vehicle Lien/Title.	Senator Brunstetter Senator Rabon
SB 488	Amend Nursing Home Administrator Act/Fees.	Senator Tucker

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Wednesday, June 19, 2013

Senator Rabon,
submits the following with recommendations as to passage:

FAVORABLE

HB **143**
Eden Payment in Lieu of Taxes.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

HB **229** **(CS#1)**
Holden Beach/Canal Dredging District Fee.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

HB **234** **(CS#1)**
Clarify Pender County ABC Laws.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

HB **261** **(SCS#1)**
Kannapolis/Deannexation.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

HB **302**
Repeal Kannapolis Annexation.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

HB **412**
Eden/Duke Energy/Annexation Agreement.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

HB **421** **(SCS#1)** Marshville Deannexation.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

HB **526** **(SCS#1)** Chadbourn Voluntary Annexation.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

HB **553** **(CS#1)** Amend Carteret Co. Occupancy Tax.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

HB **567** **(SCS#1)** Lumberton Deannexation.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

FAVORABLE, AS AMENDED

SB **305** **(CS#1)** DMV Commission Contract Changes.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED: 11

Senator Philip Berger will handle HB 143
Senator William Rabon will handle HB 229
Senator William Rabon will handle HB 234
Senator Andrew Brock will handle HB 261
Senator Andrew Brock will handle HB 302
Senator Philip Berger will handle HB 412
Senator Tommy Tucker will handle HB 421
Senator Michael Walters will handle HB 526
Senator Norman Sanderson will handle HB 553
Senator Michael Walters will handle HB 567
Senator Jerry Tillman will handle SB 305

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Wednesday, June 19, 2013

Senator Rabon,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

SB **407** Electronic Vehicle Lien/Title.

Draft Number:	S407-PCS35369-TDf-26
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Senator Peter Brunstetter will handle SB 407

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Wednesday, June 19, 2013

Senator Rabon,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

SB **18** Amend Locksmith License Act/Raise Fee Ceiling.

Draft Number:	S18-PCS35368-TDf-30
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Senator Stan Bingham will handle SB 18

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Wednesday, June 19, 2013

Senator Rabon,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2

SB **328** **(CS#1)** Solid Waste Management Reform Act of 2013.

Draft Number:	S328-PCS85240-RIf-26
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Senator Trudy Wade will handle SB 328

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S D

SENATE BILL 407
PROPOSED COMMITTEE SUBSTITUTE S407-CSTD-26 [v.2]

Short Title: Electronic Vehicle Lien/Title. (Public)

Sponsors:

Referred to:

March 26, 2013

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE DIVISION OF MOTOR VEHICLES TO IMPLEMENT A STATEWIDE ELECTRONIC LIEN SYSTEM TO PROCESS THE NOTIFICATION AND RELEASE OF SECURITY INTERESTS AND CERTIFICATE OF TITLE DATA.

The General Assembly of North Carolina enacts:

SECTION 1. Article 3 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"**§ 20-58.4A. Electronic lien system.**

(a) Implementation. – No later than July 1, 2014, the Division shall implement a statewide electronic lien system to process the notification, release, and maintenance of security interests and certificate of title data where a lien is notated, through electronic means instead of paper documents otherwise required by this Chapter. The Division may contract with a qualified vendor or vendors to develop and implement this statewide electronic lien system, or the Division may develop and make available to qualified service providers a well-defined set of information services that will enable secure access to the data and internal application components necessary to facilitate the creation of an electronic lien system.

(b) Minimum Standards for a Vendor Implemented System. – When contracting with a qualified vendor or vendors to implement the system required in subsection (a) of this section, the Division shall set the following minimum standards:

(1) The Division shall issue a competitive request for proposal to assess the qualifications of any vendor or vendors responsible for the establishment and ongoing support of the statewide electronic lien system. The Division may also reserve the right to receive input regarding specifications for the electronic lien system from parties that do not respond to a request for proposal to establish and operate an electronic lien system.

(2) Any contract entered into with a vendor or vendors shall include no costs or charges payable by the Division to the vendor or vendors. The vendor or vendors shall reimburse the Division for documented reasonable implementation costs directly associated with the establishment and ongoing support of the statewide electronic lien system.

(3) Upon implementation of the electronic lien system pursuant to subsection (a) of this section, the qualified vendor or vendors may charge participating lienholders or their agents a per-transaction fee for each lien notification. The per-transaction lien notification fee shall be consistent with market pricing in an amount not to exceed three dollars and fifty cents ($3.50) for costs associated with the development and ongoing administration of the

electronic lien system. The qualified vendor or vendors shall not charge lienholders or their agents any additional fee for lien releases, assignments, or transfers. To recover their costs, participating lienholders or their agents may charge the borrower of a motor vehicle loan or the lessee of an automotive lease an amount equal to the transaction fee per lien notification plus a fee in an amount not to exceed three dollars ($3.00) for each electronic transaction where a lien is notated.

(4) A qualified vendor or vendors may also serve as a service provider to lienholders, if all of the following conditions are met:

a. The contract with the vendor must include provisions specifically prohibiting the vendor from using information concerning vehicle titles for marketing or business solicitation purposes.

b. The contract with the vendor must include an acknowledgment by the vendor that it is required to enter into agreements to exchange electronic lien data with any service providers who offer electronic lien and title services in the State and who have been approved by the Division for participation in the system and with service providers who are not qualified vendors.

c. The Division must periodically monitor fees charged by a qualified vendor also serving as a service provider to lienholders and providing services as a qualified vendor to other service providers to ensure the vendor is not engaged in predatory pricing.

(c) Minimum Standards for Division-Developed System. – If the Division chooses to develop an interface to enable service provider access to data to facilitate the creation of an electronic lien system, then the Division shall do so for a cost not to exceed two hundred fifty thousand dollars ($250,000) and set the following minimum standards:

(1) The Division shall establish qualifications for third-party service providers offering electronic lien services and establish a qualification process that will vet applications developed by service providers for compliance with defined security and architecture standards as follows:

a. Qualifications shall be posted within 60 days of the effective date of this section.

b. Interested service providers shall respond by providing qualifications within 30 days of posting.

c. The Division shall notify service providers of their approval.

d. Within 30 days of approval, each qualified service provider shall remit payment in an amount equal to the development costs as a fraction of the number of qualified service providers participating in the electronic lien services.

e. If there is a service provider who later wishes to participate but did not apply or pay the initial development costs, then that provider may apply to participate if the provider meets all qualifications and pays the same amount in development costs as other participating service providers.

(2) Each qualified service provider shall remit to the Division an annual fee not to exceed three thousand dollars ($3,000) on a date prescribed by the Division to be used for the operation and maintenance of the electronic lien system.

(3) Any contract entered into with a service provider shall include no costs or charges payable by the Division to the service provider.

(4) Upon implementation of the electronic lien system pursuant to subsection (a) of this section, the service provider may charge participating lienholders or their agents a per-transaction fee consistent with market pricing.

(5) The contract with the service provider must include provisions specifically prohibiting the service provider from using information concerning vehicle titles for marketing or business solicitation purposes.

(d) Qualified vendors and service providers shall have experience in directly providing electronic solutions to State motor vehicle departments or agencies.

(e) Notwithstanding any requirement in this Chapter that a lien on a motor vehicle shall be noted on the face of the certificate of title, if there are one or more liens or encumbrances on the motor vehicle or mobile home, the Division may electronically transmit the lien to the first lienholder and notify the first lienholder of any additional liens. Subsequent lien satisfactions may be electronically transmitted to the Division and shall include the name and address of the person satisfying the lien.

(f) When electronic transmission of liens and lien satisfactions is used, a certificate of title need not be issued until the last lien is satisfied and a clear certificate of title is issued to the owner of the vehicle.

(g) When a vehicle is subject to an electronic lien, the certificate of title for the vehicle shall be considered to be physically held by the lienholder for purposes of compliance with State or federal odometer disclosure requirements.

(h) A duly certified copy of the Division's electronic record of the lien shall be admissible in any civil, criminal, or administrative proceeding in this State as evidence of the existence of the lien.

(i) Mandatory Participation. – Beginning July 1, 2015, all individuals and lienholders who are normally engaged in the business or practice of financing motor vehicles, and who conduct at least five transactions annually, shall utilize the electronic lien system implemented in subsection (a) of this section to record information concerning the perfection and release of a security interest in a vehicle.

(j) Effect of Electronic Notice or Release. – An electronic notice or release of a security interest made through the electronic system implemented pursuant to subsection (a) of this section shall have the same force and effect as a notice or release on a paper document provided under G.S. 20-58 through G.S. 20-58.8.

(k) Nothing in this section shall preclude the Division from collecting a title fee for the preparation and issuance of a title."

SECTION 2. Prior to the statewide implementation of the electronic lien system pursuant to G.S. 20-58.4A, the Division, along with one or more qualified vendors and up to five lienholders, may conduct a pilot program of the electronic lien system for a period of up to 90 days.

SECTION 3. No later than October 1, 2013, the Division shall report to the Chairs of the Joint Legislative Transportation Oversight Committee on the status of the implementation of the electronic lien system pursuant to G.S. 20-58.4A. The report shall include, at a minimum, whether the Division is proceeding with a vendor-implemented system or Division-implemented system and whether implementation is on schedule and on budget.

SECTION 4. This act is effective when it becomes law.

SENATE BILL 407:
Electronic Vehicle Lien/Title

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 19, 2013
Introduced by:	Sens. Brunstetter, Rabon	**Prepared by:**	Heather Fennell
Analysis of:	PCS to First Edition S407-CSTD-26		Committee Counsel

SUMMARY: ***The PCS for Senate Bill 407 would require the Division of Motor Vehicles to implement a statewide electronic lien system for dealing with security interests and certificate of title data under the motor vehicle statutes. The Division would have to report to the Chairs of the Joint Legislative Transportation Oversight Committee on the status of implementation by October 1, 2013. The Division would be required to implement the system by July 1, 2014. Participation by those engaged in the business of financing motor vehicles would be required beginning July 1, 2015.***

CURRENT LAW: Chapter 20 of the General Statutes contains provisions dealing with security interests and certificates of title for motor vehicles. Currently, the statutes contemplate transactions involving paper documents, rather than electronic transactions.

BILL ANALYSIS: The PCS for Senate Bill 407 would require the Division of Motor Vehicles to implement a statewide electronic system for processing and maintaining security interest and certificate of title data where a lien is notated.

The Division would be authorized to either contract with a qualified vendor to implement the system or to develop and make available to qualified service providers an interface that enables them to access data and facilitate the creation of a system. The PCS sets out minimum standards for each possible method of implementation as follows:

Vendor implemented system –

- The Division would issue competitive request for proposal to assess qualifications of vendors.
- Resulting contract could not include costs payable by the Division to the vendors and vendors shall reimburse the Division for reasonable implementation costs.
- Qualified vendors would be able to charge participating lienholders a per-transaction fee consistent with market price but not exceeding $3.50. Additional fees for lien releases, assignments, or transfers are not permitted.
- Lienholders would be able to charge borrowers the per-transaction fee plus an additional amount not to exceed $3.
- Qualified vendors would also be able to serve as service providers to lienholders if certain conditions are met.

Division implemented system –

- Cost to the Division must not exceed $250,000. The cost of development would be recovered from payments made by qualified service providers.

- The Division would establish qualifications for service providers.
- Approved service providers would be required to pay an annual fee not to exceed $3,000 for operation and maintenance of the system.
- Contracts could not include costs payable by the Division to the service provider.
- Service providers would be able to charge participating lienholders a per-transaction fee consistent with market price.
- Service providers would be prohibited from using information on vehicle titles for marketing purposes.

Qualified vendors and service providers would be required to have experience in providing electronic solutions to state motor vehicle departments or agencies.

By **October 1, 2013**, the Division would be required to report to the Chairs of the Joint Legislative Transportation Oversight Committee on the status of implementation of the system.

Prior to statewide implementation, the Division would be authorized to conduct a pilot program of the system for up to 90 days with one or more qualified vendors and up to five lienholders.

By **July 1, 2014**, the Division would be required to implement the system.

Beginning **July 1, 2015**, all individuals and lienholders normally engaged in the business of financing motor vehicles would be required to utilize the electronic system.

EFFECTIVE DATE: The act would be effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: 06/19/2013

TO: **Senate Finance Committee**

FROM: Bryce Ball and Karlynn O'Shaughnessy
Fiscal Research Division

RE: **Senate Bill 407 (Unknown Edition)**

SPONSOR(S): Senators Brunstetter and Rabon

FISCAL IMPACT
($ in millions)

☑ Yes ☐ No ☐ No Estimate Available

State Impact	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
Highway Fund Revenues:	Fiscal impact cannot be determined				
Highway Fund Expenditures	Fiscal impact cannot be determined				
State Positions:					
NET STATE IMPACT	Fiscal impact cannot be determined				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:
Department of Transportation Division of Motor Vehicles

EFFECTIVE DATE This act is effective when it becomes law.

TECHNICAL CONSIDERATIONS: See below.

BILL SUMMARY: This bill requires the Division of Motor Vehicles (DMV) to implement a statewide electronic lien system to process the notification, release, and maintenance of security interests no later than July 1, 2014. The DMV may contract with a qualified vendor, or vendors, to implement this statewide electronic lien system, or it may develop and make available to qualified service providers a well-defined set of information services that will enable secure access to the data and the internal application components necessary to facilitate the creation of an electronic lien/title system.

Minimum standards for the DMV to consider in contracting with a vendor are included. The bill requires the DMV to issue a competitive request for proposal (RFP) to evaluate the qualifications of any vendor or vendors responsible for the development and ongoing support of the state electronic lien system and permits the DMV to receive input from parties that do not respond to an RFP. It also requires a qualified vendor to have experience in directly providing electronic solutions to state motor vehicle departments or agencies. However, it provides that a qualified vendor may also serve as a service provider to lienholders if certain enumerated conditions are met.

The bill permits the qualified vendor or vendors to charge participating lienholders and their agents a per-transaction fee, consistent with market pricing, in an amount not more than $3.50. It also permits participating lienholders and their agents to charge the borrower of a motor vehicle loan or the lessee of an automotive lease an amount that is equal to the transaction fee, plus a fee that does not exceed $3.00 for each electronic transaction where a lien is notated.

If DMV chooses to develop an interface to enable service provider access to data to facilitate the creation of an electronic lien/title system, the cost cannot exceed $250,000, and the system must meet specific standards. Additionally, each qualified service provider is to remit an annual fee to DMV, not to exceed $3,000, for operation and maintenance of the electronic lien system, and any contracts with the service provider cannot result in additional costs or charges payable by DMV. Further, the service providers are allowed to charge a market rate per-transaction fee and are prohibited from using vehicle title data for marketing or business solicitation.

The bill mandates participation in the electronic lien system by all individuals and lienholders normally engaged in the business or practice of financing motor vehicles beginning July 1, 2015. It provides that an electronic notice or release is to have the same force and effect as a paper document of notice or release as provided under G.S. 20-58 through G.S. 20-58.8 and directs the DMV to adopt rules to implement this section. The bill also authorizes the DMV, along with multiple qualified vendors and up to five lienholders, to conduct a pilot program of the electronic lien system for a 90-day period prior to the statewide implementation. Additionally, it requires the DMV to report, no later than October 1, 2013, to the chairs of the Joint Legislative Transportation Oversight Committee on the status of the implementation of the electronic lien system.

ASSUMPTIONS AND METHODOLOGY:

The implementation of an electronic lien/title system using an outside vendor should result in some administrative savings to the Department of Transportation (DOT) Division of Motor

Vehicles (DMV). However, the amount of the savings cannot be determined until the terms of the vendor's contract are defined, or until a determination is made regarding whether an outside vendor will be used to implement the system.

If an outside vendor is used, the bill specifies that there are to be no costs to the Department to establish an electronic lien/title system. The vendor is to be paid based on fees collected for providing the electronic lien/title service. Additionally, the vendor is required to reimburse DMV for reasonable implementation costs directly associated with the establishment and ongoing support of the statewide electronic lien/title system.

During fiscal year 2011-2012, DMV issued a total of 1,126,900 titles with lien recordings. They estimate that 80 percent, or 901,520, of these titles involve individuals and lienholders normally engaged in the business or practice of financing motor vehicles. At the proposed transaction rate, this could generate fees of $3,155,320 for the electronic lien/title vendor.

The bill requires implementation no later than July 1, 2014, and mandatory participation beginning July 1, 2015. The normal timeframe for the Department of Transportation to post a request for proposal and select a vendor is six months, which should allow the Department to implement an electronic lien/title system on schedule, resulting in some savings to the Department beginning in fiscal year 2014-2015, with full transition in the following fiscal year.

There should be cost savings to the Division of Motor Vehicles (DMV) because there will no longer be a need to provide secure titles, with the necessary administrative support and supplies, such as postage and envelopes. However, the Division is unable to determine the actual cost savings, since customers may still request a paper title once the lien has been paid in full, which would still require the DMV's support. It is also not clear as to whether or not the cost of providing a paper title is considered a cost directly associated with the ongoing support of the electronic lien system. Florida, which has already implemented an electronic lien/title system, generally keeps all titles electronically, including titles without liens. The Florida Department of Highway Safety and Motor Vehicles (DHSMV) encourages owners to maintain their titles electronically. Lenders can also request that a title be mailed to the owner (assuming all liens are satisfied). Florida charges an additional fee for this procedure, which is not explicitly addressed in this bill. If the DMV provides this service without reimbursement by the vendor, or a transaction fee, then there would be a cost to DMV for the service.

In the event that DMV develops a system internally, in addition to the possible $250,000 development costs, there will be ongoing operations and maintenance costs. These cannot be determined until the specific system requirements are defined. The bill allows for an annual fee not to exceed three thousand dollars ($3,000) from each qualified service provider, but the number of potential service providers is unknown.

SOURCES OF DATA: Department of Transportation Division of Motor Vehicles, Department of Transportation Chief Information Officer, Florida Department of Highway Safety and Motor Vehicles

TECHNICAL CONSIDERATIONS: The bill does not address the conversion of paper titles to an electronic format. This is being done by some states and usually involves a fee to the vendor.

HOUSE BILL 143
Second Edition Engrossed 5/1/13

Short Title:	Eden Payment in Lieu of Taxes.	(Local)
Sponsors:	Representative Jones (Primary Sponsor). For a complete list of Sponsors, see Bill Information on the NCGA Web Site.	
Referred to:	Government, if favorable, Finance.	

February 25, 2013

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE CITY OF EDEN TO NEGOTIATE ANNEXATION CONTRACTS.

The General Assembly of North Carolina enacts:

SECTION 1. The City of Eden may, by contract, provide that certain property described in the contract may not be annexed by the City under Article 4A of Chapter 160A of the General Statutes prior to December 31, 2038. Nothing in this act impairs the right of the General Assembly to annex any such property by specific local act.

SECTION 2. The City of Eden may accept, as consideration for such contract, "payments in lieu of taxes."

SECTION 3. Payments in lieu of taxes under this act shall be annually computed based upon the tax valuations of the properties subject to contracts under Section 1 of this act as determined by the Rockingham County Tax Department, with the formula for making the computation being stated in each contract.

SECTION 4. Contracts under Section 1 of this act apply only to the following described properties: Miller Brewing Company TRACTS I and II as described in Section 4 of S.L. 2002-74, which descriptions are incorporated by reference in this act.

SECTION 5. This act does not affect the validity of S.L. 2002-74 which restricted certain annexations by the City of Eden through December 31, 2013.

SECTION 6. This act is effective when it becomes law.

HOUSE BILL 143:
Eden Payment in Lieu of Taxes

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 18, 2013
Introduced by:	Rep. Jones	**Prepared by:**	Judy Collier
Analysis of:	Second Edition		Research Assistant

SUMMARY: ***House Bill 143 authorizes the City of Eden to agree by contract not to annex two described tracts and accept payment in lieu of taxes as part of the agreement.***

CURRENT LAW: Article 4A of Chapter 160A of the General Statutes governs annexation by cities, including voluntary annexation by petition, voluntary satellite annexation, and municipal initiated annexation subject to referendum.

S.L. 1993-418 and S.L. 2002-74 authorized the City of Eden, by contract, to provide that certain property described in the contract would not be annexed by the City prior to December 31, 2013, and that the City could accept, as consideration for the contract, payments in lieu of taxes.

BILL ANALYSIS: House Bill 143 authorizes the City of Eden, by contract, to provide that two described tracts (the Miller Brewing Company Tracts I and II) may not be annexed by the City prior to December 31, 2038, and that the City may accept, as consideration for the contract, payments in lieu of taxes.

House Bill 143 does not affect the validity of the prior session law governing annexation agreements by the City of Eden, enacted as S.L. 2002-74.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: Other prior legislation authorizing *payment in lieu of taxes* annexation agreements: City of Eden S.L. 1993-418; City of Washington S.L. 1993-713; Town of Stanley S.L. 1993-713; City of Belmont S.L. 1997-105; City of Hendersonville S.L. 1997-188; Town of Laurel Park S.L. 1997-188; Town of Huntersville S.L. 1997-426; Town of Huntersville S.L. 2000-100; Town of Weldon S.L. 2001-425; City of Eden S.L. 2002-74; City of Eden S.L. 2003-316; Town of Navassa S.L. 2007-314; Town of Robbins S.L. 2009-294.

Counsel to House Government, House Finance, and Senate State and Local Government Committees substantially contributed to this summary.

O. Walker Reagan
Director

H143-SMRE-8 E2 -V1

Research Division
(919) 733-2578

HOUSE BILL 412

Short Title:	Eden/Duke Energy/Annexation Agreement.	(Local)
Sponsors:	Representative Jones (Primary Sponsor). *For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*	
Referred to:	Government, if favorable, Finance.	

March 25, 2013

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF EDEN TO ENTER INTO AN AGREEMENT FOR PAYMENTS IN LIEU OF ANNEXATION.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding any applicable provision of the General Statutes or any other public or local law, the City of Eden is granted certain contract powers as follows:

(1) The City of Eden may, by agreement, provide that certain property described in the agreement as the "Dan River Plant Property" may not be involuntarily annexed by the City during the period beginning January 1, 2014, and ending on December 31, 2019, except as provided in the agreement, under the General Statutes as they now exist or may be subsequently amended. The City of Eden shall not seek to repeal this act upon its approval by the General Assembly.

(2) Any agreement entered into as provided in subdivision (1) of this section is deemed by this section to be proprietary and commercial in nature and is specifically determined to be consistent with the public policy of the State of North Carolina.

(3) Any agreement entered into as provided in subdivision (1) of this section is a continuing agreement and is binding on and enforceable against the current and future members of the City Council of the City of Eden during the full term of the agreement and any extension thereof.

(4) The parties to any agreement entered into as provided in subdivision (1) of this section are authorized by this section to modify, amend, and extend the agreement on mutual written consent, without the approval of the General Assembly, provided that any modification or amendment does not materially alter the concept of the agreement.

SECTION 2. The City of Eden may accept payments in lieu of taxes as consideration for the agreement discussed in Section 1 of this act.

SECTION 3. The City of Eden will accept the total amount of one million dollars ($1,000,000) as payment in lieu of taxes on the Dan River Plant Property. Duke Energy shall make annual payments in the amount of two hundred thousand dollars ($200,000) during the course of the agreement.

SECTION 4. The agreement under Section 1 of this act shall apply to the Dan River Plant Property described as follows:

Tract 1

Beginning at a concrete monument set in the westerly line of S. R. # 1779 (Edgewood Road) and running thence from said beginning point, S 360° 45' E 80.6 feet to a stake, thence N 69° 26' E 826.6 feet to an iron rod found; thence N 20° 32' W 239.1 feet to an iron rod; thence N 69° 28' E 97.1 feet to an iron rod found; thence N 20° 39' W 180.0 feet to an iron rod found; thence N 69° 18' E 54.7 feet to a concrete monument found; thence N 20° 30' W 240.4 feet to an iron rod; thence N 69° 30' E 87.0 feet to an iron rod found; thence N 20° 35' W 180.1 feet to an iron rod found; thence N 69° 27' E 515.5 feet to an iron rod and iron pipe found in the westerly boundary of the property of Fieldcrest Mills, Inc.; thence with said property line S 10° 19' E 1390.2 feet to a concrete monument found in the southwesterly corner of the property of Fieldcrest Mills, Inc.; thence with the southerly line of Fieldcrest Mills, Inc., N 79° 03' E 161.9 feet to a concrete monument found; thence S 80° 53' E 1126.3 feet to an iron rod found in the centerline of the CNW Railroad Spur Track; thence with the centerline of said Spur track the following courses and distances: S 4° 02' E 100.0 feet to a point; S 0° 02' E 99.9 feet to a point; S 4° 04' W 100.0 feet to a point; S 7° 43' W 100.0 feet to a point; S 11° 45' W 100.0 feet to a point; S 15° 57' W 100.0 feet to a point; S 20° 00' W 100.0 feet to a point; S 24° 15' W 100.0 feet to a point; S 28° 05' W 100.0 feet to a point; S 31° 33' W 72.0 feet to a spike found; thence N 88° 54' E 623.1 feet to an iron rod found; thence S 18° 36' E 367.2 feet to an iron pipe found; thence S 6° 02' W 74.9 feet to an iron pipe found; thence S 24° 38' E 141.5 feet to a point in the northerly bank of the Dan River; thence with the Dan River the following courses and distances: S 66° 35' W 48.8 feet; S 54° 44' W 77.0 feet; S 61° 37' W 108.8 feet; S 55° 43' W 74.6 feet; S 53° 05' W 203.1 feet; S 32° 02' W 281.5 feet; S 27° 20' W 140.7 feet; S 27° 58' W 436.3 feet; S 29° 28'W 142.1 feet; S 26° 31' W 236.2 feet; S 41° 30' W 204.0 feet; S 52° 38' W 266.5 feet; S 58° 31' W 263.2 feet; S 63° 40' W 317.8 feet; S 57° 38' W 75.4 feet; S 65° 46' W 312.0 feet; S 71° 46' W 148.1 feet; S 75° 07' W 232.9 feet; S 76° 21' W 205.8 feet; N 6° 55' W 64.0 feet; S 68° 04' W 235.4 feet; S 17° 07' E 61.4 feet; S 66° 21' W 108.2 feet; S 67° 33' W 318.2 feet; S 68° 11' W 220.3 feet; S 70° 06' W 139.5 feet; S 78° 35' W 234.8 feet; S 65° 10' W 88.2 feet to a point in the southeasterly margin of the property of Fieldcrest Mills, Inc.; thence with the property line of Fieldcrest Mills, Inc.; N 18° 51' W 176.4 feet to an iron rod set; thence S 56° 26' W 96.7 feet to an iron pipe found; thence N 19° 06' W 1090.1 feet to a concrete monument found; thence N 82° 22' E 247.0 feet to a point in the westerly bank of a pond; thence with the westerly bank of said pond, eight courses and distances as follows: (1) N 46° 33' W 98.7 feet; (2) N 32° 44' W 86.0 feet; (3) N 47° 00' W 82.7 feet; (4) N 84° 22' W 45.6 feet; (5) N 39° 52' W 147.9 feet; (6) N 18° 33' W 89.6 feet; (7) N 7° 38' E 206.9 feet; (8) N 36° 54' E 60.4 feet at an intersection of the said pond and Moir Branch; thence with the centerline of Moir Branch the following courses and distances: (1) N 22° 07' W 200.2 feet; (2) N 25° 40' W 40.5 feet; (3) N 45° 48' W 58.0 feet; (4) N 11° 08' W 47.0 feet; (5) S 79° 32' E 37.3 feet; (6) N 4° 09' E 25.0 feet; (7) N 6° 39' W 132.1 feet; (8) N 5° 25' E 193.7 feet; (9) N 7° 04' W 76.1 feet; (10) S 30° 57' W 48.8 feet; (11) S 73° 25' W 18.4 feet; (12) N 15° 37' W 44.9 feet; (13) N 3° 35' E 122.1 feet; (14) N 30° 20' W 34.8 feet; (15) N 14° 01' W 129.2 feet; (16) N 50° 22' W 61.7 feet; (17) N 22° 47' W 85.8 feet; (18) N 34° 56' W 29.7 feet; (19) N 4° 25' E 177.2 feet; (20) N 16° 48' E 54.7 feet; (21) N 30° 16' E 28.2 feet; (22) N 18° 14' W 25.5 feet; (23) N 13° 26' W 47.0 feet; (24) N 4° 41' E 115.3 feet; (25) S 89° 12' E 26.5 feet; (26) N 41° 02' E 26.5 feet; (27) N 9° 00' W 94.8 feet; (28) N 1° 43' W 62.0 feet; (29) N 40° 18' E 15.7 feet; (30) N 22° 50' E 46.8 feet; (31) N 11° 42' E 37.1 feet; (32) S 82° 45' E 40.0 feet; (33) N 16° 55' E 45.3 feet; (34) N 21° 40' E 37.9 feet; (35) N 6° 31' E 114.3 feet to a point in the southerly line of the property of Fieldcrest Mills, Inc.; thence with the southerly line of said property N 63° 10' E 308.3 feet to an iron pipe found; thence N 63° 14' E 523.5 feet to an iron pipe found; thence N 63° 07' E 132.1 feet to an iron pipe found; N 63° 20' E 171.2 feet to an iron pipe found; thence N 63° 13' E 357.6 feet to the point of Beginning, containing 371.48 acres.

Tract 2

Beginning at a point on the west bank of Miry Branch at the confluence of Miry Branch and Dan River; thence with the west branch of Miry Branch the following courses and distances: S 33° 39' W 85.4 feet; S 57° 48' W 80.0 feet; S 30° 56' W 51.1 feet; S 14° 24' E 36.7 feet; S 43° 41' E 74.3 feet; S 1° 31' W 72.2 feet; S 6° 51' W 117.5 feet; S 5° 17' W 37.8 feet; S 45° 12' W 74.0 feet; S 41° 15' W 117.0 feet; S 31° 11' W 36.9 feet; S 15° 35' E 72.8 feet; S 31° 08' W 52.5 feet; S 24° 33' E 44.3 feet; S 24° 09' W 94.5 feet; S 7° 15' W 35.1 feet; S 36° 54' E 71.5 feet to an iron rod; thence S 72° 11' W 395.3 feet to a concrete monument found; thence N 2° 25' E 917.1 feet to the southerly line of said river; thence with the southerly bank of Dan River three calls as follows: N 70° 00' E 336.4 feet; N 69° 52' E 115.1 feet; N 79° 21' E 154.5 feet to the point of Beginning, containing 9.08 acres.

SECTION 5. This act is effective when it becomes law.

HOUSE BILL 412:
Eden/Duke Energy/Annexation Agreement

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 18, 2013
Introduced by:	Rep. Jones	**Prepared by:**	Judy Collier
Analysis of:	First Edition		Research Assistant

SUMMARY: ***House Bill 412 authorizes the City of Eden to agree by contract not to annex two described tracts, and accept payment in lieu of taxes as part of the agreement.***

CURRENT LAW: Article 4A of Chapter 160A of the General Statutes governs annexation by cities, including voluntary annexation by petition, voluntary satellite annexation, and municipal initiated annexation subject to referendum.

S.L. 1993-418 and S.L. 2002-74 authorized the City of Eden, by contract, to provide that certain property described in the contract would not be annexed by the City prior to December 31, 2013, and that the City could accept, as consideration for the contract, payments in lieu of taxes.

BILL ANALYSIS: House Bill 412 authorizes the City of Eden, by contract, to provide that two described tracts (the Dan River Plant Property - Duke Energy tracts) may not be annexed by the City between January 1, 2014, and December 31, 2019, and that the City may accept, as consideration for the contract, payments in lieu of taxes.

The bill specifies that the City of Eden will accept one million dollars as payment in lieu of taxes for the five year period of the agreement. Duke Energy must make annual payments of $200,000 during the course of the agreement.

The bill also provides that (1) the City of Eden shall not seek to repeal this act if it is approved by the General Assembly, (2) the agreement is consistent with public policy of the State, (3) the agreement is binding on current and future members of the City Council of Eden, and (4) the parties may modify the agreement without approval of the General Assembly as long as the modification does not materially alter the concept of the agreement.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: Other prior legislation authorizing *payment in lieu of taxes* annexation agreements: City of Eden S.L. 1993-418; City of Washington S.L. 1993-713; Town of Stanley S.L. 1993-713; City of Belmont S.L. 1997-105; City of Hendersonville S.L. 1997-188; Town of Laurel Park S.L. 1997-188; Town of Huntersville S.L. 1997-426; Town of Huntersville S.L. 2000-100; Town of Weldon S.L. 2001-425; City of Eden S.L. 2002-74; City of Eden S.L. 2003-316; Town of Navassa S.L. 2007-314; Town of Robbins S.L. 2009-294.

Counsel to House Government, House Finance, and Senate State and Local Government substantially contributed to this summary.

O. Walker Reagan
Director

H412-SMRE-12 E1 -V1

Research Division
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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H 2

HOUSE BILL 229
Committee Substitute Favorable 3/26/13

Short Title: Holden Beach/Canal Dredging District Fee. (Local)

Sponsors:

Referred to:

March 6, 2013

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE TOWNS OF HOLDEN BEACH AND OCEAN ISLE BEACH TO ACCUMULATE FUNDS IN A CAPITAL RESERVE FUND FOR THE PURPOSE OF CANAL DREDGING AND MAINTENANCE FOR A PERIOD OF TEN YEARS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 6.1 of S.L. 2004-104 reads as rewritten:

"**SECTION 6.1.** Capital Reserve Fund. – If a municipality establishes a capital reserve fund under Chapter 159 of the General Statutes to build up funds for the purpose of providing the service under this act, it may delay providing the service until sufficient funds have accumulated, but in no case to exceed ~~five~~ 10 years."

SECTION 2. This act applies only to the Towns of Holden Beach and Ocean Isle Beach.

SECTION 3. This act is effective when it becomes law.

HOUSE BILL 229:
Holden Beach/Canal Dredging District Fee

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 18, 2013
Introduced by:	Rep. Iler	**Prepared by:**	Judy Collier
Analysis of:	Second Edition		Research Assistant

SUMMARY: ***House Bill 229 would extend from 5 years to 10 years the amount of time the Towns of Holden Beach and Ocean Isle Beach may accumulate funds in a capital reserve for canal dredging.***

CURRENT LAW: S.L. 2004-104 allows the Town of Ocean Isle Beach to impose a canal dredging fee set annually and used within 5 years to pay for dredging. The following Session Laws granted additional towns the authority to impose a dredging fee: S.L. 2005-47 added the Town of Emerald Isle; S.L. 2005-90 added the Town of Holden Beach; and S.L. 2011-108 added the Town of Southern Shores.

BILL ANALYSIS: House Bill 229 would increase from 5 years to 10 years the maximum time funds can be accumulated to pay for dredging in Holden Beach and Ocean Isle Beach.

EFFECTIVE DATE: House Bill 229 would be effective when it becomes law.

Counsel to House Finance and Senate State and Local Government Committees substantially contributed to this summary.

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Director

H229-SMRE-9 E2 -V1

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HOUSE BILL 234
Committee Substitute Favorable 4/30/13

Short Title: Clarify Pender County ABC Laws. (Local)

Sponsors:

Referred to:

March 7, 2013

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE DISTRIBUTION OF CERTAIN NET PROFITS FROM THE PENDER COUNTY BOARD OF ALCOHOLIC CONTROL FOR LAW ENFORCEMENT PURPOSES.

The General Assembly of North Carolina enacts:

SECTION 1. The introductory language of Section 3 of S.L. 2012-125 reads as rewritten:

"**SECTION 3.** Section 6 of Chapter 50 of the 1963 Session Laws, as rewritten by Section 1 of Chapter 277 of the 1973 Session Laws, reads as rewritten:"

SECTION 2. Section 6 of Chapter 50 of the 1963 Session Laws, as rewritten by Section 1 of Chapter 277 of the 1973 Session Laws, and as amended by Section 3 of S.L. 2012-125, reads as rewritten:

"**Sec. 6.** After deducting not less than five percent (5%) nor more than fifteen percent (15%) of total net profits as determined by quarterly audits to be expended for law ~~enforcement~~enforcement, in amounts determined by the Pender County Board of Alcoholic Control, and after providing for expenditure of a sum not less than two percent (2%) nor more than five percent (5%) of total future net profits, and current funds, to provide facilities, material for the care, education, rehabilitation, treatment of alcoholic, mental patients, for education of the general public on the excessive use of alcoholic beverages, or distribution to various Pender County Rescue Squads, at intervals and in amounts determined by the Pender County Board of Alcoholic Control, and after further payment to the general fund of Pender County of five percent (5%) of total net profits for use in mosquito control, the remaining total net profits from Alcoholic Beverage Control Stores shall, pursuant to G.S. 18B-805(e), be paid over on a quarterly basis as follows: sixty-five percent (65%) to the general fund of Pender County, and the remaining thirty-five percent (35%) shall be distributed as follows:

(1) Seventy percent (70%) of the remaining thirty-five percent (35%) shall be distributed to the Town of Burgaw and the Town of Surf City as follows:
   a. Forty percent (40%) of the seventy percent (70%) to the Town of Burgaw.
   b. Sixty percent (60%) of the seventy percent (70%) to the Town of Surf City.

(2) Thirty percent (30%) of the remaining thirty-five percent (35%) shall be distributed to each of the following municipalities according to each municipality's percentage of population within Pender County, as determined by the last decennial federal census:
   a. Town of Atkinson.

b. Village of St. Helena.
c. Town of Topsail Beach.
d. Town of Watha."

SECTION 3. Chapter 107 of the 1981 Session Laws is repealed.

SECTION 4. This act becomes effective July 1, 2013.

HOUSE BILL 234:
Clarify Pender County ABC Laws

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 18, 2013
Introduced by:	Rep. Millis	**Prepared by:**	Judy Collier
Analysis of:	Second Edition		Research Assistant

SUMMARY: House Bill 234 would clarify that the Pender County ABC Board has authority to make distributions of 5%-15% of the net profits from Pender County ABC Stores to law enforcement.

CURRENT LAW: G.S. 18B-805 provides for the distribution of revenue of a local board: net receipts are paid to the general fund of the city or county for which the board is established, unless another distribution or schedule is provided for by law.

Pursuant to local acts[1], a range from 5% to 15% of the net profits from Pender County Alcoholic Beverage Control Stores is distributed to law enforcement.

BILL ANALYSIS: House Bill 234 would clarify that the amount of total net profits that must be expended for law enforcement is a range of not less than 5% or not more than 15%. The range is set by the Pender County ABC Board and determined by quarterly audits.

BACKGROUND: A series of local acts affected the distribution to law enforcement. The local acts were not properly coordinated.

EFFECTIVE DATE: House Bill 234 would become effective July 1, 2013.

Counsel to House Finance Commerce and Job Development Subcommittee on Alcoholic Beverage Control, House Finance and Senate State and Local Government Committees, substantially contributed to this summary.

[1] Section 6 of Chapter 50 of the 1963 Session Laws; Section 1 of Chapter 277 of the 1973 Session Laws; Chapter 107 of the 1981 Session Laws; Section 3 of S.L. 2012 125.

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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H 3

HOUSE BILL 261

Committee Substitute Favorable 4/9/13
Senate State and Local Government Committee Substitute Adopted 6/5/13

Short Title: Kannapolis/Deannexation. (Local)

Sponsors:

Referred to:

March 11, 2013

A BILL TO BE ENTITLED

AN ACT REMOVING CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE CITY OF KANNAPOLIS AND ADDING THE PROPERTY TO THE CORPORATE LIMITS OF THE CITY OF LANDIS.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is removed from the corporate limits of the City of Kannapolis and added to the corporate limits of the City of Landis:

A 1.85 acre tract, PIN # 156 0020000001, owned by Gary and Anita Moss.

SECTION 2. This act has no effect upon the validity of any liens of the City of Kannapolis for ad valorem taxes or special assessments outstanding before the effective date of this act. Such liens may be collected or foreclosed upon after the effective date of this act as though the property were still within the corporate limits of the City of Kannapolis.

SECTION 3. This act becomes effective June 30, 2013.

HOUSE BILL 261:
Kannapolis/Deannexation

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 18, 2013
Introduced by:	Rep. Ford	**Prepared by:**	Judy Collier
Analysis of:	Third Edition		Research Assistant

SUMMARY: ***House Bill 261 would deannex a 1.85 acre tract from the City of Kannapolis and add the tract to the City of Landis.***

CURRENT LAW: Under Section 1 of Article VII of the NC Constitution, the General Assembly is empowered to "provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions, and, except as otherwise prohibited by this Constitution, may give such powers and duties to counties, cities and towns, and other governmental subdivisions as it may deem advisable."

Pursuant to this Section, the General Assembly enacted Article 4A of Chapter 160A of the General Statutes, which governs municipal annexations. The General Assembly has not enacted any method for municipalities to *deannex* property — that power remains with the General Assembly.

BILL ANALYSIS: House Bill 261 would deannex a 1.85 acre tract from the City of Kannapolis and place the tract in the City of Landis. The property is currently owned by Gary and Anita Moss.

House Bill 261 would not affect the duty of the owners to pay taxes for any prior year, and does not eliminate any liens for taxes for prior years.

BACKGROUND: The Cities of Kannapolis and Landis support moving the property from Kannapolis to Landis. House Bill 261 resolves a boundary issue where a 3.42 acre parcel was split between two jurisdictions and places the entire parcel in the City of Landis.

EFFECTIVE DATE: The act would become effective June 30, 2013.

Counsel to House Government, House Finance, and Senate State and Local Government Committees substantially contributed to this summary.

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Director

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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H

HOUSE BILL 302

Short Title:	Repeal Kannapolis Annexation.	(Local)
Sponsors:	Representative Ford (Primary Sponsor).	
	For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.	
Referred to:	Government, if favorable, Finance.	

March 14, 2013

A BILL TO BE ENTITLED

AN ACT REPEALING THE ANNEXATION OF CERTAIN DESCRIBED PROPERTY BY THE CITY OF KANNAPOLIS.

The General Assembly of North Carolina enacts:

SECTION 1. S.L. 2009-113, as amended by S.L. 2011-124, is repealed.

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 302:
Repeal Kannapolis Annexation

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 18, 2013
Introduced by:	Rep. Ford	**Prepared by:**	Judy Collier
Analysis of:	First Edition		Research Assistant

SUMMARY: ***House Bill 302 would repeal S.L. 2009-113 that placed the Southland Development property (approximately 327 acres) in the City of Kannapolis.***

CURRENT LAW: S.L. 2009-113 provided for the annexation of the Southland Development property, approximately 327 acres adjacent to I-85 in southern Rowan County into the City of Kannapolis, effective September 30, 2011.

S.L. 2011-124 delayed the annexation of the Southland Development property for two years, to September 30, 2013.

Under Section 1 of Article VII of the NC Constitution, the General Assembly has the authority to set the boundaries of cities. The General Assembly enacted Article 4A of Chapter 160A of the General Statutes, which governs municipal annexations. The power to deannex property remains with the General Assembly.

BILL ANALYSIS: House Bill 302 would repeal S.L. 2009-113, as amended by S.L. 2011-124, that will place the Southland Development property in the City of Kannapolis in 2013.

BACKGROUND: In 2009, the property owner planned to develop a corporate business park, Southland Development. The owner formally requested that Southland Development be voluntarily annexed into Kannapolis. Kannapolis could not annex Southland Development because the property is closer to other cities. The General Assembly enacted S.L. 2009-113 to annex Southland Development into Kannapolis effective September 30, 2011.

By 2011, Southland Development had not developed at the anticipated rate, and the property owner sought to delay the start of Kannapolis' property taxes for two years. The General Assembly enacted S.L. 2011-124 delaying the annexation of the Southland Development property for two years.

Now, the owner of Southland Development seeks to reverse the annexation sought in 2009. The planned business park has not been economically feasible. The City of Kannapolis does not oppose repealing the session laws that would place Southland Development in the City.

EFFECTIVE DATE: House Bill 302 would be effective when it becomes law.

Counsel to House Government, House Finance, and Senate State and Local Government Committees substantially contributed to this summary.

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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H 2

HOUSE BILL 421

Senate State and Local Government Committee Substitute Adopted 6/5/13

Short Title: Marshville Deannexation. (Local)

Sponsors:

Referred to:

March 27, 2013

A BILL TO BE ENTITLED

AN ACT REMOVING CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE TOWN OF MARSHVILLE.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is removed from the corporate limits of the Town of Marshville:

Union County Tax Parcel Number 02180003 located off Old Highway 74 in Marshville, NC and described in Exhibit A in the North Carolina General Warranty Deed filed with the Union County Register of Deeds, Book 3577, Page 769, reference to which is hereby made for a more complete and accurate description of the aforesaid lot.

SECTION 2. Section 1 of this act shall have no effect upon the validity of any liens of the Town of Marshville for ad valorem taxes or special assessments outstanding before the effective date of this act. Such liens may be collected or foreclosed upon after the effective date of this act as though the property was still within the corporate limits of the Town of Marshville.

SECTION 3. This act becomes effective June 30, 2013.

HOUSE BILL 421:
Marshville Deannexation

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 18, 2013
Introduced by:	Rep. Brody	**Prepared by:**	Judy Collier
Analysis of:	Second Edition		Research Assistant

SUMMARY: House Bill 421 would deannex 118.95 acres from the Town of Marshville.

CURRENT LAW: The North Carolina Constitution, in Section 1 of Article VII, authorizes the General Assembly to "provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions, and, except as otherwise prohibited by this Constitution, may give such powers and duties to counties, cities and towns, and other governmental subdivisions as it may deem advisable." The General Assembly enacted Article 4A of Chapter 160A of the General Statutes governing municipal annexations. The General Assembly has not enacted any method for municipalities to deannex property. The authority to deannex remains with the General Assembly.

BILL ANALYSIS: House Bill 421 would deannex 118.95 acres from the Town of Marshville.

Property taxes and special assessments imposed by the Town of Marshville before the effective date are valid and may be collected as though the property was still in the Town of Marshville.

BACKGROUND: The Town of Marshville annexed the property in 2002. The tract is a farm qualifying for present use value.

On March 18, 2013, the Town Council of the Town of Marshville passed a resolution requesting the property be deannexed. The Town of Marshville cites the following in support of the deannexation:

- The property is not contiguous to the current Town of Marshville corporate limits and is approximately 1.3 miles from the closest point of corporate boundary.
- The property contains no development.
- The property has no access to public utilities, and the Town of Marshville provides no services to the property.

EFFECTIVE DATE: June 30, 2013.

Counsel to House Government, House Finance, and Senate State and Local Government Committees substantially contributed to this summary.

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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H 2

HOUSE BILL 526

Senate State and Local Government Committee Substitute Adopted 6/5/13

Short Title: Chadbourn Voluntary Annexation. (Local)

Sponsors:

Referred to:

April 4, 2013

A BILL TO BE ENTITLED

AN ACT ADDING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF CHADBOURN.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is added to the corporate limits of the Town of Chadbourn:

BEGINNING at a spike in the centerline of NC Hwy 410 where a 39.63 acre tract intersects land owned now or formerly by R. L. Ward; thence with the centerline North 03 degrees 54 minutes 29 seconds East 140.70 feet to a nail in the centerline; thence North 02 degrees 58 minutes 17 seconds East 135.07 feet to an old nail in the centerline; thence North 01 degrees 30 minutes 00 seconds East 93.34 feet to an old nail in the centerline; thence North 41 degrees 53 minutes 00 seconds East 164.08 feet; thence North 27 degrees 00 minutes 00 seconds East 283.39 feet to an iron by an old concrete marker; thence North 27 degrees 00 minutes 00 seconds East 30 feet; thence South 80 degrees 29 minutes 10 seconds East 571.41 feet; thence South 81 degrees 05 minutes 22 seconds East 391.43 feet; thence South 85 degrees 59 minutes 18 seconds East 282.08 feet; thence South 84 degrees 40 minutes 10 seconds East 311.38 feet; thence North 73 degrees 30 minutes 57 seconds East 13.95 feet; thence South 30 degrees 09 minutes 33 seconds East 473.67 feet to an old concrete marker; thence South 84 degrees 41 minutes 48 seconds East 973.12 feet to an old concrete marker in the edge of the road; thence South 84 degrees 41 minutes 48 seconds East 30.32 feet to an old iron in the centerline of SR 1562; thence down the centerline South 05 degrees 00 minutes 18 seconds West 336.14 feet to an old iron in the centerline; thence North 85 degrees 03 minutes 06 seconds West 2991.60 feet to a spike in the centerline of NC Hwy 410, the BEGINNING and containing 39.63 acres more or less as shown on a "Survey for A. P. Worley and Richard Worley," dated September 20, 1988, prepared by Soles & Walker RLS to which reference is specifically made.

SUBJECT TO drainage easement acquired by Columbus Drainage District Number 1 and/or as shown on a copy of the attached map. For back title see Book 282 page 301, Book 282 page 303, Book 371 page 185, and Book 282 page 305.

SECTION 2. This act becomes effective June 30, 2013.

HOUSE BILL 526:
Chadbourn Voluntary Annexation

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 18, 2013
Introduced by:	Rep. Waddell	**Prepared by:**	Judy Collier
Analysis of:	Second Edition		Research Assistant

SUMMARY: ***House Bill 526 would annex 39.63 acres as a satellite parcel into the Town of Chadbourn.***

CURRENT LAW: The North Carolina Constitution, in Section 1 of Article VII, authorizes the General Assembly to "provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions, and, except as otherwise prohibited by this Constitution, may give such powers and duties to counties, cities and towns, and other governmental subdivisions as it may deem advisable." The General Assembly enacted Article 4A of Chapter 160A of the General Statutes governing municipal annexations.

BILL ANALYSIS: House Bill 526 would annex 39.63 acres as a satellite parcel into the Town of Chadbourn.

BACKGROUND: All property owners in the satellite parcel signed a petition to be annexed into the Town of Chadbourn. The Town Council of the Town of Chadbourn approved the proposed annexation. The 39.63 acres parcel is used by Victory in Jesus Ministries, Inc. (VIJM). VIJM plans a mixed-use development.

EFFECTIVE DATE: June 30, 2013.

Counsel to House Government, House Finance, and Senate State and Local Government Committees substantially contributed to this summary.

O. Walker Reagan
Director

H526-SMRE-14 E2 -V1

Research Division
(919) 733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H 2

HOUSE BILL 567

Senate State and Local Government Committee Substitute Adopted 6/5/13

Short Title: Lumberton Deannexation. (Local)

Sponsors:

Referred to:

April 4, 2013

A BILL TO BE ENTITLED

AN ACT REMOVING CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE CITY OF LUMBERTON.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is removed from the corporate limits of the City of Lumberton:

Tract #1

The areas to be deannexed are the entire right-of-way of I-95 South (right-of-way varies), including the area of the off ramps for US 74, where it adjoins the City of Lumberton Annexation, as shown in Map Book 38, page 126, Map Book 39, page 20, Map Book 39, page 20-A, and Map Book 31, page 77 and includes all of the right-of-way of I-95 South running from US 74 in a westerly direction, about 3.5 miles and or about 1500 feet west of Exit 10 on 1-95 South, also deannexed is all of the right-of-way (100 ft. right-of-way) of US Highway 301 that leads from US 74 in a southwesterly direction about 1.5 miles to the intersection of US Highway 301 with the east right-of-way line of SR 1164, Back Swamp Road and including an area between US Highway 301 and I-95 South near the pt of a curve from US 74, all as shown in Map Book 39, page 20-A, also deannexed is all of the 60 foot right-of-way of SR 2422, McDonald Road that leads from I-95 South in a southern direction about 1.7 miles to its intersection with the north right-of-way line of SR 1003, Chicken Road as shown in Map Book 39, page 20-A, also deannexed is all of the 60 foot right-of-way of SR 1003, Chicken Road that leads from I-95 South in a southeast direction about 1.5 miles to its intersection with the northwest right-of-way line of SR 2422, McDonald Road as shown in Map Book 39, page 20-A.

Tract #2

All that certain tract or parcel of land lying about 5.2 miles west of the center of Lumberton, NC, adjacent to and south of I-74, about 1000 feet west of SR 2417, Thompson Road and adjoining the lands of Bonnie I. Rhodes (585/714) and Judy Smith Kinlaw (723/800) and SR 2503, Garland Road, on the east, Joanna W. Musselwhite (796/41), Barnes Farms, Inc., (719/860) and Luther Barnes (914/763) on the west and Luther Barnes (914/763) on the south and being more particularly described as follows: COMMENCING at NC Grid Monument "Taylor" having NC Grid Coordinates, NAD 83, (horizontal distance), N=307,541.590 and E=1,973,196.296 and runs South 89 degrees 36 minutes 24 seconds West 1357.82 feet to an iron rod found in the center of SR 2416, Emory Road, the northeast corner of the City of Lumberton (1166/693) and the northeast corner of the existing Corporate Limits line of the City of Lumberton, North Carolina; thence with the east line of said City of Lumberton tract and Corporate Limits line South 22 degrees 26 minutes 10 seconds West 1184.40 feet to an iron rod

found in said east line, at its intersection with the north right-of-way line of I-74 (variable public right-of-way), the point and place of BEGINNING, having NC Grid Coordinates N=306,437.52 and E=1,971,386.47 and runs from said beginning iron rod with said east line, crossing I-74, South 22 degrees 26 minutes 10 seconds West 461.18 feet to an iron rod found at the intersection of said east line and right-of-way line of I-74; thence continuing with said line South 22 degrees 26 minutes 10 seconds West 958.25 feet to an iron pipe found; thence continuing with said east line South 22 degrees 27 minutes 58 seconds West 1709.11 feet to an iron pipe found on the south bank of a ditch and in the west right-of-way line (60 ft. right-of-way) of SR 2503, Garland Road; thence continuing with said east line and west right-of-way line of SR 2503, Garland Road, South 22 degrees 47 minutes 47 seconds West 626.81 feet to an iron pipe found, the southeast corner of said City of Lumberton tract and the Dead End of SR 2503, Garland Road; thence with the south line of said City of Lumberton tract, North 62 degrees 04 minutes 00 seconds West 609.85 feet to a concrete monument found, the southwest corner of said City of Lumberton tract; thence with a west line of said City of Lumberton tract, North 28 degrees 26 minutes 16 seconds East 257.38 feet to a pump pipe found; thence continuing with a west line of said City of Lumberton tract, North 29 degrees 29 minutes 12 seconds East 2115.07 feet to an iron pipe found, a corner of said City of Lumberton tract; thence with another south line of said City of Lumberton tract South 81 degrees 01 minutes 32 seconds West 526.89 feet to an iron axle found (bent); thence with a west line of said City of Lumberton tract, North 31 degrees 23 minutes 37 seconds East 198.02 feet to a pump pipe found; thence continuing with an east line of said City of Lumberton tract, North 31 degrees 09 minutes 02 seconds East 683.93 feet to an iron rod found at the intersection of said west line with the south right-of-way line of I-74; thence continuing with west line and crossing I-74, North 31 degrees 09 minutes 02 seconds East 340.06 feet to a pump pipe found and North 30 degrees 17 minutes 01 seconds East 68.90 feet to an iron rod found at the intersection of said City of Lumberton west line and the north right-of-way line of I-74; thence with the north right-of-way line of I-74, the following (4) calls, North 85 degrees 41 minutes 08 seconds East 345.38 feet to a found North Carolina Disc, North 76 degrees 30 minutes 03 seconds East 26.15 feet to an iron rod found, North 76 degrees 30 minutes 03 seconds East 102.03 feet to a found North Carolina Disc and North 79 degrees 11 minutes 33 seconds East 200.21 feet to the beginning containing 44.27 acres including 5.86 acres in right-of-way of I-74. And being a part of those lands as shown in Map Book 1166, page 693, Robeson County Registry. Bearings referenced NC Grid, NAD 83, horizontal distance.

SECTION 2. Section 1 of this act shall have no effect upon the validity of any liens of the City of Lumberton for ad valorem taxes or special assessments outstanding before the effective date of this act. Such liens may be collected or foreclosed upon after the effective date of this act as though the property was still within the corporate limits of the City of Lumberton.

SECTION 3. This act becomes effective June 30, 2013.

HOUSE BILL 567:
Lumberton Deannexation

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 18, 2013
Introduced by:	Reps. Waddell, C. Graham, Goodman, Pierce	**Prepared by:**	Judy Collier Research Assistant
Analysis of:	Second Edition		

SUMMARY: House Bill 567 would deannex 2 tracts from the City of Lumberton.

CURRENT LAW: The North Carolina Constitution, in Section 1 of Article VII, authorizes the General Assembly to "provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions, and, except as otherwise prohibited by this Constitution, may give such powers and duties to counties, cities and towns, and other governmental subdivisions as it may deem advisable." The General Assembly enacted Article 4A of Chapter 160A of the General Statutes governing municipal annexations. The General Assembly has not enacted any method for municipalities to deannex property. The authority to deannex remains with the General Assembly.

BILL ANALYSIS: House Bill 567 would deannex 2 tracts from the City of Lumberton. The tracts include parts of the right-of-way of the following roads: I-95 South, US 74, US 301, SR 1164 (Back Swamp Road), SR 2422 (McDonald Road), SR 1003 (Chicken Road), I-74, SR 2417 (Thompson Road), SR 2503 (Garland Road).

Property taxes and special assessments imposed by the City of Lumberton before the effective date are valid and may be collected as though the property was still in the City of Lumberton.

BACKGROUND: The City of Lumberton annexed the property approximately 10 years ago. The tracts are primarily undeveloped land and highway right-of-way along I-95 and I-74.

On March 26, 2013, the City Council of the City of Lumberton passed a resolution requesting the property be deannexed. The City of Lumberton cites the following in support of the deannexation:

- The tracts are more than 5 miles from Lumberton and are classified as the lowest fire protection class for homeowners' insurance policies. The low rating on the tracts affects the fire protection rating of the entire City and increases insurance cost in Lumberton.
- The correct emergency responders vary along the Interstates as the roadways move in and out of the tracts. The City and county do not know who should respond.
- The tracts have no industry and few homes. There is no plan to extend utilities such as sewer.
- The roadways have moved over time, and the tracts no longer match the location of the roads.

EFFECTIVE DATE: June 30, 2013.

Staff to House Government, Counsel to House Finance and Senate State and Local Government Committees substantially contributed to this summary.

O. Walker Reagan
Director

H567-SMRE-16 E2 -V1

Research Division
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HOUSE BILL 553
Committee Substitute Favorable 5/6/13

Short Title: Amend Carteret Co. Occupancy Tax. (Local)

Sponsors:

Referred to:

April 4, 2013

A BILL TO BE ENTITLED

AN ACT TO MODIFY CARTERET COUNTY'S AUTHORITY TO LEVY AN ADDITIONAL ONE PERCENT ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX AND TO MODIFY THE DISTRIBUTION OF THE PROCEEDS OF THE TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of S.L. 2007-112, as amended by Section 40 of S.L. 2007-484, reads as rewritten:

"**SECTION 2.** Occupancy Tax. – (a) Authorization and Scope. – The Carteret County Board of Commissioners may levy a room occupancy and tourism development tax of five percent (5%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by any hotel, motel, inn, tourist camp, condominium, cottage, campground, rental agency, or other similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.~~the following:~~

~~(1) Religious organizations.~~
~~(2) Educational organizations.~~
~~(3) Any business that offers to rent fewer than five units.~~
~~(4) Summer camps.~~
~~(5) Charitable, benevolent, and other nonprofit organizations.~~

"**SECTION 2.(b)** Additional Occupancy Tax. – In addition to the room occupancy and tourism development tax authorized by subsection (a) of Section 2 of this act, the Carteret County Board of Commissioners ~~may, no earlier than July 1, 2010,~~ may levy an additional room occupancy and tourism development tax of one percent (1%) of the gross receipts derived from the rental of accommodations taxable under subsection (a) of Section 2 of this ~~act only if all of the following conditions have been met:~~act. Carteret County may not levy a tax under this subsection unless it also levies a tax under subsection (a) of this section.

~~(1) A development plan for the construction of a convention center has been approved by resolution of the board of county commissioners and the governing board of the municipality where the center is to be located by June 30, 2010.~~
~~(2) There is a signed contract between the appropriate local governments and a private developer that includes financing commitments for construction to begin no later than July 1, 2011.~~

~~(3) The county is levying the room occupancy and tourism development tax authorized under subsection (a) of Section 2 of this act.~~

~~"SECTION 2.(c) Repeal of Additional Occupancy Tax. Carteret County's authority to levy the additional one percent (1%) room occupancy and tourism development tax under subsection (b) of Section 2 of this act is repealed as provided in this section if either of the following events occur:~~

~~(1) A cumulative total of ten million dollars ($10,000,000) in proceeds from the additional one percent (1%) room occupancy and tourism development tax is collected, calculated beginning on July 1, 2010. The repeal under this subdivision is effective on the first day of the second month following the date that the cumulative total of ten million dollars ($10,000,000) is collected.~~

~~(2) Construction on the convention center has not begun by July 1, 2011. The repeal under this subdivision is effective September 1, 2011. Any funds collected before the repeal date must be redistributed to the Tourism Development Authority and used only to promote travel and tourism.~~

~~"SECTION 2.(d) Excess Proceeds from Additional Occupancy Tax. Carteret County must redistribute any excess proceeds from the additional one percent (1%) room occupancy and tourism development tax authorized under subsection (b) of Section 2 of this act to the Tourism Development Authority to be used only to promote travel and tourism. For purposes of this subsection, "excess proceeds" means:~~

~~(1) Any proceeds in excess of ten million dollars ($10,000,000) collected prior to the repeal date of the additional tax.~~

~~(2) Any proceeds collected but not spent in excess of the actual cost of the convention center.~~

"**SECTION 2.(e)** Administration. – A tax levied under this act must be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this act. The Carteret County Tax Collector must establish procedures to periodically audit the businesses subject to the tax levied under this act in order to ensure compliance with this act.

"**SECTION 2.(f)** Definitions. – The following definitions apply in this act:

(1) Beach nourishment. – The placement of sand, from other sand sources, on a beach or dune by mechanical means and other associated activities that are in conformity with the North Carolina Coastal Management Program along the shorelines of the Atlantic Ocean of North Carolina and connecting inlets for the purpose of widening the beach to benefit public recreational use and mitigating damage and erosion from storms to inland property. The term includes expenditures for the following:

a. Costs directly associated with qualifying for projects either contracted through the U.S. Army Corps of Engineers or otherwise permitted by all appropriate federal and State agencies;

b. The nonfederal share of the cost required to construct these projects;

c. The costs associated with providing enhanced public beach access; and

d. The costs of associated nonhardening activities such as the planting of vegetation, the building of dunes, and the placement of sand fences.

(2) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of

gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(3) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in these activities.

(4) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures.

~~"SECTION 2.(g) Use and Distribution of five percent (5%) Occupancy Tax Revenue. – If Carteret County levies only the room occupancy and tourism development tax authorized by subsection (a) of Section 2 of this act, the net proceeds of the tax must be distributed as follows:~~

~~(1) Travel and tourism promotion. – Carteret County must, on a quarterly basis, remit fifty percent (50%) to the Carteret County Tourism Development Authority. Beginning July 1, 2010, if the conditions in subsection (b) of Section 2 of this act are not met, then Carteret County must, on a quarterly basis, remit sixty percent (60%) to the Carteret County Tourism Development Authority. After deducting its administrative expenses, the Authority must use all of the funds remitted to it under this subdivision to promote travel and tourism in Carteret County. Administrative expenses may not exceed ten percent (10%) of the total budget of the Tourism Development Authority and may not include costs associated with the operation of visitor centers.~~

~~(2) Beach nourishment. – Carteret County must retain the remainder to be used only for beach nourishment on Bogue Banks. Any idle funds that are not spent for beach nourishment must be remitted to the Carteret County Tourism Development Authority and must be used only to promote travel and tourism in Carteret County. The county may not accumulate a balance of tax proceeds for beach nourishment in excess of fifteen million dollars ($15,000,000).~~

~~"SECTION 2.(h) Use and Distribution of six percent (6%) Occupancy Tax Revenue. – If the conditions in subsection (b) of Section 2 of this act are met and Carteret County levies the room occupancy tax at a rate of six percent (6%) as authorized by subsections (a) and (b) of Section 2 of this act, the net proceeds must be distributed as follows:~~

~~(1) Travel and tourism promotion. – Carteret County must, on a quarterly basis, remit fifty percent (50%) to the Carteret Tourism Development Authority to be used to promote travel and tourism.~~

~~(2) Beach nourishment. – Carteret County must use thirty-three percent (33%) only for beach nourishment on Bogue Banks. Any idle funds that are not spent for beach nourishment must be remitted to the Carteret County Tourism Development Authority and must be used only to promote travel and tourism in Carteret County. The county may not accumulate a balance of tax proceeds for beach nourishment in excess of fifteen million dollars ($15,000,000).~~

~~(3) Convention center financing. – Any remaining proceeds, up to a maximum of ten million dollars ($10,000,000), must be used for the financing of debt~~

~~service, operating costs, or both associated with the construction of a new convention center in Carteret County.~~

"SECTION 2.(i) Use and Distribution of Tax Revenue. – The net proceeds of the occupancy taxes levied under Section 2 of this act are distributed as follows:

(1) Travel and tourism promotion. – Carteret County must, on a quarterly basis, remit fifty percent (50%) to the Carteret County Tourism Development Authority to be used to promote travel and tourism.

(2) Beach nourishment. – Carteret County must use the remaining fifty percent (50%) only for beach nourishment on Bogue Banks. The county may not accumulate a balance of tax proceeds for beach nourishment in excess of thirty million dollars ($30,000,000)."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 553:
Amend Carteret Co. Occupancy Tax

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 18, 2013
Introduced by:	Rep. McElraft	**Prepared by:**	Judy Collier
Analysis of:	Second Edition		Research Assistant

SUMMARY: ***House Bill 553 authorizes Carteret County to levy an additional 1% occupancy tax and modifies the distribution of the proceeds. Fifty percent (50%) of the proceeds may be used for tourism promotion and fifty percent (50%) may be used for beach nourishment. The county may not accumulate more than $30 million for beach nourishment.***

CURRENT LAW: Carteret County has the authority to levy a five percent (5%) occupancy tax. Fifty percent (50%) of the proceeds is remitted to the TDA and is used to promote travel and tourism and the remaining fifty percent (50%) is used for beach nourishment. The county may not accumulate a balance of proceeds for beach nourishment in excess of $15 million dollars.

In 2001, the General Assembly enacted legislation completely rewriting Carteret County's occupancy tax legislation. Among other things, the act provided for an additional 1% occupancy tax contingent upon a development plan for the construction of a civic center being in place by June 30, 2006. In 2005, the General Assembly extended the deadline to June 30, 2008. In 2007, the General Assembly extended the deadline for another two years.[1] The legislation provided for the repeal of the authority to levy the additional 1%, effective September 1, 2011, if construction on the proposed convention center had not begun by July 1, 2011. Construction on a convention center did not occur as required by the local act and, therefore, Carteret's authority to levy the additional 1% was repealed by operation of law.

BILL ANALYSIS: To the extent the county's authority to levy an additional 1% was repealed by operation of the local act, House Bill 553 would reauthorize Carteret County to levy an additional one percent (1%) room occupancy tax, for a total rate of 6%. The bill deletes the language regarding contingencies related to proposed plans to construct a convention center.

Of the 6% total tax, fifty percent (50%) of the proceeds would be remitted to the Carteret County Tourism Development Authority to be used to promote travel and tourism. The other fifty percent (50%) must be used by the county for beach nourishment on Bogue Banks. The bill would prohibit the county from accumulating more than $30 million in tax proceeds for beach nourishment.

The bill also makes a technical change with regard to identifying the types of accommodations that are subject to the tax. In 2010[2], the General Assembly amended the uniform provisions governing occupancy tax to provide that room occupancy tax applies to the same gross receipts as the State sales tax on accommodations and is calculated in the same manner as that tax. The legislation further

[1] Specifically , the deadline was extended for the following: (1) the time allowed for developing a plan for a convention center, (2) the time to execute a contract between the local government and a developer to begin construction, (3) the date the one percent (1%) may be imposed, (4) the date to begin calculating the total amount of money to be collected from the one percent (1%) tax, and (5) the date of repeal of the tax if the Board does not act.

[2] Section 31.6 of S.L. 2010-31.

provided that to the extent this provision conflicts with any provision of a local act, the general law supersedes the local provision. Therefore, the changes on lines 15-22 are technical because to the extent they conflict with State law, they have been superseded by the 2010 legislation. Specifically, there is no State sales tax exemption for businesses that rent fewer than five units, and the exemption for summer camps is not needed because they are already exempt under State law. The other deletions also reflect the application of State sales tax on accommodations.

EFFECTIVE DATE: This act is effective when it becomes law.

Trina Griffin, Counsel to House Finance Occupancy Tax Subcommittee, and Senate Finance Committee substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Fiscal Note

BILL NUMBER: House Bill 553 (Second Edition)

SHORT TITLE: Amend Carteret Co. Occupancy Tax.

SPONSOR(S): Representative McElraft

FISCAL IMPACT
($ in millions)

☑ Yes ☐ No ☐ No Estimate Available

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
State Impact					
General Fund Revenues:					
General Fund Expenditures:					
State Positions:					
NET STATE IMPACT	**$0.0**	**$0.0**	**$0.0**	**$0.0**	**$0.0**
Local Impact					
Revenues:	1.0	1.0	1.0	1.0	1.1
Expenditures:					
NET LOCAL IMPACT	**$1.0**	**$1.0**	**$1.0**	**$1.0**	**$1.1**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:
NC Dept. of Revenue; Carteret County

EFFECTIVE DATE Becomes effective when law.

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY:
HB 553 would allow Carteret County to levy an additional 1% occupancy tax, for a total rate of 6%. Fifty percent of the proceeds would be remitted to the Carteret County Tourism Development Authority to be used to promote travel and tourism, and the remaining fifty percent would be used for beach nourishment. The bill would prohibit the county from accumulating more than $30 million in tax proceeds for beach nourishment.

ASSUMPTIONS AND METHODOLOGY:
According to the Department of State Treasurer, the current 5% occupancy tax generated approximately $4.5 million in 2012. This amount is divided by 5 to determine the amount generated by each one percent. The result is approximately $0.9 million, which is grown by the General Consumer Price Index (CPI) to estimate the impact for future years.

SOURCES OF DATA: NC Dept. of State Treasurer

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Rodney Bizzell

APPROVED BY:

Mark Trogdon, Director
Fiscal Research Division

DATE: May 28, 2013

Signed Copy Located in the NCGA Principal Clerk's Offices

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 18
PROPOSED COMMITTEE SUBSTITUTE S18-CSTDf-30 [v.8]

6/19/2013 10:47:37 AM

Short Title: Amend Locksmith License Act/Raise Fee Ceiling. (Public)

Sponsors:

Referred to:

January 31, 2013

A BILL TO BE ENTITLED

AN ACT AMENDING THE LOCKSMITH LICENSING ACT, EXPANDING THE AUTHORITY OF THE LOCKSMITH LICENSING BOARD TO REGULATE INSTITUTIONAL LOCKSMITHS, AND RAISING THE CEILING ON CERTAIN FEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 74F-3 reads as rewritten:

"**§ 74F-3. Licenses ~~required.~~required; violation.**

No person shall perform or offer to perform locksmith services in this State unless the person has been licensed under the provisions of this Chapter. Every person providing locksmith services as defined under G.S. 74F-4(5) to buildings containing medical records, pharmaceutical records, educational records, criminal records, voting records, tax records, legal records, or personnel records, including any person providing locksmith services who is employed by or working for a school, college, university, hospital, company, institution, or government facility shall be licensed in accordance with the provisions of this Chapter. A violation of this section is a Class 3 misdemeanor unless the conduct is covered under some other provision of law providing greater punishment."

SECTION 2. G.S. 74F-3 as amended by Section 1 of this act reads as rewritten:

"**§ 74F-3. Licenses required; violation.**

(a) No person shall perform or offer to perform locksmith services in this State unless the person has been licensed under the provisions of this Chapter. Every person providing locksmith services as defined under G.S. 74F-4(5) to buildings containing medical records, pharmaceutical records, educational records, criminal records, voting records, tax records, legal records, or personnel records, including any person providing locksmith services who is employed by or working for a school, college, university, hospital, company, institution, government facility, or multi-family unit, such as an apartment or condominium, shall be licensed in accordance with the provisions of this Chapter.

(b) No person shall possess any locksmith tools as defined under G.S. 74F-4(6), unless the person is licensed as a locksmith under this Chapter or exempt from the provisions of this Chapter.

(c) ~~A~~ Unless the conduct is covered under some other provision of law providing greater punishment, a violation of this section is a Class ~~3~~1 misdemeanor ~~unless the conduct is covered under some other provision of law providing greater punishment.~~for the first offense. A second or subsequent offense is a Class I felony."

SECTION 3. G.S. 74F-4 reads as rewritten:

"**§ 74F-4. Definitions.**

The following definitions apply in this Chapter:

(1) Apprentice. – A person who has been issued an apprenticeship designation by the Board.
(1a) Board. – The North Carolina Locksmith Licensing Board.
(2) Code book. – A compilation, in any form, of key codes and combinations.
(3) License. – A certificate issued by the Board recognizing the person named therein as having met the requirements to perform locksmith services as defined in this Chapter.
(4) Locksmith. – A person who has been issued a license by the Board.
(5) Locksmith services. – ~~Repairing,~~Services that include repairing, rebuilding, rekeying, repinning, servicing, adjusting, or installing locks, mechanical or electronic locking devices, access control devices, egress control devices, safes, vaults, and safe-deposit boxes for compensation or other consideration, including services performed by safe technicians. The definition also includes any method of bypassing a locking mechanism of any kind, whether in a commercial, residential, or automotive setting, for compensation.
(6) Locksmith tools. – Any tools that are designed or used to open a mechanical or electrical locking device in a way other than that which was intended by the manufacturer."

SECTION 4. G.S. 74F-6 is amended by adding a new subdivision to read:

"**§ 74F-6. Powers of the Board.**

The Board shall have the power and duty to:

...

(17) Authorize the chair, by majority vote, to issue subpoenas allowing the Board to obtain the records of a person or company offering locksmith services, including an employee of a company, a contractor, or subcontractor. The records obtained shall include invoices and receipts, specifically any invoices and receipts that pertain to locksmith tools, equipment, or parts."

SECTION 5. G.S. 74F-9 reads as rewritten:

"**§ 74F-9. Fees.**

The Board shall establish fees not exceeding the following amounts:

(1)	Issuance of a license	~~$100.00~~$300.00
(2)	Renewal of a license	~~$100.00~~$300.00
(3)	Examination	$200.00
(4)	Reinstatement	~~$150.00~~$250.00
(5)	Late fees	~~$150.00~~$300.00
(6)	Apprentice license fee	~~$100.00~~$300.00
(7)	Apprentice transfer fee	$25.00."

SECTION 6. G.S. 74F-10(b) reads as rewritten:

"(b) All licenses shall expire three years after the date they were issued unless renewed. All applications for renewal shall be filed with the Board and shall be accompanied by the renewal fee as required by G.S. 74F-9. A license that has expired for failure to renew may be reinstated after the applicant pays the late and reinstatement fees as required by G.S. 74F-9. If an applicant whose license has expired can show good cause to the Board the reason for allowing the license to expire, the Board, in its discretion, may adjust the renewal and reinstatement fees accordingly."

SECTION 7. G.S. 74F-12(b) reads as rewritten:

"(b) ~~Every person advertising locksmith services performed by the person shall include in the advertisement the identification number that is printed on the license issued by the Board.~~All advertisements for locksmith services shall include a valid license number issued by

the Board. The license number of the owner of the locksmith company shall satisfy the requirements of this subsection."

SECTION 8. G.S. 74F-15 reads as rewritten:

"**§ 74F-15. Disciplinary procedures.**

(a) The Board may deny or refuse to renew, suspend, or revoke a license or apprenticeship designation if the licensee, apprentice, or applicant:

(1) Gives false information to or withholds information from the Board in procuring or attempting to procure a license.

(2) Has been convicted of or pled guilty or no contest to any of the crimes listed in G.S. 74F-18(a)(2).

(3) Has demonstrated gross negligence, incompetency, or misconduct in performing locksmith services.

(4) Has willfully violated any of the provisions of this Chapter.

(b) The Board may assess the costs of disciplinary action, including attorneys' fees, against an applicant or licensee found to be in violation of this Chapter or rules adopted by the Board."

SECTION 9. G.S. 74F-16 reads as rewritten:

"**§ 74F-16. Exemptions.**

The provisions of this Chapter do not apply to:

(1) An employee of a licensed locksmith when acting under the direct control and supervision of the licensed locksmith. For purposes of this subdivision, "direct control and supervision" means that a licensed locksmith is required to physically accompany the employee to the premises where locksmith services are to be performed.

(1a) An employee of a locksmith company performing administrative duties only. For purposes of this section,"administrative duties" means managing the daily operations of an office in a locksmith company, including performing clerical tasks, answering telephones, and greeting customers.

(2) A person working as an apprentice pursuant to G.S. 74F-7.1.

(3) A person or business required to be licensed or registered by the North Carolina Alarm Systems Licensing Board pursuant to Chapter 74D of the General Statutes, when acting within the scope and course of the alarm systems license or registration.

(4) ~~An employee of a towing service or an automotive repair business providing services in the normal course of its business, a repossessor, a taxi cab service, a~~ A person or business providing any of the following services so long as the person or business does not represent himself, herself, or itself as a locksmith:

a. A towing service, or its employee, when providing services in the normal course of its business.

b. An automotive repair business, or its employee, when opening a vehicle to perform service on the vehicle.

c. A repossessing company, or its employee, while repossessing a vehicle.

d. A motor vehicle dealer as defined in G.S. 20-286(11), or a motor club as defined in G.S. 58-69-1 when opening automotive locks in the normal course of ~~their duties, so long as the employee does not represent himself or herself as a locksmith.~~the dealer or club's business duties.

(5) A property owner, or the owner's employee, when providing locksmith services on the property owner's property, so long as the owner or employee

does not represent himself or herself as a locksmith. For purposes of this section, "property" means, but is not limited to, a hotel, motel, apartment, condominium, commercial rental property, and residential rental property.

(6) A merchant, or retail or hardware store, when ~~it lawfully~~ the merchant or store lawfully (i) rekeys a lock at the time of sale of the lock or (ii) duplicates ~~keys or installs, services, repairs, rebuilds, reprograms, rekeys, or maintains locks in the normal course of its business,~~a key, except for duplicating a transponder-type key that requires programming, so long as the merchant or store does not represent himself, herself, or itself as a locksmith.

(7) A member of a law enforcement agency, fire department, or other government agency who, when acting within the scope and course of the member's employment with the agency or department, opens locked doors to vehicles, homes, or businesses.

(8) A salesperson while demonstrating the use of locksmith tools to persons licensed under this Chapter.

(9) A general contractor licensed under Article 1 of Chapter 87 of the General Statutes when acting within the scope and course of the general contractor license, or an agent or subcontractor of a licensed general contractor when acting within the ordinary course of business.

(10) A person or business when lawfully installing or maintaining a safety lock device on a wastewater system when the safety lock device is required by permit or requested by the owner of the wastewater system, provided the person or business does not represent itself as a locksmith. For purposes of this subdivision, "wastewater system" has the same meaning as in G.S. 130A-334.

(11) Any person or firm that sells gun safes or locking devices for firearms ~~when acting within the scope and~~during the course of the sale of gun safes or locking devices for ~~firearms.~~firearms, so long as the person or firm, or the firm's employee, does not represent himself, herself, or itself as a locksmith.

(12) A person while performing a locksmith service in an emergency situation without receiving any compensation for this service and who does not advertise those services."

SECTION 10. For the purposes of this section, an "institutional locksmith" is a person who is employed by or working for a school, college, university, hospital, company, institution, or government facility and who provides locksmith services as defined under G.S. 74F-4(5) as part of the person's employment. Any person who submits proof to the Board that the person has been actively engaged as an institutional locksmith in this State for at least two consecutive years prior to the October 1, 2013, and pays the required fee for the issuance of a license under G.S. 74F-9 shall be licensed without having to satisfy the requirements of G.S. 74F-7(3). All institutional locksmiths who do not apply to the Board by October 1, 2014, shall be required to complete all requirements prescribed by the Board and to otherwise comply with the provisions of Chapter 74F.

SECTION 11. Section 2 of this act becomes effective December 1, 2013, and applies to offenses committed on or after that date. Sections 5 and 11 of this act are effective when it becomes law. The remainder of this act is effective October 1, 2013.

SENATE BILL 18:
Amend Locksmith License Act/Raise Fee Ceiling

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 19, 2013
Introduced by:	Sen. Bingham	**Prepared by:**	Heather Fennell
Analysis of:	PCS to First Edition S18-CSTDf-30		Committee Counsel

SUMMARY: The PCS for Senate Bill 18 would do the following:

- ***Requires the licensure of individuals providing locksmith services to institutions.***
- ***Prohibits the possession of locksmith tools by individuals not licensed as locksmiths.***
- ***Increases the penalty for performing locksmith services in this State without a license from a Class 3 to a Class 1 misdemeanor for the first offense, and a Class I felony for second and subsequent offenses.***
- ***Expands the definition of locksmith services to include any method of bypassing a locking mechanism, whether in a commercial, residential, or automotive setting, for compensation.***
- ***Increases the fees for issuance, renewal, late renewal, and reinstatement of a license and the fee for an apprentice license.***
- ***Authorizes the Locksmith Board to assess the costs of disciplinary actions against a licensee.***
- ***Modifies the exemptions from licensure.***

[As introduced, this bill was identical to H834, as introduced by Reps. Collins, Burr, which is currently in Senate Pensions & Retirement and Aging.]

CURRENT LAW: Prior to 2002, locksmiths were not licensed or regulated in this State. In 2001, the General Assembly enacted the Locksmith Licensing Act (Act) establishing the North Carolina Locksmith Licensing Board and providing the qualifications for licensure. There are approximately 1,400 licensees in North Carolina. To become licensed, an applicant must meet the following qualifications:

(1) Be of good moral and ethical character, as evidenced in part by a criminal history record check.
(2) Be at least 18 years of age.
(3) Successfully complete an examination administered by the Board that measures the knowledge and skill of the applicant in locksmith services and the laws applicable to licensed locksmiths.
(4) Pay the required fee.

Performing locksmith services without a license is punishable as a Class 3 misdemeanor unless the conduct is covered under some other provision of law providing for greater punishment. G.S. 14-55 provides it is a Class I felony to possess burglary tools without a lawful excuse.

"*Locksmith services*" is defined as repairing, rebuilding, rekeying, repinning, servicing, adjusting, or installing locks mechanical or electronic locking devices, access control devices, egress control devices, safes, vaults, and safe deposit boxes for compensation, including services performed by safe technicians.

The are 12 exemptions from licensure, including: an employee acting under the control and supervision of a licensed locksmith, an apprentice, an employee of a towing service, an automotive repair business, a repossessor, a taxicab service as long as the person does not represent himself to be a locksmith, a property owner providing locksmith services on the owner's property, a merchant that duplicates keys or maintains locks in the normal course of business, or a member of law enforcement who opens locked doors to vehicles, homes, or businesses when acting within the scope and course of the member's employment.

In North Carolina, the locksmith profession is represented by the North Carolina Locksmith Association (NCLA). There is also a national association – The Associated Locksmiths of America (ALOA). These organizations set ethical standards for their members; however, membership is voluntary. In addition, the ALOA offers a certification program to its members.

BILL ANALYSIS:

Section 1 requires certain individuals that are currently exempt from licensure to obtain a license to perform locksmith service. This section would require licensure of all individuals providing locksmith services to buildings containing the following types of records:

- Medical.
- Pharmaceutical.
- Educational.
- Criminal.
- Voting.
- Tax.
- Legal.
- Personnel.

This new licensure requirement includes employees of institutions that the Board considers "institutional locksmiths." An "institutional locksmith" is a person who is employed by or working for a school, college, university, hospital, company, institution, or government facility and who provides locksmith services as defined under G.S. 74F-4(5) as part of the person's employment.

Section 2 prohibits any individual that is not licensed as a locksmith, or otherwise exempt from license as a locksmith, from possessing locksmith tools. The penalty for violating the prohibitions on providing service without a license and possessing locksmith tools is a Class 3 misdemeanor for the first offense.[1] The maximum punishment that may be imposed for a Class 1 misdemeanor is 1-120 days of community, intermediate, or active punishment and a fine in an amount set by the court. This section also provides the penalty for second and subsequent offenses is a Class I felony. The maximum punishment for a Class I felony is 24 months active punishment.

Section 3 would expand the definition of locksmith services to include "any method of bypassing a locking mechanism of any kind, whether in a commercial, residential, or automotive setting, for compensation."

Section 4 would authorize the Board to issue subpoenas for records of an entity offering locksmith services, including employees, contractors, and subcontractors of a company providing service.

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[1] This is an increase in the penalty for performing locksmith services in this State without a license from Class 1 misdemeanor.

Section 5 would increase the fees as follows:

	Current Fee	Proposed Fee
Issuance of license	$100	$300
Renewal of license	$100	$300
Examination	$200	No change
Reinstatement	$150	$250
Late Fees	$150	$300
Apprentice fee	$100	$300
Apprentice transfer fee	$25	No change

Section 6 would authorize the Board to adjust the renewal and reinstatement fees for good cause shown.

Section 7 would require advertisements for locksmith services include a valid license number. Current law already requires that advertising contain the "identification number printed on the license."

Section 8 would allow the Board to assess an applicant or licensee the costs of a disciplinary action, including attorney fees, if a violation has occurred.

Section 9 would make the following modifications to the exemptions from licensure as a locksmith:

- For the exemption for employees of locksmiths to apply, a licensed locksmith must physically accompany the employee to the premises or the employee must be one who performs administrative duties only.
- Creates a new exemption for employees of a locksmith performing only administrative duties.
- Repeals the exemption for employees of a taxi cab service.
- Clarifies the exemptions for towing services, automotive repair businesses, repossessing companies, and auto dealers.
- Narrows the exemption for merchants and hardware stores to only include (i) rekeying a lock at the time of sale, or (ii) duplicating a key. Duplicating a "transponder-type" key is not including in the new exception, and therefore, would require licensure.

Section 10 would provide a grandfather clause for "institutional locksmiths" that are now required to be licensed under Section 1 of the act. Individuals that are currently providing locksmith services to these institutions would be eligible for licensure as a locksmith if the individual has been engaged as an intuitional locksmith for 2 years prior to October 1, 2013 (the effective date of the new licensing requirements). The individual must pay the appropriate fee, but does not need to take the required exam.

EFFECTIVE DATE: The new prohibition created by this act and the increase in criminal penalties are effective December 1, 2013. The new licensure requirements are effective October 1, 2013. The fee increases are effective when the act becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S 3

SENATE BILL 305
Corrected Copy 3/18/13
Transportation Committee Substitute Adopted 6/12/13

Short Title: DMV Commission Contract Changes. (Public)

Sponsors:

Referred to:

March 14, 2013

A BILL TO BE ENTITLED

AN ACT TO IMPROVE THE PUBLIC/PRIVATE PARTNERSHIP BY WHICH THE DIVISION OF MOTOR VEHICLES ISSUES MOTOR VEHICLE TITLES AND REGISTRATIONS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Article 3 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"**§ 20-63.02. Advisory committee of commission contractors.**

(a) Committee and Duties. – An advisory committee is established and is designated the License Plate Agent (LPA) Advisory Committee. The Division and the LPA Advisory Committee are directed to work together to ensure excellent and efficient customer service with respect to vehicle titling and registration services provided through commission contracts awarded under G.S. 20-63. As part of this effort, the Division and the Committee must periodically review all forms and instructions used in the vehicle titling and registration process to ensure that they are readily understandable and not duplicative. The Committee must meet at least quarterly.

(b) Membership and Terms. – The LPA Advisory Committee consists of persons who are on the staff of the Division of Motor Vehicles and six persons appointed by the North Carolina Association of Motor Vehicle Registration Contractors. The Commissioner determines the number of Division staff persons to appoint to the Committee and designates the chair of the Committee. Members of the Committee appointed by the Commissioner serve ex officio. Members of the Committee appointed by the Association serve two-year terms beginning on July 1 of an odd-numbered year. A member who serves for a specific term continues to serve after the expiration of the member's term until a successor is appointed.

(c) Expenses. – Members of the LPA Advisory Committee are allowed the per diem, subsistence, and travel allowances established under G.S. 138-5 for service on State boards and commissions."

SECTION 1.(b) The License Plate Agent Advisory Committee, established in subsection (a) of this section, and the Division of Motor Vehicles shall review the standard operating procedures applicable to commission contractors to determine if any changes are needed and shall recommend to the 2013 Regular Session of the General Assembly when it reconvenes in 2014 a process by which the Division is required to give notice of proposed changes and receive comments on proposed changes before they are implemented.

SECTION 1.(c) The terms of the initial appointments by the North Carolina Association of Motor Vehicle Registration Contractors to the License Plate Agent Advisory

Committee, established in subsection (a) of this section, begin upon appointment and expire on July 1, 2015.

SECTION 2.(a) G.S. 20-63(h) reads as rewritten:

"(h) Commission Contracts for Issuance of Plates and Certificates. – All registration plates, registration certificates, and certificates of title issued by the Division, outside of those issued from the Charlotte, Fort Bragg and Raleigh offices of the Division and those issued and handled through the United States mail, shall be issued insofar as practicable and possible through commission contracts entered into by the Division for the issuance of the plates and certificates in localities throughout North Carolina, including military installations within this State, with persons, firms, corporations or governmental subdivisions of the State of North Carolina. The Division shall make a reasonable effort in every locality, except as noted above, to enter into a commission contract for the issuance of the plates and certificates and a record of these efforts shall be maintained in the Division. In the event the Division is unsuccessful in making commission contracts, it shall issue the plates and certificates through the regular employees of the Division. Whenever registration plates, registration certificates, and certificates of title are issued by the Division through commission contract arrangements, the Division shall provide proper supervision of the distribution. Nothing contained in this subsection will allow or permit the operation of fewer outlets in any county in this State than are now being operated. ~~Commission~~

Commission contracts entered into by the Division under this subsection shall provide for the payment of compensation on a per transaction basis. The collection of the highway use tax ~~shall be~~ is considered a separate transaction for which one dollar and twenty-seven cents ($1.27) compensation shall be paid. The issuance of a limited registration "T" sticker and the collection of property tax are each considered a separate transaction for which compensation at the rate of one dollar and twenty-seven cents ($1.27) and seventy-one cents ($0.71), respectively, shall be paid by counties and municipalities as a cost of the combined motor vehicle registration renewal and property tax collection system. The performance at the same time of one or more of the ~~remaining~~ transactions ~~listed in this subsection shall be~~below is considered a single transaction for which one dollar and forty-three cents ($1.43) compensation shall be ~~paid.~~ paid:

~~A transaction is any of the following activities:~~

(1) Issuance of a registration plate, a registration ~~card issued without collection of property taxes or fees under G.S. 105-330.5,~~card, a registration ~~renewal~~ sticker, or a certificate of title.

(2) Issuance of a handicapped placard or handicapped identification card.

(3) Acceptance of an application for a personalized registration plate.

(4) Acceptance of a surrendered registration plate, registration card, or registration renewal sticker, or acceptance of an affidavit stating why a person cannot surrender a registration plate, registration card, or registration renewal sticker.

(5) Cancellation of a title because the vehicle has been junked.

(6) Acceptance of an application for, or issuance of, a refund for a fee or a tax, other than the highway use tax.

(7) Receipt of the civil penalty imposed by G.S. 20-311 for a lapse in financial responsibility or receipt of the restoration fee imposed by that statute.

(8) Acceptance of a notice of failure to maintain financial responsibility for a motor vehicle.

(8a) Collection of civil penalties imposed for violations of G.S. 20-183.8A.

~~(8b) Sale of one or more inspection stickers in a single transaction to a licensed inspection station.~~

~~(9) Collection of the highway use tax.~~

(10) Acceptance of a temporary lien filing."

SECTION 2.(b) G.S. 105-330.5(b) reads as rewritten:

"(b) Distribution and Collection Fees. – The Property Tax Division of the Department of Revenue or a third-party contractor selected by the Property Tax Division must send a copy of the combined tax and registration notice for a registered classified motor vehicle to the motor vehicle owner, as defined in G.S. 20-4.01. The Department must establish a fee equal to the actual cost of preparing, printing, and sending the notice. The Department may receive a fee for each notice generated for a vehicle registered in a county or municipal corporation from the taxes and fees remitted to the county or municipal corporation in which the vehicle is registered. The collecting authority is responsible for collecting county and municipal taxes and fees assessed under this Article and may receive a fee for collecting these taxes and fees. The amount of this fee must equal at least ~~one-third of the compensation paid for registration renewals conducted by contract agents~~the applicable amount set under G.S. 20-63(h). The Property Tax Division must establish procedures to ensure that tax payments and fees received pursuant to this Article and Chapter 20 of the General Statutes are properly accounted for and taxes and fees due other taxing units and the Division of Motor Vehicles are remitted at least once each month."

SECTION 2.(c) Notwithstanding G.S. 20-63(h), as amended by subsection (a) of this section, the transaction rate of one dollar and six cents ($1.06) applies to the collection of property tax by commission contractors for vehicles whose registration renewals expire on or between September 30, 2013, and February 28, 2014.

SECTION 3. Implementation by the Division of Motor Vehicles of the Department of Transportation of an integrated computer system that combines vehicle registration with the collection of property tax includes training commission contractors under G.S. 20-63(h) on the use of that integrated computer system. The cost of the system training required of the commission contractors on or after April 1, 2013, and before July 1, 2013, is a cost of the combined motor vehicle registration renewal and property tax collection system and is payable from the Combined Motor Vehicle and Registration Account, established under G.S. 105-330.10.

SECTION 4. Section 2 of this act becomes effective July 1, 2013. The remainder of this act is effective when it becomes law.

SENATE BILL 305:
DMV Commission Contract Changes

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 18, 2013
Introduced by:	Sens. Tillman, Jenkins, Rabin	**Prepared by:**	Cindy Avrette Committee Counsel
Analysis of:	Third Edition		

SUMMARY: ***Senate Bill 305 sets the rate license plate tag agents may be compensated for the collection of property taxes paid at the time a person renews a license plate registration. Beginning July 1, 2013, taxpayers will be required to pay the property tax on a vehicle at the same time the vehicle's registration is renewed.***

The bill received a favorable report from the Senate Transportation Committee.

CURRENT LAW: The Division of Motor Vehicles is required to ensure, as far as practicable and possible, that registration and registration renewals for motor vehicles may be issued through license tag agents located in every community across the State. The Division enters into commission contracts with individuals to perform this service. The Program Evaluation Division determined that license tag agents perform vehicle title and registration transactions at $4.00 less per transaction than the cost of the same transactions performed at the two State-operated offices.[1] The local tag agents are compensated on a per transaction basis. The rate of compensation for collecting the highway use tax is $1.27. The rate for all other transactions is $1.43. The performance of one or more transactions at the same time is considered a single transaction for purposes of compensation.

In 2005, the General Assembly created a framework establishing a combined system for motor vehicle registration renewal and property tax collection. Under the new Tax and Tag Together program, the motor vehicle owner will receive one bill, and make one payment for both property taxes and vehicle registration renewal. If a person renews the vehicle registration with a local license tag agent, the collection of property tax by the tag agent is not considered a separate transaction for which a separate transaction rate applies.[2] Instead, it is one of the transactions that, when performed at the same time as other transactions, is considered part of a single transaction.

BILL ANALYSIS: Senate Bill 305 recognizes the collection of property taxes as a separate transaction, just as the collection of the highway use tax is recognized as a separate transaction. The rate for collecting property tax for the first six months of the Tax and Tag Together program is set at $1.06. The transaction rate after the first six months is set at $0.71.

The Tax and Tag Together program provides for the issuance of a limited, or temporary, registration plate. A person may be issued a limited registration "T" sticker without paying property tax on the vehicle. The bill sets the compensation rate for this transaction at $1.27; this rate is the same rate allowed for the collection of the highway use tax.

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[1] http://www.ncleg.net/PED/Reports/documents/SFM4/SFM4_Exec_Summary.pdf

[2] There is a Memorandum of Understanding signed by the Department of Revenue, the Division of Motor Vehicles, and the counties and cities that sets a $0.48 rate for collecting property tax.

The bill also does the following:

- Codifies the License Plate Agent Advisory Committee. The Commissioner of Motor Vehicles established this Committee to improve the working relationship between the Division and the license tax agents and to improve vehicle titling and registration services. The Committee consists of persons who are staff of the Division and six persons appointed by the North Carolina Association of Motor Vehicle Registration Contractors.
- Directs the License Plate Agent Advisory Committee to review the standard operating procedures applicable to commission contractors and to recommend to the 2014 General Assembly a process by which the Division is required to give commission contractors notice of proposed changes and receive comments from them on proposed changes before the changes are implemented.
- Provides that the compensation rates set for the issuance of a limited registration "T" sticker and for the collection of property taxes are payable by the counties and cities as part of the cost of the Tax and Tag Together program.
- Provides that the Division will train the license tag agents on the use of the integrated computer system that combines vehicle registration with the collection of property tax and that the training cost is payable from the Combined Motor Vehicle and Registration Account. The Account is funded from interest collected on past due motor vehicle property tax collections.[3]

EFFECTIVE DATE: The part of the bill that set the compensation rates payable to license tag agents for collection of property taxes and for the issuance of "T" stickers becomes effective July 1, 2013. The remainder of this act is effective when it becomes law.

[3] G.S. 105-330.10.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 305

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S305-ARB-59 [v.1]

Comm. Sub. [YES]
Amends Title [NO]
Third Edition

Date _____,2013

Senator Tillman

moves to amend the bill on page 2, lines 19 and 20, by rewriting those lines to read:
"are now being operated.
Commission contracts entered into by the Division under this subsection shall provide for".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: 06/19/2013

TO: **Senate Finance Committee**

FROM: Bryce Ball
Fiscal Research Division

RE: **S305v3n1, DMV Commission Contract Changes**

FISCAL IMPACT

($ in thousands)

☑ Yes ☐ No ☐ No Estimate Available

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
State Impact					
Highway Fund Revenues:	1,019.6	639.5	639.5	639.5	639.5
Highway Fund Expenditures	3.5	3.5	3.5	3.5	3.5
Special Fund Revenues:					
Special Fund Expenditures:	55.7				
State Positions:					
NET STATE IMPACT	**$960.3**	**$636.0**	**$636.0**	**$636.0**	**$636.0**
Local Impact					
Revenues:					
Expenditures:					
NET LOCAL IMPACT	**Impact cannot be determined. See Assumptions and Methodology section.**				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:
Department of Transportation, Division of Motor Vehicles; Combined Motor Vehicle and Registration Account

EFFECTIVE DATE: Section 2 is effective July 1, 2013. The remainder of the bill is effective upon enactment.

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY:

Section 1 establishes the License Plate Agency Advisory Committee (Committee), comprised of Division of Motor Vehicles (DMV) personnel designated by the Commissioner of Motor Vehicles and six appointees of the North Carolina Association of Motor Vehicle Registration Contractors (Association). Association appointees are to serve two-year terms and are allowed per diem, subsistence, and travel allowances under G.S. 138-5. The Committee is charged with reviewing Division of Motor Vehicles standard operating procedures for contract license plate agents and recommending to the General Assembly during the 2014 Session a process for notification of procedural changes, including a comment period prior to implementation.

Section 2 increases the compensation rate for the collection of property taxes by commission contractors and DMV offices under the Combined Motor Vehicle Registration and Property Tax Collection System ("Tax & Tag Together" program), from $0.48 per transaction, as set by the current Memorandum of Understanding between DMV and the Department of Revenue, to $0.71 per transaction. Additionally, Section 2 increases the compensation rate for limited registration plate transactions from $0.504 to $1.27 per transaction. Further, Section 2(c) sets a temporary compensation rate of $1.06 for property tax transactions completed by commission contractors during the first six months of the Tax & Tag Together program.

Section 3 requires DMV to reimburse commission contractors for costs incurred for required trainings on the Tax & Tag Together program between April 1, 2013 and July 1, 2013. Costs are payable from the Combined Motor Vehicle and Registration Account, a non-reverting account supported by a portion of the interest on overdue vehicle property taxes and administered by the State Treasurer for the implementation of the Tax & Tag Together program.

Section 2 is effective July 1, 2013. The remainder of the act is effective upon enactment.

ASSUMPTIONS AND METHODOLOGY:

Section 1: License Plate Agent Advisory Committee

State Employees are not eligible for reimbursement under G.S. 138-5. Assuming a quarterly meeting frequency, current per diem rates, and round trip mileage of 100 miles for six non-State members, estimated Committee expenses total $3,504. Accordingly, Fiscal Research anticipates that costs incurred for Committee support can be accommodated with existing Division of Motor Vehicles funds.

Section 2: Property Tax & Limited Registration Plate Transactions

G.S. 105-330.5(b) authorizes the entities responsible for collection of property taxes on behalf of county and municipal taxing jurisdictions to receive a fee for this administrative responsibility, equal to at least $0.48 per completed transaction. The current Memorandum of Understanding between DMV and the Department of Revenue, executed pursuant to G.S. 105-330.10, sets the fee for property tax collection at the required minimum of $0.48, and sets the fee for limited registration plate transactions at $0.504. Each fee is payable via proportionate deductions to taxes collected on behalf of counties and municipalities. Consequently, additional costs resulting from

the increased compensation rates for property tax and limited registration plate transactions are borne by taxing jurisdictions through reduced net remittances.

The Department of Transportation estimates that a total of 2,780,645 property tax transactions will be completed by the Division of Motor Vehicles annually, with the following distribution by transaction type:

Transaction Type	Count
Internet	1,647,174
Registration Offices (Walk-In)	366,054
Mail (Remittance Processor)	767,417
Total	**2,780,645**

Assuming that 1,390,323 transactions are completed by DMV within the first six months of implementation at the proposed compensation rate of $1.06 and 926,882 additional transactions are completed before June 30, 2013, projected receipts during FY 2013-14 total $2,131,829, representing an increase of $1,019,571 over baseline estimates. In contrast, projected receipts during FY 2014-15 total $1,974,258, an increase of $639,548. These additional receipts will be credited to the Division of Motor Vehicles operating budget within the Highway Fund.

Fiscal Research cannot estimate the number of limited registration plate transactions which might be completed under the Tax & Tag Together program and are compensable at the increased rate of $1.27. Additionally, Fiscal Research cannot estimate the number of property tax transactions which might be completed by commission contract agents during the applicable timeframes. However, *for illustration*, if 5.7 million of a potential 8.5 million transactions are performed by commission contractors annually, the proposed compensation rate increase for property tax collection could result in a base local revenue loss of approximately $1.32 million recurring.

Section 3: Combined Motor Vehicle Registration and Property Tax Collection System Training

Based on an estimated 4,644 total training hours and average hourly wage of $12.00 for commission contractor employees, DMV estimates that costs incurred for trainings conducted between April 1, 2013 and July 1, 2013 will approach $55,728. Incurred costs will be deducted from the Combined Motor Vehicle and Registration Account balance, currently $28,118,086.

SOURCES OF DATA: Department of Transportation, Division of Motor Vehicles.

TECHNICAL CONSIDERATIONS: None

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S D

SENATE BILL 328

Agriculture/Environment/Natural Resources Committee Substitute Adopted 6/6/13
PROPOSED COMMITTEE SUBSTITUTE S328-CSRI-26 [v.13]
6/18/2013 6:58:17 PM

Short Title: Solid Waste Management Reform Act of 2013. (Public)

Sponsors:

Referred to:

March 19, 2013

A BILL TO BE ENTITLED

AN ACT TO (1) EXTEND THE DURATION OF PERMITS FOR SANITARY LANDFILLS AND TRANSFER STATIONS TO THIRTY YEARS; (2) MODIFY THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES' AUTHORITY TO ISSUE AND TRANSFER PERMITS FOR SOLID WASTE MANAGEMENT FACILITIES; (3) MODIFY CERTAIN REQUIREMENTS GOVERNING SANITARY LANDFILLS, INCLUDING APPLICABLE BUFFERS, CLEANING AND INSPECTION OF LEACHATE COLLECTION LINES, ALTERNATIVE DAILY COVER, AND REQUIRED STUDIES FOR CERTAIN LANDFILL OWNERS AND OPERATORS; (4) MODIFY REQUIREMENTS FOR FINANCIAL RESPONSIBILITY APPLICABLE TO APPLICANTS AND PERMIT HOLDERS FOR SOLID WASTE MANAGEMENT FACILITIES; (5) AMEND THE RULE GOVERNING COLLECTION AND TRANSPORT OF SOLID WASTE TO REQUIRE THAT CONTAINERS BE "LEAK-RESISTANT" RATHER THAN "LEAK-PROOF," AND AMEND A STATUTE THAT REQUIRES VEHICLES TO BE CONSTRUCTED AND LOADED TO PREVENT LEAKAGE; (6) AMEND THE DEFINITION OF LEACHATE TO EXCLUDE LIQUID ADHERING TO TIRES OF VEHICLES LEAVING SANITARY LANDFILLS AND TRANSFER STATIONS; (7) AUTHORIZE CITIES AND COUNTIES THAT ACCEPT SOLID WASTE FROM OTHER LOCAL GOVERNMENTS TO LEVY A SURCHARGE ON FEES FOR USE OF THEIR DISPOSAL FACILITIES, AND AUTHORIZE THEM TO MAKE APPROPRIATIONS FROM A UTILITY OR PUBLIC SERVICE ENTERPRISE FUND USED FOR OPERATION OF A LANDFILL TO THE JURISDICTION'S GENERAL FUND UPON CERTAIN FINDINGS; (8) REQUIRE THE RETURN OF A PORTION OF THE REIMBURSEMENTS PAID OUT PURSUANT TO S.L. 2007-543 IN CERTAIN CIRCUMSTANCES; AND (9) MAKE RELATED CLARIFYING, CONFORMING, AND TECHNICAL CHANGES.

Whereas, the provision of effectively managed solid waste services is of vital importance to North Carolina's economy and environment; and

Whereas, previous changes to the statutes and rules of the State that govern solid waste matters have significantly and negatively impacted the ability of providers of solid waste disposal services to site landfills within the State, have raised the cost of waste disposal for the State's citizens, and have put North Carolina at a competitive disadvantage in the recruitment of industry; Now, therefore,

The General Assembly of North Carolina enacts:

PART I. EXTENSION OF DURATION OF PERMITS FOR SANITARY LANDFILLS AND TRANSFER STATIONS TO THIRTY YEARS AND CONFORMING CHANGES

SECTION 1.(a) G.S. 130A-294 is amended by adding two new subsections to read:

"(a2) Permits for sanitary landfills and transfer stations shall be issued for up to 30 years unless revoked as otherwise provided under this Article or upon the expiration of any local government franchise required for the facility pursuant to subsection (b1) of this section. Permits issued pursuant to this subsection shall take into account the duration of any permits previously issued for the facility.

(a3) Each permit for a sanitary landfill and transfer station shall have a limited review of the permit five years after issuance of the initial permit and at five-year intervals thereafter until expiration of the permit. The limited review includes review of the operations plan, closure plan, post-closure plan, financial assurance cost estimates, environmental monitoring plans, and any other applicable plans for the facility."

SECTION 1.(b) No later than July 1, 2014, the Commission for Public Health shall adopt rules to allow applicants for permits for sanitary landfills to apply for a permit for a phase of landfill development up to 30 years. No later than July 1, 2014, the Commission shall also adopt rules to allow applicants for permits for transfer stations to apply for a permit with a 30-year duration to construct and operate a transfer station.

SECTION 1.(c) G.S. 130A-295.8 reads as rewritten:

"**§ 130A-295.8. Fees applicable to permits for solid waste management facilities.**

(a) The Solid Waste Management Account is established as a nonreverting account within the Department. All fees collected under this section shall be credited to the Account and shall be used to support the solid waste management program established pursuant to G.S. 130A-294.

(b) As used in this section:

(1) "New permit" means any of the following:

a. An application for a permit for a solid waste management facility that has not been previously permitted by the Department. The term includes one site suitability review, the initial permit to construct, and one permit to operate.~~operate the constructed portion of a phase included in the permit to construct.~~

b. An application that proposes to expand the boundary of a permitted waste management facility for the purpose of expanding the permitted activity.

c. An application that includes a proposed expansion to the boundary of a waste disposal unit within a permitted solid waste management facility.

d. An application for a substantial amendment to a solid waste permit, as defined in G.S. 130A-294.

(2) "Permit amendment" means any of the following:

~~a. An application for a permit to construct and one permit to operate for the second and subsequent phases of landfill development described in the approved facility plan for a permitted solid waste management facility.~~

b. An application for the five-year renewal of a permit for a permitted solid waste management facility or for a permit review of a permitted solid waste management facility. This sub-subdivision shall not apply to sanitary landfills or transfer stations.

c. Any application that proposes a change in ownership or corporate structure of a permitted solid waste management facility. This sub-subdivision shall not apply to sanitary landfills or transfer stations.

(3) "Permit modification" means an application for a five-year limited review of a permit issued pursuant to G.S. 130A-294(a2), including review of the operations plan, closure plan, post-closure plan, financial assurance cost estimates, environmental monitoring plans, and any other applicable plans for the facility. ~~any of the following:~~

~~a. An application for any change to the plans approved in a permit for a solid waste management facility that does not constitute a "permit amendment" or a "new permit".~~

~~b. A second or subsequent permit to operate for a constructed portion of a phase included in the permit to construct.~~

(4) "Major permit modification" means any of the following:

a. An application for any change to the approved engineering plans for a sanitary landfill or transfer station permitted for up to a 30-year design capacity that does not constitute a "new permit" or "permit modification.

b. An application for a permit to be issued pursuant to G.S. 130A-294(a2), which is issued for a duration of less than 30 years based upon permits previously issued to a facility.

c. An application for a subsequent permit with a term of up to 30 years for a sanitary landfill or transfer station.

(5) "Ownership modification" means any application that proposes a change in ownership or corporate structure of a permitted sanitary landfill or transfer station.

(c) An applicant for a permit shall pay an application fee to the Department. For applications for facilities set forth in subdivisions (1) through (20) and (25) through (27), fifty percent (50%) of the applicable fee shall be paid upon submission of the application, twenty-five percent (25%) shall be paid at 10 years after issuance of the permit, and twenty-five percent (25%) shall be paid at 20 years after issuance of the permit. For applications for facilities set forth in subdivisions (22) through (24) and (28) through (36), the applicable fee shall be paid upon submission of an ~~application~~ application. As of July 1, 2014, the base fees for permits for sanitary landfills and transfer stations with a 30 year duration are applicable according to the following schedule:

(1) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, New Permit – $25,000.

(2) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, ~~Amendment~~ Major Modification – $15,000.

~~(3) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, Modification – $1,500.~~

(4) Municipal Solid Waste Landfill accepting 100,000 tons/year or more but less than 250,000 tons/year of solid waste, New Permit – $50,000.

(5) Municipal Solid Waste Landfill accepting 100,000 tons/year or more but less than 250,000 tons/year of solid waste, ~~Amendment~~ Major Modification – $30,000.

~~(6) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, Modification – $3,000.~~

(6a) Municipal Solid Waste Landfill accepting 250,000 tons/year or more of solid waste, New Permit – $75,000.

(6b) Municipal Solid Waste Landfill accepting 250,000 tons/year or more of solid waste, Major Modification – $55,000.

(7) Construction and Demolition Landfill accepting less than ~~100,000~~25,000 tons/year of solid waste, New Permit – $15,000.

(8) Construction and Demolition Landfill accepting less than ~~100,000~~ 25,000 tons/year of solid waste, ~~Amendment~~ Major Modification – $9,000.

~~(9) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, Modification – $1,500.~~

(10) Construction and Demolition Landfill accepting ~~100,000~~25,000 tons/year or more of solid waste, New Permit – $30,000.

(11) Construction and Demolition Landfill accepting ~~100,000~~ 25,000 tons/year or more of solid waste, ~~Amendment~~ Major Modification – $18,500.

~~(12) Construction and Demolition Landfill accepting 100,000 tons/year or more of solid waste, Modification – $2,500.~~

(13) Industrial Landfill accepting less than 100,000 tons/year of solid waste, New Permit – $15,000.

(14) Industrial Landfill accepting less than 100,000 tons/year of solid waste, ~~Amendment~~ Major Modification – $9,000.

~~(15) Industrial Landfill accepting less than 100,000 tons/year of solid waste, Modification – $1,500.~~

(16) Industrial Landfill accepting 100,000 tons/year or more of solid waste, New Permit – $30,000.

(17) Industrial Landfill accepting 100,000 tons/year or more of solid waste, ~~Amendment~~ Major Modification – $18,500.

~~(18) Industrial Landfill accepting 100,000 tons/year or more of solid waste, Modification – $2,500.~~

(19) Tire Monofill, New Permit – ~~$1,750.~~$15,000.

(20) Tire Monofill, ~~Amendment – $1,250.~~Major Modification – $9,000.

~~(21) Tire Monofill, Modification – $500.~~

(22) Treatment and Processing, New Permit – $1,750.

(23) Treatment and Processing, Amendment – $1,250.

(24) Treatment and Processing, Modification – $500.

(25) Transfer ~~Station,~~ Station accepting less than 25,000 tons/year of solid waste, New Permit – ~~$5,000.~~$2,500.

(25a) Transfer Station accepting less than 25,000 tons/year of solid waste, Major Modification – $1,500.

(25b) Transfer Station accepting 25,000 tons/year or more of solid waste, New Permit – $5,000.

(25c) Transfer Station accepting 25,000 tons/year or more of solid waste, Major Modification – $3,000.

~~(26) Transfer Station, Amendment – $3,000.~~

~~(27) Transfer Station, Modification – $500.~~

(28) Incinerator, New Permit – $1,750.

(29) Incinerator, Amendment – $1,250.

(30) Incinerator, Modification – $500.

(31) Large Compost Facility, New Permit – $1,750.

(32) Large Compost Facility, Amendment – $1,250.

(33) Large Compost Facility, Modification – $500.

(34) Land Clearing and Inert, New Permit – $1,000.
(35) Land Clearing and Inert, Amendment – $500.
(36) Land Clearing and Inert, Modification – $250.
(37) Municipal Solid Waste Landfill, Ownership Modification– $5,000.
(38) Construction and Demolition Waste Landfill, Ownership Modification– $3,000.
(39) Industrial Landfill, Ownership Modification – $2,000.
(40) Tire Monofill, Ownership Modification – $2,000.
(41) Transfer Station, Ownership Modification – $1,000.

(c1) After July 1, 2014, facilities for which permits are issued for a period of less than 30 years, based on the duration of all design and operation permits previously issued for the facility, shall pay a proportional amount of the base fee as set forth in subsection (c) of this section, pro-rated in accordance with the duration of the permit issued after that date. For facilities subject to this subdivision that submit applications for a permit to be issued pursuant to G.S. 130A-294(a2) for facilities set forth in subdivisions (1) through (20) and (25) through (27), of subsection (c) of this section, the applicable fee shall be paid as follows: (i) fifty percent (50%) of the applicable fee shall be paid upon submission of the application; (ii) twenty-five percent (25%) shall be paid five years after issuance of the permit; and (iii) twenty-five percent (25%) shall be paid at 10 years after issuance of the permit. If the permit issued is for less than 15 years, based on the duration of all design and operation permits previously issued for the facility, the fee shall be paid at other periodic intervals as the Department may require. For applications for facilities set forth in subdivisions (22) through (24) and (28) through (36), the applicable fee shall be paid upon submission of an application. The Department shall adopt rules to implement this subsection.

(d) A permitted solid waste management facility shall pay an annual permit fee on or before ~~1 August~~ August 1 of each year according to the following schedule:

(1) Municipal Solid Waste Landfill ~~—$3,500.~~ accepting less than 100,000 tons/year of solid waste – $7,500.
(1a) Municipal Solid Waste Landfill accepting 100,000 tons/year or more but less than 250,000 tons/year of solid waste – $12,000.
(1b) Municipal Solid Waste Landfill accepting 250,000 tons/year or more of solid waste – $15,000.
(2) Post-Closure Municipal Solid Waste Landfill – $1,000.
(3) Construction and Demolition Landfill ~~—$2,750.~~ accepting less than 25,000 tons/year of solid waste – $5,500.
(3a) Construction and Demolition Landfill accepting 25,000 tons/year or more of solid waste – $8,500.
(4) Post-Closure Construction and Demolition Landfill – $500.
(5) Industrial ~~Landfill —$2,750.~~ Landfill accepting less than 100,000 tons/year of solid waste – $5,500.
(5a) Industrial Landfill accepting 100,000 tons/year or more of solid waste – $10,000.
(6) Post-Closure Industrial Landfill – $500.
(7) Transfer Station accepting less than 25,000 tons/year of solid waste – $750.
(7a) Transfer Station accepting 25,000 tons/year or more of solid waste – $1,500.
(8) Treatment and Processing Facility – $500.
(9) Tire Monofill ~~—$500.~~ – $5,500.
(10) Incinerator – $500.
(11) Large Compost Facility – $500.
(12) Land Clearing and Inert Debris Landfill – $500.

...."

SECTION 1.(d) G.S. 130A-295.3 reads as rewritten:

"**§ 130A-295.3. Environmental compliance review requirements for applicants and permit holders.**

...

(b) The Department shall conduct an environmental compliance review of each applicant for a new ~~permit, permit renewal,~~permit and permit amendment under this Article. The environmental compliance review shall evaluate the environmental compliance history of the applicant for a period of five years prior to the date of the application and may cover a longer period at the discretion of the Department. The environmental compliance review of an applicant may include consideration of the environmental compliance history of the parents, subsidiaries, or other affiliates of an applicant or parent that is a business entity, including any business entity or joint venturer with a direct or indirect interest in the applicant, and other facilities owned or operated by any of them. The Department shall determine the scope of the review of the environmental compliance history of the applicant, parents, subsidiaries, or other affiliates of the applicant or parent, including any business entity or joint venturer with a direct or indirect interest in the applicant, and of other facilities owned or operated by any of them. An applicant for a permit shall provide environmental compliance history information for each facility, business entity, joint venture, or other undertaking in which any of the persons listed in this subsection is or has been an owner, operator, officer, director, manager, member, or partner, or in which any of the persons listed in this subsection has had a direct or indirect interest as requested by the Department.

...."

SECTION 1.(e) Section 15.1 of S.L. 2012-187 is repealed.

SECTION 1.(f) If House Bill 135, 2013 Regular Session, becomes law, it is repealed when it becomes law.

SECTION 1.(g) If Senate Bill 380, 2013 Regular Session, becomes law, it is repealed when it becomes law.

SECTION 1.(h) This section becomes effective August 1, 2013, except that G.S. 130A-294(a2), as enacted by Section 1(a) of this act, and G.S. 130A-295.8, as amended by Section 1(c) of this act, apply to: (1) existing sanitary landfills and transfer stations, with a valid permit issued before the date this act becomes effective, when that permit is next subject to renewal after July 1, 2014; and (2) new sanitary landfills and transfer stations, for applications submitted on or after July 1, 2014.

PART II. MISCELLANEOUS MODIFICATIONS TO THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES' AUTHORITY TO ISSUE AND TRANSFER PERMITS FOR SOLID WASTE MANAGEMENT FACILITIES AND CONFORMING CHANGES

SECTION 2. G.S. 130A-294 reads as rewritten:

"**§ 130A-294. Solid waste management program.**

(a) The Department is authorized and directed to engage in research, conduct investigations and surveys, make inspections and establish a statewide solid waste management program. In establishing a program, the Department shall have authority to:

...

(4) a. Develop a permit system governing the establishment and operation of solid waste management facilities. A landfill with a disposal area of 1/2 acre or less for the on-site disposal of land clearing and inert debris is exempt from the permit requirement of this section and shall be governed by G.S. 130A-301.1. Demolition debris from the

decommissioning of manufacturing buildings, including electric generating stations, that is disposed of on the same site as the decommissioned buildings, is exempt from the permit requirement of this section and rules adopted pursuant to this section and shall be governed by G.S. 130A-301.3. The Department shall not approve an application for a new permit, major modification, ~~the renewal of a permit,~~ or a substantial amendment to a permit for a sanitary landfill, excluding demolition landfills as defined in the rules of the Commission, except as provided in subdivisions (3) and (4) of subsection (b1) of this section. No permit shall be granted for a solid waste management facility having discharges that are point sources until the Department has referred the complete plans and specifications to the Environmental Management Commission and has received advice in writing that the plans and specifications are approved in accordance with the provisions of G.S. 143-215.1. If the applicant is a unit of local government, and has not submitted a solid waste management plan that has been approved by the Department pursuant to G.S. 130A-309.09A(b), the Department may deny a permit for a sanitary landfill or a facility that disposes of solid waste incineration, unless the Commission has not adopted rules pursuant to G.S. 130A-309.29 for local solid waste management plans. In any case where the Department denies a permit for a solid waste management facility, it shall state in writing the reason for denial and shall also state its estimate of the changes in the applicant's proposed activities or plans that will be required for the applicant to obtain a permit.

b. Repealed by Session Laws 2007-550, s. 1(a), effective August 1, 2007.

c. The Department shall deny an application for a permit for a solid waste management facility if the Department finds that:

1. Construction or operation of the proposed facility would ~~be inconsistent with or~~ violate this Article or rules adopted by the ~~Commission.~~Commission pursuant to this Article.

2. Construction or operation of the proposed facility would result in a violation of water quality standards adopted by the Environmental Management Commission pursuant to G.S. 143-214.1 for waters, as defined in G.S. 143-213.

~~3. Construction or operation of the facility would result in significant damage to ecological systems, natural resources, cultural sites, recreation areas, or historic sites of more than local significance. These areas include, but are not limited to, national or State parks or forests; wilderness areas; historic sites; recreation areas; segments of the natural and scenic rivers system; wildlife refuges, preserves, and management areas; areas that provide habitat for threatened or endangered species; primary nursery areas and critical fisheries habitat designated by the Marine Fisheries Commission; and Outstanding Resource Waters designated by the Environmental Management Commission.~~

4. Construction or operation of the proposed facility would substantially limit ~~or threaten~~ access to ~~or use of~~ public trust waters or public lands.
5. The proposed facility would be located in a ~~natural hazard area, including a floodplain, a~~ landslide hazard area, or an area subject to storm surge or excessive seismic activity, such that the facility will present a significant risk to public health or safety.
~~6. There is a practical alternative that would accomplish the purposes of the proposed facility with less adverse impact on public resources, considering engineering requirements and economic costs.~~
~~7. The cumulative impacts of the proposed facility and other facilities in the area of the proposed facility would violate the criteria set forth in sub-sub-subdivisions 2. through 5. of this sub-subdivision.~~
8. Construction or operation of the proposed facility would ~~be inconsistent with~~ violate the State solid waste management policy and goals as set out in G.S. 130A-309.04 and with the State solid waste management plan developed as provided in G.S. 130A-309.07.
9. The cumulative impact of the proposed facility, when considered in relation to other similar impacts of facilities located or proposed in the community, would have a disproportionate adverse impact on a minority or low-income community protected by Title VI of the federal Civil Rights Act of 1964. This subdivision shall apply only to the extent required by federal law.

...

(a1) A permit for a solid waste management facility may be transferred ~~only with the approval of the Department.~~upon 30 days' written notice to the Department to include such information as the Department may reasonably require to complete the Department's review pursuant to subsection (b2) of this section, G.S. 130A-295.2, and G.S. 130A-295.3, and with the approval of the Department.

...

(b1) (1) For purposes of this subsection and subdivision (4) of subsection (a) of this section, a "substantial amendment" means either:
a. An increase of ten percent (10%) or more in:
1. The population of the geographic area to be served by the sanitary landfill;
2. The quantity of solid waste to be disposed of in the sanitary landfill; or
3. The geographic area to be served by the sanitary landfill.
b. A change in the categories of solid waste to be disposed of in the sanitary landfill.~~landfill or any other change to the application for a permit or to the permit for a sanitary landfill that the Commission or the Department determines to be substantial.~~

(2) A person who intends to apply for a new permit, major modification, ~~the renewal of a permit,~~ or a substantial amendment to a permit for a sanitary landfill shall obtain, prior to applying for a permit, a franchise for the

operation of the sanitary landfill from each local government then having jurisdiction over any part of the land on which the sanitary landfill and its appurtenances are located or to be located. A local government may adopt a franchise ordinance under G.S. 153A-136 or G.S. 160A-319. A franchise granted for a sanitary landfill shall include all of the following:

a. A statement of the population to be served, including a description of the geographic area.
b. A description of the volume and characteristics of the waste stream.
c. A projection of the useful life of the sanitary landfill.
d. An explanation of how the franchise will be consistent with the jurisdiction's solid waste management plan required under G.S. 130A-309.09A, including provisions for waste reduction, reuse, and recycling.
e. The procedures to be followed for governmental oversight and regulation of the fees and rates to be charged by facilities subject to the franchise for waste generated in the jurisdiction of the franchising entity.
f. A facility plan for the sanitary landfill that shall include the boundaries of the proposed facility, proposed development of the facility site in five-year operational phases, the boundaries of all waste disposal units, final elevations and capacity of all waste disposal units, the amount of waste to be received per day in tons, the total waste disposal capacity of the sanitary landfill in tons, a description of environmental controls, and a description of any other waste management activities to be conducted at the facility. In addition, the facility plan shall show the proposed location of soil borrow areas, leachate facilities, and all other facilities and infrastructure, including ingress and egress to the facility.

...

(4) An applicant for a new permit, major modification, ~~the renewal of a permit,~~ or a substantial amendment to a permit for a sanitary landfill shall request each local government having jurisdiction over any part of the land on which the sanitary landfill and its appurtenances are located or to be located to issue a determination as to whether the local government has in effect a franchise, zoning, subdivision, or land-use planning ordinance applicable to the sanitary landfill and whether the proposed sanitary landfill, or the existing sanitary landfill as it would be operated under the ~~renewed or~~ substantially amended permit, would be consistent with the applicable ordinances. The request to the local government shall be accompanied by a copy of the permit application and shall be delivered to the clerk of the local government personally or by certified mail. In order to serve as a basis for a determination that an application for a new permit, major modification, ~~the renewal of a permit,~~ or a substantial amendment to a permit for a sanitary landfill is consistent with a zoning, subdivision, or land-use planning ordinance, an ordinance or zoning classification applicable to the real property designated in the permit application shall have been in effect not less than 90 days prior to the date the request for a determination of consistency is delivered to the clerk of the local government. The determination shall be verified or supported by affidavit signed by the chief administrative officer, the chief administrative officer's designee, clerk, or

other official designated by the local government to make the determination and, if the local government states that the sanitary landfill as it would be operated under the new, majorly modified, ~~renewed,~~ or substantially amended permit is inconsistent with a franchise, zoning, subdivision, or land-use planning ordinance, shall include a copy of the ordinance and the specific reasons for the determination of inconsistency. A copy of the determination shall be provided to the applicant when the determination is submitted to the Department. The Department shall not act upon an application for a permit under this section until it has received a determination from each local government requested to make a determination by the applicant; provided that if a local government fails to submit a determination to the Department as provided by this subsection within 15 days after receipt of the request, the Department shall proceed to consider the permit application without regard to a franchise, local zoning, subdivision, and land-use planning ordinances. Unless the local government makes a subsequent determination of consistency with all ordinances cited in the determination or the sanitary landfill as it would be operated under the ~~new, renewed,~~new or substantially amended permit is determined by a court of competent jurisdiction to be consistent with the cited ordinances, the Department shall attach as a condition of the permit a requirement that the applicant, prior to construction or operation of the sanitary landfill under the permit, comply with all lawfully adopted local ordinances cited in the determination that apply to the sanitary landfill. This subsection shall not be construed to affect the validity of any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance or to affect the responsibility of any person to comply with any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance. This subsection shall not be construed to limit any opportunity a local government may have to comment on a permit application under any other law or rule. This subsection shall not apply to any facility with respect to which local ordinances are subject to review under either G.S. 104E-6.2 or G.S. 130A-293.

(5) As used in this subdivision, "coal-fired generating unit" and "investor-owned public utility" have the same meaning as in G.S. 143-215.107D(a). Notwithstanding subdivisions (a)(4), (b1)(3), or (b1)(4) of this section, no franchise shall be required for a sanitary landfill used only to dispose of waste generated by a coal-fired generating unit that is owned or operated by an investor-owned utility subject to the requirements of G.S. 143-215.107D.

...."

PART III. MODIFICATIONS TO CERTAIN REQUIREMENTS GOVERNING SANITARY LANDFILLS INCLUDING APPLICABLE BUFFERS, CLEANING AND INSPECTION OF LEACHATE COLLECTION LINES, ALTERNATIVE DAILY COVER, AND REQUIRED STUDIES FOR CERTAIN LANDFILL OWNERS AND OPERATORS

SECTION 3.(a) G.S. 130A-295.6 reads as rewritten:

"**§ 130A-295.6. Additional requirements for sanitary landfills.**

(a) The applicant for a proposed sanitary landfill shall contract with a qualified third-party, approved by the Department, ~~Department shall~~to conduct a study of the environmental impacts of any proposed sanitary ~~landfill.~~ landfill, in conjunction with its application for a new

permit as defined in sub-subdivisions a. through d. of subdivision (1) of subsection (b) of G.S. 130A-295.8. The study shall meet all of the requirements set forth in G.S. 113A-4 and rules adopted pursuant to G.S. 113A-4. If an environmental impact statement is required, the Department shall publish notice of the draft environmental impact statement and shall hold a public hearing in the county where the landfill will be located no sooner than 30 days following the public notice. The Department shall consider the study of environmental impacts and any mitigation measures proposed by the applicant in deciding whether to issue or deny a permit. An applicant for a permit for a sanitary landfill shall pay all costs incurred by the Department to comply with the public notice and public hearing requirements of this subsection.~~this subsection including the costs of any special studies that may be required.~~

(b) The Department shall require a buffer between any ~~perennial~~ stream ~~or wetland~~with continuous flow and the nearest waste disposal unit of a sanitary landfill of at least 200 feet. The Department may approve a buffer of less than 200 ~~feet, but in no case less than 100~~ feet, if it finds all of the following:

(1) The proposed sanitary landfill or expansion of the sanitary landfill will serve a critical need in the community.

(2) There is no feasible alternative location that would allow siting or expansion of the sanitary landfill with 200-foot buffers.

(c) A waste disposal unit of a sanitary landfill shall not be constructed within:

(1) A 100-year floodplain, as shown on the current floodplain maps prepared pursuant to the National Flood Insurance Program, ~~floodplain or land removed from a 100-year floodplain designation pursuant to 44 Code of Federal Regulations Part 72 (1 October 2006 Edition) as a result of man-made alterations within the floodplain such as the placement of fill,~~ except as authorized by variance granted under G.S. 143-215.54A(b).~~This subdivision does not apply to land removed from a 100-year floodplain designation (i) as a result of floodplain map corrections or updates not resulting from man-made alterations of the affected areas within the floodplain, or (ii) pursuant to 44 Code of Federal Regulations Part 70 (1 October 2006 Edition) by a letter of map amendment.~~

(2) Wetlands classified as waters of the United States, ~~A wetland,~~ unless the applicant or permit holder can show all of the following, as to the waste disposal unit:

a. Where applicable under section 404 of the federal Clean Water Act or applicable State wetlands laws, the presumption that a practicable alternative to the proposed waste disposal unit is available which does not involve wetlands is clearly rebutted;

b. Construction of the waste disposal unit will not do any of the following:

1. Cause or contribute to violations of any applicable State water quality standard.

2. Violate any applicable toxic effluent standard or prohibition under section 307 of the federal Clean Water Act.

3. Jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of a critical habitat, protected under the federal Endangered Species Act of 1973.

4. Violate any requirement under the federal Marine Protection, Research, and Sanctuaries Act of 1972.

c. Construction of the waste disposal unit will not cause or contribute to significant degradation of wetlands.

d. To the extent required under section 404 of the federal Clean Water Act or applicable State wetlands laws, any unavoidable wetlands impacts will be mitigated.

(d) The Department shall not issue a permit to construct any disposal unit of a sanitary landfill if, at the earlier of (i) the acquisition by the applicant or permit holder of the land or of an option to purchase the land on which the waste disposal unit will be located, (ii) the application by the applicant or permit holder for a franchise agreement, or (iii) at the time of the application for a permit, any portion of the proposed waste disposal unit would be located within:

~~(1) Five miles of the outermost boundary of a National Wildlife Refuge.~~

~~(2) One mile of the outermost boundary of a State gameland owned, leased, or managed by the Wildlife Resources Commission pursuant to G.S. 113-306.~~

~~(3) Two miles of the outermost boundary of a component of the State Parks System.~~

(4) Fifteen hundred feet of the outermost boundary of a national or State park or other component of the State Parks System, segment of the Natural and Scenic Rivers System, National Wildlife Refuge, critical fisheries habitat designated by the Marine Fisheries' Commission, or Outstanding Resource Waters designated by the Environmental Management Commission.

...

(h) The following requirements apply to any sanitary landfill for which a liner is required:

(1) A geomembrane base liner system shall be tested for leaks and damage by methods approved by the Department that ensure that the entire liner is evaluated.

(2) A leachate collection system shall be designed to return the head of the liner to 30 centimeters or less within 72 hours. The design shall be based on the precipitation that would fall on an empty cell of the sanitary landfill as a result of a 25-year-24-hour storm event. The leachate collection system shall maintain a head of less than 30 centimeters at all times during leachate recirculation. The Department may require the operator to monitor the head of the liner to demonstrate that the head is being maintained in accordance with this subdivision and any applicable rules.

(3) All leachate collection lines shall be designed and constructed to permanently allow cleaning and remote camera inspection. Remote camera inspections of the leachate collection lines shall occur upon completion of the construction and at least once every five years. Cleaning of leachate collection lines found necessary for proper functioning and to address buildup of leachate over the liner shall occur. ~~All leachate collection lines shall be cleaned at least once a year, except that the Department may allow leachate collection lines to be cleaned once every two years if: (i) the facility has continuous flow monitoring; and (ii) the permit holder demonstrates to the Department that the leachate collection lines are clear and functional based on at least three consecutive annual cleanings. Remote camera inspections of the leachate collection lines shall occur upon completion of construction, at least once every five years thereafter, and following the clearing of blockages.~~

(4) Any pipes used to transmit leachate shall provide dual containment outside of the disposal unit. The bottom liner of a sanitary landfill shall be constructed without pipe penetrations.

(h1) With respect to requirements for daily cover at sanitary landfills, once the Department has approved use of an alternative method of daily cover for use at any sanitary landfill, that alternative method of daily cover shall be approved for use at all sanitary landfills located within the State.

(h2) Studies and research and development pertaining to alternative disposal techniques and waste-to-energy matters shall be conducted by certain sanitary landfills as follows:

(1) The owner or operator of any sanitary landfill permitted to receive more than 240,000 tons of waste per year shall research the development of alternative disposal technologies. In addition, the owner or operator shall allow access to nonproprietary information and provide site resources for individual research and development projects related to alternative disposal techniques for the purpose of studies that may be conducted by local community or State colleges and universities or other third-party developers or consultants. The owner or operator shall report on research and development activities conducted pursuant to this subdivision, and any results of these activities, to the Department annually on or before July 1.

(2) The owner or operator of any sanitary landfill permitted to receive more than 240,000 tons of waste per year shall perform a feasibility study of landfill gas-to-energy, or other waste-to-energy technology, to determine opportunities for production of renewable energy from landfills in order to promote economic development and job creation in the State. The owner or operator shall initiate the study when sufficient waste is in place at the landfill to produce gas, as determined by the United States Environmental Protection Agency's Landfill Gas Emissions Model (LandGEM), and may consult and coordinate with other entities to facilitate conduct of the study, including local and State government agencies, economic development organizations, consultants, and third-party developers. The study shall specifically examine opportunities for returning a portion of the benefits derived from energy produced from the landfill to the jurisdiction within which the landfill is located in the form of direct supply of energy to the local government and its citizens, or through revenue sharing with the local government from sale of the energy, with revenues owing to the local government credited to a fund specifically designated for economic development within the jurisdiction. The owner or operator shall report on its activities associated with the study, and any results of the study, to the Department annually on or before July 1.

(i) The Department shall not issue a permit for a sanitary landfill that authorizes:

(1) A capacity of more than 55 million cubic yards of waste.

(2) A disposal area of more than 350 acres.

(3) A maximum height, including the cap and cover vegetation, of more than 250 feet above the mean natural elevation of the disposal area.

(j) This section does not apply to landfills for the disposal of land clearing and inert debris or to Type I or Type II compost facilities."

SECTION 3.(b) S.L. 2013-25 is repealed.

SECTION 3.(c) This section becomes effective August 1, 2013, except that (i) the repeal of G.S. 130A-295.6(d)(2), as enacted by Section 3(a) of this act, applies retroactively to applications for permits submitted on or after January 1, 2013; (ii) G.S. 130A-295.6(h1) and

G.S. 130A-295.6(h2), as enacted by Section 3(a) of this act, apply to new landfills for which a permit is issued on or after August 1, 2013; and (iii) to the extent that G.S. 130A-295.6, as amended by Section 3(a) of this act, imposes requirements that are more stringent than those in effect prior to August 1, 2007, the more stringent requirements do not apply to:

(1) An amendment, modification, or other change to a permit for a landfill issued on or before June 1, 2006.

(2) A permit for a horizontal or vertical expansion of the landfill permitted on or before June 1, 2006.

(3) A permit to construct a new landfill within the facility boundary identified in the facility plan of a landfill permitted on or before June 1, 2006.

(4) A permit to operate a new landfill if a permit to construct the new landfill was issued on or before June 1, 2006.

(5) A permit for a sanitary landfill used only to dispose of waste generated by a coal-fired generating unit that is owned or operated by an investor-owned utility subject to the requirements of G.S. 143-215.107D.

(6) A permit for a sanitary landfill determined to be necessary by the Secretary of Environment and Natural Resources in order to respond to an imminent hazard to public health or a natural disaster.

PART IV. MODIFICATIONS TO REQUIREMENTS FOR FINANCIAL RESPONSIBILITY APPLICABLE TO APPLICANTS AND PERMIT HOLDERS FOR SOLID WASTE MANAGEMENT FACILITIES

SECTION 4. G.S. 130A-295.2 reads as rewritten:

"**§ 130A-295.2. Financial responsibility requirements for applicants and permit holders for solid waste management facilities.**

...

(h) To meet the financial assurance requirements of this section, the owner or operator of a sanitary landfill shall establish financial assurance sufficient to cover the ~~a minimum of two million dollars ($2,000,000) in~~ costs ~~for~~ of potential assessment and corrective action at the facility. The Department may require financial assurance in a higher amount and may increase the amount of financial assurance required of a permit holder at any time based upon the types of waste disposed in the landfill, the projected amount of waste to be disposed in the landfill, the location of the landfill, potential receptors of releases from the landfill, and inflation. The financial assurance requirements of this subsection are in addition to the other financial responsibility requirements set out in this section.

...

(j) In addition to the other methods by which financial assurance may be established as set forth in subsection (f) of this section, the Department may allow the owner or operator of a sanitary landfill permitted on or before August 1, 2009, to meet the financial assurance requirement set forth in subsection (h) of this section by establishing a trust fund which conforms to the following minimum requirements:

(1) The trustee shall be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a State or federal agency.

(2) A copy of the trust agreement shall be placed in the facility's operating record.

(3) Payments into the trust fund shall be made annually by the owner or operator over a period not to exceed five years. This period is referred to as the pay-in period.

(4) Payments into the fund shall be made in equal annual installments in amounts calculated by dividing the current cost estimate for potential assessment and corrective action at the facility ~~facility, which shall not be less than two million dollars ($2,000,000) in accordance with subsection (h) of this section,~~ by the number of years in the pay-in period.

(5) The trust fund may be terminated by the owner or operator only if the owner or operator establishes financial assurance by another method or combination of methods allowed under subsection (f) of this section.

(6) The trust agreement shall be accompanied by a formal certification of acknowledgement."

PART V. AMEND THE RULE GOVERNING COLLECTION AND TRANSPORT OF SOLID WASTE TO REQUIRE THAT CONTAINERS BE "LEAK-RESISTANT" RATHER THAN "LEAK-PROOF," AND AMEND A STATUTE THAT REQUIRES VEHICLES TO BE CONSTRUCTED AND LOADED TO PREVENT LEAKAGE

SECTION 5.(a) Definitions. – "Collection and Transport Rule" means 15A NCAC 13B .0105 (Collection and Transportation of Solid Waste) for purposes of this section and its implementation.

SECTION 5.(b) Collection and Transport Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to Section 5(d) of this act, the Commission and the Department of Environment and Natural Resources shall implement the Collection and Transport Rule, as provided in Section 5(c) of this act.

SECTION 5.(c) Implementation. – Notwithstanding any provision of the Collection and Transport Rule, the Commission shall not require vehicles or containers used for the collection and transportation of solid waste to be leak-proof; however, they may require that these containers be designed and maintained to be leak-resistant in accordance with industry standards.

SECTION 5.(d) Additional Rule-Making Authority. – The Commission shall adopt a rule to replace the Collection and Transport Rule. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 5(c) of this act. Rules adopted pursuant to this section are not subject to G.S. 150B-21.9 through G.S. 150B-21.14. The rule adopted pursuant to this section shall become effective, as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received, as provided by G.S. 150B-21.3(b2).

SECTION 5.(e) Effective Date. – Section 5(c) of this act expires when permanent rules to replace Section 5(c) of this act have become effective, as provided by Section 5(d) of this act.

SECTION 5.(f) G.S. 20-116(g)(1) reads as rewritten:

"**§ 20-116. Size of vehicles and loads.**

...

(g) (1) No vehicle shall be driven or moved on any highway unless the vehicle is constructed and loaded to prevent any of its load from falling, blowing, dropping, sifting, ~~leaking,~~ or otherwise escaping therefrom, and the vehicle shall not contain any holes, cracks, or openings through which any of its load may escape. However, sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled, dumped, or spread on a roadway in cleaning or maintaining the roadway. For purposes of this

subsection, ~~load~~ the terms "load" and "leaking" ~~does~~ do not include water accumulated from precipitation."

PART VI. AMEND THE DEFINITION OF "LEACHATE" TO EXCLUDE LIQUID ADHERING TO TIRES OF VEHICLES LEAVING SANITARY LANDFILLS AND TRANSFER STATIONS

SECTION 6.(a) G.S. 130A-290 is amended by adding a new subdivision to read:

"(16a) "Leachate" means a liquid that has passed through or emerged from solid waste and contains soluble, suspended, or miscible materials removed from such waste. The term "leachate" does not include liquid adhering to tires of vehicles leaving a sanitary landfill and transfer stations."

PART VII. AUTHORIZE: CITIES AND COUNTIES THAT ACCEPT SOLID WASTE FROM OTHER LOCAL GOVERNMENTS TO LEVY A SURCHARGE ON FEES FOR USE OF THEIR DISPOSAL FACILITIES, AND TO MAKE APPROPRIATIONS FROM A UTILITY OR PUBLIC SERVICE ENTERPRISE FUND USED FOR OPERATION OF A LANDFILL TO THE JURISDICTION'S GENERAL FUND UPON CERTAIN FINDINGS

SECTION 7.(a) G.S. 153A-292(b) reads as rewritten:

"(b) The board of county commissioners may impose a fee for the collection of solid waste. The fee may not exceed the costs of collection.

The board of county commissioners may impose a fee for the use of a disposal facility provided by the county. ~~The~~ Except as provided in this subsection, the fee for use may not exceed the cost of operating the ~~facility and may be imposed only on those who use the~~ facility. The fee may exceed those costs if the county enters into a contract with another county or city to accept the other entity's solid waste and the county by ordinance levies a surcharge on the fee which may be used for any purpose for which the county may appropriate funds. A fee under this paragraph may be imposed only on those who use the facility. The fee for use may vary based on the amount, characteristics, and form of recyclable materials present in solid waste brought to the facility for disposal. A county may not impose a fee for the use of a disposal facility on a city located in the county or a contractor or resident of the city unless the fee is based on a schedule that applies uniformly throughout the county.

The board of county commissioners may impose a fee for the availability of a disposal facility provided by the county. A fee for availability may not exceed the cost of providing the facility and may be imposed on all improved property in the county that benefits from the availability of the facility. A county may not impose an availability fee on property whose solid waste is collected by a county, a city, or a private contractor for a fee if the fee imposed by a county, a city, or a private contractor for the collection of solid waste includes a charge for the availability and use of a disposal facility provided by the county. Property served by a private contractor who disposes of solid waste collected from the property in a disposal facility provided by a private contractor that provides the same services as those provided by the county disposal facility is not considered to benefit from a disposal facility provided by the county and is not subject to a fee imposed by the county for the availability of a disposal facility provided by the county. To the extent that the services provided by the county disposal facility differ from the services provided by the disposal facility provided by a private contractor in the same county, the county may charge an availability fee to cover the costs of the additional services provided by the county disposal facility.

In determining the costs of providing and operating a disposal facility, a county may consider solid waste management costs incidental to a county's handling and disposal of solid waste at its disposal facility, including the costs of the methods of solid waste management

specified in G.S. 130A-309.04(a) of the Solid Waste Management Act of 1989. A fee for the availability or use of a disposal facility may be based on the combined costs of the different disposal facilities provided by the county."

SECTION 7.(b) G.S. 159-13(b)(14) reads as rewritten:

"(b) The following directions and limitations shall bind the governing board in adopting the budget ordinance:

...

(14) No appropriation may be made from a utility or public service enterprise fund to any other fund than the appropriate debt service fund unless the total of all other appropriations in the fund equal or exceed the amount that will be required during the fiscal year, as shown by the budget ordinance, to meet operating expenses, capital outlay, and debt service on outstanding utility or enterprise bonds or notes. A county may, upon a finding that a fund balance in a utility or public service enterprise fund used for operation of a landfill exceeds the requirements for funding the operation of that fund, including closure and post-closure expenditures, transfer excess funds to be used to support the other services supported by the county's general fund."

SECTION 7.(c) G.S. 160A-314.1 reads as rewritten:

"**§ 160A-314.1. Availability fees for solid waste disposal facilities; collection of any solid waste fees.**

(a) A city may impose a fee for the collection of solid waste. The fee may not exceed the costs of collection.

A city may impose a fee for the use of a disposal facility provided by the city. Except as provided in this subsection, the fee for use may not exceed the cost of operating the facility. The fee may exceed those costs if the city enters into a contract with another county or city to accept the other entity's solid waste and the city by ordinance levies a surcharge on the fee which may be used for any purpose for which the city may appropriate funds. A fee under this paragraph may be imposed only on those who use the facility. The fee for use may vary based on the amount, characteristics, and form of recyclable materials present in solid waste brought to the facility for disposal.

(a1) In addition to a fee that a city may impose for collecting solid waste or for using a disposal facility, a city may impose a fee for the availability of a disposal facility provided by the city. A fee for availability may not exceed the cost of providing the facility and may be imposed on all improved property in the city that benefits from the availability of the facility. A city may not impose an availability fee on property whose solid waste is collected by a county, a city, or a private contractor for a fee if the fee imposed by a county, a city, or a private contractor for the collection of solid waste includes a charge for the availability and use of a disposal facility provided by the city. Property served by a private contractor who disposes of solid waste collected from the property in a disposal facility provided by a private contractor that provides the same services as those provided by the city disposal facility is not considered to benefit from a disposal facility provided by the city and is not subject to a fee imposed by the city for the availability of a disposal facility provided by the city. To the extent that the services provided by the city disposal facility differ from the services provided by the disposal facility provided by a private contractor in the same city, the city may charge an availability fee to cover the costs of the additional services provided by the city disposal facility.

In determining the costs of providing and operating a disposal facility, a city may consider solid waste management costs incidental to a city's handling and disposal of solid waste at its disposal facility. A fee for the availability or use of a disposal facility may be based on the combined costs of the different disposal facilities provided by the city.

(b) A city may adopt an ordinance providing that any fee imposed under subsection (a) or under G.S. 160A-314 for collecting or disposing of solid waste may be billed with property taxes, may be payable in the same manner as property taxes, and, in the case of nonpayment, may be collected in any manner by which delinquent personal or real property taxes can be collected. If an ordinance states that delinquent fees can be collected in the same manner as delinquent real property taxes, the fees are a lien on the real property described on the bill that includes the fee."

SECTION 7.(d) G.S. 160A-314(a2) reads as rewritten:

"**§ 160A-314. Authority to fix and enforce rates.**

(a2) A fee for the use of a disposal facility provided by the city may vary based on the amount, characteristics, and form of recyclable materials present in solid waste brought to the facility for disposal. This section does not prohibit a city from providing aid to low-income persons to pay all or part of the cost of solid waste management services for those persons. A city may, upon a finding that a fund balance in a utility or public service enterprise fund used for operation of a landfill exceeds the requirements for funding the operation of that fund, including closure and post-closure expenditures, transfer excess funds to be used to support the other services supported by the city's general fund."

SECTION 7.(e) G.S. 130A-294(b1) is amended by adding a new subdivision to read:

"(2b) A local government may elect to include as part of a franchise agreement a surcharge on waste disposed of in its jurisdiction by other local governments located within the State."

SECTION 7.(f) This section is effective August 1, 2013, and Section 7(e) is applicable to franchise agreements executed on or after that date.

PART VIII. RETURN OF REIMBURSEMENTS/S.L. 2007-543

SECTION 8. Applicants for a permit for a sanitary landfill who received funds as reimbursement in accordance with subsections (a) through (g) of Section 3 of S.L. 2007-543 shall repay eighty percent (80%) of the funds received as reimbursement to the Secretary of Revenue before a permit may be issued to construct a sanitary landfill on the property, or part thereof, which was the subject of a permit application for which funds were received as reimbursement in accordance with subsections (a) through (g) of Section 3 of S.L. 2007-543. Any funds received by the Secretary pursuant to this Section shall be credited or distributed as set forth in G.S. 105-187.63.

PART IX. SEVERABILITY AND EFFECTIVE DATE

SECTION 9.(a) If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

SECTION 9.(b) Except as otherwise provided, this act is effective when it becomes law.

SENATE BILL 328:
Solid Waste Management Reform Act of 2013

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 19, 2013
Introduced by:	Sens. Wade, Brown, Jackson	**Prepared by:**	Jennifer McGinnis Staff Attorney
Analysis of:	PCS to Second Edition S328-CSRI-26 [v.13]		

SUMMARY: ***The Proposed Committee Substitute (PCS) for Senate Bill 328 would: (1) extend the duration of permits for sanitary landfills and transfer stations for a period up to thirty years; (2) modify the Department of Environment and Natural Resources' authority to issue and transfer permits for solid waste management facilities; (3) modify certain requirements governing sanitary landfills including applicable buffers, cleaning and inspection of leachate collection lines, alternative daily cover, and required studies for owners and operators of certain sanitary landfills; (4) modify requirements for financial responsibility applicable to applicants and permit holders for solid waste management facilities; (5) amend the rule governing collection and transport of solid waste to require that containers be "leak-resistant" rather than "leak-proof" and amend a statute that requires vehicles to be constructed and loaded to prevent leakage; (6) define the term "leachate" and clarify that it excludes liquid adhering to tires of vehicles leaving sanitary landfills; and (7) make related clarifying, conforming, and technical changes to the statutes and rules governing solid waste matters.***

CHANGES MADE BY PCS TO PREVIOUS VERSION:

- Applies a provision that extends the duration of permits for sanitary landfills and transfer stations of up to 30 years to existing permits, taking into account the duration of any permits previously issued for the facility. The previous version of the bill only applied the extension to new facilities permitted on or after July 1, 2014. In addition, the PCS provides that the limited review required every five years under the provision would include review of the operations plan, closure plan, post-closure plan, financial assurance cost estimates, environmental monitoring plans, and any other applicable plans for the facility.
- Modifies the schedule of fees applicable to sanitary landfills and transfer stations included in the previous version of the bill.
- Modifies a provision concerning transfer of a permit for a solid waste management facility, to require approval of the Department of Environment and Natural Resources (DENR).
- Restores a requirement under existing law that a study of the environmental impacts of any proposed sanitary landfill be conducted, and modifies the requirement to provide that a permit applicant shall conduct the study using a qualified third-party contractor approved by DENR. The previous version of the bill deleted this provision (under current law DENR must conduct the study and the applicant must reimburse DENR for all costs incurred).
- Modifies a provision concerning a buffer between a waste disposal unit and surface water impoundments or any streams with continuous flow included in the previous version of the bill, to eliminate the reference to surface water impoundments.
- Modifies a provision concerning construction of a waste disposal unit in a wetland. The previous version of the bill had eliminated a number details associated with the showings an applicant

must make, and in lieu, provided that a waste disposal unit may not be constructed within a wetland classified as a water of the United States, except in compliance with applicable federal and State laws. The PCS restores the details associated with the showings an applicant must make.

- Eliminates a prohibition included in the previous version of the bill concerning construction of a waste disposal unit in a designated critical habitat for a threatened or endangered species, and in historically or archaeologically sensitive sites of more than local significance.
- Modifies a provision in the previous version of the bill that would have eliminated requirements for annual cleaning of leachate collection lines and remote camera inspections of the lines every five years, to restore the inspection requirement and require cleaning of the lines as necessary for proper functioning and to address buildup of leachate over the liner.
- Modifies a provision concerning containers for collection and transport of solid waste in the previous version of the bill to provide that vehicles or containers used for the collection and transportation of solid waste be maintained, as well as designed, to be leak-resistant in accordance with industry standards. In addition, the PCS would amend a statute that requires vehicles to be constructed and loaded to prevent leakage, to provide that "leakage," for purposes of the statute does not include water accumulated from precipitation.
- Modifies a provision concerning leachate to clarify that the definition of leachate only excludes liquid adhering to tires of vehicles leaving a sanitary landfill and a transfer station. An additional exclusion under the previous version of the bill concerning liquid generated during the transport of solid waste is eliminated under the PCS. The PCS also eliminates direction given to the Commission for Public Health under the previous version of the bill to amend rules governing leachate storage requirements.
- Adds a provision to require that applicants for a permit for a sanitary landfill who received funds as reimbursement in accordance with provisions of S.L. 2007-543 repay 80% of the funds received as reimbursement to the Secretary of Revenue before a permit may be issued to construct a sanitary landfill on the property, or part thereof, which was the subject of a permit application for which funds were received as reimbursement.
- Makes other technical, clarifying, and conforming changes to the previous version of the bill.

BILL ANALYSIS:

Section 1.(a) of the PCS would extend the duration of permits for sanitary landfills and transfer stations for a duration of up to 30 years (from the current option for a 5- or 10-year permit), unless revoked as otherwise provided under the statutes governing solid waste management or upon the expiration of any local government franchise required for the facility. A limited review of the permit would be required five years after issuance of the initial permit, and at five-year intervals thereafter until expiration. The PCS provides that the limited review includes review of the operations plan, closure plan, post-closure plan, financial assurance cost estimates, environmental monitoring plans, and any other applicable plans for the facility. This provision would be applicable to new facilities for which permit applications were submitted on or after July 1, 2014, and to existing facilities when the associated permits next come up for renewal after July 1, 2014.

Section 1.(b) of the PCS would require the Commission for Public Health, by July 1, 2014, to adopt rules to: (i) allow applicants for sanitary landfills to apply for a permit to construct and operate landfill

development phase of up to 30 years; and (ii) allow applicants for permits for transfer stations to apply for a permit with a duration of up to 30 years to construct and operate a transfer station.

Section 1.(c) of the PCS would increase the fees applicable to new sanitary landfills and transfer stations permitted on or after July 1, 2014 to reflect the extension to the duration of permits for these facilities of up to 30 years. The provision also deletes or amends a number of definitions associated with the fees.

Section 1.(d) of the PCS would make a conforming change to the statutes governing solid waste management to reflect extension of the duration of permits up to 30 years, by striking the word "renewal."

Section 1.(e) of the PCS would repeal a provision enacted last year as part of the Regulatory Reform Act of 2012 that directed the Commission for Public Health to amend its rules to extend the duration of permits for sanitary landfills and transfer stations, and allow owners and operators of landfills and transfer stations the option to apply for: (i) a 5-year permit; or (ii) 10-year permit with a limited review at the 5-year interval.

Sections 1.(f) and (g) of the PCS would repeal two pending bills (H135 and S380), if they became law. These bills would increase the fees applicable to sanitary landfills and transfer stations to reflect the extension of the duration of permits for these facilities that was authorized in 2012 (see Sec. 1.(e) above).

Section 1.(h) of the PCS would provide that the preceding sections would become effective August 1, 2013, except as otherwise provided.

Section 2 of the PCS would

- Make conforming changes to the statutes governing solid waste management to reflect extension of the duration of permits for a period up to 30 years (see Section 1 above), by striking the word "renewal."
- Modify or repeal certain basis on which DENR must deny permits for solid waste management facilities. Under current law, DENR must deny a permit if construction or operation of the proposed facility would:
  - Be **inconsistent with or violate rules** adopted by the Environmental Management Commission (EMC). The PCS would modify this provision to direct DENR to deny a permit where the proposed facility would **violate** the **Article** governing solid waste management under the General Statutes (Article 9 of Chapter 130A) or the associated rules.
  - Result in significant damage to ecological systems, natural resources, cultural sites, recreation areas, or historic sites of more than local significance (including detail on the types of sites included). The PCS would repeal this provision.
  - **Substantially limit or threaten access to or use** of public trust waters or public lands. The PCS would modify this provision to direct DENR to deny a permit where the proposed facility would **substantially limit access to** public trust waters or public lands.
  - **Be inconsistent with** the State's solid waste management policy and goals and the State's solid waste management plan developed as provided in the General Statutes. The PCS would modify this provision to direct DENR to deny a permit where the proposed facility would **violate** the State's solid waste management policy, goals, and plan.

In addition, the PCS would modify or repeal the following basis on which the DENR must deny permits for solid waste management facilities under current law:

- The proposed facility would be located in a natural hazard area, including a floodplain, a landslide hazard area, or an area subject to storm surge or excessive seismic activity, such that the facility will present a risk to public health or safety. The PCS would modify this provision to delete the reference to a floodplain.
- There is a practical alternative that would accomplish the purposes of the proposed facility with less adverse impact on public resources, considering engineering requirements and economic costs. The PCS would repeal this provision.
- The cumulative impacts of the proposed facility and other facilities in the area of the proposed facility would violate water quality standards, result in significant damage to ecological systems and other specified areas. The PCS would repeal this provision.
- The cumulative impact of the proposed facility, when considered in relation to other similar impacts of facilities located or proposed in the community, would have a disproportionate adverse impact on a minority or low-income community protected by Title VI of the federal Civil Rights Act of 1964. The PCS would modify this provision to specify that the provision only applies to the extent required by federal law.

- Modify the basis on which DENR may transfer a permit for a solid waste management facility, to provide that a transfer may occur upon 30 days' written notice with such information as DENR may reasonably require with respect to financial assurance and environmental compliance, and with DENR's approval (current law provides only that permits may be transferred upon approval of DENR).
- Modify the definition of what constitutes a "substantial amendment." Current law provides that a substantial amendment includes, among other things, "... any other change to the application for a permit for a sanitary landfill that the Commission or the Department determines to be substantial." The PCS would delete this language.

Section 3.(a) of the PCS would:

- Amend a provision under existing law that requires a buffer between any **perennial stream or wetland** and the nearest waste disposal unit of a sanitary landfill of at least 200 feet, but allows DENR to approve a buffer of less than 200 feet, **but no less than 100 feet,** if certain criteria are met. The PCS would modify the language to require a buffer of 200 feet to **surface water impoundments or any streams with continuous flow,** and would allow DENR by variance to approve a **buffer of less than 100 feet** if certain criteria are met.
- Amend provisions under existing law that prohibit construction of a waste disposal unit of a sanitary landfill within:
  - A 100 year floodplain, or land removed from a 100 year floodplain as a result of man-made alterations. The PCS would delete the prohibition on siting waste disposal units on land removed from a 100 year floodplain.
  - A wetland, unless the applicant can make a showing on a number of specific criteria involving State and federal law. The PCS adds language to provide that the wetland must be classified as a water of the United States.
- Delete the following buffers to waste disposal units: five miles of the outermost boundary of a National Wildlife Refuge; one mile of the outermost boundary of a State gameland owned, leased, or managed by the Wildlife Resources Commission; and two miles of the outermost boundary of a component of the State Parks System. The PCS would replace these buffers with a prohibition on constructing a waste disposal unit within fifteen hundred feet of a national or State

park, or other component of the State Parks System, segment of the Natural and Scenic Rivers System, National Wildlife Refuge, critical fisheries habitat designated by the Marine Fisheries Commission, or Outstanding Resource Waters designated by the Environmental Management Commission.

- Delete requirements for annual cleaning of leachate collection lines, but provide that these lines must be cleaned as necessary for proper functioning and to address buildup of leachate over the liner.
- Add a requirement that with respect to requirements for daily cover at sanitary landfills, once the Department has approved use of an alternative method of daily cover for use at any sanitary landfill, that alternative method of daily cover shall be approved for use at all sanitary landfills located within the State.
- Add requirements that owners or operators of sanitary landfills permitted to receive more than 240,000 tons of waste per year: (i) research the development of alternative disposal technologies and allow access to nonproprietary information and provide site resources for individual research and development projects related to alternative disposal techniques for the purpose of studies that may be conducted by local community or State colleges and universities or other third-party developers or consultants; and (ii) perform a feasibility study of landfill gas-to-energy, or other waste-to-energy technology, to determine opportunities for production of renewable energy from landfills in order to promote economic development and job creation in the State, and specifically examine opportunities for returning a portion of the benefits derived from energy produced from the landfill to the jurisdiction within which the landfill is located in the form of direct supply of energy to the local government and its citizens, or through revenue sharing with the local government from sale of the energy, with revenues owing to the local government credited to a fund specifically designated for economic development within the jurisdiction.

Section 3.(b) of the PCS would repeal Senate Bill 24 enacted this year that decreased the buffer requirement from State gamelands for landfills for the disposal of construction and demolition debris from 1 mile to 500 in certain circumstances.

Section 4 of the PCS would modify a provision under existing law that requires applicants and permit holders for solid waste management facilities to establish financial assurance sufficient to cover a minimum $2,000,000 in costs for potential assessment and corrective action at the facility, to eliminate the minimum amount.

Section 5 of the PCS would direct the Commission for Public Health to amend a rule governing containers for collection and transport of solid waste to provide that vehicles or containers used for the collection and transportation of solid waste be designed and maintained to be leak-resistant in accordance with industry standards, rather than be leak-proof as required under existing law. In addition, the PCS would amend a statute that requires vehicles to be constructed and loaded to prevent leakage, to provide that "leakage," for purposes of the statute does not include water accumulated from precipitation.

Section 6 of the PCS would amend the statutes governing solid waste to define "leachate" as:

> "a liquid that has passed through or emerged from solid waste and contains soluble, suspended, or miscible materials removed from such waste. The term "leachate" does not include liquid adhering to tires of vehicles leaving a sanitary landfill and transfer station."

Section 7 of the PCS would authorize cities and counties to levy a surcharge on existing fees for use of waste disposal facilities provided by them on other cities and counties located within the State that use the disposal facility, and authorizes cities and counties imposing such a surcharge to use the funds that accrue in excess of the amount needed to operate the landfill for other purposes. In addition, the PCS authorizes cities and counties to include such a surcharge on other local governments' waste as part of a franchise agreement entered into with a private landfill owner or operator.

Section 8 of the PCS would add a provision requiring that applicants for a permit for a sanitary landfill who received funds as reimbursement in accordance with subsections (a) through (g) of Section 3 of S.L. 2007-543 must repay 80% of the funds received as reimbursement to the Secretary of Revenue before a permit may be issued to construct a sanitary landfill on the property, or part thereof, which was the subject of a permit application for which funds were received as reimbursement. The applicable sections of S.L. 2007-543 allowed an applicant for a permit for a sanitary landfill to receive reimbursement for the reasonable costs of preparation of a permit application incurred prior to August 1, 2006, if the permit would have been denied as a result of required setbacks enacted as part of the Solid Waste Management Act of 2007.

Section 9.(a) of the PCS would provide that if any section or provision of the act is declared unconstitutional or invalid by the courts, it would not affect the validity of the act as a whole or any part other than the part declared to be unconstitutional or invalid.

Section 9.(b) of the PCS would provide that the act would be effective when it becomes law except otherwise noted.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: June 19, 2013
TO: Senate Finance Chairs
FROM: Jennifer Hoffmann, Fiscal Research Division
RE: PCS S328-CSRI-26 [v.13]

FISCAL IMPACT

($ in millions)

☑ Yes ☐ No ☐ No Estimate Available

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
State Impact					
Special Fund Revenues:	-	0.34	0.34	0.34	0.34
Special Fund Expenditures:					
State Positions:					
NET STATE IMPACT	-	**$0.34**	**$0.34**	**$0.34**	**$0.340**
Local Impact					
Revenues:					
Expenditures:					
NET LOCAL IMPACT	**$0.0**	**$0.0**	**$0.0**	**$0.0**	**$0.0**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Environment and Natural Resources

EFFECTIVE DATE: Except as otherwise provided, the act is effective when it becomes law. Fees effective July 1, 2014.

TECHNICAL CONSIDERATIONS: None

BILL SUMMARY: The Proposed Committee Substitute (PCS) for Senate Bill 328 would: (1) extend the duration of permits for sanitary landfills and transfer stations to thirty years ("life of site"); (2) modify the Department of Environment and Natural Resources' authority to issue and transfer permits for solid waste management facilities; (3) modify certain requirements governing sanitary landfills including applicable buffers, cleaning and inspection of leachate collection lines, alternative daily cover, and required studies for owners and operators of certain sanitary landfills; (4) modify requirements for financial responsibility applicable to applicants and permit holders for solid waste management facilities; (5) amend the rule governing collection and transport of solid waste to require

that containers be "leak-resistant" rather than "leak-proof" and amend a statute that requires vehicles to be constructed and loaded to prevent leakage; (6) define the term "leachate" and clarify that it excludes liquid adhering to tires of vehicles leaving sanitary landfills; and (7) make related clarifying, conforming, and technical changes to the statutes and rules governing solid waste matters.[1]

ASSUMPTIONS AND METHODOLOGY:

In calculating the fiscal impact of the PCS, this fiscal memo uses the following assumption:

1. The number of active facilities permitted remains constant over the next five years. The Department of Environment and Natural Resources (DENR) does anticipate limited growth in the number of sanitary landfills (less than 5) and transfer stations (less than 10) in the next five years; however, the exact number and size of these facilities is unknown and therefore not included in the expenditure or revenue projections.

This memo also acknowledges the following:

2. No permits have been issued using the 10-year permit option recently enacted by the General Assembly in the Regulatory Reform Act of 2012 (S.L. 2012-187). The Regulatory Reform Act required the Commission for Public Health to adopt rules to issue the 10-year permit for sanitary landfills and transfer stations by July 1, 2013; therefore this option has not yet gone into effect. This PCS repeals both the 5-year and 10-year options and replaces it with a 30-year "life of site" permit.

3. Revenue currently collected from solid waste management facilities by the Department of Environment and Natural Resources (DENR) is based on permits of five-year duration, 5-year amendment fees, and annual fees using the existing fee schedule set in statute.

Section 1 of the PCS extends the duration of permits for sanitary landfills and transfer stations to a *total* of 30 years (from the current 5-year permit), and requires the Commission for Public Health to adopt a rule to allow applicants for sanitary landfills and applicants for transfer stations to apply for the 30-year permits. A limited review of the permit would be required five years after issuance of the initial permit, and at five-year intervals thereafter until expiration. The PCS provides that the limited review includes a review of the operations plan, closure plan, post-closure plan, financial assurance cost estimates, environmental monitoring plans, and any other applicable plans for the facility. This provision would be applicable to new facilities for which permit applications were submitted on or after July 1, 2014, and to existing facilities when the associated permits next come up for renewal after July 1, 2014.

The PCS also changes the fee schedule applicable to new sanitary landfills and transfer stations permitted on or after July 1, 2014 to reflect the extension to the duration of permits for these facilities to 30 years (see Table 1 for new fees; see Table 4 at end of memo for a comparison of current fees to proposed fees). In all instances, except for the two highlighted in bold on Table 1 below, the 30-year "life of site" permit fees for new facilities are the same as they currently are for a 5-year permit. For existing facilities, the "life of site" permit fee is based on the 5-year amendment fee which is repealed and replaced with a new major modification fee in the same amount, except for Tire Monofill facilities

[1] Bill summary prepared by Jennifer McGinnis, Committee Counsel to Senate Committee on Agriculture/ Environment/ Natural Resources.

where the fee is increased from $1,250 to $9,000 and for small Transfer Stations where the fee is reduced from $3,000 to $1,500. The PCS also establishes a new ownership modification fee for the facility types listed on the Table. Lastly, the annual fee is also amended by increasing the fee for all facility types and sizes, except for small Transfer Stations where the annual fee stays the same.

Table 1: PCS - SB 328 Proposed Fee Schedule by Facility Type and Size

Facility Type & Size	# of Active Facilities	New 30-Year "Life of Site" Permit Fee	Major Modifcation Fee	Change Ownership Fee	Proposed Annual Fee
Municipal Solid Waste Landfill Facility < 100,000 tons/yr	20	$25,000	$15,000	$5,000	$7,500
Municipal Solid Waste Landfill Facility ≥ 100K tons < 250K tons/yr	12	$50,000	$30,000	$5,000	$12,000
Municipal Solid Waste Landfill Facility ≥ 250,000 tons/yr	8	$75,000	$55,000	$5,000	$15,000
Construction and Demolition Landfill Facility < 25,000 tons/yr	35	$15,000	$9,000	$3,000	$5,500
Construction and Demolition Landfill Facility > 25,000 tons/yr	17	$30,000	$18,500	$3,000	$8,500
Industrial Landfill <100,000 tons/yr	8	$15,000	$9,000	$2,000	$5,500
Industrial Landfill >100,000 tons/yr	9	$30,000	$18,500	$2,000	$10,000
Tire Monofill	2	$15,000	$9,000	$2,000	$5,500
Transfer Station < 25,000 tons/yr	40	$2,500	$1,500	$1,000	$750
Transfer Station > 25,000 tons/yr	47	$5,000	$3,000	$1,000	$1,500

Note that only newly permitted facilities would pay the full cost of the new 30-year permit fees shown on Table 1. Existing facilities would pay a smaller fee based on the Major Modification fee that will be prorated for each facility to reflect the number of years remaining in its 30-year life.

For existing facilities, the PCS also phases in the cost of the 30-year permit over the life of the permit with 50% of applicable fee due upon submission of the application, 25% paid at five years after the issuance of the permit, and remaining 25% paid at 10 years after the issuance of the permit.[2] Because the current length of a permit is five years, all existing permits are scheduled to come up for renewal in the first five years that the 30-year permit becomes effective (July 1, 2014). All facilities would also be paying 50% of their 30-year permit during years zero through four with their next installment due in years five through nine and their final installment in years ten through 14.
The amount of fee revenue generated by the issuance of a "life of site" permit depends upon the number of years remaining in its 30-year life. Without a detailed review of permits for all active facilities (total 198) to determine the number of years remaining for each of the facilities, it is not

[2] The schedule for the payment of the application fee for newly permitted facilities is different than the schedule for existing facilities already permitted. New facilities would pay 50% of the applicable fee upon submission of the permit application. The next 25% would be paid at 10 years and the remaining 25% would be paid at 20 years.

possible to develop an exact estimate of the future revenue generated from the new 30-year permit and its associated fees.

Instead this fiscal memo uses an average remaining life of 20 years and applies that average to all facility types and sizes. The average number of years was provided by DENR after a review of a sample of facility types and sizes. This memo also assumes that the permit renewals are evenly divided over the first five years.

Table 2: Summary of Estimated Annual Fee Revenue

	Current	Projected Revenue Years 0-4	Projected Revenue Years 5-9	Projected Revenue Years 10-14
30-yr Permit Fees	406,300	145,800	72,900	72,900
Annual Fees	396,000	996,500	996,500	996,500
Total	**$ 802,300**	**$ 1,142,300**	**$ 1,069,400**	**$ 1,069,400**
Δ current to proposed		340,000	267,100	267,100

Compared to current collections for permits and annual fees, the proposed fee schedule is estimated to increase fee revenue annually by $340,000 in the first five years. Fee revenue drops in the subsequent years as compared to the first five years, but remains slightly higher than current collections. For a detailed chart on revenue projections by facility type, see Table 3 at the end of this memo.

Section 7 of the PCS authorizes cities and counties to levy a surcharge on existing fees for use of waste disposal facilities provided by them on other cities and counties located within the State that use the disposal facilities. It also authorizes cities and counties imposing such a surcharge to use the funds that accrue in excess of the amount needed to operate the landfill for other purposes. In addition, the PCS authorizes cities and counties to include such a surcharge on other local governments' waste as part of a franchise agreement entered into with a private landfill owner or operator.

The fiscal impact of this section on the revenue of local governments is unknown because the number of cities and counties that may impose such a surcharge is unknown as is the amount of the surcharge.

Section 8 of the PCS requires applicants for a permit for a sanitary landfill who received funds as reimbursement in accordance with subsections (a) through (g) of Section 3 of S.L. 2007-543 to repay 80% of the funds received as reimbursement to the Secretary of Revenue before a permit may be issued to construct a sanitary landfill on the property which was the subject of a permit application for which funds were received.

The total amount paid out as reimbursement was $4,113,095. The maximum amount that may be paid back is $3,290,476. The actual amount to be paid back depends on whether the facility decides to seek another permit which is unknown at this time. Funds that are paid back will be distributed in accordance with the use of the Solid Waste Disposal Tax proceeds as follows:

1. 50% to the Inactive Hazardous Sites Cleanup Fund
2. 37.5% to cities and counties on a per capita basis, and

3. 12.5% to the Solid Waste Management Trust Fund.

SOURCES OF DATA: Department of Environment and Natural Resources

TECHNICAL CONSIDERATIONS: None

Table 3: PCS - SB 328 Proposed Fee Schedule by Facility Type and Size

Facility Type & Size	# of Active Facilities	Major Modifcation Fee	Fee Prorated for 20 years Remaining Life	50% Due Upon Application	Total First Five Year Fee Revenue	Proposed Annual Fee	Total Annual Fee Revenue
Municipal Solid Waste Landfill Facility < 100,000 tons/yr	20	$15,000	$10,000	$5,000	$100,000	$7,500	$150,000
Municipal Solid Waste Landfill Facility ≥ 100K tons < 250K tons/yr	12	$30,000	$20,000	$10,000	$120,000	$12,000	$144,000
Municipal Solid Waste Landfill Facility ≥ 250,000 tons/yr	8	$55,000	$36,667	$18,333	$146,667	$15,000	$120,000
Construction and Demolition Landfill Facility < 25,000 tons/yr	35	$9,000	$6,000	$3,000	$105,000	$5,500	$192,500
Construction and Demolition Landfill Facility > 25,000 tons/yr	17	$18,500	$12,333	$6,167	$104,833	$8,500	$144,500
Industrial Landfill <100,000 tons/yr	8	$9,000	$6,000	$3,000	$24,000	$5,500	$44,000
Industrial Landfill >100,000 tons/yr	9	$18,500	$12,333	$6,167	$55,500	$10,000	$90,000
Tire Monofill	2	$9,000	$6,000	$3,000	$6,000	$5,500	$11,000
Transfer Station < 25,000 tons/yr	40	$1,500	$1,000	$500	$20,000	$750	$30,000
Transfer Station > 25,000 tons/yr	47	$3,000	$2,000	$1,000	$47,000	$1,500	$70,500
Total New Fee Revenue (over 5 years)					**$729,000**		
Total Annual Revenue					**$145,800**		**$996,500**

Table 4 PCS - SB 328 Proposed Fee Schedule Compared to Current Fee Schedule							
Facility Type & Size	New 30-Year "Life of Site" Permit Fee	Currrent 5-Yr Permit Fee	Major Modifcation Fee	Current 5-Yr Amendment Fee	Proposed Annual Fee	Current Annual Fee	New Change Ownership Fee
Municipal Solid Waste Landfill Facility < 100,000 tons/yr	$25,000	$25,000	$15,000	$15,000	$7,500	$3,500	$5,000
Municipal Solid Waste Landfill Facility ≥ 100K tons < 250K tons/yr	$50,000	$50,000	$30,000	$30,000	$12,000	$3,500	$5,000
Municipal Solid Waste Landfill Facility ≥ 250,000 tons/yr	$75,000	$50,000	$55,000	$30,000	$15,000	$3,500	$5,000
Construction and Demolition Landfill Facility < 25,000 tons/yr	$15,000	$15,000	$9,000	$9,000	$5,500	$2,750	$3,000
Construction and Demolition Landfill Facility > 25,000 tons/yr	$30,000	$30,000	$18,500	$18,500	$8,500	$2,750	$3,000
Industrial Landfill <100,000 tons/yr	$15,000	$15,000	$9,000	$9,000	$5,500	$2,750	$2,000
Industrial Landfill >100,000 tons/yr	$30,000	$30,000	$18,500	$18,500	$10,000	$2,750	$2,000
Tire Monofill	$15,000	$1,750	$9,000	$1,250	$5,500	$500	$2,000
Transfer Station < 25,000 tons/yr	$2,500	$5,000	$1,500	$3,000	$750	$750	$1,000
Transfer Station > 25,000 tons/yr	$5,000	$5,000	$3,000	$3,000	$1,500	$750	$1,000

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 328

AMENDMENT NO. 1
(to be filled in by Principal Clerk)

S328-ARI-58 [v.2]

Comm. Sub. [YES]
Amends Title [NO]
S328-CSRI-26 [v.13]

Date June 19 ,2013

Senator Brown

moves to amend the bill on page 13, line 50, through page 14, line 1, by rewriting those lines to read:

"applications for permits submitted on or after January 1, 2013; (ii) G.S. 130A-295.6(h2), as enacted by Section 3(a) of this act, applies to new landfills for which a"; and

on page 15, line 45, by rewriting that line to read:

"dropping, sifting, leaking, or otherwise escaping therefrom, and the vehicle".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED X FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE June 19, 2013

S. B. No. 328 Amendment No. 2

COMMITTEE SUBSTITUTE S328 - CSR1-26 [v.13] (to be filled in by Principal Clerk)

Rep.) Wade
Sen.)

1 moves to amend the bill on page 11, line 31
2 ( ) WHICH CHANGES THE TITLE
3 by rewriting that line to read:
4
5 " A wetland, unless the ".
6
7
9
10
11
12
13
14
15
16
17
18
19

SIGNED Jamie Wade

ADOPTED _____ FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 328

AMENDMENT NO. 3
(to be filled in by Principal Clerk)

S328-ARI-57 [v.3]

Comm. Sub. [YES]
Amends Title [YES]
S328-CSRI-26 [v.13]

Date June 19 ,2013

Senator Rabin

moves to amend the bill on page 1, line 25,
by rewriting that line to read:

"S.L. 2007-543 IN CERTAIN CIRCUMSTANCES; (9) INCREASE THE REQUIRED BUFFER FROM PRIVATE DWELLINGS TO DISPOSAL AREAS FOR NEW LANDFILLS; AND (10) MAKE RELATED"; AND

on page 18, lines 36 through 41,
by rewriting those lines to read:

"PART IX. INCREASE THE REQUIRED BUFFER FROM PRIVATE DWELLINGS TO DISPOSAL SITES FOR NEW LANDFILLS

SECTION 9.(a) Definitions. – "Siting and Design Requirements for Disposal Sites Rule" means 15A NCAC 13B .0503 (Siting and Design Requirements for Disposal Sites Rule) for purposes of this section and its implementation.

SECTION 9.(b) Siting and Design Requirements for Disposal Sites Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to Section 9(d) of this act, the Commission and the Department of Environment and Natural Resources shall implement the Siting and Design Requirements for Disposal Sites Rule, as provided in Section 9(c) of this act.

SECTION 9.(c) Implementation. – Notwithstanding any provision of the Siting and Design Requirements for Disposal Sites Rule, the Commission shall require new sanitary landfills for which a permit is issued after the effective date of this act to maintain a minimum 1,500-foot buffer between private dwellings and disposal areas.

SECTION 9.(d) Additional Rule-Making Authority. – The Commission shall adopt a rule to replace the Siting and Design Requirements for Disposal Sites Rule. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 9(c) of this act. Rules adopted pursuant to this section are not subject to G.S. 150B-21.9 through G.S. 150B-21.14. The rule

adopted pursuant to this section shall become effective, as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received, as provided by G.S. 150B-21.3(b2).

SECTION 9.(e) Effective Date. – Section 9(c) of this act expires when permanent rules to replace Section 9(c) of this act have become effective, as provided by Section 9(d) of this act.

PART X. SEVERABILITY AND EFFECTIVE DATE

SECTION 10.(a) If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

SECTION 10.(b) Except as otherwise provided, this act is effective when it becomes law.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED X

SENATE BILL 488
Health Care Committee Substitute Adopted 5/2/13

Short Title: Amend Nursing Home Administrator Act/Fees. (Public)

Sponsors:

Referred to:

March 28, 2013

A BILL TO BE ENTITLED

AN ACT TO AMEND THE NURSING HOME ADMINISTRATOR ACT AND TO INCREASE CERTAIN FEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-278(1) reads as rewritten:

"**§ 90-278. Qualifications for licensure.**

The Board shall have authority to issue licenses to qualified persons as nursing home administrators, and shall establish qualification criteria for such nursing home administrators.

(1) A license as a nursing home administrator shall be issued to any person upon the Board's determination ~~that:~~ that the person:

a. ~~He is~~ Is at least 18 years of age, of good moral character and of sound physical and mental health; and

b. ~~He has~~ Has ~~successfully completed the equivalent of two years of college level study (60 semester hours or 96 quarter hours) from an accredited community college, college or university prior to application for licensure;~~

~~or~~

~~has completed a combination of education and experience, acceptable under rules promulgated by the Board, prior to application for licensure. Under this provision, two years of supervisory experience in a nursing home shall be equated to one year of college study; and~~been awarded a minimum of a baccalaureate degree from a college or university accredited by an agency recognized by the United States Department of Education or an associate's degree in nursing with a minimum of five years of experience as a director of nursing for five of the previous six years prior to application for licensure.

c. ~~He has~~ Has satisfactorily completed a course prescribed by the Board, which course contains instruction on the services provided by nursing homes, laws governing nursing homes, protection of patient interests and nursing home administration; and

d. ~~He has~~ Has successfully completed ~~his~~ the training period as an administrator-in-training as prescribed by the Board. If a person has served at least 12 weeks as a hospital administrator or assistant administrator of a hospital-based long-term care nursing unit or hospital-based swing beds licensed under Article 5 of Chapter 131E

or Article 2 of Chapter 122C, the Board shall consider this experience comparable to the initial on-the-job portion of the administrator-in-training program only; and

e. ~~He has~~ Has passed ~~examinations administered by the Board and designed to test for competence in the subject matters referred to in paragraph c of this subdivision.~~the national and State examinations designed to test for competence in the subject matters referred to in sub-subdivision c. of this subdivision within one year from the date of completion of the administrator-in-training program.

...."

SECTION 2. G.S. 90-280 reads as rewritten:

"**§ 90-280. Fees; display of license; duplicate license; inactive list.**

(a) Each applicant for an examination administered by the Board and each applicant for an administrator-in-training program and reciprocity endorsement shall pay a processing fee set by the Board not to exceed ~~one hundred dollars ($100.00)~~five hundred dollars ($500.00) plus the actual cost of the exam.

(b) Each person licensed as a nursing home administrator shall be required to pay a license fee in an amount set by the Board not to exceed ~~five hundred dollars ($500.00).~~one thousand dollars ($1,000). A license shall expire on the thirtieth day of September of the second year following its issuance and shall be renewable biennially upon payment of a renewal fee set by the Board not to exceed ~~five hundred dollars ($500.00).~~one thousand dollars ($1,000).

(c) Each person licensed as a nursing home administrator shall display his or her license certificate, along with the current certificate of renewal, in a conspicuous place in his or her place of employment.

(d) Any person licensed as a nursing home administrator may receive a duplicate license or verification of license by payment of a fee set by the Board not to exceed ~~twenty-five dollars ($25.00).~~one hundred dollars ($100.00).

(e) Any person licensed as a nursing home administrator who is not acting, serving, or holding himself or herself out to be a nursing home administrator may have his or her name placed on an inactive list for such period of time not to exceed four years upon payment of a fee set by the Board not to exceed ~~fifty dollars ($50.00)~~two hundred dollars ($200.00) per year. Each year during that four-year period, upon request and payment of the fee, the person's name may remain on an inactive list for one additional year.

(f) Any person having a temporary license issued pursuant to G.S. 90-278(3) shall pay a fee in an amount set by the Board not to exceed ~~two hundred dollars ($200.00).~~five hundred dollars ($500.00). If the Board renews the temporary license, no further fee shall be required.

(g) The Board may set fees not to exceed ~~two hundred and fifty dollars ($250.00)~~one thousand dollars ($1,000) for conducting and administering initial training and continuing education courses, and may set a fee not to exceed one hundred dollars ($100.00) per hour for certifying a course submitted for review by another individual or agency wishing to offer such courses or may set an annual fee not to exceed ~~two thousand dollars ($2,000)~~four thousand dollars ($4,000) for certifying a course provider in lieu of certifying each course offered by the provider."

SECTION 3. G.S. 90-283 reads as rewritten:

"**§ 90-283. Organization of Board; compensation; employees and services.**

The Board shall elect from its membership a chairman, vice-chairman and secretary, and shall adopt rules and regulations to govern its proceedings. Board members shall be entitled to receive only such compensation and reimbursement as is prescribed by Chapter 93B of the General Statutes for State boards generally. At any meeting a majority of the voting members shall constitute a quorum. The Board ~~may employ any necessary personnel to assist it in the~~

~~performance of its duties and may contract for such services as may be~~ shall have the power to employ or retain professional personnel, including legal counsel subject to G.S. 114-2.3, and clerical or other special personnel deemed necessary to carry out the provisions of this Article."

SECTION 4. G.S. 90-285(3) reads as rewritten:

"**§ 90-285. Functions and duties of the Board.**

The Board shall meet at least once annually in Raleigh or any other location designated by the chairman and shall have the following functions and duties:

...

(3) Issue licenses to qualified ~~individuals.~~individuals consistent with G.S. 90-278 and G.S. 90-287 and any rules adopted by the Board implementing those provisions.

...."

SECTION 5. G.S. 90-285.1 reads as rewritten:

"**§ 90-285.1. Suspension, revocation or refusal to issue a license.**

The Board may suspend, revoke, or refuse to issue a license or may reprimand or otherwise discipline a licensee after due notice and an opportunity to be heard at a formal hearing, upon substantial evidence that a licensee:

(1) Has violated the provisions of this Article or the rules adopted by the Board;

(2) Has violated the provisions of Part 2 of Article 6 of Chapter 131E of the General Statutes and rules promulgated thereunder;

(3) Has been convicted of, or has tendered and has had accepted a plea of no contest to, a criminal offense showing professional unfitness;

(4) Has practiced fraud, deceit, or misrepresentation in securing or procuring a nursing home administrator license;

(5) Is incompetent to engage in the practice of nursing home administration or to act as a nursing home administrator;

(6) Has practiced fraud, deceit, or misrepresentation in his or her capacity as a nursing home administrator;

(7) Has committed acts of misconduct in the operation of a nursing home under his jurisdiction;

~~(8) Is a habitual drunkard;~~

(9) Is addicted or dependent upon the use of any controlled substance, including, but not limited to, morphine, opium, cocaine, alcohol, or other drugs recognized as resulting in abnormal behavior;

(10) Has practiced without being registered biennially;

(11) Has transferred or surrendered possession of, either temporarily or permanently, his or her license or certificate to any other person;

(12) Has paid, given, has caused to be paid or given or offered to pay or to give to any person a commission or other valuable consideration for the solicitation or procurement, either directly or indirectly, of nursing home patronage;

(13) Has been guilty of fraudulent, misleading, or deceptive advertising;

(14) Has falsely impersonated another licensee;

(15) Has failed to exercise regard for the safety, health or life of the patient;

(16) Has permitted unauthorized disclosure of information relating to a patient or his or her records; or

(17) Has discriminated among patients, employees, or staff on account of race, ~~sex,~~gender, religion, color, ~~or national origin.~~national origin, mental or physical disability, or any other class protected by State or federal law."

SECTION 6. G.S. 90-287 reads as rewritten:

"**§ 90-287. Reciprocity with other states.**

The Board may issue a nursing home administrator's ~~license, without examination,~~ license to any person who holds a current license as a nursing home administrator from another jurisdiction, provided that the Board finds that the standards for licensure in such other jurisdiction are at least the substantial equivalent of those prevailing in this ~~State,~~State and that the applicant has passed the national and the State examinations administered by the Board and is otherwise qualified."

SECTION 7. G.S. 90-288.01 reads as rewritten:

"**§ 90-288.01. Criminal history record checks of applicants for licensure.**

(a) The following definitions apply in this section:

(1) Applicant. — A person applying for initial licensure pursuant to either G.S. 90-278 or G.S. 90-287 or applying for renewal of licensure pursuant to G.S. 90-286.

(2) Criminal history. — A history of conviction of a state or federal crime, whether a misdemeanor or felony, that bears on an applicant's fitness for licensure as a nursing home administrator. The crimes include the criminal offenses set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering ~~Executive and Legislative~~Executive, Legislative, and Court Officers; Article 6, Homicide; Article 7A, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses, including sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.

(b) Criminal History Record Check. — The Board shall require a criminal history record check of all ~~applicants.~~applicants for initial licensure and temporary licensure. The Board, in its discretion, may require a criminal history record check of an applicant for license renewal. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure to an applicant. The Board shall provide to the North Carolina Department of Justice the fingerprints of the applicant to be checked, a form signed by the applicant consenting to the criminal history record check and the use of fingerprints and other identifying information required by the State or National Repositories, and any additional information required by the Department of Justice. The Board shall keep all information obtained pursuant to this section confidential. The Board shall collect any fees required by the Department of Justice and shall remit the fees to the Department of Justice for expenses associated with conducting the criminal history record check.

(c) Convictions. — If the applicant's criminal history record check reveals one or more convictions listed under subdivision (2) of subsection (a) of this section, the conviction shall

not automatically bar licensure. The Board shall consider all of the following factors regarding the conviction:

(1) The level of seriousness of the crime.
(2) The date of the crime.
(3) The age of the applicant at the time of the conviction.
(4) The circumstances surrounding the commission of the crime, if known.
(5) The nexus between the criminal conduct of the applicant and the job duties of the position to be filled.
(6) The applicant's prison, jail, probation, parole, rehabilitation, and employment records since the date the crime was committed.
(7) The subsequent commission by the applicant of a crime listed in subsection (a) of this section.

(d) Denial of Licensure. — ~~If~~ Except as otherwise provided by law, if the Board refuses to issue or renew a license based on information obtained in a criminal history record check, the ~~Board must disclose to the applicant the information contained in the criminal history record check that is relevant to the Board's actions. The~~ Board shall not provide a copy of the criminal history record check to the applicant. An applicant has the right to appear before the Board to appeal the Board's decision. An appearance before the Board shall constitute an exhaustion of administrative remedies in accordance with Chapter 150B of the General Statutes.

(e) Limited Immunity. — The Board, its officers and employees, acting in good faith and in compliance with this section, shall be immune from civil liability for its actions based on information provided in an applicant's criminal history record check."

SECTION 8. Article 20 of Chapter 90 of the General Statutes is amended by adding the following new section to read:

"**§ 90-288.02. Confidentiality of investigative records.**

Records, papers, and other documents containing information collected and compiled by or on behalf of the Board as a result of an investigation, inquiry, or interview conducted in connection with certification, licensure, or a disciplinary matter shall not be considered public records within the meaning of Chapter 132 of the General Statutes. Any notice or statement of charges, notice of hearing, or decision rendered in connection with a hearing shall be a public record. Information that identifies a resident who has not consented to the public disclosure of services rendered to him or her by a person certified or licensed under this Chapter shall be deleted from the public record. All other records, papers, and documents containing information collected and compiled by or on behalf of the Board shall be public records, but any information that identifies a resident who has not consented to the public disclosure of services rendered to him or her shall be deleted."

SECTION 9. Any person who has met the qualifications for licensure and been issued a license as a nursing home administrator by the State Board of Examiners for Nursing Home Administrators on or before the effective date of Section 1 of this act shall be deemed to have complied with the requirements of G.S. 90-278(1) as enacted by Section 1 of this act.

SECTION 10. Section 1 of this act becomes effective January 1, 2015. The remainder of this act is effective when it becomes law.

SENATE BILL 488:
Amend Nursing Home Administrator Act/Fees

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 18, 2013
Introduced by:	Sen. Tucker	**Prepared by:**	Cindy Avrette
Analysis of:	Second Edition		Committee Counsel

SUMMARY: Senate Bill 488 does the following:

- ***Requires a four-year degree for licensure as a Nursing Home Administrator, or an associate's degree in nursing with a minimum of five years' experience as a director of nursing. The bill provides a grandfather clause for persons licensed on or before the effective date of Section 1 of the bill, January 1, 2015.***
- ***Increases various licensure fees. The fee cap has not been changed since 2004.***
- ***Provides that a criminal background check is required for initial licensure, and may be required for licensure renewal but not required.***
- ***Makes other miscellaneous changes to the Nursing Home Administrator Act.***

BILL ANALYSIS: **Section 1** of the bill increases the education and experience requirements for licensure as a nursing home administrator. The current standard is the equivalent of two years of college level study or a combination of education and experience acceptable to the Board. As amended, the law will now require a person seeking licensure as nursing home administrator to obtain a bachelor's degree, or an associate's degree in nursing plus 5 years' experience as a director of nursing for 5 of the previous 6 years.

In addition to the new educational requirements, an applicant must also pass the national and State examinations designed to test for competency in services provided by nursing homes, laws governing nursing homes, protection of patients' interests, and nursing home administration.

Section 2 of the bill increases licensure fees.

- Fees for applicants for examination or for an administrator in training program go from $100 to $500. Persons seeking a reciprocity endorsement under 90-287 shall also pay a $500 fee.
- Fees for licensure and licensure renewal (biennial) increase from $500 to $1,000.
- Fees for obtaining a duplicate license of a verification of license increase from $25 to $100.
- Fees for placement on the inactive list (on which a licensee may be placed for up to 4 years) increase from $50 to $200 for each year.
- Fees for a temporary license are increased from $200 to $500.
- Fees for conducting and administering initial training and continuing education increase from $250 to $1,000. Fees for certifying a course submitted for review by another individual or agency wishing to offer a course increases from $100 to $100/hour and fees for certifying a course provider, from $2,000 to $4,000.

O. Walker Reagan
Director

S488-SMRB-46 E2 -V1

Research Division
(919) 733-2578

Section 3 amends the Board's authority to hire any necessary personnel to specifically provide that they may employ or retain professional personnel including legal counsel.

Section 4 amends the Board's duty to issue licenses to provide that the licenses be issued in accordance with the qualifications set out in G.S. 90-278 and G.S.90-287.

Section 5 amends the provisions on adverse action against a licensee to (1) delete as grounds that a person is a "habitual drunkard"; (2) amend grounds relating to addiction to include addiction or dependency on any controlled substance including alcohol; and (3) to add as grounds discrimination based on mental or physical disability or any other class protected by State or federal law.

Section 6 amends the reciprocity statute to require a licensee in another State to pass the national and State level examinations administered by the Board.

Section 7 amends the Board's authority to request criminal history record checks to allow checks of all applicants for initial and temporary licensure and to allow a check for an applicant seeking licensure renewal. Section 7 further provides that if the Board refuses to issue or renew a license based on the criminal history record check, the Board shall not provide a copy of the record to the applicant.

Section 8 makes records, papers, and other documents collected during an investigation, inquiry or interview in connection with certification, licensure, or a disciplinary matter to be confidential and not a public record pursuant to Chapter 132 of the General Statutes. Board decisions, hearing notices, statements of charges, and material admitted into evidence are public records. Information that identifies a resident who has not consented to public disclosure of services rendered to him or her shall be deleted from the public record.

Section 9 of the bill grandfather's in those persons who became licensed on or before the effective date of the new education and experience requirements.

EFFECTIVE DATE: Section 1 of the act becomes effective January 1, 2015. The remainder of the act is effective when it becomes law.

Barbara Riley, counsel to the Senate Health Care Committeee, substantially contributed to this summary.

Raban

SENATE PAGES ATTENDING

COMMITTEE: Finance ROOM: 544

DATE: 6-19 TIME: 1 pm

PLEASE PRINT LEGIBILY!!!!!!!!!!!!!....*or else!*

Page Name	Hometown	Sponsoring Senator
1. Jackson Valentine	Nashville	Newton
2. Austin Bright	Morrisville	Nesbitt
3. Brandon Thibodeau	Burlington	Bunn
4. Austin Kirley	Apex	Barringer
5. David Andrews	Morrisville	Stein
6. Parker Lee	Fuquay Varina	Sanderson
7. Bradley Anderton	Wake Forest	Sanderson
8.		
9.		
10.		

Do not add names below the grid.

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

SEE BACK SIDE

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 19, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
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Rebecca H Smith	NC AMVREC / LPA
TJ Brybee	NP
George T. Smith	NP
[signature]	[signature]
Carmen Hunt	MVA
Kay Emanuel	School of Government
Jean Fisher	Lic Tag Agency
Bennie Greene	License Plate Agency
Roger Hall	LICENSE Plate Agency
Abe ELMORE	LPA - Dunn
Dan Johnston	LPA N. RALEIGH

Name	Firm or Agency
Dan Crawford	NCLCV
Mike Gebart	nclcv
Logan Mabry	NCLCV
Jack Proctor	Greensboro NC LPA
Carolyn E. Brewington	Dunn-LPA
Kathryn Troyden	NcMMC
Andy Chase	KMA
Katrina Maddrey	Statesville LPA

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Senate Finance Committee — **Name of Committee**

June 19, 2013 — **Date**

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MaryMacLea Asbill	SELC
Heather McGee	NCCN
Doug Misiewicz	PSG
Drew Elliot	DENR
Whitney Christensen	NCRLA
Amanda Hoover	TSS
ALFONZO KING	NCLM
Art Schools	NCLM
Pam Magee	NCLM

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Senate Finance Committee — June 19, 2013

Name of Committee — **Date**

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Donna Boone	DOT / DMV
Paula Windley	DOT / DMV
Sara Ward	USFWS
Chris Dillon	NCWRC
Dan Conrad	NCUC
Tom West	Power Sprint LLP
Sarah Wolfe	MWCLLC
Steve Stroud	NCLLB
Barden Culbreth	NCLLB
Brooks Rainey Pearson	SELC
Stacy Carless	SELC

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Senate Finance Committee — June 19, 2013

Name of Committee — **Date**

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Allen Hardison	CRSWMA
Bruce Thompson	Parker Poe
Bill Schrum	Republic Services
Steven Wiggs	NCHBA
Lisa Martin	NCHBA
Mike Carpenter	NCHBA
Patrick Yancey	LLPP
Cady Thomas	NCAR
Tommy Bell	TWC
Debbie Taylor	KLG
Alex Miller	KLG

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Senate Finance Committee — June 19, 2013

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NAME	FIRM OR AGENCY AND ADDRESS
CASANDRA SKINNER	NCACC
Johanna Reese	NCACC
[illegible]	NCACC
Sabra Faires	B&D
Alissa Willett	NCACC
David Baker	NCDOR
TOM BEAN	EDF
[illegible]	TCF
Patti Smithson	Tag Agent ILM
Elaine O'Dell	LPA GBSO
Mary Knight	LPA High Point

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Senate Finance Committee — June 19, 2013

Name of Committee — **Date**

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NAME	FIRM OR AGENCY AND ADDRESS
Allison Waller	Nelson Mullins
Jeff Suddath	PBR
Amy McConkey	NC Beverage Assn
Weldon Cox	Gordon Rose
Mary Ann Saunders	City of Chesapeake, VA
Rob Lawler	PLA
[illegible]	City of Chesapeake, VA
[illegible]	ED&A Inc.

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Senate Finance Committee — June 19, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Mike Hannah	Senate Finance
Jerry Cohen	Special Counsel
Jim Fetzer	FSP
Jim KENT	NC Beer & Wine
Laurie Andrews	FSP
Susan Vick	FSP
LC Bergman	CSS
[illegible]	[illegible]
Jim Johnson	BSA
Nadia Luhr	NCCN
Russell Overman	Carteret County

Senate Committee on Finance
Tuesday, June 25, 2013, 1:00 PM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 110	Public Contracts/Project Labor.	Representative Goodman Representative J. Bell Representative Moffitt Representative Murry
HB 257	Unclaimed Property Program Improvements.	Representative Hurley Representative McNeill
HB 334	Buncombe Cty Sales Tax Use Expansion.	Representative Ramsey Representative Moffitt
HB 340	Limited Lines Travel Insurance.	Representative Dockham
HB 343	Courts/Procedure and Fee Amendments.-AB	Representative Turner
HB 362	Dept. of Public Safety Changes.-AB	Representative Faircloth
HB 371	Chiropractic Assistant Certification/Fee.-AB	Representative Bryan Representative Conrad
HB 404	Camden Local Stormwater Fees.	Representative Steinburg
HB 409	Shelby Deannexation.	Representative T. Moore
HB 418	Buncombe Culture & Rec. Authority.	Representative Ramsey Representative Moffitt
HB 754	Lease Purchase of Real Property/Comm. Coll.	Representative Johnson Representative Starnes
SB 488	Amend Nursing Home Administrator Act/Fees.	Senator Tucker
SB 640	No Income Tax Withholding on H2A Workers.	Senator Jackson Senator Brock

Adjournment

Senate Committee on Finance
Tuesday, June 25, 2013
Room 544 LOB, 1:00 p.m.

Minutes

The Senate Committee on Finance met at 1:00 p.m. on Tuesday, June 25, 2013 in room 544 of the Legislative Office Building. Reaves Houston of Dunn, MacKenzie Lander of Burlington, Anne Marrujo of Greensboro, Cammie Holland of Greensboro, Grant Murphy-Herman of Durham, Kena Nolan of Charlotte, Tripp Kelly of Davie and Mark Macon, II of Enfield served as pages. Senator Rabon presided as chair.

H.B. 409 – Shelby Deannexation

Representative Moore was recognized to explain the bill which would deannex an approximately 56,381 acre tract from the corporate limits of the City of Shelby. Senator Harrington recused herself from the vote. Senator Tillman moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 334 – Buncombe Cty Sales Tax Use Expansion

Representative Ramsey was recognized to explain the bill. Senator Brown moved to adopt the proposed committee substitute (PCS) for discussion and the motion carried. The PCS would authorize Buncombe County to use some lottery funds to expand digital learning in the public schools. Senator Tillman moved for a favorable report and the motion carried. A copy of the PCS, the summary, and the fiscal memo is attached.

H.B. 418 – Buncombe Culture & Rec. Authority

Representative Ramsey was recognized to explain the bill and Senator Curtis moved to adopt the PCS for discussion. The motion carried. The PCS would authorize Buncombe County to levy an additional property tax of up to 7¢/100 and dedicate the funds for cultural and recreational purposes and to establish a Culture and Recreation Authority to manage those funds. Gerry Cohen was recognized to answer questions. Senator Woodard moved for a favorable report and the motion carried. A copy of the PCS and the summary is attached.

H.B. 404 – Camden Local Stormwater Fees

Representative Steinburg was recognized to explain the bill, which would authorize Camden County to bill stormwater utility fees in the same manner as property taxes, and in the case of nonpayment, to collect stormwater utility fees in the same manner as property taxes. Senator Hise moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 488 – Amend Nursing Home Administrator Act/Fees

Senator Tucker was recognized to explain the bill. It would require a four-year degree for licensure as a Nursing Home Administrator, or an associate's degree in nursing with a minimum of five years of experience as a director of nursing. It increases various licensure fees and provides that a criminal background check is required for initial licensure, and may be required for licensure renewal but not required. It also makes other miscellaneous changes to the

Nursing Home Administrator Act. Senator Rabin moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

S.B. 640 – No Income Tax Withholding on H2A Workers

Senator Jackson was recognized to explain the bill. It would exempt employers of H-2A agricultural workers from withholding State income tax on compensation paid to those workers to the same extent employers are exempt from withholding federal income taxes on the compensation. Senator Tillman moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 110 – Public Contracts/Project Labor

Representative Murry was recognized to explain the bill which would prohibit the State and its political subdivisions from requiring or prohibiting project labor agreements (PLAs) in government construction contracts or conditioning the award of grants or tax incentives on the existence or absence of PLAs. Senator Hise moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 257 – Unclaimed Property Program Improvements

Representative Hurley was recognized to explain the bill and Senator Goolsby moved to adopt the PCS for discussion. The motion carried. The bill is a request of the State Treasurer's Office and would make technical changes to the administration of unclaimed property, the PCS changes the general administration of the Escheat Fund to conform to the North Carolina Unclaimed Property Act and it changes the effective date. Senator Meredith moved for a favorable report and the motion carried. A copy of the PCS and the summary is attached.

H.B. 340 – Limited Lines Travel Insurance

Senator Sanderson was recognized to explain the bill which would authorize the Department of Insurance to regulate travel insurance producers. The bill would allow a licensed travel insurance producer to offer travel insurance through travel retailers, such as travel agents. The newly-regulated producers would pay a registration fee to the Department of Insurance. Senator Hartsell moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 343 – Courts/Procedure and Fee Amendments – AB

Representative Turner was recognized to explain the bill. It would eliminate arbitration caps in district court, make clarifications to court fees, amend the motion fee exemption, require counties and municipalities to advance fees, and provide priority for the payment of criminal costs and fees. The Administrative Office of the Courts (AOC) requested this bill. Senator Hartsell was recognized to offer an amendment. Cindy Avrette, a staff attorney with the Research Division, explained that it adds language regarding county and municipality fee collections of criminal costs and removes the sunset on changes to certain fees collected by Register of Deeds. Senator Meredith moved to adopt the amendment and the motion carried. Susan Sitze, an attorney with the Research Division, and Mildred Spearman, AOC's legislative liaison, were recognized to answer questions. Senator Hartsell moved for a favorable report as amended and the motion carried. A copy of the bill, the summary, and the amendment is attached.

H.B. 754 – Lease Purchase of Real Property/Comm. Coll.

Representative Starnes was recognized to explain the bill which would authorize community colleges to acquire real property by lease purchase. Senator Tucker was recognized to offer a technical amendment which changed the effective date. Senator Meredith moved to adopt the amendment and the motion carried. Senator Cook moved to adopt the bill as amended and the motion carried. A copy of the bill, the summary, and the amendment is attached.

H.B. 362 – Dept. of Public Safety Changes – AB

Senator Sanderson was recognized to explain the bill and Senator Curtis moved to adopt the PCS for discussion. The PCS would make a number of conforming changes to reflect the 2011 consolidation and reorganization of the Department of Public Safety. It also adds a new section to authorize engineers with the Department of Public Safety to evaluate electric devices to use in the Department of Adult Correction. Senator Hise moved for a favorable report and the motion carried. A copy of the PCS and the summary is attached.

H.B. 371 – Chiropractic Assistant Certification/Fee – AB

Representative Bryan was recognized to explain the bill, which would amend the Chiropractic Practice Act to authorize the State Board of Chiropractic Examiners to certify chiropractic clinical assistants. Senator Hise moved for a favorable report and the motion carried. A copy of the bill, the summary, and the fiscal note is attached.

The meeting adjourned at 1:41 p.m.

Senator Bill Rabon
Presiding Chair

DeAnne Mangum
Committee Assistant

Principal Clerk ____
Reading Clerk ____

Corrected #2: S136 - Graham Occupancy Tax Changes and H857 - Public Contracts/Construction Methods/DB/P3 have been removed from the agenda.

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Tuesday	June 25, 2013	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	
HB 110	Public Contracts/Project Labor.	Representative Goodman Representative J. Bell Representative Moffitt Representative Murry
HB 257	Unclaimed Property Program Improvements.	Representative Hurley Representative McNeill
HB 334	Buncombe Cty Sales Tax Use Expansion.	Representative Ramsey Representative Moffitt
HB 340	Limited Lines Travel Insurance.	Representative Dockham
HB 343	Courts/Procedure and Fee Amendments.-AB	Representative Turner
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SB 488	Amend Nursing Home Administrator Act/Fees.	Senator Tucker
SB 640	No Income Tax Withholding on H2A Workers.	Senator Jackson Senator Brock

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

Principal Clerk ____
Reading Clerk ____

Corrected #1: H409 - Shelby Deannexation has been added to the agenda. H493 - Robbinsville Occupancy Tax has been removed from the agenda.

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

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HB 409	Shelby Deannexation.	Representative T. Moore
HB 418	Buncombe Culture & Rec. Authority.	Representative Ramsey Representative Moffitt
HB 754	Lease Purchase of Real Property/Comm. Coll.	Representative Johnson Representative Starnes
HB 857	Public Contracts/Construction Methods/DB/P3.	Representative Arp Representative Bryan Representative Moffitt Representative Hager
SB 136	Graham Occupancy Tax Changes.	Senator J. Davis
SB 488	Amend Nursing Home Administrator	Senator Tucker

	Act/Fees.	
SB 640	No Income Tax Withholding on H2A Workers.	Senator Jackson Senator Brock

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Tuesday	June 25, 2013	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	
HB 110	Public Contracts/Project Labor.	Representative Goodman Representative J. Bell Representative Moffitt Representative Murry
HB 257	Unclaimed Property Program Improvements.	Representative Hurley Representative McNeill
HB 334	Buncombe Cty Sales Tax Use Expansion.	Representative Ramsey Representative Moffitt
HB 340	Limited Lines Travel Insurance.	Representative Dockham
HB 343	Courts/Procedure and Fee Amendments.-AB	Representative Turner
HB 362	Dept. of Public Safety Changes.-AB	Representative Faircloth
HB 371	Chiropractic Assistant Certification/Fee.-AB	Representative Bryan Representative Conrad
HB 404	Camden Local Stormwater Fees.	Representative Steinburg
HB 418	Buncombe Culture & Rec. Authority.	Representative Ramsey Representative Moffitt
HB 493	Robbinsville Occupancy Tax.	Representative West
HB 754	Lease Purchase of Real Property/Comm. Coll.	Representative Johnson Representative Starnes
HB 857	Public Contracts/Construction Methods/DB/P3.	Representative Arp Representative Bryan Representative Moffitt Representative Hager
SB 136	Graham Occupancy Tax Changes.	Senator J. Davis
SB 488	Amend Nursing Home Administrator Act/Fees.	Senator Tucker
SB 640	No Income Tax Withholding on H2A	Senator Jackson

Workers.

Senator Brock

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Tuesday, June 25, 2013

Senator Rabon,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

HB **334** Buncombe Cty Sales Tax Use Expansion.

Draft Number:	H334-PCS70470-SA-57
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

UNFAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 2

HB **343** **(SCS#1)** Courts/Procedure and Fee Amendments.-AB

Draft Number:	H343-PCS80402-RB-35
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 2

Senator Martin Nesbitt will handle HB 334
Senator Shirley Randleman will handle HB 343

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Tuesday, June 25, 2013

Senator Rabon,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

HB **257** Unclaimed Property Program Improvements.

Draft Number:	H257-PCS80401-RE-2
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

HB **362** **(CS#2)** Dept. of Public Safety Changes.-AB

Draft Number:	H362-PCS70468-TD-32
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

UNFAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 2

HB **418** **(SCS#1)** Buncombe Culture & Rec. Authority.

Draft Number:	H418-PCS70469-STx-79
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 3

Senator Shirley Randleman will handle HB 257
Senator Norman Sanderson will handle HB 362
Senator Martin Nesbitt will handle HB 418

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Tuesday, June 25, 2013

Senator Rabon,
submits the following with recommendations as to passage:

FAVORABLE

HB **110** **(CS#1)** Public Contracts/Project Labor.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

HB **340** **(SCS#1)** Limited Lines Travel Insurance.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

HB **371** Chiropractic Assistant Certification/Fee.-AB
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

HB **404** Camden Local Stormwater Fees.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

HB **409** **(CS#1)** Shelby Deannexation.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

SB **488** **(CS#1)** Amend Nursing Home Administrator Act/Fees.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

SB **640** No Income Tax Withholding on H2A Workers.

Draft Number:	None
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

FAVORABLE, AS AMENDED

HB **754** **(CS#1)** Lease Purchase of Real Property/Comm. Coll.

Draft Number:	None
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 8

Senator Richard Gunn will handle HB 110
Senator Norman Sanderson will handle HB 340
Senator Ralph Hise will handle HB 371
Senator Bill Cook will handle HB 404
Senator Warren Daniel will handle HB 409
Senator Tommy Tucker will handle SB 488
Senator W. Jackson will handle SB 640
Senator Warren Daniel will handle HB 754

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H 2

HOUSE BILL 409
Committee Substitute Favorable 4/15/13

Short Title: Shelby Deannexation. (Local)

Sponsors:

Referred to:

March 25, 2013

A BILL TO BE ENTITLED

AN ACT TO REMOVE CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE CITY OF SHELBY.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is removed from the corporate limits of the City of Shelby:

Parcel #60180, being all of 56.381 acre tract on plat book 31, page 184 of the Cleveland County Registry and reference is hereby made to said plat for a full metes and bounds description as if fully set out therein.

SECTION 2. Section 1 of this act shall have no effect upon the validity of any liens of the City of Shelby for ad valorem taxes or special assessments outstanding before the effective date of this act. Such liens may be collected or foreclosed upon after the effective date of this act as though the property was still within the corporate limits of the City of Shelby.

SECTION 3. Notwithstanding any other provision of law, the City of Shelby may exercise the powers of extraterritorial jurisdiction, as provided in Article 19 of Chapter 160A of the General Statutes, within the property area described in Section 1 of this act.

SECTION 4. If the property described in Section 1 of this act is not developed by June 30, 2016, for the purpose of operating a public school including a charter school, Pinnacle Classical Academy, Section 1 of this act is repealed effective June 30, 2016, and the property described in Section 1 of this act shall be added back to the corporate limits of the City of Shelby, effective July 1, 2016.

SECTION 5. This act is effective when it becomes law.

HOUSE BILL 409:
Shelby Deannexation

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 24, 2013
Introduced by:	Rep. T. Moore	**Prepared by:**	Judy Collier
Analysis of:	Second Edition		Research Assistant

SUMMARY: ***House Bill 409 would deannex an approximately 56.381-acre tract from the corporate limits of the City of Shelby.***

CURRENT LAW: Under Section 1 of Article VII of the NC Constitution, the General Assembly is empowered to "provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions, and, except as otherwise prohibited by this Constitution, may give such powers and duties to counties, cities and towns, and other governmental subdivisions as it may deem advisable."

Pursuant to this Section, the General Assembly enacted Article 4A of Chapter 160A of the General Statutes, which governs municipal annexations. The General Assembly has not enacted any method for municipalities to *deannex* property — that power remains with the General Assembly.

BILL ANALYSIS: House Bill 409 would do all of the following:

- Deannex Parcel #60180, being approximately 56.381 acres, from the corporate limits of the City of Shelby.
- Specify that the City of Shelby may exercise ETJ powers in the area being deannexed.
- Specify that if the property being deannexed is not developed for the purpose of operating a public school, Pinnacle Classical Academy, by June 30, 2016, then the property is annexed back into the corporate limits of Shelby, effective July 1, 2016.

EFFECTIVE DATE: Effective when it becomes law.

BACKGROUND: S.L. 2013-7, enacted March 7, 2013, permits the County of Cleveland to convey by gift, by private negotiation and sale, or by lease for a term of more than 10 years, the same property to Pinnacle Classical Academy, for the purpose of operating a public school, including a charter school. Cleveland County may require the property be returned to Cleveland County if the property ceases to be used for public school purposes.

Counsel to House Government Committee and staff to House Finance Committee, substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H D

HOUSE BILL 334
PROPOSED SENATE COMMITTEE SUBSTITUTE H334-CSSA-57 [v.1]

6/19/2013 12:26:25 PM

Short Title: Buncombe Cty Lottery Fund Use Expansion. (Local)

Sponsors:

Referred to:

March 20, 2013

A BILL TO BE ENTITLED

AN ACT AUTHORIZING BUNCOMBE COUNTY TO USE SOME LOTTERY FUNDS TO EXPAND DIGITAL LEARNING IN THE PUBLIC SCHOOLS.

Whereas, the North Carolina Education Lottery legislation requires the distribution of lottery net proceeds for specific education purposes, including forty percent (40%) of the net proceeds to the Public School Building Capital Fund for school construction; and

Whereas, lottery funds may not currently be used for school connectivity, digital textbooks, digital devices, or professional development for teachers to learn how to most effectively use digital learning for teaching; and

Whereas, since the lottery's enactment in 2005, the innovation of digital learning and its growing use throughout schools in North Carolina have significantly altered the landscape of public education in the State; and

Whereas, while the lottery money is currently designated for other necessary education causes, the expansion of digital learning is also a crucial component to ensure North Carolina's students graduate from high school globally competitive for work and postsecondary education and prepared for life in the 21st Century; and

Whereas, Buncombe County has designated one-half of the local government sales and use tax revenue distributed to the County under Article 39 of Chapter 105 to be used for school construction, improvement, and renovation; and

Whereas, Buncombe County currently has lottery funds on hand that are not needed for the purposes to which they are limited; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-546.2(d) reads as rewritten:

"(d) Monies transferred into the Fund in accordance with Chapter 18C of the General Statutes shall be allocated for capital projects for school construction projects as follows:

(1) A sum equal to sixty-five percent (65%) of those monies transferred in accordance with G.S. 18C-164 shall be allocated on a per average daily membership basis according to the average daily membership for the budget year as determined and certified by the State Board of Education.

(2) A sum equal to thirty-five percent (35%) of those monies transferred in accordance with G.S. 18C-164 shall be allocated to those local school administrative units located in whole or part in counties in which the effective county tax rate as a percentage of the State average effective tax rate is greater than one hundred percent (100%), with the following definitions applying to this subdivision:

a. "Effective county tax rate" means the actual county rate for the previous fiscal year, including any countywide supplemental taxes levied for the benefit of public schools, multiplied by a three-year weighted average of the most recent annual sales assessment ratio studies.

b. "State average effective tax rate" means the average effective county tax rates for all counties.

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

(3) No county shall have to provide matching funds required under subsection (c) of this section.

(4) A county may use monies in this Fund to pay for school construction projects in local school administrative units and to retire indebtedness incurred for school construction projects.

(5) ~~A county may not use monies in this Fund to pay for school technology needs.~~A county may use monies in this Fund for digital learning needs such as school connectivity, digital textbooks and instructional resources, digital devices, and associated ongoing professional development for teachers."

SECTION 2. This act applies only to Buncombe County.

SECTION 3. This act is effective when it becomes law and applies only to unencumbered funds received by the County prior to that date.

HOUSE BILL 334:
Buncombe Cty Sales Tax Use Expansion

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 25, 2013
Introduced by:	Reps. Ramsey, Moffitt	**Prepared by:**	Susan Sitze Staff Attorney
Analysis of:	PCS to First Edition H334-CSSA-57		

SUMMARY: ***The proposed committee substitute to House Bill 334 would authorize Buncombe County to use some lottery funds to expand digital learning in the public schools.***

CURRENT LAW: Net revenues from the lottery are distributed pursuant to G.S. 18C-164, which requires 40% of the net revenues, after a 5% designation to the Education Lottery Reserve Fund, to be distributed to the Public School Building Capital Fund, which is distributed pursuant to G.S. 115C-546.2. The lottery funds are distributed pursuant to a formula set out in G.S. 115C-546.2 and are restricted for use in school construction projects and to retire indebtedness incurred for school construction projects. Current law specifically prohibits the use of these funds for school technology needs.

BILL ANALYSIS: The proposed committee substitute for House Bill 334 would authorize Buncombe County to use the funds from the lottery for digital learning needs such as school connectivity, digital textbooks and instructional resources, digital devices, and associate ongoing professional development for teachers. The bill limits this use to only the unencumbered funds received by the County prior to the effective date of the act.

EFFECTIVE DATE: This act is effective when it becomes law and applies only to unencumbered funds received by the County prior to that date.

O. Walker Reagan
Director

H334-SMSA-80 CSSA-57 -V1

Research Division
(919) 733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: April 9, 2013
TO: House Finance Committee
FROM: Sandra Johnson
Fiscal Research Division
RE: **House Bill 334**

FISCAL IMPACT
($ in millions)

☐ Yes ☑ No ☐ No Estimate Available

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
State Impact					
General Fund Revenues:					
General Fund Expenditures:					
NET STATE IMPACT	$0.0	$0.0	$0.0	$0.0	$0.0
Local Impact					
Revenues:					
Expenditures:					
NET LOCAL IMPACT	$0.0	$0.0	$0.0	$0.0	$0.0

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:
Buncombe County

EFFECTIVE DATE When the bill becomes law.

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY: In 1983, the General Assembly passed S.L. 1983-534 and S.L. 1983-134. This legislation created the Buncombe School Capital Fund Commission. In addition to the amount of sales tax revenue that counties must allocate to public school capital outlay purposes, the Buncombe School Capital Fund Commission (Commission) allocates 50% of Article 39 (1-cent local tax) to public school capital outlay, school construction. This bill provides flexibility in how the funds received by the Commission can be used.

ASSUMPTIONS AND METHODOLOGY:
All counties must allocate 25% of their local sales tax revenue to school construction. G.S. 105-462 and G.S. 105-502 mandate that counties allocate 40% of Article 40 (1/2-cent local tax) and 60% of Article 42 (1/2-cent local tax) to public school capital outlay purposes. In addition to the funds mandated by statute, Buncombe County Schools and Asheville City Schools receive an allocation of sales tax revenue because of the local legislation.

Buncombe County's contribution to capital outlay exceeds the state mandate—50% of Article 39 represents 25% of the county's total sales tax revenue. The 50% allocation of Article 39 to capital outlay purposes occurs before the ad-valorem sales tax distribution to the counties contained special property tax districts. The Buncombe School Capital Fund also receives 50% of all sales tax revenue allocated to Buncombe County. For fiscal year 2011-12, the Buncombe County Capital Fund received $12.7 million.

The Commission divides the money between Buncombe County Schools and Asheville City Schools according to school enrollment/ADM (average daily membership). Table 1 highlights the total revenue received as a result of this additional allocation.

Table 1.

Sales and Use Tax Receipts for School Districts Located within Buncombe County, FY 2010 and FY 2011						
	Sales Tax		% of Total	Property Tax		% of Total
	FY 09-10	FY 10-11	FY 10-11	FY 09-10	FY 10-11	FY 10-11
Asheville City Schools	3,578,851	3,688,786	10.7%	7,733,959	7,925,982	4.9%
Buncombe County Schools	10,222,963	10,662,182	30.6%			
Buncombe County	19,654,140	19,879,469	58.7%	149,601,174	151,006,916	95.%

SOURCES OF DATA: Buncombe County Comprehensive Annual Financial Report

TECHNICAL CONSIDERATIONS: None

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H D

HOUSE BILL 418

Committee Substitute Favorable 4/15/13
Committee Substitute #2 Favorable 5/1/13
Senate State and Local Government Committee Substitute Adopted 6/18/13
PROPOSED SENATE COMMITTEE SUBSTITUTE H418-CSSTx-79 [v.1]
6/24/2013 3:21:36 PM

Short Title: Buncombe Culture & Rec. Authority. (Local)

Sponsors:

Referred to:

March 26, 2013

A BILL TO BE ENTITLED

AN ACT AUTHORIZING BUNCOMBE COUNTY TO ESTABLISH A CULTURE AND RECREATION AUTHORITY.

The General Assembly of North Carolina enacts:

SECTION 1. Culture and Recreation Authority; creation; membership. – Buncombe County may create a Culture and Recreation Authority (hereinafter "Authority"). The Authority shall be a body corporate and politic.

(a) The Authority shall be created by ordinance. The Authority shall consist of seven members (hereinafter "Board"). All Board members shall be appointed by the Board of Commissioners of Buncombe County (hereinafter "Board of Commissioners" or "County").

(b) At least one of the members appointed shall be a member of the governing board of the County. Nothing in this act shall prohibit the appointment of only elected officials to the Authority. All appointments shall be for a term of three years, except that initial members shall serve one-, two-, or three-year terms to provide for staggering. The date from which regular three-year terms shall run shall be established in the ordinance.

(c) The members of the Authority shall elect a chair and vice-chair from the membership of the Authority. They shall also elect a secretary who may or may not be a member of the Authority.

(d) A majority of the members shall constitute a quorum for the transaction of business, and an affirmative vote of the majority of the members present at a meeting of the Authority shall be required to constitute action of the Authority. Members of the Authority shall receive such compensation, if any, as may be fixed by the participating units.

(e) The Board of Commissioners has the right to assign Buncombe County employees to the Authority and the Buncombe County Personnel Ordinance shall not be applicable to such employees assigned to the Authority. Such employees shall be considered employees of the Authority from and after the date of the assignment.

SECTION 2. Purpose of the Authority. – The purpose of the Authority shall be to manage or operate libraries, parks, greenways, recreation facilities, or cultural organizations, as designated by the units of local government who are parties to the agreement.

SECTION 3. General powers of the Authority. – The general powers of the Authority shall be to:

(1) Make rules and regulations not inconsistent with this act for its organization and internal management.

(2) Employ persons deemed necessary to carry out functions and duties assigned to them by the Authority and to fix their compensation within the limit of available funds.
(3) To use officers, employees, agents, and facilities of the county or city on such basis as may be agreed upon.
(4) Appoint a full-time Director to serve at its pleasure. The Director is responsible to the Authority for the administration of all departments within the Authority. The Director shall appoint, suspend, or remove all Authority employees. The Director shall make his or her appointments, suspensions, and removals in accordance with any general personnel rules, regulations, policies, or ordinances that the Authority may adopt.
(5) Acquire, maintain, and operate any buildings, structures, and facilities as may be necessary or convenient for the operations of the Authority.
(6) Establish rules governing the use of the cultural and recreational facilities under the jurisdiction of the Authority.
(7) Enter into contracts and leases for facilities and services.
(8) Acquire and dispose of real and personal property under the jurisdiction of the Authority with the approval of the county.
(9) Surrender to the county any property no longer required by the Authority.
(10) Allocate funds for repairs, renovations, and improvements of real and personal property under the jurisdiction of the Authority.
(11) Solicit financial and material support from public and private sources.
(12) Receive public and private donations, appropriations, and grants.
(13) Prepare and submit an annual budget to the county in the same manner as other county and city departments, but the budget is subject to adoption only by the county.
(14) Make recommendations and an annual report to the participating units concerning the operation of the Authority and the status of cultural and recreational programs under the jurisdiction of the Authority.
(15) Make plans, surveys, and studies of libraries, parks, greenways, recreational facilities, and cultural organizations under the jurisdiction of the Authority and to prepare and make recommendations to the county in regard thereto.
(16) Retain and employ counsel, auditors, engineers, and private consultants on an annual salary contract basis or otherwise for rendering professional or technical services and advice.
(17) Sue and be sued.
(18) Have a seal.
(19) Do all things necessary or convenient to carry out the purposes provided for in this act and for the exercise of the powers granted to the Authority.

SECTION 4. Funds. – (a) Participating units may appropriate funds to support the establishment and operation of the Authority. The county may also dedicate, sell, convey, donate, or lease any of its interest in any property to the Authority. Further, the Authority may establish any license and regulatory fees and charges as it may deem appropriate, subject to the approval of the governing board of the county. In accordance with G.S. 153A-149, Buncombe County may separately levy and collect an ad valorem tax in the county, but not exceeding seven cents (7¢) on the one hundred dollars ($100.00) valuation of property in the county from year to year and shall keep the same as a separate and special fund to be used only for cultural and recreational purposes under the jurisdiction of the Authority. The county may also issue general obligation bonds as authorized by the Local Government Bond Act, Article 4 of Chapter 159 of the General Statutes.

(b) The Authority shall have no authority to tax property within its jurisdictional boundaries and shall have no powers of eminent domain. The Authority is not eligible to receive local sales or use or any other taxes allocated by the State to taxing counties and cities.

SECTION 5. Fiscal accountability. – The Authority shall be fiscally accountable to the county, which has the authority to examine all records and accounts of the Authority at any time.

SECTION 6. Termination. – The county shall have the authority to terminate the existence of the Authority at any time by a majority vote of the governing boards of the county. In the event of termination, (i) all property and assets of the Authority which were conveyed to the Authority shall automatically become the property of the county which conveyed the asset to the Authority and (ii) the county units shall jointly succeed to all other rights, obligations, and liabilities of the Authority as provided by the agreement.

SECTION 7. Insofar as the provisions of this act are not consistent with the provisions of any other act or law, public or private, the provisions of this act shall be controlling.

SECTION 8. This act is effective when it becomes law.

HOUSE BILL 418:
Buncombe Culture & Rec. Authority

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 24, 2013
Introduced by:	Reps. Ramsey, Moffitt	**Prepared by:**	R. Erika Churchill Committee Counsel
Analysis of:	PCS to Fourth Edition H418-CSSTx-79		

SUMMARY: ***The Proposed Committee Substitute for House Bill 418 would authorize Buncombe County to levy an additional property tax of up to 7¢/$100 and dedicate the funds for cultural and recreational purposes and to establish a Culture and Recreation Authority to manage those funds.***

CURRENT LAW: G.S. 153A-149 sets out the scope of a county's authority to levy a property tax. A county may also levy a property tax for any authorized purpose with an approving vote of the people. Any property tax authorized by a vote of the people is not counted toward the rate limitation.

No Rate Restriction. – Each county may levy property taxes without restriction as to rate or amount for the following purposes:

- courts
- debt service
- deficits
- elections
- jails
- joint undertakings
- schools
- social services

Rate Restriction. – A county may levy property taxes up to a combined rate of $1.50 on the $100.00 appraised value of property subject to taxation for approximately 50 named purposes, including libraries, parks and recreation, and open space.

BILL ANALYSIS: The Proposed Committee Substitute for House Bill 418 provides for the establishment of a Culture and Recreation Authority to manage and operate libraries, parks, greenways, recreation facilities, or cultural organizations in Buncombe County. The bill further provides a dedicated source of funding for the Authority by authorizing license and regulatory fees as well as an additional property tax of 7¢/$100. Under current law, the county already has authority to levy this additional property tax for this purpose, but this bill specifically directs a separate levy, dedicates the use, and establishes a separate entity to manage the funds.

Creation of Authority. – The Authority may be created by Buncombe County. At least one member must be a member of the board of commissioners. The Authority would be created by ordinance and consist of seven members appointed by the Board of Commissioners.

Upon creation the County of Buncombe may assign employees to the Authority, who become employees of the Authority and no longer subject to the Buncombe County Personnel Ordinance.

Purpose. – The purpose of the Authority is to manage or operate libraries, parks, greenways, recreation facilities, or cultural organizations.

Interest in Property. – The county may dedicate, sell, convey, donate, or lease any of its interest in any property to the Authority under any terms established by the county. Once an asset is conveyed to the Authority, it may not be removed from the Authority's management or control without the approval of a majority of the members of the governing boards of the county.

Powers. – The powers of the Authority are set out in Section 3 of the PCS and include:

- Make rules and regulations for its organization and internal management.
- Employ persons necessary to carry out functions and duties assigned to them by the Authority and to fix their compensation within the limit of available funds.
- To use officers, employees, agents, and facilities of the county on such basis as may be agreed upon.
- Appoint a full-time Director to serve at its pleasure. The Director is responsible to the Authority for the administration of all departments within the Authority. The Director shall appoint, suspend, or remove all Authority employees. The Director shall make his or her appointments, suspensions, and removals in accordance with any general personnel rules, regulations, policies, or ordinances that the Authority may adopt.
- Acquire, maintain, and operate any buildings, structures, and facilities as may be necessary or convenient for the operations of the Authority.
- Establish rules governing the use of the cultural and recreational facilities under the jurisdiction of the Authority.
- Enter into contracts and leases for facilities and services.
- Acquire and dispose of real and personal property under the jurisdiction of the Authority with the approval of the county.
- Allocate funds for repairs, renovations, and improvements of real and personal property under the jurisdiction of the Authority.
- Solicit financial and material support from public and private sources and receive public and private donations, appropriations, and grants.
- Prepare and submit an annual budget, subject to adoption by the county.
- Make recommendations and an annual report to the county concerning the operation of the Authority and the status of cultural and recreational programs under the jurisdiction of the Authority.
- Make plans, surveys, and studies of libraries, parks, greenways, recreational facilities, and cultural organizations under the jurisdiction of the Authority and to prepare and make recommendations to the county in regard thereto.

Funding. – Funding for the Authority may come from any of the following sources:

- Funds appropriated by participating units.
- License and regulatory fees established by the Authority and approved by the county.
- A separately levied county-wide property tax of up to 7¢ on the $100 valuation of property, the proceeds of which must be maintained in a separate fund to be used only for cultural and recreational purposes. The Authority itself would have no authority to levy a tax, no powers of eminent domain, or be eligible to receive sales and use tax proceeds allocated to counties.

Fiscal Accountability. – The Authority would be fiscally accountable to the county, which would have authority to examine records and accounts of the Authority at any time.

Termination. – The Authority may be terminated at any time by a majority vote of the county. In the event of termination, all property and assets of the Authority that were conveyed to the Authority automatically become the property of the county. The county shall succeed to all other rights, obligations, and liabilities of the Authority.

EFFECTIVE DATE: This act is effective when it becomes law.

Trina Griffin substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H 1

HOUSE BILL 404

Short Title:	Camden Local Stormwater Fees.	(Local)
Sponsors:	Representative Steinburg (Primary Sponsor).	
	For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.	
Referred to:	Government, if favorable, Finance.	

March 21, 2013

A BILL TO BE ENTITLED

AN ACT TO ALLOW CAMDEN COUNTY TO COLLECT DELINQUENT STORMWATER UTILITY FEES IN THE SAME MANNER AS DELINQUENT PERSONAL AND REAL PROPERTY TAXES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1(c) of S.L. 2012-55 reads as rewritten:

"**SECTION 1.(c)** This section applies only to the Counties of Camden, Granville and Person."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 404:
Camden Local Stormwater Fees

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 24, 2013
Introduced by:	Rep. Steinburg	**Prepared by:**	Judy Collier
Analysis of:	First Edition		Research Assistant

SUMMARY: ***House Bill 404 would authorize Camden County to bill stormwater utility fees in the same manner as property taxes, and in the case of nonpayment, to collect stormwater utility fees in the same manner as property taxes.***

CURRENT LAW: Cities and counties may operate a stormwater management program as a public enterprise, and may establish a schedule of fees for the services furnished by the program. A county or city may collect delinquent fees by any remedy provided by law for collecting and enforcing private debts. As a general rule, fees for enterprise services cannot be a lien upon the property served by the enterprise service. In 1991, the General Assembly provided an exception to this rule for fees imposed for solid waste collection and disposal services when it allowed cities and counties to collect the fees for this service in the same manner as property taxes. Delinquent property taxes may be collected using any one or more of the remedies provided in G.S. 105-366 through G.S. 105-375:

- Levy upon and sell or attach personal property.
- Attachment and garnishment of wages and other compensation, rents, bank deposits, the proceeds of property subject to levy, or any other intangible property.
- Foreclosure of real property.

BILL ANALYSIS: House Bill 404 would authorize Camden County to adopt an ordinance providing that stormwater management fees (1) may be billed with property taxes, (2) may be payable in the same manner as property taxes, and (3) in the case of nonpayment, may be collected in the same manner as delinquent property taxes. If an ordinance states that delinquent fees can be collected in the same manner as delinquent real property taxes, the fees are a lien on the real property described on the bill that includes the fee.

BACKGROUND: By local acts, the General Assembly has already authorized Granville and Person Counties, the Towns of Butner, and Stem, the Cities of Creedmoor, Durham, Winston-Salem, Garner, Knightdale, Morrisville, Wendell, and Zebulon, and the Village of Clemmons, to collect delinquent stormwater management fees in the same manner as property taxes. S.L. 2005-441, S.L. 2011-109, S.L. 2012-55.

EFFECTIVE DATE: This act is effective when it becomes law.

Counsel to House Government, House Finance, and Senate State and Local Government Committees substantially contributed to this summary.

O. Walker Reagan
Director

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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S 2

SENATE BILL 488
Health Care Committee Substitute Adopted 5/2/13

Short Title: Amend Nursing Home Administrator Act/Fees. (Public)

Sponsors:

Referred to:

March 28, 2013

A BILL TO BE ENTITLED

AN ACT TO AMEND THE NURSING HOME ADMINISTRATOR ACT AND TO INCREASE CERTAIN FEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-278(1) reads as rewritten:

"**§ 90-278. Qualifications for licensure.**

The Board shall have authority to issue licenses to qualified persons as nursing home administrators, and shall establish qualification criteria for such nursing home administrators.

(1) A license as a nursing home administrator shall be issued to any person upon the Board's determination ~~that:~~ that the person:

a. ~~He is~~ Is at least 18 years of age, of good moral character and of sound physical and mental health; and

b. ~~He has~~ Has ~~successfully completed the equivalent of two years of college level study (60 semester hours or 96 quarter hours) from an accredited community college, college or university prior to application for licensure;~~

~~or~~

~~has completed a combination of education and experience, acceptable under rules promulgated by the Board, prior to application for licensure. Under this provision, two years of supervisory experience in a nursing home shall be equated to one year of college study; and~~been awarded a minimum of a baccalaureate degree from a college or university accredited by an agency recognized by the United States Department of Education or an associate's degree in nursing with a minimum of five years of experience as a director of nursing for five of the previous six years prior to application for licensure.

c. ~~He has~~ Has satisfactorily completed a course prescribed by the Board, which course contains instruction on the services provided by nursing homes, laws governing nursing homes, protection of patient interests and nursing home administration; and

d. ~~He has~~ Has successfully completed ~~his~~ the training period as an administrator-in-training as prescribed by the Board. If a person has served at least 12 weeks as a hospital administrator or assistant administrator of a hospital-based long-term care nursing unit or hospital-based swing beds licensed under Article 5 of Chapter 131E

or Article 2 of Chapter 122C, the Board shall consider this experience comparable to the initial on-the-job portion of the administrator-in-training program only; and

e. ~~He has~~ Has passed ~~examinations administered by the Board and designed to test for competence in the subject matters referred to in paragraph c of this subdivision.~~the national and State examinations designed to test for competence in the subject matters referred to in sub-subdivision c. of this subdivision within one year from the date of completion of the administrator-in-training program.

...."

SECTION 2. G.S. 90-280 reads as rewritten:

"**§ 90-280. Fees; display of license; duplicate license; inactive list.**

(a) Each applicant for an examination administered by the Board and each applicant for an administrator-in-training program and reciprocity endorsement shall pay a processing fee set by the Board not to exceed ~~one hundred dollars ($100.00)~~five hundred dollars ($500.00) plus the actual cost of the exam.

(b) Each person licensed as a nursing home administrator shall be required to pay a license fee in an amount set by the Board not to exceed ~~five hundred dollars ($500.00).~~one thousand dollars ($1,000). A license shall expire on the thirtieth day of September of the second year following its issuance and shall be renewable biennially upon payment of a renewal fee set by the Board not to exceed ~~five hundred dollars ($500.00).~~one thousand dollars ($1,000).

(c) Each person licensed as a nursing home administrator shall display his or her license certificate, along with the current certificate of renewal, in a conspicuous place in his or her place of employment.

(d) Any person licensed as a nursing home administrator may receive a duplicate license or verification of license by payment of a fee set by the Board not to exceed ~~twenty-five dollars ($25.00).~~one hundred dollars ($100.00).

(e) Any person licensed as a nursing home administrator who is not acting, serving, or holding himself or herself out to be a nursing home administrator may have his or her name placed on an inactive list for such period of time not to exceed four years upon payment of a fee set by the Board not to exceed ~~fifty dollars ($50.00)~~two hundred dollars ($200.00) per year. Each year during that four-year period, upon request and payment of the fee, the person's name may remain on an inactive list for one additional year.

(f) Any person having a temporary license issued pursuant to G.S. 90-278(3) shall pay a fee in an amount set by the Board not to exceed ~~two hundred dollars ($200.00).~~five hundred dollars ($500.00). If the Board renews the temporary license, no further fee shall be required.

(g) The Board may set fees not to exceed ~~two hundred and fifty dollars ($250.00)~~one thousand dollars ($1,000) for conducting and administering initial training and continuing education courses, and may set a fee not to exceed one hundred dollars ($100.00) per hour for certifying a course submitted for review by another individual or agency wishing to offer such courses or may set an annual fee not to exceed ~~two thousand dollars ($2,000)~~four thousand dollars ($4,000) for certifying a course provider in lieu of certifying each course offered by the provider."

SECTION 3. G.S. 90-283 reads as rewritten:

"**§ 90-283. Organization of Board; compensation; employees and services.**

The Board shall elect from its membership a chairman, vice-chairman and secretary, and shall adopt rules and regulations to govern its proceedings. Board members shall be entitled to receive only such compensation and reimbursement as is prescribed by Chapter 93B of the General Statutes for State boards generally. At any meeting a majority of the voting members shall constitute a quorum. The Board ~~may employ any necessary personnel to assist it in the~~

~~performance of its duties and may contract for such services as may be~~ shall have the power to employ or retain professional personnel, including legal counsel subject to G.S. 114-2.3, and clerical or other special personnel deemed necessary to carry out the provisions of this Article."

SECTION 4. G.S. 90-285(3) reads as rewritten:

"**§ 90-285. Functions and duties of the Board.**

The Board shall meet at least once annually in Raleigh or any other location designated by the chairman and shall have the following functions and duties:

...

(3) Issue licenses to qualified ~~individuals.~~individuals consistent with G.S. 90-278 and G.S. 90-287 and any rules adopted by the Board implementing those provisions.

...."

SECTION 5. G.S. 90-285.1 reads as rewritten:

"**§ 90-285.1. Suspension, revocation or refusal to issue a license.**

The Board may suspend, revoke, or refuse to issue a license or may reprimand or otherwise discipline a licensee after due notice and an opportunity to be heard at a formal hearing, upon substantial evidence that a licensee:

(1) Has violated the provisions of this Article or the rules adopted by the Board;

(2) Has violated the provisions of Part 2 of Article 6 of Chapter 131E of the General Statutes and rules promulgated thereunder;

(3) Has been convicted of, or has tendered and has had accepted a plea of no contest to, a criminal offense showing professional unfitness;

(4) Has practiced fraud, deceit, or misrepresentation in securing or procuring a nursing home administrator license;

(5) Is incompetent to engage in the practice of nursing home administration or to act as a nursing home administrator;

(6) Has practiced fraud, deceit, or misrepresentation in his or her capacity as a nursing home administrator;

(7) Has committed acts of misconduct in the operation of a nursing home under his jurisdiction;

~~(8) Is a habitual drunkard;~~

(9) Is addicted or dependent upon the use of any controlled substance, including, but not limited to, morphine, opium, cocaine, alcohol, or other drugs recognized as resulting in abnormal behavior;

(10) Has practiced without being registered biennially;

(11) Has transferred or surrendered possession of, either temporarily or permanently, his or her license or certificate to any other person;

(12) Has paid, given, has caused to be paid or given or offered to pay or to give to any person a commission or other valuable consideration for the solicitation or procurement, either directly or indirectly, of nursing home patronage;

(13) Has been guilty of fraudulent, misleading, or deceptive advertising;

(14) Has falsely impersonated another licensee;

(15) Has failed to exercise regard for the safety, health or life of the patient;

(16) Has permitted unauthorized disclosure of information relating to a patient or his or her records; or

(17) Has discriminated among patients, employees, or staff on account of race, ~~sex,~~gender, religion, color, ~~or national origin.~~national origin, mental or physical disability, or any other class protected by State or federal law."

SECTION 6. G.S. 90-287 reads as rewritten:

"**§ 90-287. Reciprocity with other states.**

The Board may issue a nursing home administrator's ~~license, without examination,~~ license to any person who holds a current license as a nursing home administrator from another jurisdiction, provided that the Board finds that the standards for licensure in such other jurisdiction are at least the substantial equivalent of those prevailing in this ~~State,~~State and that the applicant has passed the national and the State examinations administered by the Board and is otherwise qualified."

SECTION 7. G.S. 90-288.01 reads as rewritten:

"**§ 90-288.01. Criminal history record checks of applicants for licensure.**

(a) The following definitions apply in this section:

(1) Applicant. — A person applying for initial licensure pursuant to either G.S. 90-278 or G.S. 90-287 or applying for renewal of licensure pursuant to G.S. 90-286.

(2) Criminal history. — A history of conviction of a state or federal crime, whether a misdemeanor or felony, that bears on an applicant's fitness for licensure as a nursing home administrator. The crimes include the criminal offenses set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering ~~Executive and Legislative~~Executive, Legislative, and Court Officers; Article 6, Homicide; Article 7A, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses, including sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.

(b) Criminal History Record Check. — The Board shall require a criminal history record check of all ~~applicants.~~applicants for initial licensure and temporary licensure. The Board, in its discretion, may require a criminal history record check of an applicant for license renewal. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure to an applicant. The Board shall provide to the North Carolina Department of Justice the fingerprints of the applicant to be checked, a form signed by the applicant consenting to the criminal history record check and the use of fingerprints and other identifying information required by the State or National Repositories, and any additional information required by the Department of Justice. The Board shall keep all information obtained pursuant to this section confidential. The Board shall collect any fees required by the Department of Justice and shall remit the fees to the Department of Justice for expenses associated with conducting the criminal history record check.

(c) Convictions. — If the applicant's criminal history record check reveals one or more convictions listed under subdivision (2) of subsection (a) of this section, the conviction shall

not automatically bar licensure. The Board shall consider all of the following factors regarding the conviction:

(1) The level of seriousness of the crime.
(2) The date of the crime.
(3) The age of the applicant at the time of the conviction.
(4) The circumstances surrounding the commission of the crime, if known.
(5) The nexus between the criminal conduct of the applicant and the job duties of the position to be filled.
(6) The applicant's prison, jail, probation, parole, rehabilitation, and employment records since the date the crime was committed.
(7) The subsequent commission by the applicant of a crime listed in subsection (a) of this section.

(d) Denial of Licensure. — ~~If~~ Except as otherwise provided by law, if the Board refuses to issue or renew a license based on information obtained in a criminal history record check, the ~~Board must disclose to the applicant the information contained in the criminal history record check that is relevant to the Board's actions. The~~ Board shall not provide a copy of the criminal history record check to the applicant. An applicant has the right to appear before the Board to appeal the Board's decision. An appearance before the Board shall constitute an exhaustion of administrative remedies in accordance with Chapter 150B of the General Statutes.

(e) Limited Immunity. — The Board, its officers and employees, acting in good faith and in compliance with this section, shall be immune from civil liability for its actions based on information provided in an applicant's criminal history record check."

SECTION 8. Article 20 of Chapter 90 of the General Statutes is amended by adding the following new section to read:

"**§ 90-288.02. Confidentiality of investigative records.**

Records, papers, and other documents containing information collected and compiled by or on behalf of the Board as a result of an investigation, inquiry, or interview conducted in connection with certification, licensure, or a disciplinary matter shall not be considered public records within the meaning of Chapter 132 of the General Statutes. Any notice or statement of charges, notice of hearing, or decision rendered in connection with a hearing shall be a public record. Information that identifies a resident who has not consented to the public disclosure of services rendered to him or her by a person certified or licensed under this Chapter shall be deleted from the public record. All other records, papers, and documents containing information collected and compiled by or on behalf of the Board shall be public records, but any information that identifies a resident who has not consented to the public disclosure of services rendered to him or her shall be deleted."

SECTION 9. Any person who has met the qualifications for licensure and been issued a license as a nursing home administrator by the State Board of Examiners for Nursing Home Administrators on or before the effective date of Section 1 of this act shall be deemed to have complied with the requirements of G.S. 90-278(1) as enacted by Section 1 of this act.

SECTION 10. Section 1 of this act becomes effective January 1, 2015. The remainder of this act is effective when it becomes law.

SENATE BILL 488:
Amend Nursing Home Administrator Act/Fees

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 18, 2013
Introduced by:	Sen. Tucker	**Prepared by:**	Cindy Avrette
Analysis of:	Second Edition		Committee Counsel

SUMMARY: Senate Bill 488 does the following:

- ***Requires a four-year degree for licensure as a Nursing Home Administrator, or an associate's degree in nursing with a minimum of five years' experience as a director of nursing. The bill provides a grandfather clause for persons licensed on or before the effective date of Section 1 of the bill, January 1, 2015.***
- ***Increases various licensure fees. The fee cap has not been changed since 2004.***
- ***Provides that a criminal background check is required for initial licensure, and may be required for licensure renewal but not required.***
- ***Makes other miscellaneous changes to the Nursing Home Administrator Act.***

BILL ANALYSIS: **Section 1** of the bill increases the education and experience requirements for licensure as a nursing home administrator. The current standard is the equivalent of two years of college level study or a combination of education and experience acceptable to the Board. As amended, the law will now require a person seeking licensure as nursing home administrator to obtain a bachelor's degree, or an associate's degree in nursing plus 5 years' experience as a director of nursing for 5 of the previous 6 years.

In addition to the new educational requirements, an applicant must also pass the national and State examinations designed to test for competency in services provided by nursing homes, laws governing nursing homes, protection of patients' interests, and nursing home administration.

Section 2 of the bill increases licensure fees.

- Fees for applicants for examination or for an administrator in training program go from $100 to $500. Persons seeking a reciprocity endorsement under 90-287 shall also pay a $500 fee.
- Fees for licensure and licensure renewal (biennial) increase from $500 to $1,000.
- Fees for obtaining a duplicate license of a verification of license increase from $25 to $100.
- Fees for placement on the inactive list (on which a licensee may be placed for up to 4 years) increase from $50 to $200 for each year.
- Fees for a temporary license are increased from $200 to $500.
- Fees for conducting and administering initial training and continuing education increase from $250 to $1,000. Fees for certifying a course submitted for review by another individual or agency wishing to offer a course increases from $100 to $100/hour and fees for certifying a course provider, from $2,000 to $4,000.

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Section 3 amends the Board's authority to hire any necessary personnel to specifically provide that they may employ or retain professional personnel including legal counsel.

Section 4 amends the Board's duty to issue licenses to provide that the licenses be issued in accordance with the qualifications set out in G.S. 90-278 and G.S.90-287.

Section 5 amends the provisions on adverse action against a licensee to (1) delete as grounds that a person is a "habitual drunkard"; (2) amend grounds relating to addiction to include addiction or dependency on any controlled substance including alcohol; and (3) to add as grounds discrimination based on mental or physical disability or any other class protected by State or federal law.

Section 6 amends the reciprocity statute to require a licensee in another State to pass the national and State level examinations administered by the Board.

Section 7 amends the Board's authority to request criminal history record checks to allow checks of all applicants for initial and temporary licensure and to allow a check for an applicant seeking licensure renewal. Section 7 further provides that if the Board refuses to issue or renew a license based on the criminal history record check, the Board shall not provide a copy of the record to the applicant.

Section 8 makes records, papers, and other documents collected during an investigation, inquiry or interview in connection with certification, licensure, or a disciplinary matter to be confidential and not a public record pursuant to Chapter 132 of the General Statutes. Board decisions, hearing notices, statements of charges, and material admitted into evidence are public records. Information that identifies a resident who has not consented to public disclosure of services rendered to him or her shall be deleted from the public record.

Section 9 of the bill grandfather's in those persons who became licensed on or before the effective date of the new education and experience requirements.

EFFECTIVE DATE: Section 1 of the act becomes effective January 1, 2015. The remainder of the act is effective when it becomes law.

Barbara Riley, counsel to the Senate Health Care Committeee, substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S

SENATE BILL 640

Short Title:	No Income Tax Withholding on H2A Workers.	(Public)
Sponsors:	Senators Jackson and Brock (Primary Sponsors).	
Referred to:	Finance.	

April 4, 2013

A BILL TO BE ENTITLED

AN ACT TO EXEMPT COMPENSATION PAID TO AN H-2A AGRICULTURAL WORKER FROM STATE INCOME TAX WITHHOLDING TO THE EXTENT THE COMPENSATION IS EXEMPT FROM FEDERAL INCOME TAX WITHHOLDING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-163.3(b) reads as rewritten:

"(b) Exemptions. – The withholding requirement does not apply to the following:

(1) Compensation that is subject to the withholding requirement of G.S. 105-163.2.

(2) Compensation paid to an ordained or licensed member of the clergy.

(3) Compensation paid to an entity exempt from tax under G.S. 105-130.11.

(4) Compensation paid to an alien that is not subject to federal income tax withholding under section 1441 of the Code."

SECTION 2. This act is effective for taxable years beginning on or after January 1, 2014.

SENATE BILL 640:
No Income Tax Withholding on H2A Workers

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 24, 2013
Introduced by:	Sens. Jackson, Brock	**Prepared by:**	Cindy Avrette Committee Counsel
Analysis of:	First Edition		

SUMMARY: ***Senate Bill 640 would exempt employers of H-2A agricultural workers from withholding State income tax on compensation paid to those workers to the same extent employers are exempt from withholding federal income taxes on the compensation.***

CURRENT LAW: Section 1441 of the Internal Revenue Code, and the regulations created under it, governs the withholding of tax on nonresident aliens. The usual 30% withholding requirements with respect to U.S. source personal service income paid to a nonresident alien does not apply in the case of compensation paid to a nonresident alien H-2A agricultural worker.[1] An employer may withhold federal income tax only if both the H-2A agricultural worker and the employer agree to withhold.

Beginning in calendar year 2011, an employer must report compensation of $600 or more paid to an H-2A agricultural worker on Form W-2, but the employer is not required to withhold federal taxes on the compensation unless the worker fails to provide the employer with either a Social Security Number (SSN) or an Individual Taxpayer Identification Number (ITIN). In the case of an H-2A worker who fails to provide a SSN or ITIN, the employer must withhold and remit 28% of the compensation and continue withholding this amount until the worker furnishes the employer the SSN or ITIN.

BILL ANALYSIS: Senate Bill 640 provides that an employer does not have to withhold State income tax on compensation paid to an alien if the employer is not required to withhold federal income tax on that compensation.

EFFECTIVE DATE: The bill becomes effective for taxable years beginning on or after January 1, 2014.

BACKGROUND: The H-2A program allows U.S. employers to bring foreign nationals to the United States to fill temporary agricultural jobs. To qualify for H-2A classification, an employer must petition the U.S. Department of Labor on behalf of the worker. The petition must show all of the following: the job is temporary or seasonal in nature, there are not sufficient U.S. workers who are able, willing, qualified, and available to do the temporary work, and the employment of the H-2A worker will not adversely affect the wages and working conditions of similarly employed U.S. workers. The maximum period of stay in H-2A classification is three years. Generally, the stay is for the period of time authorized on the temporary labor certification, but this time may be extended for qualifying employment in increments of up to one year. An H-2A worker's spouse and unmarried children under 21 years of age may seek admission in H-4 classification. Family members are not eligible for employment in the U.S. while in H-4 status.

[1] This compensation is also exempt from U. S. Social Security and Medicare taxes.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H 2

HOUSE BILL 110
Committee Substitute Favorable 4/8/13

Short Title: Public Contracts/Project Labor. (Public)

Sponsors:

Referred to:

February 18, 2013

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR FAIR AND OPEN COMPETITION IN GOVERNMENTAL CONSTRUCTION CONTRACTS AND TO PROHIBIT REQUIREMENTS FOR CERTAIN TERMS IN GOVERNMENT CONTRACTS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 8 of Chapter 143 of the General Statutes is amended by adding a new section to read as follows:

"**§ 143-133.5. Public contracts; labor organizations.**

(a) It is the intent of the General Assembly that the provisions of this section will provide for more economical, nondiscriminatory, neutral, and efficient procurement of construction-related services by the State and political subdivisions of the State as market participants. The General Assembly finds that providing for fair and open competition best effectuates this intent.

(b) Every officer, board, department, commission, or commissions charged with the responsibility of preparation of specifications or awarding or entering into contracts for the erection, construction, alteration, or repair of any buildings for the State, or for any county, municipality, or other public body subject to this Article shall not in any bid specifications, project agreements, or other controlling documents:

(1) Require or prohibit a bidder, offeror, contractor, or subcontractor from adhering to an agreement with one or more labor organizations in regard to that project or a related construction project.

(2) Otherwise discriminate against a bidder, offeror, contractor, or subcontractor for becoming, remaining, refusing to become or remain a signatory to, or for adhering or refusing to adhere to an agreement with one or more labor organizations in regard to that project or a related construction project.

(c) No officer, board, department, commission, or commissions charged with the responsibility of awarding grants or tax incentives, or any county, municipality, or other public body in the award of grants or tax incentives, may award a grant or tax incentive that is conditioned upon a requirement that the awardee include a term described in subsection (b) of this section in a contract document for any construction, improvement, maintenance, or renovation to real property or fixtures that are the subject of the grant or tax incentive.

(d) This section does not prohibit any officer, board, department, commission, or commissions or any county, municipality, or other public body from awarding a contract, grant, or tax incentive to a private owner, bidder, contractor, or subcontractor who enters into or who is party to an agreement with a labor organization if being or becoming a party or adhering to an agreement with a labor organization is not a condition for award of the contract, grant, or tax

incentive, and if the State agent, employee, or board or the political subdivision does not discriminate against a private owner, bidder, contractor, or subcontractor in the awarding of that contract, grant, or tax incentive based upon the person's status as being or becoming, or the willingness or refusal to become, a party to an agreement with a labor organization.

(e) This section does not prohibit a contractor or subcontractor from voluntarily entering into or complying with an agreement entered into with one or more labor organizations in regard to a contract with the State or a political subdivision of the State or funded in whole or in part from a grant or tax incentive from the State or political subdivision.

(f) The State or the governing body of a political subdivision may exempt a particular project, contract, subcontract, grant, or tax incentive from the requirements of any or all of the provisions of subsection (b) or (c) of this section if the State or governing body of the political subdivision finds, after public notice and a hearing, that special circumstances require an exemption to avert a significant, documentable threat to public health or safety. A finding of special circumstances under this section shall not be based on the possibility or presence of a labor dispute concerning the use of contractors or subcontractors who are nonsignatories to, or otherwise do not adhere to, agreements with one or more labor organizations, or concerning employees on the project who are not members of or affiliated with a labor organization.

(g) This section does not do either of the following:

(1) Prohibit employers or other parties from entering into agreements or engaging in any other activity protected by the National Labor Relations Act, 29 U.S.C. §§ 151 to 169.

(2) Interfere with labor relations of parties that are left unregulated under the National Labor Relations Act, 29 U.S.C. §§ 151 to 169."

SECTION 2. This act becomes effective October 1, 2013, and applies to all contracts awarded on or after that date.

HOUSE BILL 110:
Public Contracts/Project Labor

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 25, 2013
Introduced by:	Reps. Goodman, J. Bell, Moffitt, Murry	**Prepared by:**	Heather Fennell Committee Counsel
Analysis of:	Second Edition		

SUMMARY: ***House Bill 110 would prohibit the State and its political subdivisions from requiring or prohibiting project labor agreements (PLAs) in government construction contracts or conditioning the award of grants or tax incentives on the existence or absence of PLAs.***

[As introduced, this bill was identical to S611, as introduced by Sen. Brown, which is currently in Senate Commerce.]

CURRENT LAW: The State has not statutorily regulated the use of PLAs. The National Labor Relations Act (NLRA) permits the use of PLAs in construction contracts. Consequently, the State and its subdivisions may require that all contractors and subcontractors on any given government construction project be unionized. This requirement is usually effectuated through the use of a PLA. The PLA requires all contractors and subcontractors to adhere to its terms and typically includes provisions such as no-strike clauses, grievance procedures, and jurisdiction requirements for any dispute that may arise. Generally, a contractor must agree to the PLA in bid specifications.

BILL ANALYSIS: The PCS would prohibit the State and its political subdivisions from requiring or prohibiting PLAs in government construction contracts or conditioning the award of grants or tax incentives on the existence or absence of PLAs. An exception can be made if the State or governing body of the political subdivision determines, after holding a public hearing, that there is a significant threat to public health or safety if a PLA is not required. The finding of such a threat cannot be based on the potential existence of a labor dispute.

Contractors who choose to unilaterally enter into agreements with unions on a project are not prohibited from doing so.

EFFECTIVE DATE: The act is effective October 1, 2013, and applies to all contracts awarded on or after that date.

BACKGROUND: House Bill 110 is substantively identical to a Michigan statute — Michigan Public Act 238 of 2012 ("Public Act 238"). On November 15, 2012, the United States District Court for the Eastern District of Michigan entered a preliminary injunction in *Michigan Building v. Snyder* (2011) ("*Snyder II*") enjoining the enforcement of Public Act 238 because the law is preempted by the NLRA. Defendant Snyder, the Governor of Michigan, has appealed the lower court's decision to the Sixth Circuit Court of Appeals.

The predecessor to Public Act 238, Michigan Public Act 98 of 2011 ("Public Act 98"), was permanently enjoined in *Michigan Building v. Snyder* (2012) ("*Snyder I*") by the United States District Court for the Eastern District of Michigan in February 2012 because the law is preempted by the NLRA. An appeal is pending with the Sixth Circuit in this case as well.

Snyder I and *II* have been consolidated by the Sixth Circuit. The court is expected to rule on each case individually, but at the same time. The opinions will likely be released this summer.

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Other states have enacted similar measures as Michigan, either through statute or Executive Order ("EO"): Arizona; Arkansas; Idaho; Iowa; Kansas; Louisiana; Maine; Missouri; Minnesota (subsequently repealed); Montana; South Carolina; Tennessee; Utah; and Virginia.

Aside from Michigan, the laws in Iowa, Idaho, and Louisiana have been challenged. All of these statutes ban PLAs in government construction contracts.

- The Louisiana case is still in the early stages of litigation.
- The United States District Court of Idaho held that the statute is preempted.[1]
- The United States District Court for the Southern District of Iowa granted the motion to dismiss the plaintiff's complaint challenging the Iowa statute banning government-mandated PLAs.[2]

On the federal level, the D.C. Circuit Court upheld an EO by president George W. Bush that forbid federal agencies and any entity receiving federal funds to require a PLA.[3]

Shelly DeAdder, Counsel to House Government, contributed substantially to this summary.

[1] *Idaho Bldg. and Const. Trades Council, AFL-CIO v. Wasden*, 836 F.Supp.2d 1146 (D. Idaho 2011).
[2] *Central Iowa Bldg. and Const. Trades Council, AFL-CIO v. Branstad (unpublished)*. It does not appear that an appeal has been filed with the Eighth Circuit Court of Appeals.
[3] *Building and Const. Trades Dept., AFL-CIO v. Allbaugh*, 295 F.3d 28 (D.C. Cir. 2001), *cert. denied*, 537 U.S. 1171, 154 L. Ed. 2d 912 (2003)

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H D

HOUSE BILL 257
PROPOSED SENATE COMMITTEE SUBSTITUTE H257-CSRE-2 [v.3]

6/24/2013 5:37:48 PM

Short Title: Unclaimed Property Program Improvements. (Public)

Sponsors:

Referred to:

March 11, 2013

A BILL TO BE ENTITLED

AN ACT TO AMEND THE STATUTES GOVERNING THE ESCHEAT FUND TO PROTECT THE PRIVACY OF INFORMATION COLLECTED FOR THE PROCESS OF PAYING CLAIMS; TO ELIMINATE THE FEE PAID BY HOLDERS FOR FILING AN EXTENSION REQUEST; TO REDUCE THE AMOUNT OF PAPERWORK REQUIRED BY HOLDERS; AND TO IMPROVE THE EFFICIENCY AND EFFECTIVENESS OF PROCESSING HOLDER REPORTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116B-6(i) reads as rewritten:

"**§ 116B-6. Administration of Escheat Fund; Escheat Account.**

...

(i) Records. ~~Before making a deposit to the Escheat Fund, or retaining or destroying property, the Treasurer shall record the name and address of the holder, the name and last known address of each person appearing from the holder's reports to be entitled to the abandoned property, the name and last known address of each insured person or annuitant, the amount or description of the property, and, with respect to each policy or contract listed in the report of an insurer, its number and the name of the corporation. The records shall be available for public inspection at all reasonable business hours.~~ The State Treasurer must maintain the records it receives from holders who report unclaimed property in accordance with G.S. 116B-60. To protect the privacy of the owners of unclaimed property, the information that may be subject to public inspection will be limited to the information the State Treasurer is required to annually submit to the clerks of superior court in accordance with G.S. 116B-62."

SECTION 2. G.S. 116B-52(11) reads as rewritten:

"**§ 116B-52. Definitions.**

...

(11) "Property" means (i) money or tangible personal property held by a holder that is physically located in a safe deposit box or other safekeeping depository held by a financial institution within this State or (ii) a fixed and certain interest in intangible property that is held, issued, or owed in the course of a holder's business, or by a government, governmental subdivision, agency, or instrumentality, and all income or increments therefrom. The term includes property that is referred to as or evidenced by:

a. Money, a check, draft, deposit, interest, or dividend;

b. Credit balance, customer's overpayment, gift certificate, security deposit, refund, credit memorandum, unpaid wage, unused ticket, mineral proceeds, or unidentified remittance;

c. Stock or other evidence of ownership of an interest in a business association;
d. A bond, debenture, note, or other evidence of indebtedness;
e. Money deposited to redeem stocks, bonds, coupons, or other securities, or to make distributions;
f. An amount due and payable under the terms of an annuity or insurance policy, including policies providing life insurance, property and casualty insurance, workers' compensation insurance, or health and disability insurance; and
g. An amount distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits."

SECTION 3. G.S. 116B-60 reads as rewritten:

"**§ 116B-60. Report of abandoned property; certification by holders with tax return.**

(a) A holder of property presumed abandoned shall make a report to the Treasurer concerning the property. Holders reporting 50 or more property owner records shall file the report in an electronic format prescribed by the Treasurer. Holders reporting less than 50 property owner records may file the report electronically. ~~Holders reporting electronically may file an electronically signed affidavit in order to comply with subsection (f) of this section.~~Holders reporting electronically may file an electronic certification and verification in order to comply with subsection (f) of this section.

...

(e) Before the date for filing the report, the holder of property presumed abandoned may request the Treasurer to extend the time for filing the report. ~~A request for an extension for filing a report shall be accompanied by an extension processing fee of ten dollars ($10.00).~~ The Treasurer may grant the extension for good cause. The holder, upon receipt of the extension, may make an interim payment on the amount the holder estimates will ultimately be due, which terminates the accrual of additional interest on the amount paid.

(f) The holder of property presumed abandoned ~~shall file with the report an affidavit stating that the holder has complied with G.S. 116B-59.~~ shall file with the report a certification and verification that the holder has complied with G.S. 116B-59.

...."

SECTION 4. This act is effective when it becomes law, and applies to reports filed or records created on or after that date.

HOUSE BILL 257:
Unclaimed Property Program Improvements

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 24, 2013
Introduced by:	Reps. Hurley, McNeill	**Prepared by:**	Judy Collier
Analysis of:	PCS to First Edition H257-CSRE-2		Research Assistant

SUMMARY: ***House Bill 257 is a request of the State Treasurer's Office and would make technical changes to the administration of unclaimed property (i.e., escheated property):***

The Proposed Committee Substitute (PCS) changes the general administration of the Escheat Fund to conform to the North Carolina Unclaimed Property Act and it changes the effective date.

CURRENT LAW: S.L. 2011-230 (House Bill 692 from 2011-2012 Session), Increase Payment of Unclaimed Property Claims, allowed data sharing to facilitate locating owners of unclaimed property between the Treasurer and Division of Motor Vehicles (DMV), Department of Revenue (DOR), and Employment Security Commission (ESC).

BILL ANALYSIS: Section 1 of House Bill 257 would prevent public disclosure of personal information gathered from DMV, DOR, and ESC through data sharing authorized by S.L. 2011-230. House Bill 257 authorizes the Treasurer to withhold information and limit disclosure to the names and last known addresses of apparent owners and holders of unclaimed property.

The PCS requires the State Treasurer to maintain the records it receives from holders who report unclaimed property in accordance with G.S. 116B-60. To protect the privacy of the owners of unclaimed property, the information that may be subject to public inspection will be limited to the information the State Treasurer is required to annually submit to the clerks of superior court in accordance with G.S. 116B-62.

G.S 116B-62 requires the Treasurer to annually prepare a list of reported escheated and abandoned property and further requires the Treasurer to deliver the list in electronic format to the Administrative Office of the Courts for distribution to the clerk of superior court of each county. The list shall contain all of the following:

(1) The names, if known, in alphabetical order of surname, and last known addresses, if any, of apparent owners of escheated and abandoned property as of June 30 of that year.

(2) The names and addresses of the holders of the abandoned property.

(3) A statement that claim and proof of legal entitlement to escheated or abandoned property shall be presented by the owner to the Treasurer, which statement shall set forth where further information may be obtained.

EFFECTIVE DATE: House Bill 257 is effective when it becomes law.

Greg Roney, Counsel to House Finance and Cindy Avrette, Counsel to Senate Finance substantially contributed to this summary.

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HOUSE BILL 340

Committee Substitute Favorable 4/11/13
Senate Insurance Committee Substitute Adopted 6/6/13

Short Title: Limited Lines Travel Insurance. (Public)

Sponsors:

Referred to:

March 20, 2013

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE DEPARTMENT OF INSURANCE TO LICENSE NATIONAL TRAVEL INSURANCE PRODUCERS TO SELL TRAVEL INSURANCE THROUGH THIRD-PARTY TRAVEL RETAILERS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 33 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"**§ 58-33-19. Limited lines travel insurance.**

(a) As used in this Article, the following definitions apply:

(1) Limited lines travel insurance producer. – Any of the following:

a. A licensed managing general underwriter.

b. A licensed managing general agent or third-party administrator.

c. A licensed insurance producer as defined by G.S. 58-33-10(7), including:

1. A limited lines producer designated by an insurer as the travel insurance supervising entity, as set forth in subsection (h) of this section.

2. A limited lines producer appointed by an insurer, as set forth in G.S. 58-33-40, who acts as a landlord or real estate broker engaged in the rental or management of residential property for vacation rental as defined in Chapter 42A of the General Statutes.

(2) Offer and disseminate. – Providing general information, including a description of the coverage and price, as well as processing the application, collecting premiums, and performing other activities that do not require a license and are permitted by the Department.

(3) Travel insurance. – Insurance coverage for the personal risks incident to planned travel that includes, but is not limited to, the coverages listed in sub-subdivisions a. through d. of this subdivision. Travel insurance does not include major medical plans that provide comprehensive medical protection for travelers with trips lasting six months or longer, including deployed military personnel or those U.S. citizens working overseas as expatriates.

a. Interruption or cancellation of trip or event.

b. Loss of baggage or personal effects.

c. Damages to accommodations or rental vehicles.
d. Sickness, accident, disability, or death occurring during travel.

(4) Travel retailer. – A business entity that makes, arranges, or offers travel services and may offer and disseminate travel insurance as a service to its customers on behalf of and under the direction of a limited lines travel insurance producer.

(b) An individual or business entity may apply for a limited lines travel insurance producer license by filing with the Department an application in a form and manner prescribed by the Commissioner. If issued, the license authorizes the limited lines travel insurance producer to sell, solicit, or negotiate travel insurance through a licensed insurer.

(c) A travel retailer may offer and disseminate travel insurance under a limited lines travel insurance producer business entity license only if the following conditions are met:

(1) The limited lines producer or travel retailer provides all of the following to purchasers of travel insurance:
a. A description of the material terms or the actual material terms of the insurance coverage.
b. A description of the process for filing a claim.
c. A description of the review or cancellation process for the travel insurance policy.
d. The identity and contact information of the insurer and limited lines travel insurance producer.

(2) At the time of licensure, the limited lines travel insurance producer shall establish and maintain a register on a form prescribed by the Commissioner of each travel retailer that offers travel insurance on the limited lines travel insurance producer's behalf. The register shall be maintained and updated annually by the limited lines travel insurance producer and shall include the name, address, and contact information of the travel retailer and an officer or person who directs or controls the travel retailer's operations, and the travel retailer's federal Tax Identification Number. The limited lines travel insurance producer shall submit the register to the Department upon request. The limited lines producer shall also certify that the travel retailer register complies with 18 U.S.C. § 1033.

(3) The limited lines travel insurance producer has designated one of its employees who is a licensed individual producer as the person responsible for the limited lines travel insurance producer's compliance with this Chapter and administrative rules adopted by the Commissioner.

(4) The person designated in subdivision (3) of this subsection and the president, secretary, treasurer, and any other officer or person who directs or controls the limited lines travel insurance producer's insurance operations comply with the fingerprinting requirements applicable to insurance producers in the resident state of the limited lines travel insurance producer.

(5) The limited lines travel insurance producer has paid all applicable insurance producer licensing fees as set forth in applicable State law.

(6) The limited lines travel insurance producer requires each employee and authorized representative of the travel retailer whose duties include offering and disseminating travel insurance to receive a program of instruction or training, which may be subject to review by the Commissioner. The training material shall, at a minimum, contain instructions on the types of insurance offered, ethical sales practices, and required disclosures to prospective customers.

(7) Limited lines travel insurance producers, and those registered under its license, are exempt from the examination and continuing education requirements under G.S. 58-33-30, 58-33-32, and 58-33-130.

(d) Any travel retailer offering or disseminating travel insurance shall make available to prospective purchasers brochures or other written materials that include all of the following:

(1) The identity and contact information of the insurer and the limited lines travel insurance producer.

(2) An explanation that the purchase of travel insurance is not required in order to purchase any other product or service from the travel retailer.

(3) A disclaimer that an unlicensed travel retailer is permitted to provide general information about the insurance offered by the travel retailer, including a description of the coverage and price, but is not qualified or authorized to answer technical questions about the terms and conditions of the insurance offered by the travel retailer or to evaluate the adequacy of the customer's existing insurance coverage.

(e) A travel retailer's employee or authorized representative who is not licensed as a limited lines travel insurance producer shall not do any of the following:

(1) Evaluate or interpret the technical terms, benefits, and conditions of the offered travel insurance coverage.

(2) Evaluate or provide advice concerning a prospective purchaser's existing insurance coverage.

(3) Hold himself or herself out as a licensed insurer, licensed producer, or insurance expert.

(f) A travel retailer, whose insurance-related activities and the activities of its employees and authorized representatives are limited to offering or disseminating travel insurance on behalf of and under the direction of a limited lines travel insurance producer meeting the conditions stated in this section, is authorized to do so and receive related compensation upon compliance with subdivision (c)(2) of this section by the limited lines travel insurance producer.

(g) Travel insurance may be provided under an individual policy or under a group or master policy.

(h) As the travel insurance supervising entity, the limited lines travel insurance producer is responsible for the acts of the travel retailer and shall use reasonable means to ensure compliance by the travel retailer with this section.

(i) The limited lines travel insurance producer and any travel retailer offering or disseminating travel insurance under the limited lines travel insurance producer license shall be subject to the provisions of Article 63 of this Chapter and to the full enforcement powers of the Commissioner granted by Article 2 of this Chapter."

SECTION 2. This act becomes effective January 1, 2014.

HOUSE BILL 340:
Limited Lines Travel Insurance

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 25, 2013
Introduced by:	Rep. Dockham	**Prepared by:**	Heather Fennell Committee Counsel
Analysis of:	Third Edition		

SUMMARY: House Bill 340 would authorize the Department of Insurance to regulate travel insurance producers. The bill would allow a licensed travel insurance producer to offer travel insurance through travel retailers, such as travel agents. The newly-regulated producers would pay a registration fee to the Department of Insurance.

CURRENT LAW: Travel insurance is currently not regulated by the Department of Insurance.

BILL ANALYSIS: House Bill 340 would add a new section, G.S. 58-33-19, that would authorize the Department of Insurance to regulate travel insurance providers.

New G.S. 58-33-19(a) defines travel insurance. Travel insurance does not include major medical plans that provide comprehensive medical protection for travelers with trips lasting 6 months or longer. Travel insurance is defined as insurance coverage for all of the following:

- Personal risks incident to planned travel including interruption or cancellation of trip or event.
- Loss of baggage or personal effects.
- Damages to accommodations or rental vehicles.
- Sickness, accident, disability, or death occurring during travel.

New G.S. 58-33-19(b) provides for the licensing of travel insurance producers and the sale of travel insurance by a producer through a licensed insurer. The producers would pay an application fee to the Department of Insurance.

New G.S. 58-33-19(c) requires the following information to be disclosed to purchasers including a description of material terms, the process for filing a claim, cancellation procedures, and contact information. Producers must also maintain a registry of each travel retailer; designate an employee as the person responsible for compliance with this section; pay all producer licensing fees; and require a travel retailer's representatives to receive instruction on the types of insurance offered, ethical sales practices, and required disclosures.

New G.S. 58-33-19(d) requires travel retailers to provide prospective customers written materials that include the insurer's and producer's contact information, an explanation that travel insurance is not required, and a disclaimer that the retailer is not qualified to answer technical questions.

New G.S. 58-33-19(e) prohibits a travel retailer's representative from evaluating or interpreting technical terms, benefits, and conditions of coverage, or from providing advice concerning a prospective purchaser's existing coverage. The representatives may not hold themselves out as a licensed insurer, licensed producer or insurance expert.

New G.S. 58-33-19(f) authorizes the producer to pay the travel retailer compensation.

New G.S. 58-33-19(g) states that travel insurance may be provided under an individual or group policy.

New G.S. 58-33-19(h) holds the producer responsible for the acts of the travel retailer.

New G.S. 58-33-19(i) holds producers and retailers subject to the provisions in Chapter 58 on unfair trade practices and subjects producers and retailers to the Department of Insurance's enforcement powers, including license revocation and possible civil or criminal penalties.

EFFECTIVE DATE: House Bill 340 would become effective January 1, 2014.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H 3

HOUSE BILL 343*
Committee Substitute Favorable 4/10/13
Senate Judiciary I Committee Substitute Adopted 5/30/13

Short Title: Courts/Procedure and Fee Amendments.-AB (Public)

Sponsors:

Referred to:

March 20, 2013

A BILL TO BE ENTITLED

AN ACT TO ELIMINATE ARBITRATION CAPS IN DISTRICT COURT, TO MAKE CLARIFICATIONS TO COURT FEES, TO AMEND THE MOTION FEE EXEMPTION, TO REQUIRE COUNTIES AND MUNICIPALITIES TO ADVANCE FEES, AND TO PROVIDE PRIORITY FOR THE PAYMENT OF CRIMINAL COSTS AND FEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-37.1(c) reads as rewritten:

"(c) This procedure may be employed in civil ~~actions,~~ actions in district court, ~~where claims do not exceed fifteen thousand dollars ($15,000),~~ except that it shall not be employed in actions in which the sole claim is an action on an account, including appeals from magistrates on such actions."

SECTION 2. G.S. 7A-305(a)(2) reads as rewritten:

"(2) For support of the General Court of Justice, the sum of one hundred eighty dollars ($180.00) in the superior ~~court, except that if a case is assigned to a special superior court judge as a complex business case under G.S. 7A-45.3, an additional one thousand dollars ($1,000) shall be paid upon its assignment,~~court and the sum of one hundred thirty dollars ($130.00) in the district court except that if the case is assigned to a magistrate the sum shall be eighty dollars ($80.00). If a case is assigned to a special superior court judge as a complex business case under G.S. 7A-45.3, upon assignment the party filing the notice of designation pursuant to G.S. 7A-45.4 or the motion for complex business designation shall pay an additional one thousand dollars ($1,000) for support of the General Court of Justice; if a case is assigned to a special superior court judge as a complex business case under G.S. 7A-45.3 by a court on its own motion, upon assignment the plaintiff shall pay an additional one thousand dollars ($1,000) for support of the General Court of Justice. Sums collected under this subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of one dollar and fifty cents ($1.50) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4, and ninety-five cents ($.95) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.19."

SECTION 3. G.S. 7A-305(a5) reads as rewritten:

"(a5) In every civil action in the superior or district court wherein a party files a pleading containing one or more ~~counterclaims~~ counterclaims, third-party complaints, or cross-claims, except for counterclaim and cross-claim actions brought under Chapter 50B of the General Statutes for which costs are assessed pursuant to subsection (a1) of this section, the following shall be assessed:

(1) For the use of the courtroom and related judicial facilities, the sum of twelve dollars ($12.00) in cases heard before a magistrate, and the sum of sixteen dollars ($16.00) in district and superior court, to be remitted to the municipality providing the facilities in which the judgment is rendered. If a municipality does not provide the facilities in which the judgment is rendered, the sum is to be remitted to the county in which the judgment is rendered. Funds derived from the facilities' fees shall be used in the same manner, for the same purposes, and subject to the same restrictions as facilities' fees assessed in criminal actions.

(2) For the upgrade, maintenance, and operation of the judicial and county courthouse phone systems, the sum of four dollars ($4.00), to be credited to the Court Information Technology Fund.

(3) For support of the General Court of Justice, the sum of one hundred eighty dollars ($180.00) in the superior court, except that if a case is assigned to a special superior court judge as a complex business case under G.S. 7A-45.3, ~~an additional one thousand dollars ($1,000) shall be paid upon its assignment,~~ filing fees shall be collected and disbursed in accordance with subsection (a) of this section, and the sum of one hundred thirty dollars ($130.00) in the district court, except that if the case is assigned to a magistrate, the sum shall be eighty dollars ($80.00). Sums collected under this subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of one dollar and fifty cents ($1.50) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4, and ninety-five cents ($.95) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.19."

SECTION 4.(a) G.S. 7A-305(f) reads as rewritten:

"(f) For the support of the General Court of Justice, the sum of twenty dollars ($20.00) shall accompany any filing ~~containing one or more motions~~of a notice of hearing on a motion not listed in G.S. 7A-308 that is filed with the clerk. No costs shall be assessed to a motion containing as a sole claim for relief the taxing of costs, including attorneys' ~~fees.~~ fees, to a motion filed pursuant to G.S. 1C-1602 or G.S. 1C-1603, or to a motion filed by a child support enforcement agency established pursuant to Part D of Title IV of the Social Security Act."

SECTION 4.(b) G.S. 7A-306(g) reads as rewritten:

"(g) For the support of the General Court of Justice, the sum of twenty dollars ($20.00) shall accompany any filing ~~containing one or more motions~~of a notice of hearing on a motion not listed in G.S. 7A-308 that is filed with the clerk. No costs shall be assessed to a motion containing as a sole claim for relief the taxing of costs, including attorneys' ~~fees.~~ fees, or to a motion filed pursuant to G.S. 1C-1602 or G.S. 1C-1603."

SECTION 4.(c) G.S. 7A-307(a)(4) reads as rewritten:

"(4) For the support of the General Court of Justice, the sum of twenty dollars ($20.00) shall accompany any filing ~~requiring a notice of hearing and containing one or more motions~~of a notice of hearing on a motion not listed in G.S. 7A-308 that is filed with the clerk. No costs shall be assessed to a motion containing as a sole claim for relief the taxing of costs, including

attorneys' ~~fees.~~ fees, or to a motion filed pursuant to G.S. 1C-1602 or G.S. 1C-1603."

SECTION 4.(d) G.S. 7A-308(a) reads as rewritten:

"(a) The following miscellaneous fees and commissions shall be collected by the clerk of superior court and remitted to the State for the support of the General Court of Justice:

...

(21) In civil matters, except in actions commenced or prosecuted by a child support enforcement agency established pursuant to Part D of Title IV of the Social Security Act, all alias and pluries summons issued and all endorsements issued on an original summons ..... $15.00."

SECTION 4.(e) Section 66.1 of Session Law 2011-391 is repealed.

SECTION 5. G.S. 7A-317 reads as rewritten:

"**§ 7A-317. Counties and municipalities ~~not~~ required to advance ~~certain fees.~~ costs and fees.**

(a) Counties and municipalities are required to ~~advance~~ pay all costs ~~except for the following:~~ and fees due to the court at the time of filing. The clerk of superior court may consent to allow the county or municipality to pay all costs and fees within 45 days of the date of the filing of any action in lieu of paying costs and fees at the time of filing.

~~(1) The facilities fee.~~

~~(2) The General Court of Justice fee.~~

~~(3) The miscellaneous fees enumerated in G.S. 7A-308 in child support actions, child abuse actions, and other actions filed by the department of social services.~~

~~(4) The civil process fees enumerated in G.S. 7A-311.~~

(b) The clerk of superior court shall withhold all facilities fees due to be remitted to a county or municipality when the county or municipality does not pay costs and fees due to the court within 90 days of the date of filing any action."

SECTION 6. Notwithstanding the effective date provided for by Section 11 of S.L. 2012-146, effective on the date this act becomes law, all amounts assessed or collected in criminal matters shall be disbursed in accordance with G.S. 15A-1343(b), as amended by Section 4 of S.L. 2012-146.

SECTION 7. Section 2 of this act becomes effective January 1, 2014, and applies to all pleadings and motions filed on or after that date. Section 4 of this act becomes effective July 1, 2013, and applies to pleadings filed on or after that date. The remainder of this act is effective when it becomes law and applies to actions filed and to amounts assessed or collected on or after that date.

HOUSE BILL 343:
Courts/Procedure and Fee Amendments.-AB

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 24, 2013
Introduced by:	Rep. Turner	**Prepared by:**	Cindy Avrette
Analysis of:	Third Edition		Committee Counsel

SUMMARY: ***House Bill 343 would eliminate arbitration caps in district court, make clarifications to court fees, amend the motion fee exemption, require counties and municipalities to advance fees, and provide priority for the payment of criminal costs and fees. The Administrative Office of the Courts requested this bill. The bill received a favorable report from the Senate Judiciary I Committee on May 30, 2013.***

BILL ANALYSIS: House Bill 343 does the following:

Section 1 would amend the statute governing non-binding arbitration in civil actions in district court to allow arbitration on a claim of any amount. Currently, arbitration is only available for claims of $15,000 or less.

Section 2 would amend the statute governing general court costs in civil actions to clarify that the $1,000 for cases designated as complex business cases is to be paid by the party filing the notice of designation or motion for designation as a complex business case, or in the case of referral by the court on its own motion, by the plaintiff.

Section 3 would add third-party complaints to the statute currently requiring fees for counterclaims and cross-claims, and also makes the changes made to the fee in complex business cases in Section 2 by reference to that statute.

Section 4 modifies the General Court of Justice fee of $20 in civil actions, special proceedings and administration of estates to clarify that it is paid only on the filing of a notice of hearing on the motion and exempts motions to exempt property from a judgment from paying the fee. This section also exempts motions filed by a child support enforcement agency from the same fee in civil actions and the $15 fee for alias and pluries summons and endorsements on an original summons. The exemption of the child support enforcement agencies from fees is a codification of uncodified law enacted in 2011, and **subsection (e) of Section 4** repeals that uncodified language.[1]

Section 5 requires counties and municipalities to pay all costs and fees when making a filing with the court. The clerk of superior court may allow 45 days for the costs and fees to be paid. If any costs or fees owed by the county or municipality are not paid within 90 days of the filing of the action, the clerk of superior court shall withhold all facilities fees due to the county or municipality.

Section 6 provides that changes to the disbursement priority of amounts collected in criminal matters that were enacted in 2012 apply to all amounts assessed or collected on or after the date this act becomes law, so that all amounts will be disbursed by the same priority order going forward.

[1] Section 18B.17 of SB 402, the Appropriations Act of 2013, also contains changes to these statutes. The changes do not conflict with each other.

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H343-SMRB-52 E3 -V1

Research Division
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EFFECTIVE DATE: Section 2 of this act becomes effective January 1, 2014, and applies to all pleadings and motions filed on or after that date. Section 4 of this act becomes effective July 1, 2013, and applies to pleadings filed on or after that date. The remainder of this act is effective when it becomes law and applies to actions filed and to amounts assessed or collected on or after that date.

Susan Sitze, counsel to Senate Judiciary I, substantially contributed to this summary.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 343*

AMENDMENT NO. 1
(to be filled in by Principal Clerk)

H343-ARB-65 [v.2]

Comm. Sub. [YES]
Amends Title [YES]
Third Edition

Date June 25 ,2013

Senator Hartsell

moves to amend the bill on page 1, lines 4 and 5, by rewriting the lines to read:
"TO REQUIRE COUNTIES AND MUNICIPALITIES TO ADVANCE FEES, TO PROVIDE PRIORITY FOR THE PAYMENT OF CRIMINAL COSTS AND FEES, AND TO REMOVE THE SUNSET ON CHANGES TO CERTAIN FEES COLLECTED BY REGISTER OF DEEDS.";

and on page 1, lines 7-11, by rewriting those lines to read:
"**SECTION 1.** G.S. 7A-37.1(c), as amended by Section 3 of S.L. 2013-159, reads as rewritten:
'(c) Except as otherwise provided in rules promulgated by the Supreme Court of North Carolina pursuant to subsection (b) of this section, this procedure shall be employed in all civil actions in district court~~, where claims do not exceed twenty-five thousand dollars ($25,000)~~, unless all parties to the action waive arbitration under this section.'"

and on page 2, line 32 through page 3, line 2, by rewriting the lines to read:
"**SECTION 4.(a)** G.S. 7A-305(f) reads as rewritten:
'(f) For the support of the General Court of Justice, the sum of twenty dollars ($20.00) shall accompany any filing containing one or more motions not listed in G.S. 7A-308 that is filed with the clerk. No costs shall be assessed to a motion containing as a sole claim for relief the taxing of costs, including attorneys' ~~fees.~~ fees, to a motion filed pursuant to G.S. 1C-1602 or G.S. 1C-1603, or to a motion filed by a child support enforcement agency established pursuant to Part D of Title IV of the Social Security Act.'
SECTION 4.(b) G.S. 7A-306(g) reads as rewritten:
'(g) For the support of the General Court of Justice, the sum of twenty dollars ($20.00) shall accompany any filing containing one or more motions not listed in G.S. 7A-308 that is filed with the clerk. No costs shall be assessed to a motion containing as a sole claim for relief the taxing of costs, including attorneys' ~~fees.~~ fees, or to a motion filed pursuant to G.S. 1C-1602 or G.S. 1C-1603.'
SECTION 4.(c) G.S. 7A-307(a)(4) reads as rewritten:
'(4) For the support of the General Court of Justice, the sum of twenty dollars ($20.00) shall accompany any filing requiring a notice of hearing and containing one or more motions not listed in G.S. 7A-308 that is filed with

the clerk. No costs shall be assessed to a motion containing as a sole claim for relief the taxing of costs, including attorneys' ~~fees.~~ fees, or to a motion filed pursuant to G.S. 1C-1602 or G.S. 1C-1603.'";

and on page 3, line 33, by rewriting the line to read:

"**SECTION 7.(a)** Section 7 of S.L. 2011-296 reads as rewritten:

'**SECTION 7.** This act becomes effective October 1, 2011, and applies to instruments registered on or after that date. ~~Sections 1 through 3 of this act expire July 1, 2013.~~'

SECTION 7.(b) The lead-in language for Section 2.16 of S.L. 2012-79 reads as rewritten:

'**SECTION 2.16.** Effective when it becomes ~~law, but expiring at the same time as Section 1 of S.L. 2011-296 expires (currently July 1, 2013),~~ law, G.S. 161-10(a), as rewritten by S.L. 2011-296, reads as rewritten:'

SECTION 7.(c) G.S. 161-11.4 and G.S. 161-11.6 are repealed.

SECTION 7.(d) G.S. 143-215.56A reads as rewritten:

'**§ 143-215.56A. Floodplain Mapping Fund.**

The Floodplain Mapping Fund is established as a special revenue fund. The Fund consists of the fees credited to it under ~~G.S. 161-11.4.~~G.S. 161-11.5. Revenue in the fund may be used only to offset the Department's cost in preparing floodplain maps and performing its other duties under this Part.'

SECTION 7.(e) This section becomes effective July 1, 2013.

SECTION 8. Section 2 of this act becomes effective January 1, 2014, and applies";

and on page 3, line 35, by deleting the word "The" and substituting the phrase "Except as otherwise provided, the".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED X FAILED _____ TABLED _____

add

Section 1 of this act becomes effective August 1, 2013, and applies to actions filed on or after that date."

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H 2

HOUSE BILL 754
Committee Substitute Favorable 4/30/13

Short Title: Lease Purchase of Real Property/Comm. Coll. (Public)

Sponsors:

Referred to:

April 11, 2013

A BILL TO BE ENTITLED

AN ACT AUTHORIZING COMMUNITY COLLEGES TO ACQUIRE REAL PROPERTY BY LEASE PURCHASE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115D-58.15 reads as rewritten:

"**§ 115D-58.15. Lease purchase and installment purchase contracts for ~~equipment.~~equipment and real property.**

(a) Authority. – ~~The~~ Notwithstanding any other provision of law to the contrary, the board of trustees of a community college may use lease purchase or installment purchase contracts to purchase or finance the purchase of equipment or real property as provided in this section. A college shall not have more than five State-funded contracts in effect at any one time.

(b) Contract Approval. – Contracts for more than one hundred thousand dollars ($100,000) or for a term of more than three years shall be subject to review and approval as provided in this subsection. If the source of funds for payment of the obligation by the community college is intended to be local funds, the contract must be approved by resolution of the tax-levying authority, and the authority must acknowledge in writing its understanding that the community college may require appropriations from the tax-levying authority in order to meet the college's obligations under the contract. The tax-levying authority may in each fiscal year appropriate sufficient funds to meet the amounts to be paid during the fiscal year under the contract. The source of funds for lease purchase or installment purchase contracts for real property shall be local funds. If the source of funds for payment of the obligation by the community college is intended to be State funds, the contract must be approved by resolution of the State Board of Community Colleges. The State Board may in each fiscal year allocate sufficient funds to meet the amounts to be paid during the fiscal year under the contract.

(c) Local Government Commission. – A contract that is subject to approval by the tax-levying authority also shall be subject to approval by the Local Government Commission as provided in Article 8 of Chapter 159 of the General Statutes if the contract:

(1) Extends for five or more years from the date of the contract;

(2) Obligates the board of trustees to pay sums of money to another, regardless of whether the payee is a party to the contract; and

(3) Obligates the board of trustees to pay five hundred thousand dollars ($500,000) or more over the full term of the contract.

(d) Application of Section. – When determining whether a contract is subject to approval under this section the total cost of exercising an option to upgrade property shall be

taken into consideration. The term of a contract shall include periods that may be added to the original term through the exercise of an option to renew or extend.

(e) Nonsubstitution Clause. – No contract entered into under this section may contain a nonsubstitution clause that restricts the right of a board of trustees to:

(1) Continue to provide a service or activity; or

(2) Replace or provide a substitute for any property financed or purchased by the contract.

(f) Nonappropriations Clause. – No deficiency judgment may be rendered against any board of trustees, any tax-levying authority, the State Board of Community Colleges, or the State of North Carolina in any action for breach of a contractual obligation authorized by this section. The taxing power of a tax-levying authority and the State is not and may not be pledged directly or indirectly to secure any moneys due under a contract authorized by this section."

SECTION 2. G.S. 115D-20(11) reads as rewritten:

"(11) To enter into lease purchase and installment purchase contracts for equipment and real property under G.S. 115D-58.15."

SECTION 3. This act becomes effective July 1, 2013.

HOUSE BILL 754:
Lease Purchase of Real Property/Comm. Coll

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 24, 2013
Introduced by:	Reps. Johnson, Starnes	**Prepared by:**	Cindy Avrette
Analysis of:	Second Edition		Committee Counsel

SUMMARY: House Bill 754 would authorize community colleges to acquire real property by lease purchase. The bill is identical to Section 10.11 of SB 402 (the Appropriations Act of 2013) as passed by the Senate. SB 402, as passed by the House, did not contain a similar provision.

The effective date of the bill needs to be amended.

CURRENT LAW: Boards of trustees of community colleges may use lease purchase or installment purchase contracts to buy or finance the purchase of equipment using either State funds or local funds. For a contract that is (i) is for more than $100,000 or is for term of more than three years and (ii) is to be paid with from **State** funds, the contract must be approved by resolution of the State Board of Community Colleges (SBCC).

For a contract that (i) is for more than $100,000 or is for term of more than three years and (ii) is to be paid with from **local** funds, the contract must be approved by resolution of the tax-levying authority. The tax-levying authority must acknowledge in writing that an appropriation may be required to meet the obligations of the contract.

The Local Government Commission must also approve a contract that must be approved by a tax-levying authority if the contract: (i) extends for five or more years from the date of the contract; (ii) obligates the board of trustees to pay money to another, regardless of whether the payee is a party to the contract; and (iii) obligates the board of trustees to pay $500,000 or more over the full term of the contract.

Deficiency judgments cannot be rendered against any board of trustees, any tax-levying authority, the SBCC or the State of North Carolina in any action for a breach of a lease purchase or installment purchase contract. The taxing power of a tax-levying authority and the State is not and may not be pledged directly or indirectly to secure any funds due under a lease purchase or installment purchase contract.

BILL ANALYSIS: HB 754 would authorize the board of trustees of a community college to use local funds for lease purchase or installment purchase contracts to buy real property. All other aspects of the current law would remain in place, including the requirement for a resolution from the tax-levying authority for contracts using local funds that are more than $100,000 or for more than 3 years, and approval by the Local Government Commission if the criteria set out above are met.

EFFECTIVE DATE: The bill would become effective July 1, 2013.

**This summary was substantially contributed to by Drupti Chauhan and Kara McGraw, Committee Counsel.*

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Fiscal Note

BILL NUMBER: House Bill 343 (Second Edition)

SHORT TITLE: Courts/Procedure and Fee Amendments.-AB

SPONSOR(S): Representative Turner

FISCAL IMPACT

($ in millions)

☑ Yes ☐ No ☑ No Estimate Available

State Impact	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
General Fund Revenues:					
General Fund Expenditures:					
State Positions:					
NET STATE IMPACT	Likely budget cost. See Assumptions & Methodology section for additional details.				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:
Administrative Office of the Courts

EFFECTIVE DATE July 1, 2013 for Section 4. January 1, 2014 for Section 2. The remainder when it becomes law.

TECHNICAL CONSIDERATIONS:
None

FISCAL SUMMARY:

The Fiscal Research Division (FRD) expects that the changes in this bill would lead to an insignificant loss of revenue for the State. FRD cannot estimate that amount at this time.

BILL SUMMARY:

Section 1 of this bill amends existing G.S. 7A-37.1(c) to allow non-binding arbitration on a civil claim of any amount in district court. Currently, arbitration is only available for claims of amounts of $15,000 or less.

Section 2 amends existing G.S. 7A-305(a)(2) to clarify that the payment of the $1,000 fee for the designation of a complex business case will be paid by the party requesting the designation and is due upon assignment. If no party files a notice of designation and the judge recommends the designation ex mero motu, the plaintiff is responsible for payment of the $1,000 fee. Section 2 of

this bill has an effective date of January 1, 2014 and applies to all pleadings and motions filed on or after that date.

Section 3 amends existing G.S. 7A-305(a5) to clarify that the civil fee in this section apply to any civil action in the superior or district court wherein a party files a pleading containing one or more third party complaints. The fee already applies to pleadings containing counterclaims and cross-claims. This section also clarifies that the business court fee shall be collected in accordance with G.S. 7A-305(a).

Section 4 amends multiple sections within Chapter 7A to exempt motions to exempt property from a judgment from paying the General Court of Justice fee of $20 in civil actions, special proceedings and administration of estates. This section also exempts motions filed by a child support enforcement agency from the same fee in civil actions and the $15 fee for alias and pluries summons and endorsements on an original summons. The exemption of the child support enforcement agencies from fees is a codification of uncodified law enacted in 2011, and subsection (e) of Section 4 repeals that uncodified language. Section 4 has an effective date of July 1, 2013 and applies to pleadings filed on or after that date.

Section 5 amends subsection (a) of existing G.S. 7A-317, Counties and municipalities not required to advance certain fees, by requiring the payment of all costs and fees due to the court at the time of filing. It provides that the clerk of superior court may consent to allow the county or municipality to pay within 45 days of the date of the filing of any action. New subsection (b) directs the clerk of superior court to withhold all facilities fees due to be remitted to a county or municipality when the county or municipality does not pay costs and fees due to the court within 90 days of the date of the filing of any action.

Section 6 provides that changes to the disbursement priority of amounts collected in criminal matters that were enacted in 2012 apply to all amounts assessed or collected on or after the date this bill becomes law, so that all amounts will be disbursed by the same priority order going forward.

Sections 1, 3, 5, and 6 are effective when the bill becomes law and applies to actions filed and to amounts assessed or collected on or after that date.

ASSUMPTIONS AND METHODOLOGY:

The Fiscal Research Division (FRD) expects that the changes in Section 4 of this bill would lead to a small loss of revenue for the State. FRD cannot estimate that amount at this time.

The Administrative Office of the Courts (AOC) estimates that Sections 1, 2, 3, and 5 of this bill would not have a fiscal impact on the court system.

AOC cannot estimate the fiscal impact of Section 4, which provides an exemption for motions to exempt property from a judgment from the $20 motions fee. AOC states that this change may cause a decrease in the number of these motions fees that are collected by the courts, but the agency cannot determine how many of the currently collected motion fees are assessed for this

specific reason. AOC does not anticipate that the exemption of the fee for actions filed by a child support enforcement agency would have a fiscal impact because this change codifies an existing exemption that was created in 2011.

AOC anticipates that the changes from Section 6 would be cost-neutral to the courts. Section 6 would streamline AOC's financial systems and disbursement priority procedures.

SOURCES OF DATA: Administrative Office of the Courts

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY:
William Childs

APPROVED BY:

Mark Trogdon, Director
Fiscal Research Division

DATE: May 1, 2013

Signed Copy Located in the NCGA Principal Clerk's Offices

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 754

AMENDMENT NO. 1
(to be filled in by Principal Clerk)

H754-ARB-63 [v.1]

Comm. Sub. [YES]
Amends Title [NO]
Second Edition

Date June 25 ,2013

Senator Tucker

moves to amend the bill on page 2, line 17, by rewriting the line to read:

"**SECTION 3.** This act is effective when it becomes law."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED X FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H D

HOUSE BILL 362
Committee Substitute Favorable 5/1/13
Committee Substitute #2 Favorable 5/15/13
PROPOSED SENATE COMMITTEE SUBSTITUTE H362-CSTD-32 [v.2]
6/24/2013 7:54:49 PM

Short Title: Dept. of Public Safety Changes.-AB (Public)

Sponsors:

Referred to:

March 21, 2013

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL, CLARIFYING, AND SUBSTANTIVE CHANGES RELATING TO THE DEPARTMENT OF PUBLIC SAFETY AND TO ELIMINATE THE BENCHMARK CEILING RELATING TO PURCHASES AND CONTRACTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-134 reads as rewritten:

"**§ 143-134. Applicable to Department of Transportation and ~~Division of Adult Correction of the~~ Department of Public Safety; exceptions; all contracts subject to review by Attorney General and State Auditor.**

(a) This Article ~~shall apply~~ applies to the Department of Transportation and ~~the Division of Adult Correction of~~ the Department of Public Safety except in the construction of roads, bridges and their approaches; provided however, that whenever the Director of the Budget determines that the repair or construction of a building by the Department of Transportation or by ~~the Division of Adult Correction of~~ the Department of Public Safety can be done more economically through use of employees of the Department of Transportation and/or prison inmates than by letting ~~such~~ the repair or building construction to contract, the provisions of this Article shall not apply to ~~such~~ the repair or construction.

(b) Notwithstanding ~~the provisions of~~ subsection (a) of this section, the Department of Transportation and ~~the Division of Adult Correction of~~ the Department of Public Safety shall: (i) submit all proposed contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars ($1,000,000) to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all contracts to be awarded by the Department of Transportation or ~~the Division of Adult Correction of~~ the Department of Public Safety a standard clause ~~which provides~~ providing that the State Auditor and internal auditors of the Department of Transportation or the Department of Public Safety may audit the records of the contractor during and after the term of the contract to verify accounts and data affecting fees and performance. Neither the Department of Transportation nor ~~the Division of Adult Correction of~~ the Department of Public Safety shall award a cost plus percentage of cost agreement or contract for any purpose."

SECTION 2. G.S. 143B-600(a) reads as rewritten:

"(a) There is established the Department of Public Safety. The head of the Department of Public Safety is the Secretary of Public Safety, who shall be known as the Secretary. ~~The Department shall consist of six divisions and an Office of External Affairs as follows:~~

~~(1) The Division of Adult Correction, which shall consist of the former Department of Correction. The head of the Division of Adult Correction shall be a chief deputy secretary, who shall be responsible for prisons, community corrections, correction enterprises, alcoholism and chemical dependency treatment, offender records management, and extradition.~~

~~(2) The Division of Juvenile Justice, which shall consist of the former Department of Juvenile Justice and Delinquency Prevention. The head of the Division of Juvenile Justice shall be a chief deputy secretary, who shall be responsible for youth detention centers, court services, community programs, and youth development centers.~~

~~(3) The Division of Law Enforcement, which shall consist of the following former divisions of the Department of Crime Control and Public Safety: the State Highway Patrol, the Alcohol Law Enforcement Division, and the State Capitol Police Division. The head of the Division of Law Enforcement shall be a chief deputy secretary.~~

~~(4) The Division of Emergency Management, which shall consist of the former Division of Emergency Management of the Department of Crime Control and Public Safety and the Civil Air Patrol.~~

~~(5) The North Carolina National Guard.~~

~~(6) The Division of Administration, the head of which shall be a chief deputy secretary responsible for all administrative functions, including fiscal, auditing, information technology, purchasing, human resources, training, engineering, and facility management functions for the Department. Within the Division, there is established a Grants Management Section, which shall consist of the Governor's Crime Commission and the Juvenile Crime Prevention Council Fund. There is also established within the Division a Research and Planning Section responsible for statistics, research, and planning to facilitate regular improvement in the structure, administration, and programs of the Department of Public Safety. The Research and Planning Section may cooperate with and seek the cooperation of public and private agencies, institutions, officials, and individuals in the development and conduct of programs to compile and analyze statistics and to conduct research in criminology and correction. The Research and Planning Section shall be the single State agency responsible for the coordination and implementation of ex-offender reentry initiatives.~~

~~(7) The Office of External Affairs, which shall be responsible for federal and State liaison activities, victim services, the Victim Services Warehouse and the storage and management of evidence and other contents housed in the warehouse, and public affairs.~~"

SECTION 3. G.S. 143B-602(8) reads as rewritten:

"(8) Other powers and duties. – The Secretary ~~shall have~~ has the following additional powers and duties:

...

h. Being responsible for federal and State liaison activities, victim services, the Victim Services Warehouse, and the storage and management of evidence and other contents housed in the warehouse, and public affairs."

SECTION 4. G.S. 143B-710 is repealed.

SECTION 5. G.S. 143B-806 reads as rewritten:

"**§ 143B-806. Duties and powers of the Division of Juvenile Justice of the Department of Public Safety.**

~~(a) The head of the Division is a Chief Deputy Secretary appointed by the Secretary of Public Safety. The Chief Deputy Secretary shall have the powers and duties conferred by this Chapter, delegated by the Secretary of Public Safety or the Governor, and conferred by the Constitution and laws of this State. The Secretary of Public Safety shall be responsible for effectively and efficiently organizing the Division to promote the policy of the State as set forth in this Part and to promote public safety and to prevent the commission of delinquent acts by juveniles.~~

(b) The ~~Chief Deputy Secretary shall have~~ head of the Division is the Commissioner of Juvenile Justice with the following powers and duties:

...."

SECTION 6. G.S. 148-132 reads as rewritten:

"**§ 148-132. Distribution of products and services.**

The Section of Correction Enterprises of the Division of Adult Correction is empowered and authorized to market and sell products and services produced by Correction Enterprises to any of the following entities:

(1) Any public agency or institution owned, managed, or controlled by the State.

(2) Any county, city, or town in this State.

(3) Any federal, state, or local public agency or institution in any other state of the union.

(4) An entity or organization that has tax-exempt status pursuant to section 501(c)(3) of the Internal Revenue ~~Code and also receives local, state, or federal grant funding.~~Code. Products purchased by an entity pursuant to this subdivision may not be resold.

(5) Any current employee or retiree of the State of North Carolina or of a unit of local government of this State, verified through State-issued identification, or through proof of retirement status, but purchases by a State or local governmental employee or retiree may not exceed two thousand five hundred dollars ($2,500) during any calendar year. Products purchased by State and local governmental employees and retirees under this section may not be resold.

(6) Private contractors when the goods purchased will be used to perform work under a contract with a public agency."

SECTION 7. G.S. 143-53(a)(2) reads as rewritten:

"(2) Prescribing the routine, including consistent contract language, for securing bids on items that do not exceed the bid value benchmark established under the provisions of ~~G.S. 143-53.1~~ G.S. 143-53.1, 115D-58.14, or ~~G.S. 116-31.10.~~ 116-31.10. The ~~purchasing delegation~~ bid value benchmark for securing offers ~~(excluding the special responsibility constituent institutions of The University of North Carolina),~~ for each State department, institution, ~~agency, and community college~~ and agency established under the provisions of G.S. 143-53.1 shall be determined by the Director of the Division of Purchase and ~~Contract. For the State agencies this shall be done~~ Contract following the Director's consultation with the State Budget Officer and the State Auditor. The Director for the Division of Purchase and Contract may set or lower the ~~delegation,~~benchmark, or raise the ~~delegation~~ benchmark upon written request by the agency, after consideration of their overall capabilities, including staff resources, purchasing compliance reviews, and audit reports of the individual agency. The routine prescribed by the Secretary shall include contract award protest procedures and consistent requirements for advertising of solicitations for securing offers issued by State departments, institutions, universities (including the special

responsibility constituent institutions of The University of North Carolina), agencies, community colleges, and the public school administrative units."

SECTION 8. G.S. 143-53.1(a) reads as rewritten:

"(a) On and after ~~July 1, 1997,~~ July 1, 2014, the procedures prescribed by G.S. 143-52 with respect to competitive bids and the bid value benchmark authorized by G.S. 143-53(a)(2) with respect to rule making by the Secretary of Administration for competitive bidding shall promote compliance with the principles of procurement efficiency, transparency, and fair competition to obtain the State's business.~~be no more than twenty-five thousand dollars ($25,000); provided, the Secretary of Administration may, in his or her discretion, increase the benchmarks effective as of the beginning of any fiscal biennium of the State commencing after June 30, 1999, in an amount whose increase, expressed as a percentage, does not exceed the rise in the Consumer Price Index during the fiscal biennium next preceding the effective date of the benchmark increase.~~ For a special responsibility constituent institution of The University of North Carolina, the benchmark prescribed in this section ~~shall be~~ is as provided in G.S. 116-31.10. For community colleges, the benchmark prescribed in this section ~~shall be~~ is as provided in G.S. 115D-58.14."

SECTION 9. G.S. 20-185 is amended by adding a new subsection to read:

"(a1) Applicants for employment as a State Trooper shall be at least 21 years of age and not more than 39 years of age as of the first day of patrol school. Highway Patrol enforcement personnel hired on or after July 1, 2013, shall retire not later than the end of the month in which their 62nd birthday falls."

SECTION 10. G.S. 20-196.3 reads as rewritten:

"**§ 20-196.3. Who may hold supervisory positions over sworn members of the Patrol.**

Notwithstanding any other provision of the General ~~Statutes of North Carolina, it shall be unlawful for any person other than the Governor and the~~ Statutes, only the following individuals may hold a supervisory position over sworn members of the Patrol:

(1) The Governor.

(2) The Secretary of Public Safety or the Commissioner of the Law Enforcement Division.

(3) ~~and other than a~~ A uniformed member of the North Carolina State Highway Patrol who has met all requirements for employment within the Patrol, including ~~but not limited to~~ completion of the basic Patrol ~~school, to hold any supervisory position over sworn members of the Patrol.~~school."

SECTION 11. G.S. 66-25 reads as rewritten:

"**§ 66-25. Acceptable listings as to safety of goods.**

(a) All electrical materials, devices, appliances, and equipment shall be evaluated for safety and suitability for intended use. Except as provided in subsection (b) of this section, this~~This~~ evaluation shall be conducted in accordance with nationally recognized standards and shall be conducted by a qualified testing laboratory. The Commissioner of Insurance, through the Engineering Division of the Department of Insurance, shall implement the procedures necessary to approve suitable national standards and to approve suitable qualified testing laboratories. The Commissioner may assign his authority to implement the procedures for specific materials, devices, appliances, or equipment to other agencies or bodies when they would be uniquely qualified to implement those procedures.

In the event that the Commissioner determines that electrical materials, devices, appliances, or equipment in question cannot be adequately evaluated through the use of approved national standards or by approved qualified testing laboratories, the Engineering Division of the Department of Insurance shall specify any alternative evaluations which safety requires.

The Engineering Division of the Department of Insurance shall keep in file, where practical, copies of all approved national standards and resumes of approved qualified testing laboratories.

(b) Electrical devices, appliances, or equipment used by the Division of Adult Correction of the Department of Public Safety shall be evaluated for safety and suitability by Central Engineering section of the Department of Public Safety. The evaluation shall be conducted in accordance with nationally recognized standards."

SECTION 12. This act is effective when it becomes law.

HOUSE BILL 362:
Dept. of Public Safety Changes.-AB

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 25, 2013
Introduced by:	Rep. Faircloth	**Prepared by:**	Heather Fennell Committee Counsel
Analysis of:	PCS to Third Edition H362-CSTD-32		

SUMMARY: ***The Proposed Committee Substitute for House Bill 362 makes a number of conforming changes to reflect the 2011 consolidation and reorganization of the Department of Public Safety.***

The PCS adds a new section to authorize engineers with the Department of Public Safety to evaluate electric devices for use in the Department of Adult Correction.

BILL ANALYSIS: The Current Operations and Capital Improvements Appropriations Act of 2011 (Part XIX of S.L. 2011-145) consolidated the Department of Correction, the Department of Crime Control and Public Safety, and the Department of Juvenile Justice and Delinquency Prevention into the Department of Public Safety (DPS), effective January 1, 2012. The new agency consists of four divisions – Law Enforcement, Correction, Juvenile Justice, and Administration. The revised structure of DPS maintains the separation between the juvenile and adult systems while allowing coordination of administrative and facility management functions. House Bill 362 makes several conforming changes to reflect the recent consolidation.

Section 1 would clarify that the Department's Engineering Section and the Inmate Construction Program have authority to perform any construction or renovation project for the Department, not just the Division of Adult Correction.

Section 2 would repeal the detailed language creating the various divisions and offices of the Department, allowing the Secretary the authority to organize the Department, consistent with other departmental statutes.

Section 3 is conforming language. The responsibility for federal and State liaison activities, victim services, the Victim Services Warehouse, and the storage and management of evidence is currently assigned in statute to the Office of External Affairs. After the consolidation, this Office is no longer in existence. Therefore, **Section 3** assigns responsibility for its role directly to the Secretary.

Section 4 repeals G.S. 143B-710, which reads as follows:

> **"§ 143B-710. Division of Adult Correction of the Department of Public Safety – head.**
> The Secretary of Public Safety shall appoint a chief deputy secretary to be the head of the Division."

Under the revised organization of the Department, the head of the Adult Correction Division is named a Commissioner.

Section 5 would change the terminology regarding the head of the Division of Juvenile Justice from Chief Deputy Secretary to Commissioner.

Section 6 expands the markets to which Correction Enterprises may sell. It would allow Correction Enterprises to sell to any non-profit, not just those who receive governmental grant funds, and also to private contractors exclusively for projects performed for the State. For example, Correction Enterprises manufactures the paint that is used on roads for lane marking, but cannot sell it to a private road construction contractor. This would allow contractor to purchase the inmate-produced paint for state road construction projects. The revised PCS adds a prohibition against resale by nonprofits and limits private contractors to purchasing goods to be used to perform work under a contract only with public agencies (the previous PCS also included nonprofits).

Sections 7 and 8 eliminate the $25,000 benchmark ceiling for purposes of requiring review of agency contracts by the Division of Purchase and Contract. The existing method for setting benchmarks in G.S. 143-53(a)(2) will still apply to agencies seeking a different benchmark, but there would no longer be a $25,000 ceiling. Upon written request of an agency to raise the benchmark for that agency, the Division of Purchase and Contract will consider the agency's overall capabilities, including staff resources, purchasing compliance reviews, and audit reports and make a determination that promotes compliance with principles of procurement efficiency, transparency, and fair competition.

Section 9 adds a new subsection to G.S. 20-185 requiring an applicant for a trooper position in the Highway Patrol to be at least 21 and not more than 39, and establishes a mandatory retirement age of 62.

Section 10 would permit the Commissioner of the Law Enforcement Division of the Department of Public Safety to supervise members of the Highway Patrol. Under current law, the only people who may hold a supervisory position over sworn law enforcement officers are the Governor, the Secretary, or a uniformed member of the Highway Patrol who has completed Patrol school. Currently, the Commissioner of the Law Enforcement Division has not completed Patrol school, though he previously worked for the FBI. Therefore, Highway Patrol officers may not report directly to him. The change would allow the Commissioner to supervise those individuals.

Section 11 would authorize engineers with the Department of Public Safety to evaluate electric devices, appliance, and equipment used by the Department of Adult Correction for safety and suitability purposes. Generally electric devices purchased by the State must be evaluated by a qualified testing lab. Equipment used by the Department in adult correctional facilities is modified prior to delivery to prevent inmate tampering. The modifications void the testing certification by the qualified testing labs.

EFFECTIVE DATE: This act is effective when it becomes law.

Trina Griffin, counsel to House Finance, substantially contributed to this summary.

HOUSE BILL 371

Short Title:	Chiropractic Assistant Certification/Fee.-AB	(Public)
Sponsors:	Representatives Bryan and Conrad (Primary Sponsors).	
	For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.	
Referred to:	Regulatory Reform, if favorable, Finance, if favorable, Appropriations.	

March 21, 2013

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE STATE BOARD OF CHIROPRACTIC EXAMINERS TO ESTABLISH AND ENFORCE EDUCATIONAL STANDARDS FOR CHIROPRACTIC CLINICAL ASSISTANTS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 8 of Chapter 90 of the General Statutes is amended by adding the following new section to read:

"**§ 90-143.4. Chiropractic clinical assistants; certification of competency.**

(a) "Chiropractic clinical assistant" means a nonlicensed employee of a chiropractic physician whose duties include (i) collecting general health data, such as the taking of an oral history or vital sign measurements, (ii) applying therapeutic procedures, such as thermal, sound, light and electrical modalities, and hydrotherapy, and (iii) monitoring prescribed rehabilitative activities. Nothing in this section shall be construed to allow a chiropractic clinical assistant to provide a chiropractic adjustment, manual therapy, nutritional instruction, counseling, or any other therapeutic service that requires individual licensure.

(b) Any person employed as a chiropractic clinical assistant shall obtain a certificate of competency from the State Board of Chiropractic Examiners (Board) within 120 days after the person begins employment. Certification shall not be required for employees whose duties are limited to administrative activities of a nonclinical nature. Except as otherwise provided in this section, it shall be unlawful for any person to practice as a chiropractic clinical assistant unless duly certified by the Board.

(c) An applicant for certification under this section shall be (i) at least 18 years of age, (ii) a high school graduate or the equivalent, (iii) of good moral character, and (iv) able to demonstrate proficiency in the following subjects:

(1) Basic anatomy.
(2) Chiropractic philosophy and terminology.
(3) Utilization of standard therapeutic modalities.
(4) Contraindications and response to emergencies.
(5) Jurisprudence and patient privacy protection.

(d) If an applicant for certification is already certified or registered as a chiropractic clinical assistant in another state, the Board shall issue a certificate of competency upon evidence that the applicant is in good standing in the other state, provided the requirements for certification or registration in the other state are substantially similar to or more stringent than the requirements for certification in this State.

(e) Any certificate issued under this section shall expire at the end of the calendar year unless renewed in a time and manner established by the Board. Applicants for initial certification or renewal of certification shall pay to the secretary of the Board a fee as prescribed and set by the Board, which fee shall not exceed fifty dollars ($50.00).

(f) The Board may adopt rules pertaining to initial educational requirements, course approval, instructor credentials, examination of applicants, grandfathering, reciprocity, continuing education requirements, and the submission and processing of applications as are reasonably necessary to enforce this section."

SECTION 2. This act becomes effective July 1, 2014.

HOUSE BILL 371:
Chiropractic Assistant Certification/Fee.-AB

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 25, 2013
Introduced by:	Reps. Bryan, Conrad	**Prepared by:**	Heather Fennell Committee Counsel
Analysis of:	First Edition		

SUMMARY: ***House Bill 371 amends the Chiropractic Practice Act to authorize the State Board of Chiropractic Examiners to certify chiropractic clinical assistants.***

BILL ANALYSIS: House Bill 371 adds a new section to the Chiropractic Practice Act (contained in Article 8, Chapter 90) authorizing the Board of Chiropractic Examiners to certify chiropractic clinical assistants. A chiropractic clinical assistant is defined as a non-licensed employee of a chiropractic physician whose duties include the following:

- Collecting general health data.
- Applying limited therapeutic procedures.
- Monitoring prescribed rehabilitative activities.

A chiropractic clinical assistant may not perform any services that require licensure under the Act.

A person employed as a chiropractic clinical assistant must obtain a certificate of competency within 120 days after beginning employment. An applicant for certification must be

(i) at least 18 years of age,
(ii) a high school graduate,
(iii) of good moral character, and
(iv) able to demonstrate proficiency in number of specified subject areas.

The Board is authorized to issue a certificate of competency to an applicant who is certified or registered in another state, upon a showing that the applicant is in good standing in the other state and that the requirements for certification in the other state are substantially similar to or more stringent than the requirements in this State.

Certificates expire at the end of the calendar year unless renewed in accordance with rules adopted by the Board. The Board may charge a fee for initial applicants and for renewals not to exceed $50.

The Board is also authorized to adopt rules relating to educational requirements, course approval, instructor credentials, examinations, grandfathering, reciprocity, continuing education, and the submission and processing of applications.

EFFECTIVE DATE: This act becomes effective July 1, 2014.

Karen Cochrane-Brown, council to House Regulatory Reform, substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Fiscal Note

BILL NUMBER: House Bill 371 (First Edition)

SHORT TITLE: Chiropractic Assistant Certification/Fee.-AB

SPONSOR(S): Representatives Bryan and Conrad

FISCAL IMPACT

($ in millions)

☐ Yes ☑ No ☐ No Estimate Available

State Impact	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
General Fund Revenues:					
General Fund Expenditures:					
State Positions:					
NET STATE IMPACT	$0.0	$0.0	$0.0	$0.0	$0.0

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:
North Carolina Board of Chiropractic Examiners

EFFECTIVE DATE July 1, 2014

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY:

H371 adds a section to Article 8 of Chapter 90 of the General Statutes. The legislation creates a definition for the term "chiropractic clinical assistant". A chiropractic clinical assistant is a non-licensed employee whose duties include:

1. Collecting general health data, such as the taking of an oral history or vital sign measurements
2. Applying therapeutic procedures, such as thermal, sound, light and electrical modalities, and hydrotherapy
3. Monitoring prescribed rehabilitative activities

Chiropractic clinical assistants may not provide a chiropractic adjustment, manual therapy, nutritional instruction, counseling, or any other therapeutic service that requires individual licensure.

The legislation lays out several requirements and proficiencies an applicant for chiropractic clinical assistant certification must meet. The bill gives the NC Board of Chiropractic Examiners the authority to develop the materials necessary to test and licensure applicants. The Board shall set the fee for the initial certification and renewal. The fee may not exceed $50.

ASSUMPTIONS AND METHODOLOGY:

Fiscal Research does not foresee any costs to the State as a result of this legislation. According to General Statute 90-156, all expenses of the Board shall be paid out of the revenues collected from licensure and renewal fees. All funds collected by the Board are held in a private bank account, which receives no money from the State. The legislation will increase the receipts of the Board due to the fees from chiropractic clinical assistant applications but the Board receives no appropriation so there will be no General Fund impact.

SOURCES OF DATA: North Carolina Board of Chiropractic Examiners

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Daniel Sater

APPROVED BY:

Mark Trogdon, Director
Fiscal Research Division

DATE: May 6, 2013

Signed Copy Located in the NCGA Principal Clerk's Offices

SENATE PAGES ATTENDING

COMMITTEE: Finance ROOM: 544

DATE: 6-25 TIME: 1 pm

PLEASE PRINT LEGIBILY!!!!!!!!!!!!!....*or else!*

Page Name	Hometown	Sponsoring Senator
1. Reaves Houston	Dunn	Rabin
2. Mackenzie Lancler	Burlington	Gunn
3. Anna Marrujo	Greensboro	Berger
4. Cammie Holland	Greensboro	Berger
Grant Murphy-Herndon	Durham	Woodard
6. Kena Nolan	Charlotte	Clodfelter
7. Tripp Kelly	Davie	Brock
8. Mark Macon II	Enfield	Bryant
9.		
10.		

Do not add names below the grid.

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

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 25, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
John Hardi	MFS
Michelle Frazier	MFS
Henri McClees	McClees Consulting
Lillian Overton	Wake County Child Support
Jessica Lewis	Carteret County Child Support
Mildred Spearman	NCAOC
CASANDRA STANNER	NCACC
Maureen Trautman	NCACC
BUCK LATTIMORE	NC CHIROPRACTIC ASSN
VANCE KINLAW	NC BD. OF CHIROPRACTIC EXAMINERS
Susanna Davis	Williams Mullen

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 25, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
SOLARI	DST
K Chambers	DOT
B Williams	DST
Becki Gray	DST
Jarret Burr	NCDPS
Douglas Holbrook	NCDPS
Ryan Combs	NCDPS
Jennifer Haygood	NCCCS
Mary Stuppins	NCCCS
Butch Gunnells	NC Bev
Lauren Strege	NC BEV
Sarah L. Miller	self

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 25, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Amy McConkey	NC Bev Assn
Henry Jones	Jordan Price
Allison Waller	Nelson Mullins
Joel Maynard	GPM; Assoc

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 25, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Hernan Hutaff	N.C.B.D.
Allen Martin	DST
Alex Bodyer	CSS
Rose Williams	NCDOT
Matt Viohl	OW Consult
Jeff Jones	Ave Chamber
Andy Chase	KMA
Sam Byassee	DOA - P&C
Billy Robbins	NCDPS
Karen Brown	NCDPS
Steve Brewer	CTL
Sarah Hardin	CTL

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 25, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Jane Baker	NC State Board of Examiners Nursing Home Administrators
Christie Barbee	CHPA
Karen Jin	NVA
LEE WARREN	NC REGISTER OF DEEDS ASSN.
Chip Killian	Nelson Mullins
Marian Farrell	PK+L Gaston
Rhonda Todd	DOA
Paul Foglemon	Hosiery
P & P	NCFB
Mark Lanier	UNCW
George Smith	NP
Sandy Sale	MD

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 25, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Janet Moren	NCREC

Senate Committee on Finance
Wednesday, June 26, 2013, 1:00 PM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 107	Eastern Region/Disbursement of Funds.	Representative Speciale
HB 296	Hunter Education/Apprentice Permit.-AB	Representative J. Bell Representative Moffitt Representative S. Martin Representative Wray
HB 462	Increase Family Court Fee.	Representative Glazier Representative Lucas Representative Szoka Representative Floyd
HB 529	Edgecombe County Occupancy Tax Authorization.	Representative Tolson
HB 816	Tobacco Growers Assessment Act.	Representative Langdon
HB 951	Eliminate Tax Designation for Political Party.	Representative Riddell Representative Whitmire Representative Burr Representative Brody
SB 261	Sales Tax Refund for Regional Jails.	Senator Jenkins
SB 480	UNC Capital Improvement Projects.	Senator Apodaca
SB 485	UNC/Eliminate Duplicative Report Requirements.	Senator Apodaca

Adjournment

Senate Committee on Finance
Wednesday, June 26, 2013
Room 544 LOB, 1:00 p.m.

Minutes

The Senate Committee on Finance met at 1:00 p.m. on Wednesday, June 26, 2013 in room 544 of the Legislative Office Building. Cammie Holland of Greensboro, Grant Murphy-Herman of Durham, Kena Nolan of Charlotte, Tripp Kelly of Davie and Mark Macon, II of Enfield served as pages. Senator Rabon presided as chair.

H.B. 107 – Eastern Region/Disbursement of Funds

Representative Speciale was recognized to explain the bill which would eliminate a participating county's ability to withdraw from the Eastern Region but would permit a participating county to obtain the disbursement of its net share of the tax proceeds placed in trust that serves as a revolving loan fund for economic development. Senator Sanderson was recognized to offer an amendment which adds Pamlico County to the bill. The motion was tabled. The bill was then displaced to allow time for staff to draft additional amendments.

H.B. 529 – Edgecombe County Occupancy Tax

Senator Jenkins was recognized to explain the bill. It would authorize Edgecombe County to levy a room occupancy tax of up to 6%, the proceeds of which would be remitted to a Tourism Development Authority. The Authority would be required to use at least two-thirds of the proceeds to promote travel and tourism and the remainder for tourist-related expenditures. Senator Apodaca moved for a favorable report and the motion carried. A copy of the bill, the summary, and the fiscal note is attached.

H.B. 816 – Tobacco Growers Assessment Act

Representative Langdon was recognized to explain the bill. It would authorize the Tobacco Growers Association of North Carolina, Inc., to conduct a referendum and to assess tobacco marketed in the State. The Association would use the funds to promote the interests of tobacco growers. The maximum assessment would be 15¢ for each 100 pounds of tobacco marketed in this State and would be in addition to existing assessments for export sales of tobacco and tobacco research. Senator Jackson moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 462 – Increase Family Court Fee

Representative Glazier was recognized to explain the bill, which would authorize increase the uniform hourly fee charged to persons receiving the services of a supervised visitation and exchange center through a family court program from $30 to $50. Senator Apodaca moved for a favorable report and the motion carried. A copy of the bill, the summary, and the fiscal note is attached.

H.B. 296 – Hunter Education/Apprentice Permit

Senator Tucker was recognized to explain the bill. Senator Brock moved to adopt the proposed committee substitute (PCS) for discussion and the motion carried. The PCS would make

several changes as requested by the Wildlife Resources Commission, such as, adjusting fees for certain hunting and fishing licenses; repealing county hunting, fishing, and trapping licenses; establishing a black bear management stamp and repealing a local act prohibiting the taking of black bear with bait; and providing an annual target for utilization for the annual expendable interest of the wildlife endowment fund. Senator Brown was recognized to offer an amendment regarding vessel fees. Heather Fennell, an attorney with the Research Division, was recognized to explain the amendment. Senator Brown moved to adopt the amendment and the motion carried. Senator Brock moved for a favorable report and the motion carried. A copy of the PCS, the summary, the fiscal analysis and the amendment is attached.

H.B. 951 – Eliminate Tax Designation for Political Party

Representative Riddell was recognized to explain the bill which would eliminate the North Carolina Political Parties Financing Fund. Rodney Bizzell, a fiscal analyst with the Fiscal Research Division, was recognized to answer questions on the amounts collected. Senator Tillman moved for a favorable report and the motion carried. A copy of the bill, the summary, and the fiscal note is attached.

S.B. 261 – Sales Tax Refund for Regional Jails

Senator Jenkins was recognized to explain the bill would authorize a sales tax refund for regional jails. Cindy Avrette, an attorney with the Research Division, was recognized to answer questions. Senator Tillman moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 107 – Eastern Region/Disbursement of Funds

After being displaced earlier in the meeting, the bill was taken up for consideration. Senator Apodaca offered an amendment which added several counties. Senator Brown moved for it adoption and the motion carried. Aubrey Incorvaia, a fiscal analyst with the Fiscal Research Division, was recognized to answer questions about funding. Senator Cook moved for a favorable report and the motion carried. A copy of the bill, the summary, and the amendments is attached.

S.B. 480 – UNC Capital Improvement Projects

Senator Apodaca was recognized to explain bill which would authorize the campuses of the University of North Carolina to finance and construct capital improvement projects utilizing obligated resources. Mark Bondo, a fiscal analyst with the Fiscal Research Division, was recognized to answer questions. Senator Brunstetter was recognized to offer an amendment which would remove a program and transfer the Bowman Gray stadium to Winston Salem State University. He moved to adopt the amendment and the motion carried. Senator Apodaca offered an amendment requiring universities to prepare estimate and report to the Governmental Operations Commission prior to starting projects. Senator Apodaca moved to adopt the amendment and the motion carried. Senator Rabin moved for a favorable report as amended and the motion carried. A copy of the bill, the summary, the fiscal note and the amendments is attached.

S.B. 485 – UNC/Report/E-Commerce Improvements

Senator Apodaca explained the bill and Senator Hise moved to adopt the PCS for discussion. The motion carried. The PCS would eliminate a duplicative reporting requirement regarding personal service contracts for The University of North Carolina and adds two unrelated provisions to the bill. First, it would allow the Board of Governors to implement and expand the use of electronic commerce infrastructure and capabilities among the constituent institutions. Second, it would provide a property tax exemption for improvements to real property that are owned by a university organization and located on land owned by one of the constituent institutions. Senator Tillman moved for a favorable report and the motion carried. A copy of the PCS and the summary is attached.

The meeting adjourned at 1:45 p.m.

Senator Bill Rabon
Presiding Chair

DeAnne Mangum
Committee Assistant

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	June 26, 2013	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	
HB 107	Eastern Region/Disbursement of Funds.	Representative Speciale
HB 296	Hunter Education/Apprentice Permit.-AB	Representative J. Bell Representative Moffitt Representative S. Martin Representative Wray
HB 462	Increase Family Court Fee.	Representative Glazier Representative Lucas Representative Szoka Representative Floyd
HB 529	Edgecombe County Occupancy Tax Authorization.	Representative Tolson
HB 816	Tobacco Growers Assessment Act.	Representative Langdon
HB 951	Eliminate Tax Designation for Political Party.	Representative Riddell Representative Whitmire Representative Burr Representative Brody
SB 261	Sales Tax Refund for Regional Jails.	Senator Jenkins
SB 480	UNC Capital Improvement Projects.	Senator Apodaca
SB 485	UNC/Eliminate Duplicative Report Requirements.	Senator Apodaca

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Wednesday, June 26, 2013

Senator Rabon,
submits the following with recommendations as to passage:

FAVORABLE

HB **462** Increase Family Court Fee.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

HB **529** Edgecombe County Occupancy Tax Authorization.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

HB **816** **(SCS#1)** Tobacco Growers Assessment Act.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

HB **951** **(CS#1)** Eliminate Tax Designation for Political Party.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

SB **261** Sales Tax Refund for Regional Jails.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

SB **485** UNC/Eliminate Duplicative Report Requirements.

Draft Number:	S485-PCS85245-LB-75
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 6

Senator Wesley Meredith will handle HB 462
Senator S. Jenkins will handle HB 529
Senator W. Jackson will handle HB 816
Senator Norman Sanderson will handle HB 951
Senator S. Jenkins will handle SB 261
Senator Tom Apodaca will handle SB 485

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Wednesday, June 26, 2013

Senator Rabon,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

HB **107** **(CS#1)** Eastern Region/Disbursement of Funds.

Draft Number:	H107-PCS70480-TD-35
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Senator Norman Sanderson will handle HB 107

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Wednesday, June 26, 2013

Senator Rabon,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

HB **107** **(CS#1)** Eastern Region/Disbursement of Funds.

Draft Number:	H107-PCS70480-TD-35
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Senator Norman Sanderson will handle HB 107

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Wednesday, June 26, 2013

Senator Rabon,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

HB **296** **(CS#1)** Hunter Education/Apprentice Permit.-AB

Draft Number:	H296-PCS70477-LLf-27
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Senator Tommy Tucker will handle HB 296

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Thursday, June 27, 2013

Senator Rabon,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

SB **480** UNC Capital Improvement Projects.

Draft Number:	S480-PCS75361-RBx-37
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Senator Tom Apodaca will handle SB 480

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H 3

HOUSE BILL 107
Committee Substitute Favorable 5/16/13
Third Edition Engrossed 5/16/13

Short Title: Eastern Region/Disbursement of Funds. (Local)

Sponsors:

Referred to:

February 18, 2013

A BILL TO BE ENTITLED

AN ACT TO ALLOW A COUNTY FROM THE EASTERN REGION TO RECEIVE A DISBURSEMENT OF ITS SHARE OF THE MOTOR VEHICLE REGISTRATION TAX PROCEEDS AS WELL AS PAYMENTS MADE BY THE COUNTY IN LIEU OF TAXES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 158-42 is amended by adding the following new subsection:

"(g) Disbursement of Tax Proceeds. – Upon receipt of a resolution adopted by a participating county's board of county commissioners, the Region shall disburse to the county its net share of tax proceeds placed in trust under this section. A participating county's net share of tax proceeds is the total amount in the trust fund attributable to that county less the total amount of outstanding loans from the Region to the county and less any amount attributable to an appropriation made to the Region by the General Assembly. If this calculation results in a negative amount, the county is not entitled to a disbursement under this subsection. Funds disbursed under this subsection may be used only for economic development purposes. For purposes of this subsection, "economic development purposes" includes the provision of land, buildings, facilities, programs, information and data systems, or infrastructure required to promote business or industry in the county. Upon acceptance of the disbursement, the county is removed from the Region."

SECTION 2. G.S. 158-41(a) is repealed.

SECTION 2.1. This act applies only to Craven County.

SECTION 3. This act becomes effective July 1, 2013.

HOUSE BILL 107:
Eastern Region/Disbursement of Funds

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 26, 2013
Introduced by:	Rep. Speciale	**Prepared by:**	Heather Fennell Committee Counsel
Analysis of:	Third Edition		

SUMMARY: ***House Bill 107 would eliminate a participating county's ability to withdraw from the Eastern Region but would permit a participating county to obtain the disbursement of its net share of the tax proceeds placed in trust that serves as a revolving loan fund for economic development.***

CURRENT LAW: The North Carolina Eastern Region was authorized in 1993. The purpose is to promote the development of the North Carolina Global TransPark, and encourage economic development within the region by fostering or sponsoring development projects to provide land, buildings, facilities, programs, information and data systems, and infrastructure requirements for business and industry. Thirteen counties are permitted to create a special economic development district, known as the Eastern Region – Carteret, Craven, Duplin, Edgecombe, Greene, Jones, Lenoir, Nash, Onslow, Pamlico, Pitt, Wayne, and Wilson. G.S. 158-31. Currently, all 13 counties are participants.

The Eastern Region is governed by a Commission, appointed by the General Assembly and the participating boards of county commissioners. G.S. 158-35. In addition to other powers and duties, the Region has the power to levy a temporary annual motor vehicle registration tax. G.S. 158-37. The amount of the annual registration tax is $5.00, and is in addition to any other motor vehicle license or registration tax. G.S. 158-42. Currently, there is no temporary annual motor vehicle registration tax in place. Only one has been implemented, from July 1, 1994 through June 30, 1999.

Under G.S. 158-41, if a county were to withdraw from participation, that county would cease to participate while retaining its right to distributions of assets upon termination of the Eastern Region.

BILL ANALYSIS: House Bill 107 authorizes a participating county in the Eastern Region to seek a disbursement of its net share of the tax proceeds in trust, but it eliminates a county's ability to withdraw from the Region. In order to obtain the disbursement, a participating county must present the Region with a resolution adopted by its board of commissioners. The county's net share is the total amount in the trust fund attributable to that county less any outstanding loans between the Region and the county and less the amount of any appropriations made by the General Assembly. If this calculation were to result in a negative number, the county would not be entitled to any disbursement.[1] The funds that are disbursed must be used for "economic development purposes" which includes the provision of land, buildings, facilities, programs, information and data systems, or infrastructure required to promote business or industry in that county.

EFFECTIVE DATE: House Bill 107 would be effective July 1, 2013.

Erika Churchill, counsel to House Government, and Trina Griffin, counsel to House Finance, substantially contributed to this summary.

[1] Currently, 3 of the 13 participating counties have a negative amount in trust.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 107

AMENDMENT NO. 1
(to be filled in by
Principal Clerk)

H107-ATD-83 [v.1]

Comm. Sub. [YES]
Amends Title [YES]
Third Edition

Date June 26 ,2013

Senator Sanderson

moves to amend the bill on page 1, lines 2 through 4 by rewriting the lines to read:
"AN ACT TO ALLOW CERTAIN COUNTIES FROM THE EASTERN REGION TO RECEIVE A DISBURSEMENT OF THEIR SHARE OF THE MOTOR VEHICLE REGISTRATION TAX PROCEEDS AS WELL AS PAYMENTS MADE BY THE COUNTIES IN LIEU OF";

and on page 1, line 21, by rewriting the line to read:
"**SECTION 2.1.** This act applies only to Craven and Pamlico Counties.".

SIGNED Norman Sanderson
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED X

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 107

AMENDMENT NO. 1
(to be filled in by Principal Clerk)

H107-ATD-85 [v.1]

Comm. Sub. [YES]
Amends Title [YES]
Third Edition

Date June 26 ,2013

Senator Apodaca

moves to amend the bill on page 1, line 18, by rewriting the line to read:
"promote business or industry in the county.'";

And on page 1, line 21, by rewriting the line to read:
"**SECTION 2.1.** This act applies only to Carteret, Craven, Duplin, Edgecombe, Greene, Jones, Lenoir, Nash, Onslow, Pamlico, Pitt, Wayne, and Wilson Counties.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED X FAILED _____ TABLED _____

HOUSE BILL 529

Short Title:	Edgecombe County Occupancy Tax Authorization.	(Local)
Sponsors:	Representative Tolson (Primary Sponsor).	
	For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.	
Referred to:	Government, if favorable, Finance.	

April 4, 2013

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE EDGECOMBE COUNTY TO LEVY AN OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Occupancy Tax. – (a) Authorization and Scope. – The Edgecombe County Board of Commissioners may levy a room occupancy tax of up to six percent (6%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

SECTION 1.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

SECTION 1.(c) Distribution and Use of Tax Revenue. – Edgecombe County shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Edgecombe Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Edgecombe County and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures.

SECTION 2. Tourism Development Authority. – (a) Appointment and Membership. – When the Edgecombe County Board of Commissioners adopts a resolution levying a room occupancy tax under this Act, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members shall be individuals who are affiliated with businesses that collect tax in the county, and at least one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in the county. The resolution shall provide that the Authority shall be composed of the following nine members:

(1) An Edgecombe County Commissioner appointed by the board of commissioners.

(2) A member of the Tarboro Town Council appointed by the town council.

(3) Three owners or operators of motels, hotels, or other taxable accommodations in Edgecombe County, one of whom shall be appointed by the Tarboro Town Council, one by the Edgecombe County Board of Commissioners, and one by the Edgecombe County Chamber of Commerce.

(4) Two individuals involved in the tourist business who have demonstrated an interest in tourism development and do not own or operate hotels, motels, or other taxable tourist accommodations, appointed as follows: one by the Tarboro Town Council and one by the Edgecombe County Board of Commissioners.

(5) An individual who is interested in the tourism business, has demonstrated an interest in tourism development, and is appointed by the Edgecombe County Board of Commissioners.

(6) An individual who is interested in the tourism business, has demonstrated an interest in tourism development, and is appointed by the Tarboro Town Council.

The Edgecombe County Board of Commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Edgecombe County shall be the ex officio finance officer of the Authority.

SECTION 2.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this Act for the purposes provided in this Act. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

SECTION 2.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Edgecombe Board of County Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

SECTION 3. G.S. 153A-155(g) reads as rewritten:

"(g) Applicability. – Subsection (c) of this section applies to all counties and county districts that levy an occupancy tax. To the extent subsection (c) conflicts with any provision of a local act, subsection (c) supersedes that provision. The remainder of this section applies only to Alleghany, Anson, Brunswick, Buncombe, Burke, Cabarrus, Camden, Carteret, Caswell, Chatham, Cherokee, Chowan, Clay, Craven, Cumberland, Currituck, Dare, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Granville, Halifax, Haywood, Henderson, Jackson, Madison, Martin, McDowell, Montgomery, Moore, Nash, New Hanover, Northampton, Pasquotank, Pender, Perquimans, Person, Randolph, Richmond, Rockingham, Rowan, Rutherford, Sampson, Scotland, Stanly, Swain, Transylvania, Tyrrell, Vance, Washington, and Wilson Counties, to New Hanover County District U, to Surry County District S, to Watauga

County District U, to Wilkes County District K, to Yadkin County District Y, and to the Township of Averasboro in Harnett County and the Ocracoke Township Taxing District."

SECTION 4. This act is effective when it becomes law.

HOUSE BILL 529: Edgecombe County Occupancy Tax Authorization

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 26, 2013
Introduced by:	Rep. Tolson	**Prepared by:**	Heather Fennell Committee Counsel
Analysis of:	First Edition		

SUMMARY: ***House Bill 529 would authorize Edgecombe County to levy a room occupancy tax of up to 6%, the proceeds of which would be remitted to a Tourism Development Authority. The Authority would be required to use at least two-thirds of the proceeds to promote travel and tourism and the remainder for tourist-related expenditures. The Occupancy Tax Subcommittee gave this bill a favorable report at its meeting on June 18, 2013.***

CURRENT LAW: Currently, Edgecombe County does not have the authority to levy a room occupancy tax.

BILL ANALYSIS: House Bill 529 would authorize Edgecombe County to levy a room occupancy tax of up to 6 percent. The County would be required to establish a Tourism Development Authority to administer the proceeds. The proceeds must be used as follows: at least two-thirds for tourism promotion and the remainder for tourism-related expenditures. The bill conforms to the Guidelines for Occupancy Tax adopted by the House Finance Committee.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: In 1997, the General Assembly enacted uniform municipal and county administrative provisions for occupancy tax,[1] which provide uniformity among counties and cities with respect to the levy, administration, collection, repeal, and imposition of penalties.

In 1993, the House Finance Committee established the Occupancy Tax Guidelines, which address the rate of tax, the use of the tax proceeds, the administration of the tax, and the body with authority to determine how the proceeds will be spent. A summary of these provisions is detailed in the chart below.

UNIFORM OCCUPANCY TAX PROVISIONS
Rate – The county tax rate cannot exceed 6% and the city tax rate, when combined with the county rate, cannot exceed 6%.
Use – Two-thirds of the proceeds must be used to promote travel and tourism and the remainder must be used for tourism related expenditures.
Definitions The term "net proceeds", "promote travel and tourism", and "tourism related expenditures" are defined terms.
Administration – The net revenues must be administered by a local tourism development authority that has the authority to determine how the tax proceeds will be used, is created by a local ordinance, and at least 1/2 of the members must be currently active in the promotion of travel and tourism in the county and 1/3 of the members must be affiliated with organizations that collect the tax.
Costs of Collection – The taxing authority may retain from the revenues its actual costs of collection, not to exceed 3% of the first $500,000 collected each year plus 1% of the remainder collected each year.

[1] G.S. 153A-155 and G.S. 160A-215.

O. Walker Reagan
Director

Research Division
(919) 733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Fiscal Note

BILL NUMBER: House Bill 529 (First Edition)

SHORT TITLE: Edgecombe County Occupancy Tax Authorization.

SPONSOR(S): Representative Tolson

FISCAL IMPACT

☑ Yes ☐ No ☐ No Estimate Available

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
Local Impact					
Revenues:	194,000 to 388,000	206,000 to 413,000	219,000 to 437,000	229,000 to 458,000	238,000 to 475,000
Expenditures:	to	to	to	to	to
NET LOCAL IMPACT	$194,000 to $388,000	$206,000 to $413,000	$219,000 to $437,000	$229,000 to $458,000	$238,000 to $475,000

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Edgecombe County Tourism Development Authority

EFFECTIVE DATE: This act is effective when it becomes law.

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY:

House Bill 529 would authorize Edgecombe County to levy a room occupancy tax of up to 6 percent. The County would be required to establish a Tourism Development Authority to administer the proceeds. The proceeds must be used as follows: at least two-thirds for tourism promotion and the remainder for tourism-related expenditures.

ASSUMPTIONS AND METHODOLOGY:

According to the North Carolina Department of Commerce, Edgecombe County had 4 businesses reporting under the NAICS Code 7211 – Traveler Accommodations – in 2012. Since there is no data as to the number of rooms available, we have assumed a range of rooms from 50 rooms per establishment to 100 rooms per establishment. The North Carolina Department of Commerce estimates that for 2012, the region of North Carolina that Edgecombe County is located in had a 59% room occupancy rate with a $75.00 average nightly rate.

The amount of occupancy tax revenue that Edgecombe County could expect to collect for FY2013-14 would range from $194,000 to $388,000, estimating between 200 and 400 eligible rooms in the county. The occupancy tax revenue range is reached by the following: (4 eligible locations * 50/100 rooms * 365 days * 59% room occupancy rate * $75 nightly rate * 6%

occupancy tax rate). The leisure and hospitality portion of North Carolina's gross state product, as forecast by Moody's, was used in growing the estimate.

SOURCES OF DATA: NCGA Research Division's Bill Summary; North Carolina Department of Commerce; Moody's Analytics

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Brian Slivka

APPROVED BY:

Mark Trogdon, Director
Fiscal Research Division

DATE: June 17, 2013

Signed Copy Located in the NCGA Principal Clerk's Offices

HOUSE BILL 816

Committee Substitute Favorable 5/14/13
Senate Agriculture/Environment/Natural Resources Committee Substitute Adopted 6/25/13

Short Title: Tobacco Growers Assessment Act. (Public)

Sponsors:

Referred to:

April 11, 2013

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE TOBACCO GROWERS TO ASSESS THEMSELVES TO PROMOTE THE INTERESTS OF TOBACCO GROWERS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 106 of the General Statutes is amended by adding a new Article to read:

"Article 50D.
"Tobacco Growers Assessment Act.

"**§ 106-568.40. Title.**

This Article shall be known as the "Tobacco Growers Assessment Act."

"**§ 106-568.41. Purpose.**

It is in the public interest for the State to enable growers of tobacco to assess themselves in order to raise funds to promote the interests of tobacco growers. This assessment shall be in addition to the assessment authorized by Article 50C of Chapter 106 of the General Statutes to promote export sales of tobacco and the assessment authorized by Article 50A of Chapter 106 of the General Statutes for tobacco research.

"**§ 106-568.42. Definitions.**

The following definitions apply in this Article:

(1) Association. – The Tobacco Growers Association of North Carolina, Inc., a North Carolina nonprofit corporation.

(2) Buyer. – Any person engaged in the business of buying tobacco from a producer of tobacco grown in North Carolina, including a broker, dealer, or agent of the buyer.

(3) Department. – The North Carolina Department of Agriculture and Consumer Services.

(4) Person. – An individual, a partnership, a firm, or a corporation.

(5) Tobacco. – Flue-cured tobacco.

(6) Tobacco grower. – A person who (i) is a North Carolina resident, (ii) owns, manages, or has a financial interest in tobacco production, and (iii) is actively involved in tobacco production.

"**§ 106-568.43. Referendum.**

(a) The Association may conduct among tobacco growers a referendum upon the question of whether an assessment shall be levied on tobacco sold in this State.

(b) The Association shall determine the amount of the proposed assessment and the date by which the referendum ballot must be returned by mail as provided in this section.

(c) The amount of the proposed assessment shall be stated on the referendum ballot. The amount may not exceed fifteen cents (15¢) for each hundred pounds of tobacco marketed in this State. If the assessment is approved in the referendum, the Association may set the assessment at an amount equal to or less than the amount stated on the ballot. If the Association sets a lower amount than the amount approved by referendum, it may increase the amount annually without a referendum by no more than one cent (1¢) for each hundred pounds of tobacco marketed. The increased rate may not exceed the amount approved by referendum and may not exceed the maximum allowable rate of fifteen cents (15¢) for each hundred pounds.

(d) The Association shall mail a referendum ballot to all known tobacco growers in the State for whom the Association has a current and valid mailing address at least three months prior to the date the ballot must be returned. Additionally, the Association must, for the greater of three months or 90 days before the date the ballot must be returned, (i) provide a printable referendum ballot on the Association's official Web site and (ii) make hard copies of the referendum ballot available at all county North Carolina Cooperative Extension Service offices. The ballots shall be returned to the Commissioner of Agriculture by the date set by the Association. The Department shall be responsible for counting the votes and reporting the results of the referendum to the Association.

(e) All tobacco growers may vote in the referendum. Any dispute over eligibility to vote or any other matter relating to the referendum shall be determined by the Association. The Association shall make reasonable efforts to provide tobacco growers with notice of the referendum and an opportunity to vote.

"**§ 106-568.44. Payment and collection of assessment.**

(a) The assessment shall not be collected unless more than two-thirds of the votes cast in the referendum are in favor of the assessment. If more than two-thirds of the votes cast in the referendum are in favor of the assessment, then the Association shall notify the Department of the amount of the assessment and the effective date of the assessment. The Department shall notify all tobacco buyers of the assessment.

(b) Each tobacco producer shall pay the assessment on all tobacco sold to a buyer.

(c) A buyer shall collect the assessment when buying tobacco by deducting the assessment from the price paid to the producer. The buyer shall remit collected assessments to the Department no later than the 10th day of the following month. The Department shall provide forms to buyers for reporting the assessment. If the total assessments collected by a buyer in a month are less than twenty-five dollars ($25.00), the buyer may keep the assessments until the total amount due is at least twenty-five dollars ($25.00) or the end of the calendar quarter, whichever comes first. All buyers shall file at least one report in each calendar quarter in which they purchase tobacco from a producer, regardless of the amount due.

(d) A buyer shall keep records of the amount of tobacco purchased and the date purchased. All information or records regarding purchases of tobacco by individual buyers shall be kept confidential by employees or agents of the Department and the Association and shall not be disclosed except by court order.

(e) The Association may bring an action to recover any unpaid assessments, plus the reasonable costs, including attorneys' fees, incurred in the action.

"**§ 106-568.45. Use of assessments; refunds; annual audit.**

(a) At least once per month, the Department shall remit all funds collected under this Article to the Association. The Association shall use the funds to promote the interests of tobacco growers. The Association shall prepare an annual report on the assessment funds collected and the use of assessment funds. The Association shall publicly post the annual report on its official Web site at least 30 days before the Association's annual meeting. Copies of the

annual report shall be made available to growers at the Association's annual meeting, and a copy shall also be sent to the Commissioner of Agriculture.

(b) A tobacco grower may request a refund of the assessment collected under this Article by submitting a written request for a refund to the Association postmarked on or before December 31 of the same year. A refund request shall be accompanied by proof of payment of the assessment satisfactory to the Association. The Association shall mail a refund to the grower within 30 days of receipt of a properly documented refund request.

(c) The Association shall designate a third party to conduct an annual audit of the implementation of this Article. The Association shall also designate the time at which the audit may be conducted each year, provided that the results of the audit be available before or in conjunction with the annual report.

"**§ 106-568.46. Termination of assessment.**

Upon receipt of a petition signed by at least ten percent (10%) of the tobacco growers in North Carolina known to the Association, the Department shall notify the Association, and the Association shall, within six months, conduct a referendum upon the question of continuing the assessment. If a majority of the votes cast in the referendum are against continuing the assessment, or if the Association fails to conduct a referendum within the six-month period, the assessment expires at the end of the six-month period. If a majority of the votes cast in the referendum are in favor of continuing the assessment, then no subsequent referendum shall be held for at least three years."

SECTION 2. This act is effective when it becomes law. The Tobacco Growers Association of North Carolina, Inc., may conduct a referendum at any time after the effective date of this act.

HOUSE BILL 816:
Tobacco Growers Assessment Act

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 26, 2013
Introduced by:	Rep. Langdon	**Prepared by:**	Heather Fennell
Analysis of:	Third Edition		Committee Counsel

SUMMARY: ***Bill 816 would authorize the Tobacco Growers Association of North Carolina, Inc., (Association) to conduct a referendum and to assess tobacco marketed in the State. The Association would use the funds to promote the interests of tobacco growers. The maximum assessment would be 15¢ for each 100 pounds of tobacco marketed in this State and would be in addition to existing assessments for export sales of tobacco (Article 50C of Chapter 106) and tobacco research (Article 50A of Chapter 106).***

CURRENT LAW AND BILL ANALYSIS: **Section 1** of the bill would authorize the Tobacco Growers Association of North Carolina, Inc., (Association) to conduct a referendum and to assess tobacco marketed in the State. The Association would use the funds to promote the interests of tobacco growers. A "tobacco grower" is defined as a North Carolina resident who owns, manages, or has a financial interest in tobacco production and who is actively involved in tobacco production. All tobacco growers may vote in the referendum.

The assessment would only be collected if two-thirds of the votes cast in the referendum are in favor of the assessment. The referendum would be conducted by mail, and the Department of Agriculture and Consumer Services (Department) would count the votes and report the results of the referendum. This assessment would operate in addition to the existing assessments authorized by Article 50A (10¢ per 100 pounds of tobacco marketed to provide funds for research and dissemination of research facts concerning tobacco) and Article 50C ($4 per acre per year on all flue-cured tobacco in the State for the promotion of the export trade of flue-cured tobacco) of Chapter 106 of the General Statutes. The amount of the assessment may not exceed 15¢ per 100 pounds of tobacco marketed in the State. If the Association sets a lower amount than the amount approved by referendum, the Association may increase the amount by no more than 1¢ annually without a referendum, but the increased rate may not exceed the amount approved by referendum.

If 10% of the tobacco growers in the State petition the Department to end the assessment, the Association must conduct another referendum within 6 months of the receipt of the petition to determine whether to continue the assessment. If a majority of the votes in the referendum are against the assessment, then the assessment expires at the end of the 6-month period. If a majority of votes in the referendum are in favor of continuing the assessment, another referendum cannot be held for at least 3 years.

EFFECTIVE DATE: This act would be effective when it becomes law, and the Association would be permitted to conduct a referendum at any time after the effective date.

O. Walker Reagan
Director

H816-SMTD-65 E3 -V1

Research Division
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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

HOUSE BILL 462

Short Title:	Increase Family Court Fee.	(Public)
Sponsors:	Representatives Glazier, Lucas, Szoka, and Floyd (Primary Sponsors). *For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*	
Referred to:	Judiciary Subcommittee C, if favorable, Finance.	

April 1, 2013

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE UNIFORM HOURLY FEE CHARGED TO PERSONS RECEIVING THE SERVICES OF A SUPERVISED VISITATION AND EXCHANGE CENTER THROUGH A FAMILY COURT PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-314.1(a) reads as rewritten:

"(a) The Administrative Office of the Courts may charge a uniform fee of not more than ~~thirty dollars ($30.00)~~fifty dollars ($50.00) per hour to persons receiving the services of a supervised visitation and exchange center through a family court program. The fees collected under this section may be used by the Director of the Administrative Office of the Courts to support the continued operation of supervised visitation and exchange centers which provide services to family court clients regarding domestic violence, substance abuse, mental illness, parental alienation, and other issues."

SECTION 2. This act becomes effective July 1, 2013, and applies to services provided on or after that date.

HOUSE BILL 462:
Increase Family Court Fee

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 26, 2013
Introduced by:	Reps. Glazier, Lucas, Szoka, Floyd	**Prepared by:**	Heather Fennell Committee Counsel
Analysis of:	First Edition		

SUMMARY: ***House Bill 462 would increase the uniform hourly fee charged to persons receiving the services of a supervised visitation and exchange center through a family court program from $30 to $50.***

CURRENT LAW: The Director of the Administrative Office of the Courts uses the fees to support the operation of supervised visitation and exchange centers.

BILL ANALYSIS: HB 462 would amend G.S. 7A-314.1(a) to raise the fee for services provided by supervised visitation and exchange centers through a family court program from $30/hour to $50/hour.

BACKGROUND: Section 7.2 of Session Law 2004-110 originally made G.S. 7A-314.1(a) effective July 17, 2004.

EFFECTIVE DATE: House Bill 462 would be effective July 1, 2013, and applies to services provided on or after that date.

Janice Paul, counsel to House Judiciary Subcommittee C, substantially contributed to this summary.

O. Walker Reagan
Director

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GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Fiscal Note

BILL NUMBER: House Bill 462 (First Edition)

SHORT TITLE: Increase Family Court Fee.

SPONSOR(S): Representatives Glazier, Lucas, Szoka, and Floyd

FISCAL IMPACT
($ in millions)

☐ Yes ☑ No ☐ No Estimate Available

State Impact	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
General Fund Revenues:					
General Fund Expenditures:					
State Positions:					
NET STATE IMPACT	$0.0	$0.0	$0.0	$0.0	$0.0

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:
Administrative Office of the Courts

EFFECTIVE DATE July 1, 2013

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY:

This bill would amend existing G.S. 7A-314.1 to increase the allowable fee from $30 to $50 for persons receiving the services of a supervised visitation and exchange center through a family court program.

This bill has an effective date of July 1, 2013 and applies to services provided on or after that date.

ASSUMPTIONS AND METHODOLOGY:

The Fiscal Research Division (FRD) does not expect any impact to the State from this bill. FRD does anticipate some local impact to the affected counties but this amount cannot be determined at this time.

The supervised visitation and exchange centers referenced in this bill are currently operational in Cumberland and Union Counties. The per hour fee that the courts may charge under G.S. 7A-314.1(a) is collected by the clerk of superior court and held in a special fund for each of the centers. The Administrative Office of the Courts (AOC) does not anticipate an impact on General Fund revenue or on the workload or operations of the court system due to the change proposed in this bill.

SOURCES OF DATA: Administrative Office of the Courts

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY:
William Childs

APPROVED BY:

Mark Trogdon, Director
Fiscal Research Division

DATE: May 1, 2013

Signed Copy Located in the NCGA Principal Clerk's Offices

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H D

HOUSE BILL 296
Committee Substitute Favorable 4/4/13
PROPOSED SENATE COMMITTEE SUBSTITUTE H296-CSLL-27 [v.9]
6/25/2013 5:47:13 PM

Short Title: Omnibus Wildlife Resources Commission Act. (Public)

Sponsors:

Referred to:

March 14, 2013

A BILL TO BE ENTITLED

AN ACT TO (1) ADJUST THE FEES CHARGED FOR CERTAIN HUNTING AND FISHING LICENSES ISSUED BY THE WILDLIFE RESOURCES COMMISSION AND REPEAL THE COUNTY HUNTING, FISHING, AND TRAPPING LICENSES AND THE NONCOMMERCIAL SPECIAL DEVICE LICENSES; (2) ESTABLISH A BLACK BEAR MANAGEMENT STAMP THAT MUST BE PROCURED BEFORE TAKING BEAR WITHIN THE STATE AND AMEND THE LAW RESTRICTING THE TAKING OF BLACK BEAR WITH BAIT; (3) ADJUST THE AGE FOR DISCOUNTED SPECIAL LICENSES FROM AGE 65 TO AGE 70; (4) PROVIDE THAT EFFECTIVE JANUARY 1, 2015, THOSE HUNTING AND FISHING LICENSE FEES IN EFFECT SHALL REMAIN AT THE EXISTING LEVELS UNTIL THE WILDLIFE RESOURCES COMMISSION ESTABLISHES NEW FEES THROUGH RULEMAKING, AND AUTHORIZE THE WILDLIFE RESOURCES COMMISSION TO ESTABLISH LICENSE FEES THROUGH RULEMAKING BEGINNING IN 2015; (5) REPLACE THE CURRENT 6% WILDLIFE SERVICE AGENT COMMISSION FEE WITH A $2 TRANSACTION FEE; (6) PROVIDE THAT NO MORE THAN 25% OF THE WILDLIFE RESOURCES COMMISSION'S AUTHORIZED OPERATING BUDGET SHALL BE KEPT IN RESERVE; AND (7) PROVIDE AN ANNUAL TARGET FOR UTILIZATION OF THE ANNUAL EXPENDABLE INTEREST OF THE WILDLIFE ENDOWMENT FUND.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-270.1C(b) reads as rewritten:

"(b) Combination hunting and inland fishing licenses issued by the Wildlife Resources Commission are:

(1) Resident Annual Combination Hunting and Inland Fishing License – ~~$20.00.~~ $25.00. This license shall be issued only to an individual resident of the State.

(2), (3) Repealed by Session Laws 1997-326, s. 2.

(4) Repealed by Session Laws 2005-455, s. 1.6, effective January 1, 2007.

(5) Resident Disabled Veteran Lifetime Combination Hunting and Inland Fishing License ~~—$10.00.~~ $12.00. This license shall be issued only to an individual who is a resident of the State and who is a fifty percent (50%) or more disabled veteran as determined by the United States Department of Veterans ~~Affairs.~~ Affairs or as established by rules of the Wildlife Resources Commission. This license remains valid for the lifetime of the licensee so

long as the licensee remains fifty percent (50%) or more disabled. This license entitles the licensee to fish in public mountain trout waters as provided in G.S. 113-272(a).

(6) Resident Totally Disabled Lifetime Combination Hunting and Inland Fishing License ~~—$10.00.~~ $12.00. This license shall be issued only to an individual who is a resident of the State and who is totally and permanently disabled as determined by the Social Security ~~Administration.~~ Administration or as established by rules of the Wildlife Resources Commission. This license remains valid for the lifetime of the licensee. This license entitles the licensee to fish in public mountain trout waters as provided in G.S. 113-272(a)."

SECTION 2. G.S. 113-270.1D reads as rewritten:

"**§ 113-270.1D. Sportsman licenses.**

(a) Annual Sportsman License – ~~$40.00.~~ $50.00. This license shall be issued only to an individual resident of the State and entitles the licensee to take all wild animals and wild birds, including waterfowl, by all lawful methods in all open seasons, including the use of game lands, and to fish with hook and line for all fish in all inland and joint fishing waters, including public mountain trout waters. An annual sportsman license issued under this subsection does not entitle the licensee to engage in recreational fishing in coastal fishing waters that are not joint fishing waters.

(b) Lifetime Sportsman Licenses. Except as provided in subdivision (7) of this subsection, lifetime sportsman licenses are valid for the lifetime of the licensees. Lifetime sportsman licenses entitle the licensees to take all wild animals and wild birds by all lawful methods in all open seasons, including the use of game lands, and to fish with hook and line for all fish in all inland and joint fishing waters, including public mountain trout waters. A lifetime sportsman license issued under this subsection does not entitle the licensee to engage in recreational fishing in coastal fishing waters that are not joint fishing waters. Lifetime sportsman licenses issued by the Wildlife Resources Commission are:

(1) Infant Lifetime Sportsman License – ~~$200.00.~~ $240.00. This license shall be issued only to an individual under one year of age.

(2) Youth Lifetime Sportsman License – ~~$350.00.~~ $420.00. This license shall be issued only to an individual under 12 years of age.

(3) Adult Resident Lifetime Sportsman License – ~~$500.00.~~ $600.00. This license shall be issued only to an individual resident of the State.

(4) Nonresident Lifetime Sportsman License – ~~$1,000.~~ $1,200. This license shall be issued only to an individual nonresident of the State.

(5) Age ~~65~~ 70 Resident Lifetime Sportsman License ~~—$15.00.~~ $18.00.This license shall be issued only to an individual resident of the State who is at least ~~65~~ 70 years of age.

(6) Repealed by Session Laws 2005-455, s. 1.7 effective January 1, 2007.

(7) Resident Disabled Veteran Lifetime Sportsman License – ~~$100.00.~~ $50.00. This license shall be issued only to an individual who is a resident of the State and who is a fifty percent (50%) or more disabled veteran as determined by the United States Department of Veterans ~~Affairs.~~ Affairs or as established by rules of the Wildlife Resources Commission. This license remains valid for the lifetime of the licensee so long as the licensee remains fifty percent (50%) or more disabled.

(8) Resident Totally Disabled Lifetime Sportsman License – ~~$100.00.~~ $50.00. This license shall be issued only to an individual who is a resident of the State and who is totally and permanently disabled as determined by the

Social Security ~~Administration.~~ Administration or as established by rules of the Wildlife Resources Commission. "

SECTION 3. G.S. 113-270.2(c) reads as rewritten:

"(c) The hunting licenses issued by the Wildlife Resources Commission are as follows:

(1) Resident State Hunting License – ~~$15.00.~~ $20.00. This license shall be issued only to an individual resident of the State.

(2) Lifetime Resident Comprehensive Hunting License – ~~$250.00.~~ $300.00. This license shall be issued only to an individual resident of the State and is valid for the lifetime of the holder.

~~(3) Resident County Hunting License – $10.00. This license shall be issued only to an individual resident of the State and is valid only in the county of residence of the license holder.~~

(4) Controlled Hunting Preserve Hunting License – ~~$15.00.~~ $20.00. This license shall be issued to an individual resident or nonresident to take only foxes and domestically raised game birds, other than wild turkey, only within a controlled hunting preserve licensed and operated in accordance with G.S. 113-273(g) and implementing rules of the Wildlife Resources Commission.

(5) Resident Annual Comprehensive Hunting License – ~~$30.00.~~ $36.00. This license shall be issued only to an individual resident of the State.

(6) Nonresident State Hunting License. This license shall be issued only to a nonresident. The nonresident State hunting licenses issued by the Wildlife Resources Commission are:

a. Season License – ~~$60.00.~~ $80.00.

b. ~~Six-Day~~ Ten-Day License – ~~$40.00.~~ $60.00. This license is valid for the ~~six~~ ten consecutive dates indicated on the license."

SECTION 4. G.S. 113-270.3 reads as rewritten:

"**§ 113-270.3. Special activity licenses; stamps; big game kill reports.**

(a) In addition to any hunting, trapping, or fishing license that may be required pursuant to G.S. 113-270.1B(a), individuals engaging in specially regulated activities must have the appropriate special activity license and stamp prescribed in this section before engaging in the regulated activity.

(b) The special activity licenses and stamp issued by the Wildlife Resources Commission are as follows:

(1) Resident Big Game Hunting License – ~~$10.00.~~ $13.00. This license shall be issued only to an individual resident of the State and entitles the holder to take big game by all lawful methods and during all open seasons.

(1a) Nonresident Bear Hunting License – ~~$125.00.~~$225.00. This license is valid for use only by an individual within the State and must be procured before taking any bear within the State. Notwithstanding any other provision of law, a nonresident individual may not take any bear within the State without procuring this license; provided, that those persons who have a nonresident lifetime sportsman combination license purchased prior to May 24, 1994, shall not have to purchase this license.

(1b) Bear Management Stamp – $10.00. This electronically generated stamp must be procured before taking any bear within the State. Notwithstanding any other provision of law, a resident or nonresident individual may not take any bear within the State without procuring this stamp; provided, that those persons who have purchased a lifetime license established by G.S. 113-270.1D(b), 113-270.2(c)(2) or 113-351(c)(3) prior to July 1, 2014, and those persons exempt from the license requirements as set forth in

G.S. 113-276(c) and G.S. 113-276(n) shall obtain this stamp free of charge. All of the revenue generated by this stamp shall be dedicated to black bear research and management.

(2) Nonresident Big Game Hunting License. This license shall be issued only to an individual nonresident of the State and entitles the holder to take big game by all lawful methods and during all open seasons. The nonresident big game hunting licenses issued by the Wildlife Resources Commission are:

a. Season License – ~~$60.00.~~ $80.00.

b. ~~Six-Day~~ Ten-Day License – ~~$40.00.~~ $60.00. This license is only valid for the ~~six~~ ten consecutive dates indicated on the license.

...

(5) Migratory Waterfowl Hunting License – ~~$10.00.~~ $13.00. This license shall be issued to an individual resident or nonresident of the State and entitles the holder to take migratory waterfowl in accordance with applicable laws and regulations. The Wildlife Resources Commission may implement this license requirement through the sale of an official waterfowl stamp which may be a facsimile, in an appropriate size, of the waterfowl conservation print authorized by G.S. 113-270.2B. An amount not less than one-half of the annual proceeds from the sale of this license shall be used by the Commission for cooperative waterfowl habitat improvement projects through contracts with local waterfowl interests, with the remainder of the proceeds to be used by the Commission in its statewide programs for the conservation of waterfowl."

SECTION 5. G.S. 113-270.4(b) reads as rewritten:

"(b) The hunting and fishing guide licenses issued by the Wildlife Resources are:

(1) Resident Hunting and Fishing Guide License – ~~$10.00.~~ $15.00. This license is valid for use only by an individual resident of the State.

(2) Nonresident Hunting and Fishing Guide License – ~~$100.00.~~ $150.00. This license is valid for use by a nonresident individual in the State."

SECTION 6. G.S. 113-270.5(b) reads as rewritten:

"(b) The trapping licenses issued by the Wildlife Resources Commission are as follows:

(1) Resident State Trapping License – ~~$25.00.~~ $30.00. This license is valid only for use by an individual resident of the State.

~~(2) Resident County Trapping License – $10.00. This license is valid only for use by an individual resident of the State within the county in which he resides.~~

(3) Nonresident State Trapping License – ~~$100.00.~~ $125.00. This license is valid for use by an individual within the State."

SECTION 7. G.S. 113-271(d) reads as rewritten:

"(d) The hook-and-line fishing licenses issued by the Wildlife Resources Commission are as follows:

(1) Resident Annual Comprehensive Inland Fishing License – ~~$20.00.~~ $25.00. This license shall be issued only to an individual resident of the State.

(2) Resident State Inland Fishing License – ~~$15.00.~~ $20.00. This license shall be issued only to an individual resident of the State.

(3) Lifetime Resident Comprehensive Inland Fishing License – ~~$250.00.~~ $300.00. This license shall be issued only to an individual resident of the State and is valid for the lifetime of the licensee.

~~(4) Resident County Inland Fishing License – $10.00. This license shall be issued only to an individual resident of the State and is valid only within the county of residence of the licensee.~~

(5) Nonresident State Inland Fishing License – ~~$30.00.~~ $36.00. This license shall be issued to an individual nonresident of the State.

(6) Short-Term Inland Fishing Licenses. Short-term inland fishing licenses are valid only for the date or consecutive dates indicated on the licenses. Short-term inland fishing licenses issued by the Wildlife Resources Commission are:

a. Resident 10-day Inland Fishing License – ~~$5.00.~~ $7.00. This license shall be issued only to a resident of the State.

b. Nonresident 10-day Inland Fishing License – ~~$10.00.~~ $18.00. This license shall be issued only to a nonresident of the State.

c. Repealed by Session Laws 2005-455, s. 1.8, effective January 1, 2007.

(6a) Age ~~65~~ 70 Resident Lifetime Inland Fishing License ~~– $15.00.~~ $18.00. This license shall be issued only to an individual resident of the State who is at least ~~65~~ 70 years of age.

(6b) Resident Disabled Veteran Lifetime Inland Fishing License – ~~$10.00.~~ $12.00. This license shall be issued only to an individual who is a resident of the State and who is a fifty percent (50%) or more disabled veteran as determined by the United States Department of Veterans ~~Affairs.~~ Affairs or as established by rules of the Wildlife Resources Commission. This license remains valid for the lifetime of the licensee so long as the licensee remains fifty percent (50%) or more disabled.

(6c) Resident Totally Disabled Lifetime Inland Fishing License ~~– $10.00.~~ $12.00. This license shall be issued only to an individual who is a resident of the State and who is totally and permanently disabled as determined by the Social Security ~~Administration.~~ Administration or as established by rules of the Wildlife Resources Commission. This license remains valid for the lifetime of the licensee.

(7), (8) Repealed by Session Laws 2005-455, s. 1.8, effective January 1, 2007.

(9) Special Landholder and Guest Fishing License – ~~$50.00.~~ $100.00. This license shall be issued only to the landholder of private property bordering inland or joint fishing waters. This license shall entitle the landholder and guests of the landholder to fish from the shore or any pier or dock originating from the property without any additional fishing license. This license is applicable only to private property and private docks and piers and is not valid for any public property, pier, or dock nor for any private property, pier, or dock operated for any commercial purpose whatsoever. This license shall not be in force unless displayed on the premises of the property and only entitles fishing without additional license to persons fishing from the licensed property and then only when fishing within the private property lines. This license is not transferable as to person or location. For purposes of this subdivision, a guest is any individual invited by the landholder to fish from the property at no charge. A charge includes any fee, assessment, dues, rent, or other consideration which must be paid, whether directly or indirectly, in order to be allowed to fish from the property, regardless of the stated reason for such charge."

SECTION 8. G.S. 113-272 reads as rewritten:

"**§ 113-272. Special trout license; mountain heritage trout waters 3-day fishing license.**

...

(d) Special Trout License: Fee. – ~~$10.00.~~ $13.00. This license shall be issued to an individual resident or nonresident of the State and entitles the holder to fish with hook and line in public mountain trout waters.

(e) Mountain Heritage Trout Waters 3-Day Fishing License: Fee. – ~~$5.00.~~ $7.00. This license shall be issued to an individual resident or nonresident of the State and shall entitle the holder to fish in waters designated by the Wildlife Resources Commission as mountain heritage trout waters for the three consecutive days indicated on the license. An individual who holds a mountain heritage trout waters 3-day fishing license does not need to hold a hook-and-line fishing license issued pursuant to G.S. 113-271 in order to fish in mountain heritage trout waters."

SECTION 9. G.S. 113-272.2(c) reads as rewritten:

"(c) The special device licenses issued by the Wildlife Resources Commission are as follows:

~~(1) Resident Noncommercial Special Device License – $10.00. Except as rules of the Wildlife Resources Commission provide for use of equipment by more than one person, this license is valid only for use by an individual resident of the State. It authorizes the taking of nongame fish from inland fishing waters with no more than three special devices authorized by the rules of the Wildlife Resources Commission for use in specified waters. The Wildlife Resources Commission may restrict the user of the license to specified registered equipment, require tagging of items of equipment, charge up to one dollar ($1.00) per tag issued, and require periodic catch data reports. Unless specifically prohibited, nongame fish lawfully taken under this license may be sold.~~

(1a) Resident ~~Commercial~~ Special Device License – ~~$100.00.~~ $75.00. Except as rules of the Wildlife Resources Commission provide for use of equipment by more than one person, this license is valid only for use by an individual resident of the State. It authorizes the taking of nongame fish from inland fishing waters with ~~four or more~~ special devices authorized by the rules of the Wildlife Resources Commission for use in specified waters. The Wildlife Resources Commission may restrict the user of the license to specified registered equipment, require tagging of items of equipment, charge up to one dollar ($1.00) per tag issued, and require periodic catch data reports. Nongame fish lawfully taken under this license may be sold.

~~(2) Nonresident Noncommercial Special Device License – $50.00. Except as rules of the Wildlife Resources Commission provide for use of equipment by more than one person, this license is valid for use only by an individual within the State. It is otherwise subject to the terms and conditions set out in subdivision (1) of this subsection.~~

(2a) Nonresident ~~Commercial~~ Special Device License – ~~$200.00.~~ $500.00. Except as rules of the Wildlife Resources Commission provide for use of equipment by more than one person, this license is valid only for use by an individual within the State. It is otherwise subject to the terms and conditions set out in subdivision (1a) of this subsection.

(3), (4) Repealed by Session Laws 1987, c. 156, s. 11."

SECTION 10. G.S. 113-351(c) reads as rewritten:

"(c) Types of Unified Hunting and Fishing Licenses; Fees; Duration. – The Wildlife Resources Commission shall issue the following Unified Hunting and Fishing Licenses:

(1) Annual Resident Unified Sportsman/Coastal Recreational Fishing License. – ~~$55.00.~~ $65.00. This license is valid for a period of one year from the date of issuance. This license shall be issued only to an individual who is a resident

of the State. This license authorizes the licensee to take all wild animals and wild birds, including waterfowl, by all lawful methods in all open seasons, including the use of game lands; to fish with hook and line for all fish in all inland fishing waters and joint fishing waters, including public mountain trout waters; and to engage in recreational fishing in coastal fishing waters.

(2) Annual Resident Unified Inland/Coastal Recreational Fishing License. – ~~$35.00.~~ $40.00. This license is valid for a period of one year from the date of issuance. This license shall be issued only to an individual who is a resident of the State. This license authorizes the licensee to fish with hook and line for all fish in all inland fishing waters and joint fishing waters, including public mountain trout waters, and to engage in recreational fishing in coastal fishing waters.

(3) Lifetime Unified Sportsman/Coastal Recreational Fishing Licenses. – Except as provided in sub-subdivision f. of this subdivision, a license issued under this subdivision is valid for the lifetime of the licensee. A license issued under this subdivision authorizes the licensee to take all wild animals and wild birds, including waterfowl, by all lawful methods in all open seasons, including the use of game lands; to fish with hook and line for all fish in all inland fishing waters and joint fishing waters, including public mountain trout waters; and to engage in recreational fishing in coastal fishing waters.

a. Infant Lifetime Unified Sportsman/Coastal Recreational Fishing License. ~~$275.00.~~ $315.00. This license shall be issued only to an individual who is younger than one year of age.

b. Youth Lifetime Unified Sportsman/Coastal Recreational Fishing License. ~~$450.00.~~ $520.00. This license shall be issued only to an individual who is one year of age or older but younger than 12 years of age.

c. Resident Adult Lifetime Unified Sportsman/Coastal Recreational Fishing License. – ~~$675.00.~~ $775.00. This license shall be issued only to an individual who is 12 years of age or older but younger than ~~65~~ 70 years of age and who is a resident of the State.

d. Nonresident Adult Lifetime Unified Sportsman/Coastal Recreational Fishing License. – ~~$1,350.~~ $1,550. This license shall be issued only to an individual who is 12 years of age or older and who is not a resident of the State.

e. Resident Age ~~65~~ 70 Lifetime Unified Sportsman/Coastal Recreational Fishing License. – ~~$30.00.~~ $33.00. This license shall be issued only to an individual who is ~~65~~ 70 years of age or older and who is a resident of the State.

f. Resident Disabled Veteran Lifetime Unified Sportsman/Coastal Recreational Fishing License. – ~~$110.00.~~ $60.00. This license shall be issued only to an individual who is a resident of the State and who is a fifty percent (50%) or more disabled veteran as determined by the United States Department of Veterans ~~Affairs.~~ Affairs or as established by rules of the Wildlife Resources Commission. This license remains valid for the lifetime of the licensee so long as the licensee remains fifty percent (50%) or more disabled.

g. Resident Totally Disabled Lifetime Unified Sportsman/Coastal Recreational Fishing License. – ~~$110.00.~~ $60.00. This license shall be issued only to an individual who is a resident of the State and who is totally and permanently disabled as determined by the Social

Security ~~Administration.~~ Administration or as established by rules of the Wildlife Resources Commission.

(4) Lifetime Unified Inland/Coastal Recreational Fishing Licenses. – Except as provided in sub-subdivisions b. and c. of this subdivision, a license issued under this subdivision is valid for the lifetime of the licensee. A license issued under this subdivision authorizes the licensee to fish with hook and line for all fish in all inland fishing waters and joint fishing waters, including public mountain trout waters, and to engage in recreational fishing in coastal fishing waters.

a. Resident Lifetime Unified Inland/Coastal Recreational Fishing License. – ~~$450.00.~~ $500.00.

b. Resident Legally Blind Lifetime Unified Inland/Coastal Recreational Fishing License. – No charge. This license shall be issued only to an individual who is a resident of the State and who has been certified by the Department of Health and Human Services as an individual whose vision with glasses is insufficient for use in ordinary occupations for which sight is essential. This license remains valid for the lifetime of the licensee so long as the licensee remains legally blind.

c. Resident Adult Care Home Lifetime Unified Inland/Coastal Recreational Fishing License. – No charge. This license shall be issued only to an individual who is a resident of the State and who resides in an adult care home as defined in G.S. 131D-2.1 or G.S. 131E-101(1). This license remains valid for the lifetime of the licensee so long as the licensee remains a resident of an adult care home."

SECTION 11. G.S. 113-174.2(c) reads as rewritten:

"(c) Types of CRFLs; Fees; Duration. – The Wildlife Resources Commission shall issue the following CRFLs:

...

(6) Lifetime CRFLs. – Except as provided in sub-subdivision j. of this subdivision, CRFLs issued under this subdivision are valid for the lifetime of the licensee.

...

g. Resident Adult Lifetime CRFL. – $250.00. This license shall be issued only to an individual who is 12 years of age or older but younger than ~~65~~ 70 years of age and who is a resident of the State.

...

i. Resident Age ~~65~~ 70 Lifetime CRFL. – $15.00. This license shall be issued only to an individual who is ~~65~~ 70 years of age or older and who is a resident of the State.

..."

SECTION 12. G.S. 113-291.1(b) reads as rewritten:

"(b) No wild animals or wild birds may be taken:

(1) From or with the use of any vehicle; vessel, other than one manually propelled; airplane; or other conveyance except that the use of vehicles and vessels is authorized:

a. As hunting stands, subject to the following limitations. No wild animal or wild bird may be taken from any vessel under sail, under power, or with the engine running or while still in motion from such propulsion. No wild animal or wild bird may be taken from any

vehicle if it is in motion, the engine is running, or the passenger area of the vehicle is occupied. The prohibition of occupying the passenger area of a vehicle does not apply to a disabled individual whose mobility is restricted.

b. For transportation incidental to the taking.

(2) With the use or aid of any artificial light, net, trap, snare, electronic or recorded animal or bird call, or fire, except as may be otherwise provided by statute[;] provided, however, that the Wildlife Resources Commission may adopt rules prescribing seasons and the manner of taking of wild animals and wild birds with the use of artificial light and electronic calls. No wild birds may be taken with the use or aid of salt, grain, fruit, or other bait. No black bear may be taken with the use or aid of any salt, salt lick, grain, fruit, honey, sugar-based material, animal parts or products, or other bait, ~~and no~~ except as provided by the rules of the Wildlife Resources Commission. However, no rule established by the Wildlife Resources Commission shall allow for the taking of a black bear with the use and aid of bear bait attractants, including scented sprays, aerosols, scent balls, and scent powders, and no rule established by the Wildlife Resources Commission shall allow for the taking of a black bear while it is consuming bait. No wild turkey may be taken from an area in which bait has been placed until the expiration of 10 days after the bait has been consumed or otherwise removed. The taking of wild animals and wild birds with poisons, drugs, explosives, and electricity is governed by G.S. 113-261, G.S. 113-262, and Article 22A of this Subchapter.

Upon finding that the placement of processed food products in areas frequented by black bears is detrimental to the health of individual black bears or is attracting and holding black bears in an area to the extent that the natural pattern of movement and distribution of black bears is disrupted and bears' vulnerability to mortality factors, including hunting, is increased to a level that causes concern for the population, the Wildlife Resources Commission may adopt rules to regulate, restrict, or prohibit the placement of those products and prescribe time limits during which hunting is prohibited in areas where those products have been placed.

Any person who is convicted of unlawfully taking bear with the use or aid of any type of bait as provided by this subsection or by rules adopted pursuant to this subsection is punishable as provided by G.S. 113-294(c1)."

SECTION 13. Chapter 828 of the 1981 Session Laws is repealed.

SECTION 14. G.S. 113-276 reads as rewritten:

"**§ 113-276. Exemptions and exceptions to license and permit requirements.**

(a), (b) Repealed by Session Laws 1979, c. 830, s. 1.

(c) Except as otherwise provided in this Subchapter, every landholder, his spouse, and dependents under 18 years of age residing with him may take wildlife upon the land held by the landholder without any license required by G.S. 113-270.1B or G.S. 113-270.3(a), except that such persons are not exempt from the bear management stamp established in G.S. 113-270.3(b)(1b) and the falconry license described in G.S. 113-270.3(b)(4).

...

(n) The Wildlife Resources Commission may adopt rules to exempt individuals from the hunting and fishing license requirements of G.S. 113-270.1B, 113-270.3(b)(1), 113-270.3(b)(1a), 113-270.3(b)(1b), 113-270.3(b)(2), 113-270.3(b)(3), 113-270.3(b)(5), 113-271, 113-272, and 113-272.2(c)(1) who participate in organized hunting and fishing events for the specified time and place of the event when the purpose of the event is consistent with

the conservation objectives of the Commission. A person exempted from licensing requirements under this subsection is responsible for complying with any reporting requirements prescribed by rule of the Wildlife Resources Commission, purchasing any federal migratory waterfowl stamps as a result of waterfowl hunting activity, and complying with any other requirements that the holder of a North Carolina license is subject to. Those exempted persons shall comply with the hunter safety requirements of G.S. 113-270.1A or shall be accompanied by a properly licensed adult who maintains a proximity to the license exempt individual which enables the adult to monitor the activities of, and communicate with, the individual at all times."

SECTION 15. G.S. 113-270.1(b) reads as rewritten:

"(b) License agents may ~~deduct from the amount collected for each license or permit a fee of six percent (6%).~~ charge a fee of two dollars ($2.00) per transaction for licenses or permits issued."

SECTION 16. G.S. 113-270.1B is amended by adding a new subsection to read:

"(c) For those licenses sold directly through the Commission by telephone, mail, online, or at a service counter, the Commission may charge a fee of two dollars ($2.00) per transaction. A fee may not be charged by the Commission for federal Harvest Information Program (HIP) certification, big game harvest report cards for lifetime license holders, exempt landowners, persons of less than 16 years of age, or for any other license or vessel transactions for which there is no charge."

SECTION 17. G.S. 75A-5.2(c) reads as rewritten:

"(c) As compensation for services rendered to the Commission and to the general public, vessel agents shall receive the following specified commission from the statutory fee for each listed transaction:

(1) Renewal of certificate of number – ~~$1.25.~~ $3.00.
(2) Transfer of ownership and certificate of number – ~~$3.00.~~ $5.00.
(3) Issuance of new certificate of number – ~~$3.00.~~ $5.00.
(4) Issuance of duplicate certificate of number – ~~$0.50.~~ $3.00.
(5) Issuance or transfer of certificate of title – ~~$3.00.~~ $5.00.

SECTION 18. Article 24 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-249.1. Operating budget.**

No more than twenty-five percent (25%) of the certified operating budget of the Wildlife Resources Commission shall be allowed to accumulate in a cash balance. It is the intent of the General Assembly to implement in any subsequent fiscal year a nonrecurring reduction in an amount equal to the cash balance that exceeds twenty-five percent of the authorized operating budget in the prior fiscal year."

SECTION 19. G.S. 143-250.1 is amended by adding a new subsection to read:

"(f1) At all times during which the cash balance in the Wildlife Endowment Fund is equal to or greater than the sum of one hundred million dollars ($100,000,000), the Wildlife Resources Commission shall budget at least fifty percent (50%) of the annual expendable interest from the Fund, as determined by the Board of Trustees of the Fund, to implement the conservation goals set forth in the Wildlife Resource Commission's strategic plan."

SECTION 20.(a). Effective January 1, 2015, the statutory fees for the hunting, fishing, trapping, and activity licenses issued and administered by the Wildlife Resources Commission shall remain at the levels existing on that date until the rules required to be adopted pursuant to subsection (b) of this section become effective.

SECTION 20.(b). The Wildlife Resources Commission shall adopt rules to establish fees for the hunting, fishing, trapping, and activity licenses issued and administered by the Wildlife Resources Commission. No rule to increase fees above January 1, 2015, levels

may increase a fee in excess of the average increase in the Consumer Price Index for All Urban Consumers over the preceding five years.

SECTION 20.(c). The statutory fees for the hunting, fishing, trapping, and activity licenses issued and administered by the Wildlife Resources Commission shall expire when the rules adopted pursuant to subsection (b) of this section become effective.

SECTION 21. All discounted licenses for persons at least 65 years of age provided for in G.S. 113-270.1D(b), G.S. 113-271(d), G.S. 113-351(c), and G.S. 113-174.2(c) for which the age requirement is increased from 65 to 70 by Sections 2, 7, 10, and 11 of this act shall remain available at age 65 for all persons who were born on or before August 1, 1953.

SECTION 22. Sections 1 through 11 and Sections 14 and 21 of this act become effective August 1, 2014. Sections 12 and 13 are effective when they become law. Sections 15, 16, 17, and 18 of this act become effective January 1, 2014. Section 20 becomes effective January 1, 2015. The remainder of this act becomes effective July 1, 2013.

HOUSE BILL 296: Omnibus Wildlife Resources Commission Act.-AB

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 26, 2013
Introduced by:	Reps. J. Bell, Moffitt, S. Martin, Wray	**Prepared by:**	Heather Fennell Committee Counsel
Analysis of:	PCS to Second Edition H296-CSLL-27		

SUMMARY: ***The PCS would make the following changes as requested by the Wildlife Resources Commission:***

- ***Adjust fees for certain hunting and fishing licenses.***
- ***Repeal county hunting, fishing, and trapping licenses.***
- ***Repeal the noncommercial special device license.***
- ***Establish a black bear management stamp and repeal a local act prohibiting the taking of black bear with bait.***
- ***Adjust the age for discounted special licenses from age 65 to age 70.***
- ***Beginning 2015, authorize the Wildlife Resources Commission to adjust hunting and fishing license fees through rulemaking.***
- ***Replace the current 6% wildlife service agent commission fee to a $2 transaction fee. Also raises the fees for vessel agents.***
- ***Authorizes the Commission to collect a $2 service fee for the sale of licenses sold directly through the Commission.***
- ***Limit the percentage of the operating budget the Commission may keep in reserve.***
- ***Provide an annual target for utilization for the annual expendable interest of the wildlife endowment fund.***

BILL ANALYSIS:

The following fees for licenses are increased or decreased as follows:

Type	Current Fee	Proposed Increase
Resident Annual Combination Hunting and Island Fishing	$20	$25
Resident Disabled Veteran Lifetime Combination Hunting and Island Fishing	$10	$12
Resident Totally Disabled Lifetime Combination Hunting and Island Fishing	$10	$12
Annual Sportsman	$40	$50
Infant Lifetime Sportsman	$200	$240

Youth Lifetime Sportsman	$350		$420	
Adult Resident Lifetime Sportsman	$500		$600	
Nonresident Lifetime Sportsman	$1000		$1200	
Age 70 Resident Lifetime Sportsman	$15		$18	
Resident Disabled Veteran Lifetime Sportsman	$100		$50	
Resident Totally Disabled Lifetime Sportsman	$100		$50	
Resident State Hunting	$15		$20	
Lifetime Resident Comprehensive Hunting	$250		$300	
Controlled Hunting Preserve Hunting License	$15		$20	
Resident Annual Comprehensive Hunting	$30		$36	
Nonresident State Hunting License	Season $60	Ten Day $40	Season $80	Ten Day $60
Resident Big Game Hunting	$10		$13	
Nonresident Bear Hunting	$125		$225	
Bear Management Stamp	New		$10	
Non Resident Big Game Hunting	Season $60	Ten Day $40	Season $80	Ten Day $60
Resident Hunting and Fishing Guide	$10		$15	
Nonresident Hunting and Fishing Guide	$100		$150	
Resident State Trapping License	$25		$30	
Nonresident State Trapping License	$100		$125	
Resident Annual Comprehensive Inland Fishing	$20		$25	
Resident State Inland Fishing	$15		$20	
Lifetime Resident Comprehensive Inland Fishing	$250		$300	
Nonresident State Inland Fishing	$30		$36	
Short-term Inland Fishing – 10 day	Res $5	Non-res $10	Res $7	Non-res $18
Resident Lifetime Inland Fishing	$15		$18	
Resident Disabled Veteran Lifetime Inland Fishing	$10		$12	
Special Landholder and Guest Fishing License	$50		$100	
Special Trout	$10		$13	
Mountain Heritage Trout Waters 3-Day	$5		$7	
Resident Special Devise License	$100		$75	

Nonresident Special Devise License	$200	$500
Annual Resident Unified Hunting and Fishing	$55	$65
Annual Resident Unified Inland/ Coastal Recreation Fishing	$35	$40
Infant Lifetime Unified Sportsman/Coastal Recreational Fishing	$275	$315
Youth Lifetime Unified Sportsman/Coastal Recreational Fishing	$450	$520
Resident Adult Lifetime Unified Sportsman/Coastal Recreational Fishing	$675	$775
Nonresident Adult Lifetime Unified Sportsman/Coastal Recreational Fishing	$1350	$1550
Age 70 Resident Lifetime Unified Sportsman/Coastal Recreational Fishing	$30	$33
Resident Disabled Veteran Lifetime Unified Sportsman/Coastal Recreational Fishing	$110	$60
Resident Totally Disabled Lifetime Unified Sportsman/Coastal Recreational Fishing	$110	$60
Resident Lifetime Unified Inland/Coastal Recreational Fishing	$450	$500

The PCS also makes the following additional changes:

Repeal of licenses. – The following types of licenses are repealed:

- County hunting, fishing, and trapping licenses.
- The noncommercial special device license.

Black bears. – The PCS authorizes the Commission to establish an electronically generated stamp for the taking of a bear within the State. No individual could take a black bear without first purchasing a stamp. Individuals with lifetime licenses purchased prior to July 1, 2014, will not be charged for the stamp. The PCS also repeals a local act prohibiting the taking of black bear with bait.

Discounted license changes. – The PCS makes changes for 2 categories of licenses that offered at a discounted rate to qualifying individuals:

- Under current law, individuals that are over 65 are eligible for discounted licenses. The PCS raises the age for the discount to 70. The PCS provides this section will apply to individuals born after August 1, 1953.
- Under current law, disabled veterans as determined by the US Department of Veteran Affairs, and totally permanently disabled individuals as determined by the Social Security Administration are eligible for discounted licenses. The PCS allows the Commission to adopt rules to establish eligibility criteria to allow additional individuals to qualify for the discounted licenses.

Fees set in rules. – Section 20 of the PCS authorizes the Commission to set the fees for hunting and fishing licenses through rulemaking. The current fees would remain in effect until the new rules are established. Upon adoption of the new fees in rules, the current statutes establishing the fees would no longer apply. The fee increases authorized in the rulemaking process must not exceed the average increase in the Consumer Price Index for the preceding five years.

Fees for agents. – Current law authorizes the Commission to appoint license agents to issue license and permits. The agents are compensated at the rate of 6% per license or permit fee collected. The PCS changes the remuneration for agents to $2 per transaction.

Current law also authorizes the Commission to allow vessel agents to collect fees related to boating. The PCS raises the following fees:

Renewal of certificate of number – increased to $3 from $1.25
Transfer of ownership and certificate of number – increased to $5 from $3
Issuance of new certificate of number – increased to $5 from $3
Issuance of duplicate certificate of number – increased to $3 from 50¢
Issuance or transfer of certificate of title – increased to $5 from $3

Fee for the Commission. – The PCS authorizes the Commission to charge a $2 fee for licenses sold through the Commission by telephone, mail, online, or at a service counter.

Reserves. – Section 18 of the PCS limits the Commission to accumulating no more than 25% of the its operating budget in a cash balance. The General Assembly will reduce the operating budget in any subsequent fiscal year in an amount equal to the cash balance that exceeds 25% percent.

Endowment. - Current law establishes a Wildlife Endowment Fund. Section 19 of the PCS authorizes the Commission to budget 50% of the expendable interest of the Fund to implement conservation goals if the Fund is greater than $100 million.

EFFECTIVE DATE: The license fee increases are effective August 1, 2014. The increase in collection fees are effective January 1, 2014. The authority to establish fees and future increase in rules is effective January 1, 2015.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: June 26, 2013
TO: Senate Finance Chairs
FROM: Jennifer Hoffmann, Fiscal Research Division
RE: PCS H296-CSLL-27 [v.5], Omnibus Wildlife Resources Commission Act

FISCAL IMPACT
($ in millions)

☑ Yes ☐ No ☐ No Estimate Available

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
State Impact:					
General Fund Revenues:	to	to	to	to	to
General Fund Expenditures:	to	to	to	to	to
Special Fund Revenues:	2.6 to 4.8	2.1 to 4.6	2.1 to 4.6	2.1 to 4.6	2.1 to 4.6
Special Fund Expenditures:	to	to	to	to	to
State Positions:	to	to	to	to	to
NET STATE IMPACT	**$2.6 to $4.8**	**$2.1 to $4.6**	**$2.1 to $4.6**	**$2.1 to $4.6**	**$2.1 to $4.6**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Wildlife Resources Commission

EFFECTIVE DATE: Fees effective date Janaury 1, 2014.

TECHNICAL CONSIDERATIONS: None

BILL SUMMARY: The Proposed Committee Substitute (PCS) to HB 296, Omnibus Wildlife Resources Commission Act, adjusts certain hunting, fishing, trapping, and activity licenses issued by the Wildlife Resources Commission (WRC), and makes the fee changes effective January 1, 2014. It requires the WRC to adopt rules to establish fees for hunting, fishing, trapping and activity licenses and limits the increase in fees to the January 1, 2015 level plus the average of the CPI for All Urban Consumers over the preceding five years. The statutory fees expire when the WRC rules become effective. It also adjusts service agent commission fees and transaction fees charged by WRC. The PCS also amends the WRC statutes to limit the amount of revenue that can accumulate in a cash balance, and requires WRC to budget at least 50% of the annual expendable interest from the Wildlife Endowment Fund when the Endowment exceeds $100 million.

ASSUMPTIONS AND METHODOLOGY: In calculating the fiscal impact of the fees proposed in this PCS, this fiscal memo uses the following assumptions:

1. The fee increases in the PCS, especially the fee increases for the lifetime licenses, will deter a certain percentage of hunters, anglers, and sportsmen from purchasing licenses (buyer resistance). Because the percentage of users who will change their behavior due to the fee increases is unknown, this fiscal memo uses a range from 10% to 20% to calculate the net revenue.
2. The proposed fee increases may cause some hunters, anglers and sportsmen who were inclined to purchase lifetime licenses, but still undecided, to go ahead and purchase the lifetime license before the fee increase goes into effect causing a one-time bump in lifetime license sales. This number of purchasers is unknown, but this fiscal memo uses a range of 10% to 20% in one-time increased lifetime license sales.
3. 10% of the Annual Sportsman License holders will move to the Annual Comprehensive Hunting License and the Annual Comprehensive Fishing License at a 50%-50% ratio.
4. 100% of the County Hunting License holders and County Inland Fishing License holders move to State Hunting and State Fishing Licenses.
5. 100% of the County Trapping License holders will move to the State Trapping License.
6. 100% of the Special Device License holders will remain constant.

Tables 2 and 3 show the fiscal impact of the proposed fee changes on annual and lifetime license sales and revenue. The tables include current license fees, the number of licenses sold, the proposed license fees and the range of licenses to be sold taking in consideration buyer resistance from 10% to 20% due the fee increases.

The PCS also amends the current statute regarding the commission fee paid to Wildlife Service Agents and Vessel Agents (collectively, service agents). Currently, service agents may deduct a portion of the fee collected for each license, boat registration and title sold. This lowers the amount of the fee available to the WRC. The PCS allows service agents to charge and retain a transaction fee in addition to the license, registration or title fee. This change allows WRC to collect the full amount of the license, boat registration and title fees and will result in additional revenue for the Commission. The PCS also allows the WRC to charge a $2.00 fee per transaction for licenses sold directly through the Commission by telephone, mail, online or at a service counter. The estimated amount of additional revenue collected by WRC is shown on the summary table below.

SOURCES OF DATA: Wildlife Resources Commission

Table 1:

Summary of License Fee and Wildlife Service Agent (WSA) Commission Fee Changes		
Annual License Fee Adjustments		
Current Fee Revenue Generated	16,175,668	16,175,668
Projected Range of Revenue Due to Fee Changes	18,752,160	16,668,587
Buyer Resistance Level	10.0%	20.0%
Net Revenue	**2,576,492**	**492,919**
Lifetime License Fee Adjustments		
Current Fee Revenue Generated	2,492,683	2,492,683
Projected Range of Revenue Due to Fee Changes	2,654,045	2,359,151
Buyer Resistance Level	10.0%	20.0%
Net Revenue	**161,362**	**(133,532)**
One-time Bump in Lifetime Sales (FY 2013-14 only)	249,268	498,537
Net Revenue FY 2013-14 only	**410,630**	**365,005**
Change from service agent commissions to Transaction Fee		
Commission fees no longer collected by service agents	1,212,261	1,212,261
WRC $2.00 transaction fee for licenses sold	609,065	537,288
Total Estimated Revenue Range:	**$ 4,559,180**	**$ 2,108,936**

Note: Total does not include FY 2013-14 one-time bump.

Ta	WRC Licenses	Current Fee	Average Licenses Sold	ed	10% Buyer's Resistance	Total Revenue Generated	Proposed Fee	20% Buyer's Resistance	Tot G	ue d
PCS Section	**Inland Fishing**		**Number**	**Price**	**Number**	**Revenue**	**Price**	**Number**		**Revenue**
Section 7(d)(1)	Comprehensive Fish	20.00	92,300	25.00	83,070	2,076,744	25.00	73,840		1,845,995
Section 7(d)(2)	- Res State Fish	15.00	220,308	20.00	198,277	3,965,535	20.00	176,246		3,524,920
Section 8(d)	* Special Trout Fishing	10.00	32,050	13.00	28,845	374,979	13.00	25,640		333,315
Section 7(d)(5)	Nonres State Fish	30.00	24,528	36.00	22,075	794,707	36.00	19,622		706,406
Section 8(e)	Mtn Heritage Trout 3-Day Fish	5.00	594	7.00	534	3,739	7.00	475		3.324
Section 7(d)(6)a	Res State Fish 10-Day	5.00	23,965	7.00	21,569	150,980	7.00	19,172		134.204
Section 7(d)(6)b	Nonres State Fish 10-Day	10.00	49,174	18.00	44,257	796,619	18.00	39,339		708,106
Section 9(c)(1a)	Res Spec Device	100.00	1,543	75.00	1,388	104,119	75.00	1,234		92,550
Section 9(c)(2a)	Nonres Spec Device	200.00	31	500.00	28	13,950	500.00	25		12,400
Section 7(d)(9)	Special Guest Fishing	50.00	905	100.00	814	81,405	100.00	724		72,360
PCS Section	**Hunting**		**Number**	**Price**	**Number**	**Revenue**	**Price**	**Number**		**Revenue**
Section 3(c)(5)	Comprehensive Hunt	30.00	15,702	36.00	14,132	508,737	36.00	12,561		452,210
Section 3(c)(1)	- Res State Hunt	15.00	33,616	20.00	30,254	605,079	20.00	26,892		537,848
Section 4(b)(1)	* Res Big Game	10.00	34,465	13.00	31,019	403,241	13.00	27,572		358,436
Section 4(b)(5)	* Waterfowl	10.00	5,472	13.00	4,925	64,022	13.00	4,378		56,909
Section 4(b)(3)	* Game Lands	15.00	3,695	15.00	3,325	49,876	15.00	2,956		44.334
Section 3(c)(6)a	Nonres State Hunt	60.00	6,153	80.00	5,537	442,980	80.00	4,922		393,760
Section 4(b)(2)a	Nonres Big Game	60.00	4,383	80.00	3,944	315,540	80.00	3,506		280,480
Section 4(b)(1a)	Nonres Bear	125.00	776	225.00	698	157,039	225.00	620		139,590
Section 4(b)(1b)	Bear Management Stamp	-	12,800	10.00	11,520	115,200	10.00	10,240		102,400
Section 3(c)(6)b	Nonres State Hunt 10-Day	40.00	7,295	60.00	6,565	393,903	60.00	5,836		350,136
Section 4(b)(2)b	Nonres Big Game 10-Day	40.00	4,710	60.00	4,239	254,313	60.00	3,768		226,056
Section 4(b)(2a)	Bonus Antlerless Deer	10.00	4,374	10.00	3,936	39,362	10.00	3,499		34,988
Section 5(b)(1)	Res Hunt/Fish Guide License	10.00	1,326	15.00	1,193	17,894	15.00	1,060		15,906
Section 5(b)(2)	Nonres Hunt/Fish Guide Lic.	100.00	49	150.00	44	6,548	150.00	39		5,820
Section 3(c)(4)	Controlled Hunt Preserve	15.00	1,203	20.00	1,083	21,654	20.00	962		19,248
PCS Section	**Combo Hunting & Fishing**		**Number**	**Price**	**Number**	**Revenue**	**Price**	**Number**		**Revenue**
Section 1(b)(1)	Hunt/fish Combo	20.00	17,370	25.00	15,633	390,814	25.00	13,896		347,390
Section 2(a)	Sportsman	40.00	145,499	50.00	130,949	6,547,433	50.00	116,399		5,819,940
PCS Section	**Trapping**		**Number**	**Price**	**Number**	**Revenue**	**Price**	**Number**		**Revenue**
Section 6(b)(1)	Res State Trap	25.00	1,944	30.00	1,750	52,488	30.00	1,555		46,656
Section 6(b)(3)	Nonres State Trap	100.00	29	125.00	26	3,263	125.00	23		2,900

	Licenses Sold at 10% Buyer's Resistance	Total Revenue	Licenses Sold at 20% Buyer's Resistance	Total Revenue
Range of Licenses Sold and Revenue Generated	**671,625**	**18,752,160**	**597,000**	**$ 16,668,587**

Baseline Revenue	16,175,668	$ 16,175,668
Net Increase	2,576,492	$ 492,919

Note: The Annual Unified/Coastal Recreational Fishing Licenses found in Section 10 of the PCS are not listed separately on this table. The number of unified licenses sold by type have been combined with the corresponding annual "non-unified" licenses. The fee increases are the same in all cases.

Table 3: Wildlife Resources Commission Lifetime Licenses and Sales

	License Sales and Revenue	BASELINE DATA			CALCULATED DATA			CALCULATED DATA		
PCS Section	WRC Lifetime Licenses	Current Fee	Average # Licenses Sold	Baseline Revenue	Proposed Fee	No Buyer's Resistance	Estimated Revenue	Price	20% Buyer's Resistance	Estimated Revenue
Section 2(b)(1)	Infant	200.00	5,344	1,068,800	240.00	4,810	1,154,304	240.00	4.275	1,026,048
Section 2(b)(2)	Youth	350.00	794	277,900	420.00	715	300,132	420.00	635	266,784
Section 2(b)(3)	Adult	500.00	1,059	529,250	600.00	953	571,590	600.00	847	508,080
Section 2(b)(4)	Non Resident Adult	1000.00	74	73,500	1200.00	66	79,380	1200.00	59	70,560
Section 7(d)(3)	Adult Lifetime Fishing	250.00	370	92,500	300.00	333	99,900	300.00	296	88,800
Section 3(c)(3)	Adult Lifetime Hunting	250.00	383	95,750	300.00	345	103,410	300.00	306	91,920
Section 7(d)(6a)	Res Age 70 Inland Fish	15.00	8,229	123,435	18.00	7,406	133,310	18.00	6,583	118,498
Section 2(b)(5)	Res Age 70 Sportsman	15.00	10,068	151,013	18.00	9,061	163,094	18.00	8,054	144,972
Section 7(d)(6c)	Res Disabled Inland Fish	10.00	1,458	14,575	12.00	1,312	15,741	12.00	1,166	13,992
Section 7(d)(6b)	Res Disabled Veteran Inland Fish	10.00		0	12.00	0	0	12.00	0	0
Section 1(b)(6) & Sec 1(b)(5)	Res Disabled Hunt/Inland Fish & Res Disabled Veteran Combo	10.00	556	5,560	12.00	500	6,005	12.00	445	5.338
Section 2(b)(8)	Res Disabled Sportsman	100.00	604	60,400	50.00	544	27,180	50.00	483	24,160
Section 2(b)(7)	Res Disabled Veteran Sportsman	100.00		0	50.00	0	0	50.00	0	0
	Total		**28,937**	**2,492,683**		**26,043**	**2,654,045**		**23,150**	**2,359,151**
	Net Revenue						161.363			(133,531)

Note: The Lifetime Unified/Coastal Recreational Fishing Licenses found in Section 10 of the PCS are not listed separately on this table. The number of unified licenses sold by age and type have been combined with the corresponding lifetime "non-unified" licenses. The fee increases are the same in all cases.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 296

AMENDMENT NO. 1
(to be filled in by Principal Clerk)

H296-ATD-84 [v.2]

Comm. Sub. [YES]
Amends Title [NO]
Second Edition

Date June 26 ,2013

Senator Brown

moves to amend the bill on page 10, line 22 through 24, by rewriting the lines to read:

"(c) As compensation for services rendered to the Commission and to the general public, vessel agents shall receive the ~~following specified commission from the statutory fee for each listed transaction:~~ the surcharge listed below. The surcharge shall be added to the fee for each certificate issued. ".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED X FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H 2

HOUSE BILL 951
Committee Substitute Favorable 6/12/13

Short Title: Eliminate Tax Designation for Political Party. (Public)

Sponsors:

Referred to:

April 17, 2013

A BILL TO BE ENTITLED

AN ACT TO ELIMINATE THE DESIGNATION ON A TAX RETURN BY AN INDIVIDUAL FOR THE NORTH CAROLINA POLITICAL PARTIES FINANCING FUND.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 105-159.1 is repealed.

SECTION 1.(b) This section is effective for taxable years beginning on or after January 1, 2013, and elections made under G.S. 105-159.1 on or after January 1, 2014, are void.

SECTION 2.(a) Article 22B of Chapter 163 of the General Statutes is repealed.

SECTION 2.(b) This section becomes effective upon exhaustion of the funds in the North Carolina Political Parties Financing Fund.

SECTION 3. Except as otherwise provided, this act is effective when it becomes law.

HOUSE BILL 951:
Eliminate Tax Designation for Political Party

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 26, 2013
Introduced by:	Reps. Riddell, Whitmire, Burr, Brody	**Prepared by:**	Heather Fennell Committee Counsel
Analysis of:	Second Edition		

SUMMARY: HB 951 would eliminate the North Carolina Political Parties Financing Fund.

CURRENT LAW: G.S. 105-159.1 allows individuals to designate on their tax returns $3 to be credited to the North Carolina Political Parties Financing Fund (Fund) for the use of the political party that the taxpayer designates. If a taxpayer does not designate a political party, the funds are distributed on a pro rata basis based on party registration among the political parties.

Article 22B of Chapter 163 provides for the process for appropriations from the Fund, provides for certain uses of the funds, and requires annual reporting on use of the funds by the State party chairs to the State Board of Elections.

BILL ANALYSIS: HB 951 would eliminate the North Carolina Political Parties Financing Fund by repealing G.S. 105-159.1 and Article 22B of Chapter 163.

EFFECTIVE DATE: HB 951 would be effective for taxable years beginning on or after January 1, 2013.

Kara McCraw, counsel to House Elections substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Fiscal Note

BILL NUMBER: House Bill 951 (First Edition)

SHORT TITLE: Eliminate Tax Designation for Political Party.

SPONSOR(S): Representatives Riddell, Whitmire, Burr, and Brody

FISCAL IMPACT

($ in millions)

☑ Yes ☐ No ☐ No Estimate Available

State Impace State Board of Elections	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
General Fund Revenues:	2.0	2.0	2.0	2.0	2.0
General Fund Expenditures:					
Special Fund Revenues:	(2.0)	(2.0)	(2.0)	(2.0)	(2.0)
Special Fund Expenditures:	(2.0)	(2.0)	(2.0)	(2.0)	(2.0)
State Positions:					
NET STATE IMPACT	**$2.0**	**$2.0**	**$2.0**	**$2.0**	**$2.0**

Local Impact					
Revenues:					
Expenditures:					
NET LOCAL IMPACT	**$0.0**	**$0.0**	**$0.0**	**$0.0**	**$0.0**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:
State Board of Elections

EFFECTIVE DATE January 1, 2013

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY:

House Bill 951 would repeal GS 105-159.1 which allows for a designation of tax by individuals to the North Carolina Political Parties Financing Fund. The funds go to the political party designated by the taxpayer.

ASSUMPTIONS AND METHODOLOGY:
A taxpayer whose income tax liability is $3 or more may designate $3 of the tax to the North Carolina Political Parties Financing Fund. Couples who are filing a joint return may designate $3 each if their tax liability is at least $6.

Based on the most recent Biennial Tax Expenditure Report produced by the NC Department of Revenue, the annual revenue that is designated for the Fund is approximately $2 million. H951 would not affect revenue collections, but would eliminate the designation of tax revenue for this purpose. Because the funds would remain in the General Fund instead of being designated to the NC Political Parties Financing Fund, the result is a $2 million increase to the General Fund.

State Board of Elections (SBOE)

1. The Fund currently pays for 1.5 full time equivalent positions at SBOE. Those positions are:

   1 FTE General Accounts Auditor 1 position, $54,811(salary and benefits)
   .52 FTE Deputy Director of Campaign Finance, $54,430 (52% of salary and benefits)

2. SBOE paid out over $2.5 million from the Political Parties Financing Fund and NC Presidential Election Year Fund.

SOURCES OF DATA: State Board of Elections

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Rodney Bizzell and Lisa Hollowell

APPROVED BY:

Mark Trogdon, Director
Fiscal Research Division

DATE: June 4, 2013

Signed Copy Located in the NCGA Principal Clerk's Offices

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S 1

SENATE BILL 261

Short Title:	Sales Tax Refund for Regional Jails.	(Public)
Sponsors:	Senators Jenkins (Primary Sponsor); and Walters.	
Referred to:	Finance.	

March 13, 2013

A BILL TO BE ENTITLED

AN ACT TO ALLOW A SALES TAX REFUND FOR REGIONAL JAILS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.14(c) is amended by adding a new subdivision to read:

"(c) Certain Governmental Entities. – A governmental entity listed in this subsection is allowed an annual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services, other than electricity, telecommunications service, and ancillary service. Sales and use tax liability indirectly incurred by a governmental entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the governmental entity and is being erected, altered, or repaired for use by the governmental entity is considered a sales or use tax liability incurred on direct purchases by the governmental entity for the purpose of this subsection. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the governmental entity's fiscal year.

This subsection applies only to the following governmental entities:

...

(25) A district confinement facility created pursuant to G.S. 153A-219, including a local act modifying G.S. 153A-219."

SECTION 2. This act becomes effective July 1, 2013, and applies to sales made on or after that date.

SENATE BILL 261:
Sales Tax Refund for Regional Jails

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 26, 2013
Introduced by:	Sen. Jenkins	**Prepared by:**	Heather Fennell Committee Counsel
Analysis of:	First Edition		

SUMMARY: Senate Bill 261 would authorize a sales tax refund for regional jails.

CURRENT LAW: A local confinement facility is a county or city jail, a local lockup, a regional or district jail, a juvenile detention facility, a detention facility for adults operated by a local government, and any other facility operated by a local government for confinement of persons awaiting trial or serving sentences. G.S. 153A-219 authorizes two or more units of local government to enter into an agreement to establish and operate a district confinement facility.

G.S. 105-164.14 authorizes certain governmental entities to receive an annual refund of certain sales and use taxes paid on direct purchases of tangible personal property and services. The certain governmental entities entitled to a refund are:

- Counties
- Cities
- Metropolitan sewerage districts or a metropolitan water districts
- Water and sewer authorities created under Chapter 162A
- Lake authorities created by a board of county commissioners pursuant to an act of the General Assembly
- Sanitary districts
- Regional solid waste management authority created pursuant to G.S. 153A-421
- Area mental health, developmental disabilities, and substance abuse authority, other than a single-county area authority, established pursuant to Article 4 of Chapter 122C
- District health departments, or a public health authorities created pursuant to Part 1A of Article 2 of Chapter 130A of the General Statutes
- Regional councils of governments
- Regional planning and economic development commissions or a regional economic development commission created under Chapter 158
- Regional planning commissions created pursuant to G.S. 153A-391
- Regional sports authorities created pursuant to G.S. 160A-479
- Public transportation authorities created pursuant to Article 25 of Chapter 160A Facility authorities created pursuant to Part 4 of Article 20 of Chapter 160A
- Regional public transportation authorities created pursuant to Article 26 of Chapter 160A, or a regional transportation authority created pursuant to Article 27 of Chapter 160A
- Local airport authorities was created pursuant to a local act of the General Assembly
- Joint agencies created by interlocal agreement to operate a public broadcasting television station
- Constituent institutions of The University of North Carolina, but only with respect to sales and use tax paid by it through the expenditure of contract and grant funds
- The University of North Carolina Health Care System
- Regional natural gas districts created pursuant to Article 28 of Chapter; special district created under Article 43 of Chapter 105
- Public libraries created pursuant to an act of the General Assembly.

O. Walker Reagan
Director

S261-SMTD-67 E1 -V1

Research Division
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BILL ANALYSIS: The bill would add district confinement facilities created under G.S. 153A-219, including those created under a local act modifying G.S. 153A-219, to the list of governmental entities entitled to an annual sales tax refund.

EFFECTIVE DATE: July 1, 2013, and applies to sales made on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S 1

SENATE BILL 480

Short Title:	UNC Capital Improvement Projects.	(Public)
Sponsors:	Senator Apodaca (Primary Sponsor).	
Referred to:	Education/Higher Education.	

March 28, 2013

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ACQUISITION OR CONSTRUCTION AND THE FINANCING, WITHOUT APPROPRIATIONS FROM THE GENERAL FUND, OF CERTAIN CAPITAL IMPROVEMENTS PROJECTS OF THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

STATEMENT OF PURPOSE

SECTION 1. The purpose of this act is to authorize (i) the acquisition or construction of the capital improvements projects listed in this act for the respective institutions of The University of North Carolina and (ii) the financing of these projects with funds available to the institutions from gifts, grants, receipts, self-liquidating indebtedness, Medicare reimbursements for education costs, hospital receipts from patient care, or other funds, or any combination of these funds, but not including funds received for tuition or appropriated from the General Fund of the State unless previously authorized by General Statute.

SECTION 2. The capital improvements projects and their respective costs authorized by this act to be constructed and financed as provided in Section 1 of this act, including by revenue bonds, by special obligation bonds as authorized in Section 4 of this act, or by both, are as follows:

Appalachian State University	
Anne Belk Hall Renovations	$ 4,000,000
Soccer Field to Field Hockey Renovation	1,500,000
East Carolina University	
Belk Residence Hall Demolition and Reconstruction – Supplement	16,000,000
Women and Children's Clinic Facility	71,605,960
North Carolina A&T State University	
New Student Center	90,000,000
North Carolina State University	
Carmichael Locker Room Renovation	7,600,000
The University of North Carolina at Chapel Hill	
Rizzo Center Phase III Acquisition	36,000,000

South Road Bridge & Pedestrian Improvements	9,850,000
Odum Village Replacement	25,000,000
Craige Parking Deck – Supplement	4,000,000
The University of North Carolina at Charlotte	
Holshouser Hall Renovation	16,000,000
Oak Hall Renovation, Phase V	8,900,000
Residence Hall, Phase XIII	34,750,000
The University of North Carolina at Greensboro	
Spartan Village Phase I Acquisition	67,000,000
Western Carolina University	
Upper Campus New Residence Hall	48,000,000
Winston-Salem State University	
Bowman Gray Stadium & Civitan Park Acquisition	7,500,000
New Residence Hall – Freshmen Living/Learning	20,800,000

SECTION 3. At the request of the Board of Governors of The University of North Carolina and upon determining that it is in the best interest of the State to do so, the Director of the Budget may authorize an increase or decrease in the cost of, or a change in the method of, funding the projects authorized by this act. In determining whether to authorize a change in cost or funding, the Director of the Budget may consult with the Joint Legislative Commission on Governmental Operations.

SECTION 4. Pursuant to G.S. 116D-26, the Board of Governors may issue, subject to the approval of the Director of the Budget, at one time or from time to time, special obligation bonds of the Board of Governors for the purpose of paying all or any part of the cost of acquiring, constructing, or providing for the projects authorized by Section 2 of this act. The maximum principal amount of bonds to be issued shall not exceed the specified project costs in Section 2 of this act plus five percent (5%) of such amount to pay issuance expenses, fund reserve funds, pay capitalized interest, and pay other related additional costs, plus any increase in the specific project costs authorized by the Director of the Budget pursuant to Section 3 of this act.

SECTION 5. With respect to Winston-Salem State University's Bowman Gray & Civitan Park Acquisition project, the institution may accomplish construction, acquisition, and financing notwithstanding the requirement in G.S. 116D-22(5) as to location at the institution and either through (i) direct ownership of the project or (ii) by participation in a long-term agreement with the City of Winston-Salem.

SECTION 6. In support of Section 5 of this act and "NASCAR's longest-running weekly race track" located within Bowman Gray Stadium, G.S. 18B-1006(a) reads as rewritten:

"(a) School and College Campuses. – No permit for the sale of malt beverages, unfortified wine, or fortified wine shall be issued to a business on the campus or property of a public school or college, other than at a regional facility as defined by G.S. 160A-480.2 operated by a facility authority under Part 4 of Article 20 of Chapter 160A of the General Statutes except for a public school or college function, unless that business is a hotel or a nonprofit alumni organization with a mixed beverages permit or a special occasion permit. This subsection shall not apply on property owned by a local board of education which was leased for 99 years or more to a nonprofit auditorium authority created prior to 1991 whose governing board is appointed by a city board of aldermen, a county board of commissioners, or a local school board. This subsection shall also not apply to the constituent institutions of The

University of North Carolina with respect to the sale of beer and wine at (i) performing arts centers located on property owned or leased by the institutions if the seating capacity does not exceed 2,000 ~~seats, or to~~seats; (ii) any golf courses owned or leased by the institutions and open to the public for ~~use.~~use; or (iii) any stadiums that support a NASCAR-sanctioned one-fourth mile asphalt flat oval short track, that are owned or leased by the institutions, and that only sell malt beverages, unfortified wine, or fortified wine at events that are not sponsored or funded by the institutions."

SECTION 7. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Fiscal Note

BILL NUMBER: Senate Bill 480 (First Edition)

SHORT TITLE: UNC Capital Improvement Projects.

SPONSOR(S): Senator Apodaca

State Impact	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
Special Fund Revenues:	See Assumptions and Methodology				
Special Fund Expenditures:	See Assumptions and Methodology				
State Positions:					
NET STATE IMPACT	#REF!	#REF!	#REF!	#REF!	#REF!

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:
University of North Carolina System

EFFECTIVE DATE: When the Bill becomes law

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY: Senate Bill 480 authorizes the campuses of the University of North Carolina (UNC) to finance and construct capital improvement projects utilizing obligated resources. The projects are discussed in the Assumptions and Methodology Section of this Note. The statutory framework to authorize and issue debt lies within Article 3 of G.S. 116D. Under this Article, obligated resources refers to: rents, charges, or fees; earnings on investments of endowment funds, overhead receipts, and other resources that do not include appropriations from the General Assembly or tuition. UNC is authorized to change, with approval of the Director of the Budget, the means of finance for the projects authorized in the Bill and increase or decrease the cost of the project. UNC is allowed to issue debt over 5% of the total cost of the project, including any increase authorized by the Director of the Budget, to cover various costs of issuance of the debt. The proposed indebtedness authorized under this Bill is not a debt of the State.

Winston Salem State University (WSSU) is granted an exemption in order to sell alcohol at the Bowman-Gray Stadium authorized for acquisition under this Bill. The requirement that the Bowman Gray Stadium be on the campus of WSSU is not withstood for the purposes of finance and acquisition.

ASSUMPTIONS AND METHODOLOGY: Each campus is presented discretely due to the varied nature of the projects under consideration and the information available to evaluate the projects. The table below provides information on the projects within Section 2 of this bill and provides the proposed sources of finance. Article 3 of G.S. 116D authorizes all obligated resources to be used as means of repayment and does not limit the means of finance to the sources presented in the table below. If an existing fee or receipt is to be used, the table identifies the fee and any annual increase associated with the fee. In some cases, the project will be financed by a new fee, and the amount is provided in the table. UNC and the campuses assume no General Fund impact from the projects proposed for authorization.

Table 1: Project Detail

Campus	Project	Amount	Source	Existing Fee/Receipt Increase	New Fee
ASU	Anne Belk Hall Renovation	4,000,000	Debt Service Fee	No	$14.00
ASU	Soccer Field to Field Hockey	1,500,000	Debt Service Fee	No	$10.00
ECU	Belk Hall Demolition and Reconstruction Supplement	16,000,000	Housing Receipts	2.00%	No
ECU	Women and Children's Clinic Facility	71,605,960	Hospital Receipts	No	No
NCAT	New Student Center	90,000,000	Debt Service Fee	No	$450.00*
NCSU	Carmichael Locker Room Renovation	7,600,000	Debt Service Fee	No	$27.50
UNC-CH	Rizzo Center Phase III Acquisition	36,000,000	Endowment	No	No
UNC-CH	South Road Bridge & Pedestrian Improvements	9,850,000	Trust Funds	No	No
UNC-CH	Odum Village Replacement	25,000,000	Housing Receipts	3.00%	No
UNC-CH	Craige Parking Deck Supplement	4,000,000	Parking Receipts	No	No
UNC-C	Holshouser Hall Renovation	16,000,000	Housing Receipts	6.50%	No
UNC-C	Oak Hall Renovation - Phase V	8,900,000	Housing Receipts	6.50%	No
UNC-C	Residence Hall - Phase XIII	34,750,000	Housing Receipts	6.50%	No
UNC-G	Spartan Village - Phase I Acquisition	67,000,000	Housing Receipts	3.50%	No
WCU	Upper Campus New Residence Hall	48,000,000	Housing Receipts	5.00%	No

WSSU	Bowman Gray Stadium and Civitan Park Acquisition	7,500,000	Debt Service Fee	No	$110.00
WSSU	New Residence Hall - Freshman Living/Learning	20,800,000	Housing Receipts	5.00%	No
Total		**468,505,960**			

*NCAT's increase will be phased in over four years. The 2016-17 school year will experience the $450 increase.

In addition to the debt to be authorized above, the campuses at the UNC system have existing debt that has been authorized under Article 3 of G.S. 116D and Part 4 of G.S. 116 (Revenue Bonds). The amount of outstanding debt, pledged revenue to support the debt, and annual debt service payment for FY 2012 at the UNC System campuses are presented in the table below:

Table 2: Outstanding Debt, Pledged Revenue, and Debt Service (FY 2012)

Campus	Outstanding Debt	Pledged Revenue	Debt Service Payment
ASU	255,172,062	162,051,341	19,193,840
ECU	162,935,971	434,385,998	24,801,854
ECSU	37,415,643	10,387,589	1,380,000
FSU	25,693,213	14,645,566	1,402,801
NCA&T	14,405,000	54,020,592	1,422,911
NCCU	93,958,436	27,659,078	7,581,205
NCSU	417,646,121	535,302,000	27,673,842
UNC-A	43,661,169	34,459,608	1,960,838
UNC-CH	1,362,772,538	1,747,511,000	82,199,626
UNC-C	360,679,486	223,012,923	9,298,837
UNC-G	231,355,524	136,916,527	13,008,432
UNC-P	79,261,189	24,688,846	5,430,066
UNC-W	246,855,063	107,556,200	17,542,016
UNC-SA	8,275,000	11,745,100	847,913
WCU	116,938,835	86,510,740	9,189,890
WSSU	70,887,358	9,603,943	5,519,091
Total	**3,527,912,608**	**3,620,457,051**	**228,453,162**

For the projects UNC estimates that increased expenditures will be required to service the debt and to operate and maintain the constructed facilities. Additionally, increased revenue will be generated by any new fee or increase to existing fee. The discussion below provides estimates for each campus, utilizing information provided by each campus and UNC.

Appalachian State University:

Appalachian State University (ASU) has two planned projects under consideration. The Anne Belk Hall Renovation project would repurpose approximately 30,000 square feet of underutilized

library space on the campus. The second project converts a soccer field to a field hockey field. Both projects are financed by a new per student annual debt service fee. Both UNC and ASU estimate that enrollment will remain relatively flat over the long term at the university. The projects involve existing facilities, thus no additional operating impact is expected. UNC provided debt service estimates assuming a 20-year repayment term with an interest rate of 6%. These should be considered high end estimates. The debt service fee revenue does not generate enough revenue to cover the debt service costs under UNC's scenario. ASU acknowledges this and has informed Fiscal Research that they believe that a combination of lower actual interest rates (3%); a longer bond repayment term (25-year); additional State-appropriated Repair and Renovation funding (not yet appropriated); and, additional receipts and donations for the athletic project should adequately fund the projects. Additional information was not provided for these claims. From 2003 to 2012 ASU has issued bonds with an average interest rate of 4.84% - 2.84%, respectively. In 2012, ASU issued two different refunding bonds with an average interest rate of 3.80% and 3.98%.

Table 3: ASU Consolidated Project Information

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
Debt Service Fee Revenue	368,592	368,592	368,592	368,592	368,592
Operating Expense	0	0	0	0	0
Debt Service Expense	(550,000)	(550,000)	(550,000)	(550,000)	(550,000)
Total	(181,408)	(181,408)	(181,408)	(181,408)	(181,408)

East Carolina University:

East Carolina University (ECU) has two planned projects under consideration. The projects are to increase the amount authorized in 2012 for the reconstruction of Belk Residence Hall. The total project authorization would rise to $56 million. The source of repayment is housing receipts for this project, which are to increase by approximately two percent annually per tenant to cover increased costs. The second project would construct a 140,000 square foot medical facility and 900 space parking facility. The sources of repayment are parking fees for the garage and physician receipts for the clinic. For the residence hall, the cash balance from the Housing Fund is expected to cover the cost overrun identified below. In FY 2012-13 the Fund has a projected final cash balance of $15.7 million. In addition, all housing receipts will support debt service. The debt

coverage ratio is expected to be 1.41 after this project is fully online.[1] ECU expects to issue the debt with a term of 30 years with an interest rate of 3.5%.

The Women and Children's Clinic and Parking Garage will include a onetime transfer from the parking fund of $5.5 million to lower the debt financed portion of the project. Once the parking facility is running, ECU estimates the facility to generate an additional $500,000 for debt service. According to ECU, the parking related enterprises currently generate in excess of $1 million per year in net revenues. For the Women and Children's Clinic, the ECU Physicians Practice Plan will be the source of receipts to support debt service. The Plan currently generates excess revenue. The Plan has generated approximately $42.9 million in excess revenues for the last two complete fiscal years and for the current fiscal year. The Plan is generating less in revenue for the current fiscal year due to lower reimbursement rates and timing of payments (FY 2012-13 excess revenues are estimated to be $5.5 million). ECU expects additional savings from foregone lease expenses ($1 million in savings); a reduction in administrative expenses from moving it a single location ($450,000 per year); and, additional profits related to increased facility utilization ($1 million). ECU expects to issue the debt with a term of 30 years with an interest rate of 4.5%.

The projects are presented separately due to the different nature of the projects.

Table 4: ECU Project Information

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
Belk Residence Hall					
Increased Dorm Revenue	0	0	4,151,875	4,227,854	4,305,224
Additional Operating Expense	0	0	1,198,602	1,234,200	1,270,856
Debt Service Expense	0	0	3,238,485	3,238,485	3,238,485
Total	-	-	(285,212)	(244,831)	(204,117)
Additional FTE	0	0	9	9	9
Women and Children Clinic and Parking Garage					
Transfer from Parking Fund	$5,500,000			500,000	500,000
Savings from ECU Own Space				2,450,000	2,450,000
Additional Operating Expense	0	0	0	(2,768,046)	(2,768,046)
Debt Service Expense	(4,021,146)	(4,021,146)	(4,021,146)	(4,021,146)	(4,021,146)
Total	1,478,854	(4,021,146)	(4,021,146)	(3,839,192)	(3,839,192)
Additional FTE	0	0	0	24	24

[1] A coverage ratio is the amount of revenue available to service debt against the expected amount of debt service

North Carolina Agriculture and Technical University:

North Carolina Agriculture and Technical University (NCAT) has a planned new 175,000 square foot student union building that will be financed by a new $450 per student annual debt service fee. The new fee will be phased in over a four year period. NCAT expects a slight increase in student population over the five year period and thereafter. In addition, NCAT expects the facility to generate an additional $2 million in revenue due to retail and dining operations once it is fully online. NCAT assumes that the debt will be issued with a term of 30 years at an interest rate of 5.00%.

Table 5: NCAT Project Information

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
Debt Service Fee and Retail Revenue	554,400	1,675,500	2,817,500	7,142,600	7,226,750
Operating Expense	0	0	0	(526,320)	(526,320)
Debt Service Expense	0	0	(2,438,550)	(5,394,225)	(5,485,050)
Total	554,400	1,675,500	378,950	1,222,055	1,215,380

North Carolina State University:

North Carolina State University has a planned renovation to the Carmichael Recreation Center Locker Room. The project will be financed by a new $27.50 per student annual debt service fee. Student population is assumed not to increase. UNC assumed an operating impact of $79,752 per year; however this cost was not included in NCSU's response to Fiscal Research. NCSU assumed the debt to have a term of 15 years with and interest rate of 4.75%.

Table 6: NCSU Project Information

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
Debt Service Fee Revenue	767,388	767,388	767,388	767,388	767,388
Operating Expense	0	0	0	0	0
Debt Service Expense	(720,000)	(720,000)	(720,000)	(720,000)	(720,000)
Total	47,388	47,388	47,388	47,388	47,388

University of North Carolina-Chapel Hill:

The University of North Carolina-Chapel Hill (UNC-CH) has three projects planned for construction. UNC-CH does not expect to construct the South Road Bridge and Improvements project and it is not included in this analysis. The Rizzo Center Phase III project is an expansion of a facility at the business school to add 72 guest beds, a 172 space parking deck, and additional

teaching space. The project is to be financed from gifts and $6 million in cash. The Odum Village project will replace an existing housing facility. This project will be repaid from housing receipts. Housing receipts are expected to rise three percent per year, per tenant to provide sufficient revenue. The final project is a supplement to the Craige Parking Deck. This project was approved in 2005 and again in 2012. This supplement would provide an additional 500 spaces. Parking receipts would pay the debt service associated with the deck. UNC-CH provided information regarding the projects in total, save for the Odom Village project. UNC-CH did not provide information related to any increased costs or revenues resulting from the Rizzo Hall or Craige Parking Deck project, thus total amounts are presented below for these two projects.

Table 7: UNC-CH Project Information

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
Rizzo Hall Phase III					
Existing Revenue Stream and Cash Transfer	16,797,920	10,797,920	10,797,920	10,797,920	10,797,920
Additional Operating Expense	(6,999,936)	(6,999,936)	(6,999,936)	(6,999,936)	(6,999,936)
New Debt Service Expense	(2,179,467)	(2,179,467)	(2,179,467)	(2,179,467)	(2,179,467)
Existing Debt Service	(1,400,000)	(1,400,000)	(1,400,000)	(1,400,000)	(1,400,000)
Total	6,218,517	218,517	218,517	218,517	218,517
Additional FTE			10	10	10
Odum Village Replacement					
Additional Housing Revenue	0	0	0	3,200,000	3,200,000
Operating Expense	0	0	0	(1,400,000)	(1,400,000)
Debt Service Expense	1,800,000	1,800,000	1,800,000	1,800,000	1,800,000
Total	(1,800,000)	(1,800,000)	(1,800,000)	0	0
Additional FTE	0	0	0	8	8
Craige Parking Deck Supplement					
Existing Revenue Stream	23,040,000	23,040,000	23,040,000	23,040,000	23,040,000
Additional Operating Expense	(15,269,603)	(15,269,603)	(15,269,603)	(15,269,603)	(15,269,603)
New Debt Service Expense	(290,596)	(290,596)	(290,596)	(290,596)	(290,596)
Existing Debt	(7,281,319)	(7,281,319)	(7,281,319)	(7,281,319)	(7,281,319)

Service					
Total	198,482	198,482	198,482	198,482	198,482

University of North Carolina – Charlotte

The University of North Carolina – Charlotte (UNCC) has three dormitory projects planned for renovation and construction. UNCC plans to renovate two existing dorms and construct a new 430 bed dormitory. Housing receipts would finance each project and are projected to be increased by 6.5% each year per tenant to provide the necessary revenue. The dorms are all assumed to come online in FY 2015-16 while the debt is assumed to be issued for a term of 30 years at an interest rate of 5.03%. UNCC expects the debt service coverage ratio to remain above 1.2 for housing receipts.

Table 8: UNCC Consolidated Project Information

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
Housing Revenue	0	0	6,885,642	7,161,068	7,447,510
Operating Expense	0	0	(2,213,125)	(2,268,453)	(2,325,164)
Debt Service Expense	0	0	(3,872,960)	(3,872,960)	(3,872,960)
Total	0	0	1,019,655	1,019,655	1,019,655

University of North Carolina - Greensboro

The University of North Carolina at Greensboro (UNCG) has a project planned to acquire a dormitory, academic space, mixed-use space, and parking known collectively as Spartan Village Phase 1. The facility was constructed by the UNCG Capital Facilities Foundation. UNCG did not provide detail regarding the projects revenue stream, only that it is expected to generate $13.9 million in net operating revenue per year. There is an expected increase of 3.5% in housing charges per tenant factored into UNCG's analysis. UNCG expects the debt service coverage ratio to remain above 1.15 after debt associated with the project is issued.

Table 9: UNCG Project Information

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
Operating Expense	0	0	(1,921,852)	(1,921,852)	(1,921,852)
Debt Service Expense	(6,700,000)	(6,700,000)	(6,700,000)	(6,700,000)	(6,700,000)
Operating Revenue	See Above Paragraph				
Additional FTE	0	0	23	23	23

Western Carolina University:

Western Carolina University (WCU) has a new 600-bed dormitory planned. The proposed project would demolish an existing structure to build the new facility. Housing charges are expected to increase 5% annually per tenant in order to pay for the facility and other costs. The debt coverage ratio is expected to be above 1.6 after the debt associated with this project is issued. The debt is assumed to be issued for a 20 year term at a 6% interest rate. UNC stated that there would be 23 new FTE's required by the facility. WCU did not provide any information regarding the number of FTE's. WCU did provide the expected operating cost, which may not be sufficient to cover the new employees assumed in UNC's analysis.

Table 10: WCU Project Information

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
Housing Revenue	0	3,263,545	3,426,722	3,598,058	3,777,961
Operating Expense	0	(527,693)	(527,693)	(527,693)	(527,693)
Debt Service Expense	(4,800,000)	(4,800,000)	(4,800,000)	(4,800,000)	(4,800,000)
Total	(4,800,000)	(2,064,148)	(1,900,971)	(1,729,635)	(1,549,732)
Additional FTE	0	23	23	23	23

Winston Salem State University:

Winston Salem State University (WSSU) has two projects planned for acquisition. The first project is to acquire the Bowman Gray Stadium from the City of Winston Salem for $7.1 million. WSSU currently utilizes the stadium for their motor sports management program and football team. The stadium is also used for race events in the community. WSSU assumes that race events will continue to be a source of revenue. The stadium acquisition will be financed by a new $110 per student annual debt service fee. Student population is expected to remain flat the first five years and increase slightly thereafter. The second project is for a new 295 bed suite style residence hall. The project will be financed through housing receipts. Housing charges are expected to increase 5% in the opening year of occupancy. WSSU expects that the debt coverage ratio to remain above 1.15 after the debt has been issued. WSSU assumed debt to be issued at a 20 year term with a 5% interest rate for the Bowman Gray Stadium Project. The new residence hall is assumed to be financed with debt issued for 20 years at a 6% interest rate. Revenue from the new housing project has not been provided.

Table 11: WSSU Project Information

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
Bowman Gray Stadium					
Operating Revenue	837,656	858,597	880,062	902,064	924,615
Debt Service Revenue	581,900	581,900	581,900	581,900	581,900

Operating Expense	(837,656)	(858,597)	(880,062)	(902,064)	(924,615)
Debt Service Expense	(593,960)	(593,960)	(593,960)	(593,960)	(593,960)
Total	(12,060)	(12,060)	(12,060)	(12,060)	(12,060)
Additional FTE	1.2	1.2	1.2	1.2	1.2
New Residence Hall					
Additional Housing Revenue	Not Provided				
Operating Expense			(685,218)	(685,218)	(685,218)
Debt Service Expense	(2,080,000)	(2,080,000)	(2,080,000)	(2,080,000)	(2,080,000)
Total	(1,800,000)	(1,800,000)	(1,800,000)	0	0
Additional FTE	0	0	10	10	10

SOURCES OF DATA: University of North Carolina General Administration, Constituent Campuses, Office of the State Auditor – Financial Audits

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Mark Bondo

APPROVED BY:

Mark Trogdon, Director
Fiscal Research Division

DATE: June 26, 2013

Signed Copy Located in the NCGA Principal Clerk's Offices

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 480

AMENDMENT NO. 1
(to be filled in by
Principal Clerk)

S480-AMC-31 [v.3]

Comm. Sub. [NO]
Amends Title [NO]
First Edition

Date June 26 ,2013

Senator Brunstetter

moves to amend the bill on page 2, line 1, by deleting the line;

and on page 2, line 39, by rewriting the line to read:
"agreement with the City of Winston-Salem if all of the following requirements are met:

(1) Where the property that is the subject of the project is a stadium that supports a NASCAR-sanctioned one-fourth mile asphalt flat oval short track, the stadium is not renamed.

(2) Where the property that is the subject of the project is a stadium that supports a NASCAR-sanctioned one-fourth mile asphalt flat oval short track, no parking fees are charged for racing events at the stadium.

(3) Where the property that is the subject of the project is a stadium that supports a NASCAR-sanctioned one-fourth mile asphalt flat oval short track, no prohibitions are placed on spectators of racing events at the stadium that would prohibit the spectators from entering with food, non-alcoholic beverages, or both. Nothing in this subdivision shall prohibit regulations imposed on containers deemed necessary for public safety.

(4) Where the property that is the subject of the project is a stadium that supports a NASCAR-sanctioned one-fourth mile asphalt flat oval short track, the institution continues to make the property available for racing and racing-related events in a manner consistent with and under terms similar to those agreed upon for the use of the property immediately prior to the acquisition."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED X FAILED _____ TABLED _____

S480-AMC-31-V-3

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 480

AMENDMENT NO. 2
(to be filled in by Principal Clerk)

S480-AMC-35 [v.1]

Comm. Sub. [NO]
Amends Title [NO]
First Edition

Date June 26 ,2013

Senator Apodaca

moves to amend the bill on page 1, line 16, by deleting "**SECTION 2.**" and substituting "**SECTION 2.(a)**";

and on page 2, line 19, by inserting after the line the following language to read:

"**SECTION 2.(b)** Before undertaking a project authorized by this act or undertaking the associated cost and no later than October 1, 2013, the Board of Governors of The University of North Carolina shall prepare an estimate and shall report the estimate to the Joint Legislative Commission on Governmental Operations. The estimate shall include all of the following:

(1) The total anticipated cost associated with each project.

(2) The resources being pledged for each project, including (i) the preceding five fiscal years of any revenue stream anticipated to be obligated and current expenditures and obligations associated with each such revenue stream and (ii) a forecast of not less than five fiscal years of any revenue stream anticipated to be newly obligated or anticipated to be obligated to a greater extent for purposes of financing the project.

(3) Anticipated term, interest rate, structure, and debt servicing schedule of any financing of costs for each authorized project.

(4) Anticipated operating costs associated with each project for not less than five fiscal years, including the source of the funds.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED Y FAILED _____ TABLED _____

SENATE BILL 485: UNC/Eliminate Duplicative Report Requirements

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 26, 2013
Introduced by:	Sen. Apodaca	**Prepared by:**	Cindy Avrette
Analysis of:	PCS to First Edition S485-CSLB-75		Committee Counsel

SUMMARY: ***Senate Bill 485 eliminates a duplicative reporting requirement regarding personal service contracts for the University of North Carolina. The proposed committee substitute adds two unrelated provisions to the bill:***

- ***It allows the Board of Governors to implement and expand the use of electronic commerce infrastructure and capabilities among the constituent institutions.***
- ***It provides a property tax exemption for improvements to real property that are owned by a university organization and located on land owned by one of the constituent institutions.***

CURRENT LAW AND BILL ANALYSIS:

Each State agency must report annually to the Office of State Budget and Management on its use of personal services contracts that exceed $25,000. The constituent institutions utilize personal service contracts. The reports take a great deal of time to compile. As the institutions try to become more efficient, several have asked about the usefulness of the reports. **Section 1** of the bill would exempt The University of North Carolina from the reporting requirement.

Section 2 of the bill would allow the Board of Governors of The University of North Carolina to implement and expand its electronic commerce infrastructure among the constituent institutions. As the institutions move towards electronic payment services, this tool will allow them to use common application programs.[1]

Section 3 provides a property tax exemption for improvements made on property owned by a constituent institution by a social fraternity, sorority, or similar organization. Under current law, the property would be exempt from property tax, but not necessarily the improvements on it. Historically, the schools have owned the Greek housing. The exemption will encourage the Greek organizations to invest in the property and help the institutions defer investment in the housing.[2]

EFFECTIVE DATE: The property tax exemption becomes effective for taxes imposed for taxable years beginning on or after July 1, 2013. The remainder of the act is effective when it becomes law.

[1] This section is especially meaningful to UNC-CH, UNC-W, and UNC-App. Without the legislation these institutions may have to discontinue the common application service they currently utilize and incur expense to build their own systems.

[2] This section is especially meaningful to NCSU. It has developed a new on-campus master planned Greek housing area to encourage on-campus fraternity and sorority housing.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S D

SENATE BILL 485
PROPOSED COMMITTEE SUBSTITUTE S485-CSLB-75 [v.4]

6/25/2013 12:02:10 PM

Short Title: UNC/Report/E-Commerce/Improvements. (Public)

Sponsors:

Referred to:

March 28, 2013

A BILL TO BE ENTITLED

AN ACT TO ELIMINATE A DUPLICATIVE REPORTING REQUIREMENT REGARDING PERSONAL SERVICE CONTRACTS FOR THE UNIVERSITY OF NORTH CAROLINA, TO ALLOW THE BOARD OF GOVERNORS TO PROVIDE FOR THE IMPLEMENTATION AND EXPANSION OF E-COMMERCE INFRASTRUCTURE AND TO CLARIFY THE PROPERTY TAX STATUS OF CERTAIN IMPROVEMENTS ON UNIVERSITY LANDS THAT ARE OWNED BY CERTAIN SOCIAL ORGANIZATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-64.70 is amended by adding a new subsection to read:

"(c) This section does not apply to The University of North Carolina."

SECTION 2. G.S. 116-40.22 is amended by adding a new subsection to read:

"(e) Electronic Commerce. – The Board of Governors may provide for the implementation and expansion of electronic commerce infrastructure and capabilities among the various constituent institutions, allowing for the contracting with service providers specializing in the institutions of higher learning arena, primarily to allow for increased efficiencies, technical capabilities, uniformity and best practices of the contemplated service providers, including the frequency of payment remittance and compliance with requirements of the payment industry standards."

SECTION 3.(a) G.S. 105-275 is amended by adding a new subdivision to read:

"**§ 105-275. Property classified and excluded from the tax base.**

The following classes of property are designated special classes under Article V, Sec. 2(2), of the North Carolina Constitution and are excluded from tax:

.....

(19a) Improvements to real property that are (i) owned by social fraternities, sororities, and similar college, university, or high school organizations, and (ii) located on land owned by or allocated to the University of North Carolina or one if its constituent institutions.

....."

SECTION 3.(b) This section is effective for taxes imposed for taxable years beginning on or after July 1, 2013.

SECTION 4. Except as provided herein, this act is effective when it becomes law.

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 26, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Mia Bailey	ElectriCities
Debbie Hughes	KLG
Esther Davis	E.D&A, Inc.
Emma Johns	MVA
	—

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 26, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Jake Cook	NCAM
Johndre the Giant	Goodman
[illegible]	NCRMA
Patrick Buffkin	NCAEC
Preston Howard	NCMA
Allison Walker	Nelson Mullins
Heather Barnett	Ward & Smith
Angie Harris	Ward & Smith
Tom A Berry	Wildlife Commission
Gordon Myers	"
Dave Hoyle Jr.	"
Dick Hamilton	NCWF

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 26, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Colleen Olfenbuttel	NCWRC
Mallory G Martin	NCWRC
CHRIS DILLON	NCWRC
Marion Farrell	Rt 2 Bolton
Anson Byrd	Hyde County Commissioner
Lisa Hocutt	NCWRC
Tommy Clark	NCWRC
Joy Hatchell	NCDA
Erica Nelson	NCHA
DANIEL BAUM	TROUTMAN SANDERS
	DFS

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 26, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Alex Miller	KLG
Lauren Knott	NCHC
Carley Ruff	NCHC
Sarah L. Miller	Self
Dylan Watts	Smith A.
David Baker	NCDOR
Nikki Baker	UNCG
CORNELIUS GRAVES	WSSU
OWEN COOKS	WSSU
TORRANCE TERADICH	UNC
Ken Howell	NCSU

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 26, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Elizabeth Zimmerman	NC Beer & Wine
Tim KENT	NC Beer & Wine
Kay Emanuel	School of Government
Mary Grady Bell	NCDENR INTERN
[signature]	SEANC
[signature]	[illegible]
Michelle Brooks	ECU
Drew Moretz	UNC GA
Mark Lanier	UNCW
[signature]	NCACC
Karl Knapp	NCLM
[signature]	[signature]

VISITOR REGISTRATION SHEET

Senate Finance Committee — **Name of Committee**

June 26, 2013 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Peg O'Connell	MCD
Lynett Lee	NCPHA
Stefanie Davis	WM
Michael Houser	The Houser Consulting Group
John McMillan	MFOS
BRUCE THOMPSON	PARKER POE

Senate Committee on Finance
Monday, July 1, 2013, 2:00 PM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 998	Tax Simplification and Reduction Act.	Rep. Lewis Rep. Setzer Rep. Moffitt Rep. Szoka

Adjournment

Senate Committee on Finance
Monday, July 1, 2013
Room 544 LOB, 2:00 p.m.

Minutes

The Senate Committee on Finance met at 2:00 p.m. on Monday, July 1, 2013 in room 544 of the Legislative Office Building. Senator Rabon presided as chair.

H.B. 998 – Tax Simplification and Reduction Act

Senator Brunstetter was recognized to adopt the proposed committee substitute (PCS) for discussion and the motion carried. Senator Berger was recognized to explain. The PCS would simplify the State's tax structure and reduce individual and business tax rates. Senator Barringer was recognized to offer an amendment and Jonathan Tart, a fiscal analyst with the Fiscal Research Division, was recognized to explain it. The amendment involves corporate tax rates and would reduce revenues in the 2015 – 2016 fiscal year by $80 million and in the 2016 – 2017 fiscal year by $150 million. Senator Barringer moved to adopt the amendment and the motion carried. Cindy Avrette, an attorney with the Research Division, and Barry Boardman, the Chief Economist with the Fiscal Research Division, were recognized to answer a series of questions. Senator Apodaca moved for a favorable report and the motion carried. A copy of the PCS, the summary charts and the amendment is attached.

The meeting adjourned at 3:28 p.m.

Senator Bill Rabon
Presiding Chair

DeAnne Mangum
Committee Assistant

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Monday	July 1, 2013	2:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	
HB 998	Tax Simplification and Reduction Act.	Representative Lewis Representative Setzer Representative Moffitt Representative Szoka

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

Principal Clerk ____
Reading Clerk ____

Corrected #1: Please note that the meeting will now start at 2:30p

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Monday	July 1, 2013	2:30 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	
HB 998	Tax Simplification and Reduction Act.	Representative Lewis Representative Setzer Representative Moffitt Representative Szoka

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Monday, July 01, 2013

Senator Rabon,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 2

HB **998** **(SCS#1)** Tax Simplification and Reduction Act.

Draft Number:	H998-PCS80408-RBx-42
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Senator Philip Berger will handle HB 998

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 998
Committee Substitute Favorable 6/4/13
Committee Substitute #2 Favorable 6/6/13
Senate Finance Committee Substitute Adopted 6/12/13
PROPOSED SENATE COMMITTEE SUBSTITUTE H998-CSRBx-41 [v.5]
7/1/2013 1:26:58 PM

Short Title: Tax Reduction Act. (Public)

Sponsors:

Referred to:

April 18, 2013

A BILL TO BE ENTITLED

AN ACT TO SIMPLIFY THE NORTH CAROLINA TAX STRUCTURE AND TO REDUCE INDIVIDUAL AND BUSINESS TAX RATES.

The General Assembly of North Carolina enacts:

PART I. INDIVIDUAL INCOME TAX CHANGES

SECTION 1.1.(a) The following statutes are recodified as indicated:

Current Statute	Recodified Statute
G.S. 105-133	G.S. 105-153.1
G.S. 105-134	G.S. 105-153.2
G.S. 105-134.1	G.S. 105-153.3
G.S. 105-134.5	G.S. 105-153.4
G.S. 105-151	G.S. 105-153.9
G.S. 105-151.24	G.S. 105-153.10
G.S. 105-152	G.S. 105-153.8

SECTION 1.1.(b) The following statutes are repealed:

G.S. 105-134.2
G.S. 105-134.3
G.S. 105-134.6
G.S. 105-134.7
G.S. 105-134.8
G.S. 105-151.1 and G.S. 105-130.22
G.S. 105-151.11
G.S. 105-151.12 and G.S. 105-130.34
G.S. 105-151.13 and G.S. 105-130.36
G.S. 105-151.14 and G.S. 105-130.37
G.S. 105-151.18
G.S. 105-151.20
G.S. 105-151.21
G.S. 105-151.25 and G.S. 105-130.44
G.S. 105-151.26
G.S. 105-151.33

SECTION 1.1.(c) G.S. 105-134.1, recodified by this Part as G.S. 105-153.3, reads as rewritten:

"**§ 105-153.3 Definitions.**

The following definitions apply in this Part:

(1) Adjusted gross income. – Defined in section 62 of the Code.

~~(1a)~~(2) Code. – Defined in G.S. 105-228.90.

~~(2)~~(3) Department. – The Department of Revenue.

~~(3)~~(4) Educational institution. – An educational institution that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on.

~~(4)~~(5) Fiscal year. – Defined in section 441(e) of the Code.

~~(5)~~(6) Gross income. – Defined in section 61 of the Code.

~~(6)~~(7) Head of household. – Defined in section 2(b) of the Code.

~~(7)~~(8) Individual. – A human being.

~~(7a)~~(9) Limited liability company. – Either a domestic limited liability company organized under Chapter 57C of the General Statutes or a foreign limited liability company authorized by that Chapter to transact business in this State that is classified for federal income tax purposes as a partnership. As applied to a limited liability company that is a partnership under this Part, the term "partner" means a member of the limited liability company.

~~(7b) Repealed by Session Laws 1998-98, s. 9, effective August 14, 1998.~~

~~(8)~~(10) Married individual. – An individual who is married and is considered married as provided in section 7703 of the Code.

~~(9)~~(11) Nonresident individual. – An individual who is not a resident of this State.

~~(10)~~(12) North Carolina taxable income. – Defined in G.S. 105-134.5.

~~(10a)~~(13) Partnership. – A domestic partnership, a foreign partnership, or a limited liability company.

~~(11)~~(14) Person. – Defined in G.S. 105-228.90.

~~(12)~~(15) Resident. – An individual who is domiciled in this State at any time during the taxable year or who resides in this State during the taxable year for other than a temporary or transitory purpose. In the absence of convincing proof to the contrary, an individual who is present within the State for more than 183 days during the taxable year is presumed to be a resident, but the absence of an individual from the state for more than 183 days raises no presumption that the individual is not a resident. A resident who removes from the State during a taxable year is considered a resident until he has both established a definite domicile elsewhere and abandoned any domicile in this State. The fact of marriage does not raise any presumption as to domicile or residence.

~~(13) Retirement benefits. Amounts paid to a former employee or the beneficiary of a former employee under a written retirement plan established by the employer to provide payments to an employee or the beneficiary of an employee after the end of the employee's employment with the employer where the right to receive the payments is based upon the employment relationship. With respect to a self-employed individual or the beneficiary of a self-employed individual, the term means amounts paid to the individual or beneficiary of the individual under a written retirement plan established by the individual to provide payments to the individual or the beneficiary of the individual after the end of the self-employment. In addition, the term~~

~~includes amounts received from an individual retirement account described in section 408 of the Code or from an individual retirement annuity described in section 408 of the Code. For the purpose of this subdivision, the term "employee" includes a volunteer worker.~~

~~(14)~~(16) S Corporation. – Defined in G.S. 105-131(b).

~~(15)~~(17) Secretary. – The Secretary of Revenue.

~~(16) Repealed by Session Laws 2011-145, s. 31A.1(a), effective for taxable years beginning on or after January 1, 2012.~~

~~(17)~~(18) Taxable year. – Defined in section 441(b) of the Code.

~~(18)~~(19) Taxpayer. – An individual subject to the tax imposed by this Part.

~~(19)~~(20) This State. – The State of North Carolina."

SECTION 1.1.(d) Part 2 of Article 4 of Chapter 105 of the General Statutes is amended by adding the following new sections to read:

"**§ 105-153.5. Modifications to adjusted gross income.**

(a) Deduction Amount. – In calculating North Carolina taxable income, a taxpayer may deduct from adjusted gross income either the standard deduction amount or the itemized deduction amount. In the case of a married couple filing separate returns, a taxpayer may not deduct the standard deduction amount if the taxpayer or the taxpayer's spouse claims the itemized deductions amount.

(1) Standard deduction amount. – An amount equal to the amount listed in the table below based on the taxpayer's filing status.:

Filing Status	Standard Deduction
Married, filing jointly	$15,000
Head of Household	12,000
Single	7,500
Married, filing separately	7,500.

(2) Itemized deduction amount. – An amount equal to the sum of the following:

a. The amount claimed by the taxpayer as a deduction for charitable contributions under section 170 of the Code for that taxable year.

b. The amount claimed by the taxpayer as a deduction for interest paid or accrued during the taxable year under section 163(h) of the Code with respect to any qualified residence plus the amount claimed by the taxpayer as a deduction for property taxes paid or accrued on real estate under section 164 of the Code for that taxable year. The amount claimed under this sub-subdivision may not exceed the amount listed in the table below based on the taxpayer's filing status.

Filing Status	Maximum Amount
Married, filing jointly	$15,000
Head of Household	12,000
Single	7,500
Married, filing separately	7,500.

(b) Other Deductions. – In calculating North Carolina taxable income, a taxpayer may deduct from the taxpayer's adjusted gross income any of the following items that are included in the taxpayer's adjusted gross income:

(1) Interest upon the obligations of any of the following:

a. The United States or its possessions.

b. This State, a political subdivision of this State, or a commission, an authority, or another agency of this State or of a political subdivision of this State.

c. A nonprofit educational institution organized or chartered under the laws of this State.

(2) Gain from the disposition of obligations issued before July 1, 1995, to the extent the gain is exempt from tax under the laws of this State.

(3) Benefits received under Title II of the Social Security Act and amounts received from retirement annuities or pensions paid under the provisions of the Railroad Retirement Act of 1937.

(4) Refunds of State, local, and foreign income taxes included in the taxpayer's gross income.

(5) The amount received during the taxable year from one or more State, local, or federal government retirement plans to the extent the amount is exempt from tax under this Part pursuant to a court order in settlement of any of the following cases:

a. Bailey v. State, 92 CVS 10221, 94 CVS 6904, 95 CVS 6625, 95 CVS 8230.

b. Emory v. State, 98 CVS 0738.

c. Patton v. State, 95 CVS 04346.

(6) Income that meets both of the following requirements:

a. Is earned or received by an enrolled member of a federally recognized Indian tribe.

b. Is derived from activities on a federally recognized Indian reservation while the member resides on the reservation. Income from intangibles having a situs on the reservation and retirement income associated with activities on the reservation are considered income derived from activities on the reservation.

(7) The amount by which the basis of property under this Article exceeds the basis of the property under the Code, in the year the taxpayer disposes of the property.

(8) The amount allowed as a deduction under G.S. 105-153.6 as a result of an add-back for federal accelerated depreciation and expensing.

(c) Additions. – In calculating North Carolina taxable income, a taxpayer must add to the taxpayer's adjusted gross income any of the following items that are not included in the taxpayer's adjusted gross income:

(1) Interest upon the obligations of states other than this State, political subdivisions of those states, and agencies of those states and their political subdivisions.

(2) The amount by which a shareholder's share of S Corporation income is reduced under section 1366(f)(2) of the Code for the taxable year by the amount of built-in gains tax imposed on the S Corporation under section 1374 of the Code.

(3) The amount by which the basis of property under the Code exceeds the basis of the property under this Article, in the year the taxpayer disposes of the property.

(4) The amount excluded from gross income under section 199 of the Code.

(5) The amount required to be added under G.S. 105-153.6 when the State decouples from federal accelerated depreciation and expensing.

"**§ 105-153.6. Adjustments when State decouples from federal accelerated depreciation and expensing.**

(a) Special Accelerated Depreciation. – A taxpayer who takes a special accelerated depreciation deduction for that property under section 168(k) or 168(n) of the Code must add to

the taxpayer's federal taxable income or adjusted gross income, as appropriate, eighty-five percent (85%) of the amount taken for that year under those Code provisions. For taxable years before 2012, the taxpayer must add the amount to the taxpayer's federal taxable income. For taxable year 2012 and after, the taxpayer must add the amount to the taxpayer's adjusted gross income. A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income.

(b) 2009 Depreciation Exception. – A taxpayer who placed property in service during the 2009 taxable year and whose North Carolina taxable income for the 2009 taxable year reflected a special accelerated depreciation deduction allowed for the property under section 168(k) of the Code must add eighty-five percent (85%) of the amount of the special accelerated depreciation deduction to its federal taxable income for the 2010 taxable year. A taxpayer is allowed to deduct this add-back under subsection (a) of this section as if it were for property placed in service in 2010.

(c) Section 179 Expense. – For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 2, 2013. A taxpayer who places section 179 property in service during a taxable year listed in the table below must add to the taxpayer's federal taxable income or adjusted gross income, as appropriate, eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code exceeds the dollar and investment limitation listed in the table below for that taxable year. For taxable years before 2012, the taxpayer must add the amount to the taxpayer's federal taxable income. For taxable year 2012 and after, the taxpayer must add the amount to the taxpayer's adjusted gross income.

A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income. The table below indicates the applicable five-year period.

Taxable Year of 85% Add-Back	Dollar Limitation	Investment Limitation
2010	$250,000	$800,000
2011	$250,000	$800,000
2012	$250,000	$800,000
2013	$25,000	$125,000

(d) Asset Basis. – The adjustments made in this section do not result in a difference in basis of the affected assets for State and federal income tax purposes."

"**§ 105-153.7. Individual income tax imposed.**

(a) Tax. – A tax is imposed for each taxable year on the North Carolina taxable income of every individual. The tax shall be levied, collected, and paid annually. The tax is five and seventy-five hundredths percent (5.75%) of the taxpayer's North Carolina taxable income.

(b) Withholding Tables. – The Secretary may provide tables that compute the amount of tax due for a taxable year under this Part. The tables do not apply to an individual who files a return under section 443(a)(1) of the Code for a period of less than 12 months due to a change in the individual's annual accounting period, or to an estate or trust."

SECTION 1.1.(e) This section becomes effective for taxable years beginning on or after January 1, 2014.

SECTION 1.2.(a) G.S. 105-134.5, recodified by this Part as G.S. 105-153.4, reads as rewritten:

"**§ 105-153.4. North Carolina taxable income defined.**

(a) Residents. – For an individual who is a resident of this State, the term "North Carolina taxable income" means the taxpayer's adjusted gross income as modified in ~~G.S. 105-134.6.~~G.S. 105-153.5.

(b) Nonresidents. – For a nonresident individual, the term "North Carolina taxable income" means the taxpayer's adjusted gross income as modified in ~~G.S. 105-134.6,~~ G.S. 105-153.5 and G.S. 105-153.6, multiplied by a fraction the denominator of which is the taxpayer's gross income as modified in ~~G.S. 105-134.6,~~ G.S. 105-153.5 and G.S. 105-153.6, and the numerator of which is the amount of that gross income, as modified, that is derived from North Carolina sources and is attributable to the ownership of any interest in real or tangible personal property in this State, is derived from a business, trade, profession, or occupation carried on in this State, or is derived from gambling activities in this State.

(c) Part-year Residents. – If an individual was a resident of this State for only part of the taxable year, having moved into or removed from the State during the year, the term "North Carolina taxable income" has the same meaning as in subsection (b) of this section except that the numerator includes adjusted gross income, as modified under ~~G.S. 105-134.6,~~ G.S. 105-153.5 and G.S. 105-153.6, derived from all sources during the period the individual was a resident.

..."

SECTION 1.2.(b) G.S. 105-152 and G.S. 105-151, recodified by this Part as G.S. 105-153.8 and G.S. 105-153.9, read as rewritten:

"**§ 105-153.8. Income tax returns.**

(a) Who Must File. – The following individuals ~~shall~~ must file with the Secretary an income tax return under affirmation:

(1) Every resident required to file an income tax return for the taxable year under the ~~Code and every~~ Code.

(2) Every nonresident individual who ~~(i) derived~~meets all of the following requirements:

a. Receives during the taxable year gross income that is derived from North Carolina sources ~~during the taxable year~~and is attributable to the ownership of any interest in real or tangible personal property in this ~~State or~~State, is derived from a business, trade, profession, or occupation carried on in this ~~State and (ii) is~~State, or is derived from gambling activities in this State.

b. Is required to file an income tax return for the taxable year under the Code.

~~(2) Repealed by Session Laws 1991 (Reg. Sess., 1992), c. 930, s. 1.~~

(3) Any individual whom the Secretary believes to be liable for a tax under this Part, when so notified by the Secretary and requested to file a return.

(b) Taxpayer Deceased or Unable to Make Return. – If ~~the~~ a taxpayer is unable to file ~~the~~ an income tax return, ~~the return shall be filed by~~ a duly authorized agent of the taxpayer or ~~by~~ a guardian or other person charged with the care of the person or property of the ~~taxpayer.~~taxpayer must file the return. If an individual who was required to file an income tax return for the taxable year while living has died before making the return, the administrator or executor of the estate ~~shall~~ must file the return in the decedent's name and behalf, and the tax ~~shall be levied upon and collected from~~is payable by the estate.

(c) Information Required With Return. – The income tax return ~~shall~~ must show the ~~taxable income and adjustments~~adjusted gross income and modifications required by this ~~Part~~ Part, and any other information the Secretary requires. The Secretary may require some or all individuals required to file an income tax return to attach to the return a copy of their federal income tax return for the taxable year. The Secretary may require a taxpayer to provide the Department with copies of any other return the taxpayer has filed with the Internal Revenue Service and to verify any information in the return.

(d) Secretary May Require Additional Information. – When the Secretary has reason to believe that any taxpayer conducts a trade or business in a way that directly or indirectly distorts the taxpayer's ~~taxable income~~adjusted gross income or North Carolina taxable income, the Secretary may require any additional information for the proper computation of the taxpayer's ~~taxable income~~adjusted gross income and North Carolina taxable income. In computing the taxpayer's ~~taxable income~~adjusted gross income and North Carolina taxable income, the Secretary ~~shall~~ must consider the fair profit that would normally arise from the conduct of the trade or business.

(e) Joint Returns. – A husband and wife whose ~~federal taxable income~~adjusted gross income is determined on a joint federal return ~~shall~~ must file a single income tax return jointly if each spouse either is a resident of this State or has North Carolina taxable income and may file a single income tax return jointly if one spouse is not a resident and has no North Carolina taxable income. Except as otherwise provided in this Part, a wife and husband filing jointly are treated as one taxpayer for the purpose of determining the tax imposed by this Part. A husband and wife filing jointly are jointly and severally liable for the tax imposed by this Part reduced by the sum of all credits allowable including tax payments made by or on behalf of the husband and wife. However, if a spouse qualifies for relief of liability for federal tax attributable to a substantial understatement by the other spouse pursuant to section 6015 of the Code, that spouse is not liable for the corresponding tax imposed by this Part attributable to the same substantial understatement by the other spouse. A wife and husband filing jointly have expressly agreed that if the amount of the payments made by them with respect to the taxes for which they are liable, including withheld and estimated taxes, exceeds the total of the taxes due, refund of the excess may be made payable to both spouses jointly or, if either is deceased, to the survivor alone.

~~(f) Repealed by Session Laws 1991.~~

"§ 105-153.9. Tax credits for income taxes paid to other states by individuals.

(a) An individual who is a resident of this State is allowed a credit against the taxes imposed by this Part for income taxes imposed by and paid to another state or country on income taxed under this Part, subject to the following conditions:

(1) The credit is allowed only for taxes paid to another state or country on income that is derived from sources within that state or country ~~that~~ and is taxed under its laws irrespective of the residence or domicile of the recipient, except that whenever a taxpayer who is ~~deemed to be~~ considered a resident of this State under ~~the provisions of~~ this Part is ~~deemed also to be~~ considered a resident of another state or country under the laws of that state or country, the Secretary may allow a credit against the taxes imposed by this Part for taxes imposed by and paid to the other state or country on income taxed under this Part.

(2) The fraction of the gross income, as ~~calculated under the Code and adjusted as provided in G.S. 105-134.6 and G.S. 105-134.7,~~ modified as provided in G.S. 105-153.5 and G.S. 105-153.6, that is subject to income tax in another state or country shall be ascertained, and the North Carolina net income tax before credit under this section shall be multiplied by that fraction. The credit allowed is either the product thus calculated or the income tax actually paid the other state or country, whichever is smaller.

(3) Receipts showing the payment of income taxes to another state or country and a true copy of a return or returns upon the basis of which the taxes are assessed shall be filed with the Secretary when the credit is claimed. If credit is claimed on account of a deficiency assessment, a true copy of the notice

assessing or proposing to assess the deficiency, as well as a receipt showing the payment of the deficiency, shall be filed.

(b) If any taxes paid to another state or country for which a taxpayer has been allowed a credit under this section are at any time credited or refunded to the taxpayer, a tax equal to that portion of the credit allowed for the taxes so credited or refunded is due and payable from the taxpayer and is subject to the penalties and interest provided in Subchapter I of this Chapter."

SECTION 1.2.(c) This section becomes effective for taxable years beginning on or after January 1, 2014.

SECTION 1.3.(a) G.S. 105-160.3(b) reads as rewritten:

"(b) ~~The following credits are not allowed to an estate or trust:~~The tax credits allowed under G.S. 105-153.9 and G.S. 105-153.10 may not be claimed by an estate or trust.

~~(1) G.S. 105-151. Tax credits for income taxes paid to other states by individuals.~~

~~(2) G.S. 105-151.11. Credit for child care and certain employment-related expenses.~~

~~(3) G.S. 105-151.18. Credit for the disabled.~~

~~(4) G.S. 105-151.24. Credit for children.~~

~~(5) G.S. 105-151.26. Credit for charitable contributions by nonitemizers.~~

~~(7) G.S. 105-151.28. Credit for long-term care insurance.~~

~~(8) G.S. 105-151.30. Credit for recycling oyster shells.~~

~~(9) G.S. 105-151.31. Earned income tax credit.~~

~~(10) G.S. 105-151.32. Credit for adoption expenses.~~

~~(11) G.S. 105-151.33. Education expenses credit.~~"

SECTION 1.3.(b) G.S. 105-163.2B reads as rewritten:

"**§ 105-163.2B. North Carolina State Lottery Commission must withhold taxes.**

The North Carolina State Lottery Commission, established by Chapter 18C of the General Statutes, must deduct and withhold State income taxes from the payment of winnings in an amount of six hundred dollars ($600.00) or more. The amount of taxes to be withheld is ~~seven percent (7%)~~ a percentage of the winnings. The percentage is the individual income tax rate in G.S. 105-153.7. The Commission must file a return, pay the withheld taxes, and report the amount withheld in the time and manner required under G.S. 105-163.6 as if the winnings were wages. The taxes the Commission withholds are held in trust for the Secretary."

SECTION 1.3.(c) This section becomes effective for taxable years beginning on or after January 1, 2014.

PART II. BUSINESS PRIVILEGE TAX ON CORPORATIONS, LLCS, AND OTHER LIMITED LIABILITY ENTITIES

SECTION 2.1.(a) Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 3L.

"Business Privilege Tax.

"**§ 105-129.100. Business privilege tax.**

(a) Nature of Tax. – This Article imposes a privilege tax on a business entity for the privilege of doing business in this State in an organizational form that confers limited liability on one or more owners of the entity. Payment of the tax imposed by this Article is a condition precedent to the right to do business in this State and, for a business entity that is organized or formed in this State, to the right to continue in the entity's organizational form. When a noncorporate business entity is doing business in this State, each owner of the noncorporate business entity is doing business in this State.

(b) Tax Imposed. – An annual privilege tax is imposed on a business entity doing business in this State in the amount of four hundred dollars ($400). The tax is due when a return is due. A return is due on or before the 15th day of the fourth month of the business entity's income year. A taxpayer may ask the Secretary for an extension of time to file a return under G.S. 105-263. A business entity must file a return under affirmation with the Secretary at the place and in the manner prescribed by the Secretary. The return must be signed by an officer, a member, the chief financial officer, or an individual authorized to bind the business entity.

(c) Income Year. – The tax imposed by this Article is for the income year of the corporation in which the tax becomes due. For purposes of this Article, the income year of a business entity is the calendar year or the fiscal year upon the basis of which the net income is computed for federal income tax purposes under the Code. After the end of the income year in which a business entity is dissolved, the business entity is no longer subject to the tax levied in this Article unless the Secretary finds that the business entity has engaged in business activities in this State not appropriate to winding up and liquidating its business and affairs. A business entity that ceases its operations in this State before the end of its income year is not entitled to a refund of tax for any full calendar months remaining in the entity's income year.

"**§ 105-129.101. Definitions.**

The following definitions apply in this Article:

(1) Business entity. – A business whose statutory form of organization provides that one or more of its owners or members may not be held individually liable for the debts and obligations of the business. The term includes each of the following:
   a. An S corporation.
   b. A domestic limited liability or a foreign limited liability company.
   c. A domestic limited partnership or a foreign limited partnership.
   d. A domestic limited liability partnership or a foreign limited liability partnership.
   e. A domestic or foreign limited liability limited partnership.

(2) C Corporation. – Defined in G.S. 105-131.

(3) Code. – Defined in G.S. 105-228.90.

(4) Doing business. – Each and every act, power, or privilege exercised or enjoyed in this State, as an incident to, or by virtue of the powers and privileges granted by the laws of this State.

(5) Reserved.

(6) Person. – Defined in G.S. 105-228.90.

(7) S Corporation. – Defined in G.S. 105-131.

(8) Secretary. – Defined in G.S. 105-228.90.

"**§ 105-129.101. Exempt business entities.**

A business entity listed in this section is exempt from the business privilege tax imposed by this Article. Upon request of the Secretary, an exempt business entity must establish its claim for exemption in writing. The exempt entities are:

(1) A business entity exempt from federal income tax under section 501 of the Code.

(2) An insurance company subject to tax under Article 8B of this Chapter.

(3) A C corporation."

SECTION 2.1.(b) This section becomes effective for taxable years beginning on or after January 1, 2015, and applies to taxes due for income years beginning in that year or a subsequent year.

SECTION 2.2.(a) G.S. 105-129.100(b), as enacted by this Part, reads as rewritten:

"(b) Tax Imposed. – An annual privilege tax is imposed on a business entity doing business in this State in the amount of ~~four hundred dollars ($400).~~ five hundred dollars ($500). The tax is due when a return is due. A return is due on or before the 15th day of the fourth month following the end of the business entity's income year. A taxpayer may ask the Secretary for an extension of time to file a return under G.S. 105-263. A business entity must file a return under affirmation with the Secretary at the place and in the manner prescribed by the Secretary. The return must be signed by the president, vice-president, treasurer, or chief financial officer of the business entity."

SECTION 2.2.(b) This section becomes effective for taxable years beginning on or after January 1, 2016, and applies to taxes due for income years beginning in that year or a subsequent year.

SECTION 2.3.(a) G.S. 105-129.100(b), as enacted by this Part, reads as rewritten:

"(b) Tax Imposed. – An annual privilege tax is imposed on an electric membership corporation and a business entity doing business in this ~~State in the amount of~~ State. The tax for a C Corporation and an electric membership corporation is three thousand five hundred dollars ($3,500). The tax for all other business entities is five hundred dollars ($500). The tax is due when a return is due. A return is due on or before the 15th day of the fourth month of the business entity's income year. A taxpayer may ask the Secretary for an extension of time to file a return under G.S. 105-263. A business entity must file a return under affirmation with the Secretary at the place and in the manner prescribed by the Secretary. The return must be signed by the president, vice-president, treasurer, or chief financial officer of the business entity."

SECTION 2.3.(b) G.S. 105-129.101, as enacted by this Part, reads as rewritten:

"**§ 105-129.101. Definitions.**

The following definitions apply in this Article:

(1) Business entity. – A business whose statutory form of organization provides that one or more of its owners or members may not be held individually liable for the debts and obligations of the business. The term includes each of the following:

a. An S corporation.
b. A domestic limited liability or a foreign limited liability company.
c. A domestic limited partnership or a foreign limited partnership.
d. A domestic limited liability partnership or a foreign limited liability partnership.
e. A domestic or foreign limited liability limited partnership.
f. A C corporation.

...

(5) Electric membership corporation. – An entity organized under Chapter 117 of the General Statutes.

...".

SECTION 2.3.(c) G.S. 105-129.101(3), as enacted by this Part, is repealed.

SECTION 2.3.(d) This section becomes effective for taxable years beginning on or after January 1, 2018, and applies to taxes due for income years beginning in that year or a subsequent year.

PART III. PHASED ELIMINATION OF THE FRANCHISE TAX

SECTION 3.1.(a) G.S. 105-114(a) and G.S. 105-122.1 are repealed.

SECTION 3.1.(b) G.S. 105-125(a) is amended by adding a new subdivision to read:

"(a) Exemptions. – The following corporations are exempt from the taxes levied by this Article. Upon request of the Secretary, an exempt corporation must establish its claim for exemption in writing:

...

(2a) A S corporation subject to the privilege license tax under Article 3L of this Chapter. For purposes of this subdivision, a S corporation is defined in G.S. 105-131.

...."

SECTION 3.1.(c) This section becomes effective for taxable years beginning on or after January 1, 2015, and applies to taxes due in that year or a subsequent year.

SECTION 3.2.(a) G.S. 105-122 reads as rewritten:

"**§ 105-122. Franchise or privilege tax on domestic and foreign corporations.**

...

(d) After determining the proportion of its total capital stock, surplus and undivided profits as set out in subsection (c) of this section, which amount shall not be less than fifty-five percent (55%) of the appraised value as determined for ad valorem taxation of all the real and tangible personal property in this State of each corporation nor less than its total actual investment in tangible property in this State, every corporation taxed under this section shall annually pay to the Secretary of Revenue, at the time the report and statement are due, a franchise or privilege tax at the rate ~~of one dollar and fifty cents ($1.50) per one thousand dollars ($1,000) of the total amount of capital stock, surplus and undivided profits as provided in this section. The tax imposed in this section shall not be less than thirty-five dollars ($35.00) and shall be~~ provided in subsection (d2) of this section. The tax is imposed for the privilege of carrying on, doing business, and/or the continuance of articles of incorporation or domestication of each corporation in this State. Appraised value of tangible property including real estate is the ad valorem valuation for the calendar year next preceding the due date of the franchise tax return. The term "total actual investment in tangible property" as used in this section means the total original purchase price or consideration to the reporting taxpayer of its tangible properties, including real estate, in this State plus additions and improvements thereto less reserve for depreciation as permitted for income tax purposes, and also less any indebtedness incurred and existing by virtue of the purchase of any real estate and any permanent improvements made thereon. In computing "total actual investment in tangible personal property" there shall also be deducted reserves for the entire cost of any air-cleaning device or sewage or waste treatment plant, including waste lagoons, and pollution abatement equipment purchased or constructed and installed which reduces the amount of air or water pollution resulting from the emission of air contaminants or the discharge of sewage and industrial wastes or other polluting materials or substances into the outdoor atmosphere or into streams, lakes, or rivers, upon condition that the corporation claiming this deduction shall furnish to the Secretary a certificate from the Department of Environment and Natural Resources or from a local air pollution control program for air-cleaning devices located in an area where the Environmental Management Commission has certified a local air pollution control program pursuant to G.S. 143-215.112 certifying that said Department or local air pollution control program has found as a fact that the air-cleaning device, waste treatment plant or pollution abatement equipment purchased or constructed and installed as above described has actually been constructed and installed and that the device, plant or equipment complies with the requirements of the Environmental Management Commission or local air pollution control program with respect to the devices, plants or equipment, that the device, plant or equipment is being effectively operated in accordance with the terms and conditions set forth in the permit, certificate of approval, or other document of approval issued by the Environmental Management Commission or local air pollution control program and that the primary purpose is

to reduce air or water pollution resulting from the emission of air contaminants or the discharge of sewage and waste and not merely incidental to other purposes and functions. The cost of constructing facilities of any private or public utility built for the purpose of providing sewer service to residential and outlying areas is treated as deductible for the purposes of this section; the deductible liability allowed by this section shall apply only with respect to pollution abatement plants or equipment constructed or installed on or after January 1, 1955.

...

(d2) Tax Rate. – The rate is the amount set in the table below for each one thousand dollars ($1,000) of the total amount of capital stock, surplus, and undivided profits as provided in subsection (d) of this section. The tax imposed in this section may not be less than the amount set in the table below.

Income Year	Tax Rate	Minimum Tax Due
2015	$1.25	$ 500
2016	$1.00	$2,000
2017	$0.75	$3,000."

SECTION 3.2.(b) G.S. 105-120.2(b) reads as rewritten:

"§ 105-120.2. Franchise or privilege tax on holding companies.

...

(b) (1) Every corporation taxed under this section shall annually pay to the Secretary of Revenue, at the time the report and statement are due, a franchise or privilege ~~tax, which is hereby levied, at the rate of one dollar and fifty cents ($1.50) per one thousand dollars ($1,000) of the amount determined under subsection (a) of this section,~~ tax at the rate established in G.S. 105-120(d2), but in no case shall the tax be more than seventy-five thousand dollars ($75,000) nor less than ~~thirty-five dollars ($35.00).~~ the minimum tax due under G.S. 101-120(d2).

(2) Notwithstanding the provisions of subdivision (1) of this subsection, if the tax produced pursuant to application of this paragraph (2) exceeds the tax produced pursuant to application of subdivision (1), then the tax shall be levied ~~at the rate of one dollar and fifty cents ($1.50) per one thousand dollars ($1,000)~~ on the greater of the amounts of

a. Fifty-five percent (55%) of the appraised value as determined for ad valorem taxation of all the real and tangible personal property in this State of each such corporation plus the total appraised value of intangible property returned for taxation of intangible personal property as computed under G.S. 105-122(d); or

b. The total actual investment in tangible property in this State of such corporation as computed under G.S. 105-122(d)."

SECTION 3.2.(c) This section becomes effective for taxable years beginning on or after January 1, 2015, and applies to taxes due in that year or a subsequent year.

SECTION 3.3.(a) Article 3 of Chapter 105 of the General Statutes is repealed.

SECTION 3.3.(b) This section becomes effective for taxable years beginning on or after January 1, 2018, and applies to income years beginning in 2018.

PART IV. PHASED ELIMINATION OF THE CORPORATE INCOME TAX

SECTION 4.1.(a) G.S. 105-130.3 reads as rewritten:

"§ 105-130.3. Corporations.

A tax is imposed on the State net income of every C Corporation doing business in this State. An S Corporation is not subject to the tax levied in this section. The tax is a percentage of the taxpayer's State net income computed as follows:

Income Years Beginning	Tax
~~In 1997~~	~~7.5%~~
~~In 1998~~	~~7.25%~~
~~In 1999~~	~~7%~~
~~After 1999~~	~~6.9%.~~
In 2014	6.4%
In 2015	5%
In 2016	4%
In 2017	2%."

SECTION 4.1.(b) This section becomes effective for taxable years beginning on or after January 1, 2014.

SECTION 4.2.(a) The title of Article 3E of Chapter 105 of the General Statutes reads as rewritten:

"Article 3E.

~~Low-Income Housing Tax Credits.~~Work Force Housing Construction Loan Program."

SECTION 4.2.(b) G.S. 105-129.42(a) reads as rewritten:

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

(1) Development tier. – The classification assigned to an area pursuant to G.S. 143B-437.08.

~~(1)~~(2) Qualified Allocation Plan. – The plan governing the allocation of federal low-income housing tax credits for a particular year, as approved by the Governor after a public hearing and publication in the North Carolina Register.

~~(2)~~(3) Qualified North Carolina low-income housing development. – A qualified low-income project or building that is allocated a federal tax credit under section 42(h)(1) of the Code and is described in subsection (c) of this section.

~~(3)~~(4) Qualified residential unit. – A housing unit that meets the requirements of section 42 of the Code."

SECTION 4.2.(c) G.S. 105-129.42(b) reads as rewritten:

"(b) Credit. – A taxpayer who is allocated a federal low-income housing tax credit under section 42 of the Code to construct or substantially rehabilitate a qualified North Carolina low-income housing development that is located in a development tier area one or two is allowed a credit under this section. The amount of the credit is equal to a percentage of the development's qualified basis, as determined pursuant to section 42 of the ~~Code.~~ Code, limited as provided in this subsection. For the purpose of this section, qualified basis is calculated based on the information contained in the carryover allocation and is not recalculated to reflect subsequent increases or decreases. No credit is allowed for a development that uses tax-exempt bond financing. The amount of the credit allowed for a taxable year is the percentage provided in the table below of the credit amount determined above:

Taxable Year Beginning In	Percentage of Credit Amount Allowed
2014	100%
2015	75%
2016	50%
2017	25%."

SECTION 4.2.(d) G.S. 105-129.45 reads as rewritten:

"**§ 105-129.45. Sunset.**

This Article is repealed effective ~~January 1, 2015.~~ January 1, 2018. The repeal applies to developments to which federal credits are allocated on or after ~~January 1, 2015.~~January 1, 2018."

SECTION 4.2.(e) This section is effective for taxable years beginning on or after January 1, 2014.

SECTION 4.3(a) Part 1 of Article 4 of Chapter 105 of the General Statutes is repealed.

SECTION 4.3.(b) Article 3C and Article 3K of Chapter 105 of the General Statutes are repealed.

SECTION 4.3.(c) G.S. 105-131.7(a) reads as rewritten:

"(a) An S Corporation incorporated or doing business in the State ~~shall~~ must file with the Department an annual ~~return,~~ return on a form prescribed by the ~~Secretary, on or before the due date prescribed for the filing of C Corporation returns in G.S. 105-130.17.~~Secretary. The return must be filed on or before the fifteenth day of the fourth month following the close of its income year. An income year ending on any day other than the last day of the month is considered to end on the last day of the calendar month ending nearest to the last day of a taxpayer's actual income year. The return shall show the name, address, and social security or federal identification number of each shareholder, income attributable to the State and the income not attributable to the State with respect to each shareholder as defined in G.S. 105-131(4) and (5), and such other information as the Secretary may require."

SECTION 4.3.(d) G.S. 105-164.3 reads as rewritten:

"**§ 105-164.3. Definitions.**

The following definitions apply in this Article:

...

(19) Major recycling facility. ~~Defined in G.S. 105-129.25.~~A recycling facility that meets all of the following conditions:

a. The facility is located in an area that, at the time the owner began construction of the facility, was an enterprise tier one area pursuant to G.S. 105-129.3.

b. The Secretary of Commerce has certified that the owner will, by the end of the fourth year after the year the owner begins construction of the recycling facility, invest at least three hundred million dollars ($300,000,000) in the facility and create at least 250 new, full-time jobs at the facility.

c. The jobs at the recycling facility meet the wage standard in effect pursuant to G.S. 105-129.4(b) as of the date the owner begins construction of the facility.

...

(33a) Recycling facility. – A manufacturing plant at least three-fourths of whose products are made of at least fifty percent (50%) post-consumer waste material measured by weight or volume. The term includes real and personal property located at or on land in the same county and reasonably near the plant site and used to perform business functions related to the plant or to transport materials and products to or from the plant. The term also includes utility infrastructure and transportation infrastructure to and from the plant.

...".

SECTION 4.3.(e) Subsection (d) of this section becomes effective January 1, 2018. The remainder of this section becomes effective for taxable years beginning on or after January 1, 2018.

SECTION 4.4.(a) G.S. 115C-546.1 reads as rewritten:

"**§ 115C-546.1. Creation of Fund; administration.**

(a) There is created the Public School Building Capital Fund. The Fund shall be used to assist county governments in meeting their public school building capital needs and their equipment needs under their local school technology plans.

~~(b) Each calendar quarter, the Secretary of Revenue shall remit to the State Treasurer for credit to the Public School Building Capital Fund an amount equal to the applicable fraction provided in the table below of the net collections received during the previous quarter by the Department of Revenue under G.S. 105-130.3. All funds deposited in the Public School Building Capital Fund shall be invested as provided in G.S. 147-69.2 and G.S. 147-69.3.~~

~~Period~~	~~Fraction~~
~~10/1/97 to 9/30/98~~	~~One fifteenth (1/15)~~
~~10/1/98 to 9/30/99~~	~~Two twenty ninths (2/29)~~
~~10/1/99 to 9/30/00~~	~~One fourteenth (1/14)~~
~~After 9/30/00~~	~~Five sixty ninths (5/69)~~

(c) The Fund shall be administered by the Department of Public Instruction."

SECTION 4.4.(b) G.S. 115C-546.2(a) is repealed.

SECTION 4.4.(c) This section becomes effective when it becomes law.

PART V. ELIMINATE ANNUAL REPORT FILING FEES

SECTION 5.(a) G.S. 55-1-22 reads as rewritten:

"§ 55-1-22. Filing, service, and copying fees.

(a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to the Secretary for filing:

Document		Fee
...		
(23)	Annual report ~~(paper)~~	~~25.00~~No fee
~~(23a)~~	~~Annual report (electronic)~~	~~18.00~~
...		

...

~~(d) The fee for the annual report in subdivision (23) of this section is nonrefundable.~~"

SECTION 5.(b) G.S. 55-16-22 reads as rewritten:

"§ 55-16-22. Annual report.

(a) ~~Except as provided in subsections (a1) and (a2) of this section, each domestic corporation and each foreign corporation authorized to transact business in this State shall deliver an annual report to the Secretary of Revenue in paper form or, in the alternative, directly to the Secretary of State in electronic form as prescribed by the Secretary of State under this section.~~Requirement. – The following businesses shall file an annual report with the Secretary of State on a form prescribed by the Secretary and in the manner required by the Secretary:

(1) A corporation that is incorporated under this Chapter.

(2) A corporation that has received a certificate of authority under this Chapter authorizing the corporation to transact business in this State.

(3) A company that is an insurance company regulated under Chapter 58 of the General Statutes.

~~(a1) Each insurance company subject to the provisions of Chapter 58 of the General Statutes shall deliver an annual report to the Secretary of State.~~

~~(a2) A domestic corporation governed by Chapter 55B of the General Statutes is exempt from this section.~~

~~(a3) The annual report required by this section shall be in a form jointly prescribed by the Secretary of Revenue and the Secretary of State. The Secretary of Revenue shall provide the form needed to file an annual report. The Secretary of State shall prescribe the form needed~~

~~to file an annual report electronically and shall provide this form by electronic means. The annual report shall set forth all of the following:~~

~~(1) The name of the corporation and the state or country under whose law it is incorporated.~~

~~(2) The street address, and the mailing address if different from the street address, of the registered office, the county in which its registered office is located, and the name of its registered agent at that office in this State, and a statement of any change of such registered office or registered agent, or both.~~

~~(3) The address and telephone number of its principal office.~~

~~(4) The names, titles, and business addresses of its principal officers.~~

~~(4a) Repealed by Session Laws 1997-475, s. 6.1, effective January 1, 1998.~~

~~(5) A brief description of the nature of its business.~~

~~If the information contained in the most recently filed annual report has not changed, a certification to that effect may be made instead of setting forth the information required by subdivisions (2) through (5) of this subsection.~~

(b) Content. – An annual report must set out the information listed in this subsection. The information must be current as of the date the business completes the report.~~Information in the annual report must be current as of the date the annual report is executed on behalf of the corporation.~~ If the information set out in the business' most recent annual report has not changed, the business may certify on its annual report that the information has not changed in lieu of restating the information. A business may amend an annual report at any time to correct, update, or augment information included in a prior report.

The following information must be included on the annual report of a business:

(1) Its name.

(2) The state or country under whose law it is incorporated or, if it is an insurance company and is not a corporation, the state or country under whose law it is organized.

(3) The street address of its registered office in this State, the county in which the registered office is located, and the name of the registered agent at the registered office. If the registered office or registered agent differs from the registered office or registered agent listed on the preceding annual report, the report must indicate that the registered office or registered agent has changed. A change in registered office or registered agent that is indicated on an annual report is effective when the report is filed.

(4) The mailing address of its registered office, if the street address of the office is not the mailing address.

(5) The address and telephone number of its principal office.

(6) The name, title, and business address of each of its principal officers.

(7) A brief description of the nature of its business.

(c) Due Date. – An annual report is due by the 15th day of the fourth month following the close of the fiscal year of the business filing the report. An annual report is delinquent if it is not filed within 120 days after it is due.~~eligible to be delivered to the Secretary of Revenue is due by the due date for filing the corporation's income and franchise tax returns. An extension of time to file a return is an extension of time to file an annual report. At the option of the filer, an annual report may be filed directly with the Secretary of State in electronic form. An annual report required to be delivered to the Secretary of State is due by the fifteenth day of the fourth month following the close of the corporation's fiscal year.~~

(d) Incomplete Report. – If the Secretary of State determines that an annual report filed with the Secretary does not contain the information required by this section, the Secretary must

send a written notice to the business that the report is incomplete. An annual report that is corrected to contain the information and filed with the Secretary within 30 days of the date of the notice is considered timely filed.~~If an annual report does not contain the information required by this section, the Secretary of State shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for correction. If the report is corrected to contain the information required by this section and delivered to the Secretary of State within 30 days after the effective date of notice, it is deemed to be timely filed.~~

~~(e) Amendments to any previously filed annual report may be filed with the Secretary of State at any time for the purpose of correcting, updating, or augmenting the information contained in the annual report.~~

~~(f) Expired.~~

~~(g) When a statement of change of registered office or registered agent is filed in the annual report, the change shall become effective when the statement is received by the Secretary of State.~~

~~(h) If the Secretary of State does not receive an annual report within 120 days of the date the return is due, the Secretary of State may presume that the annual report is delinquent. This presumption may be rebutted by receipt of the annual report from the Secretary of Revenue or by evidence of delivery presented by the filing corporation.~~"

SECTION 5.(c) G.S. 57C-1-22(a)(25) reads as rewritten:

"(a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to the Secretary of State for filing:

Document	Fee
...	
(25) Annual report	~~200.00~~No fee

...."

SECTION 5.(d) G.S. 59-35.2(a)(18) reads as rewritten:

"(a) The Secretary of State shall collect the following fees when the documents described in this subsection are submitted by a partnership to the Secretary of State for filing:

Document	Fee
...	
(18) Annual report	~~200.00~~No fee

...."

SECTION 5.(e) G.S. 59-1106(a)(22) reads as rewritten:

"(a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to the Secretary of State for filing:

Document	Fee
...	
(22) Annual report for a limited liability limited partnership	~~200.00~~No fee

...."

SECTION 5.(f) G.S. 105-122.1 is repealed.

SECTION 5.(g) G.S. 105-228.90(a) reads as rewritten:

"(a) Scope. – This Article applies to Subchapters I, V, and VIII of this Chapter, ~~to the annual report filing requirements of G.S. 55-16-22,~~ to the primary forest product assessment levied under Article 12 of Chapter 113A of the General Statutes, and to inspection taxes levied under Article 3 of Chapter 119 of the General Statutes."

SECTION 5.(h) G.S. 105-256.1 is repealed.

SECTION 5.(i) G.S. 105-259(a) reads as rewritten:

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

...

(2) Tax information. – Any information from any source concerning the liability of a taxpayer for a tax, as defined in G.S. 105-228.90. The term includes the following:

a. Information contained on a tax return, a tax report, or an application for a license for which a tax is imposed.

b. Information obtained through an audit of a taxpayer or by correspondence with a taxpayer.

c. Information on whether a taxpayer has filed a tax return or a tax report.

d. A list or other compilation of the names, addresses, social security numbers, or similar information concerning taxpayers.

The term does not include ~~(i)~~ statistics classified so that information about specific taxpayers cannot be ~~identified, (ii) an annual report required to be filed under G.S. 55-16-22 or (iii)~~ identified or the amount of tax refunds paid to a governmental entity listed in G.S. 105-164.14(c) or to a State agency."

SECTION 5.(j) This section becomes effective January 1, 2015. Subsection (f) of this section applies to returns due on or after April 15, 2015, for taxable years beginning on or after January 1, 2015. The remaining sections apply to annual reports due on or after January 1, 2015.

PART VI. SALES TAX CHANGES

SECTION 6.1.(a) G.S. 105-164.13(13c), (28), and (30) are repealed.

SECTION 6.1.(b) G.S. 105-164.13(50) reads as rewritten:

"**§ 105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property, digital property, and services are specifically exempted from the tax imposed by this Article:

...

(50) ~~Fifty percent (50%)~~ The percentage set in the table below of the sales price of tangible personal property sold through a coin-operated vending ~~machine,~~ machine on or after the date set in the table below, other than tobacco.

Percentage of Sales Price Exempt	Sold on or after
40%	October 1, 2013
30%	July 1, 2014
20%	July 1, 2015
10%	July 1, 2016.

...".

SECTION 6.1.(c) G.S. 105-164.13(50) is repealed.

SECTION 6.1.(d) Subsection (c) of this section becomes effective July 1, 2017, and applies to items sold on or after that date. The remainder of this section becomes effective October 1, 2013, and applies to sales made and items sold on or after that date.

SECTION 6.2.(a) G.S. 105-164.13(27) and (27a), 105-164.13C, and 105-164.13D are repealed.

SECTION 6.2.(b) This section becomes effective July 1, 2014, and applies to sales made on or after that date.

SECTION 6.3.(a) Part 3 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.13E. Exemption for farmers.**

The following tangible personal property, digital property, and services are exempt from sales and use tax if purchased by a qualifying farmer and for use by the farmer in the planting,

cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals. A qualifying farmer is a farmer who has an annual gross income of ten thousand dollars ($10,000) or more from farming operations for the preceding calendar year and includes a dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a farmer of an aquatic species, as defined in G.S. 106-758.

(1) Fuel and electricity used for a purpose other than preparing food, heating dwellings, and other household purposes.

(2) Commercial fertilizer, lime, land plaster, plastic mulch, plant bed covers, potting soil, baler twine, and seeds.

(3) Farm machinery, attachment and repair parts for farm machinery, and lubricants applied to farm machinery. The term "machinery" includes implements that have moving parts or are operated or drawn by an animal. The term does not include implements operated wholly by hand or motor vehicles required to be registered under Chapter 20 of the General Statutes.

a. A container used in the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals.

b. A container used in packaging and transporting the farmer's product for sale.

(4) A container used in the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals or used in packaging and transporting the farmer's product for sale.

(5) Any of the following substances when purchased for use on animals or plants, as appropriate, held or produced for commercial purposes. This exemption does not apply to any equipment or devices used to administer, release, apply, or otherwise dispense these substances:

a. Remedies, vaccines, medications, litter materials, and feeds for animals.

b. Rodenticides, insecticides, herbicides, fungicides, and pesticides.

c. Defoliants for use on cotton or other crops.

d. Plant growth inhibitors, regulators, or stimulators, including systemic and contact or other sucker control agents for tobacco and other crops.

e. Semen.

(6) Baby chicks and poults sold for commercial poultry or egg production."

SECTION 6.3.(b) G.S. 105-164.13(1), (1a), (1b), (2a), (4a), and (4d) are repealed.

SECTION 6.3.(c) This section becomes effective July 1, 2014, and applies to sales made on or after that date.

SECTION 6.4.(a) G.S. 105-164.4(a) reads as rewritten:

"(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and three-quarters percent (4.75%).

...

(1a) The general rate ~~of two percent (2%)~~ applies to the sales price of each manufactured home sold at retail, including all accessories attached to the manufactured home when it is delivered to the purchaser. ~~The maximum tax is three hundred dollars ($300.00) per article. Each section of a manufactured home that is transported separately to the site where it is to be erected is a separate article.~~

...

(8) The general rate ~~of two and one-half percent (2.5%)~~ applies to the sales price of each modular home sold at retail, including all accessories attached to the modular home when it is delivered to the purchaser. The sale of a modular home to a modular homebuilder is considered a retail sale. A person who sells a modular home at retail is allowed a credit against the tax imposed by this subdivision for sales or use tax paid to another state on tangible personal property incorporated in the modular home. The retail sale of a modular home occurs when a modular home manufacturer sells a modular home to a modular homebuilder or directly to the end user of the modular home."

SECTION 6.4.(b) G.S. 105-164.44G is repealed.

SECTION 6.4.(c) G.S. 105-467(a) reads as rewritten:

"(a) Sales Tax. – The sales tax that may be imposed under this Article is limited to a tax at the rate of one percent (1%) of the following:

(1) A retailer's net taxable sales and gross receipts that are subject to the general rate of sales tax imposed by the State under ~~G.S. 105-164.4.~~G.S. 105-164.4 except the tax does not apply to the sales price of a manufactured home or a modular home.

(2) through (4) Repealed by Session Laws 2011-330, s. 45, effective June 27, 2011.

(5) The sales price of food that is not otherwise exempt from tax pursuant to G.S. 105-164.13 but is exempt from the State sales and use tax pursuant to G.S. 105-164.13B.

(5a) The sales price of a bundled transaction that includes food subject to tax under subdivision (5) of this subsection, if the price of the food exceeds ten percent (10%) of the price of the bundle. A retailer must determine the price of food in a bundled transaction in accordance with G.S. 105-164.4D.

(5b) The sales price of bread, rolls, and buns that are sold at a bakery thrift store and are exempt from State tax under G.S. 105-164.13(27a).

(6), (7) Repealed by Session Laws 2011-330, s. 45, effective June 27, 2011."

SECTION 6.4.(d) This section becomes effective July 1, 2014, and applies to sales made on or after that date.

PART VII. SALES TAX REFUNDS

SECTION 7.1.(a) G.S. 105-164.3(43) reads as rewritten:

§ 105-164.3. Definitions.

The following definitions apply in this Article:

...

(43) State agency. – A unit of the executive, legislative, or judicial branch of State government, such as a department, a commission, a board, a council, or The University of North Carolina. The term includes The University of North Carolina Health Care System. The term does not include a local board of education."

SECTION 7.1.(b) G.S. 105-164.14(c) is repealed.

SECTION 7.1.(c) This section becomes effective January 1, 2016, and applies to purchases made on or after that date.

SECTION 7.2.(a) G.S. 105-164.14(b) reads as rewritten:

"(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed a semiannual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services, other than electricity, telecommunications service, and ancillary service, for use in carrying on the work of the nonprofit entity. Sales and use tax liability

indirectly incurred by a nonprofit entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the nonprofit entity and is being erected, altered, or repaired for use by the nonprofit entity for carrying on its nonprofit activities is considered a sales or use tax liability incurred on direct purchases by the nonprofit entity. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund for the first six months of a calendar year is due the following October 15; a request for a refund for the second six months of a calendar year is due the following April 15. The aggregate annual refund amount allowed for a nonprofit entity under this subsection for a fiscal year may not exceed the amount set in the table below:

Fiscal Year	Amount
Beginning July 1, 2014	$7,500,000
Beginning July 1, 2015	$5,000,000
Beginning July 1, 2016	$3,500,000
Beginning on or after July 1, 2017	$2,000,000.

The refunds allowed under this subsection do not apply to an entity that is owned and controlled by the United States or to an entity that is owned or controlled by the State and is not listed in this subsection. A hospital that is not listed in this subsection is allowed a semiannual refund of sales and use taxes paid by it on medicines and drugs purchased for use in carrying out its work. The following nonprofit entities are allowed a refund under this subsection:

(1) Hospitals not operated for profit, including hospitals and medical accommodations operated by an authority or other public hospital described in Article 2 of Chapter 131E of the General Statutes.

(2) An organization that is exempt from income tax under section 501(c)(3) of the Code, other than an organization that is properly classified in any of the following major group areas of the National Taxonomy of Exempt Entities:
   a. Community Improvement and Capacity Building.
   b. Public and Societal Benefit.
   c. Mutual and Membership Benefit.

(2a) An organization that is exempt from income tax under the Code and is one of the following:
   a. A volunteer fire department.
   b. A volunteer emergency medical services squad.

(3) Repealed by Session Laws 2008-107, s. 28.22(a), effective July 1, 2008, and applicable to purchases made on or after that date.

(4) Qualified retirement facilities whose property is excluded from property tax under G.S. 105-278.6A.

(5) A university affiliated nonprofit organization that procures, designs, constructs, or provides facilities to, or for use by, a constituent institution of The University of North Carolina. For purposes of this subdivision, a nonprofit organization includes an entity exempt from taxation as a disregarded entity of the nonprofit organization."

SECTION 7.2.(b) G.S. 105-164.14(d) reads as rewritten:

"(d) Late Applications. – Refunds applied for more than ~~three years~~ one year after the due date are barred."

SECTION 7.2.(c) G.S. 105-467(b) reads as rewritten:

"(b) Exemptions and Refunds. – The State exemptions and exclusions contained in ~~G.S. 105-164.13, the State sales and use tax holidays contained in G.S. 105-164.13C and G.S. 105-164.13D, and the State refund provisions contained in G.S. 105-164.14 through G.S. 105-164.14B~~ G.S. 105-164.13 apply to the local sales and use tax authorized to be levied

and imposed under this Article. The State refund provisions contained in G.S. 105-164.14 through G.S. 105-164.14B apply to the local sales and use tax authorized to be levied and imposed under this Article. ~~Except~~ The aggregate local refund amount allowed to a nonprofit entity under G.S. 105-164.14(b) for a fiscal year may not exceed the amount set in the table below:

Fiscal Year	Amount
Beginning July 1, 2014	$3,000,000
Beginning July 1, 2015	$2,000,000
Beginning July 1, 2016	$1,500,000
Beginning on or after July 1, 2017	$ 850,000.

(b1) Additional Refunds. – Except as provided in this subsection, a taxing county may not allow an exemption, exclusion, or refund that is not allowed under the State sales and use tax. A local school administrative unit and a joint agency created by interlocal agreement among local school administrative units pursuant to G.S. 160A-462 to jointly purchase food service-related materials, supplies, and equipment on their behalf is allowed an annual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services, other than electricity, telecommunications service, and ancillary service. Sales and use tax liability indirectly incurred by the entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the entity and is being erected, altered, or repaired for use by the entity is considered a sales or use tax liability incurred on direct purchases by the entity for the purpose of this subsection. A request for a refund shall be in writing and shall include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the entity's fiscal year. Refunds applied for more than ~~three years~~ one year after the due date are barred."

SECTION 7.3.(d) This section becomes effective July 1, 2014, and applies to purchases made on or after that date.

SECTION 7.4.(a) Part 3 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.14C. Phaseout of sales tax preferences.**

(a) Refund Amount. – The refund amount allowed under this section for a fiscal year is the percentage amount of sales and use taxes paid during the fiscal year as provided in the table below:

Fiscal Year	Percentage Allowed
Beginning July 1, 2014	80%
Beginning July 1, 2015	60%
Beginning July 1, 2016	40%
Beginning July 1, 2017	20%

(b) Administration. – A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the State's fiscal year. Refunds applied for after the due date are barred.

(c) Not an Overpayment. – A tax for which a refund is allowed under this section is not an overpayment of tax and does not accrue interest as provided in G.S. 105-241.21.

(d) Refund Allowed. – The following taxpayers are allowed an annual refund of sales and use taxes paid under this Article in the amount provided in subsection (a) of this section.

(1) Farmer. – A farmer that qualifies for a sales tax exemption under G.S. 105-164.13E is allowed a refund of the sales and use tax paid by the farmer on the following items purchased for use in farming operations:

a. A grain, feed, or soybean storage facility, and parts and accessories attached to the facility.
b. A commercially manufactured facility to be used for commercial purposes for housing, raising, or feeding animals or for housing equipment necessary for these commercial activities. The refund also applies to commercially manufactured equipment, and parts and accessories for the equipment, used in the facility
c. Building materials, supplies, fixtures, and equipment that become a part of and are used in the construction, repair, or improvement of an enclosure or a structure specifically designed, constructed, and used for housing, raising, or feeding animals or for housing equipment necessary for one of these commercial activities. The refund also applies to commercially manufactured equipment, and parts and accessories for the equipment, used in the enclosure or a structure.
d. A bulk tobacco barn or rack, parts and accessories attached to the tobacco barn or rack, and any similar apparatus, part, or accessory used to cure or dry tobacco or another crop.

(2) Commercial logging. – A person engaged in the commercial logging business is allowed a refund of the sales and use tax by it on the following:
a. Logging machinery. – Logging machinery is machinery used to harvest raw forest products for transport to first market.
b. Attachments and repair parts for logging machinery.
c. Lubricants applied to logging machinery.
d. Fuel used to operate logging machinery.

(3) Wood chippers. – A person is allowed a refund of the sales and use tax paid by it on a wood chipper that meets all of the following requirements:
a. It is designed to be towed by a motor vehicle.
b. It is assigned a 17-digit vehicle identification number by the National Highway Transportation Safety Association.
c. It is sold to a person who purchases a motor vehicle in this State that is to be registered in another state and who uses the purchased motor vehicle to tow the wood chipper to the state in which the purchased motor vehicle is to be registered.

(4) Telephone company. – A telephone company regularly engaged in providing telecommunications service to subscribers on a commercial basis is allowed a refund of the sales and use tax paid by it on central office equipment, switchboard equipment, private branch exchange equipment, terminal equipment other than public pay telephone terminal equipment, and parts and accessories attached to the equipment.

(5) Radio or television company. – A radio or television company licensed by the Federal Communications Commission is allowed a refund of the sales and use tax paid by it on towers, broadcasting equipment, and parts and accessories attached to the equipment.

(6) Cable service provider. – A cable service provider is allowed a refund of the sales and use tax paid by it on broadcasting equipment and parts and accessories attached to the equipment. A refund is not allowed on cable.

(7) Commercial fishing. – A person listed in this subdivision is allowed a refund of the sales and use tax paid by it on boats, fuel oil, lubricating oils, machinery, equipment, nets, rigging, paints, parts, accessories, and supplies.

a. The holder of a standard commercial fishing license issued under G.S. 113-168.2 for principal use in commercial fishing operations.
b. The holder of a shellfish license issued under G.S. 113-169.2 for principal use in commercial shellfishing operations.
c. The operator of a for-hire boat, as defined in G.S. 113-174, for principal use in the commercial use of the boat.

(8) Commercial laundries and dry cleaners. – A commercial laundry or dry cleaning establishment is allowed a refund of the sales and use tax paid by it on the following:
a. Articles or materials used for the identification of garments being laundered or dry cleaned, wrapping paper, bags, hangers, starch, soaps, detergents, cleaning fluids and other compounds or chemicals applied directly to the garments in the direct performance of the laundering or the pressing and cleaning service.
b. Laundry and dry-cleaning machinery, parts and accessories attached to the machinery, and lubricants applied to the machinery.
c. Fuel used in the direct performance of the laundering or the pressing and cleaning service.

(9) Commercial printer and publisher. – A commercial printer or a commercial publisher is allowed a refund of the sales and use tax paid by it on paper, ink, and other tangible personal property for use as ingredients or component parts of free distribution periodicals and sales by printers of free distribution periodicals to the publishers of these periodicals. As used in this subdivision, the term "free distribution periodical" means a publication that is continuously published on a periodic basis monthly or more frequently, is provided without charge to the recipient, and is distributed in any manner other than by mail.

(10) Railroad company. – A railroad company is allowed a refund of the sales and use tax paid by it on diesel fuel for use in rolling stock other than motor vehicles. The definitions in G.S. 105-333 apply in this subdivision.

(11) Passenger air carrier. – An interstate passenger air carrier is allowed a refund of the sales and use tax paid by it on fuel in excess of two million five hundred thousand dollars ($2,500,000). The amount of sales and use tax paid does not include a refund allowed to the interstate passenger air carrier under G.S. 105-164.14(a)."

SECTION 7.4.(b) G.S. 105-164.13(4c), (4f), (4g), (5b), (5c), (5d), (9), (10), (11a), and (39) are repealed.

SECTION 7.4.(c) G.S. 105-467(b), as amended in this act, reads as rewritten:

"(b) Exemptions and Refunds. – The State exemptions and exclusions contained in G.S. 105-164.13 apply to the local sales and use tax authorized to be levied and imposed under this Article. The State refund provisions contained in G.S. 105-164.14 through ~~G.S. 105-164.14B~~ 105-164.14C apply to the local sales and use tax authorized to be levied and imposed under this Article. The amount of a refund allowed under G.S. 105-164.14C is the same percentage refund amount allowed for a State refund under that section. The aggregate local refund amount allowed to a nonprofit entity under G.S. 105-164.14(b) for a fiscal year may not exceed the amount set in the table below:

Fiscal Year	Amount
Beginning July 1, 2014	$1,500,000
Beginning July 1, 2015	$ 300,000
Beginning on or after July 1, 2016	$ 30,000."

SECTION 7.4.(d) This section becomes effective July 1, 2014, and applies to purchases made on or after that date.

SECTION 7.5.(a) G.S. 105-164.14C, as enacted by this Part, is repealed.

SECTION 7.5.(b) G.S. 105-467(b), as amended by this Part, reads as rewritten:

"(b) Exemptions and Refunds. – The State exemptions and exclusions contained in G.S. 105-164.13 apply to the local sales and use tax authorized to be levied and imposed under this Article. The State refund provisions contained in G.S. 105-164.14 through ~~105-164.14C~~ 105-164.14B apply to the local sales and use tax authorized to be levied and imposed under this Article. ~~The amount of a refund allowed under G.S. 105-164.14C is the same percentage refund amount allowed for a State refund under that section.~~ The aggregate local refund amount allowed to a nonprofit entity under G.S. 105-164.14(b) for a fiscal year may not exceed the amount set in the table below:

Fiscal Year	Amount
Beginning July 1, 2014	$1,500,000
Beginning July 1, 2015	$ 300,000
Beginning on or after July 1, 2016	$ 30,000."

SECTION 7.5.(c) This section becomes effective July 1, 2018, and applies to purchases made on or after that date.

SECTION 7.6.(a) G.S. 105-164.14A(a)(4) and (5) read as rewritten:

"**§ 105-164.14A. Economic incentive refunds.**

(a) Refund. – The following taxpayers are allowed an annual refund of sales and use taxes paid under this Article:

...

(4) Motorsports team or sanctioning body. – A professional motorsports racing team, a motorsports sanctioning body, or a related member of such a team or body is allowed a refund of the sales and use tax paid by it in this State on aviation fuel that is used to travel to or from a motorsports event in this State, to travel to a motorsports event in another state from a location in this State, or to travel to this State from a motorsports event in another state. For purposes of this subdivision, a "motorsports event" includes a motorsports race, a motorsports sponsor event, and motorsports testing. This subdivision is repealed for purchases made on or after ~~January 1, 2014.~~July 1, 2014.

(5) Professional motorsports team. – A professional motorsports racing team or a related member of a team is allowed a refund of fifty percent (50%) of the sales and use tax paid by it in this State on tangible personal property, other than tires or accessories, that comprises any part of a professional motorsports vehicle. For purposes of this subdivision, "motorsports accessories" includes instrumentation, telemetry, consumables, and paint. This subdivision is repealed for purchases made on or after ~~January 1, 2014.~~July 1, 2014."

SECTION 7.6.(b) This section is effective when it becomes law.

PART VIII. ELECTRICITY AND PIPED NATURAL GAS TAX CHANGES

SECTION 8.1.(a) G.S. 105-116, 105-116.1, 105-164.21A, and 159B-27(b), (c), (d), and (e) are repealed.

SECTION 8.1.(b) G.S. 105-130.6A(a)(4) reads as rewritten:

"(a) Definitions. – The provisions of G.S. 105-130.6 govern the determination of whether a corporation is a subsidiary or an affiliate of another corporation. In addition, the following definitions apply in this section:

...

(4) Electric power holding company. – A holding company with an affiliate or a subsidiary that is engaged in the business of producing electric power.~~subject to the franchise tax on electric power companies levied in G.S. 105-116.~~

...."

SECTION 8.1.(c) G.S. 105-164.4(a)(1f) and (a)(4a) are repealed.

SECTION 8.1.(d) G.S. 105-164.13(44) and Article 5E of Chapter 105 of the General Statutes are repealed.

SECTION 8.1.(e) G.S. 105-164.4(a) is amended by adding a new subdivision to read:

"(10) The combined general rate applies to the gross receipts derived from sales of electricity and piped natural gas."

SECTION 8.1.(f) G.S. 105-164.15A reads as rewritten:

"**§ 105-164.15A. Effective date of tax changes on services and items taxed at combined general rate.**

(a) Services. – The effective date of a tax change for a service taxable under this Article is administered as follows:

(1) For a service that is provided and billed on a monthly or other periodic basis:

a. A new tax or a tax rate increase applies to the first billing period that is at least 30 days after enactment and that starts on or after the effective date.

b. A tax repeal or a tax rate decrease applies to bills rendered on or after the effective date.

(2) For a service that is not billed on a monthly or other periodic basis, a tax change applies to amounts received for services provided on or after the effective date, except amounts received for services provided under a lump-sum or unit-price contract entered into or awarded before the effective date or entered into or awarded pursuant to a bid made before the effective date.

(b) Combined Rate Items. – The effective date of a rate change for an item that is taxable under this Article at the combined general rate is the effective date of any of the following:

(1) The effective date of a change in the State general rate of tax set in G.S. 105-164.4.

(2) For an increase in the authorization for local sales and use taxes, the date on which local sales and use taxes authorized by Subchapter VIII of this Chapter for every county become effective in the first county or group of counties to levy the authorized taxes.

(3) For a repeal in the authorization for local sales and use taxes, the effective date of the repeal.

(4) For an item billed on a monthly or other periodic basis, the change applies to the first billing period that is at least 30 days after enactment and that starts on or after the effective date."

SECTION 8.1.(g) This section becomes effective July 1, 2014, and applies to gross receipts billed on or after that date.

SECTION 8.2.(a) Pursuant to G.S. 62-31 and G.S. 62-32, the Utilities Commission must adjust the rate set for the following utilities:

(1) Electricity to reflect the repeal of G.S. 105-116 and the resulting liability of electric power companies for the tax imposed under G.S. 105-122 and for

the increase in the rate of tax imposed on sales of electricity under G.S. 105-164.4.

(2) Piped natural gas to reflect the repeal of Article 5E of Chapter 105 of the General Statutes, the repeal of the credit formerly allowed under G.S. 105-122(d1), and the resulting liability of companies for the tax imposed on sales of piped natural gas under G.S. 105-164.4.

SECTION 8.2.(b) This section is effective when it becomes law.

SECTION 8.3.(a) Part 8 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.44K. Distribution of part of tax on electricity to cities.**

(a) Distribution. – The Secretary must distribute to cities forty-four percent (44%) of the net proceeds of the tax collected under G.S. 105-164.4 on electricity. Each city's share of the amount to be distributed is its franchise tax share calculated under subsection (b) of this section plus its ad valorem share calculated under subsection (c) of this section. The Secretary must make the distribution within 75 days after the end of each quarter.

(b) Franchise Tax Share. – The quarterly franchise tax share of a city is the amount of electricity gross receipts franchise tax distributed to the city under repealed G.S. 105-116.1 for the same related quarter that was the last quarter in which taxes were imposed on electric power companies under repealed G.S. 105-116.

The franchise tax share of a city that has dissolved, merged with another city, or divided into two or more cities since it received a distribution under repealed G.S. 105-116.1 is adjusted as follows:

(1) If a city dissolves and is no longer incorporated, the franchise tax share of the city is added to the amount distributed under subsection (c) of this section.

(2) If two or more cities merge or otherwise consolidate, their franchise tax shares are combined.

(3) If a city divides into two or more cities, the franchise tax share of the city that divides is allocated among the new cities in proportion to the total amount of ad valorem taxes levied by each on property having a tax situs in the city.

(c) Ad Valorem Share. – The ad valorem share of a city is its proportionate share of the amount that remains for distribution after determining each city's franchise tax share under subsection (b) of this section. A city's proportionate share is the amount of ad valorem taxes it levies on property having a tax situs in the city compared to the ad valorem taxes levied by all cities on property having a tax situs in the cities.

(d) Methodology. – The ad valorem method set out in G.S. 105-472(b)(2) applies in determining the share of a city under this section based on ad valorem taxes, except that the amount of ad valorem taxes levied by a city does not include ad valorem taxes levied on behalf of a taxing district and collected by the city.

(e) Determination Final. – The determination made by the Department with respect to a city's franchise tax share is final and is not subject to administrative or judicial review.

(f) Nature. – The General Assembly finds that the revenue distributed under this section is local revenue, not a State expenditure, for the purpose of Section 5(3) of Article III of the North Carolina Constitution. The Governor may not reduce or withhold the distribution."

SECTION 8.3.(b) Part 8 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.44L. Distribution of part of tax on piped natural gas to cities.**

(a) Distribution. – The Secretary must distribute to cities twenty percent (20%) of the net proceeds of the tax collected under G.S. 105-164.4 on piped natural gas. Each city's share of

the amount to be distributed is its excise tax share calculated under subsection (b) of this section plus its ad valorem share calculated under subsection (c) of this section. The Secretary must make the distribution within 75 days after the end of each quarter.

(b) Excise Tax Share. – The quarterly excise tax share of a city that is not a gas city is the amount of piped natural gas excise tax distributed to the city under repealed G.S. 105-187.44 for the same related quarter that was the last quarter in which taxes were imposed on piped natural gas under repealed Article 5E of this Chapter. The Secretary must determine the excise tax share of a gas city and divide that amount by four to calculate the quarterly distribution amount for a gas city. The excise tax share of a gas city is the amount the gas city would have received under repealed G.S. 105-187.44 for the last year in which taxes were imposed under repealed Article 5E of this Chapter if piped natural gas consumed by the city or delivered by the city to a customer had not been exempt from tax under repealed G.S. 105-187.41(c)(1) and (c)(2). A gas city must report the information required by the Secretary to make the distribution under this section in the form, manner, and time required by the Secretary. For purposes of this subsection, the term "gas city" has the same meaning as defined in repealed G.S. 105-187.40.

The excise tax share of a city that has dissolved, merged with another city, or divided into two or more cities since it received a distribution under repealed G.S. 105-187.44 is adjusted as follows:

(1) If a city dissolves and is no longer incorporated, the excise tax share of the city is added to the amount distributed under subsection (c) of this section.

(2) If two or more cities merge or otherwise consolidate, their excise tax shares are combined.

(3) If a city divides into two or more cities, the excise tax share of the city that divides is allocated among the new cities in proportion to the total amount of ad valorem taxes levied by each on property having a tax situs in the city.

(c) Ad Valorem Share. – The ad valorem share of a city is its proportionate share of the amount that remains for distribution after determining each city's excise tax share under subsection (b) of this section. A city's proportionate share is the amount of ad valorem taxes it levies on property having a tax situs in the city compared to the ad valorem taxes levied by all cities on property having a tax situs in the cities.

(d) Methodology. – The ad valorem method set out in G.S. 105-472(b)(2) applies in determining the share of a city under this section based on ad valorem taxes, except that the amount of ad valorem taxes levied by a city does not include ad valorem taxes levied on behalf of a taxing district and collected by the city.

(e) Determination Final. – The determination made by the Department with respect to a city's excise tax share is final and is not subject to administrative or judicial review.

(f) Nature. – The General Assembly finds that the revenue distributed under this section is local revenue, not a State expenditure, for the purpose of Section 5(3) of Article III of the North Carolina Constitution. Therefore, the Governor may not reduce or withhold the distribution."

SECTION 8.3.(c) This section is effective for quarters beginning on or after July 1, 2014.

SECTION 8.4.(a) G.S. 160A-211 reads as rewritten:

"(c) Prohibition. – A city may not impose a license, franchise, or privilege tax on a person engaged in any of the businesses listed in this subsection. These businesses are subject to ~~a State tax~~ sales tax at the combined general rate for which the city receives a share of the tax ~~revenue.~~revenue or they are subject to the local sales tax.

(1) Supplying piped natural ~~gas taxed under Article 5E of Chapter 105 of the General Statutes.~~gas.

(2) Providing telecommunications service taxed under G.S. 105-164.4(a)(4c).
(3) Providing video programming taxed under G.S. 105-164.4(a)(6).
(4) Providing electricity. A city may continue to impose and collect the license, franchise, or privilege taxes on an electric power company that it imposed and collected on or before January 1, 1947, but it may not impose or collect any greater franchise, privilege, or license taxes, in the aggregate, on an electric power company that was imposed and collected on or before January 1, 1947."

SECTION 8.4.(b) This section becomes effective July 1, 2014.

PART IX. CONVERT GROSS RECEIPTS TAX ON AMUSEMENTS TO SALES TAX

SECTION 9.1.(a) G.S. 105-37.1, 105-38.1, and 105-40 are repealed.

SECTION 9.1.(b) G.S. 105-164.4(a) is amended by adding the following new subdivision to read:

"**§ 105-164.4. Tax imposed on retailers.**

(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and three-quarters percent (4.75%).

...

(9) The general rate of tax applies to admission charges to an entertainment activity listed in this subdivision. Offering any of these listed activities is a service. An admission charge includes a charge for a single ticket, a multi-occasion ticket, a seasonal pass, an annual pass, and a cover charge.

An admission charge does not include a charge for amenities. If charges for amenities are not separately stated on the face of an admission ticket, then the charge for admission is considered to be equal to the admission charge for a ticket to the same event that does not include amenities and is for a seat located directly in front of or closest to a seat that includes amenities.

When an admission ticket is resold and the price of the admission ticket is printed on the face of the ticket, the tax does not apply to the face price. When an admission ticket is resold and the price of the admission ticket is not printed on the face of the ticket, the tax applies to the difference between the amount the reseller paid for the ticket and the amount the reseller charges for the ticket.

Admission charges to the following entertainment activities are subject to tax:

a. A live performance or other live event of any kind.
b. A motion picture or film."

SECTION 9.1.(c) G.S. 105-164.13 is amended by adding the following new subdivision to read:

"**§ 105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property, digital property, and services are specifically exempted from the tax imposed by this Article:

...

(60) Admission charges to any of the following recreational or entertainment activities:

a. An event that is held at an elementary or secondary school and is sponsored by the school.
b. A commercial agricultural fair that meets the requirements of G.S. 106-520.1, as determined by the Commissioner of Agriculture.
c. A festival or other recreational or entertainment activity that lasts no more than seven consecutive days and is sponsored by a nonprofit entity that is exempt from tax under Article 4 of this Chapter and uses the entire proceeds of the activity exclusively for the entity's nonprofit purposes. This exemption applies to the first two activities sponsored by the entity during a calendar year.
d. A youth athletic contest sponsored by a nonprofit entity that is exempt from tax under Article 4 of this Chapter. For the purpose of this subdivision, a youth athletic contest is a contest in which each participating athlete is less than 20 years of age.
e. A State attraction."

SECTION 9.1.(d) The following statutes are repealed:

G.S. 106-507
G.S. 106-516
G.S. 106-517
G.S. 106-518
G.S. 106-519
G.S. 106-520
G.S. 140-10.1

SECTION 9.1.(e) G.S. 105-164.9 is repealed.

SECTION 9.1.(f) G.S. 105-164.10 reads as rewritten:

"**§ 105-164.10. Retail bracket system.**

For the convenience of the retailer in collecting the tax due under this Article, the Secretary ~~shall~~ must prescribe tables that compute the tax due on sales by rounding off the amount of tax due to the nearest whole cent. The Secretary ~~shall~~ must issue a separate table for each rate of tax that may apply to a ~~sale, including the general rate established in G.S. 105-164.4, preferential rates, and combined State and local rates. Use of the tables prescribed by the Secretary does not relieve a retailer of liability for the applicable rate of tax due on the gross receipts or net taxable sales of the retailer.~~sale."

SECTION 9.1.(g) This section becomes effective October 1, 2013, and applies to admissions purchased on or after that date. For admissions to a live event, the tax applies to the initial sale or resale of tickets occurring on or after that date; gross receipts received on or after October 1, 2013, for admission to a live event, for which the initial sale of tickets occurred before that date, other than gross receipts received by a ticket reseller, are taxable under G.S. 105-37.1.

SECTION 9.2.(a) G.S. 105-164.4(a)(9), as enacted by this Part, reads as rewritten:

"(9) The general rate of tax applies to admission charges to an entertainment activity listed in this subdivision. Offering any of these listed activities is a service. An admission charge includes a charge for a single ticket, a multi-occasion ticket, a seasonal pass, an annual pass, and a cover charge.

An admission charge does not include a charge for amenities. If charges for amenities are not separately stated on the face of an admission ticket, then the charge for admission is considered to be equal to the admission charge for a ticket to the same event that does not include amenities and is for a seat located directly in front of or closest to a seat that includes amenities.

When an admission ticket is resold and the price of the admission ticket is printed on the face of the ticket, the tax does not apply to the face price. When an admission ticket is resold and the price of the admission ticket is not printed on the face of the ticket, the tax applies to the difference between the amount the reseller paid for the ticket and the amount the reseller charges for the ticket.

Admission charges to the following entertainment activities are subject to tax:

a. A live performance or other live event of any kind.

b. A motion picture or film.

c. A museum, a cultural site, a garden, an exhibit, a show, or a similar attraction or a guided tour at any of these attractions."

SECTION 9.2.(b) This section becomes effective July 1, 2014, and applies to admissions purchased on or after that date.

PART X. SERVICE CONTRACTS

SECTION 10.(a) G.S. 105-164.3 is amended by adding a new subdivision to read:

"**§ 105-164.3. Definitions.**

The following definitions apply in this Article:

...

(38b) Service contract. – A warranty agreement, a maintenance agreement, a repair contract, or a similar agreement or contract by which the provider agrees to maintain or repair tangible personal property.

...."

SECTION 10.(b) G.S. 105-164.4(a) is amended by adding the following new subdivision to read:

"**§ 105-164.4. Tax imposed on retailers.**

(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and three-quarters percent (4.75%).

...

"(11) The general rate of tax applies to a service contract."

SECTION 10.(c) G.S. 105-164.13 is amended by adding a two new subdivisions to read:

"(61) A service on tangible personal property described in G.S. 105-164.4(a)(11) that is provided for any of the following:

a. An item exempt from tax under this Article, other than an item exempt from tax under G.S. 105-164.13(32).

b. A newly constructed building or structure.

c. A transmission, distribution, or other network asset contained on utility-owned land, right-of-way, or easement."

SECTION 10.(d) This section becomes effective July 1, 2014, and applies to sales made on or after that date.

PART XI. ELIMINATE ESTATE TAX

SECTION 11.(a) Article 1A of Chapter 105 of the General Statutes is repealed.

SECTION 11.(b) G.S. 105-241.10 reads as rewritten:

"**§ 105-241.10. Limit on refunds and assessments after a federal determination.**

The limitations in this section apply when a taxpayer files a timely return reflecting a federal determination that affects the amount of State tax payable and the general statute of

limitations for requesting a refund or proposing an assessment of the State tax has expired. A federal determination is a correction or final determination by the federal government of the amount of a federal tax due. A return reflecting a federal determination is timely if it is filed within the time required by G.S. ~~105-32.8,~~105-130.20, 105-159, 105-160.8, or 105-163.6A, as appropriate. The limitations are:

(1) Refund. – A taxpayer is allowed a refund only if the refund is the result of adjustments related to the federal determination.

(2) Assessment. – A taxpayer is liable for additional tax only if the additional tax is the result of adjustments related to the federal determination. A proposed assessment may not include an amount that is outside the scope of this liability."

SECTION 11.(c) G.S. 105-236(a)(5) reads as rewritten:

"(a) Penalties. – The following civil penalties and criminal offenses apply:

...

(5) Negligence. –

...

~~e. Estate tax deficiencies. This subdivision does not apply to estate tax deficiencies that are the result of valuation understatements.~~

...."

SECTION 11.(d) This section becomes effective January 1, 2013, and applies to the estates of decedents dying on or after that date.

PART XII. ELIMINATE EARMARKS AND CREDIT TO GENERAL FUND

SECTION 12.1.(a) G.S. 105-228.30(b) reads as rewritten:

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

SECTION 12.1(b) G.S. 113-44.15(a) reads as rewritten:

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

SECTION 12.1(c) G.S. 113-77.9 reads as rewritten:

"§ 113-77.9. Acquisition of lands with funds from the Natural Heritage Trust Fund.

...

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

(1) To acquire land that represents the ecological diversity of North Carolina, including natural features such as riverine, montane, coastal, and geologic

systems and other natural areas to ensure their preservation and conservation for recreational, scientific, educational, cultural, and aesthetic purposes, and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.

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

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

...

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

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

...."

SECTION 12.1(d) This section becomes effective July 1, 2013, and applies to transfers made on or after that date.

SECTION 12.2.(a) G.S. 105-187.19(b) reads as rewritten:

"(b) Each quarter, the Secretary shall credit ~~eight percent (8%) of the net tax proceeds to the Solid Waste Management Trust Fund, seventeen percent (17%) of the net tax proceeds to the Scrap Tire Disposal Account, two and one-half percent (2.5%) of the net tax proceeds to the Inactive Hazardous Sites Cleanup Fund, and two and one-half percent (2.5%) of the net tax proceeds to the Bernard Allen Memorial Emergency Drinking Water~~ Fund.thirty percent (30%) of the net tax proceeds to the General Fund. The Secretary shall distribute the remaining seventy percent (70%) of the net tax proceeds among the counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer."

SECTION 12.2.(b) G.S. 130A-309.63 is repealed.

SECTION 12.2.(c) Part 2B of Article 9 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-309.64. Scrap Tire Disposal Program; other Department activities related to scrap tires.**

(a) The Department may make grants to units of local government to assist them in disposing of scrap tires. To administer the grants, the Department shall establish procedures for

applying for a grant and the criteria for selecting among grant applicants. The criteria shall include the financial ability of a unit of local government to provide for scrap tire disposal, the severity of a unit of local government's scrap tire disposal problem, the effort made by a unit of local government to ensure that only tires generated in the normal course of business in this State are provided free disposal, and the effort made by a unit of local government to provide for scrap tire disposal within the resources available to it.

(b) A unit of local government is not eligible for a grant under subsection (a) of this section unless its costs for disposing of scrap tires for the six-month period preceding the date the unit of local government files an application for a grant exceeded the amount the unit of local government received during that period from the proceeds of the scrap tire tax under G.S. 105-187.19. A grant to a unit of local government for scrap tire disposal may not exceed the unit of local government's unreimbursed cost for the six-month period.

(c) The Department may support a position to provide local governments with assistance in developing and implementing scrap tire management programs designed to complete the cleanup of nuisance tire collection sites and prevent scrap tires generated from outside of the State from being presented for free disposal in the State.

(d) The Department may clean up scrap tire collection sites that the Department has determined are a nuisance. The Department may use funds to clean up a nuisance tire collection site only if no other funds are available for that purpose.

(e) The Department shall include in the report to be delivered to the Environmental Review Commission on or before January 15 of each year pursuant to G.S. 130A-309.06(c) a description of the implementation of the North Carolina Scrap Tire Disposal Act under this Part for the fiscal year ending the preceding June 30. The description of the implementation of the North Carolina Scrap Tire Disposal Act shall include a list of the recipients of grants under subsection (a) of this section and the amount of each grant for the previous 12-month period. The report also shall include the amount of funds used to clean up nuisance sites under subsection (d) of this section.

(f) The Department may adopt any rules necessary to implement this section."

SECTION 12.2.(d) G.S. 130A-309.06(c) reads as rewritten:

"(c) The Department shall report to the Environmental Review Commission on or before 15 January of each year on the status of solid waste management efforts in the State. The report shall include:

...

(10) A description of the implementation of the North Carolina Scrap Tire Disposal Act that includes ~~the beginning and ending balances in the Scrap Tire Disposal Account for the reporting period, the amount credited to the Scrap Tire Disposal Account during the reporting period, and~~the amount of revenue used for grants and to clean up nuisance tire collection ~~sites, as required by G.S. 130A-309.63(e).~~under the provisions of G.S 130A-309.64.

...."

SECTION 12.2.(e) G.S. 130A-309.09C(g) reads as rewritten:

"(g) In addition to any other penalties provided by law, a unit of local government that does not comply with the requirements of G.S. 130A-309.09A(b) and G.S. 130A-309.09B(a) shall not be eligible for grants from the Solid Waste Management Trust ~~Fund, the Scrap Tire Disposal Account,~~Fund or the White Goods Management Account and shall not receive the proceeds of the scrap tire disposal tax imposed by Article 5B of Chapter 105 of the General Statutes or the proceeds of the white goods disposal tax imposed by Article 5C of Chapter 105 of the General Statutes to which the unit of local government would otherwise be entitled. The Secretary shall notify the Secretary of Revenue to withhold payment of these funds to any unit of local government that fails to comply with the requirements of G.S. 130A-309.09A(b) and

G.S. 130A-309.09B(a). Proceeds of the scrap tire disposal tax that are withheld pursuant to this subsection shall be credited to the ~~Scrap Tire Disposal Account~~General Fund and may be used as provided in ~~G.S. 130A-309.63.~~G.S. 130A-309.64. Proceeds of the white goods disposal tax that are withheld pursuant to this subsection shall be credited to the White Goods Management Account and may be used as provided in G.S. 130A-309.83."

SECTION 12.2.(f) Any tax proceeds remaining in the Scrap Tire Disposal Account, repealed under subsection (b) of this section, as of the effective date of this section shall continue to be used for the same purposes and in the same manner as the Scrap Tire Disposal Account, except the funds in the Scrap Tire Disposal Account shall not be used for grants to encourage the use of processed scrap tire materials.

SECTION 12.2.(g) This section becomes effective July 1, 2013.

PART XII. REPEAL TOBACCO DISCOUNT

SECTION 12.(a) G.S. 105-113.21 reads as rewritten:

"**§ 105-113.21. ~~Discount; refund.~~Refund.**

...

~~(a1) Discount. A distributor who files a timely report under G.S. 105-113.18 and who sends a timely payment may deduct from the amount due with the report a discount of two percent (2%). This discount covers expenses incurred in preparing the records and reports required by this Part, and the expense of furnishing a bond.~~

~~(b) Refund.~~ A distributor in possession of packages of stale or otherwise unsalable cigarettes upon which the tax has been paid may return the cigarettes to the manufacturer as provided in this subsection and apply to the Secretary for refund of the tax. The application ~~shall~~ must be in the form prescribed by the Secretary and ~~shall~~ must be accompanied by an affidavit from the manufacturer stating the number of cigarettes returned to the manufacturer by the applicant. The Secretary ~~shall~~ must refund the tax ~~paid, less the discount allowed,~~ paid on the unsalable cigarettes. The distributor must return the cigarettes to the manufacturer of the cigarettes or to the affiliated manufacturer who is contracted by the manufacturer of the cigarettes to serve as the manufacturer's agent for the purposes of validating quantities and disposing of unsalable cigarettes."

SECTION 12.(b) G.S. 105-113.39 reads as rewritten:

"**§ 105-113.39. ~~Discount; refund.~~Refund.**

~~(a) Discount. A wholesale dealer or a retail dealer who is primarily liable under G.S. 105-113.35(b) for the excise taxes imposed by this Part, who files a timely report under G.S. 105-113.37, and who sends a timely payment may deduct from the amount due with the report a discount of two percent (2%). This discount covers expenses incurred in preparing the records and reports required by this Part and the expense of furnishing a bond.~~

~~(b) Refund.~~ A wholesale dealer or retail dealer who is primarily liable under G.S. 105-113.35(b) for the excise taxes imposed by this Part and is in possession of stale or otherwise unsalable tobacco products upon which the tax has been paid may return the tobacco products to the manufacturer and apply to the Secretary for refund of the tax. The application ~~shall~~ must be in the form prescribed by the Secretary and ~~shall~~ must be accompanied by an affidavit from the manufacturer listing the tobacco products returned to the manufacturer by the applicant. The Secretary ~~shall~~ must refund the tax ~~paid, less the discount allowed,~~ paid on the listed products."

SECTION 12.(c) This section becomes effective July 1, 2014, and applies to returns filed for periods beginning on or after that date.

PART XIII. CAP EXCISE TAX ON MOTOR FUEL

SECTION 13.(a) Notwithstanding G.S. 105-449.80(a), for the period September 1, 2013, through June 30, 2014, the motor fuel excise tax rate may not exceed thirty-seven and one-half cents (37 1/2¢) a gallon.

SECTION 13.(b) This section is effective when it becomes law.

PART XIV. STUDY AND EFFECTIVE DATE

SECTION 14.(a) This act does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this act before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal.

SECTION 14.(b) G.S. 105-237.1(a) reads as rewritten:

"(a) Authority. – The Secretary may compromise a taxpayer's liability for a tax that is collectible under G.S. 105-241.22 when the Secretary determines that the compromise is in the best interest of the State and makes one or more of the following findings:

...

(6) The taxpayer is a retailer or a person under Article 5 of this Chapter; the assessment is for sales or use tax the retailer failed to collect or the person failed to pay on an item taxable under G.S. 105-164.4(a)(9) and the retailer or person made a good-faith effort to comply with the sales and use tax laws. This subdivision expires for assessments issued after July 1, 2020."

SECTION 14.(c) The Revenue Laws Study Committee is directed to study the tax issues listed in this subsection. The Committee may report its findings, together with any recommended legislation, to the 2014 Regular Session of the 2013 General Assembly upon its convening.

(1) The scope and application of the privilege tax at the rate of one percent (1%) with a cap of eighty dollars ($80.00) that applies to mill machinery and on other machinery and equipment purchased by certain industries and companies.

(2) The feasibility of a preferential tax rate on diesel fuel sold to railroads, fuel sold to passenger air carriers, and fuel sold to motorsports.

(3) The authority of cities and counties to impose a privilege tax on businesses and the various State privilege license taxes.

(4) The impact of the elimination of the State and local sales and use tax refund on nonprofit entities and their ability to fulfill their stated mission.

(5) The benefits and fiscal impact of allowing corporations to deduct net operating losses as opposed to net economic losses.

(6) The simplification of the franchise tax base calculation.

(7) The feasibility of expanding the sales tax base to include additional services.

SECTION 14.(d) Except as otherwise provided, this act is effective when it becomes law.

HOUSE BILL 998:
Tax Simplification and Reduction Act

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	July 1, 2013
Introduced by:	Reps. Lewis, Setzer, Moffitt, Szoka	**Prepared by:**	Cindy Avrette
Analysis of:	PCS to Fourth Edition H998-CSRBx-41		Committee Counsel

SUMMARY: ***The proposed Senate Committee Substitute for House Bill 998 reduces individual and business tax rates. To help offset the revenue loss from rate reductions applicable to all taxpayers, the bill eliminates some tax expenditures and expands the sales tax base. The PCS differs from the one distributed to the membership as follows:***

- ***Technical changes.***
- ***Maintains the personal income tax rate at 5.75%.***
- ***Caps the motor fuel excise tax at 37.5 cents per gallon for the period September 1, 2013, through July 1, 2014.***
- ***Directs Revenue Laws Study Committee to study various tax policy issues.***

BILL ANALYSIS: The attached chart summarizes the contents of the Senate PCS for House Bill 998, H998-CSRBx-41, and compares its contents to House Bill 998, 3rd Edition, as passed by the House of Representatives on June 10, 2013, and to House Bill 998, 4th Edition, as earlier passed by the Senate Finance Committee on June 12, 2013, and by the full Senate on June 13, 2013.

O. Walker Reagan
Director

Research Division
(919) 733-2578

House Bill 998, Proposed Senate Committee Substitute, H998-CSRBx-41
July 1, 2013

	HB 998, 3rd Edition (House)	***HB 998, 4th Edition (Senate)***	***New Senate PCS to H998 H998-CSRBx-40***
INDIVIDUAL INCOME TAX CHANGE			
Rates	Flat rate of 5.9%, 2014	Flat rate of 5.4%, 2014 Reduces rate to 5.25%, 2015	Flat Rate of 5.75%, 2014
Zero Tax Bracket	N/A	$15,000 (MFJ); $12,000 (H/H); $7,500 (MFS & Single)	N/A
Standard deduction	$12,000 (MFJ)	Eliminate	$15,000 (MFJ) $12,000 (H/H) $7,500 (MFS & Single)
Itemized deductions	Unlimited charitable contributions Mtg. interest + property taxes paid on real estate (not to exceed $25,000)	Eliminate	Unlimited charitable contributions $15,000 cap on Mtg. interest + property taxes on real estate
Personal exemption	Eliminate	Eliminate	Eliminate
Social security	No change	Included to the extent included in federal AGI	Current law; no change
$4,000 retirement income exemption	No change	Eliminate	Eliminate
Deduction for severance wages	Eliminate	Eliminate	Eliminate
$50k business deduction	Eliminate , 2013	Eliminate, 2014	Eliminate, 2014
Child credit	AGI =/< $100K = $250 AGI > $100K = $100	No change	Current law; no change
Credit for non-itemizers charitable deductions	Eliminate	Eliminate	Eliminate
Credits scheduled to sunset 2014 ***Long term care insurance premium,***	No change	No change	No change

	HB 998, 3rd Edition (House)	*HB 998, 4th Edition (Senate)*	*New Senate PCS to H998 H998-CSRBx-40*
earned income tax credit, adoption expenses			
Credits with no sunset ***Child care, disabled, 529 Plan, gleaned crop, handicapped dwelling units, conservation tillage equipment, real property donations, poultry composting facility***	No change	Eliminate	Eliminate
CORPORATE INCOME TAX CHANGES			
Rate	2014 – 6.5% 2015 – 6.35% 2016 – 6.2% 2017 – 5.6% Thereafter – 5.4%	2014 – 6% 2015 – 4% 2016 – 2% 2017 – Eliminate CIT	2014 – 6.4% 2015 – 5% 2016 – 4% 2017 – 2% 2018 – Eliminate
Credit -- real property donation	No change	Eliminate	Eliminate
Credit – low-income housing	Limit to Tier 1 and 2 Remove sunset Rename it	No change	Limit to tier 1 and 2 Rename it "Work Force Housing Credit" Phase it down 25% a year until it is eliminated in 2018
CIT credits without a sunset, that parallel PIT credits	No change	Eliminate	Eliminate, 2014, same as PIT
Credit – S&L supervisory fees	No change	Eliminate, 2017 when CIT eliminated	Eliminate, 2018 when CIT eliminated
Credit – manufacturing cigarettes for exportation	No change, sunsets 2018	Eliminate, 2017 when CIT eliminated	Eliminate, 2018 when CIT eliminated
Credit – recycling	No change	Eliminate, 2017 when CIT eliminated	Eliminate, 2018 when CIT eliminated

	HB 998, 3rd Edition (House)	*HB 998, 4th Edition (Senate)*	*New Senate PCS to H998 H998-CSRBx-40*		
facilities Article 3C					
Credit – Intermodal RR Facilities	No change, sunsets 2038	Eliminate, 2017 when CIT eliminated	Eliminate, 2018 when CIT eliminated		
Business Privilege Tax (New)					
Taxpayers	N/A	All limited liability entities except C corporations, 2015 All limited liability entities, 2018	All business entities with limited liability		
Rate	N/A	2015 - $400 2016 - $600 2017 - $750 2018 – C corporations = $5,000; all others = $750	Income Year	C Corps	All others (LLC, Sub S)
			2015		$400
			2016 and 2017		$500
			2018 and thereafter	$3,500	$500
FRANCHISE TAX CHANGES					
Rate **$1.50 per $1000** **Minimum tax = $35** **Maximum tax for holding company = $75,000**	$1.35 per $1000 No change to minimum tax of $35 No change to maximum tax on holding company	2015 - $1.20 per $1,000 with minimum tax of $500 2016 - $0.90 per $1,000 with minimum tax of $1,000 2017 - $0.60 per $1,000 with minimum tax of $2,000 2018 – eliminated & replaced with business privilege tax No change to maximum tax on holding company; tax eliminated in 2018	2015 - $1.25 per $1,000 with minimum tax of $500 2016 - $1.00 per $1,000 with minimum tax of $2,000 2017 - $0.75 per $1,000 with minimum tax of $3,000 2018 – eliminated & replaced with business privilege tax		
GR tax on electricity	Eliminate, include it in the sales tax base July 1, 2014	Eliminate, include it in the sales tax base July 1, 2014	Eliminate, include it in the sales tax base July 1, 2014		
Taxpayers	No change	Exclude S corporations, 2015	Exclude S corporations, Income Year 2015		
Annual report filing fee	No change	Eliminate, 2015	Eliminate, 2015		

	HB 998, 3rd Edition (House)	*HB 998, 4th Edition (Senate)*	*New Senate PCS to H998 H998-CSRBx-40*
PRIVILEGE TAX CHANGES			
Local authority in 153A and 160A	No change	Eliminate, 2018	Current law; no change.
Amusements, movies	Eliminate, include in the sales tax base	Eliminate, include in sales tax base	Eliminate and include in the sales tax base, effective October 1, 2013
Various State taxes	No change	Eliminate, 2018	Current law; no change
SALES TAX CHANGES			
State Rate = 4.75%	No change	No change	No change
Local Rate = 2% ***Optional ¼ cent***	No change	No change	No change
Tax rate: manufactured home 2%, $300 maximum	No change	State general rate; not in local base	State general rate; not in local base July 1, 2014
Tax rate: modular homes 2.5%	No change	State general rate; not in local base	State general rate; not in local base July 1, 2014
Tax rate: Electricity • **3%** • **2.83% - dry cleaners** • **Exempt – mfgs, farmers, datacenters**	State tax only Combined general rate July 1, 2014 Retain current exemptions for farmers, eligible internet datacenter, and manufacturing	State tax only Combined general rate July 1, 2014 Retain current exemptions for farmers, eligible internet datacenter, and manufacturing	State tax only Combined general rate July 1, 2014 Retain current exemptions for farmers, eligible internet datacenter, and manufacturing
Add service contracts	Yes July 1, 2014	No	Yes, July 1, 2014 Exempt if item for which service contract provided is exempt (except motor vehicles)
Add – alteration, repair, maintenance, cleaning, installation	Yes July 1, 2014 Exempt if to an item exempt from tax	No	No
Add - Amusements from privilege GR tax	Yes October 1, 2013	Yes October 1, 2013	Yes October 1, 2013

	HB 998, 3rd Edition (House)	*HB 998, 4th Edition (Senate)*	*New Senate PCS to H998 H998-CSRBx-40*
Add – Attractions for which admission charged	Yes October 1, 2013	Yes October 1, 2013	Yes July 1, 2014
Amusement exemptions	14	4	5 (add State attractions)
Add – PNG	State tax only Combined general rate July 1, 2014	State tax only Combined general rate July 1, 2014	State tax only Combined general rate July 1, 2014
Exemption – nutritional supplements	Eliminate July 1, 2013	Eliminate October 1, 2013	Eliminate October 1, 2013
Exemption – newspapers	No change	Eliminate October 1, 2013	Eliminate October 1, 2013
Exemption – penny vending machines	No change	Eliminate October 1, 2013	Eliminate October 1, 2013
Exemption – 50% of sales from vending machines	No change	Eliminate October 1, 2013	Phase out exemption over 4 years, beginning July 1, 2014
Exemption – free distribution periodicals	No change	Phased elimination	Repeal exemption; allow refund; phased elimination of refund (See below)
Sales tax holiday for school	No change	Eliminate July 1, 2014	Eliminate July 1, 2014
Sales tax holiday for Energy Star	Eliminate July 1, 2013	Eliminate July 1, 2014	Eliminate July 1, 2014
Exemption – Food	No change	• Eliminate local sales tax on food, November 2014 • Give counties the authority to impose a local sales tax on food at the county's local sales tax rate, January 2015	Current law; no change

	HB 998, 3rd Edition (House)	*HB 998, 4th Edition (Senate)*	*New Senate PCS to H998 H998-CSRBx-40*
Exemptions – farm related ***Fuel and electricity, fertilizer, etc., farm machinery, containers, substances used on animals or plants, baby chicks***	No change	Annual gross income requirement of $10,000	Annual gross income requirement of $10,000; effective July 1, 2014
Various exemptions/refunds ***Farm facilities and bulk barns, commercial logging, wood chippers, telephone companies, radio or television companies, cable service providers, commercial fishing, commercial laundries, diesel fuel sold to railroad, fuel sold to passenger air carrier***	No change	Phased elimination	**Remove packaging, remains exempt** 2014 – 80% refund of State and local sales tax paid 2015 – 60% 2016 – 40% 2017 – 20% 2018 -- Eliminate
Tax refunds – existing sunset of 2014 ***Passenger air carrier, motorsports, analytical services, industrial***	No change	No change	Current law; no change except as follows: • Passenger air carrier moved to phased elimination of refund (-164.14A(1)) • Motorsports extended 6 months, until July 1, 2014 (-164.14A(4) & (5))
Tax refunds – nonprofits	No change	Capped 2014 - $7.5M State, $2.25M local 2015 - $5M State, $1.5M local 2016 - $1M State, $300,000 local 2017 - $100,000 State, $30,000 local	Move UNC Healthcare to State agencies exemption. Cap remaining refunds: 2014-15 - $10.5 million (State and local) 2015-16 - $7 million (State and local) 2016-17 - $5 (State and local) 2017-18 - $2.85 (State and local)

	HB 998, 3rd Edition (House)	*HB 998, 4th Edition (Senate)*	*New Senate PCS to H998 H998-CSRBx-40*
Tax refunds – local governments	No change	Eliminate, July 1, 2014	Eliminate, January 1, 2016
		EXCISE TAX CHANGES	
Excise tax on PNG	Eliminate, include in the sales tax base July 1, 2014	Eliminate, include in the sales tax base July 1, 2014	Eliminate and include in the sales tax base
Excise tax on motor fuel	N/A	N/A	Cap for one year at current rate, beginning September 1, 2013 – until July 1, 2014
		LOCAL GOVERNMENT DISTRIBUTIONS	
CIT earmark for Public School Building Capital Fund (No funds applied since 2008)	Eliminate	Eliminate	Eliminate
GR tax on electricity distributed to cities	Formula to preserve local distribution Re-calculate formula every 5 years, beginning 2020	Formula to preserve local distribution	Formula to preserve local distribution Recalculate every five years, beginning 2020
Excise tax on PNG distributed to cities	Formula to preserve local distribution	Formula to preserve local distribution	Formula to preserve local distribution
Earmarking 20% of sales tax from modular homes	No change	Eliminate	Eliminate
		ESTATE TAX	
Tax Levy	Eliminate, HB 101 2013	Eliminate 2013	Eliminate 2013
		EARMARKING	
Real estate conveyance tax	No change	Eliminate earmarks, State proceeds credited to General Fund	Eliminate earmarks, State proceeds credited to General Fund
Scrap tire disposal tax	No change	Eliminate earmarks, proceeds credited to General Fund	Eliminate earmarks, State proceeds credited to General Fund
		TOBACCO DISCOUNTS	
2% discount to taxpayers of cigarettes and OTP	No change	Eliminate, July 2014	Eliminate, July 2014

	HB 998, 3rd Edition (House)	*HB 998, 4th Edition (Senate)*	*New Senate PCS to H998 H998-CSRBx-40*
		REVENUE LAWS STUDY	
Revenue Law Study	N/A	N/A	• The 1$%/$80 privilege tax that applies to mill machinery and on other machinery and equipment purchased by certain industries and companies. • The feasibility of a preferential tax rate on diesel fuel sold to railroads, fuel sold to passenger air carriers, and fuel sold to motorsports. • The authority of cities and counties to impose a privilege tax on businesses and the various State privilege license taxes. • The impact of the elimination of the State and local sales and use tax refund on nonprofit entities and their ability to fulfill their stated mission. • The benefits of allowing corporations to deduct NOLs instead of NELs. • The simplification of the franchise tax base calculation. • The feasibility of expanding the sales tax base to additional services.

TOTAL PLAN					
	FY13-14	FY14-15	FY15-16	FY16-17	FY17-18
Total GF Revenues Forecast ($ billions)	**20.47**	**21.39**	**22.31**	**23.27**	**24.27**
House Plan	**20.51**	**21.04**	**21.92**	**22.80**	**23.69**
Difference from Forecast ($ millions)[1]	(4.7)	(353.4)	(383.2)	(461.1)	(570.9)
Senate Plan 4th Edition	**20.29**	**20.88**	**21.27**	**21.94**	**22.94**
Difference from Forecast ($ millions)	(173.8)	(523.2)	(1,108.1)	(1,414.8)	(1,382.1)
Senate Plan PCS to H998	**20.30**	**20.91**	**21.55**	**22.35**	**23.30**
Difference from Forecast ($ millions)	(168.5)	(480.3)	(757.1)	(911.5)	(962.9)

[1] This item includes the estate tax repeal in HB 101.

House Bill 998 (Edition 5) - Tax Simplification and Reduction Act

FISCAL IMPACT ($ in millions)					
State General Fund Revenues:	**FY 13-14**	**FY 14-15**	**FY 15-16**	**FY 16-17**	**FY 17-18**
Income, Franchise, and Estate Taxes					
Flat Tax of 5.75% in 2014 on Federal Adjusted Gross Income, $15,000 zero bracket MFJ, $12,000 HOH, $7,500 single; allow greater of standard deduction or itemized deduction of mortgage interest, property taxes, capped at $15,000 plus all charitable contributions allowed for Federal tax purposeschild; keeps current child credit $100; eliminates the $50k business exemption in 2014	(242.7)	(693.5)	(723.3)	(754.4)	(788.2)
Eliminate the corporate income tax in 2017, 6.4% in 2014, 5.0% in 2015, 4.0% in 2016, 2.0% in 2017, eliminated in 2018	(21.0)	(174.3)	(423.3)	(694.8)	(801.9)
End transfer to public school capital fund	85.9	78.2	64.7	49.8	47.0
Workforce Housing Credit in Tier 1 and Tier 2 Counties		10.5	(15.0)	(10.0)	(5.0)
Repeal excise tax on piped natural gas		(31.5)	(32.0)	(32.5)	(32.9)
Repeal franchise tax on electricity		(157.0)	(159.0)	(160.6)	(162.2)
Modify franchise tax, create new privilege tax		(45.0)	(80.0)	(150.0)	(156.0)
Eliminate wholesaler's discount		6.0	6.0	6.0	6.0
Repeal estate tax	(52.0)	(57.0)	(60.0)	(62.0)	(65.0)
TOTAL INCOME, FRANCHISE, ESTATE TAX	**$ (229.9)**	**$ (1,063.7)**	**$ (1,422.0)**	**$ (1,808.5)**	**$ (1,958.2)**
Sales and Privilege License Taxes					
Warranties and Service Contracts (07/01/2014)		29.2	31.2	33.2	35.2
Make electricity subject to combined general sales tax rate		417.1	427.7	440.5	453.8
Make piped natural gas subject to combined general sales tax rate		102.3	103.9	105.4	107.0
Distribution to municipalities for franchise tax and piped natural gas		(207.1)	(209.4)	(211.6)	(213.8)
State and Local cap on Non-Profit refunds, $10.5 M cap 2014, $7.0 M 2015, $5.0 M in 2016, 2.85 M in 2017 and thereafter		59.5	67.1	88.3	209.2
Repeal refunds for Local Governments, excludes university system (07/01/2016)			35.0	125.1	139.0
End transfer of real estate conveyance (07/01/2013)	37.1	37.4	39.0	39.0	39.0
End transfer of scrap tire disposal (01/01/2014)	2.7	5.5	5.6	5.7	5.7
Repeal exemption for chiropractor's nutritional supplements (10/01/2013)	0.1	0.1	0.1	0.1	0.1
Repeal Energy Star sales tax holiday (07/01/2014)		1.6	1.7	1.8	1.8
Repeal Sales and use tax holiday (7/01/2014)		14.7	15.1	16.1	17.1
Repeal food sold in dining rooms operated by educational institutions (07/01/2014)		34.0	35.0	36.1	37.1
Repeal exemption for certain bakery items (07/01/2014)		3.9	4.1	4.2	4.4
Vending machines, phase=out exemption (40%, 30%, 20%, 10% beginning 10/01/2013)	1.6	4.7	7.2	9.9	12.8
Repeal exemption for certain sales of newspapers (10/01/2013)	5.0	7.8	8.0	8.3	8.6
Repeal gross receipts tax on live entertainment and movies and other amusements (10/01/2013), include admission fees in tax base (07/01/2014)	9.3	16.5	17.2	17.9	18.6
Extend until 7/1/2014 Motorsport refunds for aviation fuel and vehicle parts		(0.2)			
Add a gross receipts requirement for farmers of $10,000 for the purpose of receiving tax exemptions and refunds (1/1/2015)		16.5	16.8	17.2	17.5
Change various exemptions to refunds and phase-out over 4 years		17.1	46.8	72.4	99.4
Repeal preferential rate for manufactured homes (07/01/2014)		7.2	7.2	7.2	7.2
Tax modular homes at state rate (07/01/2014)		3.0	3.0	3.0	3.0
TOTAL SALES and PRIVILEGE LICENSE TAXES	**$55.8**	**$570.9**	**$662.3**	**$819.7**	**$1,002.7**
STATE IMPACT	**$ (174.1)**	**$ (492.8)**	**$ (759.6)**	**$ (988.8)**	**$ (955.5)**
Highway Fund and Highway Trust Fund					
Cap Motor Fuels tax for FY 2013-14 at $0.375	$ (5.0)				

FISCAL IMPACT ($ in millions)	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18
Local Revenues					
Warranties and Service Contracts (10/01/2014)	0.0	12.3	13.1	14.0	14.8
Repeal franchise tax on electricity		(187.0)	(189.0)	(190.9)	(192.8)
Repeal excise tax on piped natural gas		(20.1)	(20.4)	(20.7)	(21.0)
Distribution to municipalities for electric and piped natural gas		207.1	209.4	211.6	213.8
State and Local cap on Non-Profit refunds, $10.5 M cap 2014, $7.0 M 2015, $5.0 M in 2016, 2.85 M in 2017 and thereafter		25.1	28.3	37.2	88.1
Repeal refunds for Local Governments, excludes university system (07/01/2016)			(35.0)	(125.1)	(139.0)
Repeal exemption for chiropractor's nutritional supplements (10/01/2013)		0.0	0.0	0.0	0.0
Repeal Energy Star sales tax holiday (07/01/2014)		0.7	0.7	0.7	0.8
Repeal Sales and use tax holiday (7/01/2014)		6.2	6.4	6.8	7.2
Vending machines, phase=out exemption (40%, 30%, 20%, 10% beginning 10/01/2013)	0.7	2.0	3.0	4.2	5.4
Repeal exemption for certain sales of newspapers (10/01/2013)	2.1	3.3	3.4	3.5	3.6
Extend until 7/1/2014 Motorsport refunds for aviation fuel and vehicle parts		(0.1)			
Repeal gross receipts tax on live entertainment and movies and other amusements (10/01/2013), include admission fees in tax base (07/01/2014)	3.9	7.0	7.2	7.5	7.8
Add a gross receipts requirement for farmers of $10,000 for the purpose of receiving tax exemptions and refunds (1/1/2015)		6.9	7.1	7.2	7.4
Change various exemptions to refunds and phase-out over 4 years	0.0	7.2	19.7	30.5	41.9
LOCAL IMPACT	**$ 6.7**	**$ 70.6**	**$ 53.9**	**$ (13.5)**	**$ 37.9**

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 998

AMENDMENT NO. 1
(to be filled in by Principal Clerk)

H998-ARBx-67 [v.1]

Comm. Sub. [YES]
Amends Title [NO]
H998-CSRBx-41

Date July 1 ,2013

Senator Barringer

moves to amend the bill on page 10, lines 12 through 43, by deleting those lines;

and on page 10, line 45, by rewriting the line to read:
"**PART III. LOWER FRANCHISE TAX RATE**";

and on page 12, lines 14 and 15, by deleting the number "$2,000" on line 14 and "$3,000" on line 15, and substituting the number "$1,000";

and on page 12, lines 41-43, by deleting those lines;

and on page 36, line 38, by rewriting the line to read:
"(6) The simplification of the franchise tax base calculation and the elimination of the franchise tax.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 1, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Alexandra Sirota	Budget & Tax Center
Mary Bethel	AARP
Chris Sigmann	Intern - Sen. Hartsfield
Tom Beam	EDF NCSEA
Elizabeth Biser	Brooks Pierce
Chris McClure	" "
Solari	DST
Rachel Bearden	NCDPI
Karl Knapp	NCLM
Paul Meyer	NCLM

NAME	FIRM
Doug Hearn	WN
Maeve Gartner	GSK
Amy McConkey	NC BCV
Daniel Raum	Trout Mansaldes
Becki Gray	John Locke Foundation
[illegible]	NCK4
Vicki Doyle	League of Women Voters
Zane Stilwell	NC SBE
Jason Sofer	NCDOT
Tony Almeida	Gov Office
Fred Steen	Gov's office
Art Pope	Citizen
John Bode	BCS
Lynn Tennant	NCGA

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 1, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Angela Perry	1001 Clingmans Pl Raleigh 27614
Blake Perry	Chad Barefoot
Amanda Horaks	TSS
[illegible]	RJRC
Butch Gunnells	NC BeV
Gail Beamon	NC Dept of Revenue
Lennie Collins	NC DOR
David McGowan	NCPC
Ed [illegible]	BB
[illegible]	NCCC
Steve Ford	N.C. Council of Chambers

Name	Firm
Brent Lane	CNC-CH
Jon Carr	Jordan Price Law Firm

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 1, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Tom West	Poyner Spruill LLP
Mitch Lunnard	SEANC
Ginny Upchurch	NC Dept of Revenue
Dee Morch 2	UNC-GA
Susan McCrackin	Appalachian State
Adam Pridemore	NCASA
Julie Hochstetler	NCACC
Steve Williams	NCS
Rob Schiller	NCS
John Hardin	MFS
Michelle Frazier	MFS
John McMillan	MFS

Name	Plan
Don McConnaughey	SAS
J Goodnight	NC Chamber
Jake Cook	NC Chamber
Bob Heath	McGuire Woods
[illegible]	[illegible]
Mike Hamrick	San Fin.
Gene Chianelli	House Fin.

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 1, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Dylan Vatti	Smith A.
Patrick Gleason	ATR
George Bolts	McLaine
Sonny Wooten	Southco Dist. Co
Sarah Hardin	CTZ
Angel Sams	CR
Theresa Kostrewa	CR
Nicole Mathews	NC Governor
Ryan Minto	NC DOR
Tom Dixon	NC DOR
Will Culpepper	MVA

NAME	FIRM
BUCK LATTIMORE	NC CHIROPRACTIC ASSOC
JAKE PARKER	NFIB
Connie Wilson	NCCTA
Laurie Annis	FSP
Gregg Thorpe	NFIB
Mio Bailey	ElectriCities
JOHN MORRIS	MWC LLC
Wendy Keck	B.J.'s Group
Lisa Martin	NCHBA
Steven Webb	
Doug Lassiter	NCSTA

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 1, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Doug Duncan	NCAPOL
Gary Salamido	NC Chamber
Kelley Nicholson	UNC HC
Erica Nelson	NCHA
Cedric Johnson	BTC
Wm Nelson	Smith Anderson
Henry Jones	Jordan Price
Marie Tomek	K&L Gates
Weldon Thomas	Jordan Price
Allison Waller	Nelson Mullins
Ben Cuthbertson	[illegible]

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 1, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Daniel VanLierē	Vidant Health
Mike [illegible]	MPC
Beatrice Williams	CUCA
Laura Gunter	NCBIO
Rob Lawler	TCHA
Joel Maynard	GBM & [illegible]
Gary Harris	NCPCM
Stephen Kenda	Compass
Dan [illegible]	NCPCW
Steve Brewer	CTL
Tommy Robeson	TWC

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 1, 2013

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VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Fred Baron	Baron & Asso.
Jonni Fitzgerald	NC Values Coalition
Gretchen Kelly	FirstHealth
Christine Craig	WakeMed
Marcie Wildig	Novant
Kelli Ludwig	Duke Energy

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 1, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
David Heinen	NCCMP
Rick Zechini	WM
Carley Ruff	NCHC
Jim KENT	NC Beer & Wine
[illegible]	S.A.
JOE LANIER	NELSON MULLINS
Rita Harris	CMC
Cannon Johnson	NVA
JAIME FUQUAY	NCEL
Meredith Jillian DeLamp	Poyner Spruill LLP
Ken Melton	K.M.A

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 1, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Brad Lovin	Man. Homes
Cody Hands	NCIA
Andy Chase	KMA
John Monaghan	Piedmont Nat. Gas
Jac Turner	PNG
J E Hobbs	HANK

Senate Committee on Finance
Tuesday, July 16, 2013, 1:00 PM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 136	Graham Occupancy Tax Changes.	Senator J. Davis
SB 522	New Markets Jobs Act.	Senator Gunn
HB 14	Rev Laws Technical, Clarifying, & Admin. Chg.	Representative Howard
HB 191	Grifton/Deannexation.	Representative B. Brown
HB 194	Allow PAVE Certification/Veterinary License.	Representative Whitmire Representative Moffitt Representative Setzer Representative L. Bell
HB 399	Amend Laws Pertaining to DHHS.-AB	Representative Burr Representative Hollo Representative Avila
HB 476	Rewrite Underground Damage Prevention Act.	Representative Hager Representative Moffitt Representative Murry
HB 493	Robbinsville Occupancy Tax.	Representative West
HB 857	Public Contracts/Construction Methods/DB/P3.	Representative Arp Representative Bryan Representative Moffitt Representative Hager
HB 936	Wildlife Poacher Reward Fund.	Representative Wray Representative Faircloth Representative Moffitt Representative J. Bell

Adjournment

Senate Finance Committee
Tuesday, July 16, 2013
Room 544 LOB, 1:00 p.m.

Minutes

The Senate Committee on Finance met on Tuesday, July 16, 2013, at 1:00 p.m. in room 544 of the Legislative Office Building. Dee Anthony of Wake Forest, Isabel Ferguson of Raleigh, Andy Shiver of Knightdale, Caleb Reed of Wake Forest, Amanda Packer of Hope Mills, Jordan Keyes of Raleigh, Victoria Kroll of Holly Springs and Roslyn Ward of Garner served as pages. Senator Rabon served as Chair to the meeting.

H.B. 399 – Amend Laws pertaining to DHHS - AB

Senator Hise was recognized to explain the bill, which would make changes to statutes pertaining to child abuse, neglect and dependency, Medicaid, and public health, as requested by the Department of Health and Human Services. Senator Hise was recognized to offer an amendment which changes the long titles and adds a new part regarding changes to laws pertaining to mental health, developmental disabilities, and substance abuse services. He moved for the adoption of the amendment and the motion carried. Senator Hise moved for a favorable report and the motion carried. A copy of the bill, the summary, and the amendment is attached.

H.B. 191 – Grifton/Deannexation

Representative Brown was recognized to explain the bill, which would deannex 1.7743 acres from the Town of Grifton. Senator Hunt moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 493 – Robbinsville Occupancy Tax

Senator Davis was recognized to explain the bill. Senator Brock moved to adopt the PCS and the motion carried. The bill would authorize the Town of Robbinsville to levy a room occupancy tax of up to 3%, the proceeds of which would be remitted to a Tourism Development Authority. The Authority would be required to use at least two-thirds of the proceeds to promote travel and tourism and the remainder for tourist-related expenditures. The PCS would create a special tax district in Graham County consisting of the entire county except the Town of Robbinsville. Graham County District G would be authorized to levy a room occupancy tax of up to 3%, the proceeds of which would be remitted to a Tourism Development Authority. The Authority would be required to use at least two-thirds of the proceeds to promote travel and tourism and the remainder for tourist-related expenditures. The PCS also modifies Graham County's existing 3% occupancy tax to conform to the Occupancy Tax Guidelines adopted by the House Finance Committee. Senator Cook moved for a favorable report and the motion carried. A copy of the PCS, the summary, and the fiscal note is attached.

H.B. 14 – Rev Laws Technical, Clarifying & Admin Chg

Representative Howard was recognized to explain the bill. Senator Wade moved to adopt the PCS for discussion and the motion carried. The bill includes several technical, administrative, and clarifying changes to the revenue laws and related statutes. The PCS makes the following substantive changes: Section 34(b) and (d): Provides that in the event of a transfer of assets, instead of taking any remaining bonus depreciation deductions, the transferee adds the amount of any remaining deductions to the basis of the transferred asset; Section 56: provides that a responsible person in a business entity is personally and individually liable only for the principal amount of taxes owed by the business entity; and Section 57: authorizes a new special registration plate for the NC Paddle Festival. Jonathan Tart, an Analyst with the Fiscal Research Division, was recognized to answer questions. Senator Tillman moved for a favorable report and the motion carried. A copy of the PCS and the summary is attached.

H.B. 194 – Allow PAVE Certification/Veterinary License

Representative Whitmire was recognized to explain the bill. It would add the program for Assessment of Veterinary Education Equivalence (PAVE) as a program that a graduate from a nonaccredited college of veterinary medicine must successfully complete in order to practice veterinary medicine in North Carolina. Senator Wade moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

H.B. 476 – Rewrite Underground Damage prevention Act

Representative Hager was recognized to explain the bill. Senator Brock moved to adopt the PCS for discussion and the motion carried. The PCS would repeal the State's existing Underground Damage Prevention Act and enact a new Underground Utility Safety and Damage Prevention Act. It also would make changes to the exemptions and to the punishments for violations of the Underground Utility Safety and Damage Prevention Act. Senator Tillman moved for a favorable report and the motion carried. A copy of the PCS, the summary, and the fiscal note is attached.

H.B. 857 – Public Contracts/Construction Methods/DB/P3

Representative Arp was recognized to explain the bill. Senator Brock moved to adopt the PCS for discussion and the motion carried. The PCS would authorize three new methods of bidding for construction of public buildings: the design-build method, the design-build bridging method, and the public-private partnership method. It also would make technical changes to the definition of design builder and would specifically allow local boards of education to utilize the additional methods of contracting when building a prototype school facility. Senator Barringer offered a clarifying and technical amendment and moved for its adoption. The motion carried. Senator Brown moved for a favorable report and the motion carried. A copy of the PCS, the summary, and the amendment is attached.

H.B. 936 – Wildlife Poacher Reward Fund

Representative Faircloth was recognized to explain the bill. It would establish a Wildlife Poacher Reward Fund to pay rewards to individuals who report information to law enforcement authorities resulting in the arrest and conviction of persons who commit serious wildlife violations. Senator Hise moved for a favorable report and the motion carried. A copy of the bill, the summary, and the fiscal note is attached.

S.B. 522 – New Markets Jobs Act

The bill was calendared for discussion only. Senator Gunn was recognized to explain the bill and Senator Tillman moved to adopt the PCS for discussion. The motion carried. The PCS would allow a tax credit equal to 58% of the amount invested through federally-recognized development entities in small businesses with less than 500 employees in high-poverty counties. The Statewide total investment that could qualify for the tax credit is $333 million. The $333 million investment pool would yield approximately $193 million in tax credits. Cindy Avrette, an Attorney with the Research Division, and Barry Boardman, the Tax Policy Advisor in the Fiscal Research Division, were recognized to answer questions. Tony Toups, Advantage Capital; Gary Salamido, Director of the NC Chamber; and Rebecca Troutman, representing the NC Association of County Commissioners, were recognized to speak in favor of the bill. A copy of the PCS, the summary, the fiscal memo, and the Legislative Services review memo, is attached.

The meeting adjourned at 2:07 p.m.

Senator Bill Rabon, Presiding Chair
Senate Finance Committee

DeAnne Mangum
Senate Finance Clerk

Principal Clerk
Reading Clerk

Corrected #2: H269 - Children w/Disabilities Scholarship Grants has been removed from the agenda.

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Tuesday	July 16, 2013	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	
SB 136	Graham Occupancy Tax Changes.	Senator J. Davis
SB 522	New Markets Jobs Act.	Senator Gunn
HB 14	Rev Laws Technical, Clarifying, & Admin. Chg.	Representative Howard
HB 191	Grifton/Deannexation.	Representative B. Brown
HB 194	Allow PAVE Certification/Veterinary License.	Representative Whitmire Representative Moffitt Representative Setzer Representative L. Bell
HB 399	Amend Laws Pertaining to DHHS.-AB	Representative Burr Representative Hollo Representative Avila
HB 476	Rewrite Underground Damage Prevention Act.	Representative Hager Representative Moffitt Representative Murry
HB 493	Robbinsville Occupancy Tax.	Representative West
HB 857	Public Contracts/Construction Methods/DB/P3.	Representative Arp Representative Bryan Representative Moffitt Representative Hager
HB 936	Wildlife Poacher Reward Fund.	Representative Wray Representative Faircloth Representative Moffitt Representative J. Bell

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

Principal Clerk
Reading Clerk

Corrected #1: H269 - Children w/Disabilities Scholarship Grants has been added to the agenda.

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HB 194	Allow PAVE Certification/Veterinary License.	Representative Whitmire Representative Moffitt Representative Setzer Representative L. Bell
HB 269	Children w/Disabilities Scholarship Grants.	Representative Jordan Representative Brandon Representative Jones Representative Stam
HB 399	Amend Laws Pertaining to DHHS.-AB	Representative Burr Representative Hollo Representative Avila
HB 476	Rewrite Underground Damage Prevention Act.	Representative Hager Representative Moffitt Representative Murry
HB 493	Robbinsville Occupancy Tax.	Representative West
HB 857	Public Contracts/Construction Methods/DB/P3.	Representative Arp Representative Bryan Representative Moffitt Representative Hager
HB 936	Wildlife Poacher Reward Fund.	Representative Wray Representative Faircloth Representative Moffitt

Representative J. Bell

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

Principal Clerk ____
Reading Clerk ____

SENATE
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Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Tuesday, July 16, 2013

Senator Rabon,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

HB **493** Robbinsville Occupancy Tax.

Draft Number:	H493-PCS30602-THx-23
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Senator James Davis will handle HB 493

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Tuesday, July 16, 2013

Senator Rabon,
submits the following with recommendations as to passage:

FAVORABLE

HB **191** Grifton/Deannexation.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

HB **194** Allow PAVE Certification/Veterinary License.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

HB **936** **(CS#2)** Wildlife Poacher Reward Fund.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

FAVORABLE, AS AMENDED

HB **399** **(SCS#2)** Amend Laws Pertaining to DHHS.-AB
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED: 4

Senator Louis Pate will handle HB 191
Senator Bill Cook will handle HB 936
Senator Ralph Hise will handle HB 399

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Tuesday, July 16, 2013

Senator Rabon,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 2

HB **476** **(SCS#1)** Rewrite Underground Damage Prevention Act.

Draft Number:	H476-PCS30603-TPf-59
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Senator Tom Apodaca will handle HB 476

CMR904-V-1

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Tuesday, July 16, 2013

Senator Rabon,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

HB **14** **(CS#1)** Rev Laws Technical, Clarifying, & Admin. Chg.

Draft Number:	H14-PCS70491-SVx-37
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Senator Robert Rucho will handle HB 14

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H 6

HOUSE BILL 399

Committee Substitute Favorable 4/3/13
Committee Substitute #2 Favorable 4/24/13
Fourth Edition Engrossed 4/30/13
Senate Health Care Committee Substitute Adopted 5/29/13
Senate Judiciary II Committee Substitute Adopted 7/1/13

Short Title: Amend Laws Pertaining to DHHS.-AB (Public)

Sponsors:

Referred to:

March 21, 2013

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES REQUESTED BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO LAWS PERTAINING TO CHILD ABUSE, NEGLECT, AND DEPENDENCY; MEDICAID; AND PUBLIC HEALTH.

The General Assembly of North Carolina enacts:

PART I. CHANGES TO LAWS PERTAINING TO CHILD ABUSE, NEGLECT, AND DEPENDENCY

SECTION 1. G.S. 7B-507 reads as rewritten:

"**§ 7B-507. Reasonable efforts.**

(a) An order placing or continuing the placement of a juvenile in the custody or placement responsibility of a county department of social services, whether an order for continued nonsecure custody, a dispositional order, or a review order:

(1) Shall contain a finding that the juvenile's continuation in or return to the juvenile's own home would be contrary to the juvenile's best interest;

(2) Shall contain specific findings as to whether a county department of social services has made reasonable efforts to either prevent the need for placement or eliminate the need for placement of the juvenile, unless the court has previously determined under subsection (b) of this section that such efforts are not required or shall cease;

(3) Shall contain findings as to whether a county department of social services should continue to make reasonable efforts to prevent or eliminate the need for placement of the juvenile, unless the court has previously determined or determines under subsection (b) of this section that such efforts are not required or shall cease;

(4) Shall specify that the juvenile's placement and care are the responsibility of the county department of social services and that the department is to provide or arrange for the foster care or other placement of the juvenile. After considering the department's recommendations, the court may order a specific placement the court finds to be in the juvenile's best interest; and

(5) May provide for services or other efforts aimed at returning the juvenile to a safe home or at achieving another permanent plan for the juvenile.

A finding that reasonable efforts have not been made by a county department of social services shall not preclude the entry of an order authorizing the juvenile's placement when the court finds that placement is necessary for the protection of the juvenile. Where efforts to prevent the need for the juvenile's placement were precluded by an immediate threat of harm to the juvenile, the court may find that the placement of the juvenile in the absence of such efforts was reasonable.

(b) In any order placing a juvenile in the custody or placement responsibility of a county department of social services, whether an order for continued nonsecure custody, a dispositional order, or a review order, the court may direct that reasonable efforts to eliminate the need for placement of the juvenile shall not be required or shall cease if the court makes written findings of fact that:

(1) Such efforts clearly would be futile or would be inconsistent with the juvenile's health, safety, and need for a safe, permanent home within a reasonable period of time;

(2) A court of competent jurisdiction has determined that the parent has subjected the child to aggravated circumstances as defined in G.S. 7B-101;

(3) A court of competent jurisdiction has terminated involuntarily the parental rights of the parent to another child of the parent; or

(4) A court of competent jurisdiction has determined that: the parent has committed murder or voluntary manslaughter of another child of the parent; has aided, abetted, attempted, conspired, or solicited to commit murder or voluntary manslaughter of the child or another child of the parent; ~~or~~ has committed a felony assault resulting in serious bodily injury to the child or another child of the ~~parent.~~parent; has committed sexual abuse against the child or another child of the parent; or has been required to register as a sex offender on any government-administered registry.

(c) When the court determines that reunification efforts are not required or shall cease, the court shall order a plan for permanence as soon as possible, after providing each party with a reasonable opportunity to prepare and present evidence. If the court's determination to cease reunification efforts is made in a hearing that was duly and timely noticed as a permanency planning hearing, then the court may immediately proceed to consider all of the criteria contained in G.S. 7B-907(b), make findings of fact, and set forth the best plan of care to achieve a safe, permanent home within a reasonable period of time. If the court's decision to cease reunification efforts arises in any other hearing, the court shall schedule a subsequent hearing within 30 days to address the permanent plan in accordance with G.S. 7B-907. At any hearing at which the court orders that reunification efforts shall cease, the affected parent, guardian, or custodian may give notice to preserve the right to appeal that order in accordance with G.S. 7B-1001. The party giving notice shall be permitted to make a detailed offer of proof as to any evidence that party sought to offer in opposition to cessation of reunification that the court refused to admit.

(d) In determining reasonable efforts to be made with respect to a juvenile and in making such reasonable efforts, the juvenile's health and safety shall be the paramount concern. Reasonable efforts to preserve or reunify families may be made concurrently with efforts to plan for the juvenile's adoption, to place the juvenile with a legal guardian, or to place the juvenile in another permanent arrangement."

PART II. CHANGES TO LAWS PERTAINING TO MEDICAID

SECTION 2. G.S. 108A-70.5(b)(2) reads as rewritten:

"(2) Estate. – All the real and personal property considered assets of the estate available for the discharge of debt pursuant to G.S. 28A-15-1. The Department has all rights available to estate creditors, including the right to

qualify as personal representative or collector of an estate. For individuals who have received benefits under a qualified long-term care partnership policy as described in G.S. 108A-70.4, "estate" also includes any other real and personal property and other assets in which the individual had any legal title or interest at the time of death (to the extent of such interest), including assets conveyed to a survivor, heir, or assign of the deceased individual through joint tenancy, tenancy in common, survivorship, life estate, living trust, or other arrangement."

SECTION 3. G.S. 28A-14-1(b) reads as rewritten:

"(b) Prior to filing the proof of notice required by G.S. 28A-14-2, every personal representative and collector shall personally deliver or send by first class mail to the last known address a copy of the notice required by subsection (a) of this section to all persons, firms, and corporations having unsatisfied claims against the decedent who are actually known or can be reasonably ascertained by the personal representative or collector within 75 days after the granting of ~~letters.~~letters and, if at the time of the decedent's death the decedent was receiving medical assistance as defined by G.S. 108A-70.5(b)(1), to the Department of Health and Human Services, Division of Medical Assistance. Provided, however, no notice shall be required to be delivered or mailed with respect to any claim that is recognized as a valid claim by the personal representative or collector."

SECTION 4. G.S. 28A-19-6(a) reads as rewritten:

"(a) After payment of costs and expenses of administration, the claims against the estate of a decedent must be paid in the following order:

First class. Claims which by law have a specific lien on property to an amount not exceeding the value of such property.

Second class. Funeral expenses to the extent of three thousand five hundred dollars ($3,500). This limitation shall not include burial place or gravestone. The preferential limitation herein granted shall be construed to be only a limit with respect to preference of payment and shall not be construed to be a limitation on reasonable funeral expenses which may be incurred; nor shall the preferential limitation of payment in the amount of three thousand five hundred dollars ($3,500) be diminished by any Veterans Administration, social security or other federal governmental benefits awarded to the estate of the decedent or to the decedent's beneficiaries.

Third class. Costs associated with gravestones and reasonable costs for the purchase of a suitable burial place as provided in G.S. 28A-19-9 to the extent of one thousand five hundred dollars ($1,500). The preferential limitation herein granted shall be construed to be only a limit with respect to preference of payment and shall not be construed to be a limitation on reasonable gravestone or burial place expenses which may be incurred; nor shall the preferential limitation of payment in the amount of one thousand five hundred dollars ($1,500) be diminished by any Veterans Administration, social security or other federal governmental benefits awarded to the estate of the decedent or to the decedent's beneficiaries.

Fourth class. All dues, taxes, and other claims with preference under the laws of the United States.

Fifth class. All dues, taxes, and other claims with preference under the laws of the State of North Carolina and its subdivisions.

Sixth class. Judgments of any court of competent jurisdiction within the State, docketed and in force, to the extent to which they are a lien on the property of the decedent at the decedent's death. The Department of Health and Human Services is a sixth-class creditor for purposes of determining the order of claims against the estate; provided, however, that judgments in favor of other sixth-class creditors docketed and in force before the Department seeks recovery for medical assistance shall be paid prior to recovery by the Department.

Seventh class. Wages due to any employee employed by the decedent, which claim for wages shall not extend to a period of more than 12 months next preceding the death; or if such

employee was employed for the year current at the decease, then from the time of such employment; for medical services within the 12 months preceding the decease; for drugs and all other medical supplies necessary for the treatment of such decedent during the last illness of such decedent, said period of last illness not to exceed 12 months.

Eighth class. A claim for equitable distribution.

Ninth class. All other claims."

SECTION 5. Article 8A of Chapter 36C of the General Statutes is amended by adding a new section to read as follows:

"**§ 36C-8-818. Notice of deceased Medicaid beneficiaries.**

If a trust was established by a person who at the time of that person's death was receiving medical assistance, as defined in G.S. 108A-70.5(b)(1), and the trust was revocable at the time of that person's death, then any trustee of that trust who knows of the medical assistance within 90 days of the person's death shall provide notice of that person's death to the Department of Health and Human Services, Division of Medical Assistance, within 90 days of the person's death. This section does not apply to trustees of preneed funeral trusts established or created pursuant to Article 13D of Chapter 90 of the General Statutes."

SECTION 6. G.S. 108C-3 reads as rewritten:

"**§ 108C-3. Medicaid and Health Choice provider screening.**

...

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

...

(12) Physician or nonphysician practitioners (including nurse practitioners, CRNAs, physician assistants, physician extenders, occupational therapists, speech/language pathologists, chiropractors, and audiologists), optometrists, dentists and orthodontists, and medical groups or clinics.

...

(15) Hearing aid dealers.

(16) Portable X-ray suppliers.

(17) Religious nonmedical health care institutions.

(18) Registered dieticians.

(19) Clearinghouses, billing agents, and alternate payees.

(20) Local health departments.

...

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

...

(3) Critical Access Behavioral Health Agencies.

~~(4) Dentists and orthodontists.~~

(5) Hospice organizations.

...

(13) Revalidating agencies providing private duty nursing, home health, personal care services or in-home care services, or home infusion.

(14) Nonemergency medical transportation.

...."

PART III. CHANGES TO LAWS PERTAINING TO PUBLIC HEALTH

SECTION 7. G.S. 130A-22(b3) reads as rewritten:

"(b3) The Secretary may impose an administrative penalty on a person who violates Article 19A or 19B of this Chapter or any rules adopted pursuant to Article 19A or 19B of this Chapter. Each day of a continuing violation is a separate violation. The penalty shall not exceed

~~one~~ five thousand dollars ~~($1,000)~~($5,000) for each day the violation continues for Article 19A of this Chapter. The penalty shall not exceed ~~seven hundred fifty~~five thousand dollars ~~($750.00)~~($5,000) for each day the violation continues for Article 19B of this Chapter. The penalty authorized by this section does not apply to a person who is not required to be certified under Article 19A or 19B."

SECTION 8. G.S. 130A-101(b) reads as rewritten:

"(b) When a birth occurs in a hospital or other medical facility, the person in charge of the facility shall obtain the personal data, prepare the certificate, secure the signatures required by the certificate and file it with the local registrar within ~~five~~10 days after the birth. The physician or other person in attendance shall provide the medical information required by the certificate."

SECTION 9. G.S. 130A-209(a) reads as rewritten:

"**§ 130A-209. Incidence reporting of cancer; charge for collection if failure to report.**

(a) ~~All~~ By no later than October 1, 2014, all health care facilities and health care providers that detect, diagnose, or treat cancer or benign brain or central nervous system tumors shall submit by electronic transmission a report to the central cancer registry each diagnosis of cancer or benign brain or central nervous system tumors in any person who is screened, diagnosed, or treated by the facility or provider. The electronic transmission of these reports shall be in a format prescribed by the United States Department of Health and Human Services, Centers for Disease Control and Prevention, National Program of Cancer Registries. The reports shall be made within six months ~~of~~ after diagnosis. Diagnostic, demographic and other information as prescribed by the rules of the Commission shall be included in the report."

PART IV. EFFECTIVE DATE

SECTION 10. This act becomes effective October 1, 2013.

HOUSE BILL 399:
Amend Laws Pertaining to DHHS.-AB

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	July 16, 2013
Introduced by:	Reps. Burr, Hollo, Avila	**Prepared by:**	Heather Fennell
Analysis of:	Sixth Edition		Committee Counsel

SUMMARY: ***House Bill 399 makes changes to statutes pertaining to child abuse, neglect and dependency, Medicaid, and public health, as requested by the Department of Health and Human Services.***

Part I: Changes to Laws Pertaining to Child Abuse, Neglect, and Dependency.

Section 1 of the bill would clarify G.S. 7B-507(a)(2) by requiring court orders placing a juvenile in the custody or responsibility of a county department of social services to include case specific findings as to the reasonable efforts made by the department to either prevent or eliminate the need for placement of the juvenile. In order for a State to be eligible for grants for child abuse/neglect prevention and treatment programs under the *Child Abuse Prevention and Treatment Reauthorization Act of 2010*, courts must have the option to not pursue reunification when a parent is found to have sexually abused a child or a parent is listed on a sex offender registry. **Section** 1 adds language consistent with requirements under 42 USCA 5106a.

Part II: Changes to Laws Pertaining to Medicaid

Sections 2, 3, 4, and 5 of the bill address Medicaid Estate Recovery.

42 USC 1396p(b) requires that a state seek recovery for medical assistance paid on behalf of individuals in certain circumstances. The Omnibus Budget Reconciliation Act of 1993 made enactment of a Medicaid estate recovery program a condition for receiving federal funding for that state's Medicaid program. The North Carolina Medicaid Estate Recovery Plan is established by G.S. 108A-70.5. The purpose of the estate recovery plan is "to recover from the recipients of medical assistance an equitable amount of the state and federal shares of the cost paid to the recipient."

Section 2 of the bill provides that the Department of Health and Human Services (Department) would have all rights available to estate creditors, including the right to qualify as Personal Representative or Collector of an estate.

Section 3 of the bill would give the Division of Medical Assistance (DMA) notice as a known creditor when an estate is opened, if the decedent was receiving medical assistance at the time of death.

Section 4 would clarify that the Department is a sixth-class creditor for purposes of determining the order of claims against the decedent's estate. Judgments in favor of other sixth-class creditors docketed and in force before the Department seeks recovery for medical assistance would be paid prior to recovery by the Department.

Section 5 would require that trustees of revocable trusts who know the person who established the trust was receiving medical assistance give notice to the DMA within 90 days of the death of the person.

Section 6 of the bill addresses Medicaid and Health Choice provider and enrollment screening. Pursuant to federal regulation, all Medicaid and Health Choice providers must be screened according to

one of three risk levels: limited, moderate, and high. **Section 6** would add additional providers to the already established categories.

Part III: Changes to the Laws Pertaining to Public Health

Section 7 of the bill would increase the potential penalty for violations of the DHHS Lead-Based Paint Program. The maximum penalty would be increased to $5,000 per day for each day a violation continues. Federal regulations establish a minimum penalty of $5,000 per day for State programs. 42 CFR 745.327.

Under G.S. 130A-101 there are currently two different time limits for filing a certificate of live birth with the local county registrar: one for births in a hospital or medical facility (five days) and one for all other births (ten days). **Section 8** would create one standard time limit of ten days for all births.

Section 9 of the bill would make a change to the central cancer registry, established under G.S. 130A-208. Pursuant to G.S. 130A-209 all health care providers and facilities are required to report each diagnosis of cancer or benign brain or central nervous system tumors. House Bill 399 would require that cancer registry reporting be done electronically by October 1, 2014, and that electronic transmission be done so in a format prescribed by the National Program of Cancer Registries.

EFFECTIVE DATE: The bill would become effective October 1, 2013.

**Susan Barham, Amy Johnson, and Susan Sitze, substantially contributed to this summary.*

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 399

AMENDMENT NO. 1
(to be filled in by
Principal Clerk)

H399-AMG-29 [v.5]

Comm. Sub. [YES]
Amends Title [YES]
Sixth Edition

Date July 16 ,2013

Senator Hise

moves to amend the bill on page 1, line 4, by deleting "AND PUBLIC HEALTH." and substituting "PUBLIC HEALTH; AND MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES."; and

on page 5, line 23, by inserting a new Part after that line to read:

"PART IV. CHANGES TO LAWS PERTAINING TO MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES

SECTION 10. Section 3.(b) of S.L. 2012-151 reads as rewritten:

'**SECTION 3.(b)** ~~All~~ Except as provided in this subsection, all area boards shall meet the requirements of G.S. 122C-118.1, as amended by subsection (a) of this ~~section,~~section and sections 6 and 7 of S.L. 2013-85, no later than October 1, 2013. The requirements of G.S. 122C-118.1 do not apply when both of the following criteria are met:

(1) An area authority receives approval from the Secretary to realign or merge with another area authority. In this circumstance, the new area board associated with the surviving area authority is not obligated to meet the requirements of G.S. 122C-118.1 until 30 days after the effective date of the realignment or merger, or until April 1, 2014, whichever is sooner.

(2) A different area authority involved in the same realignment or merger approved by the Secretary pursuant to subdivision (1) of this subsection: (i) receives approval on or before October 1, 2013, from the Secretary to dissolve pursuant to G.S. 122C-115.3(b) and initiates plans for the dissolution, or (ii) receives a directive on or before October 1, 2013, from the Secretary to dissolve pursuant to G.S. 122C-124.2.'

SECTION 11. G.S. 122C-115(a) reads as rewritten:

'(a) A county shall provide mental health, developmental disabilities, and substance abuse services in accordance with rules, policies, and guidelines adopted pursuant to statewide restructuring of the management responsibilities for the delivery of services for individuals with mental illness, intellectual or other developmental disabilities, and substance abuse disorders under a 1915(b)/(c) Medicaid Waiver through an area authority. Beginning July 1, 2012, the catchment area of an area authority shall contain a minimum population of at least 300,000. Beginning July 1, 2013, the catchment area of an area authority shall contain a

minimum population of at least 500,000. To the extent this section conflicts with G.S. ~~153A-77(a)~~153A-77 or G.S. 122C-115.1, the provisions of this section control.'"; and

on page 5, lines 24-25, by rewriting the lines to read:

"**PART V. EFFECTIVE DATE**

SECTION 12. Sections 10 and 11 of this act are effective when this act becomes law. The remainder of this act becomes effective October 1, 2013.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

HOUSE BILL 191

Short Title:	Grifton/Deannexation.	(Local)
Sponsors:	Representative B. Brown (Primary Sponsor). *For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*	
Referred to:	Government, if favorable, Finance.	

March 4, 2013

A BILL TO BE ENTITLED

AN ACT REMOVING CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE TOWN OF GRIFTON.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is removed from the corporate limits of the Town of Grifton:

Lying and being in Grifton Township, Pitt County, North Carolina and BEING all of Lot 3, containing 1.7743 acres as said lot is depicted and shown upon that map entitled, "Mills Commercial Center," drawn by Billy Lee Merrill, R.L.S., dated January 27, 1989, recorded in Map Book 37, Page 104, Pitt County Registry, reference to which is hereby made for a more complete and accurate description of the aforesaid lot.

SECTION 2. This act has no effect upon the validity of any liens of the Town of Grifton for ad valorem taxes or special assessments outstanding before the effective date of this act. Such liens may be collected or foreclosed upon after the effective date of this act as though the property were still within the corporate limits of the Town of Grifton.

SECTION 3. This act is effective when it becomes law.

HOUSE BILL 191:
Grifton/Deannexation

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	July 16, 2013
Introduced by:	Rep. B. Brown	**Prepared by:**	Heather Fennell
Analysis of:	First Edition		Committee Counsel

SUMMARY: House Bill 191 would deannex 1.7743 acres from the Town of Grifton.

CURRENT LAW: Under Section 1 of Article VII of the NC Constitution, the General Assembly is empowered to "provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions, and, except as otherwise prohibited by this Constitution, may give such powers and duties to counties, cities and towns, and other governmental subdivisions as it may deem advisable."

Pursuant to this Section, the General Assembly enacted Article 4A of Chapter 160A of the General Statutes, which governs municipal annexation. The General Assembly has not enacted any method for municipalities to *deannex* property — that power remains with the General Assembly.

BILL ANALYSIS: House Bill 191 would deannex 1.7743 acres from the Town of Grifton. The bill states that it does not affect the duty of property owners to pay taxes for any prior year and does not eliminate any liens for taxes for prior years.

BACKGROUND: During a regular meeting held September 11, 2012, the Board of Commissioners of the Town of Grifton voted unanimously to seek the General Assembly to deannex the property. The landowner told the Town's Board of Commissioners that the annexation was originally sought to allow a day care center on the property, but the day care center was never built.

EFFECTIVE DATE: House Bill 191 would be effective when it becomes law.

Greg Roney and Shelly DeAdder, Research Staff, substantially contributed to this summary.

O. Walker Reagan
Director

H191-SMTD-76 E1 -V1

Research Division
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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H D

HOUSE BILL 493
PROPOSED SENATE COMMITTEE SUBSTITUTE H493-CSTHx-23 [v.2]

7/16/2013 11:57:45 AM

Short Title: Robbinsville/Graham Occupancy Tax. (Local)

Sponsors:

Referred to:

April 2, 2013

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE TOWN OF ROBBINSVILLE TO LEVY AN OCCUPANCY TAX, TO AMEND THE EXISTING GRAHAM COUNTY OCCUPANCY TAX, AND TO CREATE A TAXING DISTRICT IN GRAHAM COUNTY FOR THE PURPOSE OF LEVYING A THREE PERCENT (3%) ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

PART I: TOWN OF ROBBINSVILLE OCCUPANCY TAX

SECTION 1.1. Occupancy Tax. – (a) Authorization and Scope. – The Town Council of the Town of Robbinsville may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax.

SECTION 1.1(b) Administration. – A tax levied under this Part shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this Part.

SECTION 1.1(c) Distribution and Use of Tax Revenue. – The Town of Robbinsville shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Robbinsville Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in the Town of Robbinsville and shall use the remainder for tourism-related expenditures.

The following definitions apply in this Part:

(1) Net proceeds. – Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross proceeds collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Robbinsville Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in the

town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

SECTION 1.2. Tourism Development Authority. – (a) Appointment and Membership. – When the Town Council adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating the Robbinsville Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members shall be individuals who are affiliated with businesses that collect the tax in the town, and at least one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in the town. The Town Council shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The finance officer for the Town of Robbinsville shall be the ex officio finance officer of the Authority.

SECTION 1.2.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in Section 1.1(c) of this section. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

SECTION 1.2.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Robbinsville Town Council on its receipts and expenditures for the preceding quarter and for the year in such detail as the Town Council may require.

SECTION 1.3. G.S. 160A-215(g) reads as rewritten:

"(g) Applicability. – Subsection (c) of this section applies to all cities that levy an occupancy tax. To the extent subsection (c) conflicts with any provision of a local act, subsection (c) supersedes that provision. The remainder of this section applies only to Beech Mountain District W, to the Cities of Belmont, Conover, Eden, Elizabeth City, Gastonia, Goldsboro, Greensboro, Hickory, High Point, Jacksonville, Kings Mountain, Lenoir, Lexington, Lincolnton, Lowell, Lumberton, Monroe, Mount Airy, Mount Holly, Reidsville, Roanoke Rapids, Salisbury, Shelby, Statesville, Washington, and Wilmington, to the Towns of Ahoskie, Beech Mountain, Benson, Bermuda Run, Blowing Rock, Boiling Springs, Boone, Burgaw, Carolina Beach, Carrboro, Cooleemee, Cramerton, Dallas, Dobson, Elkin, Fontana Dam, Franklin, Grover, Hillsborough, Jonesville, Kenly, Kure Beach, Leland, McAdenville, Mocksville, Mooresville, Murfreesboro, North Topsail Beach, Pembroke, Pilot Mountain, Ranlo, Robbinsville, Selma, Smithfield, St. Pauls, Swansboro, Troutman, Tryon, West Jefferson, Wilkesboro, Wrightsville Beach, Yadkinville, and Yanceyville, and to the municipalities in Avery and Brunswick Counties."

PART II: GRAHAM COUNTY OCCUPANCY TAX

SECTION 2.1. Chapter 969 of the 1985 Session Laws, as amended by Chapters 118 and 195 of the 1987 Session Laws and by Section 21(k) of S.L. 2007-527, and only as it applies to Graham County, is rewritten and recodified as Sections 3.2 and 3.3 of this act. This act does not affect the rights or liabilities of the county, a taxpayer, or another person arising under the law rewritten and recodified by this act before the effective date, nor does it affect the right to any refund or credit of a tax that accrued under the law rewritten and recodified by this act before the effective date.

SECTION 2.2. Occupancy Tax. – (a) Authorization and Scope. – The Graham County Board of Commissioners may levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax

imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax.

SECTION 2.2.(b) Administration. – A tax levied under this Part shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this Part.

SECTION 2.2.(c) Definitions. – The following definitions apply in this Part:

(1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross proceeds collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Graham County Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in the county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures.

SECTION 2.2.(d) Distribution and Use of Tax Revenue. – Graham County shall, on a quarterly basis, remit the net proceeds of the occupancy tax levied under this Part to the Graham County Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Graham County and shall use the remainder for tourism-related expenditures.

SECTION 2.3. Tourism Development Authority. – (a) Appointment and Membership. – When the Graham County Board of Commissioners adopts a resolution levying a room occupancy tax under Section 5 of this act, it shall also ensure that the Graham County Tourism Development Authority complies with the requirements of this act. Any changes to the Authority shall be accomplished by adoption of a resolution. The Authority shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution adopted by the Board of Commissioners shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members shall be individuals who are affiliated with businesses that collect the tax in the county, and at least one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in the county. The Board of Commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Graham County shall be the ex officio finance officer of the Authority.

SECTION 2.3.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under Section 2.2 of this act for the purposes provided in that section. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

SECTION 2.3.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Graham County Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the Board of Commissioners may require.

SECTION 2.4.(a) Section 3 of Chapter 969 of the 1985 Session Laws reads as rewritten:

"Sec. 3. This act applies only to the following counties: ~~Graham,~~ Clay, Durham, Macon, Polk, and Transylvania."

SECTION 2.4(b) Section 3 of Chapter 118 of the 1987 Session Laws reads as rewritten:

"Sec. 3. This act applies only to the following counties: ~~Clay, Graham,~~Clay and Macon."

SECTION 2.4.(c) Section 2 of Chapter 195 of the 1987 Session Laws reads as rewritten:

"Sec. 2. This act applies only to the following counties: ~~Clay, Graham,~~ Clay and Macon."

PART III: GRAHAM COUNTY DISTRICT G OCCUPANCY TAX

SECTION 3.1. Graham County District G Created. – Graham County District G is created as a taxing district. Its jurisdiction consists of that part of Graham County that is located outside of the incorporated area of the Town of Robbinsville. Graham County District G is a body politic and corporate and has the power to carry out the provisions of this act. The Graham County Board of Commissioners shall serve ex officio as the governing body of the district, and the officers of the County shall serve as the officers of the governing body of the district. A simple majority of the governing body constitutes a quorum, and approval by a majority of those present is sufficient to determine any matter before the governing body, if a quorum is present.

SECTION 3.2. Occupancy Tax. – (a) Authorization and Scope. – The governing body of Graham County District G may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the district that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. Graham County District G may not levy a tax under this subsection unless Graham County also levies a tax of not less than three percent (3%) under subsection 1(a) of Chapter 969 of the 1985 Session Laws (Regular Session 1986), as recodified and rewritten as Section 2.2 of this act.

SECTION 3.2.(b) Administration. – A tax levied under this Part shall be levied, administered, collected, and repealed as provided in G.S. 153A-155 as if Graham County District G were a county. The penalties provided in G.S. 153A-155 apply to a tax levied under this Part.

SECTION 3.2.(c) Definitions. – The following definitions apply in this Part:

(1) Net proceeds. – Gross proceeds less the cost to the district of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in the district or to attract tourists or business travelers to the district. The term includes tourism-related capital expenditures.

SECTION 3.2.(d) Distribution and Use of Tax Revenue. – Graham County District G shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Graham County Tourism Development Authority. The Authority shall use at least two-thirds of the proceeds remitted to it to promote travel and tourism in Graham County District G and shall use the remainder for tourism-related expenditures. In accordance with the North Carolina Constitution and the United States Constitution, the tax proceeds may be used only for the direct benefit of the jurisdiction of Graham County District G. None of the proceeds may be used to promote travel or tourism in areas within Graham County that are outside of the district or for tourism-related expenditures in the county that are outside of the district.

SECTION 3.3. G.S. 153A-155 (g) reads as rewritten:

"(g) Applicability. – Subsection (c) of this section applies to all counties and county districts that levy an occupancy tax. To the extent subsection (c) conflicts with any provision of a local act, subsection (c) supersedes that provision. The remainder of this section applies only to Alleghany, Anson, Brunswick, Buncombe, Burke, Cabarrus, Camden, Carteret, Caswell, Chatham, Cherokee, Chowan, Clay, Craven, Cumberland, Currituck, Dare, Davie, Duplin, Durham, Forsyth, Franklin, Granville, Halifax, Haywood, Henderson, Jackson, Madison, Martin, McDowell, Montgomery, Moore, Nash, New Hanover, Northampton, Pasquotank, Pender, Perquimans, Person, Randolph, Richmond, Rockingham, Rowan, Rutherford, Sampson, Scotland, Stanly, Swain, Transylvania, Tyrrell, Vance, Washington, and Wilson Counties, to Graham County District G, to New Hanover County District U, to Surry County District S, to Watauga County District U, to Wilkes County District K, to Yadkin County District Y, and to the Township of Averasboro in Harnett County and the Ocracoke Township Taxing District."

PART IV: EFFECTIVE DATE

SECTION 4. This act is effective when it becomes law.

HOUSE BILL 493:
Robbinsville Occupancy Tax

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	July 16, 2013
Introduced by:	Rep. West	**Prepared by:**	Kelly Quick Committee Staff
Analysis of:	PCS to First Edition H493-CSTHx-23		

SUMMARY: ***House Bill 493 would authorize the Town of Robbinsville to levy a room occupancy tax of up to 3%, the proceeds of which would be remitted to a Tourism Development Authority. The Authority would be required to use at least two-thirds of the proceeds to promote travel and tourism and the remainder for tourist-related expenditures. In addition, the proposed committee substitute would create a special tax district in Graham County consisting of the entire county except the Town of Robbinsville. Graham County District G would be authorized to levy a room occupancy tax of up to 3%, the proceeds of which would be remitted to a Tourism Development Authority. The Authority would be required to use at least two-thirds of the proceeds to promote travel and tourism and the remainder for tourist-related expenditures. The PCS also modifies Graham County's existing 3% occupancy tax to conform to the Occupancy Tax Guidelines adopted by the House Finance Committee.***

PART I: TOWN OF ROBBINSVILLE OCCUPANCY TAX

CURRENT LAW: Robbinsville is located in Graham County, which has the authority to levy a 3% room occupancy tax. The proceeds of that tax may be, but are not required to be, administered by a Travel and Tourism Authority. All of the proceeds must be used to promote travel and tourism in the county.

BILL ANALYSIS: House Bill 493 would authorize Robbinsville to levy a 3% room occupancy tax. The Town would be required to establish a Tourism Development Authority to administer the proceeds. The proceeds must be used as follows: at least two-thirds for tourism promotion and the remainder for tourism-related expenditures. The bill conforms to the Guidelines for Occupancy Tax adopted by the House Finance Committee.

PART II: GRAHAM COUNTY OCCUPANCY TAX

CURRENT LAW: In 1985,[1] the General Assembly authorized Graham County to levy a 3% room occupancy tax. Currently, the proceeds are remitted to the Graham County Travel and Tourism Authority, which is required to spend the funds remitted to it to promote travel and tourism in the county.[2] The Authority is restricted to 15% use of the funds for administrative expenses. The current authority does not conform to the House occupancy tax guidelines.

[1] S.L. 1985-969
[2] S.L. 1987-118

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BILL ANALYSIS: Part II of the bill would make a number of changes to Graham County's existing occupancy tax legislation so that it conforms to the guidelines adopted by the House Finance Committee. Among the changes are permitting the county to use up to 1/3 of the proceeds for tourism-related expenditures and requiring that the TDA membership consist of collectors of the tax (1/3) and individuals who are active in the promotion of travel and tourism in the county (1/2).

PART III: GRAHAM COUNTY DISTRICT G OCCUPANCY TAX

CURRENT LAW: Graham County desires to levy a 6% occupancy tax (Senate Bill 136). However, the Town of Robbinsville, which is located in Graham County is also seeking authority to levy a 3% occupancy tax. If both measures were to pass, the occupancy tax rate in Robbinsville would be 9% and would exceed to maximum 6% rate set by the House Finance Guidelines on Occupancy Tax. Therefore, this bill creates a special taxing district in Graham that excludes the Town of Robbinsville so that the maximum rate is not exceeded.

BILL ANALYSIS: Part III of the PCS would create a new taxing district in Graham County defined to include all areas of the county except for the Town of Robbinsville and authorize the district to levy a 3% room occupancy and tourism development tax. The administrative and use provisions conform to the House Finance Guidelines for occupancy tax.

BACKGROUND: Since 1983, the General Assembly has authorized many units of local government to levy a room occupancy tax. Over the past several years, there has been a greater effort to make the occupancy taxes uniform. In 1997, the General Assembly enacted uniform municipal and county administrative provisions for occupancy tax,[3] which provide uniformity among counties and cities with respect to the levy, administration, collection, repeal, and imposition of penalties.

In 1993, the House Finance Committee established the Occupancy Tax Guidelines, which address the rate of tax, the use of the tax proceeds, the administration of the tax, and the body with authority to determine how the proceeds will be spent. A summary of these provisions is detailed in the chart below. Many of the principles contained in the Guidelines are similar to those contained in policy statements adopted by the North Carolina Travel and Tourism Coalition and the North Carolina Restaurant and Lodging Association. The House Finance Committee Chairs have traditionally appointed a Subcommittee on Occupancy Taxes to scrutinize occupancy tax legislation to determine whether the legislation adheres to the Guidelines. The House Finance Chairs appointed Representatives Moffitt, Cotham, Carney, Davis, and Warren to be members of the House Finance Subcommittee on Occupancy Taxes this biennium.

UNIFORM OCCUPANCY TAX PROVISIONS
Rate – The county tax rate cannot exceed 6% and the city tax rate, when combined with the county rate, cannot exceed 6%.
Use – Two-thirds of the proceeds must be used to promote travel and tourism and the remainder must be used for tourism related expenditures.
Definitions The term "net proceeds", "promote travel and tourism", and "tourism related expenditures" are defined terms.
Administration – The net revenues must be administered by a local tourism development authority that has the authority to determine how the tax proceeds will be used, is created by a local ordinance, and at least 1/2 of the members must be currently active in the promotion of travel and tourism in the county and 1/3 of the members must be affiliated with organizations that collect the tax.
Costs of Collection – The taxing authority may retain from the revenues its actual costs of collection, not to

[3] G.S. 153A-155 and G.S. 160A-215.

exceed 3% of the first $500,000 collected each year plus 1% of the remainder collected each year.

Trina Griffin, Counsel to House Finance Committee, substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Fiscal Note

BILL NUMBER: House Bill 493 (First Edition)

SHORT TITLE: Robbinsville Occupancy Tax.

SPONSOR(S): Representative West

FISCAL IMPACT

☑ Yes ☐ No ☐ No Estimate Available

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
Local Impact Revenues: Expenditures:	$33,499	$35,622	$37,753	$39,567	$41,021
NET LOCAL IMPACT	**$33,499**	**$35,622**	**$37,753**	**$39,567**	**$41,021**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Town of Robbinsville
Robbinsville Tourism Development Authority

EFFECTIVE DATE: This act is effective when it becomes law.

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY:

House Bill 493 authorizes the Robbinsville Town Council to levy a room occupancy tax of up to 3%. It provides that the tax must be levied, administered, collected, and repealed as provided in GS 160A-215 (uniform provisions for room occupancy taxes). The bill requires the Robbinsville Tourism Development Authority (TDA) to use at least two-thirds of the occupancy tax proceeds to promote travel and tourism in the town and the remainder for tourism-related expenditures. It mandates that at least one-third of the members of the TDA must be affiliated with businesses that collect the tax in the town and at least one-half must be currently active in the town's travel and tourism promotion. And the bill makes conforming changes to GS 106A-215.

ASSUMPTIONS AND METHODOLOGY:

The Graham County Finance Office calculates that $31,135 in Graham County occupancy tax revenue was collected for fiscal year 2011-12 within the city of Robbinsville. The Graham County occupancy tax rate is currently at 3%, equal to that of the Robbinsville occupancy tax proposed

under House Bill 493. The estimated fiscal year impact takes into account North Carolina leisure and hospitality growth factors as estimated by Moody's.

SOURCES OF DATA: Graham County Finance Office; Moody's Economy.com

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Brian Slivka

APPROVED BY: Mark Trogdon, Director
Fiscal Research Division

DATE: June 5, 2013

Signed Copy Located in the NCGA Principal Clerk's Offices

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Fiscal Note

BILL NUMBER: Senate Bill 136 (Second Edition)

SHORT TITLE: Graham Occupancy Tax Changes.

SPONSOR(S): Senator J. Davis

FISCAL IMPACT

☑ Yes ☐ No ☐ No Estimate Available

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
Local Impact					
Revenues:	$158,000	$168,000	$178,000	$186,000	$193,000
Expenditures:					
NET LOCAL IMPACT	**$158,000**	**$168,000**	**$178,000**	**$186,000**	**$193,000**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Graham County

EFFECTIVE DATE: This act is effective when it becomes law.

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY:

Senate Bill 136 (Second Edition) amends subsection 1(a) of SL 1985-969, as it applies to Graham County, providing that the Graham County Board of Commissioners can adopt a resolution to levy an occupancy tax to 6% (was 3%), subject to the 10 days' public notice and public hearing requirements.

ASSUMPTIONS AND METHODOLOGY:

Currently, Graham County levies a 3% room occupancy tax. Senate Bill 136 (Second Edition) would allow Graham County to levy an additional 3% for a total 6% room occupancy tax. Over the past two years, Graham County collected an average of $158,000 in occupancy taxes at the current 3% rate. Doubling the room occupancy tax rate from 3% to 6% would therefore double the revenue collected from the tax. The leisure and hospitality portion of North Carolina's gross state product, as forecast by Moody's, was used in growing the estimate.

SOURCES OF DATA: North Carolina Department of State Treasurer; Moody's Analytics

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Brian Slivka

APPROVED BY: Mark Trogdon, Director
Fiscal Research Division

DATE: June 21, 2013

Signed Copy Located in the NCGA Principal Clerk's Offices

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H D

HOUSE BILL 14*
Committee Substitute Favorable 6/27/13
Third Edition Engrossed 7/8/13
PROPOSED SENATE COMMITTEE SUBSTITUTE H14-PCS70491-SVx-37

Short Title: Rev Laws Technical, Clarifying, & Admin. Chg. (Public)

Sponsors:

Referred to:

January 31, 2013

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES TO THE REVENUE LAWS AND RELATED STATUTES, AS RECOMMENDED BY THE REVENUE LAWS STUDY COMMITTEE.

The General Assembly of North Carolina enacts:

REVENUE LAWS RECOMMENDATIONS

SECTION 1.(a) G.S. 105-116(b) reads as rewritten:

"(b) ~~Report~~ Return and Payment. – The tax imposed by this section is payable quarterly or monthly as specified in this subsection. A return is due quarterly.

A water company or public sewerage company must pay tax quarterly when filing a return. An electric power company must pay tax in accordance with the schedule and requirements that apply to payments of sales and use tax under G.S. 105-164.16 and must file a return quarterly.

A quarterly return covers a calendar quarter and is due by the last day of the month that follows the quarter covered by the return. A taxpayer must submit a return on a form provided by the Secretary. The return must include the taxpayer's gross receipts from all property it owned or operated during the reporting period in connection with its business taxed under this section. A taxpayer must report its gross receipts on an accrual basis. A return must contain the following information:

(1) The taxpayer's gross receipts for the reporting period from business inside and outside this State, stated separately.

(2) The taxpayer's gross receipts from commodities or services described in subsection (a) that are sold to a vendee subject to the tax levied by this section or to a joint agency established under Chapter 159B of the General Statutes or a city having an ownership share in a project established under that Chapter.

(3) The amount of and price paid by the taxpayer for commodities or services described in subsection (a) that are purchased from others engaged in business in this State and the name of each vendor.

(4) For an electric power company the entity's gross receipts from the sale within each city of the commodities and services described in subsection (a)."

SECTION 1.(b) G.S. 105-120.2 reads as rewritten:

"**§ 105-120.2. Franchise or privilege tax on holding companies.**

CHECKED OUT

(a) Every corporation, domestic and foreign, incorporated or, by an act, domesticated under the laws of this State or doing business in this State ~~which,~~ that, at the close of its taxable ~~year~~ year, is a holding company as defined in subsection (c) of this section, shall, pursuant to the provisions of ~~G.S. 105-122:~~G.S. 105-122, do all of the following:

(1) ~~Make a report and statement, and~~File a return.

(2) Determine the total amount of its issued and outstanding capital stock, surplus and undivided ~~profits, and~~profits.

(3) Apportion such outstanding capital stock, surplus and undivided profits to this State.

(b) (1) Every corporation taxed under this section shall annually pay to the Secretary of Revenue, at the time the ~~report and statement are~~ return is due, a franchise or privilege ~~tax, which is hereby levied,~~ tax at the rate of one dollar and fifty cents ($1.50) per one thousand dollars ($1,000) of the amount determined under subsection (a) of this section, but in no case shall the tax be more than seventy-five thousand dollars ($75,000) nor less than thirty-five dollars ($35.00).

(2) Notwithstanding the provisions of subdivision (1) of this subsection, if the tax produced pursuant to application of this paragraph (2) exceeds the tax produced pursuant to application of subdivision (1), then the tax ~~shall be~~ is levied at the rate of one dollar and fifty cents ($1.50) per one thousand dollars ($1,000) on the greater of the ~~amounts of~~following:

a. Fifty-five percent (55%) of the appraised value as determined for ad valorem taxation of all the real and tangible personal property in this State of each such corporation plus the total appraised value of intangible property returned for taxation of intangible personal property as computed under ~~G.S. 105-122(d); or~~G.S. 105-122(d).

b. The total actual investment in tangible property in this State of such corporation as computed under G.S. 105-122(d).

...."

SECTION 1.(c) G.S. 105-122 reads as rewritten:

"§ 105-122. Franchise or privilege tax on domestic and foreign corporations.

...

(d) After determining the proportion of its total capital stock, surplus and undivided profits as set out in subsection ~~(c)~~(c1) of this section, which amount shall not be less than fifty-five percent (55%) of the appraised value as determined for ad valorem taxation of all the real and tangible personal property in this State of each corporation nor less than its total actual investment in tangible property in this State, every corporation taxed under this section shall annually pay to the Secretary of Revenue, at the time the ~~report and statement are~~ return is due, a franchise or privilege tax at the rate of one dollar and fifty cents ($1.50) per one thousand dollars ($1,000) of the total amount of capital stock, surplus and undivided profits as provided in this section. The tax imposed in this section shall not be less than thirty-five dollars ($35.00) and ~~shall be~~ is for the privilege of carrying on, doing business, and/or the continuance of articles of incorporation or domestication of each corporation in this State. Appraised value of tangible property including real estate is the ad valorem valuation for the calendar year next preceding the due date of the franchise tax return. The term "total actual investment in tangible property" as used in this section means the total original purchase price or consideration to the reporting taxpayer of its tangible properties, including real estate, in this State plus additions and improvements thereto less reserve for depreciation as permitted for income tax purposes, and also less any indebtedness incurred and existing by virtue of the purchase of any real estate and any permanent improvements made thereon. In computing "total actual investment in tangible personal property" ~~there shall also be deducted~~ a corporation may deduct reserves for

the entire cost of any air-cleaning device or sewage or waste treatment plant, including waste lagoons, and pollution abatement equipment purchased or constructed and installed which reduces the amount of air or water pollution resulting from the emission of air contaminants or the discharge of sewage and industrial wastes or other polluting materials or substances into the outdoor atmosphere or into streams, lakes, or rivers, upon condition that the corporation claiming this deduction shall furnish to the Secretary a certificate from the Department of Environment and Natural Resources or from a local air pollution control program for air-cleaning devices located in an area where the Environmental Management Commission has certified a local air pollution control program pursuant to G.S. 143-215.112 certifying that said Department or local air pollution control program has found as a fact that the air-cleaning device, waste treatment plant or pollution abatement equipment purchased or constructed and installed as above described has actually been constructed and installed and that the device, plant or equipment complies with the requirements of the Environmental Management Commission or local air pollution control program with respect to the devices, plants or equipment, that the device, plant or equipment is being effectively operated in accordance with the terms and conditions set forth in the permit, certificate of approval, or other document of approval issued by the Environmental Management Commission or local air pollution control program and that the primary purpose is to reduce air or water pollution resulting from the emission of air contaminants or the discharge of sewage and waste and not merely incidental to other purposes and functions. The cost of constructing facilities of any private or public utility built for the purpose of providing sewer service to residential and outlying areas is treated as deductible for the purposes of this section; the deductible liability allowed by this section ~~shall apply~~ applies only with respect to pollution abatement plants or equipment constructed or installed on or after January 1, 1955.

...

(f) The ~~report, statement~~ return and tax required by this section ~~shall be~~ is in addition to all other reports required or taxes levied and assessed in this State.

...."

SECTION 1.(d) G.S. 105-127(a) reads as rewritten:

"(a) Every corporation, domestic or foreign, that is required to file a return with the Secretary ~~from which a report is required by law to be made to the Secretary of Revenue,~~ shall, unless otherwise provided, pay annually ~~to said Secretary annually~~ the franchise tax as required by G.S. 105-122."

SECTION 1.(e) G.S. 105-134.2(b) reads as rewritten:

"(b) In lieu of the tax imposed by subsection (a) of this section, there is imposed for each taxable year upon the North Carolina taxable income of every individual a tax determined under tables, applicable to the taxable year, which may be prescribed by the Secretary. The amounts of the tax determined under the tables shall be computed on the basis of the rates prescribed by subsection (a) of this section. This subsection does not apply to an individual ~~making~~ filing a return under section 443(a)(1) of the Code for a period of less than 12 months on account of a change in the individual's annual accounting period, or to an estate or trust. The tax imposed by this subsection shall be treated as the tax imposed by subsection (a) of this section."

SECTION 1.(f) G.S. 105-164.19 reads as rewritten:

"**§ 105-164.19. Extension of time for making returns and payment.**

The Secretary for good cause may extend the time for ~~making~~ filing any return under the provisions of this Article and may grant ~~such~~ additional time within which to ~~make such~~ file the return as he may deem ~~proper~~ proper, but the time for filing any ~~such~~ return shall not be extended for more than 30 days after the regular due date of ~~such~~ the return. If the time for filing a return ~~be~~ is extended, interest accrues at the rate established pursuant to

G.S. 105-241.21 from the time the return was due to be filed to the date of payment.~~payment shall be added and paid.~~"

SECTION 1.(g) G.S. 105-164.30 reads as rewritten:

"**§ 105-164.30. Secretary or agent may examine books, etc.**

For the purpose of enforcing the collection of the tax levied by this Article, the Secretary or his duly authorized agent is ~~hereby specifically~~ authorized ~~and empowered~~ to examine at all reasonable hours during the day the books, papers, records, documents or other data of all retailers or wholesale merchants bearing upon the correctness of any return or for the purpose of ~~making~~ filing a return where none has been made as required by this Article, and may require the attendance of any person and take his testimony with respect to any such matter, with power to administer oaths to such person or persons. If any person summoned as a witness ~~shall fail~~ fails to obey any summons to appear before the Secretary or his authorized agent, or ~~shall refuse~~ refuses to testify or answer any material question or to produce any book, record, paper, or other data when required to do so, ~~such~~ the Secretary or his authorized agent shall report the failure or refusal ~~shall be reported~~ to the Attorney General or the district solicitor, who shall thereupon institute proceedings in the superior court of the county where ~~such~~ the witness resides to compel obedience to any summons of the Secretary or his authorized agent. Officers who serve summonses or subpoenas, and witnesses attending, shall receive like compensation as officers and witnesses in the superior courts, to be paid from the proper appropriation for the administration of this Article.

In the event any retailer or wholesale merchant ~~shall fail or refuse~~ fails or refuses to permit ~~examination of~~ the Secretary or his authorized agent to examine his books, papers, accounts, records, documents or other ~~data by the Secretary or his authorized agents as aforesaid,~~ data, the Secretary ~~shall have the power to proceed by citing said~~ may require the retailer or wholesale merchant to show cause before the superior court of the county in which said taxpayer resides or has its principal place of business as to why ~~such~~ the books, records, papers, or documents should not be examined and ~~said~~ the superior court shall have jurisdiction to enter an order requiring the production of all necessary books, records, papers, or documents and to punish for contempt any person who violates the order.~~of such order any person violating the same.~~"

SECTION 1.(h) G.S. 105-236(a)(9) reads as rewritten:

"(9) Willful Failure to File Return, Supply Information, or Pay Tax. – Any person required to pay any tax, to ~~make~~ file a return, to keep any records, or to supply any information, who willfully fails to pay the tax, ~~make~~ file the return, keep the records, or supply the information, at the time or times required by law, or rules issued pursuant thereto, ~~shall,~~ is, in addition to other penalties provided by law, ~~be~~ guilty of a Class 1 misdemeanor. Notwithstanding any other provision of law, no prosecution for a violation brought under this subdivision ~~shall be~~ is barred before the expiration of six years after the date of the violation."

SECTION 1.(i) G.S. 105-258(a) reads as rewritten:

"(a) Secretary May Examine Data and Summon Persons. – The Secretary of ~~Revenue,~~Revenue is authorized to do any of the following for the purpose of ascertaining the correctness of any return, ~~making~~ filing a return where none has been ~~made,~~ filed, or determining the liability of any person for a tax, or collecting any tax:~~such tax, shall have the power~~

(1) ~~to examine,~~ Examine, personally, or by an agent designated by him, any books, papers, records, or other data ~~which~~ that may be relevant or material to ~~such inquiry, and the Secretary may~~ the inquiry.

(2) ~~summon~~ Summon any of the following persons to appear at a time and place named in the summons, to produce such books, papers, records, or other

data, and to give such testimony under oath as may be relevant or material to the inquiry:

a. ~~the~~ Any person liable for the tax or required to perform the act, or any officer or employee of such ~~person, or any~~ person.

b. Any person having possession, custody, care or control of books of account containing entries relevant or material to the income and expenditures of the person liable for the tax or required to perform the act, or any other person having knowledge in the premises.~~premises, to appear before the Secretary, or his agent, at a time and place named in the summons, and to produce such books, papers, records or other data, and to give such testimony under oath as may be relevant or material to such inquiry, and the Secretary or his agent may~~

(3) ~~administer~~ Administer oaths to ~~such person or persons.~~ the persons listed in this subsection.

(4) ~~If any person so summoned refuses to obey such summons or to give testimony when summoned, the Secretary may apply~~ Apply to the Superior Court of Wake County for an order requiring ~~such person or persons to comply with the summons of the Secretary, and the failure~~any person who refuses to obey the summons or to give testimony when summoned. Failure to comply with ~~such~~ the court order shall be punished as for contempt."

SECTION 1.(j) G.S. 105-263(b) reads as rewritten:

"(b) Extension. – The Secretary may extend the time in which a person must file a ~~report or~~ return with the Secretary. To obtain an extension of time for filing a ~~report or~~ return, a person must comply with any application requirement set by the Secretary. An extension of time for filing a franchise tax return or an income tax return does not extend the time for paying the tax due or the time when a penalty attaches for failure to pay the tax. An extension of time for filing ~~a report or~~ any return other than a franchise tax return or an income tax return extends the time for paying the tax due and the time when a penalty attaches for failure to pay the tax. When an extension of time for filing a ~~report or~~ return extends the time for paying the tax expected to be due with the ~~report or~~ return, interest, at the rate established pursuant to G.S. 105-241.21, accrues on the tax due from the original due date of the ~~report or~~ return to the date the tax is paid."

SECTION 2.(a) G.S. 105-122(c1) reads as rewritten:

"(c1) Apportionment. – A corporation that is doing business in this State and in one or more other states must apportion its capital stock, surplus, and undivided profits to this State. A corporation must use the apportionment method set out in subdivision (1) of this subsection unless the Department has authorized it to use a different method under subdivision (2) of this subsection. The portion of a corporation's capital stock, surplus, and undivided profits determined by applying the appropriate apportionment method is considered the amount of capital stock, surplus, and undivided profits the corporation uses in its business in this State.

...

(2) Alternative. – A corporation that believes the statutory apportionment method set out in subdivision (1) of this subsection subjects a greater portion of its capital stock, surplus, and undivided profits to tax under this section than is attributable to its business in this State may make a written request to the Secretary for permission to use an alternative method. The request must set out the reasons for the corporation's belief and propose an alternative method. The corporation has the burden of establishing by clear, cogent, and convincing proof that the statutory apportionment method subjects a greater portion of the corporation's capital stock, surplus, and undivided profits to

tax under this section than is attributable to its business in this State and that the proposed alternative method is a better method of determining the amount of the corporation's capital stock, surplus, and undivided profits attributable to the corporation's business in this State.

The Secretary must issue a written decision on a corporation's request for an alternative apportionment method. If the decision grants the request, it must describe the alternative method the corporation is authorized to use and state the tax years to which the alternative method applies. A decision may apply to no more than three tax ~~years, unless the provisions of subdivision (3) of this subsection applies.~~ years. A corporation may renew a request to use an alternative apportionment method by following the procedure in this subdivision. A decision of the Secretary on a request for an alternative apportionment method is final and is not subject to administrative or judicial review. A corporation authorized to use an alternative method may apportion its capital stock, surplus, and undivided profits in accordance with the alternative method or the statutory method."

SECTION 2.(b) G.S. 105-130.4(t1) reads as rewritten:

"(t1) Alternative Apportionment Method. – A corporation that believes the statutory apportionment method that otherwise applies to it under this section subjects a greater portion of its income to tax than is attributable to its business in this State may make a written request to the Secretary for permission to use an alternative method. The request must set out the reasons for the corporation's belief and propose an alternative method.

The statutory apportionment method that otherwise applies to a corporation under this section is presumed to be the best method of determining the portion of the corporation's income that is attributable to its business in this State. A corporation has the burden of establishing by clear, cogent, and convincing proof that the proposed alternative method is a better method of determining the amount of the corporation's income attributable to the corporation's business in this State.

The Secretary must issue a written decision on a corporation's request for an alternative apportionment method. If the decision grants the request, it must describe the alternative method the corporation is authorized to use and state the tax years to which the alternative method applies. A decision may apply to no more than three tax ~~years, unless the provisions of subsection (t2) of this section apply.~~ years. A corporation may renew a request to use an alternative apportionment method by following the procedure in this subsection. A decision of the Secretary on a request for an alternative apportionment method is final and is not subject to administrative or judicial review. A corporation authorized to use an alternative method may apportion its income in accordance with the alternative method or the statutory method. A corporation may not use an alternative apportionment method except upon written order of the Secretary, and any return in which any alternative apportionment method, other than the method prescribed by statute, is used without permission of the Secretary is not a lawful return."

SECTION 3. G.S. 105-163.41(c) reads as rewritten:

"(c) The period of the underpayment ~~shall run~~ runs from the date the installment was required to be paid to the earlier of:

(1) The 15th day of the ~~3rd~~ fourth month following the close of the taxable year, or

(2) With respect to any portion of the underpayment, the date on which the portion is paid. An installment payment of estimated tax ~~shall be~~ is considered a payment of any previous underpayment only to the extent the payment exceeds the amount of the installment determined under subdivision (1) of subsection (b) for that installment date."

SECTION 4. G.S. 105-129.84(c) reads as rewritten:

"(c) Carryforward. – Unless a longer carryforward period applies, any unused portion of a credit allowed under G.S. 105-129.87 or G.S. 105-129.88 may be carried forward for the succeeding five years, and any unused portion of a credit allowed under G.S. 105-129.89 may be carried forward for the succeeding 15 years. If the Secretary of Commerce makes a written determination that the taxpayer is expected to purchase or lease, and place in service in connection with an eligible business within a two-year period, at least one hundred fifty million dollars ($150,000,000) worth of business and real property, any unused portion of a credit under this Article with respect to the establishment that satisfies that condition may be carried forward for the succeeding 20 years. If the taxpayer does not make the required level of investment, the taxpayer shall apply the ~~five-year~~ standard carryforward period rather than the 20-year carryforward period."

SECTION 5.(a) G.S. 105-134.6 reads as rewritten:

"**§ 105-134.6. Modifications to adjusted gross income.**

...

(b) Other Deductions. – In calculating North Carolina taxable income, a taxpayer may deduct any of the following items to the extent those items are included in the taxpayer's adjusted gross income.

...

(17b) An amount equal to twenty percent (20%) of the amount added ~~to federal taxable income as accelerated depreciation~~ under subdivision (c)(8b) of this section. For the amount added to taxable income in the 2010 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2011. For the amount added to taxable income in the 2011 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2012. For the amount added to ~~taxable~~ adjusted gross income in the 2012 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2013.

...

(d) Other Adjustments. – In calculating North Carolina taxable income, a taxpayer must make the following adjustments to adjusted gross income.

(1) The amount of inheritance or estate tax attributable to an item of income in respect of a decedent required to be included in gross income under the Code, adjusted as provided in G.S. 105-134.5, 105-134.6, and ~~105-134.7,~~105-134.6A, may be deducted in the year the item of income is included. The amount of inheritance or estate tax attributable to an item of income in respect of a decedent is (i) the amount by which the inheritance or estate tax paid under Article 1 or 1A of this Chapter on property transferred to a beneficiary by a decedent exceeds the amount of the tax that would have been payable by the beneficiary if the item of income in respect of a decedent had not been included in the property transferred to the beneficiary by the decedent, (ii) multiplied by a fraction, the numerator of which is the amount required to be included in gross income for the taxable year under the Code, adjusted as provided in G.S. 105-134.5, 105-134.6, and ~~105-134.7,~~ 105-134.6A, and the denominator of which is the total amount of income in respect of a decedent transferred to the beneficiary by the decedent. For an estate or trust, the deduction allowed by this subdivision shall be computed by excluding from the gross income of the estate or trust the portion, if any, of the items of income in respect of a decedent that are properly paid, credited, or to be distributed to the beneficiaries during the taxable year.

The Secretary may provide to a beneficiary of an item of income in respect of a decedent any information contained on an inheritance or estate tax return that the beneficiary needs to compute the deduction allowed by this subdivision.

...

(3) The taxpayer shall add to ~~taxable~~ adjusted gross income the amount of any recovery during the taxable year not included in ~~taxable~~ adjusted gross income, to the extent the taxpayer's deduction of the recovered amount in a prior taxable year reduced the taxpayer's tax imposed by this Part but, due to differences between the Code and this Part, did not reduce the amount of the taxpayer's tax imposed by the Code. The taxpayer may deduct from ~~taxable~~ adjusted gross income the amount of any recovery during the taxable year included in ~~taxable~~ adjusted gross income under section 111 of the Code, to the extent the taxpayer's deduction of the recovered amount in a prior taxable year reduced the taxpayer's tax imposed by the Code but, due to differences between the Code and this Part, did not reduce the amount of the taxpayer's tax imposed by this Part.

(4) A taxpayer may deduct from ~~taxable~~ adjusted gross income the amount, not to exceed two thousand five hundred dollars ($2,500), contributed to an account in the Parental Savings Trust Fund of the State Education Assistance Authority established pursuant to G.S. 116-209.25. In the case of a married couple filing a joint return, the maximum dollar amount of the deduction is five thousand dollars ($5,000).

(5) The taxpayer shall add to ~~taxable~~ adjusted gross income the amount deducted ~~from taxable income~~ in a prior taxable year under subdivision (4) of this subsection to the extent this amount was withdrawn from the Parental Savings Trust Fund of the State Education Assistance Authority established pursuant to G.S. 116-209.25 and not used to pay for the qualified higher education expenses of the designated beneficiary, unless the withdrawal was made without penalty under section 529 of the Code due to the death or permanent disability of the designated beneficiary.

(6) A taxpayer who is an eligible firefighter or an eligible rescue squad worker may deduct from ~~taxable~~ adjusted gross income the sum of two hundred fifty dollars ($250.00). In the case of a married couple filing a joint return, each spouse may qualify separately for the deduction allowed under this subdivision. In order to claim the deduction allowed under this subdivision, the taxpayer must submit with the tax return any documentation required by the Secretary. An individual may not claim a deduction as both an eligible firefighter and as an eligible rescue squad worker in a single taxable year. The following definitions apply in this subdivision:

a. Eligible firefighter. – An unpaid member of a volunteer fire department who attended at least 36 hours of fire department drills and meetings during the taxable year.

b. Eligible rescue squad worker. – An unpaid member of a volunteer rescue or emergency medical services squad who attended at least 36 hours of rescue squad training and meetings during the taxable year.

...."

SECTION 5.(b) G.S. 105-151(a) reads as rewritten:

"(a) An individual who is a resident of this State is allowed a credit against the taxes imposed by this Part for income taxes imposed by and paid to another state or country on income taxed under this Part, subject to the following conditions:

...

(2) The fraction of the gross income, as calculated under the Code and adjusted as provided in G.S. 105-134.6 and ~~G.S. 105-134.7,~~ G.S. 105-134.6A, that is subject to income tax in another state or country shall be ascertained, and the North Carolina net income tax before credit under this section shall be multiplied by that fraction. The credit allowed is either the product thus calculated or the income tax actually paid the other state or country, whichever is smaller.

...."

SECTION 5.(c) G.S. 105-151.11(c) reads as rewritten:

"(c) Limitations. – A nonresident or part-year resident who claims the credit allowed by this section shall reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. No credit shall be allowed under this section for amounts deducted ~~from gross income~~ in calculating North Carolina taxable ~~income under the Code.~~ income. The credit allowed by this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, except for payments of tax made by or on behalf of the taxpayer."

SECTION 5.(d) G.S. 105-151.30(e) reads as rewritten:

"(e) No Double Benefit. – A taxpayer who claims a credit under this section must add back to ~~taxable~~ adjusted gross income any amount deducted under G.S. 105-134.6(a2)~~the Code~~ for the donation of the oyster shells."

SECTION 5.(e) G.S. 105-152 reads as rewritten:

"**§ 105-152. Income tax returns.**

...

(c) Information Required With Return. – The income tax return shall show the ~~taxable~~ adjusted gross income and adjustments required by this Part and any other information the Secretary requires. The Secretary may require some or all individuals required to file an income tax return to attach to the return a copy of their federal income tax return for the taxable year. The Secretary may require a taxpayer to provide the Department with copies of any other return the taxpayer has filed with the Internal Revenue Service and to verify any information in the return.

(d) Secretary May Require Additional Information. – When the Secretary has reason to believe that any taxpayer conducts a trade or business in a way that directly or indirectly distorts the taxpayer's ~~taxable~~ adjusted gross income or North Carolina taxable income, the Secretary may require any additional information for the proper computation of the taxpayer's ~~taxable~~ adjusted gross income and North Carolina taxable income. In computing the taxpayer's ~~taxable~~ adjusted gross income and North Carolina taxable income, the Secretary shall consider the fair profit that would normally arise from the conduct of the trade or business.

...."

SECTION 5.(f) G.S. 105-160.1 reads as rewritten:

"**§ 105-160.1. Definitions.**

The definitions provided in Part 2 of this Article shall apply in this Part except where the context clearly indicates a different meaning. In addition, as used in this Part, "taxable income" is defined in sections 641 through 692 of the Code."

SECTION 5.(g) G.S. 105-160.2 reads as rewritten:

"**§ 105-160.2. Imposition of tax.**

The tax imposed by this Part ~~shall apply~~ applies to the taxable income of estates and trusts as determined under the provisions of the Code except as otherwise provided in this Part. The taxable income of an estate or trust ~~shall be~~ is the same as taxable income for such an estate or trust under the provisions of the Code, adjusted as provided in G.S. 105-134.6 and ~~G.S. 105-134.7,~~ G.S. 105-134.6A, except that the adjustments provided in G.S. 105-134.6 and

~~G.S. 105-134.7 shall be~~ G.S. 105-134.6A are apportioned between the estate or trust and the beneficiaries based on the distributions made during the taxable year. The tax ~~shall be~~ is computed on the amount of the taxable income of the estate or trust that is for the benefit of a resident of this State, or for the benefit of a nonresident to the extent that the income (i) is derived from North Carolina sources and is attributable to the ownership of any interest in real or tangible personal property in this State or (ii) is derived from a business, trade, profession, or occupation carried on in this State. For purposes of the preceding sentence, taxable income and gross income ~~shall be~~ is computed subject to the adjustments provided in G.S. 105-134.6 and ~~G.S. 105-134.7.~~ G.S. 105-134.6A. The tax on the amount computed above ~~shall be~~ is at the rates levied in G.S. 105-134.2(a)(3). The fiduciary responsible for administering the estate or trust shall pay the~~The~~ tax computed under the provisions of this ~~Part shall be paid by the fiduciary responsible for administering the estate or trust.~~Part."

SECTION 6.(a) The first sentence of G.S. 105-134.7(a)(3) is recodified as G.S. 105-134.6(c)(20).

SECTION 6.(b) G.S. 105-134.7(a)(6) is recodified as G.S. 105-134.6(c)(21) and reads as rewritten:

"(21) A loss or deduction that was incurred or paid and deducted from State taxable income in a taxable year beginning before January 1, 1989, and is carried forward and deducted in a taxable year beginning on or after January 1, 1989, under the ~~Code shall be added to taxable income.~~Code."

SECTION 6.(c) The second sentence of G.S. 105-134.7(a)(3) is recodified as G.S. 105-134.6(b)(24).

SECTION 6.(d) G.S. 105-134.7(a)(7) is recodified as G.S. 105-134.6(d)(11).

SECTION 6.(e) G.S. 105-134.7(b) is recodified as G.S. 105-134.6(d)(12).

SECTION 6.(f) The remainder of G.S. 105-134.7 is repealed.

SECTION 7. G.S. 105-151.18 reads as rewritten:

"**§ 105-151.18. Credit for the disabled.**

(a) Disabled Taxpayer. – A taxpayer who (i) is retired on disability, (ii) at the time of retirement, was permanently and totally disabled, and (iii) claims a federal income tax credit under section 22 of the Code for the taxable year, is allowed as a credit against the tax imposed by this Part an amount equal to one-third of the amount of the federal income tax credit for which the taxpayer is eligible under section 22 of the Code.

(b) Disabled Dependent. – If a dependent or spouse for whom a taxpayer is allowed an exemption under the Code is permanently and totally disabled, the taxpayer is allowed a credit against the tax imposed by this Part. In order to claim the credit allowed by this subsection, the taxpayer must attach to the tax return on which the credit is claimed a statement from a physician or local health department certifying that the dependent or spouse for whom the credit is claimed is permanently and totally disabled, as defined in this section. The amount of the credit allowed ~~shall be~~ is determined as follows: For a taxpayer whose North Carolina adjusted gross income does not exceed the appropriate income amount provided in the table below, based on the taxpayer's filing status, the credit allowed is the appropriate initial credit provided in the table below. For a taxpayer whose North Carolina adjusted gross income does exceed the appropriate income amount, the credit allowed is the appropriate initial credit reduced by four dollars ($4.00) for every one thousand dollars ($1,000) by which the taxpayer's North Carolina adjusted gross income exceeds the appropriate income amount.

Filing Status	Initial Credit	Income Amount
Head of Household	$64.00	$16,000
Surviving Spouse or Joint Return	$80.00	$20,000
Single	$48.00	$12,000
Married Filing Separately	$40.00	$10,000

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

(1) North Carolina ~~Adjusted Gross Income.~~adjusted gross income. – Adjusted gross income, as determined under the Code, adjusted as provided in G.S. 105-134.6 and ~~G.S. 105-134.7.~~G.S. 105-134.6A.

(2) Permanently and ~~Totally Disabled.~~ totally disabled. – Unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months. For the purpose of this section, a minor is permanently and totally disabled if the impact of the impairment on the minor's ability to function is equivalent in severity to that which would make an adult unable to engage in any substantial gainful activity.

(d) Limitations. – A nonresident or part-year resident who claims the credit allowed by this section shall reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. The credit allowed under this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, except payments of tax made by or on behalf of the taxpayer."

SECTION 8. G.S. 105-164.3 reads as rewritten:

"**§ 105-164.3. Definitions.**

The following definitions apply in this Article:

...

(37b) School instructional material. – Written material commonly used by a student in a course of study as a reference and to learn the subject being taught. The following is an all-inclusive list:

a. Reference books.

b. Reference maps and globes.

c. Textbooks.

d. Workbooks.~~Defined in the Streamlined Agreement.~~

...

(44) Storage. – The keeping or retention in this State for any purpose, except sale in the regular course of business, of tangible personal property or digital property purchased from a retailer. The term does not include a purchaser's storage of tangible personal property or digital property in any of the following circumstances:

a. When the purchaser is able to document that at the time the purchaser acquires the property the property is designated for the purchaser's use outside the State and the purchaser subsequently takes it outside the State and uses it solely outside the State.

b. When the purchaser acquires the property to process, fabricate, manufacture, or otherwise incorporate it into or attach it to other property for the purchaser's use outside the State and, after incorporating or attaching the purchased property, the purchaser subsequently takes the other property outside the State and uses it solely outside the State.

...

(45a) Streamlined Agreement. – The Streamlined Sales and Use Tax Agreement as amended as of ~~December 19, 2011.~~May 24, 2012.

...."

SECTION 9. G.S. 105-164.4(a)(3) reads as rewritten:

"(3) A tax at the general rate applies to the gross receipts derived from the rental of an accommodation. The tax does not apply to (i) a private residence or

cottage that is rented for fewer than 15 days in a calendar year; (ii) an accommodation rented to the same person for a period of 90 or more continuous days; or (iii) an accommodation arranged or provided to a person by a school, camp, or similar entity where a tuition or fee is charged to the person for enrollment in the school, camp, or similar entity.

Gross receipts derived from the rental of an accommodation include the sales price of the rental of the accommodation. The sales price of the rental of an accommodation is determined as if the rental were a rental of tangible personal property. The sales price of the rental of an accommodation marketed by a facilitator includes charges designated as facilitation fees and any other charges necessary to complete the rental.

A person who provides an accommodation that is offered for rent is considered a retailer under this Article. A facilitator must report to the retailer with whom it has a contract the sales price a consumer pays to the facilitator for an accommodation rental marketed by the facilitator. A retailer must notify a facilitator when an accommodation rental marketed by the facilitator is completed ~~and, within three business days of receiving the notice,~~ and the facilitator must send the retailer the portion of the sales price the facilitator owes the retailer and the tax due on the sales ~~price.~~ price no later than 10 days after the end of each calendar month. A facilitator that does not send the retailer the tax due on the sales price is liable for the amount of tax the facilitator fails to send. A facilitator is not liable for tax sent to a retailer but not remitted by the retailer to the Secretary. Tax payments received by a retailer from a facilitator are held in trust by the retailer for remittance to the Secretary. A retailer that receives a tax payment from a facilitator must remit the amount received to the Secretary. A retailer is not liable for tax due but not received from a facilitator. The requirements imposed by this subdivision on a retailer and a facilitator are considered terms of the contract between the retailer and the facilitator.

A person who, by written contract, agrees to be the rental agent for the provider of an accommodation is considered a retailer under this Article and is liable for the tax imposed by this subdivision. The liability of a rental agent for the tax imposed by this subdivision relieves the provider of the accommodation from liability. A rental agent includes a real estate broker, as defined in G.S. 93A-2.

The following definitions apply in this subdivision:

a. Accommodation. – A hotel room, a motel room, a residence, a cottage, or a similar lodging facility for occupancy by an individual.

b. Facilitator. – A person who is not a rental agent and who contracts with a provider of an accommodation to market the accommodation and to accept payment from the consumer for the accommodation."

SECTION 10. G.S. 105-164.6(c) reads as rewritten:

"(c) Credit. – A credit is allowed against the tax imposed by this section for the following:

(1) The amount of sales or use tax paid on the item to this ~~State.~~ State, provided the tax is stated and charged separately on the invoice or other document of the retailer given to the purchaser at the time of the sale, except as otherwise provided in G.S. 105-164.7, or provided the retailer remitted the tax subsequent to the sale and the purchaser obtains such documentation. Payment of sales or use tax to this State on an item by a retailer extinguishes the liability of a purchaser for the tax imposed under this section.

(2) The amount of sales or use tax due and paid on the item to another state. If the amount of tax paid to the other state is less than the amount of tax imposed by this section, the difference is payable to this State. The credit allowed by this subdivision does not apply to tax paid to a state that does not grant a similar credit for sales or use taxes paid in North Carolina."

SECTION 11.(a) G.S. 105-164.13 reads as rewritten:

"**§ 105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property, digital property, and services are specifically exempted from the tax imposed by this Article:

...

(26) Food and prepared food sold not for profit by public or private school cafeterias within school buildings during the regular school day.

(26a) Food and prepared food sold not for profit by a public school cafeteria to a child care center that participates in the Child and Adult Care Food Program of the Department of Health and Human Services.

(27) ~~Meals~~ Prepared food and food ~~products~~ served to students in dining rooms regularly operated by State or private educational institutions or student organizations thereof.

...

(31a) Food and prepared food sold by a church or religious organization not operated for profit when the proceeds of the sales are actually used for religious activities.

...

(33a) Tangible personal property sold by a retailer to a purchaser ~~within or without~~inside or outside this State, when the property is delivered by the retailer in this State to a common carrier or to the United States Postal Service for delivery to the purchaser or the purchaser's designees outside this State and the purchaser does not subsequently use the property in this State. This exemption includes printed material sold by a retailer to a purchaser inside or outside this State when the printed material is delivered directly to a mailing house, or to a common carrier, or to the United States Postal Service for delivery to a mailing house in this State that will preaddress and presort the material and deliver it to a common carrier or to the United States Postal Service for delivery to recipients outside this State designated by the purchaser.

...

(43a) Computer software that meets any of the following descriptions:

a. It is ~~designed~~ purchased to run on an enterprise server operating system. The exemption includes a purchase or license of computer software for high-volume, simultaneous use on multiple computers, that is housed or maintained on an enterprise server or end users' computers. The exemption includes software designed to run a computer system, an operating program, or application software.

b. It is sold to a person who operates a datacenter and is used within the datacenter.

c. It is sold to a person who provides cable service, telecommunications service, or video programming and is used to provide ancillary service, cable service, Internet access service, telecommunications service, or video programming.

...

(57) Fuel and electricity sold to a manufacturer for use in connection with the operation of a manufacturing facility. The exemption does not apply to electricity used at a facility at which the primary activity is not manufacturing.

...."

SECTION 11.(b) G.S. 105-164.13A reads as rewritten:

"**§ 105-164.13A. Service charges on food, beverages, or ~~meals.~~prepared food.**

When a service charge is imposed on food, beverages, or ~~meals,~~ prepared food, so much of the service charge that does not exceed twenty percent (20%) of the sales price is considered a tip and is specifically exempted from the tax imposed by this Article if it meets both of the following conditions:

(1) Is separately stated in the price list, menu, or written proposal and also in the invoice or bill.

(2) Is turned over to the personnel directly involved in the service of the food, beverages, or ~~meals,~~ prepared food, in accordance with G.S. 95-25.6."

SECTION 12. G.S. 105-164.14(b) reads as rewritten:

"(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed a semiannual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services, other than electricity, telecommunications service, and ancillary service, for use in carrying on the work of the nonprofit entity. Sales and use tax liability indirectly incurred by a nonprofit entity through reimbursement to an authorized person of the entity for the purchase of tangible personal property and services, other than electricity, telecommunications service, and ancillary service, for use in carrying on the work of the nonprofit entity is considered a direct purchase by the entity. Sales and use tax liability indirectly incurred by a nonprofit entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the nonprofit entity and is being erected, altered, or repaired for use by the nonprofit entity for carrying on its nonprofit activities is considered a sales or use tax liability incurred on direct purchases by the nonprofit entity. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund for the first six months of a calendar year is due the following October 15; a request for a refund for the second six months of a calendar year is due the following April 15.

The refunds allowed under this subsection do not apply to an entity that is owned and controlled by the United States or to an entity that is owned or controlled by the State and is not listed in this subsection. A hospital that is not listed in this subsection is allowed a semiannual refund of sales and use taxes paid by it on ~~medicines and~~ over-the-counter drugs purchased for use in carrying out its work. The following nonprofit entities are allowed a refund under this subsection:

(1) Hospitals not operated for profit, including hospitals and medical accommodations operated by an authority or other public hospital described in Article 2 of Chapter 131E of the General Statutes.

(2) An organization that is exempt from income tax under section 501(c)(3) of the Code, other than an organization that is properly classified in any of the following major group areas of the National Taxonomy of Exempt Entities:

a. Community Improvement and Capacity Building.

b. Public and Societal Benefit.

c. Mutual and Membership Benefit.

(2a) An organization that is exempt from income tax under the Code and is one of the following:

a. A volunteer fire department.

b. A volunteer emergency medical services squad.

(2b) An organization that is a single member LLC that is disregarded for income tax purposes and satisfies all of the following conditions:

a. The owner of the LLC is an organization that is exempt from income tax under section 501(c)(3) of the Code.

b. The LLC is a nonprofit entity that would be eligible for an exemption under 501(c)(3) of the Code if it were not disregarded for income tax purposes.

c. The LLC is not an organization that would be properly classified in any of the major group areas of the National Taxonomy of Exempt Entities listed in subdivision (2) of this subsection."

SECTION 13. G.S. 105-164.27A reads as rewritten:

"**§ 105-164.27A. Direct pay permit.**

(a) General. – A general direct pay permit authorizes its holder to purchase any tangible personal property, digital property, or service without paying tax to the seller and authorizes the seller to not collect any tax on a sale to the permit holder. A person who purchases an item under a direct pay permit issued under this subsection is liable for use tax due on the purchase. The tax is payable when the property is placed in use or the service is received. A direct pay permit issued under this subsection does not apply to taxes imposed under G.S. 105-164.4 on ~~electricity.~~sales of electricity or the gross receipts derived from rentals of accommodations.

A person who purchases an item for storage, use, or consumption in this State whose tax status cannot be determined at the time of the purchase because of one of the reasons listed below may apply to the Secretary for a general direct pay permit:

(1) The place of business where the item will be stored, used, or consumed is not known at the time of the purchase and a different tax consequence applies depending on where the item is used.

(2) The manner in which the item will be stored, used, or consumed is not known at the time of the purchase and one or more of the potential uses is taxable but others are not taxable.

(a1) Direct Mail. – A person who purchases direct mail may apply to the Secretary for a direct pay permit for the purchase of direct mail. A direct pay permit issued for direct mail does not apply to any purchase other than the purchase of direct mail. A person who purchases direct mail under a direct pay permit must file a return and pay the tax due monthly or quarterly to the Secretary."

..."

SECTION 14. G.S. 105-164.35 is repealed.

SECTION 15. G.S. 105-164.42L reads as rewritten:

"**§ 105-164.42L. ~~Databases on taxing jurisdictions.~~Liability relief for erroneous information or insufficient notice by Department.**

(a) The Secretary may develop databases that provide information on the boundaries of taxing jurisdictions and the tax rates applicable to those taxing jurisdictions. A person who relies on the information provided in these databases is not liable for underpayments of tax attributable to erroneous information provided by the Secretary in those databases.

(b) The Secretary may develop a taxability matrix that provides information on the taxability of certain items. A person who relies on the information provided in the taxability matrix is not liable for underpayments of tax attributable to erroneous information provided by the Secretary in the taxability matrix.

(c) A retailer is not liable for an underpayment of tax attributable to a rate change when the State fails to provide for at least 30 days between the enactment of the rate change and the effective date of the rate change if the conditions of this subsection are satisfied. However, if the State establishes the retailer fraudulently failed to collect tax at the new rate or solicited

customers based on the immediately preceding effective rate, this liability relief does not apply. Both of the following conditions must be satisfied for liability relief:

(1) The retailer collected tax at the immediately preceding rate.

(2) The retailer's failure to collect at the newly effective rate does not extend beyond 30 days after the date of enactment of the new rate or the effective date applicable under G.S. 105-164.15A."

SECTION 16. G.S. 105-187.52(b) reads as rewritten:

"(b) Credit. – A credit is allowed against the tax imposed by this Article for the amount of a sales or use tax, privilege or excise tax, or substantially equivalent tax due and paid to another ~~state.~~ state or for the amount of sales and use tax paid to this State. The credit allowed by this subsection does not apply to tax paid to another state that does not grant a similar credit for the privilege tax paid in North Carolina."

SECTION 17. G.S. 105-236.1(a) reads as rewritten:

"(a) General. – The Secretary may appoint employees of the Unauthorized Substances Tax Section of the Tax Enforcement Division to serve as revenue law enforcement officers having the responsibility and subject-matter jurisdiction to enforce the excise tax on unauthorized substances imposed by Article 2D of this Chapter.

The Secretary may appoint up to 11 employees of the Motor Fuels ~~Tax~~ Investigations Section of the Tax Enforcement Division to serve as revenue law enforcement officers having the responsibility and subject-matter jurisdiction to enforce the taxes on motor fuels imposed by Articles 36B, 36C, and 36D of this Chapter and by Chapter 119 of the General Statutes.

The Secretary may appoint employees of the Criminal Investigations Section of the Tax Enforcement Division to serve as revenue law enforcement officers having the responsibility and subject-matter jurisdiction to enforce the following tax violations and criminal offenses:

(1) The felony and misdemeanor tax violations in G.S. 105-236.

(2) The misdemeanor tax violations in G.S. 105-449.117 and G.S. 105-449.120.

(3) The following criminal offenses when they involve a tax imposed under Chapter 105 of the General Statutes:

a. G.S. 14-91 (Embezzlement of State Property).

b. G.S. 14-92 (Embezzlement of Funds).

c. G.S. 14-100 (Obtaining Property By False Pretenses).

c1. G.S. 14-113.20 (Identity Theft).

c2. G.S. 14-133.20A (Trafficking in Stolen Identities).

d. G.S. 14-119 (Forgery).

e. G.S. 14-120 (Uttering Forged Paper).

f. G.S. 14-401.18 (Sale of Certain Packages of Cigarettes)."

SECTION 18.(a) G.S. 105-256(a)(9) is repealed.

SECTION 18.(b) This section is effective when it becomes law and applies to cases filed on or after January 1, 2012.

SECTION 19. G.S. 105-259(b) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person except as provided in this subsection. Standards used or to be used for the selection of returns for examination and data used or to be used for determining the standards may not be disclosed for any purpose. All other tax information may be disclosed only if the disclosure is made for one of the following purposes:

...

(15a) To furnish to ~~the head of~~ the appropriate ~~State or~~ local, State, or federal law enforcement ~~agency~~ agency, including a prosecutorial agency, information concerning the commission of an offense under the jurisdiction of that

agency ~~discovered by~~ when the Department ~~during~~ has initiated a criminal investigation of the taxpayer.

...

(25) To provide public access to a database containing the names and registration numbers of retailers who are registered to collect sales and use taxes under Article 5 of this Chapter.

...

(29) To provide to the Economic Investment Committee established pursuant to ~~G.S. 143B-437.48~~ G.S. 143B-437.54 information necessary to implement ~~Part 2F of Article 10 of Chapter 143B of the General Statutes.~~economic development programs under the responsibility of the Committee."

SECTION 20. Section 6A.3(d) of S.L. 2012-142 reads as rewritten:

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

SECTION 21. G.S. 105-113.112 reads as rewritten:

"**§ 105-113.112. Confidentiality of information.**

(a) Information obtained by the Department in the course of administering the tax imposed by this Article, including information on whether the Department has issued a revenue stamp to a person, is confidential tax information and is subject to the ~~following restrictions on disclosure:~~

~~(1) G.S. 105-259 prohibits the disclosure of the information, except in the limited circumstances provided in that statute.~~

~~(2) The information~~ provisions of G.S. 105-259.

(b) Information obtained by the Department from the taxpayer in the course of administering the tax imposed by this Article, including information on whether the Department has issued a revenue stamp to a person, may not be used as evidence, as defined in G.S. 15A-971, by a prosecutor in a criminal prosecution of the taxpayer for an offense ~~other than an offense under this Article or under Article 9 of this Chapter.~~ related to the manufacturing, possession, transportation, distribution, or sale of the unauthorized substance. Under this prohibition, no officer, employee, or agent of the Department may testify about ~~the~~this information in a criminal prosecution of the taxpayer for an offense related to the manufacturing, possession, transportation, distribution, or sale of the unauthorized substance.~~other than an offense under this Article or under Article 9 of this Chapter.~~ This ~~subdivision~~ subsection implements the protections against double jeopardy and self-incrimination set out in Amendment V of the United States Constitution and the restrictions in it apply regardless of whether information may be disclosed under G.S. 105-259. ~~This subdivision does not apply to information obtained from a source other than an employee, officer, or agent of the Department. This subdivision does not prohibit testimony by an officer, employee, or agent of the Department concerning an offense committed against that individual in the course of administering this Article.~~ An officer, employee, or agent of the Department who provides evidence or testifies in violation of this subdivision is guilty of a Class 1 misdemeanor."

SECTION 22.(a) G.S. 105-113.4A reads as rewritten:

"**§ 105-113.4A. Licenses.**

(a) General. – To obtain a license required by this Article, an applicant must ~~apply to~~ file an application with the Secretary on a form provided by the Secretary and pay the tax due for the license. An application must include the applicant's name, address, federal employer identification number, and any other information required by the Secretary. A license is not transferable or assignable and must be displayed at the place of business for which it is issued.

(b) Requirements. – An applicant for a license must meet the following requirements:

(1) If the applicant is a corporation, the applicant must either be incorporated in this State or be authorized to transact business in this State.

(2) If the applicant for a license is a limited liability company, the applicant must either be organized in this State or be authorized to transact business in this State.

(3) If the applicant for a license is a limited partnership, the applicant must either be formed in this State or be authorized to transact business in this State.

(4) If the applicant for a license is an individual or a general partnership, the applicant must designate an agent for service of process and give the agent's name and address.

(c) Denial. – The Secretary may investigate an applicant for a license required under this Article to determine if the information the applicant submits with the application is accurate and if the applicant is eligible to be licensed under this Article. The Secretary may refuse to issue a license to an applicant that has done any of the following:

(1) Submitted false or misleading information on its application.

(2) Had a license issued under this Article cancelled by the Secretary for cause.

(3) Had a tobacco products license or registration issued by another state cancelled for cause.

(4) Been convicted of fraud or misrepresentation.

(5) Been convicted of any other offense that indicates the applicant may not comply with this Article if issued a license.

(6) Failed to remit payment for a tax debt under this Chapter. The term "tax debt" has the same meaning as defined in G.S. 105-243.1.

(7) Failed to file a return due under this Chapter.

~~(b)~~(d) Refund. – A refund of a license tax is allowed only when the tax was collected or paid in error. No refund is allowed when a license holder surrenders a license or the Secretary revokes a license.

~~(c)~~(e) Duplicate or Amended License. – Upon application to the Secretary, a license holder may obtain without charge ~~one of the following:~~a duplicate or amended license as provided in this subsection. A duplicate or amended license must state that it is a duplicate or amended license, as appropriate.

(1) A duplicate license, if the license holder establishes that the original license has been lost, destroyed, or defaced.

(2) An amended license, if the license holder establishes that the location of the place of business for which the license was issued has changed.

~~A duplicate or amended license shall state that it is a duplicate or amended license, as appropriate.~~

(f) Information on License. – The Secretary must include the following information on each license required by this Article:

(1) The legal name of the license holder.

(2) The name under which the license holder conducts business.

(3) The physical address of the place of business of the license holder.

(4) The account number assigned to the license by the Department.

(g) Records. – The Secretary must keep a record of the following:

(1) Applicants for a license under this Article.
(2) Persons to whom a license has been issued under this Article.
(3) Persons that hold a current license issued under this Article, by license category.

(h) Lists. – The Secretary must provide the list required under subsection (g) of this section upon request of a manufacturer that is a license holder under this Article. The list must state the name, account number, and business address of each license holder on the list."

SECTION 22.(b) G.S. 105-113.4B reads as rewritten:

"**§ 105-113.4B. Reasons why the Secretary can cancel a license.**

(a) Reasons. – The Secretary may cancel a license issued under this Article upon the written request of the license holder. The Secretary may summarily cancel the license of a license holder when the Secretary finds that the license holder is incurring liability for the tax imposed under this Article after failing to pay a tax when due under this Article. In addition, the Secretary may cancel the license of a license holder that commits one or more of the following acts after holding a hearing on whether the license should be cancelled:

(1) ~~A violation of this Article.~~Fails to obtain a license required by this Article.
(2) Willfully fails to file a return required by this Article.
(3) Willfully fails to pay a tax when due under this Article.
(4) Makes a false statement in an application or return required under this Article.
(5) Fails to keep records as required by this Article.
(6) Refuses to allow the Secretary or a representative of the Secretary to examine the person's books, accounts, and records concerning tobacco product.
(7) Fails to disclose the correct amount of tobacco product taxable in this State.
(8) Fails to file a replacement bond or an additional bond if required by the Secretary under this Article.
~~(2)~~(9) ~~A violation of~~ Violates G.S. 14-401.18.

(b) Procedure. – The Secretary must send a person whose license is summarily cancelled a notice of the cancellation and must give the person an opportunity to have a hearing on the cancellation within 10 days after the cancellation. The Secretary must give a person whose license may be cancelled after a hearing at least 10 days' written notice of the date, time, and place of the hearing. A notice of a summary license cancellation and a notice of hearing must be sent by registered mail to the last known address of the license holder.

(c) Release of Bond. – When the Secretary cancels a license and the license holder has paid all taxes and penalties due under this Article, the Secretary must take one of the following actions concerning a bond or an irrevocable letter of credit filed by the license holder:

(1) Return an irrevocable letter of credit to the license holder.
(2) Return a bond to the license holder or notify the person liable on the bond and the license holder that the person is released from liability on the bond."

SECTION 22.(c) G.S. 105-113.13 reads as rewritten:

"**§ 105-113.13. Secretary may ~~investigate applicant for distributor's license and~~ require a ~~bond.~~bond or irrevocable letter of credit.**

~~(a) Investigation. The Secretary may investigate an applicant for a distributor's license to determine if the information the applicant submits with the application is accurate and if the applicant is eligible to be licensed as a distributor. The Secretary may decline to issue a distributor's license to an applicant when the Secretary has reasonable cause to believe any of the following:~~

~~(1) That the applicant has willfully withheld information requested by the Secretary for the purpose of determining the applicant's eligibility for the license.~~

~~(2) That information submitted with the application is false or misleading.~~
~~(3) That the application is not made in good faith.~~

~~(b) Bond.~~—The Secretary may require a distributor to furnish a bond in an amount that adequately protects the State from loss if the distributor fails to pay taxes due under this Part. A bond shall be conditioned on compliance with this Part, shall be payable to the State, and shall be in the form required by the Secretary. The Secretary shall set the bond amount based on the anticipated tax liability of the distributor. The Secretary shall periodically review the sufficiency of bonds required of the distributor and shall increase the amount of a required bond if the bond amount no longer covers the anticipated tax liability of the distributor. The Secretary shall decrease the amount of a required bond if the Secretary finds that a lower bond amount will protect the State adequately from loss. For purposes of this section, a bond may also include an irrevocable letter of credit."

SECTION 22.(d) This section becomes effective September 1, 2013.

SECTION 23.(a) G.S. 105-164.3 reads as rewritten:

"**§ 105-164.3. Definitions.**

The following definitions apply in this Article:

(1) Advertising and promotional direct mail. – Printed material that meets the definition of "direct mail" and the primary purpose of which is to attract public attention to a product, person, business, or organization, or to attempt to sell, popularize, or secure financial support for a product, person, business, or organization. As used in this subdivision, "product" means tangible personal property, digital property, or a service.

~~(1)~~(1a) Analytical services. – Testing laboratories that are included in national industry 541380 of NAICS or medical laboratories that are included in national industry 621511 of NAICS.

~~(1a)~~(1b) Ancillary service. – A service associated with or incidental to the provision of a telecommunications service. The term includes detailed communications billing, directory assistance, vertical service, and voice mail service. A vertical service is a service, such as call forwarding, caller ID, three-way calling, and conference bridging, that allows a customer to identify a caller or manage multiple calls and call connections.

~~(1b)~~(1c) through ~~(1d)~~(1e) Reserved for future codification purposes.

~~(1e)~~(1f) Audio work. – A series of musical, spoken, or other sounds, including a ringtone.

~~(1f)~~(1g) Reserved for future codification purposes.

~~(1g)~~(1h) Audiovisual work. – A series of related images and any sounds accompanying the images that impart an impression of motion when shown in succession.

~~(1h)~~(1i) Reserved for future codification purposes.

~~(1i)~~(1j) Bundled transaction. – A retail sale of two or more distinct and identifiable products, at least one of which is taxable and one of which is exempt, for one nonitemized price. Products are not sold for one nonitemized price if an invoice or another sales document made available to the purchaser separately identifies the price of each product. A bundled transaction does not include the retail sale of any of the following:

a. A product and any packaging item that accompanies the product and is exempt under G.S. 105-164.13(23).
b. A sale of two or more products whose combined price varies, or is negotiable, depending on the products the purchaser selects.
c. A sale of a product accompanied by a transfer of another product with no additional consideration.

d. A product and the delivery or installation of the product.
e. A product and any service necessary to complete the sale.

~~(1j)~~(1k) Reserved for future codification purposes.

~~(1k)~~(1l) Business. – An activity a person engages in or causes another to engage in with the object of gain, profit, benefit, or advantage, either direct or indirect. The term does not include an occasional and isolated sale or transaction by a person who does not claim to be engaged in business.

~~(1l)~~(1m) Reserved for future codification purposes.

~~(1m)~~(1n) Cable service. – The one-way transmission to subscribers of video programming or other programming service and any subscriber interaction required to select or use the service.

...

(25a) Other direct mail. – Any direct mail that is not advertising and promotional mail regardless of whether advertising and promotional direct mail is included in the same mailing.

~~(25a)~~(25b) Over-the-counter drug. – A drug that contains a label that identifies the product as a drug as required by 21 C.F.R. § 201.66. The label includes either of the following:
a. A "Drug Facts" panel.
b. A statement of its active ingredients with a list of those ingredients contained in the compound, substance, or preparation.

..."

SECTION 23.(b) G.S. 105-164.4B(d) reads as rewritten:

"(d) Exceptions. – This section does not apply to the following:

(1) Telecommunications services. – Telecommunications services are sourced in accordance with G.S. 105-164.4C.

(2) Direct mail. – Direct mail ~~that meets one of the following descriptions is sourced to the location where the property is delivered, and direct mail that does not meet one of these descriptions is sourced to the location from which the direct mail was shipped:~~
~~a. Direct mail purchased pursuant to a direct pay permit.~~
~~b. When the purchaser provides the seller with information to show the jurisdictions to which the direct mail is to be delivered.~~ is sourced in accordance with G.S. 105-164.4E.

(3) Florist wire sale. – A florist wire sale is sourced to the business location of the florist that takes an order for the sale. A "florist wire sale" is a sale in which a retail florist takes a customer's order and transmits the order to another retail florist to be filled and delivered."

SECTION 23.(c) Article 5 of Chapter 105 of the General Statutes is amended by adding the following new statute to read:

"**§ 105-164.4E. Direct Mail.**

(a) Advertising and promotional direct mail. – The following sourcing principles apply to advertising and promotional direct mail.

(1) To the location where the direct mail is delivered if it is purchased pursuant to a direct pay permit issued under G.S. 105-164.27A(a1), or if it is purchased with an exemption certificate claiming direct mail and bearing the direct mail permit number issued under G.S. 105-164.27A(a1).

(2) To the location where the direct mail is delivered if the purchaser provides the seller with information to show the jurisdictions to which the direct is to be delivered.

(3) To the location from which the direct mail was shipped if subdivisions (1) or (2) of this subsection do not apply.

(b) Other Direct Mail. – The following sourcing principles apply to other direct mail.

(1) To the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith.

(2) To the jurisdictions where the direct mail is delivered if it is purchased pursuant to a direct pay permit issued under G.S. 105-164.27A(a1), or if it is purchased with an exemption certificate claiming direct mail and bearing the direct mail permit number issued under G.S. 105-164.27A(a1).

(c) Relief from Liability. – In the absence of bad faith, a seller is relieved of:

(1) All obligations to collect, pay, or remit any tax on any direct mail transaction where the purchaser issues a direct pay permit issued under G.S. 105-164.27A(a1), or if it is purchased with an exemption certificate claiming direct mail and bearing the direct mail permit number issued under G.S. 105-164.27A(a1).

(2) Further obligation to collect any additional tax on the sale of advertising and promotional direct mail where the seller sourced the sale according to delivery information provided by the purchaser."

ADDITIONAL CHANGES

SECTION 30. G.S. 62A-54(a) reads as rewritten:

"(a) Retail Collection. – A seller of prepaid wireless telecommunications service shall collect the 911 service charge for prepaid wireless telecommunications service from the consumer on each retail transaction occurring in this State. The 911 service charge for prepaid wireless telecommunications service is in addition to the sales tax imposed on the sale or recharge of prepaid telephone calling service under G.S. 105-164.4(a)(4d). The amount of the 911 service charge for prepaid wireless telecommunications service must be separately stated on an invoice, receipt, or other reasonable notification provided to the consumer by the seller at the time of the retail transaction. For purposes of this Article, a retail transaction is occurring in this State if the sale is sourced to this State under G.S. 105-164.4B(a)."

SECTION 31. G.S. 66-255 reads as rewritten:

"**§ 66-255. Specialty market or operator of an event registration list.**

A specialty market operator or operator of an event where space is provided to a vendor must maintain a daily registration list of all specialty market or other vendors selling or offering goods for sale at the specialty ~~market.~~ market or other event. The registration list must clearly and legibly show each ~~specialty market~~ vendor's name, permanent address, and certificate of registration number. The specialty market operator or other event operator must require each ~~specialty market~~ vendor to exhibit a valid certificate of registration for visual inspection by the specialty market operator or other event operator at the time of registration, and must require each ~~specialty market~~ vendor to keep the certificate of registration conspicuously and prominently displayed, so as to be visible for inspection by patrons of the ~~specialty market~~ vendor at the places or locations at which the goods are offered for sale. Each daily registration list maintained pursuant to this section must be retained by the specialty market operator or other event operator for no less than two years and must at any time be made available upon request to any law enforcement ~~officer.~~officer or the Secretary of Revenue or the Secretary's duly authorized agent. For purposes of the registration list, the exemptions in G.S. 66-256 do not apply."

SECTION 32. G.S. 105-129.16H is amended by adding a new subsection to read:

"(d) Sunset. – This section is repealed as of the date that G.S. 105-129.16A is repealed. The repeal applies to donations made for renewable energy property placed in service on or after the date the section is repealed."

SECTION 33. G.S. 105-129.26(c) reads as rewritten:

"(c) Forfeiture. – If the owner of a ~~large or~~ major recycling facility fails to make the required minimum investment or create the required number of new jobs within the period certified by the Secretary of Commerce under this section, the recycling facility no longer qualifies for the applicable recycling facility tax benefits provided in this Article and in Article 5 of this Chapter and forfeits all tax benefits previously received under those Articles. Forfeiture does not occur, however, if the failure was due to events beyond the owner's control. Upon forfeiture of tax benefits previously received, the owner is liable under Part 1 of Article 4 of this Chapter for a tax equal to the amount of all past taxes under Articles 3, 4, and 5 previously avoided as a result of the tax benefits received plus interest at the rate established in G.S. 105-241.21, computed from the date the taxes would have been due if the tax benefits had not been received. The tax and interest are due 30 days after the date of the forfeiture. An owner that fails to pay the tax and interest is subject to the penalties provided in G.S. 105-236."

SECTION 34.(a) G.S. 105-130.5, as amended by S.L. 2013-10, reads as rewritten:

"**§ 105-130.5. Adjustments to federal taxable income in determining State net income.**

(a) The following additions to federal taxable income shall be made in determining State net income:

...

~~(15) For taxable years 2002-2005, the applicable percentage of the amount allowed as a special accelerated depreciation deduction under section 168(k) or section 1400L of the Code, as set out in the table below. In addition, a taxpayer who was allowed a special accelerated depreciation deduction under section 168(k) or section 1400L of the Code in a taxable year beginning before January 1, 2002, and whose North Carolina taxable income in that earlier year reflected that accelerated depreciation deduction must add to federal taxable income in the taxpayer's first taxable year beginning on or after January 1, 2002, an amount equal to the amount of the deduction allowed in the earlier taxable year. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes. The applicable percentage is as follows:~~

~~Taxable Year~~	~~Percentage~~
~~2002~~	~~100%~~
~~2003~~	~~70%~~
~~2004~~	~~70%~~
~~2005~~	~~0%~~

~~(15a) The applicable percentage of the amount allowed as a special accelerated depreciation deduction under section 168(k) or 168(n) of the Code for property placed in service after December 31, 2007, but before January 1, 2010. The applicable percentage under this subdivision is eighty-five percent (85%).~~

~~In addition, a taxpayer who was allowed a special accelerated depreciation deduction in taxable year 2007 or 2008 for property placed in service during that year, and whose North Carolina taxable income for that year reflected that accelerated depreciation deduction must make the adjustments set out below. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes.~~

~~a. A taxpayer must add to federal taxable income in the taxpayer's 2008 taxable year an amount equal to the applicable percentage of the~~

~~accelerated depreciation deduction reflected in the taxpayer's 2007 North Carolina taxable income.~~

~~b. A taxpayer must add to federal taxable income in the taxpayer's 2009 taxable year an amount equal to the applicable percentage of the accelerated depreciation deduction reflected in the taxpayer's 2008 North Carolina taxable income.~~

~~(15b) For taxable years 2010 through 2013, eighty five percent (85%) of the amount allowed as a special accelerated depreciation deduction under section 168(k) or 168(n) of the Code for property placed in service during the taxable year. In addition, for taxable year 2010, a taxpayer who placed property in service during the 2009 taxable year and whose North Carolina taxable income for the 2009 taxable year reflected a special accelerated depreciation deduction allowed for the property under section 168(k) of the Code must add eighty five percent (85%) of the amount of the special accelerated depreciation deduction. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes.~~

...

~~(23) For taxable years 2010 and 2011, eighty five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code for property placed in service in taxable year 2010 or 2011 exceeds the amount that would have been allowed for the respective taxable year under section 179 of the Code as of May 1, 2010. For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 1, 2011. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes.~~

~~(23a) For taxable years 2012 and 2013, eighty five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code for property placed in service in taxable year 2012 or 2013 exceeds the amount that would have been allowed for the respective taxable year under section 179 of the Code as of May 1, 2010. For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 2, 2013. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes.~~

(24) The amount required to be added under G.S. 105-130.5B when the State decouples from federal accelerated depreciation and expensing.

(b) The following deductions from federal taxable income shall be made in determining State net income:

...

~~(21) In each of the taxpayer's first five taxable years beginning on or after January 1, 2005, an amount equal to twenty percent (20%) of the amount added to taxable income in a previous year as accelerated depreciation under subdivision (a)(15) of this section.~~

~~(21a) An amount equal to twenty percent (20%) of the amount added to federal taxable income as accelerated depreciation under subdivision (a)(15a) of this section. For a taxpayer who made the addition for accelerated depreciation in the 2008 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2009. For a taxpayer who made the addition for accelerated depreciation in the 2009~~

~~taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2010.~~

~~(21b) An amount equal to twenty percent (20%) of the amount added to federal taxable income as accelerated depreciation under subdivision (a)(15b) of this section. For the amount added to taxable income in the 2010 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2011. For the amount added to taxable income in the 2011 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2012. For the amount added to taxable income in the 2012 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2013. For the amount added to taxable income in the 2013 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2014.~~

...

~~(26) An amount equal to twenty percent (20%) of the amount added to federal taxable income under subdivision (a)(23) of this section. For the amount added to taxable income in the 2010 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2011. For the amount added to taxable income in the 2011 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2012.~~

~~(26a) An amount equal to twenty percent (20%) of the amount added to federal taxable income under subdivision (a)(23a) of this section. For the amount added to taxable income in the 2012 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2013. For the amount added to taxable income in the 2013 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2014.~~

(27) The amount allowed as a deduction under G.S. 105-130.5B as a result of an add-back for federal accelerated depreciation and expensing.

...."

SECTION 34.(b) Part 1 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-130.5B. Adjustments when State decouples from federal accelerated depreciation and expensing.**

(a) Special Accelerated Depreciation. – A taxpayer who takes a special accelerated depreciation deduction for property under section 168(k) or 168(n) of the Code must add to the taxpayer's federal taxable income eighty-five percent (85%) of the amount taken for that year under those Code provisions. A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income.

(b) 2009 Depreciation Exception. – A taxpayer who placed property in service during the 2009 taxable year and whose North Carolina taxable income for the 2009 taxable year reflected a special accelerated depreciation deduction allowed for the property under section 168(k) of the Code must add eighty-five percent (85%) of the amount of the special accelerated depreciation deduction to its federal taxable income for the 2010 taxable year. A taxpayer is allowed to deduct this add-back under subsection (a) of this section as if it were for property placed in service in 2010.

(c) Section 179 Expense. – For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 2, 2013. A

taxpayer who places section 179 property in service during a taxable year listed in the table below must add to the taxpayer's federal taxable income eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code exceeds the dollar and investment limitation listed in the table below for the taxable year.

A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income.

Taxable Year of 85% Add-Back	Dollar Limitation	Investment Limitation
2010	$250,000	$800,000
2011	$250,000	$800,000
2012	$250,000	$800,000
2013	$25,000	$125,000

(d) Asset Basis. – The adjustments made in this section do not result in a difference in basis of the affected assets for State and federal income tax purposes, except as modified in subsection (e) of this section.

(e) Bonus Asset Basis. – In the event of an actual or deemed transfer of an asset occurring on or after January 1, 2013, wherein the tax basis of the asset carries over from the transferor to the transferee for federal income tax purposes, the transferee must add any remaining deductions allowed under subsection (a) of this section to the basis of the transferred asset and depreciate the adjusted basis over any remaining life of the asset. Notwithstanding the provisions of subsection (a) of this section, the transferor is not allowed any remaining future bonus depreciation deductions associated with the transferred asset.

(f) Prior Transactions. – For any transaction meeting the requirements of subsection (e) of this section prior to January 1, 2013, the transferor and transferee can make an election to make the basis adjustment allowed in that subsection on the transferee's 2013 tax return, to the extent that the transferor has not taken the bonus depreciation deduction on a prior return and provided that the transferor certifies in writing to the transferee that the transferor will not take any remaining deductions allowed under subsection (a) of this section for tax years beginning on or after January 1, 2013 for depreciation associated with the transferred asset."

SECTION 34.(c) G.S. 105-134.6, as amended by S.L. 2013-10, reads as rewritten:

"**§ 105-134.6. Modifications to adjusted gross income.**

...

(b) Other Deductions. – In calculating North Carolina taxable income, a taxpayer may deduct any of the following items to the extent those items are included in the taxpayer's adjusted gross income.

...

~~(17) In each of the taxpayer's first five taxable years beginning on or after January 1, 2005, an amount equal to twenty percent (20%) of the amount added to taxable income in a previous year as accelerated depreciation under subdivision (c)(8) of this section.~~

~~(17a) An amount equal to twenty percent (20%) of the amount added to federal taxable income as accelerated depreciation under subdivision (c)(8a) of this section. For a taxpayer who made the addition for accelerated depreciation in the 2008 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2009. For a taxpayer who made the addition for accelerated depreciation in the 2009 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2010.~~

~~(17b) An amount equal to twenty percent (20%) of the amount added to federal taxable income as accelerated depreciation under subdivision (c)(8b) of this section. For the amount added to adjusted gross income in the 2010 taxable~~

~~year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2011. For the amount added to taxable income in the 2011 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2012. For the amount added to taxable income in the 2012 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2013.For the amount added to adjusted gross income in the 2013 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2014.~~

...

~~(21) An amount equal to twenty percent (20%) of the amount added to federal taxable income under subdivision (c)(15) of this section. For the amount added to taxable income in the 2010 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2011. For the amount added to taxable income in the 2011 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2012.~~

~~(21a) An amount equal to twenty percent (20%) of the amount added to adjusted gross income under subdivision (c)(15a) of this section. For the amount added to adjusted gross income in the 2012 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2013. For the amount added to adjusted gross income in the 2013 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2014.~~

...

(23) The amount allowed as a deduction under G.S. 105-134.6A as a result of an add-back for federal accelerated depreciation and expensing.

(c) Additions. – In calculating North Carolina taxable income, a taxpayer must add any of the following items to the extent those items are not included in the taxpayer's adjusted gross income. For a taxpayer who deducts the itemized deductions amount under subsection (a2) of this section, the taxpayer must add any of the following items to the extent those items are included in the itemized deductions amount.

...

~~(8) For taxable years 2002-2005, the applicable percentage of the amount allowed as a special accelerated depreciation deduction under section 168(k) or section 1400L of the Code, as set out in the table below. In addition, a taxpayer who was allowed a special accelerated depreciation deduction under section 168(k) or section 1400L of the Code in a taxable year beginning before January 1, 2002, and whose North Carolina taxable income in that earlier year reflected that accelerated depreciation deduction must add to federal taxable income in the taxpayer's first taxable year beginning on or after January 1, 2002, an amount equal to the amount of the deduction allowed in the earlier taxable year. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes. The applicable percentage is as follows:~~

~~Taxable Year~~	~~Percentage~~
~~2002~~	~~100%~~
~~2003~~	~~70%~~
~~2004~~	~~70%~~
~~2005~~	~~0%~~

~~(8a) The applicable percentage of the amount allowed as a special accelerated depreciation deduction under section 168(k) or 168(n) of the Code for property placed in service after December 31, 2007, but before January 1, 2010. The applicable percentage under this subdivision is eighty five percent (85%).~~

~~In addition, a taxpayer who was allowed a special accelerated depreciation deduction in taxable year 2007 or 2008 for property placed in service during that year, and whose North Carolina taxable income for that year reflected that accelerated depreciation deduction must make the adjustments set out below. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes.~~

~~a. A taxpayer must add to federal taxable income in the taxpayer's 2008 taxable year an amount equal to the applicable percentage of the accelerated depreciation deduction reflected in the taxpayer's 2007 North Carolina taxable income.~~

~~b. A taxpayer must add to federal taxable income in the taxpayer's 2009 taxable year an amount equal to the applicable percentage of the accelerated depreciation deduction reflected in the taxpayer's 2008 North Carolina taxable income.~~

~~(8b) For taxable years 2010 through 2013, eighty five percent (85%) of the amount allowed as a special accelerated depreciation deduction under section 168(k) or 168(n) of the Code for property placed in service during the taxable year. In addition, for taxable year 2010, a taxpayer who placed property in service during the 2009 taxable year and whose North Carolina taxable income for the 2009 taxable year reflected a special accelerated depreciation deduction allowed for the property under section 168(k) of the Code must add eighty five percent (85%) of the amount of the special accelerated depreciation deduction. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes.~~

...

~~(15) For taxable years 2010 and 2011, eighty five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code for property placed in service in taxable year 2010 or 2011 exceeds the amount that would have been allowed for the respective taxable year under section 179 of the Code as of May 1, 2010. For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 1, 2011. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes.(15a) For taxable years 2012 and 2013, eighty five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code for property placed in service in taxable year 2012 or 2013 exceeds the amount that would have been allowed for the respective taxable year under section 179 of the Code as of May 1, 2010. For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 2, 2013. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes.~~

~~(15a) For taxable years 2012 and 2013, eighty five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code for property placed in service in taxable year 2012 or 2013 exceeds the amount~~

~~that would have been allowed for the respective taxable year under section 179 of the Code as of May 1, 2010. For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 2, 2013. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes.~~

(22) The amount required to be added under G.S. 105-134.6A when the State decouples from federal accelerated depreciation and expensing.

...."

SECTION 34.(d) Part 2 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-134.6A. Adjustments when State decouples from federal accelerated depreciation and expensing.**

(a) Special Accelerated Depreciation. – A taxpayer who takes a special accelerated depreciation deduction for that property under section 168(k) or 168(n) of the Code must add to the taxpayer's federal taxable income or adjusted gross income, as appropriate, eighty-five percent (85%) of the amount taken for that year under those Code provisions. For taxable years before 2012, the taxpayer must add the amount to the taxpayer's federal taxable income. For taxable year 2012 and after, the taxpayer must add the amount to the taxpayer's adjusted gross income. A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income.

(b) 2009 Depreciation Exception. – A taxpayer who placed property in service during the 2009 taxable year and whose North Carolina taxable income for the 2009 taxable year reflected a special accelerated depreciation deduction allowed for the property under section 168(k) of the Code must add eighty-five percent (85%) of the amount of the special accelerated depreciation deduction to its federal taxable income for the 2010 taxable year. A taxpayer is allowed to deduct this add-back under subsection (a) of this section as if it were for property placed in service in 2010.

(c) Section 179 Expense. – For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 2, 2013. A taxpayer who places section 179 property in service during a taxable year listed in the table below must add to the taxpayer's federal taxable income or adjusted gross income, as appropriate, eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code exceeds the dollar and investment limitation listed in the table below for that taxable year. For taxable years before 2012, the taxpayer must add the amount to the taxpayer's federal taxable income. For taxable year 2012 and after, the taxpayer must add the amount to the taxpayer's adjusted gross income.

A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income.

Taxable Year of 85% Add-Back	Dollar Limitation	Investment Limitation
2010	$250,000	$800,000
2011	$250,000	$800,000
2012	$250,000	$800,000
2013	$25,000	$125,000

(d) Asset Basis. – The adjustments made in this section do not result in a difference in basis of the affected assets for State and federal income tax purposes, except as modified in subsection (e) of this section.

(e) Bonus Asset Basis. – In the event of an actual or deemed transfer of an asset occurring on or after January 1, 2013, wherein the tax basis of the asset carries over from the

transferor to the transferee for federal income tax purposes, the transferee must add any remaining deductions allowed under subsection (a) of this section to the basis of the transferred asset and depreciate the adjusted basis over any remaining life of the asset. Notwithstanding the provisions of subsection (a) of this section, the transferor and any owner in a transferor are not allowed any remaining future bonus depreciation deductions associated with the transferred asset. This subsection applies only to the extent that each transferor or owner in a transferor that added bonus depreciation to its federal taxable income or adjusted gross income associated with the transferred asset certifies in writing to the transferee, that the transferor or owner in a transferor will not take any remaining future bonus depreciation deduction associated with the transferred asset.

(f) Prior Transactions. – For any transaction meeting the requirements of subsection (e) of this section prior to January 1, 2013, the transferor and transferee can make an election to make the basis adjustment allowed in that subsection on the transferee's 2013 tax return, to the extent that the transferor and any owner in a transferor has not taken the bonus depreciation deduction on a prior return and provided that the transferor is not allowed any remaining future bonus depreciation deductions associated with the transferred asset and each transferor or owner in a transferor certifies in writing to the transferee that the transferor or owner in a transferor will not take any remaining deductions allowed under subsection (a) of this section for tax years beginning on or after January 1, 2013, for depreciation associated with the transferred asset. The amount of the basis adjustment under this subsection is limited to the total remaining future bonus depreciation deductions forfeited by the transferor and any owner in the transferor at the time of the transfer.

(g) Tax Basis. – For transactions described in subsections (e) or (f) of this section, adjusted gross income must be increased or decreased to account for any difference in the amount of depreciation, amortization, or gains or losses applicable to property that has been depreciated or amortized by use of a different basis or rate for State income tax purposes than used for federal income tax purposes prior to the effective date of this section.

(h) Definitions. – For purposes of this section, a 'transferor' is an individual, partnership, S Corporation, limited liability company, or an estate or trust that does not fully distribute income to its beneficiaries, and an 'owner in a transferor' is a partner, shareholder, member, or beneficiary subject to tax under Part 2 or 3 of Article 4 of this Chapter, of a transferor."

SECTION 35.(a) G.S. 105-134.6(d)(23), as enacted by S.L. 2013-10, reads as rewritten:

"~~(23)~~(10) For taxable year 2013, the taxpayer who elects to itemize deductions under G.S. 105-134.6(a2) may deduct the amount that would have been allowed as a charitable deduction under section 170 of the Code had the taxpayer not elected to take the income exclusion under 408(d)(8) of the Code. However, this deduction is not subject to the charitable contribution limitation and carryover provisions under section 170 of the Code, but it is subject to the overall limitation on itemized deductions under section 68 of the Code."

SECTION 35.(b) This section is effective for taxable years beginning on or after January 1, 2013.

SECTION 36. G.S. 105-130.6A(a) reads as rewritten:

"(a) Definitions. – The ~~provisions of G.S. 105-130.6~~ definitions in G.S. 105-130.2 govern the determination of whether a corporation is a subsidiary or an affiliate of another corporation. In addition, the following definitions apply in this section:

(1) Affiliated group. – A group that includes a corporation, all other corporations that are affiliates or subsidiaries of that corporation, and all

other corporations that are affiliates or subsidiaries of another corporation in the group.

(2) Bank holding company. – A holding company with an affiliate that is subject to the privilege tax on banks levied in G.S. 105-102.3.

(3) Dividends. – Dividends received that are not taxed under this Part.

(4) Electric power holding company. – A holding company with an affiliate or a subsidiary that is subject to the franchise tax on electric power companies levied in G.S. 105-116.

(5) Expense adjustment. – The adjustment required by G.S. 105-130.5(c)(3) for expenses related to dividends not taxed under this Part.

(6) Holding company. – Defined in G.S. 105-120.2."

SECTION 37.(a) G.S. 105-151.26 reads as rewritten:

"**§ 105-151.26. Credit for charitable contributions by nonitemizers.**

A taxpayer who elects the standard deduction under G.S. 105-134.6(a2) is allowed as a credit against the tax imposed by this Part an amount equal to seven percent (7%) of the taxpayer's excess charitable contributions. The taxpayer's excess charitable contributions are the amount by which the taxpayer's charitable contributions for the taxable year that would have been deductible under section 170 of the Code if the taxpayer had not elected the standard deduction exceed two percent (2%) of the taxpayer's adjusted gross income. For tax year 2013, the taxpayer's excess charitable contributions also include the amount by which the taxpayer's charitable contributions for the taxable year would have been deductible under section 170 of the Code had the taxpayer not elected to take the income exclusion under section 408(d)(8) of the Code that exceed two percent (2%) of the taxpayer's adjusted gross income. For purposes of computing this tax credit charitable contributions are not subject to the charitable contribution limitation and carryover provisions under section 170 of the Code.

No credit shall be allowed under this section for contributions for which a credit was claimed under G.S. 105-151.12 or G.S. 105-151.14. A nonresident or part-year resident who claims the credit allowed by this section shall reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. The credit allowed under this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer."

SECTION 37.(b) This section is effective for taxable years beginning on or after January 1, 2013.

SECTION 38. G.S. 105-159 reads as rewritten:

"**§ 105-159. Federal corrections.**

If a taxpayer's ~~federal taxable income~~ adjusted gross income or federal tax credit that affects the amount of State tax payable is corrected or otherwise determined by the federal government, the taxpayer must, within six months after being notified of the correction or final determination by the federal government, file an income tax return with the Secretary reflecting the corrected or determined ~~taxable income.~~ adjusted gross income or federal tax credit that affects the amount of State tax payable. The Secretary must propose an assessment for any additional tax due from the taxpayer as provided in Article 9 of this Chapter. The Secretary must refund any overpayment of tax as provided in Article 9 of this Chapter. A taxpayer who fails to comply with this section is subject to the penalties in G.S. 105-236 and forfeits the right to any refund due by reason of the determination."

SECTION 39.(a) G.S. 105-163.3(d) reads as rewritten:

"(d) Annual Statement; Report to Secretary. – A payer required to deduct and withhold from a contractor's compensation under this section shall furnish to the contractor duplicate copies of a written statement showing the following:

(1) The payer's name, address, and taxpayer identification number.

(2) The contractor's name, address, and taxpayer identification number.
(3) The total amount of compensation paid during the calendar year.
(4) The total amount deducted and withheld under this section during the calendar year.

This statement is due by January 31 following the calendar year. If the personal services for which the payer is paying are completed before the end of the calendar year and the contractor requests the statement, the statement is due within 45 days after the payer's last payment of compensation to the contractor. The Secretary may require the payer to include additional information on the statement.

Each payer shall file with the Secretary an annual report that compiles the information contained in each of the payer's statements to contractors and any other information required by the ~~Secretary.~~ Secretary in the manner required by the Secretary. This report is due on the date prescribed by the Secretary and is in lieu of the information report required by G.S. 105-154."

SECTION 39.(b) G.S. 105-163.6(a) reads as rewritten:

"(a) General. – A return is due quarterly or monthly as specified in this section. A return shall be filed with the Secretary ~~on a form prepared~~ in the manner required by the Secretary, shall report any payments of withheld taxes made during the period covered by the return, and shall contain any other information required by the Secretary.

Withheld taxes are payable quarterly, monthly, or semiweekly, as specified in this section. If the Secretary finds that collection of the amount of taxes this Article requires an employer to withhold is in jeopardy, the Secretary may require the employer to file a return or pay withheld taxes at a time other than that specified in this section."

SECTION 40. G.S. 105-164.4(a)(6b) reads as rewritten:

"(6b) The general rate applies to the sales price of digital property that is sold at retail and that is listed in this subdivision, is delivered or accessed electronically, is not considered tangible personal property, and would be taxable under this Article if sold in a tangible medium. The tax applies regardless of whether the purchaser of the item has a right to use it permanently or to use it without making continued payments. The tax does not apply to a service that is taxed under another subdivision of this subsection or to an information service. The following property is subject to tax under this subdivision:
a. An audio work.
b. An audiovisual work.
c. A book, a magazine, a newspaper, a newsletter, a report, or another publication.
d. A photograph or a greeting card."

SECTION 41. G.S. 105-164.4C(a2) reads as rewritten:

"(a2) Sourcing Exceptions. – The following telecommunications services and products are sourced in accordance with the principles set out in this subsection:
(1) Mobile. – Mobile telecommunications service is sourced to the place of primary use, unless the service is prepaid wireless calling service or is air-to-ground radiotelephone service. Air-to-ground radiotelephone service is a postpaid calling service that is offered by an aircraft common carrier to passengers on its aircraft and enables a telephone call to be made from the aircraft. The sourcing principle in this subdivision applies to a service or product provided as an adjunct to mobile telecommunications service if the charge for the service or product is included within the term "charges for mobile telecommunications services" under the federal Mobile Telecommunications Sourcing Act.

(2) Prepaid. – Prepaid telephone calling service is sourced in accordance with G.S. 105-164.4B.

(3) Private. – Private telecommunications service is sourced in accordance with subsection (e) of this section.

...."

SECTION 42.(a) G.S. 105-164.14(c)(24) reads as rewritten:

"(c) Certain Governmental Entities. – A governmental entity listed in this subsection is allowed an annual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services, other than electricity, telecommunications service, and ancillary service. Sales and use tax liability indirectly incurred by a governmental entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the governmental entity and is being erected, altered, or repaired for use by the governmental entity is considered a sales or use tax liability incurred on direct purchases by the governmental entity for the purpose of this subsection. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the governmental entity's fiscal year.

This subsection applies only to the following governmental entities:

...

(24) A public library created pursuant to an act of the General ~~Assembly.~~Assembly or established pursuant to G.S. 153A-270."

SECTION 42.(b) This section becomes effective January 1, 2013, and applies to purchases occurring on or after that date.

SECTION 43.(a) G.S. 105-164.28 reads as rewritten:

"**§ 105-164.28. Certificate of exemption.**

(a) ~~Seller's Responsibility. – A seller who accepts a certificate of exemption from a purchaser has the burden of proving that the sale was not a retail sale unless all of the following conditions are met:~~Relief from Liability. – Except as provided in subsection (b) of this section, a seller is not liable for the tax otherwise applicable if the Secretary determines that a purchaser improperly claimed an exemption, or if the seller within 90 days of the sale meets the following requirements:

(1) For a sale made in person, the seller obtains a certificate of exemption or a blanket certificate of exemption from a purchaser with which the seller has a recurring business relationship. If the purchaser provides a paper certificate, the certificate must be ~~is~~ signed by the purchaser and ~~states~~ state the purchaser's name, address, certificate of registration number, reason for exemption, and type of business. For purposes of this subdivision, a certificate received by fax is a paper certificate. If the purchaser does not provide a paper certificate, the seller must obtain and maintain the same information required had a certificate been provided by the purchaser.

~~(2) For a sale made in person, the item sold is the type of item typically sold by the type of business stated on the certificate.~~

(3) For a sale made over the Internet or by other remote means, the seller obtains the purchaser's name, address, certificate of registration number, reason for exemption, and type of business and maintains this information in a retrievable format in its records. If a certificate of exemption is provided electronically for a remote sale, the requirements of subdivision (1) of this subsection apply except the electronic certificate is not required to be signed by the purchaser.

(4) In the case of drop shipment sales, a third-party vendor obtains a certificate of exemption provided by its customer or any other acceptable information

evidencing qualification for a resale exemption, regardless of whether the customer is registered to collect and remit sales and use tax in the State.

(b) Substantiation Request. – If the Secretary determines that a certificate of exemption or the required data elements obtained by the seller are incomplete, the Secretary may request substantiation from the seller. A seller is not required to verify that a certificate of registration number provided by a purchaser is correct. If a seller does one of the following within 120 days after a request for substantiation by the Secretary, the seller is not liable for the tax otherwise applicable:

(1) Obtains a fully completed certificate of exemption from the purchaser provided in good faith. The certificate is provided in good faith if it claims an exemption that meets all of the following conditions:

a. It was statutorily available in this State on the date of the transaction.

b. It could be applicable to the item being purchased.

c. It is reasonable for the purchaser's type of business.

(2) Obtains other information to establish the transaction was not subject to tax.

(c) Fraud. – The relief from liability under this section does not apply to a seller who does any of the following:

(1) Fraudulently fails to collect tax.

(2) Solicits purchasers to participate in the unlawful claim of an exemption.

(3) Accepts an exemption certificate when the purchaser claims an entity-based exemption when the subject of the transaction sought to be covered by the exemption certificate is received by the purchaser at a location operated by the seller, and the claimed exemption is not available in this State.

(4) Had knowledge or had reason to know at the time information was provided relating to the exemption claimed that the information was materially false.

(5) Knowingly participated in activity intended to purposefully evade tax properly due on the transaction.

(d) Purchaser's Liability. – A purchaser who does not resell an item purchased under a certificate of exemption is liable for any tax subsequently determined to be due on the sale.

(e) Renewal of Information. – The Secretary may not require a seller to renew a blanket certificate of exemption or to update exemption certificate information or data elements when there is a recurring business relationship between the buyer and seller. For purposes of this section, a recurring business relationship exists when a period of no more than 12 months elapses between sales transactions."

SECTION 43.(b) G.S. 105-164.28A reads as rewritten:

"**§ 105-164.28A. Other exemption certificates.**

(a) Authorization. – The Secretary may require a person who purchases an item that is exempt from tax or is subject to a preferential rate of tax depending on the status of the purchaser or the intended use of the item to obtain an exemption certificate from the Department to receive the exemption or preferential rate. An exemption certificate authorizes a retailer to sell an item to the holder of the certificate and either collect tax at a preferential rate or not collect tax on the sale, as appropriate. A person who purchases an item under an exemption certificate is liable for any tax due on the sale if the Department determines that the person is not eligible for the ~~certificate or the item was not used as intended.~~certificate. The liability is relieved when the seller obtains the purchaser's name, address, type of business, reason for exemption, and exemption number in lieu of obtaining an exemption certificate.

(b) Scope. – This section does not apply to a direct pay permit or a certificate of ~~resale.~~ exemption. G.S. 105-164.27A addresses a direct pay permit, and G.S. 105-164.28 addresses a certificate of ~~resale.~~exemption.

(c) Administration. – This section shall be administered in accordance with G.S. 105-164.28."

SECTION 44. G.S. 105-164.42I(b) reads as rewritten:

"(b) Contract. – The Secretary may ~~contract~~ contract or authorize in writing the Streamlined Sales Tax Governing Board to contract on behalf of the Secretary with a certified service provider for the collection and remittance of sales and use taxes. A certified service provider must file with the Secretary or the Streamlined Sales Tax Governing Board a bond or an irrevocable letter of credit in the amount set by the Secretary. A bond or irrevocable letter of credit must be conditioned upon compliance with the contract, be payable to the ~~State,~~ State or the Streamlined Sales Tax Governing Board, and be in the form required by the Secretary. The amount a certified service provider charges under the contract is a cost of collecting the tax and is payable from the amount collected."

SECTION 45. G.S. 105-164.44I(a) reads as rewritten:

"(a) Distribution. – The Secretary must distribute to the counties and cities part of the taxes imposed by G.S. 105-164.4(a)(4c) on telecommunications service and G.S. 105-164.4(a)(6) on video programming service. The Secretary must make the distribution within 75 days after the end of each calendar quarter. The amount the Secretary must distribute is the sum of the revenue listed in this subsection. ~~The~~ From this amount, the Secretary must ~~distribute two million dollars ($2,000,000) of this amount in accordance with~~ first make the distribution required by subsection (b) of this section and then distribute the remainder in accordance with subsections (c) and (d) of this section. The revenue to be distributed under this section consists of the following:

(1) The amount specified in G.S. 105-164.44F(a)(2).

(2) Twenty three and six tenths percent (23.6%) of the net proceeds of the taxes collected during the quarter on video programming, other than on direct-to-home satellite service.

(3) Thirty-seven and one tenths percent (37.1%) of the net proceeds of the taxes collected during the quarter on direct-to-home satellite service."

SECTION 46. G.S. 105-187.51B reads as rewritten:

"**§ 105-187.51B. Tax imposed on certain recyclers, research and development companies, industrial machinery refurbishing companies, and companies located at ports facilities.**

(a) Tax. – A privilege tax is imposed on the following:

(1) A major recycling facility that purchases any of the following tangible personal property for use in connection with the facility:

a. Cranes, structural steel crane support systems, and foundations related to the cranes and support systems.

b. Port and dock facilities.

c. Rail equipment.

d. Material handling equipment.

(2) A company primarily engaged at the establishment in research and development ~~company~~ activities in the physical, engineering, and life sciences ~~that is~~ included in industry 54171 of NAICS and that purchases equipment or an attachment or repair part for equipment that meets all of the following requirements:

a. Is capitalized by the company for tax purposes under the Code.

b. Is used by the company at the establishment in the research and development of tangible personal property.

c. Would be considered mill machinery or mill machinery parts or accessories under G.S. 105-187.51 if it were purchased by a manufacturing industry or plant and used in the research and development of tangible personal property manufactured by the industry or plant.

(3) A company primarily engaged at the establishment in software publishing ~~company~~ activities ~~that is~~ included in ~~the~~ industry group 5112 of NAICS and that purchases equipment or an attachment or repair part for equipment that meets all of the following requirements:
a. Is capitalized by the company for tax purposes under the Code.
b. Is used by the company at the establishment in the research and development of tangible personal property.
c. Would be considered mill machinery under G.S. 105-187.51 if it were purchased by a manufacturing industry or plant and used in the research and development of tangible personal property manufactured by the industry or plant.

(4) ~~An~~ A company primarily engaged at the establishment in industrial machinery refurbishing ~~company~~ activities ~~that is~~ included in industry group 811310 of NAICS and that purchases equipment or an attachment or repair part for equipment that meets all of the following requirements:
a. Is capitalized by the company for tax purposes under the Code.
b. Is used by the company at the establishment in repairing or refurbishing tangible personal property.
c. Would be considered mill machinery under G.S. 105-187.51 if it were purchased by a manufacturing industry or plant and used by the industry or plant to manufacture tangible personal property.

(5) A company located at a ports facility for waterborne commerce that purchases specialized equipment to be used at the facility to unload or process bulk cargo to make it suitable for delivery to and use by manufacturing facilities.

(b) Rate. – The tax is one percent (1%) of the sales price of the equipment or other tangible personal property. The maximum tax is eighty dollars ($80.00) per article."

SECTION 47.(a) G.S. 105-241.6(b) reads as rewritten:

"(b) Exceptions. – The exceptions to the general statute of limitations for obtaining a refund of an overpayment are as follows:

(1) Federal Determination. – If a taxpayer files a return reflecting a federal determination and the return is filed within the time required by this Subchapter, the period for requesting a refund is one year after the return reflecting the federal determination is filed or three years after the original return was filed or due to be filed, whichever is later.

(2) Waiver. – A taxpayer's waiver of the statute of limitations for making a proposed assessment extends the period in which the taxpayer can obtain a refund to the end of the period extended by the waiver.

(3) Worthless Debts or Securities. – Section 6511(d)(1) of the Code applies to an overpayment of the tax levied in Part 2 or 3 of Article 4 of this Chapter to the extent the overpayment is attributable to either of the following:
a. The deductibility by the taxpayer under section 166 of the Code of a debt that becomes worthless, or under section 165(g) of the Code of a loss from a security that becomes worthless.
b. The effect of the deductibility of a debt or loss described in subpart a. of this subdivision on the application of a carryover to the taxpayer.

(4) Capital Loss and Net Operating Loss Carrybacks. – Section 6511(d)(2) of the Code applies to an overpayment of the tax levied in Part 2 or 3 of Article 4 of this Chapter to the extent the overpayment is attributable to a capital loss carryback under section 1212(c) of the Code or to a net operating loss carryback under section 172 of the Code.

(5) Contingent Event. – If a taxpayer is subject to a contingent event and files notice with the Secretary, the period to request a refund of an overpayment is six months after the contingent event concludes.

a. For purposes of this subdivision, "contingent event" means litigation or a State tax audit initiated prior to the expiration of the statute of limitations under subsection (a) of this section, the pendency of which prevents the taxpayer from possessing the information necessary to file an accurate and definite request for a refund of an overpayment under this Chapter.

b. For purposes of this subdivision, "notice to the Secretary" means written notice filed with the Secretary prior to expiration of the statute of limitations under subsection (a) of this section for a return or payment in which a contingent event prevents a taxpayer from filing a definite request for a refund of an overpayment. The notice must identify and describe the contingent event, identify the type of tax, list the return or payment affected by the contingent event, and state in clear terms the basis for and an estimated amount of the overpayment.

c. A taxpayer who contends that an event or condition other than litigation or a State tax audit has occurred that prevents the taxpayer from filing an accurate and definite request for a refund of an overpayment within the period under subsection (a) may submit a written request to the Secretary seeking an extension of the statute of limitations allowed under this subdivision. The request must establish by clear, convincing proof that the event or condition is beyond the taxpayer's control and that it prevents the taxpayer's timely filing of an accurate and definite request for a refund of an overpayment. The request must be filed within the period under subsection (a) of this section. The Secretary's decision on the request is final and is not subject to administrative or judicial review."

SECTION 47.(b) G.S. 105-241.7(b) reads as rewritten:

(b) Initiated by Taxpayer. – A taxpayer may request a refund of an overpayment made by the taxpayer by taking one of the ~~following~~ actions listed in this subsection within the statute of limitations for obtaining a ~~refund:~~refund. A taxpayer may not request a refund of an overpayment based on a contingent event as defined in G.S. 105-241.6(b)(5) until the event is finalized and an accurate and definite request for refund of an overpayment may be determined. The actions are:

(1) Filing an amended return reflecting an overpayment due the taxpayer.

(2) Filing a claim for refund. The claim must identify the taxpayer, the type and amount of tax overpaid, the filing period to which the overpayment applies, and the basis for the claim. The taxpayer's statement of the basis of the claim does not limit the taxpayer from changing the basis.

SECTION 47.(c) This section becomes effective January 1, 2014, and applies to a request for a refund of an overpayment of tax filed on or after that date.

SECTION 48. G.S. 105-262.1(d) reads as rewritten:

"(d) Adoption. – The Secretary may adopt a rule under this section by using the procedure for adoption of a temporary rule set forth in G.S. 150B-21.1(a3). The Secretary must provide electronic notification of the adoption of a rule to persons on the mailing list maintained in accordance with G.S. 150B-21.2(d) and any other interested parties, including those originally given notice of the rule making and those who provided comment on the rule. If the Secretary receives written comment objecting to the rule and requesting review by the

Commission, the rule must be reviewed in accordance with subsections (e) through (i) of this section. A person may object to the rule and request review by the Commission at any point ~~prior to the adoption~~ following the agency's adoption of the rule and by 5:00 P.M. on the third business day following electronic notification from the Secretary of the adoption of a rule. If the Secretary receives no written comment objecting to the rule and requesting review by the Commission, the Secretary must deliver the rule to the Codifier of Rules. The Codifier of Rules must enter the rule into the North Carolina Administrative Code upon receipt of the rule."

SECTION 49.(a) G.S. 105-468 reads as rewritten:

"**§ 105-468. Scope of use tax.**

The use tax authorized by this Article is a tax at the rate of one percent (1%) of the cost price of each item or article of tangible personal property that is not sold in the taxing county but is used, consumed, or stored for use or consumption in the taxing county. The tax applies to the same items that are subject to tax under G.S. 105-467. The collection and administration of this tax shall be in accordance with Article 5 of Chapter 105 of the General Statutes.

~~Every retailer who is engaged in business in this State and in the taxing county and is required to collect the use tax levied by G.S. 105-164.6 shall collect the one percent (1%) use tax when the property is to be used, consumed, or stored in the taxing county. The use tax contemplated by this section shall be levied against the purchaser, and the purchaser's liability for the use tax shall be extinguished only upon payment of the use tax to the retailer, where the retailer is required to collect the tax, or to the Secretary, where the retailer is not required to collect the tax.~~

Where a local sales or use tax was due and has been paid with respect to tangible personal property by the purchaser in another taxing county within the State, or where a local sales or use tax was due and has been paid in a taxing jurisdiction outside the State where the purpose of the tax is similar in purpose and intent to the tax which may be imposed pursuant to this Article, the tax paid may be credited against the tax imposed under this section by a taxing county upon the same property. If the amount of sales or use tax so paid is less than the amount of the use tax due the taxing county under this section, the purchaser shall pay to the Secretary an amount equal to the difference between the amount so paid in the other taxing county or jurisdiction and the amount due in the taxing county. The Secretary may require such proof of payment in another taxing county or jurisdiction as is deemed to be necessary. The use tax levied under this Article is not subject to credit for payment of any State sales or use tax not imposed for the benefit and use of counties and municipalities. No credit shall be given under this section for sales or use taxes paid in a taxing jurisdiction outside this State if that taxing jurisdiction does not grant similar credit for sales taxes paid under this Article."

SECTION 49.(b) G.S. 105-467(c) reads as rewritten:

"(c) Sourcing. – ~~The local sales tax authorized to be imposed and levied under this Article applies to taxable transactions by retailers whose place of business is located within the taxing county.~~ The sourcing principles in G.S. 105-164.4B apply in determining whether the local sales tax applies to a transaction."

SECTION 50. G.S. 105-561(d) reads as rewritten:

"(d) Special Tax District. – If a regional transportation authority created under Article 27 of Chapter 160A of the General Statutes or a regional public transportation authority created under Article 26 of Chapter 160A of the General Statutes has not levied the tax under this section or has levied the tax at a rate of less than eight dollars ($8.00), it may create a special district that consists of the entire area of one or more counties within its territorial jurisdiction and may levy on behalf of the special district the tax authorized in this section. The rate of tax levied within the special district may not, when combined with the rate levied within the entire territorial jurisdiction of the authority; exceed eight dollars ($8.00). The regional transportation authority may not levy or increase a tax within the special district unless the board of

commissioners of each county in the special district has adopted a resolution approving the levy or increase.

A special district created pursuant to this subsection is a body corporate and politic and has the power to carry out the purposes of this subsection. The board of trustees of the regional transportation authority created under Article 27 of Chapter 160A of the General Statutes or a regional public transportation authority created under Article 26 of Chapter 160A of the General Statutes shall serve, ex officio, as the governing body of a special district it creates pursuant to this subsection. The proceeds of a tax levied under this subsection may be used only for the benefit of the special district and only for the purposes provided in G.S. 105-564. Except as provided in this subsection, a tax levied under this subsection is governed by the provisions of this Article."

SECTION 51. Section 27A.2(f) of S.L. 2009-451 reads as rewritten:

"**SECTION 27A.2.(f)** Subsections (a) and (e) of this section are effective when they become law. The remainder of this section becomes effective October 1, 2009. Subsection (b) applies to sales made on or after October 1, 2009, and subsections (c) and (d) apply to distributions for months beginning on or after October 1, 2009. Subsections (b) through (d) of this section expire July 1, 2011. The general State rate of tax in effect on or after July 1, 2011, applies to gross receipts received on or after July 1, 2011, pursuant to a lease or rental agreement entered into during the period September 1, 2009, through June 30, 2011, for a definite, stipulated period of time. This section does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this section before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal."

SECTION 52. Section 8 of S.L. 2011-122 reads as rewritten:

"**SECTION 8.** Notwithstanding G.S. 62A-60(c), as enacted by Section 5 of this act, the Department of Revenue may retain the cost of collection not to exceed seven hundred thousand dollars ($700,000) of the 911 service charges for prepaid wireless telecommunications service ~~remitted to it~~ from collections by sellers of the charge for the first 12 calendar months beginning on or after July 1, 2013. The cost of collection that the Department may retain under this section includes costs incurred prior to July 1, 2013."

SECTION 53.(a) The Department of Revenue allocates and distributes to cities and counties the local sales and use taxes under Subchapter VIII of Chapter 105 of the General Statutes and a portion of various State taxes under Chapter 105 of the General Statutes, such as the excise tax on beer and wine, the franchise tax on electric power companies, the sales tax on video programming and telecommunications, and the excise tax on piped natural gas. If the Department is unable to accurately identify and calculate the amount of tax proceeds allocable and distributable to a county or city for any one or more of these taxes for one or more of the distributional periods because of implementation issues with the Tax Information Management System (TIMS), the Department must allocate and distribute to a county and city an amount for that period that is equal to the average of the applicable tax proceeds allocated and distributed to it for the same distributional period in the preceding three fiscal years.

SECTION 53.(b) This section is effective when it becomes law and expires on July 1, 2015.

SECTION 54.(a) G.S. 105-164.14(b)(2a) reads as rewritten:

"(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed a semiannual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services, other than electricity, telecommunications service, and ancillary service, for use in carrying on the work of the nonprofit entity. Sales and use tax liability indirectly incurred by a nonprofit entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the

nonprofit entity and is being erected, altered, or repaired for use by the nonprofit entity for carrying on its nonprofit activities is considered a sales or use tax liability incurred on direct purchases by the nonprofit entity. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund for the first six months of a calendar year is due the following October 15; a request for a refund for the second six months of a calendar year is due the following April 15.

The refunds allowed under this subsection do not apply to an entity that is owned and controlled by the United States or to an entity that is owned or controlled by the State and is not listed in this subsection. A hospital that is not listed in this subsection is allowed a semiannual refund of sales and use taxes paid by it on medicines and drugs purchased for use in carrying out its work. The following nonprofit entities are allowed a refund under this subsection:

...

(2a) Volunteer fire departments and volunteer emergency medical services squads that are ~~An organization that is exempt from income tax under the Code and is~~ one or more of the following:

a. ~~A volunteer fire department.~~Exempt from income tax under the Code.

b. ~~A volunteer emergency medical services squad.~~Financially accountable to a city as defined in G.S. 160A-1, a county, or a group of cities and counties.

...."

SECTION 54.(b) This section becomes effective July 1, 2013, and applies to purchases occurring on or after that date.

SECTION 55. G.S. 105-134.5 reads as rewritten:

"**§ 105-134.5. North Carolina taxable income defined.**

(a) Residents. – For an individual who is a resident of this State, the term "North Carolina taxable income" means the taxpayer's adjusted gross income as modified in G.S. ~~105-134.6.~~105-134.6 and G.S. 105-134.6A.

(b) Nonresidents. – For a nonresident individual, the term "North Carolina taxable income" means the taxpayer's adjusted gross income as modified in G.S. ~~105-134.6,~~ 105-134.6 and G.S. 105-134.6A multiplied by a fraction the denominator of which is the taxpayer's gross income as modified in G.S. ~~105-134.6,~~ 105-134.6 and G.S. 105-134.6A, and the numerator of which is the amount of that gross income, as modified, that is derived from North Carolina sources and is attributable to the ownership of any interest in real or tangible personal property in this State, is derived from a business, trade, profession, or occupation carried on in this State, or is derived from gambling activities in this State.

(c) Part-year Residents. – If an individual was a resident of this State for only part of the taxable year, having moved into or removed from the State during the year, the term "North Carolina taxable income" has the same meaning as in subsection (b) of this section except that the numerator includes gross income, as modified under G.S. ~~105-134.6,~~ 105-134.6 and G.S. 105-134.6A, derived from all sources during the period the individual was a resident.

..."

SECTION 56.(a) G.S. 105-242.2(b) reads as rewritten:

"(b) Responsible Person. – Each responsible person in a business entity is personally and individually liable for ~~all~~ the principal amount of ~~the~~ taxes that are owed by the business entity and are listed in this subsection. If a business entity does not pay ~~a tax~~ the amount it owes after the ~~tax~~ amount becomes collectible under G.S. 105-241.22, the Secretary may enforce the responsible person's liability for the ~~tax~~ amount by sending the responsible person a notice of proposed assessment in accordance with G.S. 105-241.9. ~~The taxes for which a responsible person may be held personally and individually liable are:~~This subsection applies to the following:

(1) All sales and use taxes collected by the business entity upon its taxable transactions.
(2) All sales and use taxes due upon taxable transactions of the business entity but upon which it failed to collect the tax, but only if the person knew, or in the exercise of reasonable care should have known, that the tax was not being collected.
(3) All taxes due from the business entity pursuant to the provisions of Articles 36C and 36D of Subchapter V of this Chapter and all taxes payable under those Articles by it to a supplier for remittance to this State or another state.
(4) All income taxes required to be withheld from the wages of employees of the business entity."

SECTION 56.(b) This section is effective when it becomes law and applies to assessments proposed on or after that date.

SECTION 57.(a) G.S. 20-79.4 reads as rewritten:

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

...

(b) Types. – The Division shall issue the following types of special registration plates:

...

() North Carolina Paddle Festival. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase and logo representing the North Carolina Paddle Festival.

..."

SECTION 57.(b) G.S. 20-79.7(a) reads as rewritten:

"(a) Fees. – Upon request, the Division shall provide and issue free of charge a single Legion of Valor, 100% Disabled Veteran, and Ex-Prisoner of War registration plate to a recipient of a Legion of Valor award, a 100% disabled veteran, and an ex-prisoner of war each year. The preceding special registration plates are subject to the regular motor vehicle registration fees in G.S. 20-88, if the registered weight of the vehicle is greater than 6,000 pounds. All other special registration plates are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

Special Plate	Additional Fee Amount
American Red Cross	$30.00
Animal Lovers	$30.00
Arthritis Foundation	$30.00
ARTS NC	$30.00
Back Country Horsemen of NC	$30.00
Boy Scouts of America	$30.00
Brenner Children's Hospital	$30.00
Carolina Raptor Center	$30.00
Carolinas Credit Union Foundation	$30.00
Carolinas Golf Association	$30.00
Coastal Conservation Association	$30.00
Coastal Land Trust	$30.00
Crystal Coast	$30.00
Daniel Stowe Botanical Garden	$30.00
El Pueblo	$30.00
Farmland Preservation	$30.00
First in Forestry	$30.00
Girl Scouts	$30.00
Greensboro Symphony Guild	$30.00
Historical Attraction	$30.00

1	Home Care and Hospice	$30.00
2	Home of American Golf	$30.00
3	HOMES4NC	$30.00
4	Hospice Care	$30.00
5	In God We Trust	$30.00
6	Maggie Valley Trout Festival	$30.00
7	Morgan Horse Club	$30.00
8	Mountains-to-Sea Trail	$30.00
9	NC Civil War	$30.00
10	NC Coastal Federation	$30.00
11	NC Veterinary Medical Association	$30.00
12	National Kidney Foundation	$30.00
13	North Carolina 4-H Development Fund	$30.00
14	North Carolina Emergency Management Association	$30.00
15	North Carolina Green Industry Council	$30.00
16	North Carolina Libraries	$30.00
17	North Carolina Paddle Festival	$30.00
18	Outer Banks Preservation Association	$30.00
19	Pamlico-Tar River Foundation	$30.00
20	P.E.O. Sisterhood	$30.00
21	Personalized	$30.00
22	Retired Legislator	$30.00
23	Ronald McDonald House	$30.00
24	Share the Road	$30.00
25	S.T.A.R.	$30.00
26	State Attraction	$30.00
27	Stock Car Racing Theme	$30.00
28	Support NC Education	$30.00
29	Support Our Troops	$30.00
30	Sustainable Fisheries	$30.00
31	Toastmasters Club	$30.00
32	Topsail Island Shoreline Protection	$30.00
33	Travel and Tourism	$30.00
34	AIDS Awareness	$25.00
35	Buffalo Soldiers	$25.00
36	Choose Life	$25.00
37	Collegiate Insignia	$25.00
38	First in Turf	$25.00
39	Goodness Grows	$25.00
40	High School Insignia	$25.00
41	Kids First	$25.00
42	National Multiple Sclerosis Society	$25.00
43	National Wild Turkey Federation	$25.00
44	NC Agribusiness	$25.00
45	NC Children's Promise	$25.00
46	Nurses	$25.00
47	Olympic Games	$25.00
48	Rocky Mountain Elk Foundation	$25.00
49	Special Olympics	$25.00
50	Support Soccer	$25.00
51	Surveyor Plate	$25.00

1	The V Foundation for Cancer Research Division	$25.00
2	University Health Systems of Eastern Carolina	$25.00
3	Alpha Phi Alpha Fraternity	$20.00
4	ALS Association, Jim "Catfish" Hunter Chapter	$20.00
5	ARC of North Carolina	$20.00
6	Audubon North Carolina	$20.00
7	Autism Society of North Carolina	$20.00
8	Battle of Kings Mountain	$20.00
9	Be Active NC	$20.00
10	Brain Injury Awareness	$20.00
11	Breast Cancer Earlier Detection	$20.00
12	Buddy Pelletier Surfing Foundation	$20.00
13	Concerned Bikers Association/ABATE of North Carolina	$20.00
14	Daughters of the American Revolution	$20.00
15	Donate Life	$20.00
16	Ducks Unlimited	$20.00
17	Greyhound Friends of North Carolina	$20.00
18	Guilford Battleground Company	$20.00
19	Harley Owners' Group	$20.00
20	Jaycees	$20.00
21	Juvenile Diabetes Research Foundation	$20.00
22	Kappa Alpha Order	$20.00
23	Litter Prevention	$20.00
24	March of Dimes	$20.00
25	Native American	$20.00
26	NC Fisheries Association	$20.00
27	NC Horse Council	$20.00
28	NC Mining	$20.00
29	NC Tennis Foundation	$20.00
30	NC Trout Unlimited	$20.00
31	NC Victim Assistance	$20.00
32	NC Wildlife Federation	$20.00
33	NC Wildlife Habitat Foundation	$20.00
34	NC Youth Soccer Association	$20.00
35	North Carolina Master Gardener	$20.00
36	Omega Psi Phi Fraternity	$20.00
37	Phi Beta Sigma Fraternity	$20.00
38	Piedmont Airlines	$20.00
39	Prince Hall Mason	$20.00
40	Save the Sea Turtles	$20.00
41	Scenic Rivers	$20.00
42	School Technology	$20.00
43	SCUBA	$20.00
44	Soil and Water Conservation	$20.00
45	Special Forces Association	$20.00
46	Support Public Schools	$20.00
47	US Equine Rescue League	$20.00
48	USO of NC	$20.00
49	Wildlife Resources	$20.00
50	Zeta Phi Beta Sorority	$20.00
51	Carolina Regional Volleyball Association	$15.00

Carolina's Aviation Museum	$15.00
Leukemia & Lymphoma Society	$15.00
Lung Cancer Research	$15.00
NC Beekeepers	$15.00
Shag Dancing	$15.00
Active Member of the National Guard	None
100% Disabled Veteran	None
Ex-Prisoner of War	None
Gold Star Lapel Button	None
Legion of Valor	None
Purple Heart Recipient	None
All Other Special Plates	$10.00."

SECTION 57.(c) G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) of this section among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, and the Parks and Recreation Trust Fund, which is established under G.S. 113-44.15, as follows:

Special Plate	SRPA	CCAPA	NHTF	PRTF
AIDS Awareness	$10	$15	0	0
Alpha Phi Alpha Fraternity	$10	$10	0	0
ALS Association, Jim "Catfish" Hunter Chapter	$10	$10	0	0
American Red Cross	$10	$20	0	0
Animal Lovers	$10	$20	0	0
ARC of North Carolina	$10	$10	0	0
Arthritis Foundation	$10	$20	0	0
ARTS NC	$10	$20	0	0
Audubon North Carolina	$10	$10	0	0
Autism Society of North Carolina	$10	$10	0	0
Back Country Horsemen of NC	$10	$20	0	0
Battle of Kings Mountain	$10	$10	0	0
Be Active NC	$10	$10	0	0
Boy Scouts of America	$10	$20	0	0
Brain Injury Awareness	$10	$10	0	0
Breast Cancer Earlier Detection	$10	$10	0	0
Brenner Children's Hospital	$10	$20	0	0
Buddy Pelletier Surfing Foundation	$10	$10	0	0
Buffalo Soldiers	$10	$15	0	0
Carolina Raptor Center	$10	$20	0	0
Carolina Regional Volleyball Association	$10	$5	0	0
Carolina's Aviation Museum	$10	$5	0	0
Carolinas Credit Union Foundation	$10	$20	0	0
Carolinas Golf Association	$10	$20	0	0
Choose Life	$10	$15	0	0

Coastal Conservation Association	$10	$20	0	0
Coastal Land Trust	$10	$20	0	0
Concerned Bikers Association/ ABATE of North Carolina	$10	$10	0	0
Crystal Coast	$10	$20	0	0
Daniel Stowe Botanical Gardens	$10	$20	0	0
Daughters of the American Revolution	$10	$10	0	0
Donate Life	$10	$10	0	0
Ducks Unlimited	$10	$10	0	0
El Pueblo	$10	$20	0	0
Farmland Preservation	$10	$20	0	0
First in Forestry	$10	$10	$10	0
First in Turf	$10	$15	0	0
Girl Scouts	$10	$20	0	0
Goodness Grows	$10	$15	0	0
Greensboro Symphony Guild	$10	$20	0	0
Greyhound Friends of North Carolina	$10	$10	0	0
Guilford Battleground Company	$10	$10	0	0
Harley Owners' Group	$10	$10	0	0
High School Insignia	$10	$15	0	0
Historical Attraction	$10	$20	0	0
Home Care and Hospice	$10	$20	0	0
Home of American Golf	$10	$20	0	0
HOMES4NC	$10	$20	0	0
Hospice Care	$10	$20	0	0
In God We Trust	$10	$20	0	0
In-State Collegiate Insignia	$10	$15	0	0
Jaycees	$10	$10	0	0
Juvenile Diabetes Research Foundation	$10	$10	0	0
Kappa Alpha Order	$10	$10	0	0
Kids First	$10	$15	0	0
Leukemia & Lymphoma Society	$10	$5	0	0
Litter Prevention	$10	$10	0	0
Lung Cancer Research	$10	$5	0	0
Maggie Valley Trout Festival	$10	$20	0	0
March of Dimes	$10	$10	0	0
Morgan Horse Club	$10	$20	0	0
Mountains-to-Sea Trail	$10	$20	0	0
National Kidney Foundation	$10	$20	0	0
National Multiple Sclerosis Society	$10	$15	0	0
National Wild Turkey Federation	$10	$15	0	0
Native American	$10	$10	0	0
NC Agribusiness	$10	$15	0	0

1	NC Beekeepers	$10	$5	0	0
2	NC Children's Promise	$10	$15	0	0
3	NC Civil War	$10	$20	0	0
4	NC Coastal Federation	$10	$20	0	0
5	NC 4-H Development Fund	$10	$20	0	0
6	NC Fisheries Association	$10	$10	0	0
7	NC Horse Council	$10	$10	0	0
8	NC Mining	$10	$10	0	0
9	NC Tennis Foundation	$10	$10	0	0
10	NC Trout Unlimited	$10	$10	0	0
11	NC Veterinary Medical				
12	Association	$10	$20	0	0
13	NC Victim Assistance	$10	$10	0	0
14	NC Wildlife Federation	$10	$10	0	0
15	NC Wildlife Habitat				
16	Foundation	$10	$10	0	0
17	NC Youth Soccer				
18	Association	$10	$10	0	0
19	North Carolina Emergency				
20	Management Association	$10	$20	0	0
21	North Carolina Green Industry				
22	Council	$10	$20	0	0
23	North Carolina Libraries	$10	$20	0	0
24	North Carolina Master Gardener	$10	$10	0	0
25	North Carolina Paddle Festival	$10	$20	0	0
26	Nurses	$10	$15	0	0
27	Olympic Games	$10	$15	0	0
28	Omega Psi Phi Fraternity	$10	$10	0	0
29	Out-of-state Collegiate Insignia	$10	0	$15	0
30	Outer Banks Preservation				
31	Association	$10	$20	0	0
32	Pamlico-Tar River Foundation	$10	$20	0	0
33	P.E.O. Sisterhood	$10	$20	0	0
34	Personalized	$10	0	$15	$5
35	Phi Beta Sigma Fraternity	$10	$10	0	0
36	Piedmont Airlines	$10	$10	0	0
37	Prince Hall Mason	$10	$10	0	0
38	Retired Legislator	$10	$20	0	0
39	Rocky Mountain Elk				
40	Foundation	$10	$15	0	0
41	Ronald McDonald House	$10	$20	0	0
42	Save the Sea Turtles	$10	$10	0	0
43	Scenic Rivers	$10	$10	0	0
44	School Technology	$10	$10	0	0
45	SCUBA	$10	$10	0	0
46	Shag Dancing	$10	$5	0	0
47	Share the Road	$10	$20	0	0
48	Soil and Water Conservation	$10	$10	0	0
49	Special Forces Association	$10	$10	0	0
50	Special Olympics	$10	$15	0	0
51	S.T.A.R.	$10	$20	0	0

State Attraction	$10	$20	0	0
Stock Car Racing Theme	$10	$20	0	0
Support NC Education	$10	$20	0	0
Support Our Troops	$10	$20	0	0
Support Public Schools	$10	$10	0	0
Support Soccer	$10	$15	0	0
Surveyor Plate	$10	$15	0	0
Sustainable Fisheries	$10	$20	0	0
The V Foundation for Cancer Research	$10	$15	0	0
Toastmasters Club	$10	$20	0	0
Topsail Island Shoreline Protection	$10	$20	0	0
Travel and Tourism	$10	$20	0	0
University Health Systems of Eastern Carolina	$10	$15	0	0
US Equine Rescue League	$10	$10	0	0
USO of NC	$10	$10	0	0
Wildlife Resources	$10	$10	0	0
Zeta Phi Beta Sorority	$10	$10	0	0
All other Special Plates	$10	0	0	0.

SECTION 57.(d) G.S. 20-81.12(b2) is amended by adding the following new subsection to read:

"(b148) The Division must receive 300 or more applications for a North Carolina Paddle Festival plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of North Carolina Paddle Festival plates to the Friends of the Hammocks and Bear Island, Inc."

SECTION 57.(e) The Revisor of Statutes is authorized to alphabetize, number, and renumber the special registration plates listed in G.S. 20-81.12(b2) to ensure that all the special registration plates are listed in alphabetical ordered and numbered accordingly.

SECTION 58.(a) If House Bill 988, 2013 Regular Session, becomes law, then G.S. 105-153.6, as enacted by House Bill 998, reads as rewritten:

"**§ 105-153.6. Adjustments when State decouples from federal accelerated depreciation and expensing.**

...

(d) Asset Basis. – The adjustments made in this section do not result in a difference in basis of the affected assets for State and federal income tax ~~purposes.~~purposes, except as modified in subsection (e) of this section.

(e) Bonus Asset Basis. – In the event of an actual or deemed transfer of an asset occurring on or after January 1, 2013, wherein the tax basis of the asset carries over from the transferor to the transferee for federal income tax purposes, the transferee must add any remaining deductions allowed under subsection (a) of this section to the basis of the transferred asset. Notwithstanding the provisions of subsection (a) of this section, the transferor and any owner in a transferor are not allowed any remaining future bonus depreciation deductions associated with the transferred asset. This subsection applies only to the extent that each transferor or owner in a transferor that added bonus depreciation to its federal taxable income or adjusted gross income associated with the transferred asset certifies in writing to the transferee, that the transferor or owner in a transferor will not take any remaining future bonus depreciation deduction associated with the transferred asset.

(f) Prior Transactions. – For any transaction meeting the requirements of subsection (e) of this section prior to January 1, 2013, the transferor and transferee can make an election to

make the basis adjustment allowed in that subsection on the transferee's 2013 tax return, to the extent that the transferor and any owner in a transferor has not taken the bonus depreciation deduction on a prior return and provided that the transferor is not allowed any remaining future bonus depreciation deductions associated with the transferred asset and each owner in a transferor certifies in writing to the transferee that the owner will not take any remaining deductions allowed under subsection (a) of this section for tax years beginning on or after January 1, 2013, for depreciation associated with the transferred asset. The amount of the basis adjustment under this subsection is limited to the total remaining future bonus depreciation deductions forfeited by the transferor and any owner in the transferor at the time of the transfer.

(g) Tax Basis. – For transactions described in subsections (e) or (f) of this section, adjusted gross income must be increased or decreased to account for any difference in the amount of depreciation, amortization, or gains or losses applicable to property that has been depreciated or amortized by use of a different basis or rate for State income tax purposes than used for federal income tax purposes prior to the effective date of this section.

(h) Definitions. – For purposes of this section, a 'transferor' is an individual, partnership, S Corporation, limited liability company, or an estate or trust that does not fully distribute income to its beneficiaries, and an 'owner in a transferor' is a partner, shareholder, member, or beneficiary subject to tax under Part 2 or 3 of Article 4 of this Chapter of a transferor."

SECTION 58.(b) If House Bill 988, 2013 Regular Session, becomes law, G.S. 105-134.6A, 113A-256(g), and 160A-211(a) are repealed.

SECTION 58.(c) If House Bill 998, 2013 Regular Session, becomes law, G.S. 105-153.3(12), as enacted by that act, reads as rewritten:

"**§ 105-153.3. Definitions.**

The following definitions apply in this Part:

...

(9) Limited liability company. – Either a domestic limited liability company organized under ~~Chapter 57C~~ Chapter 57D of the General Statutes or a foreign limited liability company authorized by that Chapter to transact business in this State that is classified for federal income tax purposes as a partnership. As applied to a limited liability company that is a partnership under this Part, the term "partner" means a member of the limited liability company.

...

(12) North Carolina taxable income. – Defined in G.S. ~~105-153.5.~~105-153.4."

SECTION 58.(d) If House Bill 998, 2013 Regular Session, becomes law, then G.S. 160A-211(a) reads as rewritten:

"**§ 160A-211. Privilege license taxes.**

(a) Authority. – Except as otherwise provided by law, a city shall have power to levy privilege license taxes on all trades, occupations, professions, businesses, and franchises carried on within the city. A city may levy privilege license taxes on the businesses that were formerly taxed by the State under the following sections of Article 2 of Chapter 105 of the General Statutes only to the extent the sections authorized cities to tax the businesses before the sections were repealed:

G.S. 105-36	Amusements – Manufacturing, selling, leasing, or distributing moving picture films.
G.S. 105-36.1	Amusements – Outdoor theatres.
G.S. 105-37	Amusements – Moving pictures – Admission.
G.S. 105-37.1	Amusements – Live entertainment and ticket resales
G.S. 105-42	Private detectives and investigators.
G.S. 105-45	Collecting agencies.

G.S. 105-46	Undertakers and retail dealers in coffins.
G.S. 105-50	Pawnbrokers.
G.S. 105-51.1	Alarm systems.
G.S. 105-53	Peddlers, itinerant merchants, and specialty market operators.
G.S. 105-54	Contractors and construction companies.
G.S. 105-55	Installing elevators and automatic sprinkler systems.
G.S. 105-61	Hotels, motels, tourist courts and tourist homes.
G.S. 105-62	Restaurants.
G.S. 105-65	Music machines.
G.S. 105-65.1	Merchandising dispensers and weighing machines.
G.S. 105-66.1	Electronic video games.
G.S. 105-74	Pressing clubs, dry cleaning plants, and hat blockers.
G.S. 105-77	Tobacco warehouses.
G.S. 105-80	Firearms dealers and dealers in other weapons.
G.S. 105-85	Laundries.
G.S. 105-86	Outdoor advertising.
G.S. 105-89	Automobiles, wholesale supply dealers, and service stations.
G.S. 105-89.1	Motorcycle dealers.
G.S. 105-90	Emigrant and employment agents.
G.S. 105-91	Plumbers, heating contractors, and electricians.
G.S. 105-97	Manufacturers of ice cream.
G.S. 105-98	Branch or chain stores.
G.S. 105-99	Wholesale distributors of motor fuels.
G.S. 105-102.1	Certain cooperative associations.
G.S. 105-102.5	General business license."

SECTION 58.(e) This section becomes effective January 1, 2014, and applies to taxable years that begin on or after that date.

OCCUPANCY TAX TECHNICAL CHANGES

SECTION 60.(a) Section 17 of Chapter 908 of the 1983 Session Laws, as amended by Section 1 of S.L. 2001-162, reads as rewritten:

"Sec. 17. Authorization and Scope. (a) The Board of Commissioners of Buncombe County may levy a room occupancy and tourism development tax of up to two percent (2%) of the gross receipts derived from the rental of accommodations within the county that are subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). ~~This tax does not apply to gross receipts derived by the following entities from accommodations furnished by them:~~

~~(1) religious organizations;~~

~~(2) educational organizations;~~

~~(3) any business that offers to rent fewer than five units; and~~

~~(4) summer camps.~~"

SECTION 60.(b) Section 25 of Chapter 908 of the 1983 Session Laws, as amended by Section 1 of S.L. 2009-157, reads as rewritten:

"Sec. 25. Occupancy Tax. – Authorization and Scope. – The Board of Commissioners of Forsyth County may levy a room occupancy and tourism development tax of two percent (2%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by any hotel, motel, inn, tourist camp, or other similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. ~~This tax does not apply to accommodations furnished by any of the following:~~

~~(1) Religious organizations.~~
~~(2) Educational organizations.~~
~~(3) Any business that offers to rent fewer than five units.~~
~~(4) Summer camps.~~"

SECTION 60.(c) Section 3 of Chapter 980 of the 1983 Session Laws, as amended by Section 2 of S.L. 1995-721, is repealed.

SECTION 60.(d) Section 3 of Chapter 988 of the 1983 Session Laws is repealed.

SECTION 60.(e) Section 3 of Chapter 857 of the 1985 Session Laws is repealed.

SECTION 60.(f) Section 2 of S.L. 2007-112, as amended by Section 40 of S.L. 2007-484, reads as rewritten:

"**SECTION 2.** Occupancy Tax. – (a) Authorization and Scope. – The Carteret County Board of Commissioners may levy a room occupancy and tourism development tax of five percent (5%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by any hotel, motel, inn, tourist camp, condominium, cottage, ~~campground,~~ rental agency, or other similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. ~~This tax does not apply to accommodations furnished by the following:~~

~~(1) Religious organizations.~~
~~(2) Educational organizations.~~
~~(3) Any business that offers to rent fewer than five units.~~
~~(4) Summer camps.~~
~~(5) Charitable, benevolent, and other nonprofit organizations.~~"

SECTION 60.(g) Section 1 of Chapter 80 of the 1991 Session Laws, as amended by Section 1 of S.L. 2006-127, reads as rewritten:

"**Section 1.** Occupancy Tax. – (a) Authorization and Scope. – The Martin County Board of Commissioners may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. ~~This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations, when furnished in furtherance of their nonprofit purpose, by summer camps, or by businesses that offer to rent no more than five units.~~

...."

SECTION 60.(h) Section 1 of Chapter 102 of the 1997 Session Laws, as amended by Section 1 of S.L. 2005-118, reads as rewritten:

"Section 1. (b) Authorization and scope. The Madison County Board of Commissioners may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. ~~This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations or to a business that offers to rent fewer than five units.~~

...."

SECTION 60.(i) Section 1 of Chapter 821 of the 1991 Session Laws, as amended by S.L. 2001-305, reads as rewritten:

"**Section 1.** Occupancy tax. (a) Authorization and scope. The Washington County Board of Commissioners may levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. ~~This tax does not apply to accommodations furnished by:~~

~~(1) Nonprofit charitable, educational, or religious organizations.~~
~~(2) A business that offers to rent fewer than five units.~~
~~(3) Summer camps.~~
...."

SECTION 60.(j) Section 1 of Chapter 969 of the 1987 Session Laws, as amended by Section 13.1 of S.L. 2001-439, reads as rewritten:

"Section 1. Levy of Tax. – (a) The Board of Commissioners of Richmond County may by resolution levy a room occupancy and tourism development tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by any hotel, motel, inn, tourist camp or other similar place within the county now subject to the three percent (3%) sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any local sales tax. ~~This tax does not apply to gross receipts derived by the following entities from accommodations furnished by them:~~

~~(1) Religious organizations;~~
~~(2) Educational organizations;~~
~~(3) Any business that offers to rent fewer than five units; and~~
~~(4) Summer camps.~~
...."

SECTION 60.(k) Section 1 of Chapter 158 of the 1991 Session Laws, as amended by Section 1 of S.L. 2001-365, reads as rewritten:

"**Section 1.** Occupancy Tax.

(a) Authorization and scope. – The Washington City Council may levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the city that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. ~~This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations, by summer camps, or by businesses that offer to rent no more than five units.~~
...."

SECTION 60.(l) Section 4 of Chapter 605 of the 1991 Session Laws is repealed.

SECTION 60.(m) Section 1 of Chapter 561 of the 1987 Session Laws reads as rewritten:

"Section 1. Occupancy Tax. (a) Authorization and scope. The Lenoir County Board of Commissioners may by resolution, after not less than ten days' public notice and after a public hearing held pursuant thereto, levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(3). This tax is in addition to any State or local sales tax. ~~This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations, by summer camps, or by businesses that offer to rent no more than five units.~~
...."

SECTION 60.(n) Section 3 of Chapter 647 of the 1987 Session Laws is repealed.

SECTION 60.(o) Section 1 of Chapter 950 of the 1987 Session Laws reads as rewritten:

"Section 1. Occupancy tax. (a) Authorization and scope. The Alamance County Board of Commissioners may by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto, levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(3). This tax is in addition to any State or local sales tax. ~~This tax~~

~~does not apply to gross receipts derived by the following entities from accommodations furnished by them:~~

~~(1) Nonprofit charitable organizations;~~

~~(2) religious organizations;~~

~~(3) educational organizations; and~~

~~(4) any business that offers to rent fewer than five units.~~

...."

SECTION 60.(p) Section 3 of Chapter 22 of the 1991 Session Laws is repealed.

SECTION 60.(q) Section 1 of Chapter 162 of the 1991 Session Laws, as amended by Section 1 of S.L. 2004-106 and Section 1 of S.L. 2011-170, reads as rewritten:

"**Section 1.** Occupancy tax. (a) Authorization and Scope. – The Alleghany County Board of Commissioners may levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. ~~This tax does not apply to accommodations furnished by a summer camp for minors, or by a nonprofit charitable, educational, or religious organization.~~

...."

SECTION 60.(r) Section 1 of Chapter 648 of the 1993 Session Laws reads as rewritten:

"Section 1. Occupancy Tax. (a) Authorization and scope. The Kinston City Council may by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto, levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the city that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. ~~This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations, by summer camps, or by businesses that offer to rent no more than five units.~~

...."

SECTION 60.(s) Section 1 of Chapter 209 of the 1987 Session Laws, as amended by Chapter 155 of the 1991 Session Laws, S.L. 1999-155 and S.L. 2004-95, reads as rewritten:

"Section 1. Occupancy tax. (a) Authorization and scope. The Currituck County Board of Commissioners may levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within the county that is subject to sales tax imposed by the State under ~~G.S. 105-164.4(a)(3), or from the rental of a campsite within the county.~~G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. ~~This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.~~

...."

SECTION 60.(t) Section 1(a) of Chapter 449 of the 1985 Session Laws, as amended by Chapter 826 of the 1985 Session Laws, Chapters 177 and 906 of the 1991 Session Laws, and Part VII of S.L. 2001-439, reads as rewritten:

"Section 1. Occupancy Tax. (a) Authorization and Scope. The Dare County Board of Commissioners may levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of ~~the following in Dare County:~~

~~(1)~~ ~~Any~~ any room, lodging, or similar accommodation within the county that is subject to sales tax under ~~G.S. 105-164.4(a)(3); and~~

~~(2)~~ ~~A campsite.~~G.S. 105-164.4(a)(3).

~~This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.~~ This tax is in addition to any State or local sales tax."

TAX & TAG TOGETHER MOTOR VEHICLE PROPERTY TAX CHANGES

SECTION 70.(a) Section 22(d) of S.L. 2007-527, as amended by Section 66 of S.L. 2008-134 and Section 22(b) of S.L. 2010-95, reads as rewritten:

"**SECTION 22.(d)** Subsection (c) of this section becomes effective ~~July 1, 2013, or when the Division of Motor Vehicles of the Department of Transportation and the Department of Revenue certify that the integrated computer system for registration renewal and property tax collection for motor vehicles is in operation, whichever occurs first.~~ July 1, 2013. The remainder of this section is effective when it becomes law."

SECTION 70.(b) Section 24(c) of S.L. 2009-445, as amended by Section 22(c) of S.L. 2010-95, reads as rewritten:

"**SECTION 24.(c)** G.S. 105-330.9 and G.S. 105-330.11, as amended in subsection (a) of this section, are effective when this act becomes law. Subsection (b) of this section and the remainder of subsection (a) of this section become effective July 1, 2013, and apply to combined tax and registration notices issued on or after that ~~date, or when the Division of Motor Vehicles and the Department of Revenue certify that the integrated computer system or registration renewal and property tax collection for motor vehicles is in operation, whichever occurs first.~~ date. Counties may continue to collect property taxes on motor vehicles for taxable years beginning on or before September 1, 2013, under the provisions of Article 22A of Chapter 105 of the General Statutes as those statutes are in effect on June 30, 2013. The remainder of this section is effective when it becomes law."

SECTION 70.(c) Section 8 of S.L. 2007-471, as amended by Section 25(a) of S.L. 2009-445, and Section 22(d) of 2010-95, reads as rewritten:

"**SECTION 8.** Unless otherwise stated, this act becomes effective July 1, 2013, and applies to combined tax and registration notices issued on or after that ~~date, or when the Division of Motor Vehicles and the Department of Revenue certify that the integrated computer system for registration renewal and property tax collection for motor vehicles is in operation, whichever occurs first.~~ date. Counties may continue to collect property taxes on motor vehicles for taxable years beginning on or before September 1, 2013, under the provisions of Article 22A of Chapter 105 of the General Statutes as those statutes are in effect on June 30, 2013."

SECTION 70.(d) Section 13 of S.L. 2005-294, as amended by Section 31.5 of S.L. 2006-259, and Section 22(b) of S.L. 2007-257, and Section 65 of S.L. 2008-134, and Section 3.6 of S.L. 2012-79, reads as rewritten:

"**SECTION 13.** Sections 4 and 8 of this act become effective January 1, 2006. Sections 1, 2, 3, 5, 6, 7, 10 and 11 of this act become effective July 1, 2013, ~~or when the Division of Motor Vehicles of the Department of Transportation and the Department of Revenue certify that the integrated computer system for registration renewal and property tax collection for motor vehicles is in operation, whichever occurs first.~~ and apply to combined tax and registration notices issued on or after that date. Counties may continue to collect property taxes on motor vehicles for taxable years beginning on or before September 1, 2013, under the provisions of Article 22A of Chapter 105 of the General Statutes as those statutes are in effect on June 30, 2013. Sections 12 and 13 of this act are effective when they become law. Nothing in this act shall require the General Assembly to appropriate funds to implement it for the biennium ending June 30, 2007."

SECTION 70.(e) This section is effective when it becomes law.

SECTION 71.(a) Effective June 26, 2012, Sections 3.2, 3.3, and 3.4 of S.L. 2012-79 are repealed.

SECTION 71.(b) Effective July 1, 2013, G.S. 105-330.2, as amended by Section 2 of S.L. 2005-294 and Section 24(a) of S.L. 2009-445, reads as rewritten:

"**§ 105-330.2. Appraisal, ownership, and situs.**

...

(b1) Valuation Appeal. – The owner of a classified motor vehicle may appeal the appraised value ~~or taxability~~ of the vehicle by filing a request for appeal with the assessor within 30 days of the date taxes are due on the vehicle under G.S. 105-330.4. An owner who appeals the appraised value ~~or taxability~~ of a classified motor vehicle must pay the tax on the vehicle when due, subject to a full or partial refund if the appeal is decided in the owner's favor.

The combined tax and registration notice or tax receipt for a classified motor vehicle must explain the right to appeal the appraised value ~~and taxability~~ of the vehicle. A lessee of a vehicle that is required by the terms of the lease to pay the tax on the vehicle is considered the owner of the vehicle for purposes of filing an appeal under this subsection. Appeals filed under this subsection shall proceed in the manner provided in G.S. 105-312(d).

(b2) Exemption or Exclusion Appeal. – The owner of a classified motor vehicle may appeal the vehicle's eligibility for an exemption or exclusion by filing a request for appeal with the assessor within 30 days of the assessor's initial decision on the exemption or exclusion application filed by the owner pursuant to G.S. 105-330.3(b). Appeals filed under this subsection shall proceed in the manner provided in G.S. 105-312(d).

...."

SECTION 71.(c) Effective July 1, 2013, G.S. 105-330.3, as amended by Section 24(a) of S.L. 2009-445, reads as rewritten:

"**§ 105-330.3. Listing requirements for classified motor vehicles; application for exempt status.**

...

(a1) Unregistered Vehicles. – The owner of an unregistered classified motor vehicle must list the vehicle for taxes by filing an abstract with the assessor of the county in which the vehicle is located on or before January 31 following the date the owner acquired the unregistered vehicle or, in the case of a registration that is not renewed, January 31 following the date the registration expires, and on or before January 31 of each succeeding year that the vehicle is unregistered. If a classified motor vehicle required to be listed pursuant to this subsection is registered ~~during the calendar~~before the end of the fiscal year ~~in~~ for which it was ~~listed, the vehicle is taxed for the fiscal year that opens in the calendar year of listing as an unregistered vehicle.~~required to be listed, the following applies:

(1) The vehicle is taxed as a registered vehicle, and the tax assessed pursuant to this subsection for the fiscal year in which the vehicle was required to be listed shall be released and/or refunded.

(2) For any months for which the vehicle was not taxed between the date the registration expired and the start of the current registered vehicle tax year, the vehicle is taxed as an unregistered vehicle as follows:

a. The value of the motor vehicle is determined as of January 1 of the year in which the registration of the motor vehicle expires.

b. In computing the taxes, the assessor must use the tax rates and any additional motor vehicle taxes of the various taxing units in effect on the date the taxes are computed.

c. The tax on the motor vehicle is the product of a fraction and the number of months for which the vehicle was not taxed between the date the registration expires and the start of the current registered vehicle tax year. The numerator of the fraction is the product of the appraised value of the motor vehicle and the tax rate of the various taxing units. The denominator of the fraction is 12.

d. The taxes are due on the first day of the second month following the month the notice was prepared.

e. Interest accrues on unpaid taxes for these unregistered classified motor vehicles at the rate of five percent (5%) for the remainder of the month following the month the taxes are due. Interest accrues at the rate of three-fourths percent (3/4%) for each following month until the taxes are paid, unless the notice is prepared after the date the taxes are due. In that circumstance, the interest accrues beginning the second month following the date of the notice until the taxes are paid.

(3) A vehicle required to be listed pursuant to this subsection that is not listed by January 31 and is not registered before the end of the fiscal year for which it was required to be listed is subject to discovery pursuant to ~~G.S. 105-312, unless the vehicle has been taxed as a registered vehicle for the current year.~~G.S. 105-312.

(b) Exemption or Exclusion. – The owner of a classified motor vehicle who claims an exemption or exclusion from tax under this Subchapter has the burden of establishing that the vehicle is entitled to the exemption or exclusion. The owner may establish prima facie entitlement to exemption or exclusion of the classified motor vehicle by filing an application for exempt status with the ~~assessor.~~assessor within 30 days of the date taxes on the vehicle are due. When an approved application is on file, the assessor must omit from the tax records the classified motor vehicles described in the application. An application is not required for vehicles qualifying for the exemptions or exclusions listed in G.S. 105-282.1(a)(1). The remaining provisions of G.S. 105-282.1 do not apply to classified motor vehicles.

...."

SECTION 71.(d) Effective July 1, 2013, G.S. 105-330.4, as amended by Sections 4 and 5 of S.L. 2005-294, and Section 24(a) of S.L. 2009-445, reads as rewritten:

"**§ 105-330.4. Due date, interest, and enforcement remedies.**

(a) Due Date. – The registration of a classified motor vehicle may not be issued unless a temporary registration plate is issued for the motor vehicle under G.S. 20-79.1A or the taxes for the motor vehicle's tax year that begins after the issuance of the registration are paid upon registration. A registration of a classified motor vehicle may not be renewed unless the taxes ~~that are due have been paid.~~ for the motor vehicle's tax year that begins after the registration expires are paid upon registration. If the registration of a classified motor vehicle is renewed earlier than the date the taxes are due, the taxes must be paid as if they were due. Taxes on a classified motor vehicle are due as follows:

(1) For an unregistered classified motor vehicle, the taxes are due on September 1 following the date by which the vehicle was required to be listed.

(2) For a registered classified motor vehicle that is registered under the staggered system, the taxes are due each year on the date the owner applies for a new registration or the fifteenth day of the month following the month in which the registration renewal sticker expires pursuant to G.S. 20-66(g).

(3) For a registered classified motor vehicle that is registered under the annual system, taxes are due on the date the owner applies for a new registration or 45 days after the registration expires.

(4) For a registered classified motor vehicle that has a temporary registration plate issued under G.S. 20-79.1 or a limited registration plate issued under G.S. 20-79.1A, the taxes are due on the last day of the second month following the date the owner applied for the plate.

...

(b) Interest. – Interest accrues on unpaid taxes and unpaid registration fees for registered classified motor vehicles at the rate of five percent (5%) for the remainder of the month ~~following the month~~ the taxes are due under subsection (a) of this section. Interest does not accrue for the first month following the due date. Interest accrues at the rate of three-fourths percent (3/4%) beginning the second month following the due date and for each following month until the taxes and fees are ~~paid, unless the notice required by G.S. 105-330.5 is prepared after the date the taxes and fees are due. In that circumstance, the interest accrues beginning the second month following the date of the notice until the taxes and fees are paid.~~ paid. Subject to the provisions of G.S. 105-395.1, interest accrues on delinquent taxes on unregistered classified motor vehicles as provided in G.S. 105-360(a) and the discounts allowed in G.S. 105-360(a) apply to the payment of the taxes.

(c) Remedies. – The enforcement remedies in this Subchapter apply to unpaid taxes on an unregistered classified motor ~~vehicle. The enforcement remedies in this Subchapter do not apply~~ vehicle and to unpaid taxes on a registered classified motor ~~vehicle.~~vehicle for which the tax year begins before October 1, 2013.

(d) Payments. – Tax payments submitted by mail are deemed to be received as of the date shown on the postmark affixed by the United States Postal Service. If no date is shown on the postmark or if the postmark is not affixed by the United States Postal Service, the tax payment is deemed to be received when the payment is received ~~in the office of the tax collector.~~by the collecting authority. In any dispute arising under this subsection, the burden of proof is on the taxpayer to show that the payment was timely made."

SECTION 72. Effective July 1, 2013, G.S. 105-330.1(b), as amended by Section 24(a) of S.L. 2009-445, reads as rewritten:

"(b) Exceptions. – The following motor vehicles are not classified under subsection (a) of this section:

(1) Motor vehicles exempt from registration pursuant to G.S. 20-51.
(2) Manufactured homes, mobile classrooms, and mobile offices.
(3) Semitrailers or trailers registered on a multiyear basis.
(4) Motor vehicles owned or leased by a public service company and appraised under G.S. 105-335.
(5) Repealed by Session Laws 2000, c. 140, s. 75(a), effective July 1, 2000.
(6) Motor vehicles registered under the International Registration Plan.
(7) Motor vehicles issued permanent registration plates under G.S. 20-84.
(8) Self-propelled property-carrying vehicles issued three-month registration plates at the farmer rate under G.S. 20-88.
(9) Motor vehicles owned by participants in the Address Confidentiality Program authorized under Chapter 15C of the General Statutes."

EFFECTIVE DATE

SECTION 80. Sections 5, 6, and 7 of this act are effective for taxable years beginning on or after January 1, 2012. Except as otherwise provided, the remainder of this act is effective when it becomes law.

HOUSE BILL 14:
Rev Laws Technical, Clarifying, & Admin. Chg

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	July 16, 2013
Introduced by:	Rep. Howard	**Prepared by:**	Trina Griffin
Analysis of:	PCS to Third Edition H14-CSSVx-37		Committee Counsel

SUMMARY: ***House Bill 14 includes several technical, administrative, and clarifying changes to the revenue laws and related statutes. Sections 1-23 were recommendations of the Revenue Laws Study Committee; Sections 30-58 are additional changes that have been requested, mostly by the Department of Revenue, since the introduction of the bill; Section 60 makes the same technical change to a number of local occupancy tax acts as approved by the Occupancy Tax Subcommittee; and Sections 70-72 are changes related to the "Tax &Tag Together" combined motor vehicle property tax system.***

The Proposed Committee Substitute makes the following substantive changes:

- ***Section 34(b) and (d): Provides that in the event of a transfer of assets, instead of taking any remaining bonus depreciation deductions, the transferee adds the amount of any remaining deductions to the basis of the transferred asset.***
- ***Section 56: Provides that a responsible person in a business entity is personally and individually liable only for the principal amount of taxes owed by the business entity.***
- ***Section 57: Authorizes a new special registration plate for the North Carolina Paddle Festival.***

EFFECTIVE DATE: Except as otherwise provided, the bill would become effective when it becomes law.

BILL ANALYSIS:

Section	Explanation
	REVENUE LAWS RECOMMENDATIONS
1	Corrects several references to "reports and statements" where there is no longer a requirement to submit a statement and substitutes the more appropriate term "return." Also replaces "make" or "making" a return with "file" or "filing." Makes other grammatical and stylistic changes to conform to drafting conventions.
2	Deletes a statutory reference due to repeal of another subsection.[1]

[1] In S.L. 2010-89, the General Assembly provided an alternative apportionment formula for a corporation that signed a letter of commitment by September 15, 2010, certifying that it planned to invest at least $500 million in private funds to construct a facility in a development tier one area. No company signed such a letter. The General Assembly enacted the provision at the request of Microsoft; Microsoft announced in August of 2010 that it would be locating in Virginia. Since the alternative apportionment formula provided in G.S. 105-130.4(t2) and G.S. 105-122(c1)(3) was no longer needed, the General Assembly repealed those provision in S.L. 2011-330, s. 5. Therefore, the references to the repealed subdivisions in G.S. 105-122(c1)(2) and G.S. 105-130.4(t1) should be deleted.

3	Corrects reference to period of underpayment to reflect the change in the due date of the corporate return from the third month (March 15) to the fourth month (April 15).
4	Corrects reference to the proper carryforward period under Article 3J when a taxpayer fails to qualify for an extended carryforward period due to a large investment.[2]
5	Makes technical corrections related to the shift from taxable income to AGI as the starting point for determining NC taxable income.[3]
6	Ensures that relevant transitional adjustments under G.S. 105-134.7 are retained by adding them to G.S. 105-134.6 with corresponding changes throughout.
7	Makes technical changes to the Credit for the Disabled.
8	Amends definitions related to the Streamlined Agreement and adjusts the definition of 'storage' to clarify that the purchaser must know the original purpose and location where items will be used at the time of purchase.
9	Amends the facilitator reporting requirements to recognize various business practices and recordkeeping by facilitators. The Department was advised that some facilitators provide a credit card number for use by the hotelier before, during, or after the rental of accommodations.
10	Clarifies that a credit is allowed for use tax if the tax is shown on the invoice or other documentation issued by the retailer.
11	Makes various changes to certain sales tax exemptions: (26), (26a), (27), (31a), & G.S. 105-164.13A [4]: Adds "prepared food" to various sales tax exemptions to modernize the language as a result of the adoption of definitions for Streamlined purposes and reflects the fact that schools sell both food and "prepared food." (33a): Clarifies that the sales and use tax exemption for tangible personal property delivered by the retailer for use outside the State applies to certain printed material. This exemption was adjusted during the 2011 Session at the request of the Department to add "by the retailer." However, additional adjustments are needed to retain the exemption for printed material that is not delivered by the retailer to the United States Postal Service or that is not purchased with a direct pay permit.[5]

[2] The Article 3J credits for creating jobs and for investing in business property have a 5-year carryforward period and the credit for investing in real property has a 15-year carryforward period. S.L. 2012-74 temporarily allows for a 20-year carryforward period under Article 3J for a taxpayer who makes an investment of $100 million in business and real property in a tier one county.

[3] Section 31A.1 of S.L. 2001-145 changed the starting point for calculating NC taxable income from federal taxable income to federal adjusted gross income. This change did not change the tax base or increase NC tax in any way.

[4] These changes have been requested by the Department since the introduction of the bill and were not included in the original Revenue Laws recommendation.

[5] The proposed language tracks the language that is in Sales and Use Tax Bulletin 7.

	(43a): Amends the exemption for computer software "designed to run on an enterprise server operating system." The inclusion of the term "designed" has been problematic. The Department issued an "Important Notice" in February 2010 in an attempt to further clarify this issue. At issue are products that are designed but may not be run on an enterprise server operating system. It is burdensome for the Department to attempt to determine if the products meet the "designed" requirement. (57)[6]: Clarifies that in order for the exemption for fuel and electricity sold to a manufacturer to apply, the facility must be ***primarily*** engaged in manufacturing.
12	Makes three changes to the sales tax refund statute for nonprofit entities. • Provides that sales and use tax liability indirectly incurred by a nonprofit entity through reimbursement to an employee of the entity for the purchase of tangible personal property and services for use in carrying on the work of the nonprofit entity is considered a direct purchase by the entity. • Replaces the term "medicines" with "over-the-counter drugs" in the statute that permits a refund of sales and use taxes to nonprofit entities and hospitals. • Clarifies that a single member LLC that is disregarded for federal income tax purposes qualifies for a refund if the owner of the single member LLC is a 501(c)(3) and the LLC engages in qualifying activities.
13	Ensures that statute is consistent with the Sales and Use Tax Technical Bulletin Section 46-1 E., which provides that the issuance of a direct pay permit to avoid payment of State and local sales taxes levied on hotel accommodations is a prohibited use. Adds a provision requiring a person who purchases direct mail under a direct pay permit to file a return and pay the tax due monthly or quarterly to the Secretary.
14	Repeals G.S. 105-164.35, which authorizes the Secretary to recompute sales and use tax if, after examining a return, he determines the correct amount of tax is greater or less than the amount shown on the return and to credit or refund excessive payments. This statute, which is specific to sales and use tax, is unnecessary because G.S. 105-241.7 gives the Secretary this authority for all tax types.
15	Provides liability relief to retailers for erroneous information provided by the Department regarding the taxability of certain items or insufficient notice regarding a sales tax rate change as required by the Streamlined Agreement.
16	Clarifies that the credit allowed under Article 5F for similar tax paid to another state also applies to sales and use tax paid in this State and not just paid to another state.

[6] This change has been requested by the Department since the introduction of the bill and was not included in the original Revenue Laws recommendation.

17	Corrects references to Department Divisions based on reorganization. Adds various forms of identity theft to the subject matter jurisdiction of revenue law enforcement officers. Generally speaking, revenue law enforcement officers have the authority to serve and execute notices, orders, warrants, and demands, have full powers of arrest, and must be certified as criminal justice officers.
18	Deletes obsolete provision. The Secretary no longer makes a final agency decision in contested tax cases. Substantive final decisions are published on the OAH website.
19	Amends the secrecy statute as follows: (15a): Modifies the circumstances under which the Department may share information with law enforcement agencies. On occasion, the Department has shared information with the IRS or another taxing jurisdiction under G.S. 105-259(b)(3) that is connected to a criminal investigation. However, some of the information shared may be information that is not "discovered" in the course of the investigation (i.e. audits that occurred prior to the criminal investigation that led the Department to initiate the criminal investigation). While those records may be shared with other taxing agencies (i.e. the IRS) under (b)(3), there may not be specific authorization to share the information with prosecutors (i.e. the US Attorney) who later are working on the criminal case. In addition, the change gets rid of awkward language regarding who may receive the information. The Department has agreements with all agencies with whom it is allowed to share information listing the specific individuals allowed to receive the information. A literal reading of the current language would allow the Department to share the info only with the head of the agency. It clarifies that a prosecutorial agency is a law enforcement agency. Finally, it allows the share of information with local law enforcement or law enforcement from another state. (25)[7]: Permits the Department to include a retailer's registration number in the public database of retailers who are authorized to collect sales and use tax. The Department already maintains a publicly accessible database listing the names of retailers authorized to collect sales and use tax. Many sellers use the online registry to verify sales and use tax numbers provided by customers who present an exemption certificate. (29): Corrects a citation and statutory reference.[8]
20	Conforms payment for TIMS to current practice. The language in the 2012-13 budget bill differed from standard practice used by DOR since the beginning of benefits funding for the project. Technically, OSBM authorizes DOR to make purchases rather than making those purchases itself.
21	Modifies the circumstances under which the Department may share information regarding the unauthorized substances tax. The current restriction on disclosure

[7] This change has been requested by the Department since the introduction of the bill and was not included in the original Revenue Laws recommendation.

[8] Part 2F of Article 10 of Chapter 143B relates to the E-NC Initiative and has been repealed.

	could prevent Department employees from sharing information in situations that do not present concerns about Constitutional protections for criminal defendants like double jeopardy or self-incrimination such as: • A prosecutor investigates allegations of law enforcement unlawfully seizing property from specific individuals. Law enforcement personnel report the property has been turned over the Department to satisfy a tax debt. • A prosecutor requests information from the Department in order to satisfy his obligation to provide the defendant in a criminal case with potentially exculpatory information. • A Department employee serving a tax warrant witnesses a crime committed by the taxpayer against a third party.
22	Subsection (a) clarifies the procedure and requirements for obtaining a license for the distribution of tobacco products and provides the Department with specific guidance as to when a license may be denied. This subsection also requires the Department to include certain information on the face of each license, and directs the Department to keep a record of license holders that may be provided to other license holders upon request. Subsection (b) clarifies the violations for which the Secretary, after a hearing, may cancel a license for the distribution of tobacco products. Subsection (c) clarifies a distributor of cigarettes may provide security to the Secretary in the form of an irrevocable letter of credit as an alternative to a bond. This subsection also deletes a redundant provision for investigation of license applicants. This section becomes effective September 1, 2013.
23	Makes changes to the sourcing of direct mail to comply with Streamlined requirements. Under current law, direct mail is sourced to the location from which it is shipped unless it was purchased using a direct pay permit or the purchaser provides the seller with information showing the jurisdictions to which the mail is to be delivered. In those instances, the mail is sourced to the delivery location. Under the Streamlined Agreement, direct mail categorized into "advertising and promotional direct mail" and "other direct mail." The current law as stated above is accurate except that "other direct mail" (direct mail other than advertising and promotional direct mail) should be sourced to the purchaser's address available from the seller's business records if the mail is not purchased using a direct pay permit or if the purchaser does not provide the seller with jurisdictional delivery information.
ADDITIONAL CHANGES	
30	Corrects a citation.

31	Clarifies that Department personnel have the right to access a specialty market registration list. This clarification will assist with compliance checks by Department employees and provide clear direction that operators are required to obtain and provide information to assist with administration and collection of sales tax at events.
32	Adds a sunset to 105-129.16H, which is the credit for donating funds to a nonprofit or unit of State or local government to enable that entity to acquire renewable energy property. G.S. 105-129.16A, which is the credit for investing in renewable energy property, currently has a sunset of January 1, 2016. The same sunset is implied for G.S. 105-129.16H to the extent the credit is tied to G.S. 105-129.16A; that is, G.S. 105-129.16H allows the same credit when the purchaser of renewable energy property is a nonprofit that is not subject to income tax.
33	Deletes the word "large" from the statute. This is a technical change because the credit for large recycling facilities was repealed by S.L. 2010-166.[9]
34	Consolidates the bonus depreciation and section 179 expensing provisions related to decoupling from the Code into a new, stand-alone statute. Provides that in the event of a transfer of assets, instead of taking any remaining bonus depreciation deductions, the transferee adds the amount of any remaining deductions to the basis of the transferred asset.
35	Effectuates intent of IRC Update (S.L. 2013-10) by clarifying that charitable deduction is not subject to charitable contribution limitation and carryover provisions but is subject to the overall limitation on itemized deductions under section 68 of the Code.
36	Makes conforming changes required by the fact that G.S. 105-130.6, which dealt with forced combinations, was repealed in 2011 and replaced with a new statute. The definitions for "subsidiary" and "affiliate" are the same definitions that were in G.S. 105-130.6.
37	Modifies the individual income tax credit for charitable contributions by non-itemizers for tax year 2013 by including in the taxpayer's excess charitable contributions the amount by which the taxpayer's charitable contributions for the taxable year would have been deductible under Section 170 of the Code had the taxpayer not elected to take the income exclusion under Section 408(d)(8) of the Code that exceed two percent of the taxpayer's adjusted gross income.
38	Makes a technical change to reflect the fact that the starting point for calculating North Carolina taxable income is adjusted gross income.
39	Gives the Department flexibility in requiring electronic submissions.

[9] The repeal of this credit was a recommendation of the Revenue Laws Study Committee because the incentive was never utilized. The credit was intended for Wisconsin Tissue; however, that company never located in North Carolina.

40	Makes the sales tax imposition statute for digital property mirror the sales tax imposition statute for tangible personal property to make clear that the imposition of sales tax on digital property includes lease or rental. This is a technical change.
41	Adds the word "product" to the sourcing provisions for mobile telecommunications, which currently covers only services. This change was recommended by Streamlined in light of the fact that under the federal Mobile Telecommunications Sourcing Act, sales of certain digital products, such as a ringtone, is adjunct to mobile telecommunication service and is, therefore, sourced under the mobile sourcing provisions.
42	Clarifies that joint library systems that serve two or more counties, or counties and cities, are allowed the sales and use tax refund as a public library.[10] Currently, the sales and use tax refund for public libraries applies only to public libraries created by act of the General Assembly. While most libraries are part of a city or county government and receive the refund due to the county/city refund provision, some libraries were chartered by an act of the General Assembly.[11] A public library may also be established jointly by two or more counties or cities and counties under general authority granted in G.S. 153A-270. This provision would allow libraries created pursuant to this general authority, in addition to those created by a specific local act of the General Assembly, to be eligible for a sales and use tax refund.
43	Rewrites the provision dealing with a certificate of exemption for sales tax purposes in light of changes adopted by the Streamlined Governing Board. Among the changes is the requirement that a retailer must pay within 90 days sales tax on a transaction unless it obtains a fully completed exemption certificate, or within 120 days upon audit.
44	Allows the Secretary of Revenue to authorize the Streamlined Sales Tax Governing Board to contract, on behalf of the Secretary, with a certified service provider for the collection and remittance of sales and use taxes on behalf of the seller.
45	Makes a technical change to the distribution of part of the sales tax on video programming service and telecommunications service to counties and cities. In 2010, the General Assembly repealed the PEG Grant Fund and increased the revenues from the video programming sales tax designated for Supplemental PEG channel support to $4 million per year.[12] However, the distributional section of the statute was not amended accordingly and still refers to $2 million.
46	Modernizes the language and clarifies that the activities at the establishment must fall within the applicable NAICS code.

[10] **§ 153A-270. Joint libraries; contracts for library services.**
Two or more counties or cities or counties and cities may establish a joint library system or contract for library services, according to the procedures and provisions of Chapter 160A, Article 20, Part 1.
[11] The Public Library of Charlotte and Mecklenburg County was chartered in 1903 by act of the General Assembly.
[12] S.L. 2010-158.

47	Codifies the Department's administrative practice of allowing protective refund claims. Generally speaking, there is a time limit within which a taxpayer may file a claim for refund. If the claim for refund is not timely filed, it will be barred. Occasionally, a taxpayer's right to a potential refund is based on a contingent event, such as pending litigation or an ongoing income tax audit in another state, for a taxable period for which the statute of limitations is about to expire, and the outcome of that event may affect the North Carolina tax liability. The Department has administratively allowed for a taxpayer in these circumstances to file a timely but incomplete claim for refund, known as a "protective refund claim," and then later perfect the claim when the essential information becomes available. The proposed language would require the taxpayer to file the claim within 6 months of the conclusion of the contingent event. Under current practice, there is no stated timeline for filing a protective claim. It would also require the taxpayer to indicate an estimated amount of the overpayment. Currently, an estimate is not required.
48	Clarifies when a person may object to a proposed rule related to the Secretary's authority to require a combined return and request review by the Rules Review Commission (RRC). The rulemaking process allows an agency to change the text of a proposed rule in response to comments and objections raised during the public hearing and comment period, but a person should not be able to subject a rule to RRC review until the agency has adopted the rule. Under this rewrite, a person would only be able to subject the rule to RRC review after the agency has adopted the rule rather than prior to its adoption.
49	Clarifies that it is the intent of the General Assembly to harmonize the language of the local statutes to be consistent with the State sales and use tax statues. These changes clarify that the local statutes are intended to be consistent with G.S. 105-164.8(c) relative to imposition of tax and destination sourcing requirements.
50	Allows a regional public transportation authority created under Article 26 of Chapter 160A[13] to create a special district consisting of one or more counties within its territorial jurisdiction to levy an annual license tax upon any motor vehicle in its jurisdiction to raise revenue for capital and operating expenses of the Authority in providing public transportation systems. Currently, regional public transportation authorities can only levy the tax if all counties in the region agree to the tax. Regional transportation authorities created under Article 27 of Chapter 160A[14] already have the authority to levy the tax if less than all of the member counties approve the tax.

[13] This Article applies to the Research Triangle Regional Public Transportation Authority, better known as Triangle Transit or TTA, which is a three-county regional public transit agency serving Wake, Durham and Orange Counties.

[14] This Article applies to the Piedmont Authority for Regional Transportation (PART), which provides inter-city and regional public transportation for the Greensboro, Winston-Salem and High Point, NC area.

51	Codifies Departmental policy promulgated in an Important Notice dated June 30, 2011, that lease receipts billed on or after July 1, 2011, are subject to the 4.75% State rate of sales tax instead of the 5.75% State rate of sales tax, regardless of the fact that the lease was entered into for a definite period of time prior to July 1, 2011, at which time the rate was 5.75%.[15]
52	Makes two clarifying changes regarding the retention by the Department of Revenue of the 911 surcharge for the first year of implementation. S.L. 2011-122 authorized collection of the 911 service charge for prepaid wireless service at the point of retail sale. Although the charge is not a tax, it is collected by the Department of Revenue. To offset the cost of collection, the Department is authorized to retain the cost of collection below a cap. This section clarifies the first year cap applies to the surcharge collected by the retailers in the first year. Due to the delay of the remittance, not all of the charges collected by retailers in the first 12 months will be remitted to the Department in those first 12 months. This section also clarifies that the Department may retain costs incurred by the Department prior to the effective date of the surcharge. In order to ensure compliance, the Department has mailed notification of the law change to all entities that remit the 911 surcharge prior to the effective date of the surcharge.
53	Requires the Department of Revenue to allocate and distribute to cities and counties the amount equal to the average of the local sales and use taxes that was allocated and distributed to them in the preceding three fiscal years if the Department cannot accurately identify and calculate correct amounts for distributions payable in fiscal year 2014-15 because of implementation issues with the Tax Information Management System (TIMS).
54	Expands eligibility for a refund of sales and use taxes to include volunteer fire departments and EMS squads that are financially accountable to a city, a county, or a group of cities and counties and not merely those that are exempt from income tax under the Internal Revenue Code. The IRS treats entities that are financially accountable to a city or a county as tax exempt without any formal determination process. This section modifies the refund statute to match the current IRS practice and allow refunds to entities that would be treated by the IRS as tax exempt under the Internal Revenue Code. The NC Department of Revenue (DOR) has administratively ruled that some volunteer fire departments and volunteer EMS qualify for refunds of sales and use tax because the entities are financially accountable to a city or a county. This provision becomes effective July 1, 2013, and applies to purchases occurring on or after that date.
55	Makes technical citation changes.

[15] S.L. 2009-451 provided for a temporary 1% State sales tax increase (to 5.75%) with a July 1, 2011 expiration date. Without further legislation action, the State sales tax rate returned to 4.75% on July 1, 2011.

56	Provides that a responsible person in a business entity is personally and individually liable only for the principal amount of taxes owed by the business entity. As recommended by the Revenue Laws Study Committee, this bill included a proposal to clarify that penalties and interest, in addition to the principal amount of taxes, transfers to a responsible officer in a business entity that fails to pay taxes owed. During discussion in House Finance, the bill was amended to delete this provision, the intent being that a responsible officer should not be liable for penalties and interest. This provision more clearly effectuates that intent by specifically stating that the responsible person may only be liable for the principal amount of taxes owed. This provision is effective when the act becomes law and applies to assessments proposed on or after that date.
57	Authorizes a new special registration plate for the North Carolina Paddle Festival. The plate would cost $30 and the proceeds would go to the Friends of the Hammocks and Bear Island, Inc.
58	Makes a series of technical and conforming changes that need to be made in the event H998 is enacted. Subsection (a) incorporates the changes made by *Section 34(d) of this bill*, of this bill. Subsection (b) repeals reporting requirements that are no longer necessary because the tax credits for which the information is needed have been eliminated. Subsection (c) corrects statutory references. Subsection (d) maintains the current authority cities have to impose a local privilege tax on live entertainment. Under current law, a local tax may not exceed $25. Without this clarification, a city's authority to impose a privilege tax on live entertainment could be interpreted to be more expansive than current law.
OCCUPANCY TAX CHANGES	
60	Makes technical changes to various local occupancy tax acts so that they conform to changes made to the Uniform Provisions for Room Occupancy Taxes. In 2010[16], the General Assembly amended the uniform provisions governing occupancy tax to provide that room occupancy tax applies to the same gross receipts as the State sales tax on accommodations and is calculated in the same manner as that tax. The legislation further provided that to the extent this provision conflicts with any provision of a local act, the general law supersedes the local provision. Therefore, the changes in this section are technical because to the extent they conflict with State law, they have been superseded by the 2010 legislation. Specifically, there is no State sales tax exemption for businesses that rent fewer than five units, and the exemption for summer camps is not needed because they are already exempt under State law. The other deletions also reflect the application of State sales tax on accommodations. The table below shows the localities impacted because their legislation either imposes an occupancy tax on campgrounds/campsites or exempts from occupancy tax all or some combination of the following: • A business that offers to rent fewer than five units

[16] Section 31.6 of S.L. 2010-31.

	• Summer camps • Religious organizations • Educational organizations • Charitable, benevolent, and other nonprofit organizations

Counties		Cities
Alamance	Johnston	Goldsboro
Alleghany	Lenoir	Greensboro
Buncombe	Madison	Kinston
Carteret	Martin	Washington
Craven	Onslow	
Currituck	Richmond	
Dare	Washington	
Forsyth		
Guilford		

TAX & TAG TOGETHER MOTOR VEHICLE PROPERTY TAX SYSTEM CHANGES

In 2005, the General Assembly created a framework establishing a combined system for motor vehicle registration renewal and property tax collection. Originally, the act was to become effective the earlier of January 1, 2009, or the date that the Department of Revenue and the Division of Motor Vehicles certified that an integrated computer system is in operation. The effective date has since been extended and is currently set to go into effect July 1, 2013. Under the new system, the taxpayer/motor vehicle owner will receive one bill for property taxes and the DMV license renewal, and DMV will be the collecting authority. Counties will still determine the value and the taxability situs of motor vehicles. A number of conforming changes are needed to fully implement the combined system, which goes into effect July 1, 2013. Sections 70-72 of this bill consist of those changes.

70	Makes two changes to the effective dates of the acts that establish the combined system: • Removes conditional language. – The current effective date for the combined system contained a conditional clause that allowed the system to be effective earlier than July 1, 2013, if the integrated computer system was operational. The system will be online as of July 1, 2013. Therefore, the conditional clause is deleted from the effective dates. • Clarifies local government authority. – Although the tax year for registered motor vehicles does not change under the combined system, the collection date for property taxes is earlier under the combined system. For the months of July, August, and September, local governments will send bills for tax years that begin on or before September 1, 2013. During those same months, the Tax and Tag Together system will begin to send bills for tax years that begin after September 1, 2013. The effective date is amended to clarify local government authority to collect property tax for tax years beginning on or before September 1, 2013, under the statutes as in effect June 30, 2013.

71	Repeals certain prior technical and conforming changes that are now inconsistent with the statutes as they will become effective July 1, 2013, and recodifies the necessary technical changes. Over 8 different session laws have amended the Tag and Tax Together system. The effective date for the system has also been changed at least three times. The combination of the multiple changes has made further technical changes difficult to make.
71(a)	Repeals inconsistent changes.
71(b)	Clarifies the appeals process for motor vehicle property tax. A taxpayer may appeal motor vehicle taxes on a number of grounds: the valuation by the county, the denial of an application for exemption or exclusion, and on the grounds that the county does not have authority to tax the vehicle because the situs of the vehicle is in another taxing district. The term "taxability" in the appeal statutes has been used to refer to both exemption status and situs, but because there are different time periods that apply depending on the basis of a taxpayer's appeal, the Department recommends separating the statutory provisions.[17] Therefore, this section strikes the term "taxability" from G.S. 105-330.2(b1) so that, as amended, this subsection would apply only to appeals based on valuation. It also creates a new subsection (b2) to address appeals based on an application for exemption or exclusion. Appeals based on a county's authority to tax are covered under current law in G.S. 105-381.
71(c)	Establishes a process for the collection of property tax on an unregistered vehicle. The objective of the process is to ensure that the taxpayer is not double-taxed and that property taxes are paid on motor vehicles that a person owns even if it is not registered. If a person does not register or renew registration, then the person would be required to list the vehicle with the county assessor. The listing will generate a tax bill. However, if the person subsequently registers or renews the tag for the vehicle, then DMV will charge the person for the registration plus the property tax. This provision allows a county to ignore the listing to the extent the person registered or renewed within the same year.
71(d)	Clarifies that counties would have authority to use collection remedies for unpaid motor vehicle taxes that were billed prior to the effective date of the combined motor vehicle/property tax system. With a July 1 effective date, the first bills sent under the combined system will be for September registration renewals. The October 1st date is used because the tax year for September renewals begins October 1. It allows 45 days before the second month's interest begins. This is needed due to DMV's business process which DOR thinks may cause some taxpayers who pay by mail to get caught in a loop of sending in the payment after the due date, and the payment would be rejected. Without this change, the next month's interest would start before they got the correct amount mailed back in to DMV. This section also changes the term "tax collector" to "collecting authority" because under the new system, DMV and not the county tax assessor or tax collector will be the collecting authority.

[17] A taxpayer has 30 days to appeal a determination of value or eligibility for an exemption or exclusion. However, there is a five-year period to appeal an "illegal" tax under G.S. 105-381.

72	Allows vehicles of victims of domestic violence, sexual offense, stalking, or human trafficking vehicles to be billed as other personal property, keeping the addresses confidential. Chapter 15C of the General Statutes establishes an Address Confidentiality Program to protect the confidentiality of the addresses of victims of domestic violence, sexual offense, stalking, or human trafficking. If these vehicles were taxed under the combined system, the address would not be confidential.

HOUSE BILL 194

Short Title:	Allow PAVE Certification/Veterinary License.	(Public)
Sponsors:	Representatives Whitmire, Moffitt, Setzer, and L. Bell (Primary Sponsors). *For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*	
Referred to:	Regulatory Reform, if favorable, Commerce and Job Development.	

March 5, 2013

A BILL TO BE ENTITLED

AN ACT ALLOWING THE NORTH CAROLINA VETERINARY BOARD TO ACCEPT PROGRAM FOR THE ASSESSMENT OF VETERINARY EDUCATION EQUIVALENCE (PAVE) CERTIFICATION TO MEET LICENSURE REQUIREMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-187(c) reads as rewritten:

"(c) An application from a graduate of a ~~nonaccredited college of veterinary medicine outside the United States and Canada~~program not accredited by the American Veterinary Medical Association may not be considered by the Board until the applicant furnishes satisfactory proof of graduation from a college of veterinary medicine and of successful completion of ~~the~~ a certification program developed and administered ~~by~~ by (i) the Educational Commission for Foreign Veterinary Graduates of the American Veterinary Medical ~~which Association,~~Association or (ii) the Program for the Assessment of Veterinary Education Equivalence (PAVE) of the American Association of Veterinary State Boards. The certification ~~program~~ programs shall include examinations with respect to clinical proficiency and comprehension of and ability to communicate in the English language."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 194:
Allow PAVE Certification/Veterinary License

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	July 16, 2013
Introduced by:	Reps. Whitmire, Moffitt, Setzer, L. Bell	**Prepared by:**	Heather Fennell Committee Counsel
Analysis of:	First Edition		

SUMMARY: ***House Bill 194 would add the Program for the Assessment of Veterinary Education Equivalence (PAVE) as a program that a graduate from a nonaccredited college of veterinary medicine must successfully complete in order to practice veterinary medicine in North Carolina.***

CURRENT LAW: Under current law, in order for a person to practice veterinary medicine in North Carolina, the person must either:

- Be a graduate of an accredited veterinary school.
- Be a graduate of a nonaccredited college of veterinary medicine who has successfully completed the certification program developed and administered by the Educational Commission for Foreign Veterinary Graduates (ECFVG) of the American Veterinary Medical Association.

BILL ANALYSIS: House Bill 194 would add the Program for the Assessment of Veterinary Education Equivalence (PAVE) of the American Association of Veterinary State Boards to the ECFVG program as a program that a graduate from a nonaccredited college of veterinary medicine must successfully complete in order to practice veterinary medicine in North Carolina. A graduate from a nonaccredited college of veterinary medicine would have to successfully complete PAVE or the ECFVG program, not both.

EFFECTIVE DATE: This act would become effective when it becomes law.

BACKGROUND: Currently, 38 states recognize PAVE as meeting the education component of their licensure requirements, including our neighboring states of South Carolina, Georgia, Tennessee, and Virginia.

Jeff Hudson, counsel to House Regulatory Reform Subcommittee on Business and Labor, substantially contributed to this summary.

O. Walker Reagan
Director

H194-SMTD-74 E1 -V1

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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H D

HOUSE BILL 476

Committee Substitute Favorable 5/2/13
Committee Substitute #2 Favorable 6/19/13
Fourth Edition Engrossed 6/20/13
Senate Commerce Committee Substitute Adopted 7/2/13
PROPOSED SENATE COMMITTEE SUBSTITUTE H476-CSTPf-59 [v.2]
7/15/2013 5:35:35 PM

Short Title: Rewrite Underground Damage Prevention Act. (Public)

Sponsors:

Referred to:

April 1, 2013

A BILL TO BE ENTITLED

AN ACT REWRITING THE LAWS REGULATING UNDERGROUND UTILITY DAMAGE PREVENTION.

The General Assembly of North Carolina enacts:

SECTION 1. Article 8 of Chapter 87 of the General Statutes is repealed.

SECTION 2. Chapter 87 of the General Statutes is amended by adding the following new Article to read:

"Article 8A.

"Underground Utility Safety and Damage Prevention Act.

"**§ 87-115. Short title.**

This Article may be cited as the "Underground Utility Safety and Damage Prevention Act."

"**§ 87-116. Declaration of policy and purpose.**

The General Assembly of North Carolina hereby declares as a matter of public policy that it is necessary to protect the citizens and workforce of this State from the dangers inherent in excavating or demolishing in areas where underground lines, systems, or infrastructure are buried beneath the surface of the ground, and it is necessary to protect from costly damage underground facilities used for producing, storing, conveying, transmitting, or distributing communication, electricity, gas, petroleum, petroleum products, hazardous liquids, water, steam, or sewage. In order to carry out this public policy and to satisfy these compelling interests, the General Assembly has enacted the provisions of this Article providing for a systematic, orderly, and uniform process to identify existing facilities in advance of any excavation or demolition in this State and to implement safe digging practices.

"**§ 87-117. Definitions.**

The following definitions apply in this Article:

(1) APWA. – The American Public Works Association or its successors.

(2) Business continuation plan. – A plan that includes actions to be taken in an effort to provide uninterrupted service during catastrophic events.

(3) Contract locator. – A person hired by an operator to identify and mark facilities.

(4) Damage. – The substantial weakening of structural or lateral support of a facility; penetration or destruction of protective coating, housing, or other

protective device of a facility; or the partial or complete severance of a facility.

(5) Demolish or demolition. – Any operation by which a structure or mass of material is wrecked, razed, rendered, moved, or removed by any means, including the use of any tools, equipment, or discharge of explosives.

(6) Designer. – Any architect, engineer, or other person who prepares or issues a drawing or blueprint for a construction or other project that requires excavation or demolition work.

(7) Design notice. – A communication to the Notification Center in which a request for identifying existing facilities for advance planning purposes is made. A design notice may not be used for excavation purposes.

(8) Emergency. – An event involving a clear and imminent danger to life, health, or property, the interruption of essential utility services, or the blockage of transportation facilities, including highways, railways, waterways, or airways that require immediate action.

(9) Excavate or excavation. – An operation for the purpose of the movement or removal of earth, rock, or other materials in or on the ground by use of manual or mechanized equipment or by discharge of explosives, including, but not limited to, auguring, backfilling, boring, digging, ditching, drilling, directional drilling, driving, grading, horizontal directional drilling, well drilling, plowing-in, pounding, pulling-in, ripping, scraping, trenching, and tunneling.

(10) Excavator. – A person engaged in excavation or demolition.

(11) Extraordinary circumstances. – Circumstances that make it impossible for the operator to comply with the provisions of this Article, including hurricanes, tornadoes, floods, ice, snow, and acts of God.

(12) Facility. – Any underground line, underground system, or underground infrastructure used for producing, storing, conveying, transmitting, identifying, locating, or distributing communication, electricity, gas, petroleum, petroleum products, hazardous liquids, water, steam, or sewage. Provided there is no encroachment on any operator's right-of-way, easement, or permitted use, for the purposes of this Article, the following shall not be considered an underground facility: (i) swimming pools and irrigation systems; (ii) petroleum storage systems under Part 2A of Article 21A of Chapter 143 of the General Statutes; (iii) septic tanks under Article 11 of Chapter 130A of the General Statutes; and (iv) liquefied petroleum gas systems under Article 5 of Chapter 119 of the General Statutes, unless the system is subject to Title 49 C.F.R. § 192 or § 195.

(13) Locator. – An individual who identifies and marks facilities for operators who has been trained and whose training has been documented.

(14) Mechanized equipment. – Equipment operated by means of mechanical power, including, but not limited to, trenchers, bulldozers, power shovels, augers, backhoes, scrapers, drills, horizontal directional drills, cable and pipe plows, and other equipment used for plowing-in or pulling-in cable or pipe.

(15) Nonmechanized equipment. – Hand tools.

(16) Notice. – Oral, written, or electronic communication to the Notification Center from any person planning to excavate or demolish in the State that informs an operator of the person's intent to excavate or demolish.

(17) Notification Center. – A North Carolina member-owned not-for-profit corporation sponsored by operators that will provide a system through which

a person can notify operators of proposed excavations and demolitions and submit reports of alleged violations of this Article.

(18) Operator. – Any person, public utility, communications or cable service provider, municipality, electrical utility, or electric or telephone cooperative that owns or operates a facility in this State.

(19) Person. – Any individual, owner, corporation, partnership, association, or any other entity organized under the laws of any state, any political subdivision of a state, or any other instrumentality of a state, or any authorized representative thereof.

(20) Positive response. – An automated information system that allows excavators, locators, operators, and other interested parties to determine the status of a locate request.

(21) Subaqueous. – A facility that is under a body of water, including rivers, streams, lakes, waterways, swamps, and bogs.

(22) Tolerance zone. – If the diameter of the facility is known, the distance of one-half of the known diameter plus 24 inches on either side of the designated center line or, if the diameter of the facility is not marked, 24 inches on either side of the outside edge of the mark indicating a facility or, for subaqueous facilities, a clearance of 15 feet on either side of the indicated facility.

(23) Working day. – Every day, except Saturday, Sunday, or State legal holidays.

"**§ 87-118. Reserve to the State the power to regulate.**

The provisions in this Article supersede and preempt any ordinance adopted by a city or county that purports to do any of the following:

(1) Require operators to obtain permits from a city or county in order to identify facilities.

(2) Require premarking or marking of facilities.

(3) Specify the types of paint or other marking devices that are used to identify facilities.

(4) Require removal of unexpired marks. The removal of expired marks shall be the responsibility of the city or county.

"**§ 87-119. Costs associated with compliance; effect of permit.**

Any costs or expenses associated with an excavator's compliance with the requirements of this Article shall not be charged to any operator. Any costs or expenses associated with an operator's compliance with the requirements of this Article shall not be charged to any excavator. The Notification Center may not impose any charge on any person giving notice to the Notification Center. This section shall not affect costs related to the operation of the Notification Center apportioned to an operator pursuant to G.S. 87-120(b). This section shall not excuse an operator or excavator from liability for any damage or injury for which the operator or excavator would be responsible under applicable law.

"**§ 87-120. Notification Center; responsibilities.**

(a) The operators in the State shall maintain a Notification Center for the sole purpose of providing the services required by this Article. The Notification Center shall maintain information concerning receipt of notification of proposed excavation and demolition activities as provided in this Article and shall maintain information received from operators concerning the location of the operators' facilities and the operators' positive responses to marking of the facilities. The Notification Center shall also receive, maintain, and provide general administration of reports of alleged violations of this Article and responses. The Notification Center is not responsible in any way for identifying or marking facilities for operators. The Notification Center is not responsible in any way for resolving reports of alleged violations of this Article. All operators in the State shall join the Notification Center as provided in

subsection (b) of this section, and they shall use the services of the Notification Center to perform the acts required by the provisions of this Article. There shall be only one Notification Center for the State of North Carolina. The Notification Center is not an agency of the State or any of the State's political subdivisions and is not subject to the provisions of Chapter 132 or Chapter 133 of the General Statutes.

(b) Operators who are members of the Notification Center by whatever name that is in existence on October 1, 2013, must remain members. Operators with more than 50,000 customers or 1,000 miles of facilities who are not members on October 1, 2013, must join no later than October 1, 2014. Operators with more than 25,000 customers or 500 miles of facilities who are not members on October 1, 2013, must join no later than October 1, 2015. All operators that do not meet one of the criteria provided in this subsection must join no later than October 1, 2016. Each engineering division of the Department of Transportation established pursuant to G.S. 136-14.1 must join no later than October 1, 2016. The board of directors of the Notification Center shall develop a reasonable method of apportioning the costs of operating the Notification Center among the member operators. Prior to adopting a method of determining such cost allocation, the board of directors shall publish the proposed method of cost allocation to the member operators, and the proposed method of cost allocation shall be approved by the member operators.

(c) The Notification Center shall have the following duties and responsibilities:

(1) Maintain a record of the notices received under subsection (d) of this section for at least four years.

(2) Maintain a record of reports of alleged violations of this Article received under subsection (e) of this section for at least four years, including responses to such reports.

(3) Receive and transmit notices as provided in subsection (d) of this section.

(4) Develop and update, as needed, a business continuation plan.

(5) Notify those persons against whom reports of alleged violations of this Article have been made and receive and maintain information submitted from such persons in defense against the allegations.

(6) Provide a positive response system.

(7) Establish and operate a damage prevention training program for members of the Notification Center. No person may recover damages in any manner or form from the Notification Center arising out of or related to the manner in which the Notification Center conducts a damage prevention training program or receives, transmits, or otherwise administers a report of an alleged violation of this Article.

(d) The Notification Center shall receive notice from any person intending to excavate or demolish in the State and shall, at a minimum, transmit the following information to the appropriate operator:

(1) The name, address, and telephone number of the person providing the notice and, if different, the person responsible for the proposed excavation or demolition.

(2) The starting date of the proposed excavation or demolition.

(3) The anticipated duration of the proposed excavation or demolition.

(4) The type of proposed excavation or demolition operation to be conducted.

(5) The location of the proposed excavation or demolition.

(6) Whether or not explosives are to be used in the proposed excavation or demolition.

(e) The Notification Center shall receive reports of alleged violations of this Article. The Notification Center shall contact persons against whom reports have been filed to inform

them of the alleged violation within 10 days of the filing of the report. The Notification Center shall maintain the following information regarding reports of alleged violations:

(1) The name, address, and telephone number of the person making the report;

(2) The nature of the report, including the statute that is alleged to have been violated;

(3) Information provided by the person making the report, including correspondence, both written and electronic, pictures, and videos; and

(4) Information provided by the person against whom the report has been filed, including correspondence, both written and electronic, pictures, and videos.

"**§ 87-121. Facility operator responsibilities.**

(a) An operator shall provide to the excavator the following:

(1) The horizontal location and description of all of the operator's facilities in the area where the proposed excavation or demolition is to occur. The location shall be marked by stakes, soluble paint, flags, or any combination thereof, as appropriate, depending upon the conditions in the area of the proposed excavation or demolition. The operator shall, when marking as provided under this subdivision, use the APWA Uniform Color Code. If the diameter or width of the facility is greater than four inches, the dimension of the facility shall be indicated at least every 25 feet in the area of the proposed excavation or demolition. An operator who operates multiple facilities in the area of the proposed excavation or demolition shall locate each facility.

(2) Any other information that would assist the excavator in identifying and thereby avoiding damage to the marked facilities.

(b) Unless otherwise provided in a written agreement between the operator and the excavator, the operator shall provide to the excavator the information required by subsection (a) of this section within the times provided below:

(1) For a facility, within three full working days after the day notice of the proposed excavation or demolition was provided to the Notification Center.

(2) For a subaqueous facility, within 10 full working days after the day notice of the proposed excavation or demolition was provided to the Notification Center.

(3) If the operator declares an extraordinary circumstance, the times provided in this subsection shall not apply.

(c) The operator shall provide a positive response to the Notification Center before the expiration of the time provided in subsection (b) of this section. The response shall indicate whether and to what extent the operator is able to provide the information required by subsection (a) of this section to respond to the notice from the excavator.

(d) If the operator determines that provisions for marking subaqueous facilities are required, the operator will provide a positive response to the Notification Center not more than three full working days after notice has been provided by the excavator.

(e) If extraordinary circumstances prevent the operator from marking the location of the facilities within the time specified in subsection (b) of this section, the operator shall either notify the excavator directly or notify the excavator through the Notification Center. When providing the notification under this subsection, the operator shall state the date and time when the location will be marked.

(f) An operator shall prepare or cause to be prepared installation records of all facilities installed on or after the date this Article becomes effective in a public street, alley, or right-of-way dedicated to public use, excluding service drops and services lines. The operator shall maintain these records in the operator's possession while the facility is in service.

(g) All facilities installed by or on behalf of operators on or after the date this Article becomes effective shall be electronically locatable using a locating method that is generally accepted by operators in the particular industry or trade in which the operator is engaged.

(h) A locator shall notify the operator if the locator becomes aware of an error or omission in the records or documentation showing the location of the operator's facilities. The operator must update its records to correct any error or omission.

(i) An operator may reject an excavation or demolition notice due to homeland security considerations based upon federal statutes or federal regulations until the operator can confirm the legitimacy of the notice. The operator shall notify the person making the notice of the denial and may request additional information through the positive response system.

(j) Gravity fed sanitary sewers installed prior to the date this Article becomes effective and all storm water facilities shall be exempt from the location requirements provided in subsection (a) of this section. Neither the excavator nor the person financially responsible for the excavation will be liable for any damage to an unmarked gravity fed sanitary sewer line or unmarked storm water facility if the person doing the excavation exercises due care to protect existing facilities when there is evidence of the existence of those facilities near the proposed excavation area.

(k) An operator who does not become a member of the Notification Center as required by G.S. 87-120(b) may not recover for damages to a facility caused by an excavator who has complied with the provisions of this Article and has exercised reasonable care in the performance of the excavation or demolition.

"**§ 87-122. Excavator responsibilities.**

(a) Before commencing any excavation or demolition operation, the person responsible for the excavation or demolition shall provide or cause to be provided notice to the Notification Center of his or her intent to excavate or demolish. Notice for any excavation or demolition that does not involve a subaqueous facility must be given within three to 12 full working days before the proposed commencement date of the excavation or demolition. Notice for any excavation or demolition in the vicinity of a subaqueous facility must be given within 10 to 20 full working days before the proposed commencement date of the excavation or demolition. Notice given pursuant to this subsection shall expire 15 full working days after the date notice was given. No excavation or demolition may continue after this 15-day period unless the person responsible for the excavation or demolition provides a subsequent notice which shall be provided in the same manner as the original notice required by this subsection. When demolition of a building is proposed, the operator shall be given a reasonable time in which to remove or protect the operator's facilities before the demolition commences.

(b) The notice required by subsection (a) of this section shall, at a minimum, contain all of the following:

(1) The name, address, and telephone number of the person providing the notice.

(2) The anticipated starting date of the proposed excavation or demolition.

(3) The anticipated duration of the proposed excavation or demolition.

(4) The type of proposed excavation or demolition operation to be conducted.

(5) The location of the proposed excavation or demolition, not to exceed one-quarter mile in geographical length, or five adjoining addresses, not to exceed one-quarter mile in geographical length.

(6) Whether or not explosives are to be used in the proposed excavation or demolition.

(c) An excavator shall comply with the following:

(1) When the excavation area cannot be clearly and adequately identified within the area described in the notice, the excavator shall designate the route, specific area to be excavated, or both by premarking the area before the

operator performs a locate. Premarking shall be made with soluble white paint, white flags, or white stakes.

(2) Confirm through the Notification Center's positive response system prior to excavation or demolition that all operators have responded and that all facilities that may be affected by the proposed excavation or demolition have been marked.

(3) Plan the excavation or demolition to avoid damage to or minimize interference with facilities in or near the construction area.

(4) Begin excavation or demolition prior to the specified waiting period only if the excavator has confirmed that all operators have responded with an appropriate positive response.

(5) If the operator declares extraordinary circumstances, the excavator shall not excavate or demolish until after the time and date that the operator has provided in the operator's response.

(6) If an operator fails to respond to the positive response system, the excavator may proceed if there are no visible indications of a facility at the proposed excavation or demolition area, such as a pole, marker, pedestal, meter, or valve. However, if the excavator is aware of or observes indications of an unmarked facility at the proposed excavation or demolition area, the excavator shall not begin excavation or demolition until an additional call is made to the Notification Center detailing the facility and an arrangement is made for the facility to be marked by the operator within three hours from the time the additional call is received by the Notification Center.

(7) Beginning on the date provided in the excavator's notice to the Notification Center, the excavator shall preserve the staking, marking, or other designation until they are no longer required. When a mark is no longer visible or is destroyed, but the excavation or demolition continues in the vicinity of the facility, the excavator shall request a re-mark from the Notification Center to ensure the protection of the facility.

(8) When demolition of a building is proposed, the excavator shall give the operator a reasonable time in which to remove or protect the operator's facilities before demolition commences.

(9) An excavator shall not perform any excavation or demolition within the tolerance zone unless the excavator complies with all of the following conditions:

a. The excavator shall not use mechanized equipment, except noninvasive equipment specifically designed or intended to protect the integrity of the facility, within the marked tolerance zone of an existing facility until:

1. The excavator has visually identified the precise location of the facility or has visually confirmed that no facility is present up to the depth of excavation;

2. The excavator has taken reasonable precautions to avoid any substantial weakening of the facility's structural or lateral support, or both, or penetration or destruction of the facilities or their protective coatings; and

3. The excavator may use mechanical means, as necessary, for the initial penetration and removal of pavement or other materials requiring use of mechanical means of excavation but only to the depth of the pavement or other materials. For parallel type excavations within the tolerance zone, the

existing facility shall be visually identified at intervals not to exceed 50 feet along the line of excavation to avoid damages. The excavator shall exercise due care at all times to protect the facilities when exposing these facilities.

b. The excavator shall maintain clearance between a facility and the cutting edge or point of any mechanized equipment, taking into account the known limit of control of the cutting edge or point, as may be reasonably necessary to avoid damage to the facility.

c. The excavator shall provide support for facilities in and near the excavation or demolition area, including backfill operations, as may be reasonably required by the operator for the protection of the facilities.

(10) The excavator shall not use mechanized equipment within 24 inches of a facility that is a gas, oil, petroleum, or electric transmission line unless the facility operator has consented to the use in writing and the operator's representative is on site during the use of the mechanized equipment. For purposes of this subdivision, the term "gas, oil, petroleum transmission line" has the same meaning as the term "transmission line" in Title 49 C.F.R. § 192.3, and the term "electric transmission line" has the same meaning as the term "transmission line" in G.S. 62-100(7).

"**§ 87-123. Training.**

(a) Every person who is an excavator, locator, or operator under this Article by virtue of engaging in these activities in the course of a business or trade has a duty to provide education and training to employees and to document such education and training. The training shall include sufficient information, guidance, and supervision such that employees can competently and safely operate the equipment used in the course of the business or trade and complete assigned tasks in a competent and safe manner while minimizing the potential for damage.

(b) When an excavator, locator, or operator under this Article retains an independent contractor to perform activities regulated by this Article, the duty set forth in subsection (a) of this section shall not apply to the excavator, locator, or operator. Independent contractors shall provide training to their employees in accordance with this section.

(c) Excavation shall be conducted in accordance with OSHA Standard 1926 and under the direction of a competent person, as defined therein.

(d) Locators shall be properly trained. Locator training shall be documented.

"**§ 87-124. Exemptions.**

The notice requirements in G.S. 87-122(a) and G.S. 87-122(b) do not apply to the following:

(1) An excavation or demolition performed by the owner of a single-family residential property on his or her own land that does not encroach on any operator's right-of-way, easement, or permitted use.

(2) An excavation or demolition performed by the owner of a single-family residential property on his or her own land that encroaches on any operator's right-of-way, easement, or permitted use that is performed with non-mechanized equipment.

(3) An excavation or demolition that involves the tilling of soil for agricultural or gardening purposes.

(4) An excavation or demolition for agricultural purposes, as defined in G.S. 106-581.1, performed on property that does not encroach on any operator's right-of-way, easement, or permitted use.

(5) An excavation by an operator or surveyor with nonmechanized equipment for the following purposes:

a. Locating for a valid notification request or for the minor repair, connection, or routine maintenance of an existing facility or survey pin.

b. Probing underground to determine the extent of gas or water migration.

(6) An excavation or demolition performed when the Department of Transportation, a local government, special purpose district, or public service district is conducting maintenance activities within its designated right-of-way. Maintenance activities shall include resurfacing, milling, emergency replacement of signs critical for maintaining safety, or the reshaping of shoulders and ditches to the original road profile. Maintenance activities do not include the initial installation of traffic signs, traffic control equipment, or guardrails.

(7) An excavation or demolition performed by a railroad entirely on land which the railroad owns or operates or, in the event of an emergency, on adjacent land. No provision in this Article shall apply to any railroad which owns, operates, or permits facilities under land which the railroad owns or operates.

(8) An excavation of a grave space, as defined in G.S. 65-48(10), the installation of a monument or memorial at a grave space, or an excavation related to the placement of a temporary structure or tent by a cemetery regulated under Chapter 65 of the General Statutes that does not encroach on any operator's right-of-way, easement, or permitted use.

"**§ 87-125. Notice in case of emergency excavation or demolition.**

(a) An excavator performing an emergency excavation or demolition is not required to give notice to the Notification Center as provided in G.S. 87-122. However, the excavator shall, as soon as practicable, give oral notice to the Notification Center which shall include a description of the circumstances justifying the emergency. The excavator may request emergency assistance from each affected operator in locating and providing immediate protection to the facilities in the affected area.

(b) The declaration of an emergency excavation or demolition shall not relieve any party of liability for causing damage to an operator's facilities even if those facilities are unmarked.

(c) Any person who falsely claims that an emergency exists requiring an excavation or demolition shall be guilty of a Class 3 misdemeanor.

"**§ 87-126. Notification required when damage is done.**

(a) The excavator performing an excavation or demolition that results in any damage to a facility shall immediately upon discovery of the damage notify the Notification Center and the facility operator, if known, of the location and nature of the damage. The excavator shall allow the operator reasonable time to accomplish necessary repairs before completing the excavation or demolition in the immediate area of the facility. The excavator shall delay any backfilling in the immediate area of the damaged facility until authorized by the operator. The operator or qualified personnel authorized by the operator shall repair any damage to the facility.

(b) An excavator who is responsible for an excavation or demolition where any damage to a facility results in the discharge of electricity or escape of any flammable, toxic, or corrosive gas or liquid, or that endangers life, health, or property shall immediately notify emergency responders, including 911 services, the Notification Center, and the facility operator. The excavator shall take reasonable measures to protect himself or herself, other persons in immediate danger, members of the general public, property, and the environment until the operator or emergency responders arrive and complete an assessment of the situation.

"§ 87-127. Design notices.

(a) A designer may submit a design notice to the Notification Center. The design notice shall describe the tract or parcel of land for which the design notice has been submitted with sufficient particularity, as defined by policies and procedures adopted by the Notification Center, to allow the operator to ascertain the precise tract or parcel of land involved.

(b) Within 10 working days, not including the day the notice was given, after a design notice for a proposed project has been submitted to the Notification Center, the operator shall respond in one of the following manners:

(1) By designating the location of all facilities owned by the operator within the area of the proposed excavation as provided in G.S. 87-121(a).

(2) By providing to the person submitting the design notice the best available description of all facilities in the area designated by the design notice, which may include drawings marked with a scale, dimensions, and reference points for underground utilities already built in the area or other facility records that are maintained by the operator.

(3) Allowing the person submitting the design notice or any other authorized person to inspect the drawings or other records for all facilities within the proposed area of excavation at a location that is acceptable to the operator.

(c) An operator may reject a design notice based upon homeland security considerations pending the operator obtaining additional information confirming the legitimacy of the notice. The operator shall notify the person making the request through a design notice of the denial and may request additional information through the positive response system.

"§ 87-128. Absence of facility location.

If an operator who has been given notice as provided in G.S. 87-120(d) by the Notification Center fails to respond to that notice as provided in G.S. 87-121 or fails to properly locate the facility, the person excavating is free to proceed with the excavation. Neither the excavator nor the person financially responsible for the excavation will be liable to the nonresponding or improperly responding operator for damages to the operator's facilities if the person doing the excavating exercises due care to protect existing facilities when there is evidence of the existence of those facilities near the proposed excavation area.

"§ 87-129. Underground Damage Prevention Review Board; enforcement; civil penalties.

(a) The Notification Center shall establish an Underground Damage Prevention Review Board to review reports of alleged violations of this Article. The members of the Board shall be appointed by the Governor. The Board shall consist of the following members:

(1) A representative from the North Carolina Department of Transportation;

(2) A representative from a facility contract locator;

(3) A representative from the Notification Center;

(4) A representative from an electric public utility;

(5) A representative from the telecommunications industry;

(6) A representative from a natural gas utility;

(7) A representative from a hazardous liquid transmission pipeline company;

(8) A representative recommended by the League of Municipalities;

(9) A highway contractor licensed under G.S. 87-10(b)(2) who does not own or operate facilities;

(10) A public utilities contractor licensed under G.S. 87-10(b)(3) who does not own or operate facilities;

(11) A surveyor licensed under Chapter 89C of the General Statutes;

(12) A representative from a rural water system;

(13) A representative from an investor-owned water system;

(14) A representative from an electric membership corporation; and

(15) A representative from a cable company.

(b) The Notification Center shall transmit all reports of alleged violations of this Article to the Board, including any information received by the Notification Center regarding the report. The Board shall meet at least quarterly to review all reports filed pursuant to G.S. 87-120(e). The Board shall act as an arbitrator between the parties to the report. If, after reviewing the report and any accompanying information, the Board determines that a violation of this Article has occurred, the Board shall notify the violating party in writing of its determination and the recommended penalty. The violating party may request a hearing before the Board, after which the Board may reverse or uphold its original finding. If the Board recommends a penalty, the Board shall notify the Utilities Commission of the recommended penalty, and the Utilities Commission shall issue an order imposing the penalty.

(c) A party determined by the Board under subsection (b) of this section to have violated this Article may initiate an arbitration proceeding before the Utilities Commission. If the violating party elects to initiate an arbitration proceeding, the violating party shall pay a filing fee of two hundred fifty dollars ($250.00) to the Utilities Commission, and the Utilities Commission shall open a docket regarding the report. The Utilities Commission shall direct the parties enter into an arbitration process. The parties shall be responsible for selecting and contracting with the arbitrator. Upon completion of the arbitration process, the Utilities Commission shall issue an order encompassing the outcome of the binding arbitration process, including a determination of fault, a penalty, and assessing the costs of arbitration to the non-prevailing party. Any party may appeal an order issued by the Utilities Commission pursuant to this section to the superior court division of the General Court of Justice in the county where the alleged violation of this Article occurred or in Wake County, for trial de novo. The authority granted to the Utilities Commission within this section is limited to this section and does not grant the Utilities Commission any authority that they are not otherwise granted under Chapter 62 of the General Statutes.

(d) Any person who violates any provision of this Article shall be subject to a penalty as set forth in this subsection. The provisions of this Article do not affect any civil remedies for personal injury or property damage otherwise available to any person, except as otherwise specifically provided for in this Article. The penalty provisions of this Article are cumulative to and not in conflict with provisions of law with respect to civil remedies for personal injury or property damage. The clear proceeds of any civil penalty assessed under this section shall be used as provided in Section 7(a) of Article IX of the North Carolina Constitution. The penalties for a violation of this Article shall be as follows:

(1) If the violation was the result of negligence, the penalty shall be a requirement of training, a requirement of education, or both.

(2) If the violation was the result of gross negligence, the penalty shall be a civil penalty of one thousand dollars ($1,000), a requirement of training, a requirement of education, or a combination of the three.

(3) If the violation was the result of willful or wanton negligence or intentional conduct, the penalty shall be a civil penalty of two thousand five hundred dollars ($2,500), a requirement of training, and a requirement of education.

"**§ 87-130. Severability.**

If any provision of this Article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications, and to this end the provisions of this Article are severable."

SECTION 3. This act becomes effective October 1, 2014, and applies to all activities regulated by the provisions of Article 8A of Chapter 87 of the General Statutes, as enacted by this act, that occur on or after that date.

HOUSE BILL 476:
Rewrite Underground Damage Prevention Act

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	July 16, 2013
Introduced by:	Reps. Hager, Moffitt, Murry	**Prepared by:**	Peter Ledford Staff Attorney
Analysis of:	PCS to Fifth Edition H476-CSTPf-59		

SUMMARY: ***The PCS to House Bill 476 would repeal the State's existing Underground Damage Prevention Act and enact a new Underground Utility Safety and Damage Prevention Act.***

The PCS makes changes to the exemptions and to the punishments for violations of the Underground Utility Safety and Damage Prevention Act.

CURRENT LAW: The existing Underground Damage Prevention Act requires anyone excavating in an area containing highways, public spaces, or private easements owned by a utility to notify each utility owner with underground utilities located in the area. The utility owner is then required to provide the location and description of all underground utilities which may be damaged by the excavation, the location and description of all utility markers in the area, and any other information that would assist in locating and avoiding damage to underground utilities, such as temporary markings. The excavator is then required to plan the excavation to avoid damage to any underground utilities, to maintain a clearance between the underground utilities and any mechanized equipment, and provide structural support to protect the underground utilities.

The current Act has not been significantly amended since it was introduced in 1985.

BILL ANALYSIS: **Section 1** repeals the existing Underground Damage Prevention Act. **Section 2** enacts a new Underground Utility Safety and Damage Prevention Act.

Notification Center. – G.S. 87-120 would create a Notification Center for the purpose of providing services under the Act. The Notification Center would receive notifications from excavators and designers, and would transmit the information to utility operators.

All utility owners would be required to join the Notification Center no later than October 1, 2016. The Notification Center would be required to maintain records, receive and transmit notifications, provide a response system that allows parties to determine the status of a notification, and provide damage prevention training.

Responsibilities of Utility Owners. – Utility owners would be required to join the Notification Center under G.S. 87-120(b) by a set date based on the facilities they own in the State. G.S. 87-121(g) would require all underground facilities installed after the Act becomes effective to be electronically locatable. Subsection (j) of the section would exempt existing gravity fed sanitary sewers and new and existing stormwater facilities from the Act, and would provide that an excavator is not liable for damage to an unmarked gravity fed sanitary sewer or stormwater facility if due care was used to protect the facilities. Utility owners would also be required by G.S. 87-123 to educate and train their employees.

G.S. 87-121 would require utility operators to provide an excavator with the horizontal location and description of underground facilities in the area of the proposed excavation, including temporary markings, as well as any other information that would assist the excavator in avoiding damage to

underground facilities. Utility operators are required to provide the information within three working days of the request being provided to the Notification Center for most requests, as well as to provide a response to the Notification Center indicating the extent to which the utility operator was able to provide the required information. Subsection (k) would also provide that an excavator is not liable for damage to underground utilities owned by a utility that is not a member of the Notification Center if due care was used to protect the facilities.

Under G.S. 87-127, utility owners would be required to respond to requests from design professionals by either (1) designating the location of facilities as they would for an excavator, (2) providing the best available description of all facilities in the area, or (3) allowing the professional to inspect drawings and other records for facilities in the area.

Responsibilities of Excavators. – G.S. 87-122 would require an excavator to provide notice of proposed work to the Notification Center between three and twelve working days before the start of excavation. An excavator would be required to take steps to verify that the underground utilities have been marked and to take due care not to damage underground utilities. The section would establish a tolerance zone of 24 inches, inside which the excavator is prohibited from using mechanized equipment unless specified precautions are taken. G.S. 87-123 would require excavators train employees in accordance with the applicable OSHA standard and to document the training.

Under G.S. 87-125, in the event of an emergency excavation, an excavator would not be required to provide advance notice to the Notification Center. The excavator would be required to provide oral notice as soon as practicable to the Notification Center describing the circumstances of the emergency.

When damage to a facility occurs, under G.S. 87-126 an excavator must notify the Notification Center and the utility owner. The excavator would be required to delay backfilling the area until the utility owner has been able to repair the facility.

G.S. 87-128 would allow an excavator to commence excavation if a utility operator fails to respond to a location request or fails to properly locate underground facilities. If the excavator exercises due care, he would not be liable to the utility operator for any damages that occur.

Design Professionals. – G.S. 87-127 would establish a procedure for architects, engineers, and other design professionals to request location information for underground utilities to allow for the design of a proposed project.

Exemptions. – G.S. 87-124 would provide exemptions from the Act for the following acts:

- An excavation or demolition by a homeowner on property that does not encroach on any operator's right-of-way, easement, or permitted use.
- An excavation or demolition by a homeowners using non-mechanized equipment on property that encroaches on any operator's right-of-way, easement, or permitted use.
- An excavation or demolition that involves tilling soil for agricultural or gardening purposes.
- An excavation or demolition for agricultural purposes on property that does not encroach on any operator's right-of-way, easement, or permitted use.
- An excavation by an operator or surveyor using non-mechanized equipment to either:
    - Locate for a valid notification request or for minor repair, connection, or routine maintenance of an existing facility or survey pin.
    - Probing underground to determine the extent of gas or water migration.

- An excavation or demolition performed when the D.O.T., a local government, special purpose district, or public service district is conducting maintenance activities within its right-of-way.
- An excavation or demolition performed by a railroad entirely on land which they own or operate.
- An excavation of a grave space, the installation of a monument or memorial at a grave space, or an excavation related to the placement of a temporary structure or tent by a cemetery that does not encroach on any operator's right-of-way, easement, or permitted use.

Enforcement. – G.S. 87-129 would create the Underground Damage Prevention Review Board (Board) consisting of representatives from various stakeholder groups. The Notification Center would be required to transmit all reports of alleged violations of the Act to the Board, which would then act as an arbitrator between the parties to the report. If the Board determines that a violation of the Act occurred, it is required to notify the violating party, who may request a hearing before the Board. If the Board recommends a penalty, it is required to notify the Utilities Commission, who will issue an order imposing the penalty. If the violating party wishes to contest the penalty, it may pay a $250.00 filing fee and request the Utilities Commission send the issue to a binding arbitration process. Upon completion of the arbitration process, the Utilities Commission is required to issue an order encompassing the outcome of the arbitration process, including a determination of fault, a penalty, and an award of the costs of arbitration. Any party may then appeal the order of the Utilities Commission to superior court.

Under G.S. 87-129(d), penalties for violations of this Act are as follows:

- If the violation was the result of negligence, the penalty shall be a requirement of training, a requirement of education, or both.
- If the violation was the result of gross negligence, the penalty is a civil penalty of $1,000.00, a requirement of training, a requirement of education, or a combination of the three.
- If the violation was the result of willful or wanton negligence or intentional conduct, the penalty is a civil penalty of $2,500.00, a requirement of training, and a requirement of education.

Costs. – G.S. 87-119 would require that costs incurred by a party associated with compliance with the Act would be borne by that party, and will not be passed on. Under G.S. 87-120(b), costs associated with the operation of the Notification Center are to be apportioned among the member operators.

EFFECTIVE DATE: This act becomes effective October 1, 2014, and applies to all activities regulated by the provisions of Article 8A of Chapter 87 of the General Statutes that occur on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: June 19, 2013
TO: **House Finance Committee**
FROM: Timothy Dale
Fiscal Research Division
RE: **House Bill 476 (PCS)**

FISCAL IMPACT

($ in thousands)

☑ Yes ☐ No ☐ No Estimate Available

State Impact	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
General Fund Revenues:	to	to	to	to	to
General Fund Expenditures:	to	to	to	to	to
Special Fund Revenues:	No estimate available				
Special Fund Expenditures:	to	75.0 to 100.0	to	to	to
State Positions:	to	to	to	to	to
NET STATE IMPACT	$0.0 to $0.0	($75.0) to ($100.0)	$0.0 to $0.0	$0.0 to $0.0	$0.0 to $0.0

Local Impact					
Revenues:	No estimate available				
Expenditures:	No estimate available				
NET LOCAL IMPACT	$0.0 to $0.0	$0.0 to $0.0	$0.0 to $0.0	$0.0 to $0.0	$0.0 to $0.0

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Utilities Commission

EFFECTIVE DATE: October 1, 2014

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY:

House Bill 476 repeals Article 8 of Chapter 87 of the General Statutes regarding damage prevention of underground utility infrastructure and creates a new Article 8A addressing the same issue.

The bill supersedes any existing ordinance adopted by a city or county government within the State to prevent damage to underground utility infrastructure.

The bill implements a new requirement that any person, public utility, communications or cable service provider, municipality, electrical utility, or electric or telephone cooperative that owns or operates a facility in the State must become a member of a Notification Center that receives and maintains information regarding underground infrastructure managed by the respective entity. All operators within the State must join the Notification Center. Only one Notification Center will be permitted to operate in the State at any point in time, and the Center will be a not-for-profit corporation supported by its member operators.

The bill details the responsibilities of utility operators, the Notification Center, and excavators. The bill also establishes a new process for violations of the responsibilities detailed in the Act.

The bill creates a new Underground Damage Prevention Review Board with 15 gubernatorial appointees to hear and arbitrate disputes between excavators in violation of the Act and utility providers.

The bill allows arbitration decisions determined by the Underground Damage Prevention Review Board to be appealed to the Utilities Commission for a $250 fee. A contested case appealed to the Utilities Commission undergoes an additional arbitration process in which a third-party arbitrator is chosen by the contesting parties.

The losing party following the arbitration process administered by the Utilities Commission has the ability to appeal the ruling to a superior court.

ASSUMPTIONS AND METHODOLOGY:

Background

As defined in the bill, the Notification Center is a not-for-profit corporation that provides a system through which a person can notify operators of proposed excavations and demolitions and submit reports of alleged violations. Currently, the largest Notification Center in the State is *North Carolina 811, Inc ("NC 811")*. The bill would task the Notification Center with receiving reports of violations of the Act and notifying persons of their alleged violations. Alleged violations would then be provided to the Underground Damage Prevention Review Board ("Board").

If the Board determines that a violation has occurred, the Board will notify the alleged violator and recommend a penalty.

Penalties include:

- Education, training, or both if the violation was an accident,
- $1,000 fine, education, training, or a combination of all three if a negligence standard was established, or,
- $2,500 fine, education, training, or a combination of all three if a gross negligence standard was established.

Penalties assessed under this Act are not related to any possible civil actions taken addressing personal injury or property damage resulting from violations of the Act.

If the alleged violator disagrees with the Board's ruling, they may request a hearing before the Board. If the Board maintains a penalty ruling following the hearing, the Board is directed to notify the Utilities Commission of the recommended penalty and the Utilities Commission is directed to compel payment.

If the alleged violator chooses to further appeal the ruling from the Board, they may pay a $250 fee to the Utilities Commission and initiate another arbitration process with the prosecuting party and an independent third-party arbitrator. Based on the decision from the third-party arbitrator, the Utilities Commission shall issue an order detailing the outcome of the process, assessing the determined penalty (if any), and award arbitration costs to the prevailing party.

If the losing party wishes to appeal the ruling following the arbitration process administered by the Utilities Commission, the case is appealed to superior court.

Key Assumptions

For the purposes of this analysis, staff assumes that all alleged violations reported to the Notification Center would be based on an excavator failing to notify the Notification Center prior to excavating or demolishing a site where utility infrastructure exists. The bill does not prohibit alleged violations on utility operators, but staff assumes these violations would be minimal to non-existent.

According to NC 811, there were approximately 6,000 instances in which utility damages were reported in 2012. NC 811 was not able to identify how many of these instances resulted from an excavator failing to notify NC 811 prior to beginning excavation, but stated that approximately 25 percent of national utility damages result from a failure to notify utility providers prior to excavation. Using the information provided by NC 811, there are approximately 1,500 instances in which utility infrastructure is damaged as a result of failing to notify utility providers prior to excavations.

Given that the bill requires a formal complaint be provided to the Notification Center, the maximum penalty authorized under this bill is $2,500, and legal actions for other civil damages related to personal injury and property damage are not related to the bill; staff assumes that the number of alleged violations will be much smaller than the eligible population. However, the lack of historical information prevents any assumptions to be made regarding the caseload that would be administered by the Board, Utilities Commission, and the court system.

The Board established by the bill is established within the Notification Center which is a not-for-profit organization. The bill does not indicate that any State agency will provide monetary assistance to operate the Board. Therefore, no fiscal impact is anticipated to result from cases heard by the Board.

The Utilities Commission has indicated that upgrades to their docket management software system necessary to administer the provisions under this bill would cost approximately $75,000 to $100,000 on a one-time basis. While the bill does provide the Commission a $250 fee for parties wishing to enter the arbitration process administered by the Commission, it is unknown if the number of cases before the Commission will be sufficient to offset the implementation costs.

Since arbitration administered by the Utilities Commission will be conducted by an independent third-party and the arbitrator will be compensated by the conflicting parties, the Utilities Commission anticipates being able to incorporate any new administrative requirements into their existing workload without any additional assistance. Therefore, there is an estimated one-time implementation cost ranging from $75,000 to $100,000 associated with the Utilities Commission arbitration process.

Since cases that reach the superior court level must have gone through three review processes (Board review, Board hearing, and Utilities Commission arbitration) and the associated penalty does not exceed $2,500, it is anticipated that the number of cases that reach the court system to be negligible.

Local Impact

Under existing law, municipal utility providers are not required to register with a statewide Notification Center. This bill would require municipal utility providers to become a member of the statewide Notification Center. According to NC 811, the initial fee charged to new members is $0.75 for each notification provided by the Notification Center to the utility provider. While most municipal utilities operate as an enterprise agency, the new fee could have a small impact on their existing expenditures. However, registration with the Notification Center could help prevent future repairs from excavation activities. At this time, it is unknown how many municipal utilities are currently registered with a Notification Center and any approximate savings or approximate costs resulting from joining a Notification Center. Therefore, no local fiscal impact estimate is available.

SOURCES OF DATA: Utilities Commission, North Carolina 811, Inc.

TECHNICAL CONSIDERATIONS: None

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H D

HOUSE BILL 857

Committee Substitute Favorable 5/13/13
Committee Substitute #2 Favorable 5/15/13
Senate State and Local Government Committee Substitute Adopted 6/11/13
PROPOSED SENATE COMMITTEE SUBSTITUTE H857-CSST-90 [v.5]
7/15/2013 5:04:12 PM

Short Title: Public Contracts/Construction Methods/DB/P3. (Public)

Sponsors:

Referred to:

April 15, 2013

A BILL TO BE ENTITLED

AN ACT AUTHORIZING PUBLIC CONTRACTS TO UTILIZE THE DESIGN-BUILD METHOD OR PUBLIC-PRIVATE PARTNERSHIP CONSTRUCTION CONTRACTS.

Whereas, the legislature recognizes that there is a public need for the design, construction, improvement, renovation, and expansion of high-performing public buildings within the State of North Carolina; and

Whereas, the public need may not be, in limited situations, wholly satisfied by existing procurement methods in which public buildings are designed, constructed, improved, renovated, or expanded; and

Whereas, many local governmental entities request special legislative authorization to enter into public-private partnerships and use design-build contracting every legislative session; and

Whereas, in some instances, more efficient delivery of quality design and construction can be realized when a governmental entity is authorized to utilize an integrated approach for the design and construction of a project under one contract with a single point of responsibility; and

Whereas, the design-build integrated approach to project delivery, based upon qualifications and experience, in some instances, can yield improved collaboration among design professionals, builders, and owners throughout the entire process and deliver a quality and cost-efficient building; and

Whereas, certain governmental entities within the State lack the financial resources required to undertake capital building construction projects that are necessary to satisfy critical public needs; and

Whereas, partnerships with private developers may offer an effective financial mechanism for governmental entities to secure public buildings to satisfy critical public needs that cannot otherwise be met; and

Whereas, the legislature recognizes that the general public must have confidence in governmental entities' processes for construction contracting; and

Whereas, the legislature realizes that open competition delivers the best value for taxpayers and public owners; and

Whereas, the legislature seeks to create transparent, fair, and equitable contracting procedures for the use of public funds in government construction contracting; and

Whereas, the legislation proposed in this act is not intended to affect the existing statutes, regulations, or practices relevant to projects administered by the North Carolina Department of Transportation nor licensing requirements of designers or contractors; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-64.31 reads as rewritten:

"**§ 143-64.31. Declaration of public policy.**

(a) It is the public policy of this State and all public subdivisions and Local Governmental Units thereof, except in cases of special emergency involving the health and safety of the people or their property, to announce all requirements for architectural, engineering, ~~surveying and~~surveying, construction management at risk ~~services,~~services, design-build services, and public-private partnership construction services to select firms qualified to provide such services on the basis of demonstrated competence and qualification for the type of professional services required without regard to fee other than unit price information at this stage, and thereafter to negotiate a contract for those services at a fair and reasonable fee with the best qualified firm. If a contract cannot be negotiated with the best qualified firm, negotiations with that firm shall be terminated and initiated with the next best qualified firm. Selection of a firm under this Article shall include the use of good faith efforts by the public entity to notify minority firms of the opportunity to submit qualifications for consideration by the public entity.

(a1) A resident firm providing architectural, engineering, surveying, ~~or~~ construction management at risk ~~services~~ services, design-build services, or public-private partnership construction services shall be granted a preference over a nonresident firm, in the same manner, on the same basis, and to the extent that a preference is granted in awarding contracts for these services by the other state to its resident firms over firms resident in the State of North Carolina. For purposes of this section, a resident firm is a firm that has paid unemployment taxes or income taxes in North Carolina and whose principal place of business is located in this State.

(b) Public entities that contract with a construction manager at ~~risk~~ risk, design-builder, or private developer under a public-private partnership under this section shall report to the Secretary of Administration the following information on all projects where a construction manager at ~~risk~~ risk, design-builder, or private developer under a public-private partnership is utilized:

(1) A detailed explanation of the reason why the particular construction manager at ~~risk~~ risk, design-builder, or private developer was selected.

(2) The terms of the contract with the construction manager at ~~risk.~~ risk, design-builder, or private developer.

(3) A list of all other firms considered but not selected as the construction manager at ~~risk~~ risk, design-builder, or private developer, and the amount of their proposed fees for services.

(4) A report on the form of bidding utilized by the construction manager at ~~risk~~ risk, design-builder, or private developer on the project.

(5) A detailed explanation of why the particular delivery method was used in lieu of the delivery methods identified in G.S. 143-128(a1) subdivisions (1) through (3) and the anticipated benefits to the public entity from using the particular delivery method.

(c) The Secretary of Administration shall adopt rules to implement the provisions of this subsection including the format and frequency of reporting.

(d) A public body letting a contract pursuant to any of the delivery methods identified in subdivisions (a1)(4), (a1)(6), (a1)(7) or (a1)(8) of G.S. 143-128 shall submit the report

required by G.S. 143-64.31(b) no later than 12 months from the date the public body takes beneficial occupancy of the project. In the event that the public body willfully fails to do so, the public body shall be prohibited from utilizing subdivisions (a1)(4), (a1)(6), (a1)(7) or (a1)(8) of G.S. 143-128 until such time as the public body completes the reporting requirement under this section.

(e) For purposes of this Article, the definition in G.S. 143-128.1B and G.S. 143-128.1C shall apply."

SECTION 2. G.S. 143-64.32 reads as rewritten:

"**§ 143-64.32. Written exemption of particular contracts.**

Units of local government or the North Carolina Department of Transportation may in writing exempt particular projects from the provisions of this Article in the case ~~of:~~

~~(a)~~ ~~Proposed~~ of proposed projects where an estimated professional fee is in an amount less than ~~thirty thousand dollars ($30,000), or~~fifty thousand dollars ($50,000.00).

~~(b) Other particular projects exempted in the sole discretion of the Department of Transportation or the unit of local government, stating the reasons therefor and the circumstances attendant thereto.~~"

SECTION 3. G.S. 143-128(a1) reads as rewritten:

"(a1) Construction methods. – The State, a county, municipality, or other public body shall award contracts to erect, construct, alter, or repair buildings pursuant to any of the following methods:

(1) Separate-prime bidding.
(2) Single-prime bidding.
(3) Dual bidding pursuant to subsection (d1) of this section.
(4) Construction management at risk contracts pursuant to G.S. 143-128.1:
(5) Alternative contracting methods authorized pursuant to G.S. 143-135.26(9).
(6) Design-build contracts pursuant to G.S. 143-128.1A.
(7) Design-build bridging contracts pursuant to G.S. 143-128.1B.
(8) Public-private partnership construction contracts pursuant to G.S. 143-128.1C."

SECTION 4. Article 8 of Chapter 143 of the General Statutes is amended by adding the following new sections to read:

"**§ 143-128.1A. Design-build contracts.**

(a) Definitions for purposes of this section:
(1) Design-builder. – As defined in G.S. 143-128.1B.
(2) Governmental entity. – As defined in G.S. 143-128.1B.

(b) A governmental entity shall establish in writing the criteria used for determining the circumstances under which the design-build method is appropriate for a project, and such criteria shall, at a minimum, address all of the following:

(1) The extent to which the governmental entity can adequately and thoroughly define the project requirements prior to the issuance of the request for qualifications for a design-builder.
(2) The time constraints for the delivery of the project.
(3) The ability to ensure that a quality project can be delivered.
(4) The capability of the governmental entity to manage and oversee the project, including the availability of experienced staff or outside consultants who are experienced with the design-build method of project delivery.
(5) A good-faith effort to comply with G.S. 143-128.2, G.S. 143-128.4, and to recruit and select small business entities. The governmental entity shall not limit or otherwise preclude any respondent from submitting a response so

long as the respondent, itself or through its proposed team, is properly licensed and qualified to perform the work defined by the public notice issued under subsection (c) of this section.

(6) The criteria utilized by the governmental entity, including a comparison of the costs and benefits of using the design-build delivery method for a given project in lieu of the delivery methods identified in subdivisions (1), (2) and (4) of G.S. 143-128(a1).

(c) A governmental entity shall issue a public notice of the request for qualifications that includes, at a minimum, general information on each of the following:

(1) The project site.

(2) The project scope.

(3) The anticipated project budget.

(4) The project schedule.

(5) The criteria to be considered for selection and the weighting of the qualifications criteria.

(6) Notice of any rules, ordinances, or goals established by the governmental entity, including goals for minority- and women-owned business participation and small business participation.

(7) Other information provided by the owner to potential design-builders in submitting qualifications for the project.

(8) A statement providing that each design-builder shall submit in its response to the request for qualifications an explanation of its project team selection, which shall consist of either of the following:

a. A list of the licensed contractors, licensed subcontractors, and licensed design professionals whom the design-builder proposes to use for the project's design and construction.

b. An outline of the strategy the design-builder plans to use for open contractor and subcontractor selection based upon the provisions of Article 8 of Chapter 143 of the General Statutes.

(d) Following evaluation of the qualifications of the design-builders, the three most highly qualified design-builders shall be ranked. If after the solicitation for design-builders, not as many as three responses have been received from qualified design-builders, the governmental entity shall again solicit for design-builders. If as a result of such second solicitation, not as many as three responses are received, the governmental entity may then begin negotiations with the highest ranked design-builder under G.S. 143-64.31 even though fewer than three responses were received. If the governmental entity deems it appropriate, the governmental entity may invite some or all responders to interview with the governmental entity.

(e) The design-builder shall be selected in accordance with Article 3D of this Chapter. Each design-builder shall certify to the governmental entity that each licensed design professional who is a member of the design-build team, including subconsultants, was selected based upon demonstrated competence and qualifications in the manner provided by G.S. 143-64.31.

(f) The design-builder shall provide a performance and payment bond to the governmental entity in accordance with the provisions of Article 3 of Chapter 44A of the General Statutes. The design-builder shall obtain written approval from the governmental entity prior to changing key personnel as listed in sub-subdivision (c)(8)a. of this section after the contract has been awarded.

"**§ 143-128.1B. Design-build bridging contracts.**

(a) Definitions for purposes of this section:

(1) Design-build bridging. – A design and construction delivery process whereby a governmental entity contracts for design criteria services under a separate agreement from the construction phase services of the design-builder.

(2) Design-builder. – An appropriately licensed person, corporation, or entity that, under a single contract, offers to provide or provides design services and general contracting services where services within the scope of the practice of professional engineering or architecture are performed respectively by a licensed engineer or licensed architect and where services within the scope of the practice of general contracting are performed by a licensed general contractor.

(3) Design criteria. – The requirements for a public project, expressed in drawings and specifications sufficient to allow the design-builder to make a responsive bid proposal.

(4) Design professional. – Any professional licensed under Chapters 83A, 89A, or 89C of the General Statutes.

(5) First-tier subcontractor. – A subcontractor who contracts directly with the design-builder, excluding design professionals.

(6) Governmental entity. – Every officer, board, department, commission, or commissions charged with responsibility of preparation of specifications or awarding or entering into contracts for the erection, construction, alteration, or repair of any buildings for the State, or for any county, municipality, or other public body.

(b) A governmental entity shall establish in writing the criteria used for determining the circumstances under which engaging a design criteria design professional is appropriate for a project, and such criteria shall, at a minimum, address all of the following:

(1) The extent to which the governmental entity can adequately and thoroughly define the project requirements prior to the issuance of the request for proposals for a design-builder.

(2) The time constraints for the delivery of the project.

(3) The ability to ensure that a quality project can be delivered.

(4) The capability of the governmental entity to manage and oversee the project, including the availability of experienced staff or outside consultants who are experienced with the design-build method of project delivery.

(5) A good-faith effort to comply with G.S. 143-128.2, G.S. 143-128.4, and to recruit and select small business entities. The governmental entity shall not limit or otherwise preclude any respondent from submitting a response so long as the respondent, itself or through its proposed team, is properly licensed and qualified to perform the work defined by the public notice issued under subsection (d) of this section.

(6) The criteria utilized by the governmental entity, including a comparison of the cost and benefit of using the design-build delivery method for a given project in lieu of the delivery methods identified in subdivisions (1), (2) and (4) of G.S. 143-128(a1).

(c) On or before entering into a contract for design-build services under this section, the governmental entity shall select or designate a staff design professional, or a design professional who is independent of the design-builder, to act as its design criteria design professional as its representative for the procurement process and for the duration of the design and construction. If the design professional is not a full-time employee of the governmental entity, the governmental entity shall select the design professional on the basis of demonstrated

competence and qualifications as provided by G.S. 143-64.31. The design criteria design professional shall develop design criteria in consultation with the governmental entity. The design criteria design professional shall not be eligible to submit a response to the request for proposals nor provide design input to a design-build response to the request for proposals. The design criteria design professional shall prepare a design criteria package equal to thirty-five percent (35%) of the completed design documentation for the entire construction project. The design criteria package shall include all of the following:

(1) Programmatic needs, interior space requirements, intended space utilization, and other capacity requirements.
(2) Information on the physical characteristics of the site, such as a topographic survey.
(3) Material quality standards or performance criteria.
(4) Special material requirements.
(5) Provisions for utilities.
(6) Parking requirements.
(7) The type, size, and location of adjacent structures.
(8) Preliminary or conceptual drawings and specifications sufficient in detail to allow the design-builder to make a proposal which is responsive to the request for proposals.
(9) Notice of any ordinances, rules, or goals adopted by the governmental entity.

(d) A governmental entity shall issue a public notice of the request for proposals that includes, at a minimum, general information on each of the following:

(1) The project site.
(2) The project scope.
(3) The anticipated project budget.
(4) The project schedule.
(5) The criteria to be considered for selection and the weighting of the selection criteria.
(6) Notice of any rules, ordinances, or goals established by the governmental entity, including goals for minority- and women-owned business participation and small business entities.
(7) The thirty-five percent (35%) design criteria package prepared by the design criteria design professional.
(8) Other information provided by the owner to design-builders in submitting responses to the request for proposals for the project.
(9) A statement providing that each design-builder shall submit in its request for proposal response an explanation of its project team selection, which shall consist of a list of the licensed contractor and licensed design professionals whom the design-builder proposes to use for the project's design and construction.
(10) A statement providing that each design-builder shall submit in its request for proposal a sealed envelope with all of the following:
a. The design-builder's price for providing the general conditions of the contract.
b. The design-builder's proposed fee for general construction services.
c. The design-builder's fee for design services.

(e) Following evaluation of the qualifications of the design-builders, the governmental entity shall rank the design-builders who have provided responses, grouping the top three without ordinal ranking. If after the solicitation for design-builders, not as many as three responses have been received from qualified design-builders, the governmental entity shall

again solicit for design-builders. If as a result of such second solicitation, not as many as three responses are received, the governmental entity may then make its selection. From the grouping of the top three design-builders, the governmental entity shall select the design-builder who is the lowest responsive, responsible bidder based on the cumulative amount of fees provided in accordance with subdivision (d)(10) of this section and taking into consideration quality, performance, and the time specified in the proposals for the performance of the contract. Each design-builder shall certify to the governmental entity that each licensed design professional who is a member of the design-build team, including subconsultants, was selected based upon demonstrated competence and qualifications in the manner provided by G.S. 143-64.31.

(f) The design-builder shall accept bids based upon the provisions of this Article from first-tier subcontractors for all construction work under this section.

(g) The design-builder shall provide a performance and payment bond to the governmental entity in accordance with the provisions of Article 3 of Chapter 44A of the General Statutes. The design-builder shall obtain written approval from the governmental entity prior to changing key personnel, as listed under subdivision (d)(9) of this section, after the contract has been awarded.

"**§ 143-128.1C. Public-private partnership construction contracts.**

(a) Definitions for purposes of this section:

(1) Construction contract. – Any contract entered into between a private developer and a contractor for the design, construction, reconstruction, alteration, or repair of any building or other work or improvement required for a private developer to satisfy its obligations under a development contract.

(2) Contractor. – Any person who has entered into a construction contract with a private developer under this section.

(3) Design-builder. – Defined in G.S. 143-128.1B.

(4) Development contract. – Any contract between a governmental entity and a private developer under this section and, as part of the contract, the private developer is required to provide at least fifty percent (50%) of the financing for the total cost necessary to deliver the capital improvement project, whether through lease or ownership, for the governmental entity.

(5) Governmental entity. – Defined in G.S. 143-128.1B.

(6) Labor or materials. – Includes all materials furnished or labor performed in the performance of the work required by a construction contract whether or not the labor or materials enter into or become a component part of the improvement and shall include gas, power, light, heat, oil, gasoline, telephone services, and rental of equipment or the reasonable value of the use of equipment directly utilized in the performance of the work required by a construction contract.

(7) Private developer. – Any person who has entered into a development contract with a governmental entity under this section.

(8) Public-private project. – A capital improvement project undertaken for the benefit of a governmental entity and a private developer pursuant to a development contract that includes construction of a public facility or other improvements, including paving, grading, utilities, infrastructure, reconstruction, or repair, and may include both public and private facilities.

(9) State entity. – The State and every agency, authority, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include a unit of local government as defined in G.S. 159-7.

(10) State-supported financing arrangement. – Any installment financing arrangement, lease-purchase arrangement, arrangement under which funds are to be paid in the future based upon the availability of an asset or funds for payment, or any similar arrangement in the nature of a financing, under which a State entity agrees to make payments to acquire or obtain a capital asset for the State entity or any other State entity for a term, including renewal options, of greater than one year. Any arrangement that results in the identification of a portion of a lease payment, installment payment, or similar scheduled payment thereunder by a State entity as "interest" for purposes of federal income taxation shall automatically be a State-supported financing arrangement for purposes of this section.

(11) Subcontractor. – Any person who has contracted to furnish labor, services, or materials to, or who has performed labor or services for, a contractor or another subcontractor in connection with a development contract.

(b) If the governmental entity determines in writing that it has a critical need for a capital improvement project, the governmental entity may acquire, construct, own, lease as lessor or lessee, and operate or participate in the acquisition, construction, ownership, leasing, and operation of a public-private project, or of specific facilities within such a project, including the making of loans and grants from funds available to the governmental entity for these purposes. If the governmental entity is a public body under Article 33C of this Chapter, the determination shall occur during an open meeting of that public body. The governmental entity may enter into development contracts with private developers with respect to acquiring, constructing, owning, leasing, or operating a project under this section. The development contract shall specify the following:

(1) The property interest of the governmental entity and all other participants in the development of the project.

(2) The responsibilities of the governmental entity and all other participants in the development of the project.

(3) The responsibilities of the governmental entity and all other participants with respect to financing of the project.

(4) The responsibilities to put forth a good-faith effort to comply with G.S. 143-128.2, G.S. 143-128.4, and to recruit and select small business entities.

(c) The development contract may provide that the private developer shall be responsible for any or all of the following:

(1) Construction of the entire public-private project.

(2) Reconstruction or repair of the public-private project or any part thereof subsequent to construction of the project.

(3) Construction of any addition to the public-private project.

(4) Renovation of the public-private project or any part thereof.

(5) Purchase of apparatus, supplies, materials, or equipment for the public-private project whether during or subsequent to the initial equipping of the project.

(6) A good-faith effort to comply with G.S. 143-128.2, G.S. 143-128.4, and to recruit and select small business entities.

(d) The development contract may also provide that the governmental entity and private developer shall use the same contractor or contractors in constructing a portion of or the entire public-private project. If the development contract provides that the governmental entity and private developer shall use the same contractor, the development contract shall include provisions deemed appropriate by the governmental entity to assure that the public facility or

facilities included in or added to the public-private project are constructed, reconstructed, repaired, or renovated at a reasonable price and that the apparatus, supplies, materials, and equipment purchased for the public facility or facilities included in the public-private project are purchased at a reasonable price. For public-private partnerships using the design-build project delivery method, the provisions of G.S. 143-128.1A shall apply.

(e) A private developer and its contractors shall make a good-faith effort to comply with G.S. 143-128.2, G.S. 143-128.4, and to recruit and select small business entities.

(f) A private developer may perform a portion of the construction or design work only if both of the following criteria apply:

(1) A previously engaged contractor defaults, and a qualified replacement cannot be obtained after a good-faith effort has been made in a timely manner.

(2) The governmental entity approves the private developer to perform the work.

(g) The following bonding provisions apply to any development contract entered into under this section:

(1) A payment bond shall be required for any development contract as follows: A payment bond in the amount of one hundred percent (100%) of the total anticipated amount of the construction contracts to be entered into between the private developer and the contractors to design or construct the improvements required by the development contract. The payment bond shall be conditioned upon the prompt payment for all labor or materials for which the private developer or one or more of its contractors or those contractors' subcontractors are liable. The payment bond shall be solely for the protection of the persons furnishing materials or performing labor or services for which the private developer or its contractors or subcontractors are liable. The total anticipated amount of the construction contracts shall be stated in the development contract and certified by the private developer as being a good-faith projection of its total costs for designing and constructing the improvements required by the development contract. The payment bond shall be executed by one or more surety companies legally authorized to do business in the State of North Carolina and shall become effective upon the awarding of the development contract. The development contract may provide for the requirement of a performance bond.

(2) Subject to the provisions of this subsection, any claimant who has performed labor or furnished materials in the prosecution of the work required by any contract for which a payment bond has been given pursuant to the provisions of this subsection, and who has not been paid in full therefor before the expiration of 90 days after the day on which the claimant performed the last labor or furnished the last materials for which that claimant claims payment, may bring an action on the payment bond in that claimant's own name to recover any amount due to that claimant for the labor or materials and may prosecute the action to final judgment and have execution on the judgment.

a. Any claimant who has a direct contractual relationship with any contractor or any subcontractor but has no contractual relationship, express or implied, with the private developer may bring an action on the payment bond only if that claimant has given written notice of claim on the payment bond to the private developer within 120 days from the date on which the claimant performed the last of the labor or furnished the last of the materials for which that claimant claims

payment, in which that claimant states with substantial accuracy the amount claimed and the name of the person for whom the work was performed or to whom the material was furnished.

b. The notice required by sub-subdivision a. of this subdivision shall be served by certified mail or by signature confirmation as provided by the United States Postal Service, postage prepaid, in an envelope addressed to the private developer at any place where that private developer's office is regularly maintained for the transaction of business or in any manner provided by law for the service of summons. The claimants' service of a claim of lien on real property or a claim of lien on funds as funds as allowed by Article 2 of Chapter 44A of the General Statutes on the private developer shall be deemed, nonexclusively, as adequate notice under this section.

(3) Every action on a payment bond as provided in this subsection shall be brought in a court of appropriate jurisdiction in a county where the development contract or any part thereof is to be or has been performed. Except as provided in G.S. 44A-16(c), no action on a payment bond shall be commenced after one year from the day on which the last of the labor was performed or material was furnished by the claimant.

(4) No surety shall be liable under a payment bond for a total amount greater than the face amount of the payment bond. A judgment against any surety may be reduced or set aside upon motion by the surety and a showing that the total amount of claims paid and judgments previously rendered under the payment bond, together with the amount of the judgment to be reduced or set aside, exceeds the face amount of the bond.

(5) No act of or agreement between the governmental entity, a private developer, or a surety shall reduce the period of time for giving notice under sub-subdivision (2)a. of this subsection or commencing action under subdivision (3) of this subsection or otherwise reduce or limit the liability of the private developer or surety as prescribed in this subsection. Every bond given by a private developer pursuant to this subsection shall be conclusively presumed to have been given in accordance with the provisions of this subsection, whether or not the bond is drawn as to conform to this subsection. The provisions of this subsection shall be conclusively presumed to have been written into every bond given pursuant to this subsection.

(6) Any person entitled to bring an action or any defendant in an action on a payment bond shall have a right to require the governmental entity or the private developer to certify and furnish a copy of the payment bond, the development contract, and any construction contracts covered by the bond. It shall be the duty of the private developer or the governmental entity to give any such person a certified copy of the payment bond and the construction contract upon not less than 10 days' notice and request. The governmental entity or private developer may require a reasonable payment for the actual cost of furnishing the certified copy. A copy of any payment bond, development contract, and any construction contracts covered by the bond certified by the governmental entity or private developer shall constitute prima facie evidence of the contents, execution, and delivery of the bond, development contract, and construction contracts.

(7) A payment bond form containing the following provisions shall comply with this subsection:

a. The date the bond is executed.
b. The name of the principal.
c. The name of the surety.
d. The governmental entity.
e. The development contract number.
f. All of the following:
1. "KNOW ALL MEN BY THESE PRESENTS, That we, the PRINCIPAL and SURETY above named, are held and firmly bound unto the above named [governmental entity], hereinafter called [governmental entity], in the penal sum of the amount stated above, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents."
2. "THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal entered into a certain development contract with [governmental entity], numbered as shown above and hereto attached."
3. "NOW THEREFORE, if the Principal shall promptly make payment to all persons supplying labor and material in the prosecution of the construction or design work provided for in the development contract, and any and all duly authorized modifications of the contract that may hereafter be made, notice of which modifications to the surety being hereby waived, then this obligation to be void; otherwise to remain in full force and virtue."
4. "IN WITNESS WHEREOF, the above bounden parties have executed this instrument under their several seals on the date indicated above, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body." Appropriate places for execution by the surety and principal shall be provided.

(8) In any suit brought or defended under the provisions of this subsection, the presiding judge may allow reasonable attorneys' fees to the attorney representing the prevailing party. Attorneys' fees under this subdivision are to be taxed as part of the court costs and shall be payable by the losing party upon a finding that there was an unreasonable refusal by the losing party to fully resolve the matter which constituted the basis of the suit or the basis of the defense. For purposes of this subdivision, the term "prevailing party" means a party plaintiff or third-party plaintiff who obtains a judgment of at least fifty percent (50%) of the monetary amount sought in a claim or a party defendant or third-party defendant against whom a claim is asserted which results in a judgment of less than fifty percent (50%) of the amount sought in the claim defended. Notwithstanding the provisions of this subdivision, if an offer of judgment is served in accordance with G.S. 1A-1, Rule 68, a "prevailing party" is an offeree who obtains judgment in an amount more favorable than the last offer or is an offeror against whom judgment is rendered in an amount less favorable than the last offer.

(9) The obligations and lien rights set forth in Article 2 of Chapter 44A of the General Statutes shall apply to a project awarded under this section to the extent of any property interests held by the private developer in the project. For purposes of applying the provisions of Article 2 of Chapter 44A of the General Statutes, the private developer shall be deemed the owner to the extent of that private developer's ownership interest. This subdivision shall not be construed as making the provisions of Article 2 of Chapter 44A of the General Statutes apply to governmental entities or public buildings to the extent of any property interest held by the governmental entity in the building.

(h) The governmental entity shall determine its programming requirements for facilities to be constructed under this section and shall determine the form in which private developers may submit their qualifications. The governmental entity shall advertise a notice for interested private developers to submit qualifications in a newspaper having general circulation within the county in which the governmental entity is located. Prior to the submission of qualifications, the governmental entity shall make available, in whatever form it deems appropriate, the programming requirements for facilities included in the public-private project. Any private developer submitting qualifications shall include the following:

(1) Evidence of financial stability. However, "trade secrets" as that term is defined in G.S. 66-152(3) shall be exempt from disclosure under Chapter 132 of the General Statutes.

(2) Experience with similar projects.

(3) Explanation of project team selection by either listing of licensed contractors, licensed subcontractors, and licensed design professionals whom the private developer proposes to use for the project's design and construction or a statement outlining a strategy for open contractor and subcontractor selection based upon the provisions of this Article.

(4) Statement of availability to undertake the public-private project and projected time line for project completion.

(5) Any other information required by the governmental entity.

(i) Based upon the qualifications package submitted by the private developers and any other information required by the governmental entity, the governmental entity may select one or more private developers with whom to negotiate the terms and conditions of a contract to perform the public-private project. The governmental entity shall advertise the terms of the proposed contract to be entered into by the governmental entity in a newspaper having general circulation within the county in which the governmental entity is located at least 30 days prior to entering into the development contract. If the governmental entity is a public body under Article 33C of this Chapter, the development contract shall be considered in an open meeting of that public body following a public hearing on the proposed development contract. Notice of the public hearing shall be published in the same notice as the advertisement of the terms under this subsection.

(j) The governmental entity shall make available a summary of the development contract terms which shall include a statement of how to obtain a copy of the complete development contract.

(k) Leases entered into under this section are subject to approval as follows:

(1) If a capital lease or operating lease is entered into by a unit of local government as defined in G.S. 159-7, that capital lease or operating lease is subject to approval by the local government commission under Article 8 of Chapter 159 of the General Statutes if it meets the standards set out in G.S. 159-148(a)(1), 159-148(a)(2), and 159-148(a)(3), 159-148(a)(4) or

159-153. For purposes of determining whether the standards set out in G.S.159-148(a)(3) have been met, only the five hundred thousand dollar ($500,000) threshold applies.

(2) If a capital lease is entered into by a State entity that constitutes a State-supported financing arrangement and requires payments thereunder that are payable, whether directly or indirectly, and whether or not subject to the appropriation of funds for such payment, by payments from the General Fund of the State or other funds and accounts of the State that are funded from the general revenues and other taxes and fees of the State or State entities, not including taxes and fees that are required to be deposited to the Highway Fund or Highway Trust Fund, that capital lease shall be subject to the approval procedures required for special indebtedness by G.S. 142-83 and G.S. 142-84. This requirement shall not apply to any arrangement where bonds or other obligations are issued or incurred by a State entity to carry out a financing program authorized by the General Assembly under which such bonds or other obligations are payable from monies derived from specified, limited, nontax sources, so long as the payments under that arrangement by a State entity are limited to the sources authorized by the General Assembly.

(l) A capital lease or operating lease entered into under this section may not contain any provision with respect to the assignment of specific students or students from a specific area to any specific school.

(m) This section shall not apply to any contract or other agreement between or among The University of North Carolina or one of its constituent institutions, a private, nonprofit corporation established under Part 2B of Article 1 of Chapter 116 of the General Statutes, or any private foundation, private association, or private club created for the primary purpose of financial support to The University of North Carolina or one of its constituent institutions."

SECTION 5. G.S. 143-128.1 reads as rewritten:

"**§ 143-128.1. Construction management at risk contracts.**

(a) For purposes of this section and G.S. 143-64.31:

(1) "Construction management services" means services provided by a construction manager, which may include preparation and coordination of bid packages, scheduling, cost control, value engineering, evaluation, preconstruction services, and construction administration.

(2) "Construction management at risk services" means services provided by a person, corporation, or entity that (i) provides construction management services for a project throughout the preconstruction and construction phases, (ii) who is licensed as a general contractor, and (iii) who guarantees the cost of the project.

(3) "Construction manager at risk" means a person, corporation, or entity that provides construction management at risk services.

(4) "First-tier subcontractor" means a subcontractor who contracts directly with the construction manager at risk.

(b) The construction manager at risk shall be selected in accordance with Article 3D of this Chapter. Design services for a project shall be performed by a licensed architect or engineer. The public owner shall contract directly with the architect or engineer. The public owner shall make a good-faith effort to comply with G.S. 143-128.2, G.S. 143-128.4, and to recruit and select small business entities when selecting a construction manager at risk.

(c) The construction manager at risk shall contract directly with the public entity for all construction; shall publicly advertise as prescribed in G.S. 143-129; and shall prequalify and

accept bids from first-tier subcontractors for all construction work under this section. The prequalification criteria shall be determined by the public entity and the construction manager at risk to address quality, performance, the time specified in the bids for performance of the contract, the cost of construction oversight, time for completion, capacity to perform, and other factors deemed appropriate by the public entity. The public entity shall require the construction manager at risk to submit its plan for compliance with G.S. 143-128.2 for approval by the public entity prior to soliciting bids for the project's first-tier subcontractors. A construction manager at risk and first-tier subcontractors shall make a good faith effort ~~to recruit and select minority businesses for participation in contracts pursuant to G.S. 143-128.2.~~ to comply with G.S. 143-128.2, G.S. 143-128.4, and to recruit and select small business entities. A construction manager at risk may perform a portion of the work only if (i) bidding produces no responsible, responsive bidder for that portion of the work, the lowest responsible, responsive bidder will not execute a contract for the bid portion of the work, or the subcontractor defaults and a prequalified replacement cannot be obtained in a timely manner, and (ii) the public entity approves of the construction manager at risk's performance of the work. All bids shall be opened publicly, and once they are opened, shall be public records under Chapter 132 of the General Statutes. The construction manager at risk shall act as the fiduciary of the public entity in handling and opening bids. The construction manager at risk shall award the contract to the lowest responsible, responsive bidder, taking into consideration quality, performance, the time specified in the bids for performance of the contract, the cost of construction oversight, time for completion, compliance with G.S. 143-128.2, and other factors deemed appropriate by the public entity and advertised as part of the bid solicitation. The public entity may require the selection of a different first-tier subcontractor for any portion of the work, consistent with this section, provided that the construction manager at risk is compensated for any additional cost incurred.

When contracts are awarded pursuant to this section, the public entity shall provide for a dispute resolution procedure as provided in G.S. 143-128(f1). (d) The construction manager at risk shall provide a performance and payment bond to the public entity in accordance with the provisions of Article 3 of Chapter 44A of the General Statutes."

SECTION 6. G.S. 44A-16 is amended by adding a new subsection to read:

"(c) For improvements performed in conjunction with a development contract under G.S. 143-128.1C, a claim of lien on real property or a claim of lien on funds served on a private developer may also be discharged by the private developer and the surety on a payment bond issued under G.S. 143-128.1C(g)(1) in accordance with this subsection. The claim of lien may be discharged by the private developer and surety jointly filing with the clerk of superior court of the county where the project is located a copy of the payment bond together with an affidavit executed by the surety stating that, as of the date of the filing of the payment bond with the clerk of superior court, the amount of the penal sum of the payment bond minus any amounts paid in good faith to other claimants on the project and minus the amount of all other claims of lien on real property filed against the property improved by the project exceeds the amount claimed by the lien claim being discharged by at least one hundred twenty-five percent (125%). Notwithstanding any other contractual provision or law, where a claimant's lien claim has been discharged under this subsection, the claimant shall have no less than one year from the date of being served with the payment bond and affidavit to file suit on the payment bond."

SECTION 7. G.S. 115C-521 is amended by adding a new subsection to read:

(f) A local board of education may use prototype designs from the clearinghouse established under subsection (e) of this section that is a previously approved and constructed project by the School Planning Division of the State Board of Education, and other appropriate review agencies. The local board of education may contract with the architect of record to make changes and upgrades as necessary for regulatory approval.

(g) For prototype schools under this section, local boards of education shall be exempt from the designer selection procedure in Article 3D of Chapter 143 of the General Statutes and may enter into an agreement with the original design professional of the prototype to supply design services for future construction of the prototype school.

SECTION 8.(a) There shall be established a Purchase and Contract Study Committee to study the issue of pre-qualification on public non-transportation construction work for both local and state government projects. The Committee may study any of the following:

(1) An analysis of existing pre-qualification requirements and consider whether or not current State Construction voluntary standards should be required for all public projects.

(2) An analysis of whether and/or how pre-qualification standards may have effectively disqualified licensed North Carolina general contractors who are able to satisfy all applicable bonding requirements under Chapter 44A of the North Carolina General Statutes.

(3) Development of one or more objective and non-discriminatory systems for pre-qualification to permit all appropriately licensed North Carolina general contractors to have the opportunity to bid in open competition for public construction projects in the State.

(4) Any other matter relevant to the implementation of House Bill 857, 2013 Regular Session.

SECTION 8.(b) Appointments to the committee established by Section (a) of this section shall as follows:

(1) Two Senators, appointed by the President Pro Tempore of the Senate.

(2) Two Representatives, appointed by the Speaker of the House of Representatives.

(3) Three licensed general contractors, appointed by the President Pro Tempore of the Senate.

(4) One professional engineer, appointed by the Speaker of the House of Representatives.

(5) One registered architect, appointed by the Speaker of the House of Representatives.

(6) One person upon recommendation of the North Carolina League of Municipalities, appointed by the Speaker of the House of the Representatives.

(7) One person upon recommendation of the North Carolina County Commissioners Association, appointed by the President Pro Tempore of the Senate.

(8) A representative from the State Construction Office.

SECTION 8.(c) The Committee shall report its findings, together with any recommendations, to the General Assembly on or before the convening of the 2014 Session of the 2013 General Assembly.

SECTION 9. This act becomes effective October 1, 2013, and applies to projects bid on or after that date and public-private development contracts entered into on or after that date, and does not supercede any prior enacted local act of the General Assembly on or before July 1, 2013.

HOUSE BILL 857:
Public Contracts/Construction Methods/DB/P3

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	July 15, 2013
Introduced by:	Reps. Arp, Bryan, Moffitt, Hager	**Prepared by:**	R. Erika Churchill Committee Counsel
Analysis of:	PCS to Fourth Edition H857-CSST-90		

SUMMARY: ***The proposed committee substitute for House Bill 857 would authorize three new methods of bidding for construction of public buildings:***

- ***Design-build method.***
- ***Design-build bridging method.***
- ***Public-Private Partnership method.***

The pcs makes technical changes to the definition of design builder and specifically allows local boards of education to utilize the additional methods of contracting when building a prototype school facility.

CURRENT LAW:

With respect to **public contracting**, Article 8 of Chapter 143 sets out the current general law for public building contracts. That Article generally requires separate or single-prime bidding. The sections of Article 8 for construction or renovations of buildings that require or imply the separate or single-prime bidding process are:

- G.S. 143-128, regarding separate specifications for HVAC, Plumbing, Electrical, and general contract work under separate prime or single-prime bidding.
- G.S. 143-129, regarding bidding for public construction over $500,000.
- G.S. 143-131, regarding informal bidding procedures
- G.S. 143-132, concerning the minimum number of bids for a public construction contract.

Article 3D of the Chapter 143 governs public procurement of architectural, engineering, and surveying services. The sections of Article 3D for those services that require or imply the separate or single-prime bidding process are:

- G.S. 143-64.31, regarding procurement of architectural, engineering and surveying services.
- G.S. 143-64.32, regarding local government exemptions from the law regarding the procurement of architectural, engineering, and surveying services.

With respect to **acquisition of land by State agencies**, Article 6 of Chapter 146 governs acquisition of State lands by State agencies. "Every acquisition of land on behalf of the State or any State agency, whether by purchase, condemnation, lease, or rental, shall be made by the Department of Administration (DOA) and approved by the Governor and Council of State." G.S. 146-22(a). Acquisitions by the University of North Carolina, through the Board of Governors, are governed separately, under Chapter 116 of the General Statutes. When a State agency desires to acquire land, that State agency is to file an application with the DOA. DOA then reviews that application, looking at:

- The existence of actual need for the requested property on the part of the requesting agency

- The availability of land already owned by the State or by any State agency which might meet the requirements of the requesting agency.
- The availability, value, and status of title of other land, whether for purchase, condemnation, lease, or rental, which might meet the requirements of the requesting agency.
- The availability of funds to pay for land if purchased, condemned, leased, or rented. G.S. 146-23.

In order to promote the use of buildings having historic, architectural or cultural significance, the Department of Administration shall inform the North Carolina Historical Commission of all geographical areas in the State within which the State is actively seeking to lease space for the accommodation of State agencies. In acquiring lease space under G.S. 146-25.1, DOA must give preference to lease proposals involving historic buildings identified by the North Carolina Historical Commission if DOA determines that such proposal is feasible, prudent and in the best interest of the State. G.S. 146-23.1

G.S. 146-25.1 sets the forth procedure for the leasing of space for State agencies. If the DOA determines that it is in the State's best interest to lease or rent land, that exceeds $25,000 or a term of three years, DOA must require the State agency desiring to rent land to prepare and submit a set of specifications for its needs. If DOA approves the specifications, DOA must publicly advertise for at least five days in a newspaper of general circulation in the county for the proposal. Proposals from prospective lessors must be received for at least seven days from the date of the last advertisement. DOA is permitted to negotiate with prospective lessors. If no proposal, or no acceptable proposal, is received after the public advertisement, DOA may negotiate with lessors in the open market.

Generally, all leases and rental agreements entered into by DOA must be submitted to the Governor and Council of State for approval or disapproval. G.S. 146-22(a), G.S. 146-25, G.S. 146-25.1(c). Some exceptions apply for lands owned by a governmental entity, and certain leases exempted by the Governor.

BILL ANALYSIS: The pcs would:

1. Establish 3 new methods of bidding public construction contracts, as follows:
    a. **Design-Build contracts** (Page 3, line 31). A governmental entity opting to use the design-build method would be required to establish written criteria for the project, publish notice of the request for qualifications, solicit three responses, rank the three most qualified design-builders, and begin negotiations with the highest ranked design-builder. The governmental entity would select the design-builder on the basis of demonstrated competence and qualification for the type of professional services required without regard to fee other than unit price information, and would negotiate for a contract at a fair and reasonable fee with the best qualified firm. G.S. 143-64.31. The selected design-builder would be required to provide a performance and payment bond, and obtain written approval of the governmental entity prior to changing key personnel.
    b. **Design-Build Bridging contracts** (Page 4, line 49). Similar to design-build contracts, but the governmental entity opting to use the design-build bridging method would first select a design criteria design professional to develop 35% of the project, then publish notice of the request for qualifications and solicit bids based upon that partial completion of the design documentation. The design criteria design professional may not be a full-time employee of the governmental entity, and is selected on the basis of demonstrated competence and qualifications. The selection of the design-build contractor would utilize

the same process as the design build method, but the awarding of the contract would be based upon the fees provided in the response to the RFP. The selected design-builder would be required to provide a performance and payment bond, and obtain written approval of the governmental entity prior to changing key personnel.

c. **Public-Private Partnership contracts** (Page 7, line 17). A governmental entity would authorized to enter into a development contract with a private developer, where the private developer is required to provide at least 50% of the financing for the total cost necessary to deliver the project. The development contract may require the private developer to be responsible for any of the following:

   i. Construction of the entire project.

   ii. Reconstruction or repair of the project, or any part thereof subsequent to the project.

   iii. Construction of any addition to the project.

   iv. Renovation of the projection, or any part thereof.

   v. Purchase of supplies, materials, or equipment for the project.

   vi. A good faith effort to comply with the minority and underutilized business participation goals, and to recruit and select small businesses.

   vii. To use the same contractor(s) as the governmental entity for the project, or any portion thereof.

   Bonding requirements would apply to the project. If the governmental entity is a public body for purposes of the Open Meetings Law, that governmental entity must act upon the public-private partnership in an open meeting after conducting a public hearing on the proposed contract.

   If the governmental entity is a unit of local government and it is a capital or operating lease, the Local Government Commission would need to approve of the project. If it is a State entity, is a capital lease, and the moneys for the project are payable from the general fund or other accounts of the State except the Highway Fund or Highway Trust Fund, the project would be approved under the approval procedures for special indebtedness, unless the project was funded by a financing program approved by the General Assembly.

2. For procurement of architectural, engineering and surveying services, increase the threshold for exemption from the required bidding from $30,000 to $50,000 when the estimated professional fee is at or below that amount and eliminate the exemption for those projects determined in the sole discretion of the Department of Transportation or a unit of local government to be exempt.

3. For construction management at risk contracts, require a good faith effort to recruit and select small business entities when selecting the construction manager at risk and the construction itself.

The bill does not change or amend any of the procedures for acquisition of State lands by State agencies.

EFFECTIVE DATE: October 1, 2013, and does not supercede any prior local act of the General Assembly.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 857 DATE July 16, 2013

S. B. No. _____ Amendment No. 1

(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE PCS

Rep.)
Sen) Barringer

moves to amend the bill on page 15, line 43

( ) WHICH CHANGES THE TITLE

by deleting "October 1, 2013" and substituting "30 days after it becomes law"

further amend on page 15 line 45 by deleting "prior enacted local act of the General Assembly" and substituting "local act of the General Assembly enacted"

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H 3

HOUSE BILL 936
Committee Substitute Favorable 5/14/13
Committee Substitute #2 Favorable 5/15/13

Short Title: Wildlife Poacher Reward Fund. (Public)

Sponsors:

Referred to:

April 15, 2013

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A WILDLIFE POACHER REWARD FUND TO PAY REWARDS TO PERSONS WHO GIVE INFORMATION TO LAW ENFORCEMENT AUTHORITIES THAT RESULTS IN THE ARREST AND CONVICTION OF PERSONS WHO COMMIT SERIOUS WILDLIFE VIOLATIONS AND TO AUTHORIZE THE USE OF COMPENSATION PAID TO THE WILDLIFE RESOURCES COMMISSION AS CONDITIONS OF OFFENDERS' PROBATION AS ASSETS OF THE FUND.

The General Assembly of North Carolina enacts:

SECTION 1. Article 22 of Chapter 113 of the General Statutes is amended by adding a new section to read:

"**§ 113-294.1. Wildlife Poacher Reward Fund.**

(a) There is established in the Office of the State Treasurer the Wildlife Poacher Reward Fund. Monies in the Fund shall be used to pay rewards to persons who provide information to the Wildlife Resources Commission or to law enforcement authorities that results in the arrest and conviction of persons who have committed criminal offenses involving the taking, injury, removal, damage, or destruction of wildlife resources. The Wildlife Resources Commission shall adopt rules for the administration of the Fund for these purposes.

(b) The assets of the Wildlife Poacher Reward Fund shall be derived from the following:

(1) A percentage of the compensation paid annually to the Commission as special conditions of offenders' probation in criminal cases involving the taking, injury, removal, damage, or destruction of wildlife pursuant to G.S. 15A-1343(b1)(5), to be set by the Commission at not less than ten percent (10%) of those amounts paid as replacement costs and investigative costs.

(2) All amounts paid to the Commission under G.S. 15A-1343(b1)(5) as compensation for rewards paid from the Fund.

(3) The proceeds of any gifts, grants, and contributions to the State which are specifically designated for inclusion in the Fund.

(4) Any other sources specified by law."

SECTION 2. G.S. 15A-1343(b1) reads as rewritten:

"(b1) Special Conditions. – In addition to the regular conditions of probation specified in subsection (b), the court may, as a condition of probation, require that during the probation the defendant comply with one or more of the following special conditions:

...

(5) Compensate the Department of Environment and Natural Resources or the North Carolina Wildlife Resources Commission, as the case may be, for the replacement costs of any marine and estuarine resources or any wildlife resources which were taken, injured, removed, harmfully altered, damaged or destroyed as a result of a criminal offense of which the defendant was convicted. If any investigation is required by officers or agents of the Department of Environment and Natural Resources or the Wildlife Resources Commission in determining the extent of the destruction of resources involved, the court may include compensation of the agency for investigative costs as a condition of probation. The court may also include, as a condition of probation, compensation of an agency for any reward paid for information leading to the arrest and conviction of the offender. This subdivision does not apply in any case governed by G.S. 143-215.3(a)(7).

...."

SECTION 3. Section 2 of this act becomes effective December 1, 2013, and applies to offenses committed on or after that date. The remainder of this act becomes effective July 1, 2013.

HOUSE BILL 936:
Wildlife Poacher Reward Fund

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	July 16, 2013
Introduced by:	Reps. Wray, Faircloth, Moffitt, J. Bell	**Prepared by:**	Heather Fennell Committee Counsel
Analysis of:	Third Edition		

SUMMARY: ***House Bill 936 would establish a Wildlife Poacher Reward Fund to pay rewards to individuals who report information to law enforcement authorities resulting in the arrest and conviction of persons who commit serious wildlife violations.***

CURRENT LAW: G.S. 15A-1343(b1)(5) (*Conditions of probation*) currently provides that a court may, as a condition of probation, require a defendant to compensate the Department of Environment and Natural Resources ("Department") or the Wildlife Resources Commission ("Commission"), as appropriate, for the replacement costs of marine, estuarine, or wildlife resources that were taken, damaged, or destroyed as a result of a criminal offense of which the defendant was convicted. If the Department or Commission must investigate to determine the extent of the damage to these resources, the court may also require the defendant to compensate the agency for investigative costs.

BILL ANALYSIS:

Section 1 of House Bill 936 would establish the Wildlife Poacher Reward Fund ("Fund") in the Office of the State Treasurer. Monies in the fund would be used to pay rewards to persons who provide information to the Commission or law enforcement authorities resulting in the arrest and conviction of persons who commit serious wildlife violations. The Commission would be instructed to adopt rules for the administration of the Fund.

The assets of the Fund would be derived from (1) a percentage no greater than 10% of the compensation paid annually to the Commission as replacement and investigative costs pursuant to G.S. 15A-1343(b1)(5); (2) 100% of funds paid to the Commission as compensation for any reward paid for information leading to the arrest and conviction of the defendant pursuant to G.S. 15A-1343(b1)(5); (3) gifts, grants, and contributions that are specifically designated for inclusion in the Fund; and (4) any other sources specified by law.

Section 2 of House Bill 936 would provide that a court may, as a special condition of probation under G.S. 15A-1343(b1)(5), require a defendant to compensate an agency for any reward paid for information leading to the arrest and conviction of the defendant.

EFFECTIVE DATE:

Section 2 of this act would become effective December 1, 2013, and would apply to offenses committed on or after that date. The remainder of this act would become effective July 1, 2013.

Chris Saunders, counsel to Senate Agriculture, substantially contributed to this summary.

O. Walker Reagan
Director

H936-SMTD-73 E3 -V1

Research Division
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GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: July 16, 2013
TO: Senate Finance Chairs
FROM: Jennifer Hoffmann, Fiscal Research Division
RE: HB 936, Wildlife Poacher Reward Fund

FISCAL IMPACT
($ in millions)

☐ Yes ☐ No ☒ No Estimate Available

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
State Impact					
General Fund Revenues:					
General Fund Expenditures:					
Special Fund Revenues:					
Special Fund Expenditures:					
State Positions:					
NET STATE IMPACT	**No estimate available. Please see Assumptions & Methodology section for additional details.**				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:
Wildlife Resources Commission and Environment and Natural Resources

EFFECTIVE DATE: Reward Fund effective July 1, 2013. Special conditions of probabtion effective December 1, 2013.

TECHNICAL CONSIDERATIONS: None

BILL SUMMARY: House Bill 936 establishes a Wildlife Poacher Reward Fund to be used to pay rewards to individuals who provide information to law enforcement authorities resulting in the arrest and conviction of persons who commit serious wildlife violations. It also amends an existing law to allow a court to require the offender to compensate the Wildlife Resources Commission (WRC) or the Department of Environment and Natural Resources (DENR) for any reward paid for information leading to the arrest and conviction of the offender. This compensation is in addition to the existing law that allows judges to require repayment to WRC or DENR for replacement and investigative costs.

ASSUMPTIONS AND METHODOLOGY: The amount of money deposited in and paid from the Wildlife Poacher Reward Fund is the dependent on the following factors:

1) The number of individuals who provide information to law enforcement authorities that result in the arrest and conviction of a serious wildlife offender;

2) The number of offenders convicted of serious wildlife violations who the court requires to compensate the Wildlife Resources Commission (WRC) for any reward paid for information that led to their the arrest and conviction; and

3) A percentage of the replacement and investigative costs paid annually to the WRC as a special condition of probation. The bill directs the WRC to set the percentage at an amount not less than 10%.

At this time, none of these factors are known so a fiscal estimate cannot be reasonably determined. Based on its experience, the Wildlife Resources Commission estimates that there are approximately 500 serious wildlife violations annually. These cases have resulted in approximately $65,000 in replacement and investigative costs paid as compensation to WRC in each of the past three years. However, the amount of funds received as compensation for replacement and investigative costs to be deposited in the Reward Fund is unknown as the bill allows the WRC to set the percentage to be used to pay rewards. In addition, most of the previous cases have been "made" by WRC's enforcement staff, so it is not known in how many of the future cases that the WRC would need to offer a reward in order to gain a conviction.

SOURCES OF DATA: Wildlife Resources Commission

TECHNICAL CONSIDERATIONS: None

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 522
PROPOSED COMMITTEE SUBSTITUTE S522-PCS75348-TM-47

Short Title: New Markets Jobs Act. (Public)

Sponsors:

Referred to:

April 1, 2013

A BILL TO BE ENTITLED

AN ACT TO ENACT NEW MARKETS ACT OF 2013.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 3L.
"North Carolina New Markets Jobs Act of 2013.

"**§ 105-129.100. Short title.**

The provisions of this Article shall be known and may be cited as the "North Carolina New Markets Jobs Act of 2013."

"**§ 105-129.101. Definitions.**

The following definitions apply in this Article:

(1) Applicable percentage. – Zero percent (0%) for the first two reduction allowance dates, eleven percent (11%) for the next two reduction allowance dates, and twelve percent (12%) for the following three reduction allowance dates.

(2) Below the line reduction of tax or "reduction". – A subtraction from the total amount of State premium tax liability made after all additions and deductions have been made to the gross premium amount and after the appropriate rates of tax have been applied; for the purposes of constitutional, statutory, and common law interpretation and enforcement, the reduction shall be afforded the same property and contractual protections as a credit.

(3) Reduction allowance date. – With respect to any qualified equity investment, the date on which the investment is initially made and each of the six anniversary dates thereafter.

(4) Department. – The Department of Commerce.

(5) Long-term debt security. – Any debt instrument issued by a qualified community development entity, at par value or a premium, with an original maturity date of at least seven years from the date of its issuance, with no acceleration of repayment, amortization, or prepayment features prior to its original maturity date. The qualified community development entity that issues the debt instrument may not make cash interest payments on the debt instrument during the period beginning on the date of issuance and ending on the final reduction allowance date in an amount that exceeds the cumulative operating income, as defined by regulations adopted under section 45D of the Internal Revenue Code of 1986, as amended, of the

qualified community development entity for that period prior to giving effect to the interest expense of such long-term debt security. The foregoing shall in no way limit the holder's ability to accelerate payments on the debt instrument in situations where the issuer has defaulted on covenants designed to ensure compliance with this section or section 45D of the Internal Revenue Code of 1986, as amended.

(6) Purchase price. – The amount paid to the issuer of a qualified equity investment for such qualified equity investment.

(7) Qualified active low-income community business. – The meaning given such term in section 45D of the Internal Revenue Code of 1986, as amended, and 26 C.F.R. § 1.45D-1 but limited to those businesses meeting the SBA size eligibility standards established in 13 C.F.R. § 121.101-201 at the time the qualified low-income community investment is made. A business shall be considered a qualified active low-income community business for the duration of the qualified community development entity's investment in or loan to the business if the entity reasonably expects, at the time it makes the investment or loan, that the business will continue to satisfy the requirements for being a qualified active low-income community business, other than the SBA size standards, throughout the entire period of the investment or loan. The term excludes any business that derives or projects to derive fifteen percent (15%) or more of its annual revenue from the rental or sale of real estate. This exclusion does not apply to a business that is controlled by or under common control with another business if the second business (i) does not derive or project to derive fifteen percent (15%) or more of its annual revenue from the rental or sale of real estate and (ii) is the primary tenant of the real estate leased from the first business.

(8) Qualified community development entity. – The meaning given such term in section 45D of the Internal Revenue Code of 1986, as amended; provided that such entity has entered into, for the current year or any prior year, an allocation agreement with the Community Development Financial Institutions Fund of the U.S. Treasury Department with respect to credits authorized by section 45D of the Internal Revenue Code of 1986, as amended, which includes the State of North Carolina within the service area set forth in the allocation agreement. The term shall include qualified community development entities that are controlled by or are under common control with the qualified community development entity.

(9) Qualified equity investment. – Any equity investment in or long-term debt security issued by a qualified community development entity that meets each of the following requirements:

a. Is acquired after the effective date of this act at its original issuance solely in exchange for cash.

b. Has at least eighty-five percent (85%) of its cash purchase price used by the issuer to make qualified low-income community investments in qualified active low-income community businesses located in this State by the first anniversary of the initial reduction allowance date.

c. Is designated by the issuer as a qualified equity investment under this subdivision and is certified by the Department as not exceeding the limitation contained in subdivision (5) of this section. This term shall include any qualified equity investment that does not meet the provisions of sub-subdivision a. of this subdivision if such

investment was a qualified equity investment in the hands of a prior holder.

(10) Qualified low-income community investment. – Any capital or equity investment in or loan to any qualified active low-income community business.

(11) Rural census tracts. – Any census tract in which a qualified low-income community business is located that also is located in a county designated as nonmetropolitan by the Office of Management and Budget (OMB) pursuant to 44 U.S.C. § 3504(e) and 31 U.S.C. § 1104(d) and Executive Order 10253 (3 C.F.R. Part 1949-1953 Comp., p.758), as amended, with respect to the 2010 Census.

(12) Secretary. – The Secretary of Commerce.

(13) State premium tax liability. – Any liability incurred by any entity under the gross premiums tax or the retaliatory premium tax levied in Article 8B of this Chapter, or, if the tax liability under the gross premiums tax or the retaliatory premium tax levied in Article 8B of this Chapter is eliminated or reduced, the term shall also mean any tax liability imposed on an insurance company or other person that had premium tax liability under the laws of this State.

"**§ 105-129.102. Reduction for qualified equity investment.**

(a) Reduction Established. – An entity that makes a qualified equity investment earns a vested contractual right to a below-the-line reduction of tax applicable to the entity's State premium tax liability on future premium tax reports filed under this Article. On or after each reduction allowance date of the qualified equity investment, the taxpayer or subsequent holder of the qualified equity investment may utilize a portion of the tax reduction during the taxable year including the reduction allowance date. The tax reduction amount is equal to the applicable percentage for the reduction allowance date multiplied by the purchase price paid to the issuer of the qualified equity investment. The amount of the tax reduction claimed in that taxable year by a taxpayer shall not exceed the amount of such taxpayer's State tax liability for the tax year for which the tax reduction is claimed. Any amount of tax reduction that the taxpayer is prohibited from claiming in a taxable year as a result of this section may be carried forward for use in any subsequent taxable year.

(b) Tax reductions earned by a partnership, limited liability company, S corporation, or other "pass-through" entity shall be allocated to the partners, members, or shareholders of such entity for their direct use in accordance with the provisions of any agreement among such partners, members, or shareholders. Such allocation shall create a contractual right to such tax reduction in such partners, members, or shareholders.

(c) Certification of Qualified Equity Investments. – A qualified community development entity that seeks to have an equity investment or long-term debt security designated as a qualified equity investment and eligible for tax reductions under this section shall apply to the Department. The qualified community development entity must submit an application on a form that the Department provides that includes each of the following:

(1) Evidence of the entity's certification as a qualified community development entity, including evidence of the service area of the entity that includes this State.

(2) A copy of the allocation agreement executed by the entity or its controlling entity and the Community Development Financial Institutions Fund.

(3) A certificate executed by an executive officer of the entity (i) attesting that the allocation agreement remains in effect and has not been revoked or cancelled by the Community Development Financial Institutions Fund and

(ii) stating the cumulative amount of allocations awarded to the entity by the Community Development Financial Institutions Fund.

(4) A description of the proposed amount, structure, and purchaser of the qualified equity investment.

(5) Identifying information for any known taxpayer eligible to utilize tax reductions earned as a result of the issuance of the qualified equity investment.

(6) Examples of the types of qualified active low-income businesses in which the applicant, its controlling entity, or affiliates of its controlling entity have invested under the Federal New Markets Tax Credit Program. Applications are not required to identify qualified active low-income community businesses in which they will invest when submitting an application.

(7) A nonrefundable application fee of five thousand dollars ($5,000).

(8) The refundable performance deposit required by G.S. 105-129.104.

(d) A qualified community development entity, on an aggregate basis with all qualified community development entities controlled by or under common control with such applicant, may not apply to have equity investments or long-term debt instruments designated as qualified equity investments under this section in excess of the lesser of:

(1) The total amount of qualified equity investments that may be certified by the Department pursuant to this section; and

(2) The total amount of qualified equity investment allocation awarded to the applicant, its controlling entity, and all qualified community development entities controlled by or under common control with the applicant from the Community Development Financial Institutions Fund under section 45D of the Internal Revenue Code.

Within 30 days after receipt of a completed application containing the information necessary for the Department to certify a potential qualified equity investment, including the payment of the application fee, and the performance deposit, the Department shall grant or deny the application in full or in part. If the Department denies any part of the application, it shall inform the qualified community development entity of the grounds for the denial. If the qualified community development entity provides any additional information required by the Department or otherwise completes its application within 15 days of the notice of denial, the application shall be considered completed as of the original date of submission. If the qualified community development entity fails to provide the information or complete its application within the 15-day period, the application is denied and must be resubmitted in full with a new submission date.

If the application is deemed complete, the Department shall certify the proposed equity investment or long-term debt security as a qualified equity investment that is eligible for a reduction under this section, subject to the limitations contained in this subsection. The Department shall provide written notice of the certification to the qualified community development entity. The notice shall include the names of those taxpayers who are eligible to utilize the reductions and their respective reduction amounts. If the names of the taxpayers who are eligible to utilize the reductions change due to a transfer of a qualified equity investment or a change in an allocation pursuant to this section, the qualified community development entity shall notify the Department of such change.

Once the Department has certified a qualified equity investment, the qualified community development entity may suballocate all or any portion of the amount of the certified equity investment to one or more qualified community development entities with the same controlling entity as the applicant qualified community development entity, provided that the applicant qualified community development entity files a notice of such suballocation with the Department and the recipient of the suballocation meets all the requirements of a qualified

community development entity under this section. The notice of suballocation shall include the information required in the application for all suballocatees.

The Department shall certify qualified equity investments in the order applications are received by the Department. Applications received on the same day shall be deemed to have been received simultaneously. For applications received on the same day and deemed complete, the Department shall certify, consistent with remaining tax reduction capacity, qualified equity investments in proportionate percentages based upon the ratio of the amount of qualified equity investment requested in an application to the total amount of qualified equity investments requested in all applications received on the same day.

The Department shall certify three hundred and thirty-three million dollars ($333,000,000) in qualified equity investment authority. If a pending request cannot be fully certified due to this limit, the Department shall certify the portion that may be certified unless the qualified community development entity elects to withdraw its request rather than receive partial certification.

Within 30 days after receiving notice of certification, the qualified community development entity or any transferee under this section shall issue the qualified equity investment and receive cash in the amount of the certified amount. The qualified community development entity or transferee must provide the Department with evidence of the receipt of the cash investment within 10 business days after receipt. If the qualified community development entity or transferee does not receive the cash investment and issue the qualified equity investment within 30 days following receipt of the certification notice, the certification shall lapse and the entity may not issue the qualified equity investment without reapplying to the Department for certification. A certification that lapses reverts back to the Department and may be reissued pro rata to other applicants whose qualified equity investment allocations were reduced under this section and thereafter in accordance with the application process.

(e) Disallowance. –

(1) The Department may determine that reductions previously claimed or to be claimed by a taxpayer under this Article should be disallowed. Notice that a reduction shall be disallowed shall be transmitted in writing to the taxpayer and the Department of Revenue. Disallowance may be determined if any of the following occurs:

a. Any amount of the federal tax credit available with respect to a qualified equity investment that is eligible for a tax reduction under this section is recaptured under section 45D of the Internal Revenue Code of 1986, as amended. In such case, the Department's disallowance shall be proportionate to the federal recapture with respect to such qualified equity investment.

b. The issuer redeems or makes principal repayment with respect to a qualified equity investment prior to the seventh anniversary of the issuance of such qualified equity investment. In such case, the Department's disallowance shall be proportionate to the amount of the redemption or repayment with respect to such qualified equity investment.

c. The issuer fails to (i) invest at least eighty-five percent (85%) of the purchase price of the qualified equity investment in qualified low-income investments in the State within 12 months of the issuance of the qualified equity investment and (ii) maintain such level of investment in qualified low-income community investments in the State until the last reduction allowance date for the qualified equity investment.

(2) For purposes of this section, an investment shall be considered held by an issuer even if the investment has been sold or repaid if the issuer reinvests an amount equal to the capital returned to or recovered by the issuer from the original investment, exclusive of any profits realized, in another qualified low-income community investment within 12 months of the receipt of such capital. Periodic amounts received as repayment of principal on a loan that is a qualified low-income community investment shall be treated as continuously invested in a qualified low-income community investment if the amounts are reinvested in one or more qualified low-income community investments by the end of the following calendar year. An issuer shall not be required to reinvest capital returned from qualified low-income community investments after the earlier of (i) the sixth anniversary of the issuance of the qualified equity investment or (ii) the date by which a qualified community development entity has made a qualified low-income community investment with the proceeds of the qualified equity investment on a cumulative basis equal to at least one hundred fifty percent (150%) of the proceeds, and the qualified low-income community investment shall be considered held by the issuer through the seventh anniversary of the qualified equity investment's issuance. For purposes of the immediately preceding sentence, the maximum amount of qualified low-income community investments in any one qualified active low-income business, on an aggregate basis with all of its affiliates, that may be counted towards the one hundred fifty percent (150%) test shall be twenty-five percent (25%) of the total amount of qualified equity investments issued by the qualified community development entity under this section.

(3) At any time prior to the final reduction allowance date of a qualified equity investment, the proceeds were used to make qualified low-income equity investments in any one qualified active low-income community business, including affiliated qualified active low-income community businesses, exclusive of reinvestments of capital returned or repaid with respect to earlier investments in the qualified active low-income community business and its affiliates, in excess of twenty-five percent (25%) of the cash proceeds of all qualified equity investments issued by the qualified community development entity under this section.

"**§ 105-129.103. Notice of noncompliance.**

Enforcement of the disallowance under this Article shall not occur until the qualified community development entity shall have been given notice of noncompliance and afforded six months from the date of such notice to cure the noncompliance.

"**§ 105-129.104. Refundable performance deposit.**

(a) A qualified community development entity that seeks to have an equity investment or long-term debt security designated as a qualified equity investment and eligible for a reduction under this Article shall make a performance deposit in the amount of the greater of one-quarter of one percent (.25%) of the amount of the equity investment or long-term debt security requested to be designated as a qualified equity investment or five hundred thousand dollars ($500,000) to the Department for deposit in the New Markets performance guarantee account, which is hereby established. The entity shall forfeit the amount deposited if (i) the qualified community development entity together with any qualified community development entities to which it has suballocated qualified equity investment authority pursuant to G.S. 105-129.102(d), if any, fail to issue the total amount of qualified equity investments certified by the Department and receive cash in the total amount certified under G.S. 105-129.102, or (ii) the qualified community development entity or any qualified

community development entity that issues suballocated qualified equity investment authority pursuant to G.S. 105-129.102(d) certified under this Article fails to invest at least eighty-five percent (85%) of the purchase price of any qualified equity investment issued in qualified low-income community investments within 12 months of the issuance of the qualified equity investment; provided that forfeiture for the failure under clause (ii) of this subsection is subject to the cure period established in G.S. 105-129.103.

(b) The performance deposit required under this section shall be paid to the Department and held in the New Markets performance guarantee account until such time as compliance with the provisions of this section have been established. The qualified community development entity may request a refund of the performance deposit from the Department no sooner than 30 days after having met all the requirements of this section. The State Treasurer shall have 30 days to comply with the request or give notice of noncompliance.

"**§ 105-129.105. Letter rulings.**

(a) The Secretary shall issue letter rulings regarding the tax reduction program authorized under this Article, subject to the terms and conditions set forth in this section. For the purposes of this Article, the term "letter ruling" means a written interpretation of law to a specific set of facts provided by the applicant requesting a letter ruling.

(b) The Secretary shall respond to a request for a letter ruling within 60 days of receipt of such request. The applicant may provide a draft letter ruling for the Secretary's consideration. The applicant may withdraw the request for a letter ruling, in writing, prior to the issuance of the letter ruling. The Secretary may refuse to issue a letter ruling for good cause but must list the specific reasons for refusing to issue the letter ruling. Good cause includes any of the following:

(1) The applicant requests the director to determine whether a statute is constitutional or a regulation is lawful.

(2) The request involves a hypothetical situation or alternative plan.

(3) The facts or issues presented in the request are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue a letter ruling.

(4) The issue is currently being considered in a rule-making procedure, contested case, or other agency or judicial proceeding that may definitely resolve the issue.

(c) Letter rulings shall bind the Secretary and the Secretary's agents and their successors and all other state agencies until such time as the entity or its shareholders, members, or partners, as applicable, claim all of the reductions on a North Carolina tax return or report, subject to the terms and conditions set forth in properly published regulations. The letter ruling shall apply only to the applicant.

(d) In rendering letter rulings and making other determinations under this Article, to the extent applicable, the Department and the Department of Revenue shall look for guidance to section 45D of the Internal Revenue Code of 1986, as amended, and the rules and regulations issued thereunder.

"**§ 105-129.106. Retaliatory tax.**

An entity claiming a reduction under this Article is not required to pay any additional retaliatory tax levied under G.S. 105-228.8 as a result of claiming the reduction. It is the intent of the General Assembly that an entity claiming a reduction under this Article is not required to pay any additional tax that may arise as a result of claiming that reduction.

"**§ 105-129.107. Decertification.**

(a) Once certified under this Article, a qualified equity investment may not be decertified unless all of the requirements of this section have been met. Until all qualified equity investments issued by a qualified community development entity are decertified under this section, the qualified community development entity shall not be entitled to distribute to its

equity holders or make cash payments on long-term debt securities that have been designated as qualified equity investments in an amount that exceeds the sum of (i) the cumulative operating income, as defined by regulations adopted under section 45D of the Internal Revenue Code of 1986, as amended, earned by the qualified community development entity since issuance of the qualified equity investment, prior to giving effect to any interest expense of long-term debt securities designated as qualified equity investments and (ii) fifty percent (50%) of the purchase price of the qualified equity investments issued by the qualified community development entity.

(b) To be decertified, all of the following conditions must be met:

(1) The qualified equity investment is beyond its seventh reduction allowance date.

(2) The qualified equity investment was in compliance with the requirements of this Article through its seventh reduction allowance date, including any cures.

(3) The qualified equity investment has its proceeds invested in qualified active low-income community investments such that the total qualified active low-income community investments made, cumulatively including reinvestments, exceeds one hundred fifty percent (150%) of its qualified equity investment. For purposes of the immediately preceding sentence, the maximum amount of qualified low-income community investments in any one qualified active low-income business, on an aggregate basis with all of its affiliates, that may be counted towards the one hundred fifty percent (150%) test shall be twenty-five percent (25%) of the total amount of qualified equity investments issued by the qualified community development entity under this section.

(c) A community development entity that seeks to have a qualified equity investment decertified under this section shall send notice to the Department of its request for decertification along with evidence supporting the request. The provisions of subdivision (2) of subsection (b) of this section are met if no disallowance action has been commenced by the Department as of the seventh reduction allowance date. A request under this section shall not be unreasonably denied and shall be responded to within 30 days of receiving the request. If the request is denied for any reason, the burden of proof shall be on the Department in any administrative or legal proceeding that follows.

"**§ 105-129.108. Limitation on fees.**

No qualified community development entity shall be entitled to pay any affiliate of such qualified community development entity any fees in connection with any activity under this Article prior to decertification under G.S. 105-129.107 of all qualified equity investment issued by the qualified community development entity. The foregoing shall not prohibit a qualified community development entity from allocating or distributing income earned by it to the affiliates or paying reasonable interest on amounts lent to the qualified community development entity by such affiliates.

"**§ 105-129.109. Rural investment requirement.**

(a) Of the aggregate qualified low-income community investments made by the qualified community development entity and all qualified community development entities' suballocated qualified equity investment authority under G.S. 105-129.102(d) for the purpose of satisfying the requirement of G.S. 105-129.102(e)(1)c., an amount of qualified low-income community investments equal to at least forty percent (40%) of the purchase price of all qualified equity investments issued by the qualified community development entity and all such suballocatees shall be made in Rural Census Tracts.

(b) The Department may reduce the requirement of subsection (a) of this section to twenty percent (20%) if the qualified community development entity uses its commercially

reasonable best efforts to satisfy such subsection and fails to do so within nine months of its initial credit allowance date."

SECTION 2. This act is effective for taxable years beginning on or after January 1, 2013, and applies to qualified equity investments made on or after November 1, 2013.

NORTH CAROLINA GENERAL ASSEMBLY
Legislative Services Office
George R. Hall, Legislative Services Officer

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Mark Trogdon, Director

Memorandum

To: Senate Finance Committee

From: Patrick McHugh, Ph.D.
Fiscal Analyst, Fiscal Research Division

Date: 7/16/2013

Subject: Review of New Markets Tax Credit

Summary

Per your request, Fiscal Research has reviewed the available literature and evidence on federal and state New Markets Tax Credits. The following conclusions can be drawn from the literature on New Markets Tax Credits (NMTC):

1. Mixed evidence about tax incentives targeted at low-income communities: While specific communities have benefited from many of these programs, there is relatively little evidence that tax incentives are generally effective at attracting new investment to distressed communities. One study on the federal NMTC program found that it modestly increased individual investment into low-income communities, but had no impact on levels of corporate investment.[1] The Empowerment Zone Progam, which is generally seen as the predecessor to the NMTC program, was also found to have little effect on economic growth.[2] Finally, most of the research on Enterprise Zones, which is another type of tax incentive targeted at specific areas, has found little economic impact.[3]

[1] Gurley-Calvez, Tami, Thomas Gilbert, Katherine Harper, Donald Marples, & Kevin Daly. (2009). "Do Tax Incentives Affect Investment: An Analysis of the New Markets Tax Credit." *Public Finance Review*.
[2] Oakley, Deirdre & Hui-Shien Tsao. (2006). "A New Way of Revitalizing Distressed Communities? Assessing the Impact of the Federal Empowerment Zone Program." *Journal of Urban Affairs*.
[3] Bondonio, Daniele & John Engberg. (2000). "Enterprise Zones and Local Employment: Evidence from the States' Programs." *Regional Science and Urban Economics*, Vol:30. Elvery, Joel. (2009). "The Impact of Enterprise Zones on Resident Employment: An Evaluation of the Enterprise Zone Programs of California and Florida." *Economic Development Quarterly*, Vol:23, No:1. Neumark, David & Jed Kolko. (2010). "Do Enterprise Zones Create Jobs?" *Journal of Urban Economics*, Vol:68. Peters, Alan & Peter Fisher. (2002). *State Enterprise Zone Programs: Have they Worked?* Kalamazoo, MI. W.E. Upjohn Institute for Employment Research.

2. Too early to evaluate the effectiveness of state-level NMTC programs: Because most state-level NMTC programs were enacted in the last 2-3 years, there is very little evidence about how effective they are. One study conducted by Ball State University estimated that every 1 percent in state-level NMTC generated approximately $1 million in increased investment to distressed communities.[4] Given the lack of data, there is a great deal of uncertainty surrounding this result. The Ball State study estimated that states with a 39 percent NMTC generated anywhere from $17.8 to $65.9 million in new investment into distressed areas.

3. Some credits would go to investment that would have occurred in the absence of a State NMTC: Layering state-level tax credits on top of the federal NMTC program would result in North Carolina subsidizing investments that were going to happen anyway. In these cases, all State credits dispensed would represent pure losses to the State. Linking a State NMTC program to the federal program makes administration very easy for the State, but it also prevents any administrative review of whether the tax credits are actually attracting new investment that would not have occurred otherwise.

4. Some investments not targeted at generating economic activity: A significant amount of NMTC activity has gone to real estate investments instead of to active businesses.[5] This has raised concerns that the program is not sufficiently targeted at the types of business investments and loans that are most likely to generate transformative economic activity in low-income communities.

5. Residents of distressed communities do not necessarily benefit from projects that receive NMTC: Given the structure of the NMTC program, it is possible that jobs created in low-income communities will not benefit residents of these distressed areas, particularly if the jobs created require skills and education levels that are not readily available within the local workforce. While increasing economic activity in distressed areas has the potential to create spill-over benefits for residents of low-income communities, the NMTC program does not ensure that residents of distressed areas are the primary beneficiaries of economic growth stimulated by the credits.

For more discussion on the research that has been conducted about New Markets Tax Credits, see below.

Overview of Federal New Markets Tax Credit

The federal NMTC program was created as part of the Community Renewal Tax Relief Act of 2000. The central purpose of the program is to attract private-sector capital to low-income communities. To achieve that central goal, the NMTC is intended to increase the return on investment for projects that would have difficulty attracting capital on the open market, thereby making it possible for otherwise marginal projects in low-income communities to go forward.

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[4] Hicks, Michael & Dagney Faulk. (2012). "The Effect of State-Level Add-On Legislation to the Federal New Market Tax Credit Program." *Ball State University Center for Business and Economic Research.*

[5] Armistead, Jefferson. (2005). "New Markets Tax Credits: Issues and Opportunities." *Pratt Institute Center for Community and Environmental Development.*

New Market Tax Credits are allocated to certified private-sector intermediaries called Community Development Entities, which are corporations or partnerships that provide loans, investments, and financial counseling in low-income communities. To be certified as a Community Development Entity, a corporation or partnership submits an application to the U.S. Treasury Department's Community Development Financial Institutions fund. Community Development Entities are authorized to use the credits they receive under the NMTC program to attract invest capital that can then be used to provide investment or loan financing to projects in low-income communities.

A company or individual that invests in a Community Development Entity is eligible to receive 39 percent of their total investment in tax credits, spread out over seven years. As such, an investment of $1 million into a Community Development Entity would reduce the investor's federal tax liability by $390,000 over a seven-year period.

Overview of State-Level New Markets Tax Credits

Fourteen states currently offer credits that are linked to the federal NMTC program.[6] Another six states, including North Carolina, have proposed state-level New Markets Tax Credit programs. Most of these state programs have been created within the last two to three years, so there is very little track record upon which to evaluate their effectiveness.

In most cases, state-level programs simply provide relief from state taxes for companies and individuals that receive federal credits. Tying state tax credits to the federal program makes the costs of implementation and administration for the states much lower, as the federal government carries all of the cost of authorizing Community Development Entities and allocating credits. On the other hand, tying state tax relief to federal credits effectively eliminates any state oversight of whether particular projects generate sufficient economic benefits to justify state tax expenditures.

[6] http://www.novoco.com/new_markets/nmtc/state_nmtc_programs.php#al

SENATE BILL 522:
New Markets Jobs Act

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	July 16, 2013
Introduced by:	Sen. Gunn	**Prepared by:**	Greg Roney Committee Counsel
Analysis of:	PCS to First Edition S522-CSTM-42		

SUMMARY: ***The Proposed Committee Substitute (PCS) to Senate Bill 522 would allow a tax credit[1] equal to 58% of the amount invested through federally-recognized development entities in small businesses with less than 500 employees in high-poverty counties. The Statewide total investment that could qualify for the tax credit is $333 million. The $333 million investment pool would yield approximately $193 million in tax credits.***

CURRENT LAW: The State does not currently have a tax credit program modeled after the federal New Markets Tax Credit (NMTC) under §45D of the Internal Revenue Code. The State's primary tax credit program is the Article 3J Tax Credits that provide tax credits to qualifying businesses for job creation, investment in business property, and in some cases investment in real property.

BILL ANALYSIS: The PCS would create a State-level tax credit that generally follows the federal New Markets Tax Credit (NMTC) under §45D of the Internal Revenue Code. The State tax credit would be available for investments receiving the federal credit, acting as an incentive to attract the federally-credited investments to NC. Additionally, the State tax credit is available where the federal credit is not received if NC has sufficient availability of tax credits to allocate to the investment.

The PCS would permit corporate taxpayers to receive a credit against gross premiums taxes for making Qualified Equity Investments (QEIs) in qualified community development entities (CDEs). The small businesses that receive the State tax credit must have less than 500 employees and be located in a high-poverty county.[2]

The credit equals 58% of the investment and is claimed during a seven-year credit period as follows: Year One: 0%; Year Two: 0%; Year Three: 11%; Year Four: 11%; Year Five: 12%; Year Six: 12%; Year Seven: 12% – totaling 58%.

The federal credit is 39% of the investment but is claimed at different percentages over the seven-year credit period. Investments could receive both the federal credit (39%) and State credit (58%) – totaling 97% tax credit.

EFFECTIVE DATE: The PCS would be effective for taxable years beginning on or after January 1, 2013, and applies to qualified equity investments made on or after November 1, 2013.

[1] The bill describes the tax benefit as a "reduction" but gives the tax benefit the same "property and contractual protections as a credit."

[2] A "low-income community" is defined as any population census tract where the poverty rate for such tract is at least 20% or in the case of a tract not located within a metropolitan area, median family income for such tract does not exceed 80 of statewide median family income, or in the case of a tract located within a metropolitan area, the median family income for such tract does not exceed 80% of the greater of statewide median family income or the metropolitan area median family income.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: July 16, 2013

TO: Senate Finance Committee

FROM: Patrick McHugh
Fiscal Research Division

RE: **PCS to Senate Bill 522**

FISCAL IMPACT

($ in millions)

☑ Yes ☐ No ☐ No Estimate Available

State Impact	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
General Fund Revenues:	0.0	0.0	(33.6)	(33.6)	(39.9)
General Fund Expenditures:					
State Positions:					
NET STATE IMPACT	$0.0	$0.0	($33.6)	($33.6)	($39.9)

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Dept of Insurance; NC Dept of Commerce

EFFECTIVE DATE: Effective for taxable years beginning on or after January 1, 2013, and applies to qualified equity investments made on or after November 1, 2013.

TECHNICAL CONSIDERATIONS:
Yes - See Technical Considerations Section

BILL SUMMARY:

SB 522 would create a State-level tax credit that generally follows the federal New Markets Tax Credit (NMTC) under §45D of the Internal Revenue Code. The State tax credit would be available for investments receiving the federal credit, acting as an incentive to attract the federally-credited investments to NC.

The bill would permit taxpayers to receive a credit gross premiums taxes for making Qualified Equity Investments (QEIs) in qualified community development entities (CDEs).
Source: Committee Counsel

ASSUMPTIONS AND METHODOLOGY:
The bill would allow tax credits to be taken against a maximum of $333 million in qualified equity investment authority. The tax credits can only be taken against the gross premiums insurance tax and are equal to zero percent of the investment authority in the first two years following the initial investment. The credit amounts are 11% for years 3 and 4 following initial investment and 12% for the following three years.

Assuming the maximum qualified equity investment authority of $333 million is achieved in 2012, the credits available to be taken would equal zero in the first two years, $33.6 million in years 3 and 4 and $39.9 million in years 5 through 7.

SOURCES OF DATA:

TECHNICAL CONSIDERATIONS: The PCS does not specify whether the total investment authority is a one-time amount limited to $333 million, or whether this amount would be authorized annually. This fiscal memorandum assumes the authorization is a one-time amount.

SENATE PAGES ATTENDING

COMMITTEE: Finance ROOM: 544

DATE: 7-16 TIME: 1 pm

PLEASE PRINT LEGIBILY!!!!!!!!!!!!!....*or else!*

Page Name	Hometown	Sponsoring Senator
1. Dee Anthony	Wake Forest	Hunt
2. Isabel Ferguson	Raleigh	Berger
3. Andy Shive	Knightdale	Tillman
4. Caleb Reed	Wake Forest	Daniel
5. Amanda Packer	Hope Mills	Meredith
6. Jordan Keyes	Raleigh	Hunt
7. Victoria Kroll	Holly Springs	Brunstetter
8. Roslyn Ward	Garner	Barefoot
9.		
10.		

Do not add names below the grid.

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

SENATE SERGEANT-AT-ARMS

COMMITTEE: **SENATE FINANCE**

DATE: 07/16/13 ROOM: 544

1. ERNIE SHERRELL
2. ED KESLER
3. CANTON LEWIS
4. JUSTIN OWENS
5. STEVE McKAIG

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 16, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Jimmy Broughton	Womble Carlyle
David Crawford	AIA NC
Jon Carr	Jordan Price Law Firm
Ted Fitzgerald	CCNC
Dan Conrad	NCCN
Barbara Hoest	NCRTL
Brendan Bailey	NCCGA

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 16, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
	MWC
CHRIS DILLON	NCWRC
Dick Hamilton	NCWF
Gail Beamon	NC DOR
Tenisha Jacobs	NC DOJ
Thomas Mickey	NC VETERINARY MEDICAL BOARD
	NFIB
	NCSTA
Heather Barnett	Ward & Smith
	VIDANT HEATH
Stephen Kouba	Compass

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 16, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Dave Simpson	CADC
Keith Coltrain	Wall Templeton & Haldrup, PA
Mary Bethune	AARP-NC
Cody Thomas	NCAR
Corye Dunn	DRNC
Rebecca Troutman	NCACC
Rachel Bearden	DPI
Bill McAulay	PSNC Energy
Kelsey McGaha	Rep. Whitmire's Intern
Chris Huebner	NC Wildlife Resources Commission
Chris Dillon	NC Wildlife Resources Commission
Bill Scoggin	TS

VISITOR REGISTRATION SHEET

Senate Finance Committee
Name of Committee

July 16, 2013
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Drew Mabry	UNCGA
Dick Zigler	NCAE

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 16, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
John Mera.ff	MWC LLC
Tony Tata	DCP
Ed Finkelstein	Brooks Pierce
J. Tunnell	PNCo
Amanda Atwell	North Carolina Board of Elections
Dill Carter	My + NC Lien
Justus Everett	ABE Utilities, Inc Ral. NC
Gary Salamido	NC Chamber
[illegible]	NCPA
[illegible]	Allen Law Offices, PLLC
Brittan Allen	"
Sammy Roberson	Tuck
Sarah Hardin	CTL

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 16, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Cedric Johnson	BTC
Sarah L. Miller	Self
Tommy Sevier	Moore and Van Allen
Andy Chase	KMA
Bill Hussey	DPI
Chris Fiore	SKY
Justin DeLancey	NC DOL
Canaan Zhue	MVA
David McGowan	NCPC
Lori Ann Harris	CAHA
John Peterson	NCDOA

Senate Committee on Finance
Wednesday, July 17, 2013, 1:00 PM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 269	Children w/Disabilities Scholarship Grants.	Rep. Jordan Rep. Brandon Rep. Jones Rep. Stam
SB 538	Result from DOR Inaction on Review Requests.	Sen. Clodfelter Sen. Tucker
HB 565	Amend Real Estate Appraisers' Laws/Fees.	Rep. Szoka Rep. Howard Rep. B. Brown Rep. Saine

Adjournment

Senate Finance Committee
Wednesday, July 17, 2013
Room 544 LOB, 1:00 p.m.

Minutes

The Senate Committee on Finance met on Wednesday, July 17, 2013, at 1:00 p.m. in room 544 of the Legislative Office Building. Andy Shiver of Raleigh, Isabel Ferguson of Raleigh, Amanda Packer of Hope Mills, Jordan Keyes of Raleigh, Victoria Kroll of Holly Springs, Nicholas Kroll of Holly Springs, Caleb Reed of Wake Forest and Jazsmin McNeil of Raleigh served as pages. Senator Rucho served as Chair to the meeting.

H.B. 269 – Children w/Disabilities Scholarship Grants

Representative Jordan was recognized to explain the bill, which would create the special education scholarship grants for children with disabilities. Rodney Bizzell, an Analyst with the Fiscal Research Division, was recognized to answer funding questions. Julia Adams, a Lobbyist with the Arc of NC, was recognized to answer questions and further explain the bill. Senator Cook moved for a favorable report and the motion carried. A copy of the bill, the summary, and the fiscal memo is attached.

S.B. 538 – Result from DOR Inaction on Review Requests

Senator Clodfelter and Senator Tucker were recognized to explain the bill. Senator Brock moved to adopt the proposed committee substitute (PCS) for discussion and the motion carried. The PCS would grant a taxpayer's request for a refund or remove a proposed assessment by operation of law, with some exceptions, if the Department of Revenue fails to issue a final determination within the 9-month time limit. Senator Clodfelter was recognized to offer a clarifying amendment and moved for its adoption. The motion carried. Kris Nordstrom, an Analyst with the Fiscal Research Division, was recognized to further explain the bill and answer questions regarding funding. Senator Cook moved for a favorable report and the motion carried. A copy of the PCS, the summary, and the amendment is attached.

H.B. 565 – Amend Real Estate Appraisers' Laws/Fees

Representative Szoka was recognized to explain the bill. Senator Rabin moved to adopt the PCS and the motion carried. The bill amends the Real Estate Appraisers licensing laws by increasing the educational requirements for certification as a residential real estate appraiser from an associate's degree to a bachelor's degree, and requiring registered appraisal management companies to maintain a $25,000 surety bond. The PCS makes two changes: (1) authorizes the Board to license real estate appraisers with the education requirements for a licensed real estate appraiser will be an associate's degree; and (2) studies the feasibility of the Appraisal Management Recovery Fund that would require each applicant for registration or renewal of registration as an appraisal management company to pay a $500 fee for the Fund. Don

Rogers, Executive Director of the NC Appraisal Board, was recognized to answer questions. Senator Rabin moved for a favorable report and the motion carried. A copy of the PCS and the summary is attached.

The meeting adjourned at 1:40 p.m.

Senator Bob Rucho, Presiding Chair
Senate Finance Committee

DeAnne Mangum
Senate Finance Clerk

Principal Clerk
Reading Clerk

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	July 17, 2013	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	
HB 269	Children w/Disabilities Scholarship Grants.	Representative Jordan Representative Brandon Representative Jones Representative Stam
SB 538	Result from DOR Inaction on Review Requests.	Senator Clodfelter Senator Tucker

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Wednesday, July 17, 2013

Senator Rucho,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

SB **538** Result from DOR Inaction on Review Requests.

Draft Number:	S538-PCS85267-SV-38
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

HB **565** **(CS#2)** Amend Real Estate Appraisers Laws/Fees.

Draft Number:	H565-PCS70493-TDf-36
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 2

Senator Daniel Clodfelter will handle SB 538
Senator Ronald Rabin will handle HB 565

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Wednesday, July 17, 2013

Senator Rucho,
submits the following with recommendations as to passage:

FAVORABLE

HB **269** **(SCS#1)** Children w/Disabilities Scholarship Grants.

Draft Number:	None
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

UNFAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 2

HB **857** **(SCS#1)** Public Contracts/Construction Methods/DB/P3.

Draft Number:	H857-PCS30604-ST-90
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 2

Senator Jerry Tillman will handle HB 269
Senator William Rabon will handle HB 857

CMR914-V-1

Principal Clerk
Reading Clerk

Corrected #1: H565 - Amend Real Estate Appraisers' Laws/Fees has been added to the agenda.

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	July 17, 2013	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	
HB 269	Children w/Disabilities Scholarship Grants.	Representative Jordan Representative Brandon Representative Jones Representative Stam
SB 538	Result from DOR Inaction on Review Requests.	Senator Clodfelter Senator Tucker
HB 565	Amend Real Estate Appraisers' Laws/Fees.	Representative Szoka Representative Howard Representative B. Brown Representative Saine

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H 5

HOUSE BILL 269

Committee Substitute Favorable 4/17/13
Committee Substitute #2 Favorable 5/8/13
Fourth Edition Engrossed 5/15/13
Senate Education/Higher Education Committee Substitute Adopted 6/26/13

Short Title: Children w/Disabilities Scholarship Grants. (Public)

Sponsors:

Referred to:

March 12, 2013

A BILL TO BE ENTITLED

AN ACT TO CREATE SPECIAL EDUCATION SCHOLARSHIP GRANTS FOR CHILDREN WITH DISABILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-151.33 is repealed.

SECTION 2. Section 2 of S.L. 2011-395 is repealed.

SECTION 3. G.S. 105-160.3(b)(11) is repealed.

SECTION 4. Article 9 of Chapter 115C of the General Statutes is amended by adding a new Part to read:

"Part 1H. Special Education Scholarship Grants for Children With Disabilities.

"**§ 115C-112.2. Definitions.**

The following definitions apply in this Part:

(1) Authority. – The North Carolina State Education Assistance Authority.

(2) Eligible student. – A child with a disability under the age of 22 who meets all of the following criteria:

a. Requires an Individualized Education Plan.

b. Receives special education or related services on a daily basis.

c. Has not been placed in a nonpublic school or facility by a public agency at public expense.

d. Has not spent any time enrolled in a postsecondary institution as a full-time student taking at least 12 hours of academic credit.

e. Has not received a high school diploma.

f. Meets at least one of the following requirements:

1. Was enrolled in a North Carolina public school during the previous semester.

2. Received special education or related services through the North Carolina public schools as a preschool child with a disability during the previous semester.

3. Received a scholarship grant for the previous semester.

4. Is eligible for initial enrollment in kindergarten or the first grade in a North Carolina public school.

(3) Nonpublic school. – A school that meets the requirements of Part 1, 2, or 3 of Article 39 of this Chapter as identified by the Division of Nonpublic Education, Department of Administration.

(4) Scholarship grants. – Grants awarded by the Authority to eligible students.

"**§ 115C-112.3. Scholarship grants.**

(a) The Authority shall make available no later than May 1 annually applications to eligible students for the award of scholarship grants to attend any nonpublic school and to receive special education and related services in a nonpublic school setting. Information about scholarship grants and the application process shall be made available on the Authority's Web site. The Authority shall give priority in awarding scholarship grants to eligible students who received a scholarship grant during the previous semester. Except as otherwise provided by the Authority for prior scholarship grant recipients, scholarship grants shall be awarded to eligible students in the order in which the applications are received.

(b) Scholarship grants awarded to eligible students shall be for amounts of not more than three thousand dollars ($3,000) per semester per eligible student. Eligible students awarded grants may not be enrolled in a public school. Scholarship grants shall be awarded only for the reimbursement of tuition and special education and related services, including those services provided to home schooled students. Parents may only receive reimbursement for tuition if the parent provides documentation that the student was enrolled in nonpublic school for no less than 75 days of the semester for which the parent seeks reimbursement. Parents may only receive reimbursement for related services provided to home schooled students if the parent provides documentation that the student received related services for no less than 75 days of the semester for which the parent seeks reimbursement. The Authority shall notify parents in writing of their eligibility to receive scholarship grants for costs that will be incurred during the spring semester of the following year by December 1 and for costs incurred during the fall semester of that year by July 1. Following the conclusion of each school semester, the parent of an eligible student shall submit to the Authority any receipts or other documentation approved by the Authority to demonstrate the costs incurred during the semester as well as documentation that the student was enrolled in the nonpublic school for no less than 75 days of the semester for which the parent seeks reimbursement for tuition or documentation that related services were provided to a home schooled student for no less than 75 days of the semester for which the parent seeks reimbursement for related services. The Authority shall award a scholarship grant in the amount of costs demonstrated by the parent up to the maximum amount. If the costs incurred by the parent do not meet the maximum amount, the Authority shall use the remainder of those funds for the award of scholarship grants to eligible students for the following semester. The Authority shall award scholarship grants to the parents of eligible students at least semiannually.

(c) After an eligible student's initial receipt of a scholarship grant, the Authority shall ensure that the student is reevaluated at least every three years by the local educational agency in order to verify that the student continues to be a child with a disability.

(d) The Authority shall establish rules and regulations for the administration and awarding of scholarship grants.

"**§ 115C-112.4. Verification of eligibility.**

(a) The Authority may seek verification of information on any application for scholarship grants from eligible students. If a parent fails to cooperate with verification efforts, the Authority shall revoke the award of the scholarship grant to the eligible student.

(b) Parents of applicants for scholarship grants shall authorize the Authority to access any information held by the local educational agency that is needed for verification efforts.

"**§ 115C-112.5. Authority reporting requirements.**

(a) The Authority shall report annually, no later than October 1, to the Joint Legislative Education Oversight Committee on the Special Education Scholarship Grants for Children with Disabilities.

(b) The annual report shall include all of the following information:

(1) Total number, age, and grade level of eligible students receiving scholarship grants.

(2) Total amount of scholarship grant funding awarded.

(3) Nonpublic schools in which scholarship grant recipients are enrolled and the number of scholarship grant students at that school.

(4) The type of special education or related services for which scholarship grants were awarded."

SECTION 5.(a) There is appropriated from the General Fund to the North Carolina State Education Assistance Authority (NCSEAA) the sum of three million six hundred seventy thousand five hundred dollars ($3,670,500) for the 2013-2014 fiscal year and the sum of four million three hundred forty-one thousand dollars ($4,341,000) for the 2014-2015 fiscal year in recurring funds to implement the requirements of this act. Of the funds appropriated to NCSEAA under this section, NCSEAA shall use the sum of three million dollars ($3,000,000) for fiscal year 2013-2014 and the sum of three million dollars ($3,000,000) for fiscal year 2014-2015 to award scholarship grants to eligible students. Any unexpended funds for this purpose shall not revert at the end of each fiscal year but shall remain available to award scholarship grants to eligible students.

The remainder of the funds, up to six hundred seventy thousand five hundred dollars ($670,500) for fiscal year 2013-2014 and up to one million three hundred forty-one thousand dollars ($1,341,000) for fiscal year 2014-2015 shall be transferred to the North Carolina Department of Public Instruction to conduct reevaluations of eligible students as required by G.S. 115C-112.3(c), as enacted by this act.

SECTION 5.(b) Of the funds appropriated to NCSEAA to be used for the award of scholarship grants to eligible students under subsection (a) of this section, for fiscal year 2013-2014, NCSEAA may retain up to two hundred thousand dollars ($200,000) for administrative costs associated with the scholarship grant program. For fiscal year 2014-2015 and subsequent years, NCSEAA may retain up to two percent (2%) annually for administrative costs associated with the scholarship grant program.

SECTION 5.(c) Nothing in this act shall require the General Assembly to appropriate funds to implement it. Subsections (a) and (b) of this section become effective only if those funds are appropriated by the Current Operations and Capital Improvements Appropriations Act of 2013.

SECTION 6.(a) Article 32D of Chapter 115C of the General Statutes is repealed.

SECTION 6.(b) The State Controller shall transfer the fund balance from the Fund for Special Education and Related Services to Nontax Budget Code 19978 (Intrastate Transfers) or the appropriate budget code as determined by the State Controller to support General Fund appropriations for the 2013-2014 fiscal year.

SECTION 7. Notwithstanding the definition for "eligible student" set forth in G.S. 115C-112.2, as enacted by this act, a child who is otherwise eligible to receive a scholarship grant for the spring semester of the 2013-2014 school year is deemed to have met the requirements of G.S. 115C-112.2(2)f., as enacted by this act, if the child is a dependent child for whom a taxpayer is allowed a credit for the fall semester of the 2013-2014 school year under G.S. 105-151.33 and the taxpayer affirms, under oath, that the taxpayer will claim the credit for that semester. Notwithstanding G.S. 105-259(b), the Department of Revenue shall furnish, upon request, to the Authority a list of claimants that received a credit pursuant to G.S. 105-151.33 for the taxable year beginning on or after January 1, 2013.

SECTION 8. Sections 1, 2, and 3 of this act are effective for taxable years beginning on or after January 1, 2014. This act does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this act before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal. Sections 5 and 6 of this act become effective July 1, 2013. The remainder of this act is effective when it becomes law and applies beginning with the spring semester of the 2013-2014 school year. Notwithstanding the requirement to make applications available by May 1 in G.S. 115C-112.3(a), as enacted by this act, applications for the 2014 spring semester shall be made available no later than October 1, 2013, and the Authority shall notify parents in writing of the eligibility as soon as practicable.

HOUSE BILL 269:
Children w/Disabilities Scholarship Grants

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	July 16, 2013
Introduced by:	Reps. Jordan, Brandon, Jones, Stam	**Prepared by:**	Kara McCraw and Drupti Chauhan Committee Counsel
Analysis of:	Fifth Edition		

SUMMARY: ***House Bill 269 would create the special education scholarship grants for children with disabilities.***

CURRENT LAW: A taxpayer is entitled to an education expenses tax credit of up to $3,000 per semester for tuition and special education and related services expenses for each "eligible dependent child" who is a resident of North Carolina and who enrolled for one or two semesters during the taxable year in grades kindergarten-12 at either (i) a nonpublic school or (ii) a public school where tuition is charged for the child's enrollment. For home schools, the credit is equal to the amount the taxpayer paid for special education and related services expenses, not to exceed $3,000 per semester.

Qualifications for the Tax Credit. – In order for a child to be an "eligible dependent child," all of the following criteria must be met:

- The child must be a child with a disability who requires an individualized education program (IEP) under Article 9 of Chapter 115C of the General Statutes (Education of Students with Disabilities) and the federal Individuals with Disabilities Education Improvement Act (IDEA), 20 U.S.C. § 1400 et seq. (2004), as amended. The child must be reevaluated every three years by a local educational agency to verify that the child continues to be a child with a disability. Local educational agencies are not responsible for implementing IEPs for children in parentally placed nonpublic schools.
- The child must receive special education or related services on a daily basis.
- The child must be a child for whom the taxpayer is entitled to deduct a personal exemption under section 151(c) of the Internal Code for the taxable year.

For the initial eligibility for the tax credit during the first five years that the credit is available, the eligible dependent child must have been enrolled for at least the preceding two semesters in a public school or receiving special education or related services through the public schools as a preschool child with a disability. This initial eligibility requirement is reduced to one semester beginning for taxable years on or after January 1, 2016.

Disqualifications for the Tax Credit. – A taxpayer does not qualify for the education expenses tax credit for any semester when the taxpayer's otherwise eligible dependent child was:

- Placed in a nonpublic school or facility by a public agency at public expense.
- Enrolled for any time as a full-time student taking at least 12 hours of academic credit at a postsecondary educational institution.
- 22 years of age or older during the entire semester or graduated from high school prior to the end of the semester.

Reduction of the Tax Credit. – The amount of the education expenses tax credit is reduced for any semester in which the eligible dependent child spent any time enrolled in a public school. The amount of the reduction is equal to the percentage of the semester that the eligible dependent child was enrolled in a public school.

Carryforward of the Tax Credit. – Any unused portion of the credit may be carried forward for 3 succeeding years.

Fund for Special Education and Related Services. – The Fund for Special Education and Related Services (Fund) is a special revenue fund where monies in the Fund are to be used only for special education and related services for children with disabilities, to reimburse local educational agencies for conducting reevaluations for continued eligibility, and to develop revised individualized education programs for children with disabilities. At the end of each fiscal year, the Secretary of Revenue must transfer to the Fund from the net individual income tax collections an amount equal to $2,000, multiplied by the number of education expenses tax credits taken during the fiscal year. Interest and other investment income earned by the Fund accrue to it and monies in the Fund do not revert.

BILL ANALYSIS:

HB 269 would repeal the current tax credit for children with disabilities as well as the Fund for Special Education and Related Services. It would create the following new program in Article 9 of Chapter 115C of the General Statutes (Education of Children with Disabilities). All terms defined for that Article would apply in this bill, including the definitions for child with a disability, IEPs, and special education and related services.

Special Education Scholarship Grants (grants) – The program would provide grants of not more than $3000 per semester to eligible students for reimbursement of tuition and special education and related services. Priority would be given in awarding grants to students who received a grant in the previous semester. Otherwise, grants would be awarded to eligible students in the order in which applications are received.

Scholarship Grant Eligibility - A child with a disability under the age of 22 who meets all of the following requirements would be eligible for a scholarship grant:

- Requires an individualized education plan.
- Receives special education or related services on a daily basis.
- Has not been placed in a nonpublic school or facility by a public agency at public expense.
- Has not spent any time enrolled in a postsecondary institution as a full-time student taking at least 12 academic credit hours.
- Has not received a high school diploma.
- Meets one of the following requirements:
  - Was enrolled in a NC public school during the previous semester.
  - Received special education or related services through the NC public schools as a preschool child with a disability during the previous semester.
  - Received a scholarship grant for the previous semester, or received a tax credit for students with disabilities as provided in G.S. 105-151.33 for the fall semester of the 2013-2014 school year.
  - Is eligible for enrollment in kindergarten or the first grade in a NC public school.

Administration - The State Education Assistance Authority (SEAA) would administer the scholarship grants.

- **Timeline of awards** - Applications would be made available by May 1 to eligible students. Awards of grants for fall semester will be made by July 1, and awards for spring semester will be made by December 1.
- **Reimbursement Documentation** - At the end of each semester, parents will submit receipts or other documentation to the SEAA for reimbursement up to the maximum amount of the grant. Parents must provide documentation that the student was enrolled in nonpublic school or was homeschooled and receiving related services for no less than 75 days of the semester for which the parent seeks reimbursement.
- **Verification of Eligibility** – The SEAA may seek verification on information on applications and may revoke grants if parents fail to cooperate with verification efforts. Parents must authorize the SEAA to access information held by the local educational agency.
- **Reevaluation** - After an initial award, students must be reevaluated by the local educational agency every three years to verify the student continues to be a child with a disability.

Reporting – The SEAA must report to the Joint Legislative Education Oversight Committee annually no later than October 1 on the following:

- Total number, age, and grade level of students receiving grants.
- Total amount of grant funding awarded.
- Nonpublic schools in which grant recipients are enrolled, and number of grant students at those schools
- Types of special education or related services for which grants were awarded.

Appropriations: $3,670,500 is appropriated to the SEAA for the 2013-2014 fiscal year, and $4,341,000 in recurring funds is appropriated to the SEAA for the 2014-2015 fiscal year to implement the act. Of those funds, $3,000,000 per year must be used by the SEAA to fund grants to eligible students. Unexpended funds do not revert and remain available to award grants. The remainders of the funds are transferred to DPI to conduct evaluation of eligible students. The SEAA may retain up to $200,000 of the funds for grants for administrative costs in fiscal year 2013-2014. For fiscal year 2014-2015 and subsequent years, the SEAA may retain 2% annually for administrative costs.

EFFECTIVE DATE: The repeal of the current tax credit (Sections 1, 2, and 3) is effective for taxable years beginning on or after January 1, 2014. The scholarship grant program (Section 4), is effective when it becomes law and applies beginning with the spring semester of the 2013-2014 school year. Sections 5 and 6, concerning appropriations and fund transfers, are effective July 1, 2013. Initial applications for the 2014 spring semester must be made available no later than October 1, 2014 and parents notified of awards as soon as practicable. The bill specifies that nothing in the act requires the General Assembly to appropriate funds to implement it. The appropriations would become effective only if those funds are appropriated by the Current Operations and Capital Improvement Act of 2013.

BACKGROUND: The House Appropriations Committee Report on the Continuation, Expansion, and Capital Budgets for House Committee Substitute for Senate Bill 402, 6/11/2013 appropriates the funds required for HB 269. Approximately six states have scholarship grant programs for students with disabilities: Florida, Georgia, Louisiana, Ohio, Oklahoma, and Utah.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Fiscal Note

REVISED

BILL NUMBER: House Bill 269 (Second Edition)

SHORT TITLE: Children w/Disabilities Scholarship Grants.

SPONSOR(S): Representatives Jordan, Brandon, Jones, and Stam

FISCAL IMPACT
($ in millions)

☑ Yes ☐ No ☐ No Estimate Available

State Impact	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
General Fund Revenues:	0.0	1.5	1.8	2.0	2.2
General Fund Expenditures:	3.7	4.3	4.3	4.3	4.3
State Positions:					
NET STATE IMPACT	($3.7)	($2.8)	($2.5)	($2.3)	($2.1)

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:
Department of Revenue, North Carolina State Education Assistance Authority, Department of Public Instruction

EFFECTIVE DATE: Sections 1, 2, and 3 of this act are effective for taxable years beginning on or after January 1, 2014. Sections 5 & 6 are effective July 1, 2013. The remainder is effective when it becomes law.

TECHNICAL CONSIDERATIONS:
Yes - See Technical Considerations Section

BILL SUMMARY:
Sections 1 through 3 repeal relevant Session Law and General Statutes related to S.L. 2011-395, Tax Credits for Children With Disabilities. These pieces are repealed effective for taxable years beginning on or after January 1, 2014.

Section 4 amends Article 9 of Chapter 115C of the General Statutes to create the new Special Education Scholarship Grants for Children with Disabilities program (the Program). The program provides scholarship grants of up to $3,000 per semester to eligible children to attend a nonpublic school.[1] The scholarship grant may only be used for the reimbursement of tuition and special education and related services.

[1] Nonpublic schools include traditional private schools and home schools.

To be eligible for the scholarship grant, the student must:

1. Require an individualized education plan;
2. Receive special education or related services on a daily basis;
3. Not have been placed in a nonpublic school or facility by a public agency at public expense;
4. Not have spent any time enrolled in a postsecondary institution as a full-time student taking at least 12 hours of academic credit.
5. Not have received a high school diploma; and
6. Meet one of the following requirements:
    a. Was enrolled in a North Carolina public school during the previous semester;
    b. Received special education or related services through the North Carolina public schools as a preschool child with a disability during the previous semester;
    c. Received a scholarship grant for the previous semester; or
    d. Is eligible for initial enrollment in kindergarten or the first grade in a North Carolina public school.

Eligible students who received a scholarship grant during the previous semester or who generated a tax credit for the fall semester of the 2013-14 school year shall be given priority. Otherwise, scholarship grants will be awarded in the order in which the applications are received.

The Program will be administered by the North Carolina State Education Assistance Authority (SEAA). SEAA will have the following responsibilities:

1. Make applications available no later than May 1 of each year
2. Provide information about the scholarship grants and the application process on the SEAA website.
3. Notify parents of their eligibility to receive scholarship grants by July 1 of each year for fall semesters and by December 1 of each year for spring semesters
4. Issue additional scholarship grants if scholarship grant funds remain after making initial awards.
5. Establish rules and regulations for the administration of the Program.
6. Ensure that students receiving scholarship grants are reevaluated at least every three years by the local education agency (LEA) in order to verify that the student continues to be a child with a disability.

SEAA shall report to the Joint Legislative Education Oversight Committee by October 1 of each year on the following:

1. Total number, age and grade level of eligible students receiving scholarship grants;
2. Total amount of scholarship grant funding awarded;
3. Nonpublic schools in which scholarship grant recipients are enrolled and the number of scholarship grant students at the school; and
4. The type of special education or related services for which scholarship grants were awarded.

SEAA may seek verification of information on any application for scholarship grants.

SEAA must report to the Department of Public Instruction (DPI) by August 1 of each year, reporting the number of students who both:

1. Awarded a scholarship grant for the upcoming semester; and
2. Were enrolled in a public school during the prior semester.

DPI shall adjust the allotments of LEAs based on the number of students awarded a scholarship grant who attended an LEA during the semester prior to the semester for which the scholarship grant was awarded.

Section 5 of the bill appropriates $3,670,500 for FY 2013-14 and $4,341,000 for FY 2014-15. Of these amounts, up to $670,500 may be transferred to DPI to conduct reevaluations of eligible students as required by G.S. 115C-112.3(c) in FY 2013-14, and up to $1,341,000 may be transferred and used for the same purposes in FY 2014-15. Of the funds appropriated, SEAA may retain up to $200,000 in FY 2013-14 and up to 2% of the appropriated amount for FY 2014-15 and subsequent years.

ASSUMPTIONS AND METHODOLOGY:

This bill would eliminate the tax credit created by S.L. 2011-395 and replace this program with a scholarship grant program. As a result, the fiscal analysis must compare the projected fiscal impact of:

1. The tax credit created by S.L. 2011-395; and
2. The scholarship grant program created by this bill.

Projecting the cost of the S.L. 2011-395 tax credit

Data from the Department of Revenue (DOR) indicates that 619 returns reported an associated tax credit value of $1,538,054 for the 2011 taxable year. Preliminary data through March 12, 2013 indicates that 485 returns reported an associated tax credit value of $1,218,383 for the 2012 taxable year. Over both years, the average tax credit claimed was approximately $2,500.

Of course, the tax credit created by S.L. 2011-395 is non-refundable. That is, the tax filer can only receive a credit up to the amount that he or she owes in State taxes. This amount is reduced further by claiming of other tax credits. As a result, tax credits *claimed* exceeds the value of tax credits *realized.*

Based on the first two years' data, it appears as if tax credits realized are approximately half of tax credits claimed. That is, while $1.2 million of tax credits have been claimed so far for the 2012 taxable year, the amount of credits realized is likely to be closer to $600,000.

It is important to note that many taxpayers have yet to file their 2012 taxes as of March 12. That means that the number of tax credits claimed and realized are likely to be significantly higher than the initial data above indicates. Unfortunately, there is little historic data to draw from to formulate an estimate. It is probably safe to say, however, that the number and value of credits will exceed the number claimed in the 2011 taxable year for two reasons. First, the program for the 2011 taxable year only covered one semester. Second, the program is likely to grow in the 2012 taxable year, as more taxpayers become aware of the program. As a result, this analysis

assumes that there will ultimately be 800 tax credits claimed for the 2012 taxable year, with an average value of $2,500 each. This analysis assumes a further 10% growth in the program for the subsequent taxable years.

Finally, it is also important to note that unused portions of the credit may be carried forward for the succeeding three years. For purposes of calculating carry-forward amounts, this analysis assumes that the program will have a turnover rate of 15%. That is, 15% of taxpayers claiming a credit in 2011 will not claim a credit in 2012, and instead will begin to realize the credits carried forward.

For purposes of analysis, it is assumed that tax credits generated in the 2012 taxable year will impact State revenues in the 2012-13 fiscal year, tax credits generated in the 2013 taxable year will impact State revenues in the 2013-14 fiscal year, and so forth.

Based on the above, one would anticipate that the S.L. 2011-395 tax credit would have the following estimated impact going forward:

	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
Returns	619	800	880	968	1065	1172	1289
Claimed Value	$1,538,054	$2,000,000	$2,200,000	$2,420,000	$2,662,500	$2,930,000	$3,222,500
Realized Value	$769,027	$1,000,000	$1,100,000	$1,210,000	$1,331,250	$1,465,000	$1,611,250
Amount Carried Forward		$115,354	$197,842	$315,000	$496,500	$546,188	$600,938
Total Reduction to Revenues	**$769,027**	**$1,115,354**	**$1,297,842**	**$1,525,000**	**$1,827,750**	**$2,011,188**	**$2,212,188**

Projecting the additional expenditures of the scholarship grant program
The expenditures related to the scholarship grant program proposed by this bill is simply the appropriated amount of $3,670,500 for FY 2013-14 and $4,341,000 for FY 2014-15.

Total fiscal impact of the bill
The total impact of the bill is the increase in revenues anticipated from the elimination of the tax credit program, less the appropriation made for the scholarship grant program (increased expenditures).

SOURCES OF DATA: Department of Revenue

TECHNICAL CONSIDERATIONS:
SEAA indicates that administrative costs for FY 2014-15 are likely to exceed the amount they are authorized to retain for such purposes in FY 2014-15. SEAA indicates that administration of the program considered by this bill would cost $117,900. SEAA would be authorized to retain up to $86,820 under this bill. Bill sponsors might consider increasing the allowable retention percentage for FY 2014-15 to 2.8% to provide the funds necessary to SEAA for program administration.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Kristopher Nordstrom

APPROVED BY: Mark Trogdon, Director
Fiscal Research Division

DATE: April 27, 2013

Signed Copy Located in the NCGA Principal Clerk's Offices

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 538
PROPOSED COMMITTEE SUBSTITUTE S538-CSSV-38 [v.3]
7/17/2013 11:06:49 AM

Short Title: Result from DOR Inaction on Review Requests. (Public)

Sponsors:

Referred to:

April 1, 2013

A BILL TO BE ENTITLED

AN ACT TO GRANT A TAXPAYER'S REQUEST FOR A REFUND OR TO REMOVE A PROPOSED ASSESSMENT BY OPERATION OF LAW IF THE DEPARTMENT OF REVENUE HAS NOT ISSUED A FINAL DETERMINATION WITHIN THE STATUTORY TIME FRAME.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-241.11 is amended by adding a new subsection to read:

"(d) Form and Basis. – A request for review of a proposed denial of a refund or a proposed assessment must include a detailed explanation, including any supporting documentation, setting forth the specific grounds of the request for review. The inability to pay an assessment is not a sufficient basis for requesting review of a proposed assessment. Failure to comply with the requirements of this subsection results in an automatic denial of the request for a refund or the request to remove a proposed assessment. In the case of an automatic denial, the Department is not required to schedule a conference with the taxpayer and must send the taxpayer notification that the denial is final and is not subject to further administrative or judicial review. In the case of an automatic denial of a request for review of a proposed assessment, the notice must include a statement that the assessment is collectible under G.S. 105-241.22."

SECTION 2. G.S. 105-241.13(a)(3) reads as rewritten:

"(3) Request additional information from the taxpayer concerning the requested refund or proposed assessment. The Department may make multiple requests for information. All requests for information must be made prior to 60 days before the final determination must be issued under G.S. 105-241.14 or before the time set by mutual agreement."

SECTION 3. G.S. 105-241.14 reads as rewritten:

"**§ 105-241.14. Final determination after Departmental review.**

(a) Refund. – If a taxpayer files a timely request for a Departmental review of a proposed denial of a refund and the Department and the taxpayer are unable to resolve the taxpayer's objection to the proposed denial, the Department must send the taxpayer a notice of final determination concerning the refund. The notice of final determination must state the basis for the determination and inform the taxpayer of the procedure for contesting the determination. The statement of the basis for the determination does not limit the Department from changing the basis.

(b) Assessment. – If a taxpayer files a timely request for a Departmental review of a proposed assessment and the Department and the taxpayer are unable to resolve the taxpayer's objection to the proposed assessment, the Department must send the taxpayer a notice of final

determination concerning the assessment. A notice of final determination concerning an assessment must contain the following information:

(1) The basis for the determination. This information may be stated on the notice or be set out in a separate document. The statement of the basis for the determination does not limit the Department from changing the basis.

(2) The amount of tax, interest, and penalties payable by the taxpayer.

(3) The procedure the taxpayer must follow to contest the final determination.

(4) A statement that the amount payable stated on the notice is collectible by the Department unless the taxpayer contests the final determination.

(5) An explanation of the collection options available to the Department if the taxpayer does not pay the amount shown due on the notice and any remedies available to the taxpayer concerning these collection options.

(c) Time Limit. – The process set out in G.S. 105-241.13 for reviewing and attempting to resolve a proposed denial of a refund or a proposed assessment must conclude, and a final determination must be issued within nine months after the date the taxpayer files a request for review. The Department and the taxpayer may extend this time limit by mutual agreement. ~~Failure to issue a notice of final determination within the required time does not affect the validity of a proposed denial of a refund or proposed assessment.~~The Secretary and the taxpayer may mutually agree to reduce the nine-month period in an effort to expedite the issuance of a final determination.

(d) Consequences of Inaction. – Failure to issue a notice of final determination within the time limit set in subsection (c) of this section is considered a grant of a requested refund or the removal of a proposed assessment by operation of law, unless one or more of the circumstances listed in this subsection applies. When a refund is granted by operation of law, the Department must send the taxpayer the refund. When an assessment is removed by operation of law, the Department must notify the taxpayer that the assessment is removed. The circumstances that negate this result are:

(1) The Department and the taxpayer extended the time limit set in subsection (c) of this section by mutual agreement and that time has not expired.

(2) The Department made a written request to the taxpayer for additional information, and the taxpayer has not responded to the request or has not responded in a complete manner as determined by the Secretary.

(3) The Department received information from the taxpayer pursuant to a written request for additional information, and the time set in this subdivision for further action has not expired. If the time limit set in subsection (c) of this section will expire within 60 days of receipt of the requested information from the taxpayer, the Department must review the information and either grant the requested refund, remove the proposed assessment, or issue a final determination within 90 days of receipt of the requested information.

(4) The Department received a request for review based upon a proposed denial of refund and the denied refund is based on a contingent event defined in G.S. 105-241.6(b)(5)a. that has not been finalized.

SECTION 4. This act becomes effective January 1, 2014, and applies to requests for review filed on or after that date.

SENATE BILL 538:
Result from DOR Inaction on Review Requests

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	July 17, 2013
Introduced by:	Sens. Clodfelter, Tucker	**Prepared by:**	Trina Griffin
Analysis of:	PCS to First Edition S538-CSSV-38		Committee Counsel

SUMMARY: ***The Proposed Committee Substitute for Senate Bill 538 would grant a taxpayer's request for a refund or remove a proposed assessment by operation of law, with some exceptions, if the Department of Revenue fails to issue a final determination within the 9-month time limit.***

CURRENT LAW: If the Department of Revenue proposes an assessment against a taxpayer or denies a taxpayer's request for a refund, there is an administrative process by which the taxpayer may challenge the Department's action. First, the taxpayer must, within 45 days from the notice, file a request for review by the Department. The Departmental review generally consists of an initial review followed by an informal conference. If the review results in the Department granting the refund or removing the assessment, the matter ends there. If the review does not resolve the dispute, the Department may request additional information from the taxpayer and must schedule a conference with the taxpayer. If the Department and the taxpayer are unable to resolve the matter at conference, the Department must issue a final determination.

The final determination must be issued within nine months after the date the taxpayer filed a request for review. A final determination represents the Department's decision regarding a proposed denial of a refund or a proposed assessment. Once issued at the conclusion of the Departmental review process, it triggers the taxpayer's ability to seek further review regarding a disputed tax matter. Without a final determination, a taxpayer may not proceed with a contested case at the Office of Administrative Hearings, which would be the next step in the process.

While the Department is statutorily required to issue a final determination within nine months after the date the taxpayer filed the request, some taxpayers have complained that this requirement is not always met. Among the reasons that the Department may be unable to issue a final determination within 9 months is that requests are often incomplete or too vague or that taxpayers either fail to respond to requests for information or respond at the end of the 9-month period.

BILL ANALYSIS:

Section 1 of the bill would require that a taxpayer, when making a request for review of a proposed assessment or a proposed denial of a refund, to provide a detailed explanation, including any supporting documentation, setting for the basis for the request. The bill declares that the inability to pay an assessment is not a sufficient basis for requesting review. Failure to comply with these requirements would be an automatic denial of the request for a refund or the request to remove a proposed assessment. The denial would not be subject to administrative or judicial review. However, if the statute of limitations has not expired, a taxpayer would be able to resubmit his or her request in the proper form.

In response to a taxpayer's request for review, the Department may request additional information from the taxpayer. **Section 2** of the bill clarifies that the Department may make multiple requests during the 9-month period it has before it must make a final determination on the request. However, the bill would

preclude the Department from requesting additional information during the 60-day window immediately prior to the expiration of the 9-month time limit.

Section 3 of the bill provides that if the Department fails to issue a final determination within the 9-month time limit, the refund request or the request to remove the proposed assessment is granted as a matter of law, and the Department must notify the taxpayer of said result. There are four exceptions:

- The Department and the taxpayer have mutually agreed to extend the 9-month time limit.
- The taxpayer has either failed to respond or has responded insufficiently to the Department's written request for information.
- The taxpayer responded to the Department's request for information within 60 days of the expiration of the 9-month time limit. In this circumstance, the Department has 90 days from the receipt of the information to issue the final determination, even if that would extend beyond the original 9-month time limit.
- The proposed denial of a refund is based on a contingent event that has not been finalized.

EFFECTIVE DATE: The act would become effective January 1, 2014, and apply to requests for review filed on or after that date.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 538

AMENDMENT NO. 1
(to be filled in by Principal Clerk)

S538-ASV-49 [v.1]

Comm. Sub. [YES]
Amends Title [NO]
First Edition

Date July 17 ,2013

Senator Clodfelter

moves to amend the bill on page 1, line 8, by deleting the words "Form and";

and on page 1, line 15, by adding the word "automatic" between the words "the" and "denial";

and on page 1, lines 23-24, by rewriting the lines to read:
"before the final determination must be issued as required under G.S. 105-241.14(c).".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED Y FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 565
Committee Substitute Favorable 6/12/13
Committee Substitute #2 Favorable 6/27/13
PROPOSED SENATE COMMITTEE SUBSTITUTE H565-CSTDf-36 [v.7]
7/17/2013 11:46:35 AM

Short Title: Amend Real Estate Appraisers' Laws/Fees. (Public)

Sponsors:

Referred to:

April 4, 2013

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAWS REGULATING REAL ESTATE APPRAISERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 93E-1-3(a) reads as rewritten:

"(a) No trainee registration, license, or certificate shall be issued under the provisions of this Chapter to a partnership, association, corporation, firm, or group. However, nothing herein shall preclude a registered trainee or licensed or certified real estate appraiser from rendering appraisals for or on behalf of a partnership, association, corporation, firm, or group, provided the appraisal report is prepared by a licensed or certified real estate appraiser or by a registered trainee under the immediate personal direction ~~of,~~ of the ~~licensed or~~ certified real estate appraiser and is reviewed and signed by that ~~licensed or~~ certified appraiser."

SECTION 2. G.S. 93E-1-6 reads as rewritten:

"**§ 93E-1-6. Qualifications for ~~registration~~ registration, licensure and certification; applications; application fees; examinations.**

(a) Any person desiring to be registered as a trainee or to obtain licensure as a licensed real estate appraiser or certification as a certified real estate appraiser shall make written application to the Board on the forms as are prescribed by the Board setting forth the applicant's qualifications for registration, licensure, or certification. Each applicant shall satisfy the following qualification requirements:

(1) Each applicant for registration as a trainee shall:

a. Have obtained a high school diploma or its equivalent; and

b. Demonstrate to the Board that the applicant possesses the knowledge and competence necessary to perform appraisals of real property, by: (i) having satisfactorily completed within the five-year period immediately preceding the date application is made, a course of instruction, approved by the Board, in real estate appraisal principles and practices consisting of at least 90 hours of classroom instruction in subjects determined by the Board; and (ii) satisfying any additional qualification the Board imposes by rule, not inconsistent with any requirements imposed by the Appraisal Foundation.

(1a) Each applicant for licensure as a licensed real estate appraiser shall:

a. Hold an associate's degree or higher from an accredited college, community college or university;

b. Demonstrate to the Board that the applicant possesses the knowledge and competence necessary to perform appraisals of real property by having satisfactorily completed a course of instruction consisting of at least 150 hours of classroom instruction in subjects determined by the Board. All instructional courses must be completed on or after January 1, 2008.

c. Present evidence satisfactory to the Board of at least 2,500 hours, or the minimum requirement as imposed by the federal government, whichever is greater, of experience in real estate appraising within the eight-year period immediately preceding the date the application is made, and over a period of at least two calendar years; and

d. Satisfy the additional qualifications criteria as may be imposed by the Board by rule, not inconsistent with any requirements imposed by the federal government; or shall possess education and experience which is found by the Board in its discretion to be equivalent to the above requirements.

(2) Each applicant for certification as a certified residential real estate appraiser shall:

a. Hold ~~an associate's degree or higher~~a bachelor's degree from an accredited college,~~ junior college, community college,~~ or university; ~~or have a high school diploma or its equivalent and have successfully completed at least 21 semester credit hours of college courses from an accredited college, junior college, community college, or university in English composition, principles of economics, finance, higher mathematics, such as geometry or algebra, statistics, introduction to computers, and business or real estate law;~~

b. Demonstrate that the applicant possesses the knowledge and competence necessary to perform appraisals of real property as the Board may prescribe by having satisfactorily ~~completed, within the five-year period immediately preceding the date the application is made,~~completed a course of instruction, approved by the Board, in real estate appraisal principles and practices consisting of at least 200 ~~hours;~~hours. All instructional courses shall have been completed on or after January 1, 2008;

c. Present evidence satisfactory to the Board of at least 2,500 hours or the minimum requirement as imposed by the Appraisal Foundation, whichever is greater, of experience in real estate appraising within the ~~five-year~~eight-year period immediately preceding the date application is made, and over a period of at least two calendar years; and

d. Satisfy the additional qualifications criteria as may be imposed by the Board by rule, not inconsistent with any requirements imposed by the Appraisal Foundation; or

e. Possess education and experience which is found by the Board in its discretion to be equivalent to the above requirements.

(3) Each applicant for certification as a certified general real estate appraiser shall:

a. Hold a bachelor's degree or higher from an accredited college or university; ~~or have a high school diploma or its equivalent and have successfully completed at least 30 semester credit hours of college courses from an accredited college or university in English~~

~~composition, macroeconomics and microeconomics, finance, higher mathematics, such as geometry or algebra, statistics, introduction to computers, and business or real estate law and two elective courses in accounting, geography, business management, or real estate;~~

b. Demonstrate that the applicant possesses the knowledge and competence necessary to perform appraisals of all types of real property by having satisfactorily ~~completed, within the five-year period immediately preceding the date application is made,~~completed a course of instruction, approved by the Board, in general real estate appraisal practices consisting of at least 300 ~~hours;~~hours. All instructional courses shall have been completed on or after January 1, 2008;

c. Present evidence satisfactory to the Board of at least 3,000 hours or the minimum requirement as imposed by the Appraisal Foundation, whichever is greater, of experience in real estate appraising within the ~~five-year~~eight-year period immediately preceding the date application is made, and over a period of at least two and one-half calendar years, fifty percent (50%) of which must be in appraising nonresidential real estate; and

d. Satisfy the additional qualifications criteria as may be imposed by the Board by rule, not inconsistent with any requirements imposed by the Appraisal Foundation; or

e. Possess education or experience which is found by the Board in its discretion to be equivalent to the above requirements.

(4) Repealed by Session Laws 2001-399, s. 1.

(b) Each application for registration as a trainee or for licensure or certification as a real estate appraiser shall be accompanied by a fee of two hundred dollars ($200.00), plus any additional fee as may be necessary to defray the cost of any competency examination administered by a private testing service.

(c) Any person who files with the Board an application for ~~registration~~ licensure or certification as a real estate appraiser shall be required to pass an examination to demonstrate the person's competence.

(c1) The Board shall also make an investigation as it deems necessary into the background of the applicant to determine the applicant's qualifications with due regard to the paramount interest of the public as to the applicant's competency, honesty, truthfulness, and integrity. ~~All applicants shall obtain criminal record reports from one or more reporting services designated by the Board to provide criminal record reports. Applicants are required to pay the designated reporting service for the cost of the reports.~~All applicants shall consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny an application. The Board shall ensure that the State and national criminal history of an applicant is checked. The Board shall be responsible for providing to the North Carolina Department of Justice the fingerprints of the applicant to be checked, a form signed by the applicant consenting to the criminal history record check, and the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories and any additional information required by the Department of Justice in accordance with G.S. 114-19.30. The Board shall keep all information obtained pursuant to this section confidential. The Board shall collect any fees required by the Department of Justice and shall remit the fees to the Department of Justice for expenses associated with conducting the criminal history record check.

(c2) In addition, the Board may investigate and consider whether the applicant has had any disciplinary action taken against any other professional license in North Carolina or any

other state, or if the applicant has committed or done any act which, if committed or done by any real estate trainee or appraiser, would be grounds under the provisions hereinafter set forth for disciplinary action including the suspension or revocation of registration, licensure, or certification, or whether the applicant has been convicted of or pleaded guilty to any criminal act. If the results of the investigation shall be satisfactory to the Board, and the applicant is otherwise qualified, then the Board shall issue to the applicant a trainee registration or certificate authorizing the applicant to act as a registered trainee real estate appraiser or certified real estate appraiser in this State.

(d) If the applicant has not affirmatively demonstrated that the applicant meets the requirements for registration or certification, action on the application will be deferred pending a hearing before the Board."

SECTION 3. G.S. 93E-1-6.1 reads as rewritten:

"**§ 93E-1-6.1. Trainee supervision.**

All trainees shall perform all real estate appraisal-related activities under the immediate, active, and personal supervision of a ~~licensed or~~ certified real estate appraiser. All appraisal reports must be signed by the appraiser who supervised the trainee. By signing the appraisal report, the appraiser accepts shared responsibility, with the trainee, for the content of and conclusions in the report. All trainees and any appraisers desiring to supervise a trainee shall complete a course in trainee supervision as required in rules adopted by the Board."

SECTION 4. G.S. 93E-1-8 reads as rewritten:

"**§ 93E-1-8. Education program approval and fees.**

(a) The Board may by rule prescribe minimum standards for the approval and renewal of approval of schools and other course sponsors and their instructors to conduct appraiser ~~prelicensing and precertification~~qualifying courses required by G.S. 93E-1-6(a). Such standards may address subject matter, program structuring, instructional materials, requirements for satisfactory course completion, instructors' qualifications, and other related matters relevant to the provision of such courses in a manner that best serves the public interest. The standards may require that schools and course sponsors obtain approval for the content of ~~prelicensing and precertification~~qualifying courses from the Appraiser Qualifications Board of the Appraisal Foundation as part of the application process with the Appraisal Board and pay any fees directly to the Appraiser Qualifications Board as required by the Appraiser Qualifications Board for the approval.

(b) The Board may by rule set nonrefundable fees chargeable to private real estate appraisal schools or course sponsors, including appraisal trade organizations, for the approval and annual renewal of approval of their ~~prelicensing and precertification~~qualifying courses required by G.S. 93E-1-6(a), or equivalent courses. The fees shall be one hundred dollars ($100.00) per course for approval and fifty dollars ($50.00) per course for renewal of approval. No fees shall be charged for the approval or renewal of approval to conduct appraiser ~~prelicensing or precertification~~qualifying courses where such courses are offered by a North Carolina college, university, junior college, or community or technical college accredited by the Southern Association of Colleges and Schools, or an agency of the federal, State, or local government.

(c) The Board may by rule prescribe minimum standards for the approval and annual renewal of approval of schools and other course sponsors and their instructors to conduct appraiser continuing education courses. Such standards may address subject matter, instructional materials, requirements for satisfactory course completion, minimum course length, instructors' qualifications, and other related matters relevant to the provision of such courses in a manner that best serves the public interest.

(d) Nonrefundable fees of one hundred dollars ($100.00) per course may be charged to schools and course sponsors for the approval to conduct appraiser continuing education courses and fifty dollars ($50.00) per course for renewal of approval. However, no fees shall be charged

for the approval or renewal of approval to conduct appraiser continuing education courses where such courses are offered by a North Carolina college, university, junior college, or community or technical college accredited by the Southern Association of Colleges and Schools, or by an agency of the federal, State, or local government. A nonrefundable fee of fifty dollars ($50.00) per course may be charged to current or former licensees or certificate holders requesting approval by the Board of a course for continuing education credit when approval of such course has not been previously obtained by the offering school or course sponsor."

SECTION 5. G.S. 93E-2-4 reads as rewritten:

"**§ 93E-2-4. Qualifications for registration; duties of registrants.**

(a) Any person or entity desiring to be registered as an appraisal management company in this State shall make written application to the Board on forms prescribed by the Board setting forth the applicant's qualifications for registration. The application shall be accompanied by the applicable fee under G.S. 93E-2-6 and any other information the Board deems necessary pursuant to rules adopted by the Board. Upon receipt of a properly completed application and fee and upon a determination by the Board that the applicant is of good moral character, the Board shall issue to the applicant a certificate of registration authorizing the applicant to act as a real estate appraisal management company in this State.

(b) The registration required by subsection (a) of this section shall include the following information:

(1) Legal name of the entity seeking registration.
(2) Business address of the entity seeking registration.
(3) Phone contact information of the entity seeking registration.
(4) If the entity is not a corporation that is domiciled in this State, the name and contact information for the company's agent for service of process in this State.
(5) The name, address, and contact information for any individual or any corporation, partnership, or other business entity that owns ten percent (10%) or more of the appraisal management company.
(6) The name, address, and contact information for the compliance manager.
(7) A certification that the entity has a system and process in place to verify that a person being added to the appraiser panel of the appraisal management company holds a license in good standing in this State pursuant to the North Carolina Appraisers Act if a license or certification is required to perform appraisals.
(8) A certification that the entity has a system in place to require that appraisers inform the appraisal management company of their areas of geographic competency, the types of properties the appraiser is competent to appraise, and the methodologies the appraiser is competent to perform.
(9) A certification that the entity has a system in place to review the work of all independent appraisers that are performing real estate appraisal services for the appraisal management company on a periodic basis to validate that the real estate appraisal services are being conducted in accordance with the Uniform Standards of Professional Appraisal Practice.
(10) A certification that the entity maintains a detailed record of each service request that it receives and the independent appraiser that performs the residential real estate appraisal services for the appraisal management company.
(10a) A certification that the entity has obtained a surety bond as required by this Article.
(11) An irrevocable Uniform Consent to Service of Process.

(12) Any other information required by the Board pursuant to G.S. 93E-2-3.

(c) Any registrant having a good faith belief that a real estate appraiser licensed or certified in this State has violated applicable law or the Uniform Standards of Professional Appraisal Practice or engaged in unethical conduct shall promptly file a complaint with the Board.

(d) Registered appraisal management companies shall pay fees to an appraiser within 30 days of the date the appraisal is transmitted by the real estate appraiser to the registrant, except in cases of noncompliance with the conditions of the engagement. In such cases, the registrant shall notify the real estate appraiser in writing that the fees will not be paid.

(e) To qualify to be registered as an appraisal management company, each individual who owns, directly or indirectly, more than ten percent (10%) of the appraisal management company shall be of good moral character, as determined by the Board, and shall submit all information the Board deems necessary pursuant to the rules adopted by the Board. Additionally, each owner shall certify that he or she has never had a license to act as an appraiser refused, denied, cancelled, or revoked by the State of North Carolina or any other state.

(f) A registered appraisal management company shall not enter into any contracts or agreements with an independent appraiser for the performance of residential real estate appraisal services for properties located in this State unless the independent appraiser is licensed or certified in good standing pursuant to the North Carolina Appraisers Act.

(g) Each applicant for registration or for a renewal of a registration shall post with the Board and maintain a surety bond in the amount of twenty-five thousand dollars ($25,000).

(1) The bond shall be in a form satisfactory to the Board.

(2) The bond will accrue to the Board for the benefit of a claimant against the registrant to secure the faithful performance of the registrant's obligations under this Article and to a real estate appraiser who has performed an appraisal for the registrant for which the appraiser has not been paid.

(3) The aggregate liability of the surety shall not exceed the principal sum of the bond.

(4) A party having a claim against the registrant may bring suit directly on the surety bond, or the Board may bring suit on behalf of the party having a claim against the registrant, either in one action or in successive actions.

(5) A claim reducing the face amount of the bond shall be annually restored upon renewal of the registrant's registration.

(6) The bond shall remain in effect until cancellation, which may occur only after 90 days written notice to the Board. Cancellation shall not affect any liability incurred or accrued during that period.

(7) The surety bond shall remain in place for no less than two years after the registrant ceases operations in this State. However, notwithstanding this provision, the Board may permit the surety bond to be reduced or eliminated prior to that time to the extent that the amount of the registrant's outstanding obligations to appraisers is reduced."

SECTION 6. G.S. 93E-2-8(a) reads as rewritten:

"**§ 93E-2-8. Disciplinary authority.**

(a) The Board may, by order, deny, suspend, revoke, or refuse to issue or renew a registration of an appraisal management company under this Article or may restrict or limit activities of a person who owns an interest in or participates in the business of an appraisal management company if the Board determines that an applicant, registrant, or any partner, member, manager, officer, director, compliance manager, or person occupying a similar status, performing similar functions, or directly or indirectly controlling the applicant or registrant has done any of the following:

(1) Filed an application for registration that, as of its effective date or as of any date after filing, contained any statement that, in light of the circumstances under which it was made, is false or misleading with respect to any material fact.
(2) Violated or failed to comply with any provision of this Article or any rules adopted by the Board.
(3) Been convicted of any felony or, within the past 10 years, been convicted of any misdemeanor involving mortgage lending or real estate appraisal or any offense involving breach of trust, moral turpitude, or fraudulent or dishonest dealing.
(4) Been permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the real estate appraisal management business.
(5) Been the subject of an order of the Board or any other state appraiser regulatory agency denying, suspending, or revoking the person's license as a real estate appraiser.
(6) Acted as an appraisal management company while not properly licensed by the Board.
(7) Failed to pay the proper filing or renewal fee under this Article.
(8) Failed to maintain the bond required by G.S. 93E-2-4."

SECTION 7. G.S. 93E-2-8(g) reads as rewritten:

"(g) If the Board has reasonable grounds to believe that an appraisal management company has violated the provisions of this Article or that facts exist that would be the basis for an order against an appraisal management company, the Board may at any time, either personally or by a person duly designated by the Board, investigate or examine the books, accounts, records, and files of any registrant or other person relating to the complaint or matter under investigation.

(g1) The Board may require any registrant or other person to submit a criminal history record check and a set of that person's fingerprints in connection with any examination or investigation. Refusal to submit the requested criminal history record check or a set of fingerprints shall be grounds for disciplinary action. The reasonable cost of the investigation or examination shall be charged against the registrant."

SECTION 8. G.S. 114-19.30 reads as rewritten:

"**§ 114-19.30. Criminal history record checks of applicants for trainee registration, appraiser licensure, appraiser certification, or registrants for registration as real estate appraisal management companies.**

The Department of Justice may provide to the North Carolina Appraisal Board from the State and National Repositories of Criminal Histories the criminal history of any applicant or registrant for registration under Article 1 and Article 2 of Chapter 93E of the General Statutes. Along with the request, the Board shall provide to the Department of Justice the fingerprints of the applicant or registrant, a form signed by the applicant or registrant consenting to the criminal history record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Justice. The applicant's or registrant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Justice may charge a fee to offset the cost incurred by the Department to conduct a criminal history record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information."

SECTION 9. Any person who has been licensed or certified by the Board as a residential or general real estate appraiser on or before the effective date of this act shall be deemed to have complied with the requirements of G.S. 93E-1-6, as enacted in Section 2 of this act.

SECTION 10. The Legislative Research Commission is authorized to study issues relating the North Carolina Appraisal Board limited to the advisability of establishing a recovery fund to provide restitution to appraisers. In conducting the study, the Commission may study the following:

(1) The need for the fund and whether a surety bond is adequate.
(2) Review any existing recovery funds in other states for efficacy and appropriateness.
(3) Review other similar consumer protection funds in other regulated settings, and the funds protect the consumer and the licensee.
(4) Conduct a cost benefit analysis of the recovery fund.
(5) Consider the financial impact of the fund on licensees.
(6) Any other matters the Commission finds relevant to the issue.

SECTION 11. Sections 10 and 11 are effective when this act becomes law. The remainder of this act becomes effective January 1, 2014.

HOUSE BILL 565:
Amend Real Estate Appraisers' Laws/Fees

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	July 17, 2013
Introduced by:	Reps. Szoka, Howard, B. Brown, Saine	**Prepared by:**	Heather Fennell Committee Counsel
Analysis of:	PCS to Third Edition H565-CSTDf-36		

SUMMARY: ***House Bill 565 amends the Real Estate Appraisers licensing laws by licensing laws by increasing the educational requirements for certification as a residential real estate appraiser from an associate's degree to a bachelor's degree, and requiring registered appraisal management companies to maintain a $25,000 surety bond.***

The PCS makes the following two changes:

- ***Authorizes the Board to license real estate appraisers. The education requirements for a licensed real estate appraiser will be an associate's degree.***
- ***Studies the feasibility of the Appraisal Management Recovery Fund that would require each applicant for registration or renewal of registration as an appraisal management company to pay a $500 fee for the Fund.***

CURRENT LAW: Article 1 of Chapter 93E of the General Statutes provides for the registration, licensing and certification of real estate appraisers. Under current law, a residential real estate appraiser is required to hold an associate's degree in order to obtain certification. General real estate appraisers must hold a bachelor's degree.

Article 2 of Chapter 93E provides for the registration of appraisal management companies and payment of application and annual renewal fees. Appraisal management companies are business entities that use an appraisal or fee panel and perform, directly or indirectly, appraisal management services. An appraisal panel is a network of licensed/certified appraisers who are independent contractors of the appraisal management company.

Two federal laws provide guidance to the states on the regulation of property appraisers. The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) created federal guidelines for regulation real estate appraisals. The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) further amended these guidelines and created the Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examinations Council (FFIEC). The ASC oversees the State certification of real estate appraisers.

BILL ANALYSIS: **Section 1** amends G.S. 93-1-6 which places limitations on the activities of registered trainee appraisers. The amendment would eliminate licensees from being able to submit appraisal reports under the personal supervision of a licensee. Only certified real estate appraisers will be able to perform that function.[1]

Section 2 amends G.S. 93E-1-6 to amend the qualifications for registration and certification.

[1] S.L. 2007-506 provided for the phase out of the licensee category of real estate appraisers. Licensees are allowed to maintain their license if properly renewed.

- Persons applying for registration as an appraiser will not have to take an examination.
- Certification as a residential real estate appraiser will require an applicant to hold a bachelor's degree (was an associate's degree).
- Course requirements for both residential and general real estate appraisers must have been completed on or after January 1, 2008.
- Applicants will no longer have to provide the Board with a criminal record report from an approved source. Instead, applicants must consent to a criminal record check.

Section 2 also authorizes the Board to issue licenses to real estate appraisers. The education requirement for licensed real estate appraisers is an associate degree.

Section 3 amends G.S. 93E-1-6.1 and provides that both trainees and appraisers who want to supervise trainees must take a course in trainee supervision.

Section 4 makes a change in terminology in G.S. 93E-1-8 regarding appraiser education programs. The Board is authorized to prescribe minimum standards for the approval of schools and course sponsors for appraiser "prelicensing and precertification" courses. The amendment changes that term to appraiser "qualifying" courses.

Section 5 amends G.S. 93E-2-4 regarding the qualifications for registration as an appraisal management company, to require certification that the appraisal management company has obtained a surety bond. The amendment also provides that the surety bond shall be in the amount of $25,000 and:

- Shall be in a form satisfactory to the Board.
- Will accrue to the Board for the benefit of a claimant and to a real estate appraiser who has not been paid for an appraisal.
- The aggregate liability of the surety will not exceed the principal sum of the bond.
- Either a claimant or the Board may bring suit directly on the surety bond in one or successive actions.
- A claim reducing the bond shall be annually restored.
- The bond shall remain in effect until cancellation which requires 90 days written notice to the Board.
- The bond shall remain in place for no less than 2 years after the appraisal management company ceases operations in the State. The bond may be reduced or eliminated prior to that time depending on the company's outstanding obligations to appraisers.

Section 6 adds failure to maintain the required surety bond to the grounds for disciplinary action by the Board.

Section 7 amends G.S. 93E-2-8(g) by dividing that subsection into 2 parts: *Subsection (g)* dealing with the Board's authority to inspect the accounts and records of an appraisal management company that it has reasonable grounds to believe is in violation of the licensing laws; and *Subsection (g1)* providing for criminal history record checks.

Section 8 amends the law providing for criminal history checks for applicants for registration as a real estate appraisal management company. The amendment provides for criminal history checks for those applying for registration or certification as real estate appraisers

Section 9 provides for the grandfathering of those licensed or certified by the Board prior to the effective date of the act.

Section 10 creates a study of the Appraisal Management Company Recovery Fund. The purpose of a Fund would be to provide restitution to real estate appraisers who have not been paid by an appraisal management company.

EFFECTIVE DATE: The act becomes effective January 1, 2014.

Barbara Riley, counsel to House Commerce, substantially contributed to this summary.

SENATE PAGES ATTENDING

COMMITTEE: Finance ROOM: 544

DATE: 7-17 TIME: 1 pm

PLEASE PRINT LEGIBILY!!!!!!!!!!!!!....*or else!!!!*

Page Name	Hometown	Sponsoring Senator
1. Andy Shiver	Raleigh	Tillman
2. [illegible]	[illegible]	[illegible]
3. Isabel Ferguson	Raleigh	Berger
4. Amanda Packer	Hope Mills	Meredith
5. Jordun Keyes	Raleigh	Hunt
6. Victoria Kroll	Hollysprings	Brunstetter
7. Nicholas Kroll	Hollysprings	Brunstetter
8. Caleb Reed	Wake Forest	Daniel
9. Jazsmin Mcneil	Raleigh	Dan Blue
10.		

Do not add names below the grid.

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

SENATE SERGEANT-AT-ARMS

COMMITTEE: **SENATE FINANCE**

DATE: 07/17/13 ROOM: 544

1. ERNIE SHERRELL
2. DONNA BLAKE
3. CANTON LEWIS
4. JUSTIN OWENS
5. STEVE McKAIG

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 17, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Mitch Leonard	SEANC

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 17, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Allen Hardison	CTCSCWMA
Michael Hunsor	Hunsor Consulting
Don Rodgers	NC Appraisal Board
Roberta Ouellette	NC Appraisal Board
LINDA COMBS	Private citizen
Jimmy Broughton	Womble Carlyle
Maurice Ferrell	Kt2 Gaston
Julia Adams	Arc NC/NCARF
Karen Duquette	PEPNC
Debbie Hyler	KUG
Jennifer Mahan	ASNC

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 17, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Carson Wise	MVA
LMcGee	NC Values
Hope Chadwick	LA
Leanne Winner	NCSBA
Stephen Rouba	compass
Townes Maxwell	PSG
	NCFPC
Kellan Jones	Jordan Price
Moore Gardner	GSK
Bill Hussey	DPI

VISITOR REGISTRATION SHEET

Senate Finance Committee — **Name of Committee**

July 17, 2013 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Ryan Minto	NC DOR
Nathan Batts	NCBA
Sarah Wolfe	MWC
Chris Hill	NC Justice Center
Mel Bessey	
Dave Cozzarelli	NCREAA
Philip Isley	Bluetz
Tami Stilwell	NC SBE
Rebecca Troutman	NCACC
Chris Agnew	DOJ
Katherine Joyce	NCASA
Sarah L. Miller	self

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 17, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Kara Weisbaar	SA
Dylan Watts	SA
Elizabeth Biser	Brooks Pierce
Bryan Weynand	Brooks Pierce
[illegible]	WRA
Jim Mowrey	Charlotte Observer

Senate Finance Committee
Thursday, July 18, 2013
Room 643 LOB, 11:00 a.m.

Minutes

The Senate Committee on Finance met on Thursday, July 18, 2013, at 11:00 a.m. in room 643 of the Legislative Office Building. Senator Rucho served as Chair to the meeting.

S.B. 581 – Establish Historical Boilers Licensing Act

Senator Bingham was recognized to explain the bill. Senator Brock moved to adopt the proposed committee substitute (PCS) for discussion. The motion carried. The PCS would require individuals that operate historical boilers in public to be licensed. It would also create new certification standards for the operation of historical boilers that differ from the standards currently required for all boilers. It removes the certification of historical boilers from the NC Board of Boiler and Pressure Vessels Rules that is part of the Department of Labor, and creates the new Historical Boilers Licensing Board in the Department of Agriculture. Boilers, including historical boilers, would continue to be inspected by the Boiler Safety Bureau of the Department of Labor. The standards for inspections of historical boilers would be set by the Historical Boilers Licensing Board while the standards for all other boilers would be set by the NC Board of Boiler and Pressure Vessels Rules. Jennifer Haigwood, the Legislative Liaison for the Department of Labor, was recognized to explain that the Commissioner opposes the bill with thoughts that the new board could weaken current safety rules. Brian Slivka, an Analyst with the Fiscal Research Division, was recognized to answer questions. Senator Jenkins moved for a favorable report and the motion carried. A copy of the PCS, the summary, and the fiscal memo is attached.

The meeting adjourned at 11:16 a.m.

Bob Rucho

Senator Bob Rucho, Presiding Chair
Senate Finance Committee

DeAnne Mangum

DeAnne Mangum
Senate Finance Clerk

Principal Clerk ____
Reading Clerk ____

Corrected #1: The meeting location has changed to room 643.

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Thursday	July 18, 2013	11:00 AM	643 LOB

The following will be considered:

BILL NO.	SHORT TITLE	
SB 581	Study/Operation of Historical Boilers.	Senator Bingham

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Thursday	July 18, 2013	11:00 AM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	
SB 581	Study/Operation of Historical Boilers.	Senator Bingham

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Thursday, July 18, 2013

Senator Rucho,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

SB **581** Study/Operation of Historical Boilers.

Draft Number:	S581-PCS75374-TQf-61
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Senator Stan Bingham will handle SB 581

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S D

SENATE BILL 581
PROPOSED COMMITTEE SUBSTITUTE S581-CSTQ-61 [v.2]

7/17/2013 4:46:16 PM

Short Title: Establish Historical Boilers Licensing Act. (Public)

Sponsors:

Referred to:

April 4, 2013

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE HISTORICAL BOILERS LICENSING ACT

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 95 of the General Statutes is amended by adding the following new Article to read:

"Article 7B.

"Historical Boilers Licensing Act.

"**§ 95-69.30. Short title.**

This Article may be cited as the 'Historical Boilers Licensing Act'.

"**§ 95-69.31. Definitions.**

The following definitions apply in this Article:

(1) Board. – The North Carolina Historical Boilers Licensing Board.

(2) Boiler. – The term shall have the same meaning as in G.S. 95-69.9(b).

(3) Historical boiler. – A steam boiler of riveted construction that is preserved, restored, or maintained for hobby or demonstration.

"**§ 95-69.32. License required; operating historical boiler in place open to the public; exemption for smaller boilers.**

No person shall operate a historical boiler in this State in a place that is open to the public unless both of the following requirements are satisfied:

(1) The person operating the boiler is licensed under this Article.

(2) The owner of the boiler holds a current valid certificate of operation for the historical boiler in accordance with G.S. 95-69.36.

"**§ 95-69.33. North Carolina Historical Boilers Licensing Board.**

(a) Creation. – The North Carolina Historical Boilers Licensing Board is created.

(b) Composition and Terms. – The Board shall consist of nine members who shall serve staggered terms. The initial Board members shall be appointed on or before October 1, 2013, as follows:

(1) The General Assembly, upon the recommendation of the President Pro Tempore of the Senate, shall appoint two members, one of whom shall serve for a term of four years and one of whom shall serve for a term of five years.

(2) The General Assembly, upon the recommendation of the Speaker of the House of Representatives, shall appoint two members, one of whom shall serve for a term of three years and one of whom shall serve for a term of five years.

(3) The Governor shall appoint three members, one of whom shall serve for a term of three years, one of whom shall serve for a term of four years, and one of whom shall serve for a term of five years.

(4) The Commissioner of Labor shall appoint two members, one of whom shall serve for a term of three years and one of whom shall serve for a term of five years.

Upon the expiration of the terms of the initial Board members, each member shall be appointed for a term of five years and shall serve until a successor is appointed. No member may serve more than two consecutive full terms.

(c) Qualifications. – Of the four members appointed by the General Assembly, each member shall (i) own a historical boiler, (ii) have at least 10 years of experience in the operation of historical boilers, and (iii) be a resident of this State and represent a different region of the State. Of the two members appointed by the Commissioner of Labor, at least one shall be employed by the Boiler Safety Bureau within the Department of Labor as a boiler and pressure vessel inspector under Article 7A of this Chapter.

(d) Vacancies. – A vacancy shall be filled in the same manner as the original appointment, except that all unexpired terms of Board members appointed by the General Assembly shall be filled in accordance with G.S. 120-122 and shall be filled within 45 days after the vacancy occurs. Appointees to fill vacancies shall serve the remainder of the unexpired term and until their successors have been duly appointed and qualified.

(e) Removal. – The Board may remove any of its members for neglect of duty, incompetence, or unprofessional conduct. A member subject to disciplinary proceedings as a licensee shall be disqualified from participating in the official business of the Board until the charges have been resolved.

(f) Compensation. – Each member of the Board shall receive per diem and reimbursement for travel and subsistence as provided in G.S. 93B-5.

(g) Officers. – The Board shall, by majority vote, elect a chair annually who shall serve for a one-year term and until a successor is elected and qualified.

(h) Meetings. – The Board shall meet at least once each year and at other times upon the call of the chair. A majority of Board members constitutes a quorum.

(i) Administrative Support. – The Department of Agriculture shall provide the staff, meeting space, and office supplies for the Board.

"**§ 95-69.34. Powers and duties of the Board.**

The Board shall have the power and duty to:

(1) Adopt rules regarding the following:

a. Criteria that inspectors of historical boilers shall use in determining the safe operation of historical boilers.

b. Procedures for the inspection of historical boilers.

c. Standards for riveted or welded repairs or alterations made to historical boilers.

d. Standards and procedures for conducting hydrostatic tests and requirements for reporting the results of those tests to the Board as required under G.S. 95-69.36.

e. Standards and procedures for the revocation of a historical boiler operator's license that include an opportunity for appeal and hearing in accordance with Chapter 150B of the General Statutes.

f. Standards for re-qualifying for licensure after revocation of a license.

g. Standards for the public display and operation of historical boilers in this State by historical boiler operators who reside outside of this State.

h. Criteria that would constitute the need for an ultrasonic test.

i. Standards and procedures for conducting ultrasonic tests.

(2) Issue licenses to operate historical boilers in public to persons who meet the requirements for licensure under this Article.

(3) Issue certificates of operation for historical boilers passing inspection as required by G.S. 95-69.36.

(4) Conduct hearings in accordance with Chapter 150B of the General Statutes for any person who appeals a decision made by an inspector regarding whether the person should be denied a certificate of operation for the person's historical boiler.

(5) Establish a fee for the inspection of historical boilers in an amount sufficient to reimburse the Department of Labor for the cost of conducting the inspections.

(6) Create and conduct a safety program for the purpose of providing instruction on how to properly care for, maintain, operate, and exhibit historical boilers. The program shall also include instruction on how to train an apprentice to properly care, maintain, operate, and exhibit historical boilers. The Board may charge a fee not to exceed $45.00 for each person attending the safety program.

(7) Establish requirements for the minimum amount of liability insurance an owner of a historical boiler shall carry on each historical boiler the owner operates in public.

"**§ 95-69.35. License to operate historical boiler in place open to public.**

(a) Upon application to the Board, the Board shall issue a license to operate a historic boiler in a place open to the public to any person who satisfies each of the following criteria:

(1) Is at least 16 years of age.

(2) Has completed the safety program created and conducted by the Board as provided in G.S. 95-69.34(6).

(3) Has a minimum of 100 hours of actual operating experience or training in the operation of historical boilers.

(b) A person who satisfies the criteria under subsection (a) of this section shall pay to the Board a one-time fee of fifty dollars ($50.00) for the issuance of a license.

(c) A license issued under this section is valid for the lifetime of the operator unless the license is revoked by the Board pursuant to subsection (e) of this section.

(d) A person who is under the age of 16 may be trained in the operation of historical boilers by serving as an apprentice to an operator who is licensed under this Article.

(e) The Board may revoke a license issued under this section for violations of this Article or rules adopted by the Board. A person whose license is revoked may re-qualify for licensure upon meeting the requirements for requalification pursuant to rules adopted by the Board.

"**§ 95-69.36. Certificate of operation and inspection of historical boiler.**

(a) The owner of a historical boiler operated in a place open to the public shall maintain a current valid certificate of operation for the historical boiler pursuant to the requirements of this section.

(b) At least once every three years, inspectors designated by the Chief Inspector of the Boiler Safety Bureau within the Department of Labor shall inspect thoroughly, internally and externally and under operating conditions, all historical boilers operated in a place open to the public and the historical boilers' appurtenances. Inspectors shall examine the smoke box, barrel, wrapped sheet, dome, water column and water glass, firebox, external plumbing, fusible plug, pressure relief valve, and pressure gage.

(c) After conducting the inspection required by subsection (b) of this section, the inspector shall evaluate whether the historical boiler is in safe operating condition in

accordance with rules adopted by the Board. If the inspector determines that the historical boiler is in safe operating condition, the inspector shall recommend that the Board issue a certificate of operation for the historical boiler. If the Board concurs with the recommendation of the inspector, the Board shall issue a certificate of operation for the historical boiler inspected by that inspector. A certificate of operation is valid for a period of three years from the date of issuance.

(d) If the inspector does not recommend the issuance of a certificate of operation for the historical boiler or if the Board decides not to issue a certificate of operation, the owner of the historical boiler may file an appeal with the Board and the Board shall conduct a hearing in accordance with Chapter 150B of the General Statutes.

(e) The owner of the historical boiler operated in public shall display the certificate of operation in a prominent place on the historical boiler during its operation."

SECTION 2. G.S. 95-69.10 reads as rewritten:

"**§ 95-69.10. Application of Article; exemptions.**

...

(h) The inspection requirements established by the Department of Labor shall not apply to historical boilers. The inspection requirements for historical boilers shall be established by the North Carolina Historical Boilers Licensing Board, and inspections of historical boilers shall be conducted by the Department of Labor as provided in Article 7B of this Chapter and rules adopted pursuant to Article 7B of this Chapter. For purposes of this Article and Article 7B of this Chapter, the term "historical boiler" means a steam boiler of riveted construction that is preserved, restored, or maintained for hobby or demonstration."

SECTION 3. The Board shall adopt rules to implement this act in accordance with Chapter 150B of the General Statutes. The rules adopted by the Board shall become effective October 1, 2014.

SECTION 4. A historic boiler that has been issued a valid inspection certificate by the Boiler Safety Board of the Department of Labor under Article 7A of Chapter 95 of the General Statutes may be operated until October 1, 2014.

SECTION 5. Section 2 of this act becomes effective October 1, 2014. The remainder of this act is effective when it becomes law.

SENATE BILL 581:
Establish Historical Boilers Licensing Act

2013-2014 General Assembly

Committee:	Senate Re-ref to Finance. If fav, re-ref to Appropriations/Base Budget	**Date:**	July 19, 2013
Introduced by:	Sen. Bingham	**Prepared by:**	Heather Fennell Committee Counsel
Analysis of:	PCS to First Edition S581-CSTQ-61		

SUMMARY: ***The PCS to S581 would require individuals that operate historical boilers in public to be licensed. It would also create new certification standards for the operation historical boilers that differ from the standards currently required for all boilers. It removes the certification of historical boilers from the North Carolina Board of Boiler and Pressure Vessels Rules that is part of the Department of Labor, and creates the new Historical Boilers Licensing Board in the Department of Agriculture.***

Boilers, including historical boilers, would continue to be inspected by the Boiler Safety Bureau of the Department of Labor. The standards for inspections of historical boilers would be set by the Historical Boilers Licensing Board while the standards for all other boilers would be set by the North Carolina Board of Boiler and Pressure Vessels Rules.

CURRENT LAW: Article 7A of Chapter 95 of the General Statutes provides the statutory authority for safety inspections of boilers in the State. Boilers are defined as "a closed vessel in which water is heated, steam is generated, steam is superheated, or any combination thereof, under pressure or vacuum by the direct or indirect application of heat." The term also includes "fired units for heating or vaporizing liquids other than water where these units are complete within themselves."

The North Carolina Board of Boiler and Pressure Vessels Rules adopts rules for installation, construction, and repair and use of boilers. The rules adopted by the Board must conform with the standards of the American Society of Mechanical Engineers. This Board consists of 9 members appointed by the Labor Commissioner.

All boilers and pressure vessels must be inspected by a commission inspector. The Boiler Safety Bureau with the Department of Labor administers the inspections. The inspections may be conducted by one of the following types of inspectors:

- A Boiler and Pressure Vessel Inspector, or Deputy Inspector – Qualified individuals employed by the Department of Labor and appointed by the Labor Commissioner.
- Special/Insurance Inspector – Qualified individuals employed by an insurance company.
- Owner-User Inspector – Qualified individuals employed by a company in the business of operating pressure vessels for its own use. The company must maintain an inspection program of periodic inspection under the supervision of qualified engineers.

A boiler or pressure vessel may not be operated without an inspection certificate. A person that operates a boiler without a certificate is subject to a fine of $250 for each day the boiler is operated without a certificate. A person that operates a boiler for which the Commission has refused to issue a certificate, or for which a certificate has been revoked is subject to a fine of $500 for each day the boiler is operated

without a certificate. The penalty for misrepresenting oneself as an authorized inspector of boilers or pressure vessels is a Class 2 misdemeanor.

BILL ANALYSIS: The PCS creates the Historical Boilers Licensing Board. A historical boiler is defined as a "steam boiler of riveted construction that is preserved, restored, or maintained for hobby or demonstration."

The Board: The term of Board members will be 5 years after the initial appointment term. Members may not serve more than 2 consecutive terms. The Board will consist of nine members appointed as follows:

- 4 members appointed by the General Assembly; 2 upon the recommendation of the President Pro Tempore of the Senate, and 2 upon the recommendation of the Speaker of the House. The members appointed by the General Assembly must meet all of the following:
    - Own a historical boiler.
    - Have at least 10 years of experience in the operation of historical boilers.
    - A current resident of the State representing a different region of the State.
- 3 members appointed by the Governor.
- 2 members appointed by the Commissioner of Labor. One of the members appointed by the Commissioner must be employed by the Boiler Safety Bureau as a boiler inspector.

The Department of Agriculture must provide staff, meeting space, and office supplies for the Board. Board members will receive per diem and reimbursement for travel expenses.

License to Operate Historical Boiler: The Board must issue a license to operate a historical boiler if an individual meets the following criteria:

- Is at least 16 years of age.
- Complete a safety program created and conducted by the Board.
- Has 100 hours of actual operating experience or training in the operation of historical boilers.

Once a license is issued, the license is good for the lifetime of the individual, unless revoked by the Board. The Board may charge a $45 fee for the safety program required for licensure, and may charge a fee of $50 for licensure. There is no renewal fee required.

Inspections of Historical Boilers: The Board would set the criteria and procedure for inspection of historical boilers. Owners of historical boilers in places open to the public must obtain a certificate from the Board. At least every 3 years, the historical boiler must be inspected by inspectors designated by the Chief Inspector of the Boiler Safety Bureau of the Department of Labor. If the inspector determines the historical boiler is in safe operating condition, the inspector shall recommend the Board certify the historical boiler. If the inspector does not recommend certification, or if the Board does not issue a certificate, the owner of the historical boiler may file an appeal with the Board. Once the Board has adopted rules to implement this act, historical boilers will no longer be subject to the inspection requirements of Uniform Boiler and Pressure Vessel Act.

EFFECTIVE DATE: This act is effective when it becomes law. Historical boilers with a valid inspection certificate may continue to operate until the rules are adopted by the new Board. The new rules will become effective October 1, 2014.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: 07/18/13

TO: **Senator Bingham**

FROM: Brian Slivka
Fiscal Research Division

RE: **PCS to S581**

FISCAL IMPACT

☑ Yes ☐ No ☐ No Estimate Available

State Impact	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
The North Carolina Historical					
Boilers Licensing Board					
Revenues:	$3,800	$1,800	$1,800	$1,800	$1,800
Expenditures:		**No Estimate Available**			
NET STATE IMPACT	**$3,800**	**$1,800**	**$1,800**	**$1,800**	**$1,800**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:

EFFECTIVE DATE: Section 2 of this act becomes effective October 1, 2014.
The remainder of this act is effective when it becomes law.

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY:

The PCS to S581 would require individuals that operate historical boilers in public to be licensed. It would also create new certification standards for the operation historical boilers that differ from the standards currently required for all boilers. It removes the certification of historical boilers from the North Carolina Board of Boiler and Pressure Vessels Rules that is part of the Department of Labor, and creates the new Historical Boilers Licensing Board in the Department of Agriculture.

Boilers, including historical boilers, would continue to be inspected by the Boiler Safety Bureau of the Department of Labor. The standards for inspections of historical boilers would be set by the Historical Boilers Licensing Board while the standards for all other boilers would be set by the North Carolina Board of Boiler and Pressure Vessels Rules.

ASSUMPTIONS AND METHODOLOGY:

It's estimated that there are approximately 40 historical boilers in North Carolina. There is a one-time fee of $50.00 for the issuance of a license to operate a historical boiler in a place open to public. Assuming there is one operator for each historical boiler, this fee would raise $2,000.00 in revenue in FY2013-14.

The Board may also create and conduct a safety program for the purpose of providing instruction on how to properly care for, maintain, operate, and exhibit historical boilers. The Board may charge a fee not to exceed $45.00 for each person attending the safety program. Assuming one operator per historical boiler attends the safety program yearly, the fee could raise $1,800 annually.

The Board is also given the authority to establish an inspection fee in an amount sufficient to reimburse the Department of Labor for the cost of conducting the inspections. Although no specific fee amount is included in the bill.

Each member of the Board shall receive a per diem and reimbursement for travel and subsistence as provided in G.S. 93B-5. No estimate is available, as this amount depends upon the number of meeting and distance traveled by each member of the Board.

SOURCES OF DATA: Committee Council Bill Summary

TECHNICAL CONSIDERATIONS: None

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 18, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
C Stollis	TSS
Joy Ajello	NCBA&LS
Jennifer Haugwout	NCDOR
Jane Gilchrist	NCDOR
Justin Delaney	NCDOR
Elizabeth Outten	NCBA
Sarah L. Miller	Self
Kathryn Trogdon	NCMMC
Ellen Harnick	CRL
Rebecca Troxler	NCACC
Julie Hamstein	NCACC
Colleen Kochanek	ICLG

Name	Firm or Agency
DP	NCDOT
Mary Bolton	AARP-NC

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 18, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Stan Williams	NCS
Jimmy Broughton	Womble Carlyle
Karen Wells	Arts NC
JASON SOPER	NCDOT
Jonas Mercer	Ph. of Grp
BRUCE THOMPSON	PARKER POE
Heather Bullock	[illegible]
DOUG HERON	WM
Kara Weisshaar	SA
K.W. Kaylor	Kaylor Law Firm
Tommy Sevier	Moore Van Allen

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 18, 2013

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Townes Maxwell	PSG
Sarah Hardin	CTL
Whitney Christenson	NCRLA
Dave Doerner	NCSU
Mike Smallwood	SOG

Senate Committee on Finance
Tuesday, July 23, 2013
Room 1027 LB, 7:25 p.m.

Minutes

The Senate Committee on Finance met at 7:25 p.m. on Tuesday, July 23, 2013 in room 1027 of the Legislative Building. Senator Rabon presided as chair.

H.B. 1015 – Bessemer City Annexation

Senator Harrington was recognized to explain the bill, which would extend the corporate limits for the City of Bessemer City to include a portion of Crowders Mountain Road and Interstate Highway 85. Senator Ford moved for a favorable report and the motion carried. A copy of the bill, the summary, the City Resolution, and Appendix maps is attached.

H.B. 552 – Remove Area from County Service District

Senator Sanderson was recognized to explain the bill which would authorize boards of county commissioners to remove territory from a county water or sewer district. Heather Fennell and Greg Roney, staff attorneys with the Research Division, were recognized to answer questions. Senator Nesbitt offered an amendment with would prevent the territory removal if unpaid bonds or collateral were involved. After much discussion, Senator Nesbitt tabled his amendment. Senator Cook moved for a favorable report and the motion carried. A copy of the bill, the summary and the amendment is attached.

H.B. 135 – Adjust Landfill Permit Fee Timing

Senator Jackson was recognized to explain the bill and answer questions. The bill would make adjustments to the fee schedule for permits for sanitary landfills and transfer stations to reflect extension of the duration of these permits as directed by legislation enacted in 2012. Senator Cook moved for a favorable report and the motion carried. A copy of the bill, the summary and the fiscal note is attached.

The meeting adjourned at 7:42 p.m.

Senator Bill Rabon
Presiding Chair

DeAnne Mangum
Committee Assistant

Principal Clerk ____
Reading Clerk ____

Corrected #3: H135 - Adjust Landfill Permit Fee Timing has been added to the agenda.

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Tuesday	July 23, 2013	During Recess	On the floor during recess

The following will be considered:

BILL NO.	SHORT TITLE	
HB 135	Adjust Landfill Permit Fee Timing.	Representative Samuelson Representative McElraft Representative McGrady
HB 552	Remove Area from County Service District.	Representative McElraft
HB 1015	Bessemer City Annexation.	Representative Rules, Calendar, and Operations of the House

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

Principal Clerk ____
Reading Clerk ____

Corrected #2: H552 - Remove Area from County Service District has been added to the agenda.

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Tuesday	July 23, 2013	3:30 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	
HB 552	Remove Area from County Service District.	Representative McElraft
HB 1015	Bessemer City Annexation.	Representative Rules, Calendar, and Operations of the House

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

Principal Clerk ____
Reading Clerk ____

Corrected #1: Date corrected

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Tuesday	July 23, 2013	3:30 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	
HB 1015	Bessemer City Annexation.	Representative Rules, Calendar, and Operations of the House

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Monday	July 22, 2013	3:30 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	
HB 1015	Bessemer City Annexation.	Representative Rules, Calendar, and Operations of the House

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Tuesday, July 23, 2013

Senator Rabon,
submits the following with recommendations as to passage:

FAVORABLE

HB **135** **(CS#1)** Adjust Landfill Permit Fee Timing.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

HB **552** Remove Area from County Service District.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

HB **1015** Bessemer City Annexation.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED: 3

Senator W. Jackson will handle HB 135
Senator Norman Sanderson will handle HB 552
Senator Kathryn Harrington will handle HB 1015

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

HOUSE BILL 1015

Short Title:	Bessemer City Annexation.	(Local)
Sponsors:	Committee on Rules, Calendar, and Operations of the House (Primary Sponsor). *For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*	
Referred to:	Finance.	

June 19, 2013

A BILL TO BE ENTITLED

AN ACT ANNEXING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE CITY OF BESSEMER CITY.

The General Assembly of North Carolina enacts:

SECTION 1. The corporate limits of the City of Bessemer City are extended by adding the following described territory:

Lying and being in Gaston County, North Carolina, and being a portion of Crowders Mountain Road (S.R. 1302) and Interstate Highway # 85.

Beginning at an existing iron pin located on the existing city limit line of Bessemer City and the western R/W of Crowders Mountain Road; said iron being the southeastern corner of Luther E. Brooks (D.B. 1234, Pg. 702) as recorded in the Gaston County Register of Deeds and the northeastern corner of Gaston County (D.B. 1826, Pg. 227); said point also being located N 11-22-21 E, a ground horizontal distance of 7,803.56' from NCGS Station "Grate" having coordinates of N. = 554,067.68' and E. = 1,313,520.10', thence crossing said road and with the city limit line, S 57-08-08 E, a distance of 67.90' to a point on the eastern right-of-way of Crowders Mountain Road; thence following three calls along the eastern R/W of said road and the city limit line as follows, (a) Along the arc of a curve to the left, having a radius of 490.70' and an arc of 38.30' and also having a long chord bearing and distance of S 01-08-31 W – 38.29' to a point, (b) Along the arc of a curve to the left, having a radius of 490.70' and an arc of 64.90' and also having a long chord bearing and distance of S 04-52-59 E – 64.85' to a point and, (c) S 08-32-52 E, a distance of 90.57' to a point; thence running along the easterly R/W of said road thirty-seven calls as follows, (1) S 10-36-54 E, a distance of 81.51' to a point, (2) S 11-44-23 E, a distance of 101.94' to a point, (3) S 11-02-23 E, a distance of 104.39' to a point, (4) S 11-52-27 E, a distance of 344.18' to a point, (5) S 11-39-50 E, a distance of 104.36' to a point, (6) S 11-41-38 E, a distance of 110.20' to a point, (7) S 11-25-23 E, a distance of 258.85' to a point, (8) S 11-27-46 E, a distance of 71.05' to a point, (9) S 11-56-47 E, a distance of 242.35' to a point, (10) S 11-32-16 E, a distance of 218.20' to a point, (11) S 11-42-55 E, a distance of 98.41' to a point, (12) S 11-29-12 E, a distance of 86.64' to a point, (13) S 11-00-42 E, a distance of 106.63' to a point, (14) S 10-59-40 E, a distance of 100.06' to a point, (15) S 11-04-17 E, a distance of 100.58' to a point, (16) S 11-17-10 E, a distance of 106.91' to a point, (17) S 11-31-28 E, a distance of 557.38' to a point, (18) S 11-27-19 E, a distance of 99.62' to a point, (19) S 11-44-20 E, a distance of 105.11' to a point, (20) Along the arc of a curve to the left having a radius of 4,703.30' and an arc of 306.60', and also having a long chord bearing and distance of S 13-41-22 E – 306.55' to a point, (21) S 15-17-54 E, a distance of 48.23' to a point,

(22) S 15-41-14 E, a distance of 102.44' to a point, (23) S 16-23-08 E, a distance of 98.37' to a point, (24) S 16-44-05 E, a distance of 98.13' to a point, (25) S 16-40-50 E, a distance of 99.33' to a point, (26) S 16-51-44 E, a distance of 103.24' to a point, (27) S 17-05-36 E, a distance of 48.39' to a point, (28) S 17-03-06 E, a distance of 102.15' to a point, (29) S 16-39-36 E, a distance of 102.48' to a point, (30) S 16-28-53 E, a distance of 101.40' to a point, (31) S 16-21-32 E, a distance of 103.27' to a point, (32) S 16-14-19 E, a distance of 104.54' to a point, (33) S 15-51-30 E, a distance of 67.56' to a point, (34) Along the arc of a curve to the right, having a radius of 1,340.92' and an arc of 374.13' and also having a long chord bearing and distance of, S 07-38-11 E – 372.93' to a point, (35) S 00-47-32 E, a distance of 93.55' to a point, (36) N 60-39-01 E, a distance of 20.00' to a leaning concrete R/W monument, and (37) S 02-09-01 W, a distance of 363.21' to a concrete R/W monument located at the northeastern right-of-way of Crowders Mountain Road and U.S. Interstate Highway # 85; thence along the northerly right-of-way of Interstate Highway # 85 as follows, N 49-55-21 E, a distance of 751.37' to a point; thence N 39-57-59 E, a distance of 20.00' to a point; thence N 50-02-01 E, a distance of 204.01' to a point; thence N 52-14-38 E, a distance of 308.41' to a point; thence along the arc of a curve to the right, having a radius of 3,962.47' and an arc of 345.89' and also having a long chord bearing and distance of N 54-50-58 E – 354.77' to a point; thence S 32-35-05 E, a distance of 20.00' to a point; thence along the arc of a curve to the right, having a radius of 3,942.47' and an arc of 611.89' and also having a long chord bearing and distance of N 61-51-41 E – 611.28' to a point; thence N 23-41-32 W, a distance of 25.81' to a point; thence N 65-44-26 E, a distance of 118.22' to a point; thence S 15-59-23 E, a distance of 28.90' to a point; thence N 68-42-40 E, a distance of 102.00' to a point, thence N 20-32-52 W, a distance of 60.00' to a point; thence along the arc of a curve to the right, having a radius of 4,002.47' and an arc of 519.44' and also having a long chord bearing and distance of N 73-10-13 E – 519.08' to a point; thence S 13-06-43 E, a distance of 60.00' to a point; thence along the arc of a curve to the right, having a radius of 3,942.47' and an arc of 517.33' and also having a long chord bearing and distance of N 80-38-50 E – 516.96' to a point; thence N 85-02-37 E, a distance of 603.58' to a point; thence N 03-57-59 W, a distance of 30.00' to a point; thence N 86-02-01 E, a distance of 400.00' to a point; thence S 03-57-59 E, a distance of 30.00' to a point; thence N 86-00-16 E, a distance of 599.00' to a point; thence N 03-57-59 W, a distance of 20.00' to a point; thence N 86-02-01 E, a distance of 200.00' to a point; thence S 03-57-59 E, a distance of 20.00' to a point; thence N 85-52-26 E, a distance of 651.00' to a point; thence N 03-31-04 W, a distance of 92.83' to a point; thence along the arc of a curve to the left, having a radius of 7,451.43' and an arc of 436.99' and also having a long chord bearing and distance of N 84-47-39 E – 436.93' to a point; thence S 05-38-11 E, a distance of 60.43' to a point; thence along the arc of a curve to the left, having a radius of 7,475.43 and an arc of 1,078.63' and also having a long chord bearing and distance of N 78-58-20 E – 1,077.69' to a point; thence N 15-09-41 W, a distance of 20.00' to a point; thence along the arc of a curve to the left, having a radius of 7,455.43' and an arc of 387.36' and also having a long chord bearing and distance of N 73-21-01 E – 387.32' to a point; thence S 18-08-18 E, a distance of 20.00' to a point; thence along the arc of a curve to the left, having a radius of 7,475.43' and the arc of 881.33' and also having a long chord bearing and distance of N 68-29-03 E – 880.82' to a point; thence S 24-53-36 E, a distance of 32.70' to a point; thence N 65-44-10 E, a distance of 500.92' to a point; thence N 65-36-46 E, a distance of 348.70' to a point; thence N 61-32-11 E, a distance of 197.00' to a point; thence along the arc of a curve to the left, having a radius of 1,302.81' and an arc of 254.50' and also having a long chord bearing and distance of N 55-59-02 E – 254.10' to a point; thence N 50-25-54 E, a distance of 192.12' to a point; thence N 46-27-07 E, a distance of 489.99' to a point in the centerline of Edgewood Road (S.R. # 1307); thence with the centerline of Edgewood Road, S 31-29-07 E, a distance of 823.33' to a point on the southerly right-of-way of Interstate Highway # 85; thence along the southerly right-of-way of Interstate Highway # 85 as follows, S 66-09-25 W, a distance of 36.28' to a point; thence along the arc of a curve to the

right, having a radius of 546.28' and an arc of 186.60' and also having a long chord bearing and distance of S 75-50-10 W – 185.69' to a point; thence S 85-31-01 W, a distance of 580.78' to a point; thence along the arc of a curve to the left, having a radius of 1,313.98' and an arc of 274.72' and also having a long chord bearing and distance of S 75-24-01 W – 274.22' to a point; thence S 69-27-15 W, a distance of 195.40' to a point; thence S 65-25-06 W, a distance of 336.83' to a point; thence S 65-31-01 W, a distance of 200.00' to a point; thence S 66-01-09 W, a distance of 400.76' to a point; thence along the arc of a curve to the right, having a radius of 7,765.43' and an arc of 650.68' and also having a long chord bearing and distance of S 68-15-26 W – 650.49' to a point; thence S 19-20-32 E, a distance of 50.00' to a point; thence along the arc of a curve to the right, having a radius of 7,815.43' and an arc of 673.02' and also having a long chord bearing and distance of S 73-07-29 W – 672.82' to a point; thence N 14-24-30 W, a distance of 40.00' to a point; thence along the arc of a curve to the right, having a radius of 7,775.43' and an arc of 917.87' and also having a long chord bearing and distance of S 78-58-25 W – 917.33' to a point; thence S 07-38-41 E, a distance of 105.00' to a point; thence along the arc of a curve to the right, having a radius of 7,880.43' and an arc of 619.18' and also having a long chord bearing and distance of S 84-36-23 W – 619.02' to a point; thence N 03-08-34 W, a distance of 109.78' to a point; thence S 86-02-01 W, a distance of 598.11' to a point; thence S 03-57-59 E, a distance of 20.00' to a point; thence S 86-02-01 W, a distance of 400.00' to a point; thence N 03-57-59 W, a distance of 20.00' to a point; thence S 86-02-01 W, a distance of 400.00' to a point; thence S 03-57-59 E, a distance of 30.00' to a point; thence S 86-02-01 W, a distance of 400.00' to a point; thence N 03-57-59 W, a distance of 30.00' to a point; thence S 85-02-29 W, a distance of 596.19' to a point; thence along the arc of a curve to the left, having a radius of 3,682.47' and an arc of 580.02' and also having a long chord bearing and distance of S 79-53-39 W – 579.42' to a point; thence S 14-37-05 E, a distance of 20.00' to a point; thence along the arc of a curve to the left, having radius of 3,662.47' and an arc of 476.01' and also having a long chord bearing and distance of S 71-39-31 W – 475.67' to a point; thence S 22-03-53 E, a distance of 20.00' to a point; thence along the arc of a curve to the left, having a radius of 3,642.47' and an arc of 477.28' and also having a long chord bearing and distance of S 64-10-53 W – 476.94' to a point; thence N 29-34-20 W, a distance of 20.00' to a point; thence along the arc of a curve to the left, having a radius of 3,662.47' and an arc of 576.83' and also having a long chord bearing and distance of S 55-57-31 W – 576.27' to a point; thence N 38-35-46 W, a distance of 20.00' to a point; thence S 50-24-58 W, a distance of 1,571.71' to a point located on the westerly right-of-way of Crowders Mountain Road; thence thirty-seven calls along the westerly right-of-way of Crowders Mountain Road as follows, (1) N 03-02-48 E, a distance of 754.65' to a point; thence (2) N 71-47-01 E, a distance of 20.00' to a point; thence (3) N 00-47-36 W, a distance of 123.81' to a point; thence (4) along the arc of a curve to the left, having a radius of 1,280.95' and an arc of 359.34' and also having a long chord bearing and distance of N 07-35-30 W – 358.18' to a point; thence (5) N 15-51-30 W, a distance of 67.25' to a point; thence (6) N 16-14-19 W, a distance of 104.28' to a point; thence (7) N 16-21-32 W, a distance of 103.14' to a point; thence (8) N 16-28-53 W, a distance of 101.25' to a point; thence (9) N 16-39-36 W, a distance of 102.18' to a point; thence (10) N 17-03-06 W, a distance of 101.92' to a point; thence (11) N 17-05-36 W, a distance of 48.48' to a point; thence (12) N 16-51-44 W, a distance of 103.46' to a point; thence (13) N 16-40-50 W, a distance of 99.40' to a point; thence (14) N 16-44-05 W, a distance of 98.92' to a point; thence (15) N 15-41-41 W, a distance of 103.00' to a point; thence (16) N 15-17-54 W, a distance of 48.60' to a point; thence (17) along the arc of a curve to the right, having a radius of 4,770.88' and an arc of 312.24' and also having a long chord bearing and distance of N 13-40-25 W – 312.19' to a point; thence (18) N 11-44-20 W, a distance of 103.18' to a point; thence (19) N 11-27-19 W, a distance of 99.73' to a point; thence (20) N 11-31-28 W, a distance of 557.47' to a point; thence (21) N 11-17-10 W, a distance of 107.15' to a point; thence (22) N 11-04-17 W, a distance of 100.73' to a point; thence (23) N 10-59-40 W, a distance of 100.09' to a point;

thence (24) N 11-00-42 W, a distance of 106.37' to a point; thence (25) N 11-29-12 W, a distance of 86.28' to a point; thence (26) N 11-42-55 W, a distance of 98.39' to a point; thence (27) N 11-32-16 W, a distance of 218.08' to a point; thence (28) N 11-56-47 W, a distance of 242.39' to a point; thence (29) N 11-27-46 W, a distance of 71.33' to a point; thence (30) N 11-25-23 W, a distance of 258.73' to a point; thence (31) N 11-41-38 W, a distance of 110.07' to a point; thence (32) N 11-39-50 W, a distance of 104.24' to a point; thence (33) N 11-54-27 W, a distance of 344.51' to a point; thence (34) N 11-02-23 W, a distance of 104.48' to a point; thence (35) N 11-44-23 W, a distance of 101.58' to a point; thence (36) N 09-31-29 W, a distance of 176.87' to a point; thence (37) along the arc of a curve to the right, having a radius of 550.70' and an arc of 146.58' and also having a long chord bearing and distance of N 00-49-10 W – 146.22' to the point of beginning containing 87.8592 acres be it more or less.

SECTION 2. This act becomes effective June 30, 2013.

HOUSE BILL 1015:
Bessemer City Annexation

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	July 23, 2013
Introduced by:	Committee on Rules, Calendar, and Operations of the House	**Prepared by:**	Greg Roney Committee Counsel
Analysis of:	First Edition		

SUMMARY: ***House Bill 1015 would extend the corporate limits of the City of Bessemer City to include a portion of Crowders Mountain Road (SR 1302) and Interstate Highway 85.***

CURRENT LAW: The North Carolina Constitution, in Section 1 of Article VII, authorizes the General Assembly to "provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions, and, except as otherwise prohibited by this Constitution, may give such powers and duties to counties, cities and towns, and other governmental subdivisions as it may deem advisable." The General Assembly enacted Article 4A of Chapter 160A of the General Statutes governing municipal annexations. The General Assembly retains the authority to extend the boundaries of any municipality.

BILL ANALYSIS: House Bill 1015 would extend the corporate limits of the City of Bessemer City to include 87.8592 acres of the right-of-way along Crowders Mountain Road (SR 1302) and Interstate Highway 85.

BACKGROUND: On June 25, 2013, the City Council of Bessemer City approved the following resolution:

> the City of Bessemer City wishes to supply the North Carolina Highway Patrol City Utilities at an inside rate to the future northbound weigh station at SR 1302 Crowder's Mountain Road to Exit 13 Edgewood Road and provide local law enforcement support to said site.

EFFECTIVE DATE: House Bill 1015 would be effective June 30, 2013.

O. Walker Reagan
Director

H1015-SMTM-107 E1 -V1

Research Division
(919) 733-2578

Bessemer City

CITY OF BESSEMER CITY
RESOLUTION SEEKING LOCAL LEGISLATION FOR ANNEXATION

WHEREAS, the City Council for the City of Bessemer City has worked diligently to identify and adopt certain goals for the betterment of the community and the financial integrity of the City; and,

WHEREAS, in adopting those goals the City Council for the City of Bessemer City has identified certain local priorities involving the need for legislative consideration and action by the General Assembly of the State of North Carolina; and,

WHEREAS, the City Council for the City of Bessemer City, by adoption of this Resolution, requests that the Gaston County delegation to the North Carolina General Assembly receive, accept, and support furtherance of this legislative local bill for the 2013 session.

WHEREAS, the City of Bessemer City wishes to supply the North Carolina Highway Patrol City Utilities at an inside rate to the future northbound weigh station at SR 1302 Crowder's Mountain Road to Exit 13 Edgewood Road and provide local law enforcement support to said site.

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE CITY COUNCIL FOR THE CITY OF BESSEMER CITY, NORTH CAROLINA that the following items shall be submitted to members of the Gaston County delegation of the North Carolina General Assembly as local bill for and on behalf of the City of Bessemer City.

1. Ratification of a bill allowing the City of Bessemer City to annex state roadway on Crowder's Mountain Road and Interstate 85 as described in local bill as sponsored by the House Committee on Rules, Calendar and Operations of the House.

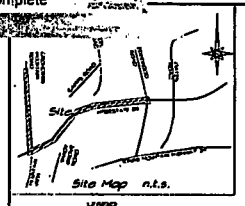
Duly resolved this 25th day of June 2013.

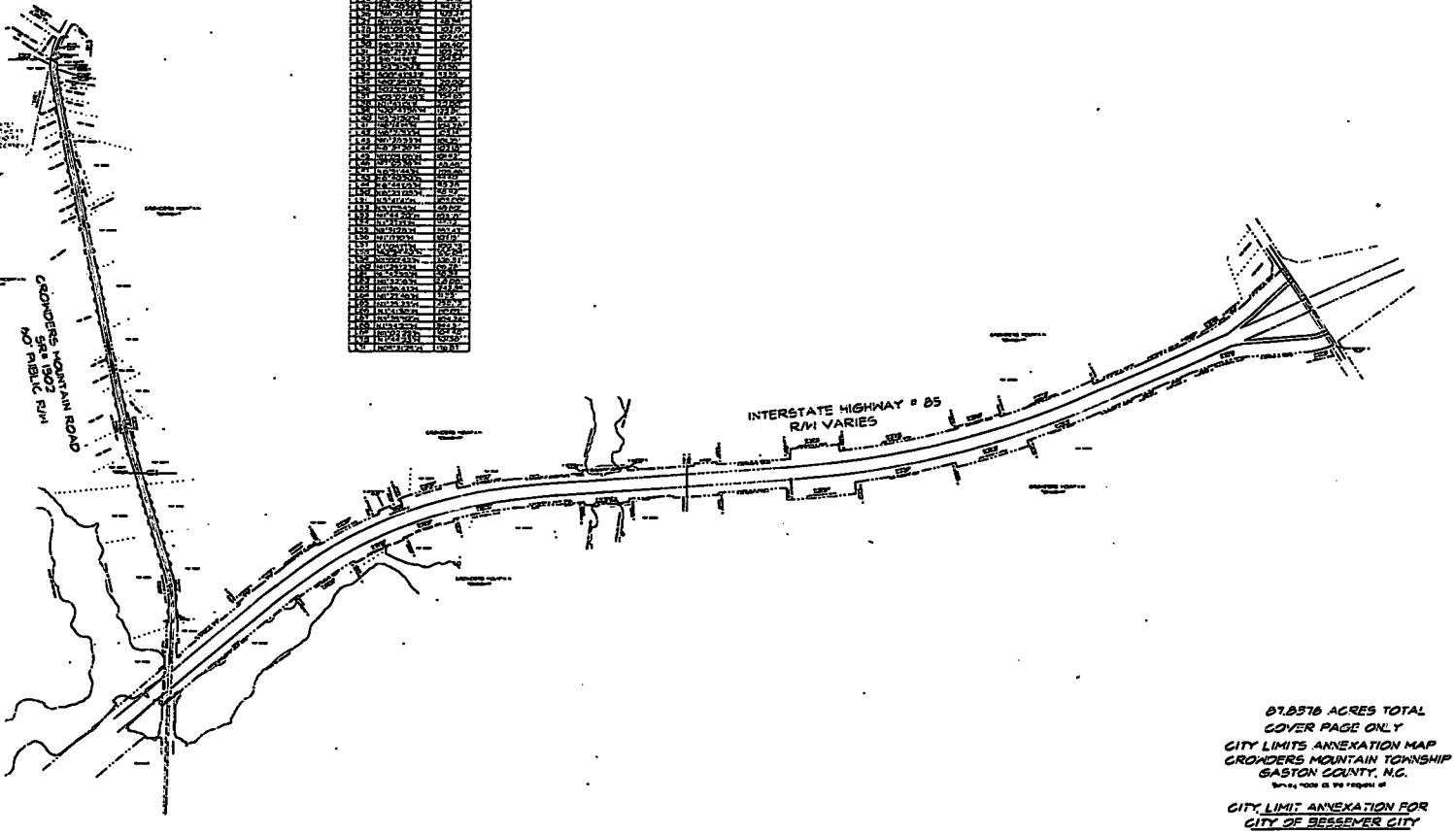
Becky S. Smith
Mayor

Attest:

Melaney Brakefield
City Clerk

CITY OF BESSEMER CITY 1892 NORTH CAROLINA





87.8576 ACRES TOTAL

COVER PAGE ONLY

CITY LIMITS ANNEXATION MAP
CROWDERS MOUNTAIN TOWNSHIP
GASTON COUNTY, N.C.

Survey made at the request of

CITY LIMIT ANNEXATION FOR
CITY OF BESSEMER CITY

Scale 1"=300' Date: AUG 3, 2015

Surveyed by

TANNER AND McCONNAUGHEY, P.A.
Professional Surveyors
Office: E. Peyton Blvd. Gastonia, N.C.
(704) 866-9434 OR (704) 864-7811

DB 1611 PG ____ Lots ____ Block ____
Subd. ____ PB ____ PG ____
Tax Map # ____ Page ____ Parcel ____
PIN# 3611191 ____

300 0 150 300 1000 2000
GRAPHIC SCALE

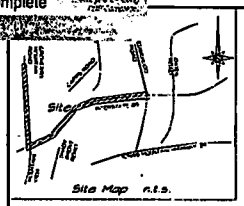
SHEET 1 OF 4

ANNEXATION APPROVED BY THE CITY COUNCIL ON _____ DATE

ATTEST: _____ CITY CLERK

MAYOR: _____

Franklin E. Tanner - P.L.S. # 2934



CROWDERS MOUNTAIN TOWNSHIP

CROWDERS MOUNTAIN TOWNSHIP

CROWDERS MOUNTAIN ROAD
SR 1302
PUBLIC R/W

MATCH LINE
SHEET 3

N.C. GRID

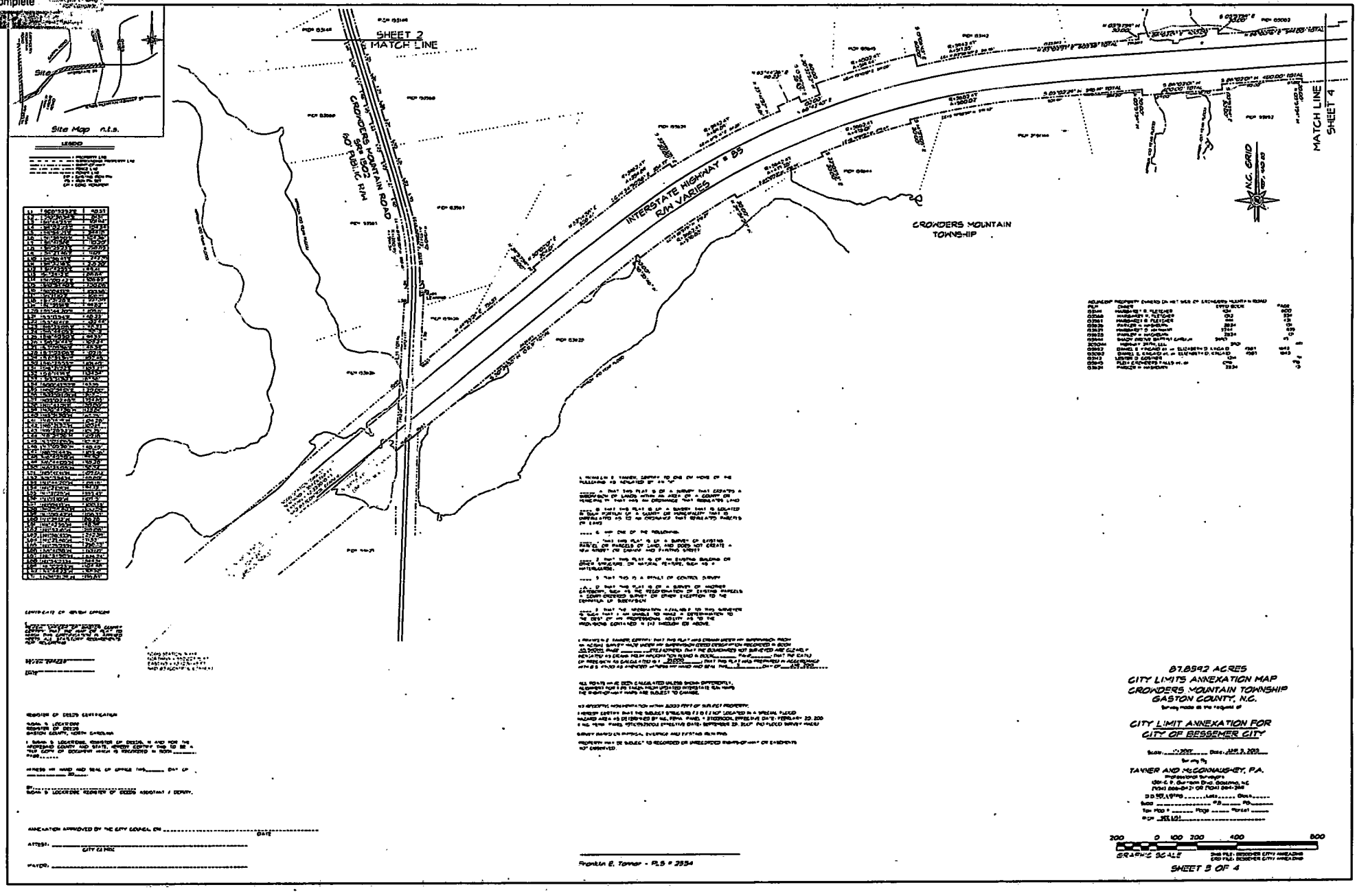
87.8592 ACRES
CITY LIMITS ANNEXATION MAP
CROWDERS MOUNTAIN TOWNSHIP
GASTON COUNTY, N.C.

CITY LIMIT ANNEXATION FOR
CITY OF BESSEMER CITY

TANNER AND McCONNAUGHEY, P.A.

200 0 100 200 400 800
GRAPHIC SCALE

SHEET 2 OR 4



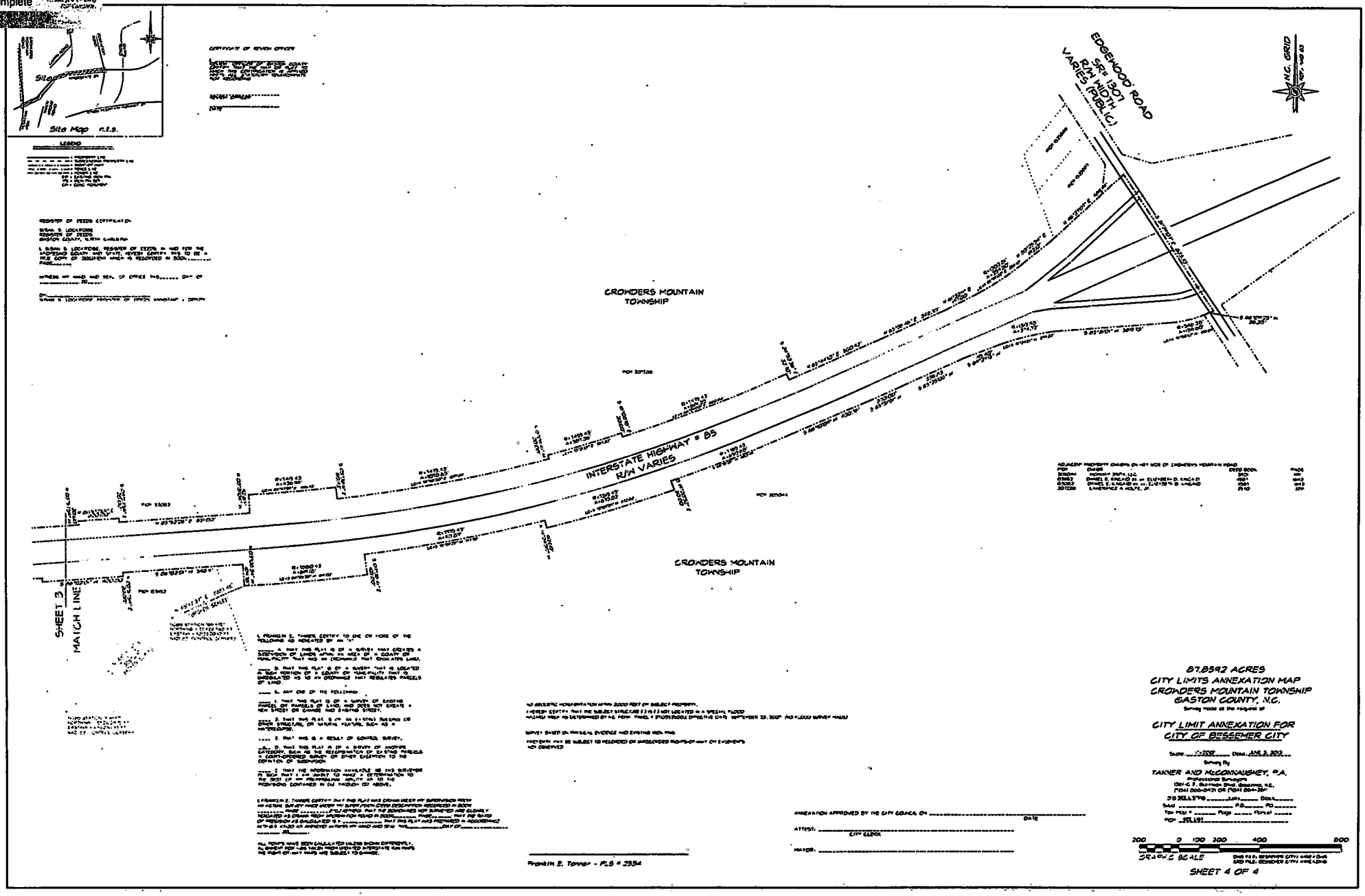
87.8593 ACRES
CITY LIMITS ANNEXATION MAP
CROWDERS MOUNTAIN TOWNSHIP
GASTON COUNTY, N.C.

CITY LIMIT ANNEXATION FOR
CITY OF BESSEMER CITY

TANNER AND McCONNAUGHEY, P.A.

200 0 100 200 400 800
GRAPHIC SCALE

SHEET 3 OF 4


Site Map n.t.s.
CROWDERS MOUNTAIN TOWNSHIP
INTERSTATE HIGHWAY # 85
R/W VARIES
EDGEWOOD ROAD
SR# 1301
R/W WIDTH
VARIES (PUBLIC)
N.C. GRID
CROWDERS MOUNTAIN TOWNSHIP
SHEET 3
MATCH LINE
87.8592 ACRES
CITY LIMITS ANNEXATION MAP
CROWDERS MOUNTAIN TOWNSHIP
GASTON COUNTY, N.C.
CITY LIMIT ANNEXATION FOR
CITY OF BESSEMER CITY
TANNER AND McCONNAUGHEY, P.A.
Professional Surveyors
GRAPHIC SCALE
SHEET 4 OF 4

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H 1

HOUSE BILL 552

Short Title:	Remove Area from County Service District.	(Public)
Sponsors:	Representative McElraft (Primary Sponsor).	
	For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.	
Referred to:	Government.	

April 4, 2013

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A PROCEDURE TO REMOVE AN AREA FROM A COUNTY SERVICE DISTRICT.

The General Assembly of North Carolina enacts:

SECTION 1. Part 1 of Article 16 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"**§ 153A-303.1. Removal of territory from service districts.**

(a) Standards. – A board of commissioners may by resolution remove territory from a service district upon finding that:

(1) One hundred percent (100%) of the owners of real property in the territory to be removed have petitioned for removal.

(2) The territory to be removed no longer requires the services, facilities, or functions financed, provided, or maintained for the district.

(3) The service district was created only to provide the services listed in G.S. 153A-301(a)(4) or G.S. 153A-301(a)(6) or both.

(b) Report. – Before the public hearing required by subsection (c) of this section, the board shall cause to be prepared a report containing:

(1) A map of the district highlighting the territory proposed to be removed, showing the present and proposed boundaries of the district; and

(2) A statement showing that the territory to be removed meets the standards and requirements of subsection (a) of this section.

The report shall be available for public inspection in the office of the clerk to the board for at least 10 days before the date of the public hearing.

(c) Hearing and Notice. – The board shall hold a public hearing before adopting any resolution reducing the boundaries of a district. Notice of the hearing shall state the date, hour, and place of the hearing and its subject and shall include a statement that the report required by subsection (b) of this section is available for inspection in the office of the clerk to the board. The notice shall be published at least once not less than seven days before the hearing. In addition, the notice shall be mailed at least two weeks before the date of the hearing by any class of U.S. mail which is fully prepaid to the owners as shown by the county tax records as of the preceding January 1 (and at the address shown thereon) of all property located within the territory to be removed. The person designated by the board to mail the notice shall certify to the board that the mailing has been completed, and the certificate shall be conclusive in the absence of fraud.

(d) Effective Date. – The resolution reducing the boundaries of the district shall take effect at the beginning of a fiscal year commencing after its passage, as determined by the board."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 552:
Remove Area from County Service District

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	July 23, 2013
Introduced by:	Rep. McElraft	**Prepared by:**	Greg Roney
Analysis of:	First Edition		Committee Counsel

SUMMARY: ***House Bill 552 would authorize boards of county commissioners to remove territory from a county water or sewer district.***

CURRENT LAW: Under current law, G.S. 153A-301 and G.S. 160A-536, county boards of commissioners and city councils are authorized to create service districts, in order to finance and provide services in the district to a greater extent than those furnished for the entire county or city.

Cities have authority to remove territory from their service districts under G.S.160A-538.1.

Boards of county commissioners can remove territory from: a County Research and Production Service District (G.S. 153A-314.1) and an Urban Research Service District (G.S. 153A-316.4).

BILL ANALYSIS: House Bill 552 would authorize counties to remove territory from county service districts created to provide water or sewer (or both) if all of the following requirements are met:

- 100% of the property owners petition for removal.
- Territory no longer requires the service.
- Public report prepared showing the current and proposed boundaries on a map.
- Notice of the public hearing published and mailed.
- Public hearing conducted.

EFFECTIVE DATE: House Bill 552 would be effective when it becomes law.

Giles Perry, Counsel to House Government, substantially contributed to this summary.

O. Walker Reagan
Director

H552-SMRB-71 E1 -V1

Research Division
(919) 733-2578

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 1552 DATE July 23, 13

S. B. No. _____ Amendment No. #1
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Nesbitt
Sen.)

1 moves to amend the bill on page 1, line 15 and 16
2 ( ) WHICH CHANGES THE TITLE
3 by inserting between the lines
4 "(4) There is no indebtedness supported by
5 the taxes collected in the area to be
6 removed."
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SIGNED _____

ADOPTED _____ FAILED _____ TABLED X

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

HOUSE BILL 135
Committee Substitute Favorable 4/17/13

Short Title: Adjust Landfill Permit Fee Timing. (Public)

Sponsors:

Referred to:

February 21, 2013

A BILL TO BE ENTITLED

AN ACT TO MAKE ADJUSTMENTS TO THE FEE SCHEDULE FOR PERMITS FOR SANITARY LANDFILLS AND TRANSFER STATIONS TO REFLECT EXTENSION OF THE DURATION OF THESE PERMITS AS DIRECTED BY S.L. 2012-187, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-294 is amended by adding a new subsection to read:

"(a2) Permits for sanitary landfills and transfer stations shall be issued for (i) a design and operation phase of five years or (ii) a design and operation phase of 10 years. A permit issued for a design and operation phase of 10 years shall be subject to a limited review within five years of the issuance date."

SECTION 2. G.S. 130A-295.8 reads as rewritten:

"**§ 130A-295.8. Fees applicable to permits for solid waste management facilities.**

(a) The Solid Waste Management Account is established as a nonreverting account within the Department. All fees collected under this section shall be credited to the Account and shall be used to support the solid waste management program established pursuant to G.S. 130A-294.

(b) As used in this section:

(1) "New permit" means any of the following:

a. An application for a permit for a solid waste management facility that has not been previously permitted by the Department. The term includes one site suitability review, the initial permit to construct, and one permit to operate the constructed portion of a phase included in the permit to construct.

b. An application that proposes to expand the boundary of a permitted waste management facility for the purpose of expanding the permitted activity.

c. An application that includes a proposed expansion to the boundary of a waste disposal unit within a permitted solid waste management facility.

d. An application for a substantial amendment to a solid waste permit, as defined in G.S. 130A-294.

(2) "Permit amendment" means any of the following:

a. An application for a permit to construct and one permit to operate for the second and subsequent phases of landfill development described

in the approved facility plan for a permitted solid waste management facility.

b. An application for the five-year renewal of a permit for a permitted solid waste management facility or for a permit review of a permitted solid waste management facility.

c. Any application that proposes a change in ownership or corporate structure of a permitted solid waste management facility.

(3) "Permit modification" means any of the following:

a. An application for any change to the plans approved in a permit for a solid waste management facility that does not constitute a "permit amendment" or a "new permit".

b. A second or subsequent permit to operate for a constructed portion of a phase included in the permit to construct.

c. An application for a five-year limited review of a 10-year permit, as required by G.S. 130A-294(a2), including review of the operations plan, closure plan, post-closure plan, financial assurance cost estimates, environmental monitoring plans, and any other applicable plans for the facility.

(4) "Major permit modification" means an application for any change to the approved engineering plans for a sanitary landfill or transfer station permitted for a 10-year design capacity that does not constitute a "permit amendment," "new permit," or "permit modification."

(c) An applicant for a permit shall pay an application fee upon submission of an application according to the following schedule:

(1) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, New ~~Permit~~ Permit (Five-Year) – $25,000.

(1a) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, New Permit (Ten-Year) – $38,500.

(2) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, ~~Amendment~~ Amendment (Five-Year) – $15,000.

(2a) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, Amendment (Ten-Year) – $28,500.

(3) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, ~~Modification~~ Modification (Five-Year) – $1,500.

(3a) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, Major Modification (Ten-Year) – $7,500.

(4) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, New ~~Permit~~ Permit (Five-Year) – $50,000.

(4a) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, New Permit (Ten-Year) – $77,000.

(5) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, ~~Amendment~~ Amendment (Five-Year) – $30,000.

(5a) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, Amendment (Ten-Year) – $57,000.

(6) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, ~~Modification~~ Modification (Five-Year) – $3,000.

(6a) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, Major Modification (Ten-Year) – $15,000.

(7) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, New ~~Permit~~ Permit (Five-Year) – $15,000.

(7a) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, New Permit (Ten-Year) – $22,500.

(8) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, ~~Amendment~~ Amendment (Five-Year) – $9,000.

(8a) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, Amendment (Ten-Year) – $16,500.

(9) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, ~~Modification~~ Modification (Five-Year) – $1,500.

(9a) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, Major Modification (Ten-Year) – $4,500.

(10) Construction and Demolition Landfill accepting 100,000 tons/year or more of solid waste, New ~~Permit~~ Permit (Five-Year) – $30,000.

(10a) Construction and Demolition Landfill accepting 100,000 tons/year or more of solid waste, New Permit (Ten-Year) – $46,000.

(11) Construction and Demolition Landfill accepting 100,000 tons/year or more of solid waste, ~~Amendment~~ Amendment (Five-Year) – $18,500.

(11a) Construction and Demolition Landfill accepting 100,000 tons/year or more of solid waste, Amendment (Ten-Year) – $34,500.

(12) Construction and Demolition Landfill accepting 100,000 tons/year or more of solid waste, ~~Modification~~ Modification (Five-Year) – $2,500.

(12a) Construction and Demolition Landfill accepting 100,000 tons/year or more of solid waste, Major Modification (Ten-Year) – $9,250.

(13) Industrial Landfill accepting less than 100,000 tons/year of solid waste, New ~~Permit~~ Permit (Five-Year) – $15,000.

(13a) Industrial Landfill accepting less than 100,000 tons/year of solid waste, New Permit (Ten-Year) – $22,500.

(14) Industrial Landfill accepting less than 100,000 tons/year of solid waste, ~~Amendment~~ Amendment (Five-Year) – $9,000.

(14a) Industrial Landfill accepting less than 100,000 tons/year of solid waste, Amendment (Ten-Year) – $16,500.

(15) Industrial Landfill accepting less than 100,000 tons/year of solid waste, ~~Modification~~ Modification (Five-Year) – $1,500.

(15a) Industrial Landfill accepting less than 100,000 tons/year of solid waste, Major Modification (Ten-Year) – $4,500.

(16) Industrial Landfill accepting 100,000 tons/year or more of solid waste, New ~~Permit~~ Permit (Five-Year) – $30,000.

(16a) Industrial Landfill accepting 100,000 tons/year or more of solid waste, New Permit (Ten-Year) – $46,000.

(17) Industrial Landfill accepting 100,000 tons/year or more of solid waste, ~~Amendment~~ Amendment (Five-Year) – $18,500.

(17a) Industrial Landfill accepting 100,000 tons/year or more of solid waste, Amendment (Ten-Year) – $34,500.

(18) Industrial Landfill accepting 100,000 tons/year or more of solid waste, ~~Modification~~ Modification (Five-Year) – $2,500.

(18a) Industrial Landfill accepting 100,000 tons/year or more of solid waste, Major Modification (Ten-Year) – $9,250.

(19) Tire Monofill, New Permit – $1,750.

(19a) Tire Monofill, New Permit (Ten-Year) – $2,500.

(20) Tire Monofill, Amendment – $1,250.

(20A) Tire Monofill, Amendment (Ten-Year) – $2,000.

(21) Tire Monofill, Modification – $500.
(21A) Tire Monofill, Major Modification – $625.
(22) Treatment and Processing, New Permit – $1,750.
(23) Treatment and Processing, Amendment – $1,250.
(24) Treatment and Processing, Modification – $500.
(25) Transfer Station, New ~~Permit~~ Permit (Five-Year) – $5,000.
(25a) Transfer Station, New Permit (Ten-Year) – $7,500.
(26) Transfer Station, ~~Amendment~~ Amendment (Five-Year) – $3,000.
(26a) Transfer Station, Amendment (Ten-Year) – $5,500.
(27) Transfer Station, ~~Modification~~ Modification (Five-Year) – $500.
(27a) Transfer Station, Major Modification (Ten-Year) – $1,500.
(28) Incinerator, New Permit – $1,750.
(29) Incinerator, Amendment – $1,250.
(30) Incinerator, Modification – $500.
(31) Large Compost Facility, New Permit – $1,750.
(32) Large Compost Facility, Amendment – $1,250.
(33) Large Compost Facility, Modification – $500.
(34) Land Clearing and Inert, New Permit – $1,000.
(35) Land Clearing and Inert, Amendment – $500.
(36) Land Clearing and Inert, Modification – $250.

(d) A permitted solid waste management facility shall pay an annual permit fee on or before 1 August of each year according to the following schedule:

(1) Municipal Solid Waste Landfill – $3,500.
(2) Post-Closure Municipal Solid Waste Landfill – $1,000.
(3) Construction and Demolition Landfill – $2,750.
(4) Post-Closure Construction and Demolition Landfill – $500.
(5) Industrial Landfill – $2,750.
(6) Post-Closure Industrial Landfill – $500.
(7) Transfer Station – $750.
(8) Treatment and Processing Facility – $500.
(9) Tire Monofill – $500.
(10) Incinerator – $500.
(11) Large Compost Facility – $500.
(12) Land Clearing and Inert Debris Landfill – $500.

(e) The Department shall determine whether an application for a permit for a solid waste management facility that is subject to a fee under this section is complete within 90 days after the Department receives the application for the permit. A determination of completeness means that the application includes all required components but does not mean that the required components provide all of the information that is required for the Department to make a decision on the application. If the Department determines that an application is not complete, the Department shall notify the applicant of the components needed to complete the application. An applicant may submit additional information to the Department to cure the deficiencies in the application. The Department shall make a final determination as to whether the application is complete within the later of: (i) 90 days after the Department receives the application for the permit less the number of days that the applicant uses to provide the additional information; or (ii) 30 days after the Department receives the additional information from the applicant. The Department shall issue a draft permit decision on an application for a permit within one year after the Department determines that the application is complete. The Department shall hold a public hearing and accept written comment on the draft permit decision for a period of not less than 30 or more than 60 days after the Department issues a draft permit decision. The Department shall issue a final permit decision on an application for a

permit within 90 days after the comment period on the draft permit decision closes. The Department and the applicant may mutually agree to extend any time period under this subsection. If the Department fails to act within any time period set out in this subsection, the applicant may treat the failure to act as a denial of the permit and may challenge the denial as provided in Chapter 150B of the General Statutes."

SECTION 3. This act is effective when it becomes law and applies to permit applications submitted on or after July 1, 2013.

HOUSE BILL 135:
Adjust Landfill Permit Fee Timing

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	July 23, 2013
Introduced by:	Reps. Samuelson, McElraft, McGrady	**Prepared by:**	Jennifer McGinnis
Analysis of:	Second Edition		Staff Attorney

SUMMARY: ***House Bill 135 would make adjustments to the fee schedule for permits for sanitary landfills and transfer stations to reflect extension of the duration of these permits as directed by legislation enacted in 2012. The legislation was a recommendation of the Environmental Review Commission.***

[As introduced, this bill was identical to S380, as introduced by Sen. Jackson, which was passed by the Senate on May 8, 2013, and is currently in House Environment, if favorable, Finance.]

CURRENT LAW and BACKGROUND:

Prior to legislation enacted in 2012, the duration of permits for sanitary landfills and transfer stations was five years. S.L. 2012-187 directed the Commission for Public Health to adopt rules to allow applicants for permits for sanitary landfills and transfer stations the option to apply for a permit to construct (and operate) a facility for a period of ten years, with a limited review of the permit five years after issuance. In addition, the legislation directed the Department of Environment and Natural Resources (Department) to examine the fee schedule for permits for sanitary landfills and transfer stations and to formulate recommendations for adjustments to the applicable fees that would be sufficient to address any additional demands associated with review of permits issued for a longer period of time. The legislation further provided that the rule changes to allow permits of extended duration would not become effective until the fee schedule was amended to address any additional demands associated with review of permits issued for longer periods of time. The Department reported its findings and recommendations, including a legislative proposal, to the Environmental Review Commission (ERC) in December 2012. House Bill 135 embodies the Department's legislative proposal concerning needed fee adjustments, and was a recommendation of the ERC.

BILL ANALYSIS:

In conformance with the legislation enacted in 2012 that extended the duration of permits for sanitary landfills and transfer stations to ten years, the bill would add language to the statutes specifying that permits for sanitary landfills and transfer stations may be issued for a design and operation phase of 10 years, with a limited review five years after the date of issuance. In addition, the bill would make changes to the fee schedule under the General Statutes for sanitary landfills and transfer stations, based on the directive for an extended duration.

EFFECTIVE DATE:

The bill would be effective when it became law and apply to permit applications submitted on or after July 1, 2013.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: April 17, 2013
TO: House Finance Chairs
FROM: Jennifer Hoffmann
Fiscal Research Division
RE: **PCS for House Bill 135 (H153-CSRIf-8)**

FISCAL IMPACT

☑ Yes ☐ No ☐ No Estimate Available

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
State Impact					
Special Fund Revenues:	270,000	270,000	270,000	270,000	270,000
Special Fund Expenditures:					
State Positions:					
NET STATE IMPACT	**$270,000**	**$270,000**	**$270,000**	**$270,000**	**$270,000**
Local Impact					
Revenues:					
Expenditures:					
NET LOCAL IMPACT	**$0.0**	**$0.0**	**$0.0**	**$0.0**	**$0.0**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Environment and Natural Resources, Division of Waste Management

EFFECTIVE DATE: When the act becomes law.

TECHNICAL CONSIDERATIONS: None

BILL SUMMARY: The Proposed Committee Substitute (PCS) for House Bill 135 makes adjustments to the fee schedule for permits for sanitary landfills and transfer stations to reflect the extension of the duration of these permits as directed by the Regulatory Reform Act of 2012 (S.L. 2012-187). The PCS also makes conforming changes to add language to the statutes specifying that permits for sanitary landfills and transfer stations may be issued for a design and operation phase of ten years with a limited review five years after the date of issuance.

ASSUMPTIONS AND METHODOLOGY:

Background: The Regulatory Reform Act of 2012 required the Commission of Public Health to adopt rules that would allow the applicants for permits for sanitary landfills and transfer stations the option to apply for a new permit to construct and operate a facility for a period of ten years, with a limited review of the permit five years after issuance. At the end of the first five years, facilities issued new 10-year permits are required to submit a *"permit modification"* application. At the end of the first ten years, facility operators are required to submit a 10-year *"amendment."* At the end of year five of the 10-year amendment, a *"permit modification"* is again required. Any time a facility operator makes a significant change to a 10-year permit, a *"major modification"* permit and associated fees are required.

To conform with the legislation that was enacted in 2012 and the subsequent rules, the PCS adjusts the current statutory fee schedule for sanitary landfills and transfer stations by 1) adding fees for new permits of 10-year duration, 2) adding fees for 10-year permit amendments, and 3) adding new fees for a 10-year "major modification" (see Table 1 at end of memo).

Prior to the legislation enacted in 2012, the duration of new permits for sanitary landfills and transfer stations was five years. This 5-year permit option is still available and the existing fee structure for five-year permits has not changed. (see Table 1 at end of the memo).

The PCS sets the fee structure for new 10-year permits such that a facility would pay the same amount in fees over a 10-year period regardless of the chosen permit option (five or 10-years).

The fees collected by the Division of Waste Management are deposited into a special fund and are used to support the staff in the Division's Solid Waste Management Section.

Assumptions:

1. **The option of obtaining a 10-year permit versus a 5-year permit will not affect the number facilities seeking permits.** The Division of Waste Management (DWM) projects the number of sanitary landfills to increase by less than five facilities over the next five years and the number of transfer stations to increase by approximately 10 facilities within the same timeframe. This increase is not due to the option of obtaining a 10-year permit, or its associated fees.

2. **The services provided by the DWM will not change.** There is no expected change in the current type of service provided to applicants of 10-year permits for sanitary landfills and transfer stations. The same type of permit review will be conducted in accordance with the statutory and rule requirements for facilities that seek either a five or 10-year permit.

3. **DWM estimates that the amount of time it will take to review a 10-year permit will be approximately 30 percent more than the current five-year permits.** This initial increase in the review time however, is offset by a five-year review of a 10-year permit that is projected to take 30 percent less time than a conventional five-year permit renewal (amendment). According to DWM, the projected workload can be accommodated within the agency's existing staff levels but the permit fees need to be adjusted in order to preserve the current program budget amounts.

4. Sanitary landfill and transfer station operators have the choice of selecting a 5-year or 10-year permit term; however, **DWM projects that 75 percent of the facilities will choose**

permits of 10-year duration. This assumption is based on the fact that private solid waste companies initiated the 2012 legislation to lengthen the permit term for sanitary landfills and transfer stations. In addition, a 10-year permit offers potential savings to facility owners because the necessary engineering and hydrogeological work must only be completed once for a permit of 10-year duration versus repeating the work for two five-year permits. A 10-year permit also allows facilities the flexibility to construct individual landfill phases as needed by volume instead of by a particular date.

Fee Structure: The new fee structure for sanitary landfills and transfer stations is illustrated in Table 1. While the fee for a 10-year permit is higher than for a 5-year permit, the new fees are structured so that the total cost of a 10-year permit and its required 5-year modification is the same as the total cost of a 5-year permit and its required 5-year amendment over a ten-year period of time. As a result, the **overall amount of permit fee revenue collected from sanitary landfills and transfer stations will not change under the proposed permit fee adjustments, but the timing of payments will be different**. Permit fee revenue will increase during the first five years and will decrease on an equal basis during the second five years.

Fiscal Impact: The amount of additional revenue collected by the Division of Waste Management from proposed fee increases is approximately $270,000 each year for the next five years with a corresponding reduction in fees collected in the subsequent five years. This estimate is based on the following information:

1. The Division of Waste Management currently collects an average of $400,000 in permit fees from sanitary landfills and transfers stations.
2. The assumption that 75% of the facilities will switch to the new 10-year permit option. No new facilities have been permitted in recent years, so the switch to the 10-year option would require a 10-year amendment.
3. The 10-year permit amendment fees are about 90% higher than the five-year permit amendments.

Using this information, the annual amount of additional revenue from the proposed fee increase for next five years is calculated to be ($400,000 x 75%) x (90%) = $270,000. There is an equal reduction in fee revenue for the subsequent five years due to small fees associated with required 5-year modification permit. Over the ten year period the amount of fees collected by the division does not change, just the timing of revenue collection.

SOURCES OF DATA: Department of Environment and Natural Resources, Division of Waste Management

TECHNICAL CONSIDERATIONS: None

Table 1: HB 133 Proposed 10-year Fees Compared to Current 5-year Fees					
Facility Type & Size	**Permit Type**	**Current 5-year Permit Fees**	**Years Covered**	**New 10-year Permit Fees**	**Permit Type**
Municipal Solid Waste Landfill Facility<100,000 tons/yr					
	New	$25,000	year 1	$38,500	New
	Amendment (5-years)	$15,000	year 5	$1,500	Modification (5-years)
	Amendment (5-years)	$15,000	year 10	$28,500	Amendment (10- years)
	Amendment (5-years)	$15,000	year 15	$1,500	Modification (5-years)
			anytime	$7,500	10-year Major Modification
Municipal Solid Waste Landfill Facility>100,000 tons/yr					
	New	$50,000	year 1	$77,000	New
	Amendment (5-years)	$30,000	year 5	$3,000	Modification (5-years)
	Amendment (5-years)	$30,000	year 10	$57,000	Amendment (10- years)
	Amendment (5-years)	$30,000	year 15	$3,000	Modification (5-years)
			anytime	$15,000	10-year Major Modification
Construction and Demolition Landfill Facility<100,000 tons/yr					
	New	$15,000	year 1	$22,500	New
	Amendment (5-years)	$9,000	year 5	$1,500	Modification (5-years)
	Amendment (5-years)	$9,000	year 10	$16,500	Amendment (10- years)
	Amendment (5-years)	$9,000	year 15	$1,500	Modification (5-years)
			anytime	$4,500	10-year Major Modification
Construction and Demolition Landfill Facility>100,000 tons/yr					
	New	$30,000	year 1	$46,000	New
	Amendment (5-years)	$18,500	year 5	$2,500	Modification (5-years)
	Amendment (5-years)	$18,500	year 10	$34,500	Amendment (10- years)
	Amendment (5-years)	$18,500	year 15	$2,500	Modification (5-years)
			anytime	$9,250	10-year Major Modification

Table 1: HB 135 Proposed 10-year Fees, Compared to Current 5-year Fees					
Facility Type & Size	**Permit Type**	**Current 5-year Permit Fees**	**Years Covered**	**New 10-year Permit Fees**	**Permit Type**
Industrial Landfill ≤100,000 tons/yr					
	New	$15,000	year 1	$22,500	New
	Amendment (5-years)	$9,000	year 5	$1,500	Modification (5-years)
	Amendment (5-years)	$9,000	year 10	$16,500	Amendment (10- years)
	Amendment (5-years)	$9,000	year 15	$1,500	Modification (5-years)
			anytime	$4,500	10-year Major Modification
Industrial Landfill>100,000 tons/yr					
	New	$30,000	year 1	$46,000	New
	Amendment (5-years)	$18,500	year 5	$2,500	Modification (5-years)
	Amendment (5-years)	$18,500	year 10	$34,500	Amendment (10- years)
	Amendment (5-years)	$18,500	year 15	$2,500	Modification (5-years)
			anytime	$9,250	10-year Major Modification
Tire Monofill					
	New	$1,750	year 1	$2,500	New
	Amendment (5-years)	$1,250	year 5	$500	Modification (5-years)
	Amendment (5-years)	$1,250	year 10	$2,000	Amendment (10- years)
	Amendment (5-years)	$1,250	year 15	$500	Modification (5-years)
			anytime	$625	10-year Major Modification
Transfer Station					
	New	$5,000	year 1	$7,500	New
	Amendment (5-years)	$3,000	year 5	$500	Modification (5-years)
	Amendment (5-years)	$3,000	year 10	$5,500	Amendment (10- years)
	Amendment (5-years)	$3,000	year 15	$500	Modification (5-years)
			anytime	$1,500	10-year Major Modification

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2011-2012

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Senator Ralph Hise **Room 1026, LB 733-3460** **Ralph.Hise@ncleg.net** **LA: Susan Fanning**	**Senator Neal Hunt** **Room 308, LOB 733-5850** **Neal.Hunt@ncleg.net** **LA: Kathy Davis**
Senator Jeff Jackson **Room 1102, LB 715-8331** **Jeff.Jackson@ncleg.net** **LA: Ted Harrison**	**Senator Brent Jackson** **Room 523, LOB 733-5705** **Brent.Jackson@ncleg.net** **LA: Phillip Christofferson**
Senator Clark Jenkins **Room 621, LOB 715-3040** **Clark.Jenkins@ncleg.net** **LA: Gail Bishop**	**Senator Joyce Krawiec** **Room 2117, LB 733-7850** **Joyce.Krawiec@ncleg.net** **LA: Robb Janson**
Senator Floyd McKissick. Jr **Room 520, LOB 733-4599** **Floyd.McKissick@ncleg.net** **LA: Rosita Littlejohn**	**Senator Gene McLaurin** **Room 1118, LB 733-5953** **Gene.McLaurin@ncleg.net** **LA: Katie Stanley**
Senator Wesley Meredith **Room 314, LOB 733-5776** **Wesley.Meridith@ncleg.net** **LA: Debbie Lown**	**Senator Buck Newton** **Room 408, LOB 715-3030** **Buck.Newton@ncleg.net** **LA: Carol Wilson**
Senator Norman Sanderson **Room 629, LOB 733-5706** **Norman.Sanderson@ncleg.net** **LA: Kathy Voss**	**Senator Dan Soucek** **Room 310, LOB 733-5742** **Dan.Soucek@ncleg.net** **LA: John Clark**
Senator Josh Stein **Room 1113, LB 715-6400** **Josh.Stein@ncleg.net** **LA: Candace Finley**	**Senator Jeff Tarte** **Room 2115, LB 715-3050** **Jeff.Tarte@ncleg.net** **LA: Jan Copeland**
Senator Jerry W. Tillman **Room 627, LOB 733-5870** **Jerry.Tillman@ncleg.net** **LA: Susanne Castleberry**	**Senator Tommy Tucker** **Room 311, LOB 733-7659** **Tommy.Tucker@ncleg.net** **LA: Joey Stansbury**
Senator Terry Van Duyn **Room 515, LOB 715-3001** **Terry.VanDuyn@ncleg.net** **LA: Irma Avent-Hurst**	**Senator Trudy Wade** **Room 2106, LB 733-5856** **Trudy.Wade@ncleg.net** **LA: Kathy Hartsell**
Senator Michael Walters **Room 517, LOB 733-5651** **Michael.Walters@ncleg.net** **LA: Cindy Davis**	**Senator Mike Woodard** **Room 515, LOB 733-4809** **Mike.Woodard@ncleg.net** **LA: Carol Resar**

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Senate Committee on Finance
Tuesday, May 20, 2014 at 4:00 PM
Room 643 of the Legislative Office Building

MINUTES

The Senate Committee on Finance met at 4:00 PM on May 20, 2014 in Room 643 of the Legislative Office Building. Thirty-three members were present.

Senator Bill Rabon, Chair, presided. The Committee immediately recessed until 5 p.m.

S.B. 786 – Energy Modernization Act.

Senator Rucho was recognized to explain the bill. It (1) extends the deadline for development of a modern regulatory program for the management of oil and gas exploration, development and production in the State and the use of horizontal drilling and hydraulic fracturing treatments for that purpose; (2) enacts or modifies certain exemptions from requirements of the Administrative Procedures Act applicable to rules for the management of oil and gas exploration, development, and production in the State and the use of horizontal drilling and hydraulic fracturing treatments for that purpose; (3) establishes a date certain of July 1, 2015, for issuance for permits for oil and gas exploration, development, and production activities; (4) creates the North Carolina Oil and Gas Commission and reconstitutes the North Carolina Mining Commission; (5) amends miscellaneous statutes governing oil and gas exploration, development, and production activities; (6) establishes a severance tax applicable to oil and gas exploration, development, and production activities; (7) amends miscellaneous statutes unrelated to oil and gas exploration, development, and production activities; and (8) directs studies on various issues, as recommended by the Joint Legislative Commission on Energy Policy. Senator Jenkins moved for a favorable report which Senator Curtis seconded. The motion was carried. A copy of the bill and the summary is attached.

The meeting adjourned at 5:20 p.m.

Senator Bill Rabon, Chair
Presiding

DeAnne Mangum, Committee Clerk

Principal Clerk ____
Reading Clerk ____

Corrected #1: Please note the change in location to room 643.

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Tuesday	May 20, 2014	4:00 PM	643 LOB

Agenda to be determined.

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Tuesday	May 20, 2014	4:00 PM	544 LOB

Agenda to be determined.

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Tuesday, May 20, 2014

Senator Rabon,
submits the following with recommendations as to passage:

FAVORABLE

SB **786** **(CS#1)** Energy Modernization Act.

Draft Number:	None
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Senator Robert Rucho will handle SB 786.

CMR956-V-2

SENATE BILL 786
Commerce Committee Substitute Adopted 5/20/14

Short Title: Energy Modernization Act. (Public)

Sponsors:

Referred to:

May 19, 2014

A BILL TO BE ENTITLED

AN ACT TO (1) EXTEND THE DEADLINE FOR DEVELOPMENT OF A MODERN REGULATORY PROGRAM FOR THE MANAGEMENT OF OIL AND GAS EXPLORATION, DEVELOPMENT, AND PRODUCTION IN THE STATE AND THE USE OF HORIZONTAL DRILLING AND HYDRAULIC FRACTURING TREATMENTS FOR THAT PURPOSE; (2) ENACT OR MODIFY CERTAIN EXEMPTIONS FROM REQUIREMENTS OF THE ADMINISTRATIVE PROCEDURE ACT APPLICABLE TO RULES FOR THE MANAGEMENT OF OIL AND GAS EXPLORATION, DEVELOPMENT, AND PRODUCTION IN THE STATE AND THE USE OF HORIZONTAL DRILLING AND HYDRAULIC FRACTURING TREATMENTS FOR THAT PURPOSE; (3) ESTABLISH A DATE CERTAIN OF JULY 1, 2015, FOR ISSUANCE FOR PERMITS FOR OIL AND GAS EXPLORATION, DEVELOPMENT, AND PRODUCTION ACTIVITIES; (4) CREATE THE NORTH CAROLINA OIL AND GAS COMMISSION AND RECONSTITUTE THE NORTH CAROLINA MINING COMMISSION; (5) AMEND MISCELLANEOUS STATUTES GOVERNING OIL AND GAS EXPLORATION, DEVELOPMENT, AND PRODUCTION ACTIVITIES; (6) ESTABLISH A SEVERANCE TAX APPLICABLE TO OIL AND GAS EXPLORATION, DEVELOPMENT, AND PRODUCTION ACTIVITIES; (7) AMEND MISCELLANEOUS STATUTES UNRELATED TO OIL AND GAS EXPLORATION, DEVELOPMENT, AND PRODUCTION ACTIVITIES; AND (8) DIRECT STUDIES ON VARIOUS ISSUES, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMISSION ON ENERGY POLICY.

The General Assembly of North Carolina enacts:

PART I. EXTENSION OF RULE DEVELOPMENT DEADLINE

SECTION 1. Section 2(m) of S.L. 2012-143 reads as rewritten:

"**SECTION 2.(m)** All rules required to be adopted by the Mining and Energy Commission, the Environmental Management Commission, and the Commission for Public Health pursuant to this act shall be adopted no later than ~~October 1, 2014.~~ January 1, 2015. In order to provide for the orderly, efficient, and effective development and adoption of rules and to prevent the adoption of duplicative, inconsistent, or inadequate rules by these Commissions, the Department of Environment and Natural Resources shall coordinate the adoption of the rules. The Commissions and the Department shall develop the rules in an open and collaborative process that includes (i) input from scientific and technical advisory groups; (ii) consultation with the North Carolina League of Municipalities, the North Carolina Association of County Commissioners, the Division of Energy of the Department of Commerce, the Department of

Transportation, the Division of Emergency Management of the Department of Public Safety, the Consumer Protection Division of the Department of Justice, the Department of Labor, the Department of Health and Human Services, the State Review of Oil and Natural Gas Environmental Regulations (STRONGER), the American Petroleum Institute (API), and the Rural Advancement Foundation (RAFI-USA); and (iii) broad public participation. During the development of the rules, the Commissions and the Department shall identify changes required to all existing rules and statutes necessary for the implementation of this act, including repeal or modification of rules and statutes. Until such time as all of the rules are adopted pursuant to this act, the Department shall submit quarterly reports to the Joint Legislative Commission on Energy Policy, created under Section 6(a) of this act, and the Environmental Review Commission on its progress in developing and adopting the rules. The quarterly reports shall include recommendations on changes required to existing rules and statutes and any other findings or recommendations necessary for the implementation of this act. The first report required by this subsection is due January 1, 2013."

PART II. EXEMPTIONS FROM ADMINISTRATIVE PROCEDURE ACT

SECTION 2.(a) Notwithstanding G.S. 150B-21.3(b1) and Section 1(a) of S.L. 2013-365, all rules adopted pursuant to Section 2(m) of S.L. 2012-143 shall be subject to legislative review during the next regular session of the General Assembly that begins after the date the Rules Review Commission approved the rule or during the regular session that is underway on the date the Commission approved the rule.

SECTION 2.(b) Notwithstanding G.S. 150B-21.3(b1) and any rule of either house of the General Assembly, any member of the General Assembly may introduce a bill to disapprove any rule adopted pursuant to Section 2(m) of S.L. 2012-143 that has been approved by the Rules Review Commission and that either has not become effective or has become effective by executive order, as follows: (i) if the Rules Review Commission approves the rule prior to the start of a legislative session, during the first 30 calendar days of the regular session of the General Assembly that begins after the date the Commission approved all rules adopted pursuant to Section 2(m) of S.L. 2012-143 or (ii) if the Rules Review Commission approves the rule during a legislative session, 30 calendar days from the date the Rules Review Commission approved all rules adopted pursuant to Section 2(m) of S.L. 2012-143.

SECTION 2.(c) Notwithstanding G.S. 150B-21.3(b1) and any rule of either house of the General Assembly, all rules adopted pursuant to Section 2(m) of S.L. 2012-143 become effective on the earlier of the following:

(1) If the Rules Review Commission approves all rules adopted pursuant to Section 2(m) of S.L. 2012-143 prior to the start of a legislative session, the earlier of (i) the 31st calendar day of the regular session of the General Assembly that begins after the date the Commission approved all rules adopted pursuant to Section 2(m) of S.L. 2012-143 if a bill that specifically disapproves any of these rules has not been introduced in either house of the General Assembly by that date; (ii) if a bill that specifically disapproves a rule is introduced in either house of the General Assembly before the 31st calendar day of that session, the rule becomes effective on the earlier of either the day an unfavorable final action is taken on the bill or the 61st calendar day of that session if by that date a bill that specifically disapproves the rule has not been ratified; or (iii) the day that session of the General Assembly adjourns without ratifying a bill that specifically disapproves the rule.

(2) If the Rules Review Commission approves all rules adopted pursuant to Section 2(m) of S.L. 2012-143 during a legislative session, the earlier of (i) the 31st calendar day after the date the Commission approved all rules

adopted pursuant to Section 2(m) of S.L. 2012-143 if a bill that specifically disapproves a rule has not been introduced in either house of the General Assembly by that date; (ii) if a bill that specifically disapproves a rule is introduced in either house of the General Assembly within 30 calendar days of the date that the Commission approved all rules adopted pursuant to Section 2(m) of S.L. 2012-143, the rule becomes effective on the earlier of either the day an unfavorable final action is taken on the bill or the 61st day after the date that the Commission approved all rules adopted pursuant to Section 2(m) of S.L. 2012-143 if by that date a bill that specifically disapproves the rule has not been ratified; or (iii) the day that session of the General Assembly adjourns without ratifying a bill that specifically disapproves the rule.

SECTION 2.(d) Notwithstanding G.S. 150B-21.9, the Rules Review Commission must review any permanent rule adopted pursuant to Section 2(m) of S.L. 2012-143 submitted to it by the end of a month by the last day of the next month.

SECTION 2.(e) G.S. 150B-19.3 shall not apply to rules adopted by the Mining and Energy Commission, the Environmental Management Commission, and the Commission for Public Health for the management of oil and gas exploration, development, and production activities in the State, including the use of horizontal drilling and hydraulic fracturing for that purpose.

SECTION 2.(f) Section 1(b) of S.L. 2013-365 reads as rewritten:

"**SECTION 1.(b)** The Mining and Energy Commission, the Environmental Management Commission, and the Commission for Public Health are exempt from the provisions of Chapter 150B of the General Statutes that require the preparation of fiscal notes for any rule proposed ~~for the creation of a modern regulatory program for~~ that pertains to the management of oil and gas exploration and development activities in the State, including the use of horizontal drilling and hydraulic fracturing for that purpose."

SECTION 2.(g) The Mining and Energy Commission, the Environmental Management Commission, and the Commission for Public Health are exempt from the provisions of Chapter 150B of the General Statutes that require that a certification be obtained from the Office of State Budget and Management, including requirements under G.S. 150B-19.1(h) and G.S. 150B-21.4, and any requirement for preliminary review by the Office of State Budget and Management pursuant to G.S. 150B-21.26, for any rule proposed for the creation of a modern regulatory program for the management of oil and gas exploration and development activities in the State, including the use of horizontal drilling and hydraulic fracturing for that purpose.

SECTION 2.(h) This Part is effective when it becomes law. Section 2(f) of this act shall expire December 31, 2017.

PART III. DATE CERTAIN FOR ISSUANCE OF PERMITS TO JULY 1, 2015

SECTION 3.(a) Effective July 1, 2015, the Department of Environment and Natural Resources and the Mining and Energy Commission are authorized to issue permits for oil and gas exploration, development, and production activities using horizontal drilling and hydraulic fracturing treatments in the State pursuant to G.S. 113-395.

SECTION 3.(b) Section 3(d) of S.L. 2012-143 is repealed.

SECTION 3.(c) Section 1(c) of S.L. 2013-365 is repealed.

PART IV. CREATE OIL AND GAS COMMISSION AND RECONSTITUTE MINING COMMISSION

SECTION 4.(a) Part 6A of Article 7 of Chapter 143B of the General Statutes reads as rewritten:

"Part 6A. North Carolina ~~Mining and Energy~~ Oil and Gas Commission.

"§ 143B-293.1. North Carolina ~~Mining and Energy~~ Oil and Gas Commission – creation; powers and duties.

(a) There is hereby created the North Carolina ~~Mining and Energy~~ Oil and Gas Commission of the Department of Environment and Natural Resources with the power and duty to adopt rules necessary to administer the Oil and Gas Conservation Act pursuant to G.S. 113-391 and for the development of the ~~oil, gas, and mining~~ oil and gas resources of the State. The Commission shall make such rules consistent with the provisions of this Chapter. All rules adopted by the Commission shall be enforced by the Department of Environment and Natural Resources.

(b) The Commission shall have the authority to make determinations and issue orders pursuant to the Oil and Gas Conservation Act to (i) regulate the spacing of wells and to establish drilling units as provided in G.S. 113-393; (ii) ~~require the operation of wells with efficient gas-oil ratios and to fix such ratios; (iii)~~ limit and prorate the production of oil or gas, or both, from any pool or field for the prevention of waste as provided in G.S. 113-394; (iii) classify wells for taxing purposes; and (iv) require integration of interests as provided in G.S. 113-393.

(c) The Commission shall submit ~~quarterly~~ annual written reports as to its operation, activities, programs, and progress to the Joint Legislative Commission on Energy Policy and the Environmental Review Commission. The Commission shall supplement the written reports required by this subsection with additional written and oral reports as may be requested by the Joint Legislative Commission on Energy Policy and the Environmental Review Commission. The Commission shall submit the written reports required by this subsection whether or not the General Assembly is in session at the time the report is due.

"§ 143B-293.2. North Carolina ~~Mining and Energy~~ Oil and Gas Commission – members; selection; removal; compensation; quorum; services.

~~(a) Members Selection. The North Carolina Mining and Energy Commission shall consist of 15 members appointed as follows:~~

~~(1) The Chair of the North Carolina State University Minerals Research Laboratory Advisory Committee, or the Chair's designee, ex officio.~~

~~(2) The State Geologist, or other designee of the Secretary of Environment and Natural Resources.~~

~~(3) Repealed by Session Laws 2013-365, s. 3(a), effective July 29, 2013.~~

~~(3a) One appointed by the Governor, at large.~~

~~(4) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who is a member of a nongovernmental conservation interest.~~

~~(5) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who, at the time of initial appointment, is an elected official of a municipal government located in a region of North Carolina that has oil and gas potential. A person serving in this seat may complete a term on the Commission even if the person is no longer serving as an elected official of a municipal government but may not be reappointed to a subsequent term.~~

~~(6) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who is a representative of the mining industry.~~

~~(7) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who shall be a geologist with experience in oil and gas exploration and development.~~

~~(8) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who is a member of a nongovernmental conservation interest.~~

~~(9) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who, at the time of initial appointment, is a member of a county board of commissioners of a county located in a region of North Carolina that has oil and gas potential. A person serving in this seat may complete a term on the Commission even if the person is no longer serving as county commissioner but may not be reappointed to a subsequent term.~~

~~(10) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who is a representative of the mining industry.~~

~~(11) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who shall be an engineer with experience in oil and gas exploration and development.~~

~~(12) One appointed by the Governor who shall be a representative of a publicly traded natural gas company.~~

~~(13) One appointed by the Governor who shall be a licensed attorney with experience in legal matters associated with oil and gas exploration and development.~~

~~(14) One appointed by the Governor who is a member of the Environmental Management Commission.~~

~~(15) One appointed by the Governor who is a member of the Commission for Public Health.~~

(a1) Members Selection. – The North Carolina Oil and Gas Commission shall consist of nine members appointed as follows:

(1) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who, at the time of initial appointment, is an elected official of a municipal government located in a region of North Carolina that has oil and gas potential. A person serving in this seat may complete a term on the Commission even if the person is no longer serving as an elected official of a municipal government but may not be reappointed to a subsequent term.

(2) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who shall be a geologist with experience in oil and gas exploration and development.

(3) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who is a member of a nongovernmental conservation interest.

(4) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who, at the time of initial appointment, is a member of a county board of commissioners of a county located in a region of North Carolina that has oil and gas potential. A person serving in this seat may complete a term on the Commission even if the person is no longer serving as county commissioner but may not be reappointed to a subsequent term.

(5) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who is a member of a nongovernmental conservation interest.

(6) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who shall be an engineer with experience in oil and gas exploration and development.

(7) One appointed by the Governor who shall be a representative of a publicly traded natural gas company.

(8) One appointed by the Governor who shall be a licensed attorney with experience in legal matters associated with oil and gas exploration and development.

(9) One appointed by the Governor with experience in matters related to public health.

(b) Terms. – The term of office of members of the Commission is three years. A member may be reappointed to no more than two consecutive three-year terms. The term of a member who no longer meets the qualifications of their respective appointment, as set forth in subsection (a) of this section, shall terminate but the member may continue to serve until a new member who meets the qualifications is appointed. The terms of members appointed under subdivisions ~~(4), (6), (9), and (12)~~ (1), (4), and (7) of subsection ~~(a)~~ (a1) of this section shall expire on June 30 of years evenly divisible by three. The terms of members appointed under subdivisions ~~(7), (10), (13), and (14)~~ (2), (5), and (8) of subsection ~~(a)~~ (a1) of this section shall expire on June 30 of years that precede by one year those years that are evenly divisible by three. The terms of members appointed under subdivisions ~~(5), (8), (11), and (15)~~ (3), (6), and (9) of subsection ~~(a)~~ (a1) of this section shall expire on June 30 of years that follow by one year those years that are evenly divisible by three.

(c) Vacancies; Removal from Office. –

(1) Any appointment by the Governor to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term. The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of G.S. 143B-13 of the Executive Organization Act of 1973.

(2) Members appointed by the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be filled in accordance with G.S. 120-122. In accordance with Section 10 of Article VI of the North Carolina Constitution, a member may continue to serve until a successor is duly appointed.

(d) Compensation. – The members of the Commission shall receive per diem and necessary traveling and subsistence expenses in accordance with the provisions of G.S. 138-5.

(e) Quorum. – A majority of the Commission shall constitute a quorum for the transaction of business.

(f) Staff. – All staff support required by the Commission shall be supplied by the Division of Energy, Mineral, and Land Resources and the North Carolina Geological Survey.

(g) Committees. – In addition to the Committee on Civil Penalty Remissions required to be established under G.S. 143B-293.6, the chair may establish other committees from members of the Commission to address specific issues as appropriate. No member of a committee may hear or vote on any matter in which the member has an economic interest. A majority of a committee shall constitute a quorum for the transaction of business. ~~At a minimum, the chair shall establish a Committee on Mining, which shall consist of members appointed under subdivisions (1), (4), (6), (8), (10), (14), and (15) of subsection (a) of this section. The Committee on Mining shall have exclusive responsibility and authority over matters pertaining to mining and implementation of the Mining Act of 1971, including all of the following powers and duties:~~

~~(1) To act as the advisory body to the Governor pursuant to Article V(a) of the Interstate Mining Compact, as set out in G.S. 74-37.~~

~~(2) To adopt rules necessary to administer the Mining Act of 1971 pursuant to G.S. 74-63.~~

~~(3) To adopt rules necessary to administer the Control of Exploration for Uranium in North Carolina Act of 1983 pursuant to G.S. 74-86.~~

~~(4) To adopt rules, not inconsistent with the laws of this State, as may be required by the federal government for grants-in-aid for mining resource purposes which may be made available to the State by the federal government. This section is to be liberally construed in order that the State and its citizens may benefit from such grants-in-aid.~~

(h) Office May Be Held Concurrently With Others. – Membership on the ~~Mining and Energy~~ Oil and Gas Commission is hereby declared to be an office that may be held concurrently with other elective or appointive offices in addition to the maximum number of offices permitted to be held by one person under G.S. 128-1.1.

"§ 143B-293.3. Reserved for future codification purposes.

"§ 143B-293.4. North Carolina ~~Mining and Energy~~ Oil and Gas Commission – officers.

The ~~Mining and Energy~~ Oil and Gas Commission shall have a chair and a vice-chair. The Commission shall elect one of its members to serve as chair and one of its members to serve as vice-chair. The chair and vice-chair shall serve one-year terms beginning August 1 and ending July 31 of the following year. The chair and vice-chair may serve any number of terms, but not more than two terms consecutively.

"§ 143B-293.5. North Carolina ~~Mining and Energy~~ Oil and Gas Commission – meetings.

The ~~North Carolina Mining and Energy~~ Oil and Gas Commission shall meet at least quarterly and may hold special meetings at any time and place within the State at the call of the chair or upon the written request of at least ~~nine~~ five members.

"§ 143B-293.6. North Carolina ~~Mining and Energy~~ Oil and Gas Commission – quasi-judicial powers; procedures.

(a) With respect to those matters within its jurisdiction, the ~~Mining and Energy~~ Oil and Gas Commission shall exercise quasi-judicial powers in accordance with the provisions of Chapter 150B of the General Statutes.

(b) The chair shall appoint a Committee on Civil Penalty Remissions from the members of the Commission. No member of the Committee on Civil Penalty Remissions may hear or vote on any matter in which the member has an economic interest. In determining whether a remission request will be approved, the Committee shall consider the recommendation of the Secretary or the Secretary's designee and all of the following factors:

(1) Whether one or more of the civil penalty assessment factors in subsection (b) of this section were wrongly applied to the detriment of the petitioner.

(2) Whether the violator promptly abated continuing environmental damage resulting from the violation.

(3) Whether the violation was inadvertent or a result of an accident.

(4) Whether the violator had been assessed civil penalties for any previous violations.

(5) Whether payment of the civil penalty will prevent payment for the remaining necessary remedial actions.

(c) The Committee on Civil Penalty Remissions may remit the entire amount of the penalty only when the violator has not been assessed civil penalties for previous violations and when payment of the civil penalty will prevent payment for the remaining necessary remedial actions."

SECTION 4.(b) The terms of all members of the Mining and Energy Commission serving on July 31, 2015, shall expire on that date. A new Oil and Gas Commission of nine

members shall be appointed in the manner provided by G.S. 143B-293.2(a1), as enacted by Section 4(a) of this act, and this section. Members appointed in the manner provided by G.S. 143B-293.2(a1), as enacted by Section 4(a) of this act, shall be appointed no later than August 1, 2015.

SECTION 4.(c) The Revisor of Statutes shall make the conforming statutory changes necessary to the General Statutes to reflect renaming of the Mining and Energy Commission to the Oil and Gas Commission, effective August 1, 2015, as provided in this section.

SECTION 5.(a) Part 6 of Article 7 of Chapter 143B of the General Statutes is reenacted and reads as rewritten:

"Part 6. North Carolina Mining Commission.

"§ 143B-290. North Carolina Mining Commission – creation; powers and duties.

There is hereby created the North Carolina Mining Commission of the Department of Environment and Natural Resources with the power and duty to promulgate rules for the enhancement of the mining resources of the State.

(1) The North Carolina Mining Commission shall have the following powers and duties:
   a. To act as the advisory body to the Governor pursuant to Article V(a) of the Interstate Mining Compact, as set out in G.S. 74-37.
   b. Repealed by Session Laws 2002-165, s. 1.10, effective October 23, 2002.
   c. To hear permit appeals, conduct a full and complete hearing on such controversies and affirm, modify, or overrule permit decisions made by the Department pursuant to G.S. 74-61.
   d. To promulgate rules necessary to administer the Mining Act of 1971, pursuant to G.S. 74-63.
   e. To promulgate rules necessary to administer the Control of Exploration for Uranium in North Carolina Act of 1983, pursuant to G.S. 74-86.

(2) The Commission is authorized to make such rules, not inconsistent with the laws of this State, as may be required by the federal government for grants-in-aid for mining resource purposes which may be made available to the State by the federal government. This section is to be liberally construed in order that the State and its citizens may benefit from such grants-in-aid.

(3) The Commission shall make such rules consistent with the provisions of this Chapter. All rules adopted by the Commission shall be enforced by the Department of Environment and Natural Resources.

(4) Recodified as § 74-54.1 by c. 1039, s. 16, effective July 24, 1992.

"§ 143B-291. North Carolina Mining Commission – members; selection; removal; compensation; quorum; services.

~~(a) Members, Selection. The North Carolina Mining Commission shall consist of nine members appointed by the Governor under a specified subdivision of this subsection as follows:~~

~~(1) One member who is the chair of the North Carolina State University Minerals Research Laboratory Advisory Committee, ex officio.~~

~~(2) One member who is a representative of the mining industry.~~

~~(3) One member who is a representative of the mining industry.~~

~~(4) One member who is a representative of the mining industry.~~

~~(5) One member who is a representative of nongovernmental conservation interests.~~

~~(6) One member who is a representative of nongovernmental conservation interests.~~

~~(7) One member who is a representative of nongovernmental conservation interests.~~

~~(8) One who, at the time of the appointment to the Mining Commission, is a member of the Environmental Management Commission and knowledgeable in the principles of water and air resources management.~~

~~(9) One who, at the time of the appointment to the Mining Commission, is a member of the Environmental Management Commission and knowledgeable in the principles of water and air resources management.~~

(a1) Members, Selection. – The North Carolina Mining Commission shall consist of seven members appointed as follows:

(1) One member who is the chair of the North Carolina State University Minerals Research Laboratory Advisory Committee.

(2) The State Geologist.

(3) One member appointed by the Governor who is a representative of the mining industry.

(4) One member appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who is a representative of the mining industry.

(5) One member appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who is a representative of the mining industry.

(6) One member appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who is a member of nongovernmental conservation interests.

(7) One member appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who is a member of nongovernmental conservation interests.

(b) Terms. – The term of office of a member of the Commission is six years. At the expiration of each member's term, the ~~Governor~~ appointing authority shall replace the member with a new member of like qualifications for a term of six years. The term of ~~members~~ the member appointed under ~~subdivisions (2), (5), and (8)~~ subdivision (5) of subsection ~~(a)~~ (a1) of this section shall expire on ~~30~~ June 30 of years that precede by one year those years that are evenly divisible by six. The term of members appointed under subdivisions (3) and (6) of subsection ~~(a)~~ (a1) of this section shall expire on ~~30~~ June 30 of years that follow by one year those years that are evenly divisible by six. The term of members appointed under subdivisions ~~(4), (7), and (9)~~ (4) and (7) of subsection ~~(a)~~ (a1) of this section shall expire on ~~30~~ June 30 of years that follow by three years those years that are evenly divisible by six. Upon the expiration of a six-year term, a member may continue to serve until a successor is appointed and duly qualified as provided by G.S. 128-7.

(c) Vacancies. – An appointment to fill a vacancy shall be for the unexpired balance of the term.

(d) Removal. – The Governor may remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of G.S. 143B-13.

(e) Compensation. – The members of the Commission shall receive per diem and necessary traveling and subsistence expenses in accordance with the provisions of G.S. 138-5.

(f) Quorum. – A majority of the Commission shall constitute a quorum for the transaction of business.

(g) Staff. – All clerical and other services required by the Commission shall be supplied by the Secretary of Environment and Natural Resources.

"**§ 143B-292. North Carolina Mining Commission – officers.**

The North Carolina Mining Commission shall have a chair and a vice-chair. The chair shall be designated by the Governor from among the members of the Commission to serve as chair at the pleasure of the Governor. The vice-chair shall be elected by and from the members of the Commission and shall serve for a term of two years or until the expiration of the vice-chair's regularly appointed term.

"**§ 143B-293. North Carolina Mining Commission – meetings.**

The North Carolina Mining Commission shall meet at least semiannually and may hold special meetings at any time and place within the State at the call of the chair or upon the written request of at least ~~five~~ four members."

SECTION 5.(b) The terms of all members of the Mining and Energy Commission serving on July 31, 2015, shall expire on that date. A new Mining Commission of seven members shall be appointed in the manner provided by G.S. 143B-291(a1), as enacted by Section 5(a) of this act, and this section. Members appointed in the manner provided by G.S. 143B-291(a1), as enacted by Section 5(a) of this act, shall be appointed no later than August 1, 2015.

SECTION 5.(c) The Revisor of Statutes shall make the conforming statutory changes necessary to the General Statutes to reflect renaming of the Mining and Energy Commission to the Mining Commission, effective August 1, 2015, as provided in this section.

SECTION 6. This Part becomes effective July 31, 2015.

PART V. MISCELLANEOUS STATUTORY AMENDMENTS RELATED TO SHALE GAS EXPLORATION, DEVELOPMENT, AND PRODUCTION

SECTION 7.(a) G.S. 113-391 reads as rewritten:

"**§ 113-391. Jurisdiction and authority; rules and orders.**

...

(a5) Entry of rules in the North Carolina Administrative Code that address the areas identified by subsections (a) and (a3) of this section by July 1, 2015, create a rebuttable presumption that the rules are sufficient to meet the requirements for development of a modern regulatory program pursuant to this section.

...."

SECTION 7.(b) G.S. 143B-293.1(b) reads as rewritten:

"(b) The Commission shall have the authority to make determinations and issue orders pursuant to the Oil and Gas Conservation Act to (i) regulate the spacing of wells and to establish drilling units as provided in G.S. 113-393; (ii) ~~require the operation of wells with efficient gas-oil ratios and to fix such ratios; (iii)~~ limit and prorate the production of oil or gas, or both, from any pool or field for the prevention of waste as provided in G.S. 113-394; (iii) classify wells for taxing purposes; and (iv) require integration of interests as provided in G.S. 113-393."

SECTION 8.(a) Article 27 of Chapter 113 of the General Statutes is amended by adding a new section to read:

"**§ 113-391A. Trade secret and confidential information determination; protection; retention; disclosure to emergency personnel.**

(a) Legislative Findings. – The General Assembly finds that while confidential information must be maintained as such with the utmost care, for the protection of public health, safety, and the environment, the information should be immediately accessible to first responders and medical personnel in the event that the information is deemed necessary to address an emergency.

(b) Determination and Treatment of Confidential Information. – Information obtained by the Commission and the Department pursuant to this Article, and rules adopted thereunder, shall be available to the public except that, upon a showing satisfactory to the Commission by any person that information to which the Commission and Department has access, if made public, would divulge methods or processes entitled to protection as confidential information pursuant to G.S. 132-1.2, the Commission shall consider the information confidential. In accordance with subsection (b1) of G.S. 113-391, the State Geologist shall serve as the custodian of the confidential information and shall ensure that it is maintained securely as provided in G.S. 132-7.

(c) Exceptions to Disclosure Prohibitions. – Confidential information obtained by the Commission and the Department pursuant to this Article, and rules adopted thereunder, may be disclosed to any officer, employee, or authorized representative of any federal or State agency if disclosure is necessary to carry out a proper function of the Department or other agency or when relevant in any proceeding under this Article. Confidential information shall be disclosed to the following:

(1) The Division of Emergency Management of the Department of Public Safety. The Division shall maintain this information as confidential except if disclosure is necessary to carry out a proper function of the Division, including for the purposes of emergency planning and emergency response. For purposes of this section, the term "emergency" is defined as provided in G.S. 166A-19.3.

(2) A treating health care provider who determines that a medical emergency exists and that the information is necessary for emergency or first aid treatment. Regardless of the existence of a written statement of need or a confidentiality agreement, the Department shall immediately disclose the confidential information to the treating health care provider upon request. If confidential information is disclosed pursuant to this subdivision, the Department shall notify the owner of the confidential information as soon as practicable, but no later than 24 hours after disclosure. The owner of the confidential information may require execution of a written statement of need and a confidentiality agreement from the treating health care provider as soon as circumstances permit. The confidentiality agreement (i) may restrict the use of the information to the health purposes indicated in a written statement of need; (ii) may provide for appropriate legal remedies in the event of a breach of the agreement, including stipulation of a reasonable pre-estimate of likely damages; and (iii) may not include requirements for the posting of a penalty bond. The parties are not precluded from pursuing noncontractual remedies to the extent permitted by law.

(3) A Fire Chief, as that term is defined in G.S. 95-174, who determines that an emergency exists and that the information is necessary to address the emergency. Regardless of the existence of a written statement of need or a confidentiality agreement, the Department shall immediately disclose the confidential information to the Fire Chief upon request. If confidential information is disclosed pursuant to this subdivision, the Department shall notify the owner of the confidential information as soon as practicable, but no later than 24 hours after disclosure. The owner of the confidential information may require execution of a written statement of need and a confidentiality agreement from the Fire Chief as soon as circumstances permit. The confidentiality agreement (i) may restrict the use of the information to the emergency purposes indicated in a written statement of need; (ii) may provide for appropriate legal remedies in the event of a breach

of the agreement, including stipulation of a reasonable pre-estimate of likely damages; and (iii) may not include requirements for the posting of a penalty bond. The parties are not precluded from pursuing noncontractual remedies to the extent permitted by law.

(d) Penalties for Unlawful Disclosure. – Except as provided in subsection (c) of this section or as otherwise provided by law, any person who has access to confidential information pursuant to this section and who discloses it knowing it to be confidential information to any person not authorized to receive it shall be guilty of a Class I felony, and if knowingly or negligently disclosed to any person not authorized, shall be subject to civil action for damages and injunction by the owner of the confidential information, including, without limitation, actions under Article 24 of Chapter 66 of the General Statutes.

(e) Appeal From Commission Decisions Concerning Confidentiality. – Within 10 days of any decision made pursuant to subsection (b) of this section, the Commission shall provide notice to any person who submits information asserted to be confidential (i) that the information is not entitled to confidential treatment and (ii) of any decision to release such information to any person who has requested the information. Notwithstanding the provisions of G.S. 132-9, or procedures for appeal provided under Article 4 of Chapter 150B of the General Statutes, any person who requests information and any person who submits information who is dissatisfied with a decision of the Commission to withhold or release information made pursuant to subsection (b) of this section shall have 30 days after receipt of notification from the Commission to bring an action in Business Court to appeal the decision in accordance with the procedures for a mandatory business case set forth in G.S. 7A-45.4, and the Business Court shall have exclusive jurisdiction over such actions. The information may not be released by the Commission until the earlier of (i) the 30-day period for filing of an appeal has expired without filing of an appeal or (ii) a final judicial determination has been made in an action brought to appeal a decision of the Commission. In addition, the following shall apply to actions brought pursuant to this section:

(1) Such actions shall be set down for immediate hearing.

(2) The burden shall be on the owner of the information to show that the information is entitled to protection as confidential information pursuant to G.S. 132-1.2.

(3) The court shall allow a party seeking disclosure of information who substantially prevails to recover its reasonable attorneys' fees if attributed to the information. The court may not assess attorneys' fees against the Commission or the Department, however, but shall impose such fees on the owner of the information asserting confidentiality.

(4) If the court determines that an action brought pursuant to this section was filed in bad faith or was frivolous, the court shall assess reasonable attorneys' fees against the person or persons instituting the action and award to the prevailing party or parties."

SECTION 8.(b) G.S. 113-391(b1) reads as rewritten:

"(b1) In the exercise of their respective authority over oil and gas exploration and development activities, the Commission and the Department, as applicable, shall have access to all data, records, and information related to such activities, including, but not limited to, seismic surveys, stratigraphic testing, geologic cores, proposed well bore trajectories, hydraulic fracturing fluid chemicals and constituents, drilling mud chemistry, and geophysical borehole logs. With the exception of information designated as a trade secret, as defined in G.S. 66-152(3), and that is designated as confidential or as a trade secret under G.S. 132-1.2, the Department shall make any information it receives available to the public. The State ~~Geologist~~ Geologist, or the State Geologist's designee, shall serve as the custodian of all data, information, and records received by the Department pursuant to this ~~subsection~~ subsection,

including information designated as a trade secret, as defined in G.S. 66-152(3), and that is designated as confidential or as a trade secret under G.S. 132-1.2, and shall ensure that all of the ~~information~~ information, including information designated as a trade secret, as defined in G.S. 66-152(3), and that is designated as confidential or as a trade secret under G.S. 132-1.2, is maintained securely as provided in G.S. 132-7."

SECTION 8.(c) This section is effective when it becomes law, except that 113-391A(d), as enacted by Section 8(a) of this act, shall become effective December 1, 2014.

SECTION 9. G.S. 113-391(a)(6) is repealed.

SECTION 10. G.S. 113-392(c) is repealed.

SECTION 11. G.S. 113-395(a) reads as rewritten:

"(a) Before any well, in search of oil or gas, shall be drilled, the person desiring to drill the same shall submit an application for a permit to the Department upon such form as the Department may prescribe and shall pay a fee of three thousand dollars ($3,000) for ~~each well.~~ the first well to be drilled on a pad, and fifteen hundred dollars ($1,500) for each additional well to be drilled on the same pad. The drilling of any well is prohibited unless the Department has issued a permit for the activity."

SECTION 12. G.S. 113-420 reads as rewritten:

"**§ 113-420. Notice and entry to property.**

(a) Notice Required for Activities That Do Not Disturb Surface of ~~Property.~~Property to Surface Owner. – If an oil or gas developer or operator is not the surface owner of the property on which oil and gas operations are to occur, before entering the property for oil or gas operations that do not disturb the surface, including inspections, staking, surveys, measurements, and general evaluation of proposed routes and sites for oil or gas drilling operations, the developer or operator shall give written notice to the surface owner at least 14 days before the desired date of entry to the property. Notice shall be given by certified mail, return receipt requested. The requirements of this subsection may not be waived by agreement of the parties. The notice, at a minimum, shall include all of the following:

(1) The identity of person(s) requesting entry upon the property.
(2) The purpose for entry on the property.
(3) The dates, times, and location on which entry to the property will occur, including the estimated number of entries.

(b) Notice Required for Land-Disturbing ~~Activities.~~Activities to Surface Owner. – If an oil or gas developer or operator is not the surface owner of the property on which oil or gas operations are to occur, before entering the property for oil or gas operations that disturb the surface, the developer or operator shall give written notice to the surface owner at least 30 days before the desired date of entry to the property. Notice shall be given by certified mail, return receipt requested. The notice, at a minimum, shall include all of the following:

(1) A description of the exploration or development plan, including, but not limited to (i) the proposed locations of any roads, drill pads, pipeline routes, and other alterations to the surface estate and (ii) the proposed date on or after which the proposed alterations will begin.
(2) An offer of the oil and gas developer or operator to consult with the surface owner to review and discuss the location of the proposed alterations.
(3) The name, address, telephone number, and title of a contact person employed by or representing the oil or gas developer or operator who the surface owner may contact following the receipt of notice concerning the location of the proposed alterations.

(b1) Persons Entering Land; Identification Required; Presumption of Proper Protection While on Surface Owners' Property. – Persons who enter land on behalf of an oil or gas developer or operator for oil and gas operations shall carry on their person identification sufficient to identify themselves and their employer or principal and shall present the

identification to the surface owner upon request. Entry upon land by such a person creates a rebuttable presumption that the surface owner properly protected the person against personal injury or property damage while the person was on the land.

(b2) Notice of Initiation of Exploration, Development, and Production Activities to Owner of Subsurface Oil or Gas Resources. – If an oil or gas developer or operator is the lessee of subsurface oil or gas resources, before initiating oil or gas exploration or development operations with respect to those resources, the developer or operator shall give written notice to the lessor of those resources at least 30 days before the oil and gas operations are to be initiated. The notice, at a minimum, shall include all of the following:

(1) A description of the exploration or development plan, including, the proposed date on which the exploration or development will begin.

(2) The name, address, telephone number, and title of a contact person employed by or representing the oil or gas developer or operator who the lessor may contact following the receipt of notice.

(c) Venue. – If the oil or gas developer or operator fails to give notice or otherwise comply with the provisions of this section, the surface owner may seek appropriate relief in the superior court for the county in which the oil or gas well is located and may receive actual damages."

SECTION 13.(a) G.S. 113-421 reads as rewritten:

"**§ 113-421. Presumptive liability for water contamination; compensation for other damages; responsibility for reclamation.**

(a) Presumptive Liability for Water Contamination. – It shall be presumed that an oil or gas developer or operator is responsible for contamination of all water supplies that are within ~~5,000 feet~~ a one-half mile radius of a wellhead that is part of the oil or gas developer's or operator's activities unless the presumption is rebutted by a defense established as set forth in subsection (a1) of this subsection. If a contaminated water supply is located within ~~5,000 feet~~ a one-half mile radius of a wellhead, in addition to any other remedy available at law or in equity, including payment of compensation for damage to a water supply, the developer or operator shall provide a replacement water supply to the surface owner and other persons using the water supply at the time the oil or gas developer's activities were commenced on the property, which water supply shall be adequate in quality and quantity for those persons' use.

(a1) [Rebuttal of Presumption. –] In order to rebut a presumption arising pursuant to subsection (a) of this section, an oil or gas developer or operator shall have the burden of proving by a preponderance of the evidence any of the following:

(1) The contamination existed prior to the commencement of the drilling activities of the oil or gas developer or operator, as evidenced by a pre-drilling test of the water supply in question conducted in conformance with G.S. 113-423(f).

(2) The surface owner or owner of the water supply in question refused the oil or gas developer or operator access to conduct a pre-drilling test of the water supply conducted in conformance with G.S. 113-423(f).

(3) The water supply in question is not within ~~5,000 feet~~ a one-half mile radius of a wellhead that is part of the oil or gas developer's or operator's activities.

(4) The contamination occurred as the result of a cause other than activities of the developer or operator.

...

(e) Joint and Several Liability. – In order to provide maximum protection for the public interest, any actions brought for recovery of cleanup costs, damages, or for civil penalties brought pursuant to this section or any other section of this Article or rules adopted thereunder may be brought against any one or more of the persons having control over the activities that contributed to the contamination, damage to property, or other violations. All such persons

shall be jointly and severally liable, but ultimate liability as between the parties may be determined by common-law principles."

SECTION 13.(b) G.S. 113-423(f) reads as rewritten:

"(f) Pre-Drilling Testing of Water Supplies. – Any lease of oil or gas rights or any other conveyance of any kind separating rights to oil or gas from the freehold estate of surface property shall include a clause that requires the oil or gas developer or operator to conduct a test of all water supplies within ~~5,000 feet~~ a one-half mile radius from a proposed wellhead that is part of the oil or gas developer's or operator's activities at least 30 days prior to initial drilling activities and at least two follow-up tests within a 24-month period after production has commenced. The Department shall identify the location of all water supplies, including wells, on a property on which drilling operations are proposed to occur. A surface owner may elect to have ~~the Department~~ an independent third party selected from a laboratory certified by the Department's Wastewater/Groundwater Laboratory Certification program sample wells located on their property, in lieu of sampling conducted by the oil or gas developer or operator, in which case the developer or operator shall ~~reimburse the Department~~ pay for the reasonable costs involved in testing of the wells in question. Developers and operators (i) shall provide all analytical results to the Department within 30 days of testing and (ii) may share analytical results obtained with other developers and operators as necessary or advisable. Nothing in this subsection shall be construed to preclude or impair the right of any surface owner to refuse pre-drilling testing of wells located on their property."

SECTION 14. Article 27 of Chapter 113 of the General Statutes is amended by adding a new section to read:

"**§ 113-415A. Local ordinances prohibiting oil and gas exploration, development, and production activities invalid; petition to preempt local ordinance.**

(a) It is the intent of the General Assembly to maintain a uniform system for the management of oil and gas exploration, development, and production activities, and the use of horizontal drilling and hydraulic fracturing for that purpose, and to place limitations upon the exercise by all units of local government in North Carolina of the power to regulate the management of oil and gas exploration, development, and production activities by means of special, local, or private acts or resolutions, ordinances, property restrictions, zoning regulations, or otherwise. Notwithstanding any authority granted to counties, municipalities, or other local authorities to adopt local ordinances, including, but not limited to, those imposing taxes, fees, or charges or regulating health, environment, or land use, any local ordinance that prohibits or has the effect of prohibiting oil and gas exploration, development, and production activities that the Mining and Energy Commission has preempted pursuant this section, shall be invalid to the extent necessary to effectuate the purposes of this Article. To this end, all provisions of special, local, or private acts or resolutions are repealed that do the following:

(1) Prohibit the siting of wells for oil and gas exploration, development, and production within any county, city, or other political subdivision.

(2) Prohibit the use of horizontal drilling or hydraulic fracturing for the purpose of oil or gas exploration or development within any county, city, or other political subdivision.

(3) Place any restriction or condition not placed by this Article upon oil and gas exploration, development, and production activities and use of horizontal drilling or hydraulic fracturing for that purpose within any county, city, or other political subdivision.

(4) In any manner are in conflict or inconsistent with the provisions of this Article.

(b) No special, local, or private act or resolution enacted or taking effect hereafter may be construed to modify, amend, or repeal any portion of this Article, unless it expressly provides for such by specific references to the appropriate section of this Article. Further to this

end, all provisions of local ordinances, including those regulating land use, adopted by counties, municipalities, or other local authorities that prohibit or have the effect of prohibiting oil and gas exploration, development, and production activities and use of horizontal drilling or hydraulic fracturing for that purpose within the jurisdiction of a local government are invalidated to the extent preempted by the Commission pursuant to this section.

(c) When oil and gas exploration, development, and production activities would be prevented from construction or operation by a county, municipal, or other local ordinance, the operator of the proposed activities may petition the Mining and Energy Commission to review the matter. After receipt of a petition, the Commission shall hold a hearing in accordance with the procedures in subsection (d) of this section and shall determine whether or to what extent to preempt the local ordinance to allow for the proposed oil and gas exploration, development, and production activities.

(d) When a petition described in subsection (c) of this section has been filed with the Mining and Energy Commission, the Commission shall hold a public hearing to consider the petition. The public hearing shall be held in the affected locality within 60 days after receipt of the petition by the Commission. The Commission shall give notice of the public hearing by both of the following means:

(1) Publication in a newspaper or newspapers having general circulation in the county or counties where the activities are to be conducted, once a week for three consecutive weeks, the first notice appearing at least 30 days prior to the scheduled date of the hearing.

(2) First-class mail to persons who have requested notice. The Commission shall maintain a mailing list of persons who request notice in advance of the hearing pursuant to this section. Notice by mail shall be complete upon deposit of a copy of the notice in a postage-paid wrapper addressed to the person to be notified at the address that appears on the mailing list maintained by the Commission, in a post office or official depository under the exclusive care and custody of the United States Postal Service.

(e) Any interested person may appear before the Mining and Energy Commission at the hearing to offer testimony. In addition to testimony before the Commission, any interested person may submit written evidence to the Commission for the Commission's consideration. At least 20 days shall be allowed for receipt of written comment following the hearing.

(f) A local zoning or land-use ordinance is presumed to be valid and enforceable to the extent the zoning or land-use ordinance imposes requirements, restrictions, or conditions that are generally applicable to development, including, but not limited to, setback, buffer, and stormwater requirements, unless the Mining and Energy Commission makes a finding of fact to the contrary. The Commission shall determine whether or to what extent to preempt local ordinances so as to allow for the establishment and operation of the facility no later than 60 days after conclusion of the hearing. The Commission shall preempt a local ordinance only if the Commission makes all of the following findings:

(1) That there is a local ordinance that would prohibit or have the effect of prohibiting oil and gas exploration, development, and production activities, or use of horizontal drilling or hydraulic fracturing for that purpose.

(2) That all legally required State and federal permits or approvals have been issued by the appropriate State and federal agencies or that all State and federal permit requirements have been satisfied and that the permits or approvals have been denied or withheld only because of the local ordinance.

(3) That local citizens and elected officials have had adequate opportunity to participate in the permitting process.

(4) That the oil and gas exploration, development, and production activities, and use of horizontal drilling or hydraulic fracturing for that purpose, will not

pose an unreasonable health or environmental risk to the surrounding locality and that the operator has taken or consented to take reasonable measures to avoid or manage foreseeable risks and to comply to the maximum feasible extent with applicable local ordinances.

(g) If the Mining and Energy Commission does not make all of the findings under subsection (f) of this section, the Commission shall not preempt the challenged local ordinance. The Commission's decision shall be in writing and shall identify the evidence submitted to the Commission plus any additional evidence used in arriving at the decision.

(h) The decision of the Mining and Energy Commission shall be final unless a party to the action files a written appeal under Article 4 of Chapter 150B of the General Statutes, as modified by this section, within 30 days of the date of the decision. The record on appeal shall consist of all materials and information submitted to or considered by the Commission, the Commission's written decision, a complete transcript of the hearing, all written material presented to the Commission regarding the location of the oil and gas exploration, development, and production activities, the specific findings required by subsection (f) of this section, and any minority positions on the specific findings required by subsection (f) of this section. The scope of judicial review shall be that the court may affirm the decision of the Commission, or may remand the matter for further proceedings, or may reverse or modify the decision if the substantial rights of the parties may have been prejudiced because the Commission's findings, inferences, conclusions, or decisions are any of the following:

(1) In violation of constitutional provisions.

(2) In excess of the statutory authority or jurisdiction of the Commission.

(3) Made upon unlawful procedure.

(4) Affected by other error of law.

(5) Unsupported by substantial evidence admissible under G.S. 150B-29(a) or G.S. 150B-30 in view of the entire record as submitted.

(6) Arbitrary or capricious.

(i) If the court reverses or modifies the decision of the Mining and Energy Commission, the judge shall set out in writing, which writing shall become part of the record, the reasons for the reversal or modification.

(j) In computing any period of time prescribed or allowed by this procedure, the provisions of Rule 6(a) of the Rules of Civil Procedure, G.S. 1A-1, shall apply."

SECTION 15.(a) Article 27 of Chapter 113 of the General Statutes is amended by adding four new sections to read:

"**§ 113-395A. Miscellaneous permit requirements.**

The Department shall require that all natural gas compressor stations associated with an oil and gas drilling operation be located inside a baffled building.

"**§ 113-395B. Subsurface injection of waste prohibited.**

Disposal of wastes produced in connection with oil and gas exploration, development, and production, and use of horizontal drilling and hydraulic fracturing treatments for that purpose by injection to subsurface or groundwaters of the State by means of wells is prohibited in accordance with G.S. 143-214.2.

"**§ 113-395C. Environmental compliance review requirements for applicants and permit holders.**

(a) For purposes of this section, "applicant" means an applicant for a permit and a permit holder and includes the owner or operator of the facility, and if the owner or operator is a business entity, applicant also includes (i) the parent, subsidiary, or other affiliate of the applicant; (ii) a partner, officer, director, member, or manager of the business entity, parent, subsidiary, or other affiliate of the applicant; and (iii) any person with a direct or indirect interest in the applicant, other than a minority shareholder of a publicly traded corporation who

has no involvement in management or control of the corporation or any of its parents, subsidiaries, or affiliates.

(b) The Department may conduct an environmental compliance review of each applicant for a new permit under this Article. The environmental compliance review may evaluate the environmental compliance history of the applicant for a period of five years prior to the date of the application and may cover a longer period at the discretion of the Department. The environmental compliance review of an applicant may include consideration of the environmental compliance history of the parents, subsidiaries, or other affiliates of an applicant or parent that is a business entity, including any business entity or joint venturer with a direct or indirect interest in the applicant, and other facilities owned or operated by any of them. The Department may determine the scope of the review of the environmental compliance history of the applicant, parents, subsidiaries, or other affiliates of the applicant or parent, including any business entity or joint venturer with a direct or indirect interest in the applicant, and of other facilities owned or operated by any of them. An applicant for a permit shall, at the request of the Department, provide environmental compliance history information for each facility, business entity, joint venture, or other undertaking in which any of the persons listed in this subsection is or has been an owner, operator, officer, director, manager, member, or partner, or in which any of the persons listed in this subsection has had a direct or indirect interest as requested by the Department.

(c) The Department may determine the extent to which the applicant, or a parent, subsidiary, or other affiliate of the applicant or parent, or a joint venturer with a direct or indirect interest in the applicant, has substantially complied with the requirements applicable to any activity in which any of these entities previously engaged, and has substantially complied with federal, North Carolina, and other states' laws, regulations, and rules for the protection of the environment. The Department may deny an application for a permit if the applicant has a history of significant or repeated violations of statutes, rules, orders, or permit terms or conditions for the protection of the environment or for the conservation of natural resources as evidenced by civil penalty assessments, administrative or judicial compliance orders, or criminal penalties.

(d) Upon request of the Department, a permit holder shall notify the Department of any significant change in its environmental compliance history or any significant change in the (i) identity of any person or structure of the business entity that holds the permit for the facility; (ii) identity of any person or structure of the business entity that owns or operates the facility; or (iii) assets of the permit holder, owner, or operator of the facility. If requested by the Department, the permit holder shall notify the Department within 30 days of a significant change. A change shall be considered significant if it would result in a change in the identity of the permit holder, owner, or operator for purposes of environmental compliance review. Based on its review of the changes, the Department may modify or revoke a permit, or require issuance of a new permit.

"**§ 113-395D. Seismic or geophysical data collection.**

(a) Notwithstanding any other provision of law, no liability for trespass shall arise from activities conducted for the purpose of seismic or geophysical data collection. Provided, however, (i) persons conducting seismic and geophysical data collection may only conduct such activity by undershooting from an off-site location and without physical entry to private land, unless the landowner's consent for such activity is obtained in writing and (ii) persons conducting seismic or geophysical data collection shall be civilly liable for any physical or property damage determined to be a direct result of their seismic or geophysical data collection activities, whether or not the seismic or geophysical data collection was conducted by undershooting the land at an off-site location or by physical entry to land as permitted by the landowner.

(b) Conduct of seismic or geophysical data collection activities through physical entry to land without a landowner's written consent shall constitute a Class 1 misdemeanor."

SECTION 15.(b) This section is effective when it becomes law, except that G.S. 113-395D(b), as enacted by Section 15(a) of this act, shall become effective December 1, 2014.

SECTION 16. G.S. 87-98.4(b) is amended by adding a new subdivision to read:

"**§ 87-98.4. Well contractor certification required; exemptions.**

(a) Certification Required. – No person shall perform, manage, or supervise any well contractor activity without being certified under this Article. A person who is not a certified well contractor or who is not employed by a certified well contractor shall not offer to perform any well contractor activity unless the person utilizes a certified well contractor to perform the well contractor activity and, prior to the performance of the well contractor activity, the person discloses to the landowner in writing the name of the certified well contractor who will perform the well contractor activity, the certification number of the well contractor, and the name of the company that employs the certified well contractor.

(b) Exempt persons and activities. – This Article does not apply to any of the following persons or activities:

...

(14) Construction, repair, or abandonment of a well used for the exploration or development of oil or gas.

...."

PART VI. ESTABLISH SEVERANCE TAX

SECTION 17.(a) Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 5I.

"Severance Tax.

"**§ 105-187.71. Definitions.**

The following definitions apply in this Article:

(1) Casinghead gas. – Gas or vapor indigenous to an oil stratum and produced from the stratum with oil.

(2) Commission. – The Mining and Energy Commission.

(3) Condensate. – Liquid hydrocarbon that is or can be recovered from gas by a separator or other means.

(4) Energy mineral. – All forms of natural gas, oil, and related condensates.

(5) First purchaser. – A person who purchases an energy mineral from a producer.

(6) Gas. – All natural gas, including casinghead gas, and all other hydrocarbons not defined as condensates.

(7) Gross price. – The total price paid by the first purchaser of the energy mineral at the wellhead.

(8) Marginal gas well. – A well incapable of producing more than 100 MCF per day, as determined by the Commission using the current wellhead deliverability rate methodology utilized by the Commission, during the calendar month for which the severance tax report is filed.

(9) MCF. – One thousand cubic feet of natural gas.

(10) Oil. – Crude petroleum oil, and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods and which are not the result of condensation of gas after it leaves the reservoir.

(11) Owner. – An owner of a landowner's royalty interest, of an overriding royalty, of profits and working interests, or any combination thereof in energy minerals. The term does not include an owner of federal, State, or local governmental royalty interest.
(12) Person. – Defined in G.S. 105-228.90.
(13) Producer. – A person who takes an energy mineral from the soil or water in this State.
(14) Return. – Any report or statement required to be filed under this Article to determine the tax due.
(15) Royalty interest. – An interest in mineral rights in a producing leasehold in the State. A royalty interest does not include the interest of a person having only the management and operation of a well.
(16) Secretary. – The Secretary of Revenue.
(17) Severance. – The extraction or other removal of an energy mineral from the soil or water of this State.
(18) Severed. – The point at which the energy mineral has been separated from the soil or water of this State.
(19) Standard barrel of oil. – A barrel of oil containing 42 gallons.
(20) Taxpayer. – Any person required to pay the severance tax levied by this Article.

"**§ 105-187.72. Tax on severance of energy minerals.**

(a) Purpose. – An excise tax is levied on the privilege of engaging in the severance of energy minerals from the soil or water of this State. The purpose of the tax is to provide revenue to administer and enforce the provisions of this Article, to administer the State's natural gas and oil reclamation regulatory program, to meet the environmental and resource management needs of this State, and to reclaim land affected by exploration for, drilling for, and production of natural gas and oil. The severance tax is imposed upon all energy minerals severed when sold.

(b) Calculation of Tax. – The amount of the severance tax is calculated as follows:
(1) Condensates. – The applicable percentage rate of the gross price paid.
(2) Gas. – The applicable percentage rate of the market value as determined in G.S. 105-187.73.
(3) Oil. – The applicable percentage rate of the gross price paid.

(c) Oil and Condensates Rate. – The percentage rate for condensates and oil is two percent (2%).

(d) Marginal Gas Rate. – The producer of a proposed or existing gas well may apply to the Mining and Energy Commission for a determination that the well qualifies as a marginal gas well. The producer may elect to have the gas taxed at the marginal gas rate or the gas rate. For severance of gas from a marginal gas well the percentage rate is four-tenths of one percent (0.4%).

(e) Gas Rate. – The percentage rate for gas is nine-tenths of one percent (0.9%).

"**§ 105-187.73. Delivered to Market Value.**

(a) Delivered to Market Value of Natural Gas. – The delivered to market value of natural gas is the total actual gross price as adjusted in this section. The delivered to market value of gas is determined by subtracting the producer's actual costs to deliver the gas to the market from the producer's total gross cash receipts from the sale of the natural gas. A producer receiving a cost reimbursement from the gas purchaser shall include the reimbursement in the gross cash receipts and is entitled to deduct the actual costs of delivering the gas to market incurred.

(b) Records. – In order to be eligible to subtract the actual costs to deliver the gas to the market from the producer's gross receipts for purposes of calculating the delivered-to-market

value of natural gas, the producer shall provide any information required by the Secretary. Every producer subtracting the costs to deliver the gas to the market as permitted under this subsection shall maintain and make available for inspection by the Secretary any records the Secretary considers necessary to determine and verify the amount of the costs to deliver the gas to the market the producer is eligible to subtract. The burden of proving eligibility for subtracting the costs to deliver the gas to the market and the amount of the costs to deliver the gas to the market to be subtracted shall rest upon the producer, and no subtraction of costs to deliver the gas to the market shall be allowed to a producer that fails to maintain adequate records or to make them available for inspection.

(c) Costs to Deliver the Gas to the Market and Facilities Used to Deliver the Gas to the Market. – A "facility used to deliver the gas to market" includes flow lines or gathering systems from the separator to the purchaser's transmission line, compressor stations, dehydration units, line heaters after the separator, and treating facilities. "Costs to deliver the gas to the market" are the actual and reasonable costs incurred by the producer to get the gas from the mouth of the well to the first purchaser, except costs incurred in normal lease separation of the oil or condensate from the gas, and costs associated with insurance premiums on a facility used to deliver the gas to market. Costs to deliver the gas to the market include only the following:

(1) Costs for compressing the gas sold.
(2) Costs for dehydrating the gas sold.
(3) Costs for sweetening and treating the gas sold.
(4) Costs for delivering the gas to the purchaser.
(5) Reasonable charges for depreciation of the facility used to deliver the gas to market being used, provided that, if the facility is rented, the actual rental fee is added.
(6) Costs of direct or allocated labor associated with the facility used to deliver the gas to market.
(7) Costs of materials, supplies, maintenance, repairs, and fuel associated with the facility used to deliver the gas to market.
(8) Property taxes paid on the facility used to deliver the gas to market.
(9) Charges for fees paid by the producer to any provider of dehydration, treating, compression, and delivery services.

"**§ 105-187.74. On-site use exemption from the tax.**

On-site use is exempt from the tax imposed under this Article. On-site use is the severance of energy minerals from land or water in this State owned legally or beneficially by the producer, which energy minerals are used on the land from which they are taken by the producer as part of the improvement of or use in the producer's homestead and which have a yearly cumulative delivered to market value of not greater than one thousand two hundred dollars ($1,200). When severed energy minerals so used exceed a cumulative delivered to market value of one thousand two hundred dollars ($1,200) during any year, the further severance of energy minerals shall be subject to the tax imposed by this Article.

"**§ 105-187.75. Returns and payment of tax.**

(a) General. – Severance taxes are payable when a return is due. A return is due quarterly or monthly as specified in this section. A return must be filed by the producer of the energy mineral with the Secretary on a form prescribed by the Secretary and in the manner required by the Secretary. A return must be signed by the taxpayer or the taxpayer's agent.

(b) Payment. – A producer of energy minerals shall pay the tax for all owners of the energy minerals. The producer shall withhold from any payment due owners the proportionate tax due for remittance to the Secretary.

(c) Quarterly. – A taxpayer who is consistently liable for less than one thousand dollars ($1,000) a month in severance taxes must file a return and pay the taxes due on a quarterly

basis. A quarterly return covers a calendar quarter and is due by the 25th day of the second month following the end of the quarter.

(d) Monthly. – A taxpayer who is consistently liable for at least one thousand dollars ($1,000) a month in severance taxes must file a return and pay the taxes due on a monthly basis. A monthly return is due by the 25th day of the second month following the calendar month covered by the return.

(e) Category. – The Secretary must monitor the amount of severance taxes paid by a taxpayer or estimate the amount of taxes to be paid by a new taxpayer and must direct each taxpayer to pay tax and file returns as required by this section. In determining the amount of taxes due from a taxpayer, the Secretary must consider the total amount due from all places of business owned or operated by the same person as the amount due from that person. A taxpayer must file a return and pay tax in accordance with the Secretary's direction.

(f) Information on Return. – The amount of tax due and any other information required by the Secretary must be included on the return. Returns that do not contain the required information will not be accepted. When an unacceptable return is submitted, the Secretary will require a corrected return to be filed. The return must contain the following information concerning energy minerals produced during the month being reported:

(1) The gross amount of energy minerals produced that are subject to the tax imposed by this Article.

(2) The leases from which the energy minerals were produced.

(3) The names and addresses of the first purchasers of the energy minerals.

(g) Additional Information. – To claim an exemption for on-site use, the producer or taxpayer of a proposed or existing gas well shall apply to the Secretary for determination of eligibility. The Secretary may require an applicant to provide any information required to administer this provision. The Secretary shall make the determination within 15 calendar days of the receipt of all information required by the Secretary from the producer or taxpayer, and the producer or taxpayer shall attach the determination of eligibility to its severance tax form next due, as applicable. The taxpayer shall provide any information required by the Secretary. Every taxpayer claiming the exemption shall maintain and make available for inspection by the Secretary of Revenue any records the Secretary considers necessary to determine and verify the claim to which the taxpayer is entitled. The burden of proving eligibility shall rest upon the taxpayer, and no exemption shall be allowed to a taxpayer who fails to maintain adequate records or to make them available for inspection. The portion of the severance tax that is required to be deducted from the royalty owner or other interest shall be calculated in the same manner as the portion of the severance tax borne by the producer.

(h) Commission Determination. – To claim the marginal gas rate, the producer or taxpayer of a proposed or existing gas well shall provide to the Secretary proof that the Mining and Energy Commission has determined the well qualifies as a marginal gas well.

"**§ 105-187.76. Bond or letter of credit required.**

A producer must file with the Secretary a bond or an irrevocable letter of credit if the producer fails to file a return required under this Article. A bond or an irrevocable letter of credit must be conditioned upon compliance with the requirements of this Article, be payable to the State, and be in the form required by the Secretary. The amount of the bond or irrevocable letter of credit is two times the applicant's average expected monthly tax liability under this Article, as determined by the Secretary. When notified to do so by the Secretary, a person who is required to file a bond or an irrevocable letter of credit must file the bond or irrevocable letter of credit in the amount required by the Secretary within 30 days after receiving the notice from the Secretary.

"**§ 105-187.77. Liability of producer for tax.**

The tax imposed by this Article is the primary liability of the producer, except as provided in this section. A first purchaser may not take delivery of energy minerals from a producer

unless the producer furnishes the purchaser with a taxpayer identification number assigned by the Secretary. A first purchaser failing to secure the producer's taxpayer number, either from the producer or the Secretary, will be liable for any tax, penalty, and interest due on the energy minerals purchased from the producer.

"**§ 105-187.78. Royalty owner's records.**

The owner of a royalty interest shall keep and provide to the Secretary, upon request, both of the following:

(1) A record of all money received as royalty from each producing leasehold in the State.

(2) A copy of all settlement sheets furnished by a purchaser or operator or other statement showing the amount of energy minerals for which a royalty was received and the amount of severance tax deducted.

"**§ 105-187.79. Permits suspended for failure to report.**

If an entity fails to file any report or return or to pay any tax or fee required by this Article for 90 days after it is due, the Secretary shall inform the Secretary of Environment and Natural Resources of this failure. The Secretary of Environment and Natural Resources shall suspend permits for oil and gas exploration using horizontal drilling and hydraulic fracturing under G.S. 113-395 of any entity that fails to file a return under this Article. The Secretary of Environment and Natural Resources shall immediately notify by mail an entity of a suspension under this section.

"**§ 105-187.80. No local taxation.**

A city or county may not impose a franchise, privilege, license, income, or excise tax on the severing, production, treating, processing, ownership, sale, storage, purchase, marketing, or transportation on any energy minerals produced in the State, or upon the business of severing, producing, treating, processing, owning, selling, buying, storing, marketing, or transporting such energy minerals, or upon the ownership, operation, or maintenance of plants, facilities, machinery, pipelines, and gathering lines related to the severing, production, treating, processing, ownership, storage, sale, purchase, marketing, or transportation of energy minerals. This section does not preclude the taxation of the property in accordance with Article 11 of this Chapter."

SECTION 17.(b) G.S. 105-259(b) is amended by adding a new subdivision to read:

"(46) To furnish to the Department of Environment and Natural Resources the name, address, tax year end, and account and identification numbers of an entity liable for severance tax to enable the Secretary of Environment and Natural Resources to notify the entity that the Department of Environment and Natural Resources shall suspend permits of the entity for oil and gas exploration using horizontal drilling and hydraulic fracturing under G.S. 113-395."

SECTION 17.(c) G.S. 113-387 and G.S. 113-388 are repealed.

SECTION 17.(d) G.S. 105-187.72, as enacted by Section 17(a) of this act, reads as rewritten:

"**§ 105-187.72. Tax on severance of energy minerals.**

...

(c) Oil and Condensates Rate. – The percentage rate for condensates and oil is ~~two percent (2%).~~three and one-half percent (3.5%).

(d) Marginal Gas Rate. – The producer of a proposed or existing gas well may apply to the Mining and Energy Commission for a determination that the well qualifies as a marginal gas well. The producer may elect to have the gas taxed at the marginal gas rate or the gas rate. For severance of gas from a marginal gas well the percentage rate is ~~four tenths of one percent (0.4%).~~six-tenths of one percent (0.6%).

(e) Gas Rate. – The percentage rate for gas ~~is nine tenths of one percent (0.9%).~~is set in the table below. The tax rate is applied to the delivered to market value of the gas sold.

Over	Up to	Rate
-0-	$3.00 per MCF	0.9%
$3.01 per MCF	$4.00	1.9%
$4.01	N/A	2.9%"

SECTION 17.(e) G.S. 105-187.72, as enacted by Section 17(a) of this act, and amended by Section 17(d) of this act, reads as rewritten:

"**§ 105-187.72. Tax on severance of energy minerals.**

...

(c) Oil and Condensates Rate. – The percentage rate for condensates and oil is ~~three and one-half percent (3.5%).~~five percent (5%).

(d) Marginal Gas Rate. – The producer of a proposed or existing gas well may apply to the Mining and Energy Commission for a determination that the well qualifies as a marginal gas well. The producer may elect to have the gas taxed at the marginal gas rate or the gas rate. For severance of gas from a marginal gas well the percentage rate is ~~six tenths of one percent (0.6%).~~eight-tenths of one percent (0.8%).

(e) Gas Rate. – The percentage rate for gas is set in the table below. The tax rate is applied to the delivered to market value of the gas sold.

Over	Up to	Rate
-0-	$3.00 per MCF	0.9%
$3.01 per MCF	$4.00	1.9%
$4.01	~~N/A~~$5.00	2.9%
$5.01	$6.00	3.9%
$6.01	$7.00	4.9%
$7.01	N/A	5%"

SECTION 17.(f) G.S. 105-187.72(e), as enacted by Section 17(a) of this act, and amended by Sections 17(d) and 17(e) of this act, reads as rewritten:

"(e) Gas Rate. – The percentage rate for gas is set in the table below. The tax rate is applied to the delivered to market value of the gas sold.

Over	Up to	Rate
-0-	$3.00 per MCF	0.9%
$3.01 per MCF	$4.00	1.9%
$4.01	$5.00	2.9%
$5.01	$6.00	3.9%
$6.01	$7.00	4.9%
$7.01	~~N/A~~$8.00	~~5%~~5.9%
$8.01	$9.00	6.9%
$9.01	$10.00	7.9%
$10.01	N/A	9%"

SECTION 18. G.S. 105-275 is amended by adding a new subdivision to read:

"(47) Energy mineral interest in property for which a permit has not been issued under G.S. 113-395. For the purposes of this subdivision, "energy mineral" has the same meaning as in G.S. 105-187.71."

SECTION 19. Sections 17(a), 17(b), and 17(c) become effective July 1, 2015, and apply to energy minerals severed on or after that date. Section 17(d) becomes effective January 1, 2019, and applies to energy minerals severed on or after that date. Section 17(e) becomes effective January 1, 2021, and applies to energy minerals severed on or after that date. Section 17(f) becomes effective January 1, 2023, and applies to energy minerals severed on or after that date. Section 18 is effective for taxes imposed for taxable years beginning on or after July 1, 2015. The remainder of this Part is effective when it becomes law.

PART VII. STUDIES

SECTION 20. The Local Government Division of the Department of Revenue shall study how other states value energy minerals for the purpose of property taxation. The Division shall establish guidelines for counties to ensure the consistent and fair taxation of energy minerals throughout the State. The Local Government Division shall report its findings to the Joint Legislative Commission on Energy Policy by January 1, 2015.

SECTION 21. The Joint Legislative Commission on Energy Policy shall study how the development of the oil and gas industry in the State would affect the property tax revenues of local governments. The study shall examine how the presence of energy minerals will affect property enrolled in the present use value program. The study shall also study ways to limit the growth of property tax revenues that result from increased property valuations due to the development of the oil and gas industry in the State. The Commission shall report to the 2015 General Assembly on its findings and recommendations, including any legislative recommendations.

SECTION 22.(a) The Department of Commerce, in consultation with the Department of Environment and Natural Resources, the North Carolina Ports Authority, and the Department of Administration, shall study the desirability and feasibility of siting, constructing, and operating a liquefied natural gas (LNG) export terminal in North Carolina. At a minimum, as a part of the study, the agencies shall:

(1) Identify the State, federal, and local regulatory programs under which LNG export terminals are permitted and approved.

(2) Identify any State statutory or regulatory barriers to siting, constructing, or operating a LNG export terminal in the State.

(3) Evaluate infrastructure needs and impacts as follows:

a. Identify the infrastructure that is necessary to support a LNG export terminal.

b. Identify any idle publicly owned infrastructure that may be utilized to support LNG export terminal operations.

c. Identify publicly owned unutilized or underutilized lands that may be used to support LNG export terminal operations.

d. Identify potential impacts on infrastructure, including roads, pipelines, and water and wastewater services, and other provision of services by local governments including schools, law enforcement, and development.

(4) Conduct a cost-benefit analysis for the construction and operation of an LNG export terminal. The analysis shall evaluate scenarios in which the State is the primary producer of the exported natural gas and scenarios in which the State is not the primary producer of the exported natural gas.

(5) Examine potential economic impacts, including:

a. Possible sources of revenue that could accrue to the benefit of the State if LNG is exported from a terminal in North Carolina.

b. The number of jobs that may be expected as a result from the construction and operation of a LNG export terminal.

(6) Identify and evaluate potential environmental impacts of construction and operation of a LNG export terminal. In examining this issue, the agencies shall gather information on regulatory programs in other states where LNG export terminals are in operation.

(7) Identify potential social impacts, including impacts of construction and operation of a LNG export terminal on nearby communities and quality of

life within those communities, recreational activities, and commercial and residential development.

(8) Examine any other pertinent issues that the agencies deem relevant to the construction and operation of a LNG export facility in the State.

SECTION 22.(b) The Department of Commerce shall report its findings and recommendations to the Joint Legislative Commission on Energy Policy and the Environmental Review Commission on or after January 1, 2015.

SECTION 23.(a) The Department of Transportation shall study (i) additional statutory authority that may be necessary or advisable for the Department to adequately address energy-related traffic, including authority that pertains to permitting and assessment of fees; (ii) the feasibility and advisability of including any requirements that the Department may recommend to manage energy-related traffic, and resulting impacts, in a coordinated permit in conjunction with requirements of the Department of Environment and Natural Resources, or whether such requirements should be implemented through a separate permitting process; and (iii) performance bonding and other surety mechanisms, including road use agreements, to reclaim and repair any State posted roads that are damaged due to heavy vehicle, equipment, and machinery traffic used in support of and conjunction with horizontal drilling and hydraulic fracturing operations on State posted roads. For purposes of this study, the term "posted roads" means a system that records any secondary road on the State Highway System that is unable to carry heavy vehicles or equipment. In the conduct of its study, the Department shall do the following:

(1) Consider mechanisms for requiring performance bonds running to the Department.

(2) Develop criteria for setting the amount of the bond, including the weight and size of the proposed vehicles, equipment and machinery projected to utilize posted roads, the planned route and projected number of trips, and the duration of the activity necessitating travel of heavy vehicles, equipment, and machinery along posted roads.

(3) Identify documentation necessary to support bonding of posted roads.

(4) Identify any statutory or regulatory changes necessary to maintain and protect the State's transportation infrastructure network.

SECTION 23.(b) The Department of Transportation shall report its findings and recommendations, including any legislative proposals, to the Joint Legislative Energy Policy Commission and the Joint Legislative Transportation Oversight Committee on or before January 1, 2015.

SECTION 24.(a) The State Board of Community Colleges shall study the feasibility and desirability of developing a program to prepare students with a general education foundation and technical competencies for employment opportunities in the oil and natural gas drilling, gathering, and field operations industry. In particular, the State Board shall consider developing such a program at one or more of the community colleges located where the potential for shale gas resources is highest. In the conduct of its study, the State Board shall evaluate similar education programs in community college systems in other states.

SECTION 24.(b) The State Board shall report its findings and recommendations, including any legislative proposals, to the Joint Legislative Energy Policy Commission and the Joint Legislative Education Oversight Committee on or before January 1, 2015.

SECTION 25.(a) The General Assembly finds the following:

(1) Section 2(l) of S.L. 2012-143 directed the Mining and Energy Commission, in conjunction with the Department of Environment and Natural Resources and the Consumer Protection Division of the North Carolina Department of Justice, to study the State's current law on the issue of integration or compulsory pooling and other states' laws on the matter; and

(2) Whereas, the Department was directed to report its findings and recommendations, including legislative proposals, to the Joint Legislative Commission on Energy Policy and the Environmental Review Commission on or before January 1, 2013; and

(3) The Mining and Energy Commission and the Department issued separate reports pursuant to the study; and

(4) The Mining and Energy Commission's report included specific recommendations for legislative changes related to compulsory pooling; and

(5) The Department's report did not include specific recommendations for legislative changes related to compulsory pooling; and

(6) In lieu of specific recommendations for legislative changes, the Department recommended that "prior to establishing new laws related to compulsory pooling, the General Assembly should consider the rules adopted by the Mining and Energy Commission related to oil and gas exploration, including, but not limited to, rules concerning drilling units, spacing requirements, and setbacks, all of which will affect the regulation of compulsory pooling in the State." And the Department further recommended that "decisions on the status and implementation of a compulsory pooling law precede decisions related to cost sharing, notifications, and compensation for damages" and "further study on the issue of amending current dormant mineral statutes regarding extinguishment and other consumer protection issues related to split estates."

SECTION 25.(b) Based upon the findings of Section 24(a) of this act, the General Assembly directs the Department to do the following:

(1) Examine the Mining and Energy Commission's rules, once adopted, related to oil and gas exploration, including, but not limited to, rules concerning drilling units, spacing requirements, and setbacks, and all rules the Department determines will affect the regulation of compulsory pooling in the State.

(2) Study, in conjunction with the Mining and Energy Commission and the Consumer Protection Division of the North Carolina Department of Justice, the issue of amending current dormant mineral statutes regarding extinguishment and other consumer protection issues related to split estates.

(3) Issue specific recommendations for legislative action related to compulsory pooling and dormant mineral statutes and report the findings of their study, including specific proposals for legislative action, to the Joint Legislative Commission on Energy Policy and the Environmental Review Commission on or before October 1, 2015.

SECTION 26. The Mining and Energy Commission and the Department of Environment and Natural Resources shall study the development of midstream infrastructure in North Carolina, which is necessary or advisable to facilitate the exploration, development, and production of the State's oil and gas resources. Infrastructure examined shall include development of pipelines, gathering systems, compressor stations, pumping systems, on-site and near-site storage tanks, and natural gas liquids processing systems. All State agencies, including the constituent institutions of The University of North Carolina, shall provide information and support to the Commission and the Department in the conduct of this study. The Commission shall report the findings of this study, including specific proposals for legislative action, to the Joint Legislative Commission on Energy Policy on or before March 1, 2015.

SECTION 27. The State Energy Office in the Department of Environment and Natural Resources shall study and make legislative recommendations on a comprehensive

long-range State energy policy to achieve maximum effective management and use of present and future sources of energy. The Office shall study all of the following:

(1) The long-term environmental and economic impact of base load power generation of electric public utilities.

(2) The comparison of base load power generation alongside all other forms of energy used for power generation, including renewable and alternative sources of energy, and the environmental and economic impact of all forms of power generation.

(3) The implementation of S.L. 2007-397, including environmental and economic impacts of the law, and recommendations on any changes to the law as necessary.

The State Energy Office shall report its findings to the Joint Legislative Commission on Energy Policy on or before December 1, 2014.

SECTION 28.(a) The Division of Purchase and Contract in the Department of Administration shall, in coordination with the Department of Public Instruction, provide that any fuel option may be considered for the award of a school bus contract. In the development of requests for proposals for school buses, the Departments shall include any fuel option practicable, including diesel, propane, liquefied natural gas, compressed natural gas, and electricity.

SECTION 28.(b) The consideration of any fuel sources in Section 27(a) of this act shall apply to any changes or modifications to term contracts executed on or after the effective date of this section.

SECTION 28.(c) The Department of Administration and the Department of Public Instruction shall jointly study the infrastructure that would be necessary to support school bus fleets fueled by natural gas and report any findings and recommendations to the Joint Legislative Energy Policy Commission on or before January 1, 2015.

PART VIII. MISCELLANEOUS PROVISIONS UNRELATED TO SHALE GAS

SECTION 29.(a) G.S. 114-4.2D is repealed.

SECTION 29.(b) G.S. 113B-11(e) reads as rewritten:

"(e) Staff support required by the Council shall be supplied by the Division of Energy, Mineral, and Land Resources of the Department of Environment and Natural Resources. The Department of Environment and Natural Resources shall provide legal support to the Council as needed from the Department's staff. The Department of Commerce and the Utilities Commission are hereby authorized to make their staff available to the Council to assist in the development of a State energy policy."

SECTION 30.(a) G.S. 105-449.130 is amended by adding a new subdivision to read:

"(1f) Diesel gallon equivalent of liquefied natural gas. – The energy equivalent of 6.06 pounds of liquefied natural gas."

SECTION 30.(b) G.S. 105-449.130 is amended by adding a new subdivision to read:

"(1g) Gas gallon equivalent of compressed natural gas. – The energy equivalent of 5.66 pounds of compressed natural gas."

SECTION 30.(c) G.S. 105-449.136 reads as rewritten:

"**§ 105-449.136. Tax on alternative fuel.**

(a) Rate. – A tax at the motor fuel rate is imposed on liquid alternative fuel used to operate a highway vehicle by means of a vehicle supply tank that stores fuel only for the purpose of supplying fuel to operate the vehicle. The tax on liquefied natural gas is imposed on each diesel gallon equivalent of liquefied natural gas. A tax at the equivalent of the motor fuel rate is imposed on all other alternative fuel used to operate a highway vehicle. The tax on

compressed natural gas is imposed on each gas gallon equivalent of compressed natural gas. The Secretary must determine the equivalent ~~rate.~~ rate for all other non-liquid alternative fuels.

(b) Administration. – The exemptions from the tax on motor fuel in G.S. 105-449.88 apply to the tax imposed by this section. The refunds for motor fuel tax allowed by Part 5 of Article 36C of this Chapter apply to the tax imposed by this section, except that the refund allowed by G.S. 105-449.107(b) for certain vehicles that use power takeoffs does not apply to a vehicle whose use of alternative fuel is taxed on the basis of miles driven. The proceeds of the tax imposed by this section must be allocated in accordance with G.S. 105-449.125."

SECTION 30.(d) This section becomes effective January 1, 2015.

PART IX. SEVERABILITY AND EFFECTIVE DATE

SECTION 31.(a) If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

SECTION 31.(b) Except as otherwise provided, this act is effective when it becomes law.

SENATE BILL 786:
Energy Modernization Act

2013-2014 General Assembly

Committee:	Senate Ref to Commerce. If fav, re-ref to Finance	**Date:**	May 20, 2014
Introduced by:	Sens. Rucho, Newton, Brock	**Prepared by:**	Jennifer McGinnis and Heather Fennell, Staff Attorneys Jennifer Mundt, Legislative Analyst
Analysis of:	PCS to First Edition S786-CSRIxf-35		

SUMMARY: The Proposed Committee Substitute (PCS) to Senate Bill 786 does the following:

PART I. EXTENSION OF RULE DEVELOPMENT DEADLINE

SECTION 1 of the PCS would extend the rule development deadline to January 1, 2015. Under current law, Section 2(m) of S.L. 2012-143 requires the Mining and Energy Commission (MEC) to adopt rules for a modern regulatory program for the management of oil and gas, including the use of hydraulic fracturing for that purpose by October. 1, 2014.

PART II. EXEMPTIONS FROM THE ADMINISTRATIVE PROCEDURE ACT (APA)

SECTION 2.(a) of the PCS would modify a provision in the APA that requires that rules be adopted by the Rules Review Commission (RRC) 25 days before the start of a legislative session in order to be eligible for legislative review during that session. The PCS would eliminate the 25 day requirement, as it applies to rules for the management of oil and gas, thus making such rules eligible for legislative review no matter when approved, including if they are approved while a session is underway.

SECTION 2.(b) of the PCS would modify a provision in the APA that provides that a legislator may introduce a bill during the first 30 legislative days of any regular session to disapprove a rule that has been approved by the RRC. The PCS would change the time allowed to file a disapproval bill from 30 legislative days to 30 calendar days. The language allows for the circumstance in which the rules are approved while session is underway (and at that point become subject to legislative review).

SECTION 2.(c) of the PCS would modify a provision under the APA that governs filing of disapproval bills in connection with the legislative review process for rules. Specifically, the APA provides that if a disapproval bill is filed in connection with a rule or suite of rules, the rule(s) cannot become effective until the earlier of either: (i) the day an unfavorable final action is taken on a disapproval bill, or (ii) the day that session adjourns without ratifying a disapproval bill.

The PCS would provide instead that rules for the management of oil and gas would become effective on the earlier of: (i) the 31st calendar day of a regular session that begins after the date the RRC approved the rule if a bill that specifically disapproves the rule has not been introduced in either house of the General Assembly by that date; or, (ii) if a bill that specifically disapproves the rule is introduced in either house of the General Assembly before the 31st calendar day of that session, the rule becomes effective on the earlier of either the day an unfavorable final action is taken on the bill, or the 61st calendar day of the session if by that date a bill that specifically disapproves the rule has not been ratified. The language allows for the circumstance in

which the rules are approved while session is underway (and at that point become subject to legislative review).

SECTION 2.(d) of the PCS would modify a provision under the APA that provides that rules received by the 20th day of a month must be reviewed by the RRC by the "last day of the second subsequent month." Instead, the PCS would provide that the RRC must review any rule for the management of oil and gas submitted to it by the end of a month by the last day of the next month (thereby potentially expediting review by a month).

SECTION 2.(e) of the PCS would exempt the rules for the management of oil and gas from the limitations under the APA that govern certain environmental rules.

SECTION 2.(f) of the PCS would modify a provision enacted in 2013 that exempted rules for the management of oil and gas from any requirements under the APA to prepare fiscal notes to provide that the fiscal note exemption for such rules may operate until the provision sunsets on December 31, 2017.

SECTION 2.(g) of the PCS would exempt rules for the management of oil and gas from any requirements under the APA that require that a certification be obtained from the Office of State Budget and Management (OSBM), and any requirement for preliminary review of the rules by OSBM.

PART III. DATE CERTAIN FOR ISSUANCE OF PERMITS TO JULY 1, 2015

SECTION 3.(a) of the PCS would, effective July 1, 2015, authorize the Department of Environment and Natural Resources (DENR) and MEC to issue permits for oil and gas exploration, development, and production activities using horizontal drilling and hydraulic fracturing treatments.

SECTION 3.(b) of the PCS would repeal Section 3(d) of S.L. 2012-143 (S820), which prohibited the issuance of permits for oil and gas exploration and development activities using the processes of horizontal drilling and hydraulic fracturing in the State until the General Assembly took legislative action to allow the issuance of such permits, in order to allow the Mining and Energy Commission to create a modern regulatory program to govern all aspects of such activities.

SECTION 3.(c) of the PCS would repeal Section 1(c) of S.L. 2013-365 (S76), which amended the moratorium on issuance of permits for oil and gas exploration and development activities enacted by Section 3(d) of S.L. 2012-143 (S820), to prohibit issuance of permits until: (i) all rules required to be adopted by MEC, the Environmental Management Commission, and the Commission for Public Health pursuant to S.L. 2012-143 (S820) have become effective and (ii) the General Assembly takes affirmative legislative action, including repeal of Section 3(d) of S.L. 2012-143 (S820), to allow the issuance of such permits.

PART IV. CREATE OIL AND GAS COMMISSION AND RECONSTITUTE MINING COMMISSION

SECTIONS 4, 5, and 6 of the PCS would, effective July 31, 2015, reinstate the Mining Commission (to consist of 7 members) and establish the Oil and Gas Commission (to consist of 9 members) as separate entities. The terms of all members serving on MEC would expire on July 31, 2015, and new appointments to the two distinct commissions would be required by August 1, 2015.

PART V. MISCELLANEOUS STATUTORY CHANGES RELATED TO SHALE GAS EXPLORATION, DEVELOPMENT, AND PRODUCTION

SECTION 7 of the PCS would: (i) eliminate two references in the statutes concerning MEC's authority to require operation of wells with efficient gas oil ratios, based upon information that the language

is antiquated and does not readily adapt to unconventional oil and gas wells such as those found in the Triassic basin; and (ii) provide that that entry of rules in the North Carolina Administrative Code that address areas identified in subsections (a) and (a3) of G.S. 113-391 by July 1, 2015, create a rebuttable presumption that the rules are sufficient to meet the requirements for development of a modern regulatory program pursuant to that section of the General Statutes.

SECTION 8 of the PCS would clarify requirements applicable to trade secrets received in connection with permitted oil and gas activities. Specifically, the provision would explicitly require: (i) MEC and DENR to retain trade secret information received; (ii) provision of the information to the Division of Emergency Management; and (iii) immediate disclosure of the information to first responders and medical personnel in the event of an emergency. Unlawful disclosure of information in violation of the provision would constitute a Class I felony[1]. Appeals of decisions concerning trade secrets would be directed to the Business Court.

SECTION 9 of the PCS would repeal a provision in the statutes that requires State involvement regarding an owner's request for a survey. Specifically, current law reads as follows:

> "(6) To require surveys upon application of any owner who has reason to believe that a well has been unlawfully drilled by another person into land of the owner without permission. In the event such surveys are required, the costs thereof shall be borne by the owner making the request."

SECTION 10 of the PCS would repeal a provision in the statutes that requires each well to be drilled in the center of a drilling unit, based upon information that the language does not readily adapt to unconventional oil and gas wells such as those found in the Triassic basin.

SECTION 11 of the PCS would reduce the fee due upon application to drill, from $3,000 for each well drilled, to $3,000 for a first well on a pad and $1,500 for each additional well on the same pad.

SECTION 12 of the PCS would amend a provision in existing law that requires oil and gas operators to provide surface owners with advance notice prior to entry to property (14 days for non-land disturbing; 30 days for land-disturbing), to add language requiring notice to subsurface owners as well (30 days for initiation of exploration, development, and production activities).

SECTION 13 of the PCS would:

- Amend a provision enacted in 2011 that established an oil and gas operator's presumptive liability for contamination of water supplies located within 5,000 feet of a wellhead, to change the distance to water supplies located within a ½ mile radius of a wellhead.
- Amend a provision enacted in 2011 that required an oil and gas operator to conduct pre-drilling testing of water supplies within 5,000 feet of a wellhead, to change the required distance to a ½ mile radius. Under current law, the provision also allows a surface owner to elect to have DENR sample the water supplies, in lieu of the operator – the PCS would specify that rather than DENR, a surface owner could elect to have an independent third party from a DENR-approved list conduct the sampling (with the costs of testing still reimbursed by the operator). In addition, the PCS would explicitly state that an operator must provide the results of any testing conducted

[1] Assuming no prior convictions, the presumptive minimum sentence for a Class I felony is 4-6 months community punishment. The disposition may range from supervised or unsupervised probation, community service, restitution, or fines. The amount of the fine would be in the discretion of the court.

within 30 days of sampling to DENR, and allow operators to share results of testing with other operators.

- Specify that actions for recovery of cleanup costs, damages, or for civil penalties may be brought against any of the persons having control over the activities that contributed to the contamination, damage to property, or other violations, and provides that such persons would be jointly and severally liable, with ultimate liability between the parties determined by common-law principles.

SECTION 14 of the PCS would invalidate local ordinances that prohibit or have the effect of prohibiting oil and gas exploration, development, and production activities (including, those that would impose taxes, fees, or charges, or that regulate health, environment, or land use). The provision mirrors a statute preempting local government regulation of hazardous waste facilities (G.S. 130A-293). Specifically, the PCS would invalidate ordinances that:

- Prohibit the siting of wells for oil and gas exploration, development, and production within any county, city, or other political subdivision.
- Prohibit the use of horizontal drilling or hydraulic fracturing for the purpose of oil or gas exploration or development within any county, city, or other political subdivision.
- Place any restriction or condition not placed by the statutes governing oil and gas upon oil and gas exploration, development, and production activities and use of horizontal drilling or hydraulic fracturing for that purpose within any county, city, or other political subdivision.
- In any manner are in conflict or inconsistent with the provisions of the statutes governing oil and gas.

SECTION 15 of the PCS would:

- Require that all natural gas compressor stations associated with an oil and gas drilling operation be located inside a baffled building.
- Include a provision in the statutes governing oil and gas that prohibits the injection of wastes produced in connection with oil and gas exploration, development, and production, and use of horizontal drilling and hydraulic fracturing treatments to subsurface or groundwaters of the State by means of wells. Note that this is prohibited in another Chapter of the General Statutes, and is also prohibited under a draft rule pending with MEC.
- Provide that DENR may conduct an environmental compliance review of each applicant for a new permit for oil and gas activities in order to determine the extent to which the applicant, or affiliated entity, has substantially complied with the requirements applicable to any activity in which any of these entities previously engaged, and has substantially complied with federal, North Carolina, and other states' laws, regulations, and rules for the protection of the environment. DENR is authorized to deny an application for a permit if the applicant has a history of significant or repeated violations of statutes, rules, orders, or permit terms or conditions for the protection of the environment or for the conservation of natural resources as evidenced by civil penalty assessments, administrative or judicial compliance orders, or criminal penalties. DENR is also authorized to modify or revoke a permit, or require issuance of a new permit, based on substantial changes to environmental compliance history after a permit's issuance.
- Provide that no liability for trespass would arise from activities conducted for the purpose of seismic or geophysical data collection if a person has a landowner's written consent to enter the land for the activities, or if the person conducts seismic and geophysical data collection by undershooting from an off-site location and without physical entry to private land. If such activities are conducted through physical entry to land without a landowner's written consent, the

violation would constitute a Class 1 misdemeanor[2]. The language further provides that persons conducting seismic or geophysical data collection are civilly liable for any physical or property damage determined to be a direct result of their seismic or geophysical data collection activities, whether or not the seismic or geophysical data collection was conducted by undershooting the land at an off-site location or by physical entry to land as permitted by the landowner.

SECTION 16 of the PCS would exempt persons engaged in activities involving the construction, repair, or abandonment of a well used for the exploration or development of oil or gas from the water well contractor certification requirements under Chapter 87 of the General Statutes.

PART VI. SEVERANCE TAX

SECTIONS 17 THROUGH 19:

The draft proposal would repeal North Carolina's current severance tax and levies a new severance tax on the removal of energy minerals from the soil and water of the State. The current State severance tax was enacted in 1945 and has not been modified since 1973. The current tax is five mills on each barrel of oil (the equivalent of .5¢ per barrel of oil) and one-half mill on each 1000 cubic feet of gas (the equivalent of .05¢ per 1000 cubic feet of gas). No tax is collected under the current law. The new severance tax would add condensates to the tax base, raise the tax rate on oil, and create a floating tax rate for gas.

Energy minerals are defined in the draft to include all forms of natural gas, oil, and related condensates. Thirty-three states, including North Carolina, currently impose some form of severance taxes on the extraction of oil and gas. Of the 33 states, 25 states impose a tax as a percentage of the value of the resource extracted, 7 states impose a tax on the volume extracted, and 1 state imposes a tax that is a combination of the two methods.

Tax Rate – Marginal gas is the gas produced from a well that is only capable of producing a small amount of gas (no more than 100 MCF of gas). The tax rate for the severance of energy minerals would be as follows:

	2015-2018	2019-2020			2021-2023			2023 and thereafter		
Oil and condensates	2%	3.5%			5%			5%		
Marginal Gas	.4%	.6%			.8%			.8%		
Gas	.9%	Based on *delivered to market* price per mcf			Based on *delivered to market* price per mcf			Based on *delivered to market* price per mcf		
		Over	Up to	Rate	Over	Up to	Rate	Over	Up to	Rate
		-0-	$3	.9%	-0-	$3	.9%	-0-	$3	.9%
		$3.01	$4	1.9%	$3.01	$4	1.9%	$3.01	$4	1.9%
		$4.01	NA	2.9%	$4.01	$5	2.9%	$4.01	$5	2.9%
					$5.01	$6	3.9%	$5.01	$6	3.9
					$6.01	$7	4.9%	$6.01	$7	4.9%
					$7.01	NA	5%	$7.01	$8	5.9%
								$8.01	$9	6.9%
								$9.01	$10	7.9%
								$10.01	NA	9%

[2] Assuming no prior convictions the presumptive minimum sentence for a Class 1 misdemeanor is 1-45 days community punishment. The disposition may range from supervised or unsupervised probation, community service, restitution, or fines. The amount of the fine would be in the discretion of the court.

Tax Base – For condensates and oil, is applied to the total actual gross price paid by the first purchaser of the condensate or oil. For gas, the tax rate is applied to the "delivered to market" value of the mineral sold. The "delivered to market value" of gas is the actual gross price paid minus the costs incurred by the producer to get the gas from the mouth of the well to the first purchaser.

Administration – The tax would be the liability of the producer of the gas. The producer is the entity that extracts the mineral from the soil or the water of the State. Returns and taxes are due on either a monthly or quarterly basis, depending on the tax liability of the producer. A bond or letter of credit would be required for producers that fail to file a return or make a payment of tax due.

Permit Suspension – Permits for oil and gas exploration using horizontal drilling or hydraulic fracturing would be suspended for any producer that fails to file a return or make a payment for severance taxes.

No Local Taxes – Local governments would not be authorized to impose any additional taxes on the severance of energy minerals in the State.

Property Taxes – The value of real property attributable to the presence of energy minerals is exempt from taxation where a permit to drill on the property has not been issued.

PART VII. STUDIES

SECTION 20 of the PCS would direct the Local Government Division of the Department of Revenue to: (i) study how other states value energy minerals for the purpose of property taxation; and, (ii) establish guidelines for counties to ensure the consistent and fair taxation of energy minerals throughout the State. The Division would report its findings to the Joint Legislative Commission on Energy Policy on or before January 1, 2015.

SECTION 21 of the PCS would direct the Joint Legislative Commission on Energy Policy to study how the development of the energy industry will affect the property tax revenues of local governments. The study shall examine how the industry will affect property enrolled in the present use value program, and ways to limit the growth of property tax revenues resulting from increased property valuations due to energy production. The Commission shall report its findings to the 2015 General Assembly.

SECTION 22 of the PCS would direct the Department of Commerce, in consultation with DENR, the North Carolina Ports Authority, and the Department of Administration, to study the desirability and feasibility of siting, constructing, and operating a liquefied natural gas (LNG) export terminal in North Carolina. The Department of Commerce would report its findings and recommendations to the Joint Legislative Commission on Energy Policy and the Environmental Review Commission (ERC) on or before January 1, 2015.

SECTION 23 of the PCS would direct the Department of Transportation to study: (i) additional statutory authority that may be necessary or advisable for DOT to adequately address energy-related traffic, including authority that pertains to permitting and assessment of fees; (ii) the feasibility or advisability of including any requirements that DOT may recommend to manage energy-related traffic, and resulting impacts, in a coordinated permit in conjunction with requirements of the Department of Environment and Natural Resources, or whether such requirements should be implemented through a separate permitting process; and (iii) performance bonding and other surety mechanisms, including road use agreements, to reclaim and repair any State posted roads that are damaged due to heavy vehicle, equipment, and machinery traffic used in support of and conjunction with horizontal drilling and hydraulic fracturing operations on State posted roads. DOT would report its finding and recommendations, including any legislative proposals, to the Joint Legislative Energy Policy Commission and the Joint Legislative Transportation Oversight Committee on or before January 1, 2015.

SECTION 24 of the PCS would direct the State Board of Community Colleges to study the feasibility and desirability of developing a program to prepare students with a general education foundation and technical competencies for employment opportunities in the oil and natural gas drilling, gathering, and field operations industry. Specifically, the State Board would be required to consider developing such a program at one or more of the community colleges located where the potential for shale gas resources is highest and would evaluate similar education programs in community college systems in other states. The State Board would report its findings and recommendations, including any legislative proposals to the Joint Legislative Energy Policy Commission and the Joint Legislative Education Oversight Committee on or before January 1, 2015.

SECTION 25 of the PCS would direct DENR to:

(1) Examine MEC's rules, once adopted, related to oil and gas exploration, including, but not limited to, rules concerning drilling units, spacing requirements, and setbacks, and all rules DENR determines will affect the regulation of compulsory pooling in the State.

(2) Study, in conjunction with MEC and the Consumer Protection Division of the North Carolina Department of Justice, the issue of amending current dormant mineral statutes regarding extinguishment and other consumer protection issues related to split estates.

(3) Issue specific recommendations for legislative action related to compulsory pooling and dormant mineral statutes and report the findings of their study, including specific proposals for legislative action, to the Joint Legislative Commission on Energy Policy and the Environmental Review Commission on or before October 1, 2015.

SECTION 26 of the PCS would direct MEC and DENR to study the development of midstream infrastructure in North Carolina, which is necessary or advisable to facilitate the exploration, development, and production of the State's oil and gas resources. Infrastructure examined must include development of pipelines, gathering systems, compressor stations, pumping systems, on-site and near-site storage tanks, and natural gas liquids processing systems. MEC would report the findings of this study, including specific proposals for legislative action, to the Joint Legislative Commission on Energy Policy on or before March 1, 2015.

SECTION 27 of the PCS would direct the State Energy Office to study and make legislative recommendations on a comprehensive long-range State energy policy to achieve maximum effective management and use of present and future sources of energy. The Office shall study all of the following:

(1) The long-term environmental and economic impact of base load power generation of electric public utilities.

(2) The comparison of base load power generation alongside all other forms of energy used for power generation, including renewable and alternative sources of energy, and the environmental and economic impact of all forms of power generation.

(3) The implementation of S.L. 2007-397, including environmental and economic impacts from the law, and recommendations on any changes to the law as necessary.

The State Energy Office shall report its findings to the Joint Legislative Commission on Energy Policy on or before December 1, 2014.

SECTION 28 of the PCS would direct the Division of Purchase and Contract in the Department of Administration, in coordination with the Department of Public Instruction, to allow any fuel option to be considered for the award of a school bus contract. DOA and DPI would also be directed to study the infrastructure that would be necessary to support school bus fleets fueled by natural gas and report any findings and recommendations to the Joint Legislative Energy Policy Commission on or before January 1, 2015.

PART VIII. MISCELLANEOUS PROVISIONS UNRELATED TO SHALE GAS

SECTION 29 of the PCS would repeal a provision that requires the Energy Policy Council to use an attorney assigned by the AG's office, and instead allow the Council to have legal support provided by DENR.

SECTION 30 of the PCS would adopt the gas gallon equivalent (GGE) equivalent for compressed natural gas and the (diesel gas equivalent) DGE equivalent for liquid natural gas for the purpose of motor fuel taxation. The GGE equivalent is 5.66 pounds of compressed natural gas. The DGE equivalent of liquefied natural gas is 6.06 pounds of liquefied natural gas.

PART IX. SEVERABILITY AND EFFECTIVE DATE

SECTION 31 of the PCS would provide a severability clause in the event that any section or provision of the act were declared unconstitutional or invalid by the courts, and would provide that the act would be effective when it becomes law (except as otherwise provided).

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: May 20, 2014

TO: **Senators Rucho and Rabon**

FROM: Jennifer Hoffman, Patrick McHugh, Rodney Bizzell, Amna Cameron
Fiscal Research Division

RE: **PCS to S786 v.1**

FISCAL IMPACT

☑ Yes ☐ No ☐ No Estimate Available

State Impact	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
Part IV	No Fiscal Impact				
Part V	No Estimate Available				
Part VI	No Estimate Available				
Part VIII					
Sec. 29 (Attorney Position)	$ 109,424	$ 110,170	$ 111,151	$ 112,771	$ 114,093
Sec. 30	No Estimate Available				
State Positions:	1.0				
NET STATE IMPACT	$109,424.0	$110,169.9	$111,150.6	$112,770.7	$114,092.8

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Environment and Natural Resources; Department of Revenue; Department of Justice; Department of Transportation

EFFECTIVE DATE: Effective when law except as otherwise provided.

TECHNICAL CONSIDERATIONS:
None

ASSUMPTIONS AND METHODOLOGY:

Note: A separate incarceration note will address changes to criminal penalties included in the bill.

Part IV: Create Oil and Gas Commission and Reconstitute Mining Commission: Sections 3, 4 and 5 eliminate the 15 member North Carolina Mining and Energy Commission (MEC), establish a nine member North Carolina Oil and Gas Commission and reinstate the Mining Commission to consist of seven members. The terms of the all members of the MEC expire on July 31, 2015 and new appointments to the two new commissions would be required by August 1, 2015.

No fiscal impact: The net increase in commission members due to the changes above is one new member. Staff support for the commissions will be provided from existing staff of the Department of Environment and Natural Resources (DENR). No fiscal impact is anticipated from the changes to the commissions.

Part V: Miscellaneous Statutory Changes Related to Shale Gas Exploration, Development, and Production

Section 11: This section reduces the fee due upon application to drill, from $3,000 for each well drilled, to $3,000 for the first well on a pad and $1,500 for each additional well on the same pad.

No Fiscal Estimate Available: The fiscal impact on the amount of revenue generated from the permit application fee depends on the number wells to be drilled. This number is unknown at this time.

Section 14: This section would invalidate local ordinances that prohibit or have the effect of prohibiting oil and gas exploration, development and production activities. It also sets out the procedure the Mining and Energy Commission must follow when petitioned by an operator whose proposed oil and gas activities have been prevented by a local ordinance.

No Fiscal Estimate Available: DENR noted that "considerable time" may be required to support the Commission's findings of local preemption when petitioned; however, the Department was not able to quantify this requirement. Without knowing the number of petitions to be filed or the extent to which to preempt the local ordinance, the fiscal impact can't be determined.

Section 15: This section, among other things, requires DENR to conduct an environmental compliance review of each applicant for a new permit for oil and gas activities in order to determine the extent to which the applicant has substantially complied with federal, North Carolina, and other states' laws, regulations, and rules for the protection of the environment. It sets the environmental compliance review at a minimum of five years but allows the Department to establish a longer period of time. It provides the Department with the discretion to determine whether the environmental compliance review extends to the history of the parents, subsidiaries, or other affiliates of the applicant. It directs the Department to determine the scope of the review and to determine when the applicant has "substantially complied" with the requirements applicable to any activity in which the applicant, or affiliated entity, has previously engaged.

No Fiscal Estimate Available: The fiscal impact is dependent on a number of factors, none of which are known at this time, including: 1) the applications to be received, 2) the number of affiliated entities subject to the review, 3) the scope of the review, and 3) the definitive period of time covered by the review.

Part VI: Severance Tax

Sections 17 – 19: These sections would repeal North Carolina's current severance tax on the removal of energy minerals from the soil and water of the State, and would create a new severance tax structure for the extraction of oil, gas, and related condensates. The current tax is five mills on each barrel of oil (the equivalent of .5¢ per barrel of oil) and one-half mill on each 1000 cubic feet of gas (the equivalent of .05¢ per 1000 cubic feet of gas). No tax is collected under the current law. The new severance tax would add condensates to the tax base, raise the tax rate on oil, and create a floating tax rate for gas.

Energy minerals are defined in the draft to include all forms of natural gas, oil, and related condensates. Thirty-three states, including North Carolina, currently impose some form of severance taxes on the extraction of oil and gas. Of the 33 states, 25 states impose a tax as a percentage of the value of the resource extracted, 7 states impose a tax on the volume extracted, and 1 state imposes a tax that is a combination of the two methods. This proposal creates a severance tax structure that treats oil and condensates, marginal gas, and natural gas differently. In addition, the rates charged generally increase in the out years. For a complete breakdown of the tax rates included in this proposal, see the bill summary.

> No Fiscal Estimate Available: It is impossible to estimate the level of severance tax revenues that may be generated as a result of this proposal. First, the natural gas reserves in North Carolina remain untested, so it is unclear how much recoverable gas exists. Second, it is unclear what price points would make the natural gas and related condensates in North Carolina economically recoverable. Third, given the recent volatility in natural gas and condensate commodity prices, it is unclear when the market will justify substantial extraction activities in North Carolina. As a result of these factors, it is unclear if substantial exploration or extraction activities will occur in North Carolina within the next five years. In addition, this proposal creates a variable rate structure that is tied to the delivered market price for natural gas, further complicating any revenue projection.

Part VIII: Miscellaneous Provisions Unrelated to Shale Gas

Section 29: This section repeals a provision that requires the Energy Policy Council to use an attorney assigned by the Attorney General's Office, and instead allows the Council to have legal support provided by DENR.

> Fiscal Impact: The Energy Policy Council was transferred from the Department of Commerce to the DENR effective July 1, 2013. In past ten months, the Department has reassigned two attorneys who have worked approximately half time to support the Council. It is anticipated that the Council will need this level of legal support for the foreseeable future. An additional Attorney position budgeted at the middle of the salary range is $85,312, or $109,424 with benefits.

Section 30. This bill allows compressed natural gas (CNG) and liquefied natural gas (LNG) to be taxed based on the pound equivalent of a gallon of gasoline. It is not known how much tax revenues from CNG and LNG that are used for transportation purposes are currently generated. The North Carolina Department of Revenue's (DOR) motor fuel tax forms that track the type of

fuel being taxed do not include a line for LNG reporting. DOR plans to add a line to capture LNG taxes in the future. DOR captures CNG tax reporting in a line that includes propane use. North Carolina tax collections for propane/CNG are increasing. Tax collections have grown from $399,000 in FY 2011-12, to $675,000 in FY 2012-13, to $880,000 in the first 10 months of FY 2013-14. It is not known how much of this tax collection is attributable to CNG sales, but it is assumed the majority of the tax is from propane sales.

Both CNG and LNG used for non-transportation purposes are taxable under the North Carolina sales tax. It is not known how much revenue is generated from these taxes.

SOURCES OF DATA: Department of Revenue; Department of Environment and Natural Resources

TECHNICAL CONSIDERATIONS: None

SENATE SERGEANT-AT-ARMS

SENATE COMMITTEE ON FINANCE

DATE: 05-20-2014 ROOM: 643

1. CANTON LEWIS
2. HAL ROACH
3. ISAAC WALKER
4. BILLY FRITSCHER
5. _____
6. _____

SENATE PAGES ATTENDING

COMMITTEE: Finance ROOM: 643 LOB

DATE: 5-20 TIME: 4pm

PLEASE PRINT LEGIBILY!!!!!!!!!!!!!....*or else!*

Page Name	Hometown	Sponsoring Senator
1. Sally Hennessee	Harrisburg	Heartsell
2. Rachel Paramore	Hampstead	Brown
3. Carter Metcalf	Matthews	Tarte
4. Camden Diggs	Norwood	Mclaurin
5. Catie Dority	Washington	Cook
6. Tyrell Robertson	Laurinburg	Mclaurin
7.		
8.		
9.		
10.		

Do not add names below the grid.

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

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 20, 2014

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Paul Sherman	NCFB
JAKE PARKER	NCFB / State Matters Council
[illegible]	NCRMA
TJ Bugbee	NP
Marissa Jewell	K&L Gates
Amanda Honaker	Troutman Sanders
CADY THOMAS	NLRA

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 20, 2014

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Wm Nelson	Smith Anderson
Cassie Gavin	Sierra Club
Kaitlin Rothacker	McGuire Woods
Erin Wynia	NCLM
Jay Stein	NCAA
Dan Lassiter	NCSTA
Allen Hardison	CRSWMA
Paul Hogleman	Inflow Inc.
Rob Lamm	PCA
Alex Miller	KCG
John Muranski	NFO

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 20, 2014
Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Craig Adams	NCCBA
JERRY SCHILL	NC Fisheries Assoc.
Sarah Hardin	CTR
Erin Jones	TWC
Sammy Roberson	TWC
Elizabeth Owens	Environmental Coalition
Susan Valauri	Nature Conservancy
Bill McKee	DS Treas.
Chris McClure	BP
Jonathan Barbaker	Barbaker + Assoc.
Reston Jones	DOT

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 20, 2014
Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
JASON SOPER	NCDOT
Ken McMon	K.M.A.
Michelle Frazier	MFTS
MJillian DeCamp	Poyner Spruill LLP
Stephen Rouba	C.C.S.
Will Culpepper	MVA
AL MILAK	NC Dept. of Revenue
Mitch Colvin	DENR
Linda Culpepper	NCDENR
Layla Cummings	DENR
John [illegible]	MWC

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 20, 2014

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Mia Battle	Electrolux
Mildred Spearman	NCAOC
Edmund Driggs	Charlotte City Council
Steven Pennington	Commerce - LEAD
S. C Eggers	
Ashley Jones	NC DOC
Carr McLamb	NCDENR
Kees Burns	NC DENR
Suzanne Beasley	SELANC
Chuck Stone	SELANC
Jacob Ellen	NCDENR
Nadia Luhr	NCEN

VISITOR REGISTRATION SHEET

Senate Finance Committee
Name of Committee

May 20, 2014
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
ROBERT BROOME	NCAR
CADY THOMAS	NCAR

Senate Committee on Finance
Wednesday, May 21, 2014 at 10:00 AM
Room 544 of the Legislative Office Building

MINUTES

The Senate Committee on Finance met at 10:00 AM on May 21, 2014 in Room 544 of the Legislative Office Building. Thirty-two members were present.

Senator Bob Rucho, Chair, presided.

S.B. 734 – Regulatory Reform Act of 2014.

Senator Wade was recognized to explain the bill. It provides further regulatory relief to the citizens of North Carolina by providing for various administrative reforms, by eliminating certain unnecessary or outdated statutes and regulations and modernizing or simplifying cumbersome or outdated regulation, by making various other statutory changes, and by updating and amending certain environmental and natural resources laws. Senator Rabin was recognized to offer an amendment which involved the Military Lands Protection Act and included amending the Military Affairs Commission. He moved for its adoption and the motion carried. Senator Barefoot was recognized to offer an amendment which involves the transfer of water by the United Sates Army Corps of Engineers. Senator Barefoot moved for adoption and the motion carried. Senator Brock was recognized to offer an amendment which clarified jurisdiction of local laws. He moved for its adoption and the motion carried. Senator Curtis moved for a favorable report as amended and the motion carried. A copy of the bill, the summary, the fiscal memo and the amendments is attached.

The meeting adjourned at 11:31 a.m.

Senator Bob Rucho, Chair
Presiding

DeAnne Mangum, Committee Clerk

Principal Clerk ____
Reading Clerk ____

Corrected #1: The Committee will meet in room 544.

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	May 21, 2014	10:00 AM	544 LOB

Agenda to be determined.

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair .

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	May 21, 2014	10:00 AM	643 LOB

Agenda to be determined.

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Wednesday, May 21, 2014

Senator Rucho,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2

SB **734** **(CS#1)** Regulatory Reform Act of 2014.

Draft Number:	S734-PCS35535-SBxf-40
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Senator Trudy Wade will handle SB 734

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S 2

SENATE BILL 734
Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/20/14

Short Title: Regulatory Reform Act of 2014. (Public)

Sponsors:

Referred to:

May 15, 2014

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FURTHER REGULATORY RELIEF TO THE CITIZENS OF NORTH CAROLINA BY PROVIDING FOR VARIOUS ADMINISTRATIVE REFORMS, BY ELIMINATING CERTAIN UNNECESSARY OR OUTDATED STATUTES AND REGULATIONS AND MODERNIZING OR SIMPLIFYING CUMBERSOME OR OUTDATED REGULATIONS, BY MAKING VARIOUS OTHER STATUTORY CHANGES, AND BY UPDATING AND AMENDING CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES LAWS.

The General Assembly of North Carolina enacts:

PART I. ADMINISTRATIVE REFORMS

HARDISON AMENDMENT CLARIFICATION

SECTION 1.1.(a) G.S. 150B-19.3 reads as rewritten:

"**§ 150B-19.3. Limitation on certain environmental rules.**

(a) An agency authorized to implement and enforce State and federal environmental laws may not adopt a rule for the protection of the environment or natural resources that imposes a more restrictive standard, limitation, or requirement than those imposed by federal law or rule, if a federal law or rule pertaining to the same subject matter has been adopted, unless adoption of the rule is required by one of the ~~following:~~subdivisions of this subsection. A rule required by one of the subdivisions of this subsection shall be subject to the provisions of G.S. 150B-21.3(b1) as if the rule received written objections from 10 or more persons under G.S. 150B-21.3(b2).

(1) A serious and unforeseen threat to the public health, safety, or welfare.
(2) An act of the General Assembly or United States Congress that expressly requires the agency to adopt rules.
(3) A change in federal or State budgetary policy.
(4) A federal regulation required by an act of the United States Congress to be adopted or administered by the State.
(5) A court order.

(b) For purposes of this section, "an agency authorized to implement and enforce State and federal environmental laws" means any of the following:

(1) The Department of Environment and Natural Resources created pursuant to G.S. 143B-279.1.
(2) The Environmental Management Commission created pursuant to G.S. 143B-282.

(3) The Coastal Resources Commission established pursuant to G.S. 113A-104.
(4) The Marine Fisheries Commission created pursuant to G.S. 143B-289.51.
(5) The Wildlife Resources Commission created pursuant to G.S. 143-240.
(6) The Commission for Public Health created pursuant to G.S. 130A-29.
(7) The Sedimentation Control Commission created pursuant to G.S. 143B-298.
(8) The North Carolina Mining and Energy Commission created pursuant to G.S. 143B-293.1.
(9) The Pesticide Board created pursuant to G.S. 143-436."

SECTION 1.1.(b) G.S. 150B-21.3A(a) reads as rewritten:

"**§ 150B-21.3A. Periodic review and expiration of existing rules.**

(a) Definitions. – For purposes of this section, the following definitions apply:

...

(3) Necessary with substantive public interest. – Means any rule for which the agency has received public comments within the past two years. A rule is also "necessary with substantive public interest" if either or both of the following applies:

a. ~~the~~ The rule affects the property interest of the regulated public and the agency knows or suspects that any person may object to the rule.

b. The rule imposes a more restrictive standard, limitation, or requirement than those imposed by federal law or rule, if a federal law or rule pertaining to the same subject matter has been adopted."

SECTION 1.1.(c) Section 1.1(a) of this section becomes effective July 1, 2014, and applies to rules adopted or readopted on or after that date. Section 1.1(b) of this section becomes effective August 23, 2013, and applies to rules reviewed on or after that date.

SCOPE OF LOCAL AUTHORITY FOR ORDINANCES

SECTION 1.2.(a) Section 10.2 of S.L. 2013-413 is repealed.

SECTION 1.2.(b) No later than November 1, 2014, and November 1, 2015, the Department of Agriculture and Consumer Services shall report to the Environmental Review Commission on any local government ordinances that impinge on or interfere with any area subject to regulation by the Department.

SECTION 1.2.(c) No later than November 1, 2014, and November 1, 2015, the Department of Environment and Natural Resources shall report to the Environmental Review Commission on any local government ordinances that impinge on or interfere with any area subject to regulation by the Department.

SECTION 1.2.(d) Article 56 of Chapter 106 of the General Statutes is amended by adding a new section to read:

"**§ 106-678. Authority of local governments to regulate fertilizers.**

No county or city shall adopt or continue in effect any ordinance, rule, regulation, or resolution regulating the use, sale, distribution, storage, transportation, disposal, formulation, labeling, registration, manufacture, or application of fertilizer. Nothing in this section shall prohibit a county, city, or other political subdivision of the State from exercising its planning and zoning authority under Article 19 of Chapter 160A of the General Statutes or Article 18 of Chapter 153A of the General Statutes or from exercising its fire prevention or inspection authority. Nothing in this section shall limit the authority of the Department of Environment and Natural Resources to enforce water quality standards."

LOTTERY OVERSIGHT COMMITTEE ELIMINATED

SECTION 1.4.(a) G.S. 18C-172 is repealed.

SECTION 1.4.(b) G.S. 18C-115 reads as rewritten:

"**§ 18C-115. Reports.**

The Commission shall send quarterly and annual reports on the operations of the Commission to the Governor, State Treasurer, ~~the Lottery Oversight Committee,~~ and to the General Assembly. The reports shall include complete statements of lottery revenues, prize disbursements, expenses, net revenues, and all other financial transactions involving lottery funds, including the occurrence of any audit."

REPRESENTATION OF SMALL BUSINESS ENTITIES IN ADMINISTRATIVE APPEALS

SECTION 1.5.(a) G.S. 150B-23(a) reads as rewritten:

"(a) A contested case shall be commenced by paying a fee in an amount established in G.S. 150B-23.2 and by filing a petition with the Office of Administrative Hearings and, except as provided in Article 3A of this Chapter, shall be conducted by that Office. The party who files the petition shall serve a copy of the petition on all other parties and, if the dispute concerns a license, the person who holds the license. A party who files a petition shall file a certificate of service together with the petition. A petition shall be signed by a party, an attorney representing a party, or other representative of the party as may specifically be authorized by law, and, if filed by a party other than an agency, shall state facts tending to establish that the agency named as the respondent has deprived the petitioner of property, has ordered the petitioner to pay a fine or civil penalty, or has otherwise substantially prejudiced the petitioner's rights and that the agency:

(1) Exceeded its authority or jurisdiction;
(2) Acted erroneously;
(3) Failed to use proper procedure;
(4) Acted arbitrarily or capriciously; or
(5) Failed to act as required by law or rule.

The parties in a contested case shall be given an opportunity for a hearing without undue delay. Any person aggrieved may commence a contested case hereunder.

A local government employee, applicant for employment, or former employee to whom Chapter 126 of the General Statutes applies may commence a contested case under this Article in the same manner as any other petitioner. The case shall be conducted in the same manner as other contested cases under this Article.

If the party is a small business entity, it may be represented by one or more of its owners with the written consent of all the owners, and the Office of Administrative Hearings may not require that the entity retain or be represented by an attorney. A small business entity is a limited liability company or a corporation that is owned, directly or indirectly, by no more than two individuals. An individual is an indirect owner if the individual is a member or shareholder of a limited liability company or a corporation that is an owner of the small business entity."

SECTION 1.5.(b) G.S. 105-290 is amended by adding a new subsection to read:

"(d2) Small Business Entity Representation. – If a property owner is a small business entity, that entity may be represented by one or more of its owners with the written consent of all the owners, and the Commission may not require that the entity retain or be represented by an attorney. A small business entity is a limited liability company or a corporation that is owned, directly or indirectly, by no more than two individuals. An individual is an indirect owner if the individual is a member or shareholder of a limited liability company or a corporation that is an owner of the small business entity."

SECTION 1.5.(c) This section is effective when it becomes law and applies to contested cases and appeals commenced on or after that date.

EXEMPT SMALL BUSINESS ENTITIES BUYING OR SELLING ENTITY-OWNED PROPERTY

SECTION 1.6.(a) G.S. 93A-2(c)(1) reads as rewritten:

"(c) The provisions of G.S. 93A-1 and G.S. 93A-2 do not apply to and do not include:

(1) Any partnership, corporation, limited liability company, association, or other business entity that, as owner or lessor, shall perform any of the acts aforesaid with reference to property owned or leased by them, where the acts are performed in the regular course of or as incident to the management of that property and the investment therein. The exemption from licensure under this subsection shall extend to the following persons when those persons are engaged in acts or services for which the corporation, partnership, limited liability company, or other business entity would be exempt hereunder:

a. The officers and employees of an exempt ~~corporation, the~~ corporation.

b. The general partners and employees of an exempt ~~partnership, and the~~partnership.

c. The managers and employees of an exempt limited liability ~~company when said persons are engaged in acts or services for which the corporation, partnership, or limited liability company would be exempt hereunder.~~company.

d. The owners of an exempt closely held business entity. For purposes of this subdivision, a closely held business entity is a limited liability company or a corporation with no more than two legal owners.

e. The officers, managers, and employees of a closely held business entity owned by a person exempt under sub-subdivision d. of this subdivision."

REDUCE STATE AGENCY MOBILE DEVICE REPORTING FREQUENCY

SECTION 1.7 Subsection 6A.14(a) of Session Law 2011-145 reads as rewritten:

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

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

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

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

ELIMINATE, AS OBSOLETE, THE SMALL BUSINESS CONTRACTOR AUTHORITY, THE COMMITTEE ON DROPOUT PREVENTION, THE STATE EDUCATION COMMITTEE, THE STATE EDUCATION COMMISSION, THE NATIONAL HERITAGE AREA DESIGNATION COMMISSION, THE GOVERNOR'S MANAGEMENT COUNCIL, THE BOARD OF DIRECTORS OF THE NORTH CAROLINA CENTER FOR NURSING, THE BOARD OF CORRECTIONS; AND TO ENCOURAGE THE CHIEF JUSTICE TO ABOLISH THE ACTUAL INNOCENCE COMMISSION

SECTION 1.8.(a) Part 20 of Article 10 of Chapter 143B of the General Statutes is repealed.

SECTION 1.8.(b) Section 7.32(e) of S.L. 2007-323, as rewritten by Section 7.14(a) of S.L. 2008-107 and Section 7.19(e) of S.L. 2010-31, reads as rewritten:

"**SECTION 7.32.(e)** Report. – The Committee shall report to the Joint Legislative Commission on Dropout Prevention and High School Graduation created in subsection (f) of this section by December 1, 2007, on the grants awarded under subsection (d) of this section. The Committee shall terminate July 1, 2014."

SECTION 1.8.(c) G.S. 116C-1 reads as rewritten:

"**§ 116C-1. Education Cabinet created.**

(a) The Education Cabinet is created. The Education Cabinet shall be located administratively within, and shall exercise its powers within existing resources of, the Office of the Governor. However, the Education Cabinet shall exercise its statutory powers independently of the Office of the Governor.

(b) The Education Cabinet shall consist of the Governor, who shall serve as chair, the President of The University of North Carolina, the State Superintendent of Public Instruction, the Chairman of the State Board of Education, the President of the North Carolina Community Colleges System, the Secretary of Health and Human Services, and the President of the North Carolina Independent Colleges and Universities. The Education Cabinet may invite other representatives of education to participate in its deliberations as adjunct members.

(c) The Education Cabinet shall be a nonvoting body that:

(1) Works to resolve issues between existing providers of education.
~~(2) Sets the agenda for the State Education Commission.~~
(3) Develops a strategic design for a continuum of education programs, in accordance with G.S. 116C-3.
(4) Studies other issues referred to it by the Governor or the General Assembly.

(d) The Office of the Governor, in coordination with the staffs of The University of North Carolina, the North Carolina Community College System, and the Department of Public Instruction, shall provide staff to the Education Cabinet."

SECTION 1.8.(d) G.S. 116C-2 is repealed.

SECTION 1.8.(e) Article 26 of Chapter 143 of the General Statutes is repealed.

SECTION 1.8.(f) Section 18.10 of S.L. 2001-491 reads as rewritten:

"**SECTION 18.10.** Notwithstanding G.S. 158-8.1, the Western North Carolina Regional Economic Development Commission shall develop a regional heritage tourism plan and shall present the plan to the 2002 Regular Session of the 2001 General Assembly no later than May 1, 2002. The National Heritage Area Designation Commission created pursuant to Section 18.4 of this act shall terminate July 1, 2014."

SECTION 1.8.(g) Part 24 of Article 9 of Chapter 143B is repealed.

SECTION 1.8.(h) G.S. 90-171.71 is repealed.

SECTION 1.8.(i) G.S. 143B-711 reads as rewritten:

"**§ 143B-711. Division of Adult Correction of the Department of Public Safety – organization.**

The Division of Adult Correction of the Department of Public Safety shall be organized initially to include the Post-Release Supervision and Parole Commission, ~~the Board of Correction,~~the Section of Prisons of the Division of Adult Correction, the Section of Community Corrections, the Section of Alcoholism and Chemical Dependency Treatment Programs, and such other divisions as may be established under the provisions of the Executive Organization Act of 1973."

SECTION 1.8.(j) G.S. 143B-715 is repealed.

SECTION 1.8.(k) The North Carolina Actual Innocence Commission was established by the Chief Justice of the North Carolina Supreme Court. Its primary purpose was to make recommendations which would reduce or eliminate the possibility of the wrongful conviction of an innocent person. In 2006, the General Assembly enacted S.L. 2006-184, which established the North Carolina Innocence Inquiry Commission, as recommended by the North Carolina Actual Innocence Commission. Inasmuch as it appears that the work of the Actual Innocence Commission is complete, the Chief Justice of the North Carolina Supreme Court is encouraged to take appropriate action to formally abolish the Commission.

CLARIFY PROCESS FOR READOPTION OF EXISTING RULES

SECTION 1.9. G.S. 150B-21.3A(d) reads as rewritten:

"(d) Timetable. – The Commission shall establish a schedule for the review and readoption of existing rules in accordance with this section on a decennial basis as follows:

(1) With regard to the review process, the Commission shall assign ~~by assigning~~ each Title of the Administrative Code a date by which the review required by this section must be completed. In establishing the schedule, the Commission shall consider the scope and complexity of rules subject to this section and the resources required to conduct the review required by this section. The Commission shall have broad authority to modify the schedule and extend the time for review in appropriate circumstances. Except as provided in ~~subsection~~ subsections (d1) and (e) of this section, if the agency fails to conduct the review by the date set by the Commission, the rules contained in that Title which have not been reviewed will expire. The Commission shall report to the Committee any agency that fails to conduct the review. The Commission may exempt rules that have been adopted or amended within the previous 10 years from the review required by this section. However, any rule exempted on this basis must be reviewed in accordance with this section no more than 10 years following the last time the rule was amended.

(2) With regard to the readoption of rules as required by sub-subdivision (c)(2)g. of this section, once the final determination report becomes effective, the Commission shall establish a date by which the agency must readopt the

rules. The Commission shall consult with the agency and shall consider the agency's rule-making priorities in establishing the readoption date. The agency may amend a rule as part of the readoption process. If a rule is readopted without change, the agency is not required to prepare a fiscal note as provided by G.S. 150B-21.4."

AUTHORIZE LICENSING BOARDS TO ADOPT RULES FOR PROFESSIONAL CORPORATIONS

SECTION 1.10. G.S. 55B-12 reads as rewritten:

"**§ 55B-12. Application of regulations of licensing boards.**

(a) A professional corporation shall be subject to the applicable rules and regulations adopted by, and all the disciplinary powers of, the licensing board as herein defined. Nothing in this Chapter shall impair the disciplinary powers of any licensing board applicable to a licensee as herein defined. No professional corporation may do any act which its shareholders as licensees are prohibited from doing.

(b) Subject to the requirements of Article 2A of Chapter 150B of the General Statutes, any licensing board subject to this Chapter may adopt rules to implement the provisions of this Chapter, including any rules needed to establish fees within the limits set by this Chapter."

OCCUPATIONAL LICENSING BOARD REPORTING AMENDMENTS

SECTION 1.11. G.S. 93B-2 reads as rewritten:

"**§ 93B-2. Annual reports required; contents; open to inspection; sanction for failure to report.**

(a) No later than October 31 of each year, each occupational licensing board shall file electronically with the Secretary of State, the Attorney General, and the Joint ~~Regulatory Reform~~Legislative Administrative Procedure Oversight Committee an annual report containing all of the following information:

(1) The address of the board, and the names of its members and officers.

(1a) The total number of licensees supervised by the board.

(2) The number of persons who applied to the board for examination.

(3) The number who were refused examination.

(4) The number who took the examination.

(5) The number to whom initial licenses were issued.

(5a) The number who failed the examination.

(6) The number who applied for license by reciprocity or comity.

(7) The number who were granted licenses by reciprocity or comity.

(7a) The number of official complaints received involving licensed and unlicensed activities.

(7b) The number of disciplinary actions taken against licensees, or other actions taken against nonlicensees, including injunctive relief.

(8) The number of licenses suspended or revoked.

(9) The number of licenses terminated for any reason other than failure to pay the required renewal fee.

(10) The substance of any anticipated request by the occupational licensing board to the General Assembly to amend statutes related to the occupational licensing board.

(11) The substance of any anticipated change in rules adopted by the occupational licensing board or the substance of any anticipated adoption of new rules by the occupational licensing board.

(b) No later than October 31 of each year, each occupational licensing board shall file electronically with the Secretary of State, the Attorney General, the Office of State Budget and

Management, and the Joint ~~Regulatory Reform~~Legislative Administrative Procedure Oversight Committee a financial report that includes the source and amount of all funds credited to the occupational licensing board and the purpose and amount of all funds disbursed by the occupational licensing board during the previous fiscal year.

(c) The reports required by this section shall be open to public inspection.

(d) The Joint Legislative Administrative Procedure Oversight Committee shall notify any board that fails to file the reports required by this section. Failure of a board to comply with the reporting requirements of this section by October 31 of each year shall result in a suspension of the board's authority to expend any funds until such time as the board files the required reports. Suspension of a board's authority to expend funds under this subsection shall not affect the board's duty to issue and renew licenses or the validity of any application or license for which fees have been tendered in accordance with law. Each board shall adopt rules establishing a procedure for implementing this subsection and shall maintain an escrow account into which any fees tendered during a board's period of suspension under this subsection shall be deposited."

OAH ELECTRONIC FILING

SECTION 1.12.(a) Article 3 of Chapter 150B of the General Statutes is amended by adding a new section to read:

"**§ 150B-23.3. Electronic filing.**

(a) In addition to any other method specified in G.S. 150B-23, documents filed and served in a contested case may be filed and served electronically by means of an Electronic Filing Service Provider. For purposes of this section, the following definitions apply:

(1) Electronic filing means the electronic transmission of the petition, notice of hearing, pleadings, or any other documents filed in a contested case with the Office of Administrative Hearings, as further defined by rules adopted by the Office of Administrative Hearings.

(2) Electronic Filing Service Provider (EFSP) means the service provided by the Office of Administrative Hearings for e-filing and e-service of documents via the Internet.

(3) Electronic service means the electronic transmission of the petition, notice of hearing, pleadings, or any other documents in a contested case, as further defined by rules adopted by the Office of Administrative Hearings."

SECTION 1.12.(b) This section is effective when it becomes law and applies to contested cases filed on or after that date.

STATE BOARD OF EDUCATION RULEMAKING CLARIFICATION

SECTION 1.13.(a) G.S. 115C-12 reads as rewritten:

"**§ 115C-12. Powers and duties of the Board generally.**

The general supervision and administration of the free public school system shall be vested in the State Board of Education. The State Board of Education shall establish policy for the system of free public schools, subject to laws enacted by the General Assembly. The State Board of Education is subject to Article 2A of Chapter 150B of the General Statutes. The State Board of Education may not implement or enforce against any person a policy that meets the definition of a rule contained in G.S. 150B-2(8a) if the policy has not been adopted as a rule in accordance with Article 2A of Chapter 150B of the General Statutes. The powers and duties of the State Board of Education are defined as follows:

...."

SECTION 1.13.(b) G.S. 150B-23 is amended by adding a new subsection to read:

"(a4) If an agency fails to take any required action within the time period specified by law, any person whose rights are substantially prejudiced by the agency's failure to act may

commence a contested case in accordance with this section seeking an order that the agency act as required by law. If the administrative law judge finds that the agency has failed to act as required by law, the administrative law judge may order that the agency take the required action within a specified time period."

SECTION 1.13.(c) G.S. 150B-44 reads as rewritten:

"**§ 150B-44. Right to judicial intervention when final decision unreasonably delayed.**

~~Unreasonable delay on the part of any agency or administrative law judge in taking any required action shall be justification for any person whose rights, duties, or privileges are adversely affected by such delay to seek a court order compelling action by the agency or administrative law judge.~~ Failure of an administrative law judge subject to Article 3 of this Chapter or failure of an agency subject to Article 3A of this Chapter to make a final decision within 120 days of the close of the contested case hearing is justification for a person whose rights, duties, or privileges are adversely affected by the delay to seek a court order compelling action by the agency or by the administrative law judge. ~~The Board of Trustees of the North Carolina State Health Plan for Teachers and State Employees is a "board" for purposes of this section.~~"

STREAMLINE RULE-MAKING PROCESS

SECTION 1.14.(a) G.S. 150B-19.1(h) is repealed.

SECTION 1.14.(b) G.S. 150B-21.4(b1) reads as rewritten:

"(b1) Substantial Economic Impact. – Before an agency adopts a permanent rule change that would have a substantial economic impact and that is not identical to a federal regulation that the agency is required to adopt, the agency shall prepare a fiscal note for the proposed rule change and have the note approved by the Office of State Budget and Management. The agency must also obtain from the Office a certification that the agency adhered to the regulatory principles set forth in G.S. 150B-19.1(a)(2), (5), and (6). The agency may request the Office of State Budget and Management to prepare the fiscal note only after, working with the Office, it has exhausted all resources, internal and external, to otherwise prepare the required fiscal note. If an agency requests the Office of State Budget and Management to prepare a fiscal note for a proposed rule change, that Office must prepare the note within 90 days after receiving a written request for the note. If the Office of State Budget and Management fails to prepare a fiscal note within this time period, the agency proposing the rule change shall prepare a fiscal note. A fiscal note prepared in this circumstance does not require approval of the Office of State Budget and Management.

If an agency prepares the required fiscal note, the agency must submit the note to the Office of State Budget and Management for review. The Office of State Budget and Management shall review the fiscal note within 14 days after it is submitted and either approve the note or inform the agency in writing of the reasons why it does not approve the fiscal note. After addressing these reasons, the agency may submit the revised fiscal note to that Office for its review. If an agency is not sure whether a proposed rule change would have a substantial economic impact, the agency shall ask the Office of State Budget and Management to determine whether the proposed rule change has a substantial economic impact. Failure to prepare or obtain approval of the fiscal note as required by this subsection shall be a basis for objection to the rule under G.S. 150B-21.9(a)(4).

As used in this subsection, the term "substantial economic impact" means an aggregate financial impact on all persons affected of at least one million dollars ($1,000,000) in a 12-month period. In analyzing substantial economic impact, an agency shall do the following:

(1) Determine and identify the appropriate time frame of the analysis.

(2) Assess the baseline conditions against which the proposed rule is to be measured.

(3) Describe the persons who would be subject to the proposed rule and the type of expenditures these persons would be required to make.

(4) Estimate any additional costs that would be created by implementation of the proposed rule by measuring the incremental difference between the baseline and the future condition expected after implementation of the rule. The analysis should include direct costs as well as opportunity costs. Cost estimates must be monetized to the greatest extent possible. Where costs are not monetized, they must be listed and described.

(5) For costs that occur in the future, the agency shall determine the net present value of the costs by using a discount factor of seven percent (7%)."

SECTION 1.14.(c) This section is effective when it becomes law and applies to proposed rules published on or after that date.

BURDEN OF PROOF IN CERTAIN CONTESTED CASES

SECTION 1.15.(a) Article 3 of Chapter 150B of the General Statutes is amended by adding a new section to read:

"**§ 150B-25.1. Burden of proof.**

(a) Except as provided by this section, the petitioner in a contested case has the burden of proving the facts alleged in the petition by a preponderance of the evidence.

(b) In a contested case involving the imposition of civil fines or penalties by a State agency for violation of the law, the burden of showing that the person who was fined actually committed the act for which the fine or penalty was imposed rests with the State agency.

(c) The burden of showing that a career State employee subject to Chapter 126 of the General Statutes was discharged, suspended, or demoted for just cause rests with the agency employer."

SECTION 1.15.(b) The Joint Legislative Administrative Procedure Oversight Committee shall study whether there are other categories of contested cases in which the burden of proof should be placed with the agency.

SECTION 1.15.(c) This section is effective when it becomes law and applies to contested cases commenced on or after that date.

LEGISLATIVE APPOINTMENTS

SECTION 1.16.(a) G.S. 120-121 is amended by adding two new subsections to read:

"(e) The following applies in any case where the Speaker of the House of Representatives or the President Pro Tempore of the Senate is directed by law to make a recommendation for an appointment by the General Assembly, and the legislator is also directed to make the recommendation in consultation with or upon the recommendation of a third party:

(1) The recommendation or consultation is discretionary and is not binding upon the legislator.

(2) The third party must submit the recommendation or consultation at least 60 days prior to the expiration of the term or within 10 business days from the occurrence of a vacancy.

(3) Failure by the third party to submit the recommendation or consultation to the legislator within the time periods required under this subsection shall be deemed a waiver by the third party of the opportunity.

(f) The following applies in any case where the Speaker of the House of Representatives or the President Pro Tempore of the Senate is directed by law to make a recommendation for an appointment by the General Assembly and the legislator is also directed to make the recommendation from nominees provided by a third party:

(1) The third party must submit the nominees at least 60 days prior to the expiration of the term or within 10 business days from the occurrence of a vacancy.

(2) Failure by the third party to submit the nomination to the legislator within the time periods required under this subsection shall be deemed a waiver by the third party of the opportunity."

SECTION 1.16.(b) Article 16 of Chapter 120 of the General Statutes is amended by adding a new section to read:

"**§ 120-124. Appointments made by legislators.**

(a) In any case where a legislator is called upon by law to appoint a member to a board or commission upon the recommendation of or in consultation with a third party, the recommendation or consultation is discretionary and is not binding upon the legislator. The third party must submit the recommendation or consultation at least 60 days prior to the expiration of the term or within 10 business days from the occurrence of a vacancy.

(b) In any case where a legislator is called upon by law to appoint a member to a board or commission from nominees provided by a third party, the third party must submit the nominees at least 60 days prior to the expiration of the term or within 10 business days from the occurrence of a vacancy. This subsection does not apply to nominations made under G.S. 120-99(a) or G.S. 120-100(b).

(c) Failure to submit the recommendation, consultation, or nomination within the time periods required under this section shall be deemed a waiver by the third party of the opportunity."

SECTION 1.16.(c) This section is effective when it becomes law and applies to recommendations, consultations, and nominations made on or after that date.

PART II. PERMITTING REFORMS

CAPSTONE PERMITTING

SECTION 2.1. G.S. 150B-23 is amended by adding a new subsection to read:

"**§ 150B-23. Commencement; assignment of administrative law judge; hearing required; notice; intervention.**

...

(g) Where multiple licenses are required from an agency for a single activity, the Secretary or chief administrative officer of the agency may issue a written determination that the administrative decision reviewable under Article 3 of this Chapter occurs on the date the last license for the activity is issued, denied, or otherwise disposed of. The written determination of the administrative decision is not reviewable under this Article. Any licenses issued for the activity prior to the date of the last license identified in the written determination are not reviewable under this Article until the last license for the activity is issued, denied, or otherwise disposed of. A contested case challenging the last license decision for the activity may include challenges to agency decisions on any of the previous licenses required for the activity."

CONTESTED CASES FOR AIR QUALITY PERMITS

SECTION 2.2. G.S. 143-215.108 reads as rewritten:

"**§ 143-215.108. Control of sources of air pollution; permits required.**

...

(e) A permit ~~applicant, permittee, or third party~~applicant or permittee who is dissatisfied with a decision of the Commission on a permit application may commence a contested case by filing a petition under G.S. 150B-23 within 30 days after the Commission notifies the applicant or permittee of its decision. If the permit ~~applicant, permittee, or third~~

~~party~~applicant or permittee does not file a petition within the required time, the Commission's decision on the application is final and is not subject to review. The filing of a petition under this subsection will stay the Commission's decision until resolution of the contested case.

(e1) A person other than a permit applicant or permittee who is a person aggrieved by the Commission's decision on a permit application may commence a contested case by filing a petition under G.S. 150B-23 within 30 days after the Commission provides notice of its decision on a permit application, as provided in G.S. 150B-23(f), or by posting the decision on a publically available Web site. "Substantial prejudice" to the petitioner in a contested case filed under this subsection means the exceedance of a national ambient air quality standard. The filing of a petition under this subsection does not stay the Commission's decision except as ordered by the administrative law judge under G.S. 150B-33(b).

...."

CLOSURE OF CERTAIN ANIMAL WASTE CONTAINMENT BASINS

SECTION 2.3. Part 1A of Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-215.10J Closure of certain animal waste containment basins.**

(a) The Department shall consider any waste containment basin to be a fresh water storage facility meeting all requirements for closure under 15A NCAC 02T. 1306 if the owner of the basin demonstrates to the satisfaction of the Department that the basin meets all of the following requirements:

(1) The basin has been used only for the containment of dairy cattle waste.

(2) The basin was constructed prior to 1967.

(3) The basin has not been used for the containment of dairy cattle waste after September 1, 2006, and the only liquid currently held in the basin is from rainwater or rainwater runoff.

(4) Nitrogen levels in the basin water do not exceed 40 parts per million.

(b) The Department shall provide written notification to the owner of a basin meeting the requirements of subsection (a) of this section that the basin is no longer considered an animal waste management system."

CONTESTED CASES FOR CAMA PERMITS

SECTION 2.4. G.S. 113A-121.1 reads as rewritten:

"**§ 113A-121.1. Administrative review of permit decisions.**

(a) An applicant for a minor or major development permit who is dissatisfied with the decision on his application may file a petition for a contested case hearing under G.S. 150B-23 within 20 days after the decision is made. When a local official makes a decision to grant or deny a minor development permit and the Secretary is dissatisfied with the decision, the Secretary may file a petition for a contested case within 20 days after the decision is made.

(b) A person other than a permit applicant or the Secretary who is dissatisfied with a decision to deny or grant a minor or major development permit may file a petition for a contested case hearing only if the Commission determines that a hearing is appropriate. A request for a determination of the appropriateness of a contested case hearing shall be made in writing and received by the Commission within 20 days after the disputed permit decision is made. A determination of the appropriateness of a contested case shall be made within 15 days after a request for a determination is received and shall be based on whether the person seeking to commence a contested case:

(1) Has alleged that the decision is contrary to a statute or rule;

(2) Is directly affected by the decision; and

(3) Has alleged facts or made legal arguments that demonstrate that the request for the hearing is not frivolous.

If the Commission determines a contested case is appropriate, the petition for a contested case shall be filed within 20 days after the Commission makes its determination. A determination that a person may not commence a contested case is a final agency decision and is subject to judicial review under Article 4 of Chapter 150B of the General Statutes. If, on judicial review, the court determines that the Commission erred in determining that a contested case would not be appropriate, the court shall remand the matter for a contested case hearing under G.S. 150B-23 and final decision on the permit pursuant to G.S. 113A-122. Decisions in such cases shall be rendered pursuant to those rules, regulations, and other applicable laws in effect at the time of the commencement of the contested case.

(c) ~~A~~ When the applicant seeks administrative review of a decision concerning a permit under subsection (a) of this section, the permit is suspended from the time a person seeks administrative review of the decision concerning the permit until the Commission ~~determines that the person seeking the review cannot commence a contested case or the Commission~~ makes a final decision in ~~a~~ the contested ~~case, as appropriate,~~case, and no action may be taken during that time that would be unlawful in the absence of a permit.

(d) A permit challenged under subsection (b) of this section remains in effect unless a stay is issued by the administrative law judge as set forth in G.S. 150B-33 or by a reviewing court as set forth in G.S. 150B-48."

GUBERNATORIAL ENVIRONMENTAL PERMIT WAIVER AUTHORITY

SECTION 2.5.(a) G.S. 166A-19.30(a) reads as rewritten:

"**§ 166A-19.30. Additional powers of the Governor during state of emergency.**

(a) In addition to any other powers conferred upon the Governor by law, during a gubernatorially or legislatively declared state of emergency, the Governor shall have the following powers:

(1) To utilize all available State resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of State agencies or units thereof for the purpose of performing or facilitating emergency services.

(2) To take such action and give such directions to State and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of this Article and with the orders, rules, and regulations made pursuant thereto.

(3) To take steps to assure that measures, including the installation of public utilities, are taken when necessary to qualify for temporary housing assistance from the federal government when that assistance is required to protect the public health, welfare, and safety.

(4) Subject to the provisions of the State Constitution to relieve any public official having administrative responsibilities under this Article of such responsibilities for willful failure to obey an order, rule, or regulation adopted pursuant to this Article.

(5) Through issuance of an executive order, to waive requirements for an environmental document or permit issued under Articles 1, 4, and 7 of Chapter 113A of the General Statutes for the repair, protection, safety enhancement, or replacement of a component of the State highway system that provides the sole road access to an incorporated municipality or an unincorporated inhabited area bordering the Atlantic Ocean or any coastal sound, where bridge or road conditions as a result of the events leading to the declaration of the state of emergency pose a substantial risk to public health, safety, or welfare. The executive order shall list the duration of the waiver and the activities to which the waiver applies. For purposes of this

subdivision, "coastal sound" shall have the definition set forth in G.S. 113A-103, and "replacement" shall not be interpreted to exclude a replacement that increases size or capacity or that is located in a different location than the component that is replaced."

SECTION 2.5.(b) G.S. 113A-12 is amended by adding a new subdivision to read:

"(7) The issuance of an executive order under G.S. 166A-19.30(a)(5) waiving the requirement for an environmental document."

SECTION 2.5.(c) G.S. 113A-52.01 reads as rewritten:

"**§ 113A-52.01. Applicability of this Article.**

This Article shall not apply to the following land-disturbing activities:

...

(4) For the duration of an emergency, activities essential to protect human ~~life.~~life, including activities specified in an executive order issued under G.S. 166A-19.30(a)(5)."

SECTION 2.5.(d) G.S. 113A-103(5) reads as rewritten:

"**§ 113A-103. Definitions.**

As used in this Article:

...

(5) a. "Development" means any activity in a duly designated area of environmental concern (except as provided in paragraph b of this subdivision) involving, requiring, or consisting of the construction or enlargement of a structure; excavation; dredging; filling; dumping; removal of clay, silt, sand, gravel or minerals; bulkheading, driving of pilings; clearing or alteration of land as an adjunct of construction; alteration or removal of sand dunes; alteration of the shore, bank, or bottom of the Atlantic Ocean or any sound, bay, river, creek, stream, lake, or canal; or placement of a floating structure in an area of environmental concern identified in G.S. 113A-113(b)(2) or (b)(5).

b. The following activities including the normal and incidental operations associated therewith shall not be deemed to be development under this section:

1. Work by a highway or road agency for the maintenance of an existing road, if the work is carried out on land within the boundaries of the existing ~~right-of-way;~~right-of-way, or for emergency repairs and safety enhancements of an existing road as described in an executive order issued under G.S. 166A-19.30(a)(5).

...."

FEE ROLLBACK FOR OYSTER PERMITS UNDER PRIVATE DOCKS

SECTION 2.6.(a) Subsections (l) and (m) of G.S. 113-210 are repealed.

SECTION 2.6.(b) This section becomes effective July 1, 2014.

LOCAL GOVERNMENT LEASES FOR RENEWABLE ENERGY FACILITIES

SECTION 2.7. G.S. 160A-272 reads as rewritten:

"**§ 160A-272. Lease or rental of property.**

...

(c) The council may approve a lease for the siting and operation of a renewable energy facility, as that term is defined in G.S. 62-133.8(a)(7), for a term up to ~~20~~ 25 years without treating the lease as a sale of property and without giving notice by publication of the intended lease. ~~This subsection applies to Catawba, Mecklenburg, and Wake Counties, the Cities of~~

~~Asheville, Raleigh, and Winston-Salem, and the Towns of Apex, Carrboro, Cary, Chapel Hill, Fuquay-Varina, Garner, Holly Springs, Knightdale, Morrisville, Rolesville, Wake Forest, Wendell, and Zebulon only.~~"

CLOSING-OUT SALES

SECTION 2.8. G.S. 66-77 reads as rewritten:

"**§ 66-77. License required; contents of applications; inventory required; fees; bond; extension of licenses; records; false statements.**

(a) No person shall advertise or offer for sale a stock of goods, wares or merchandise under the description of closing-out sale, or a sale of goods, wares or merchandise damaged by fire, smoke, water or otherwise, or a distress sale unless he shall have obtained a license to conduct such sale from the ~~clerk of the~~officer designated by the governing board of the city or town in which he proposes to conduct such a sale or from the officer designated by the Board of County Commissioners if the sale is conducted in an unincorporated area. The applicant for such a license shall make to ~~such clerk~~the designated officer an application ~~therefor,~~ in writing and under oath at least seven days prior to the opening date of sale, showing all the facts relating to the reasons and character of such sale, including the opening and terminating dates of the proposed sale, the opening and terminating dates of any previous distress sale or closing-out sale held by the applicant within that county during the preceding 12 months, a complete inventory of the goods, wares or merchandise actually on hand in the place ~~whereat such~~where the sale is to be conducted, and all details necessary to locate exactly and identify fully the goods, wares or merchandise to be sold. Provided, the seller in a distress sale need not file an inventory.

(b) If ~~such clerk~~ the designated officer shall be satisfied from said application that the proposed sale is of the character which the applicant desires to advertise and conduct, the ~~clerk~~ designated officer shall issue a license, upon the payment of a fee of fifty dollars ($50.00) therefor, together with a bond, payable to the city or town or county in the penal sum of five hundred dollars ($500.00), conditioned upon compliance with this Article, to the applicant authorizing him to advertise and conduct a sale of the particular kind mentioned in the application. The license fee provided for herein shall be good for a period of 30 days from its date, and if the applicant shall not complete said sale within said 30-day period then the applicant shall make application to ~~such clerk~~ the designated officer for a license for a new permit, which shall be good for an additional period of 30 days, and shall pay therefor the sum of fifty dollars ($50.00), and a second extension period of 30 days may be similarly applied for and granted by the ~~clerk~~ designated officer upon payment of an additional fee of fifty dollars ($50.00) and upon the ~~clerk~~ designated officer being satisfied that the applicant is holding a bona fide sale of the kind contemplated by this Article and is acting in a bona fide manner; provided, however, that the ~~clerk~~ designated officer may not grant an extension period as provided in this subsection if (i) the applicant conducted a distress sale immediately preceding the current sale for which the extension is applied for and (ii) the period of the extension applied for, when added to the period of the preceding sale and the period of the current sale, will exceed 120 days. No additional bond shall be required in the event of one or more extensions as herein provided for. Any merchant who shall have been conducting a business in the same location where the sale is to be held for a period of not less than one year, prior to the date of holding such sale, or any merchant who shall have been conducting a business in one location for such period but who shall, by reason of the building being untenantable or by reason of the fact that said merchant shall have no existing lease or ownership of the building and shall be forced to hold such sale at another location, shall be exempted from the payment of the fees and the filing of the bond herein provided for.

...."

PART III. REGULATORY AND STATUTORY MODIFICATIONS

REGULATION OF IMPACT TO ISOLATED WETLANDS

SECTION 3.1.(a) Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to subsection (c) of this section, the Commission and the Department of Environment and Natural Resources shall implement 15A NCAC 02H .1305 (Review of Applications) as provided in subsection (c) of this section.

SECTION 3.1.(b) Notwithstanding 15A NCAC 02H .1305 (Review of Applications), both of the following shall apply to the implementation of 15A NCAC 02H .1305:

(1) The amount of impacts of isolated wetlands under 15A NCAC 02H .1305(d)(2) shall be less than or equal to 1 acre of isolated wetlands for the entire project.

(2) The mitigation ratio under 15A NCAC 02H .1305(g)(6) shall be 1:1.

SECTION 3.1.(c) The Environmental Management Commission shall adopt a rule to amend 15A NCAC 02H .1305 (Review of Applications) consistent with subsection (b) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (b) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 3.1.(d) The Department of Environment and Natural Resources shall study the surface area thresholds for the regulation of mountain bog isolated wetlands, including whether mountain bog isolated wetlands should have surface area regulatory thresholds different from other types of isolated wetlands. The Department shall report its findings and recommendations to the Environmental Review Commission on or before November 1, 2014.

SECTION 3.1.(e) Subsection (b) of this section expires on the date that rules adopted pursuant to subsection (c) of this section become effective.

COMMUNITY COLLEGE BREWING COURSE WAIVER

SECTION 3.2.(a) Article 11 of Chapter 18B of the General Statutes is amended by adding a new section to read:

"**§ 18B-1114.6. Brewing, Distillation, and Fermentation course authorization.**

(a) Authorization. – The holder of a brewing, distillation, and fermentation course authorization may:

(1) Manufacture malt beverages on the school's campus or the school's contracted or leased property for the purpose of providing instruction and education on the making of malt beverages.

(2) Possess malt beverages manufactured during the brewing, distillation, and fermentation program for the purpose of conducting malt beverage tasting seminars and classes for students who are 21 years of age or older.

(3) Sell malt beverages produced during the course to wholesalers or to retailers upon obtaining a malt beverages wholesaler permit under G.S. 18B-1109, except that the permittee may not receive shipments of malt beverages from other producers.

(4) Sell malt beverages produced during the course, upon obtaining a permit under G.S. 18B-1001(2).

(b) Limitation. – Authorization for a brewing, distillation, and fermentation course shall be granted by the Commission only for a community college or college that offers a brewing, distillation, and fermentation program as a part of its curriculum offerings for students of the school. For purposes of this section, the term "brewing, distillation, and fermentation program" includes a fermentation sciences program offered by a community college or college as part of its curriculum offerings for students of the school.

(c) Malt Beverage Special Event Permit. – The holder of a brewing, distillation, and fermentation course authorization who obtains a malt beverages wholesaler permit under G.S. 18B-1109 subject to the limitation in subsection (a) of this section may obtain a malt beverage special event permit under G.S. 18B-1114.5 and where the permit is valid may participate in approved events and sell at retail at those events any malt beverages produced incident to the operation of the brewing, distillation, and fermentation program. The holder of a brewing, distillation, and fermentation course authorization may participate in not more than six malt beverage special events within a 12-month period and may sell up to 64 cases of malt beverages, or the equivalent volume of 64 cases of malt beverages, at each event. For purposes of this subsection, a "case of malt beverages" is a package containing not more than 24 12-ounce bottles of malt beverage. Net proceeds from the program's retail sale of malt beverages pursuant to this subsection shall be retained by the school and used for support of the brewing, distillation, and fermentation program.

(d) Limited Application. – The holder of a brewing, distillation, and fermentation course authorization shall not be considered a brewery for the purposes of this Chapter or Chapter 105 of the General Statutes."

SECTION 3.2.(b) G.S. 18B-1114.5(a) reads as rewritten:

"(a) Authorization. – The holder of a ~~brewery,~~brewery permit, a malt ~~beverage importer,~~beverages importer permit, a brewing, distillation, and fermentation course authorization, or a nonresident malt beverage vendor permit may obtain a malt beverage special event permit allowing the permittee to give free tastings of its malt beverages and to sell its malt beverages by the glass or in closed containers at trade shows, conventions, shopping malls, malt beverage festivals, street festivals, holiday festivals, agricultural festivals, balloon races, local fund-raisers, and other similar events approved by the Commission. Except for a brewery operating under the provisions of G.S. 18B-1104(7), all malt beverages sampled or sold pursuant to this section must be purchased from a licensed malt beverages wholesaler."

SECTION 3.2.(c) G.S. 18B-1001(2) reads as rewritten:

"**§ 18B-1001. Kinds of ABC permits; places eligible.**

When the issuance of the permit is lawful in the jurisdiction in which the premises are located, the Commission may issue the following kinds of permits:

...

(2) Off-Premises Malt Beverage Permit. – An off-premises malt beverage permit authorizes (i) the retail sale of malt beverages in the manufacturer's original container for consumption off the premises, (ii) the retail sale of malt beverages in a cleaned, sanitized, resealable container as defined in 4 NCAC 2T.0308(a) that is filled or refilled and sealed for consumption off the premises, complies with 4 NCAC 2T.0303, 4 NCAC 2T.0305, and 4 NCAC 2T.0308(d)-(e), and the container identifies the permittee and the date the container was filled or refilled, and (iii) the holder of the permit to ship malt beverages in closed containers to individual purchasers inside and outside the State. The permit may be issued for any of the following:

a. ~~Restaurants;~~Restaurants.

b. ~~Hotels;~~Hotels.

c. Eating ~~establishments;~~establishments.

d. Food ~~businesses;~~businesses.

e. Retail businesses.
f. The holder of a brewing, distillation, and fermentation course authorization under G.S. 18B-1114.6. A school obtaining a permit under this subdivision is authorized to sell malt beverages manufactured during its brewing, distillation, and fermentation program at one noncampus location in a county where the permittee holds and offers classes on a regular full-time basis in a facility owned by the permittee.

...."

SECTION 3.2.(d) G.S. 66-58(c)(1a) reads as rewritten:

"**§ 66-58. Sale of merchandise or services by governmental units.**

...

(c) The provisions of subsection (a) shall not prohibit:

...

(1a) The sale of products raised or produced incident to the operation of a community college or college viticulture/enology program as authorized by ~~G.S. 18B-1114.4.~~G.S. 18B-1114.4 or the operation of a community college or college brewing, distillation, or fermentation program as authorized by G.S. 18B-1114.6.

...."

CARBON MONOXIDE ALARMS

SECTION 3.3.(a) Section 19(c) of Session Law 2013-413 is repealed.

SECTION 3.3.(b) Section 19(e) of Session Law 2013-413 reads as rewritten:

"**SECTION 19.(e)** This section is effective when it becomes law, except that ~~(i) subsection (b) of this section becomes effective October 1, 2013, and expires October 1, 2014; and (ii) subsection (c) of this section becomes effective October 1, 2014.~~subsection (b) of this section becomes effective October 1, 2013."

SECTION 3.3.(c) G.S. 143-138(b2) reads as rewritten:

"(b2) Carbon Monoxide ~~Detectors.~~Alarms. – The Code (i) may contain provisions requiring the installation of either battery-operated or electrical carbon monoxide ~~detectors~~alarms in every dwelling unit having a ~~fossil-fuel-burning~~combustion heater, appliance, or fireplace, and in any dwelling unit having an attached garage and (ii) shall contain provisions requiring the installation of electrical carbon monoxide ~~detectors~~alarms at a lodging establishment. The Building Code Council may require carbon monoxide alarms in dwelling units with no combustion heater, appliance, or fireplace other than a wood-burning fireplace only upon (i) a finding by the Council that carbon monoxide emissions from wood-burning fireplaces constitute a substantial threat to public health and safety and (ii) a report by the Council to the Joint Legislative Commission on Government Operations that provides the basis for the Council's finding of a substantial threat to public health and safety. Violations of this subsection and rules adopted pursuant to this subsection shall be punishable in accordance with subsection (h) of this section and G.S. 143-139. In particular, the rules shall provide:

(1) For dwelling units, carbon monoxide ~~detectors~~alarms shall be those listed by a nationally recognized testing laboratory that is OSHA-approved to test and certify to American National Standards Institute/Underwriters Laboratories Standards ANSI/UL2034 or ANSI/UL2075 and shall be installed in accordance with either the standard of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the property owner shall retain or provide as proof of compliance. A carbon monoxide ~~detector~~alarm may be combined with smoke detectors if the combined ~~detector~~alarm does both of the following:

(i) complies with ANSI/UL2034 or ANSI/UL2075 for carbon monoxide alarms and ANSI/UL217 for smoke detectors; and (ii) emits an alarm in a manner that clearly differentiates between detecting the presence of carbon monoxide and the presence of smoke.

(2) For lodging establishments, including tourist homes that provide accommodations for seven or more continuous days (extended stay establishments), and bed and breakfast inns and bed and breakfast homes as defined in G.S. 130A-247, carbon monoxide ~~detectors~~alarms shall be installed in every ~~enclosed space~~dwelling unit or sleeping unit having a ~~fossil fuel burning~~combustion heater, appliance, or fireplace and in ~~any enclosed space, including a sleeping room,~~every dwelling unit or sleeping unit that shares a common wall, floor, or ceiling ~~with an enclosed space~~with a room having a combustion~~fossil fuel burning~~ heater, appliance, or fireplace. Carbon monoxide ~~detectors~~alarms shall be (i) listed by a nationally recognized testing laboratory that is ~~OSHA approved~~approved to test and certify to American National Standards Institute/Underwriters Laboratories (ANSI/UL) Standards ANSI/UL2034 or ANSI/UL2075, (ii) installed in accordance with either the standard of the National Fire Protection Association (NFPA) or the minimum protection designated in the manufacturer's instructions, which the lodging establishment shall retain or provide as proof of compliance, (iii) receive primary power from the building's wiring, where such wiring is served from a commercial source, and (iv) receive power from a battery when primary power is interrupted. A carbon monoxide ~~detector~~alarms may be combined with smoke detectors if the combined ~~detector~~alarm complies with the requirements of this subdivision for carbon monoxide alarms and ANSI/UL217 for smoke ~~detectors.~~alarms. In lieu of the carbon monoxide alarms required by this subsection, a carbon monoxide detection system, which includes carbon monoxide detectors and audible notification appliances installed and maintained in accordance with NFPA 720 shall be permitted. The carbon monoxide detectors shall be listed as complying with ANSI/UL2075. For purposes of this subsection, "lodging establishment" means any hotel, motel, tourist home, or other establishment permitted under authority of G.S. 130A-248 to provide lodging accommodations for pay to the ~~public.~~public, and "combustion heater, appliance, or fireplace" means any heater, appliance, or fireplace that burns combustion fuels, including, but not limited to, natural or liquefied petroleum gas, fuel oil, kerosene, wood, or coal, for heating, cooking, drying, or decorative purposes, including, but not limited to, space heaters, wall and ceiling heaters, ranges, ovens, stoves, furnaces, fireplaces, water heaters, and clothes dryers. For purposes of this subsection, candles and canned fuels are not considered to be combustion appliances.

(3) The Building Code Council shall modify the NC State Building Code (Fire Prevention) to regulate the provisions of this subsection in new and existing lodging establishments, including hotels, motels, tourist homes that provide accommodations for seven or more continuous days (extended stay establishments), and bed and breakfast inns and bed and breakfast homes as defined in G.S. 130A-247; provided, nothing in this subsection shall prevent the Building Code Council from establishing more stringent rules regulating carbon monoxide alarms or detectors for new lodging establishments, including hotels, motels, tourist homes that provide accommodations for

seven or more continuous days (extended stay establishments), and bed and breakfast inns and bed and breakfast homes as defined in G.S. 130A-247. The Building Code Council shall modify the NC State Building Code (Fire Prevention) minimum inspection schedule to include annual inspections of new and existing lodging establishments, including hotels, motels, and tourist homes that provide accommodations for seven or more continuous days (extended stay establishments), and bed and breakfast inns and bed and breakfast homes as defined in G.S. 130A-247 for the purpose of compliance with this subsection.

(4) Upon discovery of a violation of this subsection that poses an imminent hazard and that is not corrected during an inspection of a lodging establishment subject to the provisions of G.S. 130A-248, the code official responsible for enforcing the NC State Building Code (Fire Prevention) shall immediately notify the local health director, or the director's designee, for the county in which the violation was discovered by verbal contact and shall also submit a written report documenting the violation of this subsection to the local health director, or the director's designee, for the county in which the violation was discovered on the next working day following the discovery of the violation. Within one working day of receipt of the written report documenting a violation of this subsection, the local health director, or the director's designee, for the county in which the violation was discovered shall investigate and take appropriate action regarding the permit for the lodging establishment, as provided in G.S. 130A-248. Lodging establishments having five or more rooms that are exempted from the requirements of G.S. 130A-248 by G.S. 130A-250 shall be subject to the penalties set forth in the NC State Building Code (Fire Prevention).

(5) Upon discovery of a violation of this subsection that does not pose an imminent hazard and that is not corrected during an inspection of a lodging establishment subject to the provisions of G.S. 130A-248, the owner or operator of the lodging establishment shall have a correction period of three working days following the discovery of the violation to notify the code official responsible for enforcing the NC State Building Code (Fire Prevention) verbally or in writing that the violation has been corrected. If the code official receives such notification, the code official may reinspect the portions of the lodging establishment that contained violations, but any fees for reinspection shall not exceed the fee charged for the initial inspection. If the code official receives no such notification, or if the results of a reinspection reveal that previous violations were not corrected, the code official shall submit a written report documenting the violation of this subsection to the local health director, or the director's designee, for the county in which the violation was discovered within three working days following the termination of the correction period or the reinspection, whichever is later. The local health director shall investigate and may take appropriate action regarding the permit for the lodging establishment, as provided in G.S. 130A-248. Lodging establishments having five or more rooms that are exempted from the requirements of G.S. 130A-248 by G.S. 130A-250 shall be subject to the penalties set forth in the NC State Building Code (Fire Prevention)."

SECTION 3.3.(d) G.S. 130A-248 reads as rewritten:

"**§ 130A-248. Regulation of food and lodging establishments.**

...

(b) No establishment shall commence or continue operation without a permit or transitional permit issued by the Department. The permit or transitional permit shall be issued to the owner or operator of the establishment and shall not be transferable. If the establishment is leased, the permit or transitional permit shall be issued to the lessee and shall not be transferable. If the location of an establishment changes, a new permit shall be obtained for the establishment. A permit shall be issued only when the establishment satisfies all of the requirements of the ~~rules and the requirements of subsection (g) of this section.~~rules. The Commission shall adopt rules establishing the requirements that must be met before a transitional permit may be issued, and the period for which a transitional permit may be issued. The Department may also impose conditions on the issuance of a permit or transitional permit in accordance with rules adopted by the Commission. A permit or transitional permit shall be immediately revoked in accordance with G.S. 130A-23(d) for failure of the establishment to maintain a minimum grade of C. A permit or transitional permit may otherwise be suspended or revoked in accordance with G.S. 130A-23.

...

(g) All hotels, motels, tourist homes, and other establishments that provide lodging for pay shall ~~install either a battery operated or electrical carbon monoxide detector in every enclosed space having a fossil fuel burning heater, appliance, or fireplace and in any enclosed space, including a sleeping room, that shares a common wall, floor, or ceiling with an enclosed space having a fossil fuel burning heater, appliance, or fireplace. Carbon monoxide detectors shall be listed by a nationally recognized testing laboratory that is OSHA approved to test and certify to American National Standards Institute/Underwriters Laboratories Standards ANSI/UL2034 or ANSI/UL2075, and installed in accordance with either the standard of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the establishment shall retain or provide as proof of compliance. A carbon monoxide detector may be combined with smoke detectors if the combined detector complies with the requirements of this subdivision for carbon monoxide alarms and ANSI/UL217 for smoke detectors.~~comply with the requirements of G.S. 143-138(b2)(2). Upon notification of a violation of G.S. 143-138(b2)(2) by the code official responsible for enforcing the NC State Building Code (Fire Prevention) in accordance with G.S. 143-138(b2)(4), the local health department is authorized to suspend a permit issued pursuant to this section in accordance with G.S. 130A-23."

WATER SUPPLY WATERSHED CLASSIFICATIONS

SECTION 3.4.(a) G.S. 143-214.5 is amended by adding a new subsection to read:

"(c1) This subsection applies to water supply watersheds reclassified by the Commission after January 1, 2012. When the Commission receives a rule-making petition under G.S. 150B-20 that (i) is from a unit of local government with jurisdiction over an area to be served by a proposed water intake that is impacted by a reclassification to which this subsection applies and (ii) requests repeal of the reclassification, the Commission shall grant the rule-making petition, and the reclassification as well as any local ordinance changes required under subsection (d) of this section shall be stayed until the Commission has promulgated rules in response to the rule-making petition that are retroactive to the effective date of the original water supply watershed reclassification."

SECTION 3.4.(b) Notwithstanding any other provision of law, a unit of local government shall repeal local ordinance changes required in order to implement a water supply watershed reclassification upon filing a rule-making petition under G.S. 143-214.5(c1), as enacted by subsection (a) of this section.

SECTION 3.4.(c) This section is effective when it becomes law and applies to any petitions for rule making regarding water supply watershed reclassifications received by the Environmental Management Commission on or after January 1, 2012, and prior to the effective

date of this section. Subsection (a) of this section expires when the Commission issues permanent rules in response to a rule-making petition under G.S. 143-214.5(c1), as enacted by subsection (a) of this section.

ADA REQUIREMENTS FOR PRIVATE POOLS

SECTION 3.5.(a) Notwithstanding Section 1109.14 of the 2012 NC State Building Code (Building Code), swimming pools shall be required to be accessible only to the extent required by the Americans with Disabilities Act, 42 U.S.C. § 12101 et. seq., and federal rules and regulations adopted pursuant to that act.

SECTION 3.5.(b) The Building Code Council shall adopt a rule to amend Section 1109.14 of the 2012 NC State Building Code (Building Code) consistent with Section 3.5(a) of this act.

SECTION 3.5.(c) Section 3.5(a) of this section expires on the date that the rule adopted pursuant to Section 3.5(b) of this section becomes effective.

ENVIRONMENTAL SELF AUDIT PRIVILEGE AND LIMITED IMMUNITY

SECTION 3.6.(a) Chapter 8 of the General Statutes is amended by adding a new Part to read:

"Part 7D. Environmental Audit Privilege and Limited Immunity.

"**§ 8-58.50. Purpose.**

(a) In order to encourage owners and operators of facilities and persons conducting activities regulated under those portions of the General Statutes set forth in G.S. 8-58.52, or conducting activities regulated under other environmental laws, to conduct voluntary internal environmental audits of their compliance programs and management systems and to assess and improve compliance with statutes, an environmental audit privilege is recognized to protect the confidentiality of communications relating to voluntary internal environmental audits.

(b) Notwithstanding any other provisions of law, nothing in this Part shall be construed to protect owners and operators of facilities and regulated persons from a criminal investigation or prosecution carried out by any appropriate governmental entity.

(c) Notwithstanding any other provision of law, any privilege granted by this Part shall apply only to those communications, oral or written, pertaining to and made in connection with the environmental audit and shall not apply to the facts relating to the violation itself.

"**§ 8-58.51. Definitions.**

The following definitions apply in this Part:

(1) "Department" means the Department of Environment and Natural Resources.

(2) "Environmental audit" means a voluntary, internal evaluation or review of one or more facilities or an activity at one or more facilities regulated under federal, State, regional, or local environmental law, or of compliance programs, or management systems related to the facility or activity if designed to identify and prevent noncompliance and to improve compliance with these laws. For the purposes of this Part, an environmental audit does not include an environmental site assessment of a facility conducted solely in anticipation of the purchase, sale, or transfer of the business or facility. An environmental audit may be conducted by the owner or operator, the parent corporation of the owner or operator or by their officers or employees, or by independent contractors. An environmental audit must be a discrete activity with a specified beginning date and scheduled ending date reflecting the auditor's bona fide intended completion schedule.

(3) "Environmental audit report" means a document marked or identified as such with a completion date existing either individually or as a compilation prepared in connection with an environmental audit. An environmental audit

report may include field notes and records of observations, findings, opinions, suggestions, recommendations, conclusions, drafts, memoranda, drawings, photographs, computer-generated or electronically-recorded information, maps, charts, graphs, and surveys, provided the supporting information is collected or developed for the primary purpose and in the course of an environmental audit. An environmental audit report, when completed, may include all of the following components:

a. An audit report prepared by an auditor, which may include the scope and date of the audit and the information gained in the audit, together with exhibits and appendices and may include conclusions, recommendations, exhibits, and appendices.

b. Memoranda and documents analyzing any portion of the audit report or issues relating to the implementation of an audit report.

c. An implementation plan that addresses correcting past noncompliance, improving current compliance, or preventing future noncompliance.

(4) "Enforcement agencies" means the Department, any other agency of the State, and units of local government responsible for enforcement of environmental laws.

(5) "Environmental laws" means all provisions of federal, State, and local laws, rules, and ordinances pertaining to environmental matters.

"**§ 8-58.52. Applicability.**

This Part applies to activities regulated under environmental laws, including all of the following provisions of the General Statutes, and rules adopted thereunder:

(1) Article 7 of Chapter 74.
(2) Chapter 104E.
(3) Article 25 of Chapter 113.
(4) Articles 1,4, and 7 of Chapter 113A.
(5) Article 9 of Chapter 130A.
(6) Articles 21, 21A, and 21B of Chapter 143.
(7) Part 1 of Article 7 of Chapter 143B.

"**§ 8-58.53. Environmental audit report; privilege.**

(a) An environmental audit report or any part of an environmental audit report is privileged and, therefore, immune from discovery and is not admissible as evidence in civil or administrative proceedings instituted by an enforcement agency, except as provided in G.S. 8-58.54 and G.S. 8-58.55. Provided, however, all of the following documents are exempt from the privilege established by this Part:

(1) Information obtained by observation of an enforcement agency.
(2) Information obtained from a source independent of the environmental audit.
(3) Documents, communication, data, reports, or other information required to be collected, maintained, otherwise made available, or reported to a enforcement agency or any other entity by environmental laws, permit, order, consent agreement, or as otherwise provided by law.
(4) Documents prepared either prior to the beginning of the environmental audit or subsequent to the completion date of the audit report and, in all cases, any documents prepared independent of the audit or audit report.
(5) Documents prepared as a result of multiple or continuous self-auditing conducted in an effort to intentionally avoid liability for violations.
(6) Information which is knowingly misrepresented or misstated or which is knowingly deleted or withheld from an environmental audit report, whether or not included in a subsequent environmental audit report.

(7) Information in instances where the material shows evidence of noncompliance with environmental laws, permits, orders, consent agreements, and the owner or operator failed to either promptly take corrective action or eliminate any violation of law identified during the environmental audit within a reasonable period of time.

(b) If an environmental audit report or any part of an environmental audit report is subject to the privilege provided for in subsection (a) of this section, no person who conducted or participated in the audit or who significantly reviewed the audit report may be compelled to testify regarding the audit report or a privileged part of the audit report except as provided for in G.S. 8-58.53(d), 8-58.54, or 8-58.55.

(c) Nothing in this Part shall be construed to restrict a party in a proceeding before the Industrial Commission from obtaining or discovering any evidence necessary or appropriate for the proof of any issue pending in an action before the Commission, regardless of whether evidence is privileged pursuant to this Part. Further, nothing in this Part shall be construed to prevent the admissibility of evidence which is otherwise relevant and admissible in a proceeding before the Industrial Commission, regardless of whether the evidence is privileged pursuant to this Part. Provided, however, the Commission, upon motion made by a party to the proceeding, may issue appropriate protective orders preventing disclosure of information outside of the Commission's proceeding.

(d) Nothing in this Part shall be construed to circumvent the employee protection provisions provided by federal or State law.

(e) The privilege created by this Part does not apply to criminal investigations or proceedings. Where an audit report is obtained, reviewed, or used in a criminal proceeding, the privilege created by this Part shall continue to apply and is not waived in civil and administrative proceedings and is not discoverable or admissible in civil or administrative proceedings even if disclosed during a criminal proceeding.

"**§ 8-58.54. Waiver of privilege.**

(a) The privilege established under G.S. 8-58.53 does not apply to the extent that it is expressly waived in writing by the owner or operator of a facility at which an environmental audit was conducted and who prepared or caused to be prepared the audit report as a result of the audit.

(b) The audit report and information generated by the audit may be disclosed without waiving the privilege established under G.S. 8-58.53 to all of the following persons:

(1) A person employed by the owner or operator or the parent corporation of the audited facility.

(2) A legal representative of the owner or operator or parent corporation.

(3) An independent contractor retained by the owner or operator or parent corporation to conduct an audit on or to address an issue or issues raised by the audit.

(c) Disclosure of an audit report or information generated by the audit under all of the following circumstances shall not constitute a waiver of the privilege established under G.S. 8-58.53:

(1) Disclosure made under the terms of a confidentiality agreement between the owner or operator of the facility audited and a potential purchaser of the business or facility audited.

(2) Disclosure made under the terms of a confidentiality agreement between governmental officials and the owner or operator of the facility audited.

(3) Disclosure made under the terms of a confidentiality agreement between a customer, lending institution, or insurance company with an existing or proposed relationship with the facility.

"**§ 8-58.55. Notification of audit.**

In order to assert the privilege established under G.S. 8-58.53, the owner or operator of the facility conducting the environmental audit shall, upon inspection of the facility by an enforcement agency, or no later than 10 working days after completion of an agency's inspection, notify the enforcement agency of the existence of any audit relevant to the subject of the agency's inspection, as well as the beginning date and completion date of that audit. Any environmental audit report shall include a signed certification from the owner or operator of the facility that documents the date the audit began and the completion date of the audit.

"**§ 8-58.55. Revocation of privilege in civil and administrative proceedings.**

In a civil or administrative proceeding, an enforcement agency may seek by motion a declaratory ruling on the issue of whether an environmental audit report is privileged. The court shall revoke the privilege established under G.S. 8-58.53 for an audit report if the factors set forth in this section apply. In a civil proceeding, the court, after an in camera review, shall revoke the privilege established under G.S. 8-58.53 if the court determines that disclosure of the environmental audit report was sought after the effective date of this Part and either of the following apply:

(1) The privilege is asserted for purposes of deception or evasion.

(2) The material shows evidence of significant noncompliance with applicable environmental laws; the owner or operator of the facility has not promptly initiated and pursued with diligence appropriate action to achieve compliance with these environmental laws or has not made reasonable efforts to complete any necessary permit application; and, as a result, the owner or operator of the facility did not or will not achieve compliance with applicable environmental laws or did not or will not complete the necessary permit application within a reasonable period of time.

"**§ 8-58.56. Privilege in criminal proceedings.**

The privilege established under G.S. 8-58.53 is not applicable in any criminal proceeding.

"**§ 8-58.57. Burden of proof.**

A party asserting the privilege established under G.S. 8-58.53 has the burden of proving that (i) the materials claimed as privileged constitute an environmental audit report as defined by this Part and (ii) compliance has been achieved or will be achieved with a reasonable period of time. A party seeking disclosure under G.S.8-58.55 has the burden of proving the condition for disclosure set forth in that section.

"**§ 8-58.58. Stipulations; declaratory rulings.**

The parties to a proceeding may at any time stipulate to entry of an order directing that specific information contained in an environmental audit report is or is not subject to the privilege. In the absence of an ongoing proceeding, where the parties are not in agreement, an enforcement agency may seek a declaratory ruling from a court on the issue of whether the materials are privileged under G.S. 8-58.53 and whether the privilege, if existing, should be revoked pursuant to G.S. 8-58.55.

"**§ 8-58.59. Construction of Part.**

Nothing in this Part limits, waives, or abrogates any of the following:

(1) The scope or nature of any statutory or common law privilege, including the work-product privilege or the attorney-client privilege.

(2) Any existing ability or authority under State law to challenge privilege.

(3) An enforcement agency's ability to obtain or use documents or information that the agency otherwise has the authority to obtain under State law adopted pursuant to federally delegated programs.

"**§ 8-58.60. Voluntary disclosure; limited immunity from civil and administrative penalties and fines.**

(a) An owner or operator of a facility is immune from imposition of civil and administrative penalties and fines by enforcement agencies for a violation of environmental

laws voluntarily disclosed subject to the requirements and criteria set forth in this section. Provided, however, that waiver of penalties and fines shall not be granted until the applicable enforcement agency has certified that the violation was corrected within a reasonable period of time. If compliance is not certified by the enforcement agency, the enforcement agency shall retain discretion to assess penalties and fines for the violation.

(b) If a person or entity makes a voluntary disclosure of a violation of environmental laws discovered through performance of an environmental audit, that person has the burden of proving (i) that the disclosure is voluntary by establishing the elements set forth in subsection (c) of this section and (ii) that the person is therefore entitled to immunity from any administrative or civil penalties associated with the issues disclosed. Nothing in this section may be construed to provide immunity from criminal penalties.

(c) For purposes of this section, disclosure is voluntary if all of the following criteria are met:

(1) The disclosure is made within 14 days following a reasonable investigation of the violation's discovery through the environmental audit.

(2) The disclosure is made to an enforcement agency having regulatory authority over the violation disclosed.

(3) The person or entity making the disclosure initiates an action to resolve the violation identified in the disclosure in a diligent manner.

(4) The person or entity making the disclosure cooperates with the applicable enforcement agency in connection with investigation of the issues identified in the disclosure.

(5) The person or entity making the disclosure diligently pursues compliance and promptly corrects the noncompliance within a reasonable period of time.

(d) A disclosure is not voluntary for purposes of this section if any of the following factors apply:

(1) Specific permit conditions require monitoring or sampling records and reports or assessment plans and management plans to be maintained or submitted to the enforcement agency pursuant to an established schedule.

(2) Environmental laws or specific permit conditions require notification of releases to the environment.

(3) The violation was committed intentionally, wilfully, or through criminal negligence by the person or entity making the disclosure.

(4) The violation was not corrected in a diligent manner.

(5) The violation posed or poses a significant threat to public health, safety, and welfare; the environment; and natural resources.

(6) The violation occurred within one year of a similar prior violation at the same facility, and immunity from civil and administrative penalties was granted by the applicable enforcement agency for the prior violation.

(7) The violation has resulted in a substantial economic benefit to the owner or operator of the facility.

(8) The violation is a violation of the specific terms of a judicial or administrative order.

(e) If a person meets the burden of proving that the disclosure is voluntary, the burden shifts to the enforcement agency to prove that the disclosure was not voluntary, based upon the factors set forth in this section. The person claiming immunity from civil or administrative penalties or fines under this section retains the ultimate burden of proving the violations were voluntarily disclosed.

(f) A voluntary disclosure made pursuant to this section is subject to disclosure pursuant to the Public Records Act in accordance with the provisions of Chapter 132 of the General Statutes.

"§ 8-58.61. Preemption of other State and local laws.

No local law, rule, ordinance, or permit condition may circumvent or limit the privilege established by this Part or the exercise of the privileges or the presumption and immunity established by this Part.

SECTION 3.6.(b) This section becomes effective July 1, 2014, and applies to environmental audits, as defined in G.S. 8-58.51, as enacted by subsection (a) of this section, that are conducted on or after that date.

CLARIFY DEFINITION OF "CHILD CARE"

SECTION 3.7. G.S. 110-86(2)f. reads as rewritten:

"**§ 110-86. Definitions.**

Unless the context or subject matter otherwise requires, the terms or phrases used in this Article shall be defined as follows:

...

(2) Child care. – A program or arrangement where three or more children less than 13 years old, who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than four hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption. Child care does not include the following:

...

f. Nonpublic schools described in Part 2 of Article 39 of Chapter 115C of the General Statutes that are accredited by national or regional accrediting agencies with early childhood standards and that operate a child care facility as defined in subdivision (3) of this section for less than six and one-half hours per day either on or off the school ~~site;~~site. For purposes of this sub-subdivision, the "six and one-half hours per day" requirement shall relate to instructional hours only and shall not include before or after school programs;"

AMBIENT AIR MONITORING

SECTION 3.9.(a) The Department of Environment and Natural Resources shall review its ambient air monitoring network and, in the next annual monitoring network plan submitted to the United States Environmental Protection Agency, shall request the removal of any ambient air monitors not required by applicable federal laws and regulations.

SECTION 3.9.(b) No later than September 1, 2014, the Department of Environment and Natural Resources shall discontinue all ambient air monitors not required by applicable federal laws and regulations if approval from the United States Environmental Protection Agency is not required for the discontinuance.

SECTION 3.9.(c) Nothing in this section is intended to prevent the Department from installing temporary ambient air monitors as part of an investigation of a suspected violation of air quality rules, standards, or limitations or in response to an emergency situation causing an imminent danger to human health and safety.

SECTION 3.9.(d) The Department of Environment and Natural Resources, Division of Air Quality, shall report to the Environmental Review Commission no later than November 1, 2014, on the status of the ambient air monitoring network and the Division's implementation of the requirements of this section.

GOOD SAMARITAN LAW

SECTION 3.10. G.S. 90-21.14 reads as rewritten:

"**§ 90-21.14. First aid or emergency treatment; liability limitation.**

(a) Any person, including a volunteer medical or health care provider at a facility of a local health department as defined in G.S. 130A-2 or at a nonprofit community health center or a volunteer member of a rescue squad, who ~~receives no compensation for his services as an emergency medical care provider, who~~ voluntarily and without expectation of compensation renders first aid or emergency health care treatment to a person who is unconscious, ill or injured,

(1) When the reasonably apparent circumstances require prompt decisions and actions in medical or other health care, and

(2) When the necessity of immediate health care treatment is so reasonably apparent that any delay in the rendering of the treatment would seriously worsen the physical condition or endanger the life of the person,

shall not be liable for damages for injuries alleged to have been sustained by the person or for damages for the death of the person alleged to have occurred by reason of an act or omission in the rendering of the treatment unless it is established that the injuries were or the death was caused by gross negligence, wanton conduct or intentional wrongdoing on the part of the person rendering the treatment. The immunity conferred in this section also applies to any person who uses an automated external defibrillator (AED) and otherwise meets the requirements of this section.

...."

OPEN BURNING

SECTION 3.11.(a) The definitions set out in G.S. 143-212, G.S. 143-213, and 15A NCAC 02D .1902 (Definitions) apply to this section.

SECTION 3.11.(b) 15A NCAC 02D .1903 (Open Burning Without an Air Quality Permit). – Until the effective date of the revised permanent rule that the Commission is required to adopt pursuant to Section 3.11(d) of this section, the Commission and the Department shall implement 15A NCAC 02D .1903 (Open Burning Without an Air Quality Permit) as provided in Section 3.11(c) of this section.

SECTION 3.11.(c) Implementation. – Notwithstanding Paragraph (b) of 15A NCAC 02D .1903 (Open Burning Without an Air Quality Permit), no air quality permit is required for the open burning of leaves, logs, stumps, tree branches, or yard trimmings if the following conditions are met:

(1) The material burned originates on the premises of private residences and is burned on those premises.

(2) There are no public pickup services available.

(3) Nonvegetative materials, such as household garbage, lumber, or any other synthetic materials, are not burned.

(4) The burning is initiated no earlier than 8:00 A.M. and no additional combustible material is added to the fire between 6:00 P.M. on one day and 8:00 A.M. on the following day.

(5) The burning does not create a nuisance.

(6) Material is not burned when the North Carolina Forest Service has banned burning for that area.

The burning of logs or stumps of any size shall not be considered to create a nuisance for purposes of the application of the open burning air quality permitting exception described in this subsection.

SECTION 3.11.(d) Additional Rule-Making Authority. – The Commission shall adopt a rule to amend 15A NCAC 02D .1903 (Open Burning Without an Air Quality Permit) consistent with Section 3.11(c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 3.11(c) of this act. Rules adopted pursuant to this section are not subject

to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 3.11.(e) Sunset. – Section 3.11(c) of this section expires on the date that rules adopted pursuant to Section 3.11(d) of this section become effective.

SECTION 3.11.(f) Local Government Air Pollution Control Program Limitation. – G.S. 143-215.112(c) is amended by adding a new subdivision to read:

"**§ 143-215.112. Local air pollution control programs.**

...

(c) (1) The governing body of any county, municipality, or group of counties and municipalities within a designated area of the State, as defined in this Article and Article 21, subject to the approval of the Commission, is hereby authorized to establish, administer, and enforce a local air pollution control program for the county, municipality, or designated area of the State which includes but is not limited to:

a. Development of a comprehensive plan for the control and abatement of new and existing sources of air pollution;

b. Air quality monitoring to determine existing air quality and to define problem areas, as well as to provide background data to show the effectiveness of a pollution abatement program;

c. An emissions inventory to identify specific sources of air contamination and the contaminants emitted, together with the quantity of material discharged into the outdoor atmosphere;

d. Adoption, after notice and public hearing, of air quality and emission control standards, or adoption by reference, without public hearing, of any applicable rules and standards duly adopted by the Commission; and administration of such rules and standards in accordance with provisions of this section.

e. Provisions for the establishment or approval of time schedules for the control or abatement of existing sources of air pollution and for the review of plans and specifications and issuance of approval documents covering the construction and operation of pollution abatement facilities at existing or new sources;

f. Provision for adequate administrative staff, including an air pollution control officer and technical personnel, and provision for laboratory and other necessary facilities.

...

(6) No local air pollution control program may limit or otherwise regulate any combustion heater, appliance, or fireplace in private dwellings. For purposes of this subdivision, "combustion heater, appliance, or fireplace" means any heater, appliance, or fireplace that burns combustion fuels, including, but not limited to, natural or liquefied petroleum gas, fuel oil, kerosene, wood, or coal, for heating, cooking, drying, or decorative purposes."

SECTION 3.11.(g) G.S. 143-215.108 is amended by adding a new subsection to read:

"**§ 143-215.108. Control of sources of air pollution; permits required.**

...

(j) No Power to Regulate Residential Combustion. – Nothing in this section shall be interpreted to give the Commission or the Department the power to regulate any combustion heater, appliance, or fireplace in private dwellings, except to the extent required by federal law. For purposes of this subsection, "combustion heater, appliance, or fireplace" means any heater,

appliance, or fireplace that burns combustion fuels, including, but not limited to, natural or liquefied petroleum gas, fuel oil, kerosene, wood, or coal, for heating, cooking, drying, or decorative purposes."

SECTION 3.11.(h) G.S. 160A-193 is amended by adding a new subsection to read:

"**§ 160A-193. Abatement of public health nuisances.**

(a) A city shall have authority to summarily remove, abate, or remedy everything in the city limits, or within one mile thereof, that is dangerous or prejudicial to the public health or public safety. Pursuant to this section, the governing board of a city may order the removal of a swimming pool and its appurtenances upon a finding that the swimming pool or its appurtenances is dangerous or prejudicial to public health or safety. The expense of the action shall be paid by the person in default. If the expense is not paid, it is a lien on the land or premises where the nuisance occurred. A lien established pursuant to this subsection shall have the same priority and be collected as unpaid ad valorem taxes.

...

(c) The authority granted by this section does not authorize the application of a city ordinance banning or otherwise limiting outdoor burning to persons living within one mile of the city, unless the city provides those persons with either (i) trash and yard waste collection services or (ii) access to solid waste dropoff sites on the same basis as city residents."

INLET HAZARD AREAS

SECTION 3.12.(a) The definitions set out in G.S. 113A-103 apply to this section.

SECTION 3.12.(b) 15A NCAC 07H .0304 (AECs Within Ocean Hazard Areas). – Until the effective date of the revised permanent rule that the Commission is required to adopt pursuant to Section 3.12(d) of this section, the Commission and the Department shall implement 15A NCAC 07H .0304 (AECs Within Ocean Hazard Areas) as provided in Section 3.12(c) of this section.

SECTION 3.12.(c) Implementation. – Notwithstanding Subparagraph (3) of 15A NCAC 07H .0304 (AECs Within Ocean Hazard Areas), the Commission shall not establish any inlet hazard area in any location with the following characteristics:

(1) The location is the former location of an inlet, but the inlet has been closed for at least 15 years.

(2) Due to shoreline migration, the location no longer includes the current location of the inlet.

(3) The location includes an inlet providing access to a State Port via a channel maintained by the United States Army Corps of Engineers.

SECTION 3.12.(d) Additional Rule-Making Authority. – The Commission shall adopt a rule to amend 15A NCAC 07H .0304 (AECs Within Ocean Hazard Areas) consistent with Section 3.12(c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 3.12(c) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 3.12.(e) Sunset. – Section 3.12(c) of this section expires on the date that rules adopted pursuant to subsection (d) of this section become effective.

SECTION 3.12.(f) Nothing in this section is intended to prevent the Commission from (i) studying any current inlet hazard area or any other area considered by the Commission for designation as an inlet hazard area or (ii) designating new inlet hazard areas.

HUNTING TRIALS

SECTION 3.13.(a) G.S. 113-274 reads as rewritten:

"**§ 113-274. Permits.**

(a) As used in this Article, the word "permit" refers to a written authorization issued without charge by an employee or agent of the Wildlife Resources Commission to an individual or a person to conduct some activity over which the Wildlife Resources Commission has jurisdiction. When sale of wildlife resources is permitted, rules or the directives of the Executive Director may require the retention of invoices or copies of invoices in lieu of a permit.

(b) Except as otherwise specifically provided, no one may engage in any activity for which a permit is required without having first procured a current and valid permit.

(c) The Wildlife Resources Commission may issue the following permits:

...

(3d) Field trial dog handler or judge permit. – Authorizes a person to participate as a dog handler or judge in a field trial authorized under G.S. 113-291.1(d) without possessing a hunting license so long as that person does not participate in any hunting activities with the dog. For purposes of this subdivision, the term "hunting activities" does not include field trials using exclusively either domestically raised waterfowl and game birds or legally taken dead game.

...."

SECTION 3.13.(b) This section becomes effective July 1, 2014.

ADJUST UTILITY REGULATORY FEE

SECTION 3.15.(a) G.S. 62-302 reads as rewritten:

"**§ 62-302. Regulatory fee.**

(a) Fee Imposed. – It is the policy of the State of North Carolina to provide fair regulation of public utilities in the interest of the public, as provided in G.S. 62-2. The cost of regulating public utilities is a burden incident to the privilege of operating as a public utility. Therefore, for the purpose of defraying the cost of regulating public utilities, every public utility subject to the jurisdiction of the Commission shall pay a quarterly regulatory fee, in addition to all other fees and taxes, as provided in this section. The fees collected shall be used only to pay the expenses of the Commission and the Public Staff in regulating public utilities in the interest of the public.

It is also the policy of the State to provide limited oversight of certain electric membership corporations as provided in G.S. 62-53. Therefore, for the purpose of defraying the cost of providing the oversight authorized by G.S. 62-53 and G.S. 117-18.1, each fiscal year each electric membership corporation whose principal purpose is to furnish or cause to be furnished bulk electric supplies at wholesale as provided in G.S. 117-16 shall pay an annual fee as provided in this section.

(b) Public Utility Rate. –

(1) Repealed by Session Laws 2000-140, s. 56, effective July 21, 2000.

(2) ~~The~~ For noncompetitive jurisdictional revenues as defined in sub-subdivision (4)a. of this subsection, the public utility regulatory fee for each fiscal year ~~shall be~~ is the greater of (i) a percentage rate, established by the General Assembly, of each public utility's ~~North Carolina~~ noncompetitive jurisdictional revenues for each quarter or (ii) six dollars and twenty-five cents ($6.25) each quarter. For subsection (h) competitive jurisdictional revenues as defined in sub-subdivision (4)b. of this subsection and subsection (m) competitive jurisdictional revenues as defined in sub-subdivision (4)c. of this subsection, the public utility regulatory fee for

each fiscal year is a percentage rate established by the General Assembly of each public utility's competitive jurisdictional revenues for each quarter.

When the Commission prepares its budget request for the upcoming fiscal year, the Commission shall propose a percentage rate of the public utility regulatory fee. For fiscal years beginning in an odd-numbered year, that proposed rate shall be included in the budget message the Governor submits to the General Assembly pursuant to G.S. 143C-3-5. For fiscal years beginning in an even-numbered year, that proposed rate shall be included in a special budget message the Governor shall submit to the General Assembly. The General Assembly shall set the percentage rate of the public utility regulatory fee by law.

The percentage rate may not exceed the amount necessary to generate funds sufficient to defray the estimated cost of the operations of the Commission and the Public Staff for the upcoming fiscal year, including a reasonable margin for a reserve fund. The amount of the reserve may not exceed the estimated cost of operating the Commission and the Public Staff for the upcoming fiscal year. In calculating the amount of the reserve, the General Assembly shall consider all relevant factors that may affect the cost of operating the Commission or the Public Staff or a possible unanticipated increase or decrease in North Carolina jurisdictional revenues.

(3) If the Commission, the Public Staff, or both experience a revenue shortfall, the Commission shall implement a temporary public utility regulatory fee surcharge to avert the deficiency that would otherwise occur. In no event may the total percentage rate of the public utility regulatory fee plus any surcharge established by the Commission exceed twenty-five hundredths percent (0.25%).

(4) As used in this ~~section, the term "North Carolina jurisdictional revenues" means:~~section:

a. ~~All~~"Noncompetitive jurisdictional revenues" means all revenues derived or realized from intrastate tariffs, rates, and charges approved or allowed by the Commission or collected pursuant to Commission order or rule, but not including tap-on fees or any other form of contributions in aid of construction.

b. ~~All~~"Subsection (h) competitive jurisdictional revenues" means all revenues derived from retail services provided by local exchange companies and competing local providers that have elected to operate under ~~no longer otherwise regulated by the operation of G.S. 62-133.5(h) or G.S. 62-133.5(m) for a local exchange company or competing local provider that has elected to be regulated under those subsections.~~G.S. 62-133.5(h).

c. "Subsection (m) competitive jurisdictional revenues" means all revenues derived from retail services provided by local exchange companies and competing local providers that have elected to operate under G.S. 62-133.5(m).

...

(e) Recovery of Fee Increase. – If a utility's regulatory fee obligation is increased, the Commission shall either adjust the utility's rates to allow for the recovery of the increased fee obligation or approve the utility's request for an accounting order allowing deferral of the increase in the fee obligation."

SECTION 3.15.(b) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) for each public utility's North Carolina subsection (h)

competitive jurisdictional revenues as defined by G.S. 62-302(b)(4)b. earned during each quarter that begins on or after July 1, 2015, is six-hundredths of one percent (0.06%).

SECTION 3.15.(c) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) for each public utility's North Carolina subsection (h) competitive jurisdictional revenues as defined by G.S. 62-302(b)(4)b. earned during each quarter that begins on or after July 1, 2016, is four-hundredths of one percent (0.04%).

SECTION 3.15.(d) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) for each public utility's North Carolina subsection (m) competitive jurisdictional revenues as defined by G.S. 62-302(b)(4)c. earned during each quarter that begins on or after July 1, 2015, is five-hundredths of one percent (0.05%).

SECTION 3.15.(e) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) for each public utility's North Carolina subsection (m) competitive jurisdictional revenues as defined by G.S. 62-302(b)(4)c. earned during each quarter that begins on or after July 1, 2016, is two-hundredths of one percent (0.02%).

SECTION 3.15.(f) For the 2015-2016 and 2016-2017 fiscal years, the percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) for each public utility's North Carolina noncompetitive jurisdictional revenues as defined by G.S. 62-302(b)(4)a. shall be adjusted to reflect the decrease in the total regulatory fee collected as a result of subsections (b), (c), (d), and (e) of this section and shall be set to ensure the total regulatory fee collected for each fiscal year is at least an amount sufficient to defray the cost of the operations of the Commission and the Public Staff for the upcoming fiscal year, including a reasonable margin for a reserve fund.

SECTION 3.15.(g) This section becomes effective July 1, 2015.

AMEND JORDAN LAKE RULE FOR EXISTING RIPARIAN BUFFERS

SECTION 3.16. Section 2(c) of S.L. 2013-395 reads as rewritten:

"**SECTION 2.(c)** Implementation. – The Protection of Existing Riparian Buffers Rule shall be implemented as follows:

(1) Notwithstanding the Table of Uses set out in subdivision (9) of the Protection of Existing Riparian Buffers Rule, utility, nonelectric, other than perpendicular crossings that have impacts only in Zone Two shall be categorized as exempt.

(2) Notwithstanding the Table of Uses set out in subdivision (9) of the Protection of Existing Riparian Buffers Rule, the piping of a stream allowed under a permit issued by the United States Army Corps of Engineers shall be categorized as an ~~allowable~~exempt use.

(3) Notwithstanding the definition of "Airport Facilities" set out in sub-subdivision (b) of subdivision (2) of the Protection of Existing Riparian Buffers Rule, "Airport Facilities" shall include any aeronautic industrial facilities that require direct access to the airfield."

ELIMINATE OUTDATED AIR QUALITY REPORTING REQUIREMENTS

SECTION 3.17.(a) G.S. 143-215.3A reads as rewritten:

"**§ 143-215.3A. Water and Air Quality Account; use of application and permit fees; Title V Account; I & M Air Pollution Control Account; reports.**

...

(c) The Department shall report to the Environmental Review Commission and the Fiscal Research Division on the cost of the State's environmental permitting programs contained within the Department on or before 1 November of each year. ~~In addition, the Department shall report to the Environmental Review Commission and the Fiscal Research Division on the cost of the Title V Program on or before 1 November of each year.~~ The ~~reports~~

report shall include, but ~~are~~ is not limited to, fees set and established under this Article, fees collected under this Article, revenues received from other sources for environmental permitting and compliance programs, changes made in the fee schedule since the last report, anticipated revenues from all other sources, interest earned and any other information requested by the General Assembly."

SECTION 3.17.(b) The following sections of S.L. 2002-4 are repealed:

(1) Section 10.

(2) Section 11, as amended by Section 12 of S.L. 2006-79 and S.L. 2010-142.

(3) Section 12.

(4) Section 13.

SECTION 3.17.(c) G.S. 143-215.108(g) is repealed.

CLARIFYING CHANGES TO STATUTES PERTAINING TO THE MANAGEMENT OF VENOMOUS SNAKES AND OTHER REPTILES

SECTION 3.18. G.S. 114-419(b) reads as rewritten:

"**§ 14-419. Investigation of suspected violations; seizure and examination of reptiles; disposition of reptiles.**

...

(b) If the Museum or the Zoological Park or their designated representatives find that a seized reptile is a venomous reptile, large constricting snake, or crocodilian regulated under this Article, the Museum or the Zoological Park or their designated representative shall determine final disposition of the reptile in a manner consistent with the safety of the public, which in the case of a venomous reptile for which antivenin approved by the United States Food and Drug Administration is not readily available, ~~may include euthanasia.~~shall be euthanized unless the species is protected under the federal Endangered Species Act of 1973."

TRANSFER RULE-MAKING AUTHORITY FOR WASTEWATER SYSTEMS FROM COMMISSION FOR PUBLIC HEALTH TO ENVIRONMENTAL MANAGEMENT COMMISSION AND MAKE OTHER CHANGES TO ACHIEVE ON-SITE WASTEWATER REGULATORY REFORM

SECTION 3.19.(a) G.S. 130A-334 reads as rewritten:

"**§ 130A-334. Definitions.**

The following definitions shall apply throughout this Article:

(1) "Commission" means the Environmental Management Commission.

~~(1)~~(1a) "Construction" means any work at the site of placement done for the purpose of preparing a residence, place of business or place of public assembly for initial occupancy, or subsequent additions or modifications which increase sewage flow.

~~(1a)~~(1b) "Department" means the Department of Health and Human Services.

(1c) "Ground absorption system" means a system of tanks, treatment units, nitrification fields and appurtenances for wastewater collection, treatment, and subsurface disposal.

...

(7a) "Plat" means a property survey prepared by a registered land surveyor, drawn to a scale of one inch equals no more than 60 feet, that includes: the specific location of the proposed facility and appurtenances, the site for the proposed wastewater system, and the location of water supplies and surface waters. "Plat" also means, for subdivision lots approved by the local planning authority ~~and recorded with the county register of deeds,~~if a local planning authority exists at the time of application for a permit under this Article, a copy of the ~~recorded~~ subdivision plat that has been recorded with

the county register of deeds and is accompanied by a site plan that is drawn to scale.

...

(14) "Wastewater" means any sewage or industrial process wastewater discharged, transmitted, or collected from a residence, place of business, place of public assembly, or other places into a wastewater system.

(15) "Wastewater system" means a system of wastewater collection, treatment, and disposal in single or multiple components, including a ground absorption system, privy, septic tank system, public or community wastewater system, wastewater reuse or recycle system, mechanical or biological wastewater treatment system, any other similar system, and any chemical toilet used only for human waste. A wastewater system located on multiple adjoining lots or tracts of land under common ownership or control shall be considered a single system for purposes of permitting under this Article."

SECTION 3.19.(b) G.S. 130A-335 reads as rewritten:

"**§ 130A-335. Wastewater collection, treatment and disposal; rules.**

(a) A person owning or controlling a residence, place of business or a place of public assembly shall provide an approved wastewater system. Except as may be allowed under another provision of law, all wastewater from water-using fixtures and appliances connected to a water supply source shall discharge to the approved wastewater system. A wastewater system may include components for collection, treatment and disposal of wastewater.

(b) ~~All wastewater~~Wastewater systems shall be regulated by the Department under rules adopted by the ~~Commission except for the following wastewater systems that shall be regulated by the Department under rules adopted by the~~ Environmental Management ~~Commission:~~Commission. including all of the following:

(1) Wastewater collection, treatment, and disposal systems designed to discharge effluent to the land surface or surface waters.

(2) Wastewater systems designed for groundwater remediation, groundwater injection, or landfill leachate collection and disposal.

(3) Wastewater systems designed for the complete recycle or reuse of industrial process wastewater.

(4) Gray water systems as defined in G.S. 143-350.

...

(f1) A preconstruction conference with the owner or developer, or an agent of the owner or developer, and a representative of the local health department shall be required for any authorization for wastewater system construction issued with an improvement permit under G.S. 130-336 when the authorization is greater than five years old. Following the conference, the local health department shall ~~issue a revised authorization~~ advise the owner or developer of any rule changes for wastewater system construction ~~that includes~~ incorporating current technology that can reasonably be expected to improve the performance of the system. The local health department shall issue a revised authorization for wastewater system construction incorporating the rule changes upon the written request of the owner or developer.

...

(h) Except as provided in this subsection, a chemical or portable toilet may be placed at any location where the chemical or portable toilet can be operated and maintained under sanitary conditions. A chemical or portable toilet shall not be used as a replacement or substitute for a water closet or urinal where a water closet or urinal connected to a permanent wastewater treatment system is required by the North Carolina State Building Code, except that a chemical or portable toilet may be used to supplement a water closet or urinal during periods of peak use. A chemical or portable toilet shall not be used as an alternative to the repair of a

water closet, urinal, or wastewater treatment system. It shall be unlawful to discharge sewage or other waste from a chemical or portable toilet used for human waste except into a wastewater system that has been approved by the Department under rules adopted by the Commission ~~or by the Environmental Management Commission~~ or at a site that is permitted by the Department under G.S. 130A-291.1."

SECTION 3.19.(c) G.S. 130A-336 reads as rewritten:

"**§ 130A-336. Improvement permit and authorization for wastewater system construction required.**

...

(b) The local health department shall issue an authorization for wastewater system construction authorizing work to proceed and the installation or repair of a wastewater system when it has determined after a field investigation that the system can be installed and operated in compliance with this Article and rules adopted pursuant to this Article. This authorization for wastewater system construction shall be valid for a period equal to the period of validity of the improvement permit~~, not to exceed five years,~~ and may be issued at the same time the improvement permit is issued. No person shall commence or assist in the installation, construction, or repair of a wastewater system unless an improvement permit and an authorization for wastewater system construction have been obtained from the Department or the local health department. No improvement permit or authorization for wastewater system construction shall be required for maintenance of a wastewater system. The Department and the local health department may impose conditions on the issuance of an improvement permit and an authorization for wastewater system construction.

(c) Unless the Commission otherwise provides by rule, plans, and specifications for all wastewater systems designed for the collection, treatment, and disposal of industrial process wastewater shall be reviewed and approved by the Department prior to the issuance of an authorization for wastewater system construction by the local health department.

(d) If a local health department repeatedly fails to issue or deny improvement permits for conventional septic tank systems within 60 days of receiving completed applications for the permits, then the Department of Environment and Natural Resources may withhold public health funding from that local health department."

REPEAL WASTE MANAGEMENT BOARD RULES

SECTION 3.20.(a) The General Assembly finds that the statutory authority for the Governor's Waste Management Board was repealed by S.L. 1993-501 and, therefore, regulations previously promulgated by that Board are no longer enforceable or necessary.

SECTION 3.20.(b) The Secretary of Environment and Natural Resources shall repeal 15A NCAC Chapter 14 (Governor's Waste Management Board) on or before December 1, 2014. Until the effective date of the repeal of the rule required pursuant to this section, the Secretary, the Department of Environment and Natural Resources, the Environmental Management Commission, or any other political subdivision of the State shall not implement or enforce 15A NCAC Chapter 14 (Governor's Waste Management Board).

EXPAND DAILY FLOW DESIGN EXEMPTION FOR LOW-FLOW FIXTURES

SECTION 3.21. Section 34(b) of Session Law 2013-413 reads as rewritten:

"**SECTION 34.(b)** Implementation. – Notwithstanding the Daily Flow for Design rates listed for dwelling units in 15A NCAC 18A .1949(a) or for other establishments in Table No. 1 of 15A NCAC 18A .1949(b) (Sewage Flow Rates for Design Units), a wastewater system shall be exempt from the Daily Flow for Design, and any other design flow standards that are established by the Department of Health and Human Services or the Commission for Public Health provided flow rates that are less than those listed in ~~Table No. 1 of 15A NCAC 18A .1949(b)~~15A NCAC 18A .1949 (Sewage Flow Rates for Design Units) can be achieved through

engineering design that utilizes low-flow fixtures and low-flow technologies and the design is prepared, sealed, and signed by a professional engineer licensed pursuant to Chapter 89C of the General Statutes. The Department and Commission may ~~establish~~ establish, by rule, lower limits on reduced flow rates as necessary to ensure wastewater system integrity and protect public health, safety, and ~~welfare~~welfare, provided that the Commission relies on scientific evidence specific to soil types found in North Carolina that the lower limits are necessary for those soil types. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2). Proposed daily design flows for wastewater systems that are calculated to be less than 3,000 total gallons per day shall not require State review pursuant to 15A NCAC 18A .1938(e)."

REPEAL OBSOLETE STATUTES

SECTION 3.22. The following statues are repealed:

(1) G.S. 14-197. Using profane or indecent language on public highways; counties exempt.

(2) G.S. 14-401.8. Refusing to relinquish party telephone line in emergency; false statement of emergency.

INCREASE CERTAIN PENALTIES FOR TAKING OF PROTECTED PLANTS

SECTION 3.23.(a). G.S. 14-129 reads as rewritten:

"**§ 14-129. Taking, etc., of certain wild plants from land of another.**

No person, firm or corporation shall dig up, pull up or take from the land of another or from any public domain, the whole or any part of any Venus flytrap (Dionaea muscipula), trailing arbutus, Aaron's Rod (Thermopsis caroliniana), Bird-foot Violet (Viola pedata), Bloodroot (Sanguinaria canadensis), Blue Dogbane (Amsonia tabernaemontana), Cardinal-flower (Lobelia cardinalis), Columbine (Aquilegia canadensis), Dutchman's Breeches (Dicentra cucullaria), Maidenhair Fern (Adiantum pedatum), Walking Fern (Camptosorus rhizophyllus), Gentians (Gentiana), Ground Cedar, Running Cedar, Hepatica (Hepatica americana and acutiloba), Jack-in-the-Pulpit (Arisaema triphyllum), Lily (Lilium), Lupine (Lupinus), Monkshood (Aconitum uncinatum and reclinatum), May Apple (Podophyllum peltatum), Orchids (all species), Pitcher Plant (Sarracenia), Shooting Star (Dodecatheon meadia), Oconee Bells (Shortia galacifolia), Solomon's Seal (Polygonatum), Trailing Christmas (Greens-Lycopodium), Trillium (Trillium), Virginia Bluebells (Mertensia virginica), and Fringe Tree (Chionanthus virginicus), American holly, white pine, red cedar, hemlock or other coniferous trees, or any flowering dogwood, any mountain laurel, any rhododendron, or any ground pine, or any Christmas greens, or any Judas tree, or any leucothea, or any azalea, without having in his possession a permit to dig up, pull up or take such plants, signed by the owner of such land, or by his duly authorized agent. Any person convicted of violating the provisions of this section shall be guilty of a Class 3 misdemeanor only punished by a fine of not less than ~~ten dollars ($10.00)~~seventy-five dollars ($75.00) nor more than ~~fifty dollars ($50.00)~~one hundred seventy-five dollars ($175.00) for each ~~offense.~~offense, with each plant taken in violation of this section constituting a separate offense. The Clerk of Court for the jurisdiction in which a conviction occurs under this section involving any species listed in this section that also appears on the North Carolina Protected Plants list created under the authority granted by Article 19B of Chapter 106 of the General Statutes shall report the conviction to the Plant Conservation Board so the Board may consider a civil penalty under the authority of that Article.~~The provisions of this section shall not apply to the Counties of Cabarrus, Carteret, Catawba, Cherokee, Chowan, Cumberland, Currituck, Dare, Duplin, Edgecombe, Franklin, Gaston, Granville, Hertford, McDowell, Pamlico, Pender, Person, Richmond, Rockingham, Rowan and Swain.~~"

SECTION 3.23.(b) G.S. 106-202.19 reads as rewritten:

"**§ 106-202.19. Unlawful acts; penalties; enforcement.**

(a) Unless the conduct is covered under some other provision of law providing greater punishment, it is unlawful to engage in any of the following conduct:

(1) To uproot, dig, take or otherwise disturb or remove for any purpose from the lands of another, any plant on a protected plant list without a written permit from the owner which is dated and valid for no more than 180 days and which indicates the species or higher taxon of plants for which permission is granted; except that the incidental disturbance of protected plants during agricultural, forestry or development operations is not illegal so long as the plants are not collected for sale or commercial use.

...

(a1) Any person convicted of violating this Article, or any rule of the Board adopted pursuant to this Article shall be guilty of a Class 2 misdemeanor. Each illegal movement or distribution of a protected plant shall constitute a separate violation. In addition, if any person continues to violate or further violates any provision of this Article after written notice from the Board, the court may determine that each day during which the violation continued or is repeated constitutes a separate violation subject to the foregoing penalties.

(a2) A civil penalty of not more than two thousand dollars ($2,000) ~~may~~ shall be assessed by the Board against any person guilty of violating this Article a second or subsequent time. The clear proceeds of civil penalties assessed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

...."

INCREASE PENALTIES FOR PARKING IN HANDICAPPED SPACE WITHOUT REQUIRED PLACARD

SECTION 3.24.(a) G.S. 20-37.6 reads as rewritten:

"**§ 20-37.6. Parking privileges for handicapped drivers and passengers.**

...

(d) Designation of Parking Spaces. – Designation of parking spaces for handicapped persons on streets and public vehicular areas shall comply with G.S. 136-30. A sign designating a parking space for handicapped persons ~~shall~~may state the maximum penalty for parking in the space in violation of the law. A sign designating a parking space for handicapped persons shall not state the incorrect maximum penalty for parking in the space in violation of the law.

...

(f) Penalties for Violation. –

(1) A violation of G.S. 20-37.6(e)(1), ~~(2)~~(2), or (3) is an infraction which carries a penalty of at least ~~one~~three hundred dollars ~~($100.00)~~($300.00) but not more than ~~two~~five hundred ~~fifty~~ dollars ~~($250.00)~~($500.00), and whenever evidence shall be presented in any court of the fact that any automobile, truck, or other vehicle was found to be parked in a properly designated handicapped parking space in violation of the provisions of this section, it shall be prima facie evidence in any court in the State of North Carolina that the vehicle was parked and left in the space by the person, firm, or corporation in whose name the vehicle is registered and licensed according to the records of the Division. No evidence tendered or presented under this authorization shall be admissible or competent in any respect in any court or tribunal except in cases concerned solely with a violation of this section.

...."

SECTION 3.24.(b) This section becomes effective December 1, 2014, and applies to violations committed on or after that date.

REPEAL OUTDATED PUBLIC UTILITIES STATUTES OR REPORTS

SECTION 3.25.(a) G.S. 62-36A and G.S. 62-36.1 are repealed.

SECTION 3.25.(b) G.S. 62-133.2(g) is repealed.

SECTION 3.25.(c) Section 14 of S.L. 2002-4 is repealed.

SECTION 3.25.(d) Section 14 of S.L. 2007-397 is repealed.

SECTION 3.25.(e) Section 6.1 of S.L. 1995-27 is repealed.

REPEAL ENERGY AUDIT REQUIREMENTS

SECTION 3.26. G.S. 143-64.12 reads as rewritten:

"**§ 143-64.12. Authority and duties of the Department; State agencies and State institutions of higher learning.**

(a) The Department of Environment and Natural Resources through the State Energy Office shall develop a comprehensive program to manage energy, water, and other utility use for State agencies and State institutions of higher learning and shall update this program annually. Each State agency and State institution of higher learning shall develop and implement a management plan that is consistent with the State's comprehensive program under this subsection to manage energy, water, and other utility use, and that addresses any findings or recommendations resulting from the energy audit required by subsection (b1) of this section. The energy consumption per gross square foot for all State buildings in total shall be reduced by twenty percent (20%) by 2010 and thirty percent (30%) by 2015 based on energy consumption for the 2002-2003 fiscal year. Each State agency and State institution of higher learning shall update its management plan ~~annually~~ biennially and include strategies for supporting the energy consumption reduction requirements under this subsection. Each community college shall submit to the State Energy Office ~~an annual~~a biennial written report of utility consumption and costs. Management plans submitted ~~annually~~biennially by State institutions of higher learning shall include all of the following:

(1) Estimates of all costs associated with implementing energy conservation measures, including pre-installation and post-installation costs.

(2) The cost of analyzing the projected energy savings.

(3) Design costs, engineering costs, pre-installation costs, post-installation costs, debt service, and any costs for converting to an alternative energy source.

(4) An analysis that identifies projected annual energy savings and estimated payback periods.

...

(b1) The Department of Administration, as part of the Facilities Condition and Assessment Program, shall identify and recommend energy conservation maintenance and operating procedures that are designed to reduce energy consumption within the facility of a State agency or a State institution of higher learning and that require no significant expenditure of funds. Every State agency or State institution of higher learning shall implement these recommendations. Where energy management equipment is proposed for any facility of a State agency or of a State institution of higher learning, the maximum interchangeability and compatibility of equipment components shall be required.~~As part of the Facilities Condition and Assessment Program under this section, the Department of Administration, in consultation with the State Energy Office, shall develop an energy audit and a procedure for conducting energy audits. Every five years the Department shall conduct an energy audit for each State agency or State institution of higher learning, and the energy audits conducted shall serve as a preliminary energy survey. The State Energy Office shall be responsible for system-level detailed surveys.~~

~~(b2) The Department of Administration shall submit a report of the energy audit required by subsection (b1) of this section to the affected State agency or State institution of higher~~

~~learning and to the State Energy Office. The State Energy Office shall review each audit and, in consultation with the affected State agency or State institution of higher learning, incorporate the audit findings and recommendations into the management plan required by subsection (a) of this section.~~

(c) through (g) Repealed by Session Laws 1993, c. 334, s. 4.

~~(h) When conducting a facilities condition and assessment under this section, the Department of Administration shall identify and recommend to the State Energy Office any facility of a State agency or State institution of higher learning as suitable for building commissioning to reduce energy consumption within the facility or as suitable for installing an energy savings measure pursuant to a guaranteed energy savings contract under Part 2 of this Article.~~

~~(i) Consistent with G.S. 150B-2(8a)h., the Department of Administration may adopt architectural and engineering standards to implement this section.~~

(j) The State Energy Office shall submit a report by December 1 of ~~each~~every odd-numbered year to the Joint Legislative ~~Commission on Governmental Operations~~Energy Policy Commission describing the comprehensive program to manage energy, water, and other utility use for State agencies and State institutions of higher learning required by subsection (a) of this section. The report shall also contain the following:

(1) A comprehensive overview of how State agencies and State institutions of higher learning are managing energy, water, and other utility use and achieving efficiency gains.

(2) Any new measures that could be taken by State agencies and State institutions of higher learning to achieve greater efficiency gains, including any changes in general law that might be needed.

(3) A summary of the State agency and State institutions of higher learning management plans required by subsection (a) of this ~~section and the energy audits required by subsection (b1) of this~~ section.

(4) A list of the State agencies and State institutions of higher learning that did and did not submit management plans required by subsection (a) of this ~~section and a list of the State agencies and State institutions of higher learning that received an energy audit.~~section.

(5) Any recommendations on how management plans can be better managed and implemented."

COASTAL STORMWATER GRANDFATHER

SECTION 3.27.(a) The definitions set out in G.S. 143-212, G.S. 143-213, and 15A NCAC 2H .1002 apply to this section.

SECTION 3.27.(b) 15A NCAC 02H .1005 (Stormwater Requirements: Coastal Counties). – Until the effective date of the revised permanent rule that the Commission is required to adopt pursuant to Section 3.28(d) of this section, the Commission and the Department shall implement 15A NCAC 02H .1005 (Stormwater Requirements: Coastal Counties) as provided in Section 3.28(c) of this section.

SECTION 3.27.(c) Implementation. – Notwithstanding Paragraph (h) of 15A NCAC 02H .1005 (Stormwater Requirements: Coastal Counties), the provisions and requirements applicable to any grandfathered development activity subject to Subparagraph (a)(2) of 15A NCAC 02H .1005 shall also be applicable to an expansion of the development activity. For purposes of this subsection, "grandfathered development activity" means development activity that is regulated by provisions and requirements of 15A NCAC 02H .1005 (Stormwater Requirements: Coastal Counties) that was effective at the time of the original issuance of any of the authorizations listed in Subparagraph (h)(2) of 15A NCAC 02H .1005, because the authorization meets the criteria set forth in that Subparagraph; and

"expansion of the development activity" means development activity conducted on a contiguous property or properties under a subdivision plat approved by the local government prior to July 3, 2012.

SECTION 3.27.(d) Additional Rule-Making Authority. – The Commission shall adopt a rule to amend 15A NCAC 02H .1005 (Stormwater Requirements: Coastal Counties) consistent with Section 3.28(c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 3.28(c) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 3.27.(e) Sunset. – Section 3.28(c) of this section expires on the date that rules adopted pursuant to Section 3.28(d) of this section become effective.

PESTICIDE USE FOR MOLES

SECTION 3.28. G.S. 113-300.2 is amended by adding a new subsection to read:

"(g) Notwithstanding any other provision of law, it is lawful to use any pesticide registered by the Pesticide Board to control any species of mole other than the Star-Nosed mole (Condyluria cristata parva), provided that (i) all rules regulating the application of pesticides adopted by the Pesticide Board are followed, and (ii) pesticides used to control these species are applied in a manner that minimizes hazards to nontarget species."

CLARIFY PERIODIC INSPECTIONS AUTHORITY OF HOUSING FINANCE AGENCY

SECTION 3.29.(a) G.S. 153A-364 reads as rewritten:

"**§ 153A-364. Periodic inspections for hazardous or unlawful conditions.**

...

(b) A county may require periodic inspections as part of a targeted effort within a geographic area that has been designated by the county commissioners. The county shall not discriminate in its selection of areas or housing types to be targeted and shall (i) provide notice to all owners and residents of properties in the affected area about the periodic inspections plan and information regarding a public hearing regarding the plan; (ii) hold a public hearing regarding the plan; and (iii) establish a plan to address the ability of low-income residential property owners to comply with minimum housing code standards. A residential building or structure that is subject to periodic inspections by the North Carolina Housing Finance Agency (hereinafter "Agency") shall not be subject to periodic inspections under this subsection if the Agency has issued a finding that the building or structure is in compliance with federal standards established by the United States Department of Housing and Urban Development to assess the physical condition of residential property. The owner or manager of a residential building or structure subject to periodic inspections by the Agency shall, within 10 days of receipt, submit to the inspection department a copy of the Compliance Results Letter issued by the Agency showing that the residential building or structure is in compliance with federal housing inspection standards. If the owner or manager fails to submit a copy of the Compliance Results Letter as provided in this subsection, the residential building or structure shall be subject to periodic inspections as provided in this subsection until the Compliance Results Letter is submitted to the inspection department.

...."

SECTION 3.29.(b) G.S. 160A-424 reads as rewritten:

"**§ 160A-424. Periodic inspections.**

...

(b) A city may require periodic inspections as part of a targeted effort within a geographic area that has been designated by the city council. The municipality shall not discriminate in its selection of areas or housing types to be targeted and shall (i) provide notice to all owners and residents of properties in the affected area about the periodic inspections plan and information regarding a public hearing regarding the plan; (ii) hold a public hearing regarding the plan; and (iii) establish a plan to address the ability of low-income residential property owners to comply with minimum housing code standards. A residential building or structure that is subject to periodic inspections by the North Carolina Housing Finance Agency (hereinafter "Agency") shall not be subject to periodic inspections under this subsection if the Agency has issued a finding that the building or structure is in compliance with federal standards established by the United States Department of Housing and Urban Development to assess the physical condition of residential property. The owner or manager of a residential building or structure subject to periodic inspections by the Agency shall, within 10 days of receipt, submit to the inspection department a copy of the Compliance Results Letter issued by the Agency showing that the residential building or structure is in compliance with federal housing inspection standards. If the owner or manager fails to submit a copy of the Compliance Results Letter as provided in this subsection, the residential building or structure shall be subject to periodic inspections as provided in this subsection until the Compliance Results Letter is submitted to the inspection department.

...."

SECURITY GRILLES

SECTION 3.30.(a) Notwithstanding Section 1008.1.4.5 of the 2012 NC State Building Code (Fire Code), horizontal sliding or vertical security grilles shall be permitted at all exits or exit access doorways, provided that the grilles are openable from the inside without the use of a key or special knowledge or effort during periods that the space is occupied by authorized persons and that the grilles remain secured in the full-open position during the period of occupancy by the general public.

SECTION 3.30.(b) The Building Code Council shall adopt a rule to amend Section 1008.1.4.5 of the 2012 NC State Building Code (Fire Code) consistent with Section 3.31(a) of this section.

SECTION 3.30.(c) Section 3.31(a) of this section expires on the date that the rule adopted pursuant to Section 3.31(b) of this section becomes effective.

REWRITE LANDSCAPE CONTRACTOR LICENSING STATUTES

SECTION 3.31.(a) G.S. 89D-1 through G.S. 89D-10 are repealed.

SECTION 3.31.(b) Chapter 89D of the General Statutes is amended by adding the following new sections to read:

"**§ 89D-11. Definitions.**

The following definitions apply in this Chapter:

(1) Board. – The North Carolina Landscape Contractors' Licensing Board.

(2) Landscape construction or contracting. – The act of providing services as a landscape contractor, as defined in this section, for compensation or other consideration.

(3) Landscape contractor. – Any person who, for compensation or other consideration, does any of the following:

a. Engages in the business requiring the art, experience, ability, knowledge, science, and skill to prepare contracts and bid for the performance of landscape services, including installing, planting, repairing, and managing gardens, lawns, shrubs, vines, trees, or other decorative vegetation, including the finish grading and preparation of

plots and areas of land for decorative utilitarian treatment and arrangement.

b. Practices the act of horticulture consultation or planting design for employment purposes.

c. Constructs, installs, or maintains landscape drainage systems and cisterns; provided the landscaping contractor makes no connection to pipes, fixtures, apparatus, or appurtenances installed upon the premises, or in a building, to supply water thereto or convey sewage or other waste therefrom as defined in G.S. 87-21.

d. Designs, installs, or maintains low-voltage landscape lighting systems; provided (i) the work does not exceed the scope of the exception set forth in G.S. 87-43.1(7); and (ii) the low-voltage lighting systems do not exceed 50 volts and constitute a Class II or Class III cord and plug connected power system.

e. Engages in the construction of garden pools, retaining walls, walks, patios, or other decorative landscape features.

(4) Person. – An individual, firm, partnership, association, corporation, or other legal entity.

"**§ 89D-12. License required; use of seal; posting license.**

(a) Except as otherwise provided in this Chapter, no person shall engage in the practice of landscape construction or contracting, use the designation "landscape contractor," or advertise using any title or description that implies licensure as a landscape contractor unless the person is licensed as a landscape contractor as provided by this Chapter. All landscape construction or contracting performed by a partnership, association, corporation, firm, or other group shall be performed under an individual who is readily available to exercise supervision over the landscape construction and contracting work and who is licensed by the Board under this Chapter.

(b) Nothing in this Chapter shall be construed to authorize a landscape contractor to engage in any of the following:

(1) The practice of landscape architecture as defined in G.S. 89A-1.

(2) The practice of engineering as defined in G.S. 89C-3.

(3) Practice as a well contractor certified under Article 7A of Chapter 87 of the General Statutes.

(4) The practice of irrigation contracting as defined in G.S. 89G-1.

(5) The practice of architecture as defined in G.S. 83A-1.

(6) The practice of plumbing, heating group number one, heating group number two, heating group number three, fire sprinkler, or fuel piping contracting as defined in G.S. 87-21; provided the landscaping contractor may install piping, fittings, valves, and associated components for the purpose of landscape contracting that is downstream of a potable water source, groundwater source, or grey water source, and downstream of a backflow prevention assembly.

(7) The practice of electrical contracting as defined in G.S. 87-43.

(c) A landscape contractor licensed under this Chapter is not required to be licensed as a general contractor under Article 1 of Chapter 87 of the General Statutes if the licensed landscape contractor is performing landscape construction or contracting work valued at an amount greater than thirty thousand dollars ($30,000).

(d) Upon licensure by the Board, each landscape contractor shall obtain a seal of the design authorized by the Board and bearing the name of the licensee, the number of the license, and the legend "N.C. Licensed Landscape Contractor." A landscape contractor may use the seal only while the license is valid.

(e) Every landscape contractor issued a license under this Chapter shall display the license conspicuously in the landscape contractor's place of business. Every landscape contractor shall display the license number issued to the contractor by the Board on all business cards, contracts, and vehicles used by the contractor in the landscape contracting business.

"**§ 89D-13. Exemptions.**

The provisions of this Chapter shall not apply to the following:

(1) Any federal, State, or local governmental agency performing landscaping on public property.

(2) The North Carolina Department of Transportation (NCDOT). However, for landscape installations or establishment periods for any project that exceeds the current contract amount requiring performance and payment bonds according to State law, NCDOT shall require a licensed landscape contractor to perform the work. NCDOT, at its discretion, may require a licensed landscape contractor for landscape projects of any cost.

(3) Any property owner performing landscape work on his or her own property.

(4) Any person or business owning or operating a golf course.

(5) Any landscaping work where the price of all contracts for labor, material, and other items for a given job site during any consecutive 12-month period is less than twenty-five thousand dollars ($25,000). A local governmental unit shall not enact a local ordinance or regulation requiring licensure for landscaping work performed pursuant to this subdivision.

(6) Any person or business licensed pursuant to Article 1 of Chapter 87 of the General Statutes who possesses a classification under G.S. 87-10(b) as a building contractor, a residential contractor, or a public utilities contractor when the contractor uses the contractor's own employees to perform landscape construction or contracting. A public utilities contractor exempted by this subdivision may only perform the activities described in G.S. 87-10(b)(3)a.

(7) Any person or business licensed as an electrical contractor under Article 4 of Chapter 87 of the General Statutes who is designing, installing, or maintaining any electric work, wiring, devices, appliances, or equipment.

(8) Any person or business licensed as a plumbing contractor under Article 2 of Chapter 87 of the General Statutes who is installing pipes, fixtures, apparatus, or appurtenances to supply water thereto or convey sewage or other waste therefrom, including the installation, repair, or maintenance of water mains, water taps, services lines, water meters, or backflow prevention assemblies supplying water for irrigation systems or repairs to an irrigation system.

(9) A professional engineer licensed pursuant to Chapter 89C of the General Statutes.

(10) A professional landscape architect licensed under Chapter 89A of the General Statutes.

(11) An individual or a business engaged in any of the following activities while performing that activity:

a. Clearing and grading plots and areas of land.

b. Erosion control.

c. Arboriculture, including consultations on pruning and removal of trees.

d. The installation of sod, seed, or plugs by sod producers certified by the Plant Industry Division of the North Carolina Department of Agriculture and Consumer Services.

e. Landscape construction performed by utilities contractors for the purpose of grading and erosion control.
f. Lawn mowing, turf edging, and debris removal services.
g. Turf management or lawn care services only, including fertilization, aeration, weed control, or other turf management or lawn care practices other than mowing or edging.
h. Design, installation, and maintenance of on-site wastewater disposal or reuse systems within the on-site wastewater permit specifications.

(12) Any person performing landscaping work on a farm for use in agriculture production, farming, or ranching.

"**§ 89D-14. The North Carolina Landscape Contractors' Licensing Board.**

(a) There is created the North Carolina Landscape Contractors' Licensing Board. The Board shall consist of nine members appointed as follows:

(1) One member appointed by the Governor who is a member of the general public.

(2) One member appointed by the Commissioner of Agriculture pursuant to recommendations from The North Carolina Green Industry Council.

(3) One member appointed by the Board of Directors of the North Carolina Nursery and Landscape Association, Inc., who is a practicing nurseryman operating a nursery certified by the North Carolina Department of Agriculture and Consumer Services Plant Industry Division.

(4) Four members who are licensed landscape contractors in the business of landscape construction or contracting. One of the four members shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives pursuant to recommendations from The North Carolina Green Industry Council; one shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate pursuant to recommendations from the Carolinas Irrigation Association, who is also a licensed irrigation contractor; and two shall be appointed by the Board of Directors of the North Carolina Nursery and Landscape Association, Inc.

(5) One member appointed by the Board of Directors of the North Carolina Chapter of the American Society of Landscape Architects who is a registered landscape architect.

(6) One member appointed by the President of The University of North Carolina from within the land grant university community who is knowledgeable in landscaping methods and practices.

(b) All appointments shall be for three-year terms. No member shall serve more than two complete consecutive terms.

(c) A vacancy on the Board created by death, resignation, or otherwise shall be filled in the same manner as the original appointment, except that all unexpired terms of Board members appointed by the General Assembly shall be filled in accordance with G.S. 120-122. Appointees to fill vacancies shall serve the remainder of the unexpired term and until their successors are appointed and qualified.

(d) The Board shall elect annually a chair and other officers as it deems necessary to carry out the purposes of this Chapter and shall hold meetings at least twice a year. A majority of the Board shall constitute a quorum.

(e) Each member of the Board may receive per diem and reimbursement for travel and subsistence as set forth in G.S. 93B-5.

(f) The Board shall be entitled to the services of the Attorney General in connection with the affairs of the Board or may, in its discretion, employ an attorney to assist or represent it in the enforcement of this Chapter.

"**§ 89D-15. Powers and duties.**

The Board shall have the following powers and duties:

(1) Administer and enforce the provisions of this Chapter.

(2) Adopt, amend, or repeal rules to carry out the provisions of this Chapter.

(3) Examine and determine the qualifications and fitness of applicants for licensure and licensure renewal.

(4) Issue, renew, deny, restrict, suspend, or revoke licenses.

(5) Reprimand or otherwise discipline licensees under this Chapter.

(6) Receive and investigate complaints from members of the public.

(7) Conduct investigations to determine whether violations of this Chapter exist or constitute grounds for disciplinary action against licensees under this Chapter.

(8) Conduct administrative hearings in accordance with Article 3A of Chapter 150B of the General Statutes.

(9) Seek injunctive relief through any court of competent jurisdiction for violations of this Chapter.

(10) Collect fees required by G.S. 89D-21 and any other monies permitted by law to be paid to the Board.

(11) Require licensees to file and maintain an adequate surety bond.

(12) Establish and approve continuing education requirements for persons licensed under this Chapter.

(13) Employ a secretary-treasurer and any other clerical personnel the Board deems necessary to carry out the provisions of this Chapter and to fix compensation for employees.

(14) Maintain a record of all proceedings conducted by the Board and make available to licensees and other concerned parties an annual report of all Board action.

(15) Adopt and publish a code of professional conduct for all persons licensed under this Chapter.

(16) Adopt and publish a code of minimum practice standards for landscape construction and contracting.

(17) Adopt a seal containing the name of the Board for use on licenses and official reports issued by the Board.

"**§ 89D-16. Application for license; qualifications; examination; issuance.**

(a) Upon application to the Board and payment of the required fees, an applicant for licensure as a landscape contractor may sit for the examination if the applicant submits evidence demonstrating the applicant's qualifications for licensure under this Chapter as prescribed in rules adopted by the Board and meets all of the following qualifications:

(1) Is at least 18 years of age.

(2) Is of good moral character as determined by the Board.

(3) Provides evidence of business identification as required by the Board.

(4) Files with the Board and maintains a corporate surety bond executed by a company authorized to do business in this State or an irrevocable letter of credit issued by an insured institution. The surety bond or the letter of credit shall be in the amount of ten thousand dollars ($10,000). The surety bond or letter of credit shall be approved by the Board as to form and shall be conditioned upon the obligor faithfully conforming to and abiding by the provisions of this Chapter. Any person claiming to be injured by an act of a

licensed landscape contractor that constitutes a violation of this Chapter may institute an action to recover against the licensee and the surety.

(b) If the applicant meets all the qualifications in subsection (a) of this section, the applicant shall be required to pass an examination administered by the Board before the Board may issue the license. The Board shall establish the scope and subject matter of the examination to be administered. The Board shall administer examinations at least twice a year at a time and place to be determined by the Board.

(c) When the Board determines that an applicant has met all the qualifications for licensure, submitted the required fee, and passed the examination, the Board shall issue a license to the applicant.

"**§ 89D-17. Corporations; partnerships; persons doing business under trade name.**

(a) The Board may issue a license in the name of a corporation if the corporation complies with the following:

(1) One or more officers or full-time employees, or both, empowered to act for the corporation are individuals licensed under this Chapter.

(2) Only the officers or employees described in subdivision (1) of this subsection execute contracts for landscape construction or contracting in the name of a corporation and are readily available to exercise supervision over the work performed pursuant to the contract.

(b) The Board may issue a license in the name of a limited liability company if the company complies with the following:

(1) One or more managers, as defined in G.S. 57D-1-03, executives, or full-time employees, or a combination thereof, are individuals licensed under this Chapter.

(2) Only the managers, executives, or employees described in subdivision (1) of this subsection execute contracts for landscape construction or contracting in the name of the limited liability company and are readily available to exercise supervision over the work performed pursuant to the contract.

(c) The Board may issue a license in the name of a partnership if the partnership complies with the following:

(1) One or more general partners or full-time employees empowered to act for the partnership are individuals licensed under this Chapter.

(2) Only the partners or employees described in subdivision (1) of this subsection execute contracts for landscape construction or contracting in the name of the partnership and are readily available to exercise supervision over the work performed pursuant to the contract.

(d) The Board may issue a license in an assumed or designated trade name if the owner of the business complies with the following:

(1) The owner or one or more full-time employees empowered to act for the owner is an individual licensed under this Chapter.

(2) Only the persons described in subdivision (1) of this subsection execute contracts for landscape construction or contracting in the assumed or designated trade name of the business and are readily available to exercise supervision over the work performed pursuant to the contract.

(e) When the Board issues a license under this section, the Board shall indicate on the license the name and license number of the individual licensee connected to the corporation, partnership, or business conducted under an assumed or designated trade name.

(f) A person licensed pursuant to this section shall be readily available to exercise supervision over a contract for landscape construction or contracting until the contract is completed.

(g) When a licensee executes a contract for landscape construction or contracting in any capacity other than as a sole proprietor contracting on the licensee's own behalf, the person on whose behalf the licensee is executing the contract shall be licensed under this section.

(h) A corporation, partnership, or person doing business under an assumed or designated trade name shall notify the Board in accordance with rules adopted by the Board if an individual licensee who is indicated in the license issued under this section ceases to be an officer, partner, owner, or employee of the corporation, partnership, or person doing business under the assumed or designated trade name. If the corporation, partnership, or person no longer has an officer, general partner, owner, or employee described in subdivision (a)(1), (b)(1), or (c)(1) of this section, the corporation, partnership, or person shall have 120 days from the date the officer, general partner, owner, or employee ceases the relationship with the corporation, partnership, or person to satisfy the requirements described in subdivision (a)(1), (b)(1), or (c)(1) of this section. The Board may, in its discretion, grant the corporation, partnership, or person a period greater than 120 days to satisfy the requirements described in subdivision (a)(1), (b)(1), or (c)(1) of this section as it deems appropriate. After 120 days, or a time period greater than 120 days as approved by the Board, if the corporation, partnership, or person does not have an officer, general partner, owner, or employee as described in subdivision (a)(1), (b)(1), or (c)(1) of this section, the license issued under this section is automatically suspended and the corporation, partnership, or person shall cease practicing landscape construction or contracting.

"**§ 89D-18. Licensing of nonresidents.**

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

(1) Delinquent income tax debt. – The amount of income tax due as stated in a final notice of assessment issued to a taxpayer by the Secretary of Revenue when the taxpayer no longer has the right to contest the amount.

(2) Foreign corporation. – A corporation as defined in G.S. 55-1-40.

(3) Foreign entity. – A foreign corporation, a foreign limited liability company, or a foreign partnership.

(4) Foreign limited liability company. – A company as defined in G.S. 57D-1-03.

(5) Foreign partnership. – One of the following that does not have a permanent place of business in this State:

a. A foreign limited partnership as defined in G.S. 59-102.

b. A general partnership formed under the laws of a jurisdiction other than this State.

(b) Licensing. – Except as provided in this section, the Board may issue a license to a nonresident individual or a foreign entity that meets the requirements for licensure under this Chapter.

(c) Certificate of Authority Required. – The Board shall not issue a license for a foreign corporation unless the corporation has obtained a certificate of authority from the Secretary of State pursuant to Article 15 of Chapter 55 of the General Statutes. The Board shall not issue a license for a foreign limited liability company unless the company has obtained a certificate of authority from the Secretary of State pursuant to Article 7 of Chapter 57D of the General Statutes.

(d) Information. – The Board, upon request, shall provide the Secretary of Revenue the name, address, and tax identification number of every nonresident individual and foreign entity licensed by the Board. The information to be provided under this section shall be in a form required by the Secretary of Revenue.

(e) Delinquents. – If the Secretary of Revenue determines that any nonresident individual or foreign entity licensed by the Board owes a delinquent income tax debt, the Secretary of Revenue may notify the Board of the nonresident individual and foreign entity and

instruct the Board not to renew the nonresident individual or foreign entity's license. The Board shall not renew the license of a nonresident individual or foreign entity identified by the Secretary of Revenue unless the Board receives a written statement from the Secretary that (i) the debt has been paid or (ii) the debt is being paid pursuant to an installment agreement.

"**§ 89D-19. Reciprocity.**

The Board may issue a license, without examination, to any person who is a landscape contractor licensed, certified, or registered in another state or country if the requirements for licensure, certification, or registration in the other state or country are substantially equivalent to the requirements for licensure in this State.

"**§ 89D-20. License renewal and continuing education.**

(a) Every license issued under this Chapter shall be renewed on or before the first day of August of each year. Any person who desires to continue to practice shall apply for a license renewal and shall submit the required fee. Licenses that are not renewed shall be automatically revoked. A license may be renewed at any time within one year after its expiration if (i) the applicant pays the required renewal fee and late renewal fee, (ii) the Board finds that the applicant has not used the license in a manner inconsistent with the provisions of this Chapter or engaged in the practice of landscape construction or contracting after notice of revocation, and (iii) the applicant is otherwise eligible for licensure under the provisions of this Chapter. When necessary, the Board may require licensees to demonstrate continued competence as a condition of license renewal.

(b) As a condition of license renewal, a licensee shall meet the continuing education requirements set by the Board. Each licensee shall complete seven continuing education units per year. The Board may suspend a licensee's license for 30 days for failure to obtain continuing education units required by this subsection. Upon payment of a reinstatement fee, submitting to the Board proof of the continuing education units required by this subsection, and payment of the license renewal fee and late renewal fee, the licensee's license shall be reinstated. Failure to request a reinstatement of the license and failure to pay the reinstatement fee, renewal fee, and late renewal fee shall result in the forfeiture of a license. Upon forfeiture, a person shall be required to submit a new application and retake the examination as provided in this Chapter.

"**§ 89D-21. Expenses and fees.**

(a) The Board may impose the following fees not to exceed the amounts listed below:

(1)	Application fee	$100.00
(2)	Examination fee	250.00
(3)	Individual license fee and individual license renewal	100.00
(4)	Initial corporate, limited liability company, partnership, or trade name license	100.00
(5)	Corporate, limited liability company, partnership, or trade-name license renewal	100.00
(6)	Late renewal fee	50.00
(7)	Reinstatement fee	250.00
(8)	License by reciprocity	250.00
(9)	Duplicate license	25.00

(b) When the Board uses a testing service for the preparation, administration, or grading of examinations, the Board may charge the applicant the actual cost of the examination services and a prorated portion of the examination fee.

"**§ 89D-22. Disciplinary action.**

(a) The Board may deny, restrict, suspend, or revoke a license or refuse to issue or renew a license if a licensee or applicant does any of the following:

(1) Employs the use of fraud, deceit, or misrepresentation in obtaining or attempting to obtain a license or the renewal of a license.

(2) Practices or attempts to practice landscape construction or contracting by fraudulent misrepresentation.
(3) Commits an act of gross malpractice or incompetence as determined by the Board.
(4) Has been convicted of or pled guilty or no contest to a crime that indicates that the person is unfit or incompetent to practice as a landscape contractor or that indicates that the person has deceived or defrauded the public.
(5) Has been declared incompetent by a court of competent jurisdiction.
(6) Has willfully violated any provision in this Chapter or any rules adopted by the Board.
(7) Uses or attempts to use the seal in a fraudulent or unauthorized manner.
(8) Fails to file the required surety bond or letter of credit or to keep the bond or letter of credit in force.

(b) The Board may assess costs, including reasonable attorneys' fees and investigatory costs, in a proceeding under this section against an applicant or licensee found to be in violation of this Chapter.

"**§ 89D-23. Civil penalties.**

(a) In addition to taking any of the actions permitted under G.S. 89D-22, the Board may assess a civil penalty not in excess of two thousand dollars ($2,000) for each violation of any section of this Chapter or the violation of any rules adopted by the Board. The clear proceeds of any civil penalty assessed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) Before imposing and assessing a civil penalty and fixing the amount of the penalty, the Board shall, as a part of its deliberations, take into consideration the following factors:

(1) The nature, gravity, and persistence of the particular violation.
(2) The appropriateness of the imposition of a civil penalty when considered alone or in combination with other punishment.
(3) Whether the violation was willful and malicious.
(4) Any other factors that would tend to mitigate or aggravate the violations found to exist.

"**§ 89D-24. Injunction to prevent violation; notification of complaints.**

(a) If the Board finds that a person who does not have a license issued under this Chapter is engaging in the practice of landscape construction or contracting, the Board may appear in its own name in superior court in actions for injunctive relief to prevent any person from violating the provisions of this Chapter or the rules adopted by the Board.

(b) A licensed landscape contractor shall notify the Board of any written complaints filed against the landscape contractor not resolved within 30 days from the date the complaint was filed by registered mail to the Board."

SECTION 3.31.(c) Members serving on the North Carolina Landscape Contractors' Registration Board on the effective date of this act shall continue to serve until members of the North Carolina Landscape Contractors' Licensing Board, newly structured under G.S. 89D-14(a), as enacted by Section 3.31(b) of this act, are appointed.

SECTION 3.31.(d) Once the term of one of the current public members appointed by the Governor expires, the General Assembly, upon the recommendation of the Speaker of the House of Representatives, shall appoint a licensed landscape contractor in the business of landscape construction and contracting. Once the term of one of the current members appointed by the Commissioner of Agriculture expires, the General Assembly, upon the recommendation of the President Pro Tempore of the Senate, shall appoint a licensed landscape contractor in the business of landscape construction and contracting. All records, staff, funds, and other items of the North Carolina Landscape Contractors' Registration Board are transferred to and made the property of the North Carolina Landscape Contractors' Licensing Board.

SECTION 3.31.(e) Any person who, on or before December 31, 2014, meets at least one of the following criteria shall be issued a landscape contractor's license by the North Carolina Landscape Contractors' Licensing Board, without the requirement of examination, upon submission of a completed application and payment of the application fee on or before August 1, 2015:

(1) Is registered as a landscape contractor.
(2) Is licensed as an irrigation contractor.
(3) Is certified as a turf grass professional.
(4) Has three years of documented experience in the person's own business as a landscape contractor or three years of documented experience as an employee in a landscape contracting business and meets all other requirements and qualifications for licensure as a landscape contractor. Educational experience can be applied towards the three-year experience requirement as follows:
    a. One year of credit for a two-year degree in related educational training.
    b. Two years of credit for a four-year degree in related educational training.
    c. Up to two years of credit for education or business experience in general business management.

Landscape contractors currently registered under Chapter 89D of the General Statutes shall not be required to renew the registration for the 2015 calendar year to qualify for the landscape contractor's license, as enacted by Subsection 3.31(b) of this section.

SECTION 3.31.(f) Subsection (a) of this section becomes effective August 1, 2015.

CLARIFY RIGHTS OF MARINE ARTIFACT DONORS

SECTION 3.32.(a) Article 3 of Chapter 121 of the General Statutes is amended by adding a new section to read:

"**§ 121-23.1. Right of donor to display artifacts.**

(a) Any person who legally discovers a shipwreck or a shipwreck site or who salvages marine artifacts on or after November 21, 1996, within State waters and donates the artifacts or any contractual interest in the artifacts gained under this Article to the State shall retain the right to access the artifacts and the right, either within the State or outside the State, to (i) display or tour these artifacts or (ii) conduct nondestructive analysis and research if all of the following occur:

(1) Forty percent (40%) of the net proceeds from any display of the artifacts are paid annually to the General Fund no later than January 15 of any year following a year when the artifacts are displayed.
(2) At least one-third of the salvaged artifacts, that represent a cross section of the collection, remain in State custody.
(3) To-scale replicas of any artifacts determined to be unique by the Department of Cultural Resources and not remaining in State custody under subdivision (2) of this section are provided to the State at no cost while the artifacts are on display.
(4) The display or tour will return to the State at least once every two years for a period of no less than one year upon the request of the Department of Cultural Resources.
(5) Any display or tour of artifacts shall also include information identifying the State as the location where the artifacts were found and generally promoting the natural and cultural heritage of the State.

For purposes of this section, "marine artifacts" shall mean an artifact described by G.S. 121-22 that was retained by a person holding a license under G.S. 121-25.

(b) Rights granted under this section shall be valid for a period of 30 years after discovery of the shipwreck, shipwreck site, or marine artifacts. At the end of the 30-year period, the Department shall return the replicas provided under subdivision (a)(3) to the person who donated the artifacts or the person's heir or designee."

SECTION 3.32.(b) This section is effective when it becomes law and applies to any marine artifacts or contractual interest in marine artifacts donated to the State on or after January 1, 1998.

TRANSFER SOLID WASTE RULE-MAKING AUTHORITY FROM COMMISSION FOR PUBLIC HEALTH TO ENVIRONMENTAL MANAGEMENT COMMISSION

SECTION 3.33.(a) G.S. 130A-29 reads as rewritten:

"§ 130A-29. Commission for Public Health – Creation, powers and duties.

...

(c) The Commission shall adopt rules:

(1) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1022, s. 5.

(2) Establishing standards for approving sewage-treatment devices and holding tanks for marine toilets as provided in G.S. 75A-6(o).

(3) Establishing specifications for sanitary privies for schools where water-carried sewage facilities are unavailable as provided in G.S. 115C-522.

(4) Establishing requirements for the sanitation of local confinement facilities as provided in Part 2 of Article 10 of Chapter 153A of the General Statutes.

(5) Repealed by Session Laws 1989 (Regular Session, 1990), c. 1075, s. 1.

(5a) Establishing eligibility standards for participation in Department reimbursement programs.

~~(6) Requiring proper treatment and disposal of sewage and other waste from chemical and portable toilets.~~

(7) Establishing statewide health outcome objectives and delivery standards.

(8) Establishing permit requirements for the sanitation of premises, utensils, equipment, and procedures to be used by a person engaged in tattooing, as provided in Part 11 of Article 8 of this Chapter.

(9) Implementing immunization requirements for adult care homes as provided in G.S. 131D-9 and for nursing homes as provided in G.S. 131E-113.

(10) Pertaining to the biological agents registry in accordance with G.S. 130A-479.

(11) For matters within its jurisdiction that allow for and regulate horizontal drilling and hydraulic fracturing for the purpose of oil and gas exploration and development.

...."

SECTION 3.33.(b) G.S. 130A-290 reads as rewritten:

"§ 130A-290. Definitions.

(a) Unless a different meaning is required by the context, the following definitions shall apply throughout this Article:

...

(3a) "Commission" means the Environmental Management Commission.

...

(35) "Solid waste" means any hazardous or nonhazardous garbage, refuse or sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, domestic sewage and sludges generated by the

treatment thereof in sanitary sewage collection, treatment and disposal systems, and other material that is either discarded or is being accumulated, stored or treated prior to being discarded, or has served its original intended use and is generally discarded, including solid, liquid, semisolid or contained gaseous material resulting from industrial, institutional, commercial and agricultural operations, and from community activities. The term does not include:

a. Fecal waste from fowls and animals other than humans.

b. Solid or dissolved material in:

1. Domestic sewage and sludges generated by treatment thereof in sanitary sewage collection, treatment and disposal systems which are designed to discharge effluents to the surface waters.

2. Irrigation return flows.

3. Wastewater discharges and the sludges incidental to and generated by treatment which are point sources subject to permits granted under Section 402 of the Water Pollution Control Act, as amended (P.L. 92-500), and permits granted under G.S. 143-215.1 by the ~~Environmental Management Commission.~~Commission. However, any sludges that meet the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this Article.

...."

SECTION 3.33.(c) G.S. 130A-291.1 reads as rewritten:

"**§ 130A-291.1. Septage management program; permit fees.**

...

(d) Septage shall be treated and disposed only at a wastewater system that has been approved by the Department under rules adopted by the Commission ~~or by the Environmental Management Commission~~ or at a site that is permitted by the Department under this section. A permit shall be issued only if the site satisfies all of the requirements of the rules adopted by the Commission.

...."

SECTION 3.33.(d) G.S. 130A-294(a)(4) reads as rewritten:

"**§ 130A-294. Solid waste management program.**

(a) The Department is authorized and directed to engage in research, conduct investigations and surveys, make inspections and establish a statewide solid waste management program. In establishing a program, the Department shall have authority to:

...

(4) a. Develop a permit system governing the establishment and operation of solid waste management facilities. A landfill with a disposal area of 1/2 acre or less for the on-site disposal of land clearing and inert debris is exempt from the permit requirement of this section and shall be governed by G.S. 130A-301.1. Demolition debris from the decommissioning of manufacturing buildings, including electric generating stations, that is disposed of on the same site as the decommissioned buildings, is exempt from the permit requirement of this section and rules adopted pursuant to this section and shall be governed by G.S. 130A-301.3. The Department shall not approve an application for a new permit, the renewal of a permit, or a substantial amendment to a permit for a sanitary landfill, excluding demolition landfills as defined in the rules of the Commission, except as

provided in subdivisions (3) and (4) of subsection (b1) of this section. No permit shall be granted for a solid waste management facility having discharges that are point sources until the Department has referred the complete plans and specifications to the ~~Environmental Management~~ Commission and has received advice in writing that the plans and specifications are approved in accordance with the provisions of G.S. 143-215.1. In any case where the Department denies a permit for a solid waste management facility, it shall state in writing the reason for denial and shall also state its estimate of the changes in the applicant's proposed activities or plans that will be required for the applicant to obtain a permit.

b. Repealed by Session Laws 2007-550, s. 1(a), effective August 1, 2007.

c. The Department shall deny an application for a permit for a solid waste management facility if the Department finds that:

1. Construction or operation of the proposed facility would be inconsistent with or violate rules adopted by the Commission.
2. Construction or operation of the proposed facility would result in a violation of water quality standards adopted by the ~~Environmental Management~~ Commission pursuant to G.S. 143-214.1 for waters, as defined in G.S. 143-213.
3. Construction or operation of the facility would result in significant damage to ecological systems, natural resources, cultural sites, recreation areas, or historic sites of more than local significance. These areas include, but are not limited to, national or State parks or forests; wilderness areas; historic sites; recreation areas; segments of the natural and scenic rivers system; wildlife refuges, preserves, and management areas; areas that provide habitat for threatened or endangered species; primary nursery areas and critical fisheries habitat designated by the Marine Fisheries Commission; and Outstanding Resource Waters designated by the ~~Environmental Management~~ Commission.

...."

SECTION 3.33.(e) G.S. 130A-300 reads as rewritten:

"**§ 130A-300. Effect on laws applicable to water pollution control.**

This Article shall not be considered as amending, repealing or in any manner abridging or interfering with those sections of the General Statutes of North Carolina relative to the control of water pollution as now administered by the ~~Environmental Management~~ Commission nor shall the provisions of this Article be construed as being applicable to or in any way affecting the authority of the ~~Environmental Management~~ Commission to control the discharges of wastes to the waters of the State as provided in Articles 21 and 21A, Chapter 143 of the General Statutes."

SECTION 3.33.(f) G.S. 130A-302 reads as rewritten:

"**§ 130A-302. Sludge deposits at sanitary landfills.**

Sludges generated by the treatment of wastewater discharges which are point sources subject to permits granted under Section 402 of the Federal Water Pollution Act, as amended (P.L. 92-500), or permits generated under G. S. 143-215.1 by the ~~Environmental Management~~ Commission shall not be deposited in or on a sanitary landfill permitted under this Article unless in a compliance with the rules concerning solid waste adopted under this Article."

SECTION 3.33.(g) G.S. 130A-310.3 reads as rewritten:

"**§ 130A-310.3. Remedial action programs for inactive hazardous substance or waste disposal sites.**

...

(b) Where possible, the Secretary shall work cooperatively with any owner, operator, responsible party, or any appropriate agency of the State or federal government to develop and implement the inactive hazardous substance or waste disposal site remedial action program. The Secretary shall not take action under this section to the extent that the ~~Environmental Management~~ Commission, the Commissioner of Agriculture, or the Pesticide Board has assumed jurisdiction pursuant to Articles 21 or 21A of Chapter 143 of the General Statutes.

...

(d) In any inactive hazardous substance or waste disposal site remedial action program implemented hereunder, the Secretary shall ascertain the most nearly applicable cleanup standard as would be applied under CERCLA/SARA, and may seek federal approval of any such program to insure concurrent compliance with federal standards. State standards may exceed and be more comprehensive than such federal standards. The Secretary shall assure concurrent compliance with applicable standards set by the ~~Environmental Management~~ Commission.

...."

SECTION 3.33.(h) G.S. 130A-310.4(g) reads as rewritten:

"(g) The Commission ~~on Health Services [Commission for Public Health]~~ shall adopt rules prescribing the form and content of the notices required by this section. The proposed remedial action plan shall include a summary of all alternatives considered in the development of the plan. A record shall be maintained of all comment received by the Department regarding the remedial action plan."

SECTION 3.33.(i) G.S. 130A-310.31(b)(5) reads as rewritten:

"(5) "Unrestricted use standards" when used in connection with "cleanup", "remediated", or "remediation" means contaminant concentrations for each environmental medium that are considered acceptable for all uses and that comply with generally applicable standards, guidance, or established methods governing the contaminants that are established by statute or adopted, published, or implemented by the ~~Environmental Management Commission, the~~ Commission, or the Department instead of the site-specific contaminant levels established pursuant to this Part."

SECTION 3.33.(j) G.S. 130A-310.65 reads as rewritten:

"**§ 130A-310.65. Definitions.**

As used in this Part:

(1) "Background standard" means the naturally occurring concentration of a substance in the absence of the release of a contaminant.

~~(2) "Commission" means the Environmental Management Commission created pursuant to G.S. 143B-282.~~

...

(12) "Unrestricted use standards" means contaminant concentrations for each environmental medium that are acceptable for all uses; that are protective of public health, safety, and welfare and the environment; and that comply with generally applicable standards, guidance, or methods established by statute or adopted, published, or implemented by the ~~Commission, the Commission for Public Health,~~Commission or the Department."

SECTION 3.33.(k) G.S. 113-391(a)f. reads as rewritten:

"f. Management of wastes produced in connection with oil and gas exploration and development and use of horizontal drilling and hydraulic fracturing treatments for that purpose. Such rules shall

address storage, transportation, and disposal of wastes that may contain radioactive materials or wastes that may be toxic or have other hazardous wastes' characteristics that are not otherwise regulated as a hazardous waste by the federal Resource Conservation and Recovery Act (RCRA), such as top-hole water, brines, drilling fluids, additives, drilling muds, stimulation fluids, well servicing fluids, oil, production fluids, and drill cuttings from the drilling, alteration, production, plugging, or other activity associated with oil and gas wells. Wastes generated in connection with oil and gas exploration and development and use of horizontal drilling and hydraulic fracturing treatments for that purpose that constitute hazardous waste under RCRA shall be subject to rules adopted by the Environmental Management Commission ~~for Public Health~~ to implement RCRA requirements in the State."

SECTION 3.33.(l) G.S. 113-415 reads as rewritten:

"**§ 113-415. Conflicting laws.**

No provision of this Article shall be construed to repeal, amend, abridge or otherwise ~~affect: (i)~~ affect the authority and ~~responsibility~~responsibility (i) vested in the Environmental Management Commission by Article 7 of Chapter 87 of the General Statutes, pertaining to the location, construction, repair, operation and abandonment of ~~wells, or the authority and responsibility~~ wells; (ii) vested in the Environmental Management Commission related to the control of water and air pollution as provided in Articles 21 and 21A of Chapter 143 of the General Statutes; ~~or (ii) the authority or responsibility~~(iii) vested in the Department and the Environmental Management Commission ~~for Public Health~~ by Article 10 of Chapter 130A of the General Statutes pertaining to public water-supply ~~requirements;~~requirements; or ~~the authority and responsibility~~(iv) vested in the Environmental Management Commission ~~for Public Health~~ related to the management of solid and hazardous waste as provided in Article 9 of Chapter 130A of the General Statutes."

SECTION 3.33.(m) The Revisor of Statutes shall make any conforming statutory changes necessary to reflect the transfer of rule-making authority under Article 9 of Chapter 130A of the General Statutes from the Commission for Public Health to the Environmental Management Commission.

SECTION 3.33.(n) The Codifier of Rules shall make any conforming rule changes necessary to reflect the transfer of rule-making authority under Article 9 of Chapter 130A of the General Statutes from the Commission for Public Health to the Environmental Management Commission.

TRANSFER DRINKING WATER RULE-MAKING AUTHORITY FROM COMMISSION FOR PUBLIC HEALTH TO ENVIRONMENTAL MANAGEMENT COMMISSION

SECTION 3.34.(a) G.S. 130A-313 is amended by adding a new subdivision to read:

"(2a) "Commission" means the Environmental Management Commission."

SECTION 3.34.(b) G.S. 87-97(i) reads as rewritten:

"**§ 87-97. Permitting, inspection, and testing of private drinking water wells.**

...

(i) ~~Commission for Public Health~~Environmental Management Commission to Adopt Drinking Water Testing Rules. – The ~~Commission for Public Health~~Environmental Management Commission shall adopt rules governing the sampling and testing of well water and the reporting of test results. The rules shall allow local health departments to designate third parties to collect and test samples and report test results. The rules shall also provide for

corrective action and retesting where appropriate. The ~~Commission for Public Health~~Commission may by rule require testing for additional parameters, including volatile organic compounds, if the Commission makes a specific finding that testing for the additional parameters is necessary to protect public health. If the Commission finds that testing for certain volatile organic compounds is necessary to protect public health and initiates rule making to require testing for certain volatile organic compounds, the Commission shall consider all of the following factors in the development of the rule: (i) known current and historic land uses around well sites and associated contaminants; (ii) known contaminated sites within a given radius of a well and any known data regarding dates of contamination, geology, and other relevant factors; (iii) any GIS-based information on known contamination sources from databases available to the Department of Environment and Natural Resources; and (iv) visual on-site inspections of well sites. In addition, the rules shall require local health departments to educate citizens for whom new private drinking water wells are constructed and for citizens who contact local health departments regarding testing an existing well on all of the following:

(1) The scope of the testing required pursuant to this Article.
(2) Optional testing available pursuant to this Article.
(3) The limitations of both the required and optional testing.
(4) Minimum drinking water standards."

SECTION 3.34.(c) The Codifier of Rules shall make any conforming rule changes necessary to reflect the transfer of rule-making authority under Article 10 of Chapter 130A of the General Statutes from the Commission for Public Health to the Environmental Management Commission.

WELL CONTRACTOR LICENSING CHANGES

SECTION 3.35.(a) G.S. 87-43.1 is amended by adding the following new subdivision to read:

"**§ 87-43.1. Exceptions.**

The provisions of this Article shall not apply:

...

(10) To the installation, construction, maintenance, or repair of electrical wiring, devices, appliances, or equipment by a person certified as a well contractor under Article 7A of this Chapter when running electrical wires from the well pump to the pressure switch."

SECTION 3.35.(b) G.S. 87-98.6 reads as rewritten:

"**§ 87-98.6. Well contractor qualifications and examination.**

(a) The Commission, with the advice and assistance of the Secretary, shall establish minimum requirements of education, experience, and knowledge for each type of certification for well contractors and shall establish procedures for receiving applications for certification, conducting examinations, and making investigations of applicants as may be necessary and appropriate so that prompt and fair consideration will be given to each applicant.

(b) The Commission, with the advice and assistance of the Secretary, shall establish minimum requirements of education, experience, and knowledge for each type of certification for well contractors for the installation, construction, maintenance, and repair of electrical wiring devices, appliances, and equipment related to the construction, operation, and repair of wells. Requirements developed pursuant to this subsection shall apply only to the initial certification of an applicant and shall not be required as part of continuing education or as a condition of certification renewal."

SECTION 3.35.(c) This section is effective when it becomes law. The requirements of subsection (b) of G.S. 87-98.6, as enacted by Section 3.35(b) of this section, apply to applicants applying for certification on or after the date this section becomes effective.

STANDARDIZE LOCAL WELL PROGRAMS

SECTION 3.36.(a) G.S. 87-97 reads as rewritten:

"**§ 87-97. Permitting, inspection, and testing of private drinking water wells.**

(a) Mandatory Local Well Programs. – Each county, through the local health department that serves the county, shall implement a private drinking water well permitting, inspection, and testing program. Local health departments shall administer the program and enforce the minimum well construction, permitting, inspection, repair, and testing requirements set out in this Article and rules adopted pursuant to this Article. No person shall unduly delay or refuse to permit a well that can be constructed or repaired and operated in compliance with the requirements set out in this Article and rules adopted pursuant to this Article.

(a1) Use of Standard Forms. – Local well programs shall use the standard forms created by the Department for all required submittals and shall not create their own forms unless the local program submits a petition for rule making to the Environmental Management Commission, and the Commission by rule finds that conditions or circumstances unique to the area served by the local well program constitute a threat to public health that will be mitigated by use of a local form different from the form used by the Department.

...

(k) Registry of Permits and Test Results. – Each local health department shall maintain a registry of all private drinking water wells for which a construction permit or repair permit is ~~issued.~~issued that is searchable by address or addresses served by the well. The registry shall specify the physical location of each private drinking water well and shall include the results of all tests of water from each well. The local health department shall retain a record of the results of all tests of water from a private drinking water well until the well is properly closed in accordance with the requirements of this Article and rules adopted pursuant to this Article.

...."

SECTION 3.36.(b) Notwithstanding 15A NCAC 02C .0107(j)(2), neither the Department of Environment and Natural Resources nor any local well program shall require that well contractor identification plates include the well construction permit numbers. Local well programs may install a plate with the well construction permit number or any other information deemed relevant on a well at the expense of the local program.

SECTION 3.36.(c) The Environmental Management Commission shall adopt a rule to amend 15A NCAC 02C .0107(j)(2) consistent with Section 3.36(b) of this section.

SECTION 3.36.(d) Section 3.36(b) of this section expires on the date that the rule adopted pursuant to Section 3.36(c) of this section becomes effective.

SECTION 3.36.(e) If the well location marked on the map submitted with an application to a local well program is also marked with a stake or similar marker on the property, then the local well program may not require the contractor to be onsite during the on-site predrill inspection, as long as the contractor is available by telephone to answer questions.

PART IV. STUDIES

HONEYBEE WORKING GROUP

SECTION 4.1.(a) The General Assembly recognizes the importance of the State's agriculture sector and heritage and the importance of honeybee pollination to this sector. In an effort to proactively address the issue of Colony Collapse Disorder and its damaging effects on honeybee populations, the Department of Agriculture and Consumer Services shall create the Honeybee Improvement for Vital Ecology (HIVE) working group. The group shall consist of nine members appointed as follows:

(1) The Commissioner of Agriculture, or the Commissioner's designee, serving ex officio.

(2) A representative from the Plant Protection Section of the Department of Agriculture and Consumer Services.
(3) A representative from the Department of Transportation.
(4) A representative from the Utilities Commission Public Staff.
(5) Two representatives from publicly owned utilities that operate within the State.
(6) Two representatives from the biotechnology sector whose company is actively involved in honeybee research.
(7) One researcher from North Carolina State University, who shall be an entomologist or apiculturist.

Vacancies in the HIVE group shall be filled by the Department of Agriculture and Consumer Services. A quorum of the group shall consist of five members.

The HIVE group may contract for professional, clerical, or consultant services.

SECTION 4.1.(b) Purpose. – The HIVE group shall create and issue a report containing the following:

(1) A list of bee-friendly vegetation and planting requirements for such vegetation. The list shall include a recommendation as to the appropriateness of locating each bee-friendly plant with respect to:
a. Department of Transportation public road rights-of-way,
b. Rights-of-way held by publicly owned utilities.
(2) Whether planting requirements for bee-friendly vegetation within rights-of-way for public utilities should be voluntary or required.
(3) A recommendation from the Department of Transportation as to whether priority should be given to bee-friendly vegetation for landscaping projects within Department-owned rights-of-way and rest areas. Any recommendation of priority shall also include a percentage breakdown of urban and rural areas to be targeted.
(4) A recommendation from the Utilities Commission Public Staff, publicly owned utilities, or both as to dedications of rural easements for bee-friendly vegetation, including a percentage breakdown of urban and rural areas to be targeted.
(5) A recommendation from the Department of Agriculture and Consumer Services as to whether a statewide bee-friendly vegetation planting program would be beneficial to the State's agriculture industry, including any estimated benefit. In doing so, the Department of Agriculture and Consumer Services shall address the following:
a. The willingness of farms to plant bee-friendly vegetation in rural areas;
b. The ability of the Department of Agriculture and Consumer Services to provide support for a farm planting program from existing funds; and
c. The ability of research stations or other properties to plant bee-friendly vegetation.

SECTION 4.1.(c) Staff. – The Department of Agriculture and Consumer Services shall assign professional and clerical staff to assist in the work of the HIVE group.

SECTION 4.1.(d) Report. – The HIVE group shall submit a final report to the Environmental Review Commission by November 30, 2014. The report shall contain the information required in this section and any findings, legislative proposals, cost/benefit analyses, or additional recommendations for legislative action to proactively address Colony Collapse Disorder or other honeybee-related issues that may threaten the economy, ecology, and agricultural heritage of the State.

SENATOR JEAN PRESTON MARINE SHELLFISH SANCTUARY

SECTION 4.2.(a) It is the intent of the General Assembly to establish a marine shellfish sanctuary in the Pamlico Sound to be named in honor of former Senator Jean Preston, to be called the "Senator Jean Preston Marine Shellfish Sanctuary."

SECTION 4.2.(b) The Division of Marine Fisheries of the Department of Environment and Natural Resources shall designate a contiguous area of approximately 10,000 acres within the Pamlico Sound as a recommendation to the Environmental Review Commission for establishment of the "Senator Jean Preston Marine Shellfish Sanctuary" and create a plan for managing the sanctuary that includes the following components:

(1) Location and delineation of the sanctuary. – The plan should include a location for the sanctuary that minimizes the impact on commercial trawling. In addition, the sanctuary should be gridded into areas leased to private parties for restoration and harvest and areas operated and maintained by the State for restoration that are not open for harvest. The leased and unleased areas should be arranged in a pattern where leased squares are surrounded on four sides by unleased squares.

(2) Administration. – The plan should include the prices to be charged for the leased portions of the sanctuary, including an administration fee to be retained by the Division to support the leasing and monitoring program. The plan shall also provide that the balance of lease payments collected by the Division be transferred to the General Fund with a recommendation that some or all of the proceeds be used for the support of the State's special education programs in memory of Senator Jean Preston.

(3) Funding. – The plan should include a request for appropriations sufficient to provide funds for the construction of appropriate bottom habitat and shellfish seeding and for Division staff necessary to conduct oyster restoration and monitoring activities. The plan should provide that, whenever possible, construction and shellfish seeding be carried out by contract with private entities.

(4) Commercial fisherman relief. – To promote the diversification of commercial fishing opportunities, the plan should include a program to award free or discounted leases under this section to commercial fishermen who (i) have held one or more commercial fishing licenses continually for a period of 10 or more years and (ii) receive at least fifty (50%) of their income from commercial fishing with those licenses.

(5) Recommendations. – The plan should include recommendations for statutory or regulatory changes needed to expedite the expansion of shellfish restoration and harvesting in order to improve water quality, restore ecological habitats, and expand the coastal economy.

SECTION 4.2.(c) No later than October 1, 2014, and quarterly thereafter until submission of a final plan to the Environmental Review Commission, the Department of Environment and Natural Resources shall report to the Environmental Review Commission regarding its implementation of this section and its recommended plan.

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO STUDY INTERBASIN TRANSFERS

SECTION 4.3.(a) The Department of Environment and Natural Resources shall study the statutes and rules governing interbasin transfers and make recommendations as to whether the statutes and rules should be amended. The study shall specifically examine all of the following:

(1) Whether and to what extent temporary and emergency interbasin transfers, including interbasin transfers to provide drought relief, should be subject to different regulatory requirements than long-term interbasin transfers.
(2) Whether and to what extent interbasin transfers between river sub-basins should be subject to different regulatory requirements than interbasin transfers between major river basins.
(3) Whether there are types of interbasin transfers that should be exempted from the interbasin certification or other regulatory requirements.

SECTION 4.3.(b) No later than October 1, 2014, the Department of Environment and Natural Resources shall report its findings and recommendations to the Environmental Review Commission.

PROGRAM EVALUATION DIVISION TO STUDY WATER AND SEWER SYSTEMS

SECTION 4.4.(a) The Joint Legislative Program Evaluation Oversight Committee shall include in the 2014-2015 Work Plan for the Program Evaluation Division of the General Assembly a study of the benefits that may result from the merger of public water systems and wastewater collection and treatment works. The Program Evaluation Division shall specifically include the following in the study:

(1) Consideration of whether the benefits that have resulted from the merger of certain public water systems and certain wastewater collection and treatment works can be replicated for other systems. In considering this issue, the Program Evaluation Division shall investigate the performance of the Charlotte-Mecklenburg Utility Department, the Cape Fear Public Utility Authority, and Two Rivers Utilities.
(2) Whether the State can incentivize public water systems and wastewater collection and treatment works that provide service that is affordable, reliable, and in compliance with all applicable laws to purchase, to interconnect with, or enter into joint management agreements with public water systems and wastewater collection and treatment works that do not provide service that is affordable, reliable, and in compliance with all applicable laws.
(3) Whether the State can allow public water systems and wastewater collection and treatment works that provide service that is affordable, reliable, and in compliance with all applicable laws to apply for grant funding or other assistance on the behalf of public water systems and wastewater collection and treatment works that do not provide service that is affordable, reliable, and in compliance with all applicable laws if the award of such funding is contingent on purchase, interconnection, or a joint management agreement between the systems.

SECTION 4.4.(b) The Program Evaluation Division shall submit its findings and recommendations to the Joint Legislative Program Evaluation Oversight Committee and the Environmental Review Commission at a date to be determined by the Joint Legislative Program Evaluation Oversight Committee.

PART V. SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 5.1. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part declared to be unconstitutional or invalid.

SECTION 5.2. Except as otherwise provided, this act is effective when it becomes law.

SENATE BILL 734:
Regulatory Reform Act of 2014

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	May 21, 2014
Introduced by:	Sens. Wade, B. Jackson, Brock	**Prepared by:**	Karen Cochrane-Brown, Heather Fennell, Jeff Hudson, Peter Ledford, Mariah Matheson, Jennifer McGinnis, Jennifer Mundt, Chris Saunders Committee Staff
Analysis of:	Second Edition		

SUMMARY: ***The 2nd Edition of Senate Bill 734 would make various changes to administrative, environmental, and other State laws.***

[As introduced, this bill was identical to H1136, as introduced by Rep. McGrady, which is currently in Unknown.]

BILL ANALYSIS:

PART I. ADMINISTRATIVE REFORMS

HARDISON AMENDMENT CLARIFICATION

SECTION 1.1.(a) of the PCS would delay the effective date of rules adopted by certain agencies which impose standards for the protection of the environment or natural resources that are more restrictive than standards imposed by federal law or rule until the next legislative session. Under current law, these agencies are prohibited from adopting rules that are more stringent than applicable federal law or rules, ***unless*** the rule is required by one of the following exceptions:

- A serious and unforeseen threat to the public health safety, or welfare.
- An act of the General Assembly or United States Congress that expressly requires the agency to adopt the rules.
- A change in federal or State budgetary policy.
- A federal regulation required by an act of the United States Congress to be adopted or administered by the State.
- A court order.

This provision would delay the effective date of rules required by one of these exceptions until the next legislative session at which time a legislator could introduce a bill to disapprove the rule. This section would become effective July 1, 2014, and apply to rules adopted or readopted on or after that date.

SECTION 1.1.(b) of the PCS would amend the process for the periodic review of existing rules that was enacted in the Regulatory Reform Act of 2013. This provision would amend the definition of "necessary with substantive public interest," thereby requiring that agencies readopt all existing rules that impose a more restrictive standard than is imposed by federal law or rule. This provision is made retroactive to the effective date of last year's law (August 13, 2013), so all agencies that have already completed the review would have to redo the process using the new definition.

SCOPE OF LOCAL AUTHORITY FOR ORDINANCES

SECTION 1.2.(a) of the PCS would repeal a temporary limitation on enactment of environmental ordinances by cities and counties and direct the Environmental Review Commission (ERC) to study the circumstances under which cities and counties should be authorized to enact such ordinances and report its findings and recommendations to the 2014 Regular Session of the 2013 General Assembly.

SECTIONS 1.2.(b) and (c) of the PCS would require the Department of Agriculture and Consumer Services (DACS) and the Department of Environment and Natural Resources (DENR) to report to the ERC on any local government ordinances that impinge on or interfere with any area subject to regulation by the agencies no later than November 1, 2014, and November 1, 2015.

SECTION 1.2.(d) of the PCS would prohibit cities and counties from regulating the use, sale, distribution, storage, transportation, disposal, formulation, labeling, registration, manufacture, or application of fertilizer. This section would not limit the authority of DENR to enforce water quality standards.

LOTTERY OVERSIGHT COMMITTEE ELIMINATED

SECTION 1.4.(a) of the PCS would repeal the Lottery Oversight Commission.

SECTION 1.4(b) of the PCS is a conforming change.

REPRESENTATION OF SMALL BUSINESS ENTITIES IN ADMINISTRATIVE APPEALS

SECTION 1.5.(a) of the PCS would amend the Administrative Procedure Act to allow a small business to be represented by one or more of its owners in a contested case and prohibits the Office of Administrative Hearings from requiring that the business be represented by an attorney. The provision defines a small business entity as a limited liability company or a corporation that is owned directly or indirectly by no more than two individuals.

SECTION 1.5.(b) of the PCS would amend the Tax Law to allow a small business to be represented by one or more of its owners in an appeal before the Property Tax Commission and prohibits the Commission from requiring that the business be represented by an attorney. The provision defines a small business entity as a limited liability company or a corporation that is owned directly or indirectly by no more than two individuals.

EXEMPT SMALL BUSINESS ENTITIES BUYING OR SELLING ENTITY-OWNED PROPERTY

SECTION 1.6.(a) of the PCS would amend the Real Estate License Law to exempt the owners, officers, managers, and employees of a closely held business entity from the requirement of obtaining a license in order to act as a real estate broker in connection with property owned or leased by the business. A closely held business is defined in the provision as a limited liability company or a corporation with no more than two legal owners.

REDUCE STATE AGENCY MOBILE DEVICE REPORTING FREQUENCY

SECTION 1.7. of the PCS would reduce the reporting requirement for State agencies with regard to the number, type and use of mobile devices issued by the agency. Since 2011, agencies have been required to report to the Legislature and the Office of State Budget and Management on a quarterly basis. This provision would reduce the reporting requirement to annually.

ELIMINATE, AS OBSOLETE, THE SMALL BUSINESS CONTRACTOR AUTHORITY, THE COMMITTEE ON DROPOUT PREVENTION, THE STATE EDUCATION COMMITTEE, THE STATE EDUCATION COMMISSION, THE NATIONAL HERITAGE AREA DESIGNATION COMMISSION, THE GOVERNOR'S MANAGEMENT COUNCIL, THE BOARD OF DIRECTORS OF THE NORTH CAROLINA CENTER FOR NURSING, THE BOARD OF CORRECTIONS; AND ENCOURAGE THE CHIEF JUSTICE TO ABOLISH THE ACTUAL INNOCENCE COMMISSION

SECTION 1.8.(a) of the PCS would repeal the **Small Business Contractor Act**, which authorized the creation of the Small Business Contractor Authority to assist small businesses. The Authority is not currently funded.

SECTION 1.8.(b) of the PCS would terminate, effective July 1, 2014, the **Committee on Dropout Prevention** of the Department of Public Instruction, overseeing dropout prevention grants. The Committee is not currently funded.

SECTION 1.8.(c) and (d) of the PCS would repeal the **State Education Commission** (created by G.S. 116C-2 in 1993), and make a conforming change. This Commission consists of the Board of Governors of The University of North Carolina, the State Community College Board, and the State Board of Education. It is a "forum for airing proposals and engaging in dialogue about issues the Education Cabinet is addressing." Section 1.5(a) is a conforming change.

SECTION 1.8.(e) of the PCS would repeal the statutes (Article 26 of Chapter 143 of the General Statutes) that created an earlier **State Education Commission** in 1947. This Commission was established to study the State's educational problems, and report to the Governor and the General Assembly in 1949. This Commission has not been active in recent years.

SECTION 1.8.(f) of the PCS would, effective July 1, 2014, terminate the **National Heritage Area Designation Commission**. This Commission was created in the 2001 Studies Act to seek from Congress the designation of the North Carolina Appalachian Heritage Area as a National Heritage Area. The Commission is no longer functioning.

SECTION 1.8.(g) of the PCS would repeal the **Governor's Management Council,** created in 1983 to assist the Governor with management and productivity issues. The Council has not been active in recent years.

SECTION 1.8.(h) of the PCS would repeal the **North Carolina Center for Nursing Board of Directors**, created in 1991 to address issues of supply and demand for nursing. The Center and the Board have not been funded for several years.

SECTION 1.8.(i) and (j) of the PCS would repeal the **Board of Correction**, an advisory board to the Secretary of Public Safety, and make a conforming change to the statutes. The Board has not met in over a decade.

SECTION 1.8.(k) of the PCS would encourage the Chief Justice of the North Carolina Supreme Court to take appropriate action to formally abolish the **Actual Innocence Commission**. The Actual Innocence Commission was established by the Chief Justice to make recommendations which would reduce or eliminate the possibility of the wrongful conviction of an innocent person. In 2006, the General Assembly established the Innocence Inquiry Commission, as recommended by the Actual Innocence Commission.

CLARIFY PROCESS FOR READOPTION OF EXISTING RULES

SECTION 1.9. of the PCS would clarify the process for readoption of existing rules in accordance with the periodic review and expiration of existing rules provision of the Administrative Procedure Act (APA). The Rules Review Commission (RRC) established the schedule for agencies to review their existing rules as directed by the Regulatory Reform Act of 2013, and the process has proceeded accordingly. The original statute did not set the process for agencies to readopt rules once the review process was complete. This provision would direct the RRC to set the date by which each agency must readopt its rules, after consulting with the agency. The agency may amend rules as part of the readoption process, but if the rule is readopted without change, the agency is not required to prepare a fiscal note.

AUTHORIZE LICENSING BOARDS TO ADOPT RULES FOR PROFESSIONAL CORPORATIONS

SECTION 1.10. of the PCS would authorize licensing boards subject to the Professional Corporations Act to adopt rules to implement the provisions of the Act. Professional corporations are corporations that provide professional services that require the obtaining of a license from a State licensing board, such as architects, doctors, or engineers. The Act sets the requirements for creating a professional corporation, including the requirement that the corporation be registered with the appropriate licensing board. Licensing boards are authorized by the Act to charge a fee for registration, not to exceed $50 and a fee for renewal not to exceed $25; however, there is no statute which specifically authorizes each licensing board to adopt rules to set the specific amount of the fee. This provision would grant the needed rulemaking authority.

OCCUPATIONAL LICENSING BOARD REPORTING AMENDMENTS

SECTION 1.11. of the PCS would amend the reporting requirements for occupational licensing boards to include the total number of licensees supervised by the board and the number of applicants who fail the examination each year. The provision would also require the Joint Legislative Administrative Procedure Oversight Committee to notify any board that fails to file the reports as required. It also adds a requirement that the reports be submitted electronically and corrects the name of the legislative oversight committee.

OAH ELECTRONIC FILING

SECTION 1.12. of the PCS would authorize the Office of Administrative Hearings to allow documents in a contested case to be filed and served electronically.

STATE BOARD OF EDUCATION RULEMAKING CLARIFICATION

SECTION 1.13. of the PCS would clarify that the State Board of Education (SBOE) is subject to rulemaking under the APA and provides a remedy when an agency fails to act as directed by statute. The provision would add language similar to that found in G.S. 150B-18 to the Education law to clarify that the SBOE is subject to the Administrative Procedure Act (APA) and that policies not adopted in accordance with the APA are unenforceable. It would also amend the APA to clarify that a person who is aggrieved by an agency's failure to act may commence a contested case and if the administrative law judge (ALJ) finds that the agency has failed to act as required by law, the ALJ may order the agency to act within a specified time. Finally, the provision would clarify that the right to judicial intervention applies when a final decision has been unreasonably delayed.

STREAMLINE RULEMAKING PROCESS

SECTION 1.14. of the PCS would streamline the rulemaking process by eliminating the requirement that an agency obtain a certification of adherence to rulemaking principles prior to

submitting the proposed text of a rule for publication. The provision also amends the fiscal note section of the APA to provide that the agency must obtain certification from OSBM that the agency has adhered to certain principles in preparing a substantial economic impact fiscal note.

BURDEN OF PROOF IN CERTAIN CONTESTED CASES

SECTION 1.15. of the PCS would clarify that the petitioner has the burden of proof in most contested cases and establishes that the State agency has the burden of proof in certain contested cases, including cases involving the imposition of civil fines or penalties and cases involving the demotion, suspension or discharge of a career State employee. The Joint Legislative Administrative Procedure Oversight Committee is directed to study whether there are other categories of cases in which the burden should be placed with the agency.

This section would become effective when it becomes law and would apply to contested cases commenced on or after that date.

LEGISLATIVE APPOINTMENTS

SECTION 1.16.(a) of the PCS would amend the law governing legislative appointments to boards and commissions to provide that in cases where the Speaker and the President Pro Tempore are directed by law to make a recommendation for an appointment by the General Assembly and the recommendation must be made in consultation with a third party, (1) the consultation is not binding on the legislator, (2) the third party must submit the recommendation at least 60 days before expiration of the term or within 10 days of a vacancy, and (3) failure to submit the recommendation within the time period is deemed a waiver of the opportunity. The provision also sets the same time limits and consequence for failure to meet the time limits in cases where the Speaker and President Pro Tempore are directed to make recommendations from nominees provided by a third party.

SECTION 1.16.(b) of the PCS would add a new section to the law governing legislative appointments to boards and commissions. In cases where a legislator is authorized to make an appointment upon the recommendation or consultation with a third party, the party must submit the recommendation at least 60 days before expiration of the term or within 10 days of a vacancy. In cases where a legislator is authorized to appoint a member of a board or commission from nominees provided by a third party, the party must meet the same time limits. Failure to submit recommendations or nominees within the time limits is deemed a waiver of the opportunity.

SECTION 1.16.(d) These sections would become effective when they become law and apply to recommendations, consultations, and nominations made on or after that date.

PART II. PERMITTING REFORMS

CAPSTONE PERMITTING

SECTION 2.1. of the PCS would amend the Administrative Procedure Act to create a new process for contested cases in which multiple licenses are required from an agency for a single activity. The Secretary or chief administrative officer of the agency is authorized to issue a written determination that the agency decision is only reviewable on the date the last license for the activity is issued, denied, or otherwise disposed of. The written determination is not subject to a contested case.

CONTESTED CASES FOR AIR QUALITY PERMITS

SECTION 2.2. of the PCS would amend the process for filing a contested case regarding an air quality permit decision of the Environmental Management Commission (EMC) by:

- Providing that the filing for a contested case by a permit applicant or permittee would stay the EMC's decision while the filing for a contested case by a person who is not the permit applicant or permittee would not automatically stay the EMC's decision.
- Limiting the ability of a person who is not the permit applicant or permittee to file a contested case to circumstances where the EMC's decision would result in an exceedance of a national air quality standard.
- Limiting these contested case provisions to permit application decisions rather than other types of permit decisions, such as permit modification, suspension, or revocation.

CLOSURE OF CERTAIN ANIMAL WASTE CONTAINMENT BASINS

SECTION 2.3. of the PCS would direct the Department of Environment and Natural Resources (DENR) to treat a waste containment basin as closed and no longer part of an animal waste management system if the owner of the basin demonstrates to the satisfaction of DENR that the basin has been used only for dairy cattle waste; it was constructed prior to 1967; it has not been used to contain dairy cattle waste since September 1, 2006; the only liquid currently in the basin is from rainwater or rainwater runoff; and the nitrogen levels in the basin do not exceed 40 parts per million.

CONTESTED CASES FOR CAMA PERMITS

SECTION 2.4. of the PCS would amend the process for filing a contested case regarding a Coastal Area Management Act (CAMA) development permit decision by the Coastal Resources Commission (CRC) by providing that the filing for a contested case by a permit applicant would suspend the permit and prevent any action that would be unlawful in the absence of a permit while the filing for a contested case by a person who is not the permit applicant would not automatically suspend the permit.

GUBERNATORIAL ENVIRONMENTAL PERMIT WAIVER AUTHORITY

SECTION 2.5. of the PCS would authorize the Governor, during a state of emergency, to issue an executive order to waive the requirements for an environmental document or permit issued under Article 1 (Environmental Policy Act), Article 4 (Sedimentation Pollution Control Act), or Article 7 (Coastal Area Management Act) of Chapter 113A of the General Statutes for the repair, protection, safety enhancement, or replacement of a component of the State highway system that provides the sole road access to an incorporated municipality or an unincorporated inhabited area bordering the Atlantic Ocean or any coastal sound where bridge or road conditions as a result of the events leading to the declaration of the state of emergency pose a substantial risk to public health, safety, or welfare. The executive order must include the duration of the waiver and the activities to which the waiver applies.

FEE ROLLBACK FOR OYSTER PERMITS UNDER PRIVATE DOCKS

SECTION 2.6. of the PCS would repeal the fee for an Under Dock Oyster Culture Permit. An Under Dock Oyster Culture Permit authorizes the holder of the permit to attach up to 90 square feet of oyster cultivation containers to a dock or pier owned by the permit holder. Under current law, the annual fee for an Under Dock Oyster Culture Permit is $100.

LOCAL GOVERNMENT LEASES FOR RENEWABLE ENERGY FACILITIES

SECTION 2.7. Under current law, cities are authorized by G.S. 160A-272 to lease property owned by the city for up to 10 years. Certain cities are authorized by G.S. 160A-272(c) to lease property owned by the city for the siting and operation of a renewable energy facility for up to 20 years. This

section of the PCS would amend the statute to allow a lease term of up to 25 years and remove the language that restricts the provision to certain cities.

CLOSING-OUT SALES

SECTION 2.8. Article 17 of Chapter 66 of the General Statutes, Closing-Out Sales, regulates the sales that occur when a business liquidates inventory during a going out of business sale. Under current law, the business must obtain a license from the clerk of the city or, if the business is in an unincorporated area, from an officer designated by the Board of County Commissioners. This section of the PCS would amend G.S. 66-77 so that the license would be obtained from an officer designated by the governing board of the city.

PART III. REGULATORY AND STATUTORY MODIFICATIONS

REGULATION OF IMPACT TO ISOLATED WETLANDS

SECTION 3.1. of the PCS would make the following changes to the regulation of activities that impact isolated wetlands:

- Increase the amount of isolated wetlands that could be impacted without requiring a permit from 1/3 of an acre to 1 acre east of Interstate 95 and from 0.1 acre to 1 acre west of Interstate 95.
- Decrease the amount of mitigation that would be required for impacts to isolated wetlands.
- Direct the Department of Environment and Natural Resources (DENR) to study regulatory thresholds for mountain bog isolated wetlands and to report its findings and recommendations to the Environmental Review Commission (ERC) on or before November 1, 2014.

COMMUNITY COLLEGE BREWING COURSE WAIVER

SECTION 3.2. of the PCS would authorize the Alcoholic Beverage Control Commission to grant a brewing, distillation, and fermenting course authorization to a college or community college that offers the program as part of its curriculum offerings. This authorization provides that the college or community college may possess and sell malt beverages manufactured and produced during the course to wholesalers or retailers upon obtaining appropriate permits. The sale of products raised or produced incident to the operation of a community college or college brewing, distillation, or fermentation program would be exempt from the Umstead Act, a law that generally prohibits the sale of merchandise or services by governmental units in competition with citizens of the State.

CARBON MONOXIDE ALARMS

SECTION 3.3. of the PCS would amend the requirements for carbon monoxide alarms that apply to lodging establishments, including hotels and motels. The provision includes technical revisions to comply with industry terminology and also directs the Building Code Council to amend the building code to require carbon monoxide alarms in both new and existing lodging establishments. The amendments require that for all violations that pose an imminent hazard discovered during a fire inspection the inspector immediately notify the local health director who must investigate and take appropriate action regarding the permit for the lodging establishment. The amendments would further require that for all violations that do not pose an imminent hazard, the owner of the lodging establishment has three working days to correct the violation, after which the inspector may re-inspect the lodging establishment and, if the violation has not been corrected, submit the violation to the local

health director who must investigate and may take appropriate action regarding the permit for the lodging establishment.

WATER SUPPLY WATERSHED CLASSIFICATIONS

SECTION 3.4. of the PCS would provide that if the Environmental Management Commission (EMC) receives a rule-making petition from a unit of local government with jurisdiction over an area to be served by a proposed water intake that is impacted by a reclassification made by the EMC after January 1, 2012, and the unit of local government requests the repeal of the reclassification, the EMC must grant the rule-making petition. The reclassification and any related local ordinance changes will be stayed until the EMC has promulgated rules that are retroactively effective to the date of the original reclassification. The unit of local government that filed the petition for rule-making must repeal local ordinance changes required to implement the reclassification upon filing the petition.

This section is effective when it becomes law and applies to petitions for rule-making received by the EMC on or after January 1, 2012, and before the effective date of this section. This section will expire when the EMC issues rules in response to the petition for rule-making.

ADA REQUIREMENTS FOR PRIVATE POOLS

SECTION 3.5. Section 1109.14 of the NC State Building Code (Building Code) requires all recreational and sports facilities, including swimming pools, be provided with handicap accessible features. This section of the PCS would require the Building Code Council to amend the building code such that swimming pools are required to be accessible only to the extent required by the Americans with Disabilities Act.

ENVIRONMENTAL SELF AUDIT PRIVILEGE AND LIMITED IMMUNITY

SECTION 3.6. of the PCS would establish a disclosure privilege for environmental audit reports that would generally prevent the use of the reports as evidence in civil or administrative proceedings. The provision would also prohibit persons who conducted or participated in an audit or who significantly reviewed an audit report from being compelled to testify regarding the audit report or a privileged part of the audit, except in certain circumstances. In addition, the provision would generally establish immunity for owners and operators of facilities from imposition of civil and administrative penalties and fines by enforcement agencies for a violation of environmental laws discovered through the conduct of an environmental audit and voluntarily disclosed to an enforcement agency in conformance with requirements established by the provision. The provision specifically provides, however, that waiver of penalties and fines shall not be granted until the applicable enforcement agency has certified that the violation was corrected within a reasonable period of time (i.e., the enforcement agency retains discretion to assess penalties and fines for the violation until it is corrected).

CLARIFY DEFINITION OF "CHILD CARE"

SECTION 3.7. of the PCS would exempt a child care program operated by a nonpublic school before or after normal school hours from licensure and regulation by the Division of Child Development and Early Education under rules promulgated by the Child Care Commission.

AMBIENT AIR MONITORING

SECTION 3.9. of the PCS would direct the Department of Environment and Natural Resources (DENR) to review its ambient air monitoring network and request from the United States Environmental Protection Agency (EPA) the authority to remove any monitor not required by federal law. This section would also direct DENR, no later than September 1, 2014, to discontinue all ambient air monitors not required by federal law and for which EPA approval for discontinuance is not required.

This section would not preclude DENR from installing temporary ambient air monitors as part of an investigation of a suspected air quality violation or in response to an emergency causing an imminent danger to human health and safety.

GOOD SAMARITAN LAW

SECTION 3.10. of the PCS would clarify that a person who provides emergency services voluntarily, not expecting at that time to be paid for those services, is protected from liability under the Good Samaritan Law.

OPEN BURNING

SECTION 3.11. of the PCS would amend rules in the North Carolina Administrative Code (NCAC) that pertain to open burning without an air quality permit to provide that, in addition to the open burning of leaves, tree branches, and yard trimmings, a permit is not required for the burning of logs and stumps when certain conditions are met. This section would also amend the statutes to prohibit local air pollution control program authorities, the Department of Environment and Natural Resources and the Environmental Management Commission from regulating combustion heaters, appliances, or fireplaces in private dwellings, except as authorized by federal law.

INLET HAZARD AREAS

SECTION 3.12. of the PCS would direct the Coastal Resources Commission (Commission) to adopt rules disallowing the establishment of any inlet hazard area in any location where (i) the location formerly contained an inlet, but the inlet has been closed for at least 15 years, (ii) the location no longer contains the inlet due to shoreline migration, or (iii) the location includes an inlet providing access to a State Port via a channel maintained by the U.S. Army Corps of Engineers. An inlet hazard area is an area vulnerable to erosion and flooding due to its proximity to ocean inlets. This section would not prevent the Commission from studying current or potential inlet hazard areas, or designating new inlet hazard areas.

HUNTING TRIALS

SECTION 3.13. of the PCS would authorize the Wildlife Resources Commission to issue a Field Trial Dog Handler or Judge Permit, which would allow a person to participate as a dog handler or judge in a field trial without possessing a hunting license. The person could not participate in hunting activities with the dog. Field trials using exclusively domestically-raised waterfowl and game birds or legally taken dead game are not considered "hunting activities."

This section would become effective July 1, 2014.

ADJUST UTILITY REGULATORY FEE

SECTION 3.15. All public utilities operating in the State pay a regulatory fee set by the General Assembly that is a percentage of their jurisdictional revenues. The regulatory fee is used to pay the expenses incurred by the Utilities Commission and the Public Staff in regulating public utilities. Reforms enacted by the General Assembly in 2009 and 2011 allow a local exchange company (telecommunications company) whose territory is open to competition from other local providers to elect to participate in alternative forms of regulation which require less oversight from the Utilities Commission.

This section of the PCS would lower the regulatory fee beginning July 1, 2015, for those companies electing to participate in alternative forms of regulation, and lower the fee further beginning July 1, 2016. This section also directs that the regulatory fee for all other public utilities be adjusted to

compensate for the overall decrease in revenues such that the total regulatory fee collected for each fiscal year is sufficient to cover the operations of the Utilities Commission and the Public Staff.

AMEND JORDAN LAKE RULE FOR EXISTING RIPARIAN BUFFERS

SECTION 3.16. of the PCS would amend a 2013 legislative change to 15A NCAC 02B .0267 (Jordan Water Supply Nutrient Strategy: Protection of Existing Riparian Buffers), by providing that the piping of a stream allowed under a permit issued by the United States Army Corps of Engineers would be an exempt use rather than an allowable use. Under the Jordan Water Supply Nutrient Strategy: Protection of Existing Riparian Buffers Rule, an exempt use does not require local government authorization while an allowable use does.

ELIMINATE OUTDATED AIR QUALITY REPORTING REQUIREMENTS

SECTION 3.17.(a) of the PCS would delete the requirement for the Department of Environment and Natural Resources (DENR) to annually report to the Environmental Review Commission (ERC) and the Fiscal Research Division on the cost of the Title V Program. The federal Clean Air Act requires the Title V program to be funded entirely by fees collected from permitted facilities. The annual report discusses the costs and other aspects of North Carolina's Title V permit program. The U.S. Environmental Protection Agency (EPA) provides oversight of this federally mandated permitting program.

SECTION 3.17.(b) of the PCS would repeal:

- The requirement that the State use resources, means, negotiation, participation in interstate compacts, petitions, and litigation to induce other states and entities, including the Tennessee Valley Authority, to achieve reductions in emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO_2) comparable to those required by the Clean Smokestacks Act.
- The requirement for the Environmental Management Commission (EMC) to report on the desirability of requiring and the feasibility of obtaining reductions in NOx and SO_2 beyond those required by the Clean Smokestacks Act to the ERC and the General Assembly. The reporting requirement was amended from annual to biennial in 2011.
- The requirement for the Division of Air Quality (DAQ) of DENR to annually report its interim findings and recommendations on issues related to monitoring emissions of mercury from coal-fired generating units to the EMC and the ERC.
- The requirement that the DAQ study issues related to the development and implementation of standards and plans to control emissions of carbon dioxide (CO2) from coal-fired generating units and other stationary sources of air pollution, evaluate control technologies, estimate the cost and benefits of alternative strategies to reduce emissions of CO2 and report its findings and recommendations to the EMC and ERC.

SECTION 3.17.(c) of the PCS would repeal the requirement for air pollution permit holders to submit to DENR a written description of their current and projected plans to reduce the emission of air contaminants under such permits by source reduction or recycling. The written description is required to accompany the payment of the annual permit fee, any application for a new permit, or for modification of an existing permit. The written description is not considered part of a permit application and does not serve as the basis for the denial of a permit or permit modification.

CLARIFYING CHANGES TO STATUTES PERTAINING TO THE MANAGEMENT OF VENOMOUS SNAKES AND OTHER REPTILES

SECTION 3.18. of the PCS would clarify that when a venomous reptile is seized, and antivenin approved by the U.S. Food and Drug Administration for that reptile is not readily available, the North Carolina Museum of Natural Sciences or the North Carolina Zoological Park or their designated representative must euthanize the reptile unless the species is protected under the federal Endangered Species Act of 1973.

TRANSFER RULEMAKING AUTHORITY FOR WASTEWATER SYSTEMS FROM COMMISSION FOR PUBLIC HEALTH TO ENVIRONMENTAL MANAGEMENT COMMISSION AND MAKE OTHER CHANGES TO ACHIEVE ONSITE WASTEWATER REGULATORY REFORM

SECTION 3.19. of the PCS would:

- Transfer the rulemaking responsibility for onsite wastewater management systems from the Commission for Public Health to the Environmental Management Commission.
- Define "ground absorption system" (a system of tanks, treatment units, nitrification fields, and appurtenances for wastewater collection, treatment, and subsurface disposal) as a wastewater system and provide that systems located on multiple adjoining lots or tracts under common ownership or control must be considered a single system for permitting purposes.
- Remove the five-year limit on improvement permits.

REPEAL WASTE MANAGEMENT BOARD RULES

SECTION 3.20. of the PCS would provide that the General Assembly finds that the Governor's Waste Board (Board) was repealed in 1993 and that the Board's rules are no longer enforceable or necessary. This section would also direct the Secretary of Environment and Natural Resouces to repeal the Board's rules on or before December 1, 2014, and prohibit any political subdivision of the State from implementing or enforcing the rules.

The Board was authorized to preempt local ordinances that would have the effect of prohibiting the siting or operation of a low-level radioactive waste facility. The 1993 legislation that repealed the Board transferred most of the Board's duties and responsibilities to the Secretary of Environment and Natural Resources.

EXPAND DAILY FLOW DESIGN EXEMPTION FOR LOW-FLOW FIXTURES

SECTION 3.21. of the PCS would amend a provision enacted in 2013 to provide for reduced flow alternatives to the Daily Flow Rate for Design for wastewater systems as required by 15A NCAC 18A .1949 (Sewage Flow Rates for Design Units) such that, in addition to exempting establishments, dwellings would be exempt from the Daily Flow Rate for Design and any design flow standard under certain conditions. This section would also direct the Commission for Public Health and the Department of Health and Human Services to establish flow rate limits by rule based on scientific evidence specific to soil types found in the State.

REPEAL OBSOLETE STATUTES

SECTION 3.22. of the PCS would repeal obsolete provisions in the criminal law related to using profane or indecent language on public highways and refusing to relinquish a party telephone line in an emergency.

INCREASE CERTAIN PENALTIES FOR TAKING OF PROTECTED PLANTS

SECTION 3.23.(a) of the PCS would increase certain penalties for the taking of protected plants. Under current law, any person convicted of pulling or taking protected plants without having a

permit is subject to a Class 3 misdemeanor only punished by a fine of not less than $10 and not more than $50 for each offense. The PCS would increase the fine to not less than $75 and no more than $175 for each offense. This fine has not been increased since 1941. The section of the PCS would also require the Clerk of Court for the jurisdiction to report the conviction to the Plant Conservation Board (Board), provided that the plant taken is also listed under the Protected Plants list pursuant to the Plant Protection and Conservation Act (Act).

SECTION 3.23.(b) of the PCS would require the Board to assess a civil penalty of up to $2,000 to any person guilty of violating the Act a second or subsequent time. Current law allows the Board to use discretion when assessing this civil penalty.

INCREASE PENALTIES FOR PARKING IN HANDICAPPED SPACE WITHOUT REQUIRED PLACARD

SECTION 3.24. of the PCS would amend the Motor Vehicle Law to increase the penalty range for violating the handicapped parking privileges provision from a minimum of $100.00 to a maximum of $250.00 under current law, to a minimum of $300.00 and a maximum of $500.00. The provision also removes the requirement that signs designating handicapped parking spaces must state the maximum penalty for parking in violation of the law. The provision prohibits signs displaying incorrect maximum penalties.

This section would become effective December 1, 2014 and would apply to violations committed on or after that date.

REPEAL OUTDATED PUBLIC UTILITIES STATUTES OR REPORTS

SECTION 3.25.(a) through 3.25.(e) of the PCS would repeal redundant and obsolete reports as requested by the North Carolina Utilities Commission.

REPEAL ENERGY AUDIT REQUIREMENTS

SECTION 3.26. of the PCS would repeal the requirement for the State Energy Office to conduct energy audits of each State agency and institution of higher learning as a part of the Department of Administration's Facilities Condition and Assessment Program. This section would also change, from annual to biennial, the required updates to the management plans developed by State agencies and institutions of higher learning to manage energy, water, and utility use.

COASTAL STORMWATER GRANDFATHER

SECTION 3.27. of the PCS would exempt from the requirements of 15A NCAC 02H .1005 (Stormwater Requirements: Coastal Counties) development activity on certain properties that are contiguous to properties already exempt from the requirements of the rule. 15A NCAC 02H .1005 (Stormwater Requirements: Coastal Counties) manages stormwater in the coastal counties by regulating development in those counties, including regulation of the amount of impervious surface allowed for any particular development.

PESTICIDE USE FOR MOLES

SECTION 3.28. of the PCS would authorize the use of any pesticide registered by the Pesticide Board to control any species of mole other than the Star-Nosed mole if Pesticide Board rules are followed and hazards to nontarget species are minimized.

CLARIFY PERIODIC INSPECTIONS AUTHORITY OF HOUSING FINANCE AGENCY

SECTION 3.29. of the PCS would exempt any residential building subject to periodic inspections by the North Carolina Housing Finance Agency from a county or city's authority to conduct

periodic inspections as part of a targeted effort within a geographic area, if the residential building is in compliance with federal standards and provided the owner of the residential building supplies the compliance results letters from the North Carolina Housing Financing Agency to the local inspections department.

SECURITY GRILLES

SECTION 3.30. Section 1008.1.4.5 of the NC State Building Code (Fire Code) requires that no more than one-half of the doors of certain buildings be equipped with security grilles when two or more means of egress are required. This section of the PCS would require the Building Code Council to amend the code such that security grilles are permitted at all exits if the grilles may be opened from the inside during periods when the building is occupied by authorized persons and remain open when the building is occupied by the general public.

REWRITE LANDSCAPE CONTRACTOR LICENSING STATUTES

SECTION 3.31. of the PCS, effective August 1, 2015, would rewrite the laws to require that any person engaged in the business of landscape contracting must obtain a license. This section would: more clearly define the term "landscape contractor"; establish requirements for landscape contractor licensure including application requirements, qualifications, and examination and continuing education; provide for exemptions for licensure; establish the North Carolina Landscape Contractors' Licensing Board; establish standards for issuing licenses to corporations, partnerships, and persons doing business under a trade name; establish fees; and articulate causes for disciplinary action, civil penalties, and injunctions.

CLARIFY RIGHTS OF MARINE ARTIFACT DONORS

SECTION 3.32. of the PCS would allow a person who discovers a shipwreck or salvages marine artifacts from State waters and who donates the artifacts or a contractual interest in the artifacts to the State to retain the right to access the artifacts and display them on tour or conduct nondestructive research on them. The person would retain this right if he or she (i) pays 40% of the net proceeds from display of the artifacts to the General Fund, (ii) leaves at least 1/3 of the artifacts in State custody, (iii) provides to the State to-scale replicas of unique artifacts at no cost while the artifacts are on display elsewhere, (iv) returns the artifacts to the State at least every two years for a period of at least one year, and (v) promotes the cultural and natural heritage of the State in any display of the artifacts. The right would be valid for 30 years after discovery of the artifacts, and the State would return replicas to the person who donated the artifacts, or the person's heir or designee, at the end of the 30 year period.

TRANSFER SOLID WASTE RULEMAKING AUTHORITY FROM COMMISSION FOR PUBLIC HEALTH TO ENVIRONMENTAL MANAGEMENT COMMISSION

SECTION 3.33. of the PCS would transfer all rule-making authority for matters related to solid and hazardous waste management (Article 9 of Chapter 130A of the General Statutes), from the Commission for Public Health to the Environmental Management Commission, and makes conforming changes throughout the statutes.

TRANSFER DRINKING WATER RULEMAKING AUTHORITY FROM COMMISSION FOR PUBLIC HEALTH TO ENVIRONMENTAL MANAGEMENT COMMISSION

SECTION 3.34. of the PCS would transfer all rule-making authority for matters under the North Carolina Drinking Water Act (Article 10 of Chapter 130A of the General Statutes) from the Commission for Public Health to the Environmental Management Commission, including drinking water rules to regulate public water systems.

WELL CONTRACTOR LICENSING CHANGES

SECTION 3.35. Under current law, no person may engage in electrical contracting without having received a license from the State Board of Examiners of Electrical Contractors. This section of the PCS would exempt from the requirements of the electrical contractor statutes, including the licensure requirements, the installation, construction, maintenance, or repair of electrical wiring, devices, appliances, or equipment by a person certified as a well contractor when running electrical wires from the well pump to the pressure switch. This section would also direct the Well Contractors Certification Commission to establish minimum education, experience, and knowledge requirements for each type of certification for well contractors for the installation, construction, maintenance, and repair of electrical wiring devices, appliances, and equipment related to the construction, operation, and repair of wells. These requirements would apply only to the initial certification and would not be required as part of continuing education or as a condition of certification renewal.

STANDARDIZE LOCAL WELL PROGRAMS

SECTION 3.36.(a) of the PCS would provide that private drinking water well permitting, inspection, and testing programs administered by county health departments must use the standard forms created by the Department of Environment and Natural Resources (Department) unless the local program submits a petition for rule-making to the Environmental Management Commission (EMC), and the EMC finds by rule that the area has unique conditions constituting a threat to public health that would be mitigated by the use of a different form. The PCS would also provide that local health department registries of private drinking water wells must be searchable by the address or addresses served by the well.

SECTIONS 3.36.(b) through (d) of the PCS would provide that neither the Department nor any local well program may require that well contractor identification plates include well construction permit numbers, and directs the EMC to adopt conforming rules. A local well program may install a plate with the well construction permit number or any other relevant information on a well at its own expense.

SECTION 3.36.(e) would provide that if the well location marked on the map submitted with an application to a local well program is also marked with a stake or similar marker on the property, the local well program may not require the contractor to be onsite during the onsite pre-drill inspection provided that the contractor is available to answer questions by telephone.

PART IV. STUDIES

HONEYBEE WORKING GROUP

SECTION 4.1. of the PCS would direct the Department of Agriculture and Consumer Service to create the Honeybee Improvement for Vital Ecology (HIVE) Working Group. The Working Group would include representatives from various government agencies and organizations directed to proactively address the issue of Colony Collapse Disorder. The Working Group would report its findings and recommendations to the Environmental Review Commission by November 30, 2014.

SENATOR JEAN PRESTON MARINE SHELLFISH SANCTUARY

SECTION 4.2. of the PCS would direct the Division of Marine Fisheries (DMF) of the Department of Environment and Natural Resources (DENR) to designate an area of approximately 10,000 acres within the Pamlico Sound as a recommendation to the Environmental Review Commission (ERC) for the establishment of the "Senator Jean Preston Marine Shellfish Sanctuary" and to create a

plan for managing the sanctuary. The plan would include components for the location and delineation of the sanctuary, the administration of the sanctuary, the funding of the sanctuary, free or discounted leasing in the sanctuary for commercial fishermen, and recommendations related to the sanctuary. No later than October 1, 2014 and quarterly thereafter, DENR would report to the ERC on the implementation of the plan.

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO STUDY INTERBASIN TRANSFERS

SECTION 4.3. of the PCS would direct the Department of Environment and Natural Resources (DENR) to study the statutes and rules governing interbasin transfers and make recommendations as to whether the statutes and rules should be amended. Specifically, DENR is directed to examine whether temporary and emergency interbasin transfers should be subject to different regulatory requirements than long-term interbasin transfers, whether interbasin transfers between river subbasins should be subject to different regulatory requirements than interbasin transfers between major river basins, and whether there are types of interbasin transfers that should be exempted from the interbasin certification or other regulatory requirements. DENR must report its findings and recommendations to the Environmental Review Commission no later than October 1, 2014.

PROGRAM EVALUATION DIVISION TO STUDY WATER AND SEWER SYSTEMS

SECTION 4.4. of the PCS would direct the Joint Legislative Program Evaluation Oversight Committee to direct the Program Evaluation Division (PED) to study the benefits that may result from the merger of public water systems and wastewater collection and treatment works. Specifically, PED is directed to consider whether the benefits that have resulted from the merger of certain systems can be replicated for other systems, whether the State can incentivize systems to purchase, interconnect with, or enter into joint management agreements with systems that do not provide sufficient service, and whether the State can allow systems and works to apply for grant funding or other assistance on the behalf of systems that do not provide sufficient service if the award of such funding is contingent on purchase, interconnection, or a joint management agreement between the systems.

PART V. SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 5.1. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part declared to be unconstitutional or invalid.

EFFECTIVE DATE: Except as otherwise provided, this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: May 20, 2014

TO: **Senators Rucho and Rabon**

FROM: Brian Slivka, Timothy Dale and Jennifer Hoffman
Fiscal Research Division

RE: **PCS to S734**

FISCAL IMPACT

($ in millions)

☑ Yes ☐ No ☐ No Estimate Available

State Impact	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
General Fund Revenues:					
General Fund Expenditures:					
Special Fund Revenues:					
Utility Reg Fee		(1.0)	(1.3)	(1.3)	(1.3)
Special Fund Expenditures:					
DENR Air Quality	(0.1)	(0.1)	(0.1)	(0.1)	(0.1)
State Positions:					
NET STATE IMPACT	**$0.1**	**($0.9)**	**($1.2)**	**($1.2)**	**($1.2)**

Local Impact					
Revenues:					
North Carolina Landscape Contractors' Licensing Board	0.5	0.7	0.4	0.4	0.4
Expenditures:					
NET LOCAL IMPACT	**$0.5**	**$0.7**	**$0.4**	**$0.4**	**$0.4**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Utilities Commission, NC Landscape Contract
Licensing Board

EFFECTIVE DATE: Effective when law except as otherwise provided.

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY:

Section 1.19: Clarify Process for Readoption of Existing Rule

This section clarifies the process for readoption of existing rules in accordance with the periodic review and expiration of existing rules provision of the Administrative Procedure Act (APA) by directing the Rules Review Commission to set the date by which each agency must readopt its rules, and clarifying that the agency is not required to prepare a fiscal note if the rule is readopted without change.

Fiscal Impact Unknown: The Department of Environment and Natural Resources anticipates savings in staff time dedicated to the review and development of fiscal notes due to the proposed clarification of the fiscal note requirement; however, the amount of this savings is unknown. Savings are dependent on the number of rules adopted without change.

Section 3.15: Adjust Utility Regulatory Fee

Section 3.15 of the bill adds new definitions for the types of jurisdictional utility revenues that are subject to the public utility regulatory fee. "Non-competitive" jurisdictional revenues will continue to be assessed the public utility regulatory fee established by the General Assembly. "Competitive" jurisdictional revenues will be assessed a lower regulatory fee that is established in statute. Competitive jurisdictional revenues are separated into two categories:

1. Subsection (h) competitive jurisdictional revenues – revenues derived from retail services provided by local exchange companies and competing local providers that elected to operate under G.S. 62-133.5(h).
2. Subsection (m) competitive jurisdictional revenues – revenues derived from retail services provided by local exchange companies and competing local providers that elected to operate under G.S. 62-133.5(m).

Section 3.15 also directs the Utilities Commission to adjust established utility rates to allow for the recovery of any future increases in regulatory fees. As an alternative, the Commission may approve a utility's request to defer any future fee increases.

Fee reductions for competitive jurisdictional revenues would begin on July 1, 2015 and would further decrease on July 1, 2016. Subsection (h) revenues would decrease from 0.13% to 0.06% in 2015, and 0.04% in 2016. Subsection (m) revenues would decrease from 0.13% to 0.05% in 2015, and 0.02% in 2016.

Section 3.25: Repeal Outdated Public Utilities Statutes or Reports

Section 3.25 repeals a variety of public utilities reporting requirements placed on the Utilities Commission. While workload requirements may be reduced due to fewer reports, no fiscal impact is anticipated.

Section 3.31: Rewrite Landscape Contractor Licensing Statutes

Section 3.31 repeals G.S. 89D-1 through G.S. 89D-10. It sets forth definitions for landscape contractors and the licensing of landscape contractors. The bill defines when a license is required and any exemptions. Section 3.31 also defines the makeup, powers, and duties of the North Carolina Landscape Contractors' Licensing Board. It provides rules for the application, qualifications, examination, and issuance of a landscape contractor's license. Section 3.31 sets forth compliance rules for the Board to issue a license to corporations, partnerships, persons doing business under trade name, and non-residents. It provides a list of expenses and fees the Board may impose. And it details the Board's ability to undertake disciplinary actions, civil penalties, and injunctions to prevent violations.

Section 3.9: Ambient Air Monitoring

This section directs the Department of Environment and Natural Resources (DENR) to review its ambient air monitoring network and request from the United States Environmental Protection Agency

(EPA) the authority to remove any monitor not required by federal law. This section also directs DENR, no later than September 1, 2014, to discontinue all ambient air monitors not required by federal law and for which EPA approval for discontinuance is not required.

> Fiscal Impact: The Department of Environment and Natural Resources' Division of Air Quality (DAQ) estimates savings ranging from $60,000 for the removal of five air quality monitors to approximately $216,000 for the removal of up to 18 monitors. Operating costs for each monitor are approximately $12,000 per year. DAQ reports that the there are five monitors that can be shut down without EPA approval, and an additional 13 monitors that could be potentially shut down if approved by EPA. There are additional potential savings in the number of staff needed to service and maintain the monitors depending on the number approved by EPA, which is unknown at this time. Because DAQ is entirely receipt-supported, these savings accrue to the special funds that support this Division, and not the General Fund.

Section 4.1: Honeybee Working Group

Section 4.1 directs the Department of Agriculture to create and conduct a working group regarding honeybee improvement. Staff anticipates that the Department will be able to assume the workload within existing resources. No fiscal impact is anticipated.

Section 4.2: Senator Jean Preston Marine Shellfish Sanctuary

Section 4.2 directs DENR's Division of Marine Fisheries to designate an area within Pamlico Sound as a recommendation to the Environmental Management Commission for the establishment of the "Senator Jean Preston Marine Shellfish Sanctuary" and to create a plan for managing the Sanctuary. Staff anticipates that the Division will be able to assume the workload within existing resources. No fiscal impact is anticipated.

ASSUMPTIONS AND METHODOLOGY:

Section 3.15

There are currently five types of regulation on telecommunication providers in the State:

1) Price-Plan Regulation
2) Rate-of-Return Regulation
3) G.S. 62-133.5(h)
4) G.S. 62-133.5(m)
5) Certification

There are two types of regulated entities that would be eligible to be regulated under G.S. 62-133.5(h) or G.S. 62-133.5(m):

1) Incumbent Local Exchange Companies (ILECs)
2) Competing Local Providers (CLPs)

Telecommunication providers can elect to be regulated under any of the regulation types listed above, with the exception that only CLPs are eligible for the certification process.

Information supplied by the Utilities Commission for the 2012 Calendar Year details the entity participation by regulation type as displayed in Table 1:

Table 1: Number of Providers by Regulation Type

Regulation Type	Number of ILECs	Number of CLPs
Price-Plan	4	0
Rate-of-Return	1	0
G.S. 62-133.5(h)	10	5
G.S. 62-133.5(m)	1	8
Certification	0	161

The same information provided by the Commission included jurisdictional revenues and regulatory fees paid to the Commission from all regulated entities. In addition, 10 of the 16 ILECs provided a breakdown between "competitive" or retail revenues and "non-competitive" or wholesale revenues. The same breakdown was not available for any CLPs.

In CY 2012, jurisdictional revenues received by all ILECs and CLPs totaled $1,595,297,288. Of this amount, $1,083,469,223 was derived from the 10 of 16 ILECs providing a breakdown of wholesale and retail revenues. The retail revenues reported by these 10 ILECs totaled $894,596,745, or 83% of their total jurisdictional revenues.

For this analysis, the percentage of revenues derived from retail operations as reported by 10 of the 16 ILECs (83%) will be applied to the total jurisdictional revenues within the State to calculate total retail jurisdictional revenues. When the experience from the 10 reporting ILECs is applied to total jurisdictional revenue for all ILECs and CLPs, the result is total retail jurisdictional revenue of $1,324,096,749.

All ILECs and CLPs listed above can elect to be regulated under G.S. 62-133.5(h) or G.S. 62-133.5(m). The likelihood of a provider electing to be regulated under G.S. 62-133.5(h) or G.S. 62-133.5(m) will vary among each provider. Since providers opting to be regulated under G.S. 62-133.5(h) or G.S. 62-133.5(m) will pay a lower regulatory fee on retail revenues, an incentive exists for eligible providers to elect to be regulated under these statutes. If more providers choose to be regulated under these statutes, the fiscal impact on the Utilities Commission will increase.

Best Estimate

A variety of factors can influence a provider's election of regulatory coverage. Some examples would include ease of rate increases, positioning for funding from a possible universal service fund, inertia, cost of regulation, etc. Accurately forecasting which providers elect certain types of regulation in a lower-fee environment is improbable. As a result, staff has assumed that if the bill were to become law, all eligible providers will elect to be regulated under G.S. 62-133.5(h) or G.S. 62-133.5(m) and jurisdictional revenues would be split equally between the regulatory types. Estimated fee reduction impacts are presented in Table 2:

Table 2: Estimated Reduced Revenue Due to Reduced Regulatory Fee

	G.S. 62-133.5(h)	G.S. 62-133.5(m)
Total Juris. Revenue	$797,648,644	$797,648,644
Estimated Retail Revenue	$662,048,375	$662,048,375
FY 2015-16 Fee Reduction	($463,434)	($529,639)
FY 2016-17 Fee Reduction	($595,844)	($728,253)

The total estimated fiscal impact on the Utilities Commission and Public Staff is presented in Table 3:

Table 3: Projected Competitive Revenue Fee Reduction Impact on NCUC/ Public Staff

Fee Reduction Impact on NC Utilities Commission/ Public Staff Revenue					
	FY 2014-15 ($)	**FY 2015-16 ($)**	**Δ Fee Revenue ($)**	**FY 2016-17 ($)**	**Δ Fee Revenue ($)**
Best Estimate	$14,662,857	$13,669,784	($993,073)	$13,338,760	($1,324,097)

For FY 2015-16, the Utilities Commission and the Public Staff would receive reduced regulatory fee revenue of $993,073. For FY 2016-17 and subsequent years, the Utilities Commission and Public Staff would receive reduced regulatory revenue of approximately $1.3 million annually.

Section 3.15(f) expresses the intent of the General Assembly to increase the regulatory fee on noncompetitive jurisdictional revenues to replace funding lost from reduced regulatory fees on competitive revenues. However, the bill does not increase the regulatory fee.

Section 3.31

The table below illustrates the current and proposed maximum fees for the North Carolina Landscape Contractors' Licensing Board:

	Current	Proposed
Application Fee	75.00	100.00
Examination Fee	75.00	250.00
Individual license fee and individual license renewal	75.00	100.00
Initial corporate, limited liability company, partnership, or trade name license	NA	100.00
Corporate, limited liability company, partnership, or trade-name license renewal	NA	100.00
Late renewal fee	25.00	50.00
Reinstatement fee	25.00	250.00
License by reciprocity	75.00	250.00
Duplicate license	5.00	25.00

The North Carolina Green Industry Council estimates there are currently 1,200 licensed landscape contractors. They estimate that by rewriting the landscape contractor licensing statutes, the number

of licenses could reach 5,000 by the end of 2015. Of those 5,000, approximately 2,500 would not have to take the examination, due to grandfathering language in Section 3.31(e). We've estimated that the North Carolina Landscape Contractors' Licensing Board would collect approximately $500,000 more in revenue in FY14-15. This assumes the distribution of 3,750 licenses by June 2015. In FY15-16, when all of the new fees are in place, revenue would increase by approximately $700,000. This amount includes all 5,000 estimated licenses. Subsequent years would see about $400,000 in new revenue.

SOURCES OF DATA: North Carolina Green Industry Council, NC Utilities Commission, Public Staff

TECHNICAL CONSIDERATIONS: None.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 734

AMENDMENT NO. 1
(to be filled in by Principal Clerk)

S734-ARI-119 [v.1]

Comm. Sub. [YES]
Amends Title [NO]
Second Edition

Date May 21 ,2014

Senator Rabin

moves to amend the bill on page 58, line 39 by inserting the following after that line:
"**MILITARY LANDS PROTECTION ACT AND MILITARY AFFAIRS COMMISSION AMENDMENTS**

SECTION 3.37.(a) Article 8B of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-135.29 Review of Military Lands Protection Act Proposals.**

The State Construction Office shall maintain, and make available to the public, accurate maps of areas surrounding major military installations, including Military Trainings Routes and Military Operating Areas, as defined in G.S. 143-151.71, that are subject to the provisions of Article 9G of Chapter 143 of the General Statutes."

SECTION 3.37.(b) G. S. 143-151.71 reads as rewritten:

'**§ 143-151.71. Definitions.**

Within the meaning of this Article:

(1) "Area surrounding major military installations" is the area that extends five miles beyond the boundary of a major military installation and may include incorporated and unincorporated areas of counties and municipalities.

~~(2) "Building Code Council" means the Council created pursuant to Article 9 of Chapter 143 of the General Statutes.~~

(3) "Commissioner" means the Commissioner of Insurance.

(4) "Construction" includes reconstruction, alteration, or expansion.

(5) "Major military installation" means Fort Bragg, Pope Army Airfield, Camp Lejeune Marine Corps Air Base, New River Marine Corps Air Station, Cherry Point Marine Corps Air Station, Military Ocean Terminal at Sunny Point, the United States Coast Guard Air Station at Elizabeth City, Naval Support Activity Northwest, Air Route Surveillance Radar (ARSR-4) at Fort Fisher, and Seymour Johnson Air Force Base, in its own right and as the responsible entity for the Dare County Bombing Range, and any facility located within the State that is subject to the installations' oversight and control.

(6) "Person" means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or

private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity.

(6a) "State Construction Office" means the State Construction Office of the Department of Administration.

(7) "Tall buildings or structures" means any building, structure, or unit within a multiunit building with a vertical height of more than 200 feet measured from the top of the foundation of the building, structure, or unit and the uppermost point of the building, structure, or unit. "Tall buildings or structures" do not include buildings and structures listed individually or as contributing resources within a district listed in the National Register of Historic Places.'

SECTION 3.37.(c) G.S. 143-151.73 reads as rewritten:

'**§ 143-151.73. Certain buildings and structures prohibited without endorsement.**

(a) No county or city may authorize the construction of and no person may construct a tall building or structure in any area surrounding a major military installation in this State, unless the county or city is in receipt of either a letter of endorsement issued to the person by the ~~Building Code Council~~ State Construction Office pursuant to G.S. 143-151.75 or proof of the ~~Council's~~ State Construction Office's failure to act within the time allowed pursuant to G.S. 143-151.75.

(b) No county or city may authorize the provision of the following utility services to any building or structure constructed in violation of subsection (a) of this section: electricity, telephone, gas, water, sewer, or septic system.'

SECTION 3.37.(d) G.S. 143-151.75 reads as rewritten:

'**§ 143-151.75. Endorsement for proposed tall buildings or structures required.**

(a) No person shall undertake construction of a tall building or structure in any area surrounding a major military installation in this State without either first obtaining the endorsement from the ~~Building Code Council~~ State Construction Office or proof of the ~~Council's~~ State Construction Office's failure to act within the time allowed.

(b) A person seeking endorsement for a proposed tall building or structure in any area surrounding a major military installation in this State shall provide written notice of the intent to seek endorsement to the base commander of the major military installation that is located within five miles of the proposed tall building or structure and shall provide all of the following to the ~~Building Code Council:~~ State Construction Office:

(1) Identification of the major military installation and the base commander of the installation that is located within five miles of the proposed tall building or structure.

(2) A copy of the written notice sent to the base commander of the installation identified in subdivision (1) of this subsection that is located within five miles of the proposed tall building or structure.

(3) A written "Determination of No Hazard to Air Navigation" issued by the Federal Aviation Administration pursuant to Subpart D of Part 77 of Title 14 of the Code of Federal Regulations (January 1, 2012, Edition) for the proposed tall building or structure.

(c) After receipt of the information provided by the applicant pursuant to subsection (b) of this section, the ~~Building Code Council~~ State Construction Office shall, in writing, request a written statement concerning the proposed tall building or structure from the base commander of the major military installation identified in subdivision (1) of subsection (b) of this section. The ~~Building Code Council~~ State Construction Office shall request that the following information be included in the written statement from the base commander:

(1) A determination whether the location of the proposed tall building or structure is within a protected area that surrounds the installation.

(2) A determination whether any activities of the installation may be adversely affected by the proposed tall building or structure. A detailed description of the potential adverse effects, including frequency disturbances and physical obstructions, shall accompany the determination required by this subdivision.

(d) The ~~Building Code Council~~ State Construction Office shall not endorse a tall building or structure if the Council finds any one or more of the following:

(1) The proposed tall building or structure would encroach upon or otherwise interfere with the mission, training, or operations of any major military installation in North Carolina and result in a detriment to continued military presence in the State. In its evaluation, the ~~Building Code Council~~ State Construction Office may consider whether the proposed tall building or structure would cause interference with air navigation routes, air traffic control areas, military training routes, or radar based on the written statement received from a base commander as provided in subsection (c) of this section and written comments received by members of affected communities. Provided, however, if the ~~Building Code Council~~ State Construction Office does not receive a written statement requested pursuant to subsection (c) of this section within 45 days of issuance of the request to the base commander, the ~~Building Code Council~~ State Construction Office shall deem the tall building or structure as endorsed by the base commander.

(2) The ~~Council~~ State Construction Office is not in receipt of the written "Determination of No Hazard to Air Navigation" issued to the person by the Federal Aviation Administration required pursuant to subdivision (3) of subsection (b) of this section.

(e) The ~~Building Code Council~~ State Construction Office shall make a final decision on the request for endorsement of a tall building or structure within 90 days from the date on which the ~~Council~~ State Construction Office requested the written statement from the base commander of the major military installation identified in subdivision (1) of subsection (b) of this section. If the ~~Council~~ State Construction Office determines that a request for a tall building or structure fails to meet the requirements for endorsement under this section, the ~~Council~~ State Construction Office shall deny the request. The ~~Council~~ State Construction Office shall notify the person of the denial, and the notice shall include a written statement of the reasons for the denial. If the ~~Council~~ State Construction Office fails to act within any time

period set forth in this section, the person may treat the failure to act as a decision to endorse the tall building or structure.

(f) The ~~Building Code Council~~ State Construction Office may meet by telephone, video, or Internet conference, so long as consistent with applicable law regarding public meetings, to make a decision on a request for endorsement for a tall building or structure pursuant to subsection (e) of this section."

SECTION 3.37.(e) G.S. 143-138(j2) is repealed.

SECTION 3.38. G.S. 127C-1 is amended by adding a new subsection to read:

"(d) Meetings and Records. – Notwithstanding Article 33C of the General Statutes and Chapter 132 of the General Statutes, the Commission may withhold documents and discussions related to the federal government's process to determine closure or realignment of military installations until a final decision has been made by the federal government in that process."".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 734

AMENDMENT NO. 2
(to be filled in by Principal Clerk)

S734-ASB-88 [v.2]

Comm. Sub. [NO]
Amends Title [NO]
Second Edition

Date May 21 ,2014

Senator Barefoot

moves to amend the bill on page 31, lines 21 and 22,
by inserting between those lines:

"**SECTION 3.14.** G.S. 143-215.22L(w) reads as rewritten:

"(w) Requirements for Coastal ~~Counties.~~Counties and Reservoirs Constructed by the United States Army Corps of Engineers. – A petition for a certificate (i) to transfer surface water to supplement ground water supplies in the 15 counties designated as the Central Capacity Use Area under 15A NCAC 2E.0501, ~~or~~ (ii) to transfer surface water withdrawn from the mainstem of a river to provide service to one of the coastal area counties designated pursuant to G.S. 113A-103, or (iii) to withdraw or transfer water stored in any multipurpose reservoir constructed by the United States Army Corps of Engineers and partially located in a state adjacent to North Carolina, provided the United States Army Corps of Engineers approved the withdrawal or transfer on or before July 1, 2014, shall be considered and a determination made according to the following procedures:

(1) The applicant shall file a notice of intent that includes a nontechnical description of the applicant's request and identification of the proposed water source.

(2) The applicant shall prepare an environmental document pursuant to subsection (d) of this section, except that an environmental impact statement shall not be required unless it would otherwise be required by Article 1 of Chapter 113A of the General Statutes.

(3) Upon determining that the documentation submitted by the applicant is adequate to satisfy the requirements of this subsection, the Department shall publish a notice of the petition in the North Carolina Register and shall hold a public hearing at a location convenient to both the source and receiving river basins. The Department shall provide written notice of the petition and the public hearing in the Environmental Bulletin, a newspaper of general circulation in the source river basin, a newspaper of general circulation in the receiving river basin, and as provided in subdivision (3) of subsection (c) of this section. The applicant who petitions the Commission for a certificate under this subdivision shall pay the costs associated with the notice and public hearing.

(4) The Department shall accept comments on the petition for a minimum of 30 days following the public hearing.

(5) The Commission or the Department may require the applicant to provide any additional information or documentation it deems reasonably necessary in order to make a final determination.

(6) The Commission shall make a final determination whether to grant the certificate based on the factors set out in subsection (k) of this section, information provided by the applicant, and any other information the Commission deems relevant. The Commission shall state in writing its findings of fact and conclusions of law with regard to each factor.

(7) The Commission shall grant the certificate if it finds that the applicant has established by a preponderance of the evidence that the petition satisfies the requirements of subsection (m) of this section. The Commission may grant the certificate in whole or in part, or deny the request, and may impose such limitations and conditions on the certificate as it deems necessary and relevant."".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

PAW

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 734

AMENDMENT NO. 3
(to be filled in by Principal Clerk)

S734-ARI-117 [v.7]

Comm. Sub. [YES]
Amends Title [NO]
Second Edition

Date May 21 ,2014

Senator Brock

moves to amend the bill on page 21, lines 38 and 39,
by rewriting those lines to read:

"G.S. 150B-20 that (i) is from a unit of local government with jurisdiction over an area affected by a proposed water intake that is impacted by a reclassification to which this subsection";

on page 21, lines 45 through 48,
by rewriting those lines to read:

"**SECTION 3.4.(b)** Notwithstanding any other provision of law, a unit of local government shall repeal local ordinance changes required in order to implement a water supply watershed reclassification to which G.S. 143-214.5(c1), as enacted by subsection (a) of this section, applies. Local governments shall repeal local ordinances as required by this section on or before the date that rules adopted pursuant to G.S. 143-214.5(c1), as enacted by subsection (a) of this section, become effective.";

on page 23, line 35,
by rewriting that line to read:

" administrative proceedings, except as provided in";

on page 25, line 51,
by rewriting that line to read:

"administrative penalties and fines for a violation of environmental";

on page 27, line 1
by rewriting that line to read:

"**§ 8-58.61. Preemption of local laws.**";

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 734

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S734-ARI-117 [v.7]

on page 30, line 49
by rewriting that line to read:

"for designation as an inlet hazard area, (ii) designating new inlet hazard areas, or (iii) modifying existing inlet hazard areas consistent with Section 3.12(c) of this act.";

on page 34, line 27, through page 36, line 30,
by deleting those lines;

and on page 51, line 27, through page 52, line 9,
by deleting those lines.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 734

AMENDMENT NO. 3
(to be filled in by Principal Clerk)

S734-ARI-117 [v.7]

Comm. Sub. [YES]
Amends Title [NO]
Second Edition

Date May 21 ,2014

Senator Brock

moves to amend the bill on page 21, lines 38 and 39,
by rewriting those lines to read:

"G.S. 150B-20 that (i) is from a unit of local government with jurisdiction over an area affected by a proposed water intake that is impacted by a reclassification to which this subsection";

on page 21, lines 45 through 48,
by rewriting those lines to read:

"**SECTION 3.4.(b)** Notwithstanding any other provision of law, a unit of local government shall repeal local ordinance changes required in order to implement a water supply watershed reclassification to which G.S. 143-214.5(c1), as enacted by subsection (a) of this section, applies. Local governments shall repeal local ordinances as required by this section on or before the date that rules adopted pursuant to G.S. 143-214.5(c1), as enacted by subsection (a) of this section, become effective.";

on page 23, line 35,
by rewriting that line to read:

" administrative proceedings, except as provided in";

on page 25; line 51,
by rewriting that line to read:

"administrative penalties and fines for a violation of environmental";

on page 27, line 1
by rewriting that line to read:

"**§ 8-58.61. Preemption of local laws.**";

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 734

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S734-ARI-117 [v.7]

on page 30, line 49
by rewriting that line to read:

"for designation as an inlet hazard area, (ii) designating new inlet hazard areas, or (iii) modifying existing inlet hazard areas consistent with Section 3.12(c) of this act.";

on page 34, line 27, through page 36, line 30,
by deleting those lines;

and on page 51, line 27, through page 52, line 9,
by deleting those lines.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

FAV

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 734

AMENDMENT NO. 1
(to be filled in by Principal Clerk)

S734-ARI-119 [v.1]

Comm. Sub. [YES]
Amends Title [NO]
Second Edition

Date May 21 ,2014

Senator Rabin

moves to amend the bill on page 58, line 39 by inserting the following after that line:

"MILITARY LANDS PROTECTION ACT AND MILITARY AFFAIRS COMMISSION AMENDMENTS

SECTION 3.37.(a) Article 8B of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-135.29 Review of Military Lands Protection Act Proposals.**

The State Construction Office shall maintain, and make available to the public, accurate maps of areas surrounding major military installations, including Military Trainings Routes and Military Operating Areas, as defined in G.S. 143-151.71, that are subject to the provisions of Article 9G of Chapter 143 of the General Statutes."

SECTION 3.37.(b) G. S. 143-151.71 reads as rewritten:

"**§ 143-151.71. Definitions.**

Within the meaning of this Article:

(1) "Area surrounding major military installations" is the area that extends five miles beyond the boundary of a major military installation and may include incorporated and unincorporated areas of counties and municipalities.

~~(2) "Building Code Council" means the Council created pursuant to Article 9 of Chapter 143 of the General Statutes.~~

(3) "Commissioner" means the Commissioner of Insurance.

(4) "Construction" includes reconstruction, alteration, or expansion.

(5) "Major military installation" means Fort Bragg, Pope Army Airfield, Camp Lejeune Marine Corps Air Base, New River Marine Corps Air Station, Cherry Point Marine Corps Air Station, Military Ocean Terminal at Sunny Point, the United States Coast Guard Air Station at Elizabeth City, Naval Support Activity Northwest, Air Route Surveillance Radar (ARSR-4) at Fort Fisher, and Seymour Johnson Air Force Base, in its own right and as the responsible entity for the Dare County Bombing Range, and any facility located within the State that is subject to the installations' oversight and control.

(6) "Person" means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or

private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity.

(6a) "State Construction Office" means the State Construction Office of the Department of Administration.

(7) "Tall buildings or structures" means any building, structure, or unit within a multiunit building with a vertical height of more than 200 feet measured from the top of the foundation of the building, structure, or unit and the uppermost point of the building, structure, or unit. "Tall buildings or structures" do not include buildings and structures listed individually or as contributing resources within a district listed in the National Register of Historic Places.'

SECTION 3.37.(c) G.S. 143-151.73 reads as rewritten:

'**§ 143-151.73. Certain buildings and structures prohibited without endorsement.**

(a) No county or city may authorize the construction of and no person may construct a tall building or structure in any area surrounding a major military installation in this State, unless the county or city is in receipt of either a letter of endorsement issued to the person by the ~~Building Code Council~~ State Construction Office pursuant to G.S. 143-151.75 or proof of the ~~Council's~~ State Construction Office's failure to act within the time allowed pursuant to G.S. 143-151.75.

(b) No county or city may authorize the provision of the following utility services to any building or structure constructed in violation of subsection (a) of this section: electricity, telephone, gas, water, sewer, or septic system.'

SECTION 3.37.(d) G.S. 143-151.75 reads as rewritten:

'**§ 143-151.75. Endorsement for proposed tall buildings or structures required.**

(a) No person shall undertake construction of a tall building or structure in any area surrounding a major military installation in this State without either first obtaining the endorsement from the ~~Building Code Council~~ State Construction Office or proof of the ~~Council's~~ State Construction Office's failure to act within the time allowed.

(b) A person seeking endorsement for a proposed tall building or structure in any area surrounding a major military installation in this State shall provide written notice of the intent to seek endorsement to the base commander of the major military installation that is located within five miles of the proposed tall building or structure and shall provide all of the following to the ~~Building Code Council:~~ State Construction Office:

(1) Identification of the major military installation and the base commander of the installation that is located within five miles of the proposed tall building or structure.

(2) A copy of the written notice sent to the base commander of the installation identified in subdivision (1) of this subsection that is located within five miles of the proposed tall building or structure.

(3) A written "Determination of No Hazard to Air Navigation" issued by the Federal Aviation Administration pursuant to Subpart D of Part 77 of Title 14 of the Code of Federal Regulations (January 1, 2012, Edition) for the proposed tall building or structure.

(c) After receipt of the information provided by the applicant pursuant to subsection (b) of this section, the ~~Building Code Council~~ State Construction Office shall, in writing, request a written statement concerning the proposed tall building or structure from the base commander of the major military installation identified in subdivision (1) of subsection (b) of this section. The ~~Building Code Council~~ State Construction Office shall request that the following information be included in the written statement from the base commander:

(1) A determination whether the location of the proposed tall building or structure is within a protected area that surrounds the installation.

(2) A determination whether any activities of the installation may be adversely affected by the proposed tall building or structure. A detailed description of the potential adverse effects, including frequency disturbances and physical obstructions, shall accompany the determination required by this subdivision.

(d) The ~~Building Code Council~~ State Construction Office shall not endorse a tall building or structure if the Council finds any one or more of the following:

(1) The proposed tall building or structure would encroach upon or otherwise interfere with the mission, training, or operations of any major military installation in North Carolina and result in a detriment to continued military presence in the State. In its evaluation, the ~~Building Code Council~~ State Construction Office may consider whether the proposed tall building or structure would cause interference with air navigation routes, air traffic control areas, military training routes, or radar based on the written statement received from a base commander as provided in subsection (c) of this section and written comments received by members of affected communities. Provided, however, if the ~~Building Code Council~~ State Construction Office does not receive a written statement requested pursuant to subsection (c) of this section within 45 days of issuance of the request to the base commander, the ~~Building Code Council~~ State Construction Office shall deem the tall building or structure as endorsed by the base commander.

(2) The ~~Council~~ State Construction Office is not in receipt of the written "Determination of No Hazard to Air Navigation" issued to the person by the Federal Aviation Administration required pursuant to subdivision (3) of subsection (b) of this section.

(e) The ~~Building Code Council~~ State Construction Office shall make a final decision on the request for endorsement of a tall building or structure within 90 days from the date on which the ~~Council~~ State Construction Office requested the written statement from the base commander of the major military installation identified in subdivision (1) of subsection (b) of this section. If the ~~Council~~ State Construction Office determines that a request for a tall building or structure fails to meet the requirements for endorsement under this section, the ~~Council~~ State Construction Office shall deny the request. The ~~Council~~ State Construction Office shall notify the person of the denial, and the notice shall include a written statement of the reasons for the denial. If the ~~Council~~ State Construction Office fails to act within any time

period set forth in this section, the person may treat the failure to act as a decision to endorse the tall building or structure.

(f) The ~~Building Code Council~~ State Construction Office may meet by telephone, video, or Internet conference, so long as consistent with applicable law regarding public meetings, to make a decision on a request for endorsement for a tall building or structure pursuant to subsection (e) of this section."

SECTION 3.37.(e) G.S. 143-138(j2) is repealed.

SECTION 3.38. G.S. 127C-1 is amended by adding a new subsection to read:

"(d) Meetings and Records. – Notwithstanding Article 33C of the General Statutes and Chapter 132 of the General Statutes, the Commission may withhold documents and discussions related to the federal government's process to determine closure or realignment of military installations until a final decision has been made by the federal government in that process."".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

SENATE SERGEANT-AT-ARMS

SENATE COMMITTEE ON FINANCE

DATE: 05-2-2014 ROOM:544

1. CANTON LEWIS
2. HAL ROACH
3. ISAAC WALKER
4. BILLY FRITSCHER
5. _____
6. _____

SENATE PAGES ATTENDING

COMMITTEE: Finance ROOM: 544

DATE: 5-21 TIME: 10 AM

PLEASE PRINT LEGIBILY!!!!!!!!!!!!....*or else!*

Page Name	Hometown	Sponsoring Senator
1. Ashton Craft	Vanceboro	Sanderson
2. Tanner Velten	Newport	Sanderson
3. Jackson Ussery	Elizabethtown	Rabon
4. Sally Hennessee	Harrisburg	Hartsell
5. Jennifer Rogers	Fayetteville	Meredith
6. Carter Metcalf	Matthews	Tarte
7. Jordan Saint John	Raleigh	Sanderson
8. Josh Johnson	Fuquay Varina	Barringer
9.		
10.		

Do not add names below the grid.

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

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 21, 2014

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Mia Bailey	Electri Cities
Molly Diggins	Sierra Club
JAKE PARKER	NCFB
Meg Macia Abbiw	SELC
Joy Thiels	NCDOA
John Schmidt	ODC League of Women Voters
Yvonne Schmidt	" "
Anna Jeanne	League of Women Voters of the Piedmont Triad
Bill Rustin	
Dave Hoon	S.A.

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 21, 2014

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Tracy Montross	American Airlines
[illegible] Jones	TWC
Sammy Robeson	TWC
Isabel Villar-Garcia	NCSBA
Sarah Hardin	CTZ
Andy Chase	KMA
AL MILAK	NC DOR
JANICE DAVIDSON	NC DOR
Fred Baggett	City of High Point
Beatrice Williams	CUCA
Paul Foglesong	Infosource

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 21, 2014

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Sarah Koonce	NCDOL
Canaan Davis	MVA
[illegible] Bel[illegible]	NC Chamber
[illegible] Lapp	MWC
JEFF BARNHART	MWC
Mary Shuping	NCCCS
ROB BROOME	NCAR
Sarah Stone	NCSU
Scott Collier	App State
Donna Sipes	SCA
Gary Salamido	NC Chamber

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 21, 2014

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
CINDY THOMAS	NCAR
Alan Mills	KCG
Daniel Baum	Troutman Sanders
BJ Miller	Cove
Wilder Jones	Jordan Price
[illegible]	NCRMA
Thom Moore	Echelon
Ward Kirby	FC
John Robertson	NCMBA
Allison Waller	Nelson Mullins
Michelle Frazier	MFS

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 21, 2014
Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Janet Thorn	NCREC
Rick Zechi	WM
Susan McCracken	Appalachian State University
Jillian DeCamp	Poyner Spruill LLP
Johanna Reese	NCACC
Keith Larick	NCDA&CS
DAVID BROWN	UNC School of Govt
Steven Pennington	Commerce - LEAD
Jonatha Brinbaker	Brinbaker & Assoc.
Trey Rabon	AFP
[illegible]	DOT

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 21, 2014
Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Chuck Greene	AT&T
Amanda Nunn	student
Keith Weatherly	NC DOT
Michael Hauser	The Hauser Group
Sarah Wolfe	MWC
[illegible]	WM
[illegible]	NCICU
[illegible]	NCMA
[illegible]	NCRMA
Angel Sams	CB
Barks Rainey Pearson	SELC

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 21, 2014

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Meredith Glicksman	League of Women Voters
Walter Salinger	League of Women Voters
Cassie Gavin	Sierra Club
Laura Gunter	NCBIO
Marian Lewin	LWV Wake Co.
Nathan Batts	NCBA

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 21, 2014

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
	MISC
JERRY SCHILL	NC FISHERIES ASSOC.
Doug Cassity	NCSTA
Allen Hardison	CRSWMA
Carr McLeod	NCDENR
Mike Abraczinskas	DENR - DAQ
TRACY DAVIS	DENR - DEMLR
JASON WEBER	SBE
Cedric Johnson	NCBTC
Reston Jones	DOT
LISA MARTIN	NCHBA

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 21, 2014
Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Will Culpepper	MVA
Dion Terry	Governor
Nicole Hines	Governor
Morgan Abbott	CTNC
Lynette Lee	NCPAA
Martha Jenkins	DCR
David Heiman	NC Center for Nonprofits
Elizabeth Biser	Brooks Pierce
Mark Gray	NCIC
M M Benson	
Robert Thrush Jr.	Global Environmental Serv. International Inc.

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 21, 2014

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Steven Webb	NCHBA
Jane Royall	NC Family Policy Council
Brian Jones	DENR
Mitch Leonard	SEANC
Chuck Store	SEANC
Thomas C. Caves, Jr.	SBI
John Delbrouse	Brickhart + Assoc.
Sabrina O'Hare	DENR
Adam Pridemore	NCASA
Robert Sawyer	NCDMV License & Theft
James Crissman	" " "

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 21, 2014

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Rachel Beauchien	NCDPI
Kirin Walsh	NCCN
Dick Carlton	attorney
Amanda martin	NCLM
Nadia Luhr	NCCN
Rhonda Bellamy	The Arts Council of Wilmington
Zane Stilwell	NC SBE
Rev. MARK CREECH	CAL
JACKSON COVERT	NBS
Estherine Davis	Estherine Davis & Assoc.
Craig Rushing	Ingersoll Rand

Senate Committee on Finance
Tuesday, May 27, 2014 at 7:00 PM
Room 544 of the Legislative Office Building

MINUTES

The Senate Committee on Finance met at 7:00 PM on May 27, 2014 in Room 544 of the Legislative Office Building. Thirty members were present.

Senator Bob Rucho, Chair, presided. He recognized Secretary of Revenue, Lyon Gray.

HB 1050 Omnibus Tax Law Changes.

Senator Rabon was recognized and moved to adopt the proposed committee substitute (PCS) for discussion. The motion carried. Ms. Cindy Avrette, committee counsel, was recognized to explain the PCS. Part I would replace the corporate net economic loss deduction with a State net loss deduction for taxable years beginning on or after January 1, 2015. Part II makes technical and clarifying changes to various income tax laws. Part III gives guidance to the farming community and the Department of Revenue as to the administration of the income threshold a person must meet to qualify for a sales tax agricultural exemption certificate. It also allows a three-year income averaging to address issues of income volatility in farming operations. Part IV addresses sales tax issues related to the repeal of the sales tax exemption for meals served to students in dining rooms of regularly operated educational institutions. Part V addresses sales tax issues associated with the expansion of the sales tax base to include gross receipts derived from admissions to a live event, a movie, and other attractions for which an admission is charged. Part IV addresses sales tax issues associated with the expansion of the sales tax base to include the sales price of a service contract. Trina Griffin, committee counsel, was requested to explain Part VII. It addresses the applicability of the sales tax laws to retailer-contractors, such as the major home improvement stores, when they are engaged in a performance contract rather than a retail sale. Specifically, a retailer-contractor would be considered the consumer of the items or materials they furnish and install or apply to real property to the extent the item becomes part of the real property. As the consumer of those items, the retailer-contractor would be responsible for payment of the tax rather than the customer. Part VIII makes various sales tax changes. Part IX makes various changes to the excise tax statutes, as requested by the Excise Tax Division of the Department of Revenue. Greg Roney, committee counsel, was recognized to explain Part X. It would require filing all State tax returns and paying all State taxes to receive and hold an ABC permit. It would also authorize the Department of Revenue to use $500,000 (currently, $150,000) from the collection assistance fee account to contract for taxpayer locater services. Ms. Griffin explained Parts XI and XII. Part XI provides for the central assessment of mobile telecommunications property. Part XII would maintain the local privilege tax authority for one more year with two modifications: a city may not increase the tax on any business during that year, and it may not tax a business physically located outside the city's limit. Beginning July 1, 2015, both the city and county authority to levy a privilege license tax would be repealed. This would include their authority to levy a privilege tax on low-level radioactive and hazardous waste facilities. Heather Fennell, committee counsel, was recognized to explain Part XIII. It sets the license plate agent (LPA) transaction rate for the collection of property tax under the Tax & Tag Together program at the transitional rate of $1.06. It also clarifies the increased rate applies to all transactions where an LPA collects property tax as of July 1, 2014, and allows the retroactive portion of the fee increase to be paid out over a three month time period. Part XIV makes clarifying, conforming, and administrative changes to the various tax laws. Part XV would provide an excise tax of 5¢

per milliliter to be imposed on vapor products, would prohibit the use of vapor products in State correctional facilities, and would make it a criminal offense for a person to provide a vapor product to an inmate of a local confinement facility and for an inmate to possess a vapor product. Senator Rabon was recognized to offer a technical amendment and moved for it adoption. Senator Curtis seconded the motion and it carried. Senator Tillman moved to report the PCS favorably as amended and the motion carried. A copy of the PCS, the summary, the fiscal memo and the amendment is attached.

The meeting adjourned at 8:20 p.m.

Senator Bob Rucho, Chair
Presiding

DeAnne Mangum, Committee Clerk

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Tuesday	May 27, 2014	7:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 1050	Omnibus Tax Law Changes.	Representative Howard Representative W. Brawley Representative Lewis Representative Setzer

Senate Finance plans to consider the Senate PCS for House Bill 1050 at its meeting on Tuesday which is being sent in a subsequent email and posted to the Committee's website. At the request of the Senate Finance chairs, the Finance Team is providing you an electronic copy of the bill summary and fiscal memo for the Senate PCS to House Bill 1050, also included in the email and on the website. We have also provided detailed summaries for each Part in the bill on the Senate Finance Committee website:
http://www.ncleg.net/gascripts/DocumentSites/browseDocSite.asp?nID=95

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Tuesday, May 27, 2014

Senator Rucho,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

HB 1050 (CS#1)	Omnibus Tax Law Changes.	
	Draft Number:	H1050-PCS40214-RBx-49
	Sequential Referral:	None
	Recommended Referral:	None
	Long Title Amended:	No

TOTAL REPORTED: 1

Senator William Rabon will handle HB 1050

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H D

HOUSE BILL 1050*
Committee Substitute Favorable 5/15/14
Third Edition Engrossed 5/21/14
PROPOSED SENATE COMMITTEE SUBSTITUTE H1050-CSRBx-49 [v.4]
5/23/2014 10:30:16 AM

Short Title: Omnibus Tax Law Changes. (Public)

Sponsors:

Referred to:

May 15, 2014

A BILL TO BE ENTITLED

AN ACT TO AMEND THE REVENUE LAWS, AS RECOMMENDED BY THE REVENUE LAWS STUDY COMMITTEE.

The General Assembly of North Carolina enacts:

PART I. DEDUCTION FOR STATE NET LOSS

SECTION 1.1.(a) G.S. 105-130.5(b) reads as rewritten:

"(b) The following deductions from federal taxable income shall be made in determining State net income:

...

(4) ~~Losses in the nature~~ Any unused portion of a net economic loss as allowed under G.S. 105-130.8A(e). ~~losses sustained by the corporation in any or all of the 15 preceding years pursuant to the provisions of G.S. 105-130.8. A corporation required to allocate and apportion its net income under the provisions of G.S. 105-130.4 shall deduct its allocable net economic loss only from total income allocable to this State pursuant to the provisions of G.S. 105-130.8.~~This subdivision expires for taxable years beginning on or after January 1, 2030.

(4a) A State net loss as allowed under G.S. 105-130.8A. A corporation may deduct its allocable and apportionable State net loss only from total income allocable and apportionable to this State.

...."

SECTION 1.1.(b) G.S. 105-130.8 is repealed.

SECTION 1.1.(c) Part 1 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-130.8A. Net loss provisions.**

(a) State Net Loss. – A taxpayer's State net loss for a taxable year is the amount by which allowable deductions for the year, other than prior year losses, exceed gross income under the Code for the year adjusted as provided in G.S. 105-130.5. In the case of a corporation that has income from business activity within and without this State, the loss must be allocated and apportioned to this State in the year of the loss in accordance with G.S. 105-130.4.

(b) Deduction. – A taxpayer may carry forward a State net loss the taxpayer incurred in a prior taxable year and deduct it in the current taxable year, subject to the limitations in this subsection:

(1) The loss was incurred in one of the preceding 15 taxable years.
(2) Any loss carried forward is applied to the next succeeding taxable year before any portion of it is carried forward and applied to a subsequent taxable year.

(c) Mergers and Acquisitions. – The Secretary must apply the standards contained in regulations adopted under sections 381 and 382 of the Code in determining the extent to which a loss survives a merger or an acquisition.

(d) Administration. – A taxpayer claiming a deduction under this section must maintain and make available for inspection by the Secretary all records necessary to determine and verify the amount of the deduction. The Secretary or the taxpayer may redetermine a loss originating in a taxable year that is closed under the statute of limitations for the purpose of determining the amount of loss that can be carried forward to a taxable year that remains open under the statute of limitations.

(e) Net Economic Loss Carryforward. – For taxable years beginning before January 1, 2015, a taxpayer is allowed a net economic loss as calculated under G.S. 105-130.8. In determining and verifying the amount of a net economic loss incurred or carried forward for taxable years beginning before January 1, 2015, the provisions of G.S. 105-130.8 apply. Any unused portion of a net economic loss carried forward to taxable years beginning on or after January 1, 2015, is administered in accordance with this section. This subsection expires for taxable years beginning on or after January 1, 2030."

SECTION 1.1.(d) This Part becomes effective for taxable years beginning on or after January 1, 2015.

PART II. OTHER INCOME TAX CHANGES

SECTION 2.1.(a) G.S. 105-130.5B reads as rewritten:

"(c) Section 179 Expense. – For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 2, 2013. A taxpayer who places section 179 property in service during a taxable year listed in the table below must add to the taxpayer's federal taxable income eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code exceeds the dollar and investment limitation listed in the table below for the taxable year.

A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income.

Taxable Year of 85% Add-Back	**Dollar Limitation**	**Investment Limitation**
2010	$250,000	$800,000
2011	$250,000	$800,000
2012	$250,000	$800,000
2013	$25,000	~~$125,000~~$200,000

...

(e) Bonus Asset Basis. – In the event of an actual or deemed transfer of an asset occurring on or after January 1, 2013, wherein the tax basis of the asset carries over from the transferor to the transferee for federal income tax purposes, the transferee must add any remaining deductions allowed under subsection (a) of this section to the basis of the transferred asset and depreciate the adjusted basis over any remaining life of the asset. Notwithstanding the provisions of subsection (a) of this section, the transferor is not allowed any remaining future bonus depreciation deductions associated with the transferred asset.

(f) Prior Transactions. – For any transaction meeting both the requirements of subsection (e) of this section prior to January 1, 2013, and the conditions of this subsection, the transferor and transferee can make an election to make the basis adjustment allowed in that subsection on the transferee's 2013 tax ~~return, to the extent that the~~ return. If the asset has been

disposed of or has no remaining useful life on the books of the transferee, the remaining bonus depreciation deduction may be allowed on the transferee's 2013 tax return. For this subsection to apply, the following conditions must be met:

(1) The transferor has not taken the bonus depreciation deduction on a prior ~~return and provided that the~~ return.

(2) The transferor certifies in writing to the transferee that the transferor will not take any remaining deductions allowed under subsection (a) of this section for tax years beginning on or after January 1, 2013, for depreciation associated with the transferred asset.

(g) Tax Basis. – For transactions described in subsections (e) or (f) of this section, federal taxable income must be increased or decreased to account for any difference in the amount of depreciation, amortization, or gains or losses applicable to the property that has been depreciated or amortized by use of a different basis or rate for State income tax purposes than used for federal income tax purposes.

"

SECTION 2.1.(b) G.S. 105-134.6A reads as rewritten:

"(c) Section 179 Expense. – For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 2, 2013. A taxpayer who places section 179 property in service during a taxable year listed in the table below must add to the taxpayer's federal taxable income or adjusted gross income, as appropriate, eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code exceeds the dollar and investment limitation listed in the table below for that taxable year. For taxable years before 2012, the taxpayer must add the amount to the taxpayer's federal taxable income. For taxable year 2012 and after, the taxpayer must add the amount to the taxpayer's adjusted gross income.

A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income.

Taxable Year of 85% Add-Back	**Dollar Limitation**	**Investment Limitation**
2010	$250,000	$800,000
2011	$250,000	$800,000
2012	$250,000	$800,000
2013	$25,000	~~$125,000~~$200,000

...

(e) Bonus Asset Basis. – In the event of an actual or deemed transfer of an asset occurring on or after January 1, 2013, wherein the tax basis of the asset carries over from the transferor to the transferee for federal income tax purposes, the transferee must add any remaining deductions allowed under subsection (a) of this section to the basis of the transferred asset and depreciate the adjusted basis over any remaining life of the asset. Notwithstanding the provisions of subsection (a) of this section, the transferor and any owner in a transferor are not allowed any remaining future bonus depreciation deductions associated with the transferred asset. This subsection applies only to the extent that each transferor or owner in a transferor that added bonus depreciation to its federal taxable income or adjusted gross income associated with the transferred asset certifies in writing to the transferee, that the transferor or owner in a transferor will not take any remaining future bonus depreciation deduction associated with the transferred asset.

(f) Prior Transactions. – For any transaction meeting both the requirements of subsection (e) of this section prior to January 1, 2013, and the conditions of this subsection, the transferor and transferee can make an election to make the basis adjustment allowed in that subsection on the transferee's 2013 tax ~~return, to the extent that the~~ return. If the asset has been disposed of or has no remaining useful life on the books of the transferee, the remaining bonus

depreciation deduction may be allowed on the transferee's 2013 tax return. For this subsection to apply, the following conditions must be met:

(1) The transferor ~~and~~ or any owner in a transferor has not taken the bonus depreciation deduction on a prior ~~return and provided that the~~ return.

(2) The transferor is not allowed any remaining future bonus depreciation deductions associated with the transferred asset and each transferor or owner in a transferor certifies in writing to the transferee that the transferor or owner in a transferor will not take any remaining deductions allowed under subsection (a) of this section for tax years beginning on or after January 1, 2013, for depreciation associated with the transferred asset.

(3) The amount of the basis adjustment under this subsection is limited to the total remaining future bonus depreciation deductions forfeited by the transferor and any owner in the transferor at the time of the transfer.

(g) Tax Basis. – For transactions described in subsection (e) or (f) of this section, adjusted gross income must be increased or decreased to account for any difference in the amount of depreciation, amortization, or gains or losses applicable to property that has been depreciated or amortized by use of a different basis or rate for State income tax purposes than used for federal income tax ~~purposes prior to the effective date of this section.~~ purposes.

(h) Definitions. – For purposes of this section, a "transferor" is an individual, partnership, corporation, S Corporation, limited liability company, or an estate or trust that does not fully distribute income to its beneficiaries, and an "owner in a transferor" is a partner, shareholder, member, or beneficiary subject to tax under Part 2 or 3 of Article 4 of this Chapter of a transferor."

SECTION 2.1.(c) G.S. 105-153.6 reads as rewritten:

"(c) Section 179 Expense. – For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 2, 2013. A taxpayer who places section 179 property in service during a taxable year listed in the table below must add to the taxpayer's federal taxable income or adjusted gross income, as appropriate, eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code exceeds the dollar and investment limitation listed in the table below for that taxable year. For taxable years before 2012, the taxpayer must add the amount to the taxpayer's federal taxable income. For taxable year 2012 and after, the taxpayer must add the amount to the taxpayer's adjusted gross income.

A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income.

Taxable Year of 85% Add-Back	**Dollar Limitation**	**Investment Limitation**
2010	$250,000	$800,000
2011	$250,000	$800,000
2012	$250,000	$800,000
2013	$25,000	~~$125,000~~$200,000

...

(e) Bonus Asset Basis. – In the event of an actual or deemed transfer of an asset occurring on or after January 1, 2013, wherein the tax basis of the asset carries over from the transferor to the transferee for federal income tax purposes, the transferee must add any remaining deductions allowed under subsection (a) of this section to the basis of the transferred asset and depreciate the adjusted basis over any remaining life of the asset. Notwithstanding the provisions of subsection (a) of this section, the transferor and any owner in a transferor are not allowed any remaining future bonus depreciation deductions associated with the transferred asset. This subsection applies only to the extent that each transferor or owner in a transferor that added bonus depreciation to its federal taxable income or adjusted gross income associated

with the transferred asset certifies in writing to the transferee, that the transferor or owner in a transferor will not take any remaining future bonus depreciation deduction associated with the transferred asset.

(f) Prior Transactions. – For any transaction meeting both the requirements of subsection (e) of this section prior to January 1, 2013, and the conditions of this subsection, the transferor and transferee can make an election to make the basis adjustment allowed in that subsection on the transferee's 2013 tax ~~return, to the extent that the~~ return. If the asset has been disposed of or has no remaining useful life on the books of the transferee, the remaining bonus depreciation deduction may be allowed on the transferee's 2013 tax return. For this subsection to apply, the following conditions must be met:

(1) The transferor ~~and~~ or any owner in a transferor has not taken the bonus depreciation deduction on a prior ~~return and provided that the~~ return.

(2) The transferor is not allowed any remaining future bonus depreciation deductions associated with the transferred asset and each transferor or owner in a transferor certifies in writing to the transferee that the transferor or owner in a transferor will not take any remaining deductions allowed under subsection (a) of this section for tax years beginning on or after January 1, 2013, for depreciation associated with the transferred asset.

(3) The amount of the basis adjustment under this subsection is limited to the total remaining future bonus depreciation deductions forfeited by the transferor and any owner in the transferor at the time of the transfer.

(g) Tax Basis. – For transactions described in subsection (e) or (f) of this section, adjusted gross income must be increased or decreased to account for any difference in the amount of depreciation, amortization, or gains or losses applicable to property that has been depreciated or amortized by use of a different basis or rate for State income tax purposes than used for federal income tax ~~purposes prior to the effective date of this section.~~purposes.

(h) Definitions. – For purposes of this section, a "transferor" is an individual, partnership, corporation, S Corporation, limited liability company, or an estate or trust that does not fully distribute income to its beneficiaries, and an "owner in a transferor" is a partner, shareholder, member, or beneficiary subject to tax under Part 2 or 3 of Article 4 of this Chapter of a transferor."

SECTION 2.1.(d) Subsection (c) of this section is effective for taxable years beginning on or after January 1, 2014. The remainder of this section is effective for taxable years beginning on or after January 1, 2013.

SECTION 2.2.(a) G.S. 105-153.5(a) reads as rewritten:

"**§ 105-153.5. Modifications to adjusted gross income.**

(a) Deduction Amount. – In calculating North Carolina taxable income, a taxpayer may deduct from adjusted gross income either the standard deduction amount provided in subdivision (1) of this subsection or the itemized deduction amount provided in subdivision (2) of this subsection that the taxpayer claimed under the Code. ~~In the case of a married couple filing separate returns, a taxpayer may not deduct the standard deduction amount if the taxpayer or the taxpayer's spouse claims the itemized deductions amount:~~ The deduction amounts are as follows:

(1) Standard deduction amount. – The standard deduction amount is zero for a person who is not eligible for a standard deduction under Section 63 of the Code. For all other taxpayers, the standard deduction ~~An~~ amount is equal to the amount listed in the table below based on the taxpayer's filing status:

Filing Status	Standard Deduction
Married, filing jointly	$15,000
Head of Household	12,000
Single	7,500

Married, filing separately 7,500.

(2) Itemized deduction amount. – An amount equal to the sum of the items listed in this subdivision. The amounts allowed under this subdivision are not subject to the overall limitation on itemized deductions under section 68 of the Code:

a. The amount allowed as a deduction for charitable contributions under section 170 of the Code for that taxable year.

b. The amount allowed as a deduction for interest paid or accrued during the taxable year under section 163(h) of the Code with respect to any qualified residence plus the amount claimed by the taxpayer as a deduction for property taxes paid or accrued on real estate under section 164 of the Code for that taxable year. The amount allowed under this sub-subdivision may not exceed twenty thousand dollars ($20,000). For spouses filing as married filing separately or married filing jointly, the total mortgage interest and real estate taxes claimed by both spouses combined may not exceed twenty thousand dollars ($20,000). For spouses filing as married filing separately with a joint obligation for mortgage interest and real estate taxes, the deduction for these items is allowable to the spouse who actually paid them. If the amount of the mortgage interest and real estate taxes paid by both spouses exceeds twenty thousand dollars ($20,000), these deductions must be prorated based on the percentage paid by each spouse. For joint obligations paid from joint accounts, the proration is based on the income reported by each spouse for that taxable year."

SECTION 2.2.(b) This section is effective for taxable years beginning on or after January 1, 2014.

SECTION 2.3.(a) G.S. 105-160.2 reads as rewritten:

"§ 105-160.2. Imposition of tax.

The tax imposed by this Part applies to the taxable income of estates and trusts as determined under the provisions of the Code except as otherwise provided in this Part. The taxable income of an estate or trust is the same as taxable income for such an estate or trust under the provisions of the Code, adjusted as provided in ~~G.S. 105-134.6 and G.S. 105-134.6A,~~ G.S. 105-153.5 and G.S. 105-153.6, except that the adjustments provided in ~~G.S. 105-134.6 and G.S. 105-134.6A~~ G.S. 105-153.5 and G.S. 105-153.6 are apportioned between the estate or trust and the beneficiaries based on the distributions made during the taxable year. The tax is computed on the amount of the taxable income of the estate or trust that is for the benefit of a resident of this State, or for the benefit of a nonresident to the extent that the income (i) is derived from North Carolina sources and is attributable to the ownership of any interest in real or tangible personal property in this State or (ii) is derived from a business, trade, profession, or occupation carried on in this State. For purposes of the preceding sentence, taxable income and gross income is computed subject to the adjustments provided in ~~G.S. 105-134.6 and G.S. 105-134.6A.~~ G.S. 105-153.5 and G.S. 105-153.6. The tax on the amount computed above is at the rates levied in ~~G.S. 105-134.2(a)(3).~~ G.S. 105-153.7. The fiduciary responsible for administering the estate or trust shall pay the tax computed under the provisions of this Part."

SECTION 2.3.(b) This section is effective for taxable years beginning on or after January 1, 2014.

PART III. AGRICULTURAL EXEMPTION CERTIFICATE

SECTION 3.1.(a) G.S. 105-164.13E reads as rewritten:

"§ 105-164.13E. Exemption for qualifying farmers.

A qualifying farmer is a person who has an annual gross income for the preceding taxable year of ten thousand dollars ($10,000) or more from farming operations or who has an average annual gross income for the three preceding taxable years of ten thousand dollars ($10,000) or more from farming operations. A qualifying farmer includes a dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a farmer of an aquatic species, as defined in G.S. 106-758. A qualifying farmer may apply to the Secretary for an exemption certificate number under G.S. 105-164.28A. The exemption certificate expires when a person fails to meet the income threshold for three consecutive years or ceases to engage in farming operations.~~The~~ The following tangible personal property, digital property, and services are exempt from sales and use tax if purchased by a qualifying farmer and for use by the farmer in the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or ~~animals. A qualifying farmer is a farmer who has an annual gross income of ten thousand dollars ($10,000) or more from farming operations for the preceding calendar year and includes a dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a farmer of an aquatic species, as defined in G.S. 106-758.~~animals:

...."

SECTION 3.1.(b) G.S. 105-164.28A(a) reads as rewritten:

"(a) Authorization. – The Secretary may require a person who purchases an item that is exempt from tax or is subject to a preferential rate of tax depending on the status of the purchaser or the intended use of the item to obtain an exemption certificate from the Department to receive the exemption or preferential rate. ~~An~~ The Department must issue a preferential rate or use-based exemption number to a person who qualifies for the exemption or preferential rate. A person who no longer qualifies for a preferential rate or use-based exemption number must notify the Secretary within 30 days to cancel the number.

An exemption certificate issued by the purchaser authorizes a retailer to sell an item to the holder of the certificate and either collect tax at a preferential rate or not collect tax on the sale, as appropriate. A person who no longer qualifies for an exemption certificate must give notice to each seller that may rely on the exemption certificate on or before the next purchase. A person who purchases an item under an exemption certificate is liable for any tax due on the ~~sale~~ purchase if the Department determines that the person is not eligible for the ~~certificate.~~ exemption certificate or if the person purchased items that do not qualify for an exemption under the exemption certificate. The liability is relieved when the seller obtains the purchaser's name, address, type of business, reason for exemption, and exemption number in lieu of obtaining an exemption certificate."

SECTION 3.1.(c) A person who has an agricultural exemption certificate number issued prior to July 1, 2014, that meets the requirements of G.S. 105-164.13E for a qualifying farmer should apply for a new agricultural exemption certificate number before July 1, 2014, for use for qualifying purchases made on or after October 1, 2014. A person that meets the requirements of G.S. 105-164.13E for a qualifying farmer and who has an agricultural exemption certificate number issued prior to July 1, 2014, may continue to use that agricultural exemption certificate number for qualifying purchases made prior to October 1, 2014.

SECTION 3.1.(d) A person who has an agricultural exemption certificate number issued before July 1, 2014, that does not meet the requirements of G.S. 105-164.13E for a qualifying farmer must give notice to a seller that the person no longer qualifies for an exemption for purchases made on or after July 1, 2014, and the seller must collect any tax due on the sale. A seller that relies on a copy of an agricultural certificate of exemption and meets the requirements of G.S. 105-164.28 is not liable for any tax due on the sale.

SECTION 3.1.(e) This Part becomes effective July 1, 2014, and applies to purchases made on or after that date.

PART IV. PREPAID MEAL PLANS

SECTION 4.1.(a) G.S. 105-164.3 reads as rewritten:

"**§ 105-164.3. Definitions.**

The following definitions apply in this Article:

...

~~(26b)~~(27) Prepaid calling service. – A right that meets all of the following requirements:

a. Authorizes the exclusive purchase of telecommunications service.

b. Must be paid for in advance.

c. Enables the origination of calls by means of an access number, authorization code, or another similar means, regardless of whether the access number or authorization code is manually or electronically dialed.

d. Is sold in predetermined units or dollars whose number or dollar value declines with use and is known on a continuous basis.

(27a) Prepaid meal plan. – A plan offered by an institution of higher education that meets all of the following requirements:

a. Entitles a person to food or prepared food.

b. Must be billed or paid for in advance.

c. Provides for predetermined units or unlimited access to food or prepared food but does not include a dollar value that declines with use.

~~(27)~~(27b) Prepaid telephone calling service. – Prepaid calling service or prepaid wireless calling service.

~~(27a)~~(27c) Prepaid wireless calling service. – A right that meets all of the following requirements:

a. Authorizes the purchase of mobile telecommunications service, either exclusively or in conjunction with other services.

b. Must be paid for in advance.

c. Is sold in predetermined units or dollars whose number or dollar value declines with use and is known on a continuous basis.

...."

SECTION 4.1.(b) G.S. 105-164.4(a) is amended by adding a new subdivision to read:

"**§ 105-164.4. Tax imposed on retailers.**

(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and three-quarters percent (4.75%).

...

(12) The general rate of tax applies to the sales price of or gross receipts derived from a prepaid meal plan. A bundle that includes a prepaid meal plan is taxable in accordance with G.S. 105-164.4D."

SECTION 4.1.(c) G.S. 105-164.4B is amended by adding a new subsection to read:

"**§ 105-164.4B. Sourcing principles.**

...

(g) Prepaid Meal Plan. – The gross receipts derived from a prepaid meal plan are sourced to the location where the food or prepared food is available to be consumed by the person."

SECTION 4.1.(d) G.S. 105-164.4D(a) reads as rewritten:

"(a) Tax Application. – Tax applies to the sales price of a bundled transaction unless one of the following applies:

(1) Fifty percent (50%) test. – All of the products in the bundle are tangible personal property, the bundle includes one or more of the exempt products listed in this subdivision, and the price of the taxable products in the bundle does not exceed fifty percent (50%) of the price of the bundle:
a. Food exempt under G.S. 105-164.13B.
b. A drug exempt under G.S. 105-164.13(13).
c. Medical devices, equipment, or supplies exempt under G.S. 105-164.13(12).

(2) Allocation. – The bundle includes a service, and the retailer determines an allocated price for each product in the bundle based on a reasonable allocation of revenue that is supported by the retailer's business records kept in the ordinary course of business. In this circumstance, tax applies to the allocated price of each taxable product in the bundle.

(3) Ten percent (10%) test. – The price of the taxable products in the bundle does not exceed ten percent (10%) of the price of the bundle, and no other subdivision in this subsection applies.

(4) Prepaid meal plan. – The bundle includes a prepaid meal plan and a dollar value that declines with use. In this circumstance, tax applies to the allocated price of the prepaid meal plan. The tax applies to items purchased with the dollar value that declines with use as the dollar value is presented for payment.

(5) Tuition, room, and meals. – The bundle includes tuition, room, and meals offered by an institution of higher education. In this circumstance, tax applies to the allocated price of the meals. The institution determines the allocated price for meals based on a reasonable allocation of revenue that is supported by the institution's business records kept in the ordinary course of business."

SECTION 4.1.(e) G.S. 105-164.13 reads as rewritten:

"**§ 105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property, digital property, and services are specifically exempted from the tax imposed by this Article:

...

(26) Food and prepared food sold ~~not for profit by a nonpublic or public school, including a charter school and a regional school,~~ within the school building during the regular school day. For purposes of this exemption, the term "school" is an entity regulated under Chapter 115C of the General Statutes.

...

(63) Food and prepared food to be provided to a person entitled to the food and prepared food under a prepaid meal plan subject to tax under G.S. 105-164.4(a)(12)."

SECTION 4.1.(f) Part 4 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.16A. Reporting option for prepaid meal plans.**

This section provides a taxpayer that offers to sell a prepaid meal plan with an option concerning the method by which the sales tax will be remitted to the Secretary and a return filed under G.S. 105-164.16. When the retailer enters into an agreement with a food service contractor by which the food service contractor agrees to provide food or prepared food under a prepaid meal plan, and the food service contractor with whom the retailer contracts is also a retailer under this Article, the retailer may include in the agreement that the food service contractor is liable for collecting and remitting the sales tax due on the gross receipts derived

from the prepaid meal plan on behalf of the retailer. The agreement must provide that the tax applies to the allocated sales price of the prepaid meal plan paid by or on behalf of the person entitled to the food or prepaid food under the plan and not the amount charged by the food service contractor to the retailer under the agreement for the food and prepared food for the person.

A retailer who elects this option must report to the food service contractor with whom it has an agreement the gross receipts a person pays to the retailer for a prepaid meal plan. The retailer must send the food service contractor the tax due on the gross receipts derived from a prepaid meal plan."

SECTION 4.1.(g) This Part is effective when it becomes law and applies to gross receipts derived from a prepaid meal plan sold or billed on or after July 1, 2014.

PART V. ADMISSIONS

SECTION 5.1.(a) G.S. 105-164.4(a) reads as rewritten:

"(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. For purposes of this section, the term "gross receipts" has the same meaning as the term "sales price." The general rate of tax is four and three-quarters percent (4.75%).

...

(10) The general rate of tax applies to the gross receipts derived from an admission ~~charges~~ charge to an entertainment ~~activity~~ activity. Gross receipts derived from an admission charge to an entertainment activity are taxable in accordance with 105-164.4G.~~listed in this subdivision. Offering any of these listed activities is a service. An admission charge includes a charge for a single ticket, a multioccasion ticket, a seasonal pass, an annual pass, and a cover charge.~~

~~An admission charge does not include a charge for amenities. If charges for amenities are not separately stated on the face of an admission ticket, then the charge for admission is considered to be equal to the admission charge for a ticket to the same event that does not include amenities and is for a seat located directly in front of or closest to a seat that includes amenities.~~

~~When an admission ticket is resold and the price of the admission ticket is printed on the face of the ticket, the tax does not apply to the face price. When an admission ticket is resold and the price of the admission ticket is not printed on the face of the ticket, the tax applies to the difference between the amount the reseller paid for the ticket and the amount the reseller charges for the ticket.~~

~~Admission charges to the following entertainment activities are subject to tax:~~

~~a. A live performance or other live event of any kind.~~

~~b. A motion picture or film.~~

~~c. A museum, a cultural site, a garden, an exhibit, a show, or a similar attraction or a guided tour at any of these attractions.~~"

SECTION 5.1.(b) G.S. 105-164.4B is amended by adding a new subsection to read:

"**§ 105-164.4B. Sourcing principles.**

...

(g) Admissions. – The gross receipts derived from an admission charge, as defined in G.S. 105-164.4G, are sourced in accordance with G.S. 105-164.4G."

SECTION 5.1.(c) Article 5 of Chapter 105 of the General Statutes is amended by adding the following new section to read:

"**§ 105-164.4G. Entertainment activity.**

(a) Definition. – The following definitions apply in this section:

(1) Admission charge. – Gross receipts derived for the right to attend an entertainment activity. The term includes a charge for a single ticket, a multi-occasion ticket, a seasonal pass, and an annual pass; a membership fee that provides for admission; a cover charge; a surcharge; a convenience fee, a processing fee, a facility charge, a facilitation fee, or similar charge; or any other charges included in gross receipts derived from admission.

(2) Amenity. – A feature that increases the value or attractiveness of an entertainment activity that allows a person access to items that are not subject to tax under this Article and that are not available with the purchase of admission to the same event without the feature. The term includes parking privileges, special entrances, access to areas other than general admission, mascot visits, and merchandise discounts. The term does not include any charge for food, prepared food, and alcoholic beverages subject to tax under this Article.

(3) Entertainment activity. – An activity listed in this subdivision:

a. A live performance or other live event of any kind, the purpose of which is for entertainment.

b. A movie, motion picture, or film.

c. A museum, a cultural site, a garden, an exhibit, a show, or a similar attraction.

d. A guided tour at any of the activities listed in sub-subdivision c. of this subdivision.

(4) Facilitator. – A person who accepts payment of an admission charge to an entertainment activity and who is not the operator of the venue where the entertainment activity occurs.

(b) Tax. – The gross receipts derived from an admission charge to an entertainment activity are taxed at the general rate set in G.S. 105-164.4. The tax is due and payable by the retailer in accordance with G.S. 105-164.16. For purposes of the tax imposed by this section, the retailer is the applicable person listed below:

(1) The operator of the venue where the entertainment activity occurs, unless the retailer and the facilitator have a contract between them allowing for dual remittance, as provided in subsection (d) of this section.

(2) The person that provides the entertainment and that receives admission charges directly from a purchaser.

(c) Facilitator. – A facilitator must report to the retailer with whom it has a contract the admission charge a consumer pays to the facilitator for an entertainment activity. The facilitator must send the retailer the portion of the gross receipts the facilitator owes the retailer and the tax due on the gross receipts derived from an admission charge no later than 10 days after the end of each calendar month. A facilitator that does not send the retailer the tax due on the gross receipts derived from an admission charge is liable for the amount of tax the facilitator fails to send to the retailer. A facilitator is not liable for tax sent to a retailer but not remitted by the retailer to the Secretary. Tax payments received by a retailer from a facilitator are held in trust by the retailer for remittance to the Secretary. A retailer that receives a tax payment from a facilitator must remit the amount received to the Secretary. A retailer is not liable for tax due but not received from a facilitator. The requirements imposed by this subsection on a retailer and a facilitator are considered terms of the contract between the retailer and the facilitator.

(d) Dual Remittance. – The tax due on the gross receipts derived from an admission charge may be partially reported and remitted to the operator of the venue for remittance to the Department and partially reported and remitted by the facilitator directly to the Department. The portion of the tax not reported and remitted to the operator of the venue must be reported and remitted directly by the facilitator to the Department. A facilitator that elects to remit tax under the dual remittance option is required to obtain a certificate of registration in accordance with G.S. 105-164.29. A facilitator is subject to the provisions of Article 9 of this Chapter.

(e) Exceptions. – The tax imposed by this section does not apply to the following:

(1) An amount paid for the right to participate in sporting activities. Examples of these types of charges include bowling fees, golf green fees, and gym memberships.

(2) Tuition, registration fees, or charges to attend instructional seminars, conferences, or workshops for educational purposes.

(3) A political contribution.

(4) A charge for lifetime seat rights, lease, or rental of a suite or box for an entertainment activity, provided the charge is separately stated on an invoice or similar billing document given to the purchaser at the time of sale.

(5) An amount paid solely for transportation.

(f) Exemptions. – The following gross receipts derived from an admission charge to an entertainment activity are specifically exempt from the tax imposed by this Article:

(1) The portion of a membership charge that is deductible as a charitable contribution under section 170 of the Code.

(2) A donation that is deductible as a charitable contribution under section 170 of the Code.

(3) Charges for an amenity. If charges for amenities are separately stated on a billing document given to the purchaser at the time of the sale, then the tax does not apply to the separately stated charges for amenities. If charges for amenities are not separately stated on the billing document given to the purchaser at the time of the sale, then the transaction is a bundled transaction and taxed in accordance with G.S. 105-164.4D except that G.S. 105-164.4D(a)(3) does not apply.

(4) An event that is sponsored by an elementary or secondary school. For purposes of this exemption, the term "school" is an entity regulated under Chapter 115C of the General Statutes.

(5) An event sponsored solely by a nonprofit entity that is exempt from tax under Article 4 of this Chapter if all of the following conditions are met:

a. The entire proceeds of the activity are used exclusively for the entity's nonprofit purposes.

b. The entity does not declare dividends, receive profits, or pay salary or other compensation to any members or individuals.

c. The entity does not compensate any person for participating in the event, performing in the event, placing in the event, or producing the event. For purposes of this subdivision, the term "compensate" means any remuneration included in a person's gross income as defined in section 61 of the Code.

(g) Sourcing. – Admission to an entertainment activity is sourced to the location where admission to the entertainment activity may be gained by a person. When the location where admission may be gained is not known at the time of the receipt of the gross receipts for an admission charge, the sourcing principles in G.S. 105-164.4B(a) apply."

SECTION 5.1.(d) G.S. 105-164.13(60) reads as rewritten:

"(60) ~~Admission charges to any of the following entertainment activities:~~Gross receipts derived from an admission charge to an entertainment activity are exempt as provided in G.S. 105-164.4G.

~~a. An event that is held at an elementary or secondary school and is sponsored by the school.~~

~~b. A commercial agricultural fair that meets the requirements of G.S. 106-520.1, as determined by the Commissioner of Agriculture.~~

~~c. A festival or other recreational or entertainment activity that lasts no more than seven consecutive days and is sponsored by a nonprofit entity that is exempt from tax under Article 4 of this Chapter and uses the entire proceeds of the activity exclusively for the entity's nonprofit purposes. This exemption applies to the first two activities sponsored by the entity during a calendar year.~~

~~d. A youth athletic contest sponsored by a nonprofit entity that is exempt from tax under Article 4 of this Chapter. For the purpose of this subdivision, a youth athletic contest is a contest in which each participating athlete is less than 20 years of age at the time of enrollment.~~

~~e. A State attraction. A State attraction is a physical place supported with State funds that offers cultural, educational, historical, or recreational opportunities. The term "State funds" has the same meaning as defined in G.S. 143C-1-1.~~"

SECTION 5.1.(e) G.S. 105-164.13(34) and G.S. 105-164.13(35) read as rewritten:

"**§ 105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property, digital property, and services are specifically exempted from the tax imposed by this Article:

...

(34) Sales of items by a nonprofit civic, charitable, educational, scientific or literary organization when the net proceeds of the sales will be given or contributed to the State of North Carolina or to one or more of its agencies or instrumentalities, or to one or more nonprofit charitable organizations, one of whose purposes is to serve as a conduit through which such net proceeds will flow to the State or to one or more of its agencies or instrumentalities. This exemption does not apply to gross receipts derived from an admission charge to an entertainment activity.

(35) Sales by a nonprofit civic, charitable, educational, scientific, literary, or fraternal organization when all of the ~~following~~ conditions listed in this subdivision are ~~met:~~met. This exemption does not apply to gross receipts derived from an admission charge to an entertainment activity.

a. The sales are conducted only upon an annual basis for the purpose of raising funds for the organization's activities.

b. The proceeds of the sale are actually used for the organization's activities.

c. The products sold are delivered to the purchaser within 60 days after the first solicitation of any sale made during the organization's annual sales period."

SECTION 5.1.(f) Section 5(f) of S.L. 2013-316 reads as rewritten:

"**SECTION 5.(f)** This section becomes effective January 1, 2014, and applies to ~~admissions purchased~~ gross receipts derived from an admission charge sold at retail on or after that date. For admissions to a live event, the tax applies to the initial sale or resale of tickets occurring on

or after that date; gross receipts received on or after January 1, 2014, for admission to a live event, for which the initial sale of tickets occurred before that date, other than gross receipts received by a ticket reseller, are taxable under G.S. 105-37.1. Gross receipts derived from an admission charge sold at retail to a live event occurring on or after January 1, 2015, are taxable under G.S. 105-164.4G, regardless of when the initial sale of a ticket to the event occurred."

SECTION 5.1.(g) Subsection (d) of this section and G.S. 105-164.4G(f)(4) and G.S. 105-164.4G(f)(5), as enacted by subsection (c) of this section, become effective January 1, 2015, and applies to gross receipts derived from an admission charge sold at retail on or after that date. The remainder of this Part is effective when it becomes law, and applies to gross receipts derived from an admission charge sold at retail on or after that date.

PART VI. SERVICE CONTRACTS

SECTION 6.1.(a) G.S. 105-164.3(38b) reads as rewritten:

"**§ 105-164.3. Definitions.**

The following definitions apply in this Article:

...

(38b) Service contract. – A contract where the obligor under the contract agrees to maintain or repair tangible personal property or a motor vehicle. Examples of a service contract include ~~A~~ a warranty ~~agreement,~~ agreement other than a manufacturer's warranty or dealer's warranty provided at no charge to the purchaser, an extended warranty agreement, a maintenance agreement, a repair contract, or a similar agreement or ~~contract by which the seller agrees to maintain or repair tangible personal property.~~contract.

...."

SECTION 6.1.(b) G.S. 105-164.4(a)(11) reads as rewritten:

"(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and three-quarters percent (4.75%).

...

(11) The general rate of tax applies to the sales price of or the gross receipts derived from a service contract. A service contract is taxed in accordance with G.S. 105-164.4I."

SECTION 6.1.(c) Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.4I. Service contracts.**

(a) Tax. – The sales price of or the gross receipts derived from a service contract or the renewal of a service contract sold at retail is subject to the general rate of tax set in G.S. 105-164.4 and is sourced in accordance with the sourcing principles in G.S. 105-164.4B. The retailer of a service contract is required to collect the tax due at the time of the retail sale of the contract and is liable for payment of the tax. The tax is due and payable in accordance with G.S. 105-164.16.

The retailer of a service contract is the applicable person listed below:

(1) When a service contract is sold at retail to a purchaser by the obligor under the contract, the obligor is the retailer.

(2) When a service contract is sold at retail to a purchaser by a facilitator on behalf of the obligor under the contract, the facilitator is the retailer unless the provisions of subdivision (3) of this subsection apply.

(3) When a service contract is sold at retail to a purchaser by a facilitator on behalf of the obligor under the contract and there is an agreement between the facilitator and the obligor that states the obligor will be liable for the payment of the tax, the obligor is the retailer. The facilitator must send the

retailer the tax due on the sales price of or gross receipts derived from the service contract no later than 10 days after the end of each calendar month. A facilitator that does not send the retailer the tax due on the sales price or gross receipts is liable for the amount of tax the facilitator fails to send. A facilitator is not liable for tax sent to a retailer but not remitted by the retailer to the Secretary. Tax payments received by a retailer from a facilitator are held in trust by the retailer for remittance to the Secretary. A retailer that receives a tax payment from a facilitator must remit the amount received to the Secretary. A retailer is not liable for tax due but not received from a facilitator. The requirements imposed by this subdivision on a retailer and a facilitator are considered terms of the agreement between the retailer and the facilitator.

(b) Exemptions. – The tax imposed by this section does not apply to the sales price of or the gross receipts derived from a service contract applicable to any of the following items:

(1) An item exempt from tax under this Article, other than a motor vehicle exempt from tax under G.S. 105-164.13(32).

(2) A transmission, distribution, or other network asset contained on utility-owned land, right-of-way, or easement.

(3) An item purchased by a professional motorsports racing team for which the team may receive a sales tax refund under G.S. 105-164.14A(5).

(4) An item subject to tax under Article 5F of Chapter 105 of the General Statutes.

(c) Exceptions. – The tax does not apply to the sales price of or the gross receipts derived from a service contract for tangible personal property sold at retail that is or will become a part of real property unless the service contract is sold by the obligor or by a third party or facilitator on behalf of the obligor at the same time as the item of tangible personal property covered in the service contract. The tax imposed by this section does not apply to a security or similar monitoring contract for real property or to a renewal of a service contract where the tangible personal property becomes a part of or affixed to real property prior to the effective date of the renewal.

(d) Basis of Reporting. – A retailer who sells or derives gross receipts from a service contract must report those sales on an accrual basis of accounting, notwithstanding that the retailer reports tax on the cash basis for other sales at retail. The tax on the sales price of or the gross receipts derived from a service contract is due at the time of the retail sale, notwithstanding any portion that may be financed. If the sales price of or the gross receipts derived from the service contract is financed in whole or in part, the financed amount of the sales price of or the gross receipts derived from the service contract included in each payment is exempt from sales tax if the amount is separately stated in the contract and on the billing statement or other documentation provided to the purchaser at the time of the sale.

(e) Definition. – For purposes of this section, the term "facilitator" means a person who contracts with the obligor of the service contract to market the service contract and accepts payment from the purchaser for the service contract."

SECTION 6.1.(d) Part 2 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.11A. Refund of tax paid on rescinded sale or cancellation of service.**

(a) Refund. – A retailer is allowed a refund of sales tax remitted on a rescinded sale or cancelled service. A sale is rescinded when the purchaser returns an item to the retailer and receives a refund, in whole or in part, of the sales price paid, including a refund of the pro rata amount of the sales tax based on the taxable amount of the sales price refunded. A service is cancelled when the service is terminated and the purchaser receives a refund, in whole or in part, of the sales price paid, including a refund of the pro rata amount of the sales tax paid

based on the taxable amount of the sales price refunded. A retailer entitled to a refund under this section may reduce taxable receipts by the taxable amount of the refund for the period in which the refund occurs or may request a refund of an overpayment as provided in G.S. 105-241.7, provided the tax has been refunded to the purchaser. The records of the retailer must clearly reflect and support the claim for refund for an overpayment of tax or adjustment to taxable receipts for the period in which the refund occurs.

(b) Service Contract. – When a service contract is cancelled and a purchaser receives a refund, in whole or in part, of the sales price paid for the service contract, the purchaser may receive a refund of the pro rata amount of the sales tax paid based on the taxable amount of the sales price refunded as provided in this subsection:

(1) Refund from retailer. – If the purchaser receives a refund on any portion of the sales price for a service contract purchased from the retailer required to remit the tax on the retail sale of the service contract, then the provisions of subsection (a) of this section apply.

(2) Refund application. – If the purchaser receives a refund on any portion of the sales price for a service contract from a person other than the retailer required to remit the tax on the retail sale of the service contract, then the amount refunded to the purchaser by the person does not have to include the sales tax on the taxable amount of the refund. If the amount refunded to the purchaser by the person does not include the sales tax paid, then the purchaser may apply to the Department for a refund of the pro rata amount of the tax paid based on the taxable amount of the service contract refunded to the purchaser. The application for a refund by a purchaser must be made on a form prescribed by the Secretary, supported by documentation on the taxable amount of the service contract refunded to the purchaser from the person who refunded that amount, and filed within 30 days after the purchaser receives a refund. An application for a refund filed by the purchaser after the due date is barred. Taxes for which a refund is allowed directly to the purchaser for sales tax paid on a service contract are not an overpayment of tax and do not accrue interest as provided in G.S. 105-241.21."

SECTION 6.1.(e) G.S. 105-164.13(61) reads as rewritten:

"(61) A service contract for tangible personal property ~~that is provided for any of the following:~~may be exempt as provided in G.S. 105-164.4I.

~~a. An item exempt from tax under this Article, other than an item exempt from tax under G.S. 105-164.13(32).~~

~~b. A transmission, distribution, or other network asset contained on utility-owned land, right-of-way, or easement.~~

~~c. An item purchased by a professional motorsports racing team for which the team may receive a sales tax refund under G.S. 105-164.14A(5).~~"

SECTION 6.1.(f) G.S. 105-164.13(62) reads as rewritten:

"**§ 105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property, digital property, and services are specifically exempted from the tax imposed by this Article:

...

(62) An item used to maintain or repair tangible personal property or a motor vehicle pursuant to a service contract if the purchaser of the contract is not charged for the item. This exemption does not apply to an item used to maintain or repair tangible personal property pursuant to a service contract

exempt from tax under G.S. 105-164.4I(b). For purposes of this exemption, the term "item" does not include a tool, equipment, supply, or similar tangible personal property used to complete the maintenance or repair and that is not deemed to be a component or repair part of the tangible personal property or motor vehicle for which a service contract is sold to a purchaser."

SECTION 6.1.(g) G.S. 105-187.3 reads as rewritten:

"(a) ~~Amount.~~Tax Base. – The ~~rate of the use~~ tax imposed by this Article is applied to the sum of the ~~three percent (3%) of the sum of the following:~~

~~(1)~~ ~~The~~ retail value of a motor vehicle for which a certificate of title is ~~issued.~~issued and any fee regulated by G.S. 20-101.1. The tax does not apply to the sales price of a service contract. The sales price of a service contract is subject to the sales tax imposed under Article 5 of this Chapter.

~~(2)~~ ~~Any fee regulated by G.S. 20-101.1.~~

(a1) Tax Rate. – The tax rate is three percent (3%). ~~The tax is payable as provided in G.S. 105-187.4.~~ The maximum tax is one thousand dollars ($1,000) for each certificate of title issued for a Class A or Class B motor vehicle that is a commercial motor vehicle, as defined in G.S. 20-4.01. The maximum tax is one thousand five hundred dollars ($1,500) for each certificate of title issued for a recreational vehicle that is not subject to the one thousand dollar ($1,000) maximum tax. The tax is payable as provided in G.S. 105-187.4."

SECTION 6.1.(h) G.S. 105-187.5(a) reads as rewritten:

"(a) Election. – A retailer may elect not to pay the tax imposed by this Article at the rate set in G.S. 105-187.3 when applying for a certificate of title for a motor vehicle purchased by the retailer for lease or rental. A retailer who makes this election shall pay a tax on the gross receipts of the lease or rental of the vehicle. The portion of a lease or rental billing or payment that represents any amount applicable to the sales price of or sales tax on a service contract sold at retail that is subject to the tax imposed by Article 5 of this Chapter and sourced to this State should not be included in the gross receipts subject to the tax imposed by this Article. The amount of the lease or rental billing or payment applicable to the sales price of or sales tax on a service contract sold at retail subject to the tax imposed by Article 5 of this Chapter and sourced to the State should be separately stated on documentation given to the purchaser at the time the lease or rental agreement goes into effect, or on the monthly billing statement or other documentation given to the purchaser. Like the tax imposed by G.S. 105-187.3, this alternate tax is a tax on the privilege of using the highways of this State. The tax is imposed on a retailer, but is to be added to the lease or rental price of a motor vehicle and thereby be paid by the person who leases or rents the vehicle."

SECTION 6.1.(i) G.S. 105-467(b) reads as rewritten:

"(b) Exemptions and Refunds. – The State exemptions and exclusions contained in G.S. 105-164.13 apply to the local sales and use tax authorized to be levied and imposed under this Article. The State refund provisions contained in G.S. 105-164.14 through G.S. 105-164.14B apply to the local sales and use tax authorized to be levied and imposed under this Article. A refund of an excessive or erroneous State sales tax collection allowed under G.S. 105-164.11 and a refund of State sales tax paid on a rescinded sale or cancelled service contract under G.S. 105-164.11A apply to the local sales and use tax authorized to be levied and imposed under this Article. The aggregate annual local refund amount allowed an entity under G.S. 105-164.14(b) for a fiscal year may not exceed thirteen million three hundred thousand dollars ($13,300,000).

...."

SECTION 6.1.(j) This Part becomes effective October 1, 2014, and applies to gross receipts derived from a service contract sold at retail on or after that date.

PART VII. RETAILER-CONTRACTORS

SECTION 7.1.(a) G.S. 105-164.3 reads as rewritten:

"**§ 105-164.3. Definitions.**

The following definitions apply in this Article:

...

(5) Consumer. – A person who stores, uses, or otherwise consumes in this State tangible personal property, digital property, or a service purchased or received from a retailer or supplier either within or without this State.

...

(33a) Real property contractor. – A person that contracts to perform construction, reconstruction, installation, repair, or any other service with respect to real property and to furnish tangible personal property to be installed or applied to real property in connection with the contract and the labor to install or apply the tangible personal property that becomes part of real property. The term includes a general contractor, a subcontractor, or a builder for purposes of G.S. 105-164.4H.

...

(35) Retailer. – A person engaged in the business of any of the following:

a. Making sales at retail, offering to make sales at retail, or soliciting sales at retail of tangible personal property, digital property, or services for storage, use, or consumption in this State. When the Secretary finds it necessary for the efficient administration of this Article to regard any sales representatives, solicitors, representatives, consignees, peddlers, or truckers as agents of the dealers, distributors, consignors, supervisors, employers, or persons under whom they operate or from whom they obtain the items sold by them regardless of whether they are making sales on their own behalf or on behalf of these dealers, distributors, consignors, supervisors, employers, or persons, the Secretary may so regard them and may regard the dealers, distributors, consignors, supervisors, employers, or persons as "retailers" for the purpose of this Article.

b. Delivering, erecting, installing, or applying tangible personal property for use in this ~~State, regardless of whether the property is permanently affixed to real property or other tangible personal property.~~State that does not become part of real property pursuant to the tax imposed under G.S. 105-164.4(a)(12).

c. Making a remote sale, if one of the conditions listed in G.S. 105-164.8(b) is met.

(35a) Retailer-contractor. – A person that acts as a retailer when it sells tangible personal property at retail and as a real property contractor when it performs real property contracts.

...."

SECTION 7.1.(b) G.S. 105-164.4(a) is amended by adding a new subdivision to read:

"(13) The general rate of tax applies to the sales price of tangible personal property sold to a real property contractor for use by the real property contractor in erecting structures, building on, or otherwise improving, altering, or repairing real property. These sales are taxed in accordance with G.S. 105-164.4H."

SECTION 7.1.(c) Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-164.4H. Real property contractors.

(a) Applicability. – A real property contractor is the consumer of the tangible personal property that the real property contractor installs or applies for others and that becomes part of real property. A retailer engaged in business in the State shall collect tax on the sales price of the tangible personal property sold at retail to a real property contractor unless a statutory exemption in G.S. 105-164.13 or G.S. 105-164.13E applies. Where a real property contractor purchases tangible personal property for storage, use, or consumption in this State and the tax due is not paid at the time of purchase, the provisions of G.S. 105-164.6 apply except as provided in subsection (b) of this section.

(b) Retailer-Contractor. – This section applies to a retailer-contractor when the retailer-contractor acts as a real property contractor. A retailer-contractor that purchases tangible personal property to be installed or affixed to real property may purchase items exempt from tax under a certificate of exemption pursuant to G.S. 105-164.28 provided the retailer-contractor also purchases inventory items from the seller for resale. When the tangible personal property is withdrawn from inventory and installed or affixed to real property, use tax must be accrued and paid on the retailer-contractor's purchase price of the tangible personal property. Tangible personal property that the retailer-contractor withdraws from inventory for use that does not become part of real property is also subject to the tax imposed by this Article.

If a retailer-contractor subcontracts any part of the real property contract, tax is payable by the subcontractor on the subcontractor's purchase of the tangible personal property that is installed or affixed to real property in fulfilling the contract. The retailer-contractor, the subcontractor, and the owner of the real property are jointly and severally liable for the tax. The liability of a retailer-contractor, a subcontractor, or an owner who did not purchase the property is satisfied by receipt of an affidavit from the purchaser certifying that the tax has been paid.

(c) Erroneous Collection if Separately Stated. – An invoice or other documentation issued to a consumer at the time of the sale by a real property contractor shall not separately state any amount for tax. Any amount for tax separately stated on an invoice or other documentation given to a consumer by a real property contractor is an erroneous collection and must be remitted to the Secretary, and the provisions of G.S. 105-164.11(a)(2) do not apply."

SECTION 7.2.(a) This act shall not be construed to affect the interpretation of any statute that is the subject of a State tax audit pending as of the effective date of this act or litigation that is a direct result of such audit.

SECTION 7.2.(b) A seller who collected and remitted sales or use tax in accordance with an interpretation of the law by the Secretary in the form of a rule, bulletin, or directive published before the effective date of this act is not liable to a purchaser for any overcollected sales or use tax that was collected in accordance with the rule, bulletin, or directive.

SECTION 7.3. This Part becomes effective January 1, 2015, and applies to sales on or after that date and contracts entered into on or after that date.

PART VIII. OTHER SALES TAX CHANGES

SECTION 8.1.(a) G.S. 105-164.4(a) reads as rewritten:

"(a) A privilege tax is imposed on a retailer at the ~~following~~ percentage rates of the retailer's net taxable sales or gross receipts, ~~as appropriate.~~ listed in this subsection. The general rate of tax is four and three-quarters percent (4.75%). The percentage rates are as follows:

...

(3) ~~A tax at the~~ The general rate applies to the gross receipts derived from the rental of an accommodation. These rentals are taxed in accordance with G.S. 105-164.4F. ~~The tax does not apply to (i) a private residence or cottage that is rented for fewer than 15 days in a calendar year; (ii) an accommodation rented to the same person for a period of 90 or more~~

~~continuous days; or (iii) an accommodation arranged or provided to a person by a school, camp, or similar entity where a tuition or fee is charged to the person for enrollment in the school, camp, or similar entity.~~

~~Gross receipts derived from the rental of an accommodation include the sales price of the rental of the accommodation. The sales price of the rental of an accommodation is determined as if the rental were a rental of tangible personal property. The sales price of the rental of an accommodation marketed by a facilitator includes charges designated as facilitation fees and any other charges necessary to complete the rental.~~

~~A person who provides an accommodation that is offered for rent is considered a retailer under this Article. A facilitator must report to the retailer with whom it has a contract the sales price a consumer pays to the facilitator for an accommodation rental marketed by the facilitator. A retailer must notify a facilitator when an accommodation rental marketed by the facilitator is completed and the facilitator must send the retailer the portion of the sales price the facilitator owes the retailer and the tax due on the sales price no later than 10 days after the end of each calendar month. A facilitator that does not send the retailer the tax due on the sales price is liable for the amount of tax the facilitator fails to send. A facilitator is not liable for tax sent to a retailer but not remitted by the retailer to the Secretary. Tax payments received by a retailer from a facilitator are held in trust by the retailer for remittance to the Secretary. A retailer that receives a tax payment from a facilitator must remit the amount received to the Secretary. A retailer is not liable for tax due but not received from a facilitator. The requirements imposed by this subdivision on a retailer and a facilitator are considered terms of the contract between the retailer and the facilitator.~~

~~A person who, by written contract, agrees to be the rental agent for the provider of an accommodation is considered a retailer under this Article and is liable for the tax imposed by this subdivision. The liability of a rental agent for the tax imposed by this subdivision relieves the provider of the accommodation from liability. A rental agent includes a real estate broker, as defined in G.S. 93A-2.~~

~~The following definitions apply in this subdivision:~~

~~a. Accommodation. A hotel room, a motel room, a residence, a cottage, or a similar lodging facility for occupancy by an individual.~~

~~b. Facilitator. A person who is not a rental agent and who contracts with a provider of an accommodation to market the accommodation and to accept payment from the consumer for the accommodation.~~

...."

SECTION 8.1.(b) Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.4F. Accommodation rentals.**

(a) Definition. – The following definitions apply in this section:

(1) Accommodation. – A hotel room, a motel room, a residence, a cottage, or a similar lodging facility for occupancy by an individual.

(2) Facilitator. – A person who is not a rental agent and who contracts with a provider of an accommodation to market the accommodation and to accept payment from the consumer for the accommodation.

(3) Rental agent. – The term includes a real estate broker, as defined in G.S. 93A-2.

(b) Tax. – The gross receipts derived from the rental of an accommodation are taxed at the general rate set in G.S. 105-164.4. Gross receipts derived from the rental of an accommodation include the sales price of the rental of the accommodation. The sales price of the rental of an accommodation is determined as if the rental were a rental of tangible personal property. The sales price of the rental of an accommodation marketed by a facilitator includes charges designated as facilitation fees and any other charges necessary to complete the rental.

(c) Facilitator Transactions. – A facilitator must report to the retailer with whom it has a contract the sales price a consumer pays to the facilitator for an accommodation rental marketed by the facilitator. A retailer must notify a facilitator when an accommodation rental marketed by the facilitator is completed, and the facilitator must send the retailer the portion of the sales price the facilitator owes the retailer and the tax due on the sales price no later than 10 days after the end of each calendar month. A facilitator that does not send the retailer the tax due on the sales price is liable for the amount of tax the facilitator fails to send. A facilitator is not liable for tax sent to a retailer but not remitted by the retailer to the Secretary. Tax payments received by a retailer from a facilitator are held in trust by the retailer for remittance to the Secretary. A retailer that receives a tax payment from a facilitator must remit the amount received to the Secretary. A retailer is not liable for tax due but not received from a facilitator. The requirements imposed by this section on a retailer and a facilitator are considered terms of the contract between the retailer and the facilitator.

(d) Rental Agent. – A person who, by written contract, agrees to be the rental agent for the provider of an accommodation is considered a retailer under this Article and is liable for the tax imposed by this section. The liability of a rental agent for the tax imposed by this section relieves the provider of the accommodation from liability.

(e) Exemptions. – The tax imposed by this section does not apply to the following:

(1) A private residence, cottage, or similar accommodation that is rented for fewer than 15 days in a calendar year other than a private residence, cottage, or similar accommodation listed with a real estate broker or agent.

(2) An accommodation supplied to the same person for a period of 90 or more continuous days.

(3) An accommodation arranged or provided to a person by a school, camp, or similar entity where a tuition or fee is charged to the person for enrollment in the school, camp, or similar entity."

SECTION 8.1.(c) A retailer is not liable for an overcollection or undercollection of sales tax or occupancy tax if the retailer has made a good-faith effort to comply with the law and collect the proper amount of tax and has, due to the change under this section, overcollected or undercollected the amount of sales tax or occupancy tax that is due. This subsection applies only to the period beginning June 14, 2012, and ending July 1, 2014.

SECTION 8.1.(d) This section becomes effective June 1, 2014, and applies to gross receipts derived from the rental of an accommodation that a person occupies or has the right to occupy on or after that date.

SECTION 8.2.(a) G.S. 105-164.14(b) and G.S. 105-164.14(c) read as rewritten:

"(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed a semiannual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and ~~services, other than electricity, telecommunications service, and ancillary service,~~ services for use in carrying on the work of the nonprofit entity. Sales and use tax liability indirectly incurred by a nonprofit entity through reimbursement to an authorized person of the entity for the purchase of tangible personal property and ~~services, other than electricity, telecommunications service, and ancillary service,~~ services for use in carrying on the work of the nonprofit entity is considered a direct purchase by the entity. Sales and use tax liability indirectly incurred by a nonprofit entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased

by the nonprofit entity and is being erected, altered, or repaired for use by the nonprofit entity for carrying on its nonprofit activities is considered a sales or use tax liability incurred on direct purchases by the nonprofit entity. The refund allowed under this subsection does not apply to purchases of electricity, telecommunications service, ancillary service, piped natural gas, video programming, or a prepaid meal plan. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund for the first six months of a calendar year is due the following October 15; a request for a refund for the second six months of a calendar year is due the following April 15. The aggregate annual refund amount allowed an entity under this subsection for a fiscal year may not exceed thirty-one million seven hundred thousand dollars ($31,700,000).

The refunds allowed under this subsection do not apply to an entity that is owned and controlled by the United States or to an entity that is owned or controlled by the State and is not listed in this subsection. A hospital that is not listed in this subsection is allowed a semiannual refund of sales and use taxes paid by it on over-the-counter drugs purchased for use in carrying out its work. The following nonprofit entities are allowed a refund under this subsection:

...

(c) Certain Governmental Entities. – A governmental entity listed in this subsection is allowed an annual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and ~~services, other than electricity, telecommunications service, and ancillary service.~~ services. Sales and use tax liability indirectly incurred by a governmental entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the governmental entity and is being erected, altered, or repaired for use by the governmental entity is considered a sales or use tax liability incurred on direct purchases by the governmental entity for the purpose of this subsection. The refund allowed under this subsection does not apply to purchases of electricity, telecommunications service, ancillary service, piped natural gas, video programming, or a prepaid meal plan. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the governmental entity's fiscal year.

This subsection applies only to the following governmental entities:

...."

SECTION 8.2.(b) G.S. 105-467(b) reads as rewritten:

"(b) Exemptions and Refunds. – The State exemptions and exclusions contained in G.S. 105-164.13 apply to the local sales and use tax authorized to be levied and imposed under this Article. The State refund provisions contained in G.S. 105-164.14 through G.S. 105-164.14B apply to the local sales and use tax authorized to be levied and imposed under this Article. The aggregate annual local refund amount allowed an entity under G.S. 105-164.14(b) for a fiscal year may not exceed thirteen million three hundred thousand dollars ($13,300,000).

Except as provided in this subsection, a taxing county may not allow an exemption, exclusion, or refund that is not allowed under the State sales and use tax. A local school administrative unit and a joint agency created by interlocal agreement among local school administrative units pursuant to G.S. 160A-462 to jointly purchase food service-related materials, supplies, and equipment on their behalf is allowed an annual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and ~~services, other than electricity, telecommunications service, and ancillary service.~~ services. Sales and use tax liability indirectly incurred by the entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the entity and is being erected, altered, or repaired for use by the entity is considered a sales or use tax liability incurred on direct purchases by the entity for the purpose of this subsection. The refund allowed under this subsection does not apply to purchases of

electricity, telecommunications service, ancillary service, piped natural gas, video programming, or a prepaid meal plan. A request for a refund is due in the same time and manner as provided in ~~G.S. 105-164.14.~~ G.S. 105-164.14(c). Refunds applied for more than three years after the due date are barred."

SECTION 8.2.(c) This section becomes effective July 1, 2014, and applies to purchases occurring on or after that date.

SECTION 8.3.(a) G.S. 105-164.13(30) is repealed.

SECTION 8.3.(b) G.S. 105-164.13(50) reads as rewritten:

"**§ 105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property, digital property, and services are specifically exempted from the tax imposed by this Article:

...

(50) Fifty percent (50%) of the sales price of tangible personal property sold through a coin-operated vending machine, other than ~~tobacco.~~tobacco and newspapers.

...."

SECTION 8.3.(c) This section becomes effective October 1, 2014, and applies to sales made on or after that date.

PART IX. EXCISE TAX CHANGES

SECTION 9.1.(a) G.S. 105-113.13(b) reads as rewritten:

"(b) The Secretary may require a distributor to furnish a bond in an amount that adequately protects the State from loss if the distributor fails to pay taxes due under this Part. A bond ~~shall be~~ must be conditioned on compliance with this Part, ~~shall be~~ payable to the State, and ~~shall be~~ in the form required by the Secretary. The Secretary ~~shall~~ must set the bond amount based on the anticipated tax liability of the distributor. The Secretary ~~shall~~ should periodically review the sufficiency of bonds required of the distributor and ~~shall~~ increase the required bond amount ~~of a required bond if the bond~~ if the amount no longer covers the anticipated tax liability of the ~~distributor. The Secretary shall~~ distributor and decrease the amount ~~of a required bond~~ if the Secretary finds that a lower bond amount will protect the State adequately from loss. ~~For~~

For purposes of this section, ~~a bond may also include an irrevocable letter of credit.~~a distributor may substitute an irrevocable letter of credit for the secured bond required by this section. The letter of credit must be issued by a commercial bank acceptable to the Secretary and available to the State as a beneficiary. The letter of credit must be in a form acceptable to the Secretary, conditioned upon compliance with this Article, and in the amounts stipulated in this section."

SECTION 9.1.(b) G.S. 105-113.38 reads as rewritten:

"**§ 105-113.38. Bond or irrevocable letter of credit.**

The Secretary may require a wholesale dealer or a retail dealer to furnish a bond in an amount that adequately protects the State from loss if the dealer fails to pay taxes due under this Part. A bond ~~shall~~ must be conditioned on compliance with this Part, ~~shall be~~ payable to the State, and ~~shall be~~ in the form required by the Secretary. The ~~Secretary shall proportion a~~ bond amount must be proportionate to the anticipated tax liability of the wholesale dealer or retail dealer. The Secretary ~~shall~~ should periodically review the sufficiency of bonds required of dealers, and ~~shall~~ increase the amount of a required bond when the amount of the bond furnished no longer covers the anticipated tax liability of the wholesale dealer or retail ~~dealer. The Secretary shall~~ dealer and decrease the amount ~~of a required bond~~ when the Secretary determines that a smaller bond amount will adequately protect the State from loss. ~~For~~

For purposes of this section, ~~a bond may also include an irrevocable letter of credit.~~a wholesale dealer or a retail dealer may substitute an irrevocable letter of credit for the secured bond required by this section. The letter of credit must be issued by a commercial bank acceptable to the Secretary and available to the State as a beneficiary. The letter of credit must be in a form acceptable to the Secretary, conditioned upon compliance with this Article, and in the amounts stipulated in this section."

SECTION 9.1.(c) G.S. 105-113.86 reads as rewritten:

"**§ 105-113.86. ~~Bonds.~~Bond or irrevocable letter of credit.**

(a) Wholesalers and Importers. – A wholesaler or importer ~~shall furnish~~ must file with the Secretary a bond in an amount of not less than five thousand dollars ~~($5,000) nor more than fifty thousand dollars ($50,000).~~($5,000). The amount of the bond must be proportionate to the anticipated tax liability of the wholesaler or importer. The Secretary should periodically review the sufficiency of the bonds required under this section. The Secretary may increase the proportionate amount required, not to exceed fifty thousand dollars ($50,000), if the bond furnished no longer covers the taxpayer's anticipated tax liability. The Secretary may decrease the proportionate amount required when the Secretary determines that a smaller bond amount will adequately protect the State from loss. The bond ~~shall~~ must be conditioned on compliance with this Article, ~~shall be~~ payable to the State, ~~shall be~~ in a form acceptable to the Secretary, and ~~shall be~~ secured by a corporate ~~surety or by a pledge of obligations of the federal government, the State, or a political subdivision of the State.~~surety. ~~The Secretary shall proportion the bond amount to the anticipated tax liability of the wholesaler or importer. The Secretary shall periodically review the sufficiency of bonds furnished by wholesalers and importers, and shall increase the amount of a bond required of a wholesaler or importer when the amount of the bond furnished no longer covers the wholesaler's or importer's anticipated tax liability.~~

...

(c) Letter of Credit. – For purposes of this section, a wholesaler or importer or a nonresident vendor may substitute an irrevocable letter of credit for the secured bond required by this section. The letter of credit must be issued by a commercial bank acceptable to the Secretary and available to the State as a beneficiary. The letter of credit must be in a form acceptable to the Secretary, conditioned upon compliance with this Article, and in the amounts stipulated in this section."

SECTION 9.2. G.S. 105-113.39(b) reads as rewritten:

"(b) Refund. – A wholesale dealer or retail dealer who is primarily liable under G.S. 105-113.35(b) for the excise taxes imposed by this Part and is in possession of stale or otherwise unsalable tobacco products upon which the tax has been paid may return the tobacco products to the manufacturer and apply to the Secretary for refund of the tax. The application shall be in the form prescribed by the Secretary and shall be accompanied by a written certificate signed under penalty of perjury or an affidavit from the manufacturer listing the tobacco products returned to the manufacturer by the applicant. The Secretary shall refund the tax paid, less the discount allowed, on the listed products."

SECTION 9.3. G.S. 105-259(b) is amended by adding two new subdivisions to read:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person except as provided in this subsection. Standards used or to be used for the selection of returns for examination and data used or to be used for determining the standards may not be disclosed for any purpose. All other tax information may be disclosed only if the disclosure is made for one of the following purposes:

...

(40a) To furnish a data clearinghouse the information required to be released in accordance with the State's agreement under the December 2012 Term Sheet Settlement, as finalized by the State in the NPM Adjustment Settlement Agreement, concerning annual tobacco product sales by a nonparticipating manufacturer. The following definitions apply in this subdivision:

a. Data clearinghouse. – Defined in the Term Sheet Settlement and in the NPM Adjustment Settlement Agreement.

b. Master Settlement Agreement. – Defined in G.S. 66-290.

c. Nonparticipating manufacturer. – Defined in G.S. 66-292.

d. NPM Adjustment Settlement Agreement. – The final executed settlement document resulting from the 2012 Term Sheet Settlement.

e. Participating manufacturer. – Defined in G.S. 66-292.

f. Term Sheet Settlement. – The settlement agreement entered into in December 2012 by the State and certain participating manufacturers under the Master Settlement Agreement.

...

(46) To furnish to a person who provides the State with a bond or irrevocable letter of credit on behalf of a taxpayer the information necessary for the Department to collect on the bond or letter of credit in the case of noncompliance with the tax laws by the taxpayer covered by the bond or letter of credit."

SECTION 9.4. G.S. 105-260.1 reads as rewritten:

"**§ 105-260.1. Delegation of authority to hold hearings.**

The Secretary ~~of Revenue~~ may delegate ~~to a Deputy or Assistant Secretary of Revenue~~ the authority to hold ~~any~~ a hearing required or allowed under this Chapter."

SECTION 9.5.(a) The heading to Article 36B of Chapter 105 of the General Statutes reads as rewritten:

"Article 36B.

Tax on ~~Carriers Using Fuel Purchased Outside State.~~Motor Carriers."

SECTION 9.5.(b) G.S. 105-449.37 reads as rewritten:

"**§ 105-449.37. Definitions; tax ~~liability.~~liability; application.**

(a) Definitions. – The following definitions apply in this Article:

(1) International Fuel Tax Agreement. – The Articles of Agreement adopted by the International Fuel Tax Association, Inc., as amended as of ~~June 1, 2010.~~July 1, 2013.

(2) Motor carrier. – A person who operates or causes to be operated on any highway in this State a motor vehicle that is a qualified motor vehicle. The term does not include the United States, a state, or a political subdivision of a state.

(3) Motor vehicle. – Defined in G.S. 20-4.01.

(4) Operations. – The movement of a qualified motor vehicle by a motor carrier, whether loaded or empty and whether or not operated for compensation.

(5) Person. – Defined in G.S. 105-228.90.

(6) Qualified motor vehicle. – Defined in the International Fuel Tax Agreement.

(7) Secretary. – Defined in G.S. 105-228.90.

(b) Liability. – A motor carrier who operates on one or more days of a reporting period is liable for the tax imposed by this Article for that reporting period and is entitled to the credits allowed for that reporting period.

(c) Application. – A motor carrier who operates a qualified motor vehicle in this State must register the vehicle as provided in this Article and obtain the appropriate license and

decals for the vehicle. The Article applies to both an interstate motor carrier subject to the International Fuel Tax Agreement and to an intrastate motor carrier."

SECTION 9.5.(c) G.S. 105-449.47(a) reads as rewritten:

"(a) Requirement. – A motor carrier ~~that is subject to the International Fuel Tax Agreement~~ may not operate or cause to be operated in this State a qualified motor vehicle unless both the motor carrier and at least one qualified motor vehicle are registered as provided in this subsection. This subsection applies to a motor carrier that operates a recreational vehicle that is considered a qualified motor vehicle. A motor carrier that is subject to the International Fuel Tax Agreement must register with the motor carrier's base state jurisdiction. A motor carrier that is not subject to the International Fuel Tax Agreement ~~may not operate or cause to be operated in this State a qualified motor vehicle unless both the motor carrier and at least one qualified motor vehicle are registered~~ must register with the Secretary for purposes of the tax imposed by this Article. ~~This subsection applies to a motor carrier that operates a recreational vehicle that is considered a qualified motor vehicle.~~"

SECTION 9.6. G.S. 105-449.61(a) reads as rewritten:

"(a) No Local Tax. – A county or city may not impose a tax on the sale, distribution, or use of motor ~~fuel.~~fuel, except motor fuel for which a refund of the per gallon excise tax is allowed under G.S. 105-449.105A or G.S. 105-449.107."

SECTION 9.7.(a) G.S. 105-449.81 reads as rewritten:

"**§ 105-449.81. Excise tax on motor fuel.**

An excise tax at the motor fuel rate is imposed on motor fuel that is:

...

(3b) Fuel grade ethanol or biodiesel fuel if the fuel ~~that meets any~~ meets at least one of the following descriptions:

a. Is produced in this State and is removed from the storage facility at the production location.

b. Is imported to this State outside the terminal transfer system.

c. Repealed by Session Laws 2009-445, s. 34(a), effective January 1, 2010.

...."

SECTION 9.7.(b) G.S. 105-449.83A reads as rewritten:

"**§ 105-449.83A. Liability for tax on fuel grade ~~ethanol.~~ethanol and biodiesel.**

The excise tax imposed by G.S. 105-449.81(3b) on fuel grade ethanol is payable by the refiner or fuel alcohol provider. The excise tax imposed by G.S. 105-449.81(3b) on biodiesel is payable by the refiner or the biodiesel provider."

SECTION 9.7.(c) This section becomes effective October 1, 2014.

SECTION 9.8.(a) G.S. 105-449.52(b) reads as rewritten:

"(b) ~~Review.~~ Penalty. ~~The procedure set out in G.S. 105-449.119 for reviewing a penalty imposed under Article 36C, Part 6, of this Chapter applies to a penalty imposed under this section.~~The Secretary may reduce or waive the penalty as provided under G.S. 105-449.119."

SECTION 9.8.(b) G.S. 105-449.119 reads as rewritten:

"**§ 105-449.119. Review of civil penalty assessment.**

A person who denies liability for a penalty imposed under this Part ~~must pay the penalty and file a request for a Departmental review of the penalty. The request must be filed within the time set in G.S. 105-241.11 for requesting a Departmental review of a proposed assessment.~~ may request the Secretary to waive the penalty. ~~The procedures in Article 9 of this Chapter for review of a proposed assessment apply to the review of the penalty. The date the penalty was imposed is considered the date the notice of proposed assessment was delivered to the taxpayer.~~The Secretary may reduce or waive a penalty as provided in Article 9 of this Chapter."

SECTION 9.9.(a) G.S. 105-449.115(b) reads as rewritten:

"(b) Content. – A shipping document ~~issued by~~ is a permanent record that must contain the following information and any other information required by the Secretary:

(1) Identification, including address, of the terminal or bulk plant from which the motor fuel was received.

(1a) The type of motor fuel loaded.

(2) The date the motor fuel was loaded.

(3) The gross gallons loaded if the motor fuel is loaded onto a transport truck, and the gross pounds loaded if the motor fuel is loaded onto a railroad tank car.

(3a) The motor fuel transporter for the motor fuel.

(4) The destination state of the motor fuel, as represented by the purchaser of the motor fuel or the purchaser's agent.

(5) If the document is issued by a refiner or a terminal operator, the document must be machine printed. If the motor fuel is loaded onto a transport truck, the document must contain the following information:

a. The net gallons loaded.

b. A tax responsibility statement indicating the name of the supplier that is responsible for the tax due on the motor fuel."

SECTION 9.9.(b) This section becomes effective October 1, 2014.

SECTION 9.10.(a) G.S. 105-449.106(c) reads as rewritten:

"(c) Special Mobile Equipment. – A person who purchases and uses motor fuel for the off-highway operation of special mobile equipment registered under Chapter 20 of the General Statutes may receive a quarterly refund, for the excise tax paid during the preceding quarter, at a rate equal to the flat cents-per-gallon rate plus the variable cents-per-gallon rate in effect during the quarter for which the refund is claimed, less the amount of sales and use tax ~~or privilege tax~~ due on the fuel under this Chapter, as determined in accordance with G.S. 105-449.107(c). An application for a refund must be made in accordance with this Part."

SECTION 9.10.(b) G.S. 105-449.107 reads as rewritten:

"(a) Off-Highway. – A person who purchases and uses motor fuel for a purpose other than to operate a licensed highway vehicle may receive an annual refund for the excise tax the person paid on fuel used during the preceding calendar year. The amount of refund allowed is the amount of the flat cents-per-gallon rate in effect during the year for which the refund is claimed plus the average of the two variable cents-per-gallon rates in effect during that year, less the amount of sales and use tax ~~or privilege tax~~ due on the fuel under this Chapter. An application for a refund allowed under this section must be made in accordance with this Part.

(b) Certain Vehicles. – A person who purchases and uses motor fuel in one of the vehicles listed below may receive an annual refund for the amount of fuel consumed by the vehicle:

...

The amount of refund allowed is thirty-three and one-third percent (33 1/3%) of the following: the sum of the flat cents-per-gallon rate in effect during the year for which the refund is claimed and the average of the two variable cents-per-gallon rates in effect during that year, less the amount of sales and use tax ~~or privilege tax~~ due on the fuel under this Chapter. An application for a refund allowed under this section must be made in accordance with this Part. This refund is allowed for the amount of fuel consumed by the vehicle in its mixing, compacting, or unloading operations, as distinguished from propelling the vehicle, which amount is considered to be one-third of the amount of fuel consumed by the vehicle.

(c) Sales Tax Amount. – Article 5 of Subchapter I of this Chapter determines the amount of State sales and use tax to be deducted under this section from a motor fuel excise tax refund. Articles 39, 40, and 42 of Subchapter VIII of this Chapter and the Mecklenburg First 1% Sales Tax Act determine the amount of local sales and use tax to be deducted under this

section from a motor fuel excise tax refund. ~~Article 5F of this Chapter determines the amount of privilege tax to be deducted under this section from a motor fuel excise tax refund.~~ The sales price and the cost price of motor fuel to be used in determining the amount to deduct is the average of the wholesale prices used under G.S. 105-449.80 to determine the excise tax rates in effect for the two six-month periods of the year for which the refund is claimed."

SECTION 9.11. Except as otherwise provided, this Part is effective when it becomes law.

PART X. TAX LAW COMPLIANCE CHANGES

SECTION 10.1.(a) G.S. 18B-900 reads as rewritten:

"**§ 18B-900. Qualifications for permit.**

(a) Requirements. – To be eligible to receive and to hold an ABC permit, a person ~~shall:~~must satisfy all of the following requirements:

(1) Be at least 21 years old, unless the person is a manager of a business selling only malt beverages and unfortified wine, in which case the person shall be at least 19 years ~~old;~~old.

(2) Be a resident of North Carolina unless:

a. He is an officer, director or stockholder of a corporate applicant or permittee and is not a manager or otherwise responsible for the day-to-day operation of the business; or

b. He has executed a power of attorney designating a qualified resident of this State to serve as attorney in fact for the purposes of receiving service of process and managing the business for which permits are sought; or

c. He is applying for a nonresident malt beverage vendor permit, a nonresident wine vendor permit, or a vendor representative ~~permit;~~ permit.

(3) Not have been convicted of a felony within three years, and, if convicted of a felony before then, ~~shall have~~ has had his citizenship ~~restored;~~restored.

(4) Not have been convicted of an alcoholic beverage offense within two ~~years;~~years.

(5) Not have been convicted of a misdemeanor controlled substance offense within two ~~years; and~~years.

(6) Not have had an alcoholic beverage permit revoked within three years, except where the revocation was based solely on a permittee's failure to pay the annual registration and inspection fee required in G.S. 18B-903(b1).

(7) Not have, whether as an individual or as an officer, director, shareholder or manager of a corporate permittee, an unsatisfied outstanding final judgment that was entered against him in an action under Article 1A of this Chapter.

(8) Be current in filing all applicable tax returns to the State and in payment of all taxes, interest, and penalties that are collectible under G.S. 105-241.22. This subdivision does not apply to the following ABC permits:

a. Special occasion permit under G.S. 18B-1001(8).

b. Limited special occasion permit under G.S. 18B-1001(9).

c. Special one-time permit under G.S. 18B-1002.

d. Salesman permit under G.S. 18B-1111.

To avoid undue hardship, however, the Commission may decline to take action under G.S. 18B-104 against a permittee who is in violation of subdivisions (3), (4), or (5).

...

(f) Procedure to Confirm State Tax Compliance. – Upon request of the Commission, the Department of Revenue must provide information to the Commission to confirm a person's

compliance with subdivision (a)(8) of this section. If the Department of Revenue notifies the Commission that a person is not in compliance, then the Commission may not issue or renew the person's permit until the Commission receives notice from the Department of Revenue that the person is in compliance. The requirement to pay all taxes, interest, and penalties may be satisfied by an operative agreement under G.S. 105-237 covering any amounts that are collectible under G.S. 105-241.22. Chapter 150B of the General Statutes does not apply to a Commission action on issuance, suspension, or revocation of an ABC permit under subdivision (a)(8) of this section."

SECTION 10.1.(b) G.S. 18B-906(a) reads as rewritten:

"(a) Act Applies. – An ABC permit is a "license" within the meaning of G.S. 150B-2, and, except for revocation pursuant to ~~G.S. 18B-904(e)(3),~~ G.S. 18B-904(e)(3) or for a confirmation pursuant to G.S. 18B-900(a)(8), a Commission action on issuance, suspension, or revocation of an ABC permit, other than a temporary permit issued under G.S. 18B-905, is a "contested case" subject to the provisions of Chapter 150B except as provided in this section."

SECTION 10.1.(c) G.S. 105-259(b) is amended by adding a new subdivision to read:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person except as provided in this subsection. Standards used or to be used for the selection of returns for examination and data used or to be used for determining the standards may not be disclosed for any purpose. All other tax information may be disclosed only if the disclosure is made for one of the following purposes:

...

(46) To provide the Alcoholic Beverage Control Commission the information required under G.S. 18B-900."

SECTION 10.1.(d) G.S. 105-243.1(e) reads as rewritten:

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

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

(1) To pay contractors for collecting overdue tax debts under subsection (b) of this section.

(2) To pay the fee the United States Department of the Treasury charges for setoff to recover tax owed to North Carolina.

(3) To pay for taxpayer locater services, not to exceed ~~one hundred fifty thousand dollars ($150,000)~~ five hundred thousand dollars ($500,000) a year.

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

(5) To pay for operating expenses for Project Collection Tax and the Taxpayer Assistance Call Center.

(6) To pay for expenses of the Examination and Collection Division directly and primarily relating to collecting overdue tax debts."

SECTION 10.1.(e) Subsections (a), (b), and (c) of Section 10.1 of this act become effective May 1, 2015. The remainder of this Part is effective when it becomes law.

PART XI. PROPERTY TAX CHANGES

SECTION 11.1.(a) G.S. 105-333 reads as rewritten:

"**§ 105-333. Definitions.**

The following definitions apply in this Article unless the context requires a different meaning:

...

(9a) Mobile telecommunications company. – A company providing a mobile telecommunications service as defined in G.S. 105-164.3.

...

(14) Public service company. – A railroad company, a pipeline company, a gas company, an electric power company, an electric membership corporation, a telephone company, ~~a telegraph company,~~ a bus line company, an airline company, ~~or~~ a motor freight carrier ~~company.~~ company, a mobile telecommunications company, or a tower aggregator company. The term also includes any company performing a public service that is regulated by the United States Department of Energy, the United States Department of Transportation, the Federal Communications Commission, the Federal Aviation Agency, or the North Carolina Utilities Commission, except that the term does not include a water company, ~~providers of mobile telecommunications service as defined in G.S. 105-164.3,~~ a cable television company, or a radio or television broadcasting company.

...

(17a) Tangible personal property of a mobile telecommunications company. – All tangible personal property located in this State that is owned by a mobile telecommunications company or is leased to and capitalized on the books of a mobile telecommunications company in accordance with generally accepted accounting principles, including cellular towers, cellular equipment shelters, and site improvements at cellular tower locations. The term does not include FCC licenses or authorizations or other intangible personal property.

(17b) Tangible personal property of a tower aggregator company. – All tangible personal property located in this State that is owned by a tower aggregator company or is leased to and capitalized on the books of a tower aggregator company in accordance with generally accepted accounting principles, including cellular towers, cellular equipment shelters, and site improvements at cellular tower locations.

~~(18) Telegraph company. – A company engaged in the business of transmitting telegraph messages to, from, within, or through the State.~~

(19) Telephone company. – A company engaged in the business of transmitting telephone messages and conversations to, from, within, or through this ~~State.~~State, except that the term does not include a mobile telecommunications company.

...

(22) Tower aggregator company. – A company that provides tower infrastructure for broadcasting and mobile telephony and that leases space on the tower infrastructure to mobile telecommunications companies."

SECTION 11.1.(b) G.S. 105-335 reads as rewritten:

"**§ 105-335. Appraisal of property of public service companies.**

(a) Duty to Appraise. – ~~In accordance with the provisions of subsection (b), below, the~~ The Department of Revenue shall appraise for taxation ~~the true value of~~ each public service company in accordance with subsection (b) of this section except for a public service company listed in this subsection. The Department shall appraise certain specified properties of the following public service companies in accordance with subsection (c) of this section, ~~(other than bus line, motor freight carrier, and airline companies) as a system (both inside and outside this State). Certain specified properties of bus line, motor freight carrier, and airline companies shall be appraised by the Department in accordance with the provisions of subsection (c), below,~~ and all other properties of such companies shall be listed, appraised, and assessed in the manner prescribed by this Subchapter for the properties of taxpayers other than public service ~~companies.~~companies:

(1) Bus line.

(2) Motor freight carrier.

(3) Airline.

(4) Mobile telecommunications company.

(5) Tower aggregator company.

(b) Property of Public Service Companies Other Than Those Noted in Subsection (c). –

(1) System Property. – Each year, as of January 1, the Department of Revenue shall appraise at its true value ~~(as defined in G.S. 105-283)~~ the system property used by each public service company both inside and outside this State. Property leased by a public service company shall be included in appraising the value of its system property if necessary to ascertain the true value of the company's system property.

(2) Nonsystem Personal Property. – Each year as of January 1, the Department shall appraise at its true value ~~(as defined in G.S. 105-283)~~ each public service company's nonsystem tangible personal property subject to taxation in this State.

(3) Nonsystem Real Property. – In accordance with the county in which the public service company's nonsystem real property is located and the schedules set out in G.S. 105-286 and 105-287, the Department of Revenue shall appraise at its true value ~~(as defined in G.S. 105-283)~~ each public service company's nonsystem real property subject to taxation in this State.

(c) Property of Bus Line, Motor Freight Carrier, ~~and Airline~~ Airline, Mobile Telecommunications, and Tower Aggregator Companies. –

(1) Bus Company Rolling Stock. – Each year as of January 1, the Department shall appraise at its true value ~~(as defined in G.S. 105-283)~~ the rolling stock owned or leased by or operated under the control of each bus line ~~company, which bus line company~~ that is domiciled in this State or ~~which~~ that is regularly engaged in business in this State.

(2) Motor Freight Carrier Company Rolling Stock. – Each year as of January 1, the Department shall appraise at its true value ~~(as defined in G.S. 105-283)~~ the rolling stock owned by a motor freight carrier company or leased by a motor freight carrier company and operated by its employees ~~which motor freight carrier company~~ that is domiciled in this State or that is regularly engaged in business in this State at a terminal owned or leased by the carrier.

(3) Flight Equipment. – Each year, as of January 1, the Department shall appraise at its true value ~~(as defined in G.S. 105-283)~~ the flight equipment owned or leased by or operated under the control of each airline company

that is domiciled in the State or that is regularly engaged in business at some airport in this State.

(4) Property of Mobile Telecommunications Company. – Each year, as of January 1, the Department shall appraise at its true value the tangible personal property of a mobile telecommunications company as provided in G.S. 105-336(c) and G.S. 105-336(d).

(5) Property of Tower Aggregator Company. – Each year, as of January 1, the Department shall appraise at its true value the tangible personal property of a tower aggregator company as provided in G.S. 105-336(d)."

SECTION 11.1.(c) G.S. 105-336 reads as rewritten:

"**§ 105-336. Methods of appraising certain properties of public service companies.**

(a) Appraising System Property of Public Service Companies Other Than Those Noted in ~~Subsection (b).~~ Subsections (b), (c), and (d) of This Section. – The Department of Revenue shall give consideration to the factors listed in this subsection in ~~In~~ determining the true value of each public service company as a system, other ~~(other~~ than one covered by subsection (b), (c), or (d) of this subsection. ~~below) as a system the Department of Revenue shall give consideration to the following:~~The factors are:

(1) The market value of the company's capital stock and debt, taking into account the influence of any nonsystem property.

(2) The book value of the company's system property as reflected in the books of account kept under the regulations of the appropriate federal or State regulatory agency and what it would cost to replace or reproduce the system property, less a reasonable allowance for depreciation.

(3) The gross receipts and operating income of the company.

(4) Any other factor or information that in the judgment of the Department has a bearing on the true value of the company's system property.

(b) Appraising Rolling Stock and Flight Equipment. – In determining the true value of the rolling stock of bus line and motor freight carrier companies and the flight equipment of airline companies, the Department of Revenue shall consider the book value of the property as reflected in the books of account kept under the regulations of the appropriate federal or State regulatory agency and what it would cost to replace or reproduce the property in its existing condition.

(c) Appraising Tangible Personal Property of Mobile Telecommunications Companies. – In determining the true value of the tangible personal property of a mobile telecommunications company (excluding towers), the Department of Revenue shall consider the original cost of the property as reflected in the books of account maintained by the company in accordance with generally accepted accounting principles. The Department of Revenue may also consider what it would cost to replace or reproduce the property. In either case, an appropriate deduction shall be made for all forms of depreciation, including physical deterioration, functional obsolescence, and external or economic obsolescence.

(d) Appraising Tangible Personal Property of Tower Aggregator Companies and Certain Property of Mobile Telecommunications Companies. – In determining the true value of the tangible personal property of a tower aggregator company (excluding towers), the Department of Revenue shall consider the original cost of the property as reflected in the books of account maintained by the company in accordance with generally accepted accounting principles and may also consider what it would cost to replace or reproduce the property. In determining the true value of a tower of a tower aggregator company or a mobile telecommunications company, the Department of Revenue shall consider what it would cost to replace or reproduce the tower, based on tower height and type, as determined by a nationally recognized cost service commonly utilized by appraisers. For all property, an appropriate

deduction shall be made for all forms of depreciation, including physical deterioration, functional obsolescence, and external or economic obsolescence."

SECTION 11.1.(d) G.S. 105-337 reads as rewritten:

"**§ 105-337. Apportionment of taxable values to this State.**

With respect to any public service company operating both inside and outside this ~~State, it shall be the duty of~~ State, other than a mobile telecommunications company or a tower aggregator company, the Department of Revenue ~~to~~ shall apportion for taxation in this State a fair and reasonable share of the value of the company as a system or its rolling stock or flight equipment as appraised under the provisions of G.S. 105-336. Thus, when the Department has determined true value in accordance with the provisions of G.S. 105-336(a) or G.S. 105-336(b), it shall ascertain the portion of the total value subject to taxation in this State by applying property, business, and mileage factors thereto in accordance with the ratio that the company's property, business, or mileage in this State bears to its total property, business, or mileage. In its discretion, the Department may use one or more of the factors listed in the preceding sentence in order to achieve a fair and accurate result in the apportionment of the value of the property of any public service company. ~~As used in this section,~~The following definitions apply in this section:

(1) ~~The term "business factor" means data~~ Business factor. – Data that reflect the use of the company's property, such as gross revenue, net income, tons of freight carried, revenue ton miles, passenger miles, car miles, ground hours, and comparable data.

(2) ~~The term "mileage factor" means factual~~ Mileage factor. – Factual information as to the linear miles of the company's track, wire, lines, pipes, routes, and similar operational routes and factual information as to the miles traveled by the company's rolling stock.

(3) ~~The term "property factor" means investment~~ Property factor. – Investment in property; it may be either gross or net investment or any other reasonable figure reflecting the company's investment in property."

SECTION 11.1.(e) G.S. 105-338 reads as rewritten:

"**§ 105-338. Allocation of appraised valuation of ~~system~~ public service property among local taxing units.**

(a) State Board's Duty. – For purposes of taxation by local taxing units in this State, the Department of Revenue shall allocate the valuations of public service company property among the local taxing units in accordance with the provisions of this section.

(b) System Valuation of Companies Other Than Those Noted in Subsection (c). –

...

(3) System Property of Other Companies Appraised by the Department of Revenue. –

a. The provisions of this subdivision ~~(b)(3) shall~~ govern the allocation of the property of all companies appraised by the Department of Revenue except railroad, telephone, bus line, motor freight carrier, ~~and~~ airline ~~companies.~~companies, mobile telecommunications companies, and tower aggregator companies.

b. The appraised valuation of the system property of such a company ~~shall be~~ is allocated for taxation to the local taxing units in which the company operates in the proportion that the original cost of the taxable system property in the local taxing unit on January 1 bears to the original cost of all the taxable system property in this State. If in any local taxing unit the company owns system property acquired prior to January 1, 1972, for which the original cost cannot be definitely ascertained, the company shall make a reasonable estimate

of the original cost of that ~~property shall be made by the company,~~ property, and the Department shall use this estimate ~~shall be used by the Department of Revenue~~ for allocation purposes as if it were the actual original cost of the property.

(c) Certain Property of Bus Line, Motor Freight Carrier, ~~and Airline~~ Airline, and Mobile Telecommunications Companies. –

(1) The appraised valuation of a bus line company's rolling stock ~~shall be~~ is allocated for taxation to each local taxing unit according to the ratio of the company's scheduled miles during the calendar year preceding January 1 in each ~~such~~ unit to the company's total scheduled miles in this State for the same period. In no event, however, shall the State Board make an allocation to a taxing unit if, when computed, the valuation for that taxing unit amounts to less than five hundred dollars ($500.00).

(2) The appraised valuation of the rolling stock (other than locally assigned rolling stock) owned or leased by a motor freight carrier company ~~shall be~~ is allocated for taxation to each local taxing unit in which the company has a terminal according to the ratio of the tons of freight handled in the calendar year preceding January 1 at the company's terminals within the taxing unit to the total tons of freight handled by the company in this State in the same period. If a North Carolina interstate motor freight carrier company has no terminal outside this State, but has been required to pay ad valorem tax to one or more taxing units outside this State, ~~there shall be allowed~~ a reduction is allowed in the North Carolina valuation measured by the ratio of the rolling stock subject to ad valorem taxation outside the State to all of the carrier's rolling stock.

(3) The appraised valuation of an airline company's flight equipment ~~shall be~~ is allocated for taxation to each local taxing unit in which an airport used by the company is situated according to the ratio obtained by averaging the following two ratios: the ratio of the company's ground hours in the taxing unit in the year preceding January 1 to the company's ground hours in the State in the same period, and the ratio of the company's gross revenue in the taxing unit in the year preceding January 1 to the company's gross revenue in the State in the same period.

(4) The appraised valuation of the tangible personal property of a mobile telecommunications company (excluding towers) that is appraised in accordance with the provisions of G.S. 105-336(c) is allocated among the local taxing units in which the property of the company is situated on January 1 in the proportion that the original cost of the property in the taxing unit bears to the original cost of all such property in this State."

SECTION 11.1.(f) G.S. 105-339 reads as rewritten:

"**§ 105-339. Certification of appraised valuations of nonsystem property and locally assigned rolling ~~stock.~~stock, tangible personal property of tower aggregator companies, and certain tangible personal property of mobile telecommunications companies.**

Having determined the appraised valuations of the nonsystem properties of public service companies in accordance with subdivisions (b)(2) and (b)(3) of G.S. 105-335 and the appraised valuations of locally assigned rolling stock in accordance with subdivision (c)(1) of G.S. 105-335, the appraised valuations of the tangible personal property of tower aggregator companies in accordance with G.S. 105-336(d) and the appraised valuations of towers of mobile telecommunications companies in accordance with G.S. 105-336(d), the Department of Revenue shall assign those appraised valuations to the taxing units in which such properties are

situated by certifying the valuations to the appropriate counties and municipalities. Each local taxing unit receiving such certified valuations shall assess them at the figures certified and shall tax the assessed valuations at the rate of tax levied against other property subject to taxation therein."

SECTION 11.1.(g) Article 23 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-339.1. Certification of appraised valuations of mobile telecommunications companies.**

Having determined the appraised valuations of the tangible personal property of mobile telecommunications companies (excluding towers) in accordance with subdivision (c) of G.S. 105-335 and having allocated the valuations to the local taxing units in accordance with subdivision (c)(4) of G.S. 105-338, the Department of Revenue shall assign each local taxing unit's appraised valuations by certifying the valuations to the appropriate counties and municipalities. Each local taxing unit receiving these certified valuations shall assess them at the figures certified and shall tax the assessed valuations at the rate of tax levied against other property subject to taxation therein."

SECTION 11.1.(h) This Part is effective for taxes imposed for taxable years beginning on or after July 1, 2015.

PART XII: PRIVILEGE LICENSE TAX CHANGES

SECTION 12.1.(a) G.S. 160A-211(a) is reenacted as amended by Section 58(d) of S.L. 2013-414.

SECTION 12.1.(b) This section is effective when it becomes law.

SECTION 12.2.(a) G.S. 160A-211(a), as reenacted by Section 12.1 of this Part, reads as rewritten:

(a) Authority. – Except as otherwise provided by law, a city shall have power to levy privilege license taxes on all trades, occupations, professions, businesses, and franchises ~~carried on~~ physically located within the city. A city may levy privilege license taxes on the businesses that were formerly taxed by the State under the following sections of Article 2 of Chapter 105 of the General Statutes only to the extent the sections authorized cities to tax the businesses before the sections were repealed:

G.S. 105-36	Amusements – Manufacturing, selling, leasing, or distributing moving picture films.
G.S. 105-36.1	Amusements – Outdoor theatres.
G.S. 105-37	Amusements – Moving pictures – Admission.
G.S. 105-37.1	Amusements – Live entertainment and ticket resales
G.S. 105-42	Private detectives and investigators.
G.S. 105-45	Collecting agencies.
G.S. 105-46	Undertakers and retail dealers in coffins.
G.S. 105-50	Pawnbrokers.
G.S. 105-51.1	Alarm systems.
G.S. 105-53	Peddlers, itinerant merchants, and specialty market operators.
G.S. 105-54	Contractors and construction companies.
G.S. 105-55	Installing elevators and automatic sprinkler systems.
G.S. 105-61	Hotels, motels, tourist courts and tourist homes.
G.S. 105-62	Restaurants.
G.S. 105-65	Music machines.
G.S. 105-65.1	Merchandising dispensers and weighing machines.
G.S. 105-66.1	Electronic video games.
G.S. 105-74	Pressing clubs, dry cleaning plants, and hat blockers.

G.S. 105-77	Tobacco warehouses.
G.S. 105-80	Firearms dealers and dealers in other weapons.
G.S. 105-85	Laundries.
G.S. 105-86	Outdoor advertising.
G.S. 105-89	Automobiles, wholesale supply dealers, and service stations.
G.S. 105-89.1	Motorcycle dealers.
G.S. 105-90	Emigrant and employment agents.
G.S. 105-91	Plumbers, heating contractors, and electricians.
G.S. 105-97	Manufacturers of ice cream.
G.S. 105-98	Branch or chain stores.
G.S. 105-99	Wholesale distributors of motor fuels.
G.S. 105-102.1	Certain cooperative associations.
G.S. 105-102.5	General business license."

SECTION 12.2.(b) For fiscal year 2014-2015, a city shall apply the privilege license tax ordinance that was in effect for that city in 2013-2014 along with any modifications required by this act. If a city did not have a privilege license tax ordinance in effect for fiscal year 2013-2014, then it may not enact a privilege license tax ordinance for fiscal year 2014-2015.

SECTION 12.2.(c) This section is effective when it becomes law and applies to taxable years beginning on or after July 1, 2014.

SECTION 12.3.(a) G.S. 160A-211 is repealed effective for taxable years beginning on or after July 1, 2015.

SECTION 12.3.(b) G.S. 105-88(e), G.S. 105-109(e), G.S. 130A-294(r), G.S. 160A-211.1, G.S. 153A-152, and G.S. 153A-152.1 are repealed.

SECTION 12.3.(c) G.S. 160A-194 reads as rewritten:

"**§ 160A-194. Regulating and licensing businesses, trades, etc.**

(a) A city may by ordinance, subject to the general law of the State, regulate and license occupations, businesses, trades, professions, and forms of amusement or entertainment and prohibit those that may be inimical to the public health, welfare, safety, order, or convenience. In licensing trades, occupations, and professions, the city may, consistent with the general law of the State, require applicants for licenses to be examined and charge a reasonable fee therefor. ~~Nothing in this section shall impair the city's power to levy privilege license taxes on occupations, businesses, trades, professions, and other activities pursuant to G.S. 160A-211.~~

..."

SECTION 12.3.(d) G.S. 160A-215.1 reads as rewritten:

"**§ 160A-215.1. Gross receipts tax on short-term leases or rentals.**

(a) As a substitute for and in replacement of the ad valorem tax, which is excluded by G.S. 105-275(42), a city may levy a gross receipts tax on the gross receipts from the short-term lease or rental of vehicles at retail to the general public. The tax rate shall not exceed one and one-half percent (1.5%) of the gross receipts from such short-term leases or rentals. ~~This tax on gross receipts is in addition to the privilege taxes authorized by G.S. 160A-211.~~

..."

SECTION 12.3.(e) G.S. 153A-49 reads as rewritten:

"**§ 153A-49. Code of ordinances.**

A county may adopt and issue a code of its ordinances. The code may be reproduced by any method that gives legible and permanent copies, and may be issued as a securely bound book or books with periodic separately bound supplements, or as a loose-leaf book maintained by replacement pages. Supplements or replacement pages should be adopted and issued at least annually, unless there have been no additions to or modifications of the code during the year.

A code may consist of two parts, the "General Ordinances" and the "Technical Ordinances." The technical ordinances may be published as separate books or pamphlets, and may include ordinances regarding the construction of buildings, the installation of plumbing and electric wiring, and the installation of cooling and heating equipment; ordinances regarding the use of public utilities, buildings, or facilities operated by the county; the zoning ordinance; the subdivision control ordinance; ~~the privilege license tax ordinance;~~ and other similar ordinances designated as technical ordinances by the board of commissioners. The board may omit from the code the budget ordinance, any bond orders, and other designated classes of ordinances of limited interest or transitory nature, but the code shall clearly describe the classes of ordinances omitted from it.

The board of commissioners may provide that ordinances (i) establishing or amending the boundaries of county zoning areas or (ii) establishing or amending the boundaries of zoning districts shall be codified by appropriate entries upon official map books to be retained permanently in the office of the clerk or some other county office generally accessible to the public."

SECTION 12.3.(f) Except as otherwise provided, this section becomes effective July 1, 2015. This section does not affect the rights or liabilities of a county or city, a taxpayer, or other person arising under a statute amended or repealed by this section before its amendment or repeal; nor does it affect the right to any refund or credit of a tax that would otherwise have been available under the amended or repealed statute before its amendment or repeal.

PART XIII. LICENSE PLATE AGENT COMPENSATION

SECTION 13.1.(a) Section 2(c) of S.L. 2013-372 reads as rewritten:

"**SECTION 2.(c)** Notwithstanding G.S. 20-63(h), as amended by subsection (a) of this section, the transaction rate of one dollar and six cents ($1.06) applies to the collection of property tax by commission contractors for vehicles whose registration renewals expire on or between September 30, 2013, and ~~February 28, 2014.~~June 30, 2014."

SECTION 13.1.(b) The Division of Motor Vehicles must compensate license plate agents the additional fee for the collection of property taxes as provided in this section. For the period between March 1, 2014, and the date the Division of Motor Vehicles is able to implement the additional fee, the Division must calculate the difference in the fee for agents contracting with the Division authorized by this section and the fee authorized in S.L. 2013-372. The Division must calculate the difference by September 1, 2014. The difference in the fee must be paid to the agents by reducing future remittances of tax payments to counties and municipalities under the Tax and Tag Together Program in equal amounts over a three month period.

SECTION 13.2. G.S. 20-63(h) reads as rewritten:

"(h) Commission Contracts for Issuance of Plates and Certificates. – All registration plates, registration certificates, and certificates of title issued by the Division, outside of those issued from the office of the Division located in Wake, Cumberland, or Mecklenburg Counties and those issued and handled through the United States mail, shall be issued insofar as practicable and possible through commission contracts entered into by the Division for the issuance of the plates and certificates in localities throughout North Carolina, including military installations within this State, with persons, firms, corporations or governmental subdivisions of the State of North Carolina. The Division shall make a reasonable effort in every locality, except as noted above, to enter into a commission contract for the issuance of the plates and certificates and a record of these efforts shall be maintained in the Division. In the event the Division is unsuccessful in making commission contracts, it shall issue the plates and certificates through the regular employees of the Division. Whenever registration plates, registration certificates, and certificates of title are issued by the Division through commission

contract arrangements, the Division shall provide proper supervision of the distribution. Nothing contained in this subsection ~~will allow or permit~~ allows or permits the operation of fewer outlets in any county in this State than are now being operated.

Commission contracts entered into by the Division under this subsection shall provide for the payment of compensation on a per transaction basis. The collection of the highway use tax is considered a separate transaction for which one dollar and twenty-seven cents ($1.27) compensation shall be paid. The issuance of a limited registration "T" sticker and the collection of property tax are each considered a separate transaction for which compensation at the rate of one dollar and twenty-seven cents ($1.27) and ~~seventy-one cents ($0.71),~~ one dollar and six cents ($1.06) respectively, shall be paid by counties and municipalities as a cost of the combined motor vehicle registration renewal and property tax collection system. The performance at the same time of one or more of the transactions below is considered a single transaction for which one dollar and forty-three cents ($1.43) compensation shall be paid:

(1) Issuance of a registration plate, a registration card, a registration sticker, or a certificate of title.
(2) Issuance of a handicapped placard or handicapped identification card.
(3) Acceptance of an application for a personalized registration plate.
(4) Acceptance of a surrendered registration plate, registration card, or registration renewal sticker, or acceptance of an affidavit stating why a person cannot surrender a registration plate, registration card, or registration renewal sticker.
(5) Cancellation of a title because the vehicle has been junked.
(6) Acceptance of an application for, or issuance of, a refund for a fee or a tax, other than the highway use tax.
(7) Receipt of the civil penalty imposed by G.S. 20-311 for a lapse in financial responsibility or receipt of the restoration fee imposed by that statute.
(8) Acceptance of a notice of failure to maintain financial responsibility for a motor vehicle.
(8a) Collection of civil penalties imposed for violations of G.S. 20-183.8A.
(8b), (9) Repealed by Session Laws 2013-372, s. 2(a), effective July 1, 2013.
(10) Acceptance of a temporary lien filing."

SECTION 13.3. G.S. 105-330.5(b) reads as rewritten:

"(b) Distribution and Collection Fees. – The Property Tax Division of the Department of Revenue or a third-party contractor selected by the Property Tax Division must send a copy of the combined tax and registration notice for a registered classified motor vehicle to the motor vehicle owner, as defined in G.S. 20-4.01. The Department must establish a fee equal to the actual cost of preparing, printing, and sending the notice. The Department may receive a fee for each notice generated for a vehicle registered in a county or municipal corporation from the taxes and fees remitted to the county or municipal corporation in which the vehicle is registered. The collecting authority is responsible for collecting county and municipal taxes and fees assessed under this Article and may receive a fee for collecting these taxes and fees. The amount of this fee for an agent contracting with the Division of Motor Vehicles must equal at least the applicable amount set under G.S. 20-63(h). The amount of this fee for the Division of Motor Vehicles is the amount set by the memorandum of understanding entered into under G.S. 105-330.11 but shall not exceed the amount set under G.S. 20-63. The Property Tax Division must establish procedures to ensure that tax payments and fees received pursuant to this Article and Chapter 20 of the General Statutes are properly accounted for and taxes and fees due other taxing units and the Division of Motor Vehicles are remitted at least once each month."

SECTION 13.4. Section 34.17 of S.L. 2013-360 directs the Department of Transportation to evaluate current contractual models and compensation for the provision of

registration, title, tax collection, and other vehicle service transactions by branch agents contracting with the Division of Motor Vehicles. The Department of Transportation shall provide to the Revenue Laws Study Committee any reports, recommendations, and findings that are a result of the study required under this section. The Department of Transportation shall also provide to each member of the Revenue Laws Study Committee a copy of any final report issued as a result of the study. The Revenue Laws Study Committee is directed to examine the information provided by the Department of Transportation and make an interim report of its findings and recommendations on the per transaction compensation amounts to the 2015 Regular Session of the 2015 General Assembly and shall make a final report to the 2016 Regular Session of the 2015 General Assembly.

SECTION 13.5. Section 13.1 of this Part is effective March 1, 2014. Sections 13.2 and 13.3 of this Part become effective July 1, 2014, and apply to collections of property tax on or after that date. The remainder of this Part is effective when it becomes law.

PART XIV. TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES

SECTION 14.1. G.S. 105-114(b)(4) reads as rewritten:

"(4) Income year. – Defined in ~~G.S. 105-130.2(4b).~~G.S. 105-130.2(10)."

SECTION 14.2. G.S. 105-129.26(a) reads as rewritten:

"(a) Major Recycling Facility. – A recycling facility qualifies for the tax benefits provided in this Article and in Article 5 of this Chapter for major recycling facilities if it meets all of the following conditions:

(1) The facility is located in an area that, at the time the owner began construction of the facility, was ~~an enterprise tier one area pursuant to G.S. 105-129.3.~~a development tier one area as defined in G.S. 143B-437.08.

(2) The Secretary of Commerce has certified that the owner will, by the end of the fourth year after the year the owner begins construction of the recycling facility, invest at least three hundred million dollars ($300,000,000) in the facility and create at least 250 new, full-time jobs at the facility.

~~(3) The jobs at the recycling facility meet the wage standard in effect pursuant to G.S. 105-129.4(b) as of the date the owner begins construction of the facility.~~"

SECTION 14.3. G.S. 105-130.5(b) reads as rewritten:

"(b) The following deductions from federal taxable income shall be made in determining State net income:

...

(4) Losses in the nature of net economic losses sustained by the corporation in any or all of the 15 preceding years pursuant to the provisions of G.S. 105-130.8. A corporation required to allocate and apportion its net income under the provisions of G.S. 105-130.4 shall deduct its allocable and apportionable net economic loss only from total income allocable and apportionable to this State pursuant to the provisions of G.S. 105-130.8.

...."

SECTION 14.4.(a) G.S. 105-163.1(3) is repealed.

SECTION 14.4.(b) This section is effective for taxable years beginning on or after January 1, 2014.

SECTION 14.5.(a) G.S. 105-163.2 reads as rewritten:

"**§ 105-163.2. Employers must withhold taxes.**

(a) Withholding Required. – An employer shall deduct and withhold from the wages of each employee the State income taxes payable by the employee on the wages. For each payroll period, the employer shall withhold from the employee's wages an amount that would approximate the employee's income tax liability under Article 4 of this Chapter if the employer

withheld the same amount from the employee's wages for each similar payroll period in a calendar year. In calculating an employee's anticipated income tax liability, the employer shall allow for the ~~exemptions,~~ additions that employee is required to make under Article 4 of this Chapter and the deductions, and credits to which the employee is entitled under Article 4 of this Chapter. The amount of State income taxes withheld by an employer is held in trust for the Secretary.

(b) Withholding Tables. – The manner of withholding and the amount to be withheld shall be determined in accordance with tables and rules adopted by the Secretary. The withholding ~~exemption allowed~~ allowances provided by these tables and rules shall, as nearly as possible, approximate the ~~exemptions,~~ additions the employee is required to make under Article 4 of this Chapter and the deductions, and credits to which an employee ~~would be~~ is entitled under Article 4 of this Chapter. The Secretary shall promulgate tables for computing amounts to be withheld with respect to different rates of wages for different payroll periods applicable to the various combinations of ~~exemptions~~ allowances to which an employee may be entitled and taking into account the appropriate standard deduction. The tables may provide for the same amount to be withheld within reasonable salary brackets or ranges so designed as to result in the withholding during a year of approximately the amount of an employee's indicated income tax liability for that year. The withholding of wages pursuant to and in accordance with these tables shall be deemed as a matter of law to constitute compliance with the provisions of subsection (a) of this section, notwithstanding any other provisions of this Article.

...."

SECTION 14.5.(b) G.S. 105-163.5 reads as rewritten:

"**§ 105-163.5. Employee ~~exemptions allowable;~~ withholding allowances; certificates.**

(a) An employee receiving wages is entitled to the ~~exemptions for which the employee qualifies under Article 4 of this Chapter.~~withholding allowances that would result in the employer withholding approximately the employee's income tax liability under Article 4 of this Chapter.

(b) Every employee shall, at the time of commencing employment, furnish his or her employer with a signed withholding ~~exemption~~ allowance certificate informing the employer of the ~~exemptions~~ allowances the employee ~~claims, which in no event shall exceed the amount of exemptions to which the employee is entitled under the Code.~~ claims. If the employee fails to file the ~~exemption certificate the employer, in computing amounts to be withheld from the employee's wages, shall allow the employee the exemption accorded a single person with no dependents.~~allowance certificate, the employer must compute the amount to be withheld from the employee's wages as if the employee were a single individual with no allowances.

(c) Withholding ~~exemption~~ allowance certificates shall take effect as of the beginning of the first payroll period that ends on or after the date on which the certificate is furnished, or if payment of wages is made without regard to a payroll period, then the certificate shall take effect as of the beginning of the miscellaneous payroll period for which the first payment of wages is made on or after the date on which the certificate is furnished.

(d) If, on any day during the calendar year, the amount of withholding ~~exemptions~~ allowances to which the employee is entitled is less than the amount of withholding ~~exemptions~~ allowances claimed by the employee on the withholding ~~exemption~~ allowance certificate then in effect with respect to the employee, the employee shall, within 10 days thereafter, furnish the employer with a new withholding ~~exemption~~ allowance certificate stating the amount of withholding ~~exemptions~~ allowances which the employee then claims, which shall in no event exceed the amount to which the employee is entitled on that day. If, on any day during the calendar year, the amount of withholding ~~exemptions~~ allowances to which the employee is entitled is greater than the amount of withholding ~~exemptions~~ allowances claimed, the employee may furnish the employer with a new withholding ~~exemption~~ allowance certificate

stating the amount of withholding ~~exemptions which~~ allowances that the employee then claims, which shall ~~in no event~~ not exceed the amount to which the employee is entitled on that day.

(e) Withholding ~~exemption~~ allowance certificates must be in the form and contain the information required by the Secretary. ~~As far as practicable, the Secretary shall cause the form of the certificates to be substantially similar to federal exemption certificates.~~

(f) In addition to any criminal penalty provided by law, if an individual furnishes his or her employer an ~~exemption~~ allowance certificate that contains information ~~which~~ that has no reasonable basis and that results in a lesser amount of tax being withheld under this Article than would have been withheld if the individual had furnished reasonable information, the individual is subject to a penalty of fifty percent (50%) of the amount not properly withheld."

SECTION 14.5.(c) This section is effective for taxable years beginning on or after January 1, 2014.

SECTION 14.6.(a) G.S. 105-163.2A(c) reads as rewritten:

"(c) Amount. – In the case of a periodic payment, the pension payer must withhold the amount that would be required to be withheld under this Article if the payment were a payment of wages by an employer to an employee for the appropriate payroll period. ~~If the recipient of periodic payments fails to file an exemption certificate under G.S. 105-163.5, the pension payer must compute the amount to be withheld as if the recipient were a married individual claiming three withholding exemptions.~~

In the case of a nonperiodic distribution, the pension payer must withhold taxes equal to four percent (4%) of the nonperiodic distribution."

SECTION 14.6.(b) This section becomes effective January 1, 2015, and applies to payments made on or after that date.

SECTION 14.7. G.S. 105-164.3 reads as rewritten:

"**§ 105-164.3. Definitions.**

The following definitions apply in this Article:

...

(24) Net taxable sales. – The gross ~~retail~~ sales of the business of a retailer taxed under this Article after deducting exempt sales and nontaxable sales.

...

(35) Retailer. – A person engaged in ~~the~~ business of any of the following:

a. Making sales at retail, offering to make sales at retail, or soliciting sales at retail of tangible personal property, digital property, or services for storage, use, or consumption in this State. When the Secretary finds it necessary for the efficient administration of this Article to regard any sales representatives, solicitors, representatives, consignees, peddlers, or truckers as agents of the dealers, distributors, consignors, supervisors, employers, or persons under whom they operate or from whom they obtain the items sold by them regardless of whether they are making sales on their own behalf or on behalf of these dealers, distributors, consignors, supervisors, employers, or persons, the Secretary may so regard them and may regard the dealers, distributors, consignors, supervisors, employers, or persons as "retailers" for the purpose of this Article.

b. Delivering, erecting, installing, or applying tangible personal property for use in this State, regardless of whether the property is permanently affixed to real property or other tangible personal property.

c. Making a remote sale, if one of the conditions listed in G.S. 105-164.8(b) is met.

...

(45a) Streamlined Agreement. – The Streamlined Sales and Use Tax Agreement as amended as of ~~May 24, 2012.~~October 30, 2013.

...."

SECTION 14.8. G.S. 105-164.4 reads as rewritten:

"**§ 105-164.4. Tax imposed on retailers.**

(a) A privilege tax is imposed on a retailer engaged in business in the State at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and three-quarters percent (4.75%).

...

(2) The applicable percentage rate applies to the gross receipts derived from the lease or rental of tangible personal property by a person who is engaged in ~~the~~ business of leasing or renting tangible personal property, or is a retailer and leases or rents property of the type sold by the retailer. The applicable percentage rate is the rate and the maximum tax, if any, that applies to a sale of the property that is leased or rented. A person who leases or rents property shall also collect the tax imposed by this section on the separate retail sale of the property.

...

(4b) A person who sells tangible personal property at a specialty ~~market,~~ market or other event, other than the person's own household personal property, is considered a retailer under this Article. A tax at the general rate of tax is levied on the sales price of each article sold by the retailer at the specialty ~~market.~~ market or other event. The term "specialty market" has the same meaning as defined in G.S. 66-250.

...

(4d) The general rate applies to the gross receipts derived from the sale or recharge of prepaid telephone calling ~~service is taxable at the general rate of tax.~~ service. The tax applies regardless of whether tangible personal property, such as a card or a telephone, is transferred. The tax applies to a service that is sold in conjunction with prepaid wireless calling service. Prepaid telephone calling service is taxable at the point of sale instead of at the point of use and is sourced in accordance with G.S. 105-164.4B. Prepaid telephone calling service taxed under this subdivision is not subject to tax as a telecommunications service.

...

(b) The tax levied in this section shall be collected from the retailer and paid by him at the time and in the manner as hereinafter provided. ~~Provided, however, that any~~ A person engaging ~~or continuing~~ in business as a retailer shall pay the tax required on the net taxable sales of ~~such~~ the business at the rates specified when proper books are kept showing separately the gross proceeds of taxable and nontaxable sales of ~~tangible personal property~~ items subject to tax under subsection (a) of this section in ~~such~~ a form ~~as~~ that may be accurately and conveniently checked by the Secretary or ~~his~~ the Secretary's duly authorized agent. If ~~such~~ the records are not kept ~~separately~~ separately, the tax shall be paid ~~as a retailer~~ on the gross sales of the business and the exemptions and exclusions provided by this Article ~~shall not be~~ are not allowed. The tax levied in this section is in addition to all other taxes whether levied in the form of excise, ~~license or privilege or other taxes.~~license, privilege, or other taxes.

(c) Certificate of Registration. – Before a person may engage in business as a retailer or a wholesale ~~merchant,~~ merchant in this State, the person must obtain a certificate of registration from the Department in accordance with G.S. 105-164.29. A facilitator that is liable for tax under G.S. 105-164.4F must obtain a certificate of registration from the Department in accordance with G.S. 105-164.29."

SECTION 14.9.(a) G.S. 105-164.6(f) reads as rewritten:

"(f) Registration. – A person must obtain a certificate of registration in accordance with G.S. 105-164.29 under any of the following circumstances:

(1) Before ~~a~~ the person ~~may engage~~ engages in business in this State selling or delivering tangible personal property, digital property, or a service for storage, use, or consumption in this ~~State, the person must obtain a certificate of registration from the Department.~~ State.~~To obtain a certificate of registration, a person must register with the Department.~~

(2) If the person is a facilitator that is liable for tax pursuant to G.S. 105-164.4F.

~~The holder of the certificate of registration must pay the tax levied under this Article. A certificate of registration is valid unless it is revoked for failure to comply with the provisions of this Article or becomes void. A certificate issued to a retailer becomes void if, for a period of 18 months, the retailer files no returns or files returns showing no sales.~~"

SECTION 14.9.(b) G.S. 105-164.29 reads as rewritten:

"**§ 105-164.29. Application for certificate of registration by wholesale ~~merchants and retailers.~~merchants, retailers, and facilitators.**

(a) Requirement and Application. – Before a person may engage in business as a retailer or a wholesale ~~merchant,~~ merchant or when a facilitator is liable for tax under G.S. 105-164.4F, the person must obtain a certificate of registration. To obtain a certificate of registration, a person must register with the Department. A ~~wholesale merchant or retailer~~ person who has more than one business is required to obtain only one certificate of registration for each legal entity to cover all operations of ~~the~~ each business throughout the State. An application for registration must be signed as follows:

(1) By the owner, if the owner is an individual.

(2) By a manager, member, or partner, if the owner is an association, a partnership, or a limited liability company.

(3) By an executive officer or some other person specifically authorized by the corporation to sign the application, if the owner is a corporation. If the application is signed by a person authorized to do so by the corporation, written evidence of the person's authority must be attached to the application.

(b) Issuance. – A certificate of registration is not assignable and is valid only for the person in whose name it is issued. A copy of the certificate of registration must be displayed at each place of business.

(c) Term. – A certificate of registration is valid unless it is revoked for failure to comply with the provisions of this Article or becomes void. A certificate issued to a retailer who makes taxable sales or a facilitator liable for tax under G.S. 105-164.4F becomes void if, for a period of 18 months, the retailer or facilitator files no returns or files returns showing no sales.

(d) Revocation. – The failure of a wholesale merchant or retailer to comply with this Article or G.S. 14-401.18 or the failure of a facilitator to comply with this Article is grounds for revocation of the ~~wholesale merchant's or retailer's~~ person's certificate of registration. Before the Secretary revokes a ~~wholesale merchant's or retailer's~~ person's certificate of registration, the Secretary must notify the ~~wholesale merchant or retailer~~ person that the Secretary proposes to revoke the certificate of registration and that the proposed revocation will become final unless the ~~wholesale merchant or retailer~~ person objects to the proposed revocation and files a request for a Departmental review within the time set in G.S. 105-241.11 for requesting a Departmental review of a proposed assessment. The notice must be sent in accordance with the methods authorized in G.S. 105-241.20. The procedures in Article 9 of this Chapter for review of a proposed assessment apply to the review of a proposed revocation.

(e) Definition. – For purposes of this section, the term "person" means a wholesale merchant, a retailer, or a facilitator."

SECTION 14.10. Article 5 of Chapter 105 of the General Statutes is amended by adding a new statutory section to read:

"**§ 105-164.45. Applicable due date when due date falls on a weekend, holiday, or when the Federal Reserve Bank is closed.**

(a) Weekends and Holidays. – When the last day for doing an act required or permitted by this Article or Subchapter VIII of this Chapter falls on a Saturday, Sunday, or holiday, the act is considered to be done within the prescribed time limit if it is done on the next business day.

(b) Federal Reserve Bank Closure. – If the Federal Reserve Bank is closed on a due date that prohibits a person from making a payment by ACH debit or credit as required by this Article or Subchapter VIII of this Chapter, the payment is timely if made on the next day the Federal Reserve Bank is open."

SECTION 14.11. G.S. 105-228.4A(c) reads as rewritten:

"(c) Administration. – The definitions in G.S. 58-10-340 apply in this section. A company subject to this section must file with the Secretary a full and accurate report of the premiums contracted for or collected on policies or contracts of insurance written by the company during the preceding calendar year. In the case of a multiyear policy or contract, the premiums must be prorated among the years covered by the policy or contract. The report is due on or before ~~March 1.~~ March 15. The taxes imposed by this section are due to the Secretary with the report."

SECTION 14.12. G.S. 105-236.1(a) reads as rewritten:

"(a) General. – The Secretary may appoint employees of the Unauthorized Substances Tax Section of the Tax Enforcement Division to serve as revenue law enforcement officers having the responsibility and subject-matter jurisdiction to enforce the excise tax on unauthorized substances imposed by Article 2D of this Chapter.

The Secretary may appoint up to 11 employees of the Motor Fuels Investigations Section of the Tax Enforcement Division to serve as revenue law enforcement officers having the responsibility and subject-matter jurisdiction to enforce the taxes on motor fuels imposed by Articles 36B, 36C, and 36D of this Chapter and by Chapter 119 of the General Statutes.

The Secretary may appoint employees of the Criminal Investigations Section of the Tax Enforcement Division to serve as revenue law enforcement officers having the responsibility and subject-matter jurisdiction to enforce the following tax violations and criminal offenses:

(1) The felony and misdemeanor tax violations in G.S. 105-236.
(2) The misdemeanor tax violations in G.S. 105-449.117 and G.S. 105-449.120.
(3) The following criminal offenses when they involve a tax imposed under Chapter 105 of the General Statutes:
  a. G.S. 14-91 (Embezzlement of State Property).
  b. G.S. 14-92 (Embezzlement of Funds).
  c. G.S. 14-100 (Obtaining Property By False Pretenses).
  c1. G.S. 14-113.20 (Identity Theft).
  c2. ~~G.S. 14-133.20A~~ G.S. 14-113.20A (Trafficking in Stolen Identities).
  d. G.S. 14-119 (Forgery).
  e. G.S. 14-120 (Uttering Forged Paper).
  f. G.S. 14-401.18 (Sale of Certain Packages of Cigarettes).
  (g) G.S. 14-118.7 (Possession, transfer, or use of automated sales suppression device)."

SECTION 14.13.(a) All amended returns under G.S. 105-116 must be filed within three years from the due date of the original return. The Department must process amended returns under G.S. 105-116 within six months of receipt of the return. When the Department

processes an amended franchise tax return under G.S. 105-116 that changes the taxable gross receipts of electricity derived within a city so that the amount that should have been distributed to that city under G.S. 105-116.1 for distributions made on or before September 30, 2014, is greater than or less than the amount actually distributed to that city, the Department of Revenue must adjust the next quarterly distribution under G.S. 105-164.44K by the applicable amount and redetermine the franchise tax share for that city based upon the amended return in accordance with subsection (b) of this section. The Department of Revenue must draw the funds needed to make an increased distribution from sales and use tax collections under Article 5 of Chapter 105 of the General Statutes.

SECTION 14.13.(b) The Department of Revenue must determine the quarterly franchise tax share a city is eligible to receive under G.S. 105-164.44K(b) for each quarter of the fiscal year on or before September 15 for the fiscal year that began the preceding July 1. The Department must include all amended franchise tax returns under G.S. 105-116 processed by the Department by the preceding July 31 in the franchise tax share determination. The determination made by the Department with respect to the city's franchise tax share for that fiscal year is final. The distributions are payable as provided in G.S. 105-164.44K.

SECTION 14.13.(c) All amended returns under G.S. 105-187.41 must be filed within three years from the due date of the original return. The Department must process amended returns under G.S. 105-187.41 within six months of receipt of the return. When the Department processes an amended excise tax return under G.S. 105-187.41 that changes the amount of the tax attributable to a city so that the amount that should have been distributed to that city under G.S. 105-187.44 for distributions made on or before September 30, 2014, is greater than or less than the amount actually distributed to that city, the Department of Revenue must adjust the next quarterly distribution under G.S. 105-164.44L for the city by the applicable amount and redetermine the excise tax share for that city based upon the amended return in accordance with subsection (b) of this section. The Department of Revenue must draw the funds needed to make an increased distribution from sales and use tax collections under Article 5 of Chapter 105 of the General Statutes.

SECTION 14.13.(d) The Department of Revenue must determine the quarterly excise tax share a city is eligible to receive under G.S. 105-164.44L(b) for each quarter of the fiscal year on or before September 15 for the fiscal year that began the preceding July 1. The Department must include all amended excise tax returns under G.S. 105-187.41 processed by the Department by the preceding July 31 in the excise tax share determination. The determination made by the Department with respect to the city's franchise tax share for that fiscal year is final. The distributions are payable as provided in G.S. 105-164.44L.

SECTION 14.13.(e) G.S. 105-164.44L(c) reads as rewritten:

"(c) Ad Valorem Share. – The ad valorem share of a city is its proportionate share of the amount that remains for distribution after determining each city's excise tax share under subsection (b) of this section. Only cities that receive an excise tax share under subsection (b) of this section for any quarter of the year are eligible to receive an ad valorem share. The prohibitions in G.S. 105-472(d) on the receipt of funds by a city apply to the distribution under this subsection.

A city's proportionate share is the amount of ad valorem taxes it levies on property having a tax situs in the city compared to the ad valorem taxes levied by all cities on property having a tax situs in the cities. The ad valorem method set out in G.S. 105-472(b)(2) applies in determining the share of a city under this section based on ad valorem taxes, except that the amount of ad valorem taxes levied by a city does not include ad valorem taxes levied on behalf of a taxing district and collected by the city."

SECTION 14.13.(f) This section is effective when it becomes law. Subsections (a) through (d) of this section expire July 1, 2018.

SECTION 14.14.(a) G.S. 105-277.3(d1) reads as rewritten:

"(d1) ~~Exception for Easements on Qualified~~ Conservation ~~Lands Previously Appraised at Use Value.~~ Exception. – Property that is appraised at its present-use value under G.S. 105-277.4(b) shall continue to qualify for appraisal, assessment, and taxation as provided in G.S. 105-277.2 through G.S. 105-277.7 as long as (i) the property is subject to ~~an enforceable~~ a qualifying conservation easement ~~that would qualify for the conservation tax credit provided in G.S. 105-130.34 and G.S. 105-151.12,~~ that meets the requirements of G.S. 113A-232, without regard to actual production or income requirements of this section; and (ii) the taxpayer received no more than seventy-five percent (75%) of the fair market value of the donated property interest in compensation. Notwithstanding G.S. 105-277.3(b) and (b1), subsequent transfer of the property does not extinguish its present-use value eligibility as long as the property remains subject to ~~an enforceable~~ a qualifying conservation ~~easement that qualifies for the conservation tax credit provided in G.S. 105-130.34 and G.S. 105-151.12.~~ easement. The exception provided in this subsection applies only to that part of the property that is subject to the easement."

SECTION 14.14.(b) G.S. 113-77.9(d) reads as rewritten:

"(d) Acquisition. – The Department of Administration may, pursuant to G.S. 143-341, acquire by purchase, gift, or devise all lands selected by the Trustees for acquisition pursuant to this Article. Title to any land acquired pursuant to this Article ~~shall be~~ is vested in the State. A State agency with management responsibility for land acquired pursuant to this Article may enter into a management agreement or lease with a county, city, town, or private nonprofit organization ~~qualified under G.S. 105-151.12 and G.S. 105-130.34 and~~ certified under section 501(c)(3) of the Internal Revenue Code to aid in managing the land. A management agreement or lease shall be executed by the Department of Administration pursuant to G.S. 143-341."

SECTION 14.14.(c) G.S. 113A-231 reads as rewritten:

"**§ 113A-231. Program to accomplish conservation purposes.**

The Department of Environment and Natural Resources shall develop a nonregulatory program ~~that uses conservation tax credits as a prominent tool~~ to accomplish conservation purposes, including the maintenance of ecological systems. As a part of this program, the Department shall exercise its powers to protect real property and interests in real ~~property:~~ property donated for ~~tax credit under G.S. 105-130.34 or G.S. 105-151.12; conserved with the use of other financial incentives; or, conserved through nonregulatory programs.~~ conservation or conserved by other means. The Department shall call upon the Attorney General for legal assistance in developing and implementing the program."

SECTION 14.14.(d) G.S. 113A-232 reads as rewritten:

"**§ 113A-232. Conservation Grant Fund.**

(a) Fund Created. – The Conservation Grant Fund is created within the Department of Environment and Natural Resources. The Fund shall be administered by the Department. The purpose of the Fund is to stimulate the use of conservation ~~easements and conservation tax credits,~~ easements, to improve the capacity of private nonprofit land trust organizations to successfully accomplish conservation projects, to better equip real estate related professionals to pursue opportunities for conservation, to increase landowner participation in land and water conservation, and to provide an opportunity to leverage private and other public monies for conservation easements.

(b) Fund Sources. – The Conservation Grant Fund shall consist of any monies appropriated to it by the General Assembly and any monies received from public or private sources. Unexpended monies in the Fund that were appropriated from the General Fund by the General Assembly shall revert at the end of the fiscal year unless the General Assembly otherwise provides. Unexpended monies in the Fund from other sources shall not revert and shall remain available for expenditure in accordance with this Article.

(c) Property Eligibility. – In order for real property or an interest in real property to be the subject of a grant under this Article, the real property or interest in real property must meet all of the following conditions:

(1) ~~possess~~ Possess or have a high potential to possess ecological ~~value, must be~~ value.

(2) Be reasonably ~~restorable, and must qualify for tax credits under G.S. 105-130.34 or G.S. 105-151.12.~~restorable.

(3) Be useful for one or more of the following purposes:

a. Public beach access or use.

b. Public access to public waters or trails.

c. Fish and wildlife conservation.

d. Forestland or farmland conservation.

e. Watershed protection.

f. Conservation of natural areas as that term is defined in G.S. 113A-164.3(3).

g. Conservation of predominantly natural parkland.

(4) Be donated in perpetuity to and accepted by the State, a local government, or a body that is both organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions under G.S. 105-130.9. Land required to be dedicated pursuant to local governmental regulation or ordinance and dedications made to increase building density levels permitted under a regulation or ordinance do not qualify.

(c1) Grant Eligibility. – State conservation land management agencies, local government conservation land management agencies, and private nonprofit land trust organizations are eligible to receive grants from the Conservation Grant Fund. Private nonprofit land trust organizations must be ~~qualified pursuant to G.S. 105-130.34 and G.S. 105-151.12 and must be~~ certified under section 501(c)(3) of the Internal Revenue ~~Code.~~Code to aid in managing the land.

(d) Use of Revenue. – Revenue in the Conservation Grant Fund may be used only for the following purposes:

(1) The administrative costs of the Department in administering the Fund.

(2) Conservation grants made in accordance with this Article.

(3) To establish an endowment account, the interest from which will be used for a purpose described in G.S. 113A-233(a)."

SECTION 14.14.(e) G.S. 113A-233 reads as rewritten:

"**§ 113A-233. Uses of a grant from the Conservation Grant Fund.**

(a) Allowable Uses. – A grant from the Conservation Grant Fund may be used only to pay for one or more of the following costs:

(1) Reimbursement for total or partial transaction costs for a donation of real property or an interest in real property from an individual or corporation satisfying either of the following:

a. Insufficient financial ability to pay all costs or insufficient taxable income to allow these costs to be included in the donated value.

b. Insufficient tax burdens to allow these costs to be offset by ~~the value of tax credits under G.S. 105-130.34 or G.S. 105-151.12 or by~~ charitable deductions.

(2) Management support, including initial baseline inventory and planning.

(3) Monitoring compliance with conservation easements, the related use of riparian buffers, natural areas, and greenways, and the presence of ecological integrity.

(4) Education on conservation, including information materials intended for landowners and education for staff and volunteers.
(5) Stewardship of land.
(6) Transaction costs for recipients, including legal expenses, closing and title costs, and unusual direct costs, such as overnight travel.
(7) Administrative costs for short-term growth or for building capacity.

(b) Prohibition. – The Fund shall not be used to pay the purchase price of real property or an interest in real property."

SECTION 14.14.(f) G.S. 113A-256(g) is repealed.

SECTION 14.15. Section 21.1(m) of S.L. 2013-360 reads as rewritten:

"**SECTION 21.1.(m)** ~~Subsection (c) of this section is effective for taxable years beginning on or after January 1, 2013. The remainder of this~~ This section becomes effective July 1, 2013."

SECTION 14.16.(a) G.S. 105-228.90(b)(1b) reads as rewritten:

"(1b) Code. – The Internal Revenue Code as enacted as of ~~January 2, 2013,~~ December 31, 2013, including any provisions enacted as of that date that become effective either before or after that date."

SECTION 14.16.(b) This section is effective when it becomes law. Notwithstanding subsection (a) of this section, any amendments to the Internal Revenue Code enacted after January 2, 2013, that increase North Carolina taxable income for the 2013 taxable year become effective for taxable years beginning on or after January 1, 2014.

SECTION 14.17. G.S. 105-242(g) reads as rewritten:

"(g) Erroneous Lien. – A taxpayer may appeal to the Secretary after a certificate is filed under subsection (c) of this section if the taxpayer alleges an error in the filing of the lien. The Secretary shall make a determination of such an appeal as quickly as possible. If the Secretary finds that the filing of the certificate was erroneous, the Secretary shall ~~issue a certificate of release of the lien as quickly as possible.~~withdraw the lien as quickly as possible by issuing a certificate of withdrawal."

SECTION 14.18. G.S. 105-242.2 reads as rewritten:

"**§ 105-242.2. Personal liability when certain taxes not paid.**

(a) Definitions. – The following definitions apply in this section:
(1) Business entity. – A corporation, a limited liability company, or a partnership.
(2) Responsible person. – Any of the following:
a. The president, treasurer, or chief financial officer of a corporation.
b. A manager of a limited liability company or a partnership.
c. An officer of a corporation, a member or company official of a limited liability company, or a partner in a partnership who has a duty to deduct, account for, or pay taxes listed in subsection (b) of this section.
d. A partner who is liable for the debts and obligations of a partnership under G.S. 59-45 or G.S. 59-403.

(b) Responsible Person. – Each responsible person in a business entity is personally and individually liable for the principal amount of taxes that are owed by the business entity and are listed in this subsection. If a business entity does not pay the amount it owes after the amount becomes collectible under G.S. 105-241.22, the Secretary may enforce the responsible person's liability for the amount by sending the responsible person a notice of proposed assessment in accordance with G.S. 105-241.9. This subsection applies to the following:
(1) All sales and use taxes collected by the business entity upon its taxable transactions.
(2) All sales and use taxes due upon taxable transactions of the business entity but upon which it failed to collect the tax, but only if the person knew, or in

the exercise of reasonable care should have known, that the tax was not being collected.

(3) All taxes due from the business entity pursuant to the provisions of Articles 36C and 36D of Subchapter V of this Chapter and all taxes payable under those Articles by it to a supplier for remittance to this State or another state.

(4) All income taxes required to be withheld ~~from the wages of employees of~~ by the business entity.

...."

SECTION 14.19. G.S. 105-296(m) reads as rewritten:

"(m) The assessor shall annually review the transportation corridor official maps and amendments to them filed with the register of deeds pursuant to Article 2E of Chapter 136 of the General Statutes. The assessor must indicate on all tax maps maintained by the county or city that portion of the properties embraced within a transportation corridor and must note any variance granted for the property for such period as the designation remains in effect. The assessor must tax the property within a transportation corridor as required under ~~G.S. 105-277.9.~~G.S. 105-277.9 and G.S. 105-277.9A."

SECTION 14.20.(a) G.S. 105-309(d) reads as rewritten:

"(d) Personal property shall be listed to indicate the township and municipality, if any, in which it is taxable and shall be itemized by the taxpayer in such detail as may be prescribed by an abstract form approved by the Department of Revenue. ~~Personal property shall also be listed to indicate which property, if any, is subject to a tax credit under G.S. 105-151.21.~~The assessor may require additional information as follows:

(1) If the assessor considers it necessary to obtain a complete listing of personal property, the assessor may require a taxpayer to submit additional information, inventories, or itemized lists of personal property.

(2) At the request of the assessor, the taxpayer shall furnish any information the taxpayer has with respect to the true value of the personal property the taxpayer is required to list."

SECTION 14.20.(b) G.S. 105-320(a)(16) is repealed.

SECTION 14.21. G.S. 105-315 reads as rewritten:

"**§ 105-315. ~~Reports~~ Report by persons having custody of tangible personal property of others.**

(a) As of January 1, every person having custody of taxable tangible personal ~~property~~ property that has been entrusted to ~~him~~ the person by another for storage, sale, renting, or any other business purpose shall furnish to the ~~appropriate~~ assessor of the county in which the property is situated ~~the reports required by subdivision (a)(2), below:~~a report with the information listed in this subsection. This requirement does not apply to a person having custody of inventories exempt under G.S. 105-275(32a), 105-275(33), or 105-275(34). As used in this section, the term "person having custody of taxable tangible personal property" includes warehouses, cooperative growers' and marketing associations, consignees, factors, commission merchants, and brokers. The report must include all of the following:

(1) Repealed by Session Laws 1987, c. 813, s. 14.

(2) ~~For all tangible personal property, except inventories exempt under G.S. 105-275(33) and (34), there shall be furnished to the assessor of the county in which the property is situated a statement showing the~~ The name of the owner of the ~~property, a description of the property, the quantity of the property, and the amount of money, if any, advanced against the property by the person having custody of it.~~property.

(3) A description of the property.~~For purposes of illustration, but not by way of limitation, the term "person having custody of taxable tangible personal property" as used in this subsection (a) shall include warehouses,~~

~~cooperative growers' and marketing associations, consignees, factors, commission merchants, and brokers.~~

(4) The quantity of the property.

(5) The amount of money, if any, advanced against the property by the person having custody of the property.

(b) ~~Any~~ A person who fails to make the ~~reports~~ report required by ~~subsection (a), above,~~ this section, by January 15 in any year ~~shall be~~ is liable to the counties in which the property is taxable for a penalty to be measured by any portion of the tax on the property that has not been paid at the time the action to collect this penalty is brought plus two hundred fifty dollars ($250.00). This penalty may be recovered in a civil action in the appropriate division of the General Court of Justice of the county in which the property is taxable. Upon recovery of this penalty, the tax on the property ~~shall be~~ is deemed ~~to be~~ paid."

SECTION 14.22. G.S. 105-537(d) is repealed.

SECTION 14.23. Section 60(l) of S.L. 2013-414 reads as rewritten:

"**SECTION 60.(l)** Section 4 of ~~Chapter 605~~ Chapter 555 of the 1991 ~~Session Laws~~ Session Laws, as amended by Section 1 of S.L. 1997-447, is repealed."

SECTION 14.24. G.S. 20-79.1A reads as rewritten:

"**§ 20-79.1A. Limited registration plates.**

(a) Eligibility. – A limited registration plate is issuable to ~~a~~any of the following:

(1) A person who applies, either directly or through a dealer licensed under Article 12 of this Chapter, for a title to a motor vehicle and a registration plate for the vehicle and who submits payment for the applicable title and registration fees but does not submit payment for any municipal corporation property taxes on the vehicle. A person who submits payment for municipal corporation property taxes receives an annual registration plate.

(2) A person who applies for a plate for a vehicle that was previously registered with the Division but whose registration has not been current for at least a year because the plate for the vehicle was surrendered or the vehicle's registration expired over a year ago.

(b) Form and Authorization. – A limited registration plate must be clearly and visibly designated as "temporary." The plate expires on the last day of the second month following the date of application of the limited registration plate. The plate may be used only on the vehicle for which it is issued and may not be transferred, loaned, or assigned to another. If the plate is lost or stolen, the vehicle for which the plate was issued may not be operated on a highway until a replacement limited registration plate or a regular license plate is received and attached to the vehicle.

(c) Registration Certificate. – The Division is not required to issue a registration certificate for a limited registration plate. A combined tax and registration notice issued under G.S. 105-330.5 serves as the registration certificate for the plate."

SECTION 14.25. G.S. 105-113.107(a) reads as rewritten:

"(a) Controlled Substances. – An excise tax is levied on controlled substances possessed, either actually or constructively, by dealers at the following rates:

(1) At the rate of forty cents (40¢) for each gram, or fraction thereof, of harvested marijuana stems and stalks that have been separated from and are not mixed with any other parts of the marijuana plant.

(1a) At the rate of three dollars and fifty cents ($3.50) for each gram, or fraction thereof, of marijuana, other than separated stems and stalks taxed under subdivision (1) of this [sub]section, or synthetic cannabinoids.

(1b) At the rate of fifty dollars ($50.00) for each gram, or fraction thereof, of cocaine.

(1c) At the rate of fifty dollars ($50.00) for each gram, or fraction thereof, of any low-street-value drug that is sold by weight.

(2) At the rate of two hundred dollars ($200.00) for each gram, or fraction thereof, of any other controlled substance that is sold by weight.

(2a) At the rate of fifty dollars ($50.00) for each 10 dosage units, or fraction thereof, of any low-street-value drug that is not sold by weight.

(3) At the rate of two hundred dollars ($200.00) for each 10 dosage units, or fraction thereof, of any other controlled substance that is not sold by weight."

SECTION 14.26. G.S. 105-114(b)(4) reads as rewritten:

"(4) Income year. – Defined in G.S. ~~105-130.2(4b).~~105-130.2(10)."

SECTION 14.27.(a) G.S. 14-344.1(a)(3) reads as rewritten:

"(3) The person ~~reselling the ticket~~ has obtained a certificate of registration under G.S. 105-164.29 and collects and remits to the State the ~~privilege~~ sales and use tax in accordance with Article 5 of Chapter 105 of the General Statutes.~~G.S. 105-37.1.~~"

SECTION 14.27.(b) This section becomes effective December 1, 2014, and applies to offenses committed on or after that date.

PART XV. TAX VAPOR PRODUCTS AND PROHIBIT USE OF VAPOR PRODUCTS IN JAILS

SECTION 15.1.(a) G.S. 105-113.4 reads as rewritten:

"**§ 105-113.4. Definitions.**

The following definitions apply in this Article:

...

(1k) Consumable product. – Any nicotine liquid solution or other material containing nicotine that is depleted as a vapor product is used.

...

(11a) Tobacco product. – A cigarette, a cigar, or any other product that contains tobacco and is intended for inhalation or oral use. The term includes a vapor product.

(12) Repealed by Session Laws 1993, c. 442, s. 1, effective January 1, 1994.

(13) Use. – The exercise of any right or power over cigarettes, incident to the ownership or possession thereof, other than the making of a sale thereof in the course of engaging in a business of selling cigarettes. The term includes the keeping or retention of cigarettes for use.

(13a) Vapor product. – Any noncombustible product that employs a mechanical heating element, battery, or electronic circuit regardless of shape or size and that can be used to produce vapor from nicotine in a solution. The term includes any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. The term does not include any product regulated by the United States Food and Drug Administration under Chapter V of the federal Food, Drug, and Cosmetic Act.

...."

SECTION 15.1.(b) G.S. 105-113.35 reads as rewritten:

"**§ 105-113.35. Tax on tobacco products other than cigarettes.**

(a) ~~Tax.~~ Tax on Tobacco Products. – An excise tax is levied on tobacco products other than cigarettes and vapor products at the rate of twelve and eight-tenths percent (12.8%) of the cost price of the products. ~~This tax does not apply to the following:~~

~~(1) A tobacco product sold outside the State.~~
~~(2) A tobacco product sold to the federal government.~~
~~(3) A sample tobacco product distributed without charge.~~

(a1) Tax on Vapor Products. – An excise tax is levied on vapor products at the rate of five cents (5¢) per fluid milliliter of consumable product. All invoices for vapor products issued by manufacturers must state the amount of consumable product in milliliters.

(a2) Limitation. – The taxes imposed under this section do not apply to the following:

(1) A tobacco product sold outside the State.
(2) A tobacco product sold to the federal government.
(3) A sample tobacco product distributed without charge.

...."

SECTION 15.1.(c) G.S. 105-113.37(b) reads as rewritten:

"(b) Designation of Exempt Sale. – A wholesale dealer who sells a tobacco product to a person who has notified the wholesale dealer in writing that the person intends to resell the item in a transaction that is exempt from tax under ~~G.S. 105-113.35(a)(1) or (2)~~G.S. 105-113.35(a2)(1) or (2) may, when filing a monthly report under subsection (a), designate the quantity of tobacco products sold to the person for resale. A wholesale dealer shall report a designated sale on a form provided by the Secretary.

A wholesale dealer is not required to pay tax on a designated sale when filing a monthly report. The wholesale dealer shall pay the tax due on all other sales in accordance with this section. A wholesale dealer or a customer of a wholesale dealer may not delay payment of the tax due on a tobacco product by failing to pay tax on a sale that is not a designated sale or by overstating the quantity of tobacco products that will be resold in a transaction exempt under ~~G.S. 105-113.35(a)(1) or (2).~~G.S. 105-113.35(a2)(1) or (2).

A person who does not sell a tobacco product in a transaction exempt under ~~G.S. 105-113.35(a)(1) or (2)~~ G.S. 105-113.35(a2)(1) or (2) after a wholesale dealer has failed to pay the tax due on the sale of the item to the person in reliance on the person's written notification of intent is liable for the tax and any penalties and interest due on the designated sale. If the Secretary determines that a tobacco product reported as a designated sale is not sold as reported, the Secretary shall assess the person who notified the wholesale dealer of an intention to resell the item in an exempt transaction for the tax due on the sale and any applicable penalties and interest. A wholesale dealer who does not pay tax on a tobacco productin reliance on a person's written notification of intent to resell the item in an exempt transaction is not liable for any tax assessed on the item."

SECTION 15.1.(d) G.S. 105-113.39(a) reads as rewritten:

"**§ 105-113.39. Discount; refund.**

(a) Discount. – A wholesale dealer or a retail dealer who is primarily liable under G.S. 105-113.35(b) for the excise taxes imposed by this ~~Part,~~Part on tobacco products but not including vapor products, who files a timely report under G.S. 105-113.37, and who sends a timely payment may deduct from the amount due with the report a discount of two percent (2%). This discount covers expenses incurred in preparing the records and reports required by this Part and the expense of furnishing a bond."

SECTION 15.1.(e) Nothing in this section shall be construed as circumventing future United States Food and Drug Administration regulation of tobacco products, other tobacco products, or vapor products.

SECTION 15.1.(f) This section becomes effective February 1, 2015.

SECTION 15.2.(a) G.S. 148-23.1(d) reads as rewritten:

"(d) As used in this section, the following terms mean:

(1) State correctional facility. – All buildings and grounds of a State correctional institution operated by the Division of Adult Correction of the Department of Public Safety.

(2) Tobacco products. – Cigars, cigarettes, snuff, loose tobacco, or similar goods made with any part of the tobacco plant that are prepared or used for smoking, chewing, dipping, or other personal use. The term includes vapor products.

(3) Vapor products. – Noncombustible products that employ a mechanical heating element, battery, or electronic circuit regardless of shape or size and that can be used to heat a liquid nicotine solution contained in a vapor cartridge. The term includes electronic cigarettes, electronic cigars, electronic cigarillos, and electronic pipes. The term does not include any product regulated by the United States Food and Drug Administration under Chapter V of the federal Food, Drug, and Cosmetic Act."

SECTION 15.2.(b) G.S. 14-258.1 reads as rewritten:

"**§ 14-258.1. Furnishing poison, controlled substances, deadly weapons, cartridges, ammunition or alcoholic beverages to inmates of charitable, mental or penal institutions or local confinement facilities; furnishing tobacco products including vapor ~~products or~~ products; or furnishing mobile phones to inmates.**

...

(c) Any person who knowingly gives or sells any tobacco ~~product,~~products, including vapor products, as defined in G.S. 148-23.1, to an inmate in the custody of the Division of Adult Correction of the Department of Public Safety and on the premises of a correctional facility or to an inmate in the custody of a local confinement facility, or any person who knowingly gives or sells any tobacco ~~product~~ products, including vapor products, to a person who is not an inmate for delivery to an inmate in the custody of the Division of Adult Correction of the Department of Public Safety and on the premises of a correctional facility or to an inmate in the custody of a local confinement facility, other than for authorized religious purposes, is guilty of a Class 1 misdemeanor.

...

(e) Any inmate of a local confinement facility who possesses any tobacco ~~product,~~products, including vapor products, as defined in G.S. 148-23.1, other than for authorized religious purposes, or who possesses a mobile telephone or other wireless communications device or a component of one of those devices, is guilty of a Class 1 misdemeanor."

SECTION 15.2.(c) Subsection (a) of this section becomes effective July 1, 2014. Subsection (b) of this section becomes effective December 1, 2014, and applies to offenses committed on or after that date.

PART XVII. EFFECTIVE DATE

SECTION 17.1. Except as otherwise provided, this act is effective when it becomes law.

HOUSE BILL 1050:
Part I - Deduction for State Net Loss

This Bill Analysis reflects the contents of the bill as it was presented in committee.

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	May 23, 2014
Introduced by:	Reps. Howard, W. Brawley, Lewis, Setzer	**Prepared by:**	Cindy Avrette
Analysis of:	PCS to Third Edition H1050-CSRBx-49		Committee Counsel

SUMMARY: Part I of the Omnibus Tax Law Changes bill would replace the corporate net economic loss deduction with a State net loss deduction for taxable years beginning on or after January 1, 2015.

CURRENT LAW: Both federal and State tax law provide relief to a corporation that incurs more expenses than revenues during the taxable period. For federal tax purposes, a corporation is allowed a net operating loss deduction equal to the amount by which tax deductible expenses are more than taxable revenues. The federal deduction may be carried back two years preceding the loss year, thus providing immediate tax relief in the form of a tax credit; any unused portion of the deduction may be carried forward for 20 years. For State tax purposes, a corporation is allowed a net economic loss deduction[1] equal to the amount by which allowable deductions for the year other than prior year losses exceed income from all sources in the year, including nontaxable income.[2] The State deduction may be carried forward 15 years; any loss carryforward must first be offset by nontaxable income, including allowable deductions.

BILL ANALYSIS: This Part does three things to simplify the calculation and ease the administration of the corporate loss deduction, effective for taxable years beginning on or after January 1, 2015:

- It replaces the net economic loss calculation with a State net loss calculation that is more comparable to the federal net operating loss calculation.
- It removes the requirement that a net economic loss carried forward to taxable years beginning on or after January 1, 2015, be first offset by nontaxable income.
- It instructs the Secretary of Revenue to apply the standards under sections 381 and 382 of the Code when determining to what extent a loss survives a merger or an acquisition.

The Part would replace the State's net economic loss deduction with a State net loss deduction. The State net loss would be the amount by which allowable deductions for the year, other than prior year losses, exceed gross income under the Code for the year adjusted as provided in G.S. 105-130.5. Adjustments under G.S. 105-130.5 include items such as the adjustments taxpayers must make when the State

[1] NC is the only state with a net economic loss deduction that differs significantly from the federal net operating loss deduction. Other states that have a corporate income tax loss deduction use a calculation that is comparable to the federal net operating loss deduction.

[2] Nontaxable income includes income that has been deducted in computing State net income, nonapportionable income that has been allocated directly to another state under G.S. 105-130.4, and any other income that is not taxable under State law. Prior to August 17, 2013, the Department of Revenue interpreted G.S. 105-130.8 to require items deductible under G.S. 105-130.5, such as U.S. government interest and dividends, to be considered in the computation of the loss in the year of creation as nontaxable income. The Department revised its interpretation to recognize that an allowable deduction, although not taxable, may not reduce a loss in the year the loss is created. However, pursuant to G.S. 105-130.8(a)(3), the Department continued to require that a loss carried forward to a subsequent year must first be offset by any income not taxable, including allowable deductions under G.S. 105-130.5.

decouples from federal accelerated depreciation and expensing. If the taxpayer is a multi-state corporation with business within and without North Carolina, then the loss must be allocated and apportioned in the year of the loss in accordance with G.S. 105-130.4.

The repeal of the net economic loss deduction removes the applicability of North Carolina case law that governs the extent to which a net economic loss survives in a merger or an acquisition. The draft instructs the Secretary of Revenue to apply the federal regulations adopted under sections 381 and 382 of the Code in determining the extent to which a loss survives in a merger or acquisition. Although the provisions of the Code would be applied, the loss limitations may differ at the State level based upon the single entity reporting requirement in North Carolina and subject to the allocation and apportionment provisions of G.S. 105-130.4 in the year of the loss.

The Part changes the calculation of a net economic loss carry-forward. Under current law, the carry-forward must be reduced by nontaxable income. What constitutes nontaxable income has been a source of questions, disagreements, and litigation. Under the change made by this Part, the amount of the net economic loss, as determined on December 31, 2014, becomes a static amount. Any unused portion of a net economic loss carried forward in taxable years beginning on or after January 1, 2015, would be administered in accordance with the State net loss statute:

- Any unused portion of a net economic loss would not have to first be offset by nontaxable income.
- The standards under sections 381 and 382 of the Code would be applied in determining the extent to which a net economic loss survives a merger or acquisition that occurs on or after January 1, 2015.

EFFECTIVE DATE: This Part becomes effective for taxable years beginning on or after January 1, 2015.

HOUSE BILL 1050:
Part II - Other Income Tax Changes

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	May 23, 2014
Introduced by:	Reps. Howard, W. Brawley, Lewis, Setzer	**Prepared by:**	Cindy Avrette
Analysis of:	PCS to Third Edition H1050-CSRBx-49		Committee Counsel

SUMMARY: Part II makes technical and clarifying changes to various income tax laws.

CURRENT LAW, BILL ANALYSIS, AND EFFECTIVE DATE: This Part makes the following technical and clarifying changes to the income tax laws.

Section 179 expense deduction

Section 2.1 makes two changes to the section 179 expense deduction for State income tax purposes to reflect the intent of legislative action taken in 2013. These changes need to be enacted as soon as possible since the changes impact 2013 tax returns. Many taxpayers have filed extensions, waiting for these provisions to be enacted.

First, it corrects the dollar amount of the section 179 expense investment limit. In the American Taxpayer Relief Act of 2013, Congress extended the $500,000/$2,000,000 accelerated section 179 expense deduction allowances for 2013 and 2014. The intent of S.L. 2013-10 was to decouple from this federal provision and return to the limits that would have been applicable under the Code as written in December 2010. The act erroneously referred to the Code as defined in May 2010. The Code was amended three times in 2010, and the changes included three different section 179 expense limits. S.L. 2013-414 rewrote the statutes that decouple from the federal accelerated depreciation expensing to make them clearer to understand. As part of the rewrite, the subsection decoupling from the section 179 expense limits sets forth the limits as opposed to referring to the Code on a certain date. In setting forth the limits, the dollar amount of the investment limit should have been $200,000 rather than $125,000.

Second, it makes changes to ensure that qualifying taxpayers may receive the benefit of the add-back deductions. Beginning in 2002, Congress has allowed taxpayers to depreciate certain assets more quickly than would otherwise be allowed – 100% bonus depreciation and section 179 expense deductions. Many states, including North Carolina, have decoupled from those provisions primarily because the fiscal impact of conforming to the greater depreciation rules would have been too costly. Instead of granting the larger depreciation in the initial years, North Carolina required taxpayers to add-back 85% of the deduction in the first year and to deduct 20% of this amount over the next five years. Taxpayers who changed their form of business entity or who merged with subsidiaries within the five-year period of deductions were not allowed to take the remaining deductions because the taxable entity that made the add-back and received the initial deductions either no longer existed or no longer owned the depreciable asset. The result in some cases was that the asset did not receive the full benefit of the deduction. S.L. 2013-414 changed the law to allow the transferee of an asset, where the tax basis of the transferred asset carried over from the transferor to the transferee for federal income tax purposes, to add any remaining deductions to the basis of the transferred asset and to depreciate the adjusted basis over the remaining life of the asset. For transactions that occurred prior to January 1, 2013, the law provided an election whereby the transferee could make the basis adjustment for any deductions foregone by the transferor. However, this allowance does not help a taxpayer who had disposed of the

asset or whose asset had no remaining useful life. This section remedies this situation by allowing a taxpayer to deduct the remaining bonus depreciation on the 2013 tax return.

Personal income tax deductions

Section 2.2 does the following two things.

First, it clarifies that a person who is not eligible for a federal standard deduction is not eligible for a State standard deduction. North Carolina follows the federal law concerning an individual's eligibility for a standard deduction. The tax reform legislation inadvertently failed to follow this practice. Under federal law, the following individuals are not eligible for a standard deduction:

- A married individual filing a separate return where either spouse itemizes deductions.
- A nonresident alien individual. A resident alien is a person who meets either the "green card test" or the "substantial presence test".
- An individual making a return for a period of less than 12 months on account of a change in the person's annual accounting period.
- An estate or trust, common trust fund, or partnership.

Second, it clarifies the application of the $20,000 deduction for mortgage interest expenses paid and property taxes paid on real estate. S.L. 2013-316 limited the federally allowed itemized deductions for mortgage interest expenses paid and property taxes paid on real estate at $20,000. The intent of the legislation was for the $20,000 cap to apply to the cumulative deduction for a married couple, regardless of how the couple files a return. At the request of the Department of Revenue, this section clarifies this intent.

This section is effective for taxable years beginning on or after January 1, 2014.

Income tax rate applicable to estates

Section 2.3 updates the statutory references in G.S. 105 160.2 which imposes income tax on estates and trusts. Estates and trusts generally receive the same modifications to taxable income and tax rates as single individuals. House Bill 998, S.L. 2013 316, moved the statutes allowing modifications to North Carolina taxable income and setting the tax rate.

This section is effective for taxable years beginning on or after January 1, 2014.

HOUSE BILL 1050:
Part III - Agricultural Exemption Certificate

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	May 23, 2014
Introduced by:	Reps. Howard, W. Brawley, Lewis, Setzer	**Prepared by:**	Cindy Avrette
Analysis of:	PCS to Third Edition H1050-CSRBx-49		Committee Counsel

SUMMARY: ***Part III of the Omnibus Tax Law Changes bill gives guidance to the farming community and the Department of Revenue as to the administration of the income threshold a person must meet to qualify for a sales tax agricultural exemption certificate. It also allows a three-year income averaging to address issues of income volatility in farming operations.***

CURRENT LAW: In S.L. 2013-316, the General Assembly imposed an income threshold a person must meet to qualify for a sales tax agricultural exemption certificate. Effective July 1, 2014, a person does not qualify for an agricultural exemption certificate unless the person has an annual gross income for the preceding taxable year[1] of at least $10,000 from farming operations. For federal income tax purposes, gross income from farming includes sales of agricultural products, cooperative distributions, agricultural program payments, and crop insurance and federal disaster payments. It appears five other states impose an income requirement to qualify for a sales tax agricultural exemption: Connecticut, Georgia, Rhode Island, Tennessee, and Washington. The income limit in these states varies from $1,000 n Tennessee to $10,000 in Washington. Four of those states have conditional exemption certificates for ıew farmers.

An agricultural exemption certificate allows a person to purchase the following items for farming operations without paying sales tax on those items: fuel; electricity; commercial fertilizer, lime, land plaster, plastic mulch, plant bed covers, potting soil, baler twine, and seeds; farm machinery; attachments and repair parts for farm machinery; containers used in farm production, packaging, and transporting; grain, feed, or soybean storage facilities; substances for use on animals and plants, such as vaccines, insecticides, defoliants, and plant growth regulators; baby chicks; facilities used for housing, raising, or feeding animals; and bulk tobacco barns and parts and accessories for those barns.

A person who qualifies for an exemption certificate must apply to the Department. A certificate is valid until it is cancelled or revoked. An exemption certificate authorizes the retailer to sell an item to the holder and either collect tax at a preferential rate or not collect tax on the sale, as appropriate. A retailer does not need to obtain a certificate for each purchase if the retailer has a blanket certificate from a purchaser with which the retailer has a recurring business relationship. A person who purchases an item with a certificate is liable for any tax due on the sale if the Department determines the person is not eligible for the certificate. The statute does not place an affirmative duty on the holder of a certificate to notify the Department if the person no longer qualifies for it.

BILL ANALYSIS: Part III of the bill answers questions the farming community has posed concerning the implementation of the gross income requirements:

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[1] The statute currently says "calendar year". The Department has requested that the term be changed to "taxable year". The bill draft makes this change.

- Administration. – The bill clearly states that a person may not use an agricultural exemption certificate after July 1, 2014, unless the person meets the income requirements and that a person who no longer qualifies for the certificate is liable for any tax due. A qualifying farmer must apply to the Department for a new exemption certificate. A retailer may continue to rely upon a blanket certificate until October 1, 2014.
- Application for Certificate. – Neither the law enacted last year nor this bill changes the current administration of exemption certificates. However, the bill does impose an affirmative duty on a person who has an exemption certificate to notify the Department whenever the person no longer qualifies for it and to give notice to any seller that may rely on it. The affirmative duty applies to all holders of a certificate, not just farmers. This affirmative duty is similar to the one imposed on taxpayers who no longer qualify for preferential property tax treatment. The farming community is familiar with this requirement as part of the present use value property tax exemption program.
- Liability for Tax Due. – The bill affirmatively states that anyone who purchases an item under an exemption certificate is liable for the tax due on the purchase if the Department determines that the person is not eligible for the certificate or that the item purchased does not qualify for exemption under the certificate.
- Income Volatility. – The bill makes a substantive change to the income threshold at the request of the farming community to address volatility in farming income and to prevent a person from moving into and out of the exemption annually. To obtain a certificate, a person must have $10,000 of gross income from farming operations during the preceding taxable year or an average of $10,000 of gross income from farming operations for the three preceding taxable years. A farmer no longer qualifies for the exemption certificate when the farmer fails to meet the income threshold for three consecutive years. The Farm Bureau expressed concerns for certain types of farming operations that may not produce income on an annual basis, such as cattle breeders and timber operations.

EFFECTIVE DATE: The bill would become effective July 1, 2014, and apply to purchases made on or after that date.

BACKGROUND: There are currently 49,437 agricultural exemption certificates outstanding. Last year the Department issued 2,185 new certificates and it issued 2,253 certificates in 2012. Here are some statistics from the 2012 USDA Census of Agriculture:

	2012	2007
Total NC Farms	50,218	52,913
NC Farms < $10,000 in sales	31,492	34,276
NC Farms > $10,000 in sales	18,726	18,637
NC Farms < $10,000 in sales & government payments	30,960	33,741
NC Farms > $10,000 in sales & government payments	19,258	19,172

HOUSE BILL 1050:
Part IV - Prepaid Meal Plans

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	May 23, 2014
Introduced by:	Reps. Howard, W. Brawley, Lewis, Setzer	**Prepared by:**	Cindy Avrette
Analysis of:	PCS to Third Edition H1050-CSRBx-49		Committee Counsel

SUMMARY: Part IV of the Omnibus Tax Law Changes bill addresses sales tax issues related to the repeal of the sales tax exemption for meals served to students in dining rooms of regularly operated educational institutions.

CURRENT LAW: S.L. 2013-316 repealed the exemption for meals served to students in dining rooms of regularly operated by educational institutions, effective January 1, 2014. In practice, meals are not always sold directly. Today, educational institutions sell a variety of meal plans that offer choices between a specific number of "meal swipes" and "food dollars". The meal swipes are part of a prepaid meal plan that entitles the student to a predetermined number of meals. The cost applies regardless of whether or not the student consumes the meals. The food dollars are part of a declining card balance, much like a debit card, that may be used in on-campus facilities for a variety of purchases as well as with participating privately-owned facilities. The meal swipes are problematic to tax on a transactional basis because the gross receipts paid for the meal swipes applies regardless of whether or not the meals are consumed. In practice, few institutions operate their dining halls; instead, they contract with third party vendors to prepare the meals and operate the dining halls.

BILL ANALYSIS: Part IV of the bill addresses questions and administrative issues taxpayers and the Department of Revenue have encountered with the taxation of food and prepared food sold to students in colleges and universities.

Subsection	Explanation
(a)	Defines a prepaid meal plan to be a plan offered by an institution of higher education that entitled a person to food or prepared food, that is billed or paid for in advance, and that provides for predetermined units or unlimited access to food or prepared food but does not include a dollar value that declines with use. The definition limits the applicability to those transactions that benefited from the sales tax exemption repealed in S.L. 2013-316. It does not apply to the part of a meal plan that is based on a declining card balance, such as the food dollars, because those transactions are taxed at the time they are made. By applying the tax to the gross receipts derived from the plan, it is clear that that the tax is based upon the amount paid for the plan and not upon the use of the plan.
(b)	Imposes a sales tax at the general rate upon the sales price of or gross receipts derived from a prepaid paid meal plan. The local sales tax also applies to an item taxed by the State at the general sales tax rate.
(c)	Sources the local sales tax revenue to the county where the school is located.
(d)	Addresses how to tax a transaction where one amount is paid for a taxable item (prepaid meal plan; meals) and a nontaxable item (declining card balance; tuition; room). In that

	instance, tax applies to the allocated price of the prepaid meal plan. The tax applies to items purchased with a dollar value that declines with use as the dollar value is used. Tuition and room are not subject to sales tax.
(e)	This subsection does two different things: Clarifies that the remaining sales tax exemption for meals sold in elementary and secondary schools applies to any school regulated under Chapter 115C. Public K-12 schools, private K-12 schools, regional schools, and home schools are regulated under Chapter 115C. Residential schools are regulated elsewhere.[1] The bill removes the words "not for profit" because meals provided to K-12 students take many forms. This change ensures that the tax treatment for meals sold in elementary and secondary schools remains unchanged until the General Assembly makes a policy choice to tax them differently. Exempts food and prepared food used to prepare a meal for consumption under a prepaid meal plan from sales tax because this transaction is analogous to a sale for resale.
(f)	Provides schools with an option for reporting and remitting sale tax revenue derived from a prepaid meal plan to the State. The option allows the institution to contract with the food service contractor to be liable for the collection and remittance of the tax. At least one university has a contract with its food service contractor to remit the tax to the State on behalf of the university. The university remains the retailer under the sales tax laws because it is the person making, offering, and soliciting the sale of the prepaid meal plan. The tax will apply to the gross receipts the university derives from the prepaid meal plan; this amount includes the amount charged the university by the food service contractor and any other expenses included by the university in the price it charges for the prepaid meal plan. Under this option, the retailer (institution) would send the tax receipts collected to the food service contractor and the food service contractor would send the receipts, along with other tax receipts, to the Department of Revenue.

EFFECTIVE DATE: This act is effective when it becomes law and applies to gross receipts derived on or after that date. Colleges and universities will begin billing for the fall semester in July, and payments will be received primarily during the months of July and August.

[1] The School of Math and Science and the School of the Arts are part of the UNC system.

HOUSE BILL 1050:
Part V - Admissions

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	May 23, 2014
Introduced by:	Reps. Howard, W. Brawley, Lewis, Setzer	**Prepared by:**	Cindy Avrette
Analysis of:	PCS to Third Edition H1050-CSRBx-49		Committee Counsel

SUMMARY: Part V of the Omnibus Tax Changes bill draft addresses sales tax issues associated with the expansion of the sales tax base to include gross receipts derived from admissions to a live event, a movie, and other attractions for which an admission is charged.

CURRENT LAW: S.L. 2013-316 changed the taxation of live events and movies from a 3% gross receipts privilege tax to a State and local sales tax. The two taxes differ in that the gross receipts tax was imposed upon the person engaged in providing the event; it was not designed to be passed directly onto the consumer. The sales tax is imposed upon the retailer, but it is intended to be passed onto the purchaser and borne by the purchaser instead of the retailer.[1] The payment of the tax is considered a debt from the purchaser to the retailer until it is paid. A retailer is considered to act as a trustee on behalf of the State when it collects tax from the purchaser. The tax should be stated and charged separately unless the retailer displays a statement indicating the sales price includes the tax.

The gross receipts tax was payable monthly and the return covered the gross receipts received during the previous month.[2] The sales tax is due quarterly, monthly, or bi-monthly depending upon the tax liability of the retailer.[3] The administration of the sales tax is more defined to ensure uniform tax treatment. North Carolina is also a member state in the Streamlined Sales Tax Agreement. One of the purposes of this Agreement is to ensure uniformity among the participating states so the tax may be more efficiently administered by retailers who conduct business in more than one state.

BILL ANALYSIS: This Part makes the following changes to the laws applicable to sales tax on the gross receipts derived from an admission charge:

Subsection	Explanation
(a)	Clarifies that for purposes of the imposition of sales tax, the term "gross receipts" has the same meaning as the term "sales price". "Sales price" is defined to be the total amount or consideration for which tangible personal property, digital property, or services are sold, leased, or rented. This subsection also removes the details concerning how amusements are taxed and moves those provisions to a new statute in subsection (c) of this section. The imposition of the tax itself remains in G.S. 105-164.4.
(b)	Sources the local sales tax revenue derived from admission charges to the location where admission to the entertainment activity may be gained. When the location where admission may be gained is not known at the time of the transaction, the general sourcing principles of G.S. 105-164.4B(a) apply: the business location where the product is

[1] G.S. 105-164.7.

[2] By practice, some taxpayers remitted the gross receipts tax at the time the event occurred.

[3] G.S. 105-164.16.

	received; the location where the product is received; the location indicated by the address of the purchaser.
(c)	Creates a new statute to address the taxation of admission charges: • It defines an "admission charge" as the gross receipts derived for the right to attend an entertainment activity. An entertainment activity is defined as a live performance, a movie, a museum or similar attraction and a guided tour of that attraction. The bill does not expand the definition the types of entertainment subject to the tax. The policy decision of what types of entertainment to include in the sales tax base was made in S.L. 2013-316. It defines an "amenity" as a feature that increase the value of an entertainment activity by giving the person access to items that are not subject to sales tax and that are not available with purchase of admission to the event without the feature. Lastly, it defines a facilitator. The law enacted last session did not define "admission charge" or "amenity". A definition of "facilitator" is needed to accomplish the administration of the tax as provided in this subsection. • It provides that a retailer is the operator of the venue where the entertainment activity occurs. In practice, admission to an entertainment event may often be obtained at multiple places from multiple people. To accommodate this business practice, the bill does the following: o Provides that a person who provides the entertainment and received admission charges directly from purchaser is a retailer. This provision would allow a person, such as the symphony, that leases space to perform to be a retailer. In this example, the venue would also be a retailer if the venue also sells admission to the symphony event. o Provides the operator of the venue and a facilitator may have a contractual agreement for dual reporting. Dual remittance will allow the operator of the venue to remit the tax on the admission charge and the facilitator to remit the tax on any other charges the facilitator imposed that were necessary for the purchaser to pay to complete the transaction. • It defines a facilitator as a person who accepts payment of an admission charge to an entertainment activity and is not the operator of the venue where the entertainment activity occurs. It requires the facilitator to report to the retailer the admission charge a person pays to the facilitator and to send to the operator the tax due on the gross receipts derived from an admission charge no later than 10 days after the end of each calendar month. A facilitator that does not send this amount to the retailer is liable for the tax due. These requirements are considered terms of the contract between the retailer and the facilitator. These provisions are the same as the provisions applicable to facilitators who accept payment from a consumer for accommodations. • It clarifies what transactions are not subject to the tax: o Amounts paid to participate in sporting events. o Tuition, registration, or any other charge to attend an instructional or educational seminar, workshop, or conference. o A political contribution. o A charge for lifetime seat rights, leases, or rental of a suite or box, provided the

charge is separately stated.

- An amount paid solely for transportation.

- It clarifies the following exemptions from the tax:
  - The portion of a membership charge that is deductible as a charitable contribution under federal income tax laws.
  - A donation that is deductible as a charitable contribution under federal income tax laws.
  - Charges for an amenity. An amenity was not taxed under the gross receipts privilege tax and the exemption for an amenity was continued when the taxation of the admission charge became subject to sales tax. In the bill enacted last session, the language from the old privilege license tax statute saying an amenity was not subject to tax was carried over into the imposition statute for sales tax. Based on conversations the Department of Revenue and legislative staff had with the staff of the Streamlined Sales Tax Governing Board, the language was removed from the imposition language and an exemption for an amenity has been added

    Under the exemption, if an amenity is separately stated on a billing document given to a purchaser, then the tax does not apply to the separately stated amount. If charges for an amenity are not separately stated, then the transaction is a bundled transaction and taxed in accordance with the general principle that the retailer must determine an allocated price for each product in the bundle based on a reasonable allocation of revenue that is supported by the retailer's business records kept in the ordinary course of business. Under the old privilege license tax statutes, the language provided: *If charges for amenities are not separately stated on the face of an admission ticket, then the charge for admission is considered to be equal to the admission charge for a ticket to the same event that does not include amenities and is for a seat located directly in front of or closest to a seat that includes amenities.* This draft removes this language at the suggestion of the Streamlined Sales Tax Governing Board and refers instead to the general principles applicable to a bundled transaction. This change is not intended to be a substantive one since the language cited above in italics may be the reasonable allocation a retailer uses, based on the retailer's business records, to determine the allocated price of the taxable portion of the admission charge and the exempt portion of the charge allocable to the exempt amenity.

- It changes the events that are exempt from the tax to the following:
  - An event sponsored by an elementary or secondary school.
  - An event sponsored by a nonprofit that is exempt from income tax if all of the following conditions are met: the entire proceeds of the event are used exclusively for the entity's nonprofit purpose; the entity does not compensate members or individuals; the entity does not compensate any person for participating in the event, performing in the event, placing in the event, or producing the event.

- It repeals the following exemptions, thus subjecting the gross receipts derived from an

	admission charge to that event to sales tax, effective January 1, 2015: o An agricultural fair. o Up to two activities a year sponsored by a nonprofit.[4] o A State attraction.
(d)	Makes a conforming change to the exemption statute. This subsection becomes effective January 1, 2015.
(e)	Clarifies that long-standing exemptions applicable to tangible personal property sold by nonprofit entities do not apply to gross receipts derived from an admission charge to an entertainment activity.
(f)	Provides that the gross receipts derived from admission to a live event purchased on or after January 1, 2015, will be taxable under the sales tax statutes, regardless of the date of the initial sale of tickets. S.L. 2013-315 provided a transitional period. Under S.L. 2013-316, the gross receipts for a live event where the initial sale of admission occurred on or before January 1, 2014, are taxable under the old 3% gross receipts privilege tax statutes.

EFFECTIVE DATE: Except as otherwise stated in the summary, the bill draft would become effective January 1, 2015.

[4] A subcommittee of the Revenue Laws Study Committee recommended that similar events be taxed similarly, regardless of the entity providing the event. This policy decision led to the repeal of these exemptions. The subcommittee also found that the exemptions caused confusion re: what was a State attraction and what two events could be exempt. This confusion should be eliminated by the repeal of these exemptions.

HOUSE BILL 1050:
Part VI - Service Contracts

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	May 23, 2014
Introduced by:	Reps. Howard, W. Brawley, Lewis, Setzer	**Prepared by:**	Cindy Avrette Committee Counsel
Analysis of:	PCS to Third Edition H1050-CSRBx-49		

SUMMARY: ***Part VI of the Omnibus Tax Law Changes bill addresses sales tax issues associated with the expansion of the sales tax base to include the sales price of a service contract.***

CURRENT LAW: S.L. 2013-316 expanded the sales tax base to include the sales price of a service contract. A service contract is defined as a warranty agreement, a maintenance agreement, a repair contract, or a similar agreement or contract by which the seller agrees to maintain or repair tangible personal property. The act exempted from the tax items exempt from sales tax, other than motor vehicles; network assets on utility owned lands and on right-of-ways or easements; and items purchased by a professional motorsports racing team for which the team may receive a sales tax refund. The act also exempted an item used to maintain or repair tangible personal property pursuant to a service contract if the purchaser of the contract is not charged for the item.

BILL ANALYSIS: This Part makes the following changes to the law applicable to the sales tax on service contracts:

Subsection	Explanation
(a)	Changes the definition of a service contract to alleviate confusion about who must provide the work under the service contract for the contract to be taxable. In practice, service contracts are often sold by a seller on behalf of the person obligated to provide the service. This subsection changes the definition of a service contract to be a contract where the obligor under the contract agrees to maintain or repair tangible personal property or a motor vehicle.
(b)	Clarifies in the sales tax imposition statute that the tax applies to the sales price of or the gross receipts derived from a service contract.
(c)	Creates a new statute to address the sales tax on service contracts: • It clarifies that the local sales tax revenue from a service contract are sourced in accordance with the general sourcing principles of G.S. 105-164.4B. • It defines a retailer as the obligor when the obligor sells the service contract to the purchaser at retail. If the service contract is sold to the purchaser by a facilitator, the facilitator is the retailer unless the facilitator and the obligor have a contractual agreement that the obligor will be liable for payment of the tax. In this instance, the facilitator must send the retailer the tax due on the sales price of or the gross receipts derived from the service contract within 10 days after the end of each calendar month. A facilitator that does not send the retailer the sales tax due is liable for the tax. A facilitator is defined as a person who contracts with an obligor to market the service contract and accept payment for the contract. These provisions are substantially the

	same as the provisions that apply to a facilitator who accepts payment of sales tax on accommodations. • It moves the exemptions from G.S. 105-164.13 and places them in the newly created statute. • It adds an exemption for items subject to tax under Article 5F, the 1% excise tax on mill machinery and other similar transactions. • It clarifies that the tax does not apply to service contract for items sold at retail that become part of real property unless the service contract is sold at the same time as the item of tangible personal property covered in the contract. The tax does not apply to security or similar monitoring contracts for real property or to a renewal of a service contract where the tangible personal property covered by the contract becomes part of or affixed to real property prior to the effective date of the renewal. • It requires a retailer to report the sales price of or gross receipts derived from a service contract on an accrual basis, so that the receipts are recognized when the transaction occurs rather than when payment is received. Some service contracts are financed over time. This provision clarifies that the sales tax is due at the time of the retail sale and not at the time of the periodic payments.
(d)	Creates a new statute for refunds of sales tax paid on a rescinded sale or a cancelled service. Historically, retailers have provided purchasers a refund of the sales tax paid on tangible personal property that is returned to the retailer for a refund. The retailer is allowed to reduce taxable receipts on the subsequent sales tax return by the taxable amount of the refund for the period in which the refund occurs or may request a refund of an overpayment of tax. This section codifies this current practice. The new statute creates a process to allow a purchaser of a service contract a refund of the sales tax paid. The process is different for a service contract because often the refund is provided by a person who was not the retailer that sold the service contract. This situation becomes more uncertain when the service contract is for a motor vehicle. Under the bill, if the purchaser receives a refund on any portion of the sales price of a service contract purchased from the retailer who collected the sales tax on the retail sale, then the general provisions applicable to rescinded sales apply. If the purchaser receives a refund from anyone else and the amount refunded does not include the sales tax paid on the refundable amount, then the purchaser may apply directly to the Department of Revenue for a refund. An application for a refund must be supported by documentation on the taxable amount of the service contract refunded to the purchaser and it must be filed within 30 days after the refund is received. A sales tax refund filed after the due date is barred.
(e)	Makes a conforming change.
(f)	Clarifies the exemption applicable to an item used to maintain or repair tangible personal property pursuant to a service contract. The exemption does not apply to an item used to maintain or repair mill machinery and other items taxable under Article 5F, since the service contract applicable to this tangible personal property is not subject to tax. The exemption does not apply to a tool, equipment, or similar item of tangible personal property used to complete the maintenance or repair unless the item becomes a component or repair part of the item for which the service contract is sold. For example, the exemption does not apply to the hammer and screwdriver used to do the work under a

	service contract.
(g)	Clarifies that the gross receipts derived from a service contract for a motor vehicle are not subject to the highway use tax.
(h)	Conforming change to the local sales tax statutes.

EFFECTIVE DATE: This Part becomes effective October 1, 2014.

HOUSE BILL 1050:
Part VII – Retailer-Contractors

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	May 23, 2014
Introduced by:	Reps. Howard, W. Brawley, Lewis, Setzer	**Prepared by:**	Trina Griffin Committee Counsel
Analysis of:	PCS to Third Edition H1050-CSRBx-49		

SUMMARY: ***Part VII of the PCS addresses the applicability of the sales tax laws to retailer-contractors, such as the major home improvement stores, when they are engaged in a performance contract rather than a retail sale. Specifically, a retailer-contractor would be considered the consumer of the items or materials they furnish and install or apply to real property to the extent the item becomes part of the real property. As the consumer of those items, the retailer-contractor would be responsible for payment of the tax rather than the customer. This Part would become effective January 1, 2015.***

CURRENT LAW: Under current law, retailers are required to collect and remit sales tax on retail sales of tangible personal property. Under a performance contract, the contractor agrees to furnish the necessary materials, labor, and expertise to accomplish the job; it is not a contract for the sale of specific items. Contractors are deemed to be the consumers or end users of the tangible personal property they use in fulfilling performance contracts and are liable for the tax. However, when a customer purchases an item from a home improvement store and enters into a contract with the store for the installation of the item in their home, it is not always clear whether that transaction is a retail sale plus installation or a performance contract.

The statutes provide little guidance as to what the correct interpretation is. They do not define "contractor" or "performance contract" or speak to when the installation of tangible personal property constitutes a real property improvement. The definition of "sale" refers to when title or possession is transferred. When a contractor permanently affixes an item of tangible personal property to real estate, title and possession typically transfer upon installation. However, once the item is permanently affixed to real property, general principles of real estate law provide that the item is no longer tangible personal property but has transformed into a real property fixture. Therefore, when a homeowner obtains title or possession to the property, the property is real estate and, therefore, one could argue no retail sale of tangible personal property has occurred. Adding further confusion to the mix, North Carolina's definition of "retailer" includes the business of installing tangible personal property regardless of whether it is permanently affixed to real property. This definition suggests that all contractors are also retailers, which conflicts with other principles at play.

The Department has developed guidance on this issue through its technical bulletins, and the tax treatment is ultimately determined by looking at a number of factors, such as whether an item is sold with an installation agreement, the tenor of the agreement, if there is one, whether an item is pre-fabricated, whether an item is built on-site, and whether a specific quantity is stated in the agreement. Determining the tax consequences involves a complex and fact-specific analysis. Over the years, the guidance has been inconsistent and, at the very least, confusing. For example, the sale and installation of the same item, such as carpet, may have different tax treatment depending on who the seller is and how

the transaction is structured. Also, transactions that seem to be similar in nature, such as the installation of countertops and cabinets, are treated differently as well.

For several years, the Department has sought clarification from the General Assembly on this issue. The Revenue Laws Study Committee first studied it in 2012, with no recommendation, and again in 2013 recommending this legislation.

BILL ANALYSIS: Part VII of the Senate PCS for House Bill 1050 provides that the general rate of tax applies to the sales price of tangible personal property sold to a real property contractor when that property is used by the contractor for the improvement, alteration, or repair of real property and the item becomes part of the real property. The bill defines the term "retailer-contractor" as an entity that can act either as a retailer or as a real property contractor. The sales tax provisions applicable to a real property contractor would apply to a retailer-contractor when it is acting as a real property contractor. Retailer-contractors may continue to make tax-exempt purchases of materials, as they do now, but would accrue and pay the tax once the items are withdrawn from inventory and used in the performance of a real estate improvement contract. If the retailer-contractor uses a subcontractor to perform the installation, then the subcontractor would pay the tax on any items the subcontractor purchases in fulfilling the contract. However, in accordance with existing use tax principles, the retailer-contractor and the subcontractor would be jointly and severally liable for the tax.

The second part of the proposal holds harmless retailers that have been following the law as interpreted by the Department, such as Home Depot, as well as retailers who have asserted that the Department's interpretation is inconsistent with existing statutes, such as Lowe's.

EFFECTIVE DATE: This Part would become effective January 1, 2015, and would apply to sales on or after that date and contracts entered into on or after that date.

BACKGROUND: This issue drew particular attention in 2009 when newspaper reports revealed a long-running dispute between Lowe's and the Department of Revenue on the application of the law in this area. The report indicated that Lowe's was not collecting sales tax when it sold and subsequently installed items such as cabinets, flooring, and countertops. The Department's position is that these transactions are retail sales plus installation and that Lowe's should be collecting sales tax on the purchases but not the installation charges as long as those charges are separately stated on the customer's invoice. Lowe's position is that these transactions are performance contracts and, therefore, they are only required to pay the use tax because they are the user or consumer of that property and that the cost is factored into the "contract price" ultimately paid by the customer, but it is not a separately stated cost.

HOUSE BILL 1050:
Part VIII – Other Sales Tax Changes

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	May 23, 2014
Introduced by:	Reps. Howard, W. Brawley, Lewis, Setzer	**Prepared by:**	Trina Griffin Committee Counsel
Analysis of:	PCS to Third Edition H1050-CSRBx-49		

SUMMARY: ***Part VIII makes various sales tax changes.***

CURRENT LAW, BILL ANALYSIS, AND EFFECTIVE DATE:

Section	Explanation and Effective Date
8.1	This section moves the substance of the law imposing the State sales tax on accommodations to a new statutory section for stylistic purposes. The only substantive change provides that a private residence or cottage rented for fewer than 15 days that is listed with a real estate broker or agent is subject to sales tax and occupancy tax. Beginning in 1984, the Department of Revenue interpreted the private residence exemption to apply only if the residence was not listed with a real estate agent. A 1988 memo by an Associate Attorney General supported this interpretation. In 2012, the Department changed its interpretation and issued an Important Notice indicating that the sales tax exemption applied to a private residence rented for fewer than 15 days regardless of whether it was listed with a real estate agent. The current law states that "*The tax does not apply to a private residence or cottage that is rented for fewer than 15 days in a calendar year...*", but it goes on to state that "*A person who, by written contract, agrees to be the rental agent for the provider of an accommodation is considered a retailer under this Article and is liable for the tax.*" The Department has requested that language be added to the statute that is consistent with its pre-2012 interpretation. This change would impact the application of occupancy tax as well because G.S. 155A-155 and 160A-215 provide that "*the room occupancy tax applies to the same gross receipts as the State sales tax on accommodations and is calculated in the same manner as that tax.*" This section would become effective June 1, 2014, and apply to private residences occupied as a transient accommodation on or after that date even if the accommodation was reserved or paid for prior to the effective date.
8.2	This section disallows a sales tax refund for sales tax paid on video programming and piped natural gas. Historically, the State sales tax refunds allowed to nonprofits and local governments has not applied to sales tax paid on utilities. Prior to 1995, when piped natural gas was subject to sales tax, piped natural gas was included in the list of utilities for which a sales tax refund was not allowed. Last session, when the General Assembly made the policy decision to return piped natural gas to the sales tax base, this conforming change was not considered or made. Likewise, when the General Assembly made the policy decision to begin taxing video programming as a utility, a conforming change to the refund statutes was not considered or made. This section treats utilities that are taxed by the State at the combined

	general rate the same. This section becomes effective July 1, 2014, and applies to purchases occurring on or after that date.
8.3	Subsection (a) repeals the sales tax exemption for sales from vending machines of one cent per sale. The provision is obsolete. S.L. 2013-316 removed the sales tax exemption applicable to newspapers sold by street vendors, newspaper carriers, and vending machines. The intent was to tax all newspapers at the State and local sales tax rate. However, G.S. 105-164.13(50) exempts 50% of the sales price of items sold through a coin-operated vending machine from sales tax. To maintain the intent of the 2013 tax law change, subsection (b) provides that the sales tax exemption applicable to 50% of the sales price of items sold through a vending machine does not apply to newspapers. The law currently excludes tobacco products sold through vending machines from this 50% exemption. This section becomes effective October 1, 2014, and applies to sales made on or after that date.
8.4	Effective January 1, 2014, S.L. 2013-316 increased the State sales tax rate on manufactured and modular homes. In response to industry concerns, this section imposes the tax on ½ of the price of the home by exempting 50% of the sales price from sales tax. The industry states that the average material cost in a factory-built home is approximately 50% of the invoice price. The intent of this section is to more closely tax manufactured and modular homes in a similar manner as stick-built homes. This section becomes effective July 1, 2014.

HOUSE BILL 1050:
Part IX - Excise Tax Changes

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	May 23, 2014
Introduced by:	Reps. Howard, W. Brawley, Lewis, Setzer	**Prepared by:**	Cindy Avrette Committee Counsel
Analysis of:	PCS to Third Edition H1050-CSRBx-49		

SUMMARY: ***Part IX of the Omnibus Tax Law Changes bill makes various changes to the excise tax statutes, as requested by the Excise Tax Division of the Department of Revenue.***

CURRENT LAW, BILL ANALYSIS, AND EFFECTIVE DATE:

Section	Explanation	Effective Date
9.1	Subsection (c) of this section applies to the excise tax on alcohol. It would allow a wholesaler or importer of malt beverages and wine to provide security to the Secretary in the form of a letter of credit as an alternative to a bond. This form of security is consistent with what is currently allowed under the excise tax statutes for motor fuels and tobacco products. This subsection also removes the option of a taxpayer providing security in the form of a bond based upon obligations of a governmental unit. This option has not been used in recent memory and is not a form of collateral allowed in other tax schedules. In the few instances where it has been used, the Department's experience has shown that the bonds are often rolled over into a personal CD when the bond matures rather than another governmental bond. Subsections (a) and (b) of this section modernize the statutes and clarify that the letter of credit must be issued by a bank acceptable to the Secretary and available to the State as a beneficiary.	When it becomes law
9.2	This section would allow a wholesale dealer or retail dealer of other tobacco products to provide the Department a manufacturer's tax affidavit in lieu of a notarized tax affidavit as supporting documentation for a tax refund. A dealer that has stale or unsalable tobacco products upon which the tax has been paid is allowed a refund of that amount. The majority of states allow a dealer to use manufacturer tax affidavits as supporting documentation. The allowance of a written certification from the manufacturer signed under perjury of law does not lessen the accountability of the taxpayer and it expedites the administration of the refund. The change in the statute has been requested by taxpayers.[1]	
9.3	This section would amend the tax secrecy provisions as follows: • To allow the Department to furnish a data clearinghouse the information required to be released in accordance with the State's agreement under the	When it becomes law

[1] U.S. Smokeless Tobacco Brands operates a secure website that allows distributors to access affidavits and credit memos for their returns. Each affidavit includes an accurate list of product eligible for return in a state along with an electronically signed statement.

	December 2012 Term Sheet Settlement, as finalized by the State in the NPM Adjustment Settlement Agreement, concerning annual tobacco product sales by a nonparticipating manufacturer. • To allow the Department to share information with a person who provides a surety bond or irrevocable letter of credit on behalf of a taxpayer if the information is necessary for the Department to collect on the bond or letter of credit in the event the taxpayer does not comply with the tax laws.	
9.4	This section would allow the Secretary of Revenue to delegate the authority to hold hearings. Under administrative practice, this authority has been delegated to a staff attorney.	When it becomes law
9.5	This section clarifies that the tax on motor carriers applies to both intrastate motor carriers and to interstate motor carriers. It also updates the reference to the International Fuel Tax Agreement from June 1, 2010, to July 1, 2013. The update in the reference does not make any substantive changes to the tax laws concerning motor carriers.	When it becomes law
9.6 9.10	Section 9.6 clarifies that local sales tax is due on motor fuel for which a refund of the per gallon excise tax is allowed. Under current law, the State sales tax is deducted from any amount of excise tax refunded. This section clarifies that the local sales tax revenue is also deducted from any amount of excise tax refunded. Section 9.10 clarifies the amount of local sales tax to be deducted from a refund of excise tax paid.	When it becomes law
9.7	This section would tax all biodiesel fuel. B100 is not subject to federal excise tax, and as such is not subject to the State excise tax. B99.9 is subject to the State excise tax since it is a blended product. B100 is most commonly used as a motor fuel.	October 1, 2014
9.8	This section would allow the Secretary to waive or reduce civil penalties imposed under the motor fuel tax statutes under the Department's penalty waiver policy used for other tax schedules. Under current law, a person assessed a civil penalty under the motor fuel tax laws must pay the penalty at the time it is assessed and file a request for a Departmental review of the penalty. Under the change proposed by this section, the penalty would not automatically be payable upon assessment and the administrative process for waiving or reducing it would be simpler and less time consuming. Although a taxpayer must go through the review process for the waiver or reduction of a penalty, the guidelines used to make the decision are the same guidelines currently applied through the penalty waiver policy.	When it becomes law
9.9	This section would clarify that a shipping document required by the vessel transporting motor fuel is intended to provide permanent information. Under current law, if the document is issued by a refiner or a terminal operator, the document must be machine printed. That requirement is not there for a tank wagon importer. A tank wagon importer is a person who imports motor fuel from a terminal or bulk plant in another state and	October 1, 2014

	transports the fuel only by means of a tank wagon. A tank wagon is a truck designed to carry at least 1,000 gallons of motor fuel but is not a transport truck. Motor fuel investigators have found shipping documents to be notes contained on a "grease board" or chalk board or other type of device that can be erased.	
9.10	Removes obsolete references to the privilege tax.	

HOUSE BILL 1050:
Part X - Tax Law Compliance Changes

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	May 23, 2014
Introduced by:	Reps. Howard, W. Brawley, Lewis, Setzer	**Prepared by:**	Greg Roney Committee Counsel
Analysis of:	PCS to Third Edition H1050-CSRBx-49		

SUMMARY: ***Part X of the bill draft would require filing all State tax returns and paying all State taxes to receive and hold an ABC permit. Part X of the bill draft also would authorize the Department of Revenue to use $500,000 (currently, $150,000) from the collection assistance fee account to contract for taxpayer locater services.***

CURRENT LAW: G.S. 18B-900 lists the following requirements to receive and hold an ABC permit:

- Be at least 21 years old (19 years old for managers selling only beer and wine).
- Be a NC resident unless the out-of-state person is not responsible for operations.
- Not have been convicted of a felony within 3 years or had citizenship restored.
- Not have been convicted of an alcoholic beverage offense within 2 years.
- Not have been convicted of a misdemeanor controlled substance offense within 2 years.
- Not have had an ABC permit revoked within 3 years except failures to pay registration fee.
- Not have an unsatisfied judgment for injury caused by sales to underage persons.

The requirements under G.S. 18B-900 apply to each of the following persons:

- Owner of a sole proprietorship.
- Managers for a corporation.
- Members of a general partnership.
- General partners in a limited partnership.
- Managers and any members with 25% interest in a limited liability company.
- Each officer, director, and owner of 25% of a corporation.

G.S. 18C-141 prohibits the Director of the North Carolina State Lottery Commission from recommending lottery game retailers to the Commission who are not current in filing all State tax returns and paying all State taxes.

G.S. 105-230 suspends the charter of any corporation or a limited liability company that fails to file any tax return or pay any tax. Any act performed or attempted to be performed during the period of suspension is invalid and of no effect unless the charter is reinstated after filing and paying all taxes.

G.S. 105-243.1 imposes a 20% collection assistance fee on overdue tax debts after 90 days.[1] The collection assistance fee is credited to a special account and must be applied to the costs of collecting overdue tax debts.

BILL ANALYSIS:

Part X – Section 10.1.(a): The bill draft would add a new requirement to G.S. 18B-900 that ABC permit applicants file and pay all State taxes. State taxes must be collectable and finally determined to be due for the tax to block an ABC application.

Procedurally, the ABC Commission will request the Department of Revenue check the State tax compliance status of persons. If the Department of Revenue reports to the ABC Commission that a person is not in State tax compliance, then the person cannot receive an ABC permit until the Department of Revenue reports to the ABC Commission that the person is in compliance. Taxpayers who enter into an installment payment agreement with the Department of Revenue are considered in compliance as long as the agreement is in force.

The requirement of State tax compliance operates like all ABC permit requirements under G.S. 18B-900 – applying to all persons listed in G.S. 18B-900(c) and applying continually to hold a permit. Four types of ABC permits may still be issued without State tax compliance: special occasion permit under G.S. 18B-1001(8), limited special occasion permit under G.S. 18B-1001(9), special one-time permit under G.S. 18B-1002, and salesman permit under G.S. 18B-1111.

Part X – Section 10.1.(b): The Administrative Procedure Act (Chapter 150B) does not apply to the ABC Commission's actions when determining State tax compliance and refusing to issue ABC permits.

Part X – Section 10.1.(c): The exchange of confidential taxpayer information between the Department of Revenue and the ABC Commission is authorized.

Part X – Section 10.1.(d): The bill draft authorizes the Department of Revenue to spend $500,000 annually on taxpayer locater services. The current authorization is $150,000. The source of the funds is the collection assistance fee imposed on overdue tax debts.

BACKGROUND:

Sections 10.1(a-c): The bill draft closely follows the statute (G.S. 18C-141) requiring lottery retailers to file and pay all State taxes. The ABC Commission and the NC Department of Revenue plan to check the State tax compliance of all new and renewing ABC permits starting May 1, 2015.

Section 10.1(d): The collection assistance fee provides funds to pay for the costs of collecting overdue tax debts which have included personnel at the Department of Revenue that collect taxes, locator services, and infrastructure projects at the Department of Revenue. When attempting to collect overdue taxes, the Department of Revenue uses locator services through contracts with private data services to identify current addresses for taxpayers.

EFFECTIVE DATE: Sections 10(a-c) of the bill draft requiring tax compliance for ABC permits would be effective May 1, 2015. Section 10.1(d) increasing funding for locator services is effective when it becomes law.

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[1] The Department of Revenue may not mail the collection assistance fee notice earlier than 60 days after the tax debt becomes collectible under G.S. 105-241.22. A collection assistance fee is imposed on an overdue tax debt that remains unpaid 30 days or more after the fee notice is mailed to the taxpayer.

HOUSE BILL 1050:
Part XI – Property Tax Changes

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	May 23, 2014
Introduced by:	Reps. Howard, W. Brawley, Lewis, Setzer	**Prepared by:**	Trina Griffin Committee Counsel
Analysis of:	PCS to Third Edition H1050-CSRBx-49		

SUMMARY: ***Part XI provides for the central assessment of mobile telecommunications property.***

CURRENT LAW & ANALYSIS: Under current law, the property is locally assessed by each county. The valuation of this property has become increasingly complex due largely to the rapidly changing technology in the industry and to the frequent acquisitions and mergers of wireless carriers. Central assessment by the Department would simplify the listing process for the industry and ensure uniformity of assessment among the counties. The Department would then allocate the valuation to each county where the property is sited. The change is supported by the mobile telecommunications industry, the Department of Revenue, and local governments.

The central assessment would apply to all of the tangible personal property of a mobile telecommunications company and would also include the cellular towers owned by such companies as well as the cellular towers owned by "tower aggregators." The assessment would not include intangible personal property, such as FCC licenses. Real property owned or leased by a mobile telecommunications company or tower aggregator would continue to be assessed locally in each county. This section would become effective for taxable years beginning on and after July 1, 2015.

O. Walker Reagan
Director

H1050-SMSV-116 CSRBX-49 -V1

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HOUSE BILL 1050:
Part XII – Privilege License Tax

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	May 23, 2014
Introduced by:	Reps. Howard, W. Brawley, Lewis, Setzer	**Prepared by:**	Trina Griffin Committee Counsel
Analysis of:	PCS to Third Edition H1050-CSRBx-49		

SUMMARY: ***Part XII would maintain the local privilege tax authority for one more year with two modifications: a city may not increase the tax on any business during that year, and it may not tax a business physically located outside the city's limits. Beginning July 1, 2015, both the city and county authority to levy a privilege license tax would be repealed. This would include their authority to levy a privilege tax on low-level radioactive and hazardous waste facilities.***

CURRENT LAW: Under current law, a city has the authority to levy a privilege tax on all trades, occupations, professions, businesses, and franchises carried on within the city, subject to certain limitations. These limitations range from outright prohibitions on certain businesses and professions to a cap on the amount of tax for other types of businesses. For example, cities are currently prohibited from levying a privilege license tax on certain professionals who are taxed at the State level, such as attorneys, physicians, engineers, real estate brokers, and home inspectors. Cities are also prohibited from taxing banks, private protective services, burglar alarm dealers, household appliance dealers, and office equipment dealers. Approximately 64 types of businesses are subject to a cap on the amount of tax that a city may impose. Examples of businesses whose rate is capped include: amusements, $25; collection agencies, $50; peddlers of farm products, $25; contractors, $10; restaurants, $42.50; barbershops & beauty parlors, $2.50 per person employed; firearms dealers, $50; auto dealers, $25.

Other than these specifically named prohibitions and caps, there is no statutory restriction on the amount of tax that may be charged. It may be in the form of a flat tax or a tax measured by gross receipts. Over 300 cities levy a privilege tax generating $62.2 million. It produces significant revenue for about seven cities: Charlotte, Raleigh, Greensboro, Durham, High Point, Lumberton, and Hickory.

Cities and counties may tax businesses that do not have a permanent physical location in the taxing jurisdiction as long as the business has a legally significant economic nexus with the city. Most businesses that fall into this category are service providers that provide services on a customer's property. This would include businesses like landscapers, plumbers, electricians, home inspectors, and appraisers. To the extent a business sends employees into a taxing jurisdiction to perform service or repair work, to deliver goods on a regular basis, to take orders for goods, or to receive payments, it is conducting business in that city and may be subject to the city's privilege tax.

Cities and counties also have authority under a separate statute to impose a privilege license tax on hazardous waste facilities or low-level radioactive waste facilities that are located within their limits. The rate is based on the additional costs incurred by the city or county from having such a facility in its jurisdiction to the extent compensation for the costs is not otherwise provided. These costs may include the loss of property tax revenues from the property on which the facility is located, the cost of providing additional emergency services, and the cost of monitoring air, surface water, groundwater, and other environmental media. There are approximately 42 of these facilities located inside city limits.

BILL ANALYSIS: Part XII of the Senate PCS for House Bill 1050 does three things:

- It reenacts G.S. 160A-211(a), the subsection that authorizes cities to levy a privilege license tax, which was inadvertently repealed by virtue of a drafting error in Section 58(b) of S.L. 2013-414. The reenactment is effective when it becomes law.
- It modifies the current authority in the following two ways:
    - For purposes of the 2014-2015 fiscal year, it limits a city's authority to tax only those businesses that are physically located within the city's limits. A business is not physically located within a city if its only presence in that city is through the performance of services or through the dispatch of employees to perform work, deliver goods, collect payments, or take orders. The intent of this provision is to tax only those businesses that have a physical location in the city, such as an office, a headquarters, a storefront, or other location from which the business directs and conducts its operations, or from which it holds itself out to the public as the place where the business is located.
    - It limits a city to the same privilege license tax schedule that was in place for the 2013-2014 fiscal year, meaning that a city may not increase any tax rate or tax amount for the 2014-2015 fiscal year; if a city did not have a privilege license tax in 2013-2014, it may not levy one in 2014-2015.
- Beginning July 1, 2015, both the county and city authority to levy a local privilege license tax are repealed. This includes the authority to levy a privilege tax on low-level radioactive and hazardous waste facilities. The city privilege tax generates a cumulative total of approximately $62 million; the county privilege tax, levied in only 37 counties, generates a total of less than $500,000. For many cities, the loss of revenue from the repeal of the current tax structure is overcome by the revenue it receives in local sales tax revenue from an expansion of the sales tax base under S.L. 2013-316[1] and from the greater collection of sales tax applicable to online purchases from the agreement of Amazon to collect and remit sales tax on purchases made through Amazon.[2]

[1] Approximately $10.9 million.
[2] Approximately $2.9 million.

HOUSE BILL 1050:
Part XIII - License Plate Agent Compensation

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	May 27, 2014
Introduced by:	Reps. Howard, W. Brawley, Lewis, Setzer	**Prepared by:**	Heather Fennell
Analysis of:	PCS to Third Edition H1050-CSRBx-49		Committee Counsel

SUMMARY: ***Part XIII sets the LPA transaction rate for the collection of property tax under the Tax & Tag Together program at the transitional rate of $1.06, clarifies the increased rate applies to all transactions where an LPA collects property tax as of July 1, 2014, and allows the retroactive portion of the fee increase to be paid out over a three month time period.***

CURRENT LAW: The Division of Motor Vehicles (DMV) is required to ensure, as far as practicable and possible, that registration and registration renewals for motor vehicles may be issued through license plate agents (LPAs) located in every community across the State. DMV enters into commission contracts with individuals to perform this service. The local tag agents are compensated on a per transaction basis. The standard rate for a transaction is $1.43. Unless otherwise provided, the performance of one or more transactions at the same time is considered a single transaction for purposes of compensation. Certain transactions are always considered separate transactions and allowed a different rate of compensation. The collection the highway use tax is considered a separate transaction and compensated at $1.27.

In September 2013, the State began implantation of a combined system for motor vehicle registration renewal and property tax collection. Under the new Tax & Tag Together program, the motor vehicle owner will receive one bill, and make one payment for both property taxes and vehicle registration renewal. The Tax & Tag Together program also provides for the issuance of a temporary registration plate if property taxes are not paid with the issuance of a new plate. A person may be issued a limited registration "T" sticker for the temporary registration plate.

S.L. 2013-372 provided increased compensation for LPAs new duties required under the Tax & Tag Together program. The collection of property taxes and the issuance of a "T" sticker" are recognized as separate transactions for the purpose of compensation. The transaction rate for the issuance of a "T" sticker was set at $1.27, effective July 1, 2013. The transaction rate for collecting property tax with registration renewals for the transitional period of the first six months of the Tax & Tag Together program was set at $1.06. The transaction rate after the first six months for both new registration and renewals was set at $0.71.

BILL ANALYSIS: Part XIII sets the LPA transaction rate for the collection of property tax under the Tax & Tag Together program at the transitional rate of $1.06. The transitional rate will apply to the collection of property taxes with registration renewals for the entire 2013 fiscal year. The draft also clarifies the increased rate applies to all transactions where an LPA collects property tax, effective July 1, 2014, therefore, setting the transitional rate of $1.06 per transaction to all collections of property tax by LPAs for the 2014 fiscal year and thereafter.

Below is a chart that shows the recent changes in the compensation to LPAs, as well as the proposed increase:

	Transaction fee to LPAs for collection of:				
	Property tax with renewal		Property tax with new registration		Property tax with new registration and renewals
	July 2013 – March 2014	March 2014 – July 2014	July 2013 – March 2014	March 2014 – July 2014	July 2014 and thereafter
Prior to 2013-372	$0.48	$0.48	$0.48	$0.48	$0.48
2013-372	$1.06	$0.71	$0.71	$0.71	$0.71
Draft proposal	No change	$1.06	No change	No change	$1.06

Under current law, the fee for property tax collection by LPAs for renewals that expire on or after March 1, 2014, will decrease to $0.71. The draft extends the transitional rate of $1.06 for the collection of property tax with registration renewals that expire on or after June 30, 2014. If enacted, the draft proposal would direct DMV to calculate the difference in the payments made under the current law and the proposed increase in this draft by September 1, 2014. The difference in the two rates would be paid to LPAs by deducting the appropriate amount of the property tax revenues remitted to the counties. The payment to the LPAs and the corresponding reduction in the payments to the counties would be made in equal amounts over a three month period.

The draft also clarifies the increased fee for property tax collection applies to all transactions where a LPA collects property taxes, effective July 1, 2014.

DMV receives compensation from the counties for the duties it performs under the Tax & Tag Together program. A conforming change made in S.L. 2013-372 has been interpreted to provide DMV with an increase in the fee it receives for the collection of property tax to mirror the amount paid to LPAs. This draft maintains the increase in the fee to $0.71 for DMV provided in S.L. 2013-372, but does not provide DMV with the increase provide LPAs in this draft. The fee provided to DMV will be the amount set in the Memorandum of Understanding (MOU) signed by the Department of Revenue and the Division of Motor Vehicles. Future MOUs can amend the transaction fee paid to DMV, but the fee cannot exceed the per transaction fee allowed for LPAs.

EFFECTIVE DATE: The portion of this Part related to the fee for registration renewals is effective March 1, 2014. The remainder of this Part is effective July 1, 2014.

2013-2014 General Assembly

HOUSE BILL 1050: Part XIV – Technical, Clarifying, & Administrative Changes

Committee:	Senate Finance	**Date:**	May 23, 2014
Introduced by:	Reps. Howard, W. Brawley, Lewis, Setzer	**Prepared by:**	Trina Griffin Committee Counsel
Analysis of:	PCS to Third Edition H1050-CSRBx-49		

SUMMARY: ***Part XIV makes clarifying, conforming, and administrative changes to the various tax laws. Unless otherwise stated, this Part would become effective when it becomes law.***

CURRENT LAW, BILL ANALYSIS, AND EFFECTIVE DATE:

Section	Explanation and Effective Date
14.1	This section corrects a cross reference.
14.2	This section replaces two outdated references with respect to qualifying for the major recycling facility tax credits. First, it replaces the term "enterprise tier one area" with the term "development tier one area." The current statute requires that, at the time the owner begins construction, the facility be located in an enterprise tier one area. The term "enterprise tier one area" was part of the Bill Lee tax credits, which expired in 2007. The current equivalent term, originating with the enactment of the Article 3J tax credits, is "development tier one area." A development tier one area is a county whose annual ranking is one of the 40 highest in the State. Second, it deletes the wage standard requirement to be consistent with the current law as it applies to a tier one area. In 2002, the General Assembly eliminated the wage standard for enterprise tier one and two areas[1] but a conforming change was not made to this statute. At the time, there was only one taxpayer that qualified for the credit, and the wage standard was only required to be met at the time construction began on the facility, which had already occurred. However, to the extent there may be taxpayers who qualify for this credit, which is only available in a tier one area, in the future, the statute should be amended to reflect the fact that the wage standard is no longer a requirement in a tier one area.
14.3	This section inserts a word that was inadvertently omitted.
14.4(a)	This section deletes the definition of "Dependent" because the term is not required after the changes made by House Bill 998, S.L. 2013-316.
14.4(b) &14.5	This section updates the terminology used in the statutes authorizing withholding of income tax from wages. After House Bill 998, S.L. 2013-316, "exemptions" are not part of the computation of estimated tax to withhold from wages. Instead, the Department of Revenue uses the term "allowances."
14.6	This section deletes a statutory formula used to calculate the amount of estimated tax to

[1] S.L. 2002-172.

	withhold from pension payments where the recipient fails to file a withholding tax form. After House Bill 998, S.L. 2013-316, the statutory formula no longer approximates recipient's tax liability. Recipients who do not complete the tax form to calculate withholding from pension payments will be treated the same as employees who do not complete the tax form.
14.7	This section makes technical changes to sales tax definitions. It deletes the word "retail" within the definition of "net taxable sales" because the term is already included by virtue of the definition of the term "gross sales." It deletes the word "the" in the definition of "retailer" because "engaged in business" is the proper defined term. It also updates the reference to the most recent version of the Streamlined Sales Tax Agreement as adopted by the governing board.
14.8	This section makes various technical changes to the sales tax imposition statute.
14.9	This section clarifies that a facilitator who is liable for tax[2] must obtain a certificate of registration like other retailers. A facilitator is a person, other than a real estate agent, who contracts with a provider of an accommodation to market the accommodation and who accepts payment from the consumer for the accommodation. An example of a facilitator would be an online travel company like Expedia, Orbitz, or Priceline.
14.10	This section provides for the applicable due date for a sales tax payment if the due date falls on a weekend or holiday or on a day that the Federal Reserve Bank is closed, which prohibits a person from making a payment by ACH[3] Debit or Credit. These provisions are currently contained in an informational document on the Department's website, but there is not a specific statute, other than one that applies only to payment of property taxes.[4]
14.11	This section changes from March 1 to March 15 the annual due date for the captive insurance tax return. S.L. 2013-116 provided that the annual report due date for some captive insurance companies is March 1 and, for others, such as a pure captive, it is March 15. The tax returns for all captives are due March 1. This year, the pure captive insurance companies filed premium tax returns by the March 1 due date and attached to the return copies of pages from their annual reports in support of the premium information marked "draft" since the tax return was due before the financial statement. This issue would be eliminated by changing the due date for all premium tax returns to March 15.
14.12	This section makes one technical change and one substantive change. The technical change corrects a statutory reference. The substantive change would add a new criminal offense to the list of offenses for which the Secretary of Revenue may appoint employees of the Criminal Investigations Division to serve as revenue law enforcement officers. The new offense, which was created by the General Assembly in 2013, is for the possession, transfer, or use of an automated sales suppression device, informally known

[2] Under G.S. 105-164.4(a)(3), a facilitator must send the retailer the portion of the sales price that the facilitator owes the retailer plus the tax due once the accommodation rental marketed by the facilitator is completed. A facilitator that does not send the retailer the tax due on the sales price is liable for the amount of tax the facilitator failed to send.

[3] Automated Clearing House Debit is a method of payment that enables companies to electronically withdraw funds from bank accounts using bank routing numbers and individual account number.

[4] G.S. 105-395.1.

	as "tax zapper software."
14.13	This section provides the Department of Revenue with guidance on how to treat amended returns filed under two repealed taxes. Subsections (a) and (b) provide guidance for amended returns filed under the franchise tax on electricity. Subsections (c) and (d) provide guidance for amended returns filed under the excise tax on piped natural gas. Subsections (e) and (f) clarify that only cities that received a distribution under the repealed franchise tax and excise tax will receive distributions from the new sales tax on electricity and piped natural gas. The Tax Reduction Act, S.L.2013-316, included electricity and piped natural gas in the State sales tax base while repealing the utility franchise tax on electricity and the excise tax on piped natural gas. A portion of both of the repealed taxes was shared with the cities. The Tax Reduction Act replaced the tax-sharing revenue under the repealed taxes with a distribution of part of the sales tax on electricity and piped natural gas. The amount distributed to each city under the sales tax is based on the distribution under the repealed taxes the last year those taxes were in effect. Utilities are allowed to file amended returns on the repealed taxes for up to three years. Amended returns filed on the repealed taxes can change both distributions under the repealed taxes and the amount to be distributed to cities under the new sales tax on electricity and piped natural gas. These sections provide guidance to the Department on how to treat amended returns that change past and future distributions. First, it provides that any additional funds needed for increases to past distributions under the repealed taxes can be drawn from the sales tax revenue. Second, it creates a date certain for the future distributions to be determined. The Department of Revenue will set the distributions for each fiscal year by September 15 using amended returns processed by the Department prior to July 31 of that year.
14.14	Property that is appraised at its present use value may remain in the program if the property is under an enforceable conservation easement that would qualify for the conservation easement tax credit. S.L. 2013-316 repealed the conservation easement tax credit for taxable years beginning on or after January 1, 2014. The repeal of the tax credit was not intended to effect property in the present use value program. This section puts the applicable provisions that were provided in the tax credit statutes in Chapter 113A and makes the necessary conforming changes in other statutes.
14.15	This section deletes an inconsistent effective date for the repeal of G.S. 105-159.2 which formerly allowed a taxpayer to checkoff a donation to the North Carolina Public Campaign Fund. Section 38.1.(f) of S.L. 2013-381 repealed G.S. 105-159.2 effective July 1, 2013. This section makes the effective date of a duplicative repeal in Section 21.1.(c) of S.L. 2013 360 effective at the same time.
14.16	This section updates from January 2, 2013, to December 31, 2013, the reference to the Internal Revenue Code. This change keeps the statute up to date, but does not result in any substantive changes because there have not been any federal tax law changes since January 2, 2013, that impact the calculation of North Carolina taxable income.
14.17	This section changes the name of the document filed by the Secretary of Revenue to release an erroneous tax lien. Currently, the Department of Revenue files a "certificate of release" that credit reporting agencies treat as a negative item on a credit report. The renamed document, "certificate of withdrawal," is expected to cancel the original tax lien

	without impacting the taxpayer's credit report. This section is effective when it becomes law.
14.18	S.L. 2013-157 made a number of changes to North Carolina's Limited Liability Company Act. Among the changes was a new defined term of "company official" defined as: "*Any person exercising any management authority over the limited liability company whether the person is a manager or referred to as a manager, director, or officer or given any other title.*" This section incorporates the new term into the responsible person statute, which provides for personal liability when certain taxes are not paid. The section also removes the limitation on the type of withholding taxes that can be collected from a responsible person. Current law allows the Department of Revenue to hold business operators liable for income tax withheld on employee wages. This section eliminates the requirement that the withholding be for employee wages. For example, withholding on independent contractors could now be collected from responsible persons. This section is effective when it becomes law.
14.19	This section updates a statutory reference.
14.20	S.L. 2013-316 repealed the individual income tax credit for property taxes paid on farm machinery. This section removes references to the tax credit that are no longer needed in the property tax statutes.
14.21	This section makes a technical correction by adding (32a) to the list of exempt inventories for which a person need not provide a report under G.S. 105-315 and makes stylistic changes to update the statute.
14.22	This section repeals an obsolete subsection. G.S. 105-537(d) provides that a county may not levy the one-quarter cent sales and use tax under Article 46 if it also levies the land transfer tax under Article 60. Article 60 was repealed by S.L. 2011-18.
14.23	This section corrects a Session Law reference in last year's Revenue Laws Technical changes act with respect to a local occupancy tax act.
14.24	This section creates a new limited registration plate for vehicles that are registered after the prior registration on the vehicle has expired. Current law provides for a limited registration plate for an initial registration, but there is not a similar provision for registration renewals. This section is designed to solve two customer service problems, one involving military service members, and the second involving appeals for vehicle valuations where the customer has not been given an opportunity to appeal the valuation. There are instances where an individual can choose not to renew the registration on a vehicle for a year or longer. As long as the vehicle is not being driven, this is allowed under the law. When the vehicle will be operated again, the owner must renew the vehicle registration. Under Tax & Tag Together, when the individual renews the registration, property taxes on the vehicle for the upcoming tax year are due at the time of renewal. Military service members – The federal Service Members Civil Relief Act provides that personal property (including vehicles) of service members is not subject to personal property taxes simply due to the fact that the member is serving in the state. Active duty service members often do not renew vehicle registrations when the member is deployed overseas. Under Tax & Tag Together, when a service member returns from deployment and seeks to renew a vehicle registration, the system will not allow the

	vehicle to be registered without payment of the property tax, even if the service member does not owe the tax. Valuation appeals – Under current law, individuals may appeal the valuation assigned to a motor vehicle for property tax purposes. Taxpayers are given notice of the valuation of the vehicle and the right to appeal on the combined property tax notice. The combined notice is sent 60 days prior when the taxes are due. However, if an individual has allowed the registration to lapse more than a year, the individual would not have received a bill and would not have received notice of the tax value for the upcoming property tax year. Under the current system, the taxpayer will not be able to renew the vehicle registration without paying the tax for which the taxpayer did not have the opportunity to appeal. This section allows a temporary limited registration plate to be issued in both of these circumstances. Once the limited registration plate is issued, the taxpayer would have 60 days to remedy the tax issue. Once the tax issue has been resolved, the taxpayer could apply for a permanent tag.
14.25	This section would allow the Unauthorized Substances Division within the Department of Revenue to pursue tax owed on controlled substances that are considered low-street-value drugs sold by weight. The prime example of this is meth. The Department may already collect tax on a variety of other controlled substances, including low-street-value drugs that are not sold by weight.
14.26	This section corrects a statutory reference.
14.27	This section corrects and conforms a cross-reference in the criminal statutes regarding ticket resales to the new sales tax statute governing admission charges.

HOUSE BILL 1050:
Part XV - Tax Vapor Products/ Prohibit in Jails

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	May 27, 2014
Introduced by:	Reps. Howard, W. Brawley, Lewis, Setzer	**Prepared by:**	Heather Fennell
Analysis of:	PCS to Third Edition H1050-CSRBx-49		Committee Counsel

SUMMARY: ***Part XV would provide an excise tax of 5¢ per milliliter to be imposed on vapor products, would prohibit the use of vapor products in State correctional facilities, and would make it a criminal offense to for a person to provide a vapor product to an inmate of a local confinement facility and for an inmate to possess a vapor product.***

CURRENT LAW: Under G.S. 105-113.5, cigarettes are taxed at 45¢ per pack. Other tobacco products (OTP), including pipe tobacco and roll-your-own tobacco is taxed under G.S. 105-113.35 at 12.8% of the cost of the product. The tax on cigarettes is paid by the distributor of the product. The tax on OTP products is payable by the wholesale dealer or retail dealer who first acquires or otherwise handles the product.

An electronic cigarette is a handheld device that produces vapor from a liquid. The liquid is generally heated to produce the vapor by a battery operated device. The liquid usually contains nicotine and sometimes contains flavors. The amount of the nicotine in the liquid can vary. Most electronic cigarettes are reusable. The liquid in the device can either be replenished replacing the cartridge that holds the liquid, or by manually refilling the liquid container.

In 2009, Congress enacted the Family Smoking Prevention and Tobacco Control Act, which gave the US Food and Drug Administration (FDA) the authority to regulate new tobacco products including e-cigarettes, nicotine gels, cigars, pipe tobacco, and dissolvable nicotine products.

In April 2014, the FDA issued proposed rules to regulate e-cigarettes. The proposed rules will be subject to 75 days of public comment. The proposed rules deem e-cigarettes a "tobacco product" for the purpose of federal regulation. The rules further propose to subject e-cigarettes to the following restrictions:

- Enforcement against adulterated or misbranded products.
- Ingredient disclosure and reporting of harmful components
- No modified risk descriptors (light cigarettes)
- No free samples
- Premarket review
- Minimum age for purchase

G.S. 148-23.1 prohibits the use and possession of tobacco products anywhere on the premises of a State correctional facility. Exemptions are provided for use and possession for religious purposes consistent with the policies of the Department of Public Safety (DPS), and also for possession by employees or visitors within the confines of a motor vehicle located in a parking area if the tobacco product remains in the vehicle and the vehicle is locked when the employee or visitor exits the vehicle.

G.S. 14-258.1 provides that it is a Class 1 misdemeanor to do either of the following:

- To knowingly give or sell tobacco products to an inmate on the premises of a correctional facility or in the custody of a local confinement facility, or to a person for delivery to an inmate.
- For an inmate in the custody of a local confinement facility to possess tobacco products.

BILL ANALYSIS:

Excise tax: Section 15.1 of Part XV would impose an excise tax of 5¢ per milliliter of the consumable product of vapor products. Vapor products are defined as noncombustible products that use a heating element to produce vapor from nicotine in a solution. The consumable product is the part of the vapor product that contains the nicotine liquid solution. All invoices for vapor products must contain the amount of the consumable product in milliliters.

Vapor products would be considered a subset of the other tobacco products, therefore, the tax would be administered as the tax on OTP. The tax will be paid the wholesale dealer or retail dealer who first acquires or otherwise handles the product. The tax does not apply to products sold outside the State, products sold to the federal government, or products distributed without charge. Taxes are paid monthly. Each dealer must keep sufficient records of vapor products transactions.

Wholesale dealers and retail dealers must obtain a license for each place of business that handles tobacco products. The license fee for wholesale dealers is $25, and the license fee for retail dealers is $10.

Taxpayers that file timely returns and payments of the taxes on OTP are allowed a discount of 2% of the amount due. This discount will not apply to the tax on vapor products.

No vapor in prisons and jails: Section 15.2(a) of Part XV prohibits the use of vapor products in State correctional facilities. Exemptions are provided for use and possession for religious purposes consistent with the policies of DPS, and for possession by employees or visitors within the confines of a motor vehicle located in a parking area if the vapor product remains in the vehicle and the vehicle is locked when the employee or visitor exits the vehicle.

Section 15.2(b) it a Class 1 misdemeanor for either of the following:

- To knowingly give or sell vapor products to an inmate on the premises of a correctional facility or in the custody of a local confinement facility, or to a person for delivery to an inmate.
- For an inmate in the custody of a local confinement facility to possess vapor products.

EFFECTIVE DATE: The provisions related to imposing the excise tax on vapor products is effective February 1, 2015. The provisions related to vapor products in State and local confinement facilities are effective December 1, 2014.

HOUSE BILL 1050:
Omnibus Tax Law Changes

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	May 23, 2014
Introduced by:	Reps. Howard, W. Brawley, Lewis, Setzer	**Prepared by:**	Cindy Avrette
Analysis of:	PCS to Third Edition H1050-CSRBx-49		Committee Counsel

SUMMARY: ***House Bill 1050 makes various tax law changes recommended by the Revenue Laws Study Committee. The Revenue Laws Study Committee met each month during the interim and began reviewing bill drafts at its November meeting. The Committee posted the drafts on its website; received comments from taxpayers, the Department of Revenue, and other interested parties; and held committee discussions. The Committee's meeting materials may be found on its website. Revenue Laws Committee Documents***

The Senate PCS for HB 1050 differs from the 3rd edition as follows:

- ***It removes Section 8.4. That section would have exempted from sales and use tax 50%of the sales price of a manufactured and a modular home.***
- ***It substantially changes PART XII. Under the Senate PCS, the local privilege license tax authority is repealed effective July 1, 2015, and the local privilege license tax authority for 2014 is limited to those businesses physically located within the city's limits.***
- ***It removes PART XVI. That Part would have reinstated the ability of any school of medicine affiliated with The University of North Carolina and The University of North Carolina Health Care System to be able to use the Setoff Debt Collection Act to collect unpaid debts.***

CURRENT LAW, BILL ANALYSIS, AND EFFECTIVE DATE: The bill draft incorporates the various bill drafts the Revenue Laws Study Committee considered this past interim. The purpose of this summary is to highlight the major provisions in each Part and to provide links to more detailed explanations.

PART I. DEDUCTION FOR STATE NET LOSS

This Part does three things to simplify the calculation and ease the administration of the corporate loss deduction, effective for taxable years beginning on or after January 1, 2015:

- It replaces the corporate net economic loss deduction with a State net loss deduction that is more comparable to the federal net operating loss deduction.
- It removes the requirement that a net economic loss must first be offset by nontaxable income.
- It instructs the Secretary of Revenue to apply the standards under sections 381 and 382 of the Internal Revenue Code when determining the extent to which a loss survives a merger or acquisition.

PART II. OTHER INCOME TAX CHANGES

This Part includes the following changes to the income tax laws:

- Corrects the dollar amount of the section 179 expense investment limit. This provision needs to be enacted as soon as possible since it impacts 2013 tax returns. Many taxpayers have filed extensions, waiting for this provision to be enacted. Others may file amended returns.
- Allows an asset transferred prior to January 1, 2013, to receive the full benefit of a Section 179 expense deduction. This provision needs to be enacted as soon as possible since it impacts 2013 tax returns. Over the past several years, North Carolina has decoupled from the federal section 179 enhanced expense deductions. For State tax purposes, a taxpayer has to add back 85% of the federal deduction and then deduct 20% of the add-back over five years. Last session, the General Assembly allowed a transferee of an asset for which the transferor had not taken all of the add-back deductions to have the benefit of the remaining deductions by adding the remaining deductions to the asset's basis and depreciating the adjusted basis over the remaining life of the asset. For transactions occurring before January 1, 2013, the transferee was allowed to make the basis adjustment on the transferee's 2013 return. However, this allowance does not help a taxpayer who had disposed of the asset or whose asset had no remaining useful life. This section remedies this situation by allowing a taxpayer to deduct the remaining bonus depreciation on the 2013 tax return.
- Clarifies the application of the standard deduction and the $20,000 deduction for mortgage interest expenses paid and property taxes paid on real estate.
- Updates the statutory references in G.S. 105-160.2 which imposes income tax on estates and trusts. Estates and trust generally receive the same modifications to taxable income and tax rates as single individuals. S.L. 2013-316 moved the statutes allowing modifications to North Carolina taxable income and setting the tax rate.

PART III AGRICULTURAL EXEMPTION CERTIFICATE

S.L. 2013-316 imposed an income threshold a person must meet to qualify for a sales tax agricultural exemption certificate, effective for purchases made on or after July 1 2014. This Part gives guidance to the farming community and the Department of Revenue as to the administration of the income threshold. It also allows the threshold to be met through a three-year income averaging to address issues of income volatility in farming operations.

PART IV. PREPAID MEAL PLANS

S.L. 2013-316 repealed the sales tax exemption for meals served to students in dining rooms regularly operated by educational institutions. The repeal of the exemption imposes the sales tax on a transactional basis. However, in practice, meals are not always directly sold. Today, educational institutions sell a variety of meal plans that offer choices between a specific number of "meal swipes" on a prepaid meal plan and "food dollars" that may be used to purchase items directly. The meal swipes are problematic to tax on a transactional basis because the gross receipts paid for the meal swipes applies regardless of whether or not the meals are consumed. This Part imposes the sales tax on the gross receipts derived from prepaid meal plans and makes other changes that will greatly simplify the administrative compliance burden and that will alleviate confusion regarding who is the retailer, what is the taxable transaction, and how the local tax revenues are sourced. This provision needs to be enacted as soon as possible because educational institutions will begin billing for the fall semester in July and payments will be received primarily during the months of July and August.

PART V. ADMISSIONS

S.L. 2013-316 changed the taxation of live events and movies from a gross receipts privilege tax to a State and local sales tax. It also expanded the sales tax base to include other attractions for which an

admission is charged. The act listed five exemptions from the tax. This Part answers questions taxpayers have about the administration and implementation of the tax, such as who must collect the tax, how will the local tax revenues be sourced, and what constitutes "admission charges". The Committee received numerous questions related to the exemptions, so the chairs appointed a subcommittee to specifically look at the exemptions. The subcommittee recommended streamlining and limiting the number of exemptions as the simplest way to ease confusion and ensure that similar events are taxed similarly, regardless of who sponsors the events.

PART VI. SERVICE CONTRACTS

S.L. 2013-316 expanded the sales tax base to include the sales price of a service contract. This Part removes ambiguity from the definition of a "service contract" and addresses the concerns expressed by taxpayers related to who must collect the tax and how to administer refunds of sale tax paid on service contracts that are later rescinded.

PART VII. RETAILER-CONTRACTORS

The applicability of sales tax to a transaction when a retailer acts as a performance contractor has been a source of contention over the past several years. This Part provides greater clarity to taxpayers and the Department of Revenue as to how the sales tax applies to retailer-contractors. Specifically, it provides that a retailer-contractor is the consumer of the items the retailer-contractor purchases and installs on real property to the extent the item becomes part of the real property. As the consumer, the retailer-contractor would be responsible for payment of the tax rather than the person who receives the finished item from the retailer-contractor.

PART VIII. OTHER SALES TAX CHANGES

This Part of the bill draft addresses various sales tax issues concerning the expansion of the sales tax base in S.L. 2013-316. It also addresses a sales tax issue concerning the taxation of accommodations from conflicting Department of Revenue interpretations over the past years.

- Provides that a private residence or cottage rented for fewer than 15 days that is listed by a real estate broker or agent is subject to sales tax and occupancy tax. Beginning in 1984, the Department of Revenue interpreted the private residence exemption to apply only if the residence was not listed with a real estate agent. A 1988 memo by an Associate Attorney General supported this interpretation. In 2012, the Department changed its interpretation and issued an Important Notice indicating that the sales tax exemption applied to a private residence rented for fewer than 15 days regardless of whether it was listed with a real estate agent.
- Disallows a sales tax refund for sales tax paid on video programming and piped natural gas. Historically, the State sales tax refunds allowed to nonprofits and local governments has not applied to sales tax paid on utilities. This section becomes effective July 1, 2014
- Maintains the legislative intent that all newspaper be taxed the same and removes the obsolete sales tax exemption for sales from vending machines of one cent per sale.

PART IX. EXCISE TAX CHANGES

The Committee recommends various changes to the alcohol, tobacco, and motor fuel excise tax statutes at the request of the Department of Revenue and taxpayers.

PART X. TAX LAW COMPLIANCE CHANGES

The Department of Revenue requested the Committee to consider enhancing its tools to improve compliance with the revenue laws. This Part increases the budget for locator service fees and subjects renewal of ABC retail permits to tax compliance checks.

PART XI. PROPERTY TAX CHANGES

This Part provides for the central assessment of mobile telecommunications equipment by experienced public service company appraisers at the Department of Revenue. Under current law, the property is locally assessed by each county. The change is supported by the mobile telecommunications industry, the Department of Revenue, and local governments. The Part would become effective for taxable years beginning on or after July 1, 2015.

PART XII. PRIVILEGE LICENSE TAX CHANGES

The Revenue Laws Study Committee has been presented with an overview of the local privilege license tax system four times in 10 years: 2004, 2008, 2012, and 2014. Historically, this system of taxation has been considered an outmoded, inefficient, and arbitrary method of raising revenue largely because it places a tax burden on only a limited portion of businesses. The tax has been characterized as archaic, arbitrary, and inconsistent. It is archaic because it is based on references to repealed statutes. It is arbitrary because there is no rationale for exempting some businesses, capping the amount of tax that may be imposed on other businesses, and subjecting still others to an unlimited amount of tax. It is inconsistent because different cities impose the tax in different amounts and use different interpretations of how to apply the repealed statutes.

This Part does 3 things:

- It reenacts G.S. 160A-211(a), the subsection that authorizes cities to levy a privilege license tax, which was inadvertently repealed by virtue of a drafting error in Section 58(b) of S.L. 2013-414. The reenactment is effective when it becomes law.
- For purposes of the 2014-2015 fiscal year, it amends the current privilege license tax statute by limiting the authority to tax only those businesses that are physically located within a city's limits. It also limits a city to the same privilege license tax schedule that was in place for the 2013-2014 fiscal year, meaning that a city may not increase any tax rate or tax amount for the 2014-2015 fiscal year; if a city did not have a privilege license tax in 2013-2014, it may not levy one in 2014-2015.
- Beginning July 1, 2015, both the county and city authority to levy a local privilege license tax are repealed. This includes the authority to levy a privilege tax on low-level radioactive and hazardous waste facilities.

Currently, over 300 cities levy a privilege tax generating $62.2 million. Although many cities may levy a privilege license tax, less than a dozen receive a measurable amount of revenue from it. For many cities, the loss of revenue from the repeal of the current tax structure is overcome by the revenue it receives in local sales tax revenue from an expansion of the sales tax base under S.L. 2013-316[1] and from the greater collection of sales tax applicable to online purchases from the agreement of Amazon to collect and remit sales tax on purchases made through Amazon.[2]

PART XIII. LICENSE PLATE AGENT COMPENSATION

S.L. 2013-372 increased compensation for license plate agents (LPAs) to recognize new job responsibilities imposed upon them under the Tax & Tag Together program. The State began the implementation of the Tax & Tag Together program in September 2013. Under this program, a motor

[1] Approximately $10.9 million.
[2] Approximately $2.9 million.

vehicle owner receives one bill and makes one payment for both property taxes and vehicle registration renewal. Under the legislation, the transaction rate for the transitional period of the first six months of the program was set at $1.06; the rate was set at $0.71 thereafter. The legislation directed the Revenue Laws Study Committee to study the transaction rate applicable to LPAs. The chairs appointed a subcommittee to review the changes. This Part sets the rate at the transitional rate of $1.06, clarifies the increased rate applies to all transactions where a LPA collects property tax as of July 1, 2014, and allows the retroactive portion of the fee increase to be paid out over a three month time period.

PART XIV. TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES

This Part makes various other technical, clarifying, and administrative changes to the revenue laws.

PART XV. TAX VAPOR PRODUCTS AND PROHIBIT THE USE OF VAPOR PRODUCTS IN JAILS

This Part imposes an excise tax of 5¢ per milliliter of the consumable product of vapor products, commonly referred to as electronic cigarettes, effective June 1, 2015. An electronic cigarette is a handheld device that produces vapor from a liquid. The liquid is generally heated to produce the vapor by a battery operated device. The liquid usually contains nicotine and sometimes contains flavors. The amount of the nicotine in the liquid can vary. Most electronic cigarettes are reusable. The liquid in the device can either be replenished replacing the cartridge that holds the liquid, or by manually refilling the liquid container. This Part also prohibits the use of electronic cigarettes in State correctional facilities, effective July 1, 2014, and makes it a Class 1 misdemeanor to possess a vapor product in a local confinement facility, effective December 1, 2014.

PART XVI. REMOVED

PART XVII. EFFECTIVE DATE

Except as otherwise provided in the bill draft, the bill becomes effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: May 27, 2014

TO: Senate Finance Committee

FROM: Sandra Johnson and Jonathan Tart
Fiscal Research Division

RE: House Bill 1050 (Unknown Edition)

FISCAL IMPACT
($ in millions)

☑ Yes ☐ No ☐ No Estimate Available

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
State Impact					
Corporate Income Tax					
State net loss	0.0	0.0	(5.0)	(5.0)	(5.0)
Tobacco Tax					
Vapor products		0.0	5.0	5.2	5.3
Sales Tax					
Prepaid meal plans					
Newspapers	Minimal Fiscal Impact; Gain of Less than $50K				
Retailer contractors	Negative Fiscal Impact, General Fund Impact Unknown				
NET STATE IMPACT	**$0.0**	**$0.0**	**$0.0**	**$0.2**	**$0.3**
Local Impact					
Fair & Flat Tax	Annual reduction of less than $500K in revenue for all counties and $62.2M in annual loss of funds for all cities				
Sales Tax Changes					
NET LOCAL IMPACT		**$0.0**	**$0.0**	**$0.0**	**$0.0**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Department of Revenue

EFFECTIVE DATE: Varies

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY:

Corporate Income Tax

Under current North Carolina law, corporations are allowed a deduction for a "net economic loss" instead of the "net operating loss" calculated for federal tax purposes. The primary difference is that a "net economic loss" generally means the amount by which allowable deductions exceed income from all sources including income not taxable, and the federal "net operating loss" generally means the amount by which allowable deductions exceed taxable income. The proposal would replace the "net economic loss" with a "State net loss" that is more closely aligned with the federal "net operating loss" calculation.

The current carryforward period of 15 years to utilize a loss for corporate income tax purposes is not changed by this proposal. The proposal is effective January 1, 2015.

Tobacco Tax
The proposal applies an excise tax to vapor products. The bill modifies G.S. 105-113 creating a definition for vapor products and imposing an excise tax of 5¢ per milliliter on the consumable portion of vapor products. Vapor products are defined as noncombustible products that use a heating element to produce vapor from nicotine in a solution. The consumable portion is the part of the vapor product that contains the nicotine liquid solution. This tax is effective June 1, 2014.

Privilege License Tax
This bill proposes to repeal city and county privilege license taxes (PLTs), effective July 1, 2015.

ASSUMPTIONS AND METHODOLOGY:

Corporate Income Tax

State Net Loss
The estimate for the State net loss provision is based on information from the Department of Revenue regarding audit experience and contested cases resulting from the separate calculation required for North Carolina purposes.

Fiscal impact resulting from the adoption of the federal calculation is not expected to be significant. This is because differences between the state and federal calculation have been reduced due to policy changes that have occurred. Additionally, when a loss is reduced for North Carolina purposes in a carryforward year, a taxpayer has the opportunity to use the loss in a subsequent tax year until the 15-year carryforward period expires. This results in deferral of a loss, not elimination of a loss. Although the fiscal impact is not expected to be significant, Fiscal Research has taken a conservative approach to account for potential impact due to conformity to the federal calculation and to account for timing differences.

Sales Tax
The legislation makes two sales tax changes with an unknown or minimal fiscal impact. Removing the sales tax exemption for newspapers sold through vending machines is expected to be a positive gain for the General Fund, but the estimated fiscal impact is minimal (less than $50,000).

The second sales tax change with an unknown fiscal impact is modifying the sales tax base for retailer-contractors. This act provides that the sales tax applies to the wholesale price of tangible personal property (in lieu of the retail price) if purchased by a real property contractor that installs the tangible personal property on the retailer's behalf. A "retailer-contractor" is an entity that can act either as a retailer or as a real property contractor. The best example of a retailer-contractor is a home-improvement store that allows customers to purchase tangible personal property alongside contracts for real property improvements. The fiscal impact is expected to be negative, but the magnitude of the impact is unknown.

Vapor Products
Based on industry information, Fiscal Research estimates that the nickel per milliliter tax on vapor products will generate $5.1 million in General Fund revenue per fiscal year, approximately 50-cents per capita. A similar tax proposal of a nickel per milliliter on e-liquid in South Carolina was estimated to generate $2.5 million per fiscal year, a revenue amount equivalent to a 52-cents per capita tax levy.

According to Nielson data, the e-cigarette industry grossed $1.8 billion in 2013. Roughly 45 percent of e-cigarette sales occur online, with the remainder occurring through traditional channels such as convenience stores. Lorillard's vapor product, Blu, is an industry leader representing 45 percent of all e-cigarette convenience store purchases. Despite the decline/leveling off of traditional tobacco products, the e-cigarette sector is expected to continue to grow with refillable cartridges playing a key role.

Effective June 1, 2014 the fiscal estimate assumes that between 2.9 percent and 3.4 percent of all e-liquid product sales occur in North Carolina, and that three billion milliliters of e-liquid are sold nationally. Apportioning this amount to NC, between 87 million and 102 million milliliters of e-liquid is sold in the state annually. A nickel per milliliter excise tax on e-liquid would generate between $4.4 million and $5.2 million in General Fund Revenue per fiscal year.

Privilege License Tax
Effective July 1, 2015, enacting this bill would result in an annual $62.2 million loss for all municipalities. The estimated loss to all 100 North Carolina counties is less than $500,000 per fiscal year.

SOURCES OF DATA:
- NC Department of Revenue
- North Carolina League of Municipalities: The League of Municipalities surveyed its members in 2013 on the number businesses currently paying a privilege license tax. Members responded to the survey, reporting the number of companies reflected in the 2009-10 fiscal year PLT

collections. Of the 310 cities that levied a PLT tax in FY 09-10, the League received information on the number of businesses taxed from 120 cities.

- U.S. Census County Business Patterns database: NS1100A2: 2011 Nonemployer Statistics: Geographic Area Series: Nonemployer Statistics for the US, States, Metropolitan Areas, and Counties: 2011; CB1100A11: 2011 County Business Patterns: Geography Area Series: County Business Patterns
- Minnesota Department of Revenue
- South Carolina Board of Equalization
- Nicotine and Science Policy, "New Estimates Double Size of US E-cigarette Market; Increasing Importance of Refillable and Modified Devices." Available at: http://nicotinepolicy.net/gerry-stimson/1317-wells-fargo-march-2014

TECHNICAL CONSIDERATIONS: None

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1050*

AMENDMENT NO. 1
(to be filled in by Principal Clerk)

H1050-ASV-84 [v.3]

Comm. Sub. [YES]
Amends Title [NO]
Third Edition

Date May 21 ,2014

Senator Rabon

moves to amend the bill on page 18, line 36, by deleting "(12)." and substituting "(13).";

And on page 51, line 19, by adding a new bill section to read:

"**SECTION 14.28.** G.S. 105-163.22 reads as rewritten:

'**§ 105-163.22. Reciprocity.**

The Secretary may, with the approval of the Attorney General, enter into agreements with the taxing authorities of states having income tax withholding statutes ~~with such agreements to~~ that govern the amounts to be withheld from the wages and salaries of residents of ~~such~~ the other state or states under the provisions of this Article when ~~such~~ the other state or states grant similar treatment to the residents of this State. ~~Such~~ The agreements may provide for recognition of the anticipated tax credits allowed under the provisions of G.S. ~~105-151~~ 105-153.9 in determining the amounts to be withheld.'";

And on page 51, line 37, by rewriting the line to read:

"(13a) Vapor product. – Any non-lighted, noncombustible product that employs a mechanical";

And on page 52, line 46, by rewriting the line to read:

"**SECTION 15.1.(f)** This section becomes effective June 1, 2015.";

And on page 52, lines 42 and 43, by inserting a new subsection between those lines and re-lettering the remaining subsections accordingly:

"**SECTION 15.1(e).** G.S. 105-113.40A reads as rewritten:

'**§ 105-113.40A. Use of tax proceeds.**

The Secretary must credit the net proceeds of the tax collected under this Part as follows:

(1) An amount equal to three percent (3%) of the cost price of the products to the General Fund.

(1a) An amount equal to the revenue generated by the tax on vapor products under G.S. 105-113.35(a1) to the General Fund.

(2) The remainder to the University Cancer Research Fund established under G.S. 116-29.1.'";

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1050*

AMENDMENT NO. 1
(to be filled in by
Principal Clerk)

H1050-ASV-84 [v.3]

And on page 53, line 5, by rewriting the line to read:
"(3) Vapor products. – Non-lighted, noncombustible products that employ a mechanical".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED X FAILED _____ TABLED _____

SENATE SERGEANT-AT-ARMS

SENATE COMMITTEE ON FINANCE

DATE: 05-27-2014 ROOM: 544

1. ED KESSLER
2. STEVE McKAIG
3. ISAAC WALKER
4. BILLY FRITSCHER
5. MATT URBEN
6. _____

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 27, 2014

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Dana Fenton	City of Charlotte
Charles King	School of Government
Tom West	Poyner Spruill LLP
Steven Weeks	NCHBA
William Traurig	Carolina Hurricanes
Dave Horne	SA
Nicole Hines	Governor's office
Jean Boreing	NC GOV's office
Bob Lamar	RLA
Solari	DST
Tonya Horton	TSS

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Senate Finance Committee — May 27, 2014

Name of Committee — **Date**

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Amanda Thrasher	TSS
Sarah Wolfe	MWC
Heather Barrett	W&S
Angie Harris	W&S
BJ Miller	Cone Health
JOE LANIER	NELSON MULLINS
Laurie Omeara	LCLC
Sarah Hardin	CTC
Wendy Ikels	Focus Carolina
CADY THOMAS	NCAR
[illegible]	[illegible]

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 27, 2014

Name of Committee — **Date**

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Andy Chase	KMA
Rochelle Sparko	Carolina Farm Stewardship Assn
Morgan Abbott	CTNC
Bill Holmes	office of State Auditor
LYONS GRAY	DOR
Ardis Watkins	SEAC
Pat A. Yancey	APPCNC
Steve Brewer	CTL
Chuck Greene	AT+T
Tray Rabon	AT&T

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 27, 2014

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Erin Jones	TWC
Sammy Roberson	TWC
Dion Terry	Governor
[signature]	[illegible]
Sabra Faires	SJF
[illegible]	WM
BRUCE THOMPSON	PARKER POE
Susan Vick	FSP
Rhiannon Bell	NCMMC
Julie White	NCMMC
Tony McEwen	City of Wilmington

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 27, 2014

Name of Committee — **Date**

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Allison Waller	Nelson Mullins
Durwood	US
Kimberly Robinson	NCRMA
	NCRMA
Mary Shuping	NCCCS
	DJ
Kirk Ziegler	WM
Rick Buffkin	NCAEC
	Duke Energy
	NCRMA
Andy Ellen	NCRMA
Mike Carpenter	NCHSA

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 27, 2014

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

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Hope Williams	NCAA
Drew Moretz	UNC-GA
Will Culpepper	MVA
Gary Harris	NCPCM
Sarah Bales	Brubaker & Assoc.
Rhonda Tinsley	NCACC.
Erica Wayne	NCDOR
Michelle Frazier	MFTS
Judy Jenkins	OAPI
Jay Peters	CSS

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 27, 2014

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Jack Cozort	NSS
Jason Cozort	NSS
Steve Ainsworth	AIA
Dick Culbreth	attorney at law
Adam Pridemore	NCASA

VISITOR REGISTRATION SHEET

Senate Finance Committee — May 27, 2014

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Canaan Thuie	MVA

2013-2014

SENATE FINANCE

MINUTES

Senate Committee on Finance
Thursday, May 29, 2014 at 1:00 PM
Room 544 of the Legislative Office Building

MINUTES

The Senate Committee on Finance met at 1:00 PM on May 29, 2014 in Room 544 of the Legislative Office Building. Thirty members were present.

Senator Bill Rabon, Chair, presided.

HB 230 - Clarify Read to Achieve/Sch. Perform. Grades.

Patsy Pierce, an education staff attorney with the Research Division, was recognized to explain the finance portion of the bill. The bill would allow local school administrative units to admit reading proficient students to reading amp, and to charge those students an enrollment fee of up to $825 to attend. Senator Berger was recognized to further explain the bill and to answer questions. Pamela Grady was recognized for comments and to speak in opposition to the bill. Senator Tillman moved for a favorable report, seconded by Senator Harrington, the motion carried. A copy of the bill, the summary and the fiscal note is attached.

SB 744 – Appropriations Act of 2014.

Senator Brown was recognized to explain the bill and asked for staff assistance. Cindy Avrette, committee counsel, was recognized. The bill contains several tax and fee provisions. The tax provisions include:

- Directing the Secretary of Health and Human Services to implement a Medicaid assessment for local management entities/managed care organizations. The rate of the assessment would be 3.5% of the non-Medicare net payments to the LME/MCOs for services performed on or after July 1, 2014;
- Increasing the cap on the highway use tax applicable to commercial vehicles and out-of-state vehicles registered in this State; it repeals the exemption from the motor fuel excise tax for taxicabs and buses operated as part of a city transit system; and it delays the expansion of the highway use tax base to include dealer administrative fees from July 1, 2014, to October 1, 2014;
- Clarifying what is meant by the term "net General Fund tax collected" for purposes of the corporate income tax rate trigger; and,
- Phasing out over four years the Medicaid hold harmless provision that guaranteed counties and additional $500,000 benefit.

Amna Cameron, a fiscal analyst with the Fiscal Research Division, was recognized to answer questions regarding the highway use tax section of the bill. Rodney Bizzell, committee fiscal analyst, was recognized to explain fee impacts. Senator Harrington was recognized to offer an amendment which involves the ethics provisions of the Department of Transportation Board. Senator Meredith moved for its adoption and the motion carried. Senator Curtis moved for a favorable report as amended and the motion

carried. A copy of the bill, the summary, the fiscal note, the amendment and a chart of bill tax provisions is attached.

The meeting adjourned at 2:06 p.m.

Senator Bill Rabon, Chair
Presiding

DeAnne Mangum, Committee Clerk

Principal Clerk ____
Reading Clerk ____

Corrected #2: S744 has been added to the agenda.

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Thursday	May 29, 2014	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 230	Clarify Read to Achieve/Sch. Perform. Grades.	Representative Malone Representative S. Martin Representative Brody Representative Samuelson

Committee members, please remember to bring your copy of S744 to the meeting.

There is a deadline for filing amendments for consideration with the committee assistant - 30 minutes after the start of the meeting.

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Thursday	May 29, 2014	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
SB 744	Appropriations Act of 2014.	Senator Brown Senator Harrington Senator Hunt
HB 230	Clarify Read to Achieve/Sch. Perform. Grades.	Representative Malone Representative S. Martin Representative Brody Representative Samuelson

Committee members, please remember to bring your copy of SB 744 to the meeting.

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Thursday, May 29, 2014

Senator Rabon,
submits the following with recommendations as to passage:

FAVORABLE

HB **230** **(SCS#1)** Clarify Read to Achieve/Sch. Perform. Grades.

Draft Number:	None
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

FAVORABLE, AS AMENDED, unengrossed

SB **744** Appropriations Act of 2014.

Draft Number:	None
Sequential Referral:	Pensions & Retirement and Aging
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 2

Senator Philip Berger will handle HB 230
Senator Harry Brown will handle SB 744

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H 2

HOUSE BILL 230*

Senate Education/Higher Education Committee Substitute Adopted 5/28/14

Short Title: Clarify Read to Achieve/Sch. Perform. Grades. (Public)

Sponsors:

Referred to:

March 7, 2013

A BILL TO BE ENTITLED

AN ACT TO CLARIFY PROVISIONS OF THE READ TO ACHIEVE ACT AND SCHOOL PERFORMANCE GRADES AND TO EXPAND THE TESTING WINDOW FOR ONE YEAR.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-83.3(2) reads as rewritten:

"(2) "Alternative assessment" means a valid and reliable standardized assessment of reading comprehension, approved by the State Board of Education, that is not the same test as the State-approved standardized test of reading comprehension administered to third grade students. The State Board of Education shall (i) provide several valid and reliable alternative assessments to local school administrative units upon request, (ii) approve valid and reliable alternative assessments submitted by local school administrative units, and (iii) establish achievement level ranges for each approved alternative assessment. The State Board of Education shall annually review all alternative assessments to ensure ongoing relevance, validity, and reliability."

SECTION 2. G.S. 115C-83.3(8) reads as rewritten:

"(8) "Student reading portfolio" means a compilation of independently produced student work selected by the student's teacher, beginning during the first half of the school year, and signed by the teacher and principal, as an accurate picture of the student's reading ability. The student reading portfolio shall include an organized collection of evidence of the student's mastery of the State's reading standards that are assessed by the State-approved standardized test of reading comprehension administered to third grade students. A single piece of evidence may show mastery of up to two standards. For each benchmark, there shall be three examples of student work demonstrating mastery by a grade of seventy percent (70%) or above."

SECTION 3. G.S. 115C-83.3(9) reads as rewritten:

"(9) ~~"Summer reading~~ "Reading camp" means an additional educational program outside of the instructional calendar provided by the local school administrative unit to any student who does not demonstrate reading proficiency. Parents or guardians of the student not demonstrating reading proficiency shall make the final decision regarding the student's ~~summer~~ reading camp attendance. ~~Summer~~ Reading camps shall (i) ~~be six to eight weeks long, four or five days per week; (ii) include at least three hours of~~

~~instructional time per day; (iii)~~ offer at least 72 hours of reading instruction to yield positive reading outcomes for participants; (ii) be taught by compensated, licensed teachers selected based on demonstrated student outcomes in reading proficiency; and ~~(iv) allow~~ (iii) allow volunteer mentors to read with ~~students.~~students at times other than during the 72 hours of reading instruction. The 72 hours of reading instruction shall be provided over no less than three weeks for students in schools using calendars other than year-round calendars."

SECTION 4. G.S. 115C-83.5(d) reads as rewritten:

"(d) The kindergarten entry assessment shall (i) address the five essential domains of school readiness: language and literacy development, cognition and general knowledge, approaches toward learning, physical well-being and motor development, and social and emotional ~~development.~~development and (ii) yield both qualitative and quantitative data in each of these domains. Data obtained through administration of the kindergarten entry assessment shall be used to populate relevant fields in a longitudinal data base. The language and literacy component of the kindergarten entry assessment may be used as a formative and diagnostic reading assessment as provided in G.S. 115C-83.6."

SECTION 5. G.S. 115C-83.7(b) reads as rewritten:

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

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

(2) Students with disabilities, as defined in ~~G.S. 115C-106.3(1), whose individualized education program indicates the use of alternative assessments and reading interventions.~~G.S. 115C-106.3(1), and whose individualized education program indicates (i) the use of the NCEXTEND1 alternate assessment, (ii) at least a two school year delay in educational performance, or (iii) receipt of intensive reading interventions for at least two school years.

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

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

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

SECTION 6. G.S. 115C-83.8 reads as rewritten:

"**§ 115C-83.8. Successful reading development for retained students.**

(a) Parents or guardians of ~~Students~~ students not demonstrating reading proficiency shall be ~~enrolled~~ encouraged to enroll their student in a ~~summer~~ reading camp provided by the

local school administrative ~~unit prior to being retained.~~ unit. ~~Students who demonstrate reading proficiency on an alternative assessment of reading comprehension or student reading portfolio after completing a summer reading camp shall be promoted to the fourth grade. Students who do not demonstrate reading proficiency on these measures after completing a summer reading camp shall be retained under G.S. 115C-83.7(a) and provided with the instruction listed in subsection (b) of this section during the retained year.~~ Parents or guardians of a student not demonstrating reading proficiency shall make the final decision regarding a student's reading camp attendance. Local school administrative units shall provide at least one opportunity for students not participating in a reading camp to demonstrate reading proficiency appropriate for third grade students on an alternative assessment or through a student reading portfolio process approved by the State Board of Education prior to retaining the student.

(b) Students retained under G.S. 115C-83.7(a) shall be provided with a teacher selected based on demonstrated student outcomes in reading proficiency and placed in an accelerated reading class or a transitional third and fourth grade class combination, as appropriate. Classroom instruction shall include at least 90 minutes of daily, uninterrupted, evidence-based reading instruction, not to include independent reading time, and other appropriate instructional supports and services and reading interventions.

(c) The State Board of Education shall establish a midyear promotion policy for any student retained under G.S. 115C-83.7(a) who, by November 1, demonstrates reading proficiency through administration of the alternative assessment of reading comprehension or student reading portfolio review. Principals shall use the provisions under G.S. 115C-288(a) to grade and classify students demonstrating reading proficiency after the November 1 midyear promotion deadline.

(d) Repealed by Session Laws 2013-360, s. 8.30, effective July 1, 2013.

(e) Parents or guardians of students who have been retained twice under the provisions of G.S. 115C-83.7(a) shall be offered supplemental tutoring for the retained student in evidence-based reading services outside the instructional day."

SECTION 7. G.S. 115C-83.9 reads as rewritten:

"**§ 115C-83.9. Notification requirements to parents and guardians.**

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

(b) Parents or guardians of any student who is to be retained under the provisions of G.S. 115C-83.7(a) shall be notified in writing of the reason the student is not eligible for a good cause exemption as provided in G.S. 115C-83.7(b). Written notification shall also include a description of proposed reading interventions that will be provided to the student to remediate identified areas of reading deficiency.

(c) Parents or guardians of students retained under G.S. 115C-83.7(a) shall receive at least monthly written reports on student progress toward reading proficiency. The evaluation of the student's progress shall be based upon the student's classroom work, observations, tests, assessments, and other relevant information.

(d) Teachers and principals shall provide ~~opportunities~~ opportunities, including, but not limited to, information sessions, to discuss with parents and guardians the notifications listed in this section."

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

"**§ 115C-83.11. Continued support for students demonstrating reading proficiency.**

(a) Parents or guardians of a student demonstrating reading proficiency appropriate for a third grade student as provided under G.S. 115C-83.7 may choose to enroll the student in the reading camp as defined in G.S. 115C-83.3(9) but may be charged an attendance fee. Local boards of education may establish a fee amount to be equal to the per student program cost of participating in the reading camp, not to exceed eight hundred twenty-five dollars ($825.00).

(b) Priority enrollment in the reading camp is for students not demonstrating reading proficiency as provided under G.S. 115C-83.8. Local boards of education shall establish application procedures and enrollment priorities for reading camps for students demonstrating reading proficiency."

SECTION 9. G.S. 115C-238.29F(d1) reads as rewritten:

"(d1) Reading Proficiency and Student Promotion. –

(1) Students in the third grade shall be retained if the student fails to demonstrate reading proficiency by reading at or above the third grade level as demonstrated by the results of the State-approved standardized test of reading comprehension administered to third grade students. The charter school shall provide reading interventions to retained students to remediate reading deficiency, which may include 90 minutes of daily, uninterrupted, evidence-based reading instruction, accelerated reading classes, transition classes containing third and fourth grade students, and summer reading camps.

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

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

b. Students with disabilities, as defined in G.S. 115C-106.3(1), and whose individualized education program indicates ~~the use of alternative assessments and reading interventions.~~(i) the use of the NCEXTEND1 alternate assessment, (ii) at least a two school year delay in educational performance, or (iii) receipt of intensive reading interventions for at least two school years.

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

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

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

...."

SECTION 10. The State Board of Education shall implement the developmental screening instrument as provided in G.S. 115C-83.5 in each school in a local school administrative unit enrolling kindergarten students, and according to the approved time line for the administration of the Kindergarten Entry Assessment as provided under Section 3.9 of S.L. 2013-363. Additional components of the Kindergarten Entry Assessment shall be fully implemented in each school in a local school administrative unit enrolling kindergarten students beginning with the 2016-2017 school year.

SECTION 11. The title of Part 5 of Article 10A of Chapter 115C of the General Statutes reads as rewritten:

"CAREER AND COLLEGE READINESS."

SECTION 12. G.S. 115C-83.4A is recodified in Part 5 of Article 10A of Chapter 115C of the General Statutes as G.S. 115C-174.26.

SECTION 13. G.S. 115C-83.15(b) reads as rewritten:

"(b) Calculation of the School Achievement Score. – In calculating the overall school achievement score earned by schools, the State Board of Education shall total the sum of points earned by a school on all of the following indicators that are measured for that school:

(1) One point for each percent of students who score at or above proficient on annual assessments for mathematics in grades three through eight.

(2) One point for each percent of students who score at or above proficient on annual assessments for reading in grades three through eight.

(3) One point for each percent of students who score at or above proficient on annual assessments for science in grades five and eight.

(4) One point for each percent of students who score at or above proficient on the Algebra I or Integrated Math I end-of-course test.

(5) One point for each percent of students who score at or above proficient on the English II end-of-course test.

(6) One point for each percent of students who score at or above proficient on the Biology end-of-course test.

(7) One point for each percent of students who complete Algebra II or Integrated Math III with a passing grade.

(8) One point for each percent of students who achieve the minimum score required for admission into a constituent institution of The University of North Carolina on a nationally normed test of college readiness.

(9) One point for each percent of students enrolled in Career and Technical Education courses who meet the standard when scoring at Silver, Gold, or Platinum levels on a nationally normed test of workplace readiness.

(10) One point for each percent of students who graduate within four years of entering high school.

~~Each school achievement indicator shall be of equal value when used to determine the overall school achievement score.~~ In calculating the overall school achievement score earned by schools, the State Board of Education shall (i) use a composite approach to weigh the achievement elements based on the number of students measured by any given achievement element and (ii) proportionally adjust the scale to account for the absence of a school achievement element for award of scores to a school that does not have a measure of one of the school achievement elements annually assessed for the grades taught at that school. The overall school achievement score shall be translated to a 100-point scale and used for school reporting purposes as provided in G.S. 115C-12(9)c1., 115C-238.29F, and 115C-238.66."

SECTION 14. G.S. 115C-83.15(d) reads as rewritten:

"(d) Calculation of the School Performance Scores and Grades. – ~~For schools exceeding or not meeting expected school growth, the~~ The State Board of Education shall use EVAAS to calculate the school performance score by adding the school achievement score, as provided in subsection (b) of this section, and the school growth score, as provided in subsection (c) of this section, earned by a school. The school achievement score shall account for eighty percent (80%), and the school growth score shall account for twenty percent (20%) of the total sum. ~~For schools meeting expected growth, and with a school achievement score of eighty percent (80%) or higher, the school performance score shall solely reflect the achievement score. For schools meeting expected growth, and with a school achievement score below eighty percent (80%), the school achievement score shall account for eighty percent (80%), and the school~~

~~growth score shall account for twenty percent (20%) of the total sum.~~ If a school has met expected growth and inclusion of the school's growth score reduces the school's performance score and grade, a school may choose to use the school achievement score solely to calculate the performance score and grade. For all schools, the total school performance score shall be converted to a 100-point scale and used to determine a school performance grade based on the following scale:

(1) A school performance score of at least 90 is equivalent to an overall school performance grade of A.

(2) A school performance score of at least 80 is equivalent to an overall school performance grade of B.

(3) A school performance score of at least 70 is equivalent to an overall school performance grade of C.

(4) A school performance score of at least 60 is equivalent to an overall school performance grade of D.

(5) A school performance score of less than 60 points is equivalent to an overall school performance grade of F."

SECTION 15. Notwithstanding G.S. 115C-83.15(d), for the 2013-2014 school year only, for all schools the total school performance score shall be converted to a 100-point scale and used to determine a school performance grade based on the following scale:

(1) A school performance score of at least 85 is equivalent to an overall school performance grade of A.

(2) A school performance score of at least 70 is equivalent to an overall school performance grade of B.

(3) A school performance score of at least 55 is equivalent to an overall school performance grade of C.

(4) A school performance score of at least 40 is equivalent to an overall school performance grade of D.

(5) A school performance score of less than 40 points is equivalent to an overall school performance grade of F.

SECTION 16. For the 2014-2015 school year only, local boards of education may apply for waivers from the requirements in G.S. 115C-174.12(4) which limit the administration of final exams for year-long courses to the final 10 instructional days of the school year and the final five instructional days of the semester for semester courses. Local boards of education shall apply for these waivers to the State Board of Education by September 1, 2014. The State Board of Education shall grant the waivers for up to five additional days in order to allow the administration of final exams for year-long courses within the final 15 instructional days of the school year and for semester courses within the final 10 instructional days of the semester. By October 1, 2014, the State Board of Education shall notify the local boards of education whether the requested waivers have been granted.

SECTION 17. This act is effective when it becomes law. Section 16 of this act applies only for the 2014-2015 school year.

HOUSE BILL 230:
Clarify Read to Achieve/Sch. Perform. Grades

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	May 29, 2014
Introduced by:	Reps. Malone, S. Martin, Brody, Samuelson	**Prepared by:**	Patsy Pierce
Analysis of:	Second Edition		Legislative Analyst

SUMMARY: ***The Senate Committee Substitute for House Bill 230[1] would make several clarifying changes to the Read to Achieve program including providing flexibility for local school administrative units (LEAs) when implementing reading camps, alternative assessments, and student reading portfolios. Additional students with individualized education programs (IEPs) would be exempt from mandatory retention. It would also change the scale for calculating A-F school performance grades from a 10-point to a 15-point scale for the 2013-2014 school year.***

The Finance provision is in Section 8 of the bill, beginning on page 3. It would allow LEAs to admit reading proficient students to reading camp, and to charge those students an enrollment fee of up to $825 to attend.

CURRENT LAW: Part 1A of Chapter 115C of the General Statutes establishes the Read to Achieve program. The Program requires that a student who fails to demonstrate third grade reading proficiency on a State-approved standardized test of reading comprehension must be retained in third grade, unless the student meets one of certain good cause exemptions to the retention requirement. Exemptions include limited English proficiency, disability, demonstrated proficiency on an alternative reading test or student portfolio, or multiple retentions. Retained students are enrolled in summer reading camps, and may be promoted upon a showing of reading proficiency on an alternative assessment. Retained students are provided with a successful reading teacher in an accelerated reading or transitional 3rd-4th grade classroom where specific reading instruction takes place. Students demonstrating reading proficiency by November 1 may be promoted midyear under a policy developed by the SBE. Parents must be notified of third grade retention policies, and must be given monthly written reports regarding student progress for retained students.

Part 1B of Chapter 115C establishes the calculation methodology for school achievement, growth, performance scores and grades.

BILL ANALYSIS:

Section 1 directs the State Board of Education to (i) provide several valid and reliable alternative assessments, (ii) approve valid and reliable alternative assessments submitted by LEAs, (iii) establish achievement levels for approved alternative assessments, and (iv) annually review alternative assessments.

Section 2 allows the student reading portfolio to begin to be compiled during the first half of the school year, and that a single piece of evidence may be used to show mastery for up to two standards.

[1] The original House Bill 230 would amend the definition of a home school to allow children taught in home schools to receive academic instruction from sources other than parents or guardians. The same language that is in House Bill 230 was passed in Senate Bill 189 (S.L. 2013-57).

Section 3 provides that reading camps will be provided for at least 72 hours over a period of no less than 3 weeks.
Section 4 requires the Kindergarten Entry Assessment to yield both qualitative and quantitative data.
Section 5 clarifies the good cause exemptions from mandatory retention by specifying school years of English instruction for Limited English Proficient students, and a two year delay in educational performance or a two year history of intensive reading intervention for students with IEPs. This section also provides flexibility as to when an alternative assessment may be administered and allows LEAs to develop their own student reading portfolio process. The process must be approved by the State Board of Education.
Section 6 clarifies that parents or guardians make the final decision regarding a retained student's participation in reading camp and that local school systems must provide at least one opportunity for students not participating in reading camp to demonstrate proficiency prior to being retained. This Section also clarifies that a principal can promote a student when he or she demonstrates proficiency, even after the midyear promotion cutoff date.
Section 7 adds that teachers and principals may offer information sessions for parents or guardians about a student's difficulty with reading development and possibility of retention.
Section 8 allows LEAs to admit reading proficient students to reading camp, but may charge an enrollment fee of up to $825.
Section 9 adds the new good cause exemption language to the charter school statutes.
Section 10 directs the State Board of Education to implement the developmental screening (literacy and mathematics) in half of the LEAs during the 2014-2015 school year, and in all of the LEAs by the 2015-2016 school year.
Sections 11-12 make a technical correction to move a misplaced section of the statutes to the appropriate location.
Sections 13-15 change the school achievement score methodology to a composite approach, clarify that, if the growth score depresses the achievement score for schools meeting expected growth, then just the achievement score can be used to calculate performance, and for the 2013-2014 school year, a 15-point rather than a 10-point scale would be used to assign school performance letter grades of A-F.
Section 16 allows local school boards to apply for a waiver to the State Board of Education during the 2014-2015 school year only to add 5 additional testing days for end-of-course and end-of-semester testing.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: The Read to Achieve Program and School Performance Grades requirements were enacted through the Excellent Public Schools Act of 2012 and amended in 2013.

GENERAL ASSEMBLY OF NORTH CAROLINA
Session 2013
Legislative Fiscal Note

BILL NUMBER: House Bill 230 (Second Edition)
SHORT TITLE: Clarify Read to Achieve/Sch. Perform. Grades.
SPONSOR(S):

FISCAL IMPACT
($ in millions)

☐ Yes ☐ No ☑ No Estimate Available

State Impact	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
General Fund Revenues:	0.0	0.0	0.0	0.0	0.0
General Fund Expenditures:	0.0	0.0	0.0	0.0	0.0
State Positions:	0.0	0.0	0.0	0.0	0.0
NET STATE IMPACT	$0.0	$0.0	$0.0	$0.0	$0.0

Local Impact					
Revenues:	unknown	unknown	unknown	unknown	unknown
Expenditures:	unknown	unknown	unknown	unknown	unknown
NET LOCAL IMPACT	No estimate available. Please see Assumptions & Methodology section for additional details.				

Note: This bill would have no fiscal impact on State funds. This bill has an indeterminate impact on local funds.

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:
Local education agencies (LEAs)

EFFECTIVE DATE: This act is effective when it becomes law.

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY:
Sections 1 through 10 of this bill would make several changes related to the Read to Achieve program found in Part 1A in Chapter 8 of the General Statutes. The majority of the changes involve clarifying existing requirements, or providing operational flexibility in delivering certain interventions.

Section 8 of this bill is the only section that potentially creates a new fiscal impact. This section allows local education agencies (LEAs) to charge a fee equal to the per student program cost of participating in the reading camp (up to a maximum of $825 per student) to students who:

1. Attend a reading camp; and
2. Demonstrate reading proficiency appropriate for a third grade student.

LEAs would be required to establish application procedures and enrollment priorities to govern enrollment in summer reading camps, and to ensure that students not demonstrating reading proficiency are provided priority for summer camp enrollment.

Sections 11 through 15 modify the methodology for awarding school performance grades.

Section 16 would allow LEAs to apply to the State Board of Education to receive waivers providing LEAs additional flexibility regarding final exam administration dates.

ASSUMPTIONS AND METHODOLOGY:
This bill has no State fiscal impact. This bill has an indeterminate impact on the local budgets of LEAs.

Section 8 of this bill creates a new fee that LEAs could charge – at their option – to a certain subset of students (those performing at grade level according to third grade reading exams) opting to participate in a yet-to-be-implemented program (reading camps).

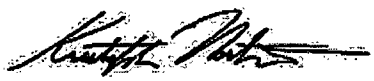
We are unable to estimate the additional local revenue that might be created as a result of this bill. Because the program is new, student participation is optional, and the decision on whether or not to charge the fee is optional, there is no data from which to estimate the additional local revenue that might be created in this section of the bill.

SOURCES OF DATA: None

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY:



Kristopher Nordstrom

APPROVED BY:
Mark Trogdon, Director
Fiscal Research Division

DATE: May 29, 014

Signed Copy Located in the NCGA Principal Clerk's Offices

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S D

SENATE BILL 744
PROPOSED COMMITTEE SUBSTITUTE S744-PCS35555-MDxf-29

Short Title: Appropriations Act of 2014. (Public)

Sponsors:

Referred to:

May 15, 2014

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE CURRENT OPERATIONS AND CAPITAL IMPROVEMENTS APPROPRIATIONS ACT OF 2013 AND FOR OTHER PURPOSES.

The General Assembly of North Carolina enacts:

PART I. INTRODUCTION AND TITLE OF ACT

TITLE OF ACT

SECTION 1.1. This act shall be known as "The Current Operations and Capital Improvements Appropriations Act of 2014."

INTRODUCTION

SECTION 1.2. The appropriations made in this act are for maximum amounts necessary to provide the services and accomplish the purposes described in the budget. Savings shall be effected where the total amounts appropriated are not required to perform these services and accomplish these purposes and, except as allowed by the State Budget Act, or this act, the savings shall revert to the appropriate fund at the end of each fiscal year as provided in G.S. 143C-1-2(b).

PART II. CURRENT OPERATIONS AND EXPANSION GENERAL FUND

CURRENT OPERATIONS AND EXPANSION/GENERAL FUND

SECTION 2.1. Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated, are adjusted for the fiscal year ending June 30, 2015, according to the schedule that follows. Amounts set out in parentheses are reductions from General Fund appropriations for the 2014-2015 fiscal year.

Current Operations – General Fund	**2014-2015**
EDUCATION	
Community Colleges System Office	22,150,669
Department of Public Instruction	66,541,801

University of North Carolina – Board of Governors	
Appalachian State University	941,239
East Carolina University	
Academic Affairs	1,164,501
Health Affairs	344,298
Elizabeth City State University	261,074
Fayetteville State University	444,505
NC A&T State University	910,908
NC Central University	707,221
UNC School of the Arts	230,362
NC State University	
Academic Affairs	4,818,881
Agricultural Extension	415,602
Agricultural Research	259,621
UNC – Asheville	300,265
UNC – Chapel Hill	
Academic Affairs	2,225,122
Health Affairs	1,170,381
Area Health Education Centers	73,789
UNC – Charlotte	1,611,465
UNC – Greensboro	3,121,477
UNC – Pembroke	432,891
UNC – Wilmington	927,194
Western Carolina University	671,106
Winston-Salem State University	320,247
General Administration	213,154
University Institutional Programs	(8,901,304)
Related Educational Programs	4,863,276
NC School of Science and Mathematics	124,784
Aid to Private Colleges	0
Total University of North Carolina – Board of Governors	17,652,059

HEALTH AND HUMAN SERVICES

Department of Health and Human Services	
Central Management and Support	(5,028,255)
Division of Aging & Adult Services	(969,549)
Division of Blind Services, Deaf, & Hard of Hearing	0
Division of Child Development & Early Education	(18,031,728)
Health Service Regulation	(288,000)
Division of Medical Assistance	196,188,968
Division of Mental Health, Developmental Disabilities, & Substance	
Abuse Services	(29,832,154)
NC Health Choice	(15,813,961)
Division of Public Health	(10,270,197)
Division of Social Services	12,389,357
Division of Vocation Rehabilitation	(575,336)
Total Health and Human Services	127,769,145

NATURAL AND ECONOMIC RESOURCES	
Department of Agriculture and Consumer Services	921,017
Department of Commerce	
Commerce	(4,191,353)
Commerce State-Aid	271,473
Wildlife Resources Commission	(121,982)
Department of Environment and Natural Resources	9,222,390
Department of Labor	(47,201)
JUSTICE AND PUBLIC SAFETY	
Department of Public Safety	60,630,171
Judicial Department	3,502,988
Judicial Department – Indigent Defense	416,556
Department of Justice	(48,229,079)
GENERAL GOVERNMENT	
Department of Administration	(2,023,279)
Office of Administrative Hearings	24,521
Department of State Auditor	118,338
Office of State Controller	1,600,500
Department of Cultural Resources	
Cultural Resources	(556,787)
Roanoke Island Commission	(9,000)
State Board of Elections	(55,410)
General Assembly	(44,526)
Office of the Governor	(50,798)
Office of State Budget and Management	
Office of State Budget and Management	(71,259)
OSBM – Reserve for Special Appropriations	175,000
Housing Finance Agency	9,830,322

Department of Insurance	
Insurance	(399,128)
Office of Lieutenant Governor	(5,629)
Department of Revenue	727,468
Department of Secretary of State	(22,720)
Department of State Treasurer	
State Treasurer	1,959,528
State Treasurer – Retirement for Fire and Rescue Squad Workers	(2,474,496)
RESERVES, ADJUSTMENTS, AND DEBT SERVICE	
Disability Income Plan	(3,200,000)
Information Technology Fund	6,003,162
Information Technology Reserve Fund	(11,661,092)
Job Development Investment Grants (JDIG)	(15,571,684)
One North Carolina Fund	(7,144,263)
Reserve for Future Benefit Needs	(56,400,000)
State Health Plan Contribution	(22,000,000)
Debt Service	
General Debt Service	(8,240,916)
TOTAL CURRENT OPERATIONS – GENERAL FUND	146,996,506

GENERAL FUND AVAILABILITY STATEMENT

SECTION 2.2.(a) Section 2.2(a) of S.L. 2013-360 is repealed. The General Fund availability used in adjusting the 2014-2015 budget is shown below:

	FY 2014-2015
Unappropriated Balance Remaining from Previous Year	323,693,704
Anticipated Undercollections from FY 2013-14	(445,400,000)
Anticipated Reversions from FY 2013-14	371,600,000
Less Earmarkings of Year End Fund Balance	
Savings Reserve	(42,989,870)
Repairs and Renovations	(42,989,870)
Beginning Unreserved Fund Balance	**163,913,964**
Revenues Based on Existing Tax Structure	**19,972,100,000**

Nontax Revenues	
Investment Income	11,300,000
Judicial Fees	244,500,000
Disproportionate Share	109,000,000
Master Settlement Agreement	137,500,000
Other Nontax Revenues	195,500,000
Insurance	77,000,000
Highway Fund Transfer	215,900,000
Subtotal Nontax Revenues	**990,700,000**
Total General Fund Availability	**21,126,713,964**
Adjustments to Availability: 2014 Session	
Transfer from Cash Balances from Department of Agriculture and Consumer Services Special Funds	1,449,680
Transfer from Cash Balances from Alcoholic Beverage Control Enterprise Fund	3,500,000
Transfer from Interest from Department of Environment and Natural Resources (DENR) Special Funds	938,670
Diversion of Funds from DENR Inspection and Maintenance Control Special Fund	3,000,000
Diversion of Funds from DENR Water and Air Account Special Fund	1,000,000
Transfer of Federal Insurance Contribution Act (FICA) Fund Cash Balance	5,255,000
Adjustment of Transfer from Insurance Regulatory Fund	(399,128)
Adjustment of Transfer from Treasurer's Office	1,959,528
Increase from ABC Permit Fees	9,600,000
Redirection of Funds from Gross Premiums Tax on Property Coverage Contracts to General Fund	1,600,000
Four-year Phaseout of Provision of Medicaid Hold Harmless Law Guaranteeing Counties $500,000 Benefit	5,990,000
Subtotal Adjustments to Availability: 2014 Session	**33,893,750**
Revised General Fund Availability	**21,160,607,714**
Less General Fund Appropriations	**(21,160,607,714)**
Unappropriated Balance Remaining	**0**

SECTION 2.2.(b) Effective June 30, 2014, Section 2.2 of S.L. 2013-360 reads as rewritten:

"...

SECTION 2.2.(c) Notwithstanding the provisions of G.S. 143C-4-3, the State Controller shall transfer a total of one hundred fifty million dollars ($150,000,000) from the unreserved fund balance to the Repairs and Renovations Reserve on June 30, 2013, and a total of ~~twelve million seven hundred fifty one thousand one hundred thirty seven dollars ($12,751,137)~~ forty-two million nine hundred eighty-nine thousand eight hundred seventy dollars ($42,989,870) to the Repairs and Renovations Reserve on June 30, 2014. This subsection becomes effective June 30, 2013. Funds transferred under this section to the Repairs and

Renovations Reserve are appropriated for the 2013-2014 and 2014-2015 fiscal years and shall be used in accordance with G.S. 143C-4-3.

SECTION 2.2.(d) Notwithstanding G.S. 143C-4-2, the State Controller shall transfer a total of two hundred thirty-two million five hundred thirty-seven thousand nine hundred forty-two dollars ($232,537,942) from the unreserved fund balance to the Savings Reserve Account on June 30, 2013, and the sum ~~of thirty-seven million one hundred twenty-two thousand three hundred forty-six dollars ($37,122,346)~~ forty-two million nine hundred eighty-nine thousand eight hundred seventy dollars ($42,989,870) from the unreserved fund balance to the Savings Reserve Account on June 30, 2014. Neither of these transfers is an "appropriation made by law," as that phrase is used in Section 7(1) of Article V of the North Carolina Constitution. This subsection becomes effective June 30, 2013.

...."

SECTION 2.2.(c) Interest from the following funds shall be redirected to the General Fund:

Budget Code	Fund Code	Description
24303	2990	Marine Conservation Fund
24304	Various	Ecosystem Enhancement Fund
24305	2002	Clean Water Management Trust Fund
24306	2127	Dry Cleaning Solvent Cleanup Fund
24309	2235	Parks and Recreation Trust Fund
24318	2054	Bernard Allen Drinking Water Fund
24323	Various	Marine Resources Fund
64301	6342	Water Pollution Control System Account
64305	6370	Commercial Leaking Petroleum Storage Tanks Fund
64305	6371	Noncommercial Leaking Petroleum Storage Tanks Fund
64305	6372	Inactive Hazardous Sites Fund
64305	6373	Emergency Response Fund
64305	6375	Superfund Cost Share Fund
64305	6376	Brownfield Superfund Fund
64305	6379	Inactive Hazardous Sites Fund-S1492

SECTION 2.2.(d) Notwithstanding G.S. 20-183.7(c), fees collected for electronic inspection authorizations during the 2014-2015 fiscal year that would have been credited to the I & M Air Pollution Control Account established under G.S. 143-215.3A(b1) shall be credited to the State's General Fund.

SECTION 2.2.(e) Notwithstanding G.S. 105-449.125, one million dollars ($1,000,000) of the revenue collected by the Secretary of Revenue from the motor fuel excise tax levied under Part 7 of Article 36C of the General Statutes that would otherwise be credited to the Water and Air Quality Account shall be credited to the State's General Fund.

SECTION 2.2.(f) Effective June 30, 2014, G.S. 106-435 and G.S. 106-451.27 are repealed, and the unallotted and unexpended funds in the Cotton Warehouse Fund on that date shall be transferred to the General Fund.

SECTION 2.2.(g) Effective June 30, 2014, G.S. 106-65.104 is repealed, and the unallotted and unexpended balance of funds in the Bedding Law Account on that date shall be transferred to the General Fund.

PART III. CURRENT OPERATIONS/HIGHWAY FUND

CURRENT OPERATIONS/HIGHWAY FUND

SECTION 3.1. Appropriations from the State Highway Fund for the maintenance and operation of the Department of Transportation and for other purposes as enumerated are adjusted for the fiscal year ending June 30, 2015, according to the following schedule. Amounts set out in parentheses are reductions from Highway Fund Appropriations for the 2014-2015 fiscal year.

Current Operations – Highway Fund	**2014-2015**
Department of Transportation	
Administration	$ 2,304,648
Division of Highways	
Administration	0
Construction	(4,036,171)
Maintenance	63,436,943
Planning and Research	0
OSHA Program	(7,307)
Ferry Operations	(1,542,317)
State Aid to Municipalities	9,453,990
Intermodal Divisions	
Public Transportation	(3,393,723)
Aviation	(808,452)
Rail	(960,325)
Bicycle and Pedestrian	(30,043)
Governor's Highway Safety	(5,699)
Division of Motor Vehicles	(1,786,799)
Other State Agencies, Reserves, Transfers	5,206,809
Capital Improvements	0
Total Highway Fund Appropriations	**$ 1,984,142,054**

HIGHWAY FUND AVAILABILITY STATEMENT

SECTION 3.2. Section 3.2 of S.L. 2013-360 is repealed. The Highway Fund availability used in adjusting the 2014-2015 fiscal year budget is shown below:

Highway Fund Availability Statement	**2014-2015**
Unreserved Fund Balance	$ 12,000,000
Estimated Revenue	1,973,750,000
Adjustment to Revenue Availability:	
Motor Fuel Tax (Shallow Draft Navigation Channel Dredging Fund)	(1,677,134)
Motor Fuel Tax Refund Repeal (Taxi Cabs)	69,188
Revised Total Highway Fund Availability	**$ 1,984,142,054**

Unappropriated Balance	$ 0

PART IV. HIGHWAY TRUST FUND APPROPRIATIONS

CURRENT OPERATIONS/HIGHWAY TRUST FUND

SECTION 4.1. Appropriations from the State Highway Trust Fund for the maintenance and operation of the Department of Transportation and for other purposes as enumerated are adjusted for the fiscal year ending June 30, 2015, according to the following schedule. Amounts set out in parentheses are reductions from Highway Trust Fund Appropriations for the 2014-2015 fiscal year.

Current Operations – Highway Trust Fund	**2014-2015**
Program Administration	$ (11,000,000)
Aid to Municipalities	0
Intrastate	0
Secondary Roads	0
Urban Loops	0
Mobility Fund	0
Turnpike Authority	0
Transfer to General Fund	0
Transfer to Highway Fund	0
Debt Service	0
Strategic Prioritization Funding Plan for Transportation Investments	73,661,890
Total Highway Trust Fund Appropriations	**$ 1,168,061,890**

HIGHWAY TRUST FUND AVAILABILITY STATEMENT

SECTION 4.2. Section 4.2 of S.L. 2013-360 is repealed. The Highway Trust Fund availability used in developing the 2014-2015 fiscal year budget is shown below:

Highway Trust Fund Availability	**2014-2015**
Unreserved Fund Balance	$ 0
Estimated Revenue	1,162,370,000
Adjustment to Revenue Availability:	
Motor Fuel Tax Refund Repeal (Taxi Cabs)	23,140
Highway Use Tax Cap Adjustments	5,668,750
Total Highway Trust Fund Availability	**$ 1,168,061,890**
Unappropriated Balance	$ 0

PART V. OTHER APPROPRIATIONS

INDIAN GAMING EDUCATION REVENUE FUND

SECTION 5.1. Section 5.4 of S.L. 2013-360 reads as rewritten:

"**SECTION 5.4.(a)** There is appropriated from the Indian Gaming Education Revenue Fund to the Department of Public Instruction, School Technology Fund, the sum of ~~three million dollars ($3,000,000)~~ five million dollars ($5,000,000) for the 2013-2014 fiscal year and

the sum of ~~three million five hundred thousand dollars ($3,500,000)~~six million dollars ($6,000,000) for the 2014-2015 fiscal year.

"**SECTION 5.4.(b)** G.S. 143C-9-7 does not apply to the use of these funds for the 2013-2015 fiscal biennium."

EDUCATION LOTTERY FUNDS

SECTION 5.2.(a) Section 6.11(e) of S.L. 2013-360 reads as rewritten:

"**SECTION 6.11.(e)** The appropriations made from the Education Lottery Fund for the 2013-2015 fiscal biennium are as follows:

	FY 2013-2014	FY 2014-2015
Classroom Teachers	$ 220,643,188	~~$ 220,643,188~~ $276,941,530
Prekindergarten Program	75,535,709	75,535,709
Public School Building Capital Fund	100,000,000	100,000,000
Scholarships for Needy Students	30,450,000	30,450,000
UNC Need-Based Financial Aid	10,744,733	10,744,733
UNC Need-Based Financial Aid Forward Funding Reserve	~~32,530,359~~ 51,661,087	~~19,130,728~~ 0
Digital Learning	11,928,735	11,928,735
TOTAL APPROPRIATION	**~~$ 481,832,724~~ $500,963,452**	**~~$ 468,433,093~~ $505,600,707**"

SECTION 5.2.(b) Section 6.11(f) of S.L. 2013-360 reads as rewritten:

"**SECTION 6.11.(f)** Notwithstanding G.S. 18C-164, the Office of State Budget and Management shall not transfer funds to the Education Lottery Reserve Fund for the 2013-2014 fiscal ~~year.~~year or for the 2014-2015 fiscal year."

SECTION 5.2.(c) Section 6.11(g) of S.L. 2013-360 reads as rewritten:

"**SECTION 6.11.(g)** Funds appropriated for Digital Learning pursuant to subsection (e) of this section shall be used to support grants to local education agencies (LEAs) for (i) delivering educator professional development focused on using digital and other instructional technologies to provide high-quality, integrated digital teaching and learning to all students and (ii) acquiring quality digital content to enhance instruction.

Up to one million dollars ($1,000,000) for the 2013-2015 fiscal biennium may be used by the Department of Public Instruction to (i) develop a plan to transition from funding for textbooks, both traditional and digital, to funding for digital materials, including textbooks and instructional resources and (ii) provide educational resources that remain current, are aligned with curriculum, and are effective for all learners by 2017. The plan shall also include an inventory of the infrastructure needed to support robust digital learning in public schools.

The Department of Public Instruction shall make an interim report on the implementation of this subsection to the Joint Legislative Education Oversight Committee and the Fiscal Research Division by January 5, 2015, and a final report by August 1, 2015."

SECTION 5.2.(d) Funds appropriated for Digital Learning shall not revert at the end of the fiscal year but shall remain available until expended.

SECTION 5.2.(e) Subsection (d) of this section becomes effective June 30, 2014.

PART VI. GENERAL PROVISIONS

APPROPRIATE ENCUMBERED GRANT FUNDS THAT ARE RETURNED TO THE STATE

SECTION 6.1. Section 5.1 of S.L. 2013-360 is amended by adding a new subsection to read:

"**SECTION 5.1.(f)** Notwithstanding subsections (a) and (b) of this section, there is appropriated from the General Fund for the 2014-2015 fiscal year an amount equal to the amount of encumbered funds required to be spent in order to honor encumbrances of grant funds in accordance with G.S. 143C-6-23(f2)."

ESTABLISHING OR INCREASING FEES UNDER THIS ACT

SECTION 6.2.(a) Notwithstanding G.S. 12-3.1, an agency is not required to consult with the Joint Legislative Commission on Governmental Operations prior to establishing or increasing a fee to the level authorized or anticipated in this act.

SECTION 6.2.(b) Notwithstanding G.S. 150B-21.1A(a), an agency may adopt an emergency rule in accordance with G.S. 150B-21.1A to establish or increase a fee as authorized by this act if the adoption of a rule would otherwise be required under Article 2A of Chapter 150B of the General Statutes.

EXPENDITURES OF FUNDS IN RESERVES LIMITED

SECTION 6.3. All funds appropriated by this act into reserves may be expended only for the purposes for which the reserves were established.

MAKE THE BASE BUDGET THE STARTING POINT FOR STATE AGENCY BUDGETING

SECTION 6.4.(a) G.S. 143C-1-1(d)(7a) is repealed.

SECTION 6.4.(b) G.S. 143C-1-1(d) is amended by adding a new subdivision to read:

"(d) Definitions. – The following definitions apply in this Chapter:

...

(1c) Base Budget. – That part of the recommended State budget that provides the baseline for the next biennium. The base budget for each State agency shall be the authorized budget for that agency with adjustments only for the following:

a. Annualization of programs and positions.

b. Reductions to adjust for items funded with nonrecurring funds during the prior fiscal biennium.

c. Increases to adjust for nonrecurring reductions during the prior fiscal biennium.

d. Adjustments for federal payroll tax changes.

e. Rate increases in accordance with the terms of existing leases of real property.

f. Adjustments to receipt projections, made in accordance with G.S. 143C-3-5(b)(2)c.

g. Reconciliation of intragovernmental and intergovermental transfers.

...."

SECTION 6.4.(c) G.S. 143C-3-5 reads as rewritten:

"**§ 143C-3-5. Budget recommendations and budget message.**

...

(b) Odd-Numbered Years. – In odd-numbered years the budget recommendations shall include the following components:

(1) A Recommended State Budget setting forth goals for improving the State with recommended expenditure requirements, funding sources, and

performance information for each State government program and for each proposed capital improvement. The Recommended State Budget may be presented in a format chosen by the Director, except that the Recommended State Budget shall clearly distinguish program ~~continuation~~base budget requirements, program reductions, program eliminations, program expansions, and new programs, and shall explain all proposed capital improvements in the context of the Six-Year Capital Improvements Plan and as required by G.S. 143C-8-6.

(1a) The Governor's Recommended State Budget shall include a ~~continuation~~ base budget, which shall be presented in the budget support document pursuant to subdivision (2) of this subsection.

(2) A Budget Support Document showing, for each budget code and purpose or program in State government, accounting detail corresponding to the Recommended State Budget.

a. The Budget Support Document shall employ the North Carolina Accounting System Uniform Chart of Accounts adopted by the State Controller to show both uses and sources of funds and shall display in separate parallel columns all of the following: (i) actual expenditures and receipts for the most recent fiscal year for which actual information is available, (ii) the certified budget for the preceding fiscal year, (iii) the currently authorized budget for the preceding fiscal year, (iv) program ~~continuation~~base budget requirements for each fiscal year of the biennium, (v) proposed expenditures and receipts for each fiscal year of the biennium, and (vi) proposed increases and decreases.

...

(5) A list of budget adjustments made during the prior fiscal year pursuant to G.S. 143C-6-4 that are included in the proposed ~~continuation~~base budget for the upcoming fiscal year.

...."

SECTION 6.4.(d) G.S. 58-2-215(c) reads as rewritten:

"(c) Moneys appropriated by the General Assembly shall be deposited in the Fund and shall become a part of the ~~continuation~~base budget of the Department of Insurance. Such ~~continuation~~base budget amount shall equal the actual expenditures drawn from the Fund during the prior fiscal year plus the official inflation rate designated by the Director of the Budget in the preparation of the State Budget for each ensuing fiscal year; provided that if interest income on the Fund exceeds the amount yielded by the application of the official inflation rate, such ~~continuation~~base budget amount shall be the actual expenditures drawn from the Fund. In the event the amount in the Fund exceeds two hundred fifty thousand dollars ($250,000) at the end of any fiscal year, such excess shall revert to the General Fund."

SECTION 6.4.(e) G.S. 116-30.3B(b) reads as rewritten:

"(b) It is the intent of the General Assembly that appropriations to the Board of Governors on behalf of a constituent institution not be reduced as a result of the institution's realization of energy savings. Instead, the General Assembly intends that the amount of appropriations be determined as if no energy savings had been realized. The Director of the Budget shall not decrease the recommended ~~continuation~~base budget requirements for utilities for constituent institutions by the amount of energy savings realized from implementing energy conservation measures, including savings achieved through a guaranteed energy savings contract."

SECTION 6.4.(f) G.S. 116-30.7 reads as rewritten:

"§ 116-30.7. Biennial projection of enrollment growth for The University of North Carolina.

By October 15 of each even-numbered year, the General Administration of The University of North Carolina shall provide to the Joint Education Legislative Oversight Committee and to the Office of State Budget and Management a projection of the total student enrollment in The University of North Carolina that is anticipated for the next biennium. The enrollment projection shall be divided into the following categories and shall include the projected growth for each year of the biennium in each category at each of the constituent institutions: undergraduate students, graduate students (students earning master's and doctoral degrees), first professional students, and any other categories deemed appropriate by General Administration. The projection shall also distinguish between on-campus and distance education students. The projections shall be considered by the Director of the Budget when determining the amount the Director proposes to ~~fund as the continuation requirement for the enrollment increase in the university system pursuant to G.S. 143C-3-5(b).~~appropriate to The University of North Carolina in the Recommended State Budget submitted pursuant to G.S. 143C-3-5(b)."

SECTION 6.4.(g) G.S. 121-6(c) reads as rewritten:

"(c) It shall be the duty and the responsibility for the Department of Cultural Resources to edit and publish a second or new series of the most significant records of colonial North Carolina. From records which have been compiled in the North Carolina State Archives concerning the colonial period of North Carolina, a selection of the most significant documents shall be made therefrom by a skilled and competent editor. The editor shall edit, according to acceptable scholarly standards, the selected materials which shall be published in documentary volumes not to exceed approximately 700 pages each in length until full and representative published colonial records of North Carolina shall have been achieved. The number of copies of each volume to be so printed shall be determined by the Department of Cultural Resources, and such determination shall be based on the number of copies the Department can reasonably expect to sell in a period of 10 years from the date of publication. In any year during which the Department of Cultural Resources has completed a volume and has it ready for publication, the Department may include in its ~~continuation~~base budget for that year sufficient funds to pay the estimated costs of publishing the volume. In the event that the volume is not published during that year, the appropriation made, or any unencumbered balance, shall revert to the general fund."

SECTION 6.4.(h) This section becomes effective July 1, 2014, and applies beginning with the recommended State budget of the 2015-2017 fiscal biennium.

STATUTORY CHANGES RELATING TO THE HANDLING OF GRANTS TO NON-STATE ENTITIES

SECTION 6.5.(a) G.S. 143C-6-23 reads as rewritten:

"**§ 143C-6-23. State grant funds: administration; oversight and reporting requirements.**

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

(1) ~~"Grant" and "grant funds" means~~Grant or grant funds. – State funds disbursed as a grant by a State agency; however, the terms do not include any payment made by the Medicaid program, the State Health Plan for Teachers and State Employees, or other similar medical programs.

(2) ~~"Grantee" means a~~ Grantee. – A non-State entity that receives State funds as a grant from a State agency but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission.

(3) ~~"Subgrantee" means a~~ Subgrantee. – A non-State entity that receives State funds as a grant from a grantee or from another subgrantee but does not

include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission.

(4) Encumbrance. – A financial obligation created by a purchase order, contract, salary commitment, unearned or prepaid collections for services provided, or other legally binding agreement. A financial obligation is not an encumbrance for purposes of this section unless it (i) is in writing and has been signed by a person or entity who has authority to legally bind the grantee or subgrantee to spend the funds or (ii) was created by the provision of goods or services to the grantee or subgrantee by a third party under circumstances that create a legally binding obligation to pay for the goods or services.

...

(d) Office of State Budget Rules Must Require Uniform Administration of State Grants. – The Office of State Budget and Management shall adopt rules to ensure the uniform administration of State grants by all grantor State agencies and grantees or subgrantees. The Office of State Budget and Management shall consult with the Office of the State Auditor and the Attorney General in establishing the rules required by this subsection. The rules shall establish policies and procedures for disbursements of State grants and for State agency oversight, monitoring, and evaluation of grantees and subgrantees. The policies and procedures shall:

...

(5) Provide for adequate oversight and monitoring to prevent the misuse of grant funds. These policies shall require each grantee and subgrantee to ensure that, for accounting purposes, State funds and interest earned on those funds remain separate and apart from other funds in the possession or control of the grantee or subgrantee.

...

(12) Provide procedures for the recovery and return to the grantor State agency of unexpended grant funds from a grantee or subgrantee ~~if~~ (i) in accordance with subsection (f1) of this section or (ii) in the event that the grantee or subgrantee is unable to fulfill the purposes of the ~~grant.~~grant for a reason not set forth in that subsection.

(d1) Required Grant Terms. – The terms of each grant shall include all of the following, which shall be deemed a part of the grant:

(1) The limitation contained in G.S. 143C-6-8 concerning the availability of appropriated funds.

(2) The relevant provisions of any legislation authorizing or governing the administration of the grant.

(3) The terms of this section.

...

(f1) Return of Grant Funds. – Except as otherwise required by federal law, a grantee or subgrantee shall return to the State all affected grant funds and interest earned on those funds if any of the following occurs:

(1) The funds are in the possession or control of a grantee and are not expended, made subject to an encumbrance, or disbursed to a subgrantee by August 31 immediately following the fiscal year in which the funds are appropriated by the General Assembly, or a different period set forth in the terms of the applicable appropriation or federal grant.

(2) The funds remain unexpended at the time that the grantee or subgrantee dissolves, ceases operations, or otherwise indicates that it does not intend to spend the funds.

(3) The Office of State Budget and Management seeks to recover the funds pursuant to subsection (f) of this act.

(f2) Use of Returned Grant Funds. – Encumbered funds returned to the State pursuant to subsection (f1) of this section by a grantee or subgrantee shall upon appropriation by the General Assembly be spent in accordance with the terms of the encumbrance. All other funds returned to the State by a grantee or subgrantee pursuant to subsection (f1) of this section shall be credited to the fund from which they were appropriated and shall remain unexpended and unencumbered until appropriated by the General Assembly. Nothing in this section shall be construed to authorize an expenditure pursuant to an unlawful encumbrance or in a manner that would violate the terms of the appropriation of the grant funds at issue.

...

(j) Use of Interest Earned on Grant Funds. – Except as otherwise required by federal law or the terms of a federal grant, interest earned on grant funds after receipt of the funds by a grantee or subgrantee shall be credited to the grantee or subgrantee and shall be used for the same purposes for which the grant or subgrant was made.

(k) Reporting by Grantees and Subgrantees That Cease Operations. – A grantee or subgrantee that intends to dissolve or cease operations shall report that decision in writing to the Office of State Budget and Management and to the Fiscal Research Division at least 30 days prior to taking that action."

SECTION 6.5.(b) This section becomes effective July 1, 2014, and applies to grants appropriated on or after that date.

STATUTORY CHANGES RELATED TO THE DISPOSITION OF SETTLEMENT FUNDS

SECTION 6.6.(a) Article 1 of Chapter 114 of the General Statutes is amended by adding a new section to read:

"**§ 114-2.4A. Disposition of funds received by the State or a State agency from a settlement or other final order or judgment of the court.**

(a) Definition. – For purposes of this section, the term "settlement" means an agreement entered into by the State or a State agency, with or without a court's participation, that ends (i) a dispute, lawsuit, or part of the dispute or lawsuit or (ii) the involvement of the State or State agency in the dispute, lawsuit, or part of the dispute or lawsuit. This term includes settlement agreements, stipulation agreements, consent judgments, and consent decrees.

(b) Prohibition. – The following restrictions shall apply:

(1) Funds received by the State or a State agency from a settlement or other final order or judgment of the court shall not be transferred or expended pursuant to G.S. 143C-6-4 and shall remain unexpended until the funds are appropriated by the General Assembly.

(2) The Attorney General, any subordinate who has been delegated the authority to negotiate or approve a settlement, and any private counsel retained to represent a State agency shall have no authority to include or agree to terms or conditions in any settlement that authorizes the expenditure, transfer, or award of funds to any person or entity other than (i) a party to the dispute or lawsuit or (ii) a consumer entitled to a refund or the recovery of damages.

(c) Exception. – This section does not apply to funds received by the Department of Health and Human Services to the extent those funds represent the recovery of previously expended Medicaid funds.

(d) Recommendation. – The Attorney General may provide a nonbinding written recommendation to the chairs of the Senate and House Appropriations Committees for their consideration as to what purpose the funds subject to the prohibitions in subsection (b) of this section should be appropriated for.

(e) Overrealized Receipts. – Any provision of law authorizing the expenditure of overrealized receipts shall not apply to the funds referred to in subdivision (1) of subsection (b) of this section unless the language of the law specifically references this section or specifically references funds received by the State or a State agency from a settlement or other final order or judgment of the court.

(f) Required Disposition. – If the terms of a federal grant, another provision of State or federal law, or the State Constitution require a specific disposition of funds received from a settlement or other final order or judgment of the court, nothing in this section shall be construed to supersede, or authorize a deviation from, that specific disposition. Furthermore, nothing in this subsection shall be construed to abrogate the requirement that funds drawn from the State treasury be in consequence of appropriations made by law.

(g) Required Submission. – In addition to any other report or filing that may be required by law, and unless the settlement is sealed pursuant to a written order of the court in accordance with G.S. 132-1.3 or federal law, the Attorney General's Office shall submit a copy to the Legislative Library of any settlement or other final order or judgment of the court in which the State or a State agency receives funds. The submission required by this subsection shall be made within 60 days of the date (i) the settlement is entered into or (ii) the final order or judgment of the court is entered. Any information deemed confidential by State or federal law shall be redacted from the copy of the settlement or other final order or judgment of the court prior to submitting it to the Legislative Library."

SECTION 6.6.(b) This section is effective July 1, 2014, and applies to settlements entered into on or after that date and other final orders or judgments of the court entered on or after that date.

PILOT PROGRAM TO IMPROVE BUDGETING OF THE GENERAL FUND

SECTION 6.7.(a) Finding. – The General Assembly finds that State budgeting is more transparent when the enacted budget for any given fiscal year appropriates all State funds intended for expenditure during that fiscal year, including funds encumbered in prior fiscal years, funds carried forward from prior fiscal years pursuant to statutory authority, and unearned revenue earned in a prior fiscal year.

SECTION 6.7.(b) Review of Current Practices. – The Office of State Budget and Management and the Office of the State Controller, in consultation with the Fiscal Research Division, shall examine all of the following:

(1) How funds in the General Fund are currently accounted for, including practices relating to (i) the reversion of appropriated funds to the General Fund, (ii) the appropriation of funds to pay obligations incurred in prior fiscal years, (iii) the movement of funds into and out of special funds, and (iv) related matters.

(2) How the practices examined pursuant to subdivision (1) of this section compare with those of other states.

(3) Whether any statutory or administrative changes would improve the transparency and accounting accuracy of the General Fund.

(4) Whether the practices examined pursuant to subdivision (1) of this section comply with applicable standards of the Governmental Accounting Standards Board.

SECTION 6.7.(c) Pilot Program. – The Office of State Budget and Management and the Office of the State Controller, in consultation with the Fiscal Research Division, shall establish and operate a pilot program to test measures for improving the extent to which funds that are to be spent in a given fiscal year are properly budgeted in that fiscal year. The pilot program shall be subject to the following requirements:

(1) The pilot program shall include at least the following programs and funds:
   a. All grant programs and special funds within the Department of Environment and Natural Resources.
   b. All unexpended appropriations carried forward by The University of North Carolina pursuant to G.S. 116-30.3.

(2) Funds and programs that are included in the pilot program shall be subject to the following requirements:
   a. A 30-day liquidation period for encumbered funds that do not revert at the end of the 2014-2015 fiscal year under G.S. 143C-1-2(b). If encumbered funds have not been spent at the expiration of the 30-day period, the appropriation of those funds shall lapse and the funds shall revert to the fund from which the appropriation was made. The funds required to satisfy the terms of the encumbrance may be appropriated in the 2015-2016 fiscal year.
   b. A requirement (i) that The University of North Carolina prepare an estimate of the amount of funds it anticipates will be carried forward into the 2015-2016 fiscal year pursuant to G.S. 116-30.3 and (ii) that the Governor include this estimate in the budget recommendations submitted pursuant to G.S. 143C-3-5 for the 2015-2016 fiscal year.

SECTION 6.7.(d) Report. – No later than October 1, 2015, the Office of State Budget and Management and the Office of the State Controller, in consultation with the Fiscal Research Division, shall report the results of the review and pilot program required by this section to the chairs of the Senate Appropriations/Base Budget Committee, to the chairs of the House Appropriations Committee, and to the Director of the Budget. The report may include a recommendation to extend the pilot program for an additional fiscal year, if this is deemed desirable.

SECTION 6.7.(e) Recommendations for an Alternative Pilot Program. – If the Office of State Budget and Management and the Office of the State Controller, in consultation with the General Assembly's Fiscal Research Division, determine that the pilot program required by this section cannot be implemented, they shall report the reasons for reaching this conclusion, along with any other findings and recommendations for future action, to the chairs of the Senate Appropriations/Base Budget Committee, to the chairs of the House Appropriations Committee, and to the Director of the Budget no later than February 1, 2015. If a report is submitted pursuant to this subsection, then the pilot program required by subsection (c) of this section shall not be implemented, but the review required by subsection (b) of this section shall nonetheless be performed.

SECTION 6.7.(f) Expiration of Pilot Program. – The pilot program required by this section shall expire upon the submission of the report required by subsection (d) of this section or the submission pursuant to subsection (e) of this section stating that the pilot program cannot be implemented.

SECTION 6.7.(g) Effective Date. – This section is effective when it becomes law and applies to funds appropriated for the 2014-2015 fiscal year and subsequent fiscal years.

ORDER OF APPROPRIATIONS BILLS

SECTION 6.8. G.S. 143C-5-2 reads as rewritten:

"**§ 143C-5-2. Order of appropriations bills.**

(a) Each house of the General Assembly shall first pass its version of the Current Operations Appropriations Act on third reading and order it sent to the other chamber before placing any other appropriations bill on the calendar for second reading. This section does not apply to the following bills:

(1) An appropriations bill to respond to an emergency as defined by G.S. 166A-19.3.

(2) An appropriations bill making adjustments to the current year budget.

(3) An appropriations bill authorizing continued operations at current funding levels.

(4) In even-numbered years, an appropriations bill that contains a statement that the General Assembly does not intend to enact a Current Operations Appropriations Act that year."

(b) The provisions of subsection (a) of this section shall apply to each fiscal year of the biennium."

PROHIBIT "REVOLVING DOOR" EMPLOYMENT FOR STATE EMPLOYEES

SECTION 6.9.(a) Chapter 143 of the General Statutes is amended by adding a new Article to read:

"Article 3I.

"Limitations on Certain Private Employment After Serving State.

"**§ 143-64.90. Definitions.**

Unless the context requires otherwise, the following definitions apply in this Article:

(1) Person. – As defined in G.S. 55-1-40 but does not include (i) the United States government, (ii) the State, (iii) other states, (iv) units of local government, or (v) school districts.

(2) State agency. – Includes any agency, institution, board, commission, bureau, department, division, council, or other organization of State government, including, but not limited to, the Council of State and any institution of higher education that is regulated under Chapter 116 of the General Statutes.

(3) State employee. – An individual employed by a State agency and whose State service was creditable in any North Carolina retirement system.

"**§ 143-64.91. Revolving door prohibition for certain State employees.**

The following individuals shall not, either prior to or within a period of six months immediately after termination of State employment, knowingly accept employment with, commence employment with, or receive compensation for services from, a person that contracted with or was regulated by the State:

(1) A State employee who, in the six months immediately preceding termination of State employment, participated personally and substantially in the award or management of a State contract with the person, or its parent or subsidiary, if the State employee would be performing any services directly related to the State contract.

(2) A State employee who, in the six months immediately preceding termination of State employment, participated personally and substantially in making a regulatory or licensing decision that directly applied to the person, or its parent or subsidiary, if the State employee would be working on the same subject matter as the regulatory or licensing oversight.

"**§ 143-64.92. Notice of positions subject to this Article.**

(a) Each State agency shall adopt a policy delineating which State positions under its jurisdiction and control, by the nature of their duties, would likely have the authority to

participate personally and substantially in the award or management of State contracts or in regulatory or licensing decisions.

(b) A State agency may designate additional State positions under its jurisdiction and control, not otherwise subject to the policies required by subsection (a) of this section, as subject to the notification requirement of subsection (c) of this section due to the position's potential involvement in the award or management of State contracts or in regulatory or licensing decisions.

(c) State agencies shall give written notice and explanation to an employee serving in a position to which this Article would be applicable in the following circumstances:

(1) Upon hiring, promotion, or transfer into the relevant position.

(2) At the time the employee's duties are changed in such a way as to subject that employee to this Article.

(3) Upon departure from the relevant position.

(d) Neither the failure to be designated pursuant to subsection (a) or (b) of this section nor the failure to receive notification pursuant to subsection (c) of this section is a defense to a violation of this Article.

"**§ 143-64.93. Penalties.**

Any person who violates this Article, or solicits or conspires with a person to violate this Article, shall be guilty of a Class 3 misdemeanor and shall be fined in an amount no less than one thousand dollars ($1,000), nor more than five thousand dollars ($5,000)."

SECTION 6.9.(b) Each agency shall make the designations required by G.S. 143-64.93, enacted by subsection (a) of this section, no later than three months after the effective date of this act.

SECTION 6.9.(c) Except for subsection (b) of this section, this section becomes effective December 1, 2014, but shall not apply to any individual who otherwise would be covered by Article 3I of Chapter 143 of the General Statutes, as enacted by subsection (a) of this section, but has either accepted or commenced employment, or received compensation, prior to that date.

REPORTING ON AGENCY REORGANIZATIONS AND MOVEMENTS OF POSITIONS

SECTION 6.10. Article 6 of Chapter 143C of the General Statutes is amended by adding a new section to read:

"**§ 143C-6-12. Quarterly report on State agency reorganizations and movements of positions.**

The Office of State Budget and Management shall report quarterly to the Joint Legislative Commission on Governmental Operations on reorganizations of State agencies and movements of State agency positions. Each report submitted pursuant to this section shall include all of the following information for the previous quarter:

(1) A list of all reorganizations within State agencies or between State agencies.

(2) A list of all positions moved within a State agency or between State agencies.

(3) A statement of the purpose of each reorganization and position movement undertaken and of the legal authority under which each reorganization and position movement was made."

PART VII. INFORMATION TECHNOLOGY

INFORMATION TECHNOLOGY FUND

SECTION 7.1. Section 7.1 of S.L. 2013-360 reads as rewritten:

"**SECTION 7.1.** The availability used to support appropriations made in this act from the Information Technology Fund established in G.S. 147-33.72H is as follows:

	FY 2013-2014	FY 2014-2015
General Fund Appropriation for IT Fund	$6,053,142	~~$6,055,342~~$7,426,816
General Fund Appropriation for Government Data Analytics Center	$3,000,000	~~$4,417,515~~$7,917,515
GDAC Carryforward		$1,500,000
Criminal Justice Law Enforcement Automated Data System (CJLEADS)		$1,129,488
Transfer from Department of Commerce for LiDAR		$3,266,157
Geodetic Survey Transfer		$852,492
Geospatial Technology Management Transfer		$6,002
Interest	$2,200	$2,200
IT Fund Balance, June 30	$0	~~$0~~$2,200
Total Funds Available	$9,055,342	~~$10,475,057~~$22,102,870

Appropriations are made from the Information Technology Fund for the 2013-2015 fiscal biennium as follows:

Information Technology Operations		
Criminal Justice Information Network	$189,563	$189,563
Center for Geographic Information and Analysis	$495,338	~~$495,338~~$4,619,989
Enterprise Security Risk Management	$864,148	$864,148
Enterprise Project Management Office	$1,473,285	$1,473,285
Architecture and Engineering	$851,986	$851,986
State ~~Web Site~~Portal	$224,741	~~$224,741~~$1,588,415
Enterprise Licenses	$33,000	$33,000
Longitudinal Data Board		$5,000
Unmanned Aircraft Systems Board		$5,000
Subtotal Information Technology Operations	$4,132,061	~~$4,132,061~~$9,630,386
Information Technology Projects		
Government Data Analytics Center	$3,000,000	~~$4,417,515~~$9,630,386
CJLEADS		$1,129,488
IT Consolidation	$1,021,081	$1,021,081
Electronic Forms/Digital Signatures	$900,000	$900,000
Subtotal Information Technology Projects	$4,921,081	~~$6,338,596~~$12,468,084
Total	$9,053,142	~~$10,470,657~~$22,098,470

Unless a change is approved by the State Chief Information Officer after consultation with the Office of State Budget and Management, funds appropriated to the Information Technology Fund shall be spent only as specified in this section. Changes shall not result in any degradation to the information technology operations or projects listed in this section for which the funds were originally appropriated.

Any changes to the specified uses shall be reported immediately in writing to the Chairs of the Joint Legislative Oversight Committee on Information Technology, the Chair and Cochair of the House Appropriations Subcommittee on Information Technology, and the Fiscal Research Division."

INFORMATION TECHNOLOGY INTERNAL SERVICE FUND/RATE SETTING

SECTION 7.2. Section 7.2 of S.L. 2013-360 reads as rewritten:

"...

"**SECTION 7.2.(b)** IT Internal Service Fund. – For ~~each year of the 2013-2015 fiscal biennium,~~ the 2014-2015 fiscal year, receipts for the IT Internal Service Fund shall not exceed ~~one hundred ninety million dollars ($190,000,000),~~ one hundred ninety million one dollars ($190,000,001), excluding a 60-day balance for contingencies. Rates approved by the Office of State Budget and Management (OSBM) to support the IT Internal Service Fund shall be based on this fund limit. In the event the Fund exceeds the required limit, rates shall be adjusted within 30 days. In the event that an increase in receipts for the IT Internal Service Fund is required, the Office of Information Technology services may only implement the increase after consultation with the Joint Legislative Commission on Governmental Operations.

"**SECTION 7.2.(c)** Rate Setting. – By ~~October 31, 2013,~~ October 31, 2014, the State Chief Information Officer shall establish consistent, fully transparent, easily understandable rates that reflect industry standards for each service for which any agency is charged. A detailed written report explaining the rate structure shall be submitted to the Joint Legislative Commission on Governmental Operations, the Chairs of the Joint Legislative Oversight Committee on Information Technology, the House Appropriations Subcommittee on Information Technology, and the Fiscal Research Division. An interim written report shall be submitted by ~~July 30, 2013.~~ August 1, 2014. Overhead charges to agencies shall be consistently applied and shall reflect industry standards for the particular service. Rate increases shall require the approval of OSBM and consultation with the Joint Legislative Commission on Governmental Operations. Rate reductions may be implemented following notification of OSBM.

"**SECTION 7.2.(c1)** By October 31, 2014, the State Chief Information Officer shall establish rates for use of the Criminal Justice Law Enforcement Automated Data System (CJLEADS) by federal and private entities and users outside the State. These rates shall be reported to the Joint Legislative Oversight Committee on Information Technology.

"**SECTION 7.2.(c2)** By August 1, 2014, the name of the individual and the office responsible for overseeing the rate-setting process shall be provided to the chairs of the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division.

"**SECTION 7.2.(c3)** For the 2014-2015 fiscal year, funds in the IT Internal Service Fund are nonrecurring funds. Future appropriations to the IT Internal Service Fund will be dependent on the development of a fully transparent, consistent, and easy-to-understand rate structure. The proposed rate structure must be presented annually, with justifications, to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division, which shall make funding recommendations to the chairs of the Senate and House of Representatives Committees on Appropriations.

...."

INFORMATION TECHNOLOGY RESERVE FUND

SECTION 7.3. Section 7.3 of S.L. 2013-360 reads as rewritten:

"**SECTION 7.3.(a)** Funds in the Information Technology (IT) Reserve Fund for the 2013-2014 fiscal year consist of the sum of twenty-eight million dollars ($28,000,000) appropriated from the General Fund. Funds in the IT Reserve Fund for the 2014-2015 fiscal year consist of the sum of ~~thirty one million five hundred eighty two thousand four hundred eighty five dollars ($31,582,485)~~nineteen million nine hundred twenty-one thousand three hundred ninety-three dollars ($19,921,393) appropriated from the General Fund.

"**SECTION 7.3.(b)** The IT Reserve Fund shall be established in the Office of the State Chief Information Officer (CIO). It shall be interest-bearing and nonreverting. The State CIO shall follow established procedures for project approval. Appropriations are made from the IT Reserve Fund for the 2013-2015 fiscal biennium as follows:

	FY 2013-2014	FY 2014-2015
Prepare/Focus	$ 250,000	$ 0
Plan	1,570,806	~~2,239,512~~1,570,806
Build	1,507,353	~~2,882,254~~1,507,353
Remediation	1,100,000	600,000
Security	1,571,394	392,788
Network Simplification	0	4,832,485
Desktop Remediation	17,000,000	~~13,300,000~~6,300,000
Desktop Software Licenses	4,015,000	2,300,000
Operate	985,447	~~685,446~~185,446
Customer Data	0	~~1,000,000~~0
Secure Sign-On	0	~~3,350,000~~2,232,515
Innovation Center	0	0

"**SECTION 7.3.(c)** By ~~September 15, 2013,~~September 15, 2014, the State Chief Information Officer shall ~~provide a~~update the time line for completing initiatives included in the IT Reserve Fund to the Joint Legislative Oversight Committee on Information Technology, the House Appropriations Subcommittee on Information Technology, and the Fiscal Research Division. The time line shall include the dates for completion of a strategic plan, an enterprise architecture, a new business case methodology, and implementation of a new project management process. Not later than the dates specified in the time line, each of these documents shall be submitted to the Joint Legislative Oversight Committee on Information Technology, the House Appropriations Subcommittee on Information Technology, and the Fiscal Research Division.

"**SECTION 7.3.(d)** Unless a change is approved by the State Chief Information Officer after consultation with the Office of State Budget and Management, funds appropriated to the IT Reserve Fund shall be spent only as specified in this section. Changes shall not result in any degradation to the purposes for which the funds were originally appropriated.

Any changes to the specified uses shall immediately be reported in writing to the Chairs of the Joint Legislative Oversight Committee on Information Technology, the Chair and Cochair of the House Appropriations Subcommittee on Information Technology, and the Fiscal Research Division."

INFORMATION TECHNOLOGY OPERATIONS

SECTION 7.4.(a) Section 7.4 of S.L. 2013-360 is amended by adding a new subsection to read:

"**SECTION 7.4.(a1)** Unless an exception is granted in writing by the State Chief Information Officer, any new equipment purchased by State agencies to replace equipment currently housed in State agency data centers and any equipment purchased to provide new data center capabilities for State agencies shall be installed in Office of Information Technology Services data centers. Prior to purchasing any new equipment, State agencies shall coordinate with the Office of the State Chief Information Officer and the Office of Information Technology Services to ensure ITS has the capability to support planned equipment purchases.

By August 1, 2014, the Office of the State Chief Information Officer shall identify the individual and office responsible for overseeing the process required by this subsection and report the name of the identified individual to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division.

Beginning October 1, 2014, the Office of the State CIO shall report quarterly in writing to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on the implementation of this requirement, the specific nature of any exceptions granted, and the reason for each exception."

SECTION 7.4.(b) Section 7.4(c) of S.L. 2013-360 reads as rewritten:

"**SECTION 7.4.(c)** Restructuring Plan. – ~~The State CIO shall conduct a comprehensive review of the State's overall information technology operations, including the efficacy of existing exemptions and exceptions from unified State IT governance. Based upon this analysis, the~~ The State CIO shall ~~develop a~~ update the plan to restructure the State's IT operations for the most effective and efficient utilization of resources and capabilities. The plan shall include identifying, documenting, and providing a framework for developing and implementing the education and training required for all State information technology personnel, including information technology contracting professionals. Each State agency, department, and institution, and The University of North Carolina, shall (i) cooperate fully with the Office of the State CIO during the review and assessment phase of restructuring plan development and (ii) provide to the State CIO all information needed to carry out the purposes of this subsection. By ~~May 1, 2014,~~ December 1, 2014, the State CIO shall present the plan to the Joint Legislative Oversight Committee on Information Technology, along with any recommended legislative proposals ~~for implementation to be considered for introduction during the 2014 Regular Session of the 2013 General Assembly.~~to the 2015 General Assembly.

By August 1, 2014, the Office of the State Chief Information Officer shall identify the individual and office responsible for overseeing the process required by this subsection and report the name of the identified individual to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division."

TAX INFORMATION MANAGEMENT SYSTEM CHANGES

SECTION 7.5.(a) The public-private partnerships previously initiated to develop and implement the Tax Information Management Systems (TIMS) are no longer authorized. Effective July 1, 2014, all funding for the TIMS project must be appropriated by the General Assembly to the Department of Revenue for each initiative comprising the project, including all funding generated by the benefits stream.

SECTION 7.5.(b) Section 7.17 of S.L. 2013-360 reads as rewritten:

"**SECTION 7.17.(a)** Additional Public-Private Partnership. – The Secretary of Revenue may enter into an additional public-private arrangement in order to expand the implementation of the Tax Information Management System (TIMS). All such arrangements will terminate ~~June 30, 2018. The public-private arrangement may include terms necessary to implement additional revenue increasing or cost-savings components if all of the following conditions are met:~~January 31, 2014.

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

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

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

"~~**SECTION 7.17.(b)** Contracts. Work under an additional public-private arrangement that is authorized by this section may be contracted by requests for proposals, modifications to the existing contracts, purchases using existing contracts, or other related contract vehicles.~~

"**SECTION 7.17.(c)** Management/Performance Measurement. – The Secretary of Revenue shall ~~follow the existing model for public-private arrangement oversight and shall~~ establish a measurement process to determine the increased revenue or cost-savings attributed to ~~the additional public-private arrangement~~ contracts authorized by this section. To accomplish this, the Secretary shall consult subject matter experts in the Department of Revenue, in other

governmental units, and in the private sector, as necessary. At a minimum, the measurement process shall include all of the following:

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

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

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

~~"**SECTION 7.17.(d)** Funding. — Of funds generated from increased revenues or cost-savings, as compared to the baselines established by subdivision (1) of subsection (c) of this section, in the General Fund, the Highway Fund, and that State portion of the Unauthorized Substance Tax collections of the Special Revenue Fund, the sum of up to a total of sixteen million dollars ($16,000,000) may be authorized by the Office of State Budget and Management to make purchases related to the implementation of the additional public private arrangement authorized by this section, including payments for services from non-State entities.~~

~~"**SECTION 7.17.(e)** Internal Costs. — For the 2013-2015 fiscal biennium the Department of Revenue may retain an additional sum of eight million eight hundred seventy four thousand three hundred nineteen dollars ($8,874,319) from benefits generated for the General Fund since the beginning of the public private partnership described under Section 6A.5(a) of S.L. 2011-145. These funds shall be used as payment of internal costs for the fiscal biennium, and such funds are hereby appropriated for this purpose.~~

"**SECTION 7.17.(f)** Expert Counsel Required. – Notwithstanding G.S. 114-2.3, the Department of Revenue shall engage the services of private counsel with the pertinent information technology and computer law expertise to negotiate and review contracts ~~associated with an additional public private arrangement authorized~~ entered into under this section.

~~"**SECTION 7.17.(g)** Oversight Committee. — The Oversight Committee established under Section 6A.5(c) of S.L. 2011-145 shall have the same responsibilities and duties with respect to an additional public private arrangement authorized by this section as it does with respect to public private arrangements to implement TIMS and the additional Planning and Design Project (PDP) components.~~

~~"**SECTION 7.17.(h)** Reporting. — Beginning August 1, 2013, and quarterly thereafter, the Department of Revenue shall submit detailed written reports to the Chairs of the House of Representatives Appropriations Committee, to the Chairs of the Senate Committee on Appropriations/Base Budget, to the Joint Legislative Oversight Committee on Information Technology, and to the Fiscal Research Division of the General Assembly. The report shall include an explanation of all of the following:~~

~~(1) Details of each public private contract.~~

~~(2) The benefits from each contract.~~

~~(3) A comprehensive forecast of the benefits of using public private agreements to implement TIMS, the additional PDP components, and additional components authorized by this section, including cost savings and the acceleration of the project time line.~~

~~(4) Any issues associated with the operation of the public private partnership.~~

"**SECTION 7.17.(i)** Information Technology Project Oversight. – ~~In addition to the oversight provided by the Oversight Committee established in Section 6A.5(c) of S.L. 2011-145, the additional public private arrangement~~ Contracts pertaining to TIMS as authorized by this section shall be subject to existing State information technology project

oversight laws and statutes, and the project management shall comply with all statutory requirements and other criteria established by the State Chief Information Officer and the Office of State Budget and Management for information technology projects. The State Chief Information Officer and the Office of State Budget and Management shall immediately report any failure to do so to the Joint Legislative Oversight Committee on Information Technology, the Chairs of the House of Representatives and Senate Committees on Appropriations, and the Fiscal Research Division.

...."

SECTION 7.5.(c) Section 6A.5 of S.L. 2011-145, as amended by Section 6A.3(j) of S.L. 2012-142 and Section 7.17(j) of S.L. 2013-360, reads as rewritten:

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

The members of the Committee shall include the following:

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

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

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

"**SECTION 6A.5.(c1)** The TIMS Oversight Committee created by Section 6A.5(c) of this act shall do all of the following:

(1) Approve and monitor management performance measures.
(2) Approve project initiatives.
(3) Approve project changes.

(4) Provide project oversight.
(5) Review funding requirements and project expenditures.
(6) Provide TIMS project recommendations to the Department of Revenue and the General Assembly.
(7) Ensure Department of Revenue compliance with all applicable laws.

"**SECTION 6A.5.(c2)** Beginning August 1, 2014, and quarterly thereafter, the Department of Revenue shall submit detailed quarterly reports to the Joint Legislative Oversight Committee on Information Technology, the Chairs of the Senate Appropriations Committee on General Government and Information Technology, the Chairs of House Appropriations Subcommittee on General Government, the Chair of the House Appropriations Subcommittee on Information Technology, and the Fiscal Research Division. At a minimum, the reports shall include all of the following:

(1) Project status, to include any issues identified by the Enterprise Project Management Office.
(2) Comparison of project status to the time line, with an explanation of any differences.
(3) Any changes in project cost.
(4) Actual expenditures to date.
(5) Any variances from projected expenditures and the reasons for the variance.
(6) Any potential funding shortfalls and their impact.
(7) Any issues identified by the Department of Revenue, with a corrective action plan and a time line for resolving the issues.
(8) Impact of any issues identified on the project schedule.
(9) Impact of any issues identified on project cost.
(10) Any changes to the project scope.
(11) Any change requests submitted to project vendors and the cost of the changes."

GOVERNMENT DATA ANALYTICS CENTER/BUSINESS INTELLIGENCE

SECTION 7.6.(a) G.S. 143B-426.38A reads as rewritten:

"(a) State Government Data Analytics. – The State shall initiate across State agencies, departments, and institutions a data integration and data-sharing initiative that is not intended to replace transactional systems but is instead intended to leverage the data from those systems for enterprise-level State business intelligence. For the purposes of this section, the term "business intelligence (BI)" means the process of collecting, organizing, sharing, and analyzing data through integrated data management, reporting, visualization, and advanced analytics to discover patterns and other useful information that will allow policymakers and State officials to make more informed decisions. The term also includes:

(1) Broad master data management capabilities such as data integration, data quality and enrichment, data governance, and master data management to collect, reference, and categorize information from multiple sources.
(2) Self-service query and reporting capabilities to provide timely, relevant, and actionable information to business users delivered through a variety of interfaces, devices, or applications based on their specific roles and responsibilities.

All State agency business intelligence requirements, including any planning or development efforts associated with creating BI capability, shall be implemented through the GDAC using established contracts. The State Chief Information Officer shall ensure that State agencies use the GDAC for agency business intelligence requirements.

...

~~(d1) Appropriations. Of the funds appropriated to the Information Technology Fund, the sum of three million dollars ($3,000,000) for the 2013-2014 fiscal year and the sum of four million four hundred seventeen thousand five hundred fifteen dollars ($4,417,515) for the 2014-2015 fiscal year shall be used to support the GDAC and NCFACTS. Of these funds, the sum of one million four hundred seventeen thousand five hundred fifteen dollars ($1,417,515) shall be used in each fiscal year of the 2013-2015 biennium for OSC internal costs. For fiscal year 2014-2015, of the funds generated by GDAC and NCFACTS projects and returned to the General Fund, the sum of up to five million dollars ($5,000,000) is appropriated to fund GDAC and NCFACTS, to include vendor payments. Prioritization for the expenditure of these funds shall be for State costs associated with GDAC first, then vendor costs second. Funds in the 2013-2015 fiscal year budgets for GDAC and NCFACTS shall be used solely to support the continuation for these priority project areas.~~

...."

SECTION 7.6.(b) Of the funds appropriated to the Information Technology Fund, the sum of nine million four hundred seventeen thousand five hundred fifteen dollars ($9,417,515) for the 2014-2015 fiscal year shall be used to support the GDAC and NCFACTS. Of these funds, the sum of one million four hundred seventeen thousand five hundred fifteen dollars ($1,417,515) shall be used in each fiscal year of the 2013-2015 fiscal biennium for Office of State Controller internal costs. An additional one million one hundred twenty-nine thousand four hundred eighty-eight dollars ($1,129,488) for the 2014-2015 fiscal year shall be used to support the Criminal Justice Law Enforcement Automated Data System.

INFORMATION TECHNOLOGY CONTRACTS

SECTION 7.7.(a) Section 7.7(a) of S.L. 2013-360 reads as rewritten:

"**SECTION 7.7.(a)** SCIO Review. – The State Chief Information Officer (State CIO) shall review all State information technology (IT) contracts and shall develop a plan to consolidate duplicate IT contracts and multiple IT contracts with the same vendor. The State CIO shall ensure that all State information technology contracts include provisions for a detailed performance schedule with specific milestones and deliverables, including appropriate penalties for any failure to fulfill those requirements."

SECTION 7.7.(b) Section 7.7 of S.L. 2013-360 is amended by adding a new subsection to read:

"**SECTION 7.7.(g)** Enhance State IT Contract Expertise. – The State Chief Information Officer (State CIO), the Office of State Human Resources, and the Schools of Government and Law at the University of North Carolina at Chapel Hill shall work jointly to create a career path for State government information technology contracting professionals that includes defined qualifications, career progression, training opportunities, and appropriate compensation. By December 1, 2014, the State CIO shall submit a detailed, fully implementable plan to create the career path for State government information technology contracting professionals to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division."

INFORMATION TECHNOLOGY PERSONAL SERVICES CONTRACT REQUIREMENTS

SECTION 7.8. Section 7.8 of S.L. 2013-360, as amended by Section 2.3 of S.L. 2013-363, reads as rewritten:

"~~**SECTION 7.8.**~~**SECTION 7.8.(a)** Notwithstanding any provision of law to the contrary, no contract for information technology personal services, or that provides personnel to perform information technology functions, may be established or renewed without written approval from the Statewide Information Technology Procurement Office and the Office of State Budget

and Management. To facilitate compliance with this requirement, the Statewide Information Technology Procurement Office shall develop and document the following:

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

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

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

By no later than September 1, 2014, this documentation shall be submitted to the Joint Legislative Committee on Information Technology and to the Fiscal Research Division.

The Statewide Information Technology Procurement Office shall review current personal services contracts and determine if each contractor is performing a function that could more appropriately be performed by a State employee. Where the determination is made that a State employee should be performing the function, the Statewide Information Technology Procurement Office shall work with the impacted agency, the Office of State Budget and Management, and the Office of ~~State Personnel~~ State Human Resources to identify or create the position.

"**SECTION 7.8.(b)** Beginning October 1, 2014, the Office of the State Chief Information Officer shall submit quarterly a detailed written report to the Joint Legislative Oversight Committee on Information Technology and Fiscal Research Division on information technology (IT) personal services contracts. At a minimum, the report shall include all of the following:

(1) The name of the individual and the office responsible for overseeing IT personal services contractors for the State.

(2) Number of IT personal services contract personnel in each State agency.

(3) Length of time each personal services contractor has been engaged by the State, in any capacity, as a personal services contractor.

(4) Cost for each personal services contractor, with subtotals by agency and the grand total for the State as a whole.

(5) Comparable cost (including benefits and other support costs) for a State employee providing the same function, with subtotal by agency and the grand total for the State as a whole.

(6) Change in number of personal service contractors by State agency, and for the State as a whole, since the previous report.

(7) Number of personal service contractors whose contracts have been extended since the previous report, by State agency and for the State as a whole.

(8) Number of personal services contractors added by State agency, and the State as a whole, since the previous report.

(9) Change in total annualized cost for personal services contractors by State agency and for the State as a whole.

(10) Number of personal service contractors who have converted status to State employment, by State agency and for the State as a whole, with the annualized costs savings to the State.

(11) Number of status conversions from contractor to State employee pending, by State agency and for the State as a whole.

(12) Number of personal services contractor positions eliminated since the previous report.

(13) Efforts made by the Office of the State CIO, the Office of State Budget and Management, and the Office of State Human Resources to oversee and manage the IT personal services contractor process.

~~Beginning October 1, 2013, the Statewide Information Technology Procurement Office shall report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on its progress toward standardizing information technology personal services contracts. In addition, the report shall include detailed information on the number of personal service contractors in each State agency, the cost for each, and the comparable cost (including benefits) of a State employee serving in that capacity rather than a contractor.~~"

STATE INFORMATION TECHNOLOGY INNOVATION CENTER

SECTION 7.9.(a) Section 7.13 of S.L. 2013-360 reads as rewritten:

"~~**SECTION 7.13.**~~**SECTION 7.13.(a)** The State Chief Information Officer (CIO) may operate a State Information Technology Innovation Center (Center) to develop and demonstrate technology solutions with potential benefit to the State and its citizens. The Center may facilitate the piloting of potential solutions to State technology requirements. In operating the Center, the State CIO shall ensure that all State laws, rules, and policies are followed. Vendor participation in the Center shall not be construed to (i) create any type of preferred status for vendors or (ii) abrogate the requirement that the State CIO ensure that agency and statewide requirements for information technology support (including those for the Office of the State CIO and the Office of Information Technology Services) are awarded based on a competitive process that follows information technology procurement guidelines. Beginning July 1, 2013, the State CIO shall report to the Joint Legislative Oversight Committee on Information Technology on a quarterly basis on initiatives being developed and implemented within the Center, as well as on the sources and amounts of resources used to support the Center.

"**SECTION 7.13.(b)** In addition to the requirements of subsection (a) of this section, the State CIO shall report to the Joint Legislative Oversight Committee on Information Technology on the results of any initiatives conducted through the Center and whether each initiative will result in a new information technology project or program."

SECTION 7.9.(b) A State agency that undertakes an information technology product or service integration effort shall coordinate that effort with the State Information Technology Innovation Center (Center) and shall document that coordination in writing. Agencies shall use the resources of the Center whenever practicable.

ENTERPRISE GRANTS MANAGEMENT

SECTION 7.10. Section 7.14(b) of S.L. 2013-360 reads as rewritten:

"**SECTION 7.14.(b)** There is established a Grants Management Oversight Committee (Committee) to coordinate the development of an enterprise grants management system. The Committee shall be chaired by the State Chief Information Officer. Committee membership shall include the Director of the Office of State Budget and Management, the State Auditor, the Department of Transportation Chief Information Officer, and the State Controller. The State Auditor shall serve as a nonvoting member. The Committee shall:

(1) Establish priorities for moving agencies to the enterprise system.
(2) Establish priorities for development and implementation of system capabilities.
(3) Define system requirements.
(4) Approve plans associated with system development and implementation.
(5) Review costs and approve funding sources for system development and implementation.
(6) Ensure any system benefits are realistic and realized.

The Committee shall meet at least quarterly. The Committee shall prepare and submit meeting minutes promptly to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division no more than five days after each meeting.

By August 1, 2014, the Office of the State Chief Information Officer shall identify the individual and office responsible for overseeing development of the grants management system and report that information to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division."

VEHICLE MANAGEMENT

SECTION 7.11.(a) If Section 7.16(e) of S.L. 2013-360 is repealed during the 2014 Regular Session of the 2013 General Assembly, then Section 7.16 is amended by adding the following new subsection:

"**SECTION 7.16.(g)** Until December 31, 2015, no State or local governmental entity or officer may procure or operate an unmanned aircraft system or disclose personal information about any person acquired through the operation of an unmanned aircraft system unless the State CIO approves an exception specifically granting disclosure, use, or purchase. Any exceptions to the prohibition in this subsection shall be reported immediately to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division. The following definitions apply in this section:

(1) "Unmanned aircraft" means an aircraft that is operated without the possibility of human intervention from within or on the aircraft.

(2) "Unmanned aircraft system" means an unmanned aircraft and associated elements, including communication links and components that control the unmanned aircraft that are required for the pilot in command to operate safely and efficiently in the national airspace system."

SECTION 7.11.(b) Section 7.16 of S.L. 2013-360 is amended by adding a new section to read:

"**SECTION 7.16.(h)** The State CIO shall implement a cross-functional UAS Governance Board (Board) to oversee UAS operations within the State of North Carolina. The Board shall meet at least quarterly and shall provide recommendations regarding long term UAS governance and operations to the Office of the State CIO and the Joint Legislative Oversight Committee on Information Technology. Administrative support for the Board shall be provided by the Office of the State CIO. The Board shall be composed of eleven members as follows:

(1) State Chief Information Officer, who shall serve as chair.

(2) These officers or their respective designees:

a. Secretary of the Department of Transportation.

b. Secretary of the Department of Environment and Natural Resources.

c. Secretary of the Department of Public Safety.

d. North Carolina Attorney General.

e. Director of the Next Generation Air Transportation Center.

(3) One member of the State Bar appointed by the Governor.

(4) One member of the public with aviation expertise appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate.

(5) One member of the North Carolina Sheriffs' Association or North Carolina Police Chiefs' Association appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate

(6) One member of the public with information privacy expertise appointed the General Assembly upon the recommendation of the Speaker of the House of Representatives.

(7) One member representing local first responders appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives."

USE OF MOBILE COMMUNICATIONS DEVICES

SECTION 7.12.(a) G.S. 147-33.91(a) reads as rewritten:

"(a) With respect to State agencies, the State Chief Information Officer shall exercise general coordinating authority for all telecommunications and mobile electronic communications matters relating to the internal management and operations of those agencies. In discharging that responsibility, the State Chief Information Officer, in cooperation with affected State agency heads, may:

...

(14) Monitor the use of mobile electronic communications devices within State agencies and maintain information on the following:

a. The total number of devices issued by each agency.

b. The total cost of mobile devices issued by each agency.

c. The number and cost of new devices issued.

d. The contracts used to obtain the devices."

SECTION 7.12.(b) Section 7.18 of S.L. 2013-360 is repealed.

STATE PORTAL IMPLEMENTATION/REQUIREMENTS

SECTION 7.13.(a) The State Chief Information Officer shall implement and operate a statewide electronic portal to increase the convenience of members of the public in conducting online transactions with, and obtaining information from, State government, and to facilitate their interactions and communications with government agencies. The portal shall be developed using State information technology resources, to include resources available through The University of North Carolina and its constituent institutions.

SECTION 7.13.(b) Prior to implementation of a State portal, the State Chief Information Officer shall provide all of the following to the General Assembly:

(1) A detailed plan for development and implementation of the portal, to include a list of anticipated applications to be implemented during fiscal years 2014-2015 and 2015-2016.

(2) A description of how the portal is to be implemented, to include detailed information on potential costs, including total cost of ownership of the portal and any applications proposed for implementation during fiscal years 2014-2015 and 2015-2016.

(3) A funding model for the implementation that does not increase the cost of access to services for any citizen of the State.

SECTION 7.13.(c) The State portal project shall meet all requirements for project management established by the State Chief Information Officer and State law. Participation by State agencies in the State portal shall be voluntary. State agency receipts shall not be affected by the development and implementation of the State portal. Current State agency plans and operations shall not require any changes due to the development and implementation of the State portal.

SECTION 7.13.(d) Notwithstanding any other provision of law, all fees associated with the State portal shall be set by the General Assembly in the Current Operations Appropriations Act.

DEPARTMENT OF TRANSPORTATION INFORMATION TECHNOLOGY MODERNIZATION

SECTION 7.14.(a) Of the funds appropriated to the Department of Transportation (DOT), the sum of twenty-three million three hundred eighty-six thousand eight hundred

twenty-two dollars ($23,386,822) for the 2014-2015 fiscal year is allocated for the following information technology projects and associated activities:

	FY 2014-2015
Replacement of the State Automated Driver License System (SADLS) – Project Phases 1, 2, and 3	$14,946,903
Division of Motor Vehicles Mobile Unit Replacement	$796,000
Division of Motor Vehicles Kiosk Pilot Program	$600,000
Division of Motor Vehicles Card Payment Operations & Maintenance	$1,512,919
Division of Motor Vehicles – Service-Oriented Architecture	$3,000,000
Division of Motor Vehicles Channel Strategy	$1,800,000
Division of Motor Vehicles – Online Renewal	$475,000
Division of Motor Vehicles – Web Application Development (Hearing Fee Implementation)	$256,000

SECTION 7.14.(b) Available funds shall be prioritized to expedite completion of the State Automated Driver License System modernization and replacement project. All DOT business intelligence activities, to include any planning and development, shall be implemented working through the Government Data Analytics Center. Service-oriented architecture efforts shall be coordinated in writing with the Office of the State Chief Information Officer. All DOT information technology product or service integration efforts shall be coordinated in writing with the State Information Technology Innovation Center.

SECTION 7.14.(c) By September 1, 2014, the DOT Chief Information Officer shall identify a responsible individual for each project listed above and provide those names to the Joint Legislative Oversight Committee on Information Technology and the Joint Legislative Transportation Oversight Committee.

SECTION 7.14.(d) Beginning October 1, 2014, the DOT Chief Information Officer shall submit a quarterly, written report on the status of each information technology project listed in this section to the Joint Legislative Oversight Committee on Information Technology and the Joint Legislative Transportation Oversight Committee. At a minimum, the report shall include all of the following:

(1) Project status, to include any issues identified by the Enterprise Project Management Office.
(2) Comparison of project status to the time line, with an explanation of any differences.
(3) Any changes in project cost.
(4) Actual expenditures to date.
(5) Any variances from projected expenditures and the reasons for the variance.
(6) Any potential funding shortfalls and the potential impact of the funding shortfalls.
(7) Any issues identified by the DOT, with a corrective action plan and a time line for resolving the issues.
(8) Impact of any issues identified on the project schedule.
(9) Impact of any issues identified on project cost.
(10) Any changes to the project.
(11) Any change requests submitted to project vendors and the cost of those changes.

ENTERPRISE RESOURCE PLANNING SYSTEM

SECTION 7.15.(a) By December 1, 2014, the State Chief Information Officer (State CIO), in coordination with the Office of the State Controller and the Office of State Budget and Management, shall define the requirements and develop a detailed plan for a

statewide enterprise resource planning (ERP) system. At a minimum, the plan shall address all of the following:

(1) Project management.
(2) Project scope.
(3) Specific project requirements.
(4) Time line.
(5) Cost by State fiscal year.
(6) Potential funding sources.
(7) Quality control.
(8) Change management.
(9) Risks associated with the project.
(10) Stakeholder management.

SECTION 7.15.(b) By August 1, 2014, the Office of the State CIO shall identify the individual and office responsible for the development of the ERP plan required by this section and provide the name of the individual to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division.

STUDY FEASIBILITY OF SELLING GIS DATA

SECTION 7.16. The Center for Geographic Information and Analysis in the Office of the State Chief Information Officer shall study the feasibility of selling Geographic Information Systems data. By December 1, 2014, the Center shall report its findings to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division.

PART VIII. PUBLIC SCHOOLS

FUNDS FOR CHILDREN WITH DISABILITIES

SECTION 8.1. The State Board of Education shall allocate additional funds for children with disabilities on the basis of three thousand seven hundred sixty-eight dollars and eleven cents ($3,768.11) per child for the 2014-2015 fiscal year. Each local school administrative unit shall receive funds for the lesser of (i) all children who are identified as children with disabilities or (ii) twelve and five-tenths percent (12.5%) of its 2014-2015 allocated average daily membership in the local school administrative unit. The dollar amounts allocated under this section for children with disabilities shall also adjust in accordance with legislative salary increments, retirement rate adjustments, and health benefit adjustments for personnel who serve children with disabilities.

FUNDS FOR ACADEMICALLY GIFTED CHILDREN

SECTION 8.2. The State Board of Education shall allocate additional funds for academically or intellectually gifted children on the basis of one thousand two hundred thirty-nine dollars and sixty-five cents ($1,239.65) per child for the 2014-2015 fiscal year. A local school administrative unit shall receive funds for a maximum of four percent (4%) of its 2014-2015 allocated average daily membership, regardless of the number of children identified as academically or intellectually gifted in the unit. The dollar amounts allocated under this section for academically or intellectually gifted children shall also adjust in accordance with legislative salary increments, retirement rate adjustments, and health benefit adjustments for personnel who serve academically or intellectually gifted children.

EXTEND THE DATE FOR SCHOOL EMPLOYEES TO QUALIFY FOR CERTAIN EDUCATION BASED SALARY SUPPLEMENTS

SECTION 8.3. Section 8.22 of S.L. 2013-360 reads as rewritten:

"**SECTION 8.22.** Notwithstanding Section 35.11 of this act, ~~no~~ only the following teachers ~~or~~and instructional support ~~personnel, except for certified school nurses and instructional support personnel in positions for which a master's degree is required for licensure,~~ personnel shall be paid on the "M" salary schedule or receive a salary supplement for academic preparation at the six-year degree level or at the doctoral degree level for the 2014-2015 school ~~year, unless they were paid on that salary schedule or received that salary supplement prior to the 2014-2015 school year.~~year and subsequent school years:

(1) Certified school nurses and instructional support personnel in positions for which a master's degree is required for licensure.

(2) Teachers and instructional support personnel who were paid on that salary schedule or received that salary supplement prior to the 2014-2015 school year.

(3) Teachers and instructional support personnel who complete a degree at the master's, six-year, or doctoral degree level for which they completed at least one course prior to August 1, 2013."

FUNDS FOR SMALL COUNTY SCHOOL ADMINISTRATIVE UNITS AND STUDY ON CONSOLIDATION.

SECTION 8.4.(a) Section 8.4 of S.L. 2013-360, as amended by Section 3.11 of S.L. 2013-363, reads as rewritten:

"**SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING**

...

"**SECTION 8.4.(d)** Allotment ~~Formula~~Schedule for the 2014-2015 Fiscal Year. – Except as otherwise provided in ~~subsection~~ subsections (e) and (g) of this section, for the 2014-2015 fiscal year, each eligible county school administrative unit shall receive a dollar allotment ~~equal to the product of the following:~~according to the following schedule:

~~(1) A per student funding factor, equal to the product of the following:~~

~~a. One, minus the local school administrative unit's average daily membership divided by the maximum small school system average daily membership.~~

~~b. The maximum small school system dollars per student.~~

~~(2) The average daily membership of the eligible county school administrative unit.~~

Allotted ADM	Small County Allotment
0-600	$ 1,710,000
601-1,300	$ 1,820,000
1,301-1,700	$ 1,548,700
1,701-2,000	$ 1,600,000
2,001-2,300	$ 1,560,000
2,301-2,600	$ 1,470,000
2,601-2,800	$ 1,498,000
2,801-3,200	$ 1,548,000

"**SECTION 8.4.(e)** Phase-Out Provisions for the 2014-2015 Fiscal Year. – If a local school administrative unit becomes ineligible for funding under the ~~formula~~schedule in subsection (d) of this section in the 2014-2015 fiscal year, funding for that unit shall be phased out over a five-year period. Funding for such local administrative units shall be reduced in equal increments in each of the five years after the local administrative unit becomes ineligible. Funding shall be eliminated in the fifth fiscal year after the local administrative unit becomes ineligible.

Allotments for eligible local school administrative units shall not be reduced by more than twenty percent (20%) of the amount received in fiscal year 2013-2014 in any fiscal year.

"~~SECTION 8.4.(f) Maximum Allotments for the 2014-2015 Fiscal Year. For the 2014-2015 fiscal year, the maximum small school system dollars per student shall be two thousand ninety-four dollars ($2,094).~~

...."

SECTION 8.4.(b) It is the intent of the General Assembly to implement a plan to consolidate by region the 25 local school administrative units with the lowest average daily membership of students by the end of the 2018-2019 school year if consolidation would be feasible and result in significant operational efficiencies for those local school administrative units.

To determine the feasibility of consolidating those local school administrative units, the Department of Public Instruction shall study consolidation and shall identify, as part of the study, the benefits of consolidation, including potential operational efficiencies, barriers to implementation, including county revenue and budgeting processes, and a potential regionalization plan.

The Department shall report on the results of the study and its recommendations with any proposed legislative changes, including proposed modifications to the small school system supplemental funding formula, to the 2015 General Assembly by March 15, 2015.

REPORTING REQUIREMENT FOR THE NC CENTER FOR ADVANCEMENT OF TEACHING

SECTION 8.5. In addition to an update of any information included in the report required by Section 8.10 of S.L. 2013-360, the North Carolina Center for the Advancement of Teaching (NCCAT) shall report the following information to the Fiscal Research Division no later than February 1, 2015:

(1) The number of teachers in service through the program.
(2) The areas of service for teachers participating in the program.
(3) The results of performance measures in place for determining whether the program is meeting its mission, goals, and objectives.
(4) Recommendations for statutory, budgetary, or administrative changes needed to improve the efficiency and effectiveness of the program.

CLARIFY BUDGET REDUCTIONS/DEPARTMENT OF PUBLIC INSTRUCTION

SECTION 8.6. Section 8.6 of S.L. 2013-360 reads as rewritten:

"**SECTION 8.6.(a)** Notwithstanding G.S. 143C-6-4, the Department of Public Instruction may, after consultation with the Office of State Budget and Management and the Fiscal Research Division, reorganize, if necessary, to implement the budget reductions ~~set out in this act.~~ for the biennium. Consultation shall occur prior to requesting budgetary and personnel changes through the budget revision process. The Department shall provide a current organization chart in the consultation process and shall report to the Joint Legislative Commission on Governmental Operations on any reorganization.

"**SECTION 8.6.(b)** In implementing budget reductions for the 2014-2015 fiscal year, the Department of Public Instruction shall make no reduction to funding or positions for the North Carolina Center for the Advancement of Teaching and shall make no reduction in funding to any of the following entities:

(1) Communities in Schools of North Carolina, Inc.
(2) Teach for America, Inc.
(3) Beginnings For Parents of Children Who Are Deaf or Hard of Hearing, Inc."

CLARIFY CARRYFORWARD FOR SUMMER READING CAMPS

SECTION 8.7.(a) Section 8.16 of S.L. 2013-360 reads as rewritten:

"**SECTION 8.16.** Funds appropriated for the 2013-2015 fiscal biennium and subsequent fiscal years for summer reading camps as defined in G.S. 115C-83.3(9) shall not revert at the end of each fiscal year but shall remain available ~~until expended.~~ for expenditure until August 31 of the subsequent fiscal year."

SECTION 8.7.(b) This section becomes effective June 30, 2014.

CARRYFORWARD FOR PANIC ALARM GRANTS

SECTION 8.8.(a) Section 8.37 of S.L. 2013-360 is amended by adding a new subsection to read:

"**SECTION 8.37.(b1)** Grants to local school administrative units, regional schools, and charter schools shall not revert at the end of the fiscal year but shall remain available for expenditure until the end of the subsequent fiscal year."

SECTION 8.8.(b) This section becomes effective June 30, 2014.

STATE BOARD OF EDUCATION NOTIFICATION TO THE GENERAL ASSEMBLY OF FEDERAL GRANT APPLICATIONS

SECTION 8.9. G.S. 115C-12 is amended by adding a new subdivision to read:

"**§ 115C-12. Powers and duties of the Board generally.**

The general supervision and administration of the free public school system shall be vested in the State Board of Education. The State Board of Education shall establish policy for the system of free public schools, subject to laws enacted by the General Assembly. The powers and duties of the State Board of Education are defined as follows:

...

(42) To notify the General Assembly of federal grant applications. – The State Board of Education shall provide written notification to the General Assembly in accordance with G.S. 120-29.5 and to the Fiscal Research Division of its intent to apply for any federal grant prior to submitting the grant application."

PROPERTY INSURANCE SYSTEM FOR CHARTER SCHOOLS

SECTION 8.10. G.S. 115C-533 reads as rewritten:

"**§ 115C-533. Duty of State Board to operate insurance system.**

The State Board of Education shall have the duty to manage and operate a system of insurance for public school property. The State Board may offer a system of property insurance to any charter schools approved pursuant to G.S. 115C-238.29D."

NC EDUCATION ENDOWMENT FUND

SECTION 8.11.(a) Chapter 115C of the General Statutes is amended by adding a new Article to read:

"Article 32E.

"North Carolina Education Endowment Fund.

"**§ 115C-472.16. Establishment of the North Carolina Education Endowment Fund.**

(a) There is established the North Carolina Education Endowment Fund. The Fund shall be a special fund consisting of (i) moneys credited to it under G.S. 20-81.12 from the sale of "I Support Teachers" special registration plates; (ii) proceeds of any gifts, grants, or contributions to the State that are specifically designated for inclusion in the Fund; (iii) appropriations made to it by the General Assembly; and (iv) interest accrued to it thereon. Moneys in the Fund shall be available for expenditure only upon an act of appropriation by the General Assembly.

(b) The General Assembly shall only appropriate moneys in the North Carolina Education Endowment Fund for teacher compensation that is related directly to improving student academic outcomes in the public schools of the State."

SECTION 8.11.(b) G.S. 20-79.4(b) is amended by adding a new subdivision to read:

"(b) Types. – The Division shall issue the following types of special registration plates:

...

() I Support Teachers. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall have a gray chalkboard background with "I SUPPORT TEACHERS" written in white chalk across the top of the plate, and an image of a red apple shall be in the lower left corner with the letters "ABC" appearing in white chalk over the apple."

SECTION 8.11.(c) G.S. 20-81.12(b12) reads as rewritten:

"(b12) I Support ~~Public Schools~~ Teachers Plates. – The Division must receive 300 or more applications for ~~a~~the I Support ~~Public Schools~~ Teachers plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of I Support ~~Public Schools~~ Teachers plates to the ~~Fund for the Reduction of Class Size in Public Schools created pursuant to G.S. 115C-472.10.~~North Carolina Education Endowment Fund established pursuant to G.S. 115C-472.16."

SECTION 8.11.(d) G.S. 20-79.7 reads as rewritten:

"§ 20-79.7. Fees for special registration plates and distribution of the fees.

...

(a1) Fees. – All other special registration plates are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

Special Plate	Additional Fee Amount
...	
Harley Owners' Group	$20.00
I Support Teachers	$20.00
Jaycees	$20.00
...	
Special Forces Association	$20.00
~~Support Public Schools~~	~~$20.00~~
US Equine Rescue League	$20.00
...	

(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) of this section among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), the Clean Water Management Trust Fund (CWMTF), which is established under G.S. 113A-253, and the Parks and Recreation Trust Fund, which is established under G.S. 113-44.15, as follows:

Special Plate	SRPA	CCAPA	NHTF	PRTF
...				
In-State Collegiate Insignia	$10	$15	0	0
I Support Teachers	$10	$10	0	0
Jaycees	$10	$10	0	0
...				
Support Our Troops	$10	$20	0	0
~~Support Public Schools~~	~~$10~~	~~$10~~	~~0~~	~~0~~

Support Soccer	$10	$15	0	0

...."

SECTION 8.11.(e) G.S. 20-63(b1) reads as rewritten:

"(b1) The following special registration plates do not have to be a "First in Flight" plate as provided in subsection (b) of this section. The design of the plates that are not "First in Flight" plates must be developed in accordance with G.S. 20-79.4(a3). For special plates authorized in G.S. 20-79.7 on or after July 1, 2013, the Division may not issue the plate on a background under this subsection unless it receives at least 200 applications for the plate in addition to the applications required under G.S. 20-79.4 or G.S. 20-81.12.

...

(43) Mountains-to-Sea Trail, Inc.

(44) I Support Teachers."

SECTION 8.11.(f) The Revisor of Statutes is authorized to alphabetize, number, and renumber the special registration plates listed in G.S. 20-79.4(b) to ensure that all the special registration plates are listed in alphabetical order and numbered accordingly.

SECTION 8.11.(g) Article 32C of Chapter 115C of the General Statutes is repealed.

SECTION 8.11.(h) Article 9 of Subchapter I of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-269.7. Contribution of income tax refund or payment to the North Carolina Education Endowment Fund.**

Any taxpayer entitled to a refund of income taxes under Article 4 of this Chapter, or any taxpayer who desires to make a contribution, may elect to contribute all or part of the refund or may make a contribution to the North Carolina Education Endowment Fund established pursuant to G.S. 115C-472.16 to be used in accordance with that statute. The Secretary shall provide appropriate language and space on the income tax form in which to make the election or contribution. The taxpayer's election or contribution becomes irrevocable upon filing the taxpayer's income tax return for the taxable year. The Secretary shall transmit the amounts designated pursuant to this section to the State Treasurer for credit to the North Carolina Education Endowment Fund."

SECTION 8.11.(i) Subsection (h) of this section is effective for taxable years beginning on or after January 1, 2014.

CLARIFY MILITARY SERVICE CREDIT FOR NEWLY HIRED EDUCATORS

SECTION 8.12. G.S. 115C-302.3(a) reads as rewritten:

"(a) The State Board of Education shall establish rules for awarding credit for salary purposes to principals, assistant principals, and ~~teachers~~teachers, who (i) served in the Armed Forces of the United ~~States and who~~ States; (ii) have retired or who have received an Honorable ~~Discharge.~~ Discharge; and (iii) have not been previously employed by a public school located in North Carolina. The rules shall include the following provisions:

(1) One full year of experience credit shall be awarded for each year of full-time relevant nonteaching work experience completed (i) while on active military duty in the Armed Forces of the United States and (ii) after earning a bachelor's degree.

(2) One full year of experience credit shall be awarded for each two years of full-time relevant nonteaching work experience completed (i) while on active duty in the Armed Forces of the United States and (ii) before earning a bachelor's degree.

(3) One full year of experience credit shall be awarded for every two years of full-time instructional or leadership duties while on active military duty in

the Armed Forces of the United States, regardless of academic degree held while in instruction or leadership roles."

SCHOOL TRANSPORTATION FLEET MANUAL REVIEW

SECTION 8.13.(a) The Department of Public Instruction shall study and review school bus transportation maintenance issues by convening a committee of school bus transportation maintenance experts, at least half of whom shall be employees of local boards of education from around the State directly involved in the daily maintenance of school buses. The study shall specifically review the provisions of the State's School Transportation Fleet Manual. The Department shall do at least the following when conducting the review:

(1) Specify those provisions of the current manual that are required by federal law, regulation, or guideline.

(2) Determine if the procedures in the Manual, including the out-of-service criteria, can be streamlined and simplified to meet the minimum requirements of federal law, including Highway Safety Program Guideline No. 17 on Pupil Transportation Safety, and eliminate any unnecessary or unduly burdensome requirements.

(3) Determine if the current 30-day school bus inspection schedule in G.S. 115C-248 is still appropriate or should be extended.

SECTION 8.13.(b) The Department of Public Instruction shall report on the study and the results of the review, along with any recommendations for statutory changes, to the Joint Legislative Education Oversight Committee by December 15, 2014.

TRANSPORTATION REDUCTION FLEXIBILITY

SECTION 8.14. The Department of Public Instruction shall have the authority to determine the amount of the budget reduction to the transportation allotment that reduces support for Driver Training and the amount of the budget reduction to the transportation allotment that reduces support for pupil transportation-related expenses for "yellow bus" use for eligible school age (K-12) students for travel to and from school and between schools.

DRIVER EDUCATION FUNDING

SECTION 8.15.(a) Effective July 1, 2015, G.S. 20-88.1(c) is repealed.

SECTION 8.15.(b) It is the intent of the General Assembly that, beginning with the 2015-2016 fiscal year, the driver education program administered by the Department of Public Instruction in accordance with G.S. 115C-215 shall no longer be paid out of the Highway Fund based on an annual appropriation by the General Assembly. Local boards of education shall use funds available to them, including a fee for instruction charged to students pursuant to G.S. 115C-216(g), to offer noncredit driver education courses in high schools.

SECTION 8.15.(c) G.S. 115C-216(g) reads as rewritten:

"(g) ~~Fee for Instruction.~~Funding for Courses. – The local boards of education shall fund driver education courses from funds available to them and may charge each student participating in a driver education course a fee ~~of up to fifty-five dollars ($55.00) to offset~~in an amount not to exceed the actual costs per student of providing the ~~training and instruction.~~courses."

PART IX. COMPENSATION OF PUBLIC SCHOOL EMPLOYEES/CAREER STATUS

PROFESSIONAL STATUS TEACHER SALARY SCHEDULE

SECTION 9.1.(a) The following monthly Professional Status Teacher Salary Schedule shall apply for the 2014-2015 fiscal year to licensed personnel of the public schools

who (i) are classified as teachers, (ii) voluntarily relinquish annual longevity payments and voluntarily relinquish any claim to longevity pay, (iii) voluntarily relinquish any claim to career status or to eligibility for career status, (iv) voluntarily agree to the method of computing salary supplements set out in subsection (c) of this section, and (v) are employed on a contract pursuant to G.S. 115C-325.1 through G.S. 115C-325.13 for the 2014-2015 school year. The schedule contains steps with each step corresponding to one year of teaching experience.

2014-2015 Professional Status Teacher Monthly Salary Schedule

Years of Experience	"A" Teachers
0-3	$3,300
4	3,400
5	3,500
6	3,600
7	3,700
8	3,800
9	3,900
10	4,000
11	4,100
12	4,200
13	4,300
14	4,400
15	4,500
16	4,600
17	4,700
18	4,800
19	4,900
20+	5,000

SECTION 9.1.(b) Teachers paid on the Professional Status Teacher Salary Schedule set forth in this section shall not receive annual longevity payments.

SECTION 9.1.(c) Salary Supplements for Teachers Paid on This Salary Schedule.

(1) Licensed public schoolteachers who have NBPTS certification shall receive a salary supplement each month of twelve percent (12%) of their monthly salary on the "A" salary schedule.

(2) Licensed public schoolteachers who are classified as "M" teachers shall receive a salary supplement each month of ten percent (10%) of their monthly salary on the "A" salary schedule.

(3) Licensed public schoolteachers with licensure based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the supplement provided to them as "M" teachers.

(4) Licensed public schoolteachers with licensure based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the supplement provided to them as "M" teachers.

(5) Certified school nurses shall receive a salary supplement each month of ten percent (10%) of their monthly salary on the "A" salary schedule.

SECTION 9.1.(d) The first step of the salary schedule for (i) school psychologists, (ii) school speech pathologists who are licensed as speech pathologists at the master's degree level, and (iii) school audiologists who are licensed as audiologists at the master's degree level shall be equivalent to Step 7 of the "A" salary schedule. These employees shall receive a salary

supplement each month of ten percent (10%) of their monthly salary and are eligible to receive salary supplements equivalent to those of teachers for academic preparation at the six-year degree level or the doctoral degree level.

SECTION 9.1.(e) A teacher compensated in accordance with the Professional Status Teacher Salary Schedule set forth in this section shall receive an amount equal to the greater of (i) the applicable amount on the salary schedule or (ii) the sum of the teacher's salary plus the annual longevity payment that was effective for the 2013-2014 school year.

In addition, teachers whose 10-month salary and longevity, excluding local supplements, exceeded fifty thousand dollars ($50,000) for the 2013-2014 school year shall receive the same salary they received in the 2013-2014 fiscal year plus a one percent (1%) bonus after placement on the Professional Status Teacher Salary Schedule for the 2014-2015 fiscal year.

SECTION 9.1.(f) As used in this section, the term "teacher" shall also include instructional support personnel.

SECTION 9.1.(g) Section 35.11 of S.L. 2013-360 and Section 9.2 of this act do not apply to persons paid on the Professional Status Teacher Salary Schedule.

CAREER STATUS TEACHER SALARY SCHEDULE

SECTION 9.2.(a) The following monthly salary schedules shall apply for the 2014-2015 fiscal year to certified personnel of the public schools who are classified as teachers. The schedules contain 37 steps, with each step corresponding to one year of teaching experience. Public school employees paid according to this salary schedule and receiving NBPTS certification or obtaining a master's degree shall not be prohibited from receiving the appropriate increase in salary. Provided, however, teachers employed during the 2013-2014 school year who did not work the required number of months to acquire an additional year of experience shall not receive a decrease in salary as otherwise would be required by the salary schedule below.

Teachers who do not elect to be paid on the Professional Status Teacher Salary Schedule shall be paid on the Career Status Teacher Salary Schedule, which is set out in this section.

2014-2015 Career Status Teacher Monthly Salary Schedule

	"A" Teachers	
Years of Experience	"A" Teachers	NBPTS Certification
0-2	$3,080	N/A
3-6	$3,080	$3,450
7	$3,122	$3,497
8	$3,167	$3,547
9	$3,303	$3,699
10	$3,445	$3,858
11	$3,580	$4,010
12	$3,711	$4,156
13	$3,816	$4,274
14	$3,865	$4,329
15	$3,914	$4,384
16	$3,965	$4,441
17	$4,015	$4,497
18	$4,066	$4,554
19	$4,118	$4,612
20	$4,171	$4,672
21	$4,226	$4,733

22	$4,282	$4,796
23	$4,337	$4,857
24	$4,397	$4,925
25	$4,456	$4,991
26	$4,515	$5,057
27	$4,577	$5,126
28	$4,639	$5,196
29	$4,706	$5,271
30	$4,771	$5,344
31	$4,836	$5,416
32	$4,903	$5,491
33	$4,972	$5,569
34	$5,044	$5,649
35	$5,116	$5,730
36	$5,215	$5,841
37+	$5,318	$5,956

2014-2015 Career Status Teacher Monthly Salary Schedule

"M" Teachers

Years of Experience	"M" Teachers	NBPTS Certification
0-2	$3,388	N/A
3-6	$3,388	$3,795
7	$3,434	$3,846
8	$3,484	$3,902
9	$3,633	$4,069
10	$3,790	$4,245
11	$3,938	$4,411
12	$4,082	$4,572
13	$4,198	$4,702
14	$4,252	$4,762
15	$4,305	$4,822
16	$4,362	$4,885
17	$4,417	$4,947
18	$4,473	$5,010
19	$4,530	$5,074
20	$4,588	$5,139
21	$4,649	$5,207
22	$4,710	$5,275
23	$4,771	$5,344
24	$4,837	$5,417
25	$4,902	$5,490
26	$4,967	$5,563
27	$5,035	$5,639
28	$5,103	$5,715
29	$5,177	$5,798
30	$5,248	$5,878
31	$5,320	$5,958
32	$5,393	$6,040
33	$5,469	$6,125
34	$5,548	$6,214

35	$5,628	$6,303
36	$5,737	$6,425
37+	$5,850	$6,552

SECTION 9.2.(b) Annual longevity payments for teachers shall be at the rate of one and one-half percent (1.5%) of base salary for 10 to 14 years of State service, two and twenty-five hundredths percent (2.25%) of base salary for 15 to 19 years of State service, three and twenty-five hundredths percent (3.25%) of base salary for 20 to 24 years of State service, and four and one-half percent (4.5%) of base salary for 25 or more years of State service. The longevity payment shall be paid in a lump sum once a year.

SECTION 9.2.(c) Certified public schoolteachers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "M" teachers. Certified public schoolteachers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "M" teachers.

SECTION 9.2.(d) The first step of the salary schedule for school psychologists shall be equivalent to Step 11, corresponding to 11 years of experience, on the salary schedule established in this section for certified personnel of the public schools who are classified as "M" teachers. Certified psychologists shall be placed on the salary schedule at an appropriate step based on their years of experience. Certified psychologists shall receive longevity payments based on years of State service in the same manner as teachers.

Certified psychologists with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided for certified psychologists. Certified psychologists with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for certified psychologists.

SECTION 9.2.(e) Speech pathologists who are certified as speech pathologists at the master's degree level and audiologists who are certified as audiologists at the master's degree level and who are employed in the public schools as speech and language specialists and audiologists shall be paid on the school psychologist salary schedule.

Speech pathologists and audiologists with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided for speech pathologists and audiologists. Speech pathologists and audiologists with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for speech pathologists and audiologists.

SECTION 9.2.(f) Certified school nurses who are employed in the public schools as nurses shall be paid on the "M" salary schedule.

SECTION 9.2.(g) As used in this section, the term "teacher" shall also include instructional support personnel.

SECTION 9.2.(h) Section 35.11 of S.L. 2013-360 is repealed.

ELECTION TO BE PAID ON THE PROFESSIONAL STATUS TEACHER SALARY SCHEDULE

SECTION 9.3.(a) A teacher without career status may elect to be compensated on the Professional Status Teacher Salary Schedule by notifying the employing local board of

education in writing of that election by September 30, 2014. A teacher without career status who is employed by a local board of education on or after September 1, 2014, shall make the election within 30 days of the teacher's date of employment. If the teacher elects to be paid on the Professional Status Teacher Salary Schedule, the teacher shall (i) be employed on a contract pursuant to G.S. 115C-325.1 through G.S. 115C-325.13 for the 2014-2015 school year, (ii) voluntarily relinquish any claim to be eligible for career status, (iii) voluntarily relinquish any claim to be eligible for annual longevity payments and any claim to longevity pay, and (iv) voluntarily agree to the method of computing salary supplements set out in Section 9.1(c) of this act.

SECTION 9.3.(b) A career teacher may elect to be compensated on the Professional Status Teacher Salary Schedule by notifying the employing local board of education in writing of that election by September 30, 2014. If the career teacher elects to be paid on the Professional Status Teacher Salary Schedule, the teacher shall (i) be employed on a contract pursuant to G.S. 115C-325.1 through G.S. 115C-325.13 for the 2014-2015 school year, (ii) voluntarily relinquish any claim to career status, (iii) voluntarily relinquish any claim to be eligible for annual longevity payments and any claim to longevity pay, and (iv) voluntarily agree to the method of computing salary supplements set out in Section 9.1(c) of this act.

SECTION 9.3.(c). The election to be compensated under the Professional Status Teacher Salary Schedule shall be irrevocable and the teacher shall not be eligible to receive compensation under the Career Status Teacher Salary Schedule in any subsequent fiscal year. A teacher who exercises the election under this subsection shall be compensated at the applicable salary amount retroactively from July 1, 2014.

SECTION 9.3.(d) Any teacher who does not notify a local board of education in writing of the teacher's election for compensation under the Professional Status Teacher Salary Schedule by the deadline applicable to that teacher shall be paid on the Career Status Teacher Salary Schedule.

SECTION 9.3.(e) Unless a teacher is offered and accepts a four-year performance-based contract, as provided in Section 9.5 of this act, for the 2014-2015 school year, a teacher who elects to be compensated on the Professional Status Teacher Salary Schedule shall be offered a one-year contract.

REPEAL OF SESSION LAWS REPEALING CAREER STATUS

SECTION 9.4.(a) Section 9.6(a) of S.L. 2013-360 is repealed.

SECTION 9.4.(b) Section 9.6(f) of S.L. 2013-360 reads as rewritten:

"**SECTION 9.6.(f)** G.S. 115C-325(c)(1) through (c)(3) and G.S. 115-325(c)(5) and (c)(6) are repealed effective August 1, 2013. Individuals who have not received career status prior to the 2013-2014 school year shall not be granted career status during the 2013-2014 school year. ~~All teachers who have not been granted career status prior to the 2013-2014 school year shall be offered only one-year contracts, except for qualifying teachers offered a four-year contract as provided in subsection (g) of this section, until the 2018-2019 school year.~~"

SECTION 9.4.(c) Section 9.6(i) of S.L. 2013-360 is repealed.

SECTION 9.4.(d) Section 9.6(j) of S.L. 2013-360 reads as rewritten:

"**SECTION 9.6.(j)** Subsection (b) of this section becomes effective July 1, 2014. G.S. 115C-325.1 through G.S. 115C-325.13, as enacted by this section, shall apply to all ~~teachers~~ teachers currently employed as of July 1, 2014, on ~~one- or four-year contracts~~a contract or who are employed on contract after ~~beginning~~ July 1, 2014. ~~G.S. 115C-325.1 through G.S. 115C-325.13, as enacted by this section, shall apply to all teachers employed by local boards of education or the State on or after July 1, 2018.~~"

SECTION 9.4.(e) Section 9.6(k) of S.L. 2013-360 reads as rewritten:

"**SECTION 9.6.(k)** Subsections (c) and (d) of this section become effective July 1, 2014, and apply to all employees employed by a local board of education as of that date ~~on or~~and employees hired or reemployed on or after that date."

SECTION 9.4.(f) Subsections (o) through (t) and (v) through (x) of Section 9.7 of S.L. 2013-360 are repealed.

SECTION 9.4.(g) Subsection 9.7(y) of S.L. 2013-360 reads as rewritten:

"**SECTION 9.7.(y)** Subsection (u) of this section becomes effective August 1, 2013. Subsections (a) through (n) of this section become effective July 1, 2014. ~~Subsections (o) through (t) and (v) through (x) become effective June 30, 2018.~~"

FOUR-YEAR PERFORMANCE-BASED CONTRACTS OFFERED TO CERTAIN TEACHERS

SECTION 9.5.(a) Beginning July 1, 2014 to September 30, 2014, local boards of education shall offer four-year performance-based contracts covering the 2014-2015 school year through the 2017-2018 school year to classroom teachers as follows:

(1) A local board of education shall identify eligible classroom teachers. Eligible classroom teachers are those teachers that meet all of the following conditions:

a. Have been employed by the local board of education for at least three consecutive years, beginning with the 2011-2012 school year.

b. Have been determined based on the most recent three years of teacher evaluations as one of the following:

1. Effective, based on the teacher's overall status on the teacher evaluation instrument by receiving a rating of at least "proficient" on each of the Teacher Evaluation Standards 1-5 and receiving a rating of at least "meets expected growth" on Standard 6 of the Teacher Evaluation Instrument, if the teacher has received a rating on Standard 6 for those three years.

2. Effective, based on the teacher's overall status on the teacher evaluation instrument by receiving a rating of at least "proficient" on each of the Teacher Evaluation Standards 1-5, if the teacher has not received a rating on Standard 6 for those three years.

c. Is employed as a teacher who spends at least seventy percent (70%) of his or her work time in classroom instruction and is not employed as instructional support personnel.

(2) A local board of education shall develop criteria for the selection of eligible classroom teachers to be offered four-year performance-based contracts under this subsection by considering the needs and educational priorities of that local school administrative unit.

(3) A local board of education, using the criteria it developed as required by this subsection, shall offer four-year performance-based contracts to up to twenty-five percent (25%) of the eligible classroom teachers.

SECTION 9.5.(b) No later than June 30, 2015, local boards of education shall offer four-year performance-based contracts covering the 2015-2016 school year through the 2018-2019 school year to classroom teachers as follows:

(1) A local board of education shall identify eligible classroom teachers. Eligible classroom teachers are those teachers that meet all of the following conditions:

a. Have been employed by the local board for at least three consecutive years, beginning with the 2012-2013 school year.
b. Have been determined based on the most recent three years of teacher evaluations as one of the following:
1. Effective, based on the teacher's overall status on the teacher evaluation instrument by receiving a rating of at least "proficient" on each of the Teacher Evaluation Standards 1-5 and receiving a rating of at least "meets expected growth" on Standard 6 of the Teacher Evaluation Instrument, if the teacher has received a rating on Standard 6 for those three years.
2. Effective, based on the teacher's overall status on the teacher evaluation instrument by receiving a rating of at least "proficient" on each of the Teacher Evaluation Standards 1-5, if the teacher has not received a rating on Standard 6 for those three years.
c. Is employed as a teacher who spends at least seventy percent (70%) of his or her work time in classroom instruction and is not employed as instructional support personnel.

(2) A local board of education shall develop criteria for the selection of eligible classroom teachers to be offered four-year performance-based contracts under this subsection by considering the needs and educational priorities of that local school administrative unit.

(3) A local board of education, using the criteria it developed as required by this subsection, shall offer additional four-year performance-based contracts to eligible classroom teachers.

SECTION 9.5.(c) The total number of teachers with four-year performance-based contracts during the 2015-2016 school year, whether such contracts were accepted for the 2014-2015 school year or the 2015-2016 school year, shall not exceed thirty-five percent (35%) of the total number of eligible classroom teachers in the 2015-2016 school year. The number of eligible classroom teachers shall be determined in accordance with subsection (b)(1) of this section.

SECTION 9.5.(d) Classroom teachers employed by a local board of education on four-year performance-based contracts in accordance with subsections (a) through (f) of this section shall be compensated on the Professional Status Teacher Salary Schedule and shall receive an annual bonus of five hundred dollars ($500.00) for the first year, one thousand dollars ($1,000) for the second year, one thousand five hundred dollars ($1,500) for the third year, and two thousand dollars ($2,000) for the fourth year of the four-year performance-based contract. A classroom teacher shall no longer receive any bonus funds after the end of the four-year period of the contract unless the employee is offered and accepts another four-year performance-based contract that includes a bonus.

SECTION 9.5.(e) A classroom teacher who accepts a four-year performance-based contract in accordance with subsections (a) through (f) of this section specifically agrees to all of the following:

(1) To voluntarily relinquish career status and voluntarily relinquish any claim to career status.

(2) To voluntarily relinquish annual longevity payments and voluntarily relinquish any claim to longevity pay.

(3) To voluntarily agree to the method of computing salary supplements set out in Section 9.1(c) of this act.

(4) To receive compensation and bonuses in accordance with subsection (d) of this section.

SECTION 9.5.(f) Contracts entered into under this section are subject to the provisions of Part 3A of Article 22 of Chapter 115C of the General Statutes as recodified and amended by Section 9.7 of this act.

SECTION 9.5.(g) A teacher who entered into a four-year contract no later than June 30, 2014, pursuant to Section 9.6(g) of S.L. 2013-360 may elect to retain that contract under its terms or to waive that contract and make a new election pursuant to Sections 9.1 through 9.9 of this act. Teachers who elect to retain that contract shall not receive an annual bonus as part of that contract but shall receive a pay raise of five hundred dollars ($500.00) for the first year, one thousand dollars ($1,000) for the second year, one thousand five hundred dollars ($1,500) for the third year, and two thousand dollars ($2,000) for the fourth year of the four-year contract. These pay raises shall be a part of the employee's base salary.

Teachers who elect to retain that contract may also elect to be compensated on the Professional Status Teacher Salary Schedule in accordance with the provisions of Section 9.1 of this act.

SYSTEM OF EMPLOYMENT FOR TEACHERS WITH CAREER STATUS

SECTION 9.6. G.S. 115C-325 reads as rewritten:

"§ 115C-325. System of employment for public school teachers.

(a) Definition of Terms. – As used in this section unless the context requires otherwise:

(1) Repealed by Session Laws 1997-221, s. 13(a).

(1a) "Career employee" as used in this section ~~means:~~includes all of the following:

a. An employee who has obtained career status with that local board as a teacher as provided in ~~G.S. 115C-325(c);~~G.S. 115C-325(c).

b. An employee who has obtained career status with that local board in an administrative position as provided in ~~G.S. 115C-325(d)(2);~~G.S. 115C-325(d)(2).

~~c. A probationary teacher during the term of the contract as provided in G.S. 115C-325(m); and~~

d. A school administrator during the term of a school administrator contract as provided in G.S. 115C-287.1(c).

(1b) "Career school administrator" means a school administrator who has obtained career status in an administrative position as provided in G.S. 115C-325(d)(2).

(1c) "Career teacher" means a teacher who has obtained career status as provided in G.S. 115C-325(c).

(1d) Repealed by Session Laws 2011-348, s. 1, effective July 1, 2011, and applicable to persons recommended for dismissal or demotion on or after that date.

(2) Repealed by Session Laws 1997, c. 221, s. 13(a).

(3) "Day" means calendar day. In computing any period of time, Rule 6 of the North Carolina Rules of Civil Procedure shall apply.

(4) "Demote" means to reduce the salary of a person who is classified or paid by the State Board of Education as a classroom teacher or as a school administrator. The word "demote" does not include: (i) a suspension without pay pursuant to G.S. 115C-325(f)(1); (ii) the elimination or reduction of bonus payments, including merit-based supplements, or a systemwide modification in the amount of any applicable local supplement; or (iii) any

reduction in salary that results from the elimination of a special duty, such as the duty of an athletic coach or a choral director.

(4a) "Disciplinary suspension" means a final decision to suspend a teacher or school administrator without pay for no more than 60 days under G.S. 115C-325(f)(2).

~~(4b) "Exchange teacher" means a nonimmigrant alien teacher participating in an exchange visitor program designated by the United States Department of State pursuant to 22 C.F.R. Part 62 or by the United States Department of Homeland Security pursuant to 8 C.F.R. Part 214.2(q).~~

(4c) "Hearing officer" means a person selected under G.S. 115C-325(h)(7).

~~(5) "Probationary teacher" means a licensed person, other than a superintendent, associate superintendent, or assistant superintendent, who has not obtained career teacher status and whose major responsibility is to teach or to supervise teaching.~~

(5a) [Expired.]

(5b) "School administrator" means a principal, assistant principal, supervisor, or director whose major function includes the direct or indirect supervision of teaching or any other part of the instructional program as provided in G.S. 115C-287.1(a)(3).

(6) "Teacher" means a person who holds at least a current, not provisional or expired, Class A license or a regular, not provisional or expired, vocational license issued by the State Board of Education; whose major responsibility is to teach or directly supervises teaching or who is classified by the State Board of Education or is paid either as a classroom teacher or instructional support personnel; ~~and~~ who is employed to fill a full-time, permanent ~~position.~~position; and who is a career teacher.

(7) **(See note)** Redesignated.

~~(8) "Year" for purposes of computing time as a probationary teacher shall be not less than 120 workdays performed as a probationary teacher in a full-time permanent position in a school year. Workdays performed pending the outcome of a criminal history check as provided in G.S. 115C-332 are included in computing time as a probationary teacher.~~

...

(c) ~~(1) Election of a Teacher to Career Status. Except as otherwise provided in subdivision (3) of this subsection, when a teacher has been employed by a North Carolina public school system for four consecutive years, the board, near the end of the fourth year, shall vote upon whether to grant the teacher career status. The teacher has a right to notice and hearing prior to the board's vote as provided in G.S. 115C-325(m)(3) and G.S. 115C-325(m)(4). The board shall give the teacher written notice of that decision by June 15 or such later date as provided in G.S. 115C-325(m)(7). If a majority of the board votes to grant career status to the teacher, and if it has notified the teacher of the decision, it may not rescind that action but must proceed under the provisions of this section for the demotion or dismissal of a teacher if it decides to terminate the teacher's employment. If a majority of the board votes against granting career status, the teacher shall not teach beyond the current school term. If the board fails to vote on granting career status, the teacher shall be entitled to an additional month's pay for every 30 days or portion thereof after June 16 or such later date as provided in~~

~~G.S. 115C-325(m)(7) if a majority of the board belatedly votes against granting career status.~~

~~(2) Employment of a Career Teacher. – A teacher who has obtained career status in any North Carolina public school system need not serve another probationary period of more than one year. The board may grant career status immediately upon employing the teacher, or after the first year of employment. The teacher has a right to notice and hearing prior to the board's vote as provided in G.S. 115C-325(m)(3) and G.S. 115C-325(m)(4). The board shall give the teacher written notice of that decision by June 15 or such later date as provided in G.S. 115C-325(m)(7). If a majority of the board votes against granting career status, the teacher shall not teach beyond the current term. If after one year of employment, the board fails to vote on the issue of granting career status, the teacher shall be entitled to one additional month's pay for every 30 days or portion thereof beyond June 16 or such later date as provided in G.S. 115C-325(m)(7) if a majority of the board belatedly voted against granting career status.~~

~~(2a) Notice of Teachers Eligible to Achieve Career Status. – At least 30 days prior to any board action granting career status, the superintendent shall submit to the board a list of the names of all teachers who are eligible to achieve career status. Notwithstanding any other provision of law, the list shall be a public record under Chapter 132 of the General Statutes.~~

~~(3) Ineligible for Career Status. – No employee of a local board of education except a teacher as defined by G.S. 115C-325(a)(6) is eligible to obtain career status or continue in a career status as a teacher if he no longer performs the responsibilities of a teacher as defined in G.S. 115C-325(a)(6). No person who is employed as a school administrator who did not acquire career status as a school administrator by June 30, 1997, shall have career status as an administrator. Further, no director or assistant principal is eligible to obtain career status as a school administrator unless he or she has already been conferred that status by the local board of education.~~

(4) Leave of Absence. – A career teacher who has been granted a leave of absence by a board shall maintain his career status if he returns to his teaching position at the end of the authorized leave.

~~(5) Consecutive Years of Service. –~~

~~a. If a probationary teacher in a full-time permanent position does not work for at least 120 workdays in a school year because the teacher is on sick leave, disability leave, or both, that school year shall not be deemed to constitute (i) a consecutive year of service for the teacher or (ii) a break in the continuity in consecutive years of service for the teacher.~~

~~b. If a probationary teacher in a full-time permanent position is nonrenewed because of a decrease in the number of positions due to decreased funding, decreased enrollment, or a district reorganization, and is subsequently rehired by the same school system within three years, the intervening years when the teacher was not employed by the local school administrative unit shall not be deemed to constitute (i) a consecutive year of service for the teacher or (ii) a break in the continuity of years of service. However, if at the time of the teacher's nonrenewal for the reasons described in this subsection, the teacher was eligible for career status after being employed four consecutive~~

~~years pursuant to G.S. 115C-325(e)(1), or one year pursuant to G.S. 115C-325(e)(2), and the board subsequently rehires the teacher within three years, the teacher will be eligible for a career status decision after one additional year of employment. Unless the superintendent unilaterally grants a teacher the benefit set forth in this subsection pursuant to a policy adopted by the board of education for this purpose, the teacher is entitled to such benefit only if the teacher notifies the head of human resources for the local school administrative unit in writing within 60 calendar days after the first day of employment upon being rehired that the teacher was nonrenewed because of a decrease in the number of positions triggered by decreased funding, decreased enrollment, or a district reorganization, and therefore the teacher's nonrenewal did not constitute a break in service for purposes of determining eligibility for career status. The local school administrative unit shall notify the teacher of the 60-day deadline as described herein in the employment application, contract, or in some other method reasonably calculated to provide the teacher actual notice within 30 calendar days after the first day of employment for the rehired teacher. The burden is on the teacher to submit information establishing that the teacher was nonrenewed because of a decrease in the number of positions triggered by decreased funding, decreased enrollment, or a district reorganization. If the local school administrative unit fails to provide notice to the teacher within this 30-day period, then the teacher's obligation to notify the local school administrative unit within 60 days does not commence until such time that the teacher is notified of the 60-day deadline.~~

~~The superintendent or designee will inform the teacher on whether the teacher qualifies for the benefit of this subsection within a reasonable period of time after receiving the information submitted by the teacher. This decision is final and the teacher has no right to a hearing or appeal except that the teacher may petition the board in writing within 10 calendar days after receiving the decision of the superintendent or designee, and the board or board panel shall review the matter on the record and provide the teacher a written decision. Notwithstanding any other provision of law, no appeal to court or otherwise is permitted in regard to the benefits provided under this subsection. This subsection creates no private right of action or basis for any liability on the part of the school system, nor does it create any reemployment rights for a nonrenewed probationary teacher.~~

~~The provisions of this subsection also shall apply to a probationary teacher in a full-time permanent position who resigns effective the end of the school year in good standing after receiving documentation that the teacher's position may be eliminated because of a decrease in the number of positions triggered by decreased funding, decreased enrollment, or a district reorganization, and is subsequently rehired by the same school system.~~

~~(6) Status of Exchange Teachers. Exchange teachers shall not be eligible to obtain career status. However, for purposes of determining eligibility to receive employment benefits under this Chapter, including personal leave,~~

~~annual vacation leave, and sick leave, an exchange teacher shall be considered a permanent teacher if employed with the expectation of at least six full consecutive monthly pay periods of employment and if employed at least 20 hours per week.~~

(d) Career ~~Teachers and Career School Administrators.~~Teachers.

(1) A career teacher ~~or career school administrator~~ shall not be subjected to the requirement of annual appointment nor shall he be dismissed, demoted, or employed on a part-time basis without his consent except as provided in subsection (e).

(2) ~~a. The provisions of this subdivision do not apply to a person who is ineligible for career status as provided by G.S. 115C-325(c)(3).~~

b. Repealed by Session Laws 1997, c. 221, s. 13(a).

c. Subject to G.S. 115C-287.1, when a teacher has performed the duties of supervisor or principal for three consecutive years, the board, near the end of the third year, shall vote upon his employment for the next school year. The board shall give him written notice of that decision by June 1 of his third year of employment as a supervisor or principal. If a majority of the board votes to reemploy the teacher as a principal or supervisor, and it has notified him of that decision, it may not rescind that action but must proceed under the provisions of this section. If a majority of the board votes not to reemploy the teacher as a principal or supervisor, he shall retain career status as a teacher if that status was attained prior to assuming the duties of supervisor or principal. A supervisor or principal who has not held that position for three years and whose contract will not be renewed for the next school year shall be notified by June 1 and shall retain career status as a teacher if that status was attained prior to assuming the duties of supervisor or principal.

A year, for purposes of computing time as a probationary principal or supervisor, shall not be less than 145 workdays performed as a full-time, permanent principal or supervisor in a contract year.

~~A principal or supervisor who has obtained career status in that position in any North Carolina public school system may be required by the board of education in another school system to serve an additional three-year probationary period in that position before being eligible for career status. However, he may, at the option of the board of education, be granted career status immediately or after serving a probationary period of one or two additional years. A principal or supervisor with career status who resigns and within five years is reemployed by the same school system need not serve another probationary period in that position of more than two years and may, at the option of the board, be reemployed immediately as a career principal or supervisor or be given career status after only one year. In any event, if he is reemployed for a third consecutive year, he shall automatically become a career principal or supervisor.~~

...

(3) Inadequate Performance. – In determining whether the professional performance of a career employee is adequate, consideration shall be given to regular and special evaluation reports prepared in accordance with the

published policy of the employing local school administrative unit and to any published standards of performance which shall have been adopted by the board. Failure to notify a career employee of an inadequacy or deficiency in performance shall be conclusive evidence of satisfactory performance. Inadequate performance for a teacher shall mean (i) the failure to perform at a proficient level on any standard of the evaluation instrument or (ii) otherwise performing in a manner that is below standard. ~~However, for a probationary teacher, a performance rating below proficient may or may not be deemed adequate at that stage of development by a superintendent or designee.~~ For a career teacher, a performance rating below proficient shall constitute inadequate performance unless the principal noted on the instrument that the teacher is making adequate progress toward proficiency given the circumstances.

...

~~(m) Probationary Teacher.~~

~~(1) The board of any local school administrative unit may not discharge a probationary teacher during the school year except for the reasons for and by the procedures by which a career employee may be dismissed as set forth in subsections (e), (f), (f1), and (h) to (j3) above.~~

~~(2) The board, upon recommendation of the superintendent, may refuse to renew the contract of any probationary teacher or to reemploy any teacher who is not under contract for any cause it deems sufficient: Provided, however, that the cause may not be arbitrary, capricious, discriminatory or for personal or political reasons.~~

~~(3) The superintendent shall provide written notice to a probationary teacher no later than May 15 of the superintendent's intent to recommend nonrenewal and the teacher's right, within 10 days of receipt of the superintendent's recommendation, to (i) request and receive written notice of the reasons for the superintendent's recommendation for nonrenewal and the information that the superintendent may share with the board to support the recommendation for nonrenewal; and (ii) request a hearing for those teachers eligible for a hearing under G.S. 115C-325(m)(4). The failure to file a timely request within the 10 days shall result in a waiver of the right to this information and any right to a hearing. If a teacher files a timely request, the superintendent shall provide the requested information and arrange for a hearing, if allowed, and the teacher shall be permitted to submit supplemental information to the superintendent and board prior to the board making a decision or holding a hearing as provided in this section. The board shall adopt a policy to provide for the orderly exchange of information prior to the board's decision on the superintendent's recommendation for nonrenewal.~~

~~(4) If the probationary teacher is eligible for career status pursuant to G.S. 115C-325(e)(1) and (e)(2) and the superintendent recommends not to give the probationary teacher career status, the probationary teacher has the right to a hearing before the board unless the reason is a justifiable board or superintendent approved decrease in the number of positions due to district reorganization, decreased enrollment, or decreased funding.~~

~~(5) For probationary contracts that are not in the final year before the probationary teacher is eligible for career status, the probationary teacher shall have the right to petition the local board of education for a hearing, and~~

~~the local board may grant a hearing regarding the superintendent's recommendation for nonrenewal. The local board of education shall notify the probationary teacher making the petition of its decision whether to grant a hearing.~~

~~(6) Any hearing held according to this subsection shall be pursuant to the provisions of G.S. 115C-45(c).~~

~~(7) The board shall notify a probationary teacher whose contract will not be renewed for the next school year of its decision by June 15; provided, however, if a teacher submits a request for information or a hearing, the board shall provide the nonrenewal notification by July 1 or such later date upon the written consent of the superintendent and teacher.~~

~~(n) Appeal. Any career employee who has been dismissed or demoted under G.S. 115C-325(e)(2), or under G.S. 115C-325(j2), or who has been suspended without pay under G.S. 115C-325(a)(4a), or any school administrator whose contract is not renewed in accordance with G.S. 115C-287.1, or any probationary teacher whose contract is not renewed under G.S. 115C-325(m)(2) shall have the right to appeal from the decision of the board to the superior court for the superior court district or set of districts as defined in G.S. 7A-41.1 in which the career employee is employed. This appeal shall be filed within a period of 30 days after notification of the decision of the board. The cost of preparing the transcript shall be determined under G.S. 115C-325(j2)(8) or G.S. 115C-325(j3)(10). A career employee who has been demoted or dismissed, or a school administrator whose contract is not renewed, who has not requested a hearing before the board of education pursuant to this section shall not be entitled to judicial review of the board's action.~~

(o) Resignation. –

...

(2) A ~~teacher, career or probationary,~~ career teacher who is not recommended for dismissal should not resign without the consent of the superintendent unless he or she has given at least 30 days' notice. If a teacher who is not recommended for dismissal does resign without giving at least 30 days' notice, the board may request that the State Board of Education revoke the teacher's license for the remainder of that school year. A copy of the request shall be placed in the teacher's personnel file.

(p) Section Applicable to Certain Institutions. – Notwithstanding any law or regulation to the contrary, this section shall apply to all persons who are employed as career teachers in teaching and related educational classes in the schools and institutions of the Departments of Health and Human Services and Public Instruction and the Divisions of Juvenile Justice and Adult Correction of the Department of Public Safety regardless of the age of the students.

(p1) Procedure for Dismissal of School Administrators and Teachers Employed in Low-Performing Residential Schools. –

(1) ~~Notwithstanding any other provision of this section or any other law, this~~ This subdivision shall govern the dismissal by the Secretary of Health and Human Services of teachers, principals, assistant principals, directors, supervisors, and other licensed personnel who are career employees and are assigned to a residential school that the State Board has identified as low-performing and to which the State Board has assigned an assistance team under Part 3A of Article 3 of Chapter 143B of the General Statutes. The Secretary shall dismiss a teacher, principal, assistant principal, director, supervisor, or other licensed personnel when the Secretary receives two consecutive evaluations that include written findings and recommendations regarding that person's inadequate performance from the assistance team.

These findings and recommendations shall be substantial evidence of the inadequate performance of the teacher or school administrator.

The Secretary may dismiss a teacher, principal, assistant principal, director, supervisor, or other licensed personnel when:

a. The Secretary determines that the school has failed to make satisfactory improvement after the State Board assigned an assistance team to that school under Part 3A of Article 3 of Chapter 143B of the General Statutes; and

b. That assistance team makes the recommendation to dismiss the teacher, principal, assistant principal, director, supervisor, or other licensed personnel for one or more grounds established in G.S. 115C-325(e)(1) for dismissal or demotion of a career employee.

Within 30 days of any dismissal under this subdivision, a teacher, principal, assistant principal, director, supervisor, or other licensed personnel may request a hearing before a panel of three members designated by the Secretary. The Secretary shall adopt procedures to ensure that due process rights are afforded to persons recommended for dismissal under this subdivision. Decisions of the panel may be appealed on the record to the Secretary, with further right of judicial review under Chapter 150B of the General Statutes.

...

(q) Procedure for Dismissal of ~~School Administrators and~~ Teachers Employed in Low-Performing Schools. –

~~(1) Notwithstanding any other provision of this section or any other law, this subdivision governs the State Board's dismissal of principals assigned to low-performing schools to which the Board has assigned an assistance team:~~

~~a. The State Board through its designee may, at any time, recommend the dismissal of any principal who is assigned to a low-performing school to which an assistance team has been assigned. The State Board through its designee shall recommend the dismissal of any principal when the Board receives from the assistance team assigned to that principal's school two consecutive evaluations that include written findings and recommendations regarding the principal's inadequate performance.~~

~~b. If the State Board through its designee recommends the dismissal of a principal under this subdivision, the principal shall be suspended with pay pending a hearing before a panel of three members of the State Board. The purpose of this hearing, which shall be held within 60 days after the principal is suspended, is to determine whether the principal shall be dismissed.~~

~~c. The panel shall order the dismissal of the principal if it determines from available information, including the findings of the assistance team, that the low performance of the school is due to the principal's inadequate performance.~~

~~d. The panel may order the dismissal of the principal if (i) it determines that the school has not made satisfactory improvement after the State Board assigned an assistance team to that school; and (ii) the assistance team makes the recommendation to dismiss the principal for one or more grounds established in G.S. 115C-325(e)(1) for dismissal or demotion of a career employee.~~

~~e. If the State Board or its designee recommends the dismissal of a principal before the assistance team assigned to the principal's school has evaluated that principal, the panel may order the dismissal of the principal if the panel determines from other available information that the low performance of the school is due to the principal's inadequate performance.~~

~~f. In all hearings under this subdivision, the burden of proof is on the principal to establish that the factors leading to the school's low performance were not due to the principal's inadequate performance. In all hearings under sub-subdivision d. of this subdivision, the burden of proof is on the State Board to establish that the school failed to make satisfactory improvement after an assistance team was assigned to the school and to establish one or more of the grounds established for dismissal or demotion of a career employee under G.S. 115C-325(e)(1).~~

~~g. In all hearings under this subdivision, two consecutive evaluations that include written findings and recommendations regarding that person's inadequate performance from the assistance team are substantial evidence of the inadequate performance of the principal.~~

~~h. The State Board shall adopt procedures to ensure that due process rights are afforded to principals under this subdivision. Decisions of the panel may be appealed on the record to the State Board, with further right of judicial review under Chapter 150B of the General Statutes.~~

(2) Notwithstanding any other provision of this section or any other law, this subdivision shall govern the State Board's dismissal of teachers, assistant principals, directors, and supervisors who are career employees assigned to schools that the State Board has identified as low-performing and to which the State Board has assigned an assistance team under Article 8B of this Chapter. The State Board shall dismiss a teacher, assistant principal, director, or supervisor when the State Board receives two consecutive evaluations that include written findings and recommendations regarding that person's inadequate performance from the assistance team. These findings and recommendations shall be substantial evidence of the inadequate performance of the teacher or school administrator.

The State Board may dismiss a teacher, assistant principal, director, or supervisor when:

a. The State Board determines that the school has failed to make satisfactory improvement after the State Board assigned an assistance team to that school under G.S. 115C-105.38; and

b. That assistance team makes the recommendation to dismiss the teacher, assistant principal, director, or supervisor for one or more grounds established in G.S. 115C-325(e)(1) for dismissal or demotion of a career teacher.

A teacher, assistant principal, director, or supervisor may request a hearing before a panel of three members of the State Board within 30 days of any dismissal under this subdivision. The State Board shall adopt procedures to ensure that due process rights are afforded to persons recommended for dismissal under this subdivision. Decisions of the panel may be appealed on

the record to the State Board, with further right of judicial review under Chapter 150B of the General Statutes.

...

(3) ~~The State Board of Education or a local board may terminate the contract of a school administrator dismissed under this subsection.~~ Nothing in this subsection shall prevent a local board from refusing to renew the contract of any person employed in a school identified as low-performing under G.S. 115C-105.37.

~~(4) Neither party to a school administrator contract is entitled to damages under this subsection.~~

(5) The State Board shall have the right to subpoena witnesses and documents on behalf of any party to the proceedings under this subsection."

TEACHER EMPLOYMENT CONTRACTS

SECTION 9.7.(a) Part 3A of Article 22 of Chapter 115C of the General Statutes, consisting of G.S. 115C-326.5, is recodified as Part 3B of Article 22 of Chapter 115C of the General Statutes. G.S. 115C-325.1 through G.S. 115C-325.13 are recodified as Part 3A of Article 22 of Chapter 115C of the General Statutes, to be entitled "Teacher Employment Contracts."

SECTION 9.7.(b) G.S. 115C-325.1 reads as rewritten:

"**§ 115C-325.1. Purpose; definitions.~~Definitions.~~**

(a) Purpose. – The purpose of this Part is to authorize a system of employment for teachers to provide maximum flexibility to local boards of education in regularly evaluating the performance of teachers and employing the most effective teachers in the public schools of the State. This system of employment is designed to further the following objectives:

(1) Ensure State and local funds to support the public schools shall be utilized in providing the greatest student outcomes in relation to the expenditure of those funds.

(2) Allow local boards of education to make teacher employment decisions that are driven by the specific needs of their students.

(3) Provide that employment decisions shall be based on teacher performance and that those decisions are independent from the consideration of the length of years a teacher has been employed as a teacher.

(4) Provide that teachers that are identified as effective in the classroom shall have the opportunity to be recognized, rewarded, and retained by local boards of education to ensure student growth and improved student outcomes.

(b) Definitions. – As used in this Part, the following definitions apply:

(1) "Day" means calendar day. In computing any period of time, Rule 6 of the North Carolina Rules of Civil Procedure shall apply.

(2) "Demote" means to reduce the salary of a person who is classified or paid by the State Board of Education as a classroom teacher or as a school administrator during the ~~time~~term of the contract. The word "demote" does not include (i) a suspension without pay pursuant to G.S. 115C-325.5(a); (ii) the elimination or reduction of bonus payments, including merit-based supplements or a systemwide modification in the amount of any applicable local supplement; (iii) any reduction in salary that results from the elimination of a special duty, such as the duty of an athletic coach or a choral director; ~~or~~ (iv) any reduction of pay as compared to a prior term of

~~contract.~~contract; or (v) a statewide modification or reduction of the teacher salary schedules.

(3) "Disciplinary suspension" means a final decision to suspend a teacher or school administrator without pay for no more than 60 days under G.S. 115C-325.5(b).

(4) "Residential school" means a school operated by the Department of Health and Human Services that provides residential services to students pursuant to Part 3A of Article 3 of Chapter 143B of the General Statutes or a school operated pursuant to Article 9C of Chapter 115C of the General Statutes.

(5) "School administrator" means a principal, assistant principal, supervisor, or director whose major function includes the direct or indirect supervision of teaching or any other part of the instructional program, as provided in G.S. 115C-287.1(a)(3).

(6) "Teacher" means a person meeting each of the following requirements:

a. Who holds at least one of the following licenses issued by the State Board of Education:

1. A current standard professional educator's license.
2. A current lateral entry teaching license.
3. A regular, not expired, vocational license.

b. Whose major responsibility is to teach or directly supervise teaching or who is classified by the State Board of Education or is paid either as a classroom teacher or instructional support personnel.

c. Who is employed to fill a full-time, permanent position.

d. Who is not a career teacher as defined in G.S. 115C-325(a)(1c).

(7) "Year" ~~means a calendar year beginning July 1 and ending June 30.~~means, for purposes of computing time of employment as a teacher, no less than 120 workdays performed as a teacher in a full-time, permanent position in a school year. Workdays performed pending the outcome of a criminal history check as provided in G.S. 115C-332 are included in computing time as a teacher."

SECTION 9.7.(c) G.S. 115C-325.3 is amended by adding a new subsection to read:

"(a1) Contract Shall Be in Writing. – An employment contract between the local board of education and a teacher shall be in writing and shall include the following terms:

(1) Length of contract.

(2) Licensure requirements.

(3) A clause stating that teacher compensation for professional services performed pursuant to the contract shall be at a rate consistent with the North Carolina General Statutes, the salary schedule established by the State of North Carolina for the fiscal year in which the professional services are performed, and any local supplement that may apply. If a teacher is paid from local funds, the clause shall state that the teacher compensation shall be consistent with the local salary schedule adopted pursuant to G.S. 115C-302.1(h).

(4) A clause stating that the contract is subject to modifications as a result of subsequent legislative enactments."

SECTION 9.7.(d) G.S. 115C-325.10 reads as rewritten:

"**§ 115C-325.10. Application to certain institutions.**

Notwithstanding any law or regulation to the contrary, this Part shall apply to all persons employed in teaching and related educational classes in the schools and institutions of

the Departments of Health and Human Services and Public Instruction and the Divisions of Juvenile Justice and Adult Correction of the Department of Public ~~Safety,~~Safety who are not career teachers as defined in G.S. 115C-325(a)(1c), regardless of the age of the students."

SECTION 9.7.(e) Contracts for 2014-2015 School Year Shall Be for One Year Only. – For the 2014-2015 school year only and notwithstanding G.S. 115C-325.3(a), all contracts entered into pursuant to Part 3A of Article 22 of Chapter 115C of the General Statutes, except for four-year performance-based contracts entered into under Section 9.5 of this act, shall be for one year only.

CONFORMING CHANGES

SECTION 9.8.(a) G.S. 115C-105.25(b)(5b) reads as rewritten:

"(5b) Except as provided in subdivision (5a) of this subsection, positions allocated for classroom teachers and instructional support personnel may be converted to dollar equivalents for any purpose authorized by the policies of the State Board of Education. These positions shall be converted at the salary on the first step of the ~~"A" Teachers~~Career Status Teacher Salary Schedule. Certified position allotments shall not be transferred to dollars to hire the same type of position."

SECTION 9.8.(b) G.S. 115C-105.26(b)(2) reads as rewritten:

"(2) State rules and policies, except those pertaining to public school State salary schedules and employee benefits for school employees, the instructional program that must be offered under the Basic Education Program, the system of employment for public school teachers and administrators set out in G.S. 115C-287.1 and in Part 3 and Part 3A of Article 22 of this Chapter, health and safety codes, compulsory attendance, the minimum lengths of the school day and year, and the Uniform Education Reporting System."

SECTION 9.8.(c) G.S. 115C-105.37B(a)(2) reads as rewritten:

"(2) Restart model, in which the State Board of Education would authorize the local board of education to operate the school with the same exemptions from statutes and rules as a charter school authorized under Part 6A of Article 16 of this Chapter, or under the management of an educational management organization that has been selected through a rigorous review process. A school operated under this subdivision remains under the control of the local board of education, and employees assigned to the school are employees of the local school administrative unit with the protections provided by Part 3 or Part 3A of Article 22 of this Chapter."

SECTION 9.8.(d) G.S. 115C-276(l) reads as rewritten:

"(l) To Maintain Personnel Files and to Participate in Firing and Demoting of Staff. – The superintendent shall maintain in his or her office a personnel file for each teacher that contains complaints, commendations, or suggestions for correction or improvement about the teacher and shall participate in the firing and demoting of staff, as provided in Part 3 and Part 3A of Article 22 of this Chapter."

SECTION 9.8.(e) G.S. 115C-335(b) reads as rewritten:

"(b) Training. – The State Board, in collaboration with the Board of Governors of The University of North Carolina, shall develop programs designed to train principals and superintendents in the proper administration of the employee evaluations developed by the State Board. The Board of Governors shall use the professional development programs for public school employees that are under its authority to make this training available to all principals and superintendents at locations that are geographically convenient to local school administrative units. The programs shall include methods to determine whether an employee's

performance has improved student learning, the development and implementation of appropriate professional growth and mandatory improvement plans, the process for contract nonrenewal, and the dismissal process under Part 3 and Part 3A of Article 22 of this Chapter. The Board of Governors shall ensure that the subject matter of the training programs is incorporated into the masters in school administration programs offered by the constituent institutions. The State Board, in collaboration with the Board of Governors, also shall develop in-service programs for licensed public school employees that may be included in a mandatory improvement plan created under G.S. 115C-333(b) or G.S. 115C-333.1(b). The Board of Governors shall use the professional development programs for public school employees that are under its authority to make this training available at locations that are geographically convenient to local school administrative units."

EFFECT OF POTENTIAL LITIGATION

SECTION 9.9.(a) If any section or provision of Sections 9.1 through 9.9 of this act is enjoined or declared unconstitutional or invalid by a court of competent jurisdiction as it applies to the election made by certain classes of teachers to be compensated on the Professional Status Teacher Salary Schedule or the Career Status Teacher Salary Schedule, all such teachers subject to such injunction or declaration shall be compensated on the Career Status Teacher Salary Schedule. If a court of competent jurisdiction makes a final determination that such provision is constitutional and valid and all opportunities for appellate review of such determination are exhausted or abandoned, the following shall apply to teachers subject to the earlier order:

(1) A teacher who entered into a contract electing to be paid on the Professional Status Teacher Salary Schedule prior to the entry of the earlier order shall be paid on that schedule retroactive to July 1, 2014. A teacher who entered into a four-year performance-based contract shall receive the annual bonuses associated with that contract.

(2) A teacher who elects to enter into a contract electing to be paid on the Professional Status Teacher Salary Schedule within 30 days of entry of the final order shall be paid on that schedule retroactive to July 1, 2014. A teacher who enters into a four-year performance-based contract shall receive the annual bonuses associated with that contract.

(3) A teacher who elects not to enter into a contract and to be paid on the Career Status Teacher Salary Schedule shall continue to be paid in accordance on that schedule.

SECTION 9.9.(b) If any section or provision of Sections 9.1 through 9.9 of this act is enjoined or declared unconstitutional or invalid by a court of competent jurisdiction as it applies to the offer to and acceptance of four-year performance-based contracts by certain classes of teachers in accordance with Section 9.5 of this act or one-year contracts in accordance with Section 9.7 of this act, all such teachers subject to such injunction or declaration shall be compensated on the Career Status Teacher Salary Schedule. If a court of competent jurisdiction makes a final determination that such provision is constitutional and valid and all opportunities for appellate review of such determination are exhausted or abandoned, the following shall apply to teachers subject to the earlier order:

(1) A teacher who entered into a four-year performance-based contract electing to be paid on the Professional Status Teacher Salary Schedule prior to the entry of the earlier order shall be paid on that schedule retroactive to July 1, 2014, and shall receive the annual bonuses associated with that contract.

(2) A teacher who elects to enter into a four-year performance-based contract electing to be paid on the Professional Status Teacher Salary Schedule

within 30 days of entry of the final order shall be paid on that schedule retroactive to July 1, 2014, and shall receive the annual bonuses associated with that contract.

(3) A teacher who elects not to enter into a contract and to be paid on the Career Status Teacher Salary Schedule shall continue to be paid in accordance with that schedule.

SECTION 9.9.(c) If any section or provision of Sections 9.1 through 9.9 of this act is enjoined or declared unconstitutional or invalid by a court of competent jurisdiction as it applies to voluntary relinquishment of rights and claims related to longevity pay, career status, or computation of salary supplements by certain classes of teachers in accordance with Sections 9.1(a), 9.3, or 9.5 of this act, all such teachers subject to such injunction or declaration shall be compensated on the Career Status Teacher Salary Schedule. If a court of competent jurisdiction makes a final determination that such provision is constitutional and valid and all opportunities for appellate review of such determination are exhausted or abandoned, the following shall apply to teachers subject to the earlier order:

(1) A teacher who entered into a contract electing to be paid on the Professional Status Teacher Salary Schedule prior to the entry of the earlier order shall be paid on that schedule retroactive to July 1, 2014. A teacher who entered into a four-year performance-based contract shall receive the annual bonuses associated with that contract.

(2) A teacher who elects to enter into a contract electing to be paid on the Professional Status Teacher Salary Schedule within 30 days of entry of the final order shall be paid on that schedule retroactive to July 1, 2014. A teacher who enters into a four-year performance-based contract shall receive the annual bonuses associated with that contract.

(3) A teacher who elects not to enter into a contract and to be paid on the Career Status Teacher Salary Schedule shall continue to be paid in accordance on that schedule.

SECTION 9.9.(d) If any section or provision of Sections 9.1 through 9.9 of this act is enjoined or declared unconstitutional or invalid by a court of competent jurisdiction, on any basis other than provided in subsection (a), (b), or (c) of this section, all such teachers subject to such injunction or declaration shall be compensated on the Career Status Teacher Salary Schedule. If a court of competent jurisdiction makes a final determination that such provision is constitutional and valid and all opportunities for appellate review of such determination are exhausted or abandoned, the following shall apply to teachers subject to the earlier order:

(1) A teacher who entered into a contract electing to be paid on the Professional Status Teacher Salary Schedule prior to the entry of the earlier order shall be paid on that schedule retroactive to July 1, 2014. A teacher who entered into a four-year performance-based contract shall receive the annual bonuses associated with that contract.

(2) A teacher who elects to enter into a contract electing to be paid on the Professional Status Teacher Salary Schedule within 30 days of entry of the final order shall be paid on that schedule retroactive to July 1, 2014. A teacher who enters into a four-year performance-based contract shall receive the annual bonuses associated with that contract.

(3) A teacher who elects not to enter into a contract and to be paid on the Career Status Teacher Salary Schedule shall continue to be paid in accordance on that schedule.

INTERPRETATION OF THIS PART

SECTION 9.10. Except with respect to the requirements of G.S. 115C-325.3(a1), as enacted by this act, to create express written contracts as to the term of employment for teachers, Sections 9.1 through 9.9 of this act shall be construed to declare a policy that will be followed until the law is changed by the General Assembly. Sections 9.1 through 9.9 of this act shall not be construed to manifest a legislative intent to create private contract rights enforceable against the State or local school administrative units. The General Assembly reserves the right to alter, amend, or repeal Sections 9.1 through 9.9 of this act.

SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE

SECTION 9.11.(a) The following base salary schedule for school-based administrators shall apply only to principals and assistant principals. This base salary schedule shall apply for the 2014-2015 fiscal year commencing July 1, 2014.

2014-2015 Principal and Assistant Principal Salary Schedules

	Classification				
Years of Exp	Assistant	Prin I	Prin II	Prin III	Prin IV
Principal	(0-10)	(11-21)	(22-32)	(33-43)	
0-9	$3,828	-	-	-	-
10	$3,977	-	-	-	-
11	$4,123	-	-	-	-
12	$4,240	-	-	-	-
13	$4,323	$4,323	-	-	-
14	$4,377	$4,377	-	-	-
15	$4,434	$4,434	$4,489	-	-
16	$4,489	$4,489	$4,547	-	-
17	$4,547	$4,547	$4,606	$4,665	-
18	$4,606	$4,606	$4,665	$4,726	$4,788
19	$4,665	$4,665	$4,726	$4,788	$4,851
20	$4,726	$4,726	$4,788	$4,851	$4,918
21	$4,788	$4,788	$4,851	$4,918	$4,983
22	$4,851	$4,851	$4,918	$4,983	$5,050
23	$4,918	$4,918	$4,983	$5,050	$5,119
24	$4,983	$4,983	$5,050	$5,119	$5,188
25	$5,050	$5,050	$5,119	$5,188	$5,263
26	$5,119	$5,119	$5,188	$5,263	$5,335
27	$5,188	$5,188	$5,263	$5,335	$5,409
28	$5,263	$5,263	$5,335	$5,409	$5,483
29	$5,335	$5,335	$5,409	$5,483	$5,561
30	$5,409	$5,409	$5,483	$5,561	$5,641
31	$5,483	$5,483	$5,561	$5,641	$5,722
32	$5,561	$5,561	$5,641	$5,722	$5,794
33	$5,641	$5,641	$5,722	$5,794	$5,909
34	$5,722	$5,722	$5,794	$5,909	$6,027
35	$5,794	$5,794	$5,909	$6,027	$6,148
36	$5,909	$5,909	$6,027	$6,148	$6,271
37	-	$6,027	$6,148	$6,271	$6,396
38	-	-	$6,271	$6,396	$6,524
39	-	-	$6,396	$6,524	$6,654
40	-	-	-	$6,654	$6,787
41	-	-	-	$6,787	$6,923

42	-	-	-	-	$7,061

2014-2015 Principal and Assistant Principal Salary Schedules

	Classification			
Years of Exp (44-54)	Prin V (55-65)	Prin VI (66-100)	Prin VII (101+)	Prin VIII
0-19	$4,918	-	-	-
20	$4,983	-	-	-
21	$5,050	$5,119	-	-
22	$5,119	$5,188	$5,335	-
23	$5,188	$5,263	$5,409	$5,483
24	$5,263	$5,335	$5,483	$5,561
25	$5,335	$5,409	$5,561	$5,641
26	$5,409	$5,483	$5,641	$5,722
27	$5,483	$5,561	$5,722	$5,794
28	$5,561	$5,641	$5,794	$5,909
29	$5,641	$5,722	$5,909	$6,027
30	$5,722	$5,794	$6,027	$6,148
31	$5,794	$5,909	$6,148	$6,271
32	$5,909	$6,027	$6,271	$6,396
33	$6,027	$6,148	$6,396	$6,524
34	$6,148	$6,271	$6,524	$6,654
35	$6,271	$6,396	$6,654	$6,787
36	$6,396	$6,524	$6,787	$6,923
37	$6,524	$6,654	$6,923	$7,061
38	$6,654	$6,787	$7,061	$7,202
39	$6,787	$6,923	$7,202	$7,346
40	$6,923	$7,061	$7,346	$7,493
41	$7,061	$7,202	$7,493	$7,643
42	$7,202	$7,346	$7,643	$7,796
43	$7,346	$7,493	$7,796	$7,952
44	-	$7,643	$7,952	$8,111
45	-	$7,796	$8,111	$8,273
46+	-	-	$8,273	$8,438

SECTION 9.11.(b) The appropriate classification for placement of principals and assistant principals on the salary schedule, except for principals in alternative schools and in cooperative innovative high schools, shall be determined in accordance with the following schedule:

Classification	**Number of Teachers Supervised**
Assistant Principal	
Principal I	Fewer than 11 Teachers
Principal II	11-21 Teachers
Principal III	22-32 Teachers
Principal IV	33-43 Teachers
Principal V	44-54 Teachers
Principal VI	55-65 Teachers
Principal VII	66-100 Teachers
Principal VIII	More than 100 Teachers

The number of teachers supervised includes teachers and assistant principals paid from State funds only; it does not include teachers or assistant principals paid from non-State funds or the principal or teacher assistants.

The beginning classification for principals in alternative schools and in cooperative innovative high school programs shall be the Principal III level. Principals in alternative schools who supervise 33 or more teachers shall be classified according to the number of teachers supervised.

SECTION 9.11.(c) A principal shall be placed on the step on the salary schedule that reflects total number of years of experience as a certificated employee of the public schools and an additional step for every three years of experience as a principal. A principal or assistant principal shall also continue to receive any additional State-funded percentage increases earned for the 1997-1998, 1998-1999, and 1999-2000 school years for improvement in student performance or maintaining a safe and orderly school.

SECTION 9.11.(d) Principals and assistant principals with certification based on academic preparation at the six-year degree level shall be paid a salary supplement of one hundred twenty-six dollars ($126.00) per month and at the doctoral degree level shall be paid a salary supplement of two hundred fifty-three dollars ($253.00) per month.

SECTION 9.11.(e) Longevity pay for principals and assistant principals shall be as provided for State employees under the North Carolina Human Resources Act.

SECTION 9.11.(f) If a principal is reassigned to a higher job classification because the principal is transferred to a school within a local school administrative unit with a larger number of State-allotted teachers, the principal shall be placed on the salary schedule as if the principal had served the principal's entire career as a principal at the higher job classification.

If a principal is reassigned to a lower job classification because the principal is transferred to a school within a local school administrative unit with a smaller number of State-allotted teachers, the principal shall be placed on the salary schedule as if the principal had served the principal's entire career as a principal at the lower job classification.

This subsection applies to all transfers on or after the effective date of this section, except transfers in school systems that have been created, or will be created, by merging two or more school systems. Transfers in these merged systems are exempt from the provisions of this subsection for one calendar year following the date of the merger.

SECTION 9.11.(g) Participants in an approved full-time masters in-school administration program shall receive up to a 10-month stipend at the beginning salary of an assistant principal during the internship period of the masters program. The stipend shall not exceed the difference between the beginning salary of an assistant principal plus the cost of tuition, fees, and books and any fellowship funds received by the intern as a full-time student, including awards of the Principal Fellows Program. The Principal Fellows Program or the school of education where the intern participates in a full-time masters in-school administration program shall supply the Department of Public Instruction with certification of eligible full-time interns.

SECTION 9.11.(h) During the 2013-2015 fiscal biennium, the placement on the salary schedule of an administrator with a one-year provisional assistant principal's certificate shall be at the entry-level salary for an assistant principal or the appropriate step on the teacher salary schedule, whichever is higher.

SECTION 9.11.(i) Effective July 1, 2014, any assistant principal paid on years 0-8 on the State Salary Schedule in the 2013-2014 school year and employed on July 1, 2014, shall receive a nonrecurring salary bonus of eight hundred nine dollars ($809.00).

CENTRAL OFFICE SALARIES

SECTION 9.12. Section 35.13 of S.L. 2013-360 reads as rewritten:

"**SECTION 35.13.(a)** The monthly salary ranges that follow, which apply to assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers, shall ~~remain unchanged for the 2013-2015 fiscal biennium, beginning July 1, 2013.~~be increased by five hundred dollars ($500.00) annually as follows:

School Administrator I	~~$3,349~~$3,391	~~$6,281~~$6,323
School Administrator II	~~$3,550~~$3,592	~~$6,662~~$6,704
School Administrator III	~~$3,769~~$3,811	~~$7,068~~$7,110
School Administrator IV	~~$3,920~~$3,962	~~$7,349~~$7,391
School Administrator V	~~$4,078~~$4,120	~~$7,647~~$7,689
School Administrator VI	~~$4,326~~$4,368	~~$8,109~~$8,151
School Administrator VII	~~$4,500~~$4,542	~~$8,436~~$8,478

The local board of education shall determine the appropriate category and placement for each assistant superintendent, associate superintendent, director/coordinator, supervisor, or finance officer within the salary ranges and within funds appropriated by the General Assembly for central office administrators and superintendents. The category in which an employee is placed shall be included in the contract of any employee.

"**SECTION 35.13.(b)** The monthly salary ranges that follow, which apply to public school superintendents, shall ~~remain unchanged for the 2013-2015 fiscal biennium, beginning July 1, 2013.~~be increased beginning July 1, 2014, as follows:

Superintendent I	~~$4,777~~$4,819	~~$8,949~~$8,991
Superintendent II	~~$5,071~~$5,113	~~$9,490~~$9,532
Superintendent III	~~$5,380~~$5,422	~~$10,067~~$10,109
Superintendent IV	~~$5,710~~$5,752	~~$10,679~~$10,721
Superintendent V	~~$6,060~~$6,102	~~$11,330~~$11,372

The local board of education shall determine the appropriate category and placement for the superintendent based on the average daily membership of the local school administrative unit and within funds appropriated by the General Assembly for central office administrators and superintendents.

"**SECTION 35.13.(c)** Longevity pay for superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers shall be as provided for State employees under the State Personnel Act.

"**SECTION 35.13.(d)** Superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided pursuant to this section. Superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for under this section.

"**SECTION 35.13.(e)** The State Board of Education shall not permit local school administrative units to transfer State funds from other funding categories for salaries for public school central office administrators.

"**SECTION 35.13.(f)** The annual salaries of all permanent, full-time personnel paid from the Central Office Allotment shall ~~remain unchanged for the 2013-2015 fiscal biennium.~~be increased by five hundred dollars ($500.00)."

NONCERTIFIED PERSONNEL SALARIES

SECTION 9.13. Section 35.14 of S.L. 2013-360 reads as rewritten:

"**SECTION 35.14.** The annual salary for permanent, full-time ~~and part-time~~ noncertified public school employees whose salaries are supported from the State's General Fund shall be ~~remain unchanged for the 2013-2015 fiscal biennium.~~ increased by five hundred dollars ($500.00). Part-time, noncertified public school employees shall receive the increase authorized by this section on a prorated and equitable basis."

PART X. COMMUNITY COLLEGES

CONTINUE COMMUNITY COLLEGES PROGRAM AUDIT

SECTION 10.1. Section 10.15(a) of S.L. 2013-360 is repealed.

PROCESS FOR PERIODICALLY REVISING ENROLLMENT TIERS

SECTION 10.2. The State Board of Community Colleges shall develop a process for periodically reviewing and revising how courses and programs are classified into tiers in the enrollment funding model. The process shall be developed by March 1, 2015, and reported to the Office of State Budget and Management and the Fiscal Research Division of the North Carolina General Assembly.

The State Board of Community Colleges shall identify those courses and programs in high-need areas and may suggest any revisions to the model. These revisions shall be submitted as part of their budget requests for the 2017-2019 fiscal biennium.

FEES COLLECTED AND ASSESSED BY THE MANUFACTURING SOLUTIONS CENTER AND THE TEXTILE TECHNOLOGY CENTER

SECTION 10.3. The State Board of Community Colleges shall report, no later than January 15, 2015, to the Joint Legislative Education Oversight Committee, the Fiscal Research Division, and the Office of State Budget and Management on the structure of the fees assessed and the total fees collected by the Manufacturing Solutions Center at Catawba Valley Community College and by the Textile Technology Center at Gaston College during the 2012-2013 and 2013-2014 fiscal years.

PART XI. UNIVERSITIES

STRATEGIC PLAN AND DISTINGUISHED PROFESSOR ENDOWMENT FUND

SECTION 11.1.(a) Notwithstanding the provisions of G.S. 116-11 and G.S. 116-30.2, the Board of Governors and the campuses of the constituent institutions shall consider reducing State funds for centers and institutes, speaker series, and other nonacademic activities by up to fifteen million dollars ($15,000,000); if reductions are taken, then the Board of Governors may use those reductions to do either or both of the following:

(1) Provide a State match of up to ten million dollars ($10,000,000) for gifts from private sources for the Distinguished Professors Endowment Trust Fund.

(2) Expend up to five million dollars ($5,000,000) to implement provisions of The University of North Carolina Strategic Plan as set out in the report "Our Time, Our Future: The University of North Carolina Compact with North Carolina." These funds are in addition to the fifteen million dollars ($15,000,000) that may be expended pursuant to subsection (h) of Section 11.13 of S.L. 2013-360.

SECTION 11.1.(b) Notwithstanding the provisions of G.S. 116-41.13 through G.S. 116-41.19, for the 2014-2015 fiscal year, no State match shall be required to use donations and gifts that were or are intended by the donor as matching funds for a State appropriation for

distinguished professorships. If the terms of a particular donation or gift require a State match, then this subsection shall not apply without the written consent of the donor.

UNC TO FUND NORTH CAROLINA RESEARCH CAMPUS

SECTION 11.2. Of the funds appropriated in this act to the Board of Governors of The University of North Carolina, the Board of Governors shall use twenty-nine million dollars ($29,000,000) to support UNC-related activities at the North Carolina Research Campus at Kannapolis.

UNC BUDGET REDUCTIONS

SECTION 11.3. Notwithstanding any other provisions of this act, no reduction in State funds, except reductions based on enrollment growth model changes, shall be allocated to any of the following:

(1) Any special responsibility constituent institution which has been granted a basic type designation of "Special Focus Institution" under the Carnegie Classification of Institutions of Higher Education.

(2) Any special responsibility constituent institution which has been granted a basic type designation of "Baccalaureate Colleges–Arts & Sciences" under the Carnegie Classification of Institutions of Higher Education.

(3) Any constituent high school of The University of North Carolina.

REPORT ON INSTITUTIONAL TRUST FUNDS

SECTION 11.4. G.S. 116-36.1(e) reads as rewritten:

"(e) Each institution shall submit such reports or other information concerning its trust fund accounts as may be required by the ~~Board.~~Board and by the Director of the Budget."

REPORT ON ACADEMIC SUMMER BRIDGE

SECTION 11.5. No later than November 1, 2014, the Board of Governors of The University of North Carolina shall report to the Office of State Budget and Management and the Joint Legislative Education Oversight Committee on the impact of Academic Summer Bridge programs on student outcomes. At a minimum, the report shall include information by institution on graduation rates, average time to degree, and student academic performance at multiple intervals over a four-year course of study.

UNC/DEVELOP PLAN TO DISSOLVE CONSTITUENT INSTITUTIONS WITH LARGE DECLINE IN STUDENT ENROLLMENT

SECTION 11.6. The Board of Governors of The University of North Carolina shall study the feasibility of dissolving any constituent institution whose fall full-time equivalent student enrollment declined by more than twenty percent (20%) between the 2010-2011 fiscal year and the 2013-2014 fiscal year and shall develop a plan for its dissolution. The Board of Governors shall report its findings and recommendations, including the plan for dissolution, to the 2015 General Assembly.

OPERATION OF 4-H CAMPS AND USE OF VARIOUS SITES OF DEFUNCT 4-H CAMPS AND TRANSFER 4-H CAMP SERTOMA/MOORE SPRINGS TO THE STATE PARKS SYSTEM.

SECTION 11.7.(a) Part 5 of Article 1 of Chapter 116 of the General Statutes is amended by adding a new section to read:

"**§ 116-43.20. Operation of 4-H camps.**

(a) North Carolina State University shall not close the 4-H camps listed in subdivisions (1) through (3) of this subsection. Further, North Carolina State University shall continue to operate each of those camps as 4-H camps and to offer programs and services at the sites of each of those camps at a level that is at least equivalent to the programs and services offered at each site as of June 30, 2013. The following three 4-H camps are to continue and are to be operated as 4-H camps as provided by this subsection:

(1) Eastern 4-H Center located in Columbia, NC.

(2) Millstone 4-H Camp located near Ellerbe, NC.

(3) Betsy-Jeff Penn 4-H Educational Center located near Reidsville, NC.

(b) The 4-H camps that were located at the sites listed in subdivisions (1) and (2) of this subsection have ceased to operate as 4-H camps. At the request of the board of county commissioners of any county that is the site of one of the defunct 4-H camps listed in this subsection, North Carolina State University shall consult with the board regarding actions that may be taken to reopen the 4-H camp in that county and other options that may be available for the use of the site.

Within 90 days after any consultation with a board of county commissioners conducted pursuant to this subsection, North Carolina State University shall submit a written report to the Joint Legislative Education Oversight Committee, the Senate Appropriations Committee on Education/Higher Education, the House of Representatives Appropriations Subcommittee on Education, and the Fiscal Research Division regarding the feasibility of reopening the site as a 4-H camp and any other options considered for the use of the site.

The list of defunct 4-H camps follows:

(1) Anita-Alta 4-H Camp in the Pisgah National Forest in Lenoir, NC.

(2) Swannanoa 4-H Camp located at Swannanoa, NC.

(c) North Carolina State University shall take all practicable measures to operate the 4-H camps in a manner that will generate a positive fund balance in the institutional trust funds that account for the activities of the 4-H camps."

SECTION 11.7.(b) Article 7 of Chapter 146 of the General Statutes is amended by adding a new section to read:

"**§ 146-30.1. Application of net proceeds of disposition or use of real property allocated to the 4-H Camping Program.**

(a) Limitation. – Notwithstanding G.S. 146-30 or any other provision of law, and subject to the limitations contained in any applicable deed, the net proceeds of any disposition of, use of, or activity on real property allocated to the 4-H Camping Program shall be used solely for the operation of the 4-H Camping Program, for the acquisition of real property for the 4-H Camping Program, or for the funding of an endowment to support these purposes. These proceeds shall not be used to pay any debt or other financial obligation owed to a State agency that arose prior to the effective date of this section.

(b) Definition of Net Proceeds. – For purposes of this section, the term "net proceeds" shall have the same meaning as in G.S. 146-30.

(c) No Supplanting of General Fund Support. – It is the intent of the General Assembly that appropriations for the 4-H Camping Program not be reduced as a result of the realization of proceeds under this section. Instead, the General Assembly intends that the amount of appropriations be determined as if no proceeds had been realized under this section. The Director of the Budget shall not decrease the recommended continuation budget requirements for the 4-H Camping Program as a result of proceeds being realized under this section.

(d) Proceeds Must Be Appropriated. – Nothing in this section shall be construed to appropriate the proceeds described in this section."

SECTION 11.7.(c) If on the effective date of this section the net proceeds of any use of, or activity on, real property allocated to the 4-H Camping Program are being used in a

manner prohibited by G.S. 146-30.1, then notwithstanding that section they may continue to be used in that manner.

SECTION 11.7.(d) The Department of Administration shall reallocate all of the approximately 716 acres of State-owned real property that is part of Camp Sertoma/Moore Springs property to the Department of Environment and Natural Resources. The General Assembly authorizes the Department of Environment and Natural Resources to add this property to the State Parks System as provided in G.S. 113-44.14(b).

SECTION 11.7.(e) Of the funds appropriated by this act for the 2014-2015 fiscal year to the Board of Governors of The University of North Carolina for North Carolina State University the sum of seven hundred twenty-five thousand dollars ($725,000) in recurring funds shall be allocated equally among all operating 4-H camps, including any currently defunct 4-H camp that reopens and operates as a 4-H camp. The funds allocated under this section shall be used for the operation, repair, and renovation of operating 4-H camps.

STUDY FINANCIAL AID PAYMENT SCHEDULE TO INCENTIVIZE THIRTY COMPLETED HOURS PER YEAR

SECTION 11.8. Section 11.15(h) of S.L. 2013-360 reads as rewritten:

"**SECTION 11.15.(h)** The State Education Assistance ~~Authority shall structure its payment schedule~~ Authority, in consultation with The University of North Carolina, the North Carolina Community College System, and the North Carolina Independent Colleges and Universities, shall study ways to structure its financial aid payment schedules to encourage students to complete an average of 30 credit hours per academic year. The State Education Assistance Authority shall report to the Joint Legislative Education Oversight Committee by ~~March 1, 2014,~~ October 1, 2015, regarding the ~~measures implemented by the Authority pursuant to this subsection.~~outcomes of this study."

UNC FACULTY TUITION WAIVER

SECTION 11.9.(a) G.S. 116-143(d) reads as rewritten:

"(d) Notwithstanding the above provision relating to the abolition of free tuition, the Board of Governors of The University of North Carolina may, in its discretion, provide regulations under which a full-time faculty member of the rank of full-time instructor or above, and any full-time staff member of The University of North Carolina may during the period of normal employment enroll for not more than two courses per year in The University of North Carolina free of charge for ~~tuition,~~ tuition and fees, provided such enrollment does not interfere with normal employment obligations and further provided that such enrollments are not counted for the purpose of receiving general fund appropriations."

SECTION 11.9.(b) This section applies to the 2014-2015 fall academic semester and each subsequent academic semester.

STATE EDUCATION ASSISTANCE AUTHORITY TO ASSUME RESPONSIBILITY FOR NORTH CAROLINA TEACHING FELLOWS SCHOLARSHIP LOANS

SECTION 11.10.(a) The Office of State Budget and Management shall transfer to the State Education Assistance Authority the cash balance remaining in the Teaching Fellows Trust Fund as of December 31, 2014. The funds shall be taken from Budget Code 63501 unless otherwise determined by the Office of State Budget and Management. The Teaching Fellows Commission shall make scholarship loan awards for the 2015 spring academic semester prior to the transfer of the cash balance from the Teaching Fellows Trust Fund. The Office of State Budget and Management shall work with the State Education Assistance Authority to determine the schedule for implementing the transfer of funds; however, the transfer of funds required by this section shall be completed no later than December 31, 2014.

SECTION 11.10.(b) Article 23 of Chapter 116 of the General Statutes is amended by adding a new section to read:

"**§ 116-209.27. Administration of scholarships previously awarded by Teaching Fellows Program.**

(a) The Authority shall, as of January 1, 2015, administer all outstanding scholarship loans previously awarded by the former Teaching Fellows Commission and subject to repayment under the former North Carolina Teaching Fellows Program.

(b) Scholarship loans previously awarded by the Teaching Fellows Commission by notes payable to the Commission shall be deemed payable to the Authority, as the successor in interest to the Teaching Fellows Commission, by the same terms stated in the note.

(c) The Authority, as administrator for the Teaching Fellows Program, may use up to seventy-five thousand dollars ($75,000) annually of the fund balance for costs associated with administration of the Teaching Fellows Program.

(d) All funds received by the Authority in association with its administration of the Teaching Fellows Program, including all funds received as repayment of scholarship loans, and all interest earned on these funds shall be deposited into the Forgivable Education Loans for Service Fund established in G.S. 116-209.45."

SECTION 11.10.(c) The Teaching Fellows Commission shall deliver to the State Education Assistance Authority, in a format acceptable to the Authority, complete electronic and paper records on all outstanding scholarship loans previously awarded, but not canceled by service or otherwise satisfied in full as of the date of delivery, including records of applicable teaching service performed to that date, no later than November 15, 2014. Prior to the transfer of any such outstanding scholarship loan and related records the Teaching Fellows Commission shall discharge its reporting obligations under G.S. 147-86.26 and specifically confirm for the Authority that no account subject to write-off in accordance with the Statewide Accounts Receivable Program has been transferred under this section.

REPORT ON COLLEGE FOUNDATION OF NORTH CAROLINA SUSTAINABILITY

SECTION 11.11. No later than December 1, 2014, the State Education Assistance Authority shall report to the Office of State Budget and Management and the Fiscal Research Division of the General Assembly on its progress toward funding operations of the College Foundation of North Carolina entirely from non-General Fund sources. This report shall include all of the following:

(1) The status of fundraising efforts to date.
(2) A detailed plan and time line for generating additional revenues.
(3) Estimated expenditures and revenues by type for the next four fiscal years.
(4) Potential reduction measures and alternative funding options should General Fund appropriations not be provided in the next biennium.

TUITION ASSISTANCE TO VETERANS WHO PARTICIPATE IN THE YELLOW RIBBON PROGRAM AND THEIR SPOUSES AND DEPENDENT RELATIVES

SECTION 11.12.(a) Article 14 of Chapter 116 of the General Statutes is amended by adding a new section to read:

"**§ 116-143.8. Tuition assistance for certain veterans and their dependents.**

(a) The following definitions apply in this section:

(1) Institution of higher education. – Has the same meaning as in G.S. 116-143.1(a)(1).

(2) Yellow Ribbon Program. – Yellow Ribbon G.I. Education Enhancement Program, 38 U.S.C. § 3317.

(b) The Board of Governors of The University of North Carolina shall annually enter into an agreement with the United States Secretary of Veterans Affairs for one or more of the constituent institutions to participate in the Yellow Ribbon Program. The State Board of Community Colleges shall annually enter into an agreement with the United States Secretary of Veterans Affairs for one or more of the community colleges to participate in the Yellow Ribbon Program. The agreements shall include all of the following terms:

(1) A grant of ninety percent (90%) of the cost of tuition and mandatory fees not otherwise covered shall be provided for every eligible veteran or eligible spouse or dependent relative of a veteran who is enrolled or will be enrolled as an undergraduate student at a constituent institution or as a student at a community college.

(2) To be eligible for grants under the Yellow Ribbon Program, a student must meet all program requirements established by the federal government. In addition, to be eligible for a Yellow Ribbon grant in which the school share of the grant is paid with State appropriation, a student must be enrolled as an undergraduate student at a constituent institution or as a student at a North Carolina community college.

(c) This section is not intended to prohibit constituent institutions from using private funds to provide Yellow Ribbon grants for students enrolled in master's, or doctoral level programs.

(d) The General Assembly encourages private institutions of higher education in North Carolina to participate in the Yellow Ribbon Program."

SECTION 11.12.(b) It is the intent of the General Assembly to establish two reserve funds for the purpose of forward funding tuition assistance to students who participate in the Yellow Ribbon Program. Therefore, the General Assembly establishes the two following reserve funds:

(1) There is established the UNC Yellow Ribbon Reserve to be managed by the Board of Governors of The University of North Carolina. Of the funds appropriated by this act to the Board of Governors, the sum of four million eight hundred sixty-three thousand two hundred seventy-six dollars ($4,863,276) shall be allocated to the UNC Yellow Ribbon Reserve and shall be held in reserve for the 2014-2015 fiscal year. Beginning with the 2015-2016 fiscal year, the funds in the UNC Yellow Ribbon Reserve shall be used to fund undergraduate tuition assistance to participants in the Yellow Ribbon Program for the 2015-2016 academic year and each subsequent academic year.

(2) There is established the Community College Yellow Ribbon Reserve to be managed by the State Board of Community Colleges. Of the funds appropriated by this act to the Community Colleges System Office, the sum of one million dollars ($1,000,000) shall be allocated to the Community College Yellow Ribbon Reserve and shall be held in reserve for the 2014-2015 fiscal year. Beginning with the 2015-2016 fiscal year, the funds in the Community College Yellow Ribbon Reserve shall be used to fund tuition assistance to participants in the Yellow Ribbon Program for the 2015-2016 academic year and each subsequent academic year.

SECTION 11.12.(c) The Board of Governors and the State Board of Community Colleges shall each report to the Joint Legislative Education Oversight Committee by January 1, 2015, regarding their planned participation in the Yellow Ribbon Program for the 2015-16 academic year. Each report shall include the following information:

(1) The number and identity of constituent institutions or community colleges that will participate in the Yellow Ribbon Program.
(2) The methodology used by each governing board to select the institutions of higher education that will participate in the Yellow Ribbon Program.
(3) For each institution that will participate, the maximum number of students and the maximum award amount per student.
(4) A list of the institutions of higher education that will not participate in the Yellow Ribbon Program and the reason each institution is not participating.

SECTION 11.12.(d) Except as otherwise provided, subsection (a) of this section applies to the 2015-2016 academic year and each subsequent academic year.

OPTOMETRY/FORGIVABLE EDUCATION LOANS FOR SERVICE

SECTION 11.13. In implementing the Forgivable Education Loans for Service program authorized under G.S. 116-209.45, the State Education Assistance Authority shall adopt rules and polices necessary to ensure that the annual loan amount for a student attending an optometry program at an eligible institution is twenty-eight thousand dollars ($28,000), except that the annual loan amount shall not exceed the annual cost of attendance of the program in which the student is enrolled.

In establishing the criteria for loan forgiveness, the State Education Assistance Authority shall consider establishing a service schedule that rewards students practicing in an optometry health professional shortage area as determined by the Health Resources and Services Administration of the US Department of Health and Human Services.

PART XII. DEPARTMENT OF HEALTH AND HUMAN SERVICES

SUBPART XII-A. CENTRAL MANAGEMENT AND SUPPORT

HHS COMPETITIVE GRANTS PROCESS REVISIONS

SECTION 12A.1. Section 12A.2 of S.L. 2013-360 reads as rewritten:

"FUNDING FOR NONPROFIT ORGANIZATIONS/ESTABLISH COMPETITIVE GRANTS PROCESS

"SECTION 12A.2.(a) Of the funds appropriated in this act to the Department of Health and Human Services, Division of Central Management and Support, the sum of nine million five hundred twenty-nine thousand one hundred thirty-four dollars ($9,529,134) in recurring funds for ~~each year of the 2013-2015 fiscal biennium;~~the 2013-2014 fiscal year and the sum of nine million three hundred three thousand nine hundred eleven dollars ($9,303,911) in recurring funds for the 2014-2015 fiscal year, the sum of three hundred seventeen thousand four hundred dollars ($317,400) in nonrecurring funds for each year of the 2013-2015 fiscal biennium, and the sum of three million eight hundred fifty-two thousand five hundred dollars ($3,852,500) appropriated in Section 12J.1 of this act in Social Services Block Grant funds for each year of the 2013-2015 fiscal biennium shall be used to allocate funds for nonprofit organizations.

...

"SECTION 12A.2.(d) It is the intent of the General Assembly that, beginning fiscal year 2014-2015, the Department implement a competitive grants process for nonprofit funding. To that end, the Department shall develop a plan that establishes a competitive grants process to be administered by the Division of Central Management and Support. The Department shall develop a plan that, at a minimum, includes each of the following:

(1) A request for application (RFA) process to allow nonprofits to apply for and receive State funds on a competitive basis.

(2) A requirement that nonprofits match a minimum of ten percent (10%) of the total amount of the grant award.
(3) A requirement that the Secretary prioritize grant awards to those nonprofits that are able to leverage non-State funds in addition to the grant award.
(4) A process that awards grants to nonprofits ~~dedicated to providing~~that have the capacity to provide services on a statewide basis and that support any of the following State health and wellness initiatives:
a. A program targeting advocacy, support, education, or residential services for persons diagnosed with autism.
~~b. A comprehensive program of education, advocacy, and support related to brain injury and those affected by brain injury.~~
c. A system of residential supports for those afflicted with substance abuse addiction.
d. A program of advocacy and supports for individuals with intellectual and developmental disabilities or severe and persistent mental illness, substance abusers, or the elderly.
e. Supports and services to children and adults with developmental disabilities or mental health diagnoses.
f. A food distribution system for needy individuals.
g. The provision and coordination of services for the homeless.
h. The provision of services for individuals aging out of foster care.
i. Programs promoting wellness, physical activity, and health education programming for North Carolinians.
j. A program focused on enhancing vision screening through the State's public school system.
k. Provision for the delivery of after-school services for mentoring at-risk youth.
l. The provision of direct services for amyotrophic lateral sclerosis (ALS) and those diagnosed with the disease.
m. The provision of assistive information technology services for blind and disabled persons.
(5) Ensures that funds received by the Department to implement the plan supplement and do not supplant existing funds for health and wellness programs and initiatives.

...

"**SECTION 12A.2.(h)** For fiscal year 2014-2015 only, from the sum of nine million three hundred three thousand nine hundred eleven dollars ($9,303,911) referred to in subsection (a) of this section, the Department shall allocate the sum of three hundred seventy-five thousand dollars ($375,000) to the Big Brothers Big Sisters of the Triangle, Inc., for the purpose of mentoring at-risk youth. Big Brothers Big Sisters of the Triangle, Inc., shall be required to seek future funding through the competitive grants process in accordance with subsection (d) of this section."

FUNDS FOR STATEWIDE HEALTH INFORMATION EXCHANGE

SECTION 12A.2.(a) It is the intent of the General Assembly:
(1) To maximize receipt of federal funds for administration and support of the statewide health information exchange network (HIE Network).
(2) To allow the North Carolina Health Information Exchange (NC HIE), the nonprofit corporation responsible for overseeing and administering the HIE Network, to receive the State's share of available federal funds for

administration and support of the HIE Network in order to reduce the operating costs of the HIE Network by an amount sufficient to allow for the elimination or reduction of the participation fee the NC HIE currently imposes on hospitals required to connect to the HIE Network pursuant to G.S. 90-413.3A.

(3) Beginning with the 2015-2016 fiscal year, to make the Department of Health and Human Services, Division of Central Management and Support, responsible for using State funds to draw down available matching federal funds for administration and support of the HIE Network.

SECTION 12A.2.(b) From the funds appropriated in this act to the Department of Health and Human Services, Division of Central Management and Support, for the health information exchange for the 2014-2015 fiscal year, the Department shall allocate to the North Carolina Health Information Exchange, a nonprofit corporation, an amount sufficient to represent the State share for the maximum amount of approved federal matching funds for allowable Medicaid administrative costs related to the HIE Network.

SINGLE SYSTEM OF MEDICAID CLAIM ADJUDICATION FOR ENTITIES UNDER CONTRACT WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

SECTION 12A.3.(a) Section 12A.4(j) of S.L. 2013-360 reads as rewritten:

"**SECTION 12A.4.(j)** The Department shall plan and implement system modifications necessary to enable entities under contract with the Department to perform Medicaid claim adjudication in the replacement MMIS. The Department shall implement these system modifications by the earlier of ~~January 1, 2015,~~ July 1, 2017, or prior to renewing any contract currently in effect with an entity required to perform Medicaid claim adjudication in the replacement MMIS pursuant to this section. Upon implementation of these system modifications, the Department shall require all Medicaid claim adjudication to be performed by the replacement MMIS, including all Medicaid claim adjudication performed by entities under contract with the Department. The Department may require entities under contract with the Department to contract directly with the State's Medicaid fiscal agent to provide technical support for Medicaid claim adjudication performed by the replacement MMIS for these entities, subject to prior approval of contract terms by the Department. The Department may charge entities under contract with the Department a fee not to exceed the amount necessary to cover the full operating cost of Medicaid claim adjudication performed by the replacement MMIS for these entities."

SECTION 12A.3.(b) Section 12A.4(k) of S.L. 2013-360, as amended by Section 4.11 of S.L. 2013-363, reads as rewritten:

"**SECTION 12A.4.(k)** Subsection (j) of this section becomes effective ~~January 1, 2015.~~January 1, 2016."

SECTION 12A.3.(c) The Department of Health and Human Services shall develop a plan to implement a single system of Medicaid claim adjudication compatible with the replacement Medicaid Management Information System (MMIS), to be used by all entities under contract with the Department until the Department implements system modifications necessary to enable these entities to perform Medicaid claim adjudication in the replacement MMIS. The Department shall submit the plan to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division no later than May 1, 2015.

SUBPART XII-B. DIVISION OF CHILD DEVELOPMENT AND EARLY EDUCATION

CHILD CARE SUBSIDY RATES/REVISE CO-PAYMENTS AND ELIGIBILITY CRITERIA

SECTION 12B.1. Section 12B.3 of S.L. 2013-360 reads as rewritten:

"CHILD CARE SUBSIDY RATES

"SECTION 12B.3.(a) ~~The~~ Beginning September 1, 2014, the maximum gross annual income for initial eligibility, adjusted biennially, for subsidized child care services shall be ~~seventy-five percent (75%) of the State median income, adjusted for family size.~~determined based on a percentage of the federal poverty level as follows:

AGE	INCOME PERCENTAGE LEVEL
0-5	200%
6-12	133%

The eligibility for any child with special needs, including a child who is 13 years of age or older, shall be two hundred percent (200%) of the federal poverty level.

"SECTION 12B.3.(b) ~~Fees~~ Beginning September 1, 2014, fees for families who are required to share in the cost of care shall be established based on ~~a~~ ten percent (10%) of gross family ~~income and adjusted for family size. Fees shall be determined as follows:~~income. Co-payments shall not be prorated for part-time care.

~~FAMILY SIZE~~	~~PERCENT OF GROSS FAMILY INCOME~~
~~1-3~~	~~10%~~
~~4-5~~	~~9%~~
~~6 or more~~	~~8%~~

"SECTION 12B.3.(b1) No later than January 1, 2015, the Department of Health and Human Services, Division of Child Development and Early Education, shall revise its child care subsidy policy to include in the policy's definition of "income unit" the following:

(1) A stepparent and the stepparent's child, if applicable.

(2) A nonparent relative caretaker, and the caretaker's spouse and child, if applicable, when the parent of the child receiving child care subsidy does not live in the home with the child.

...

"SECTION 12B.3.(h) Payment for subsidized child care services provided with ~~Work First~~ Temporary Assistance for Needy Families Block Grant funds shall comply with all regulations and policies issued by the Division of Child Development for the subsidized child care program.

...."

EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES ENHANCEMENTS/CODIFY TANF MAINTENANCE OF EFFORT REQUIREMENT

SECTION 12B.2. G.S. 143B-168.15(g) reads as rewritten:

"(g) Not less than thirty percent (30%) of the funds spent in each year of each local partnership's direct services allocation shall be used to expand child care subsidies. To the extent practicable, these funds shall be used to enhance the affordability, availability, and quality of child care services as described in this section. The North Carolina Partnership may increase this percentage requirement up to a maximum of fifty percent (50%) when, based upon a significant local waiting list for subsidized child care, the North Carolina Partnership determines a higher percentage is justified. Local partnerships shall spend an amount for child care subsidies that provides at least fifty-two million dollars ($52,000,000) for the Temporary Assistance to Needy Families (TANF) maintenance of effort requirement and the Child Care Development Fund and Block Grant match requirement."

STUDY CHILD CARE SUBSIDY FOR 11- AND 12-YEAR OLDS

SECTION 12B.3.(a) The Department of Health and Human Services, Division of Child Development and Early Education, shall study child care subsidy for 11- and 12-year olds. The Division shall study (i) available options for 11- and 12- year olds for before and after school care, (ii) available resources other than child care subsidy to pay for before and after school care, and (iii) the average cost of care for 11- and 12- year olds.

SECTION 12B.3.(b) The Division shall report its findings and recommendations to the Joint Legislative Committee on Health and Human Services and the Fiscal Research Division no later than November 30, 2014.

REVISE CHILD CARE ALLOCATION FORMULA

SECTION 12B.4. Section 12B.4 of S.L. 2013-360 reads as rewritten:

"**CHILD CARE ALLOCATION FORMULA**

"**SECTION 12B.4.(a)** The Department of Health and Human Services shall allocate child care subsidy voucher funds to pay the costs of necessary child care for minor children of needy families. The mandatory thirty percent (30%) North Carolina Partnership for Children, Inc., subsidy allocation under G.S. 143B-168.15(g) shall constitute the base amount for each county's child care subsidy allocation. The Department of Health and Human Services shall use the following method when allocating federal and State child care funds, not including the aggregate mandatory thirty percent (30%) North Carolina Partnership for Children, Inc., subsidy allocation:

(1) Funds shall be allocated to a county based upon the projected cost of serving children under age 11 in families with all parents working who earn less than ~~seventy-five percent (75%) of the State median income.~~the applicable federal poverty level percentage set forth in Section 12B.3(a) of this act, as amended.

(2) No county's allocation shall be less than ninety percent (90%) of its State fiscal year 2001-2002 initial child care subsidy allocation.

(3) For fiscal years 2013-2014 and 2014-2015, the Division of Child Development and Early Education shall base the formula identified in subdivision (1) of this subsection on the same data source used for the 2012-2013 fiscal year.

(4) The Department of Health and Human Services shall allocate to counties all State funds appropriated for child care subsidy and shall not withhold funds during the 2013-2014 and 2014-2015 fiscal years.

"**SECTION 12B.4.(b)** The Department of Health and Human Services may reallocate unused child care subsidy voucher funds in order to meet the child care needs of low-income families. Any reallocation of funds shall be based upon the expenditures of all child care subsidy voucher funding, including North Carolina Partnership for Children, Inc., funds within a county. Beginning with any funding reallocated in the 2013-2014 fiscal year, reallocated funds shall become part of a county's allocation formula in future fiscal years and, beginning with the 2014-2015 fiscal year, shall apply to both increased and decreased allocations."

SUBPART XII-C. DIVISION OF SOCIAL SERVICES

CHILD PROTECTIVE SERVICES IMPROVEMENT INITIATIVE

SECTION 12C.1.(a) Findings and Intent. – The General Assembly makes the following findings:

(1) Child Protective Services' policy from the Department of Health and Human Services, Division of Social Services, recommends that the average child protective services caseload be no greater than 10 families at any time for

workers performing child protective services assessments and 10 families at any time for staff providing in-home services. However, data suggests that in 43 of the counties in this State, 21 have a caseload size of over 15 cases per worker; and further, in nine of those 21 counties, there is an average caseload size of over 20 cases per worker.

(2) During the 2013-2014 fiscal year, county departments of social services lost federal funding for child protective services under the Temporary Assistance of Needy Families (TANF) Block Grant and Title IV-E funding. However, the number of Child Protective Services investigations has grown by twenty percent (20%) from fiscal year 2002 to fiscal year 2012.

(3) There is no current, statewide data available on the performance of county departments of social services regarding child protective services.

(4) There exists the potential for a conflict of interest to arise when a county department of social services has been appointed as guardian for both (i) a child who is the subject of a report of abuse, neglect, or dependency that would be investigated by Child Protective Services and (ii) for the parent or legal guardian of the child.

It is the intent of the General Assembly to (i) reduce caseload size for Child Protective Services' workers to the recommended standard, (ii) provide adequate resources for county departments of social services to provide child protective services for abused, neglected, and dependent children, (iii) provide for a comprehensive evaluation of various functions and funding regarding child protective services, and (iv) study ways to reduce conflicts of interest regarding guardianship and child protective services. To that end, the General Assembly supports the initiatives and the allocation of funds for child welfare services as described in this section.

SECTION 12C.1.(b) Funds for Child Protective Services. – Of the funds appropriated in this act to the Department of Health and Human Services, Division of Social Services, the sum of eight million three hundred twenty-six thousand six hundred twenty-seven dollars ($8,326,627) shall be allocated to provide additional child protective services workers at county departments of social services to reduce caseloads to the recommended standard.

SECTION 12C.1.(c) Funds for In-Home Services. – Of the funds appropriated in this act to the Department of Health and Human Services, Division of Social Services, the sum of four million five hundred thousand dollars ($4,500,000) shall be allocated for Child Welfare in-home services to provide and coordinate interventions and services that focus on child safety and protection, family preservation, and the prevention of further abuse or neglect.

SECTION 12C.1.(d) Funds for Oversight of Child Welfare Services. – Of the funds appropriated in this act to the Department of Health and Human Services, Division of Social Services, the sum of seven hundred fifty thousand dollars ($750,000) shall be allocated to fund nine positions to the Division to enhance oversight of child welfare services in county departments of social services. These positions shall be used to monitor, train, and provide technical assistance to the county departments of social services to ensure children and families are provided services that address the safety, permanency, and well-being of children served by child welfare services.

SECTION 12C.1.(e) Pilot Program. – Of the funds appropriated in this act to the Department of Health and Human Services, Division of Social Services, the sum of three hundred thousand dollars ($300,000) shall be used to establish and implement a child protective services pilot program. The funds shall be used to enhance coordination of services and information among county departments of social services, local law enforcement agencies, the court system, guardian ad litem programs, and other agencies as deemed appropriate by the

Department. The Department shall determine the number of sites that may participate in the pilot program and include regions that are geographically diverse.

The Division shall make a progress report on the pilot program to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division no later than March 1, 2015. The Division shall make a final report of its findings and recommendations on the pilot program to the Joint Legislative Oversight Committee on Health and Human Services no later than March 1, 2016.

SECTION 12C.1.(f) Statewide Evaluation. – Of the funds appropriated in this act to the Department of Health and Human Services, Division of Social Services, the sum of seven hundred thousand dollars ($700,000) shall be used to provide for a comprehensive, statewide evaluation of the State's child protective services system. The Division of Social Services shall contract for an independent evaluation of the system, which evaluation shall include developing recommendations on the following:

(1) The performance of county departments of social services as related to child protective services.
(2) Caseload sizes.
(3) The administrative structure of the child protective services system in the State.
(4) Any funding needs.
(5) Child protective services' worker turnover.
(6) Monitoring and oversight of county departments of social services.

The Division shall report the findings and recommendations from the evaluation to the Joint Legislative Oversight Committee on Health and Human Services no later than January 1, 2016.

SECTION 12C.1.(g) Study Conflicts of Interest/Public Guardianship and Child Protective Services. – The Department of Health and Human Services, Division of Social Services, shall study the issue of conflicts of interest in child welfare cases as related to public guardianship. In conducting the study, the Department shall consider the following regarding addressing potential conflicts of interest:

(1) Creating internal firewalls to prevent information sharing and influence among staff members involved with the conflicting cases.
(2) Creating a formal or an informal "buddy system" allowing a county with a conflict to refer a case to a neighboring county.
(3) Referring the guardianship to a corporate guardian until the child welfare case is resolved.
(4) Having the Department assume responsibility for either the guardianship or the child welfare case.
(5) Recommending legislation to permit the clerk the option to appoint a public agency or official, other than the Director of Social Services, to serve as a disinterested public agent in exceptional circumstances only.
(6) Any other issues specific to this matter the Department deems appropriate.

The Division shall submit a final report of its findings and recommendations to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division no later than February 1, 2015.

CLARIFY WORK FIRST FAMILY ASSISTANCE INCOME LEVELS

SECTION 12C.2. G.S. 108A-27.01 reads as rewritten:

"§ 108A-27.01. Income eligibility and payment level for Work First Family Assistance.

The maximum net family annual income eligibility standards for Work First Family Assistance are ~~the same standards of need for eligibility for the categorically needy under the Medicaid Program.~~as provided in the table below. The payment level for Work First Family Assistance shall be fifty percent (50%) of the standard of need."

Family Size	Income Level
1	$ 4,344
2	5,664
3	6,528
4	7,128
5	7,776
6	8,376
7	8,952
8	9,256"

EASTERN BAND OF CHEROKEE INDIANS/ASSUMPTION BY TRIBE OF VARIOUS HUMAN SERVICES

SECTION 12C.3.(a) The purpose of this section is to enable the Eastern Band of Cherokee Indians to assume responsibility for certain social services, healthcare benefit programs, ancillary services, including Medicaid administrative and service related functions, and related reimbursements.

SECTION 12C.3.(b) Beginning October 1, 2014, the Eastern Band of Cherokee Indians shall begin assuming the responsibility for the Supplemental Nutrition Assistance Program (SNAP). When the Eastern Band of Cherokee Indians assumes responsibility for SNAP, then any State statutes, portions of statutes, or rules relating to the provision of social services regarding SNAP services by a county department of social services for members of the Eastern Band of Cherokee Indians shall no longer apply to the Tribe, and the functions, administration, and funding requirements relating to those social services are thereby delegated to the Eastern Band of Cherokee Indians.

No later than October 1, 2015, and with the exception of services related to special assistance, childcare, and adult care homes, the Eastern Band of Cherokee Indians shall assume responsibility for other programs as described under G.S. 108A-25(e), enacted in subsection (c) of this section. When the Eastern Band of Cherokee Indians assumes responsibility for any of those other programs, then any State statutes, portions of statutes, or rules relating to the provision of services for those programs by a county department of social services for members of the Eastern Band of Cherokee Indians shall no longer apply to the Tribe, and the functions, administration, and funding requirements relating to those programs are thereby delegated to the Eastern Band of Cherokee Indians.

SECTION 12C.3.(c) G.S. 108A-25 reads as rewritten:

"**§ 108A-25. Creation of ~~programs.~~programs; assumption by federally recognized tribe of programs.**

...

(e) When any federally recognized Native American tribe within the State assumes responsibility for any social services, healthcare benefit programs, and ancillary services, including Medicaid administrative and service functions, that are otherwise the responsibility of a county under State law, then, notwithstanding any other provision of law, the county shall be relieved of the legal responsibility related to the tribe's assumption of those services."

SECTION 12C.3.(d) G.S. 108A-87 reads as rewritten:

"**§ 108A-87. Allocation of nonfederal shares.**

(a) The nonfederal share of the annual cost of each public assistance and social services program and related administrative costs may be divided between the State and counties as determined by the General Assembly and in a manner consistent with federal laws and regulations.

(b) The nonfederal share of the annual cost of public assistance and social services programs and related administrative costs provided to Indians living on federal reservations held in trust by the United States on their behalf shall be borne entirely by the State.

(c) Notwithstanding subsections (a) and (b) of this section, when the Eastern Band of Cherokee Indians assumes responsibility for a program described under G.S. 108A-25(e), the following shall occur:

(1) Nonfederal matching funds designated to Jackson and Swain counties to serve the Eastern Band of Cherokee Indians for that program previously borne by the State shall be allocated directly to the Eastern Band of Cherokee Indians rather than to those counties.

(2) Any portion of nonfederal matching funds borne by counties for public assistance and social services programs and related administrative costs shall be borne by the Eastern Band of Cherokee Indians."

SECTION 12C.3.(e) The Department of Health and Human Services, Division of Medical Assistance, shall submit to the Centers of Medicare and Medicaid Services (CMS) any Medicaid state plan amendments necessary to effectuate the changes required by this section no later than October 1, 2014. The state plan amendments shall have an effective date no later than October 1, 2015.

SUBPART XII-D. DIVISION OF AGING AND ADULT SERVICES

ELIGIBILITY FOR STATE-COUNTY SPECIAL ASSISTANCE PROGRAM

SECTION 12D.1.(a) G.S. 108A-41(b) reads as rewritten:

"(b) Assistance shall be granted to any person ~~who:~~who meets all of the following criteria:

(1) Meets one of the following:

a. Is 65 years of age ~~and older, is~~ or older.

b. Is between the ages of 18 and 65, and is permanently and totally disabled or is legally blind pursuant to ~~G.S. 111-11; and~~G.S. 111-11.

(2) Meets one of the following:

a. ~~Has~~ Applies for assistance prior to November 1, 2014, and has both (i) insufficient income ~~or~~ and (ii) insufficient other resources to provide a reasonable subsistence compatible with decency and health as determined by the rules and regulations of the Social Services ~~Commission; and~~Commission in effect at the time of application.

b. Applies for assistance on or after November 1, 2014, and has both (i) income at or below one hundred percent (100%) of the federal poverty level guidelines published by the United States Department of Health and Human Services and (ii) insufficient other resources to provide a reasonable subsistence compatible with decency and health as determined by the rules and regulations of the Social Services Commission.

(3) Is one of the following:

a. A resident of North Carolina for at least 90 days immediately prior to receiving this ~~assistance;~~assistance.

~~b. A person coming to North Carolina to join a close relative who has resided in North Carolina for at least 180 consecutive days immediately prior to the person's application. The close relative shall furnish verification of his or her residency to the local department of social services at the time the applicant applies for special assistance. As used in this sub-subdivision, a close relative is the person's parent, grandparent, brother, sister, spouse, or child; or~~

c. A person discharged from a State facility who was a patient in the facility as a result of an interstate mental health ~~compact.~~ compact that requires the State to continue treating the person within the State. As used in this sub-subdivision the term State facility is a facility listed under G.S. 122C-181."

SECTION 12D.1.(b) This section shall not affect the eligibility of State-County Special Assistance applicants approved to receive State-County Special Assistance benefits prior to November 1, 2014.

STATE-COUNTY SHARE OF COSTS FOR SPECIAL ASSISTANCE PROGRAM

SECTION 12D.2. G.S. 143B-139.5 reads as rewritten:

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

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

EXAMINATION OF WAYS TO IMPROVE THE PUBLIC GUARDIANSHIP SYSTEM

SECTION 12D.3.(a) The Department of Health and Human Services (Department), Division of Aging and Adult Services, shall collaborate with the Administrative Office of the Courts to develop a plan regarding the Department's evaluation of complaints pertaining to wards under the care of publicly funded guardians in order to ensure that, in addition to current requirements, the complaint process incorporates a face-to-face observation of the ward, an interview with the ward, or both. The plan shall include a requirement that an individual with experience in understanding the unique needs and abilities of the ward be assigned to conduct the observation or interview.

SECTION 12D.3.(b) The Department shall continue utilizing existing safeguards regarding guardians as paid service providers. In addition, the Division of Aging and Adult Services shall consult with the clerks of superior court, local management entities that have been approved as managed care organizations, the North Carolina Bar Association Section on Elder Law, and any other interested groups to develop a model plan for transitioning a ward to an alternative guardianship arrangement when an individual guardian of the person becomes

unable or unwilling to serve. The model plan shall focus on ways to prevent the appointment of a public guardian.

SECTION 12D.3.(c) The Department shall continue to study whether utilization of care coordination services would provide needed oversight to safeguard against conflicts of interest when guardians serve as paid providers.

SECTION 12D.3.(d) The Department shall submit a final report of its findings and recommendations for each of the issues described in subsections (a) through (c) of this section to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division no later than October 1, 2014.

STATUS REPORTS FILED BY CORPORATIONS OR DISINTERESTED PUBLIC AGENTS SERVING AS GUARDIANS FOR INCOMPETENT WARDS

SECTION 12D.4.(a) G.S. 35A-1202(14) reads as rewritten:

"(14) "Status report" means the report required by G.S. 35A-1242 to be filed by the general guardian or guardian of the person. ~~A status report shall include a report of a recent medical and dental examination of the ward by one or more physicians or dentists, a report on the guardian's performance of the duties set forth in this Chapter and in the clerk's order appointing the guardian, and a report on the ward's condition, needs, and development. The clerk may direct that the report contain other or different information. The report may also contain, without limitation, reports of mental health or mental retardation professionals, psychologists, social workers, persons in loco parentis, a member of a multidisciplinary evaluation team, a designated agency, a disinterested public agent or agency, a guardian ad litem, a guardian of the estate, an interim guardian, a successor guardian, an officer, official, employee or agent of the Department of Health and Human Services, or any other interested persons including, if applicable to the ward's situation, group home parents or supervisors, employers, members of the staff of a treatment facility, or foster parents.~~"

SECTION 12D.4.(b) G.S. 35A-1242 reads as rewritten:

"§ 35A-1242. Status reports for incompetent wards.

(a) Any corporation or disinterested public agent that is guardian of the person for an incompetent person, within six months after being appointed, shall file an initial status report with ~~the designated agency, if there is one, or with the clerk.~~ the clerk and submit a copy of the initial status report to the designated agency, if there is one. Such guardian shall file a second status report with ~~the designated agency or~~ the clerk one year after being appointed, and subsequent reports annually thereafter. The clerk may order any other guardian of the person to file status reports. If a guardian required by this section to file a status report is employed by the designated agency, the guardian shall file any required status report with ~~both the designated agency and the clerk.~~ the clerk and submit a copy of the status report to the designated agency.

(a1) Each status report shall include all of the following:

(1) A report of recent medical and dental examinations of the ward by one or more physicians and dentists.

(2) A report on the guardian's performance of the duties set forth in this Chapter and in the clerk's order appointing the guardian.

(3) A report on the ward's residence, education, employment, and rehabilitation or habilitation.

(4) A report of the guardian's efforts to restore competency.

(5) A report of the guardian's efforts to seek alternatives to guardianship.

(6) If the guardian is a disinterested public agent or corporation, a report of the efforts to identify alternative guardians.

(7) The guardian's recommendations for implementing a more limited guardianship, preserving for the ward the opportunity to exercise rights that are within the ward's comprehension and judgment.

(8) Any additional reports or information required by the clerk.

(a2) The guardian may include in each status report additional information pertaining to the ward's best interests.

(b) Each status report shall be filed under the guardian's oath or affirmation that the report is complete and accurate so far as ~~he~~ the guardian is informed and can determine.

(c) A clerk or designated agency that receives a status report shall not make the status report available to anyone other than the guardian, the ward, the court, or State or local human ~~resource~~ services agencies providing services to the ward.

(d) The clerk, on the clerk's own motion, or any interested party, may file a motion in the cause pursuant to G.S. 35A-1207 with the clerk in the county where the guardianship is docketed to request modification of the order appointing the guardian or guardians or for consideration of any matters contained in the status report."

SECTION 12D.4.(c) This section becomes effective October 1, 2014.

SUBPART XII-E. DIVISION OF PUBLIC HEALTH

CHILDREN'S DEVELOPMENTAL SERVICES AGENCIES

SECTION 12E.1. Section 12E.4 of S.L. 2013-360 reads as rewritten:

"~~**SECTION 12E.4.**~~**SECTION 12E.4.(a)** In order to achieve the reduced amount of State funds appropriated in this act for the Children's Developmental ~~Service~~ Services Agencies (CDSAs) program, the Department of Health and Human Services, Division of Public Health, ~~may~~ shall close ~~up to~~ four State-operated CDSAs, effective ~~July 1, 2014.~~ January 1, 2015. The Department shall retain the CDSA located in the City of Morganton and the CDSAs with the highest caseloads of children residing in rural and medically underserved areas. ~~If the Department elects to close one or more CDSAs pursuant to this section, it~~ The Department shall submit a report to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division no later than ~~March 1, 2014,~~ March 1, 2015, identifying the CDSAs selected for closure.

"**SECTION 12E.4.(b)** For the 2014-2015 fiscal year, the Department shall maintain the same eligibility requirements for the CDSA program that were in effect on June 30, 2013."

REDIRECTION OF SCHOOL NURSE FUNDING INITIATIVE TO TIER 1 COUNTIES

SECTION 12E.2. Section 12E.3 of S.L. 2013-360 reads as rewritten:

"**SECTION 12E.3.(a)** All funds appropriated in this act for the School Nurse Funding Initiative for the 2014-2015 fiscal year shall be distributed only to local health departments located in counties designated as Tier 1 counties by the North Carolina Department of Commerce. These funds shall be used to supplement and not supplant other State, local, or federal funds appropriated or allocated for this purpose. ~~Communities~~ All Tier 1 counties shall maintain their current level of effort and funding for school nurses. These funds shall not be used to fund nurses for State agencies. These funds shall be distributed to local health departments according to a formula that includes all of the following:

(1) School nurse-to-student ratio.

(2) Percentage of students eligible for free or reduced meals.

(3) Percentage of children in poverty.

(4) Per capita income.
(5) Eligibility as a low-wealth county.
(6) Mortality rates for children between one and 19 years of age.
(7) Percentage of students with chronic illnesses.
(8) Percentage of county population consisting of minority persons.

"**SECTION 12E.3.(b)** The Division of Public Health shall ensure that school nurses ~~funded with State funds~~ located in counties designated as Tier 1 counties, who are funded by appropriations for the School Nurse Funding Initiative for the 2014-2015 fiscal year (i) do not assist in any instructional or administrative duties associated with a school's curriculum and (ii) perform all of the following with respect to school health programs:

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

"**SECTION 12E.3.(c)** Section 6.9(b) of S.L. 2011-145, as amended by Section 6.2 of S.L. 2012-142, is repealed."

INCREASED FEE FOR PRIVATE WELL-WATER TESTING

SECTION 12E.3.(a) G.S. 130A-5(16) reads as rewritten:

"(16) To charge a fee of up to ~~fifty-five dollars ($55.00)~~ seventy-four dollars ($74.00) for analyzing private well-water samples sent to the State Laboratory of Public Health by local health departments. The fee shall be imposed only for analyzing samples from newly constructed and existing wells. The fee shall be computed annually by the Director of the State Laboratory of Public Health by analyzing the previous year's testing at the State Laboratory of Public Health, and applying the amount of the total cost of the private well-water testing, minus State appropriations that support this effort. The fee includes the charge for the private well-water panel test kit."

SECTION 12E.3.(b) Subsection (a) of this section becomes effective July 1, 2014, and applies to private well-water samples analyzed on or after that date.

TRANSFER OF ON-SITE WATER PROTECTION BRANCH FROM DIVISION OF PUBLIC HEALTH TO DIVISION OF WATER RESOURCES, DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

SECTION 12E.4.(a) The On-Site Water Protection Branch of the Environmental Section of the Division of Public Health within the Department of Health and Human Services, is hereby transferred to the Division of Water Resources within the Department of Environmental and Natural Resources, by a Type I transfer, as defined in G.S. 143A-6, where it will be known as the On-Site Water Protection Section.

SECTION 12E.4.(b) G.S. 90A-51(2a) reads as rewritten:

"(2a) "Environmental health practice" means the provision of environmental health services, including administration, organization, management, education, enforcement, and consultation regarding environmental health services provided to or for the public. These services are offered to prevent environmental hazards and promote and protect the health of the public in the following areas: food, lodging, and institutional sanitation; on-site wastewater treatment and disposal; public swimming pool sanitation; childhood lead poisoning prevention; well permitting and inspection; tattoo parlor sanitation; and all other areas of environmental health requiring the delegation of authority by the Division of Public Health of the Department of Health and Human Services or the On-Site Water Protection Section of the Division of Water Resources of the Department of Environment and Natural Resources to State and local environmental health professionals to enforce rules adopted by the Commission for Public ~~Health.~~Health or the Environmental Management Commission. The definition also includes local environmental health professionals enforcing rules of local boards of health for on-site wastewater systems and wells."

SECTION 12E.4.(c) G.S. 90A-55(a) reads as rewritten:

"(a) Board Membership. – The Board shall consist of ~~12~~ nine members who shall serve staggered terms: the Secretary of ~~Health and Human Services,~~Environment and Natural Resources or the Secretary's duly authorized representative, one public-spirited citizen, ~~one environmental sanitation educator from an accredited college or university, one local health director,~~ a representative of the Division of Public Health of the Department of Health and Human Services, and ~~seven~~ six practicing environmental health ~~specialists~~ specialists, including one environmental sanitation educator from an accredited college or university, and one local health director, who qualify by education and experience for registration under this ~~Article, six of whom~~Article. The six members who are practicing environmental health specialists shall represent the Western, Piedmont, and Eastern Regions of the State as described more specifically in the rules adopted by the Board.

SECTION 12E.4.(d) Transition of Membership of the Board of Environmental Health Specialist Examiners. –

(1) The terms of all members of the Board of Environmental Health Specialist Examiners as of the effective date of this act shall expire on July 31, 2014. A new Board of nine members shall be appointed consistent with the requirements specified in G.S. 90A-55(a), as amended by subsection (c) of this section.

(2) Notwithstanding the provisions of G.S. 90A-55(b), the initial term of office for the following persons appointed to the Board of Environmental Health Specialist Examiners shall be two years: (i) one public-spirited citizen, (ii) a representative of the Division of Public Health of the Department of Health and Human Services, and (iii) three practicing environmental health specialists. At the end of these initial two-year appointments, the term of office for their successors shall be four years. The remaining members of the Board shall be appointed for an initial term of four years and the term of office for their successors shall be four years. Initial terms shall begin on August 1, 2014, and expire on July 31 of the year of expiration as set forth in this subdivision.

SECTION 12E.4.(e) G.S. 90A-71(4) reads as rewritten:

"(4) "Department" means the Department of ~~Health and Human Services.~~Environment and Natural Resources."

SECTION 12E.4.(f) G.S. 90A-81(b) reads as rewritten:

"(b) Arbitration. – The Board may establish a voluntary arbitration procedure to resolve complaints concerning a certified contractor or inspector or any work performed by a certified contractor or inspector, or conflicts involving any certified contractor or inspector and ~~the Division of Public Health of~~ the Department or a local health department."

SECTION 12E.4.(g) G.S. 130A-4(c) reads as rewritten:

"(c) The Secretary of Environment and Natural Resources shall administer and enforce the provisions of ~~Articles 9 and 10~~Articles 9, 10, and 11 of this Chapter and the rules of the Commission.

SECTION 12E.4.(h) G.S. 130A-17(b) reads as rewritten:

"(b) The Secretary of Environment and Natural Resources and a local health director shall have the same rights enumerated in subsection (a) of this section to enforce the provisions of ~~Articles 9 and 10~~Articles 9, 10, and 11 of this Chapter."

SECTION 12E.4.(i) G.S. 130A-18(b) reads as rewritten:

"(b) The Secretary of Environment and Natural Resources and a local health director shall have the same rights enumerated in subsection (a) of this section to enforce the provisions of ~~Articles 9 and 10~~Articles 9, 10, and 11 of this Chapter."

SECTION 12E.4.(j) G.S. 130A-19(b) reads as rewritten:

"(b) The Secretary of Environment and Natural Resources and a local health director shall have the same rights enumerated in subsection (a) of this section to enforce the provisions of ~~Articles 9 and 10~~Articles 9, 10, and 11 of this Chapter."

SECTION 12E.4.(k) G.S. 130A-20(b) reads as rewritten:

"(b) The Secretary of Environment and Natural Resources and a local health director shall have the same rights enumerated in subsection (a) of this section to enforce the provisions of ~~Articles 9 and 10~~Articles 9, 10, and 11 of this Chapter."

SECTION 12E.4.(l) G.S. 130A-22(c) reads as rewritten:

"(c) The Secretary of Environment and Natural Resources may impose an administrative penalty on a person who willfully violates Article 11 of this Chapter, rules adopted by the Commission pursuant to Article 11 or any condition imposed upon a permit issued under Article 11. An administrative penalty may not be imposed upon a person who establishes that neither the site nor the system may be improved or a new system installed so as to comply with Article 11 of this Chapter. Each day of a continuing violation shall constitute a separate violation. The penalty shall not exceed fifty dollars ($50.00) per day in the case of a wastewater collection, treatment and disposal system with a design daily flow of no more than 480 gallons or in the case of any system serving a single one-family dwelling. The penalty shall not exceed three hundred dollars ($300.00) per day in the case of a wastewater collection, treatment and disposal system with a design daily flow of more than 480 gallons which does not serve a single one-family dwelling."

SECTION 12E.4.(m) G.S. 130A-23(e) reads as rewritten:

"(e) The Secretary of Environment and Natural Resources shall have all of the applicable rights enumerated in this section to enforce the provisions of ~~Articles 9 and 10~~Articles 9, 10, and 11 of this Chapter."

SECTION 12E.4.(n) G.S. 130A-24(e) reads as rewritten:

"(e) The appeals procedures enumerated in this section shall apply to appeals concerning the enforcement of rules, the imposition of administrative penalties, or any other action taken by the Department of Environment and Natural Resources pursuant to ~~Articles 8, 9, 10, 11, and 12~~Articles 9, 10, and 11 of this Chapter."

SECTION 12E.4.(o) G.S. 130A-34.1(a) reads as rewritten:

"(a) The Local Health Department Accreditation Board is established within the North Carolina Institute for Public Health. The Board shall be composed of 17 members appointed by the Secretary of the Department of Health and Human Services as follows:

(1) Four shall be county commissioners recommended by the North Carolina Association of County Commissioners, and four shall be members of a local board of health as recommended by the Association of North Carolina Boards of Health.

(2) Three local health directors.

(3) ~~Three~~ Two staff members from the Division of Public Health, Department of Health and Human Services.

(4) ~~Repealed by Session Laws 2011-145, s. 13.3(zz), effective July 1, 2011.~~One staff member from the Division of Environmental Health, recommended by the Secretary of Environment and Natural Resources.

(5) Three at large."

SECTION 12E.4.(p) G.S. 130A-334(1) is recodified as G.S. 130A-334(1a).

SECTION 12E.4.(q) G.S. 130A-334 (1a) is recodified as G.S. 130A-334(1b) and reads as rewritten:

"~~(1a)~~(1b) "Department" means the Department of ~~Health and Human Services.~~Environmental and Natural Resources."

SECTION 12E.4.(r) G.S. 130A-334 is amended by adding a new subdivision to read:

"(1) "Commission" means the Environmental Management Commission."

SECTION 12E.4.(s) G.S. 130A-335(b) reads as rewritten:

"(b) ~~All wastewater~~Wastewater systems including all of the following shall be regulated by the Department under rules adopted by the ~~Commission except for the following wastewater systems that shall be regulated by the Department under rules adopted by the Environmental Management~~ Commission:

(1) Wastewater collection, treatment, and disposal systems designed to discharge effluent to the land surface or surface waters.

(2) Wastewater systems designed for groundwater remediation, groundwater injection, or landfill leachate collection and disposal.

(3) Wastewater systems designed for the complete recycle or reuse of industrial process wastewater.

(4) Gray water systems as defined in G.S. 143-350."

SECTION 12E.4.(t) G.S. 130A-335(h) reads as rewritten:

"(h) Except as provided in this subsection, a chemical or portable toilet may be placed at any location where the chemical or portable toilet can be operated and maintained under sanitary conditions. A chemical or portable toilet shall not be used as a replacement or substitute for a water closet or urinal where a water closet or urinal connected to a permanent wastewater treatment system is required by the North Carolina State Building Code, except that a chemical or portable toilet may be used to supplement a water closet or urinal during periods of peak use. A chemical or portable toilet shall not be used as an alternative to the repair of a water closet, urinal, or wastewater treatment system. It shall be unlawful to discharge sewage or other waste from a chemical or portable toilet used for human waste except into a wastewater system that has been approved by the Department under rules adopted by the Commission ~~or by the Environmental Management Commission~~ or at a site that is permitted by the Department under G.S. 130A-291.1."

SECTION 12E.4.(u) The Revisor of Statutes may conform names and titles changed by this section, and may correct statutory references as required by this section,

throughout the General Statutes. In making the changes authorized by this section, the Revisor may also adjust subject and verb agreement and the placement of conjunctions.

PROGRAM EVALUATION STUDY OF CHIEF MEDICAL EXAMINER'S OFFICE

SECTION 12E.5. The Joint Legislative Program Evaluation Oversight Committee shall consider including in the 2014-2015 Work Plan for the Program Evaluation Division of the General Assembly a study on ways to improve North Carolina's medical examiner system. The study shall include (i) an evaluation of the Office of the Chief Medical Examiner within the Epidemiology Section of the Department of Health and Human Services, Division of Public Health, and that Office's policies and procedures with respect to death investigations and (ii) recommendations for best practices in death investigations to achieve greater efficiencies.

SUBPART XII-F. DIVISION OF MH/DD/SAS AND STATE OPERATED HEALTHCARE FACILITIES

TRAUMATIC BRAIN INJURY FUNDING

SECTION 12F.1. Of the funds appropriated to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2014-2015 fiscal year, the sum of two million three hundred seventy-three thousand eighty-six dollars ($2,373,086) shall be used exclusively to support traumatic brain injury (TBI) services as follows:

(1) The sum of three hundred fifty-nine thousand two hundred eighteen dollars ($359,218) shall be used to fund contracts with the Brain Injury Association of North Carolina and Carolinas Rehabilitation.

(2) The sum of seven hundred ninety-six thousand nine hundred thirty-four dollars ($796,934) shall be used to support residential programs across the State that are specifically designed to serve individuals with TBI.

(3) The sum of one million two hundred sixteen thousand nine hundred thirty-four dollars ($1,216,934) shall be used to support requests submitted by individual consumers for assistance with residential support services, home modifications, transportation, and other requests deemed necessary by the consumer's local management entity and primary care physician.

CLOSURE OF WRIGHT SCHOOL

SECTION 12F.2.(a) The Department of Health and Human Services shall not allow any new admissions or readmissions to the Wright School after July 1, 2014. The Department shall, in consultation with local management entities that are approved to operate as managed care organizations, develop a plan to transition all students enrolled at the Wright School to other appropriate educational and treatment settings.

SECTION 12F.2.(b) By September 30, 2014, the Department shall permanently cease operations at the Wright School.

SECTION 12F.2.(c) G.S. 122C-181(a)(5)b. is repealed effective October 1, 2014.

REPORT ON STRATEGIES FOR IMPROVING MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES

SECTION 12F.3.(a) The Department of Health and Human Services (Department) shall submit a report to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division by November 1, 2014, that includes all of the following components:

(1) A strategy for improving communication and coordination among all divisions within the Department that administer funds or programs related to the delivery of behavioral health services, especially regarding the most appropriate and efficient uses of public and private inpatient behavioral health services. The Department shall include as part of its strategy a process to address shortages and deficiencies identified in the annual State Medical Facilities Plan.

(2) A plan developed in collaboration with local management entities that have been approved to operate as managed care organizations (LME/MCOs) to increase access to, and availability of, community-based outpatient crisis and emergency services for the stabilization and treatment of individuals experiencing mental health, developmental disability, or substance abuse crises in settings other than local hospital emergency departments and State-operated psychiatric hospitals.

(3) A plan to ensure that a comprehensive array of outpatient treatment and crisis prevention and intervention services are available and accessible to children, adolescents, and adults in every LME/MCO catchment area. The plan shall ensure that an adequate number of crisis stabilization units are available in each LME/MCO catchment area.

(4) Findings and recommendations for increasing the inventory of inpatient psychiatric and substance abuse services within the State. In developing its findings and recommendations, the Department shall examine the advantages and disadvantages of increasing this inventory of services through (i) additional State-operated facilities, (ii) community hospital beds, (iii) United States Department of Veterans Affairs beds, and (iv) community-based services that decrease the need for inpatient treatment.

(5) A plan for offering hospitals and other entities incentives to apply for licenses to begin offering new inpatient behavioral health services, or to begin operating existing licensed beds that are currently unstaffed, or both.

(6) Recommendations on the use of the existing Cherry Hospital buildings after patients and operations are relocated to the replacement facility. In developing its findings and recommendations, the Department shall conduct a study that includes development of an inventory and assessment of the condition of every building located on the existing Cherry Hospital campus. The study shall include an examination of the feasibility of using the existing Cherry Hospital facility to provide community-based and facility-based behavioral health services, including additional child and adolescent inpatient beds.

(7) A method by which the Division of Health Service Regulation can begin tracking and separately reporting no later than January 1, 2015, on the inventory of inpatient behavioral health beds for children ages six through 12 and for adolescents over age 12.

(8) A status update on the implementation of each component of the 2008 Mental Health Commission Workforce Development Plan.

SECTION 12F.3.(b) The Department shall submit a report to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division by March 1, 2015, that includes all of the following components:

(1) A comprehensive strategy, developed in collaboration with stakeholders deemed relevant by the Department, to address the dearth of licensed child

and adolescent inpatient psychiatric beds throughout the State. The strategy shall:

a. Ensure that an adequate inventory of child and adolescent beds are available in each LME/MCO catchment area.

b. Include the development and implementation of a child and adolescent psychiatric bed registry to provide real-time information on the number of beds available at each licensed inpatient facility in the State.

(2) Recommendations for meaningful outcome measures to be implemented by State-operated alcohol and drug abuse treatment centers to assess the impact of inpatient treatment on an individual's substance use following discharge from a State-operated alcohol and drug abuse treatment center. The recommendations shall include a proposed time line for implementation of these outcome measures.

SUBPART XII-G. DIVISION OF HEALTH SERVICE REGULATION

TECHNICAL CORRECTION TO CERTIFICATE OF NEED EXEMPTION FOR REPLACEMENT OF PREVIOUSLY APPROVED EQUIPMENT

SECTION 12G.1.(a) G.S. 131E-184(f) reads as rewritten:

"(f) The Department shall exempt from certificate of need review the purchase of any replacement equipment that exceeds the two million dollar ($2,000,000) threshold set forth in ~~G.S. 131E-176(22)~~ G.S. 131E-176(22a) if all of the following conditions are met:

(1) The equipment being replaced is located on the main campus.

(2) The Department has previously issued a certificate of need for the equipment being replaced. This subdivision does not apply if a certificate of need was not required at the time the equipment being replaced was initially purchased by the licensed health service facility.

(3) The licensed health service facility proposing to purchase the replacement equipment shall provide prior written notice to the Department, along with supporting documentation to demonstrate that it meets the exemption criteria of this subsection."

SECTION 12G.1.(b) This section is effective when it becomes law.

HEALTH CARE COST REDUCTION AND TRANSPARENCY ACT REVISIONS

SECTION 12G.2. G.S. 131E-214.13 reads as rewritten:

"**§ 131E-214.13. Disclosure of prices for most frequently reported DRGs, CPTs, and HCPCSs.**

(a) The following definitions apply in this Article:

(1) Ambulatory surgical facility. – A facility licensed under Part 4 of Article 6 of this Chapter.

(2) Commission. – The North Carolina Medical Care Commission.

(3) Health insurer. – ~~As defined in G.S. 108A-55.4, provided that "health insurer" shall not include self-insured plans and group health plans as defined in section 607(1) of the Employee Retirement Income Security Act of 1974.~~Includes self-insured plans, group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, [29 U.S.C. § 1167(1)]), service benefit plans, managed care organizations, or other parties that are, by statute, contract, or agreement, legally responsible for

payment of a claim for a health care item or service as a condition of doing business in the State.

(4) Hospital. – A medical care facility licensed under Article 5 of this Chapter or under Article 2 of Chapter 122C of the General Statutes.

(5) Public or private third party. – Includes the State, the federal government, employers, health insurers, third-party administrators, and managed care organizations.

(b) Beginning with the quarter ending June 30, 2014, and quarterly thereafter, each hospital shall provide to the Department of Health and Human Services, utilizing electronic health records software, the following information about the 100 most frequently reported admissions by DRG for inpatients as established by the ~~Commission:~~Department:

(1) The amount that will be charged to a patient for each DRG if all charges are paid in full without a public or private third party paying for any portion of the charges.

(2) The average negotiated settlement on the amount that will be charged to a patient required to be provided in subdivision (1) of this subsection.

(3) The amount of Medicaid reimbursement for each DRG, including claims and pro rata supplemental payments.

(4) The amount of Medicare reimbursement for each DRG.

(5) For each of the five largest health insurers providing payment to the hospital on behalf of insureds and teachers and State employees, the range and the average of the amount of payment made for each DRG. Prior to providing this information to the Department, each hospital shall redact the names of the health insurers and any other information that would otherwise identify the health insurers.

A hospital shall not be required to report the information required by this subsection for any of the 100 most frequently reported admissions where the reporting of that information reasonably could lead to the identification of the person or persons admitted to the hospital in violation of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) or other federal law.

(c) The Commission shall adopt rules on or before March 1, 2014, to ensure that subsection (b) of this section is properly implemented and that hospitals report this information to the Department in a uniform manner. The rules shall include all of the following:

(1) The method by which the Department shall determine the 100 most frequently reported DRGs for inpatients for which hospitals must provide the data set out in subsection (b) of this section.

(2) Specific categories by which hospitals shall be grouped for the purpose of disclosing this information to the public on the Department's Internet Web site.

(d) Beginning with the quarter ending September 30, 2014, and quarterly thereafter, each hospital and ambulatory surgical facility shall provide to the Department, utilizing electronic health records software, information on the total costs for the 20 most common surgical procedures and the 20 most common imaging procedures, by volume, performed in hospital outpatient settings or in ambulatory surgical facilities, along with the related CPT and HCPCS codes. Hospitals and ambulatory surgical facilities shall report this information in the same manner as required by subdivisions (b)(1) through (5) of this section, provided that hospitals and ambulatory surgical facilities shall not be required to report the information required by this subsection where the reporting of that information reasonably could lead to the identification of the person or persons admitted to the hospital in violation of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) or other federal law.

(e) The Commission shall adopt rules on or before June 1, 2014, to ensure that subsection (d) of this section is properly implemented and that hospitals and ambulatory surgical facilities report this information to the Department in a uniform manner. The rules shall include the ~~list of~~ method by which the Department shall determine the 20 most common surgical procedures and the 20 most common imaging ~~procedures, by volume, performed in a hospital outpatient setting and those performed in an ambulatory surgical facility, along with the related CPT and HCPCS codes.~~procedures for which the hospitals must provide the data set out in subsection (d) of this section.

(f) Upon request of a patient for a particular DRG, imaging procedure, or surgery procedure reported in this section, a hospital or ambulatory surgical facility shall provide the information required by subsection (b) or subsection (d) of this section to the patient in writing, either electronically or by mail, within three business days after receiving the request.

(g) G.S. 150B-21.3 does not apply to rules adopted under this section. A rule adopted under this section becomes effective on the last day of the month following the month in which the rule is approved by the Commission."

STUDY CONCERNING EXPANSION OF HEALTH CARE COST REDUCTION AND TRANSPARENCY ACT TO ADDITIONAL HEALTH CARE PROVIDERS

SECTION 12G.3. By December 1, 2014, the Department of Health and Human Services shall study and submit a written report to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division summarizing its recommendations for extending North Carolina's Health Care Cost Reduction and Transparency Act of 2013 (the Act) to additional health care providers. The report shall identify all of the following:

(1) Recommended categories of additional health care providers that should be subject to the requirements of the Act.

(2) Recommended data to be collected for the purpose of transparency from each category of identified health care providers.

(3) Recommended exemptions, if any, from certain requirements of the Act for each category of identified health care providers.

(4) Recommended effective dates for the applicability of the Act to each category of identified health care providers.

MORATORIUM ON HOME CARE AGENCY LICENSES FOR IN-HOME AIDE SERVICES

SECTION 12G.4.(a) Notwithstanding the provisions of the Home Care Agency Licensure Act set forth in Part 3 of Article 6 of Chapter 131E of the General Statutes or any rules adopted pursuant to that Part, the Department of Health and Human Services shall not issue any licenses for home care agencies as defined in G.S. 131E-136(2) that intend to offer in-home aide services. This prohibition does not apply to companion and sitter services and shall not restrict the Department from doing any of the following:

(1) Issuing a license to a certified home health agency as defined in G.S. 131E-176(12) that intends to offer in-home aide services.

(2) Issuing a license to an agency that needs a new license for an existing home care agency being acquired.

(3) Issuing a license for a new home care agency in any area of the State upon a determination by the Secretary of the Department of Health and Human Services that increased access to care is necessary in that area.

SECTION 12G.4.(b) This section shall not expire until the General Assembly enacts legislation to lift the moratorium established by this section.

MORATORIUM ON SPECIAL CARE UNIT LICENSES

SECTION 12G.5.(a) Section 12G.1(a) of S.L. 2013-360 reads as rewritten:

"**SECTION 12G.1.(a)** ~~For the period beginning July 31, 2013, and ending July 1, 2016,~~ Notwithstanding the provisions of Article 1 of Chapter 131D of the General Statutes, Article 6 of Chapter 131E of the General Statutes, and any rules adopted pursuant to these Articles, the Department of Health and Human Services, Division of Health Service Regulation (Department), shall not issue any licenses for special care units as defined in G.S. 131D-4.6 and G.S. 131E-114. This prohibition shall not restrict the Department from doing any of the following:

(1) Issuing a license to a facility that is acquiring an existing special care unit.

(2) Issuing a license for a special care unit in any area of the State upon a determination by the Secretary of the Department of Health and Human Services that increased access to this type of care is necessary in that ~~area during the three-year moratorium imposed by this section.~~area.

(3) Processing all completed applications for special care unit licenses received by the Division of Health Service Regulation along with the applicable license fee prior to June 1, 2013.

(4) Issuing a license to a facility that was in possession of a certificate of need as of July 31, 2013, that included authorization to operate special care unit beds."

SECTION 12G.5.(b) Section 12G.1(a) of S.L. 2013-360, as amended by subsection (a) of this section, shall not expire until the General Assembly enacts legislation to lift the moratorium established by that Section.

SUBPART XII-H. DIVISION OF MEDICAL ASSISTANCE (MEDICAID)

MEDICAID REORGANIZATION TO WORK TOWARDS REFORM

SECTION 12H.1.(a) It is the intent of the General Assembly to transfer the Medicaid and NC Health Choice programs to a new state entity that will define a new, more successful direction for the programs and that will be able to focus more clearly on the operation of the programs. Specifically, the Medicaid program shall move away from unmanaged fee-for-service towards a system that manages care. To that end, Medicaid shall include all dimensions of care for a recipient through full-risk, provider-led and non-provider-led, capitated health plans. Such full-risk capitated health plans shall include all aspects of care, without exceptions, so that the State will bear only the risk of enrollment numbers and enrollment mix.

The governance structure of the new State entity shall include a board. In the short-term, the new State entity shall do the following:

(1) Strategically design a program that meets the primary goal of providing budget predictability as well as the following goals:

a. Controls the growth of program expenditures.

b. Reduces programmatic spending, both on payments to providers of services or insurance and on administrative spending.

c. Provides "whole person" care.

d. Establishes provider accountability for budget and program outcomes, while integrating quality into the basic payment model.

e. Maintains administrative accountability for budget and program outcomes.

f. Ensures transparency of reporting, provider information, decision making, and administrative functions.
g. Ensures recipient access to appropriate care and services.

(2) Carefully select individuals to serve in the key leadership positions within the new State entity.
(3) Develop a detailed timeline for a reform.
(4) Propose statutory changes or other legal authorization to allow the reform to be implemented.
(5) Prepare draft State Plan Amendments and waivers necessary to effectuate the reform.
(6) Design a robust information technology infrastructure, including a strategy to transfer existing data and resources at the Department of Health and Human Services to the new entity.

SECTION 12H.1.(b) The Department of Health and Human Services shall cease any activities related to implementing Medicaid reform based on its proposed accountable care organization (ACO) model.

SECTION 12H.1.(c) Funds appropriated elsewhere in this act to the Department of Health and Human Services, Division of Medical Assistance, for Medicaid reform shall be transferred to the Office of State Budget and Management, which shall then transfer the funds to the appropriate new entity that is contemplated in subsection (a) of this section. Such funds may be used only for Medicaid reorganization and reform and, notwithstanding the State Budget Act, may not be used for any other purpose such as funding any shortfalls in the Medicaid program.

REINSTATE MEDICAID ANNUAL REPORT

SECTION 12H.2. The Department of Health and Human Services, Division of Medical Assistance, shall reinstate the publication of the Medicaid Annual Report and accompanying tables, which was discontinued after 2008. The Division shall publish the report and tables on its Web site and shall not publish copies in print.

ADJUSTMENTS TO MEDICAID ELIGIBILITY

SECTION 12H.3.(a) Effective January 1, 2015, the following adjustments are made to eligibility for the Medicaid Program:

(1) Categorical coverage for recipients of the optional state supplemental program State-County Special Assistance is eliminated.
(2) Coverage for the medically needy is eliminated, except those categories that the State is prohibited from eliminating by the maintenance of effort requirement of the Patient Protection and Affordable Care Act. Effective October 1, 2019, coverage for all medically needy categories is eliminated.

SECTION 12H.3.(b) It is the intent of the General Assembly to reduce optional coverage for certain aged, blind, and disabled persons effective July 1, 2015, while meeting the State's obligation under the Americans with Disabilities Act and the United States Supreme Court decision in *Olmstead v. L.C. ex rel. Zimring*, 527 U.S. 581 (1999). No later than March 1, 2015, the Department of Health and Human Services, Division of Medical Assistance, shall submit to the House Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Health and Human Services a draft waiver or other proposal that limits Medicaid coverage for the aged, blind, and disabled to the minimum required to meet mandatory requirements of the Medicaid program and the Americans with Disabilities Act. The Department may submit drafts of the waiver to the Centers for Medicare

and Medicaid Services (CMS) to solicit feedback but shall not submit the waiver for CMS approval until authorized by the General Assembly.

MODIFY INTENSIVE IN-HOME SERVICE

SECTION 12H.4. No later than October 1, 2014, the Department of Health and Human Services, Division of Medical Assistance, shall modify the service definition for the Intensive In-Home Service to reflect a team-to-family ratio of one Intensive In-Home team to 12 families for both the Medicaid and NC Health Choice programs.

STUDY ADDITIONAL 1915(c) WAIVER

SECTION 12H.5. The Department of Health and Human Services, Division of Medical Assistance, shall design and draft a 1915(c) wavier that meets the following requirements:

(1) The waiver should create 1,000 new slots each year for 3 years, to serve a total of 3,000 additional adults with developmental disabilities from January 1, 2016, to June 30, 2019.

(2) The budget for each slot should be capped at twenty thousand dollars ($20,000) per plan year per beneficiary, and slots will target individuals on the registry of unmet needs.

(3) The slots should be managed as part of the LME/MCO managed care system.

The Department shall report the draft waiver, other findings, and any other options or recommendations to best serve the additional adults with developmental disabilities on the registry of unmet needs to the House Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Health and Human Services by March 1, 2015. The Department may submit drafts of the waiver to the Centers for Medicare and Medicaid Services (CMS) to solicit feedback but shall not submit the waiver for CMS approval until authorized by the General Assembly.

TRAUMATIC BRAIN INJURY WAIVER

SECTION 12H.6. The Department of Health and Human Services, Division of Medical Assistance, shall design and draft a waiver to add a new service package for Medicaid eligibles with traumatic brain injury (TBI). This draft waiver may be based on an update to the 2010 report on a waiver to serve individuals with traumatic brain injury. The Department shall report the draft waiver, other findings, and any other options to provide Medicaid services to those suffering from TBI to the House Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Health and Human Services by February 1, 2015. The Department may submit drafts of the waiver to the Centers for Medicare and Medicaid Services (CMS) to solicit feedback but shall not submit the waiver for CMS approval until authorized by the General Assembly.

FREEZE NURSING HOME CASE MIX INDEX

SECTION 12H.7. Section 12H.13(b) of S.L. 2013-360 reads as rewritten:

"**SECTION 12H.13.(b)** Effective July 1, 2013, any rate methodologies that contain an automatic inflationary or increase factor shall not increase above the rate in effect on June 30, 2013, unless the rate is otherwise increased by the General Assembly. Interim hospital outpatient services' percentage of cost used for payment shall be adjusted to compensate for expected inflation that hospitals would be eligible for, and cost settlement will only be up to the percentage in subsection (e) of this section. The following rates are excluded from this subsection: Federally Qualified Health Centers, Rural Health Centers, critical access hospitals,

State-Operated services, Hospice, Part B and D Premiums, third-party and HMO premiums, drugs, MCO capitation payments, and nursing home direct care services case mix index increases. Notwithstanding the foregoing, the exclusion from this subsection for nursing home direct care services case mix index increases expires January 1, 2015, and the rate for nursing home direct care services case mix shall not increase above the rate in effect on December 31, 2014."

DRUG REIMBURSEMENT USING AVERAGE ACQUISITION COST

SECTION 12H.8.(a) The Department of Health and Human Services, Division of Medical Assistance, shall adopt an average acquisition cost methodology for brand and generic drug ingredient pricing to be effective beginning on January 1, 2015. The drug ingredient pricing methodology shall be consistent with new federal requirements or, if the new federal requirements have not yet been finalized by October 1, 2014, consistent with the draft federal requirements. In adopting a new drug ingredient pricing methodology, the Department shall also adjust the rates for dispensing drugs as follows:

(1) Raise dispensing fees so that the average acquisition cost ingredient pricing plus the dispensing fees, net of any drug rebates, generates nine hundred seventy-five thousand dollars ($975,000) in savings in General Fund appropriations.

(2) Maintain a distinction between the dispensing fees for preferred and brand drugs.

SECTION 12H.8.(b) The Department of Health and Human Services, Division of Medical Assistance, shall issue a request for proposals (RFP) for a contractor to perform a statewide drug dispensing fee study to begin on July 1, 2015. The Department shall, no later than May 1, 2015, submit a cost estimate of such a study (i) to the chairs of the House Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee for Health and Human Services and (ii) to the Fiscal Research Division.

MENTAL HEALTH DRUG MANAGEMENT

SECTION 12H.9.(a) Effective January 1, 2015, Section 12H.13(g) of S.L. 2013-360, as amended by Section 4.4 of S.L. 2013-363, is repealed.

SECTION 12H.9.(b) Effective January 1, 2015, the Department of Health and Human Services, Division of Medical Assistance, shall impose prior authorization requirements, when such prior authorization requirements are cost-effective, or other restrictions on medications prescribed to Medicaid and Health Choice recipients for the treatment of mental illness that are sufficient to produce twelve million dollars ($12,000,000), net of rebates, in recurring annual savings to General Fund appropriations to the Medicaid program. Notwithstanding the foregoing, because of the effective date of this section, savings in fiscal year 2014-2015 shall be six million dollars ($6,000,000).

SECTION 12H.9.(c) No later than October 1, 2015, the Department of Health and Human Services, Division of Medical Assistance, shall report to the Joint Legislative Oversight Committee on Health and Human Services on the Department's fiscal year 2014-2015 savings from making the changes required by subsection (b) of this section.

PERSONAL CARE SERVICES MANAGEMENT

SECTION 12H.10.(a) The Department of Health and Human Services, Division of Medical Assistance, shall implement the rate reduction specified in Section 2 of S.L. 2013-306 retroactively to October 1, 2013, by recouping all payments in excess of the rate approved in the State plan amendment required in Section 3 of the Session Law. The Department shall then

additionally recoup the three percent (3%) reduction required by Section 12H.18(b) of S.L. 2013-360.

SECTION 12H.10.(b) Effective July 1, 2014, the Department of Health and Human Services, Division of Medical Assistance, shall further reduce the rate paid for personal care services (PCS) in order to remain within the fiscal year 2013-2014 certified budget for PCS, code 1310, North Carolina Accounting System code 536144, in the Division of Medical Assistance fund 14445. In calculating the reduced rate, the Department shall anticipate usage growth for fiscal year 2014-2015 and factor that rate into the calculation. Any State plan amendments required to implement this section shall not be subject to the 90 day prior submission requirement of G.S. 108A-54.1A(e).

SECTION 12H.10.(c) The Joint Legislative Oversight Committee on Health and Human Services shall engage a contractor to study issues related to reforming and redesigning personal care services (PCS) while meeting the State's obligations under the Americans with Disabilities Act and the United States Supreme Court's decision in *Olmstead v. L.C. ex rel. Zimring*, 527 U.S. 581 (1999). The study shall examine the following issues:

(1) What categories of Medicaid recipients are currently receiving PCS, and in what settings are they being served?

(2) What is the total number of Medicaid recipients receiving PCS in each category, and what is the anticipated growth in each category?

(3) What is the current cost of serving Medicaid recipients in each setting, and specifically, the sources of public funding utilized to serve those individuals?

(4) What alternative, more cost-effective assistance models could be implemented for each category of Medicaid recipient?

(5) Specifically, whether more cost-effective assistance could be offered through the new 1915(i) State plan home- and community-based services and 1915 waiver options for each category of Medicaid recipient.

(6) Recommendations regarding what outcomes the redesigned program should be designed to achieve.

(7) Other areas as deemed appropriate by the chairs of the Joint Legislative Oversight Committee on Health and Human Services.

No later than December 1, 2015, the contractor shall report the results and recommendations of the study to the Joint Legislative Oversight Committee on Health and Human Services. The Department of Health and Human Services shall give the contractor full access to all data necessary to complete the study and the report. The Department of Health and Human Services shall make payments to the contractor hired by the Joint Legislative Oversight Committee on Health and Human Services from the two hundred thousand dollars ($200,000) appropriated elsewhere in this budget for this contract as well as from federal Medicaid matching funds available for this contract.

ADULT CARE HOME COST REPORTING

SECTION 12H.11. The Department of Health and Human Services shall require compliance with the adult care home cost reporting requirements set forth in G.S. 131D-4.2. The Department shall make available the data collected from the cost reporting in a character-separated values (CSV) plain text format or other file format that may easily be imported into software used for spreadsheets, databases, and data analytics.

CREATE STATEWIDE HOSPITAL BASE RATE

SECTION 12H.12.(a) Section 12H.20(b) of S.L. 2013-360 is repealed.

SECTION 12H.12.(b) Effective January 1, 2015, the individualized base rates for hospital inpatient services under the Medicaid and NC Health Choice programs are hereby replaced with a single statewide base rate for hospital inpatient services equal to the sum of two thousand seven hundred eighty-eight dollars ($2,788) or the statewide median rate on June 30, 2014, whichever is less. This subsection does not apply to the UNC Health Care System or Vidant Medical Center, which was previously known as Pitt County Memorial Hospital, and their base rates shall not be included in the calculation of the statewide median rate.

SUPPLEMENTAL PAYMENTS TO ELIGIBLE MEDICAL PROFESSIONAL PROVIDERS

SECTION 12H.13.(a) Effective July 1, 2014, supplemental payments that increase reimbursement to the average commercial rate for certain eligible medical providers described in the Medicaid State Plan, Attachment 4.19-B, Section 5, Pages 2 and 3, shall be modified to limit the number of eligible medical professional providers as follows:

(1) 375 with the East Carolina University (ECU) Brody School of Medicine,
(2) 1,176 with the University of North Carolina at Chapel Hill (UNC) Faculty Physicians,
(3) 14 with the UNC Hospitals Pediatric Clinic,
(4) 75 with UNC Physicians Network,
(5) 18 with Chatham Hospital.

The Department of Health and Human Services shall not make any other modifications to the portion of the Medicaid State Plan referenced in this section, except as provided herein.

SECTION 12H.13.(b) Beginning on December 31, 2014, and annually thereafter, UNC and ECU shall submit an annual report based on their preceding fiscal year to the Joint Legislative Oversight Committee on Health and Human Services containing all of the following information for each individual provider for whom this supplemental payment is received:

(1) For each service provided by the provider and for which the supplemental payment is received, the location where the service was provided, including county, municipality, and zip code.
(2) The percentage of the provider's total time spent serving Medicaid recipients annually that is for services provided at locations other than the ECU Brody School of Medicine, the Firetower Medical Office, or the UNC School of Medicine.
(3) The amount of Medicaid reimbursement for each service for which a supplemental payment was made for services provided by the provider.
(4) The percentage of the provider's time spent in clinical practice, the percentage of time spent teaching, and the percentage of time engaging in research on an annual basis.

SECTION 12H.13.(c) The entities receiving the supplemental payments addressed in subsection (a) of this section shall transfer an amount to the Department of Health and Human Services, Division of Medical Assistance, sufficient to ensure that after reducing the transfer by twenty-eight and eighty-five hundredths percent (28.85%) there are funds for the State share necessary to make the supplemental payments. That twenty-eight and eighty-five hundredths percent (28.85%) shall be retained by the State for the Medicaid program.

SECTION 12H.13.(d) Any state plan amendments required to implement this section shall not be subject to the 90-day prior submission requirement of G.S. 108A-54.1A(e).

REPEAL SHARED SAVINGS PROGRAM; MAINTAIN CERTAIN RATE REDUCTIONS

SECTION 12H.14.(a) All subsections of Section 12H.18 of S.L. 2013-360, except for subsection (b), are repealed.

SECTION 12H.14.(b) Section 12H.18(b) of S.L. 2013-360 reads as rewritten:

"**SECTION 12H.18.(b)** During the 2013-2015 fiscal biennium, the Department of Health and Human Services shall ~~withhold~~reduce by three percent (3%) ~~of~~the payments for the following services rendered to Medicaid and NC Health Choice recipients on or after January 1, 2014:

...

~~Funds from payments withheld under this section that are budgeted to be shared with providers shall not revert to the General Fund.~~"

SECTION 12H.14.(c) Effective January 1, 2015, Section 12H.18(b) of S.L. 2013-360, as amended by subsection (b) of this section, reads as rewritten:

"**SECTION 12H.18.(b)** During the 2013-2015 fiscal biennium, the Department of Health and Human Services shall reduce by three percent (3%) the payments for the following services rendered to Medicaid and NC Health Choice recipients on or after January 1, 2014:

(1) Inpatient hospital.
(2) Physician, excluding primary care until January 1, 2015.
(3) Dental.
~~(4) Optical services and supplies.~~
~~(5) Podiatry.~~
~~(6) Chiropractors.~~
~~(7) Hearing aids.~~
(8) Personal care services.
(9) Nursing homes.
(10) Adult care homes.
(11) Dispensing drugs."

PUBLISH MEDICAID PAYMENTS TO PROVIDERS

SECTION 12H.15.(a) For payments made in fiscal year 2013-2014 and for subsequent fiscal years, the Department of Health and Human Services, Division of Medical Assistance, shall publish on its Web site comprehensive information on Medicaid payments made to providers. The information shall be updated annually within three months of the close of a State fiscal year to include payments for that fiscal year. The information published shall include all of the following for each individual providing Medicaid services:

(1) Name of the individual providing the service.
(2) Location of service provider's principal place of business.
(3) Location of provided services, listed with both municipality and county. If an individual provides services in multiple locations, then those shall be specified and the items in subdivisions (6) through (10) of this subsection shall be provided for each location.
(4) Practice name, hospital name, or other business name with which the individual providing service is affiliated.
(5) Type of service provider and practice area.
(6) Number of Medicaid patients seen.
(7) Number of visits with Medicaid patients.
(8) Number of procedures performed or items furnished for Medicaid patients.
(9) Amount of Medicaid service payments received.
(10) Amount of Medicaid supplemental payments received.

(11) Amount of Medicaid settlement payments received.
(12) Amount of Medicaid recoupments.

The information shall be published in a character-separated values (CSV) plain text format or other file format that may easily be imported into software used for spreadsheets, databases, and data analytics. The Department shall ensure that no protected patient information be published.

SECTION 12H.15.(b) The Department of Health and Human Services, Division of Medical Assistance, shall begin discussions with the UNC School of Public Health or any other appropriate party of an educational or nonprofit nature to perform analytics on the information or to generate an interactive Web site to access the information contained within the data required to be reported under subsection (a) of this section. Such a Web site should be designed to exceed the functionality of South Carolina's HealthViz Medicaid statistics Web site.

STUDY PHYSICIAN ASSESSMENT

SECTION 12H.16. The Department of Health and Human Services, in consultation with the North Carolina Medical Society and any other appropriate groups, shall study the imposition of an assessment on physicians as part of the federally authorized Medicaid assessment program. The study shall consider the opportunities to increase funding to the Medicaid program and to providers by collecting additional State funds to leverage additional federal funding. The Department shall report its findings and recommendations to the Joint Legislative Oversight Committee on Health and Human Services by December 1, 2014.

INCREASE HOSPITAL ASSESSMENT RETENTION BY STATE

SECTION 12H.17.(a) G.S. 108A-121(8) reads as rewritten:

"(8) State's annual Medicaid payment. – For an assessment collected under this Article, an amount equal to ~~twenty-five and nine tenths percent (25.9%)~~ twenty-eight and eighty-five one hundredths percent (28.85%) of the total amount collected under the assessment."

SECTION 12H.17.(b) G.S. 108A-128 reads as rewritten:

"§ 108A-128. Payment for providers formerly subject to this Article.

If a hospital provider (i) is exempt from both the equity and UPL assessments under this Article, (ii) makes an intergovernmental transfer (IGT) to the Department of Health and Human Services to be used to draw down matching federal funds, and (iii) has acquired, merged, leased, or managed another provider on or after March 25, 2011, then the hospital provider shall transfer to the State an additional amount, which shall be retained by the State. The additional amount shall be ~~twenty-five and nine tenths percent (25.9%)~~ a percentage of the amount of funds that (i) would be transferred to the State through such an IGT and (ii) are to be used to match additional federal funds that the hospital provider is able to receive because of the acquired, merged, leased, or managed provider. That percentage shall be the same percentage provided in the definition of "State's annual Medicaid payment" under G.S. 108-121."

ASSESSMENT FOR LME/MCOS

SECTION 12H.18. The Secretary of Health and Human Services shall implement a Medicaid assessment program for local management entities/managed care organizations (LME/MCOs) at a rate of three and one-half percent (3.5%). The Department of Health and Human Services shall retain for the Medicaid program sixty-five percent (65%) of the amount collected from the assessment program. Collections shall be based on payments to the LME/MCOs for services performed on or after July 1, 2014. Any assessment funds not retained

by the Department shall be used to draw federal Medicaid matching funds for implementing increased rates or new reimbursement plans for the LME/MCOs.

Receipts from this assessment program are hereby appropriated for the 2014-2015 fiscal year, as well as for any future fiscal years, for the purposes set out in this section.

REPEAL PLANNED CCNC PAYMENT OF PMPMs

SECTION 12H.19. It is the intent of the General Assembly that the structure of per member per month (PMPM) payments or other payments to providers participating in Community Care of North Carolina (CCNC) programs be considered as a part of any Medicaid reform plan for the State. Therefore, Section 12H.22 of S.L. 2013-360 is repealed.

CCNC CONTRACT ADJUSTMENTS

SECTION 12H.20.(a) It is the intent of the General Assembly to grant agency to the new Medicaid entity, which is contemplated in Section 12H.1 of this act, to act on behalf of the Department of Health and Human Services, Division of Medical Assistance, with respect to the authority to terminate without cause contract #28023 on 30 days written notice to North Carolina Community Care Networks, Inc., (CCNC).

SECTION 12H.20.(b) The Department of Health and Human Services shall not exercise the option to renew contract #28023 with CCNC, which contract expires on December 31, 2015.

SECTION 12H.20.(c) The Department of Health and Human Services shall not enter into any new contract with CCNC that would have a termination date after December 31, 2015.

ADDITIONAL NOTICE ON SPAs

SECTION 12H.21.(a) G.S. 108A-54.1A reads as rewritten:

"§ 108A-54.1A. Amendments to Medicaid State Plan and Medicaid Waivers.

...

(d) No fewer than 10 days prior to submitting an amendment to the State Plan to the federal government, the Department shall post the amendment on its Web site and notify the members of the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division that the amendment has been posted. This requirement shall not apply to draft or proposed amendments submitted to the federal government for comments but not submitted for approval. The amendment shall remain posted on the Department's Web site at least until the plan has been approved, rejected, or withdrawn. If the authority for submitting the amendment to the State Plan is pursuant to subdivision (3), (4), (5), or (6) of subsection (b) of this section, then, prior to submitting an amendment to the federal government, the Department shall submit to the General Assembly members receiving notice under this subsection and to the Fiscal Research Division an explanation of the amendment, the need for the amendment, and the federal time limits required for implementation of the amendment.

(e) The Department shall submit an amendment to the State Plan to the federal government by a date sufficient to provide the federal government adequate time to review and approve the amendment so the amendment may be effective by the date required by the directing authority in subsection (b) of this section. Additionally, if a change is made to the Medicaid program by the General Assembly and that change requires an amendment to the State Plan, then the amendment shall be submitted at least 90 days prior to the effective date of the change as provided in the legislation.

(f) Any public notice required under 42 C.F.R. 447.205 shall, in addition to any other posting requirements under federal law, be posted on the Department's Web site. Upon posting such a public notice, the Department shall notify the members of the Joint Legislative

Oversight Committee on Health and Human Services and the Fiscal Research Division that the public notice has been posted. Public notices shall remain posted on the Department's Web site."

SECTION 12H.21.(b) G.S. 108A-55(c) reads as rewritten:

"(c) The Department shall reimburse providers of services, equipment, or supplies under the Medical Assistance Program in the following amounts:

(1) The amount approved by the ~~Health Care Financing Administration~~Centers for Medicare & Medicaid Services (CMS) of the United States Department of Health and Human Services, if ~~that Administration~~CMS approves an exact reimbursement ~~amount;~~amount.

(2) The amount determined by application of a method approved by the ~~Health Care Financing Administration~~Centers for Medicare & Medicaid Services (CMS) of the United States Department of Health and Human Services, if ~~that Administration~~CMS approves the method by which a reimbursement amount is determined, and not the exact amount.

The Department shall establish the methods by which reimbursement amounts are determined in accordance with Chapter 150B of the General Statutes. A change in a reimbursement amount becomes effective as of the date for which the change is approved by the ~~Health Care Financing Administration~~Centers for Medicare & Medicaid Services (CMS) of the United States Department of Health and Human Services.~~The Department shall report to the Fiscal Research Division of the Legislative Services Office and to the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources or the Joint Legislative Oversight Committee on Health and Human Services on any change in a reimbursement amount at the same time as it sends out public notice of this change prior to presentation to the Health Care Financing Administration.~~"

SECTION 12H.21.(c) By repealing language in subsection (b) of this section related to giving to the General Assembly notice of a public notice, it is not the intent of the General Assembly to remove the required notice of the changes to reimbursement amounts for services, equipment, or supplies. Rather, it is the intent that those notices be given pursuant to G.S. 108A-54.1A(f), rather than pursuant to both G.S. 108A-54.1A(f) and G.S. 108A-55(c).

SECTION 12H.21.(d) This section becomes effective July 1, 2014, and the amendment to G.S. 108A-54.1A(e) applies to State Plan Amendments with effective dates on or after October 1, 2014.

COMPREHENSIVE PROGRAM INTEGRITY CONTRACT

SECTION 12H.22.(a) Effective March 1, 2015, the new Medicaid entity, which is contemplated in Section 12H.1 of this act, shall issue a request for proposals for one contract to become effective on September 1, 2015, for the following program integrity functions:

(1) Postpayment reviews
(2) Data analytics
(3) Medical necessity reviews
(4) Investigation
(5) Recovery Audit Contracts
(6) Prepayment review

SECTION 12H.22.(b) The Department of Health and Human Services shall not enter into any contract involving the program integrity functions listed in subsection (a) of this section that would have a termination date after September 1, 2015.

SECTION 12H.22.(c) This section shall not apply to program integrity functions performed by LME/MCOs.

SECTION 12H.22.(d) The program integrity contract described in this section shall not be subject to review by the State Chief Information Officer pursuant to Section 7.7(a) of S.L. 2013-360.

RETURN BURDEN OF PROOF TO PROVIDERS IN MEDICAID APPEALS

SECTION 12H.23.(a) G.S. 108C-12(d) reads as rewritten:

"(d) Burden of Proof. – The ~~Department~~ petitioner shall have the burden of proof in appeals of Medicaid providers or applicants concerning an adverse determination."

SECTION 12H.23.(b) This section is effective when it becomes law, and applies to contested cases filed at the Office of Administrative Hearings on or after that date.

WITHHOLDING OVERPAYMENTS TO MEET FEDERAL PAYBACK REQUIREMENTS

SECTION 12H.24. G.S. 108C-5 reads as rewritten:

"**§ 108C-5. Payment suspension and audits utilizing extrapolation.**

(a) The Department may suspend payments to a provider in accordance with the requirements and procedures set forth in 42 C.F.R. § 455.23.

(b) In addition to the procedures for suspending payment set forth at 42 C.F.R. § 455.23, the Department may also suspend payment to any provider that (i) owes a final overpayment, assessment, or fine to the Department and has not entered into an approved payment plan with the Department or (ii) has had its participation in the Medicaid or Health Choice programs suspended or terminated by the Department. For purposes of this section, a suspension or termination of participation does not become final until all administrative appeal rights have been exhausted and shall not include any agency decision that is being contested at the Department or the Office of Administrative Hearings or in Superior Court provided that the Superior Court has entered a stay pursuant to the provisions of G.S. 150B-48.

(b1) The Department shall withhold payment to any North Carolina Medicaid provider or Health Choice provider for whom the Division of Medical Assistance, or its vendor, has identified an overpayment in a written notice to the provider. Withholding shall begin on the 75th day after the day the notice of overpayment is mailed and shall continue during the pendency of any appeal until the overpayment becomes a final overpayment. For purposes of this subsection, withholding during any month shall not exceed the amount of any interest required by law plus eleven and one-tenth percent (11.1%) of the sum of the total overpayment amount identified in the notice of overpayment and any penalty required by law. If the Department subsequently reduces the identified overpayment in writing, withholding during any subsequent month shall not exceed the amount of any interest required by law plus eleven and one-tenth percent (11.1%) of the sum of the total reduced identified overpayment and any penalty required by law. Total withholdings shall not exceed the total amount of the overpayment plus any penalty and interest charges required by law. If the total amount withheld exceeds the final overpayment plus interest and penalty required by law, the Department shall pay the provider the amount withheld in excess of the final overpayment plus penalty and interest. Upon request by the provider and for good cause shown, the Department is authorized to approve a payment plan for a provider to pay an overpayment, pursuant to subsection (g) of this section. Absent a showing of good cause for repayment to be made over a period of more than one year, the Department shall take all necessary and appropriate action to recover overpayments within 365 days of the date the notice of overpayment was mailed to the provider.

(c) For providers who owe a final overpayment, assessment, or fine to the Department, the payment suspension shall begin the thirty-first day after the overpayment, assessment, or

fine becomes final. The payment suspension shall not exceed the amount owed to the Department, including any applicable penalty and interest charges.

(d) Providers whose participation in the Medicaid or Health Choice programs has been suspended or terminated shall have all payments suspended beginning on the thirty-first day after the suspension or termination becomes final.

(e) The Department shall consult with the N.C. Departments of Treasury and Revenue and other State departments and agencies to determine if a provider owes debts or fines to the State. The Department may collect any of these debts owed to the State subsequent to consideration by the Department of the financial impact upon the provider and the impact upon access to the services provided by the provider.

(f) When issuing payment suspensions and withholdings in accordance with this Chapter, the Department may suspend or withhold payment to all providers which share the same IRS Employee Identification Number or corporate parent as the provider or provider site location which owes the final overpayment, overpayment, assessment, or fine. The Department shall give 30 days advance written notice to all providers which share the same IRS Employee Identification Number or corporate parent as the provider or provider site location of the intention of the Department to implement a payment ~~suspension.~~suspension or withholding.

(g) The Department is authorized to approve a payment plan for a provider to pay a final overpayment, overpayment, assessment, or fine including interest and any penalty. The payment plan can include a term of up to 24 months. The Department shall establish in rule the conditions of such provider payment plans. Nothing in this subsection shall prevent the provider and the Department from mutually agreeing to modifications of a payment plan.

(h) All payments suspended or withheld in accordance with this Chapter shall be applied toward any final overpayment, assessment, or fine owed to the Department.

...."

APPEALS OF INTERLOCUTORY ORDERS OF THE OFFICE OF ADMINISTRATIVE HEARINGS

SECTION 12H.25.(a) G.S. 1A-1 is amended by adding a new Article to read as follows:

"Article 9.

"Extraordinary Writs.

"**Rule 90. Certiorari.**

(a) Scope of the Writ; Review of the Judgments, Decisions, and Orders of the Office of Administrative Hearings. – The writ of certiorari may be issued in appropriate circumstances by the Superior Court to permit review of the judgments, decisions, and orders of the Office of Administrative Hearings when no right of appeal from an interlocutory order exists.

(b) Petition for Writ; to Which Superior Court Addressed. – Application for the writ of certiorari shall be made by filing a petition therefor with the clerk of the superior court division to which appeal of right might lie from a final decision of the Office of Administrative Hearings in the contested case for which issuance of the writ is sought.

(c) Same; Filing and Service; Content. – The petition shall be filed without unreasonable delay and shall be accompanied by proof of service upon all other parties. The petition shall contain a statement of the facts necessary to an understanding of the issues presented by the application, a statement of the reasons why the writ should issue, and certified copies of the judgment, decision, order, or opinion or parts of the record which may be essential to an understanding of the matters set forth in the petition. The petition shall be verified by counsel or the petitioner. Upon receipt of the prescribed docket fee, the clerk will docket the petition.

(d) Response; Determination by Court. – Within 10 days after service of the petition any party may file a response thereto with supporting affidavits or certified portions of the record not filed with the petition. Filing shall be accompanied by proof of service upon all other parties. The court for good cause shown may shorten the time for filing a response. Determination will be made on the basis of the petition, the response, and any supporting papers. No briefs or oral argument will be received or allowed unless ordered by the court upon its own initiative.

"**Rule 91. Mandamus and Prohibition.**

(a) Petition for Writ; to Which Superior Court Addressed. – Applications for the writs of mandamus or prohibition directed to an administrative law judge shall be made by filing a petition therefor with the clerk of the superior court division to which appeal of right might lie from a final decision entered in the contested case for which issuance of the writ is sought.

(b) Same; Filing and Service; Content. – The petition shall be filed without unreasonable delay after the action by the Office of Administrative Hearings sought to be prohibited or compelled has been undertaken, or has occurred, or has been refused, and shall be accompanied by proof of service on the respondent administrative law judge or administrative law judges and on all other parties to the action. The petition shall contain a statement of the facts necessary to an understanding of the issues presented by the application, a statement of the issues presented and of the relief sought, a statement of the reasons why the writ should issue, and certified copies of any order or opinion or parts of the record that may be essential to an understanding of the matters set forth in the petition. The petition shall be verified by counsel or the petitioner. Upon receipt of the prescribed docket fee, the clerk shall docket the petition.

(c) Response; Determination by Court. – Within 10 days after service of the petition the respondent or any party may file a response thereto with supporting affidavits or certified portions of the record not filed with the petition. Filing shall be accompanied by proof of service upon all other parties. The court for good cause shown may shorten the time for filing a response. Determination will be made on the basis of the petition, the response, and any supporting papers. No briefs or oral argument will be received or allowed unless ordered by the court upon its own initiative.

"**Rule 92. Supersedeas.**

(a) Pending Review of Office of Administrative Hearings Judgments, Decisions, and Orders. – Application may be made to the appropriate superior court for a writ of supersedeas to stay the execution or enforcement of any judgment, decision, order, or other determination of the Office of Administrative Hearings which is not automatically stayed by the taking of appeal when an appeal has been taken or a petition for mandamus, prohibition, or certiorari has been filed to obtain review of the judgment, decision, order, or other determination and (i) a stay order or entry has been sought by the applicant by deposit of security or by motion at the Office of Administrative Hearings and such order or entry has been denied or vacated by the trial tribunal or (ii) extraordinary circumstances make it impracticable to obtain a stay by deposit of security or by application to the Office of Administrative Hearings for a stay order.

(b) Petition; Filing and Service; Content. – The petition shall be filed with the clerk of the superior court division to which appeal of right might lie from a final decision of the Office of Administrative Hearings in the contested case for which issuance of the writ is sought. The petitions shall be accompanied by proof of service upon all other parties. The petition shall be verified by counsel or the petitioner. Upon receipt of the required docket fee, the clerk will docket the petition. For stays of the judgments of the Office of Administrative Hearings, the petition shall contain a statement that a stay has been sought in the Office of Administrative Hearings and denied or vacated or shall contain facts showing that it was impracticable there to seek a stay. For stays of any judgment, the petition shall contain (i) a statement of any facts

necessary to an understanding of the basis upon which the writ is sought and (ii) a statement of reasons why the writ should issue in justice to the applicant. The petition may be accompanied by affidavits and by any certified portions of the record pertinent to its consideration. It may be included in a petition to the superior court for certiorari, mandamus, or prohibition.

(c) Response; Determination by Court. – Within 10 days after service of the petition, any party may file a response thereto with supporting affidavits or certified portions of the record not filed with the petition. Filing shall be accompanied by proof of service upon all other parties. The court for good cause shown may shorten the time for filing a response. Determination will be made on the basis of the petition, the response, and any supporting papers. No briefs or oral argument will be received or allowed unless ordered by the court upon its own initiative.

(d) Temporary Stay. – Upon the filing of a petition for supersedeas, the applicant may apply, either within the petition or by separate paper, for an order temporarily staying enforcement or execution of the judgment, decision, order, or other determination pending decision by the court upon the petition for supersedeas. If application is made by separate paper, it shall be filed and served in the manner provided for the petition for supersedeas in Rule 92(b). The court for good cause shown in such a petition for temporary stay may issue such an order ex parte."

SECTION 12H.25.(b) Article 4 of Chapter 150B of the General Statutes is amended by adding a new section to read:

"**§ 150B-53. Writs.**

Any party to a contested case may petition for writs of certiorari, mandamus, prohibition, or supersedeas in the manner prescribed in Rules 90, 91, and 92 of the North Carolina Rules of Civil Procedure."

SECTION 12H.25.(c) This section is effective when it becomes law, and applies to judgments, decisions, and orders of the Office of Administrative Hearings entered on or after that date.

CLARIFY NOTICE OF EXTRAPOLATED OVERPAYMENTS

SECTION 12H.26.(a) G.S. 108C-5(i) reads as rewritten:

"(i) Prior to extrapolating the results of any audits, the Department shall demonstrate and inform the provider that (i) the provider failed to substantially comply with the requirements of State or federal law or regulation or (ii) the Department has a credible allegation of fraud concerning the provider. Nothing in the subsection shall be construed to prohibit the Department from identifying the extrapolated overpayment amount in the same notice that meets the requirements of this subsection."

SECTION 12H.26.(b) G.S. 108C-5 is amended by adding a new subsection to read:

"(t) Nothing in this Chapter shall be construed to prohibit the Department from utilizing a contractor to send notices to providers on behalf of the Department."

MODIFICATIONS TO RECIPIENT APPEALS

SECTION 12H.27.(a) G.S. 108A-70.9A(d) reads as rewritten:

"(d) Appeals. – Except as provided by this section and G.S. 108A-70.9B, a request for a hearing to appeal an adverse determination of the Department under this section is a contested case subject to the provisions of Article 3 of Chapter 150B of the General Statutes. The recipient ~~shall~~ may request a hearing only within ~~30 days of~~ the time period beginning upon the mailing of the notice required by subsection (c) of this section and ending on the effective date of the adverse determination, which shall be the period for appeal. In order to request a hearing, a recipient must ~~by sending~~ file an appeal request form ~~to~~ with OAH and the ~~Department.~~

Department within the period for appeal. If the recipient does not request a hearing during the period for appeal, the recipient shall be deemed to have waived any right of appeal, and OAH shall deny any hearing request filed outside the period for appeal. Upon demonstration during any contested case that the hearing request was filed outside the period for appeal, OAH shall dismiss the contested case. Where a request for hearing concerns the reduction, modification, or termination of Medicaid services, including the failure to act upon a timely request for reauthorization with reasonable promptness, upon the receipt of a timely appeal, the Department shall reinstate the services to the level or manner prior to action by the Department as permitted by federal law or regulation. The Department shall immediately forward a copy of the notice to OAH electronically. The information contained in the notice is confidential unless the recipient appeals. OAH may dispose of the records after one year. The Department may not influence, limit, or interfere with the recipient's decision to request a hearing."

SECTION 12H.27.(b) G.S. 108A-70.9B reads as rewritten:

"**§ 108A-70.9B. Contested Medicaid cases.**

...

(c) Mediation. – Upon receipt of an appeal request form as provided by G.S. 108A-70.9A(e) or other clear request for a hearing by a Medicaid recipient, OAH shall immediately notify the Mediation Network of North Carolina, which shall contact the recipient within five days to offer mediation in an attempt to resolve the dispute. If mediation is accepted, the mediation must be completed within 25 days of submission of the request for appeal. Upon completion of the mediation, the mediator shall inform OAH and the Department within 24 hours of the resolution by facsimile or electronic messaging. If the parties have resolved matters in the mediation, OAH shall dismiss the case. OAH shall not conduct a hearing of any contested Medicaid case until it has received notice from the mediator assigned that either: (i) the mediation was unsuccessful, or (ii) the petitioner has rejected the offer of mediation, or (iii) the petitioner has failed to appear at a scheduled mediation. ~~Nothing in this subsection shall restrict the right to a contested case hearing.~~ If the recipient accepts an offer of mediation and then fails to meaningfully participate without good cause, OAH shall dismiss the contested case.

(d) Burden of Proof. – The recipient has the burden of proof ~~to show entitlement to a requested benefit or the propriety of requested agency action when the agency has denied the benefit or refused to take the particular action. The agency has the burden of proof when the appeal is from an agency determination to impose a penalty or to reduce, terminate, or suspend a previously granted benefit. The party with the burden of proof on any issue~~ on all issues submitted to OAH for a Medicaid contested case hearing and has the burden of going ~~forward,~~ forward. ~~and the~~ The administrative law judge shall not make any ruling on the preponderance of evidence until the close of all evidence.

...."

SECTION 12H.27.(c) G.S. 108D-15(i) reads as rewritten:

...

(i) Mediation. – Upon receipt of an appeal request form as provided by G.S. 108D-15(f) or other clear request for a hearing by an enrollee, OAH shall immediately notify the Mediation Network of North Carolina, which shall contact the enrollee within five days to offer mediation in an attempt to resolve the dispute. If mediation is accepted, the mediation must be completed within 25 days of submission of the request for appeal. Upon completion of the mediation, the mediator shall inform OAH and the LME/MCO within 24 hours of the resolution by facsimile or electronic messaging. If the parties have resolved matters in the mediation, OAH shall dismiss the case. OAH shall not conduct a hearing of any contested case involving a dispute of a managed care action until it has received notice from the mediator assigned that either (i) the mediation was unsuccessful, (ii) the petitioner has rejected the offer

of mediation, or (iii) the petitioner has failed to appear at a scheduled mediation. ~~Nothing in this subsection shall restrict the right to a contested case hearing.~~If the enrollee accepts an offer of mediation and then fails to meaningfully participate without good cause, OAH shall dismiss the contested case."

SECTION 12H.27.(d) This section is effective October 1, 2014, and applies to appeals notices of adverse determination mailed on or after that date and appeals of notices of resolution mailed on or after that date.

REPORT ON FUNDING OF STATE MEDICAL SCHOOLS

SECTION 12H.28. The University of North Carolina System, working with the appropriate constituent institutions and health systems, shall report to the Joint Legislative Oversight Committee on Health and Human Services on how the medical schools are funded. The report shall include a detailed explanation of the sources of all income within both a current and historical context, noting any changes in funding sources and amounts over time. The report required by this section is due by October 1, 2014.

REMOVE P.A.C.E. ENROLLMENT CAP

SECTION 12H.29. The Department of Health and Human Services, Division of Medical Assistance, shall remove the enrollment cap for the Program of All-inclusive Care for the Elderly (PACE), which enrollment cap the Department instated effective April 1, 2014.

SUBPART XII-I. MISCELLANEOUS

CONTROL OF DATA DISCLOSED TO THE NORTH CAROLINA HEALTH INFORMATION EXCHANGE BY REQUIRED PARTICIPANTS

SECTION 12I.1.(a) G.S. 90-413.3A(b) reads as rewritten:

"(b) Any hospital, as defined in ~~G.S. 131E-76(c),~~ G.S. 131E-76(3) that has an electronic health record system shall connect to the ~~NC HIE~~ HIE Network and submit individual patient demographic and clinical data on services paid for with Medicaid funds, based upon the findings set forth in subsection (a) of this section and notwithstanding the voluntary nature of the NC HIE under G.S. 90-413.2. The NC HIE shall give the Department of Health and Human Services and professional staff of the Fiscal Research, Bill Drafting, Research, and Program Evaluation Divisions of the General Assembly real-time access to data and information ~~contained in the NC HIE.~~disclosed through the HIE Network."

SECTION 12I.1.(b) G.S. 90-413.3A is amended by adding a new subsection to read:

"(c) Any data disclosed through the HIE Network pursuant to subsection (b) of this section shall be and will remain the sole property of the State. Any data or product derived from the data disclosed to the HIE Network pursuant to subsection (b) of this section, including a consolidation or analysis of the data, shall be and will remain the sole property of the State. The NC HIE shall not allow proprietary information it receives pursuant to this section to be used by any person or entity for commercial purposes."

SECTION 12I.1.(c) In order to ensure the successful, uninterrupted operation of the statewide health information exchange network (HIE Network), the Department of Health and Human Services (Department) shall develop a transition plan for transferring the responsibilities imposed on the NC HIE under Article 29A of the General Statutes to another entity in the event the NC HIE is unable or unwilling to continue overseeing and administering the HIE Network. The Department shall develop the plan in consultation with the Office of Information Technology Services and the NC HIE, and submit the plan to the Joint Legislative

Oversight Committee on Health and Human Services and the Fiscal Research Division no later than February 1, 2015.

ESTABLISHMENT OF JOINT LEGISLATIVE STUDY COMMISSION ON TRAUMATIC BRAIN INJURY

SECTION 12I.2.(a) There is created the Joint Legislative Study Commission on the Service Needs of Individuals with Traumatic Brain Injury (TBI). The purpose of the Commission is to study and make recommendations about the service needs of individuals with TBI.

SECTION 12I.2.(b) The Commission shall consist of 15 members as follows:

(1) Five members appointed by the Speaker of the House of Representatives with the following qualifications:
   a. Two members of the House of Representatives.
   b. One licensed physician with experience assessing and treating adults who have suffered TBI.
   c. One neuropsychologist with experience assessing and treating individuals with TBI.
   d. One adult survivor of TBI.

(2) Five members appointed by the President Pro Tempore of the Senate with the following qualifications:
   a. Two members of the Senate.
   b. One operator of a rehabilitation facility for adults with TBI.
   c. One representative of the Veterans Administration with knowledge and experience in the range of TBI services available to members of the military and veterans.
   d. One parent of a child survivor of TBI.

(3) The Secretary of the Department of Health and Human Services, or the Secretary's designee.

(4) The Director of the Division of Medical Assistance, or the Director's designee.

(5) The Executive Director of the North Carolina Brain Injury Council, or the Executive Director's designee.

(6) The Executive Director of Community Care of North Carolina, or the Executive Director's designee.

(7) One Chief Executive Officer (CEO) of a local management entity that has been approved to operate the 1915(b)/(c) Medicaid Waiver, who is currently managing services for children and adults with TBI, or the CEO's designee, appointed jointly by the cochairs of the Commission.

SECTION 12I.2.(c) The Commission shall have two cochairs, one designated by the Speaker of the House of Representatives and one designated by the President Pro Tempore of the Senate from among their respective appointees. The Commission shall meet upon the call of the cochairs. Any vacancy on the Commission shall be filled by the original appointing authority. A quorum shall consist of a majority of the total membership of the Commission.

SECTION 12I.2.(d) The Commission shall study all of the following issues:

(1) Existing TBI services and any deficiencies in service array, quality of services, accessibility, and availability of services across each age group of persons with TBI regardless of the age at which the trauma occurred.

(2) Existing TBI-specific service definitions for children and adults who receive services through federally funded programs, including Medicaid, federal block grants, and the Veterans Administration; through State-funded

programs, including the Traumatic Brain Injury Trust Fund; through county-funded programs; and through other funding sources, as well as the need for additional or revised service definitions to meet the specific needs of those with TBI.

(3) Current reimbursement rates tied to settings that treat adults with TBI, and the adequacy of these reimbursement rates.

(4) Current accessibility to TBI services, service information, educational materials, and family resources; and any deficiencies that need to be addressed.

(5) Current status of TBI-specific screening, assessment, triage, and service referrals for children, adults, and veterans; and any deficiencies that need to be addressed.

(6) This State's current organizational model for providing comprehensive needs assessment, information management, policy development, service delivery, monitoring, and quality assurance for children and adults with TBI as compared to TBI organizational structures in other states; and specific organizational models to manage services for persons with TBI that are well coordinated for all citizens, including veterans.

(7) Any other matters related to TBI services for children, adults, veterans, and their families.

SECTION 12I.2.(e) Members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate. The Commission, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may meet in the Legislative Building or the Legislative Office Building.

With approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional staff to assist the Commission in its work. Upon the direction of the Legislative Services Commission, the Director of Legislative Assistants of the Senate and of the House of Representatives shall assign clerical staff to the Commission. The expenses for clerical employees shall be borne by the Commission. The Commission may contract for consultants or hire employees in accordance with G.S. 120-32.02.

SECTION 12I.2.(f) The Commission shall submit a final report of its findings and recommendations, including any proposed legislation, to the 2016 Regular Session of the 2015 General Assembly no later than May 1, 2016. The Commission shall terminate upon the filing of its final report.

PED STUDY CONCERNING ALCOHOL AND SUBSTANCE ABUSE EDUCATION AND PREVENTION INITIATIVE TO BE FUNDED BY LOCAL ALCOHOLIC BEVERAGE CONTROL BOARDS.

SECTION 12I.3.(a) The Joint Legislative Program Evaluation Oversight Committee shall consider including in the 2014-2015 Work Plan for the Program Evaluation Division of the General Assembly a study of the benefits and disadvantages to the State of requiring local Alcoholic Beverage Control boards to (i) cease payments effective July 1, 2015, to the Department of Health and Human Services under G.S. 18B-805(b)(3) for alcoholism or substance abuse research, treatment, or education and (ii) redirect these payments to the North Carolina Alcoholic Beverage Control Commission, effective July 1, 2015, for an alcohol and substance abuse education and prevention initiative.

SECTION 12I.3.(b) If the Joint Legislative Program Evaluation Oversight Committee adds the study described in subsection (a) to its 2014-2015 Work Plan, the Program Evaluation Division shall submit its findings and recommendations to the Joint Legislative

Program Evaluation Oversight Committee and the Fiscal Research Division no later than February 1, 2015.

SUBPART XII-J. DHHS BLOCK GRANTS

REVISE DHHS BLOCK GRANTS

SECTION 12J.1. Section 12J.1 of S.L. 2013-360 reads as rewritten:

"**DHHS BLOCK GRANTS**

"**SECTION 12J.1.(a)** Except as otherwise provided, appropriations from federal block grant funds are made for each year of the fiscal biennium ending June 30, 2015, according to the following schedule:

TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) FUNDS		**FY2013-2014**	**FY2014-2015**
Local Program Expenditures			
Division of Social Services			
01.	Work First Family Assistance	$ 60,285,413	$ 60,285,413
02.	Work First County Block Grants	82,485,495	82,485,495
03.	Work First Electing Counties	2,352,521	2,352,521
04.	Adoption Services – Special Children Adoption Fund	2,026,877	2,026,877
05.	Child Protective Services – Child Welfare Workers for Local DSS	9,412,391	9,412,391
06.	Child Welfare Collaborative	632,416	632,416
06A.	Foster Care Services		1,385,152
Division of Child Development and Early Education			
07.	Subsidized Child Care Program	57,172,097~~55,409,695~~	54,054,806
08.	Swap Child Care Subsidy	6,352,644	6,352,644
08A.	Pre-K Swap Out		7,195,807
Division of Public Health			
09.	Teen Pregnancy Initiatives	2,500,000	2,500,000
DHHS Administration			
10.	Division of Social Services	2,482,260	2,482,260

11.	Office of the Secretary	34,042	34,042
Transfers to Other Block Grants			
Division of Child Development and Early Education			
12.	Transfer to the Child Care and Development Fund	71,773,001	71,773,001
13.	Transfer to Social Services Block Grant for Child Protective Services – Child Welfare Training in Counties	1,300,000	1,300,000
14.	Transfer to Social Services Block Grant for Child Protective Services	5,040,000	5,040,000
15.	Transfer to Social Services Block Grant for County Departments of Social Services for Children's Services	4,148,001	4,148,001
TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) FUNDS		**$307,997,158**	**~~$306,234,756~~$313,460,826**
TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) EMERGENCY CONTINGENCY FUNDS			
Local Program Expenditures			
Division of Social Services			
01.	Work First County Block Grants	$ 5,580,925	$ 5,580,925
02.	Work First Electing Counties	25,692	25,692
Division of Child Development and Early Education			
03.	Subsidized Child Care	6,549,469	~~6,549,469~~11,679,394
TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) EMERGENCY CONTINGENCY FUNDS		**$12,156,086**	**~~$ 12,156,086~~$ 17,286,011**
SOCIAL SERVICES BLOCK GRANT			
Local Program Expenditures			
Divisions of Social Services and Aging and Adult Services			
01.	County Departments of Social Services		

		(Transfer from TANF $4,148,001)	$ 29,422,137	~~$ 29,422,137~~$ 27,427,015
02.		Child Protective Services (Transfer from TANF)	5,040,000	5,040,000
03.		State In-Home Services Fund	1,943,950	1,943,950
04.		Adult Protective Services	1,245,363	1,245,363
05.		State Adult Day Care Fund	1,994,084	1,994,084
06.		Child Protective Services/CPS Investigative Services – Child Medical Evaluation Program	563,868	563,868
07.		Special Children Adoption Incentive Fund	462,600	462,600
08.		Child Protective Services – Child Welfare Training for Counties (Transfer from TANF)	1,300,000	1,300,000
09.		Home and Community Care Block Grant (HCCBG)	1,696,888	1,696,888
10.		Child Advocacy Centers	375,000	375,000
11.		Guardianship	3,978,360	3,978,360
12.		UNC Cares Contract	229,376	~~229,376~~57,344
~~13.~~		~~Foster Care Services~~	~~1,385,152~~	~~1,385,152~~
		Division of Central Management and Support		
14.		DHHS Competitive Block Grants for Nonprofits	3,852,500	3,852,500
		Division of Mental Health, Developmental Disabilities, and Substance Abuse Services		
15.		Mental Health Services – Adult and Child/Developmental Disabilities Program/ Substance Abuse Services – Adult	4,030,730	4,030,730
		DHHS Program Expenditures		
		Division of Services for the Blind		
16.		Independent Living Program	3,361,323	3,361,323
		Division of Health Service Regulation		

17.	Adult Care Licensure Program	381,087	381,087
18.	Mental Health Licensure and Certification Program	190,284	190,284
DHHS Administration			
19.	Division of Aging and Adult Services	577,745	577,745
20.	Division of Social Services	559,109	559,109
21.	Office of the Secretary/Controller's Office	127,731	127,731
22.	Division of Child Development	13,878	13,878
23.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	27,446	27,446
24.	Division of Health Service Regulation	118,946	118,946
TOTAL SOCIAL SERVICES BLOCK GRANT		**$ 62,877,557**	**~~$ 62,877,557~~$ 59,325,251**
LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT			
Local Program Expenditures			
Division of Social Services			
01.	Low-Income Energy Assistance Program (LIEAP)	$ 50,876,440	$ 50,876,440
02.	Crisis Intervention Program (CIP)	33,866,195	33,866,195
Local Administration			
Division of Social Services			
03.	County DSS Administration	6,757,731	6,757,731
DHHS Administration			
04.	Office of the Secretary/DIRM	412,488	412,488
05.	Office of the Secretary/Controller's Office	18,378	18,378
Transfers to Other State Agencies			
Department of Environment and Natural Resources (DENR)			

06.	Weatherization Program	14,947,789	~~14,947,789~~12,473,090	
07.	Heating Air Repair and Replacement Program (HARRP)	7,193,873	~~7,193,873~~6,636,633	
08.	Local Residential Energy Efficiency Service Providers – Weatherization	37,257	~~37,257~~692,950	
09.	Local Residential Energy Efficiency Service Providers – HARRP	338,352	~~338,352~~312,227	
10.	DENR Administration – Weatherization	37,257	~~37,257~~692,950	
11.	DENR Administration – HARRP	338,352	~~338,352~~312,226	
	Department of Administration			
12.	N.C. Commission on Indian Affairs	87,736	87,736	
TOTAL LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT		**$ 114,911,848**	**~~$ 114,911,848~~$113,139,044**	
CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT				
Local Program Expenditures				
	Division of Child Development and Early Education			
01.	Child Care Services (Smart Start $7,000,000)	$ 156,566,345	~~$ 158,328,747~~$168,536,136	
02.	Electronic Tracking System	3,000,000	3,000,000	
03.	Transfer from TANF Block Grant for Child Care Subsidies	71,773,001	71,773,001	
04.	Quality and Availability Initiatives (TEACH Program $3,800,000)	24,262,402	~~22,500,000~~24,168,551	
DHHS Administration				
	Division of Child Development and Early Education			
05.	DCDEE Administrative Expenses	6,000,000	~~6,000,000~~7,677,977	
	Division of Social Services			
06.	Local Subsidized Child Care Services Support	13,274,413	13,274,413	

Division of Central Administration			
07.	DHHS Central Administration – DIRM Technical Services	775,000	775,000
08.	Central Regional Maintenance		202,000
TOTAL CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT		**$ 275,651,161**	**~~$ 275,651,161~~$289,407,078**
MENTAL HEALTH SERVICES BLOCK GRANT			
Local Program Expenditures			
01.	Mental Health Services – Adult	$ 10,717,607	~~$ 10,717,607~~
02.	Mental Health Services – Child	5,121,991	~~5,121,991~~3,619,833
03.	Administration	200,000	200,000
04.	Mental Health Services – Adult/Child		12,398,643
05.	Crisis Solutions Initiative – Critical Time Intervention		750,000
TOTAL MENTAL HEALTH SERVICES BLOCK GRANT		**$ 16,039,598**	**~~$ 16,039,598~~$ 16,968,476**
SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT			
Local Program Expenditures			
Division of Mental Health, Developmental Disabilities, and Substance Abuse Services			
~~01.~~	~~Substance Abuse Services – Adult~~	~~$ 14,960,371~~	~~$ 14,960,371~~
~~02.~~	~~Substance Abuse Treatment Alternative for Women~~	~~6,050,300~~	~~6,050,300~~
03.	Substance Abuse – HIV and IV Drug	3,919,723	3,919,723
~~04.~~	~~Substance Abuse Prevention – Child~~	~~7,186,857~~	~~7,186,857~~
04A.	Substance Abuse Prevention		8,669,284
~~05.~~	~~Substance Abuse Services – Child~~	~~4,190,500~~	~~4,190,500~~
05A.	Substance Abuse Services – Treatment for Children/Adults		31,125,883

05B.	Veteran's Crisis – DOA Veterans Affairs Call-in Crisis Center		250,000
06.	Administration	454,000	454,000
	Division of Public Health		
~~07.~~	~~Risk Reduction Projects~~	~~575,654~~	~~575,654~~
~~08.~~	~~Aid to Counties~~	~~190,295~~	~~190,295~~
08A.	HIV Testing for Individuals in Substance Abuse Treatment		765,949
TOTAL SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT		**$ 37,527,700**	**~~$ 37,527,700~~$ 45,184,839**
MATERNAL AND CHILD HEALTH BLOCK GRANT			
Local Program Expenditures			
	Division of Public Health		
01.	Children's Health Services (Safe Sleep Campaign $45,000)	$ 8,042,531	~~$ 8,042,531~~$ 7,574,703
02.	Women's Health (March of Dimes $350,000; Teen Pregnancy Prevention Initiatives $650,000; Perinatal Quality Collaborative $350,000; 17P Project $52,000; Carolina Pregnancy Care Fellowship ~~$250,000;~~$300,000; Nurse-Family Partnership $509,018)	8,532,935	~~8,532,935~~8,095,148
03.	Oral Health	44,901	44,901
DHHS Program Expenditures			
	Division of Public Health		
04.	Children's Health Services	1,301,504	~~1,301,504~~1,300,578
05.	Women's Health – Maternal Health	105,419	~~105,419~~105,361
06.	State Center for Health Statistics	164,487	~~164,487~~156,230
07.	Health Promotion – Injury and Violence Prevention	89,374	~~89,374~~84,919

DHHS Administration		
Division of Public Health		
08. Division of Public Health Administration	573,108	~~573,108~~552,571
TOTAL MATERNAL AND CHILD HEALTH BLOCK GRANT	**$ 18,854,259**	**~~$ 18,854,259~~$ 17,914,411**
PREVENTIVE HEALTH SERVICES BLOCK GRANT		
Local Program Expenditures		
01. Physical Activity and Prevention	$ 1,186,142	~~$ 1,186,142~~$ 2,079,945
02. Injury and Violence Prevention (Services to Rape Victims – Set-Aside)	169,730	~~169,730~~173,476
DHHS Program Expenditures		
Division of Public Health		
03. HIV/STD Prevention and Community Planning	145,819	145,819
04. Oral Health Preventive Services	46,302	46,302
05. Laboratory Services – Testing, Training, and Consultation	10,980	~~10,980~~21,012
06. Injury and Violence Prevention (Services to Rape Victims – Set-Aside)	199,634	199,634
07. Heart Disease and Stroke Prevention	162,249	~~162,249~~187,693
08. Performance Improvement and Accountability	213,971	~~213,971~~855,075
09. Physical Activity and Nutrition	38,000	~~38,000~~68,073
10. State Center for Health Statistics	61,406	~~61,406~~144,749
TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT	**$ 2,234,233**	**~~$ 2,234,233~~$ 3,921,778**
COMMUNITY SERVICES BLOCK GRANT		
Local Program Expenditures		
Office of Economic Opportunity		

01.	Community Action Agencies	$ 22,402,724	~~$ 22,402,724~~$ 24,168,417
02.	Limited Purpose Agencies	1,244,596	~~1,244,596~~1,342,690
DHHS Administration			
03.	Office of Economic Opportunity	1,244,596	~~1,244,596~~1,342,690
TOTAL COMMUNITY SERVICES BLOCK GRANT		**$ 24,891,916**	**~~$ 24,891,916~~$ 26,853,797**

"GENERAL PROVISIONS

"SECTION 12J.1.(b) Information to Be Included in Block Grant Plans. – The Department of Health and Human Services shall submit a separate plan for each Block Grant received and administered by the Department, and each plan shall include the following:

(1) A delineation of the proposed allocations by program or activity, including State and federal match requirements.

(2) A delineation of the proposed State and local administrative expenditures.

(3) An identification of all new positions to be established through the Block Grant, including permanent, temporary, and time-limited positions.

(4) A comparison of the proposed allocations by program or activity with two prior years' program and activity budgets and two prior years' actual program or activity expenditures.

(5) A projection of current year expenditures by program or activity.

(6) A projection of federal Block Grant funds available, including unspent federal funds from the current and prior fiscal years.

"SECTION 12J.1.(c) Changes in Federal Fund Availability. – If the Congress of the United States increases the federal fund availability for any of the Block Grants or contingency funds and other grants related to existing Block Grants administered by the Department of Health and Human Services from the amounts appropriated in this section, the Department shall allocate the increase proportionally across the program and activity appropriations identified for that Block Grant in this section. In allocating an increase in federal fund availability, the Office of State Budget and Management shall not approve funding for new programs or activities not appropriated in this section.

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

Notwithstanding the provisions of this subsection, for fiscal years 2013-2014 and 2014-2015, increases in the federal fund availability for the Temporary Assistance to Needy Families (TANF) Block Grant shall be used only for the North Carolina Child Care Subsidy program to pay for child care in four- or five-star rated facilities for four-year-old ~~children.~~children and shall not be used to supplant State funds.

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

"**SECTION 12J.1.(d)** Except as otherwise provided, appropriations from federal Block Grant funds are made for each year of the fiscal biennium ending June 30, 2015, according to the schedule enacted for State fiscal years 2013-2014 and 2014-2015 or until a new schedule is enacted by the General Assembly.

"**SECTION 12J.1.(e)** All changes to the budgeted allocations to the Block Grants or contingency funds and other grants related to existing Block Grants administered by the Department of Health and Human Services that are not specifically addressed in this section shall be approved by the Office of State Budget and Management, and the Office of State Budget and Management shall consult with the Joint Legislative Commission on Governmental Operations for review prior to implementing the changes. The report shall include an itemized listing of affected programs, including associated changes in budgeted allocations. All changes to the budgeted allocations to the Block Grants shall be reported immediately to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division. This subsection does not apply to Block Grant changes caused by legislative salary increases and benefit adjustments.

"**SECTION 12J.1.(e1)** Except as otherwise provided, the Department of Health and Human Services shall have flexibility to transfer funding between the Temporary Assistance to Needy Families (TANF) Block Grant and the TANF Emergency Contingency Funds Block Grant so long as the total allocation for the line items within those block grants remains the same.

"**TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) FUNDS**

"**SECTION 12J.1.(f)** The sum of eighty-two million four hundred eighty-five thousand four hundred ninety-five dollars ($82,485,495) appropriated in this section in TANF funds to the Department of Health and Human Services, Division of Social Services, for each year of the 2013-2015 fiscal biennium shall be used for Work First County Block Grants. The Division shall certify these funds in the appropriate State-level services based on prior year actual expenditures. The Division has the authority to realign the authorized budget for these funds among the State-level services based on current year actual expenditures.

"**SECTION 12J.1.(g)** The sum of two million four hundred eighty-two thousand two hundred sixty dollars ($2,482,260) appropriated in this section in TANF funds to the Department of Health and Human Services, Division of Social Services, for each year of the 2013-2015 fiscal biennium shall be used to support administration of TANF-funded programs.

"**SECTION 12J.1.(h)** The sum of nine million four hundred twelve thousand three hundred ninety-one dollars ($9,412,391) appropriated in this section to the Department of Health and Human Services, Division of Social Services, in TANF funds for each year of the 2013-2015 fiscal biennium for child welfare improvements shall be allocated to the county departments of social services for hiring or contracting staff to investigate and provide services in Child Protective Services cases; to provide foster care and support services; to recruit, train, license, and support prospective foster and adoptive families; and to provide interstate and post-adoption services for eligible families.

Counties shall maintain their level of expenditures in local funds for Child Protective Services workers. Of the Block Grant funds appropriated for Child Protective Services workers, the total expenditures from State and local funds for fiscal years 2013-2014 and 2014-2015 shall not be less than the total expended from State and local funds for the 2012-2013 fiscal year.

"**SECTION 12J.1.(i)** The sum of two million twenty-six thousand eight hundred seventy-seven dollars ($2,026,877) appropriated in this section in TANF funds to the Department of Health and Human Services, Special Children Adoption Fund, for each year of the 2013-2015 fiscal biennium shall be used in accordance with G.S. 108A-50.2. The Division

of Social Services, in consultation with the North Carolina Association of County Directors of Social Services and representatives of licensed private adoption agencies, shall develop guidelines for the awarding of funds to licensed public and private adoption agencies upon the adoption of children described in G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption Fund by participating agencies shall be used exclusively to enhance the adoption services program. No local match shall be required as a condition for receipt of these funds.

"**SECTION 12J.1.(j)** The sum of six hundred thirty-two thousand four hundred sixteen dollars ($632,416) appropriated in this section to the Department of Health and Human Services in TANF funds for each year of the 2013-2015 fiscal biennium shall be used to continue support for the Child Welfare Collaborative.

"**SOCIAL SERVICES BLOCK GRANT**

"**SECTION 12J.1.(k)** The sum of twenty-nine million four hundred twenty-two thousand one hundred thirty-seven dollars ($29,422,137) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for ~~each year of the 2013-2015 fiscal biennium~~the 2013-2014 fiscal year and the sum of twenty-seven million four hundred twenty-seven thousand fifteen dollars ($27,427,015) appropriated in this section in the Social Services Block Grant for the 2014-2015 fiscal year shall be used for county block grants. The Division shall certify these funds in the appropriate State-level services based on prior year actual expenditures. The Division has the authority to realign the authorized budget for these funds among the State-level services based on current year actual expenditures.

"**SECTION 12J.1.(l)** The sum of one million three hundred thousand dollars ($1,300,000) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for each year of the 2013-2015 fiscal biennium shall be used to support various child welfare training projects as follows:

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

"**SECTION 12J.1.(m)** The Department of Health and Human Services is authorized, subject to the approval of the Office of State Budget and Management, to transfer Social Services Block Grant funding allocated for departmental administration between divisions that have received administrative allocations from the Social Services Block Grant.

"**SECTION 12J.1.(n)** Social Services Block Grant funds appropriated for the Special Childrens Adoption Incentive Fund will require a fifty percent (50%) local match.

"**SECTION 12J.1.(o)** The sum of five million forty thousand dollars ($5,040,000) appropriated in this section in the Social Services Block Grant for each year of the 2013-2015 fiscal biennium shall be allocated to the Department of Health and Human Services, Division of Social Services. The Division shall allocate these funds to local departments of social services to replace the loss of Child Protective Services State funds that are currently used by county government to pay for Child Protective Services staff at the local level. These funds shall be used to maintain the number of Child Protective Services workers throughout the State. These Social Services Block Grant funds shall be used to pay for salaries and related expenses only and are exempt from 10A NCAC 71R .0201(3) requiring a local match of twenty-five percent (25%).

"**SECTION 12J.1.(p)** The sum of three million eight hundred fifty-two thousand five hundred dollars ($3,852,500) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Central Management and Support, shall be used for DHHS competitive block grants pursuant to Section 12A.2 of this act for each

year of the 2013-2015 fiscal biennium. These funds are exempt from the provisions of 10A NCAC 71R .0201(3).

"**SECTION 12J.1.(q)** The sum of three hundred seventy-five thousand dollars ($375,000) appropriated in this section in the Social Services Block Grant for each year of the 2013-2015 fiscal biennium to the Department of Health and Human Services, Division of Social Services, shall be used to continue support for the Child Advocacy Centers and are exempt from the provisions of 10A NCAC 71R .0201(3).

"**SECTION 12J.1.(r)** The sum of three million nine hundred seventy-eight thousand three hundred sixty dollars ($3,978,360) appropriated in this section in the Social Services Block Grant for each year of the 2013-2015 fiscal biennium to the Department of Health and Human Services, Divisions of Social Services and Aging and Adult Services, shall be used for guardianship services pursuant to Chapter 35A of the General Statutes. The Department may expend funds appropriated in this section to support (i) existing corporate guardianship contracts during the 2013-2014 and 2014-2015 fiscal years and (ii) guardianship contracts transferred to the State from local management entities or managed care organizations during the 2013-2014 and 2014-2015 fiscal years.

"**LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT**

"**SECTION 12J.1.(s)** Additional emergency contingency funds received may be allocated for Energy Assistance Payments or Crisis Intervention Payments without prior consultation with the Joint Legislative Commission on Governmental Operations. Additional funds received shall be reported to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division upon notification of the award. The Department of Health and Human Services shall not allocate funds for any activities, including increasing administration, other than assistance payments, without prior consultation with the Joint Legislative Commission on Governmental Operations.

"**SECTION 12J.1.(t)** The sum of fifty million eight hundred seventy-six thousand four hundred forty dollars ($50,876,440) appropriated in this section in the Low-Income Home Energy Assistance Block Grant for each year of the 2013-2015 fiscal biennium to the Department of Health and Human Services, Division of Social Services, shall be used for energy assistance payments for the households of (i) elderly persons age 60 and above with income up to one hundred thirty percent (130%) of the federal poverty level and (ii) disabled persons eligible for services funded through the Division of Aging and Adult Services.

County departments of social services shall submit to the Division of Social Services an outreach plan for targeting households with 60-year-old household members no later than August 1 of each year. The outreach plan shall comply with the following:

(1) Ensure that eligible households are made aware of the available assistance with particular attention paid to the elderly population age 60 and above and disabled persons receiving services through the Division of Aging and Adult Services.

(2) Include efforts by the county department of social services to contact other State and local governmental entities and community-based organizations to (i) offer the opportunity to provide outreach and (ii) receive applications for energy assistance.

(3) Be approved by the local board of social services or human services board prior to submission.

"**CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT**

"**SECTION 12J.1.(u)** Payment for subsidized child care services provided with federal TANF funds shall comply with all regulations and policies issued by the Division of Child Development for the subsidized child care program.

"**SECTION 12J.1.(v)** If funds appropriated through the Child Care and Development Fund Block Grant for any program cannot be obligated or spent in that program within the obligation or liquidation periods allowed by the federal grants, the Department may move funds to child care subsidies, unless otherwise prohibited by federal requirements of the grant, in order to use the federal funds fully.

"SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT

"**SECTION 12J.1.(v1)** The sum of two hundred fifty thousand dollars ($250,000) appropriated in this section in the Substance Abuse Prevention and Treatment Block Grant to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2014-2015 fiscal year shall be allocated to the Department of Administration, Division of Veterans Affairs, to establish a call-in center to assist veterans in locating service benefits and crisis services. The call-in center shall be staffed by certified veteran peers within the Division of Veterans Affairs and trained by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.

"MATERNAL AND CHILD HEALTH BLOCK GRANT

"**SECTION 12J.1.(w)** If federal funds are received under the Maternal and Child Health Block Grant for abstinence education, pursuant to section 912 of Public Law 104-193 (42 U.S.C. § 710), for the 2013-2014 fiscal year or the 2014-2015 fiscal year, then those funds shall be transferred to the State Board of Education to be administered by the Department of Public Instruction. The Department of Public Instruction shall use the funds to establish an abstinence until marriage education program and shall delegate to one or more persons the responsibility of implementing the program and G.S. 115C-81(e1)(4) and (4a). The Department of Public Instruction shall carefully and strictly follow federal guidelines in implementing and administering the abstinence education grant funds.

"**SECTION 12J.1.(x)** The Department of Health and Human Services shall ensure that there will be follow-up testing in the Newborn Screening Program."

PART XIII. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

PLANT SCIENCES RESEARCH AND INNOVATION INITIATIVE

SECTION 13.1.(a) The funds appropriated by this act to the Department of Agriculture and Consumer Services for the Plant Sciences Research initiative shall be transferred to North Carolina State University to develop a formal proposal and economic needs assessment for establishment of a public/private partnership between the University, other academic institutions, private companies in the agribusiness and bioscience sectors, and State regulatory agencies for the following amounts and purposes: (i) the sum of three hundred fifty thousand dollars ($350,000) for a partnership to be known as the "Plant Sciences Research and Innovation Initiative and (ii) the sum of two hundred fifty thousand dollars ($250,000) for a partnership to be known as the "Food Processing Initiative."

SECTION 13.1.(b) North Carolina State University shall submit a copy of the proposal and report to the Agriculture and Forestry Awareness Study Commission on the results of the economic needs assessment by January 1, 2015.

STATE FAIR ADMISSION

SECTION 13.2.(a) G.S. 150B-1(d) is amended by adding a new subdivision to read:

"(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the following:

...

(26) The Board of Agriculture in the Department of Agriculture and Consumer Services with respect to annual admission fees for the State Fair. The Board shall annually post the admission fee schedule on its Web site and provide notice of the fee schedule, along with a citation to this section, to all persons named on the mailing list maintained pursuant to G.S. 150B-21.2(d)."

SECTION 13.2.(b) This section is effective when it becomes law.

AGRICULTURAL WELL DEVELOPMENT AS CRITERIA FOR AGRICULTURAL WATER RESOURCES ASSISTANCE PROGRAM FUNDING

SECTION 13.3.(a) G.S. 139-60(c)(3) reads as rewritten:

"(3) Establish criteria to allocate funds to local soil and water conservation districts. The criteria shall include the development of agricultural wells. In considering agricultural well development, the Commission shall take into account the impact of new well placement upon the wells of adjoining and surrounding landowners."

SECTION 13.3.(b) This section is effective when it becomes law.

"GOT TO BE NC" MARKETING CAMPAIGN TO BE THE OFFICIAL AGRICULTURAL MARKETING CAMPAIGN FOR THE STATE

SECTION 13.4.(a) G.S. 106-550 reads as rewritten:

"**§ 106-550. Policy as to promotion of use of, and markets for, farm products.**

(a) It is declared to be in the interest of the public welfare that the North Carolina farmers who are producers of livestock, poultry, field crops and other agricultural products, including cattle, sheep, broilers, turkeys, commercial eggs, peanuts, cotton, potatoes, sweet potatoes, peaches, apples, berries, vegetables and other fruits of all kinds, as well as bulbs and flowers and other agricultural products having a domestic or foreign market, shall be permitted and encouraged to act jointly and in cooperation with growers, handlers, dealers and processors of such products in promoting and stimulating, by advertising and other methods, the increased production, use and sale, domestic and foreign, of any and all of such agricultural commodities. The provisions of this Article, however, shall not include the agricultural products of tobacco, strawberries, strawberry plants, porcine animals, or equines, with respect to which separate provisions have been made.

(b) The "Got to be NC" marketing campaign of the Department of Agriculture and Consumer Services shall be the official agricultural marketing campaign for the State."

SECTION 13.4.(b) This section is effective when it becomes law.

CREATE FARMERS MARKETS ENTERPRISE FUND

SECTION 13.5. Article 1 of Chapter 106 of the General Statutes is amended by adding a new section to read:

"**§ 106-6.4. State Farmers Markets Fund.**

The North Carolina Farmers Markets Fund is established as an enterprise fund within the Department of Agriculture and Consumer Services. The Fund shall consist of the operating budget and all receipts generated from farmers markets operated by the Department. For the purpose of maximizing agricultural activity, the Commissioner of Agriculture shall have the flexibility to allocate funds among the farmers markets operated by the Department."

CHANGE COUNTY CONTRIBUTION RATE FOR SUPPLEMENTARY FORESTRY FUNDING BY DACS

SECTION 13.6. G.S. 106-898 reads as rewritten:

"**§ 106-898. Duties of forest rangers; payment of expenses by State and counties.**

(a) Forest rangers shall have charge of measures for controlling forest fires, protection of forests from pests and diseases, and the development and improvement of the forests for maximum production of forest products; shall post along highways and in other conspicuous places copies of the forest fire laws and warnings against fires, which shall be supplied by the Commissioner; shall patrol and man lookout towers and other points during dry and dangerous seasons under the direction of the Commissioner; and shall perform such other acts and duties as shall be considered necessary by the Commissioner in the protection, development and improvement of the forested area of each of the counties within the State. No county may be held liable for any part of the expenses thus incurred unless specifically authorized by the board of county commissioners under prior written agreement with the Commissioner; appropriations for meeting the county's share of such expenses so authorized by the board of county commissioners shall be provided annually in the county budget. For each county in which financial participation by the county is authorized, the Commissioner shall keep or cause to be kept an itemized account of all expenses thus incurred and shall send such accounts periodically to the board of county commissioners of said county; upon approval by the board of the correctness of such accounts, the county commissioners shall issue or cause to be issued a warrant on the county treasury for the payment of the county's share of such expenditures, said payment to be made within one month after receipt of such statement from the Commissioner. Appropriations made by a county for the purposes set out in Articles 75, 76, 78, and 82 of this Chapter in the cooperative forest protection, development and improvement work are not to replace State and federal funds which may be available to the Commissioner for the work in said county, but are to serve as a supplement thereto. ~~Funds appropriated to the Department for a fiscal year for the purposes set out in Articles 75, 76, 78, and 82 of this Chapter shall not be expended in a county unless that county shall contribute at least twenty-five percent (25%) of the total cost of the forestry program.~~

(b) The Commissioner shall annually calculate the current sales ratio adjusted total taxable property values for each county for the purpose of determining cost-share requirements for each county. Counties shall be responsible for providing the cost-share requirements for expenses associated with county forest services based on the following:

County Sales Ratio Adjusted

Total Taxable Property	**County Cost-Share**
Less than $8 billion	40%
$8 billion or more, but less than $20 billion	50%
$20 billion or greater	60%

Funds appropriated to the Department for a fiscal year for the purposes set out in Articles 75, 76, 78, and 82 of this Chapter shall not be expended in a county unless that county contributes the cost-share requirement determined by the Commissioner pursuant to this subsection."

UNC TRANSFER FOR USE OF DACS RESEARCH STATIONS

SECTION 13.7. The University of North Carolina shall annually transfer to the Department of Agriculture and Consumer Services an amount calculated pursuant to this section for research projects conducted on research stations administered by the Department. For research conducted by an employee, foundation, or affiliate of The University of North

Carolina, the amount to be transferred is equal to the greater of (i) one hundred thousand dollars ($100,000) or (ii) the sum of the following:

(1) For research conducted that is not funded from State funds, an amount equal to fifty percent (50%) of the total facilities and administrative receipts collected for the project; and

(2) For research conducted that is funded from State funds, an amount equal to five percent (5%) of the total research project cost.

(3) For research conducted that is partially funded with State funds, the sum of (i) fifty percent (50%) of the total facilities and administrative receipts collected by the UNC System for the portion of the project funded from non-State funds, and (ii) five percent (5%) of the State funds contributed to the project.

If the research is conducted by an entity unaffiliated with The University of North Carolina and is not funded with State funds, the Department may use its discretion to determine the amount to be collected for the project.

DACS RESEARCH STATIONS

SECTION 13.8. G.S. 106-6.3 reads as rewritten:

"§ 106-6.3. Create special revenue fund for research stations.

The Research Stations Fund is established as a special revenue fund within the Department of Agriculture and Consumer Services, Division of Research Stations. This Fund shall consist of receipts from the sale of commodities produced on the Department's research stations and any gifts, bequests, or grants for the benefit of this Fund. No General Fund appropriations shall be credited to this Fund. Any balance exceeding one million dollars ($1,000,000) ~~remaining~~ in this Fund at the end of any fiscal year shall ~~not revert.~~revert to the General Fund. The Department ~~may~~ shall use this Fund only to develop, improve, repair, maintain, operate, or otherwise invest in research stations operated by the Department's Research ~~Station~~ Stations Division. Expenditures from this Fund shall not be used for agricultural research stations administered by other State agencies."

DACS AGWRAP & AG COST SHARE SPENDING

SECTION 13.9. Section 13.3(a)(2) of S.L. 2013-360 reads as rewritten:

"(2) Five hundred thousand dollars ($500,000) for ~~each fiscal year of~~ the ~~2013~~2014-2015 ~~biennium~~ fiscal year to the North Carolina Agricultural Water Resources Assistance Program or the Agriculture Cost Share Program for Nonpoint Source Pollution Control to fund projects in the following counties: Avery, Buncombe, Burke, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Swain, Transylvania, Watauga, Yancey."

CERTIFICATION OF PRIVATE PESTICIDE APPLICATORS

SECTION 13.10.(a) G.S. 143-440(b) reads as rewritten:

"(b) The Board may include in any such restricted use regulation the time and conditions of sale, distribution, or use of such restricted use pesticides, may prohibit the use of any restricted use pesticide for designated purposes or at designated times; may require the purchaser or user to certify that restricted use pesticides will be used only as labeled or as further restricted by regulation; may require the certification and recertification of private applicators, and charge a fee of up to ten dollars ($10.00), with the fee set at a level to make the certification/recertification program self-supporting, and, after opportunity for a hearing, may suspend, revoke or modify the certification for violation of any provision of this Article, or any

rule or regulation adopted thereunder; may adopt rules to classify private applicators; and may, if it deems it necessary to carry out the provisions of this Part, require that any or all restricted use pesticides shall be purchased, possessed, or used only under permit of the Board and under its direct supervision in certain areas and/or under certain conditions or in certain quantities or concentrations except that any person licensed to sell such pesticides may purchase and possess such pesticides without a permit. The Board may require all persons issued such permits to maintain records as to the use of the restricted use pesticides. The Board may authorize the use of restricted use pesticides by persons licensed under the North Carolina Structural Pest Control Act without a permit. A nonrefundable fee of ten dollars ($10.00) shall be charged for each examination required by this section. This examination fee is in addition to the certification or recertification fee, and any other fee authorized pursuant to any other provision of Article 4C of Chapter 106 of the General Statutes."

SECTION 13.10.(b) This section is effective when it becomes law.

INCREASE FEES ASSOCIATED WITH NATIONAL POULTRY IMPROVEMENT PLAN

SECTION 13.11. G.S. 106-543 reads as rewritten:

"**§ 106-543. Requirements of national poultry improvement plan must be met.**

(a) All baby chicks, turkey poults and hatching eggs produced, sold or offered for sale shall originate in flocks that meet the requirements of the national poultry improvement plan as administered by the North Carolina Department of Agriculture and Consumer Services and the regulations issued by authority of this Article for the control of pullorum disease and other infectious diseases provided that nothing in this Article shall require any hatchery to adopt the national poultry improvement plan.

(b) The Department of Agriculture and Consumer Services shall charge the following fees for certification in the national poultry improvement plan:

(1) An initial certification fee of fifty dollars ($50.00), plus ten cents (10¢) per bird.

(2) An annual recertification fee of ten dollars ($10.00), plus ten cents (10¢) per bird."

DACS AGRICULTURAL CENTER GROWTH STUDY

SECTION 13.12.(a) The Department of Agriculture and Consumer Services shall study and recommend alternatives for the existing operating models of the Western North Carolina Agricultural Center, the Southeastern Agricultural Events Center, and the Senator Bob Martin Agricultural Center. In conducting the study, the Department shall consider alternative models that allow the Centers to operate without, or with substantially reduced, State funding. The alternative funding models shall consider increasing receipts from increased fees, alternative funding streams, reduced costs, or a combination of these methods. At a minimum, the Department shall study and report on the feasibility and budgetary impact of the following:

(1) Reduction of costs, including, but not limited to:
   a. Pooling of funding between the Agricultural Centers, including all receipts generated from events hosted at the Centers.
   b. Contracting with private vendors to operate all or part of one or more of the Agricultural Centers.
   c. Partnering with or consolidating offices with other State agencies to locate their regional offices within suitable portions of Agricultural Center property.
   d. Reducing staffing or service levels.
   e. Eliminating programs and facilities that fail to generate net revenue.

(2) Increasing revenue generation, including, but not limited to:
a. Adding attractions and services that increase the number of visitors and revenue to the Agricultural Centers.
b. Establishing or increasing user fees and admission charges.
c. Partnering with other State, local, and private entities to draw new visitors to the Agricultural Centers.
d. Leasing or transferring eligible facilities to other governmental entities.

SECTION 13.12.(b) If the Department is unable to identify an operating model for the Agricultural Centers that allows the Centers to operate without State funding, the Department shall (i) provide an analysis of the anticipated market value of the Centers' assets and property, (ii) seek input from respective local government units regarding any potential interest in acquiring those assets and property, and (iii) document responses from local governments regarding their interest in acquiring the respective property.

SECTION 13.12.(c) The Department shall report its findings and operating model recommendations for each Agricultural Center to the Senate Appropriations Committee on Natural and Economic Resources, the House Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division on or before February 1, 2015.

FEES FOR FOREST MANAGEMENT PLANS

SECTION 13.13.(a) Article 83 of Chapter 106 of the General Statutes is amended by adding a new section to read:

"**§ 106-1013.1. Forest management plans.**

The Commissioner shall charge landowners the following fee for preparation of forest management plans:

(1) Two hundred fifty dollars ($250.00) for plans for tracts of land of less than 20 acres.
(2) Five hundred dollars ($500.00) for plans for tracts of land of 20 acres or more and less than 50 acres.
(3) Seven hundred fifty dollars ($750.00) for plans for tracts of land of 50 acres of more."

SECTION 13.13.(b) This section becomes effective July 1, 2014, and applies to forest management plans prepared on or after that date.

UMSTEAD RESEARCH STATION

SECTION 13.14. The Department of Administration, at the discretion of the Secretary of Administration, may offer the Umstead Research Station to the federal government in exchange for all or part of the federally owned property described in Section 14.7(h) of this act.

PART XIV. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

AGENCIES REPORT ON FEDERAL GRANTS

SECTION 14.1.(a) The Department of Environment and Natural Resources, the Department of Labor, the Department of Commerce, and the Department of Agriculture shall review every federal grant received by the respective departments and report no later than February 1, 2015, to the Chairs of the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, the Chairs of the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division regarding the source and amount of the grant, the match required for the grant from State funds, and any conditions,

limitations, restrictions, or additional actions or programs the department is required to fulfill or undertake as a result of accepting the grant.

SECTION 14.1.(b) This section applies to grants received on or after July 1, 2014.

NER FACILITIES AND ADMINISTRATIVE FEES

SECTION 14.2. The Department of Agriculture, the Department of Commerce, the North Carolina Biotechnology Center, and the Department of Environment and Natural Resources shall negotiate indirect cost waivers with every constituent institution of The University of North Carolina performing State-funded research for the Center or the respective Departments. The waivers shall provide that the Center or the Departments pay facilities and administrative costs at a rate no greater than the lowest rate paid by any other State agency, department, or commission for research at that constituent institution.

PROGRAM EVALUATION DIVISION TO STUDY HOUSING PROGRAMS

SECTION 14.3.(a) The Joint Legislative Program Evaluation Oversight Committee shall include in the 2014-2015 Work Plan for the Program Evaluation Division of the General Assembly a study of the various programs related to housing conducted by State departments, agencies, and commissions, including the weatherization program of the Department of Environment and Natural Resources. The Program Evaluation Division shall include examinations of the following in the study:

(1) Overlap or duplication between programs and the possible cost-savings or other benefits from the merger of certain housing programs.

(2) Unmet needs or gaps in the State's housing programs, when compared to services or programs offered by other states.

(3) Any recommendations for changes in housing program governance for programs that are outside or only marginally within the core mission of their governing department, agency, or commission.

SECTION 14.3.(b) The Program Evaluation Division shall submit its findings and recommendations to the Joint Legislative Program Evaluation Oversight Committee, the Chairs of the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, the Chairs of the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division at a date to be determined by the Joint Legislative Program Evaluation Oversight Committee.

COASTAL AND ESTUARINE WATER BEACH ACCESS PROGRAM

SECTION 14.4.(a) Funds transferred from the Parks and Recreation Trust Fund to the Division of Coastal Management pursuant to G.S. 113-44.15(b)(3) for the Coastal and Estuarine Water Beach Access Program shall be deposited in a noninterest-bearing special fund to be titled Coastal and Estuarine Water Beach Access Fund. The Fund shall be a special revenue fund consisting of gifts and grants to the Fund and other monies appropriated to the Fund by the General Assembly.

SECTION 14.4.(b) Funds previously transferred from the Parks and Recreation Trust Fund to the Division of Coastal Management for the Coastal and Estuarine Water Beach Access Program that were deposited in capital funds shall be transferred to the Coastal and Estuarine Water Beach Access Fund established by subsection (a) of this section no later than September 30, 2014.

CAROLINA BEACH STATE PARK MARINA

SECTION 14.5.(a) The Department of Environment and Natural Resources, Division of Parks and Recreation, shall issue a request for information (RFI) to solicit

proposals for a sublease to private parties for the operation of the State-owned marina at Carolina Beach State Park. The RFI shall contain sufficient detail to address the following:

(1) The services to be performed by the private party and performance expectations.

(2) Payment and record-keeping requirements.

(3) Compliance with State parks system rules and regulations and standards of the Division of Coastal Management's Clean Marina program.

SECTION 14.5.(b) The Division of Parks and Recreation shall report to the chairs of the Senate Appropriations Committee on Natural and Economic Resources, the chairs of the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division no later than February 1, 2015, on the results of the RFI and whether it is more cost-effective to have a private party manage the marina than internal management.

STATE ATTRACTIONS CONSULTANT STUDY

SECTION 14.6. Of the funds appropriated by this act to the Department of Environment and Natural Resources, the sum of two hundred fifty thousand dollars ($250,000) for the 2014-2015 fiscal year shall be used to hire a consultant to review the operation of State natural resource, historic, and cultural sites and to make recommendations for maximizing their value to the citizens of this State while simultaneously reducing the cost to the State for their operation. State agencies and employees shall fully cooperate with the consultant by providing requested information about the operation of State natural resource, historic, and cultural sites. The consultant shall report its findings to the Department of Cultural Resources, to the Department of Environment and Natural Resources, to the Department of Agriculture and Consumer Services, to the Wildlife Resources Commission, to the Legislative Research Commission, and to the Fiscal Research Division no later than October 1, 2015. The recommendations shall not include recommendations to sell State properties or to change the present use and character of State natural resource, historic, and cultural sites. The recommendations shall address at least the following:

(1) Whether cost-savings could be realized by allowing private entities to operate certain State sites.

(2) Whether limiting operating hours, mothballing, or imposing other cost-savings measures should be adopted at certain natural resource, historic, and cultural sites.

OREGON INLET

SECTION 14.7.(a) Article 36 of Chapter 143 of the General Statutes is amended by adding a new Part to read:

"Part 4. Outer Banks Land Management.

"**§ 143-345.18A. Outer Banks Land Management Fund.**

(a) Creation. – There is created the Outer Banks Land Management Fund as a noninterest-bearing special revenue fund in the Department of Environment and Natural Resources.

(b) Uses. – The Secretary of Environment and Natural Resources may use funds in the Outer Banks Land Management Fund for any of the following purposes:

(1) To purchase land, including submerged land, on behalf of the State for inclusion in a State park on or near Oregon Inlet.

(2) To reimburse the Department of Administration for the costs of any appraisals of real property, studies, surveys, data collection, or analysis

conducted in connection with the acquisition of real property for inclusion in a State park on or near Oregon Inlet.

(3) To pay the costs of dredging projects designed to restore the Oregon Inlet shallow draft navigation channel to a navigable and safe condition. A dredging project shall not be funded pursuant to this subdivision unless the Secretary of the Department of Environment and Natural Resources approves the project. An expenditure of funds pursuant to this subdivision shall be in addition to any expenditure of funds pursuant to Part 8B of Article 21 of Chapter 143 of the General Statutes for Oregon Inlet dredging projects.

(4) To pay the costs of engaging the services of private counsel as authorized by G.S. 143-345.18B and to pay related litigation costs.

(c) Inclusion of Land in State Parks System. – Land purchased pursuant to subdivision (b)(1) of this section is authorized to be added to the State Parks System pursuant to G.S. 113-44.14(b).

"**§ 143-345.18B. Use of private counsel; payment of litigation costs.**

(a) Authority. – Notwithstanding G.S. 114-2.3, the Department of Administration and the Department of Environment and Natural Resources may engage the services of private counsel with the pertinent expertise to timely defend or otherwise resolve legal challenges related to the purchase, condemnation, exchange, or use of real property on the Outer Banks and shall not be required to obtain written permission from the Attorney General.

(b) Supervision. – Notwithstanding G.S. 114-2.3, the Departments shall supervise and manage the private counsel engaged under this section.

(c) Reporting. – The Departments shall report the engagement of private counsel under this section within 30 days to all of the following:

(1) To the General Assembly, as follows:

a. If the General Assembly is in session, to the chairs of the House of Representatives Appropriations Subcommittee on General Government, the chairs of the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, the chairs of the Senate Appropriations Committee on General Government, and the chairs of the Senate Appropriations Committee on Natural and Economic Resources.

b. If the General Assembly is not in session or adjourns during the 30-day period, to the chairs of the Joint Legislative Commission on Governmental Operations.

(2) To the Attorney General.

(3) To the Fiscal Research Division."

SECTION 14.7.(b) Funding. – Notwithstanding any other provision of law to the contrary, the following amounts shall be transferred to the Outer Banks Land Management Fund no later than September 1, 2014:

Budget Code	Fund Code	Description	FY 2014-2015 Amount
23400	2392	Advance License Sales Fund	$ 3,500,000
24609	2568	Utility Account Cash Balance	3,500,000

SECTION 14.7.(c) Acquisition Agreement. – Notwithstanding Chapter 146 of the General Statutes or any other provision of law, the Department of Administration, on behalf of the State, shall enter into an agreement to acquire the federally owned property described in subsection (h) of this section from the federal government (i) with funds in the Outer Banks Land Management Fund created by Section 1(a) of this act; (ii) in exchange for State-owned real property; or (iii) with some combination of funds from the Outer Banks Land Management

Fund and exchange of State-owned real property, in the sole discretion of the Secretary of Administration. Only State-owned real property that is adjacent to federally owned real property or within 100 miles of such real property may be exchanged pursuant to this subsection.

SECTION 14.7.(d) Terms. – The Secretary of the Department of Administration shall have the authority to negotiate the terms of the acquisition agreement. The agreement (i) shall provide for the acquisition of interests in real property described in subsection (h) of this section and no other; (ii) shall provide that the conveyances described in the agreement become effective as soon as practicable; and (iii) shall incorporate the relevant terms of this act.

SECTION 14.7.(e) Execution of Deeds. – Within 30 days of the acquisition becoming effective, the Attorney General shall execute any documents or deeds necessary to effectuate the acquisition under the exact terms set forth in the acquisition agreement. All State agencies and officials shall cooperate to the fullest extent possible in effectuating the acquisition agreement.

SECTION 14.7.(f) Reporting. – Within 30 days after an agreement is entered into pursuant to this section, the Secretary of the Department of Administration shall report to the Joint Legislative Commission on Governmental Operations on the terms of the agreement.

SECTION 14.7.(g) Creation of Oregon Inlet State Park. – If the real property described in subsection (h) of this section is acquired by the State, then together with any other real property owned by the State within the area described in subsection (h) of this section, the General Assembly authorizes the Department of Environment and Natural Resources to add Oregon Inlet State Park, which shall consist of at least these properties, to the State Parks System as provided in G.S. 113-44.14(b).

SECTION 14.7.(h) Federal Property to Be Conveyed. – The federally owned property to be conveyed shall include all of the federal government's right, title, and interest in (i) some or all of the subaerial real property located within the area described by connecting the following latitude and longitude points and (ii) all of the submerged real property located within the area described by connecting the following latitude and longitude points:

Latitude:	Longitude:
35.78099563900	-75.52953510600
35.78178528500	-75.52513394400
35.78141354400	-75.52334019100
35.77887390700	-75.52025162500
35.77857436500	-75.51969654900
35.77781290800	-75.51900873900
35.77734893400	-75.51884305500
35.77110009400	-75.51641608800
35.76633568000	-75.51356516200
35.76116258500	-75.51036495800
35.75751496100	-75.50801176500
35.75608651600	-75.51228522200
35.75777480300	-75.51379949200
35.75860596900	-75.51451482100
35.75960484700	-75.51540263600
35.76100041400	-75.51665469900
35.76117351400	-75.51681019600
35.76212525300	-75.51767780700
35.76287562800	-75.51836186100
35.76316770200	-75.51862812200
35.76381492400	-75.51921814800

35.76415098700	-75.51955669900
35.76445468400	-75.51995078300
35.76485826900	-75.52059025200
35.76505577400	-75.52094720300
35.76528160600	-75.52142243500
35.76548548000	-75.52198988800
35.76556574300	-75.52341266800
35.76566877400	-75.52523906000
35.76454632200	-75.52902085700
35.76357138700	-75.53246190700
35.76337226200	-75.53339199600
35.76333441200	-75.53364756500
35.76332909000	-75.53390886900
35.76335819500	-75.53458675100
35.76341367100	-75.53498008200
35.76354478800	-75.53535025300
35.76361737400	-75.53547511500
35.76383009500	-75.53584104000
35.76425804000	-75.53655388200
35.76471137600	-75.53740653000
35.76502225800	-75.53875413900
35.76521060100	-75.54081681300
35.76523404100	-75.54194712400
35.76525043500	-75.54273769600
35.76526768700	-75.54353888100
35.76532715800	-75.54394387700
35.76541340600	-75.54428520100
35.76550080400	-75.54463107400
35.76577010000	-75.54534161500
35.76597248500	-75.54579049600
35.76632062300	-75.54620555000
35.76655164400	-75.54635947100
35.76725670200	-75.54660003000
35.76764041200	-75.54670534600
35.76795847900	-75.54670661900
35.77077784300	-75.54629895400
35.77115918300	-75.54624921300
35.77148150500	-75.54619720600
35.77234520600	-75.54605784500
35.77377517700	-75.54582711000
35.77469339200	-75.54566942900
35.77590248800	-75.54531166000
35.77673545200	-75.54571296000
35.77711645600	-75.54582301200
35.77742981800	-75.54581293600
35.77771608200	-75.54572387500
35.77791539100	-75.54559449800
35.77810904100	-75.54546879500
35.77904847600	-75.54478184500
35.77912430900	-75.54486803600

35.77981427400	-75.54534862400
35.78042966800	-75.54567367500
35.78135818100	-75.54600030500
35.78175635200	-75.54606539500
35.78221194600	-75.54612839200
35.78279713100	-75.54636296300
35.78378882800	-75.54668308800
35.78766932400	-75.54709605000
35.79082109200	-75.54691243300
35.79820587700	-75.54665906000
35.79859286600	-75.54249624600
35.80046065100	-75.53877586500
35.79408521600	-75.53252823100
35.79248815800	-75.53183764800
35.79151104100	-75.53197071600
35.78867341400	-75.53323291600
35.76886839300	-75.52536743000
35.76724598100	-75.52438052100
35.76805629700	-75.52240411900
35.76966632600	-75.52339266000
35.76886839300	-75.52536743000.

SECTION 14.7.(i) Condemnation Authority. – On July 1, 2015, the Department of Administration shall, in accordance with applicable law and terms reserved in any relevant deeds, commence condemnation proceedings on all federally owned property that are necessary to manage existing and future transportation corridors on the Outer Banks, as determined pursuant to subsection (j) of this section. The Department of Administration shall report the commencement of condemnation proceedings to the General Assembly, as follows:

(1) If the General Assembly is in session, the Department shall report to the chairs of the House of Representatives Appropriations Committee, the chairs of the Senate Appropriations Committee, and the Fiscal Research Division.

(2) If the General Assembly is not in session, the Department shall report to the chairs of the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division.

SECTION 14.7.(j) Identification of Outer Banks Transportation Corridor. – No later than November 30, 2014, the Department of Transportation shall identify federally-owned property that is necessary to construct or to manage existing and future transportation corridors on the Outer Banks and shall report this information to the chairs of the Joint Legislative Transportation Oversight Committee, to the Secretary of the Department of Administration, and to the Fiscal Research Division.

SECTION 14.7.(k) G.S. 166A-19.30(a) reads as rewritten:

"**§ 166A-19.30. Additional powers of the Governor during state of emergency.**

(a) In addition to any other powers conferred upon the Governor by law, during a gubernatorially or legislatively declared state of emergency, the Governor shall have the following powers:

(1) To utilize all available State resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of State agencies or units thereof for the purpose of performing or facilitating emergency services.

(2) To take such action and give such directions to State and local law enforcement officers and agencies as may be reasonable and necessary for

the purpose of securing compliance with the provisions of this Article and with the orders, rules, and regulations made pursuant thereto.

(3) To take steps to assure that measures, including the installation of public utilities, are taken when necessary to qualify for temporary housing assistance from the federal government when that assistance is required to protect the public health, welfare, and safety.

(4) Subject to the provisions of the State Constitution to relieve any public official having administrative responsibilities under this Article of such responsibilities for willful failure to obey an order, rule, or regulation adopted pursuant to this Article.

(5) Through issuance of an executive order to waive requirements for an environmental document or permit issued under Articles 1, 4, and 7 of Chapter 113A of the General Statutes for the repair, protection, safety enhancement, or replacement of a component of the State highway system that provides the sole road access to an incorporated municipality or an unincorporated inhabited area bordering the Atlantic Ocean or any coastal sound where bridge or road conditions as a result of the events leading to the declaration of the state of emergency pose a substantial risk to public health, safety, or welfare. The executive order shall list the duration of the waiver and the activities to which the waiver applies. For purposes of this subdivision, "coastal sound" shall have the definition set forth in G.S. 113A-103, and "replacement" shall not be interpreted to exclude a replacement that increases size or capacity or that is located in a different location than the component that is replaced."

SECTION 14.7.(l) G.S. 113A-12 is amended by adding a new subdivision to read:

"(7) The issuance of an executive order under G.S. 166A-19.30(a)(5) waiving the requirement for an environmental document."

SECTION 14.7.(m) G.S. 113A-52.01 reads as rewritten:

"**§ 113A-52.01. Applicability of this Article.**

This Article shall not apply to the following land-disturbing activities:

...

(4) For the duration of an emergency, activities essential to protect human ~~life.~~life, including activities specified in an executive order issued under G.S. 166A-19.30(a)(5)."

SECTION 14.7.(n) G.S. 113A-103(5)b.1. reads as rewritten:

"**§ 113A-103. Definitions.**

As used in this Article:

...

(5) a. "Development" means any activity in a duly designated area of environmental concern (except as provided in paragraph b of this subdivision) involving, requiring, or consisting of the construction or enlargement of a structure; excavation; dredging; filling; dumping; removal of clay, silt, sand, gravel or minerals; bulkheading, driving of pilings; clearing or alteration of land as an adjunct of construction; alteration or removal of sand dunes; alteration of the shore, bank, or bottom of the Atlantic Ocean or any sound, bay, river, creek, stream, lake, or canal; or placement of a floating structure in an area of environmental concern identified in G.S. 113A-113(b)(2) or (b)(5).

b. The following activities including the normal and incidental operations associated therewith shall not be deemed to be development under this section:

1. Work by a highway or road agency for the maintenance of an existing road, if the work is carried out on land within the boundaries of the existing ~~right-of-way;~~right-of-way, or for emergency repairs and safety enhancements of an existing road as described in an executive order issued under G.S. 166A-19.30(a)(5)."

SECTION 14.7.(o) Notwithstanding the provisions of Chapter 146 of the General Statutes, Article 9A of Chapter 113A of the General Statutes, or any other provision of law, neither the Governor nor the Council of State shall be required to approve any conveyance, exchange, or condemnation made pursuant to this section, nor shall consultation with or reporting to the Joint Legislative Commission on Governmental Operations be required prior to the conveyance, exchange, or condemnation, except as set forth in subsection (j) of this section.

TECHNICAL CORRECTIONS: CWMTF

SECTION 14.8.(a) G.S. 113A-251 reads as rewritten:

"§ 113A-251. Purpose.

~~The General Assembly recognizes that a critical need exists in this State to clean up pollution in the State's surface waters and to protect, preserve, and conserve those waters that are not yet polluted. The task of cleaning up polluted waters and protecting and enhancing the State's water resources is multifaceted and requires different approaches, including innovative pilot projects, that take into account the problems, the type of pollution, the geographical area, and the recognition that the hydrological and ecological values of each resource sought to be upgraded, conserved, and protected are unique.~~

It is the intent of the General Assembly that moneys from the Fund created under this Article shall be used to help finance projects that enhance or restore degraded surface waters; protect and conserve surface waters, including drinking supplies, and contribute toward a network of riparian buffers and greenways for environmental, educational, and recreational benefits; provide buffers around military bases to protect the military mission; acquire land that represents the ecological diversity of North Carolina; and acquire land that contributes to the development of a balanced State program of historic properties.~~specifically address water pollution problems and focus on upgrading surface waters, eliminating pollution, and protecting, preserving, and conserving unpolluted surface waters, including enhancement or development of drinking water supplies. It is the further intent of the General Assembly that moneys from the Fund also be used to build a network of riparian buffers and greenways for environmental, educational, and recreational benefits. It is lastly the intent of the General Assembly that moneys from the Fund also be used to preserve lands that could be used for water supply reservoirs. While the purpose of this Article is to focus on the cleanup and prevention of pollution of the State's surface waters, the establishment of a network of riparian buffers and greenways, and the preservation of property for establishing clean water supplies, the General Assembly believes that the results of these efforts will also be beneficial to wildlife and marine fisheries habitats.~~"

SECTION 14.8.(b) G.S. 113A-252 reads as rewritten:

"§ 113A-252. Definitions.

The following definitions apply in this Article:

(1) Council. – The advisory council for the Clean Water Management Trust Fund.

~~(2) Economically distressed local government unit. – An economically distressed county, as defined in G.S. 143B-437.01, or a local government unit located in that county.~~

(3) Fund. – The Clean Water Management Trust Fund created pursuant to this Article.

(4) Land. – Real property and any interest in, easement in, or restriction on real property.

(4a) Local government unit. – Defined in G.S. 159G-20.

~~(4b) Stormwater quality project. – Defined in G.S. 159G-20.~~

(5) Trustees. – The trustees of the Clean Water Management Trust Fund.

~~(6) Wastewater collection system. – Defined in G.S. 159G-20.~~

~~(7) Wastewater treatment works. – Defined in G.S. 159G-20.~~"

SECTION 14.8.(c) G.S. 113A-254 reads as rewritten:

"**§ 113A-254. Grant requirements.**

(a) Eligible Applicants. – Any of the following are eligible to apply for a grant from the Fund for the purpose of protecting and enhancing water quality:

(1) A State agency.

(2) A local government unit.

(3) A nonprofit corporation whose primary purpose is the conservation, preservation, ~~and~~ or restoration of our State's ~~environmental and natural~~ cultural, environmental, or natural resources.

(a1) Criteria. – The criteria developed by the Trustees under G.S. 113A-256 apply to grants made under this Article. ~~The common criteria for water projects set in G.S. 159G-23 and the criteria set out in this section also apply to wastewater collection system projects, wastewater treatment works projects, and stormwater quality projects. An application for a wastewater collection system project or a wastewater treatment works project that serves an economically distressed local government unit has priority.~~

...

~~(d) Wastewater Limits. – A wastewater collection system project or a wastewater treatment works project is eligible for a grant under this Article only if it is a high unit cost project, as defined in G.S. 159G-20. A planning grant or a technical assistance grant for a regional wastewater collection system or a regional wastewater treatment works is not subject to the high unit cost threshold. A grant made under this Article for a wastewater collection system project or a wastewater treatment works project is subject to the cost limits and recipient limits set in G.S. 159G-36 for a grant awarded from the Wastewater Reserve.~~

~~(e) Stormwater Limits. – The amount of a grant awarded under this Article for a stormwater quality project may not exceed the construction costs of the project. The total amount of grants awarded under this Article to the same recipient for stormwater quality projects for a fiscal year may not exceed the limit set in G.S. 159G-36(c)(1) for grants to the same recipient from the Wastewater Reserve.~~

...."

SECTION 14.8.(d) G.S. 113A-255(b1) is amended by adding a new subdivision to read:

"(b1) Qualifications. – The office of Trustee is declared to be an office that may be held concurrently with any other executive or appointive office, under the authority of Article VI, Section 9, of the North Carolina Constitution. When appointing members of the Authority, the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives shall give consideration to adequate representation from the various regions of the State and shall give consideration to the appointment of members who are knowledgeable in any of the following areas:

...

(5) Historic preservation."

SECTION 14.8.(e) G.S. 113A-256(b) reads as rewritten:

"(b) Develop Grant Criteria. – The Trustees shall develop criteria for awarding grants under this Article. The criteria developed shall include consideration of the following:

...

(2) The objectives of the various basinwide management plans for the State's river basins and watersheds.

...."

SECTION 14.8.(f) G.S. 113A-259 reads as rewritten:

"**§ 113A-259. Clean Water Management Trust Fund: Advisory Council.**

There is established the Clean Water Management Trust Fund Advisory Council. The Council shall advise the Trustees with regard to allocations made from the Fund, and other issues as requested by the Trustees. The Council shall be composed of the following or its designees:

(1) Commissioner of Agriculture.
(2) Chair of the Wildlife Resources Commission.
(3) Secretary of Environment and Natural Resources.
(4) Secretary of the Department of Commerce.
(5) Secretary of the Department of Cultural Resources."

COMMERCIAL FISHING LICENSES

SECTION 14.9.(a) G.S. 113-168.1(h) reads as rewritten:

"(h) Replacement Licenses and Endorsements. – The Division shall issue a replacement license, including any endorsements, to a licensee for a license that has not been suspended or revoked. A licensee may apply for a replacement license for a license that has been lost, stolen, or destroyed and shall apply for a replacement license within 30 days of a change in the licensee's name or address. A licensee may apply for a replacement license in person at any office of the Division or by mail to the Morehead City office of the Division. A licensee may use a copy of the application for a replacement license that has been filed with the Division as a temporary license until the licensee receives the replacement license. The Commission may establish a fee for each type of replacement license, not to exceed ~~twelve dollars and fifty cents ($12.50),~~ten dollars ($10.00), that compensates the Division for the administrative costs associated with issuing the replacement license."

SECTION 14.9.(b) G.S. 113-168.2(e) reads as rewritten:

"(e) Fees. – The annual SCFL fee for a resident of this State shall be ~~two hundred fifty dollars ($250.00).~~four hundred dollars ($400.00). The annual SCFL fee for a person who is not a resident of this State shall be the amount charged to a resident of this State in the nonresident's state. In no event, however, may the fee be less than ~~two hundred fifty dollars ($250.00).~~four hundred dollars ($400.00). For purposes of this subsection, a "resident of this State" is a person who is a resident within the meaning of:

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

SECTION 14.9.(c) G.S. 113-168.3(b) reads as rewritten:

"(b) Eligibility; Fees. – Any individual who is 65 years of age or older and who is eligible for a SCFL under G.S. 113-168.2 may apply for either a SCFL or RSCFL. An applicant for a RSCFL shall provide proof of age at the time the application is made. The annual fee for a RSCFL for a resident of this State shall be ~~one hundred twenty-five dollars ($125.00).~~two

hundred dollars ($200.00). The annual fee for a RSCFL for a person who is not a resident of this State shall be ~~one hundred sixty two dollars and fifty cents ($162.50).~~two hundred dollars ($200.00). For purposes of this subsection, a "resident of this State" is a person who is a resident within the meaning of:

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

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

SECTION 14.9.(d) G.S. 113-168.4(c) reads as rewritten:

"(c) A person who organizes a recreational fishing tournament may sell fish taken in connection with the tournament pursuant to a recreational fishing tournament license to sell fish. A person who organizes a recreational fishing tournament may obtain a recreational fishing tournament license to sell fish upon application to the Division and payment of a fee of ~~one hundred twenty five dollars ($125.00).~~one hundred dollars ($100.00). It is unlawful for any person licensed under this subsection to sell fish to any person other than a fish dealer licensed under G.S. 113-169.3 unless the seller is also a licensed fish dealer. A recreational fishing tournament is an organized fishing competition occurring within a specified time period not to exceed one week and that is not a commercial fishing operation. Gross proceeds from the sale of fish may be used only for charitable, religious, educational, civic, or conservation purposes and shall not be used to pay tournament expenses."

SECTION 14.9.(e) G.S. 113-168.6(c) reads as rewritten:

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

(1) ~~One dollar and twenty five cents ($1.25)~~One dollar ($1.00) per foot for a vessel not over 18 feet in length.

(2) ~~One dollar and ninety cents ($1.90)~~One dollar and fifty cents ($1.50) per foot for a vessel over 18 feet but not over 38 feet in length.

(3) ~~Three dollars and seventy five cents ($3.75)~~Three dollars ($3.00) per foot for a vessel over 38 feet but not over 50 feet in length.

(4) ~~Seven dollars and fifty cents ($7.50)~~Six dollars ($6.00) per foot for a vessel over 50 feet in length."

SECTION 14.9.(f) G.S. 113-169.1 reads as rewritten:

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

(a) The Commission may adopt rules to establish permits for gear, equipment, and specialized activities, including commercial fishing operations that do not involve the use of a vessel and transplanting oysters or clams. ~~The Commission may establish a fee for each permit established pursuant to this subsection in an amount that compensates the Division for the administrative costs associated with the permit but that does not exceed one hundred dollars ($100.00) per permit.~~

(b) The Commission may adopt rules to establish gear specific permits to take striped bass from the Atlantic Ocean and to limit the number and type of these permits that may be issued to a person. The Commission may establish a fee for each permit established pursuant to this subsection in an amount that compensates the Division for the administrative costs associated with the permit but that does not exceed ~~thirty dollars ($30.00)~~ten dollars ($10.00) per permit.

(c) To ensure an orderly transition from one permit year to the next, the Division may issue a permit prior to July 1 of the permit year for which the permit is valid. Revenue that the

Division receives for the issuance of a permit prior to the beginning of a permit year shall not revert at the end of the fiscal year in which the revenue is received and shall be credited and available to the Division for the permit year in which the permit is valid."

SECTION 14.9.(g) G.S. 113-169.2(c) reads as rewritten:

"(c) Fees. – Shellfish licenses issued under this section shall be issued annually upon payment of a fee of ~~thirty-one dollars and twenty-five cents ($31.25)~~fifty dollars ($50.00) upon proof that the license applicant is a North Carolina resident."

SECTION 14.9.(h) G.S. 113-169.3 reads as rewritten:

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

...

(e) Application Fee for New Fish Dealers. – An applicant for a new fish dealer license shall pay a nonrefundable application fee of ~~sixty-two dollars and fifty cents ($62.50)~~one hundred dollars ($100.00) in addition to the license category fees set forth in this section.

(f) License Category Fees. – Every fish dealer subject to licensing requirements shall secure an annual license at each established location for each of the following activities transacted there, upon payment of the fee set out:

(1) Dealing in oysters: ~~$62.50.~~$100.00.

(2) Dealing in scallops: ~~$62.50.~~$100.00.

(3) Dealing in clams: ~~$62.50.~~$100.00.

(4) Dealing in hard or soft crabs: ~~$62.50.~~$100.00.

(5) Dealing in shrimp, including bait: ~~$62.50.~~$100.00.

(6) Dealing in finfish, including bait: ~~$62.50.~~$100.00.

(7) Operating menhaden or other fish-dehydrating or oil-extracting processing plants: ~~$62.50.~~$100.00.

(8) Consolidated license (all categories): ~~$375.00.~~$600.00.

...."

SECTION 14.9.(i) G.S. 113-169.5(b) reads as rewritten:

"(b) The fee for a land or sell license for a vessel not having its primary situs in North Carolina is ~~two hundred fifty dollars ($250.00),~~four hundred dollars ($400.00), or an amount equal to the nonresident fee charged by the nonresident's state, whichever is greater. Persons aboard vessels having a primary situs in a jurisdiction that would allow North Carolina vessels without restriction to land or sell their catch, taken outside the jurisdiction, may land or sell their catch in the State without complying with this section if the persons are in possession of a valid license from their state of residence."

SECTION 14.9.(j) G.S. 113-171.1(b) reads as rewritten:

"(b) License. – Before an aircraft is used as a spotter plane in a commercial fishing operation, the owner or operator of the aircraft must obtain a license for the aircraft from the Division. The fee for a license for a spotter plane is ~~one hundred twenty-five dollars ($125.00).~~one hundred dollars ($100.00). An applicant for a license for a spotter plane shall include in the application the identity, either by boat or by company, of the specific commercial fishing operations in which the spotter plane will be used during the license year. If, during the course of the license year, the aircraft is used as a spotter plane in a commercial fishing operation that is not identified in the original license application, the owner or operator of the aircraft shall amend the license application to add the identity of the additional commercial fishing operation."

SECTION 14.9.(k) G.S. 113-173(f) reads as rewritten:

"(f) Duration; Fees. – The RCGL shall be valid for a one-year period from the date of purchase. The fee for a RCGL for a North Carolina resident shall be ~~forty-three dollars and seventy-five cents ($43.75).~~seventy dollars ($70.00). The fee for a RCGL for an individual who is not a North Carolina resident shall be three hundred twelve dollars and fifty cents ($312.50)."

SECTION 14.9.(l) G.S. 113-203 reads as rewritten:

"**§ 113-203. Transplanting of oysters and clams.**

...

~~(f) The Commission may establish a fee for each permit established pursuant to this subsection in an amount that compensates the Division for the administrative costs associated with the permit but that does not exceed one hundred dollars ($100.00) per permit.~~

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

SECTION 14.9.(m) G.S. 113-210 reads as rewritten:

"**§ 113-210. Under Dock Oyster Culture.**

...

~~(l) Fees. – Under Dock Oyster Culture Permit shall be issued annually upon payment of a fee of one hundred dollars ($100.00).~~

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

SECTION 14.9.(n) G.S. 113-221.2 reads as rewritten:

"**§ 113-221.2. Additional rules to establish sanitation requirements for scallops, shellfish, and crustacea; permits and permit fees authorized.**

(a) Authority to Adopt Certain Rules and Establish Permits. – For the protection of the public health, the Marine Fisheries Commission shall adopt rules establishing sanitation requirements for the harvesting, processing and handling of scallops, shellfish, and crustacea of in-State origin. The rules of the Marine Fisheries Commission may also regulate scallops, shellfish, and crustacea shipped into North Carolina. The Department is authorized to enforce the rules and may issue and revoke permits according to the rules. ~~The Department is authorized to establish a fee for each permit not to exceed one hundred dollars ($100.00).~~

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

SECTION 14.9.(o) G.S. 143B-289.52(d1) reads as rewritten:

"(d1) The Commission may regulate participation in a fishery that is subject to a federal fishery management plan if that plan imposes a quota on the State for the harvest or landing of fish in the fishery. The Commission may use any additional criteria aside from holding a Standard Commercial Fishing License to develop limited-entry fisheries. ~~The Commission may establish a fee for each license established pursuant to this subsection in an amount that does not exceed five hundred dollars ($500.00).~~"

SECTION 14.9.(p) Article 14A of Chapter 113 of the General Statutes is amended by adding a new section to read:

"**§ 113-173.1. North Carolina Commercial Fishing Resource Fund.**

(a) There is hereby established the North Carolina Commercial Fishing Resources Fund as a nonreverting special revenue fund in the office of the State Treasurer. The purpose of the Fund is to provide funding for the development of sustainable commercial fishing in the State. The principal of the Fund shall consist of all of the following:

(1) Two hundred dollars ($200.00) from each Standard Commercial Fishing License issued pursuant to G.S. 113-168.2.

(2) One hundred dollars ($100.00) from each Retired Standard Commercial Fishing License issued pursuant to G.S. 113-168.3.

(3) Twenty-five dollars ($25.00) from each shellfish license issued pursuant to G.S. 113-169.2

(4) Fifty dollars ($50.00) from each fish dealer license issued pursuant to G.S. 113-169.3.

(5) Two hundred dollars ($200.00) from each land or sell license issued pursuant to G.S. 113-169.5.

(6) Thirty-five dollars ($35.00) from each Recreational Commercial Gear License issued pursuant to G.S. 113-173.

(b) The State Treasurer shall hold the North Carolina Commercial Fishing Resources Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall invest the assets of the Fund in accordance with the provisions of G.S. 147-69.2, except that interest and other income received on the fund balance shall be treated as set forth in G.S. 147-69.1(d). The State Treasurer shall disburse the principal of the Fund only upon the written direction of both the Marine Fisheries Commission and the Board of Directors of the North Carolina Commercial Fishing Resource Fund established by subsection (c) of this section. The Marine Fisheries Commission and the Board of Directors of the North Carolina Commercial Fishing Resource Fund may authorize the disbursement of the principal of the North Carolina Commercial Fishing Resource Fund only for projects to develop sustainable commercial fishing in the State or to provide funding for North Carolina's incidental take permits for the commercial fishing industry under the federal Endangered Species Act of 1973 (Public Law 93-205) or the federal Marine Mammal Protection Act of 1972 (Public Law 92-522). The Marine Fisheries Commission and the Board of Directors of the North Carolina Commercial Fishing Resource Fund shall authorize disbursements to fully fund North Carolina's incidental take permits for the commercial fishing industry under the federal Endangered Species Act of 1973 (Public Law 93-205) or the federal Marine Mammal Protection Act of 1972 (Public Law 92-522) prior to authorizing disbursements for any other purpose.

(c) A Board of Directors of the North Carolina Commercial Fishing Resource Fund is established and shall consist of six members. Each of the following commercial fishing organizations shall appoint one member of the Board:

(1) North Carolina Fisheries Association, Inc..

(2) North Carolina Watermen United, Inc.

(3) Ocracoke Working Watermen's Association.

(4) Albemarle Fishermen's Association.

(5) Carteret County Fishermen's Association.

(6) Brunswick County Fishermen's Association."

SECTION 14.9.(q) This section is effective when it becomes law and applies to fees collected on or after July 1, 2014.

ADVANCED SALE OF LICENSES

SECTION 14.10. G.S. 113-168.1 reads as rewritten:

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

...

(j) Advance Sale of Licenses, License Revenue. – To ensure an orderly transition from one license year to the next, the Division may issue a license or endorsement prior to 1 July of the license year for which the license or endorsement is valid. Revenue that the Division receives for the issuance of a license or endorsement prior to the beginning of a license year shall not revert at the end of the fiscal year in which the revenue is received and shall be credited and available to the Division only for the license year in which the license or endorsement is valid. Any license revenue carried forward from one fiscal year to the next under this subsection that remains unencumbered and unexpended at the end of the fiscal year in which the license or endorsement is valid shall revert to the General Fund."

NO JOINT ENFORCEMENT AGREEMENTS

SECTION 14.11. G.S. 113-224 reads as rewritten:

"**§ 113-224. Cooperative agreements by Department.**

(a) ~~The~~ Except as otherwise provided in this section, the Department is empowered to enter into cooperative agreements with public and private agencies and individuals respecting the matters governed in this Subchapter. Pursuant to such agreements the Department may expend funds, assign employees to additional duties within or without the State, assume additional responsibilities, and take other actions that may be required by virtue of such agreements, in the overall best interests of the conservation of marine and estuarine resources.

(b) The Department may not enter into a joint enforcement agreement with the National Marine Fisheries Service."

STUDY COMMERCIAL SHELLFISH LEASING

SECTION 14.12. The Joint Legislative Program Evaluation Oversight Committee shall consider including in the 2015 Work Plan for the Program Evaluation Division of the General Assembly a study of North Carolina's shellfish lease and franchise program, including (i) the regulatory, statutory, and other obstacles faced by the private mariculture industry in establishing or expanding shellfish cultivation operations, (ii) a summary of shellfish leasing and franchising programs in other states and a comparison of the private mariculture industry in North Carolina compared to other states; and (iii) recommendations for best practices to achieve greater opportunities for North Carolina's mariculture industry and greater program efficiencies and outcomes.

PERMIT ELECTRONIC TRANSMISSION OF RULES

SECTION 14.13. G.S. 113-221 reads as rewritten:

"**§ 113-221. Rules.**

...

(b) Upon purchasing a license, each licensee shall be ~~given~~ provided access to a copy of the rules concerning the activities authorized by the license. The copy may be in written or electronic form, including by file download over the Internet. A written copy of the rules shall be provided to a licensee upon request.

(c) The Fisheries Director shall notify licensees of a new rule or change to a rule by sending each licensee either a newsletter containing the text of the rule or change or an updated codification of the rules of the Marine Fisheries Commission that contains the new rule or change. The Director may elect to use electronic means rather than mail to notify licensees if electronic means would be more timely and cost-effective. A written copy of any notification produced in accordance with this section shall be provided to a licensee upon request.

...."

SHALE GAS FUNDS

SECTION 14.14.(a) The funds appropriated by this act to the Department of Environment and Natural Resources for shale gas development shall be used for the following purposes:

(1) One hundred thousand dollars ($100,000) shall be allocated to the State Energy Office to work jointly with the Department of Commerce to develop marketing materials for parties with an interest in energy exploration, production and development in the State, and for travel and other expenditures by State employees related to the marketing and promotion of the State's shale gas resources. The marketing materials shall include information on energy potential, economic, regulatory, and business climate, locations of natural gas pipelines, transportation infrastructure, and any other pertinent information related to the energy development potential of the State.

(2) Fifty thousand dollars ($50,000) shall be used for the digitization, analysis, or reanalysis of geological data related to shale gas exploration or development opportunities.

(3) Fifty thousand dollars ($50,000) shall be used for chemical analysis of existing natural gas wells in the State's shale basins, including testing for the presence of helium.

(4) Nine hundred seventy-three thousand three hundred twenty-four dollars ($973,324) shall be used for the drilling of new stratigraphic test wells and core analysis in the State's shale basins in the following priority order from highest to lowest:

a. The Dan River Basin.
b. The Davie Basin.
c. The Cumberland-Marlboro Basin.
d. Those portions of the Deep River Basin located in Anson, Montgomery, and Richmond counties.

SECTION 14.14.(b) Notwithstanding any other provision of law, stratigraphic testing funded under subdivision (4) of this section shall be allowed on any State-owned land within the priority basins identified by subdivision (4) of this section at the discretion of the Secretary of the Department of Environment and Natural Resources upon a finding by the Secretary that the testing is needed for proper geologic characterization of the shale gas potential of the basin.

CDBG INFRASTRUCTURE ELIGIBLE ACTIVITIES CLARIFICATION

SECTION 14.15. Section 15.14(g) of S.L. 2013-360, as amended by Section 5.16(c) of S.L. 2013-363, reads as rewritten:

"**SECTION 15.14.(g)** For purposes of this section, eligible activities under the category of Infrastructure in subsection (a) of this section are limited to critical public water and wastewater ~~projects.~~ projects and associated connections to the new lines located on private property of eligible homeowners, consistent with federal law. Notwithstanding any State law or rule, eligible activities as defined in this subsection are limited only by applicable HUD regulations and federal law. Notwithstanding the provisions of subsection (e) of this section, funds allocated to the Infrastructure category in subsection (a) of this section shall not be reallocated to any other category."

WATER INFRASTRUCTURE GRANT PRIORITY

SECTION 14.16. The Department of Environment and Natural Resources, Division of Water Infrastructure, and the State Water Infrastructure Authority shall give

priority to loan and grant applications received from any local government meeting the following criteria:

(1) The local government is located in a Tier I county.

(2) The application seeks funding for a project that is required to be completed due to an EPA administrative order.

(3) The application is deemed complete by the Division and meets the minimum requirements for the program from which it is seeking funding.

WATER INFRASTRUCTURE

SECTION 14.17. The Department of Environment and Natural Resources, Division of Water Infrastructure, shall require all local governments applying for loans or grants to certify that no funds received from water or wastewater utility operations have been used to subsidize the local government's General Fund. The prohibition in this section shall not be interpreted to include payments made to the local government related to regular and ongoing operations of the utility such as rent or employee benefits payments.

AMEND SHALLOW DRAFT NAVIGATION CHANNEL AND LAKE DREDGING FUNDING

SECTION 14.18.(a) G.S. 105-449.126 reads as rewritten:

"**§ 105-449.126. Distribution of part of Highway Fund allocation to Wildlife Resources Fund and Shallow Draft Navigation Channel and Lake Dredging Fund.**

(a) The Secretary shall credit to the Wildlife Resources Fund one-sixth of one percent (1/6 of 1%) of the amount that is allocated to the Highway Fund under G.S. 105-449.125 and is from the excise tax on motor fuel. Revenue credited to the Wildlife Resources Fund under this section may be used only for the boating and water safety activities described in G.S. 75A-3(c). The Secretary must credit revenue to the Wildlife Resources Fund on ~~an annual~~a quarterly basis. The Secretary must make the distribution within 45 days of the end of each quarter.

(b) The Secretary shall credit to the Shallow Draft Navigation Channel and Lake Dredging Fund one-sixth of one percent (1/6 of 1%) of the amount that is allocated to the Highway Fund under G.S. 105-449.125 and is from the excise tax on motor fuel. Revenue credited to the Shallow Draft Navigation Channel and Lake Dredging Fund under this section may be used only for the dredging activities described in G.S. 143-215.73F. The Secretary shall credit revenue to the Shallow Draft Navigation Channel and Lake Dredging Fund on ~~an annual~~a quarterly basis. The Secretary must make the distribution within 45 days of the end of each quarter."

SECTION 14.18.(b) Notwithstanding G.S. 105-449.125, in addition to the funds credited under G.S. 105-449.126, the Secretary of Revenue shall also credit the sum of one million six hundred seventy-seven thousand one hundred thirty-four dollars ($1,677,134) to the Shallow Draft Navigation Channel and Lake Dredging Fund for the 2014-2015 fiscal year no later than August 15, 2014. The funds distributed shall be from the funds collected under Article 36C of Chapter 105 of the General Statutes from the effective date of this act until August 15, 2014.

SECTION 14.18.(c) Subsection (a) of this section is effective for quarters beginning on or after April 1, 2014.

TRANSFER AQUATIC WEED CONTROL PROGRAM TO WRC

SECTION 14.19.(a) The Aquatic Weed Control Program of the Department of Environment and Natural Resources is transferred from the Department to the Wildlife Resources Commission with all the elements of a Type I transfer, as defined by G.S. 143A-6.

SECTION 14.19.(b) Article 15 of Chapter 113A of the General Statutes is recodified as Article 22C of Chapter 113 of the General Statutes, and, accordingly, G.S. 113A-220 through G.S. 113A-227 is recodified as G.S. 113-300.10 through G.S. 113-300.17.

SECTION 14.19.(c) Article 22C of Chapter 113 of the General Statutes, as recodified by subsection (b) of this section, reads as rewritten:

"Article 22C.

"Aquatic Weed Control.

"§ 113-300.10. Short title.

This Article shall be known as the Aquatic Weed Control Act of 1991.

"§ 113-300.11 Definitions.

Unless a different meaning is required by the context, the following definitions shall apply throughout this Article:

(1) ~~"Department" means the Department of Environment and Natural Resources.~~Commission. – The Wildlife Resources Commission.

(2) ~~"Secretary" means the Secretary of Environment and Natural Resources or his~~Director. – The Executive Director of the Wildlife Resources Commission or the Director's designee.

(3) ~~"Noxious aquatic weed" means any~~Noxious aquatic weed. – Any plant organism so designated under this Article.

(4) ~~"Waters of the State" means any~~Waters of the State. – Any surface body or accumulation of water, whether publicly or privately owned and whether naturally occurring or artificially created, which is contained within, flows through, or borders upon any part of this State.

"§ 113-300.12 Designation of noxious aquatic weeds.

(a) The ~~Secretary,~~Director, after consultation with the Director of the North Carolina Agricultural Extension Service, the ~~Wildlife Resources Commission,~~Department of Environment and Natural Resources, and the Marine Fisheries Commission, and with the concurrence of the Commissioner of Agriculture, may designate as a noxious aquatic weed any plant organism which:

(1) Grows in or is closely associated with the aquatic environment, whether floating, emersed, submersed, or ditch-bank species, and including terrestrial phases of any such plant organism;

(2) Exhibits characteristics of obstructive nature and either massive productivity or choking density; and

(3) Is or may become a threat to public health or safety or to existing or new beneficial uses of the waters of the State.

(b) A plant organism may be designated as being a noxious aquatic weed either throughout the State or within specified areas within the State.

(c) The ~~Secretary~~ Director shall designate a plant organism as a noxious aquatic weed by rules adopted pursuant to Chapter 150B of the General Statutes.

(d) The ~~Secretary~~ Director may modify or withdraw any designation of a plant organism as a noxious aquatic weed made previously under this section. Any modification or withdrawal of such designation shall be made following the procedures for designation set out in this section.

"§ 113-300.13 Powers and duties of the ~~Secretary.~~Director.

(a) The ~~Secretary~~ Director shall direct the control, eradication, and regulation of noxious aquatic weeds so as to protect and preserve human health, safety, and the beneficial uses of the waters of the State and to prevent injury to property and beneficial plant and animal life. The ~~Secretary~~ Director shall have the power to:

(1) Conduct research and planning related to the control of noxious aquatic weeds;
(2) Coordinate activities of all public bodies, authorities, agencies, and units of local government in the control and eradication of noxious aquatic weeds;
(3) Delegate to any public body, authority, agency, or unit of local government any power or duty under this Article, except that the ~~Secretary~~ Director may not delegate the designation of noxious aquatic weeds;
(4) Accept donations, grants, and services from both public and private sources;
(5) Enter into contracts or agreements, including cost-sharing agreements, with public or private agencies for research and development of methods of control of noxious aquatic weeds or for the performance of noxious aquatic weed control activities;
(6) Construct, acquire, operate, and maintain facilities and equipment necessary for the control of noxious aquatic weeds; and
(7) Enter upon private property for purposes of conducting investigations and engaging in aquatic weed control activities.

(b) The ~~Secretary~~ Director may control, remove, or destroy any noxious aquatic weed located in the waters of the State or in areas adjacent to such waters wherever such weeds threaten to invade such waters. The ~~Secretary~~ Director may employ any appropriate control technology which is consistent with federal and State law, regulations, and rules. Control technologies may include, but are not limited to drawdown of waters, application of chemicals to shoreline and surface waters, mechanical controls, physical removal from transport mechanisms, quarantine of transport mechanisms, and biological controls. Any biological control technology may be implemented only after the environmental review provisions of the State Environmental Policy Act have been satisfied.

(c) In determining the appropriate strategies and technologies, the ~~Secretary~~ Director shall consider their relative short-term and long-term cost-efficiency and effectiveness, consistent with a margin of safety adequate to protect public health and the resources of the State.

(d) All activities carried out by the ~~Secretary,~~ Director, his designees, and others authorized to perform any function under this Article shall be consistent with all applicable federal and State law, regulations, and rules.

"§ 113-300.14 Powers of the Commissioner of Agriculture.

(a) The Commissioner of Agriculture may regulate the importation, sale, use, culture, collection, transportation, and distribution of a noxious aquatic weed as a plant pest under Article 36 of Chapter 106 of the General Statutes.

(b) This Article shall not be construed to limit any power of the Commissioner of Agriculture, the Department of Agriculture and Consumer Services, or the Board of Agriculture under any other provision of law.

"§ 113-300.15 Responsibilities of other State agencies.

All State agencies shall cooperate with the ~~Secretary~~ Director to assist in the implementation of this Article.

"§ 113-300.16 Enforcement.

(a) Any person who violates this Article or any rule adopted pursuant to this Article shall be guilty of a Class 2 misdemeanor for each offense.

(b) Whenever there exists reasonable cause to believe that any person has violated this Article or rules adopted pursuant to this Article, the ~~Secretary~~ Director may request the Attorney General to institute a civil action for injunctive relief to restrain the violation. The Attorney General may institute such action in the name of the State upon relation of the ~~Department~~ Commission in the superior court of the county in which the violation occurred.

Upon a determination by the court that the alleged violation of the provisions of this Article or of rules adopted pursuant to this Article has occurred or is threatened, the court shall grant the relief necessary to prevent or abate the violation or threatened violation. Neither the institution of the action, nor any of the proceedings thereon shall relieve any party to such proceedings from any penalty otherwise prescribed for violations of this Article.

"§ 113-300.17 Adoption of rules.

The ~~Secretary~~ Director may adopt rules necessary to implement the provisions of this Article pursuant to Chapter 150B of the General Statutes."

SECTION 14.19.(d) G.S. 106-421.1 reads as rewritten:

"§ 106-421.1. Authority of Board of Agriculture to regulate plants.

The Board of Agriculture shall have the sole authority to prohibit the planting, cultivation, harvesting, disposal, handling, or movement of plants as defined in G.S. 106-202.12. This section shall not prevent the designation of plants as noxious aquatic weeds pursuant to ~~Article 15 of Chapter 113A~~Article 22C of Chapter 113 of the General Statutes, nor shall it prevent the adoption or enforcement of city or county ordinances regulating the appearance of property or the handling and collection of solid waste."

SECTION 14.19.(e) G.S. 153A-301(e) reads as rewritten:

"(e) The board of commissioners of a county that adjoins or contains a lake, river, or tributary of a river or lake that has an identified noxious aquatic weed problem may define any number of noxious aquatic weed control service districts composed of property that is contiguous to the water or that provides direct access to the water through a shared, certified access site to the water. As used in this subsection, the term "noxious aquatic weed" is any plant organism identified by the ~~Secretary of Environment and Natural Resources under G.S. 113A-222~~ Executive Director of the Wildlife Resources Commission under G.S. 113-300.12 or regulated as a plant pest by the Commissioner of Agriculture under Article 36 of Chapter 106 of the General Statutes."

SECTION 14.19.(f) The Revisor of Statutes may conform names and titles changed by this section, and may correct statutory references as required by this section, throughout the General Statutes. In making the changes authorized by this section, the Revisor may also adjust subject and verb agreement and the placement of conjunctions.

SECTION 14.19.(g) Under the authority granted by G.S. 113-300.17, as recodified by subsection (c) of this section, the Executive Director of the Wildlife Resources Commission may adopt rules necessary to implement the provisions relative to boat washing for aquatic weed prevention measures, including rules relating to monitoring and enforcement.

SECTION 14.19.(h) The transfer under this section becomes effective July 1, 2014.

SECTION 14.19.(i) G.S. 143-215.73F reads as rewritten:

"§ 143-215.73F. Shallow Draft Navigation Channel Dredging and Lake ~~Dredging~~ Maintenance Fund.

The Shallow Draft Navigation Channel Dredging and Lake ~~Dredging~~ Maintenance Fund is established as a special revenue fund. The Fund consists of fees credited to it under G.S. 75A-3, 75A-38, and 105-449.126. Revenue in the Fund may only be used to provide the State's share of the costs associated with any dredging project designed to keep shallow draft navigation channels located in State waters or waters of the state located within lakes navigable and ~~safe.~~safe, or for aquatic weed control projects in waters of the State located within lakes under Article 22C of Chapter 113 of the General Statutes. Funding for aquatic weed control projects is limited to five hundred thousand dollars ($500,000) in each fiscal year and will be provided to the Wildlife Resources Commission on a reimbursement basis. Any project funded by revenue from the Fund must be cost-shared with non-State dollars on a one-to-one basis. For purposes of this section, "shallow draft navigation channel" means (i) a waterway connection

with a maximum depth of 16 feet between the Atlantic Ocean and a bay or the Atlantic Intracoastal Waterway, (ii) a river entrance to the Atlantic Ocean through which tidal and other currents flow, or (iii) other interior coastal waterways. "Shallow draft navigation channel" includes the Atlantic Intracoastal Waterway and its side channels, Beaufort Harbor, Bogue Inlet, Carolina Beach Inlet, the channel from Back Sound to Lookout Back, channels connected to federal navigation channels, Lockwoods Folly River, Manteo/Shallowbag Bay, including Oregon Inlet, Masonboro Inlet, New River, New Topsail Inlet, Rodanthe, Rollinson, Shallotte River, Silver Lake Harbor, and the waterway connecting Pamlico Sound and Beaufort Harbor."

COAL ASH MANAGEMENT

SECTION 14.20.(a) If S.B. 729, 2013 Regular Session, or substantially similar legislation regulating coal ash does not become law, funds in the amount of one million seven hundred fifty thousand dollars ($1,750,000) appropriated in this act to the Department of Environment and Natural Resources for coal ash management shall revert to the General Fund.

SECTION 14.20.(b) If S.B. 729, 2013 Regular Session, becomes law, of the funds appropriated in this Act to the Department of Environment and Natural Resources for coal ash management, the Department may use up to five hundred ninety-six thousand dollars ($596,000) in lapsed salary and operating funds in fiscal year 2014-2015 to purchase scientific equipment and two new vehicles to support the ongoing surveys and regulatory activities related to coal ash management activities in the State.

REDIRECT INTEREST ON CERTAIN ENVIRONMENTAL FUNDS

SECTION 14.21.(a) G.S. 143B-289.59 reads as rewritten:

"§ 143B-289.59. Conservation Fund; Commission may accept gifts.

...

(b) The Marine Fisheries Commission is hereby authorized to issue and sell appropriate emblems by which to identify recipients thereof as contributors to a special marine and estuarine resources Conservation Fund that shall be made available to the Marine Fisheries Commission for conservation, protection, enhancement, preservation, and perpetuation of marine and estuarine species that may be endangered or threatened with extinction and for education about these issues. The special Conservation Fund is subject to oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General ~~Statutes.~~Statutes, except that interest and other income received on the Fund balance shall be treated as set forth in G.S. 147-69.1(d). Emblems of different sizes, shapes, types, or designs may be used to recognize contributions in different amounts, but no emblem shall be issued for a contribution amounting in value to less than five dollars ($5.00)."

SECTION 14.21.(b) G.S. 143-214.12(a) reads as rewritten:

"(a) Ecosystem Restoration Fund. – The Ecosystem Restoration Fund is established as a nonreverting fund within the Department. The Fund shall be treated as a special trust fund ~~and shall be credited with interest by the State Treasurer~~ pursuant to ~~G.S. 147-69.2 and G.S. 147-69.3.~~G.S. 147-69.2, except that interest and other income received on the Fund balance shall be treated as set forth in G.S. 147-69.1(d). The Ecosystem Restoration Fund shall provide a repository for monetary contributions and donations or dedications of interests in real property to promote projects for the restoration, enhancement, preservation, or creation of wetlands and riparian areas and for payments made in lieu of compensatory mitigation as described in subsection (b) of this section. No funds shall be expended from this Fund for any purpose other than those directly contributing to the acquisition, perpetual maintenance, enhancement, restoration, or creation of wetlands and riparian areas in accordance with the basinwide plan as described in G.S. 143-214.10. The cost of acquisition includes a payment in

lieu of ad valorem taxes required under G.S. 146-22.3 when the Department is the State agency making the acquisition."

SECTION 14.21.(c) G.S. 113A-253 reads as rewritten:

"§ 113A-253. Clean Water Management Trust Fund.

...

(b) Fund Earnings, Assets, and Balances. – The State Treasurer shall hold the Fund separate and apart from all other moneys, funds, and accounts. ~~Investment earnings credited to the assets of the Fund shall become part of the Fund.~~ Any balance remaining in the Fund at the end of any fiscal year shall be carried forward in the Fund for the next succeeding fiscal year. Payments from the Fund shall be made on the warrant of the Chair of the Board of Trustees.

...."

SECTION 14.21.(d) G.S. 143-215.104C reads as rewritten:

"§ 143-215.104C. Dry-Cleaning Solvent Cleanup Fund.

(a) Creation. – The Dry-Cleaning Solvent Cleanup Fund is established as a special revenue fund to be administered by the Commission. Accordingly, revenue in the Fund at the end of a fiscal year does not ~~revert and interest and other investment income earned by the Fund must be credited to it.~~revert. The Fund is created to provide revenue to implement this Part.

...."

SECTION 14.21.(e) G.S. 113-44.15 reads as rewritten:

"§ 113-44.15. Parks and Recreation Trust Fund.

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

...."

SECTION 14.21.(f) G.S. 87-98 reads as rewritten:

"§ 87-98. Bernard Allen Memorial Emergency Drinking Water Fund.

(a) The Bernard Allen Memorial Emergency Drinking Water Fund is established under the control and direction of the Department. The Fund shall be a ~~nonreverting, interest-bearing~~nonreverting fund consisting of monies appropriated by the General Assembly or made available to the Fund from any other ~~source and investment interest credited to the Fund.~~source.

...."

SECTION 14.21.(g) G.S. 113-175.1(b) reads as rewritten:

"§ 113-175.1. North Carolina Marine Resources Fund.

...

(b) The State Treasurer shall hold the Marine Resources Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall invest the assets of the Marine Resources Fund in accordance with the provisions of G.S. 147-69.2 and ~~G.S. 147-69.3, and all marine resources investment income shall be deposited to the credit of the Marine Resources Fund.~~ G.S. 147-69.3, except that interest and other income received on the Fund balance shall be treated as set forth in G.S. 147-69.1(d). The State Treasurer shall disburse the principal of the Marine Resources Fund and marine resources investment income only upon the written direction of the Marine Fisheries Commission.

...."

SECTION 14.21.(h) G.S. 90A-42 reads as rewritten:

"§ 90A-42. Fees.

...

(b) The Water Pollution Control System Account is established as a nonreverting account within the Department. Fees collected under this section shall be credited to the Account and applied to the costs of administering this Article. Interest and other income received on the Fund balance shall be treated as set forth in G.S. 147-69.1(d)."

SECTION 14.21.(i) G.S. 143-215.94B reads as rewritten:

"**§ 143-215.94B. Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund.**

...

(e) The Commercial Fund shall be treated as a special trust fund ~~and shall be credited with interest by the State Treasurer~~ pursuant to G.S. 147-69.2 and ~~G.S. 147-69.3.~~G.S. 147-69.3, except that interest and other income received on the Fund balance shall be treated as set forth in G.S. 147-69.1(d).

...."

SECTION 14.21.(j) G.S. 143-215.94D reads as rewritten:

"**§ 143-215.94D. Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund.**

...

(e) The Noncommercial Fund shall be treated as a special trust fund ~~and shall be credited with interest by the State Treasurer~~ pursuant to G.S. 147-69.2 and ~~G.S. 147-69.3.~~ G.S. 147-69.3, except that interest and other income received on the Fund balance shall be treated as set forth in G.S. 147-69.1(d).

...."

SECTION 14.21.(k) G.S. 130A-310.11 reads as rewritten:

"**§ 130A-310.11. Inactive Hazardous Sites Cleanup Fund created.**

(a) There is established under the control and direction of the Department the Inactive Hazardous Sites Cleanup Fund. This fund shall be a revolving fund consisting of any monies appropriated for such purpose by the General Assembly or available to it from grants, taxes, and other monies paid to it or recovered by or on behalf of the Department. The Inactive Hazardous Sites Cleanup Fund shall be treated as a nonreverting special trust fund ~~and shall be credited with interest by the State Treasurer~~ pursuant to G.S. 147-69.2 and ~~G.S. 147-69.3.~~ G.S. 147-69.3, except that interest and other income received on the Fund balance shall be treated as set forth in G.S. 147-69.1(d).

...."

SECTION 14.21.(l) G.S. 130A-310.38 reads as rewritten:

"**§ 130A-310.38. Brownfields Property Reuse Act Implementation Account.**

The Brownfields Property Reuse Act Implementation Account is created as a nonreverting ~~interest bearing~~ account in the Office of the State Treasurer. The Account shall consist of fees and interest collected under G.S. 130A-310.39, moneys appropriated to it by the General Assembly, moneys received from the federal government, moneys contributed by private organizations, and moneys received from any other source. Funds in the Account shall be used by the Department to defray the costs of implementing this Part. The Department may contract with a private entity for any services necessary to implement this Part."

I & M AIR POLLUTION CONTROL ACCOUNT

SECTION 14.22. The Division of Air Quality of the Department of Environment and Natural Resources shall use the cash balance remaining in the I & M Air Pollution Control Account for operations in the 2014-2015 fiscal year related to the development and implementation of air pollution control programs for mobile sources.

WATER AND AIR QUALITY ACCOUNT

SECTION 14.23. The Division of Air Quality of the Department of Environment and Natural Resources shall use the cash balance remaining in the Water and Air Quality Account to administer its programs in fiscal year 2014-2015.

SOLID WASTE DISPOSAL TAX USES

SECTION 14.24.(a) G.S. 130A-295.9 reads as rewritten:

"§ 130A-295.9. Solid waste disposal tax; use of proceeds.

It is the intent that the proceeds of the solid waste disposal tax imposed by Article 5G of Chapter 105 of the General Statutes shall be used only for the following purposes:

(1) Funds credited pursuant to G.S. 105-187.63(1) to the Inactive Hazardous Sites Cleanup Fund shall be used by the Department of Environment and Natural Resources to fund the assessment and remediation of pre-1983 landfills, except up to ~~thirteen percent (13%)~~ twenty-five percent (25%) of the funds credited under this subdivision may be used to fund administrative expenses related to hazardous and solid waste management, as well as the assessment and remediation of pre-1983 landfills and other inactive hazardous waste sites.

(2) Funds credited pursuant to G.S. 105-187.63(3) to the Solid Waste Management Trust Fund shall be used by the Department of Environment and Natural Resources to fund grants to State agencies and units of local government to initiate or enhance local recycling programs and to provide for the management of difficult to manage solid waste, including abandoned mobile homes and household hazardous waste. Up to seven percent (7%) of the funds credited under this subdivision may be used by the Department to administer this Part."

SECTION 14.24.(b) This section applies to funds credited to the Inactive Hazardous Sites Cleanup Fund on or after July 1, 2014.

WILDLIFE LICENSING CHANGES

SECTION 14.25.(a) G.S. 113-270.3(b)(1b) reads as rewritten:

"(b) The special activity licenses and stamp issued by the Wildlife Resources Commission are as follows:

...

(1b) Bear Management Stamp – $10.00. This electronically generated stamp must be procured before taking any bear within the State. Notwithstanding any other provision of law, a resident or nonresident individual may not take any bear within the State without procuring this stamp; provided, that those persons who have purchased a lifetime license established by G.S. 113-270.1D(b), 113-270.2(c)(2), or 113-351(c)(3) prior to July 1, 2014, and those persons exempt from the license requirements as set forth in ~~G.S. 113-276(c)~~ G.S. 113-276(c), G.S. 113-276(d), and G.S. 113-276(n) shall obtain this stamp free of charge. All of the revenue generated by this stamp shall be dedicated to black bear research and management."

SECTION 14.25.(b) G.S. 113-174.2 reads as rewritten:

"§ 113-174.2. Coastal Recreational Fishing License.

...

(c) Types of CRFLs; Fees; Duration. – The Wildlife Resources Commission shall issue the following CRFLs:

(1) Annual Resident CRFL. – $15.00. This license is valid from the date of issue for a period of 12 months as defined by G.S. 113-270.1B(b) and

G.S. 113-270.1B(c). This license shall be issued only to an individual who is a resident of the State.

(1a) Annual Nonresident CRFL. – $30.00. This license is valid ~~for a period of one year from the date of issuance.~~ from the date of issue for a period of 12 months as defined by G.S. 113-270.1B(b) and G.S. 113-270.1B(c). This license shall be issued only to an individual who is not a resident of the State.

(2) Repealed by Session Laws 2005-455, s. 1.4, effective January 1, 2007.

(3) Repealed by Session Laws 2005-455, s. 1.4, effective January 1, 2007.

(4) Ten-Day Resident CRFL. – $5.00. This license is valid for a period of 10 consecutive days, as indicated on the license. This license shall be issued only to an individual who is a resident of the State.

(4a) Ten-Day Nonresident CRFL. – $10.00. This license is valid for a period of 10 consecutive days, as indicated on the license. This license shall be issued only to an individual who is not a resident of the State.

(5) Repealed by Session Laws 2005-455, s. 1.4, effective January 1, 2007.

(6) Lifetime CRFLs. – Except as provided in sub-subdivision j. of this subdivision, CRFLs issued under this subdivision are valid for the lifetime of the licensee.

a. –d. Repealed by Session Laws 2005-455, s. 1.4, effective January 1, 2007.

e. Infant Lifetime CRFL. – $100.00. This license shall be issued only to an individual younger than one year of age.

f. Youth Lifetime CRFL. – $150.00. This license shall be issued only to an individual who is one year of age or older but younger than 12 years of age.

g. **(Effective until August 1, 2014)** Resident Adult Lifetime CRFL. – $250.00. This license shall be issued only to an individual who is 12 years of age or older but younger than 65 years of age and who is a resident of the State.

g. **(Effective August 1, 2014)** Resident Adult Lifetime CRFL. – $250.00. This license shall be issued only to an individual who is 12 years of age or older but younger than 70 years of age and who is a resident of the State.

h. Nonresident Adult Lifetime CRFL. – $500.00. This license shall be issued only to an individual who is 12 years of age or older and who is not a resident of the State.

i. **(Effective until August 1, 2014)** Resident Age 65 Lifetime CRFL. – $15.00. This license shall be issued only to an individual who is 65 years of age or older and who is a resident of the State.

i. **(Effective August 1, 2014)** Resident Age 70 Lifetime CRFL. – $15.00. This license shall be issued only to an individual who is 70 years of age or older and who is a resident of the State.

j. Resident Disabled Veteran CRFL. – $10.00. This license shall be issued only to an individual who is a resident of the State and who is a fifty percent (50%) or more disabled veteran as determined by the United States Department of Veterans ~~Affairs.~~ Affairs or as established by G.S. 113-351(c)(3)(f). This license remains valid for the lifetime of the licensee so long as the licensee remains fifty percent (50%) or more disabled.

k. Resident Totally Disabled CRFL. – $10.00. This license shall be issued only to an individual who is a resident of the State and who is totally and permanently disabled as determined by the Social Security ~~Administration.~~Administration or as established by G.S. 113-351(c)(3)(g).

...."

SECTION 14.25.(c) G.S. 113-173 reads as rewritten:

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

...

(f) Duration; Fees. – The RCGL shall be valid ~~for a one-year period from the date of purchase.~~ from the date of issue for a period of 12 months as defined by G.S. 113-270.1B(b) and G.S. 113-270.1B(c). The fee for a RCGL for a North Carolina resident shall be forty-three dollars and seventy-five cents ($43.75). The fee for a RCGL for an individual who is not a North Carolina resident shall be three hundred twelve dollars and fifty cents ($312.50).

...."

SECTION 14.25.(d) G.S. 113-351 reads as rewritten:

"**§ 113-351. Unified hunting and fishing licenses; subsistence license waiver.**

(a) Definitions. – The definitions set out in G.S. 113-174 apply to this Article.

(b) General Provisions Governing Licenses and Waivers. – The general provisions governing licenses set out in G.S. 113-174.1 apply to licenses and waivers issued under this section.

(c) Types of Unified Hunting and Fishing Licenses; Fees; Duration. – The Wildlife Resources Commission shall issue the following Unified Hunting and Fishing Licenses:

(1) Annual Resident Unified Sportsman/Coastal Recreational Fishing License. – $55.00. This license is valid ~~for a period of one year from the date of issuance.~~ from the date of issue for a period of 12 months as defined by G.S. 113-270.1B(b) and G.S. 113-270.1B(c). This license shall be issued only to an individual who is a resident of the State. This license authorizes the licensee to take all wild animals and wild birds, including waterfowl, by all lawful methods in all open seasons, including the use of game lands; to fish with hook and line for all fish in all inland fishing waters and joint fishing waters, including public mountain trout waters; and to engage in recreational fishing in coastal fishing waters.

(2) Annual Resident Unified Inland/Coastal Recreational Fishing License. – $35.00. This license is valid ~~for a period of one year from the date of issuance.~~ from the date of issue for a period of 12 months as defined by G.S. 113-270.1B(b) and G.S. 113-270.1B(c). This license shall be issued only to an individual who is a resident of the State. This license authorizes the licensee to fish with hook and line for all fish in all inland fishing waters and joint fishing waters, including public mountain trout waters, and to engage in recreational fishing in coastal fishing waters.

...."

SECTION 14.25.(e) G.S. 113-270.2(c) reads as rewritten:

"**§ 113-270.1D. Sportsman licenses.**

(a) Annual Sportsman License – $50.00. This license shall be issued only to an individual resident of the State and entitles the licensee to take all wild animals and wild birds, including waterfowl, by all lawful methods in all open seasons, including the use of game lands, and to fish with hook and line for all fish in all inland and joint fishing waters, including public mountain trout waters. An annual sportsman license issued under this subsection does

not entitle the licensee to engage in recreational fishing in coastal fishing waters that are not joint fishing waters.

(b) Lifetime Sportsman Licenses. Except as provided in subdivision (7) of this subsection, lifetime sportsman licenses are valid for the lifetime of the licensees. Lifetime sportsman licenses entitle the licensees to take all wild animals and wild birds by all lawful methods in all open seasons, including the use of game lands, and to fish with hook and line for all fish in all inland and joint fishing waters, including public mountain trout waters. A lifetime sportsman license issued under this subsection does not entitle the licensee to engage in recreational fishing in coastal fishing waters that are not joint fishing waters. Lifetime sportsman licenses issued by the Wildlife Resources Commission are:

...

(3) Adult Resident Lifetime Sportsman License – $500.00. This license shall be issued only to an individual resident of the ~~State.~~State who is 12 years of age or older but younger than 70 years of age.

(4) Nonresident Lifetime Sportsman License – ~~$1,200~~$1,200. This license shall be issued only to an individual nonresident of the State.

(5) Age 70 Resident Lifetime Sportsman License – $15.00.This license shall be issued only to an individual resident of the State who is at least 70 years of age.

(6) Repealed by Session Laws 2005-455, s. 1.7 effective January 1, 2007.

(7) Resident Disabled Veteran Lifetime Sportsman License – $100.00. This license shall be issued only to an individual who is a resident of the State and who is a fifty percent (50%) or more disabled veteran as determined by the United States Department of Veterans Affairs or as established by rules of the Wildlife Resources Commission. This license remains valid for the lifetime of the licensee so long as the licensee remains fifty percent (50%) or more disabled.

(8) Resident Totally Disabled Lifetime Sportsman License – $100.00. This license shall be issued only to an individual who is a resident of the State and who is totally and permanently disabled as determined by the Social Security Administration or as established by rules of the Wildlife Resources Commission."

SECTION 14.25.(f) Subsections (a) and (e) of this section become effective August 1, 2014.

INTERAGENCY DEER OVERSIGHT REPORT

SECTION 14.26.(a) The Wildlife Resources Commission and the Department of Agriculture and Consumer Services shall jointly study the risks associated with the spread of Chronic Wasting Disease (CWD), also known as transmissible spongiform encephalopathy, due to the importation of cervids from outside the State. The Department shall report no later than January 15, 2015, to the Agriculture and Forestry Awareness Study Commission, the Environmental Review Commission, and the Fiscal Research Division. The report shall include the following:

(1) Proposals and recommendations to minimize the risk exposure and potential cost to the State associated with containment, condemnation, and mitigation costs associated with an outbreak of CWD in the State.

(2) Proposed legislation and regulations necessary to implement the recommendations made in response to subdivision (1) of this subsection and to indemnify the State from any costs of a CWD outbreak associated with importation of infected deer.

(3) Recommendations as to which Department or Commission is most appropriate to oversee and permit the transportation and importation of captive cervids by the State.

SECTION 14.26.(b) No State Department or Commission shall issue a transportation permit for the importation of cervids into the State until the General Assembly has taken final action in response to the recommendations made under this section.

PART XV. DEPARTMENT OF COMMERCE

ABC COMMISSION/USE OF FUNDS CREDITED TO ABC COMMISSION FUND

SECTION 15.1. G.S. 18B-208 reads as rewritten:

"§ 18B-208. ABC Commission bonds and funds.

...

(b) Special Fund. – A special fund in the office of the State Treasurer, the ABC Commission Fund, is created. On and after November 1, 1982, all moneys derived from the collection of bailment charges and bailment surcharges shall be deposited in the ABC Commission Fund for the purpose of carrying out the provisions of this Chapter. The ABC Commission Fund shall be subject to the provisions of the State Budget Act except that no unexpended surplus of this fund shall revert to the General Fund. The Commission shall fix the level of the bailment surcharges at an amount calculated to cover operating expenses of the Commission and the retirement of bonds issued for construction of a Commission warehouse and offices. Upon payment of the bonds issued pursuant to this section, the Commission shall reduce the bailment surcharge to an amount no greater than necessary to pay operating expenses of the Commission as authorized by the General Assembly.

All moneys credited to the ABC Commission Fund shall be used to carry out the intent and purposes of the ABC law in accordance with plans approved by the North Carolina ABC Commission and the Director of the ~~Budget, and all these funds are appropriated, reserved, set aside, and made available until expended for the administration of the ABC law.~~Budget. The moneys in the Fund shall be expended only upon an act of appropriation by the General Assembly."

LOTTERY COMMISSION/LIMITS ON COMPENSATION INCREASES

SECTION 15.2. G.S. 18C-173 reads as rewritten:

"§ 18C-173. Limits on compensation increases.

(a) Notwithstanding G.S. 18C-114(a)(11) and G.S. 18C-120(b)(3), the Lottery Commission, during any fiscal year, may not expend funds for merit and performance-based salary increases in excess of the funds that would have been expended had the Lottery Commission employees received the same across-the-board salary increases granted by the General Assembly to State employees subject to the North Carolina Human Resources Act. These merit and performance-based salary increases may be awarded on an aggregated average basis according to rules adopted by the Lottery Commission.

(b) Notwithstanding G.S. 18C-114(a)(11) and G.S. 18C-120(b)(3), the Lottery Commission, during any fiscal year, shall not expend funds for merit- and performance-based salary increases if the General Assembly has provided in the Current Operations Appropriations Act or any other act enacted by the General Assembly for that fiscal year that funds are to be expended for across-the-board salary increases only."

REPEAL COMMERCE FLEXIBILITY TO REORGANIZE DEPARTMENT

SECTION 15.3. Section 15.7A of S.L. 2013-360 is repealed.

COLLABORATION FOR PROSPERITY ZONES

CREATION OF COLLABORATION FOR PROSPERITY ZONES

SECTION 15.3A.1. Intent to Create Collaboration for Prosperity Zones. – It is the intent of the General Assembly to establish geographically uniform zones in this State to facilitate collaborative and coordinated planning and use of resources, to improve cooperation with other governmental and nonprofit entities at the local and regional level, to facilitate administrative efficiencies within State government, to receive advice on economic development issues by local entities, and, to the extent feasible, to establish one-stop sources in each region for citizens and businesses seeking State services at a regional level.

SECTION 15.3A.2. Article 1 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-28.1. Create Collaboration for Prosperity Zones.**

For purposes of enhanced collaboration and cooperation between governmental agencies, planning, use of resources, and improved efficiency at a regional level, the State is hereby divided into eight permanent zones as follows:

(1) Western Region, consisting of Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, Polk, Rutherford, Swain, and Transylvania Counties.

(2) Northwest Region, consisting of Alleghany, Ashe, Alexander, Avery, Burke, Caldwell, Catawba, McDowell, Mitchell, Watauga, Wilkes, and Yancey Counties.

(3) Southwest Region, consisting of Anson, Cabarrus, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Rowan, Stanly, and Union Counties.

(4) Piedmont-Triad (Central) Region, consisting of Alamance, Caswell, Davidson, Davie, Forsyth, Guilford, Randolph, Rockingham, Stokes, Surry, and Yadkin Counties.

(5) North Central Region, consisting of Chatham, Durham, Edgecombe, Franklin, Granville, Harnett, Johnston, Lee, Nash, Orange, Person, Vance, Wake, Warren, and Wilson Counties.

(6) Sandhills (South Central) Region, consisting of Bladen, Columbus, Cumberland, Hoke, Montgomery, Moore, Richmond, Robeson, Sampson, and Scotland Counties.

(7) Northeast Region, consisting of Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Gates, Halifax, Hertford, Hyde, Martin, Northampton, Pasquotank, Perquimans, Pitt, Tyrrell, and Washington Counties.

(8) Southeast Region, consisting of Brunswick, Carteret, Craven, Duplin, Greene, Jones, Lenoir, New Hanover, Onslow, Pamlico, Pender, and Wayne Counties."

SECTION 15.3A.3. Agencies shall, by January 1, 2015, report to the Joint Legislative Commission on Governmental Operations, the Senate Appropriations/Base Budget Committee, and the House Appropriations Committee on how they plan to establish Collaboration for Prosperity Zones as defined by this act.

SECTION 15.3A.4. G.S. 115C-65 reads as rewritten:

"**§ 115C-65. State divided into districts.**

The State of North Carolina shall be divided into eight educational ~~districts embracing the counties herein set forth:~~districts, which shall match the composition of the zones set forth in G.S. 143B-28.1.

~~**FIRST DISTRICT**~~

~~Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Gates, Hertford, Hyde, Martin, Pasquotank, Perquimans, Pitt, Tyrrell, Washington.~~

~~**SECOND DISTRICT**~~

~~Brunswick, Carteret, Craven, Duplin, Greene, Jones, Lenoir, New Hanover, Onslow, Pamlico, Pender, Sampson, Wayne.~~

~~**THIRD DISTRICT**~~

~~Durham, Edgecombe, Franklin, Granville, Halifax, Johnston, Nash, Northampton, Vance, Wake, Warren, Wilson.~~

~~**FOURTH DISTRICT**~~

~~Bladen, Columbus, Cumberland, Harnett, Hoke, Lee, Montgomery, Moore, Richmond, Robeson, Scotland.~~

~~**FIFTH DISTRICT**~~

~~Alamance, Caswell, Chatham, Davidson, Forsyth, Guilford, Orange, Person, Randolph, Rockingham, Stokes.~~

~~**SIXTH DISTRICT**~~

~~Anson, Cabarrus, Cleveland, Gaston, Lincoln, Mecklenburg, Stanly, Union.~~

~~**SEVENTH DISTRICT**~~

~~Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Davie, Iredell, Rowan, Surry, Watauga, Wilkes, Yadkin.~~

~~**EIGHTH DISTRICT**~~

~~Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania, Yancey.~~"

SECTION 15.3A.5. Section 15.3A.4 of this act becomes effective April 1, 2015. Members of the State Board of Education appointed by the Governor and confirmed by the General Assembly prior to 2015 with terms ending in 2017, 2019, and 2021 shall be designated as the appointees of the following districts for the remainder of the member's current term:

(1) Western Region: Wayne McDevitt
(2) Southwest Region: Gregory Alcorn
(3) Piedmont-Triad (Central) Region: A.L. Collins
(4) Sandhills (South Central) Region: Olivia Oxendine
(5) Northeast Region: Rebecca Taylor
(6) Southeast Region: Reginald Kenan

REQUIRE AT LEAST ONE LIAISON IN EACH COLLABORATION FOR PROSPERITY ZONE

SECTION 15.3B.1. No later than January 1, 2015, the Departments of Commerce, Environment and Natural Resources, and Transportation shall have at least one employee physically located in the same office in each of the Collaboration for Prosperity Zones set out in G.S. 143B-28.1 to serve as that department's liaison with the other departments and with local governments, schools and colleges, planning and development bodies, and businesses in that zone. The departments shall jointly select the office.

No later than January 1, 2015, the Community Colleges System Office shall designate at least one representative from a community college or from the Community Colleges System Office to serve as a liaison in each Collaboration for Prosperity Zone for the community college system, the community colleges in the zone, and other technical colleges and schools within the zone. A liaison may be from a business center located in a community college. These liaisons are not required to be collocated with the liaisons from the Departments of Commerce, Environment and Natural Resources, and Transportation.

No later than January 1, 2015, the State Board of Education shall designate at least one representative from a local school administrative unit or from the Department of Public Instruction to serve as a liaison in each Collaboration for Prosperity Zone for the local school administrative units and other public schools within the zone. These liaisons are not required to be collocated with the liaisons from the Departments of Commerce, Environment and Natural Resources, and Transportation.

SECTION 15.3B.2. In addition to other related tasks assigned by their respective agencies, liaisons in each Collaboration for Prosperity Zone shall work to enhance collaboration and cooperation between their departments and other State agencies, local governmental agencies, and other regional public and nonprofit entities. The liaisons from the Departments of Environment and Natural Resources and Transportation shall work to consolidate and simplify the process for citizens and businesses seeking permits from their respective agencies. The liaisons from the Department of Commerce shall be used to support local economic development efforts, to coordinate such efforts, and to coordinate the Department of Commerce's activities within each Collaboration for Prosperity Zone. The liaisons from the community college system and local school administrative units shall work closely with the Department of Commerce and other State and local governmental agencies and local businesses in the zone to promote job development through career technical education.

SECTION 15.3B.3.(a) The Departments of Transportation and Environment and Natural Resources shall jointly report to the Office of State Budget and Management, the Joint Legislative Commission on Governmental Operations, the Joint Legislative Transportation Oversight Committee, the Environmental Review Commission, the Senate Appropriations/Base Budget Committee, and the House Appropriations Committee, as follows:

(1) No later than January 1, 2015, on the establishment of collocated liaisons within each Collaboration for Prosperity Zone and a description of the activities the liaisons have been assigned to perform.

(2) No later than April 1, 2015, on the activities of the liaisons, specifically any activities undertaken that resulted in enhanced collaboration and coordination with the other department and with other governmental agencies, improved administrative efficiencies, and any steps taken to make services to citizens and businesses within each zone more efficient, economical, and user-friendly.

SECTION 15.3B.3.(b) The Community Colleges System Office and the State Board of Education shall each report to the Office of State Budget and Management, the Joint Legislative Commission on Governmental Operations, the Joint Legislative Education Oversight Committee, the Senate Appropriations/Base Budget Committee, and the House Appropriations Committee, as follows:

(1) No later than January 1, 2015, on the establishment of liaisons within each Collaboration for Prosperity Zone and a description of the activities the liaisons have been assigned to perform.

(2) No later than April 1, 2015, on the activities of the liaisons, specifically any activities undertaken that resulted in enhanced collaboration and coordination with other governmental agencies, improved planning on use of educational resources, and improved administrative efficiencies.

SECTION 15.3B.3.(c) The Department of Commerce shall report to the Office of State Budget and Management, the Joint Legislative Economic Development and Global Engagement Oversight Committee, the Joint Legislative Commission on Governmental Operations, the Senate Appropriations/Base Budget Committee, and the House Appropriations Committee, as follows:

(1) No later than January 1, 2015, on the establishment of liaisons within each Collaboration for Prosperity Zone and a description of the activities the liaisons have been assigned to perform.

(2) No later than April 1, 2015, on the activities of the liaisons, specifically any activities undertaken that resulted in enhanced collaboration and coordination with other governmental agencies, improved planning on use of economic development resources, and improved administrative efficiencies.

SECTION 15.3B.4. The Departments of Commerce, Environment and Natural Resources, and Transportation, the Community Colleges System Office, and the State Board of Education shall use funds available to carry out the requirements of this section. Nothing in Sections 15.3A.1 through 15.3B.5 of this act shall be construed as an authorization for payment of additional compensation for persons serving as liaisons.

SECTION 15.3B.5. Sections 15.3B.1 through 15.3B.5 expire July 1, 2018.

GENERAL ASSEMBLY REVIEW OF REPORTS

SECTION 15.3C.1.(a) It is the intent of the General Assembly to receive and review the reports required by Section 15.3B.3 of this act concerning the creation of the Collaboration for Prosperity Zones and to use those reports to further address the following topics:

(1) Enhancing collaboration and cooperation between State and other governmental agencies in order to streamline and improve services to citizens and businesses, to make such services more user-friendly, and to implement collaborative and cooperative interagency measures to enhance access to services.

(2) Reducing barriers faced by citizens and businesses in accessing services that are unnecessarily caused by agency specialization, which may produce a "silo mentality."

(3) Additional recommendations regarding liaison personnel, including expanding the requirement to other State departments.

(4) Ways to integrate collaboration between educational institutions in each Collaboration for Prosperity Zone on the one hand and other governmental agencies and local businesses on the other.

(5) Requiring the establishment of interagency one-stop shops in each Collaboration for Prosperity Zone.

(6) Consolidating programs or services.

(7) Cross-training employees.

(8) Identifying offices, equipment, and support services that may be efficiently and economically shared between agencies in each Collaboration for Prosperity Zone.

(9) The grouping of counties within each Collaboration for Prosperity Zone to determine whether there is a better configuration while keeping the same overall number of zones.

SECTION 15.3C.1.(b) This section is effective when it becomes law.

COMMERCE FUNDS USED FOR BASE REALIGNMENT AND CLOSURE ACTIVITIES

SECTION 15.4.(a) Funds appropriated to the Department of Commerce for the 2013-2014 fiscal year that are unexpended and unencumbered as of June 30, 2014, shall not revert to the General Fund but shall remain available to the Department until expended for use in the State's preparation for United States Department of Defense Base Realignment and Closure activities.

SECTION 15.4.(b) This section becomes effective June 30, 2014.

SPECIAL FUNDS TRANSFER/OFFSET COMMERCE ADMINISTRATION GENERAL FUND APPROPRIATION

SECTION 15.5.(a) The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Commerce, shall transfer the unencumbered cash balances in the following funds as of June 30, 2014, to Commerce Administration (Budget Code 14600-1111):

(1) 24609-2537 – Energy Research Grants

(2) 24609-2535 – NC Green Business Fund

(3) 24609-2562 – One North Carolina Small Business Fund

(4) 24613-2622 – Main Street Solutions

SECTION 15.5.(b) The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Commerce, shall transfer the unencumbered cash balance in the Economic Development Reserve (Budget Code 24609-2584) as of June 30, 2014, to Commerce Administration (Budget Code 14600-1111) and, upon the transfer, close the Reserve.

SECTION 15.5.(c) The transfers in subsections (a) and (b) of this section are to offset General Fund appropriations to the Department of Commerce for administration.

COMMON FOLLOW-UP/COSTS SHARED BY STATE AGENCIES & LEAD DEVELOP PLAN TO TRANSFER COMMON FOLLOW-UP DATA AND CAPABILITIES TO GDAC

SECTION 15.6.(a) The Commission on Workforce Development (hereinafter "Commission") shall prescribe a method for calculating the amount each of the agencies listed in this subsection shall contribute to fund the Common Follow-Up System at a cost of five hundred thousand dollars ($500,000) on a nonrecurring basis. In developing the method, the Commission shall consider each agency's proportion of data contribution and System usage. The agencies that shall contribute to fund the Common Follow-Up System are as follows:

(1) Department of Public Safety, Division of Adult Correction.

(2) Department of Public Instruction.

(3) Department of Commerce, Division of Workforce Solutions.

(4) Department of Health and Human Services, Division of Services for the Blind; Division of Social Services; and Division of Vocational Rehabilitation Services.

(5) North Carolina Community College System.

(6) The University of North Carolina.

SECTION 15.6.(b) The agencies listed in subsection (a) of this section shall transfer their share of the funds needed to fund the Common Follow-Up System, which shall be determined using the method prescribed by the Commission, to the Department of Commerce, Labor & Economic Analysis Division, no later than December 31, 2014.

SECTION 15.6.(c) The Department of Commerce, Labor & Economic Analysis Division (LEAD), shall develop a plan to transfer the information in and required capabilities of the Common Follow-Up System to the Government Data Analytics Center (GDAC). By February 1, 2015, the Department shall submit the plan to the Office of the State Chief Information Officer, the Joint Legislative Oversight Committee on Information Technology, and the Fiscal Research Division.

MERGE ACCESS NC & DEMAND DRIVEN DATA DELIVERY SYSTEMS/NC BROADBAND REPORTING REQUIREMENT

SECTION 15.7.(a) Of the funds appropriated in this act to the Department of Commerce, the Department shall use the sum of five hundred thousand dollars ($500,000) in the 2014-2015 fiscal year in nonrecurring funds to merge Access NC and Demand Driven Data Delivery to eliminate the duplication of effort in maintaining multiple economic and labor market data systems. By February 1, 2015, and more frequently as requested, the Department shall report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on the progress of the merger, including whether there are improved efficiencies and cost savings.

SECTION 15.7.(b) By February 1, 2015, and more frequently as requested, the Office of the State Chief Information Officer shall report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on NC Connect activities, including providing an update on how NC Broadband in the Department of Commerce has been incorporated into NC Connect.

REPEAL COMPETITIVE GRANT PROGRAM FOR UNDERSERVED AND LIMITED RESOURCE COMMUNITIES

SECTION 15.8. Section 15.10B of S.L. 2013-360 is repealed.

COMMUNITY DEVELOPMENT BLOCK GRANTS/STATE MATCHING FUNDS

SECTION 15.9.(a) Of the funds appropriated in this act to the Department of Commerce, the sum of six hundred thirty-seven thousand five hundred dollars ($637,500) in recurring funds for the 2014-2015 fiscal year shall be used to meet the State matching funds requirement for Community Development Block Grant (CDBG) funds. All or a portion of these funds shall be used to purchase and install a new grants management software program in the 2014-2015 fiscal year, which shall be coordinated with the existing grants management module used by the Department of Transportation.

SECTION 15.9.(b) Effective July 1, 2014, the Secretary of Commerce shall reduce expenditures in the amount of six hundred thirty-seven thousand five hundred dollars ($637,500) in recurring funds for the 2014-2015 fiscal year by eliminating full-time equivalent positions in the Division of Community Assistance and the Office of Urban Development (Fund Code 1620). The recurring reductions provided for in this subsection shall be used to offset the cash-match funds appropriated in subsection (a) of this section.

SECTION 15.9.(c) The Department shall provide the remaining required State match funds in-kind by taking the necessary steps to ensure that positions with salaries equaling the sum of six hundred thirty-seven thousand five hundred dollars ($637,500) in recurring funds for the 2014-2015 fiscal year shall be dedicated full-time to performing duties related to

CDBG activities. To satisfy the in-kind requirement provided for in this subsection, the Department may include positions in the Department of Environment and Natural Resources, CDBG-Infrastructure, that are funded by the General Fund.

SECTION 15.9.(d) By February 1, 2015, the Department shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division regarding (i) the positions eliminated as provided in this section and associated funding and (ii) the manner in which the State match will be achieved and how it will be reported to the United States Department of Housing and Urban Development, CDBG Administration.

RURAL DIVISION/LOANS & GRANTS TO LOCAL GOVERNMENTS TO REUSE OR DEMOLISH BUILDINGS AND PROPERTIES

SECTION 15.10. G.S. 143B-472.127 reads as rewritten:

"**§ 143B-472.127. Programs administered.**

(a) The Rural Economic Development Division shall be responsible for administering the program whereby economic development grants or loans are awarded by the Rural Infrastructure Authority as provided in G.S. 143B-472.128 to local government units. The Rural Infrastructure Authority shall, in awarding economic development grants or loans under the provisions of this subsection, give priority to local government units of the counties that have one of the 80 highest rankings under G.S. 143B-437.08 after the adjustment of that section. The funds available for grants or loans under this program may be used as follows:

...

(2) To provide matching grants or loans to local government units in an economically distressed county that will productively reuse ~~vacant or~~ demolish buildings and properties or construct or expand rural health care ~~facilities~~ facilities, with priority given to towns or communities with populations of less than 5,000. For purposes of this section, the term "economically distressed county" has the same meaning as in G.S. 143B-437.01.

...."

NATURE AND HERITAGE TOURISM ADVISORY BOARD/STATE NATURE AND HERITAGE TOURISM GUIDE

SECTION 15.11.(a) Article 10 of Chapter 143B of the General Statutes is amended by adding a new Part to read as follows:

"Part 2L. Nature and Heritage Tourism Advisory Board.

"**§ 143B-437.110. Nature and Heritage Tourism Advisory Board.**

(a) Creation. – There is created the Nature and Heritage Tourism Advisory Board, hereinafter referred to in this Part as the Advisory Board. The Advisory Board shall be located administratively within the Division of Tourism, Film, and Sports Development of the Department of Commerce but shall exercise its authority independently of the Department.

(b) Membership. – The Advisory Board shall consist of nine members who have knowledge and experience of the nature and heritage tourism industry and who shall be appointed as follows:

(1) Three members appointed by the Governor.

(2) Three members appointed by the Speaker of the House of Representatives.

(3) Three members appointed by the President Pro Tempore of the Senate.

(c) Terms of Office and Vacancies. – Members shall serve four-year terms of office, except as provided in this subsection. Initial terms shall commence on September 1, 2014. A vacancy on the Advisory Board shall be filled in the same manner in which the original appointment was made, and the term of office shall be for the balance of the unexpired term.

Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122.

In order to provide for staggered terms, one person appointed to the positions designated in subdivision (b)(1) of this section, one person appointed to the positions designated in subdivision (b)(2) of this section, and one person appointed to the positions designated in subdivision (b)(3) of this section shall be appointed for initial terms ending on September 1, 2015. One person appointed to the positions designated in subdivision (b)(1) of this section and one person appointed to the positions designated in subdivision (b)(2) of this section shall be appointed for initial terms ending on September 1, 2016. One person appointed to the positions designated in subdivision (b)(1) of this section and one person appointed to the positions designated in subdivision (b)(3) of this section shall be appointed for initial terms ending on September 1, 2017. One person appointed to the positions designated in subdivision (b)(2) of this section and one person appointed to the positions designated in subdivision (b)(3) of this section shall be appointed for initial terms ending on September 1, 2018.

(d) Chair and Quorum. – The Advisory Board shall annually elect a chair from among its membership. The chair shall preside over the Advisory Board's meetings. A majority of the Advisory Board constitutes a quorum.

(e) Staffing and Expenses. – Staff to the Advisory Board shall be provided by the Department of Commerce. Members of the Advisory Board shall be reimbursed for travel and subsistence expenses at the rates allowed to State officers and employees by G.S. 138-6(a).

(f) Meetings. – Meetings of the Advisory Board shall be held upon the call of the chair.

(g) Powers. – The Advisory Board shall have the power to make recommendations to the Secretary of the Department of Commerce and to the General Assembly with respect to the following:

(1) Methods for increasing nature and heritage tourism to and within the State.

(2) Methods for increasing the level of private investment in the State's nature and heritage tourism industry.

(3) Identification of the nature and heritage tourism potential of State-owned facilities and assets.

(4) Methods of advertising the State's nature and heritage tourism industry.

(5) Improvement of interagency cooperation with respect to enhancing and marketing the State's nature and heritage tourism industry."

SECTION 15.11.(b) The Department of Commerce, in conjunction with the Department of Cultural Resources, the Wildlife Resources Commission, the Department of Agriculture and Consumer Services, and the Department of Environment and Natural Resources, shall develop a guidebook on the State's nature and heritage tourism sites. The guidebook shall meet industry standards for tour guidebooks and shall contain information about nature and heritage tourism sites in all regions of the State. No later than October 1, 2015, the Department of Commerce shall make the guidebook available without charge to the public electronically and in physical form at all places at which information about tourism in this State is routinely distributed.

LIDAR RESERVE/TOPOGRAPHICAL MAPPING OF THE STATE

SECTION 15.12.(a) Part 1 of Article 3D of Chapter 147 of the General Statutes is amended by adding a new section to read as follows:

"**§ 147-33.73. LiDAR Reserve.**

The "LiDAR Reserve" is established in the Office of the State Chief Information Officer. Funds in the LiDAR Reserve shall only be used for LiDAR topographical mapping of the State."

SECTION 15.12.(b) The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Commerce, shall transfer the cash balances in the following funds as of June 30, 2014, to the LiDAR Reserve in the Office of the State Chief Information Officer:

(1) 24602-2959 – Disaster Relief Fund, Small Business Loans (Hurricane Floyd) – ($122,243).

(2) 24602-2966 – Disaster Relief Fund, Small Business Loans (2005 Disaster Recovery) – ($3,143,914).

AGRICULTURE GAS EXPANSION FUND

SECTION 15.13.(a) G.S. 143B-437.020 reads as rewritten:

"**§ 143B-437.020. ~~Utilization of economic development incentive programs to support new and expanded natural gas service and to support propane gas service for agricultural projects.~~Natural gas and propane gas for agricultural projects pilot project.**

(a) Definitions. –

(1) Agriculture. – Activities defined in G.S. 106-581.1, whether performed on or off the farm.

~~(2) Economic development incentive programs. – All economic development incentives set forth in G.S. 143B-437.07(c).~~

(3) Eligible project. – A discrete and specific economic development project that would expand agricultural production or processing capabilities that requires new or expanded natural gas or propane gas service.

(4) Excess infrastructure costs. – Any project carrying costs incurred by a natural gas local distribution company to provide new or expanded natural gas service to an eligible project that exceed the income the infrastructure generates for the local natural gas distribution company, including any standard rates, special contract rates, minimum margin agreements, and contributions in aid of construction collected by the natural gas local distribution company.

(5) Project carrying costs. – All costs, including depreciation, taxes, operation and maintenance expenses, and, for a natural gas local distribution company, a return on investment equal to the rate of return approved by the Utilities Commission in the natural gas local distribution company's most recent general rate case under G.S. 62-133.

(6) Secretary. – The Secretary of Commerce.

(a1) Establishment. – The Expanded Gas Products Service to Agriculture Fund is established as a special revenue fund in the Department of Commerce.

(b) Facilitation of New and Expanded Natural Gas Service to Agricultural Projects. – ~~Economic development incentive programs may utilize funds for agricultural projects~~ The Secretary may disburse moneys in the Expanded Gas Products Service to Agriculture Fund for the following purposes:

(1) To allow the owner of an eligible project to pay for excess infrastructure costs associated with the eligible project.

(2) To allow the owner of an eligible project to pay for cost-effective alternatives that would reduce excess infrastructure costs, including:

a. Relocating equipment that uses natural gas to a different location on the property nearer existing natural gas lines to reduce or eliminate the project carrying costs.

b. Adding supplemental uses of natural gas to increase annual volume throughput and enhance the feasibility of new natural gas service,

including fuel for tractors and equipment, greenhouses, plant or animal production, feed grain drying, and natural gas powered irrigation pumps.

(c) Facilitation of New and Expanded Propane Gas Service to Agricultural Production. – ~~Economic development incentive programs may utilize funds for agricultural projects~~ The Secretary may disburse moneys in the Expanded Gas Products Service to Agriculture Fund to allow the owner of an eligible project to pay for cost-effective alternatives that would do any of the following:

(1) ~~reduce infrastructure costs or~~ Reduce infrastructure costs.

(2) ~~that would increase~~Increase energy efficiency or reduce energy consumption.

(3) ~~by adding supplemental uses of propane gas to increase annual volume throughput, reduce energy consumption, reduce energy costs,~~Reduce energy costs.

(4) ~~or to enhance~~Enhance the feasibility of the project or the provision of propane gas ~~service,~~service by adding supplemental uses of propane gas to increase annual volume throughput, including (i) ~~the conversion or repowering of~~to convert or repower tractors, trucks, vehicles, and mowers to use propane gas, ~~or~~ (ii) to provide propane gas powered tractors, equipment, appliances, irrigation pumps, and dryers to service agricultural production facilities or operations, or (iii) to provide a dispensing station for the project owner's use.

(d) Use of ~~Incentive~~ Funds. – ~~Incentive funds utilized in accordance with subsections~~ Disbursements made pursuant to subsection (b) ~~and~~ or (c) of this section shall be paid directly to the owner of the eligible project.

(e) Termination. – ~~Incentive funds utilized in accordance with~~Disbursements made pursuant to subsection (b) of this section shall terminate when there are no longer excess infrastructure costs.

(f) ~~Reimbursement. The owner of an eligible project who receives incentive funds in accordance with subsections (b) or (c) of this section shall be responsible for reimbursing the incentive funds if, for any reason, the eligible project does not maintain business operations for a period of at least five years from the date of the initial utilization of incentive funds.~~Forfeiture. – An owner of an eligible project who receives a disbursement pursuant to subsection (b) or (c) of this section forfeits the amount disbursed if the owner fails to maintain business operations for a period of at least five years from the date of initial utilization of the disbursement. An owner that forfeits amounts disbursed under this section is liable for the amount disbursed plus interest at the rate established under G.S. 105-241.21, computed from the date of the disbursement.

(g) ~~Limits on Eligible Project Incentive~~ Allocation of Funds. – ~~Total incentive funds for all eligible projects under subsections (b) and (c) of this section shall not cumulatively exceed five million dollars ($5,000,000) per biennium. The managers of economic development incentive programs shall promptly report payments made in accordance with subsections (b) and (c) of this section to the Department of Commerce, and the Department of Commerce shall promptly notify the managers of economic development incentive programs when the limitation provided by this subsection has been reached for the biennium.~~The Secretary shall transfer from the Utility Account to the Expanded Gas Products Service to Agriculture Fund at least five million dollars ($5,000,000) per biennium. If funds appropriated for a program or fund administered by the Department, other than the Utility Account, remain unexpended and unencumbered at the end of the fiscal year, those funds shall be used to reimburse the Utility Account for transfers made during the fiscal year pursuant to this section, notwithstanding job

creation or other statutory requirements otherwise applicable to the programs or funds. Examples of programs or funds from which reimbursement of the Utility Account shall be made include, but are not limited to, the Job Development Investment Grant Program, the Job Maintenance and Capital Development Fund, and the One North Carolina Fund.

(h) Mechanism not Exclusive. – The utilization of ~~incentive~~ funds in accordance with subsections (b) or (c) of this section is intended to supplement other available mechanisms for the extension of service to new or expanding customers and may be used in conjunction with special contract arrangements, minimum margin agreements, and contributions in aid of construction.

(i) Reporting Requirement. – The Secretary shall publish a report each quarter on the program, including a list of the eligible projects that have applied for funding, a list of the eligible projects that have received funding, the amount of funds allocated to the program, and the amount of funds allocated to eligible projects. The Secretary must make the report available to the public and must submit the report to the Joint Legislative Commission on Energy Policy.

(j) The Department of Commerce shall develop guidelines related to the administration of the Expanded Gas Products Service to Agriculture Fund and to the selection of projects to receive allocations from the Fund. At least 20 days before the effective date of any guidelines or nontechnical amendments to guidelines, the Department of Commerce must publish the proposed guidelines on the Department's Web site and provide notice to persons who have requested notice of proposed guidelines. In addition, the Department must accept oral and written comments on the proposed guidelines during the 15 business days beginning on the first day that the Department has completed these notifications. For the purpose of this section, a technical amendment is either of the following:

(1) An amendment that corrects a spelling or grammatical error.

(2) An amendment that makes a clarification based on public comment and could have been anticipated by the public notice that immediately preceded the public comment."

SECTION 15.13.(b) G.S. 143B-437.020(g), as amended by subsection (a) of this section, reads as rewritten:

"(g) Allocation of Funds. – The Secretary shall transfer from the Utility Account to the Expanded Gas Products Service to Agriculture Fund at least five million dollars ($5,000,000) per ~~a fiscal year.~~biennium. If funds appropriated for a program or fund administered by the Department, other than the Utility Account, remain unexpended and unencumbered at the end of the fiscal year, the Secretary shall reimburse the Utility Account for transfers made during the fiscal year pursuant to this section, notwithstanding job creation or other statutory requirements otherwise applicable to the programs or funds. Examples of programs or funds from which the Secretary may reimburse the Utility Account include, but are not limited to, the Job Development Investment Grant Program, the Job Maintenance and Capital Development Fund, and the One North Carolina Fund."

SECTION 15.13.(c) G.S. 150B-1(d) is amended by adding a new subdivision to read:

"(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the following:

...

(18) The Department of Commerce and the Economic Investment Committee in developing criteria and administering the Job Maintenance and Capital Development Fund under G.S. 143B-437.012.

(18a) The Department of Commerce in developing criteria and administering the Expanded Gas Products Service to Agriculture Fund under G.S. 143B-437.020.

...."

SECTION 15.13.(d) This section becomes effective July 1, 2014. The Department of Commerce shall begin developing the guidelines for the administration of the program when this act becomes law.

FUND ONE NC SMALL BUSINESS FUND

SECTION 15.14. Of the funds remaining in the One North Carolina Fund established in G.S. 143B-437.71 at the end of fiscal year 2013-2014, an amount equal to two million five hundred thousand dollars ($2,500,000) shall be transferred to the One North Carolina Small Business Fund and used for the North Carolina SBIR/STTR Incentive Program and the North Carolina SBIR/STTR Matching Funds Program.

EMPLOYMENT SECURITY RESERVE FUND

SECTION 15.15. Section 15.4(a) of S.L. 2013-360 reads as rewritten:

"**SECTION 15.4.(a)** There is appropriated from the Employment Security Reserve Fund to the Department of Commerce, Division of Employment Security, the amount needed for the ~~2013-2014~~2014-2015 fiscal year to fund the interest payment due to the federal government for the debt owed to the U.S. Treasury for unemployment benefits."

APPOINTMENT OF DEPUTY COMMISSIONERS FOR INDUSTRIAL COMMISSION

SECTION 15.16.(a) G.S. 97-79(b) reads as rewritten:

"(b) ~~The Commission may appoint deputies who shall have the same power as members of the Commission pursuant to G.S. 97-80 and the same power to take evidence, and enter orders, opinions, and awards based thereon as is possessed by the members of the Commission. The deputies shall be subject to the State Personnel System.~~The Chair of the Commission may appoint deputy commissioners to serve a term of four years. No person may serve more than two terms as a deputy commissioner. In calculating the number of terms served, a partial term of less than two years shall not be included. Deputy commissioners shall have the same power as members of the Commission pursuant to G.S. 97-80 and the same power to take evidence and enter orders, opinions, and awards based thereon as is possessed by the members of the Commission. Upon the expiration of the initial or subsequent term or terms of any deputy commissioner, the deputy commissioner's employment shall be separated unless the deputy commissioner is reappointed by the Chair of the Commission. Deputy commissioners shall not be subject to the State Personnel System nor to the provisions of G.S. 126-5(d)(7)."

SECTION 15.16.(b) As of August 1, 2014, the terms of all current deputy commissioners are as follows:

(1) The seven deputy commissioners with the least time of service shall each serve a term of six months expiring February 1, 2015.

(2) The seven deputy commissioners with the next least time of service shall each serve a term of 12 months expiring August 1, 2015.

(3) The remaining deputy commissioners not covered under subdivision (1) or (2) of this subsection shall each serve a term of 18 months expiring February 1, 2016.

(4) Time of service shall be calculated beginning with the hire date of the person as a deputy commissioner.

(5) Nothing in this section shall prohibit a current deputy commissioner from being eligible for reappointment to a four-year term, as provided by subsection (a) of this section.

SECTION 15.16.(c) Section 60(b) of S.L. 2013-413 is repealed.

SECTION 15.16.(d) G.S. 97-78(b3) reads as rewritten:

"(b3) The salary of deputy commissioners shall be based upon years of experience as a deputy commissioner as follows:

(1) Seventy-five percent (75%) of the salary of a commissioner, with three years of experience or less.

(2) Seventy-seven percent (77%) of the salary of a commissioner, with more than three but less than ~~seven~~ eight years of experience.

~~(3) Eighty percent (80%) of the salary of a commissioner, with seven or more but less than 10 years of experience.~~

~~(4) Eighty-three percent (83%) of the salary of a commissioner, with 10 or more but less than 12 years of experience.~~

~~(5) Eighty-five percent (85%) of the salary of a commissioner, with 12 or more years experience.~~"

SECTION 15.16.(e) Subsection (d) of this section becomes effective February 1, 2016. Notwithstanding G.S. 97-31.1, the remainder of this section is effective when it becomes law.

NC BIOTECHNOLOGY CENTER

SECTION 15.17. Section 15.30 of S.L. 2013-360 reads as rewritten:

"**SECTION 15.30.(a)** Of the funds appropriated in this act to the North Carolina Biotechnology Center (hereinafter "Center"), the sum of twelve million six hundred thousand three hundred thirty-eight dollars ($12,600,338) for each fiscal year in the 2013-2015 biennium shall be allocated as follows:

(1) Job Creation: Ag Biotech Initiative, Economic and Industrial Development, and related activities – $2,709,073;

(2) Science and Commercialization: Science and Technology Development, Centers of Innovation, Business and Technology Development, Education and Training, and related activities – $8,165,019; and

(3) Center Operations: Administration, Professional and Technical Assistance and Oversight, Corporate Communications, Human Resource Management, Financial and Grant Administration, Legal, and Accounting – $1,726,246.

"**SECTION 15.30.(a1)** The Center shall prioritize funding and distribution of loans over existing funding and distribution of grants.

"**SECTION 15.30.(b)** Except to provide administrative flexibility, up to ten percent (10%) of each of the allocations in subsection (a) of this section may be reallocated to one or more of the other allocations in subsection (a) of this section if, in the judgment of Center management, the reallocation will advance the mission of the Center.

"**SECTION 15.30.(c)** The Center shall comply with the following reporting requirements:

(1) By September 1 of each year, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on prior State fiscal year program activities, objectives, and accomplishments and prior State fiscal year itemized expenditures and fund sources.

(2) Provide to the Fiscal Research Division a copy of the Center's annual audited financial statement within 30 days of issuance of the statement."

RESEARCH TRIANGLE INSTITUTE ENERGY RESEARCH

SECTION 15.18. The Research Triangle Institute shall share with the State Energy Office any research supported wholly or partially through funds appropriated by this act that pertains to energy or energy efficiency.

GRASSROOTS SCIENCE PROGRAM

SECTION 15.19. Section 15.25A of S.L. 2013-360 reads as rewritten:

"**SECTION 15.25A.(a)** Of the funds appropriated in this act to the Department of Commerce for State-Aid, the sum of two million three hundred forty-seven thousand seven hundred eighty-two dollars ($2,347,782) for the 2013-2014 fiscal year and the sum of ~~two million three hundred forty-seven thousand seven hundred eighty-two dollars ($2,347,782)~~ two million three hundred ninety thousand four hundred twenty-nine dollars ($2,390,429) for the 2014-2015 fiscal year are allocated as grants-in-aid for each fiscal year as follows:

	2013-2014	2014-2015
Aurora Fossil Museum	$61,821	~~$61,821~~$60,526
Cape Fear Museum	$85,248	~~$85,248~~$84,340
Carolina Raptor Center	$74,916	~~$74,916~~$76,365
Catawba Science Center	$93,041	~~$93,041~~$93,328
Colburn Earth Science Museum, Inc.	$62,547	~~$62,547~~$62,426
Core Sound Waterfowl Museum	$67,395	~~$67,395~~$66,761
Discovery Place	$261,617	~~$261,617~~$254,746
Eastern NC Regional Science Center	$59,587	~~$59,587~~$59,637
Fascinate-U	$65,616	~~$65,616~~$65,792
Granville County Museum Commission, Inc.–Harris Gallery	$60,651	~~$60,651~~$61,068
Greensboro Children's Museum	$83,575	~~$83,575~~$79,322
HandsOn		$58,000
The Health Adventure Museum of Pack Place Education, Arts and Science Center, Inc.	$73,352	~~$73,352~~$0
Highlands Nature Center	$62,816	~~$62,816~~$62,887
Imagination Station	$67,588	~~$67,588~~$65,349
The Iredell Museums, Inc.	$61,013	~~$61,013~~$60,720
Kidsenses	$65,233	~~$65,233~~$64,967
Marbles		$58,000
Museum of Coastal Carolina	$65,454	~~$65,454~~$66,591
The Natural Science Center of Greensboro, Inc.	$116,532	~~$116,532~~$115,410
North Carolina Estuarium	$58,000	~~$58,000~~$62,359
North Carolina Museum of Life and Science	$203,545	~~$203,545~~$197,983
Pisgah Astronomical Research Institute	$74,925	~~$74,925~~$83,281
Port Discover: Northeastern North Carolina's Center for Hands-On Science, Inc.	$60,610	~~$60,610~~$60,248
Rocky Mount Children's Museum	$66,463	~~$66,463~~$67,464
Schiele Museum of Natural History and Planetarium, Inc.	$100,990	~~$100,990~~$107,868
Sci Works Science Center and Environmental Park of Forsyth County	$83,725	~~$83,725~~$84,336
Sylvan Heights Waterfowl Park and Eco-Center	$69,864	~~$69,864~~$68,981
Western North Carolina Nature Center	$74,973	~~$74,973~~$72,400
Wilmington Children's Museum	$66,684	~~$66,684~~$69,274
Total	**$2,347,782**	**~~$2,347,782~~$2,390,429**

...

~~**SECTION 15.25A.(f)** Each museum listed in subsection (a) of this section shall do the following:~~

~~(1) By September 1 of each year, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on prior State fiscal year program activities, objectives, and accomplishments and prior State fiscal year itemized expenditures and fund sources.~~

~~(2) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.~~"

PART XVI. DEPARTMENT OF PUBLIC SAFETY

SUBPART XVI-A. GENERAL PROVISIONS

TRANSFER MAPPING FUNCTIONS TO OFFICE OF THE STATE CHIEF INFORMATION OFFICER

SECTION 16A.1.(a) The Geospatial and Technology Management Program (Budget Code 14550, Fund Code 1504) and the North Carolina Geodetic Survey Section of the Division of Emergency Management of the Department of Public Safety (Budget Code 14550, Fund Code 1511) are hereby transferred to the Center for Geographic Information and Analysis in the Office of the State Chief Information Officer. This transfer shall have all of the elements of a Type I transfer, as described in G.S. 143A-6.

SECTION 16A.1.(b) The following statutes are amended by deleting the language "Division of Emergency Management of the Department of Public Safety" or "Department of Public Safety" wherever it appears and substituting "Office of the State Chief Information Officer:" G.S. 47-30(f)(9), 102-1.1, 102-8, and 102-10.

SECTION 16A.1.(c) G.S. 143-215.52(a)(1c) and (4b) are repealed.

SECTION 16A.1.(d) G.S. 143-215.52(1b) reads as rewritten:

"(1b) "Base floodplain" or "100-year floodplain" means that area subject to a one percent (1%) or greater chance of flooding in any given year, as shown on the current floodplain maps prepared pursuant to the National Flood Insurance Program or approved by the ~~Department.~~Office of the State Chief Information Officer."

SECTION 16A.1.(e) G.S. 143-215.54A(b) reads as rewritten:

"(b) A flood hazard prevention ordinance may include a procedure for granting variances for uses prohibited under G.S. 143-215.54(c). A county or city shall notify the ~~Secretary~~ State Chief Information Officer of its intention to grant a variance at least 30 days prior to granting the variance. A county or city may grant a variance upon finding that all of the following apply:

(1) The use serves a critical need in the community.

(2) No feasible location exists for the location of the use outside the 100-year floodplain.

(3) The lowest floor of any structure is elevated above the base flood elevation or is designed to be watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

(4) The use complies with all other applicable laws and regulations."

SECTION 16A.1.(f) G.S. 143-215.56 reads as rewritten:

"**§ 143-215.56. Delineation of flood hazard areas and 100-year floodplains; powers of ~~Department;~~the State Chief Information Officer; powers of local governments and of the ~~Department.~~State Chief Information Officer.**

(a) For the purpose of delineating a flood hazard area and evaluating the possibility of flood damages, a local government may:

(1) Request technical assistance from the competent State and federal agencies, including the Army Corps of Engineers, the Natural Resources Conservation Service, the Tennessee Valley Authority, the Federal Emergency Management Agency, the North Carolina Department of Public Safety, ~~the North Carolina Geodetic Survey,~~the Office of the State Chief Information Officer, the North Carolina Geological Survey, and the U.S. Geological Survey, or successor agencies.

...

(b) The ~~Department~~ State Chief Information Officer shall provide advice and assistance to any local government having responsibilities under this Part. In exercising this function the ~~Department~~ State Chief Information Officer may furnish manuals, suggested standards, plans, and other technical data; conduct training programs; give advice and assistance with respect to delineation of flood hazard areas and the development of appropriate ordinances; and provide any other advice and assistance that the ~~Department~~ State Chief Information Officer deems appropriate. The ~~Department~~ State Chief Information Officer shall send a copy of every rule adopted to implement this Part to the governing body of each local government in the State.

...

(d) The ~~Department~~ State Chief Information Officer may prepare a floodplain map that identifies the 100-year floodplain and base flood elevations for an area for the purposes of this Part if all of the following conditions apply:

(1) The 100-year floodplain and base flood elevations for the area are not identified on a floodplain map prepared pursuant to the National Flood Insurance Program within the previous five years.

(2) The ~~Department~~ State Chief Information Officer determines that the 100-year floodplain and the base flood elevations for the area need to be identified and the use of the area regulated in accordance with the requirements of this Part in order to prevent damage from flooding.

(3) The ~~Department~~ State Chief Information Officer prepares the floodplain map in accordance with the federal standards required for maps to be accepted for use in administering the National Flood Insurance Program.

(e) Prior to preparing a floodplain map pursuant to subsection (d) of this section, the ~~Department~~ State Chief Information Officer shall advise each local government whose jurisdiction includes a portion of the area to be mapped.

(f) Upon completing a floodplain map pursuant to subsection (d) of this section, the ~~Department~~ State Chief Information Officer shall both:

(1) Provide copies of the floodplain map to every local government whose jurisdiction includes a portion of the 100-year floodplain identified on the floodplain map.

(2) Submit the floodplain map to the Federal Emergency Management Agency for approval for use in administering the National Flood Insurance Program.

(g) Upon approval of a floodplain map prepared pursuant to subsection (d) of this section by the Federal Emergency Management Agency for use in administering the National Flood Insurance Program, it shall be the responsibility of each local government whose jurisdiction includes a portion of the 100-year floodplain identified in the floodplain map to incorporate the revised map into its floodplain ordinance."

SECTION 16A.1.(g) G.S. 143-215.56A reads as rewritten:

"**§ 143-215.56A. Floodplain Mapping Fund.**

The Floodplain Mapping Fund is established as a special revenue fund. The Fund consists of the fees credited to it under G.S. 161-11.5. Revenue in the fund may be used only to offset the ~~Department's~~State Chief Information Officer's cost in preparing floodplain maps and performing its other duties under this Part."

GOVERNOR'S CRIME COMMISSION

SECTION 16A.2. G.S. 143B-1101(b) reads as rewritten:

"(b) The Governor's Crime Commission shall review the level of gang activity throughout the State and assess the progress and accomplishments of the State, and of local governments, in preventing the proliferation of gangs and addressing the needs of juveniles who have been identified as being associated with gang activity.

The Governor's Crime Commission shall develop recommendations concerning the establishment of priorities and needed improvements with respect to gang prevention ~~to the General Assembly~~ and shall report those recommendations to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety on or before March 1 of each year."

SUBPART XVI-B. DIVISION OF LAW ENFORCEMENT

COMPLIANCE WITH CJIS DATA SECURITY STANDARDS

SECTION 16B.1. The Department of Public Safety shall use funds available to the Division of Law Enforcement to ensure compliance with applicable Federal Bureau of Investigation security standards relating to the access of data in its Criminal Justice Information System. The Department is encouraged to use funds transferred to the State from federal asset forfeiture programs for this purpose.

ABC PERMIT FEE INCREASE

SECTION 16B.2.(a) G.S. 18B-903 reads as rewritten:

"**§ 18B-903. Duration of permit; renewal and transfer.**

...

(b) Renewal. – Application for renewal of an ABC permit shall be on a form provided by the Commission. An application for renewal shall be accompanied by an application ~~fee of twenty-five percent (25%) of the original application fee set in G.S. 18B-902,~~ fee. The application fee shall be the same amount as the initial fee set in G.S. 18B-902, except that the renewal application fee for each wine shop permit shall be five hundred dollars ($500.00), and the renewal application fee for each mixed beverages permit and each guest room cabinet permit shall be ~~seven hundred fifty dollars ($750.00).~~one thousand dollars ($1,000). A renewal fee shall not be refundable.

(b1) Registration. – Each person holding a malt beverage, fortified wine, or unfortified wine permit issued pursuant to G.S. 18B-902(d)(1) through G.S. 18B-902(d)(6) shall register by May 1 of each year on a form provided by the Commission, in order to provide information needed by the State in enforcing this Chapter and to support the costs of that enforcement. The registration required by this subsection shall be accompanied by an annual registration and inspection fee of ~~two hundred dollars ($200.00)~~four hundred dollars ($400.00) for each permit held. The fee shall be paid by May 1 of each year. A registration fee shall not be refundable. Failure to pay the annual registration and inspection fee shall result in revocation of the permit.

...."

SECTION 16B.2.(b) This section applies to fees assessed or collected for permits issued or renewed on or after July 1, 2014.

ESTABLISH HAZARDOUS MATERIALS FACILITY FEE

SECTION 16B.3.(a) G.S. 166A-21 reads as rewritten:

"**§ 166A-21. Definitions.**

~~As used in this Article:~~The following definitions apply in this Article:

(1) Department. – The Department of Public Safety.

(2) Division. – The Division of Emergency Management.

~~(1)~~(3) ~~"Hazardous materials emergency response team" or "hazmat team" means an~~ Hazardous materials emergency response team or hazmat team. – An organized group of persons specially trained and equipped to respond to and control actual or potential leaks or spills of hazardous materials.

~~(2)~~(4) ~~"Hazardous material" means any~~ Hazardous material. – Any material defined as a hazardous substance under 29 Code of Federal Regulations § 1910.120(a)(3).

~~(3)~~(5) ~~"Hazardous materials incident" or "hazardous materials emergency" means an~~Hazardous materials incident or hazardous materials emergency. – An uncontrolled release or threatened release of a hazardous substance requiring outside assistance by a local fire department or hazmat team to contain and control.

~~(4)~~(6) ~~"Regional response team" means a~~ Regional response team. – A hazmat team under contract with the State to provide response to hazardous materials emergencies occurring outside the hazmat team's local jurisdiction at the direction of the Department of Public Safety, Division of Emergency Management.

~~(5)~~(7) ~~"Secretary" means the~~ Secretary. – The Secretary of the Department of Public Safety.

~~(6)~~(8) ~~"Technician-level entry capability" means the~~ Technician-level entry capability. – The capacity of a hazmat team, in terms of training and equipment as specified in 29 Code of Federal Regulations § 1910.120, to respond to a hazardous materials incident requiring affirmative measures, such as patching, plugging, or other action necessary to stop and contain the release of a hazardous substance at its source.

~~(7)~~(9) ~~"Terrorist incident" means activities~~ Terrorist incident. – Activities that occur within the territorial jurisdiction of the United States, involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any state, and are intended to do one of the following:

a. Intimidate or coerce a civilian population.

b. Influence the policy of a government by intimidation or coercion.

c. Affect the conduct of a government by mass destruction, assassination, or kidnapping."

SECTION 16B.3.(b) Article 2 of Chapter 166A of the General Statutes is amended by adding a new section to read:

"**§ 166A-29.1. Hazardous materials facility fee.**

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

(1) EPCRA. – The federal Emergency Planning and Community Right-to-Know Act, P.L. No. 99-499 et. seq.

(2) Hazardous chemical. – As defined in 29 C.F.R. 1910.1200(c), except that the term does not include any of the following:

a. Any food, food additive, color additive, drug, or cosmetic regulated by the Food and Drug Administration.

b. Any substance present as a solid in any manufactured item to the extent exposure to the substance does not occur under normal conditions of use.

c. Any substance to the extent that it is used for personal, family, or household purposes or is present in the same form and concentration as a product packaged for distribution and use by the public.

d. Any substance to the extent that it is used in a research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual.

e. Any substance to the extent that it is used in routine agricultural operations or is a fertilizer held for sale by a retailer to the ultimate consumer.

(3) Extremely hazardous substance. – Any substance, regardless of its state, set forth in 40 C.F.R. Part 355, Appendix A or B.

(b) Annual Fee Shall Be Charged. – A person required under Section 302 or 312 of EPCRA to submit a notification or an annual inventory form to the Division shall be required to pay to the Department an annual fee in the amount set forth in subsection (c) of this section.

(c) Amount of Fee. – The amount of the annual fee charged pursuant to subsection (b) of this section shall be calculated in accordance with the following:

(1) A fee of fifty dollars ($50.00) shall be assessed for each substance reported by a facility that is classified as a hazardous chemical.

(2) A fee of ninety dollars ($90.00) shall be assessed for each substance reported by a facility that is classified as an extremely hazardous substance.

(d) Late Fees. – The Division may impose a late fee for failure to submit a report or filing that substantially complies with the requirements of EPCRA by the federal filing deadline or for failure to pay any fee, including a late fee. This fee shall be in addition to the fee imposed pursuant to subsection (c) of this section. Prior to imposing a late fee, the Division shall provide the person who will be assessed the late fee with written notice that identifies the specific requirements that have not been met and informs the person of its intent to assess a late fee. The assessment of a late fee shall be subject to the following limitations:

(1) If the report filing or fee is submitted within 30 days after receipt of the Division's notice that it intends to assess a late fee, no late fee shall be assessed.

(2) If the report filing or fee has not been submitted by the end of the period set forth in subdivision (1) of this subsection, the Division may impose a late fee in an amount equal to the amount of the fee charged pursuant to subsection (c) of this section.

(e) Exemptions. – No fee shall be charged under this section to any of the following:

(1) An owner or operator of a family farm enterprise, a facility owned by a State or local government, or a nonprofit corporation.

(2) An owner or operator of a facility where motor vehicle fuels are stored and from which such fuels are offered for retail sale. However, hazardous chemicals or extremely hazardous substances at such a facility, other than motor vehicle fuels for retail sale, shall not be subject to this exemption.

(f) Use of Fee Proceeds. – The proceeds of fees assessed pursuant to this section shall be used for costs associated with the maintenance of a hazardous materials database and to support the operations of the Regional Response Teams."

SECTION 16B.3.(c) This section applies to fees assessed on or after July 1, 2014.

SUBPART XVI-C. DIVISION OF ADULT CORRECTION AND JUVENILE JUSTICE

ALL MISDEMEANANTS TO SERVE SENTENCES IN LOCAL CONFINEMENT FACILITIES

SECTION 16C.1.(a) G.S. 15A-1351(a) reads as rewritten:

"(a) The judge may sentence to special probation a defendant convicted of a criminal offense other than impaired driving under G.S. 20-138.1, if based on the defendant's prior record or conviction level as found pursuant to Article 81B of this Chapter, an intermediate punishment is authorized for the class of offense of which the defendant has been convicted. A defendant convicted of impaired driving under G.S. 20-138.1 may also be sentenced to special probation. Under a sentence of special probation, the court may suspend the term of imprisonment and place the defendant on probation as provided in Article 82, Probation, and in addition require that the defendant submit to a period or periods of imprisonment in the custody of the Division of Adult Correction of the Department of Public Safety or a designated local confinement or treatment facility at whatever time or intervals within the period of probation, consecutive or nonconsecutive, the court ~~determines.~~determines, as provided in this subsection. For probationary sentences for misdemeanors, including impaired driving under G.S. 20-138.1, all imprisonment under this subsection shall be in a designated local confinement or treatment facility. In addition to any other conditions of probation which the court may impose, the court shall impose, when imposing a period or periods of imprisonment as a condition of special probation, the condition that the defendant obey the Rules and Regulations of the Division of Adult Correction of the Department of Public Safety governing conduct of inmates, and this condition shall apply to the defendant whether or not the court imposes it as a part of the written order. ~~If~~Except for probationary sentences for misdemeanors, including impaired driving under G.S. 20-138.1, if imprisonment is for continuous periods, the confinement may be in the custody of either the Division of Adult Correction of the Department of Public Safety or a local confinement facility. Noncontinuous periods of imprisonment under special probation may only be served in a designated local confinement or treatment facility. Except for probationary sentences of impaired driving under G.S. 20-138.1, the total of all periods of confinement imposed as an incident of special probation, but not including an activated suspended sentence, may not exceed one-fourth the maximum sentence of imprisonment imposed for the offense, and no confinement other than an activated suspended sentence may be required beyond two years of conviction. For probationary sentences for impaired driving under G.S. 20-138.1, the total of all periods of confinement imposed as an incident of special probation, but not including an activated suspended sentence, shall not exceed one-fourth the maximum penalty allowed by law. In imposing a sentence of special probation, the judge may credit any time spent committed or confined, as a result of the charge, to either the suspended sentence or to the imprisonment required for special probation. The original period of probation, including the period of imprisonment required for special probation, shall be as specified in G.S. 15A-1343.2(d), but may not exceed a maximum of five years, except as provided by G.S. 15A-1342(a). The court may revoke, modify, or terminate special probation as otherwise provided for probationary sentences."

SECTION 16C.1.(b) G.S. 15A-1352 reads as rewritten:

"**§ 15A-1352. Commitment to ~~Division of Adult Correction of the Department of Public Safety or~~ a local confinement facility.**

(a) ~~A~~Except as provided in subsection (f) of this section, a person sentenced to imprisonment for a misdemeanor under this Article or for nonpayment of a fine under Article 84 of this Chapter shall be committed for the term designated by the court to the custody of ~~the Division of Adult Correction of the Department of Public Safety or to~~ a local confinement facility. ~~If the~~A sentence imposed for a misdemeanor ~~is for a period of 90 days or less, the commitment~~ must be to a facility other than one maintained by the Division of Adult

Correction of the Department of Public Safety, except as provided in G.S. 148-32.1(b). ~~If the sentence or sentences imposed require confinement for more than 180 days, the commitment must be to the custody of the Division of Adult Correction of the Department of Public Safety.~~

If a person is sentenced to imprisonment for a misdemeanor under this Article or for nonpayment of a fine under Article 84 of this Chapter, the sentencing judge shall make a finding of fact as to whether the person would be suitable for placement in a county satellite jail/work release unit operated pursuant to G.S. 153A-230.3. If the sentencing judge makes a finding of fact that the person would be suitable for placement in a county satellite jail/work release unit and the person meets the requirements listed in G.S. 153A-230.3(a)(1), then the custodian of the local confinement facility may transfer the misdemeanant to a county satellite jail/work release unit.

(b) A person sentenced to imprisonment for a felony under this Article shall be committed for the term designated by the court to the custody of the Division of Adult Correction of the Department of Public Safety.

(c) A person sentenced to imprisonment for nonpayment of a fine under Article 84, Fines, shall be committed for the term designated by the court:

(1) To the custody of the Division of Adult Correction of the Department of Public Safety if the person was fined for conviction of a felony;

(2) To the custody of ~~the Division of Adult Correction of the Department of Public Safety or to~~ a local confinement facility if the person was fined for conviction of a misdemeanor, ~~provided that (i) if the sentence imposed is for a period of 90 days or less, the commitment shall be to a facility other than one maintained by the Division of Adult Correction of the Department of Public Safety, except as provided in G.S. 148-32.1(b) and (ii) if the sentence or sentences imposed require confinement for more than 180 days, the commitment must be to the custody of the Division of Adult Correction of the Department of Public Safety.~~except as provided in G.S. 148-32.1(b).

(d) Notwithstanding any other provision of law, when the sentencing court, with the consent of the person sentenced, orders that a person convicted of a misdemeanor be granted work release, the court may commit the person to a specific ~~prison facility or~~ local confinement facility or satellite jail/work release unit within the county of the sentencing court in order to facilitate the work release arrangement. When appropriate to facilitate the work release arrangement, the sentencing court may, with the consent of the sheriff or board of commissioners, commit the person to a specific local confinement facility or satellite jail/work release unit in another ~~county, or, with the consent of the Division of Adult Correction of the Department of Public Safety, commit the person to a specific prison facility in another county. The Division of Adult Correction of the Department of Public Safety may transfer a prisoner committed to a specific prison facility to a different facility when necessary to alleviate overcrowding or for other administrative purposes.~~county.

(e) A person sentenced for a misdemeanor who has a sentence imposed that requires confinement for a period of more than 90 ~~days and up to 180~~ days, except for those serving sentences for an impaired driving offense under G.S. 20-138.1 under this Article or for nonpayment of a fine under Article 84 of this Chapter, shall be committed for the term designated by the court to confinement pursuant to the Statewide Misdemeanant Confinement Program established by G.S. 148-32.1.

(f) A person sentenced to imprisonment of any duration for impaired driving under G.S. 20-138.1, other than imprisonment required as a condition of special probation under G.S. 15A-1351(a) or G.S. 15A-1344(e), shall be committed to the Statewide Misdemeanant Confinement Program established under G.S. 148-32.1."

SECTION 16C.1.(c) G.S. 20-176(c1) is repealed.

SECTION 16C.1.(d) G.S. 20-179(f3) reads as rewritten:

"(f3) Aggravated Level One Punishment. – A defendant subject to Aggravated Level One punishment may be fined up to ten thousand dollars ($10,000) and shall be sentenced to a term of imprisonment that includes a minimum term of not less than 12 months and a maximum term of not more than 36 months. Notwithstanding G.S. 15A-1371, a defendant sentenced to a term of imprisonment pursuant to this subsection shall not be eligible for parole. However, the defendant shall be released from the ~~Division of Adult Correction of the Department of Public Safety~~Statewide Misdemeanant Confinement Program on the date equivalent to the defendant's maximum imposed term of imprisonment less four months and shall be supervised by the Section of ~~Prisons~~Community Supervision of the Division of Adult Correction under and subject to the provisions of Article 84A of Chapter 15A of the General Statutes and shall also be required to abstain from alcohol consumption for the four-month period of supervision as verified by a continuous alcohol monitoring system. For purposes of revocation, violation of the requirement to abstain from alcohol or comply with the use of a continuous alcohol monitoring system shall be deemed a controlling condition under G.S. 15A-1368.4.

The term of imprisonment may be suspended only if a condition of special probation is imposed to require the defendant to serve a term of imprisonment of at least 120 days. If the defendant is placed on probation, the judge shall impose as requirements that the defendant (i) abstain from alcohol consumption for a minimum of 120 days to a maximum of the term of probation, as verified by a continuous alcohol monitoring system pursuant to subsections (h1) and (h3) of this section, and (ii) obtain a substance abuse assessment and the education or treatment required by G.S. 20-17.6 for the restoration of a drivers license and as a condition of probation. The judge may impose any other lawful condition of probation."

SECTION 16C.1.(e) G.S. 148-13 reads as rewritten:

"§ 148-13. Regulations as to custody grades, privileges, gain time credit, etc.

(a) The Secretary of Public Safety may issue regulations regarding the grades of custody in which State prisoners are kept, the privileges and restrictions applicable to each custody grade, and the amount of cash, clothing, etc., to be awarded to State prisoners after their discharge or parole. The amount of cash awarded to a prisoner upon discharge or parole after being incarcerated for two years or longer shall be at least forty-five dollars ($45.00).

(a1) The Secretary of Public Safety shall adopt rules to specify the rates at, and circumstances under, which earned time authorized by G.S. 15A-1340.13(d) and G.S. 15A-1340.20(d) may be earned or forfeited by persons serving activated sentences of imprisonment for felony or misdemeanor convictions.

(b) With respect to prisoners who are serving ~~prison or~~jail terms for impaired driving offenses under G.S. 20-138.1, the Secretary of Public Safety may, in his discretion, issue regulations regarding deductions of time from the terms of such prisoners for good behavior, meritorious conduct, work or study, participation in rehabilitation programs, and the like.

(c), (d) Repealed by Session Laws 1993, c. 538, s. 32, effective January 1, 1995.

(e) The Secretary's regulations concerning earned time and good time credits authorized by this section shall be distributed to and followed by local jail administrators with regard to sentenced jail prisoners.

(f) The provisions of this section do not apply to persons sentenced to a term of special probation under G.S. 15A-1344(e) or G.S. 15A-1351(a)."

SECTION 16C.1.(f) G.S. 148-32.1 reads as rewritten:

"§ 148-32.1. Local confinement, costs, alternate facilities, parole, work release.

(a) Repealed by Session Laws 2009-451, s. 19.22A, effective July 1, 2009.

(b) In the event that the custodian of the local confinement facility certifies in writing to the clerk of the superior court in the county in which the local confinement facility is located that the local confinement facility is filled to capacity, or that the facility cannot reasonably

accommodate any more prisoners due to segregation requirements for particular prisoners, or that the custodian anticipates, in light of local experiences, an influx of temporary prisoners at that time, or if the local confinement facility does not meet the minimum standards published pursuant to G.S. 153A-221, any judge of the district court in the district court district as defined in G.S. 7A-133 where the facility is located, or any superior court judge who has jurisdiction pursuant to G.S. 7A-47.1 or G.S. 7A-48 in a district or set of districts as defined in G.S. 7A-41.1 where the facility is located may order that a prisoner not housed pursuant to the Statewide Misdemeanant Confinement Program established in subsection (b2) of this section be transferred to any other qualified local confinement facility within that district or within another such district where space is available, including a satellite jail unit operated pursuant to G.S. 153A-230.3 if the prisoner is a non-violent misdemeanant, which local facility shall accept the transferred prisoner.

If no other local confinement facility is available and the reason for the requested transfer is that the local confinement facility that would be required to house the prisoner cannot reasonably accommodate any more prisoners due to segregation requirements for particular prisoners or the local facility does not meet the minimum standards published pursuant to G.S. 153A-221, then the judge may order that a prisoner not housed pursuant to the Statewide Misdemeanant Confinement Program established in subsection (b2) of this section be transferred to a facility operated by the Division of Adult Correction of the Department of Public Safety as designated by the Division of Adult Correction. In no event, however, shall a prisoner whose term of imprisonment is less than 30 days be assigned or ordered transferred to a facility operated by the Division of Adult Correction.

(b1) It is the intent of the General Assembly to authorize the Division of Adult Correction to enter into voluntary agreements with counties to provide housing for misdemeanants serving periods of confinement of more than 90 days and up to 180 days, except for those serving a sentence for an impaired driving offense. It is further the intent of the General Assembly that the Division of Adult Correction, in conjunction with the North Carolina Sheriffs' Association, Inc., establish a program for housing misdemeanants serving periods of confinement of more than 90 days ~~and up to 180 days, except for those serving sentences for an impaired driving offense.~~ and for all sentences imposed for impaired driving under G.S. 20-138.1, regardless of length. It is also the intent of the General Assembly that the Division of Adult Correction contract with the North Carolina Sheriffs' Association, Inc., to provide a service that identifies space in local confinement facilities that is available for housing these misdemeanants.

The General Assembly intends that the cost of housing and caring for these misdemeanants, including, but not limited to, care, supervision, transportation, medical, and any other related costs, be covered by State funds and not be imposed as a local cost. Therefore, the General Assembly intends that the funds in the Statewide Misdemeanant Confinement Fund established in G.S. 148-10.4 be used to provide funding to cover the costs of managing a system for providing that housing of misdemeanants in local confinement facilities as well as reimbursing the counties for housing and related expenses for those misdemeanants.

(b2) The Statewide Misdemeanant Confinement Program is established. The Program shall provide for the housing of misdemeanants from all counties serving sentences imposed for a period of more than 90 days ~~and up to 180 days, except for those serving sentences for an impaired driving offense under G.S. 20-138.1~~and for all sentences imposed for impaired driving under G.S. 20-138.1, regardless of length. Those misdemeanants shall be confined in local confinement facilities except as provided in subsections (b3) and (b4) of this section. The Program shall address methods for the placement and transportation of inmates and reimbursement to counties for the housing of those inmates. Any county that voluntarily agrees

to house misdemeanants from that county or from other counties pursuant to the Program may enter into a written agreement with the Division of Adult Correction to do so.

This Program shall only operate as long as sufficient State funds are available through the Statewide Misdemeanant Confinement Fund established in G.S. 148-10.4(c).

...."

SECTION 16C.1.(g) This section becomes effective October 1, 2014, and applies to (i) persons placed on probation or sentenced to imprisonment for impaired driving under G.S. 20-138.1 on or after January 1, 2015, and (ii) persons placed on probation or sentenced to imprisonment for all other misdemeanors other than impaired driving under G.S. 20-138.1 on or after October 1, 2014.

REMOVE LIMITATION ON COMMUNITY WORK CREW FEE

SECTION 16C.2. G.S. 148-32.2 reads as rewritten:

"**§ 148-32.2. Community work crew fee.**

The Division of Adult Correction of the Department of Public Safety may charge a fee to any unit of local government to which it provides, upon request, a community work crew. The amount of the fee shall be no more than the cost to the Division to provide the crew to the unit of local ~~government, not to exceed a daily rate of one hundred fifty dollars ($150.00) per work crew.~~government."

INMATE LABOR CONTRACT

SECTION 16C.3. The Division of Adult Correction of the Department of Public Safety shall prioritize inmate labor contracts in areas where prisons were closed during the 2013-2014 fiscal year. The Division shall charge a transportation fee equivalent to the mileage cost of transporting inmates to and from the contract site. The Division shall also charge an administrative fee as part of the inmate labor contract that reflects the other costs associated with providing the inmate labor.

EVALUATION OF ELECTRICAL DEVICES, APPLIANCES, AND EQUIPMENT USED BY THE DIVISION OF ADULT CORRECTION

SECTION 16C.4. G.S. 66-25 reads as rewritten:

"**§ 66-25. Acceptable listings as to safety of goods.**

~~(a)~~ All electrical materials, devices, appliances, and equipment shall be evaluated for safety and suitability for intended use. ~~Except as provided in subsection (b) of this section, this~~This evaluation shall be conducted in accordance with nationally recognized standards and shall be conducted by a qualified testing laboratory. The Commissioner of Insurance, through the Engineering Division of the Department of Insurance, shall implement the procedures necessary to approve suitable national standards and to approve suitable qualified testing laboratories. The Commissioner may assign his authority to implement the procedures for specific materials, devices, appliances, or equipment to other agencies or bodies when they would be uniquely qualified to implement those procedures.

In the event that the Commissioner determines that electrical materials, devices, appliances, or equipment in question cannot be adequately evaluated through the use of approved national standards or by approved qualified testing laboratories, the Engineering Division of the Department of Insurance shall specify any alternative evaluations which safety requires.

The Engineering Division of the Department of Insurance shall keep in file, where practical, copies of all approved national standards and resumes of approved qualified testing laboratories.

~~(b) Electrical devices, appliances, or equipment used by the Division of Adult Correction of the Department of Public Safety shall be evaluated for safety and suitability by~~

~~the Central Engineering Section of the Department of Public Safety. The evaluation shall be conducted in accordance with nationally recognized standards.~~"

MAINTENANCE OF PRISONS

SECTION 16C.5. Section 1.1 of S.L. 2011-412, as amended by Section 1.2 of S.L. 2011-412, reads as rewritten:

"**SECTION 1.1.** The Department of Public Safety shall study the potential benefits and costs of contracting for maintenance services at prison facilities and report its findings to the 2013 Session of the General Assembly. ~~The Department shall not expand private maintenance contracts to additional prison facilities unless authorized by the 2013 Session of the General Assembly.~~The Department may expand private maintenance contracts to additional prison facilities if it determines that savings can be realized by doing so and that safety can be maintained at those facilities. The Department shall report to the Joint Legislative Commission on Governmental Operations on the anticipated savings and on safety considerations prior to entering any prison maintenance contract under this section."

ADULT AND JUVENILE INMATE MEDICAL COSTS

SECTION 16C.6.(a) Section 16C.4(a) of S.L. 2013-360 reads as rewritten:

"**SECTION 16C.4.(a)** The Department of Public Safety shall reimburse those providers and facilities providing approved inmate medical services outside the correctional or juvenile facility the lesser amount of either a rate of seventy percent (70%) of the provider's then-current prevailing charge or two times the then-current Medicaid rate for any given service. The Department shall have the right to audit any given provider to determine the actual prevailing charge to ensure compliance with this provision.

This section does apply to vendors providing services that are not billed on a fee-for-service basis, such as temporary staffing. Nothing in this section shall preclude the Department from contracting with a provider for services at rates that provide greater documentable cost avoidance for the State than do the rates contained in this section or at rates that are less favorable to the State but that will ensure the continued access to care."

SECTION 16C.6.(b) Section 19.6(c) of S.L. 2010-31 reads as rewritten:

"**SECTION 19.6.(c)** The ~~Department of Correction~~Department of Public Safety shall consult with the Division of Medical Assistance in the Department of Health and Human Services to develop protocols for prisoners and juveniles committed to the Department who would be eligible for Medicaid if they were not incarcerated to access Medicaid while in ~~custody or under extended limits of confinement.~~ custody, under extended limits of confinement, or committed to the Department. The Department shall seek reimbursement from Medicaid for those health care costs incurred by the Department in those instances when ~~an inmate's~~ the Medicaid eligibility of an inmate or of a juvenile held in secure custody or committed to the Department has been temporarily reinstated due to a hospitalization. ~~The Department of Correction shall also work with the Division of Medical Assistance to determine the feasibility of applying for a Medicaid waiver to cover the inmate population.~~"

REPORT ON TREATMENT FOR EFFECTIVE COMMUNITY SUPERVISION PROGRAM

SECTION 16C.7.(a) Section 16C.12 of S.L. 2013-360 is repealed.

SECTION 16C.7.(b) G.S. 143B-1155(c) reads as rewritten:

"(c) The Division of Adult Correction shall report by March 1 of each year to the Chairs of the ~~Senate and House of Representatives Appropriations Committees, the~~ Senate and House of Representatives Appropriations Subcommittees on Justice and Public ~~Safety;~~Safety and the Joint Legislative Oversight Committee on Justice and Public Safety on the status of the

Treatment for Effective Community Supervision Program. The report shall include the following information:

(1) The dollar amount and purpose of funds provided on a contractual basis to service providers for the previous fiscal ~~year.~~year and the amount of any funds carried over from the previous fiscal year.

(2) An analysis of offender participation data received, including the following:

a. The number of people on probation and post-release supervision that are in the priority population that received services.

b. The number of people on probation and post-release supervision that are in the priority population that did not receive services.

c. The number of people on probation and post-release supervision outside of the priority population that received services.

d. The type of services provided to these ~~populations.~~populations, including data on each program's utilization, capacity, and completion rates.

e. The rate of revocations ~~and successful completions for~~and the educational progress and employment status of people who received services.

f. Other measures as determined appropriate.

(3) The dollar amount needed to provide additional services to meet the needs of the priority population in the upcoming budget year.

(4) Details of personnel, travel, contractual, operating, and equipment expenditures for each program type."

CLARIFY THE IMPOSITION OF CONFINEMENT IN RESPONSE TO VIOLATIONS

SECTION 16C.8.(a) G.S. 15A-1344(d2) reads as rewritten:

"(d2) Confinement in Response to Violation. – When a defendant under supervision for a felony conviction has violated a condition of probation other than G.S. 15A-1343(b)(1) or G.S. 15A-1343(b)(3a), the court may impose a period of confinement of 90 consecutive ~~days.~~days, to be served in the custody of the Division of Adult Correction of the Department of Public Safety. The court may not revoke probation unless the defendant has previously received a total of two periods of confinement under this subsection. A defendant may receive only two periods of confinement under this subsection. ~~If~~The 90-day term of confinement ordered under this subsection for a felony shall not be reduced by credit for time already served in the case. Any such credit shall instead be applied to the suspended sentence. However, if the time remaining on the maximum imposed sentence on a defendant under supervision for a felony conviction is 90 days or less, then the term of confinement is for the remaining period of the sentence. Confinement under this section shall be credited pursuant to G.S. 15-196.1.

When a defendant under supervision for a misdemeanor conviction has violated a condition of probation other than G.S. 15A-1343(b)(1) or G.S. 15A-1343(b)(3a), the court may impose a period of confinement of up to 90 consecutive ~~days.~~days, to be served where the defendant would have served an active sentence. The court may not revoke probation unless the defendant has previously received a total of two periods of confinement under this subsection. A defendant may receive only two periods of confinement under this subsection. Confinement under this section shall be credited pursuant to G.S. 15-196.1.

If a defendant is arrested for violation of a condition of probation and is lawfully confined to await a hearing for the violation, then the judge shall first credit any confinement time spent awaiting the hearing to any confinement imposed under this subsection; any excess time shall be credited to the activated sentence. The period of confinement imposed under this subsection on a defendant who is on probation for multiple offenses shall run concurrently on all cases

related to the violation. Confinement shall be immediate unless otherwise specified by the court.

A defendant shall serve any confinement imposed under this subsection in the correctional facility where the defendant would have served an active sentence."

SECTION 16C.8.(b) This section becomes effective October 1, 2014, and applies to probation violations occurring on or after that date.

PART XVII. DEPARTMENT OF JUSTICE

TRANSFER THE SBI AND THE ALCOHOL LAW ENFORCEMENT SECTION

SECTION 17.1.(a) The State Bureau of Investigation is hereby transferred to the Department of Public Safety as a new section within the Law Enforcement Division. This transfer shall have all of the elements of a Type I transfer, as described in G.S. 143A-6.

SBI TRANSFER – CREATION OF STATUTORY SUBPARTS

SECTION 17.1.(b) Part 4 of Article 13 of Chapter 143B of the General Statutes is amended by adding a new Subpart to read:

"Subpart A. General Provisions."

SECTION 17.1.(c) Part 4 of Article 13 of Chapter 143B of the General Statutes is amended by adding a new Subpart to read:

"Subpart B. State Capitol Police."

SECTION 17.1.(d) Part 4 of Article 13 of Chapter 143B of the General Statutes is amended by adding a new Subpart to read:

"Subpart C. State Bureau of Investigation."

SBI TRANSFER – REPEAL OF CERTAIN STATUTES AND RECODIFICATION OF OTHER AFFECTED STATUTES

SECTION 17.1.(e) G.S. 114-13 is repealed.

SECTION 17.1.(f) G.S. 114-2.7 is recodified as G.S. 143B-901 under Subpart A of Part 4 of Article 13 of Chapter 143B of the General Statutes, as created by subsection (b) of this section.

SECTION 17.1.(g) G.S. 114-10 through G.S. 114-10.1 are recodified as G.S. 143B-902 through G.S. 143B-905 under Subpart A of Part 4 of Article 13 of Chapter 143B of the General Statutes, as created by subsection (b) of this section.

SECTION 17.1.(h) G.S. 143B-900 is recodified as G.S. 143B-911 under Subpart B of Part 4 of Article 13 of Chapter 143B of the General Statutes, as created by subsection (c) of this section.

SECTION 17.1.(i) The following statutes are recodified as G.S. 143B-915 through G.S. 143B-924 under Subpart C of Part 4 of Article 13 of Chapter 143B of the General Statutes, as created by subsection (d) of this section: G.S. 114-12, 114-12.1, 114-14 through 114-15.3, and 114-17 through 114-18.

SECTION 17.1.(j) G.S. 114-19 is recodified as G.S. 143B-906 under Subpart A of Part 4 of Article 13 of Chapter 143B of the General Statutes, as created by subsection (b) of this section.

SECTION 17.1.(k) G.S. 114-19.01 is recodified as G.S. 143B-925 under Subpart C of Part 4 of Article 13 of Chapter 143B of the General Statutes, as created by subsection (d) of this section.

SECTION 17.1.(l) All of Part 2 of Article 4 of Chapter 114 of the General Statutes, other than the section recodified by subsection (k) of this section, is recodified as Subpart D of Part 4 of Article 13 of Chapter 143B of the General Statutes, "Criminal History

Record Checks", G.S. 143B-930 through G.S. 143B-981. Statutory sections of the former statutes that were reserved for future codification shall have corresponding sections that are reserved for future codification in the recodified statutes.

SECTION 17.1.(m) Part 3 of Article 4 of Chapter 114 of the General Statutes is recodified as Subpart E of Part 4 of Article 13 of Chapter 143B of the General Statutes, "Protection of Public Officials", G.S. 143B-986 through G.S. 143B-987.

SBI TRANSFER – OTHER CHANGES

SECTION 17.1.(n) The following statutes, as recodified by subsections (f) through (m) of this section, as applicable, are amended by deleting the language "Department of Justice" wherever it appears and substituting "Department of Public Safety": G.S. 14-208.15A, 14-415.19, 15A-145, 15A-145.1, 15A-145.2, 15A-145.3, 15A-145.4(c) and (j), 15A-145.5(c), 15A-145.6(c), 15A-146, 18B-902, 19A-24, 48-3-309, 53-244.050, 58-71-51, 58-89A-60, 66-407, 70-13.1, 74C-8.1, 74D-2.1, 74F-18, 84-24, 85B-3.2, 90-11, 90-30, 90-85.15, 90-102.1, 90-113.5, 90-113.46A, 90-143.3, 90-171.48, 90-210.25, 90-224, 90-270.22, 90-270.26, 90-270.29A, 90-288.01, 90-622, 90-629, 90-629.1, 90-652, 90D-7, 93A-4, 95-47.2, 106-65.26, 110-90.2, 115C-238.73, 115C-332, 121-25.1, 143-166.13, 143-143.10A, 143B-916, 143B-930 through 143B-965, and 160A-304.

SECTION 17.1.(o) The following statutes, as recodified by subsections (f) through (m) of this section, as applicable, are amended by deleting the language "Attorney General" wherever it appears and substituting "Secretary of Public Safety": G.S. 15A-1475, 58-79-1 through 58-79-15, 58-79-25, 143B-921, and 163-278.

SECTION 17.1.(p) The following statutes, as recodified by subsections (f) through (m) of this section, as applicable, are amended by deleting the language "Division of Criminal Information" and "State Bureau of Investigation's Division of Criminal Information" wherever they appear and substituting "Department of Public Safety": G.S. 7B-2507, 15A-1340.14, 15A-1340.21, 20-26, 85B-3.2, 122C-80, 143B-935, 143B-943, 143B-954, and 143B-981.

SECTION 17.1.(q) The following statutes are amended by deleting the language "Division" wherever it appears and substituting "Department of Public Safety": G.S. 14-208.7, 14-208.8, 14-208.8A, 14-208.9, 14-208.9A, 14-208.12A, 14-208.15, 14-208.15A, 14-208.22, and 14-208.27. However, no substitution shall be made under this subsection to instances of the word "Division" that appear in the phrase "Division of Adult Correction."

SECTION 17.1.(r) G.S. 7A-349 reads as rewritten:

"**§ 7A-349. Criminal history record check; denial of employment, contract, or volunteer opportunity.**

The Judicial Department may deny employment, a contract, or a volunteer opportunity to any person who refuses to consent to a criminal history check authorized under ~~G.S. 114-19.19~~G.S. 143B-950 and may dismiss a current employee, terminate a contractor, or terminate a volunteer relationship if that employee, contractor, or volunteer refuses to consent to a criminal history record check authorized under ~~G.S. 114-19.19.~~G.S. 143B-950."

SECTION 17.1.(s) G.S. 7B-1904 reads as rewritten:

"**§ 7B-1904. Order for secure or nonsecure custody.**

The custody order shall be in writing and shall direct a law enforcement officer or other authorized person to assume custody of the juvenile and to make due return on the order. The official executing the order shall give a copy of the order to the juvenile's parent, guardian, or custodian. If the order is for nonsecure custody, the official executing the order shall also give a copy of the petition and order to the person or agency with whom the juvenile is being placed. If the order is for secure custody, copies of the petition and custody order shall accompany the juvenile to the detention facility or holdover facility of the jail. A message of ~~the Division of Criminal Information, State Bureau of Investigation,~~the Department of Public Safety stating

that a juvenile petition and secure custody order relating to a specified juvenile are on file in a particular county shall be authority to detain the juvenile in secure custody until a copy of the juvenile petition and secure custody order can be forwarded to the juvenile detention facility. The copies of the juvenile petition and secure custody order shall be transmitted to the detention facility no later than 72 hours after the initial detention of the juvenile.

An officer receiving an order for custody which is complete and regular on its face may execute it in accordance with its terms and need not inquire into its regularity or continued validity, nor does the officer incur criminal or civil liability for its execution."

SECTION 17.1.(t) G.S. 8-58.20(c) reads as rewritten:

"(c) The analyst who analyzes the forensic sample and signs the report shall complete an affidavit on a form developed by the ~~State Bureau of Investigation.~~State Crime Laboratory. In the affidavit, the analyst shall state (i) that the person is qualified by education, training, and experience to perform the analysis, (ii) the name and location of the laboratory where the analysis was performed, and (iii) that performing the analysis is part of that person's regular duties. The analyst shall also aver in the affidavit that the tests were performed pursuant to the accrediting body's standards for that discipline and that the evidence was handled in accordance with established and accepted procedures while in the custody of the laboratory. The affidavit shall be sufficient to constitute prima facie evidence regarding the person's qualifications. The analyst shall attach the affidavit to the laboratory report and shall provide the affidavit to the investigating officer and the district attorney in the prosecutorial district in which the criminal charges are pending. An affidavit by a forensic analyst sworn to and properly executed before an official authorized to administer oaths is admissible in evidence without further authentication in any criminal proceeding with respect to the forensic analysis administered and the procedures followed."

SECTION 17.1.(u) G.S. 14-16.9 reads as rewritten:

"**§ 14-16.9. Officers-elect to be covered.**

Any person who has been elected to any office covered by this Article but has not yet taken the oath of office shall be considered to hold the office for the purpose of this Article and ~~G.S. 114-15.~~G.S. 143B-919."

SECTION 17.1.(v) G.S. 14-132(c)(3) reads as rewritten:

"(3) Designated by the ~~Attorney General~~Secretary of Public Safety in accordance with ~~G.S. 114-20.1.~~G.S. 143B-987."

SECTION 17.1.(w) G.S. 14-208.6 reads as rewritten:

"**§ 14-208.6. Definitions.**

The following definitions apply in this Article:

...

(1c) ~~"Division"~~"Department" means the ~~Division of Criminal Information of the Department of Justice.~~Department of Public Safety.

...

(8) "Statewide registry" means the central registry compiled by the ~~Division~~ Department in accordance with G.S. 14-208.14.

...."

SECTION 17.1.(x) G.S. 14-208.13 reads as rewritten:

"**§ 14-208.13. File with ~~Police~~ Criminal Information Network.**

(a) The ~~Division~~ Department of Public Safety shall include the registration information in the ~~Police~~ Criminal Information Network as set forth in ~~G.S. 114-10.1.~~G.S. 143B-905.

(b) The ~~Division~~ Department of Public Safety shall maintain the registration information permanently even after the registrant's reporting requirement expires."

SECTION 17.1.(y) G.S. 14-208.14 reads as rewritten:

"**§ 14-208.14. Statewide registry; ~~Division of Criminal Statistics~~Department of Public Safety designated custodian of statewide registry.**

(a) The ~~Division of Criminal Statistics~~ Department of Public Safety shall compile and keep current a central statewide sex offender registry. The ~~Division~~Department is the State agency designated as the custodian of the statewide registry. As custodian the ~~Division~~ Department has the following responsibilities:

(1) To receive from the sheriff or any other law enforcement agency or penal institution all sex offender registrations, changes of address, changes of academic or educational employment status, and prerelease notifications required under this Article or under federal law. The ~~Division~~Department shall also receive notices of any violation of this Article, including a failure to register or a failure to report a change of address.

(2) To provide all need-to-know law enforcement agencies (local, State, campus, federal, and those located in other states) immediately upon receipt by the ~~Division~~Department of any of the following: registration information, a prerelease notification, a change of address, a change of academic or educational employment status, or notice of a violation of this Article.

(2a) To notify the appropriate law enforcement unit at an institution of higher education as soon as possible upon receipt by the ~~Division~~Department of relevant information based on registration information or notice of a change of academic or educational employment status. If an institution of higher education does not have a law enforcement unit, then the ~~Division~~Department shall provide the information to the local law enforcement agency that has jurisdiction for the campus.

(3) To coordinate efforts among law enforcement agencies and penal institutions to ensure that the registration information, changes of address, change of name, prerelease notifications, and notices of failure to register or to report a change of address are conveyed in an appropriate and timely manner.

(4) To provide public access to the statewide registry in accordance with this Article.

(4a) To maintain the system for public access so that a registrant's full name, any aliases, and any legal name changes are cross-referenced and a member of the public may conduct a search of the system for a registrant under any of those names.

(5) To maintain a system allowing an entity to access a list of online identifiers of persons in the central sex offender registry.

(b) The statewide registry shall include the following:

(1) Registration information obtained by a sheriff or penal institution under this Article or from any other local or State law enforcement agency.

(2) Registration information received from a state or local law enforcement agency or penal institution in another state.

(3) Registration information received from a federal law enforcement agency or penal institution."

SECTION 17.1.(z) G.S. 14-208.31 reads as rewritten:

"**§ 14-208.31. File with ~~Police~~ Criminal Information Network.**

(a) The ~~Division~~ Department of Public Safety shall include the registration information in the ~~Police~~ Criminal Information Network as set forth in ~~G.S. 114-10.1.~~G.S. 143B-905.

(b) The ~~Division~~ Department of Public Safety shall maintain the registration information permanently even after the registrant's reporting requirement expires; however, the

records shall remain confidential in accordance with Article 32 of Chapter 7B of the General Statutes."

SECTION 17.1.(aa) G.S. 14-415.4(d)(5) reads as rewritten:

"(5) The petitioner submits his or her fingerprints to the sheriff of the county in which the petitioner resides for a criminal background check pursuant to ~~G.S. 114-19.28.~~G.S. 143B-959."

SECTION 17.1.(bb) G.S. 15A-266.2(4) reads as rewritten:

"(4) 'DNA Sample' means blood, cheek swabs, or any biological sample containing cells provided by any person with respect to offenses covered by this Article or submitted to the ~~State Bureau of Investigation~~State Crime Laboratory pursuant to this Article for analysis pursuant to a criminal investigation or storage or both."

SECTION 17.1.(cc) G.S. 15A-1341(d) reads as rewritten:

"(d) Search of Sex Offender Registration Information Required When Placing a Defendant on Probation. – When the court places a defendant on probation, the probation officer assigned to the defendant shall conduct a search of the defendant's name or other identifying information against the registration information regarding sex offenders compiled by the ~~Division of Criminal Statistics of the Department of Justice~~Department of Public Safety in accordance with Article 27A of Chapter 14 of the General Statutes. The probation officer may conduct the search using the Internet site maintained by the ~~Division of Criminal Statistics.~~Department of Public Safety."

SECTION 17.1.(dd) G.S. 15A-298 reads as rewritten:

"**§ 15A-298. Subpoena authority.**

Pursuant to rules issued by the ~~Attorney General,~~Department of Public Safety, the Director of the State Bureau of Investigation or the Director's designee may issue an administrative subpoena to a communications common carrier or an electronic communications service to compel production of business records if the records:

(1) Disclose information concerning local or long-distance toll records or subscriber information; and

(2) Are material to an active criminal investigation being conducted by the State Bureau of Investigation."

SECTION 17.1.(ee) G.S. 18C-151(a)(3) reads as rewritten:

"(3) All proposals shall be accompanied by a bond or letter of credit in an amount equal to not less than five percent (5%) of the proposal and the fee to cover the cost of the criminal record check conducted under ~~G.S. 114-19.6.~~G.S. 143B-935."

SECTION 17.1.(ff) G.S. 74F-6(16) reads as rewritten:

"(16) Request that the ~~Department of Justice~~Department of Public Safety conduct criminal history record checks of applicants for licensure and apprenticeships pursuant to ~~G.S. 114-19.15.~~G.S. 143B-946."

SECTION 17.1.(gg) G.S. 90-113.33(10) reads as rewritten:

"(10) Request that the ~~Department of Justice~~Department of Public Safety conduct criminal history record checks of applicants for registration, certification, or licensure pursuant to ~~G.S. 114-19.11A.~~G.S. 143B-941."

SECTION 17.1.(hh) G.S. 90-171.23(b)(19) reads as rewritten:

"(19) Request that the ~~Department of Justice~~Department of Public Safety conduct criminal history record checks of applicants for licensure pursuant to ~~G.S. 114-19.11.~~G.S. 143B-940."

SECTION 17.1.(ii) G.S. 90-270.63(b) reads as rewritten:

"(b) The Board may request that an applicant for licensure, an applicant seeking reinstatement of a license, or a licensee under investigation by the Board for alleged criminal offenses in violation of this Article consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure to an applicant, deny reinstatement of a license to an applicant, or revoke the license of a licensee. The Board shall ensure that the State and national criminal history of an applicant is checked. The Board shall be responsible for providing to the North Carolina ~~Department of Justice~~Department of Public Safety the fingerprints of the applicant or licensee to be checked, a form signed by the applicant or licensee consenting to the criminal history record check and the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories, and any additional information required by the ~~Department of Justice~~Department of Public Safety in accordance with ~~G.S. 114-19.27.~~G.S. 143B-958. The Board shall keep all information obtained pursuant to this section confidential. The Board shall collect any fees required by the ~~Department of Justice~~ Department of Public Safety and shall remit the fees to the ~~Department of Justice~~Department of Public Safety for expenses associated with conducting the criminal history record check."

SECTION 17.1.(jj) G.S. 90-345(b) reads as rewritten:

"(b) The Board may request that an applicant for licensure, an applicant seeking reinstatement of a license, or a licensee under investigation by the Board for alleged criminal offenses in violation of this Article consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure to an applicant, deny reinstatement of a license to an applicant, or revoke the license of a licensee. The Board shall ensure that the State and national criminal history of an applicant is checked. The Board shall be responsible for providing to the North Carolina ~~Department of Justice~~Department of Public Safety the fingerprints of the applicant or licensee to be checked, a form signed by the applicant or licensee consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories, and any additional information required by the ~~Department of Justice~~Department of Public Safety in accordance with ~~G.S. 114-19.26.~~G.S. 143B-957. The Board shall keep all information obtained pursuant to this section confidential. The Board shall collect any fees required by the ~~Department of Justice~~Department of Public Safety and shall remit the fees to the ~~Department of Justice~~Department of Public Safety for expenses associated with conducting the criminal history record check."

SECTION 17.1.(kk) G.S. 93E-1-6(c1) reads as rewritten:

"(c1) The Board shall also make an investigation as it deems necessary into the background of the applicant to determine the applicant's qualifications with due regard to the paramount interest of the public as to the applicant's competency, honesty, truthfulness, and integrity. All applicants shall consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny an application. The Board shall ensure that the State and national criminal history of an applicant is checked. The Board shall be responsible for providing to the North Carolina ~~Department of Justice~~Department of Public Safety the fingerprints of the applicant to be checked, a form signed by the applicant consenting to the criminal history record check, and the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories and any additional information required by the ~~Department of Justice~~ Department of Public Safety in accordance with ~~G.S. 114-19.30.~~G.S. 143B-961. The Board shall keep all information obtained pursuant to this section confidential. The Board shall collect any fees required by the ~~Department of Justice~~Department of Public Safety and shall remit the fees to the ~~Department of Justice~~Department of Public Safety for expenses associated with conducting the criminal history record check."

SECTION 17.1.(ll) G.S. 93E-2-11(b) reads as rewritten:

"(b) The Board may require that an applicant for registration as an appraisal management company or a registrant consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny registration to an applicant or registrant. The Board shall ensure that the State and national criminal history of an applicant or registrant is checked. The Board shall be responsible for providing to the North Carolina ~~Department of Justice~~Department of Public Safety the fingerprints of the applicant or registrant to be checked, a form signed by the applicant or registrant consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories, and any additional information required by the ~~Department of Justice~~Department of Public Safety in accordance with ~~G.S. 114-19.30.~~G.S. 143B-961. The Board shall keep all information obtained pursuant to this section confidential. The Board shall collect any fees required by the ~~Department of Justice~~Department of Public Safety and shall remit the fees to the ~~Department of Justice~~Department of Public Safety for expenses associated with conducting the criminal history record check."

SECTION 17.1.(mm) G.S. 101-5 reads as rewritten:

"**§ 101-5. Name change application requirements; grounds for clerk to order or deny name change; certificate and record.**

...

(e) The clerk shall forward the order granting the name change to:

...

(2) The ~~Division of Criminal Information at the State Bureau of Investigation,~~Department of Public Safety, which shall update its records to show the name change.

...

(g) Upon information obtained by the clerk of fraud or material misrepresentation in the application for a name change, the clerk on his or her own motion may set aside the order granting the name change after notice to the applicant and opportunity to be heard. If the clerk sets aside the name change order, the clerk shall notify the State Registrar of Vital Statistics and the ~~Division of Criminal Information.~~Department of Public Safety."

SECTION 17.1.(nn) G.S. 110-90.2(g), as rewritten by subsection (n) of this section, reads as rewritten:

"(g) The child care provider shall pay the cost of the fingerprinting and the federal criminal history record check in accordance with ~~G.S. 114-19.5.~~G.S. 143B-934. The Department of Public Safety shall perform the State criminal history record check. The Department of Health and Human Services shall pay for and conduct the county criminal history record check. Child care providers who reside outside the State bear the cost of the county criminal history record check and shall provide the county criminal history record check to the Division of Child Development as required by this section."

SECTION 17.1.(oo) G.S. 113-172(a) reads as rewritten:

"(a) The Secretary shall designate license agents for the Department. The Division and license agents designated by the Secretary under this section shall issue licenses authorized under this Article in accordance with this Article and the rules of the Commission. The Secretary may require license agents to enter into a contract that provides for their duties and compensation, post a bond, and submit to reasonable inspections and audits. If a license agent violates any provision of this Article, the rules of the Commission, or the terms of the contract, the Secretary may initiate proceedings for the forfeiture of the license agent's bond and may summarily suspend, revoke, or refuse to renew a designation as a license agent and may impound or require the return of all licenses, moneys, record books, reports, license forms and

other documents, ledgers, and materials pertinent or apparently pertinent to the license agency. The Secretary shall report evidence or misuse of State property, including license fees, by a license agent to the State Bureau of Investigation as provided by ~~G.S. 114-15.1.~~G.S. 143B-920."

SECTION 17.1.(pp) G.S. 114-2.7, as recodified as G.S. 143B-901 by subsection (f) of this section, reads as rewritten:

"**§ 143B-901. Reporting system and database on certain domestic-violence-related homicides; reports by law enforcement agencies required; annual report to the General Assembly.**

The ~~Attorney General's Office,~~Department of Public Safety, in consultation with the North Carolina Council for Women/Domestic Violence Commission, the North Carolina Sheriffs' Association, and the North Carolina Association of Chiefs of Police, shall develop a reporting system and database that reflects the number of homicides in the State where the offender and the victim had a personal relationship, as defined by G.S. 50B-1(b). The information in the database shall also include the type of personal relationship that existed between the offender and the victim, whether the victim had obtained an order pursuant to G.S. 50B-3, and whether there was a pending charge for which the offender was on pretrial release pursuant to G.S. 15A-534.1. All State and local law enforcement agencies shall report information to the ~~Attorney General's Office~~Department of Public Safety upon making a determination that a homicide meets the reporting system's criteria. The report shall be made in the format adopted by the ~~Attorney General's Office.~~Department of Public Safety. The ~~Attorney General's Office~~ Department of Public Safety shall report to the ~~Joint Legislative Committee on Domestic Violence,~~Joint Legislative Oversight Committee on Justice and Public Safety, no later than February 1 of each year, with the data collected for the previous calendar year."

SECTION 17.1.(qq) G.S. 114-10, as recodified as G.S. 143B-902 by subsection (g) of this section, reads as rewritten:

"**§ 143B-902. ~~Division of Criminal Information.~~Powers and duties of the Department of Public Safety with respect to criminal information.**

~~The Attorney General shall set up in the Department of Justice a division to be designated as the Division of Criminal Information. There shall be assigned to this Division by the Attorney General duties as follows:~~In addition to its other duties, it shall be the duty of the Department of Public Safety to do all of the following:

...

(2) To collect, correlate, and maintain access to information that will assist in the performance of duties required in the administration of criminal justice throughout the State. This information may include, but is not limited to, motor vehicle registration, drivers' licenses, wanted and missing persons, stolen property, warrants, stolen vehicles, firearms registration, sexual offender registration as provided under Article 27A of Chapter 14 of the General Statutes, drugs, drug users and parole and probation histories. In performing this function, the ~~Division~~Department may arrange to use information available in other agencies and units of State, local and federal government, but shall provide security measures to insure that such information shall be made available only to those whose duties, relating to the administration of justice, require such information.

...

~~(5) To perform such other duties as may be from time to time prescribed by the Attorney General.~~

(6) To promulgate rules and regulations for the administration of this Article."

SECTION 17.1.(rr) G.S. 114-10.01, as recodified as G.S. 143B-903 by subsection (g) of this section, reads as rewritten:

"**§ 143B-903. Collection of traffic law enforcement statistics.**

(a) ~~In addition to the duties set forth in G.S. 114-10, the Division of Criminal Information~~ In addition to its other duties, the Department of Public Safety shall collect, correlate, and maintain the following information regarding traffic law enforcement by law enforcement officers:

...

(b) For purposes of this section, "law enforcement officer" means any of the following:

(1) All State law enforcement officers.

(2) Law enforcement officers employed by county sheriffs or county police departments.

(3) Law enforcement officers employed by police departments in municipalities with a population of 10,000 or more persons.

(4) Law enforcement officers employed by police departments in municipalities employing five or more full-time sworn officers for every 1,000 in population, as calculated by the ~~Division~~Department for the calendar year in which the stop was made.

...

(d) Each law enforcement officer making a stop covered by subdivision (1) of subsection (a) of this section shall be assigned an anonymous identification number by the officer's employing agency. The anonymous identifying number shall be public record and shall be reported to the ~~Division~~Department to be correlated along with the data collected under subsection (a) of this section. The correlation between the identification numbers and the names of the officers shall not be a public record, and shall not be disclosed by the agency except when required by order of a court of competent jurisdiction to resolve a claim or defense properly before the court.

(d1) Any agency subject to the requirements of this section shall submit information collected under subsection (a) of this section to the ~~Division~~Department within 60 days of the close of each month. Any agency that does not submit the information as required by this subsection shall be ineligible to receive any law enforcement grants available by or through the State until the information which is reasonably available is submitted.

(e) The ~~Division~~Department shall publish and distribute by December 1 of each year a list indicating the law enforcement officers that will be subject to the provisions of this section during the calendar year commencing on the following January 1."

SECTION 17.1.(ss) G.S. 114-10.02, as recodified as G.S. 143B-904 by subsection (g) of this section, reads as rewritten:

"**§ 143B-904. Collection of statistics on the use of deadly force by law enforcement officers.**

(a) In addition to ~~the duties set forth in G.S. 114-10, the Division of Criminal Information~~its other duties, the Department of Public Safety shall collect, maintain, and annually publish the number of deaths, by law enforcement agency, resulting from the use of deadly force by law enforcement officers in the course and scope of their official duties.

(b) For purposes of this section, "law enforcement officer" means sworn law enforcement officers with the power of arrest, both State and local."

SECTION 17.1.(tt) G.S. 114-10.1, as recodified as G.S. 143B-905 by subsection (g) of this section, reads as rewritten:

"**§ 143B-905. ~~Police~~ Criminal Information Network.**

(a) The ~~Division of Criminal Information~~Department of Public Safety is authorized to establish, devise, maintain and operate a system for receiving and disseminating to participating

agencies information collected, maintained and correlated under authority of ~~G.S. 114-10 of this Article.~~G.S. 143B-902. The system shall be known as the ~~Division of~~ Criminal Information Network.

(b) The ~~Division of Criminal Information~~ Department of Public Safety is authorized to cooperate with the Division of Motor Vehicles, Department of Administration, ~~the Department of Public Safety,~~ and other State, local and federal agencies and organizations in carrying out the purpose and intent of this section, and to utilize, in cooperation with other State agencies and to the extent as may be practical, computers and related equipment as may be operated by other State agencies.

(c) The ~~Division of Criminal Information,~~Department of Public Safety, after consultation with participating agencies, shall adopt rules and regulations governing the organization and administration of the ~~Division of~~ Criminal Information Network, including rules and regulations governing the types of information relating to the administration of criminal justice to be entered into the system, and who shall have access to such information. The rules and regulations governing access to the ~~Division of~~ Criminal Information Network shall not prohibit an attorney who has entered a criminal proceeding in accordance with G.S. 15A-141 from obtaining information relevant to that criminal proceeding. The rules and regulations governing access to the ~~Division of~~ Criminal Information Network shall not prohibit an attorney who represents a person in adjudicatory or dispositional proceedings for an infraction from obtaining the person's driving record or criminal history.

(d) ~~The Division of Criminal Information may impose an initial set up fee of two thousand six hundred fifty dollars ($2,650) for agencies to participate in the Division of Criminal Information Network. This one-time fee shall be used to offset the cost of the router and data circuit needed to access the Network.~~

The ~~Division of Criminal Information~~ Department may ~~also~~ impose monthly fees on participating agencies. The monthly fees collected under this subsection shall be used to offset the cost of operating and maintaining the ~~Police~~ Criminal Information ~~Network~~Network.

(1) The ~~Division of Criminal Information~~Department may impose a monthly circuit fee on agencies that access the ~~Division of~~ Criminal Information Network through a circuit maintained and operated by the ~~Department of Justice.~~Department of Public Safety. The amount of the monthly fee is three hundred dollars ($300.00) plus an additional fee amount for each device linked to the Network. The additional fee amount varies depending upon the type of device. For a desktop device after the first seven desktop devices, the additional monthly fee is twenty-five dollars ($25.00) per device. For a mobile device, the additional monthly fee is twelve dollars ($12.00) per device.

(2) The ~~Division of Criminal Information~~Department may impose a monthly device fee on agencies that access the ~~Police~~ Criminal Information Network through some other approved means. The amount of the monthly device fee varies depending upon the type of device. For a desktop device, the monthly fee is twenty-five dollars ($25.00) per device. For a mobile device, the fee is twelve dollars ($12.00) per device."

SECTION 17.1.(uu) G.S. 114-12, as recodified as G.S. 143B-915 by subsection (i) of this section, reads as rewritten:

"**§ 143B-915. Bureau of Investigation created; powers and duties.**

In order to secure a more effective administration of the criminal laws of the State, to prevent crime, and to procure the speedy apprehension of criminals, the ~~Attorney General~~Secretary of Public Safety shall set up in the Division of Law Enforcement of the Department of ~~Justice~~ Public Safety a ~~division~~ section to be designated as the State Bureau of

Investigation. The ~~Division~~ Section shall have charge of and administer the agencies and activities herein set up for the identification of criminals, for their apprehension, and investigation and preparation of evidence to be used in criminal courts; and the said Bureau shall have charge of investigation of criminal matters herein especially mentioned, and of such other crimes and criminal procedure as the Governor may direct.

In the personnel of the Bureau shall be included a sufficient number of persons of training and skill in the investigation of crime and in the preparation of evidence as to be of service to local enforcement officers, under the direction of the Governor, in criminal matters of major importance.

~~The State radio system shall be made available to the Bureau Laboratory for use in its work.~~"

SECTION 17.1.(vv) G.S. 114-14, as recodified as G.S. 143B-917 by subsection (i) of this section, reads as rewritten:

"**§ 143B-917. General powers and duties of ~~Director and assistants.~~law enforcement officers of the State Bureau of Investigation.**

~~The Director of the Bureau and his assistants~~Sworn law enforcement officers of the State Bureau of Investigation are given the same power of arrest as is now vested in the sheriffs of the several counties, and their jurisdiction shall be statewide. ~~The Director of the Bureau and his assistants~~ Sworn law enforcement officers of the Bureau shall, at the request of the Governor, give assistance to sheriffs, police officers, district attorneys, and judges when called upon by them and so directed. ~~They shall also give assistance, when requested, to the Department of Public Safety in the investigation of cases pending before the parole office and of complaints lodged against parolees, when so directed by the Governor.~~"

SECTION 17.1.(ww) G.S. 114-15, as recodified as G.S. 143B-919 by subsection (i) of this section, reads as rewritten:

"**§ 143B-919. Investigations of lynchings, election frauds, etc.; services subject to call of Governor; witness fees and mileage for ~~Director and assistants.~~employees.**

(a) The Bureau shall, ~~through its Director and~~ upon request of the Governor, investigate and prepare evidence in the event of any lynching or mob violence in the State; shall investigate all cases arising from frauds in connection with elections when requested to do so by the Board of Elections, and when so directed by the Governor. Such investigation, however, shall in nowise interfere with the power of the Attorney General to make such investigation as the Attorney General is authorized to make under the laws of the State. The Bureau is authorized further, at the request of the Governor, to investigate cases of frauds arising under the Social Security Laws of the State, of violations of the gaming laws, and lottery laws, and matters of similar kind when called upon by the Governor so to do. In all such cases it shall be the duty of the Department to keep such records as may be necessary and to prepare evidence in the cases investigated, for the use of enforcement officers and for the trial of causes. The services of ~~the Director of the Bureau, and of the Director's assistants,~~employees of the Bureau may be required by the Governor in connection with the investigation of any crime committed anywhere in the State when called upon by the enforcement officers of the State, and when, in the judgment of the Governor, such services may be rendered with advantage to the enforcement of the criminal law. The State Bureau of Investigation is hereby authorized to investigate without request the attempted arson of, or arson of, damage of, theft from, or theft of, or misuse of, any State-owned personal property, buildings, or other real property or any assault upon or threats against any legislative officer named in G.S. 147-2(1), (2), or (3), any executive officer named in G.S. 147-3(c), or any court officer as defined in G.S. 14-16.10(1).

(a1) The Bureau also is authorized at the request of the Governor to conduct a background investigation on a person that the Governor plans to nominate for a position that must be confirmed by the General Assembly, the Senate, or the House of Representatives. The

background investigation of the proposed nominee shall be limited to an investigation of the person's criminal record, educational background, employment record, records concerning the listing and payment of taxes, and credit record, and to a requirement that the person provide the information contained in the statements of economic interest required to be filed by persons subject to Chapter 138A of the General Statutes. The Governor must give the person being investigated written notice that the Governor intends to request a background investigation at least 10 days prior to the date that the Governor requests the State Bureau of Investigation to conduct the background investigation. The written notice shall be sent by regular mail, and there is created a rebuttable presumption that the person received the notice if the Governor has a copy of the notice.

...

(c) All records and evidence collected and compiled by ~~the Director of the Bureau and his assistants~~employees of the Bureau shall, upon request, be made available to the district attorney of any district if the same concerns persons or investigations in his district.

(d) In all cases where the cost is assessed against the defendant and paid by him, there shall be assessed in the bill of cost, mileage and witness fees to ~~the Director and any of his assistants~~ any employees of the Bureau who are witnesses in cases arising in courts of this State. The fees so assessed, charged and collected shall be forwarded by the clerks of the court to the Treasurer of the State of North Carolina, and there credited to the Bureau of Identification and Investigation Fund."

SECTION 17.1.(xx) G.S. 114-19.1(d), as recodified by subsection (l) of this section, reads as rewritten:

"(d) Nothing in this section shall be construed as enlarging any right to receive any record of the State Bureau of Investigation. Such rights are and shall be controlled by ~~G.S. 114-15, G.S. 114-19, G.S.~~G.S. 143B-919, 143B-906, 120-19.4A, and other applicable statutes."

SECTION 17.1.(yy) G.S. 114-19.6(b), as recodified by subsection (l) of this section and rewritten by subsection (o) of this section, reads as rewritten:

"(b) When requested by the Department of Health and Human Services or the Division of Juvenile Justice of the Department of Public Safety, the North Carolina Department of Public Safety may provide to the requesting department or division a covered person's criminal history from the State Repository of Criminal Histories. Such requests shall not be due to a person's age, sex, race, color, national origin, religion, creed, political affiliation, or handicapping condition as defined by G.S. 168A-3. For requests for a State criminal history record check only, the requesting department or division shall provide to the Department of Public Safety a form consenting to the check signed by the covered person to be checked and any additional information required by the Department of Public Safety. National criminal record checks are authorized for covered applicants who have not resided in the State of North Carolina during the past five years. For national checks the Department of Health and Human Services or the Division of Juvenile Justice of the Department of Public Safety shall provide to the North Carolina Department of Public Safety the fingerprints of the covered person to be checked, any additional information required by the Department of Public Safety, and a form signed by the covered person to be checked consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories. The fingerprints of the individual shall be forwarded to the State Bureau of Investigation for a search of the State criminal history record file and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Department of Health and Human Services and the Division of Juvenile Justice of the Department of Public Safety shall keep all information

pursuant to this section confidential. The Department of Public Safety shall charge a reasonable fee for conducting the checks of the criminal history records authorized by this section."

SECTION 17.1.(zz) G.S. 114-20, as recodified as G.S. 143B-986 by subsection (m) of this section, reads as rewritten:

"§ 143B-986. Authority to provide protection to certain public officials.

The North Carolina State Bureau of Investigation is authorized to provide protection to public officials who request it, and who, in the discretion of the Director of the Bureau with the approval of the Attorney General, demonstrate a need for such protection. The bureau shall not provide protection for any individual other than the Governor for a period greater than 30 days without review and reapproval by the ~~Attorney General.~~Secretary of Public Safety. This review and reapproval shall be required at the end of each 30-day period."

SECTION 17.1.(aaa) G.S. 114-20.1, as recodified as G.S. 143B-987 by subsection (m) of this section, reads as rewritten:

"§ 143B-987. Authority to designate areas for protection of public officials.

(a) The ~~Attorney General~~Secretary of Public Safety is authorized to designate buildings and grounds which constitute temporary residences or temporary offices of any public official being protected under authority of ~~G.S. 114-20,~~G.S. 143B-986, or any area that will be visited by any such official, a public building or facility during the time of such use.

(b) The ~~Attorney General or the Director of the State Bureau of Investigation~~Secretary of Public Safety may, with the consent of the official to be protected, make rules governing ingress to or egress from such buildings, grounds or areas designated under this section."

SECTION 17.1.(bbb) G.S. 122C-80 reads as rewritten:

"§ 122C-80. Criminal history record check required for certain applicants for employment.

...

(b) Requirement. – An offer of employment by a provider licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned on consent to a State and national criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. A provider shall not employ an applicant who refuses to consent to a criminal history record check required by this section. Except as otherwise provided in this subsection, within five business days of making the conditional offer of employment, a provider shall submit a request to the ~~Department of Justice~~Department of Public Safety under ~~G.S. 114-19.10~~G.S. 143B-939 to conduct a criminal history record check required by this section or shall submit a request to a private entity to conduct a State criminal history record check required by this section. Notwithstanding ~~G.S. 114-19.10,~~G.S. 143B-939, the ~~Department of Justice~~Department of Public Safety shall return the results of national criminal history record checks for employment positions not covered by Public Law 105-277 to the Department of Health and Human Services, Criminal Records Check Unit. Within five business days of receipt of the national criminal history of the person, the Department of Health and Human Services, Criminal Records Check Unit, shall notify the provider as to whether the information received may affect the employability of the applicant. In no case shall the results of the national criminal history record check be shared with the provider. Providers shall make available upon request verification that a criminal history check has been completed on any staff covered by this section. A county that has adopted an appropriate local ordinance and has access to the Division of Criminal Information data bank may conduct on behalf of a provider a

State criminal history record check required by this section without the provider having to submit a request to the Department of Justice. In such a case, the county shall commence with the State criminal history record check required by this section within five business days of the conditional offer of employment by the provider. All criminal history information received by the provider is confidential and may not be disclosed, except to the applicant as provided in subsection (c) of this section. For purposes of this subsection, the term "private entity" means a business regularly engaged in conducting criminal history record checks utilizing public records obtained from a State agency.

...

(g) Conditional Employment. – A provider may employ an applicant conditionally prior to obtaining the results of a criminal history record check regarding the applicant if both of the following requirements are met:

(1) The provider shall not employ an applicant prior to obtaining the applicant's consent for criminal history record check as required in subsection (b) of this section or the completed fingerprint cards as required in ~~G.S. 114-19.10.~~G.S. 143B-939.

(2) The provider shall submit the request for a criminal history record check not later than five business days after the individual begins conditional employment."

SECTION 17.1.(ccc) G.S. 122C-205(c) reads as rewritten:

"(c) Upon receipt of notice of an escape or breach of a condition of release as described in subsections (a) and (b) of this section, an appropriate law enforcement officer shall take the client into custody and have the client returned to the 24-hour facility from which the client has escaped or has been conditionally released. Transportation of the client back to the 24-hour facility shall be provided in the same manner as described in G.S. 122C-251 and G.S. 122C-408(b). Law enforcement agencies who are notified of a client's escape or breach of conditional release shall be notified of the client's return by the responsible 24-hour facility. Under the circumstances described in this section, the initial notification by the 24-hour facility of the client's escape or breach of conditional release shall be given by telephone communication to the appropriate law enforcement agency or agencies and, if available and appropriate, by ~~Division of Criminal Information (DCI)~~Department of Public Safety message to any law enforcement agency in or out of state and by entry into the National Crime Information Center (NCIC) telecommunications system. As soon as reasonably possible following notification, written authorization to take the client into custody shall also be issued by the 24-hour facility. Under this section, law enforcement officers shall have the authority to take a client into custody upon receipt of the telephone notification or ~~Division of Criminal Information~~Department of Public Safety message prior to receiving written authorization. The notification of a law enforcement agency does not, in and of itself, render this information public information within the purview of Chapter 132 of the General Statutes. However, the responsible law enforcement agency shall determine the extent of disclosure of personal identifying and background information reasonably necessary, under the circumstances, in order to assure the expeditious return of a client to the 24-hour facility involved and to protect the general public and is authorized to make such disclosure. The responsible law enforcement agency may also place any appropriate message or entry into either the ~~Division of Criminal Information System~~Department of Public Safety's Criminal Information System or National Crime Information System, or both, as appropriate."

SECTION 17.1.(ddd) G.S. 131D-10.3A reads as rewritten:

"§ 131D-10.3A. Mandatory criminal checks.

...

(d) The ~~Department of Justice~~Department of Public Safety shall provide to the Department the criminal history of the individuals specified in subsection (a) of this section obtained from the State and National Repositories of Criminal Histories as requested by the Department. The Department shall provide to the ~~Department of Justice,~~Department of Public Safety, along with the request, the fingerprints of the individual to be checked, any additional information required by the ~~Department of Justice,~~Department of Public Safety, and a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories signed by the individual to be checked. The fingerprints of the individual to be checked shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

...

(i) The ~~Department of Justice~~Department of Public Safety shall perform the State and national criminal history checks on individuals required by this section and shall charge the Department a reasonable fee only for conducting the checks of the national criminal history records authorized by this section. The Division of Social Services, Department of Health and Human Services, shall bear the costs of implementing this section."

SECTION 17.1.(eee) G.S. 131D-40 reads as rewritten:

"**§ 131D-40. Criminal history record checks required for certain applicants for employment.**

(a) Requirement; Adult Care Home. – An offer of employment by an adult care home licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned on consent to a criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. An adult care home shall not employ an applicant who refuses to consent to a criminal history record check required by this section. Within five business days of making the conditional offer of employment, an adult care home shall submit a request to the ~~Department of Justice~~Department of Public Safety under ~~G.S. 114-19.10~~G.S. 143B-939 to conduct a State or national criminal history record check required by this section, or shall submit a request to a private entity to conduct a State criminal history record check required by this section. Notwithstanding ~~G.S. 114-19.10,~~G.S. 143B-939, the ~~Department of Justice~~ Department of Public Safety shall return the results of national criminal history record checks for employment positions not covered by Public Law 105-277 to the Department of Health and Human Services, Criminal Records Check Unit. Within five business days of receipt of the national criminal history of the person, the Department of Health and Human Services, Criminal Records Check Unit, shall notify the adult care home as to whether the information received may affect the employability of the applicant. In no case shall the results of the national criminal history record check be shared with the adult care home. Adult care homes shall make available upon request verification that a criminal history check has been completed on any staff covered by this section. All criminal history information received by the home is confidential and may not be disclosed, except to the applicant as provided in subsection (b) of this section.

(a1) Requirement; Contract Agency of Adult Care Home. – An offer of employment by a contract agency of an adult care home licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned upon

consent to a criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. A contract agency of an adult care home shall not employ an applicant who refuses to consent to a criminal history record check required by this section. Within five business days of making the conditional offer of employment, a contract agency of an adult care home shall submit a request to the ~~Department of Justice~~Department of Public Safety under ~~G.S. 114-19.10~~G.S. 143B-939 to conduct a State or national criminal history record check required by this section, or shall submit a request to a private entity to conduct a State criminal history record check required by this section. Notwithstanding ~~G.S. 114-19.10,~~G.S. 143B-939, the ~~Department of Justice~~ Department of Public Safety shall return the results of national criminal history record checks for employment positions not covered by Public Law 105-277 to the Department of Health and Human Services, Criminal Records Check Unit. Within five business days of receipt of the national criminal history of the person, the Department of Health and Human Services, Criminal Records Check Unit, shall notify the contract agency of the adult care home as to whether the information received may affect the employability of the applicant. In no case shall the results of the national criminal history record check be shared with the contract agency of the adult care home. Contract agencies of adult care homes shall make available upon request verification that a criminal history check has been completed on any staff covered by this section. All criminal history information received by the contract agency is confidential and may not be disclosed, except to the applicant as provided by subsection (b) of this section.

...

(f) Conditional Employment. – An adult care home may employ an applicant conditionally prior to obtaining the results of a criminal history record check regarding the applicant if both of the following requirements are met:

(1) The adult care home shall not employ an applicant prior to obtaining the applicant's consent for a criminal history record check as required in subsection (a) of this section or the completed fingerprint cards as required in ~~G.S. 114-19.10.~~G.S. 143B-939.

(2) The adult care home shall submit the request for a criminal history record check not later than five business days after the individual begins conditional employment.

...."

SECTION 17.1.(fff) G.S. 131E-159(g) reads as rewritten:

"(g) An individual who applies for EMS credentials, seeks to renew EMS credentials, or holds EMS credentials is subject to a criminal background review by the Department. At the request of the Department, the Emergency Medical Services Disciplinary Committee, established by G.S. 143-519, shall review criminal background information and make a recommendation regarding the eligibility of an individual to obtain initial EMS credentials, renew EMS credentials, or maintain EMS credentials. The Department and the Emergency Medical Services Disciplinary Committee shall keep all information obtained pursuant to this subsection confidential. The Medical Care Commission shall adopt rules to implement the provisions of this subsection, including rules to establish a reasonable fee to offset the actual costs of criminal history information obtained pursuant to ~~G.S. 114-19.21.~~G.S. 143B-952."

SECTION 17.1.(ggg) G.S. 131E-265 reads as rewritten:

"§ 131E-265. Criminal history record checks required for certain applicants for employment.

(a) Requirement; Nursing Home or Home Care Agency. – An offer of employment by a nursing home licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned on consent to a criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. An offer of employment by a home care agency licensed under this Chapter to an applicant to fill a position that requires entering the patient's home is conditioned on consent to a criminal history record check of the applicant. In addition, employment status change of a current employee of a home care agency licensed under this Chapter from a position that does not require entering the patient's home to a position that requires entering the patient's home shall be conditioned on consent to a criminal history record check of that current employee. If the applicant for employment or if the current employee who is changing employment status has been a resident of this State for less than five years, then the offer of employment or change in employment status is conditioned on consent to a State and national criminal history record check. The national criminal history record check shall include a check of the applicant's or current employee's fingerprints. If the applicant or current employee has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant or current employee applying for a change in employment status. A nursing home or a home care agency shall not employ an applicant who refuses to consent to a criminal history record check required by this section. In addition, a home care agency shall not change a current employee's employment status from a position that does not require entering the patient's home to a position that requires entering the patient's home who refuses to consent to a criminal history record check required by this section. Within five business days of making the conditional offer of employment, a nursing home or home care agency shall submit a request to the ~~Department of Justice~~Department of Public Safety under ~~G.S. 114.19.10~~G.S. 143B-939 to conduct a State or national criminal history record check required by this section, or shall submit a request to a private entity to conduct a State criminal history record check required by this section. Notwithstanding ~~G.S. 114-19.10,~~G.S. 143B-939, the ~~Department of Justice~~ Department of Public Safety shall return the results of national criminal history record checks for employment positions not covered by Public Law 105-277 to the Department of Health and Human Services, Criminal Records Check Unit. Within five business days of receipt of the national criminal history of the person, the Department of Health and Human Services, Criminal Records Check Unit, shall notify the nursing home or home care agency as to whether the information received may affect the employability of the applicant. In no case shall the results of the national criminal history record check be shared with the nursing home or home care agency. Nursing homes and home care agencies shall make available upon request verification that a criminal history check has been completed on any staff covered by this section. All criminal history information received by the home or agency is confidential and may not be disclosed, except to the applicant as provided in subsection (b) of this section.

(a1) Requirement; Contract Agency of Nursing Home or Home Care Agency. – An offer of employment by a contract agency of a nursing home or home care agency licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned upon consent to a criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more,

then the offer is conditioned on consent to a State criminal history record check of the applicant. A contract agency of a nursing home or home care agency shall not employ an applicant who refuses to consent to a criminal history record check required by this section. Within five business days of making the conditional offer of employment, a contract agency of a nursing home or home care agency shall submit a request to the ~~Department of Justice~~Department of Public Safety under ~~G.S. 114-19.10~~G.S. 143B-939 to conduct a State or national criminal history record check required by this section, or shall submit a request to a private entity to conduct a State criminal history record check required by this section. Notwithstanding ~~G.S. 114-19.10,~~G.S. 143B-939, the ~~Department of Justice~~ Department of Public Safety shall return the results of national criminal history record checks for employment positions not covered by Public Law 105-277 to the Department of Health and Human Services, Criminal Records Check Unit. Within five business days of receipt of the national criminal history of the person, the Department of Health and Human Services, Criminal Records Check Unit, shall notify the contract agency of the nursing home or home care agency as to whether the information received may affect the employability of the applicant. In no case shall the results of the national criminal history record check be shared with the contract agency of the nursing home or home care agency. Contract agencies of nursing homes and home care agencies shall make available upon request verification that a criminal history check has been completed on any staff covered by this section. All criminal history information received by the contract agency is confidential and may not be disclosed, except to the applicant as provided by subsection (b) of this section.

...

(f) Conditional Employment. – A nursing home or home care agency may employ an applicant conditionally prior to obtaining the results of a criminal history record check regarding the applicant if both of the following requirements are met:

(1) The nursing home or home care agency shall not employ an applicant prior to obtaining the applicant's consent for a criminal history record check as required in subsection (a) of this section or the completed fingerprint cards as required in ~~G.S. 114-19.10.~~G.S. 143B-939.

(2) The nursing home or home care agency shall submit the request for a criminal history record check not later than five business days after the individual begins conditional employment.

...."

SECTION 17.1.(hhh) G.S. 143-143.10(b)(6) reads as rewritten:

"(6) To request that the Department of Justice conduct criminal history checks of applicants for licensure pursuant to ~~G.S. 114-19.13.~~G.S. 143B-944."

SECTION 17.1.(iii) G.S. 148-37.3(c) reads as rewritten:

"(c) Any private corporation described in subsection (a) of this section shall reimburse the State and any county or other law enforcement agency for the full cost of any additional expenses incurred by the State or the county or other law enforcement agency in connection with the pursuit and apprehension of an escaped inmate from the facility.

In the event of an escape from the facility, any private corporation described in subsection (a) of this section shall immediately notify the sheriff in the county in which the facility is located, who shall cause an immediate entry into the ~~State Bureau of Investigation Division of Criminal Information network.~~Department of Public Safety's Criminal Information Network. The sheriff of the county in which the facility is located shall be the lead law enforcement officer in connection with the pursuit and apprehension of an escaped inmate from the facility."

SECTION 17.1.(jjj) G.S. 153A-94.2 reads as rewritten:

"**§ 153A-94.2. Criminal history record checks of employees permitted.**

The board of commissioners may adopt or provide for rules and regulations or ordinances concerning a requirement that any applicant for employment be subject to a criminal history record check of State and National Repositories of Criminal Histories conducted by the ~~Department of Justice~~ Department of Public Safety in accordance with ~~G.S. 114-19.14.~~G.S. 143B-945. The local or regional public employer may consider the results of these criminal history record checks in its hiring decisions."

SECTION 17.1.(kkk) G.S. 160A-164.2 reads as rewritten:

"**§ 160A-164.2. Criminal history record check of employees permitted.**

The council may adopt or provide for rules and regulations or ordinances concerning a requirement that any applicant for employment be subject to a criminal history record check of State and National Repositories of Criminal Histories conducted by the ~~Department of Justice~~Department of Public Safety in accordance with ~~G.S. 114-19.14.~~G.S. 143B-945. The city may consider the results of these criminal history record checks in its hiring decisions."

SECTION 17.1.(lll) G.S. 164-44(a) reads as rewritten:

"(a) The Commission shall have the secondary duty of collecting, developing, and maintaining statistical data relating to sentencing, corrections, and juvenile justice so that the primary duties of the Commission will be formulated using data that is valid, accurate, and relevant to this State. All State agencies shall provide data as it is requested by the Commission. For the purposes of ~~G.S. 114-19.1,~~G.S. 143B-930, the Commission shall be considered to be engaged in the administration of criminal justice. All meetings of the Commission shall be open to the public and the information presented to the Commission shall be available to any State agency or member of the General Assembly."

SECTION 17.1.(mmm) Subpart C of Part 2 of Article 4 of Chapter 114 of the General Statutes is amended by adding a new section to read:

"**§ 143B-926. Appointment and term of the Director of the State Bureau of Investigation.**

The Director of the State Bureau of Investigation shall be appointed by the Governor for a term of eight years subject to confirmation by the General Assembly by joint resolution. The name of the person to be appointed by the Governor shall be submitted by the Governor to the General Assembly for confirmation by the General Assembly on or before May 1 of the year in which the term for which the appointment is to be made expires. Upon failure of the Governor to submit a name as herein provided, the President Pro Tempore of the Senate and the Speaker of the House of Representatives jointly shall submit a name of an appointee to the General Assembly on or before May 15 of the same year. The appointment shall then be made by enactment of a bill. The bill shall state the name of the person being appointed, the office to which the appointment is being made, the effective date of the appointment, the date of expiration of the term, the county of residence of the appointee, and that the appointment is made upon the joint recommendation of the Speaker of the House of Representatives and the President Pro Tempore of the Senate. Nothing precludes any member of the General Assembly from proposing an amendment to any bill making such an appointment."

SECTION 17.1.(nnn) Notwithstanding anything in G.S. 143B-926, as enacted by subsection (mmm) of this section, to the contrary, the Governor shall appoint an acting Director of the State Bureau of Investigation who shall serve until a new Director is appointed pursuant to G.S. 143B-926. A Director shall be appointed pursuant to G.S. 143B-926 no later than June 1, 2015, for a term that shall end on June 30, 2023.

SECTION 17.1.(ooo) Notwithstanding any other provision of law, there shall be no transfer of positions to or from the State Bureau of Investigation and no changes to the authorized budget of the State Bureau of Investigation, as it existed on March 1, 2014, prior to the transfer of the State Bureau of Investigation to the Department of Public Safety.

ALCOHOL LAW ENFORCEMENT SECTION TRANSFER

SECTION 17.1.(ppp) The Alcohol Law Enforcement Section shall be relocated as a branch under the State Bureau of Investigation.

SECTION 17.1.(qqq) G.S. 18B-500 reads as rewritten:

"**§ 18B-500. Alcohol law-enforcement agents.**

(a) Appointment. – The ~~Secretary of Public Safety~~Director of the State Bureau of Investigation shall appoint alcohol law-enforcement agents and other enforcement personnel. The ~~Secretary of Public Safety~~Director may also appoint regular employees of the Commission as alcohol law-enforcement agents. Alcohol law-enforcement agents shall be designated as "alcohol law-enforcement agents". Persons serving as reserve alcohol law-enforcement agents are considered employees of the Alcohol Law Enforcement Section for workers' compensation purposes while performing duties assigned or approved by the ~~Director~~ Head of the Alcohol Law Enforcement ~~Section~~ Branch or the ~~Director's~~ Head's designee.

(b) Subject Matter Jurisdiction. – After taking the oath prescribed for a peace officer, an alcohol law-enforcement agent shall have authority to arrest and take other investigatory and enforcement actions for any criminal offense. The primary responsibility of an agent shall be enforcement of the ~~ABC laws, lottery laws, and Article 5 of Chapter 90 (The Controlled Substances Act); however, an agent may perform any law enforcement duty assigned by the Secretary of Public Safety or the Governor.~~ABC and lottery laws.

...

(g) Shifting of Personnel From One District to Another. – The ~~Director~~ Head of the Alcohol Law Enforcement ~~Section,~~Branch, under rules adopted by the Department of Public Safety may, from time to time, shift the forces from one district to another or consolidate more than one district force at any point for special purposes. Whenever an agent of the Alcohol Law Enforcement Section is transferred from one district to another for the convenience of the State or for reasons other than the request of the agent, the Department shall be responsible for transporting the household goods, furniture, and personal apparel of the agent and members of the agent's household."

SECTION 17.1.(rrr) The following statutes are amended by deleting the word "Section" wherever it appears in uppercase and substituting "Branch": G.S. 18B-101(5), 18B-201, 18B-202, 18B-203, 18B-504, 18B-805, 18B-902, 18B-903, 18B-904, 19-2.1, 105-259(b)(15), and 143-652.1 through 143-658.

SECTION 17.1.(sss) G.S. 143-651 reads as rewritten:

"**§ 143-651. Definitions.**

The following definitions apply in this Article:

...

(4a) Branch. – The Alcohol Law Enforcement Branch of the State Bureau of Investigation.

...

(23b) Sanctioned amateur match. – Any match regulated by an amateur sports organization that has been recognized and approved by the ~~Section.~~Branch.

...

~~(24a) Section. – The Alcohol Law Enforcement Section of the Department of Public Safety.~~

...."

MISCELLANEOUS PROVISIONS

SECTION 17.1.(ttt) The Department of Public Safety shall consolidate ALE and SBI Regions and Regional Offices. These regional offices shall be operational by October 1, 2014.

SECTION 17.1.(uuu) The Department of Public Safety shall make the following reports on progress implementing this section to the Joint Legislative Oversight Committee on Justice and Public Safety:

(1) An interim report on or before January 1, 2015.

(2) A second interim report on or before April 1, 2015.

(3) A final report on or before October 1, 2015. This report may include any recommendations for changes to applicable statutes.

SECTION 17.1.(vvv) Subsection (ooo) of this section is effective when it becomes law. The remainder of this section becomes effective July 1, 2014.

TRANSFER THE NORTH CAROLINA STATE CRIME LABORATORY TO THE DEPARTMENT OF PUBLIC SAFETY

SECTION 17.2.(a) The North Carolina State Crime Laboratory and the State DNA Database and Databank are hereby transferred from the Department of Justice to the Department of Public Safety. This transfer shall have all of the elements of a Type I transfer, as described in G.S. 143A-6.

SECTION 17.2.(b) The Forensic Science Advisory Board is hereby transferred from the Department of Justice to the Department of Public Safety. This transfer shall have all of the elements of a Type I transfer, as described in G.S. 143A-6.

SECTION 17.2.(c) Article 9 of Chapter 114 of the General Statutes is recodified as Part 8 of Article 13 of Chapter 143B of the General Statutes, G.S. 143B-1205 through G.S. 143B-1208

SECTION 17.2.(d) G.S. 114-8.6 is recodified as G.S. 143B-1209 under Part 8 of Article 13 of Chapter 143B of the General Statutes, as created by subsection (c) of this section.

SECTION 17.2.(e) G.S. 7A-304(a) reads as rewritten:

"**§ 7A-304. Costs in criminal actions.**

(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected. No costs may be assessed when a case is dismissed. Only upon entry of a written order, supported by findings of fact and conclusions of law, determining that there is just cause, the court may (i) waive costs assessed under this section or (ii) waive or reduce costs assessed under subdivision (7), (8), (11), or (12) of this section.

...

(7) For the services of the North Carolina State Crime Laboratory facilities, the district or superior court judge shall, upon conviction, order payment of the sum of six hundred dollars ($600.00) to be remitted to the ~~Department of Justice~~Department of Public Safety for support of the Laboratory. This cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratories have performed DNA analysis of the crime, tests of bodily fluids of the defendant for the presence of alcohol or controlled substances, or analysis of any controlled substance possessed by the defendant or the defendant's agent.

...

(9) For the support and services of the State DNA Database and DNA Databank, the sum of two dollars ($2.00). This amount is annually appropriated to the ~~Department of Justice~~Department of Public Safety for this purpose. Notwithstanding the provisions of subsection (e) of this section, this cost does not apply to infractions.

...

(11) For the services of an expert witness employed by the North Carolina State Crime Laboratory who completes a chemical analysis pursuant to G.S. 20-139.1 or a forensic analysis pursuant to G.S. 8-58.20 and provides testimony about that analysis in a defendant's trial, the district or superior court judge shall, upon conviction of the defendant, order payment of the sum of six hundred dollars ($600.00) to be remitted to the ~~Department of Justice~~ Department of Public Safety for support of the State Crime Laboratory. This cost shall be assessed only in cases in which the expert witness provides testimony about the chemical or forensic analysis in the defendant's trial and shall be in addition to any cost assessed under subdivision (7) of this subsection.

...."

SECTION 17.2.(f) G.S. 15A-266.2(1c) reads as rewritten:

"**§ 15A-266.2. Definitions.**

As used in this Article, unless another meaning is specified or the context clearly requires otherwise, the following terms have the meanings specified:

...

(1c) "Crime Laboratory" means the North Carolina State Crime Laboratory of the ~~Department of Justice.~~Department of Public Safety.

...."

SECTION 17.2.(g) G.S. 15A-266.3A(d) reads as rewritten:

"(d) After taking a DNA sample from an arrested person required to provide a DNA sample pursuant to this section, the person taking the DNA sample shall provide the arrested person with a written notice of the procedures for seeking an expunction of the DNA sample pursuant to subsections (h), (i), (j), (k), and (l) of this section. The ~~Department of Justice~~Department of Public Safety shall provide the written notice required by this subsection."

SECTION 17.2.(h) G.S. 114-60, as recodified as G.S. 143B-1205 by subsection (c) of this section, reads as rewritten:

"**§ 143B-1205. Laboratory and clinical facilities; employment of criminologists; services of scientists, etc., employed by ~~State; radio system.~~State.**

In the ~~Department of Justice~~Department of Public Safety there shall be provided laboratory facilities for the analysis of evidences of crime, including the determination of presence, quantity and character of poisons, the character of bloodstains, microscopic and other examination material associated with the commission of crime, examination and analysis of projectiles of ballistic imprints and records which might lead to the determination or identification of criminals, the examination and identification of fingerprints, and other evidence leading to the identification, apprehension, or conviction of criminals. A sufficient number of persons skilled in such matters shall be employed to render a reasonable service to the public through the criminal justice system and to the criminal justice system in the discharge of their duties.

The laboratory and clinical facilities of the institutions of the State, both educational and departmental, shall be made available to the Laboratory, and scientists and doctors now working for the State through its institutions and departments may be called upon by the Governor to aid the Laboratory in the evaluation, preparation, and preservation of evidence in which scientific methods are employed, and a reasonable fee may be allowed by the Governor for such service.

The Director of the State Crime Laboratory shall be subject to the direction and control of the Secretary of Public Safety."

SECTION 17.2.(i) G.S. 114-61, as recodified as G.S. 143B-1206 by subsection (c) of this section, reads as rewritten:

"**§ 143B-1206. Forensic Science Advisory Board.**

(a) Creation and Membership. – The North Carolina Forensic Science Advisory Board (Board) is hereby established as an advisory board within the ~~Department of Justice.~~Department of Public Safety. The Board shall consist of 16 members, consisting of the State Crime Laboratory Director, and 15 members appointed by the ~~Attorney General~~Secretary of Public Safety as follows:

...

A chairman shall be elected from among the members appointed, and staff shall be provided by the ~~Department of Justice.~~Department of Public Safety.

(b) Meetings. – The Board shall meet quarterly and at such other times and places as it determines. Members of the Board cannot designate a proxy to vote in their absence.

(c) Terms. – Members of the Board initially appointed shall serve the following terms: five members shall serve a term of two years; five members shall serve a term of three years; and five members shall serve a term of four years. Thereafter, all appointments shall be for a term of four years. A vacancy other than by expiration of term shall be filled by the ~~Attorney General~~Secretary of Public Safety for the unexpired term. Members of the Board cannot designate a proxy to vote in their absence.

...."

SECTION 17.2.(j) G.S. 114-62, as recodified as G.S. 143B-1207 by subsection (c) of this section, reads as rewritten:

"**§ 143B-1207. North Carolina State Crime Laboratory Ombudsman.**

The position of ombudsman is created in the North Carolina State Crime Laboratory within the ~~North Carolina Department of Justice.~~Department of Public Safety. The primary purpose of this position shall be to work with defense counsel, prosecutorial agencies, criminal justice system stakeholders, law enforcement officials, and the general public to ensure all processes, procedures, practices, and protocols at the State Crime Laboratory are consistent with State and federal law, best forensic law practices, and in the best interests of justice in this State. The ombudsman shall mediate complaints brought to the attention of the ombudsman between the Crime Laboratory and defense counsel, prosecutorial agencies, law enforcement agencies, and the general public. The ombudsman shall ensure all criminal justice stakeholders and the general public are aware of the availability, responsibilities, and role of the ombudsman and shall regularly attend meetings of the Conferences of the District Attorneys, District and Superior Court Judges, Public Defenders, the Advocates for Justice, and Bar Criminal Law Sections. The ombudsman shall make recommendations on a regular basis to the Director of the State Crime Laboratory and the ~~Attorney General of North Carolina~~Secretary of Public Safety as to policies, procedures, practices, and training of employees needed at the Laboratory to ensure compliance with State and federal law, best forensic law practices, and to resolve any meritorious systemic complaints received by the ombudsman."

SECTION 17.2.(k) G.S. 114-8.6, as recodified as G.S. 143B-1209 by subsection (d) of this section, reads as rewritten:

"**§ 143B-1209. Designation of State Crime Laboratory as Internet Crimes Against Children affiliated agency.**

The ~~Attorney General~~Secretary of Public Safety shall designate the North Carolina State Crime Laboratory as a North Carolina Internet Crimes Against Children (ICAC) affiliated agency."

SECTION 17.2.(l) Notwithstanding any other provision of law, there shall be no transfer of positions to or from the State Crime Laboratory and no changes to the authorized

budget of the State Crime Laboratory, as it existed on March 1, 2014, prior to the transfer of the State Crime Laboratory to the Department of Public Safety.

SECTION 17.2.(m) Section 17.2 of S.L. 2013-360 is repealed.

SECTION 17.2.(n) Part 8 of Article 13 of Chapter 143B of the General Statutes, as created by subsection (c) of this section, is amended by adding a new section to read:

"**§ 143B-1210. Annual Crime Laboratory report.**

No later than October 1 every year, the Department of Public Safety shall report on the work of the North Carolina State Crime Laboratory during the previous fiscal year. The reports required by this section shall be filed with the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety and with the Fiscal Research Division. Each report shall include at least the following:

(1) Information about the workload of the Laboratory during the previous fiscal year, including the number of submissions, identified by forensic discipline, received at each location of the Laboratory.

(2) Information about the number of cases completed in the previous fiscal year, identified by forensic discipline, at each location of the Laboratory.

(3) A breakdown by county of the number of submissions received by the Laboratory in the previous fiscal year.

(4) An average estimate of the dollar and time cost to perform each type of procedure and analysis performed by the Laboratory."

SECTION 17.2.(o) Section 17.4 of S.L. 2013-360 reads as rewritten:

"**USE OF TOXICOLOGY ANALYSIS FUNDS**

"**SECTION 17.4.** If the ~~Attorney General~~Secretary of the Department of Public Safety determines that it is not appropriate to outsource toxicology cases due to legal or fiscal concerns involving analyst testimony, funds appropriated in this act for that purpose shall be reallocated to increase toxicology analysis capabilities within the North Carolina State Crime Laboratory."

SECTION 17.2.(p) Section 17.5 of S.L. 2013-360 reads as rewritten:

"**NO HIRING OF SWORN STAFF POSITIONS FOR THE NORTH CAROLINA STATE CRIME LABORATORY**

"**SECTION 17.5.** The ~~Department of Justice~~Department of Public Safety shall not hire sworn personnel to fill vacant positions in the North Carolina State Crime Laboratory. Nothing in this section shall be construed to require the termination of sworn personnel, but as vacant positions in the State Laboratory are filled, they shall be filled only with nonsworn personnel. Nothing in this section shall be construed to affect North Carolina State Crime Laboratory personnel who are sworn and employed by the Laboratory as of the effective date of this section and who continue to meet the sworn status retention standards mandated by the NC Criminal Justice Education and Standards Commission."

SECTION 17.2.(q) Subsection (l) of this section is effective when it becomes law. The remainder of this section becomes effective on July 1, 2014.

PART XVIII. JUDICIAL DEPARTMENT

SUBPART XVIII-A. OFFICE OF INDIGENT DEFENSE SERVICES

INDIGENT DEFENSE SERVICES FEE TRANSPARENCY

SECTION 18A.1. The Office of Indigent Defense Services, in consultation and cooperation with the Office of the State Controller and the Office of State Budget and Management, shall develop and implement a plan for making all fee applications by attorneys publicly available online. The plan shall provide for (i) the information to be updated at least

monthly, (ii) the fee applications to be searchable, and (iii) all fee applications in capital cases to be clearly labeled as such. The Office of Indigent Defense Services shall report on the development and implementation of this plan to the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety by October 1, 2014.

SUBPART XVIII-B. ADMINISTRATIVE OFFICE OF THE COURTS

AMEND VARIOUS PROVISIONS REQUIRING REPORTS ON THE OPERATIONS OF THE COURTS

SECTION 18B.1.(a) G.S. 7A-343 reads as rewritten:

"**§ 7A-343. Duties of Director.**

The Director is the Administrative Officer of the Courts, and the Director's duties include all of the following:

...

(8) Prepare and submit an annual report on the work of the Judicial Department to the Chief Justice, and transmit a copy to ~~each member of the General Assembly.~~the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety. The annual report shall include the activities of each North Carolina Business Court site, including the number of new, closed, and pending cases, the average age of pending cases, and the annual expenditures for the prior fiscal year.

...."

SECTION 18B.1.(b) G.S. 7A-343.2 reads as rewritten:

"**§ 7A-343.2. Court Information Technology Fund.**

(a) Fund. – The Court Information Technology Fund is established within the Judicial Department as a special revenue fund. Interest and other investment income earned by the Fund accrues to it. The Fund consists of the following revenues:

(1) All monies collected by the Director pursuant to G.S. 7A-109(d) and G.S. 7A-49.5.

(2) State judicial facilities fees credited to the Fund under G.S. 7A-304 through G.S. 7A-307.

(b) Use. – Money in the Fund derived from State judicial facilities fees must be used to upgrade, maintain, and operate the judicial and county courthouse phone systems. All other monies in the Fund must be used to supplement funds otherwise available to the Judicial Department for court information technology and office automation needs.

(c) Report. – The Director must report annually by ~~August 1 and~~February 1 of each year to the ~~Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House Appropriations Committees, and the~~Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety. The report must include the following:

(1) Amounts credited in the preceding ~~six months~~year to the Fund.

(2) Amounts expended in the preceding ~~six months~~year from the Fund and the purposes of the expenditures.

(3) Proposed expenditures of the monies in the Fund."

SECTION 18B.1.(c) G.S. 7A-809 reads as rewritten:

"**§ 7A-809. Reports.**

The Conference of Clerks of Superior Court shall, in consultation with the registers of deeds, annually study the status of the individual counties and judicial districts as to whether or not the clerks of superior court or the registers of deeds are implementing G.S. 132-1.10(f1) and report results of the study to the ~~Joint Legislative Commission on Governmental~~

~~Operations~~Joint Legislative Oversight Committee on Justice and Public Safety on or before March 1 of each year."

SECTION 18B.1.(d) Section 15.4 of S.L. 2009-451 is repealed.

SECTION 18B.1.(e) Article 7 of Chapter 7A of the General Statutes is amended by adding a new section to read:

"**§ 7A-45.5. Annual report on Business Court activities.**

The Administrative Office of the Courts shall report to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety by March 1 of each year on the activities of each North Carolina Business Court site, including the number of new, closed, and pending cases, average age of pending cases, and annual expenditures for the prior fiscal year."

SECTION 18B.1.(f) Section 18B.2 of S.L. 2013-360 is repealed.

SECTION 18B.1.(g) G.S. 15A-1475 reads as rewritten:

"**§ 15A-1475. Reports.**

~~Beginning January 1, 2008, and annually thereafter, the~~The North Carolina Innocence Inquiry Commission shall report annually by February 1 of each year on its activities to the Joint Legislative Oversight Committee on Justice and Public Safety and the State Judicial Council. The report may contain recommendations of any needed legislative changes related to the activities of the Commission. The report shall recommend the funding needed by the Commission, the district attorneys, and the State Bureau of Investigation in order to meet their responsibilities under S.L. 2006-184. Recommendations concerning the district attorneys or the State Bureau of Investigation shall only be made after consultations with the North Carolina Conference of District Attorneys and the Attorney General."

SECTION 18B.1.(h) G.S. 7A-38.6 is repealed.

SECTION 18B.1.(i) G.S. 7A-409.1(g) reads as rewritten:

"(g) The State Judicial Council shall report annually to the ~~General Assembly~~Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety and the Chief Justice ~~no later than December 31, 2009, and~~no later than December 31 ~~of every third year,~~regarding the implementation of ~~S.L. 2006-184~~S.L. 2006-184, the act creating the North Carolina Innocence Inquiry Commission, and shall include in its report the statistics regarding inquiries and any recommendations for changes. The House of Representatives and the Senate shall refer the report of the State Judicial Council to the Joint Legislative Oversight Committee on Justice and Public Safety and such other committees as the Speaker of the House of Representatives or the President Pro Tempore of the Senate shall deem appropriate, for their review."

SECTION 18B.1.(j) Section 18A.1 of S.L. 2013-360 is repealed.

SECTION 18B.1.(k) Article 39B of Chapter 7A of the General Statutes is amended by adding a new section to read:

"**§ 7A-498.9. Annual report on Office of Indigent Defense Services.**

The Office of Indigent Defense Services shall report to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety and the Chairs of the House of Representatives Subcommittee on Justice and Public Safety and the Chairs of the Senate Appropriations Committee on Justice and Public Safety by February 1 of each year on the following:

(1) The volume and cost of cases handled in each district by assigned counsel or public defenders;

(2) Actions taken by the Office to improve the cost-effectiveness and quality of indigent defense services, including the capital case program;

(3) Plans for changes in rules, standards, or regulations in the upcoming year; and

(4) Any recommended changes in law or funding procedures that would assist the Office in improving the management of funds expended for indigent defense services, including any recommendations concerning the feasibility and desirability of establishing regional public defender offices."

SECTION 18B.1.(l) Section 18A.4 of S.L. 2013-360 reads as rewritten:

"**SECTION 18A.4.** The Office of Indigent Defense Services shall issue a request for proposals from private law firms or not-for-profit legal representation organizations for the provision of all classes of legal cases for indigent clients in all judicial districts. The Office of Indigent Defense Services shall report on the issuance of this request for proposals to the ~~Joint Legislative Commission on Governmental Operations by October 1, 2013.~~Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety by October 1 of each year. In cases where the proposed contract can provide representation services more efficiently than current costs and ensure that the quality of representation is sufficient to meet applicable constitutional and statutory standards, the Office of Indigent Defense Services shall use private assigned counsel funds to enter into contracts for this purpose. In selecting contracts, the Office of Indigent Defense Services shall consider the cost-effectiveness of the proposed contract. Disputes regarding the ability of the potential contractor to provide effective representation for clients served by the contract shall be determined by the senior resident superior court judge for the district."

ANNUAL REPORT ON CRIMINAL COURT COST WAIVERS

SECTION 18B.2. Section 15.10(b) of S.L. 2011-145 reads as rewritten:

"**SECTION 15.10.(b)** The Administrative Office of the Courts shall make the necessary modifications to its information systems to maintain records of all cases in which the judge makes a finding of just cause to grant a waiver of criminal court costs under G.S. 7A-304(a) and shall report on those waivers to the ~~Joint Legislative Commission on Governmental Operations by October 1~~ Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety by February 1 of each year. The report shall aggregate the waivers by the district in which the waiver or waivers were granted and by the name of each judge granting a waiver or waivers."

COMPENSATION OF COURT REPORTERS

SECTION 18B.3. Section 18B.21 of S.L. 2013-360 reads as rewritten:

"**SECTION 18B.21.** The Administrative Office of the Courts, in consultation with the National Center for State Courts, shall study the most effective and efficient deployment of court reporters to produce timely records of court proceedings and the most appropriate and effective compensation for court reporters. The Administrative Office of the Courts shall make an interim report of its findings and recommendations to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety by ~~February 1, 2014.~~February 1, 2014, and a final report of its findings and recommendations by September 1, 2014."

FAMILY COURT PROGRAMS

SECTION 18B.4. Section 18B.6 of S.L. 2013-360 reads as rewritten:

"**SECTION 18B.6.** The Administrative Office of the Courts shall provide direction and oversight to the existing family court programs in order to ensure that each district with a family court program is utilizing best practices and is working effectively and efficiently in the disposition of domestic and juvenile cases. The Administrative Office of the Courts shall report on its efforts in this regard and the results of those efforts to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, the Senate

Appropriations Committee on Justice and Public Safety, and the Joint Legislative Oversight Committee on Justice and Public Safety by ~~March 1, 2014.~~March 1 of each year."

TRAINING FOR SUPERIOR AND DISTRICT COURT JUDGES

SECTION 18B.5. The School of Government at the University of North Carolina at Chapel Hill shall ensure that the continuing judicial training conducted by its faculty on behalf of the Conference of District Court Judges and the Conference of Superior Court Judges provides annual training for superior and district court judges in the State on the work of the State Crime Laboratory and the proper custody and handling of biological evidence in the court system.

ABOLISH FOUR SPECIAL SUPERIOR COURT JUDGESHIPS

SECTION 18B.6. G.S. 7A-45.1 is amended by adding a new subsection to read:

"(a8) Notwithstanding any other provision of this section, the four special superior court judgeships held as of April 1, 2014, by judges whose terms expire between July 1, 2014, and June 30, 2016, and who had not been designated under G.S. 7A-45.3 as business court judges, are abolished when any of the following first occurs:

(1) Retirement of the incumbent judge.
(2) Resignation of the incumbent judge.
(3) Removal from office of the incumbent judge.
(4) Death of the incumbent judge.
(5) Expiration of the term of the incumbent judge."

ALLOCATION OF ASSISTANT DISTRICT ATTORNEYS

SECTION 18B.7.(a) G.S. 7A-60 reads as rewritten:

"**§ 7A-60. District attorneys and prosecutorial districts.**

...

(a1) The counties of the State are organized into prosecutorial districts, and each district has the counties ~~and the number of full-time assistant district attorneys~~ set forth in the following table:

Prosecutorial District	Counties	~~No. of Full-Time Asst. District Attorneys~~
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	~~11~~
2	Beaufort, Hyde, Martin, Tyrrell, Washington	~~8~~
3A	Pitt	~~11~~
3B	Carteret, Craven, Pamlico	~~12~~
4	Duplin, Jones, Onslow, Sampson	~~18~~
5	New Hanover, Pender	~~18~~
6A	Halifax	~~5~~
6B	Bertie, Hertford, Northampton	~~5~~
7	Edgecombe, Nash, Wilson	~~18~~
8	Greene, Lenoir, Wayne	~~14~~
9	Franklin, Granville, Vance, Warren	~~10~~

	9A	Person, Caswell	~~6~~
	10	Wake	~~41~~
	11A	Harnett, Lee	~~9~~
	11B	Johnston	~~10~~
	12	Cumberland	~~23~~
	13	Bladen, Brunswick, Columbus	~~13~~
	14	Durham	~~18~~
	15A	Alamance	~~11~~
	15B	Orange, Chatham	~~10~~
	16A	Scotland, Hoke	~~7~~
	16B	Robeson	~~12~~
	17A	Rockingham	~~7~~
	17B	Stokes, Surry	~~8~~
	18	Guilford	~~32~~
	19A	Cabarrus	~~9~~
	19B	Montgomery, Randolph	~~9~~
	19C	Rowan	~~8~~
	19D	Moore	~~5~~
	20A	Anson, Richmond, Stanly	~~11~~
	20B	Union	~~10~~
	21	Forsyth	~~25~~
	22A	Alexander, Iredell	~~11~~
	22B	Davidson, Davie	~~11~~
	23	Alleghany, Ashe, Wilkes, Yadkin	~~8~~
	24	Avery, Madison, Mitchell, Watauga, Yancey	~~7~~
	25	Burke, Caldwell, Catawba	~~18~~
	26	Mecklenburg	~~58~~
	27A	Gaston	~~14~~
	27B	Cleveland, Lincoln	~~11~~
	28	Buncombe	~~14~~
	29A	McDowell, Rutherford	~~7~~
	29B	Henderson, Polk, Transylvania	~~8~~
	30	Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain.	~~10~~

(a2) Upon the convening of each regular session of the General Assembly and its reconvening in the even-numbered year, the Administrative Office of the Courts shall report its ~~recommendations regarding the~~ allocation of assistant district attorneys for the upcoming fiscal biennium and fiscal year to the General Assembly, including any request for additional assistant district attorneys. The report shall include the number of assistant district attorneys that the Administrative Office of the Courts ~~recommends to be~~ has allocated to each prosecutorial district and the caseload and criteria on which each ~~recommended~~ allocation is based. Any reports required under this subsection shall be made to the Joint Legislative Commission of Governmental Operations, the House of Representatives and Senate Appropriations Subcommittees on Justice and Public, and the Fiscal Research Division.

...."

SECTION 18B.7.(b) G.S. 7A-63 reads as rewritten:

"**§ 7A-63. Assistant district attorneys.**

Each district attorney shall be entitled to the number of full-time assistant district attorneys ~~set out in this Subchapter,~~ allocated by the Administrative Office of the Courts, to be appointed by the district attorney, to serve at his pleasure. A vacancy in the office of assistant district attorney shall be filled in the same manner as the initial appointment. An assistant district attorney shall take the same oath of office as the district attorney, and shall perform such duties as may be assigned by the district attorney. ~~He~~ The district attorney shall devote his or her full time to the duties of ~~his~~ the office and shall not engage in the private practice of law during his or her term."

POSSESSION OF MARIJUANA PARAPHERNALIA/CLASS 3 MISDEMEANOR

SECTION 18B.8.(a) G.S. 90-113.22 reads as rewritten:

"**§ 90-113.22. Possession of drug paraphernalia.**

(a) It is unlawful for any person to knowingly use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, package, repackage, store, contain, or conceal a controlled substance which it would be unlawful to possess, or to inject, ingest, inhale, or otherwise introduce into the body a controlled substance which it would be unlawful to possess.

(b) ~~Violation~~ Except as provided in G.S. 90-113.22A, a violation of this section is a Class 1 misdemeanor.

(c) Prior to searching a person, a person's premises, or a person's vehicle, an officer may ask the person whether the person is in possession of a hypodermic needle or other sharp object that may cut or puncture the officer or whether such a hypodermic needle or other sharp object is on the premises or in the vehicle to be searched. If there is a hypodermic needle or other sharp object on the person, on the person's premises, or in the person's vehicle and the person alerts the officer of that fact prior to the search, the person shall not be charged with or prosecuted for possession of drug paraphernalia for the needle or sharp object. The exemption under this subsection does not apply to any other drug paraphernalia that may be present and found during the search. For purposes of this subsection, the term "officer" includes "criminal justice officers" as defined in G.S. 17C-2(3) and a "justice officer" as defined in G.S. 17E-2(3)."

SECTION 18B.8.(b) Article 5B of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-113.22A. Possession of marijuana drug paraphernalia.**

(a) It is unlawful for any person to knowingly use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, package, repackage, store, contain, or conceal marijuana, or to inject, ingest, inhale, or otherwise introduce marijuana into the body.

(b) A violation of this section is a Class 3 misdemeanor."

SECTION 18B.8.(c) This section becomes effective December 1, 2014, and applies to offenses committed on or after that date.

AMEND DEFERRED PROSECUTION

SECTION 18B.9.(a) G.S. 15A-1341(a1) reads as rewritten:

"(a1) Deferred Prosecution. – ~~A person who has been charged with~~ Whenever a person pleads guilty to or is found guilty of a Class H or I felony or a ~~misdemeanor may be placed~~ misdemeanor, the court may, without entering a judgment of guilt and with the consent of the person, defer further proceedings and place the person on probation as provided in this Article on motion of the defendant and the prosecutor if the court finds each of the following facts:

(1) Prosecution has been deferred by the prosecutor pursuant to written agreement with the defendant, with the approval of the court, for the purpose of allowing the defendant to demonstrate ~~his~~ the defendant's good conduct.
(2) Each known victim of the crime has been notified of the motion for probation by subpoena or certified mail and has been given an opportunity to be heard.
(3) The defendant has not been convicted of any felony or of any misdemeanor involving moral turpitude.
(4) The defendant has not previously been placed on probation and so states under oath.
(5) The defendant is unlikely to commit another offense other than a Class 3 misdemeanor."

SECTION 18B.9.(b) This section becomes effective December 1, 2014, and applies to offenses committed on or after that date.

UNLAWFUL TO CHARGE FEE TO RETRACT OR REMOVE BOOKING PHOTO AND OTHER CRIMINAL RECORD INFORMATION WHEN NO CONVICTION

SECTION 18B.10.(a) Article 23 of Chapter 15A of the General Statutes is amended by adding a new section to read:

"**§ 15A-502.2. Prohibition on providing copy of booking photograph; statement required; criminal liability for false statement.**

(a) Notwithstanding the provisions of G.S. 132-1, a law enforcement agency shall not provide a copy of a photograph taken pursuant to G.S. 15A-502(a)(1) or G.S. 15A-502(a2) or authorized by G.S. 15A-502(b) in any format to a person requesting a copy of the photograph for the following purposes:
(1) The photograph will be placed in a publication or posted to a Web site; and
(2) Removal of the photograph from the publication or Web site will require the payment of a fee or other consideration.

(b) A person who requests a copy of a photograph taken pursuant to G.S. 15A-502(a)(1) or G.S. 15A-502(a2) or authorized by G.S. 15A-502(b) from a law enforcement agency shall, at the time of making the request, submit a written statement signed by the person affirming that the photograph will not be placed in a publication or posted to a Web site that requires the payment of a fee or other consideration in order to remove or delete the photograph from the publication or Web site. A person who submits a false statement under this subsection is criminally liable under G.S. 14-101.1."

SECTION 18B.10.(b) Article 19 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"**§ 14-101.1. Written false statement to law enforcement agency to obtain booking photograph.**

Any person who, with the intent to deceive a law enforcement agency, submits a false statement to obtain a photograph under G.S. 15A-502.2 is guilty of a Class 1 misdemeanor."

SECTION 18B.10.(c) Article 1 of Chapter 75 of the General Statutes is amended by adding a new section to read:

"**§ 75-43. Unfair use of criminal record information.**

(a) The violation of any provision of this section shall be considered an unfair trade practice, as prohibited by G.S. 75-1.1.

(b) A person commits a violation under this section if the person does both of the following:

(1) Engages in publishing or otherwise disseminating, in print or over the Internet, photographs of an individual taken pursuant to G.S. 15A-502(a)(1) or G.S. 15A-502(a2) or authorized by G.S. 15A-502(b); and

(2) Solicits or accepts the payment of a fee or other consideration to remove the individual's photograph when the individual is acquitted or the charges are dropped or otherwise resolved without a conviction.

(c) Any publisher of a print publication or operator of an Internet Web site that contains criminal record information of a person charged with a crime shall, within 15 days after written notification from the person or the person's designee, remove, or retract if removal is not possible, criminal record information and any other personal information if the person is acquitted or the charges are dropped or otherwise resolved without a conviction. The removal or retraction shall be without charge to the person. Failure of the publisher or operator to remove the person's name or personal information shall result in a civil penalty of one hundred dollars ($100.00) per instance per week and, after 45 days, shall create a presumption of defamation of character of the person.

(d) For the purposes of this section, "criminal record information" includes any and all of the following:

(1) Descriptions or notations of any arrests, any formal criminal charges, and the disposition of those criminal charges.

(2) Photographs of the person taken pursuant to an arrest or other involvement in the criminal justice system.

(3) Personal identifying information, including a person's name, address, date of birth, photograph, and social security number or other government-issued identification number.

(4) Any information collected pursuant to Article 23 of Chapter 15A of the General Statutes."

SECTION 18B.10.(d) This section becomes effective December 1, 2014. Subsection (a) of this section applies to requests made on or after December 1, 2014. Subsection (b) of this section applies to offenses committed on or after December 1, 2014. Subsection (c) of this section applies to photographs and other criminal record information published or disseminated on or after December 1, 2014.

INCREASE PENALTY FOR CRIMINAL OFFENSE OF CARRYING A CONCEALED WEAPON WHEN WEAPON IS A GUN

SECTION 18B.11.(a) G.S. 14-269(c) reads as rewritten:

"(c) Any person violating the provisions of subsection (a) of this section shall be guilty of a Class 2 misdemeanor. Any person violating the provisions of subsection (a1) of this section shall be guilty of a ~~Class 2 misdemeanor~~ Class A1 misdemeanor for the first offense. A second or subsequent offense is punishable as a ~~Class I felony.~~Class H felony."

SECTION 18B.11.(b) This section becomes effective December 1, 2014, and applies to offenses committed on or after that date.

MAINTAIN TRIAL COURT ADMINISTRATOR

SECTION 18B.13. The Administrative Office of the Courts shall maintain the trial court administrator position serving Superior Court Districts 7B and 7C and ensure that the position remains filled during the 2014-2015 fiscal year.

AUTHORIZE THE COURT TO ASSESS A FEE FOR THE COSTS OF THE SERVICES OF A PRIVATE HOSPITAL PERFORMING TOXICOLOGICAL TESTING FOR A PROSECUTORIAL DISTRICT

SECTION 18B.14.(a) G.S. 7A-304(a) reads as rewritten:

"(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected. No costs may be assessed when a case is dismissed. Only upon entry of a written order, supported by findings of fact and conclusions of law, determining that there is just cause, the court may (i) waive costs assessed under this section or (ii) waive or reduce costs assessed under subdivision (7), (8), (8a), (11), ~~or (12)~~ (12), or (13) of this section.

...

(7) For the services of the North Carolina State Crime Laboratory facilities, the district or superior court judge shall, upon conviction, order payment of the sum of six hundred dollars ($600.00) to be remitted to the Department of Justice for support of the Laboratory. This cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratories have performed DNA analysis of the crime, tests of bodily fluids of the defendant for the presence of alcohol or controlled substances, or analysis of any controlled substance possessed by the defendant or the defendant's agent.

(8) For the services of any crime laboratory facility operated by a local government or group of local governments, the district or superior court judge shall, upon conviction, order payment of the sum of six hundred dollars ($600.00) to be remitted to the general fund of the local governmental unit that operates the laboratory to be used for law enforcement purposes. The cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratory has performed DNA analysis of the crime, test of bodily fluids of the defendant for the presence of alcohol or controlled substances, or analysis of any controlled substance possessed by the defendant or the defendant's agent. The costs shall be assessed only if the court finds that the work performed at the local government's laboratory is the equivalent of the same kind of work performed by the North Carolina State Crime Laboratory under subdivision (7) of this subsection.

(8a) For the services of any private hospital performing toxicological testing under contract with a prosecutorial district, the district or superior court judge shall, upon conviction, order payment of the sum of six hundred dollars ($600.00) to be remitted to the Judicial Department for reimbursement to and support of the prosecutorial district. The cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratory has performed testing of bodily fluids of the defendant for the presence of alcohol or controlled substances. The costs shall be assessed only if the court finds that the work performed by the local hospital is the equivalent of the same kind of work performed by the North Carolina State Crime Laboratory under subdivision (7) of this subsection.

...

(11) For the services of an expert witness employed by the North Carolina State Crime Laboratory who completes a chemical analysis pursuant to G.S. 20-139.1 or a forensic analysis pursuant to G.S. 8-58.20 and provides testimony about that analysis in a defendant's trial, the district or superior court judge shall, upon conviction of the defendant, order payment of the

sum of six hundred dollars ($600.00) to be remitted to the Department of Justice for support of the State Crime Laboratory. This cost shall be assessed only in cases in which the expert witness provides testimony about the chemical or forensic analysis in the defendant's trial and shall be in addition to any cost assessed under subdivision (7) of this subsection.

(12) For the services of an expert witness employed by a crime laboratory operated by a local government or group of local governments who completes a chemical analysis pursuant to G.S. 20-139.1 or a forensic analysis pursuant to G.S. 8-58.20 and provides testimony about that analysis in a defendant's trial, the district or superior court judge shall, upon conviction of the defendant, order payment of the sum of six hundred dollars ($600.00) to be remitted to the general fund of the local governmental unit that operates the laboratory to be used for local law enforcement. This cost shall be assessed only in cases in which the expert witness provides testimony about the chemical or forensic analysis in the defendant's trial and shall be in addition to any cost assessed under subdivision (8) of this subsection.

(13) For the services of an expert witness employed by a private hospital performing toxicological testing under contract with a prosecutorial district who completes a chemical analysis pursuant to G.S. 20-139.1 and provides testimony about that analysis in a defendant's trial, the district or superior court judge shall, upon conviction of the defendant, order payment of the sum of six hundred dollars ($600.00) to be remitted to the Judicial Department for reimbursement to and support of the prosecutorial district. This cost shall be assessed only in cases in which the expert witness provides testimony about the chemical analysis in the defendant's trial and shall be in addition to any cost assessed under subdivision (8a) of this subsection."

SECTION 18B.14.(b) This section becomes effective July 1, 2014, and applies to fees assessed or collected on or after that date.

REPEAL OF TRANSFER OF CERTAIN FEE PROCEEDS TO THE NC STATE BAR

SECTION 18B.15.(a) G.S. 7A-304(a)(4) reads as rewritten:

"(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected. No costs may be assessed when a case is dismissed. Only upon entry of a written order, supported by findings of fact and conclusions of law, determining that there is just cause, the court may (i) waive costs assessed under this section or (ii) waive or reduce costs assessed under subdivision (7), (8), (11), or (12) of this section.

...

(4) For support of the General Court of Justice, the sum of one hundred twenty-nine dollars and fifty cents ($129.50) in the district court, including cases before a magistrate, and the sum of one hundred fifty-four dollars and fifty cents ($154.50) in the superior court, to be remitted to the State Treasurer. For a person convicted of a felony in superior court who has made a first appearance in district court, both the district court and superior court fees shall be assessed. The State Treasurer shall remit the sum of ~~one dollar and fifty cents ($1.50) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in~~

~~G.S. 7A-474.4, and ninety-five cents ($.95)~~ninety-five cents (95¢) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.19."

SECTION 18B.15.(b) G.S. 7A-305 reads as rewritten:

"**§ 7A-305. Costs in civil actions.**

(a) In every civil action in the superior or district court, except for actions brought under Chapter 50B of the General Statutes, shall be assessed:

...

(2) For support of the General Court of Justice, the sum of one hundred eighty dollars ($180.00) in the superior court and the sum of one hundred thirty dollars ($130.00) in the district court except that if the case is assigned to a magistrate the sum shall be eighty dollars ($80.00). If a case is assigned to a special superior court judge as a complex business case under G.S. 7A-45.3, upon assignment the party filing the notice of designation pursuant to G.S. 7A-45.4 or the motion for complex business designation shall pay an additional one thousand dollars ($1,000) for support of the General Court of Justice; if a case is assigned to a special superior court judge as a complex business case under G.S. 7A-45.3 by a court on its own motion, upon assignment the plaintiff shall pay an additional one thousand dollars ($1,000) for support of the General Court of Justice. Sums collected under this subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of ~~one dollar and fifty cents ($1.50) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4, and ninety-five cents ($.95)~~ninety-five cents (95¢) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.19.

...

(a5) In every civil action in the superior or district court wherein a party files a pleading containing one or more counterclaims, third-party complaints, or cross-claims, except for counterclaim and cross-claim actions brought under Chapter 50B of the General Statutes for which costs are assessed pursuant to subsection (a1) of this section, the following shall be assessed:

...

(3) For support of the General Court of Justice, the sum of one hundred eighty dollars ($180.00) in the superior court, except that if a case is assigned to a special superior court judge as a complex business case under G.S. 7A-45.3, filing fees shall be collected and disbursed in accordance with subsection (a) of this section, and the sum of one hundred thirty dollars ($130.00) in the district court, except that if the case is assigned to a magistrate, the sum shall be eighty dollars ($80.00). Sums collected under this subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of ~~one dollar and fifty cents ($1.50) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4, and ninety-five cents ($.95)~~ninety-five cents (95¢) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.19.

...."

SECTION 18B.15.(c) G.S. 7A-307(a)(2) reads as rewritten:

"(a) In the administration of the estates of decedents, minors, incompetents, of missing persons, and of trusts under wills and under powers of attorney, in trust proceedings under

G.S. 36C-2-203, in estate proceedings under G.S. 28A-2-4, and in collections of personal property by affidavit, the following costs shall be assessed:

...

(2) For support of the General Court of Justice, the sum of one hundred six dollars ($106.00), plus an additional forty cents (40¢) per one hundred dollars ($100.00), or major fraction thereof, of the gross estate, not to exceed six thousand dollars ($6,000). Gross estate shall include the fair market value of all personalty when received, and all proceeds from the sale of realty coming into the hands of the fiduciary, but shall not include the value of realty. In collections of personal property by affidavit, the fee based on the gross estate shall be computed from the information in the final affidavit of collection made pursuant to G.S. 28A-25-3 and shall be paid when that affidavit is filed. In all other cases, this fee shall be computed from the information reported in the inventory and shall be paid when the inventory is filed with the clerk. If additional gross estate, including income, comes into the hands of the fiduciary after the filing of the inventory, the fee for such additional value shall be assessed and paid upon the filing of any account or report disclosing such additional value. For each filing the minimum fee shall be fifteen dollars ($15.00). Sums collected under this subdivision shall be remitted to the State Treasurer. ~~The State Treasurer shall remit the sum of one dollar and fifty cents ($1.50) of each one hundred six dollar ($106.00) General Court of Justice fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4.~~"

SECTION 18B.15.(d) G.S. 7A-306(a)(2) reads as rewritten:

"(a) In every special proceeding in the superior court, the following costs shall be assessed:

...

(2) For support of the General Court of Justice the sum of one hundred six dollars ($106.00). In addition, in proceedings involving land, except boundary disputes, if the fair market value of the land involved is over one hundred dollars ($100.00), there shall be an additional sum of thirty cents (30¢) per one hundred dollars ($100.00) of value, or major fraction thereof, not to exceed a maximum additional sum of two hundred dollars ($200.00). Fair market value is determined by the sale price if there is a sale, the appraiser's valuation if there is no sale, or the appraised value from the property tax records if there is neither a sale nor an appraiser's valuation. Sums collected under this subdivision shall be remitted to the State Treasurer. ~~The State Treasurer shall remit the sum of one dollar and fifty cents ($1.50) of each one hundred six dollar ($106.00) General Court of Justice fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4.~~"

SECTION 18B.15.(e) This subsection applies to fees assessed or collected on or after July 1, 2014.

THREE-JUDGE PANEL/CONSTITUTIONALITY OF ACTS

SECTION 18B.16.(a) Article 26A of Chapter 1 of the General Statutes reads as rewritten:

"Article 26A.

"Three-Judge Panel for Redistricting ~~Challenges.~~Challenges and for Certain Challenges to State Laws.

"§ 1-267.1. Three-judge panel for actions challenging plans apportioning or redistricting State legislative or congressional ~~districts.~~districts; claims challenging the facial validity of an act of the General Assembly.

(a) Any action challenging the validity of any act of the General Assembly that apportions or redistricts State legislative or congressional districts shall be filed in the Superior Court of Wake County and shall be heard and determined by a three-judge panel of the Superior Court of Wake County organized as provided by subsection (b) of this section.

(a1) Except as otherwise provided in subsection (a) of this section, any challenge to the validity of an act of the General Assembly on its face shall be transferred pursuant to G.S. 1A-1, Rule 42(b)(4) to the Superior Court of Wake County and shall be heard and determined by a three-judge panel of the Superior Court of Wake County, organized as provided by subsection (b1) of this section.

(b) Whenever any person files in the Superior Court of Wake County any action challenging the validity of any act of the General Assembly that apportions or redistricts State legislative or congressional districts, a copy of the complaint shall be served upon the senior resident superior court judge of Wake County, who shall be the presiding judge of the three-judge panel required by subsection (a) of this section. Upon receipt of that complaint, the senior resident superior court judge of Wake County shall notify the Chief Justice, who shall appoint two additional resident superior court judges to the three-judge panel of the Superior Court of Wake County to hear and determine the action. Before making those appointments, the Chief Justice shall consult with the North Carolina Conference of Superior Court Judges, which shall provide the Chief Justice with a list of recommended appointments. To ensure that members of the three-judge panel are drawn from different regions of the State, the Chief Justice shall appoint to the three-judge panel one resident superior court judge from the First through Fourth Judicial Divisions and one resident superior court judge from the Fifth through Eighth Judicial Divisions. In order to ensure fairness, to avoid the appearance of impropriety, and to avoid political bias, no member of the panel, including the senior resident superior court judge of Wake County, may be a former member of the General Assembly. Should the senior resident superior court judge of Wake County be disqualified or otherwise unable to serve on the three-judge panel, the Chief Justice shall appoint another resident superior court judge of Wake County as the presiding judge of the three-judge panel. Should any other member of the three-judge panel be disqualified or otherwise unable to serve on the three-judge panel, the Chief Justice shall appoint as a replacement another resident superior court judge from the same group of judicial divisions as the resident superior court judge being replaced.

(b1) Any challenge to the validity of an act of the General Assembly on its face filed in the Superior Court of Wake County, other than a challenge to plans apportioning or redistricting State legislative or congressional districts that shall be heard pursuant to subsection (b) of this section, or any claim transferred to the Superior Court of Wake County pursuant to subsection (a1) of this section, shall be assigned by the senior resident superior court judge of Wake County to the three-judge panel established pursuant to subsection (b2) of this section.

(b2) The Chief Justice of the Supreme Court shall appoint three resident superior court judges to a three-judge panel of the Superior Court of Wake County to hear and determine challenges to the validity of statutes and acts pursuant to subsection (a1) of this section. The initial judges appointed to the panel shall remain as a standing three-judge panel to hear any actions transferred to the panel for determination pursuant to this section, and the Chief Justice shall appoint a presiding judge of the three-judge panel. To ensure that members of the three-judge panel are drawn from different regions of the State, the Chief Justice shall appoint to the three-judge panel one resident superior court judge from the First or Second Judicial Division, one resident superior court judge from the Seventh or Eighth Judicial Division, and

one resident superior court judge from the Third, Fourth, Fifth, or Sixth Division. Should any member of the three-judge panel be disqualified or otherwise unable to serve on the three-judge panel, or is removed from the panel at the discretion of the Chief Justice, the Chief Justice shall appoint as a replacement another resident superior court judge from the same group of judicial divisions as the resident superior court judge being replaced.

(c) No order or judgment shall be entered affecting the validity of any act of the General Assembly that apportions or redistricts State legislative or congressional ~~districts~~ districts, or affects the validity of any act of the General Assembly, except by the three-judge panel of the Superior Court of Wake County organized as provided by subsection (b) or subsection (b1) of this section. In the event of disagreement among the three resident superior court judges comprising the three-judge panel, then the opinion of the majority shall prevail.

(d) This section applies only to civil proceedings, and nothing in this section shall be deemed to apply to a defendant in criminal proceedings, or to proceedings in which Chapter 15A of the General Statutes, is applicable."

SECTION 18B.16.(b) G.S. 1-81.1 reads as rewritten:

"**§ 1-81.1. Venue in apportionment or redistricting ~~cases.~~cases; certain injunctive relief actions.**

(a) Venue lies exclusively with the Wake County Superior Court in any action concerning any act of the General Assembly apportioning or redistricting State legislative or congressional districts.~~districts lies exclusively with the Wake County Superior Court.~~

(a1) Venue lies exclusively with the Wake County Superior Court with regard to any claim, seeking an order or judgment of a court, either final or interlocutory, to restrain the enforcement, operation, or execution of an act of the General Assembly, in whole or in part, based upon an allegation that the act of the General Assembly is unconstitutional on its face pursuant to the United States Constitution or North Carolina Constitution.

(b) Any action brought concerning an act of the General Assembly apportioning or redistricting the State legislative or congressional districts shall be filed in the Superior Court of Wake County."

SECTION 18B.16.(c) G.S. 1A-1, Rule 42, reads as rewritten:

"**Rule 42. Consolidation; separate trials.**

(a) Consolidation. – Except as provided in subdivision (b)(2) of this section, when actions involving a common question of law or fact are pending in one division of the court, the judge may order a joint hearing or trial of any or all the matters in issue in the actions; he may order all the actions consolidated; and he may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay. When actions involving a common question of law or fact are pending in both the superior and the district court of the same county, a judge of the superior court in which the action is pending may order all the actions consolidated, and he may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.

(b) Separate trials. –

(1) The court may in furtherance of convenience or to avoid prejudice and shall for considerations of venue upon timely motion order a separate trial of any claim, cross-claim, counterclaim, or third-party claim, or of any separate issue or of any number of claims, cross-claims, counterclaims, third-party claims, or issues.

(2) Upon motion of any party in an action that includes a claim commenced under Article 1G of Chapter 90 of the General Statutes involving a managed care entity as defined in G.S. 90-21.50, the court shall order separate discovery and a separate trial of any claim, cross-claim, counterclaim, or third-party claim against a physician or other medical provider.

(3) Upon motion of any party in an action in tort wherein the plaintiff seeks damages exceeding one hundred fifty thousand dollars ($150,000), the court shall order separate trials for the issue of liability and the issue of damages, unless the court for good cause shown orders a single trial. Evidence relating solely to compensatory damages shall not be admissible until the trier of fact has determined that the defendant is liable. The same trier of fact that tries the issues relating to liability shall try the issues relating to damages.

(4) Pursuant to G.S. 1-267.1, any challenge to the validity of an act of the General Assembly on its face, other than a challenge to plans apportioning or redistricting State legislative or congressional districts, shall be heard by a three-judge panel in the Superior Court of Wake County. If a claimant brings such a challenge in any court in this State, or if such a challenge is raised by the defendant in the defendant's motions or pleadings in any court in this State, the court shall, on its own motion, transfer that portion of the action challenging the validity of the act of the General Assembly to the Superior Court of Wake County for resolution by the three-judge panel. The court shall retain jurisdiction over all other matters. The court may dispose of all matters that are not contingent upon the outcome of the constitutional challenge. Those matters that are contingent upon the outcome of the constitutional challenge shall be stayed pending a ruling on the constitutional challenge and until all appeal rights are exhausted."

SECTION 18B.16.(d) G.S. 1A-1, Rule 62, reads as rewritten:

"Rule 62. Stay of proceedings to enforce a judgment.

(a) Automatic stay; exceptions – Injunctions and receiverships. – Except as otherwise stated herein, no execution shall issue upon a judgment nor shall proceedings be taken for its enforcement until the expiration of the time provided in the controlling statute or rule of appellate procedure for giving notice of appeal from the judgment. Unless otherwise ordered by the court, an interlocutory or final judgment in an action for an injunction or in a receivership action shall not be stayed during the period after its entry and until an appeal is taken or during the pendency of an appeal. The provisions of section (c) govern the suspending, modifying, restoring, or granting of an injunction during the pendency of an appeal.

(b) Stay on motion for new trial or for judgment. – In its discretion and on such conditions for the security of the adverse party as are proper, the court may stay the execution of or any proceedings to enforce a judgment pending the disposition of a motion for a new trial or to alter or amend a judgment made pursuant to Rule 59, or of a motion for relief from a judgment or order made pursuant to Rule 60, or of a motion for judgment made pursuant to Rule 50, or of a motion for amendment to the findings or for additional findings made pursuant to Rule 52(b). If the time provided in the controlling statute or rule of appellate procedure for giving notice of appeal from the judgment had not expired before a stay under this subsection was entered, that time shall begin to run immediately upon the expiration of any stay under this section, and no execution shall issue nor shall proceedings be taken for enforcement of the judgment until the expiration of that time.

(c) Injunction pending appeal. – When an appeal is taken from an interlocutory or final judgment granting, dissolving, or denying an injunction, the court in its discretion may suspend, modify, restore, or grant an injunction during the pendency of the appeal upon such terms as to bond or otherwise as it considers proper for the security of the rights of the adverse party.

(d) Stay upon appeal. – When an appeal is taken, the appellant may obtain a stay of execution, subject to the exceptions contained in section (a), by proceeding in accordance with

and subject to the conditions of G.S. 1-289, G.S. 1-290, G.S. 1-291, G.S. 1-292, G.S. 1-293, G.S. 1-294, and G.S. 1-295.

When stay is had by giving supersedeas bond, the bond may be given at or after the time of filing the notice of appeal or of procuring the order allowing the appeal as the case may be, and stay is then effective when the supersedeas bond is approved by the court.

(e) Stay in favor of North Carolina, city, county, local board of education, or agency thereof. – When an appeal is taken by the State of North Carolina, or a city or a county thereof, a local board of education, or an officer in his official capacity or agency thereof or by direction of any department or agency of the State of North Carolina or a city or county thereof or a local board of education and the operation or enforcement of the judgment is stayed, no bond, obligation, or other security shall be required from the appellant.

(f) Power of appellate court not limited. – The provisions of this rule do not limit any power of an appellate court or of a judge or justice thereof to stay proceedings during the pendency of an appeal or to suspend, modify, restore, or grant an injunction during the pendency of an appeal or to make any order appropriate to preserve the status quo or the effectiveness of the judgment subsequently to be entered.

(g) Stay of judgment as to multiple claims or multiple parties. – When a court has ordered a final judgment under the conditions stated in Rule 54(b), the court may stay enforcement of that judgment until the entering of a subsequent judgment or judgments and may prescribe such conditions as are necessary to secure the benefit thereof to the party in whose favor the judgment is entered.

(h) Injunction pending appeal of as-applied constitutional challenge. – Notwithstanding any other provision of law, where a trial court grants interlocutory, temporary, or permanent injunctive or declaratory relief restraining the State or a political subdivision of the State from enforcing the operation or execution of an act of the General Assembly as applied against a party in a civil action, the court shall stay the relief granted pending appeal. This subsection does not apply to facial challenges heard by a three-judge panel pursuant to G.S. 1-267.1."

SECTION 18B.16.(e) G.S. 7A-27 reads as rewritten:

"**§ 7A-27. Appeals of right from the courts of the trial divisions.**

(a) Appeal lies of right directly to the Supreme Court in all cases in which the defendant is convicted of murder in the first degree and the judgment of the superior court includes a sentence of death.

(a1) Appeal lies of right directly to the Supreme Court from any order or judgment of a court, either final or interlocutory, that holds that an act of the General Assembly, based upon the United States Constitution or North Carolina Constitution, is unconstitutional on its face.

(b) Appeal lies of right directly to the Court of Appeals in any of the following cases:

(1) From any final judgment of a superior court, other than the one described in subsection (a) of this section, or one based on a plea of guilty or nolo contendere, including any final judgment entered upon review of a decision of an administrative agency, except for a final judgment entered upon review of a court martial under G.S. 127A-62.

(2) From any final judgment of a district court in a civil action.

(3) From any interlocutory order or judgment of a superior court or district court in a civil action or proceeding which does any of the following:

a. Affects a substantial right.

b. In effect determines the action and prevents a judgment from which an appeal might be taken.

c. Discontinues the action.

d. Grants or refuses a new trial.

e. Determines a claim prosecuted under G.S. 50-19.1.

f. Grants temporary injunctive relief restraining the State or a political subdivision of the State from enforcing the operation or execution of an act of the General Assembly as applied against a party in a civil action. This subsection does not apply to facial challenges heard by a three-judge panel pursuant to G.S. 1-267.1.

(4) From any other order or judgment of the superior court from which an appeal is authorized by statute.

(c) through (e) Repealed by Session Laws 2013-411, s. 1, effective August 23, 2013."

SECTION 18B.16.(f) This section becomes effective July 1, 2014, and applies to any action filed on or after that date in which a party alleges that an act of the General Assembly is unconstitutional, based upon the United States Constitution or North Carolina Constitution.

PART XIX. DEPARTMENT OF CULTURAL RESOURCES

CLOSURE OF HOUSE IN THE HORSESHOE STATE HISTORIC SITE

SECTION 19.1. Effective July 1, 2014, the Department of Cultural Resources, Division of State Historic Sites and Properties, shall close the House in the Horseshoe State Historic Site in Moore County.

CAP GRANTS FROM STATE AID TO LIBRARIES FUND

SECTION 19.2. The Department of Cultural Resources shall not allocate a grant to any municipal, county, or regional library from the Aid to Public Libraries Fund that exceeds four hundred thousand dollars ($400,000) for the 2014-2015 fiscal year.

PART XX. DEPARTMENT OF INSURANCE

FIRE AND RESCUE SQUAD SUPPLEMENTAL PENSIONS AND GRANT FUNDS

SECTION 20.1.(a) Effective October 1, 2014, G.S. 58-86-55 reads as rewritten:

"**§ 58-86-55. Monthly pensions upon ~~retirement.~~ attaining the age of 55 years.**

(a) Any member who has served 20 years as an "eligible firefighter" or "eligible rescue squad worker" in the State of North Carolina, as provided in G.S. 58-86-25 and G.S. 58-86-30, and who has attained the age of 55 years is entitled to be paid a monthly pension from this fund. The monthly pension shall be in the amount of one hundred seventy dollars ($170.00) per month. Any retired firefighter receiving a pension shall, effective July 1, 2008, receive a pension of one hundred seventy dollars ($170.00) per month.

(b) Members shall pay ten dollars ($10.00) per month as required by G.S. 58-86-35 and G.S. 58-86-40 for a period of no longer than 20 years. No "eligible rescue squad member" shall receive a pension prior to July 1, 1983. ~~No member shall be entitled to a pension hereunder until the member's official duties as a fireman or rescue squad worker for which the member is paid compensation shall have been terminated and the member shall have retired as such according to standards or rules fixed by the board of trustees.~~

(c) A member who is totally and permanently disabled while in the discharge of the member's official duties as a result of bodily injuries sustained or as a result of extreme exercise or extreme activity experienced in the course and scope of those official duties and who leaves the fire or rescue squad service because of this disability shall be entitled to be paid from the fund a monthly benefit in an amount of one hundred seventy dollars ($170.00) per month beginning the first month after the member's fifty-fifth birthday. All applications for disability are subject to the approval of the board who may appoint physicians to examine and evaluate the disabled member prior to approval of the application, and annually thereafter. Any disabled

member shall not be required to make the monthly payment of ten dollars ($10.00) as required by G.S. 58-86-35 and G.S. 58-86-40.

(d) A member who is totally and permanently disabled for any cause, other than line of duty, who leaves the fire or rescue squad service because of this disability and who has at least 10 years of service with the pension fund, may be permitted to continue making a monthly contribution of ten dollars ($10.00) to the fund until the member has made contributions for a total of 240 months. The member shall upon attaining the age of 55 years be entitled to receive a pension as provided by this section. All applications for disability are subject to the approval of the board who may appoint physicians to examine and evaluate the disabled member prior to approval of the application and annually thereafter.

(e) A member who, because the member's residence is annexed by a city under Part 2 or Part 3 of Article 4A of Chapter 160A of the General Statutes, or whose department is closed because of an annexation by a city under Part 2 or Part 3 of Article 4A of Chapter 160A of the General Statutes, or whose volunteer department is taken over by a city or county, and because of such annexation or takeover is unable to perform as a firefighter or rescue squad worker of any status, and if the member has at least 10 years of service with the pension fund, may be permitted to continue making a monthly contribution of ten dollars ($10.00) to the fund until the member has made contributions for a total of 240 months. The member upon attaining the age of 55 years and completion of such contributions shall be entitled to receive a pension as provided by this section. Any application to make monthly contributions under this section shall be subject to a finding of eligibility by the Board of Trustees upon application of the member.

(f) The pensions provided shall be in addition to all other pensions or benefits under any other statutes of the State of North Carolina or the United States, notwithstanding any exclusionary provisions of other pensions or retirement systems provided by law."

SECTION 20.1.(b) G.S. 105-228.5(d)(3) reads as rewritten:

"(3) Additional Rate on Property Coverage Contracts. – An additional tax at the rate of seventy-four hundredths percent (0.74%) applies to gross premiums on insurance contracts for property coverage. The tax is imposed on ten percent (10%) of the gross premiums from insurance contracts for automobile physical damage coverage and on one hundred percent (100%) of the gross premiums from all other contracts for property coverage. ~~Twenty-five percent (25%)~~ Twenty percent (20%) of the net proceeds of this additional tax must be credited to the Volunteer Fire Department Fund established in Article 87 of Chapter 58 of the General Statutes. Twenty percent (20%) of the net proceeds must be credited to the Department of Insurance for disbursement pursuant to G.S. 58-84-25. Up to twenty percent (20%), as determined in accordance with G.S. 58-87-10(f), must be credited to the Workers' Compensation Fund. The remaining net proceeds must be credited to the General Fund.

...."

SECTION 20.1.(c) The Department of State Treasurer shall report by March 1, 2015, and annually thereafter for two years, to the House Committee on State Personnel and the Senate Committee on Pensions & Retirement and Aging on the Department's progress toward the following efforts related to the North Carolina Firefighters' and Rescue Squad Workers' Pension Fund:

(1) Building appropriate lapse assumptions into the State's annual required contribution to the pension fund.

(2) Collecting timely member contributions to the pension fund.

SECTION 20.1.(d) Effective January 1, 2015, and applicable to the 2015 grant process, G.S. 58-87-1(a1) reads as rewritten:

"(a1) Grant Program. – An eligible fire department may apply to the Commissioner for a grant under this section. In awarding grants under this section, the Commissioner must, to the extent possible, select applicants from all parts of the State based upon need. The Commissioner must award the grants on May 15 of each year subject to the following limitations:

(1) The size of a grant may not exceed thirty thousand dollars ($30,000).

(2) The applicant shall match the grant on a dollar-for-dollar ~~basis.~~ basis, unless the applicant receives less than fifty thousand dollars ($50,000) per year from other sources, in which case the applicant shall match one dollar ($1.00) for each three dollars ($3.00) of grant funds.

(3) The grant may be used only for equipment purchases, payment of highway use taxes on those purchases, or capital expenditures necessary to provide fire protection services.

...."

SECTION 20.1.(e) G.S. 58-87-1(c) reads as rewritten:

"(c) Report. – The Commissioner must submit a written report to the General Assembly within 60 days after the grants have been made. This report must contain the following:

(1) The amount of the grant and the name of the recipient.

(2) The Fund balance at the beginning of the grant cycle.

(3) Cash receipts through the grant cycle.

(4) Cash disbursements through the grant cycle.

(5) The Fund balance at the end of the grant cycle."

SECTION 20.1.(f) G.S. 58-87-5 is amended by adding a new subsection to read:

"(d) Report. – The Commissioner shall submit a written report to the General Assembly within 60 days after the grants have been made. This report shall contain the following:

(1) The amount of the grant and the name of the recipient.

(2) The Fund balance at the beginning of the grant cycle.

(3) Cash receipts through the grant cycle.

(4) Cash disbursements through the grant cycle.

(5) The Fund balance at the end of the grant cycle."

SECTION 20.1.(g) Effective July 1, 2015, G.S. 58-87-7 reads as rewritten:

"**§ 58-87-7. Oversight and accountability of grant awards.**

(a) Examination of Purchased Equipment and Supplies. – To increase accountability and to expedite receipt of certain grant awards, notwithstanding any other provision, the Office of the State Fire Marshal and other employees of the Department of Insurance may in their discretion conduct on-site examinations of fire, rescue, and EMS equipment and supplies purchased with funds awarded from either the Volunteer Fire Department Fund or the Volunteer Rescue/EMS ~~Fund.~~ Fund, for up to five years from the date of the grant award. The on-site examinations may include the inspection of equipment purchased from prior grants and may be conducted prior to or simultaneous with the delivery of the grant awards. The on-site examination shall document what equipment and supplies have been purchased by the volunteer fire department or volunteer rescue/EMS department and whether those items were received by the department and visually reviewed by the on-site examiner. Items that have already been distributed or put in the field shall be noted by the on-site examiner. The Office of the State Fire Marshal shall maintain records of on-site inspections and provide ~~them, or a summary thereof, in reports~~ reports of such inspections, upon request, to the State Auditor or the Office of State Budget and Management.

(b) Reimbursement to Funds. – If equipment purchased with grant funds is disposed of within five years of the date of the grant award funding its purchase, then the grant recipient shall reimburse the appropriate fund the amount of matching funds used for the purchase of the equipment, less depreciation.

(c) Transfer of Purchased Equipment. – If a grant recipient shall cease to exist within five years of the date of award of the grant, it shall transfer any and all equipment purchased with such grant funds to whichever department shall assume responsibility for providing service to the grant recipient's area of service or to another appropriate department that may effectively use the equipment."

SECTION 20.1.(h) By the effective date of subsection (g) of this section, the Department of Insurance shall take the following actions to facilitate the implementation and enforcement of G.S. 58-87-7:

(1) Adopt rules to establish specific standards and procedures for the following:
   a. G.S. 58-87-7(b), enacted by subsection (g) of this section.
   b. G.S. 58-87-7(c), enacted by subsection (g) of this section, including guidelines for determining which department receives the equipment of a dissolved department and under what circumstances.

(2) Provide transfer of equipment forms to fire and rescue departments that receive grant equipment from dissolved departments.

Prior to the beginning of the 2015 grant cycle, the Department shall modify the Agreement of Payment forms to include information regarding the disposition of grant equipment in the event of dissolution.

SECTION 20.1.(i) No later than January 1, 2015, the Department of Insurance shall report to the Joint Program Evaluation Oversight Committee on the Department's efforts to update and correct its computer code that assigns points to grant applicants for funds awarded under Article 87 of Chapter 58 of the General Statutes.

PART XXI. RESERVED

PART XXII. GENERAL ASSEMBLY

CREATE JOINT LEGISLATIVE COMMITTEE ON GENERAL GOVERNMENT

SECTION 22.1.(a) Chapter 120 of the General Statutes is amended by adding a new Article to read:

"Article 34.

"Joint Legislative Oversight Committee on General Government.

"**§ 120-295. Creation and membership of Joint Legislative Oversight Committee on General Government.**

(a) The Joint Legislative Oversight Committee on General Government is established. The Committee consists of 12 members as follows:

(1) Six members of the Senate appointed by the President Pro Tempore of the Senate. At least three of the members shall be members of the Senate appropriations committee that has jurisdiction over the agencies set out in G.S. 120-296(a)(1).

(2) Six members of the House of Representatives appointed by the Speaker of the House of Representatives. At least three of the members shall be members of the House of Representatives appropriations subcommittee that has jurisdiction over the agencies set out in G.S. 120-296(a)(1).

(b) Terms on the Committee are for two years and begin on the convening of the General Assembly in each odd-numbered year. Members may complete a term of service on

the Committee even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Committee.

(c) A member continues to serve until a successor is appointed. A vacancy shall be filled within 30 days by the officer who made the original appointment.

"**§ 120-296. Purpose and powers of Committee.**

(a) The Joint Legislative Oversight Committee on General Government shall examine on a continuing basis the services provided by the departments and agencies set out in this subsection, in order to make ongoing recommendations to the General Assembly on ways to improve the effectiveness, efficiency, and quality of State government services. The Committee has the following powers and duties:

(1) Study the programs, organization, operations, and policies of the following agencies:

a. Department of Administration.
b. Department of State Auditor.
c. Department of Cultural Resources.
d. Governor's Office.
e. Housing Finance Agency.
f. Department of Insurance.
g. Lieutenant Governor's Office.
h. Office of Administrative Hearings.
i. Office of State Personnel.
j. Department of Revenue.
k. Department of Secretary of State.
l. State Board of Elections.
m. Office of State Budget and Management.
n. Office of State Controller.
o. State Ethics Commission.
p. Department of State Treasurer.
q. General Assembly.
r. Any other agency under the jurisdiction of the Senate and House of Representatives appropriations subcommittees on General Government.

(2) Review compliance of budget actions directed by the General Assembly.

(3) Monitor expenditures, deviations, and changes made by the agencies set out in subdivision (a)(1) of this section to the certified budget.

(4) Review policy changes as directed by law.

(5) Receive presentations of reports from agencies directed in the law, including audits, studies, and other reports.

(6) Review any issues that arise during the interim period between sessions of the General Assembly and provide a venue for any of these issues to be heard in a public setting.

(7) Monitor the quality of services provided by general government agencies to other agencies and the public.

(8) Identify opportunities for general government agencies to coordinate and collaborate to eliminate duplicative functions.

(9) Have presentations and reports on any other matters that the Committee considers necessary to fulfill its mandate.

(b) The Committee may make reports to the General Assembly. A report to the General Assembly may contain legislation needed to implement a recommendation of the Committee.

"§ 120-297. Organization of Committee.

(a) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Joint Legislative Oversight Committee on General Government. The Committee shall meet upon the joint call of the cochairs.

(b) A quorum of the Committee is five members. No action may be taken except by a majority vote at a meeting at which a quorum is present. While in the discharge of its official duties, the Committee has the powers of a joint committee under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4.

(c) Members of the Committee shall receive subsistence and travel expenses as provided in G.S. 120-3.1. The Committee may contract for consultants or hire employees in accordance with G.S. 120-32.02. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. Upon the direction of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of Representatives shall assign clerical staff to the Committee. The expenses for clerical employees shall be borne by the Committee.

(d) The Committee cochairs may establish subcommittees for the purpose of examining issues relating to services provided by particular divisions within the State's general government departments.

"§ 120-298. Reports to Committee.

Whenever a department, office, or agency set out in subdivision (a)(1) of G.S. 120-296 is required by law to report to the General Assembly or to any of its permanent committees or subcommittees on matters affecting the services the department or agency provides, the department or agency shall transmit a copy of the report to the cochairs of the Joint Legislative Oversight Committee on General Government."

SECTION 22.1.(b) This section is effective when it becomes law.

PART XXIII. RESERVED

PART XXIV. OFFICE OF STATE BUDGET AND MANAGEMENT

MUSEUM OF WAXHAW AMPHITHEATER

SECTION 24.1. Funds appropriated in this act for The Andrew Jackson Historical Foundation, Inc., a nonprofit organization, to rebuild the dilapidated amphitheater at the Museum of the Waxhaw shall be used to supplement any other funds obtained for this purpose.

WOMEN'S SHELTER FOR MACON AND JACKSON COUNTIES

SECTION 24.2. Funds appropriated in this act for Resources, Education, Assistance, Counseling, and Housing of Macon County, Inc., a nonprofit organization, for the construction of a facility to shelter battered women and their children in Macon and Jackson Counties shall be matched on a dollar-for-dollar basis by non-State funds.

STAFFING ANALYSIS OF STATE AGENCY BUSINESS FUNCTIONS AND REDEPLOYMENT OF RESOURCES FROM HR/PAYROLL MANAGEMENT

SECTION 24.3. Section 6.7 of S.L. 2007-323 is repealed.

PART XXV. OFFICE OF THE STATE AUDITOR

PRIVATE AUDIT OF PENSION FUND

SECTION 25.1.(a) For the State Retirement Systems listed in G.S. 147-69.2(b)(8), the State Treasurer shall prepare a comprehensive annual financial report that conforms with the standards established by the Governmental Accounting Standards Board. In the

management discussion and analysis section of the comprehensive annual financial report, the State Treasurer shall include a discussion of the State Retirement Systems' risk and returns compared to benchmarks, total management fees and incentives paid, and comparisons to peer cost benchmarks.

SECTION 25.1.(b) The State Auditor shall select a commercial independent third-party audit firm to conduct an audit of the comprehensive annual financial report prepared by the State Treasurer pursuant to subsection (a) of this section. The State Auditor shall provide the audit firm's report, and the State Treasurer shall provide the comprehensive annual financial report prepared pursuant to subsection (a) of this section, to the General Assembly on or before January 1, 2015.

SECTION 25.1.(c) The State Treasurer shall transfer to the State Auditor the funds necessary to conduct the third-party audit required under this section.

PART XXVI. DEPARTMENT OF REVENUE

MODIFY TAX LOCATOR SERVICES CAP

SECTION 26.1.(a) G.S. 105-243.1(e) reads as rewritten:

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

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

...

(3) To pay for taxpayer ~~locater~~ locator services, not to exceed ~~one hundred fifty~~five hundred thousand dollars ~~($150,000)~~($500,000) a year.

...."

SECTION 26.1.(b) This section becomes effective July 1, 2014.

SECONDARY TAXPAYER ASSISTANCE CALL CENTER REPORT

SECTION 26.2.(a) The Department of Revenue shall study the feasibility of establishing and locating a second taxpayer assistance call center within the State. In conducting the feasibility study, the Department shall issue a report that considers each of the following:

(1) The necessity of establishing a second taxpayer assistance call center. In considering this element, the Department shall provide historical data for the previous 10 years for the following measures. If data from the previous 10 years is not available for a particular measure, the Department may provide data for a shorter period, but not less than three years.

a. Current and projected call volumes.

b. The history and length of call center outages for the current facility.

c. The number of calls dropped or abandoned.

d. The percentage of calls answered within 30 seconds.

e. Average and median wait-time for calls.
f. Calls answered per agent.
g. Average backlog of unanswered questions or issues, including any callbacks.
h. Resolution rate for taxpayer questions at levels 1, 2, and 3.
i. Average resolution time for taxpayer questions at levels 1, 2, and 3.

(2) Site location options, including the following:
a. Potential site locations.
b. Cost associated with locating a new site, or relocating the existing facility.
c. Site development and leasing cost options.
d. Labor pool access data for proposed locations and impact on local employment for each proposed site.

(3) A listing of deficiencies in current call center facilities and equipment, including a list of current assets and equipment, estimates for both repair and replacement costs of those assets and equipment, and projected impact on labor costs and taxpayer assistance measures.

(4) To the extent not required elsewhere in this feasibility study, a cost-benefit analysis that includes total and itemized cost estimates and projected benefits for all options considered by the Department.

SECTION 26.2.(b) The Department of Revenue shall submit its feasibility study to the Senate Appropriations Committee on General Government and Information Technology and to the House Appropriations Subcommittee on General Government on or before January 1, 2015.

PART XXVII. RESERVED

PART XXVIII. RESERVED

PART XXIX. RESERVED

PART XXX. DEPARTMENT OF ADMINISTRATION

ELIMINATE AUTHORITY FOR STATE CONTRIBUTION TO COUNTY VETERANS SERVICE PROGRAMS

SECTION 30.1. G.S. 165-6(9) is repealed.

CLOSURE OF CERTAIN NC DIVISION OF VETERANS AFFAIRS OFFICES PROHIBITED

SECTION 30.2. The District Offices of the North Carolina Division of Veterans Affairs located in the Town of Garner and the City of Wilson shall not be closed during the 2013-2015 fiscal biennium.

PART XXXI. HOUSING FINANCE AGENCY

WORKFORCE HOUSING LOAN PROGRAM

SECTION 31.1.(a) Of the funds appropriated in this act to the North Carolina Housing Trust Fund, the sum of ten million dollars ($10,000,000) in nonrecurring funds for the 2014-2015 fiscal year shall be used by the North Carolina Housing Finance Agency for the purpose of making loans for qualified North Carolina low-income housing development.

SECTION 31.1.(b) The following definitions apply in this section:

(1) Code. – As defined in G.S. 105-228.90.

(2) Qualified North Carolina low-income housing development. – A qualified low-income project or building that is allocated a federal tax credit under section 42(h)(1) of the Code.

(3) Qualified residential unit. – A housing unit that meets the requirements of section 42 of the Code.

SECTION 31.1.(c) Of the funds referred to in subsection (a) of this section, the Housing Finance Agency shall, pursuant to criteria established by the Agency, make loans to a taxpayer who is allocated a federal low-income housing tax credit under section 42 of the Code to construct or substantially rehabilitate a qualified North Carolina low-income housing development. The amount of the loan to the taxpayer shall equal the funds referred to in subsection (a) of this section divided by the number of qualified residential units constructed or substantially rehabilitated in the 2014-2015 fiscal year and then multiplied by the number of qualified residential units constructed or substantially rehabilitated by the taxpayer in the 2014-2015 fiscal year. However, the Agency shall take into consideration all eligible sources of funding for each development project and may reduce the amount of the loan authorized in this subsection if there are other eligible sources of funding available for the development project. No loan made to a taxpayer under this subsection shall exceed one million dollars ($1,000,000) if the low-income housing development is located in a low-income county, as designated by the Agency; seven hundred fifty thousand dollars ($750,000) in a medium-income county, as designated by the Agency; and two hundred fifty thousand dollars ($250,000) in a high-income county, as designated by the Agency.

SECTION 31.1.(d) By February 1, 2015, the Housing Finance Agency shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the number of loans made under this section, the amount of each loan, and whether the low-income housing development is located in a low-, medium-, or high-income county, as designated by the agency.

PART XXXII. RESERVED

PART XXXIII. RESERVED

PART XXXIV. DEPARTMENT OF TRANSPORTATION

STATE AID TO MUNICIPALITIES APPROPRIATION BASELINE

SECTION 34.1. G.S. 136-41.1 reads as rewritten:

"**§ 136-41.1. Appropriation to municipalities; allocation of funds generally; allocation to Butner.**

(a) There is annually appropriated out of the State Highway Fund a sum equal to ten and four-tenths percent (10.4%) of the net amount after refunds that was produced during the fiscal year by the tax imposed under Article 36C of Chapter 105 of the General Statutes and on the equivalent amount of alternative fuel taxed under Article 36D of that Chapter. One-half of the amount appropriated shall be allocated in cash on or before October 1 of each year to the cities and towns of the State in accordance with this section. The second one-half of the amount appropriated shall be allocated in cash on or before January 1 of each year to the cities and towns of the State in accordance with this section. The appropriation from the Highway Fund shall be based on revenue collected during the fiscal year preceding the date the distribution is made.

Seventy-five percent (75%) of the funds appropriated for cities and towns shall be distributed among the several eligible municipalities of the State in the percentage proportion that the population of each eligible municipality bears to the total population of all eligible municipalities according to the most recent annual estimates of population as certified to the Secretary of Revenue by the State Budget Officer. This annual estimation of population shall include increases in the population within the municipalities caused by annexations accomplished through July 1 of the calendar year in which these funds are distributed. Twenty-five percent (25%) of said fund shall be distributed among the several eligible municipalities of the State in the percentage proportion that the mileage of public streets in each eligible municipality which does not form a part of the State highway system bears to the total mileage of the public streets in all eligible municipalities which do not constitute a part of the State highway system.

It shall be the duty of the mayor of each municipality to report to the Department of Transportation such information as it may request for its guidance in determining the eligibility of each municipality to receive funds under this section and in determining the amount of allocation to which each is entitled. Upon failure of any municipality to make such report within the time prescribed by the Department of Transportation, the Department of Transportation may disregard such defaulting unit in making said allotment.

The funds to be allocated under this section shall be paid in cash to the various eligible municipalities on or before October 1 and January 1 of each year as provided in this section. Provided that eligible municipalities are authorized within the discretion of their governing bodies to enter into contracts for the purpose of maintenance, repair, construction, reconstruction, widening, or improving streets of such municipalities at any time after January 1 of any calendar year in total amounts not to exceed ninety percent (90%) of the amount received by such municipality during the preceding fiscal year, in anticipation of the receipt of funds under this section during the next fiscal year, to be paid for out of such funds when received.

The Department of Transportation may withhold each year an amount not to exceed one percent (1%) of the total amount appropriated for distribution under this section for the purpose of correcting errors in allocations: Provided, that the amount so withheld and not used for correcting errors will be carried over and added to the amount to be allocated for the following year.

The word "street" as used in this section is hereby defined as any public road maintained by a municipality and open to use by the general public, and having an average width of not less than 16 feet. In order to obtain the necessary information to distribute the funds herein allocated, the Department of Transportation may require that each municipality eligible to receive funds under this section submit to it a statement, certified by a registered engineer or surveyor of the total number of miles of streets in such municipality. The Department of Transportation may in its discretion require the certification of mileage on a biennial basis.

...."

CLARIFY DOT PRIVATE DEVELOPER REPORTING

SECTION 34.2. G.S. 136-28.6 reads as rewritten:

"**§ 136-28.6. Participation by the Department of Transportation with private developers.**

...

(h) The Secretary shall report in writing, on a quarterly basis, to the Joint Legislative Commission on Governmental Operations on all agreements entered into between a private developer and the Department of Transportation for participation in private engineering and construction contracts under this ~~section.~~section, as well as (i) agreements by counties and municipalities to participate in private engineering and construction contracts under subsection

(i) of this section and (ii) pass-through funding from private developers to counties or municipalities for State transportation projects.

(i) Counties and municipalities may participate financially in private engineering, land acquisition, and construction contracts for transportation projects which meet the requirements of subsection (b) of this section within their jurisdiction.

...."

REPEAL RIGHT TURN ON RED REPORT

SECTION 34.3. G.S. 20-158(b)(2)d. is repealed.

TURNPIKE AUTHORITY ANNUAL AUDIT DATE CHANGE

SECTION 34.4. G.S. 136-89.193 reads as rewritten:

"**§ 136-89.193. Annual plan of work; annual and quarterly reports.**

(a) Annual Plan of Work. – The Authority shall annually develop a plan of work for the fiscal year, describing the activities and projects to be undertaken, accompanied by a budget. This annual plan of work shall be subject to the concurrence of the Board of Transportation.

(b) Annual Reports. – The Authority shall, promptly following the close of each fiscal year, submit an annual report of its activities for the preceding year to the Governor, the General Assembly, and the Department of Transportation. ~~Each report shall be accompanied by an~~ In addition, an annual audit of its books and ~~accounts.~~accounts shall be submitted to the Governor, the General Assembly, and the Department of Transportation when completed in October of each year.

...."

DEPARTMENT OF TRANSPORTATION OUT-OF-STATE TRAVEL

SECTION 34.5. Expenditures for out-of-state travel by the Department of Transportation for the 2014-2015 fiscal year and all subsequent fiscal years shall not exceed the amount expended during the 2009-2010 fiscal year. For purposes of this section, "expenditures for out-of-state travel" includes transportation, conference, registration, and education expenses, lodging, and meals for Department of Transportation employees traveling outside of the State.

HIGHWAY USE TAX AND FUEL EXCISE TAX CHANGES

SECTION 34.6.(a) G.S. 105-187.3 reads as rewritten:

"**§ 105-187.3. Rate of tax.**

(a) Amount. – The rate of the use tax imposed by this Article is three percent (3%) of the retail value of a motor vehicle for which a certificate of title is issued. The tax is payable as provided in G.S. 105-187.4. The maximum tax is ~~one thousand dollars ($1,000)~~two thousand dollars ($2,000) for each certificate of title issued for a Class A or Class B motor vehicle that is a commercial motor vehicle, as defined in G.S. 20-4.01. The maximum tax is ~~one thousand five hundred dollars ($1,500)~~two thousand dollars ($2,000) for each certificate of title issued for a recreational vehicle that is not subject to the ~~one thousand dollar ($1,000) maximum tax.~~commercial motor vehicle tax imposed by this section.

...."

SECTION 34.6.(b) G.S. 105-187.3, as amended by subsection (a) of this section, reads as rewritten:

"**§ 105-187.3. Rate of tax.**

(a) Amount. – The rate of the use tax imposed by this Article is three percent (3%) of the retail value of a motor vehicle for which a certificate of title is issued. The tax is payable as provided in G.S. 105-187.4. The maximum tax is ~~two thousand dollars ($2,000)~~three thousand

dollars ($3,000) for each certificate of title issued for a Class A or Class B motor vehicle that is a commercial motor vehicle, as defined in G.S. 20-4.01. The maximum tax is ~~two thousand dollars ($2,000)~~three thousand dollars ($3,000) for each certificate of title issued for a recreational vehicle that is not subject to the commercial motor vehicle tax imposed by this section.

...."

SECTION 34.6.(c) G.S. 105-187.6 reads as rewritten:

"**§ 105-187.6. Exemptions from highway use tax.**

...

(c) Out-of-state Vehicles. – A maximum tax of ~~one hundred fifty dollars ($150.00)~~two hundred fifty dollars ($250.00) applies when a certificate of title is issued for a motor vehicle that, at the time of applying for a certificate of title, is and has been titled in another state for at least 90 days."

SECTION 34.6.(d) G.S. 105-449.106(b) is repealed.

SECTION 34.6.(e) Section 34.29(b) of S.L. 2013-360, as amended by Section 8.1 of S.L. 2013-363, reads as rewritten:

"**SECTION 34.29.(b)** This section becomes effective ~~July 1, 2014.~~October 1, 2014."

SECTION 34.6.(f) Subsection (a) of this subsection becomes effective January 1, 2015 and applies to certificates of title issued on or after that date. Subsection (b) of this section becomes effective July 1, 2015 and applies to certificates of title issued on or after that date. Subsection (c) of this section becomes effective October 1, 2014 and applies to certificates of title issued on or after that date. Subsection (d) of this section become effective January 1, 2015.

CONVERSION OF PAPER TITLES

SECTION 34.7.(a) G.S. 20-58.4A is amended by adding a new subsection to read:

"(l) The Division may convert an existing paper title to an electronic lien upon request of a primary lienholder. The Division or a party contracting with the Division under this section is authorized to collect a fee not to exceed three dollars ($3.00) for each conversion."

SECTION 34.7.(b) G.S. 20-63(h) is amended by adding a new subdivision to read:

"(11) Conversion of an existing paper title to an electronic lien upon request of a primary lienholder."

REMOTE DRIVERS LICENSE RENEWAL

SECTION 34.8.(a) G.S. 20-7 reads as rewritten:

"**§ 20-7. Issuance and renewal of drivers licenses.**

...

(f) Duration and Renewal of Licenses. – Drivers licenses shall be issued and renewed pursuant to the provisions of this subsection:

...

(6) Remote renewal. – The Division may offer remote renewal of a drivers license issued by the Division. For purposes of this subdivision, "remote renewal" means renewal of a drivers license by mail, telephone, electronic device, or other secure means approved by the Commissioner.

a. Requirements. – To be eligible for remote renewal under this subdivision, a person must meet all of the following requirements:

1. The license holder possesses a valid, unexpired Class C drivers license that was issued when the person was at least 18 years old.

2. The license holder is currently less than 66 years old.

3. The license holder's current license includes no restrictions other than a restriction for corrective lenses.
4. The license holder attests, in a manner designated by the Division, that (i) the license holder is a resident of the State and currently resides at the address on the license to be renewed, (ii) the license holder's name as it appears on the license to be renewed has not changed, and (iii) all other information required by the Division for an in-person renewal under this Article has been provided completely and truthfully.
5. The most recent renewal was an in-person renewal and not a remote renewal under this subdivision.
6. The license holder is otherwise eligible for renewal under this subsection.

b. Waiver of requirements. – When renewing a drivers license pursuant to this subdivision, the Division may waive the examination and photograph that would otherwise be required for the renewal.

c. Duration of remote renewal. – A renewed drivers license issued to a person by remote renewal under this subsection expires on the birthday of the licensee in the eighth year after issuance.

d. Rules. – The Division may adopt rules to implement this subdivision.

e. Federal law. – Nothing in this subdivision shall be construed to supersede any more restrictive provisions for renewal of drivers licenses prescribed by federal law or regulation.

...."

SECTION 34.8.(b) This section is effective when it becomes law and applies to drivers licenses renewed on or after the Division of Motor Vehicles adopts rules under G.S. 20-7(f)(6)d., as enacted by subsection (a) of this section.

DMV HEARING FEES

SECTION 34.9.(a) The Department of Transportation, Division of Motor Vehicles, shall develop a plan and proposed schedule of fees to recover the direct and indirect costs incurred for the performance of administrative hearings required by law or under rules adopted by the Board of Transportation. The plan and proposed schedule shall address, at a minimum, the following:

(1) Current hearing process and recommended modifications to achieve cost-efficiencies, including proposed revisions to existing laws or rules.
(2) Historical and projected funding requirements for each category of hearing performed by the Division.
(3) Schedule of fees and projected receipts.
(4) Proposed processes and rules for the collection of fees and the refunding of fees for hearings initiated by the Division in which the original decision of the Division is reversed.
(5) Implementation milestones.

SECTION 34.9.(b) The Division shall report on its recommended schedule to the Joint Legislative Transportation Oversight Committee no later than December 1, 2014.

SECTION 34.9.(c) The Department shall implement modifications to supporting information technology systems necessary to timely implement the hearing fee schedule required by subsection (a) of this section using funds appropriated to the Department of Transportation, Information Technology Section for the 2014-15 fiscal year.

DEPARTMENT OF TRANSPORTATION AIRCRAFT FLEET

SECTION 34.10.(a) The Division of Aviation of the Department of Transportation shall sell the following aircraft from its fleet as expeditiously as possible in order to modernize the fleet:

(1) Sikorsky S-76C helicopter.

(2) Cessna 550 Citation Bravo airplane.

Proceeds from these sales as well as any future sales under the plan required by subsection (b) of this section shall be credited to a nonreverting reserve within the Highway Fund to be used for future aircraft or equipment acquisitions by the Division of Aviation. The Division shall not acquire or dispose of additional aviation assets prior to its report to the Joint Legislative Transportation Oversight Committee required by subsection (c) of this section.

SECTION 34.10.(b) The Division of Aviation shall develop a plan to further reduce operating requirements and optimize its fleet to fulfill its regional passenger and photogrammetry missions, addressing, at a minimum, the following:

(1) Asset utilization.

(2) Assets recommended for disposal or acquisition.

(3) Contracted services.

(4) Cost efficiencies.

(5) Recommendations for adjustments to passenger transport rates.

(6) Interagency coordination of assets and personnel.

SECTION 34.10.(c) The Division shall report on the plan required by subsection (b) of this section to the Joint Legislative Transportation Oversight Committee no later than October 1, 2014.

PAVEMENT PRESERVATION PROGRAM

SECTION 34.11.(a) Article 2A of Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-44.17. Pavement preservation program.**

(a) Program Established; Definition; Standard. – The Department of Transportation shall establish the pavement preservation program. For purposes of this section, "pavement preservation" shall mean the use by the Department of the most cost-effective prevention applications to extend pavement life, improve safety, and to meet motorist expectations, while delaying costly rehabilitation or reconstruction activities. When selecting preservation applications to be used in the pavement preservation program, the Department shall select the application that represents the most cost-effective solution to maximize the life of structurally sound pavement.

(b) Eligible Activities. – Applications eligible for funding under the pavement preservation program include the following preservation activities or treatments for asphalt pavement structures:

(1) Chip seals, slurry seals, fog seals, sand seals, scrub seals, and cape seals.

(2) Micro-surfacing.

(3) Profile milling not covered by resurfacing.

(4) Asphalt rejuvenators.

(5) Open graded asphalt friction course.

(6) Overlays less than 1,000 feet in length.

(7) Diamond grinding.

(8) Joint sealing.

(9) Dowel bar retrofit.

(c) Ineligible Activities. – The pavement preservation program shall not include the following preservation activities or treatments:

(1) Contract resurfacing activities or major pavement rehabilitation treatments and pretreatments that are used in combination with a resurfacing treatment, such as profile milling or chip seals.

(2) Routine maintenance activities used to maintain and preserve the condition of roads. Treatments include, but are not limited to, asphalt crack sealing, pothole patching, rut filling, cleaning of roadside ditches and structures, shoulder maintenance, and retracing of pavement markings.

(3) Maintenance and preservation activities performed on bridges or culverts.

(4) Activities related to positive guidance or signal maintenance program functions."

SECTION 34.11.(b) The Department of Transportation shall establish a new account within its maintenance account to receive funds allocated under this section for pavement preservation.

SECTION 34.11.(c) Of funds allocated in this act for pavement preservation, no more than eighty percent (80%) may be used for projects undertaken by the Department, with the remaining funds used for projects outsourced to private contractors.

SECTION 34.11.(d) From funds allocated in this act for pavement preservation, the Department shall treat a minimum of 6,000 lane miles with a chip seal, slurry seal, or micro-surfacing application.

SECTION 34.11.(e) It is the intent of the General Assembly that the Department work cooperatively with the paving industry so that the industry grows in size, scope, and geographic reach and has the capability to fulfill contracts for pavement preservation work across the State. Therefore, the Department is directed to do the following:

(1) Conduct workshops, trainings, or other meetings to encourage greater privatization of pavement preservation activities with the intent of reducing the amount of pavement preservation activities conducted by the Department.

(2) Increase the use of outsourcing of preservation activities to reach the following targets for outsourcing of pavement preservation projects:

a. Fifty percent (50%) of pavement preservation funds allocated yearly by the 2016-2017 fiscal year.

b. Ninety percent (90%) of pavement preservation funds allocated yearly by the 2018-2019 fiscal year.

SECTION 34.11.(f) The Department shall report to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division no later than August 1, 2014, on its outreach plan to achieve greater industry participation in pavement preservation activities for the five-year period beginning with the 2014-2015 fiscal year. The Department shall report no later than December 1, 2014, and annually thereafter to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division on the Department's progress toward achieving the goals set forth in this section. The annual report shall include the following:

(1) A monthly examination of expenditures, by treatment type, indicating the amount and percentage performed by contract.

(2) The number of lane miles covered, by treatment type, along with an average cost per lane miles, by treatment type, indicating costs for each type for work performed by the Department and by contract.

(3) The statewide cost per lane mile (hereafter, "unit cost") along with unit cost for each division and for each type of treatment. The Department shall

provide an explanation for unit costs that vary by more than twenty percent (20%) from the statewide unit cost.

SECTION 34.11.(g) Subsections (e) and (f) of this section expire December 31, 2019.

DOT BUDGET TRANSFERS

SECTION 34.12. Of funds appropriated in this act to the Department of Transportation, budget transfers to the Office of the Governor undertaken under the authority set forth in Chapter 143C of the General Statutes shall not exceed two hundred sixty-seven thousand four hundred sixteen dollars ($267,416). These funds shall be used to support the following positions:

Position number	Title
65019379	Assistant Legal Counsel
65019380	Communications Specialist
60008477	Policy Analyst
60008516	Deputy Communications Director
60008502	Boards and Commissions Specialist
60008504	Legislative Director

OUTSOURCING OF PRECONSTRUCTION ACTIVITY

SECTION 34.13.(a) The Department of Transportation shall seek to increase the use of contracts to further privatize preconstruction work where practical, economical, and likely to lead to increased efficiency. In doing so, the Department of Transportation shall meet each of the following privatization requirements:

(1) Increase the outsourcing of all activities performed by the Department's Preconstruction and Technical Services units to sixty-eight percent (68%) of the total cost of activities performed by those units in fiscal year 2014-2015, excluding the cost of activities performed by the Turnpike Authority, the Structures Design and Management unit, and the Bridge Program.

(2) Increase the outsourcing of all activities performed by the Department's Roadway Design unit to fifty percent (50%) of the total cost of activities performed by those units in fiscal year 2014-2015.

(3) Increase the outsourcing of all activities performed by the Department's Project Development and Environmental Analysis unit to sixty-five percent (65%) of the total cost of activities performed by those units in fiscal year 2014-2015.

(4) The Department's Right-of-Way unit shall increase the total expenditures for outsourced activity by five percent (5%) in fiscal year 2014-2015.

SECTION 34.13.(b) The Department may credit any reduction in expenditures due to a reduction in force towards meeting the requirements imposed by subsection (a) of this section.

SECTION 34.13.(c) The Department shall increase contracts for construction of transportation projects on a design-build basis awarded under the provisions of G.S. 136-28.11.

SECTION 34.13.(d) The Department shall report no later than October 1, 2014, and quarterly thereafter, to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division regarding its implementation of this section, including any reductions in force used to meet privatization requirements.

DOT SIGNAGE

SECTION 34.14.(a) G.S. 136-89.56 reads as rewritten:

"**§ 136-89.56. Commercial enterprises.**

No commercial enterprises or activities shall be authorized or conducted by the Department of Transportation, or the governing body of any city or town, within or on the property acquired for or designated as a controlled-access facility, as defined in this Article, except for:

(1) Materials displayed at welcome centers which shall be directly related to travel, accommodations, tourist-related activities, tourist-related services, and attractions. The Department of Transportation shall issue rules regulating the display of these materials. These materials may contain advertisements for real estate; and

(2) Vending machines permitted by the Department of Transportation and placed by the Division of Services for the Blind, Department of Health and Human Services, as the State licensing agency designated pursuant to Section 2(a)(5) of the Randolph-Sheppard Act (20 USC 107a(a)(5)). The Department of Transportation shall regulate the placing of the vending machines in highway rest areas and shall regulate the articles to be dispensed. In order to permit the establishment of adequate fuel and other service facilities by private owners or their lessees for the users of a controlled-access facility, the Department of Transportation shall permit access to service or frontage roads within the publicly owned right-of-way of any controlled-access facility established or designated as provided in this Article, at points which, in the opinion of the Department of Transportation, will best serve the public interest. The location of such fuel and other service facilities may be indicated to the users of the controlled-access facilities by appropriate signs, the size, style, and specifications of which shall be determined by the Department of Transportation.

The location of fuel, gas, food, lodging, camping, and attraction facilities may be indicated to the users of the controlled-access facilities by appropriate logos placed on signs owned, controlled, and erected by the Department of Transportation. The owners, operators or lessees of fuel, gas, food, lodging, camping, and attraction facilities who wish to place a logo identifying their business or service on a sign shall furnish a logo meeting the size, style and specifications determined by the Department of Transportation and shall pay the Department ~~for the costs of initial installation and subsequent maintenance. The fees for logo sign installation and maintenance shall be set by the Board of Transportation based on cost.~~a fee set by the Board of Transportation. The Board shall set the fee to cover the initial costs of signs, sign installation and maintenance, and the costs of administering the program."

SECTION 34.14.(b) G.S. 136-140.19 reads as rewritten:

"**§ 136-140.19. ~~Department~~ Board of Transportation to adopt rules to implement the TODS program.**

The ~~Department~~ Board of Transportation shall adopt rules to implement the TODS program created by this Article. The rules shall include all of the following:

(1) The ~~Department~~ Board shall set fees to cover the initial costs of signs, sign installation and maintenance, and the costs of administering the program.

(2) The ~~Department~~ Board shall establish a standard for the size, color, and letter height of the TODS as specified in the National Manual of Uniform Traffic Control Devices for Streets and Highways.

...

(8) The ~~Department~~ Board shall limit the placement of TODS to highways other than fully controlled access highways and to rural areas in and around towns or cities with a population of less than 40,000."

SECTION 34.14.(c) G.S. 106-22.5(a) reads as rewritten:

"**§ 106-22.5. Agricultural tourism signs.**

(a) The Department of Agriculture and Consumer Services shall work with the Department of Transportation to provide directional signs on major highways at or in reasonable proximity to the nearest interchange ~~or within one mile~~ leading to an agricultural facility that promotes tourism by providing tours and on-site sales or samples of North Carolina agricultural products to area tourists. The Department shall follow the sign location and placement rules for the Department of Transportation's Tourist-Oriented Directional Signs as authorized by G.S.136-140.19."

STATE PARKS AND TRAILS SIGNAGE

SECTION 34.15.(a) The Department of Transportation, in conjunction with the State Parks and Recreation Division of the Department of Environment and Natural Resources, the Department of Commerce, and Friends of the Mountains-to-Sea Trail, Inc., a nonprofit corporation, shall study the use of highway signage as a means of improving the North Carolina residents' and tourists' awareness of State parks, including historic and cultural sites as well as the Mountains-to-Sea Trail. The study shall include an examination of at least all of the following:

(1) Whether signs currently located on or near highways in this State are sufficient in number, location, and size and presentation to make travelers on the highways of this State aware of the existence and location of all State parks, including historic and cultural sites as well as the Mountains-to-Sea Trail.

(2) Whether signs currently located on or near highways in this State adequately inform travelers that portions of the roads they travel on are part of the current route of the Mountains-to-Sea Trail.

(3) What measures could be taken to improve the efficacy of highway signage in achieving the goals described in subdivisions (1) and (2) of this subsection.

(4) What the costs and benefits of implementing the measures described in subdivision (3) of this subsection would be.

SECTION 34.15.(b) No later than April 1, 2015, the Department of Transportation shall report the results of the study required by this section to the chairs of the Joint Legislative Transportation Oversight Committee and to the Fiscal Research Division.

DOT STAFFING

SECTION 34.16.(a) The Department of Transportation shall review the organization and staffing of the Division of Highways and the Division of Preconstruction and identify areas of unnecessary duplication within management structures and variations in the number of employees reporting to persons identified as supervisors. Based on its review, the Department shall create and implement a plan for staffing changes and staffing efficiencies. The plan should reduce layers of management to the level needed for carrying out the Department's functions and responsibilities and ensure that employees designated as supervisors have workloads and staff size that are appropriate given the function or task for which that supervisor has responsibility.

SECTION 34.16.(b) The Department shall report its progress on implementing this section to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division no later than December 1, 2014.

BOARD OF TRANSPORTATION TO STUDY FEES, SPONSORSHIP, AND PRIVATIZATION

SECTION 34.17.(a) The Board of Transportation shall study how fees, sponsorship, or privatization might be used to reduce the use of public funds for services provided by the Department. The services the Board shall study include, but are not limited to, the following:

(1) Inspection of streets and bridges within a private development for future addition to the State highway system.
(2) Inspection, site review, and permitting of the installation of driveways by private parties providing access to a component of the State highway system.
(3) Review and inspection of encroachments onto the State highway system.
(4) Lease or sale of property related to the resolution of encroachments or the disposition of surplus right-of-way.
(5) Review of or consultation on development plats or plans.
(6) Review, engineering, or consultation regarding drainage issues, improvements, or maintenance adjacent to components of the State highway system.
(8) Training sessions or workshops offered to private consultants and contractors.
(9) Review and engineering consultation regarding traffic plans.

SECTION 34.17.(b) The Board shall also study the existing fee structure for services performed by Highway Division personnel and identify any fees that no longer cover the direct and indirect costs incurred by the Department to perform the service.

SECTION 34.17.(c) The Department of Transportation shall report on the Board's study and recommendations for fee adjustments or additions to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division no later than December 1, 2014. This report shall also include recommendations from the Board on the use of sponsorships for activities, programs, or functions currently performed by the Department or the privatization of these functions, and include the following information:

(1) The current cost of activities proposed for sponsorship support or privatization.
(2) The potential receipts that could reasonably be collected through sponsorships or the cost-savings achieved through privatization.
(3) A proposed process for the screening and selection of sponsors.
(4) Mock-ups of potential sponsorship signage on materials, buildings, vehicles, vessels, or other locations.
(5) Any administrative, statutory, or regulatory changes needed for the Department to proceed with sponsorship or privatization programs.

RENAME AND REDIRECT TAX PROCEEDS OF SYSTEM PRESERVATION PROGRAM

SECTION 34.18.(a) The Department of Transportation shall rename the "system preservation program" (fund center 1500/157839) the "bridge program." Funds allocated to this program shall be used for improvements to structurally deficient and functionally obsolete bridges. All projects funded under this program, with the exception of inspection, pre-engineering, contract preparation, contract administration and oversight, and planning activities, shall be outsourced to private contractors.

SECTION 34.18.(b) G.S. 119-18 reads as rewritten:

"**§ 119-18. Inspection tax and distribution of the tax proceeds.**

...

(b) Proceeds. – The proceeds of the inspection tax levied by this section shall be applied first to the costs of administering this Article and Subchapter V of Chapter 105 of the General

Statutes. The remainder of the proceeds shall be credited on a monthly basis to the Highway Fund to be used for ~~system preservation~~ pavement preservation under the Department of Transportation in the highway maintenance program.

...."

HIGHWAY FUND CREDIT RESERVE

SECTION 34.19.(a) G.S. 136-44.2 is amended by adding a new subsection to read:

"**§ 136-44.2. Budget and appropriations.**

...

(f1) The credit reserve for the Highway Fund consists of the following:

(1) The unreserved credit balance in the Highway Fund on the last day of the fiscal year to the extent the balances exceed the amount estimated for that date in the Current Operations Appropriations Act for the following fiscal year.

(2) The unallotted and unencumbered balances on the last day of the fiscal year for the following:

a. Funds appropriated from the Highway Fund for the multimodal programs of the Department, consisting of funds for bicycle and pedestrian, ferry, railroad, aviation, and public transportation programs, excluding funds deposited in the Freight Rail & Rail Crossing Safety Improvement Fund.

b. Funds appropriated from the Highway Fund for the construction programs of the Department, consisting of funds for secondary construction, access and public service roads, spot safety improvement, contingency, small urban construction, and economic development programs.

(3) The unencumbered and unexpended balances on the last day of the fiscal year for the following:

a. Central and program administration.

b. Transfers to other State agencies or departments not used or returned."

SECTION 34.19.(b) The sum of twelve million dollars ($12,000,000) of the unallotted and unexpended balance of funds within the Bicycle program (fund center 1500/0036), Ferry Operations (fund center 1500/7825), Railroad program (fund center 1500/7829), Airports program (fund center 1500/7830), and the Public Transportation program (fund center 1500/7831), excluding funds deposited in the Freight Rail & Rail Crossing Safety Improvement Fund, shall be transferred to the Pavement Preservation program created in Section 34.11 of this act.

SALE OF CERTAIN FORMER NC RAILROAD PROPERTIES

SECTION 34.20.(a) Subject to the right of first refusal in subsection (b) of this section, the Department of Administration shall dispose of the following parcels following the procedures set out in Chapter 146 of the General Statutes, provided that the Department may not dispose of the properties by gift or for less than fair market value:

Property Description	County	Nearest Town	Parcel ID
4th Street Lot	Carteret	Morehead	638620808907000
Station & Former Industrial Lot	Carteret	Morehead	638620718127000
Waterfront & Riparian Rights	Carteret	Morehead	638620708857000 & 638620709868000

SECTION 34.20.(b) Before the Department disposes of any property described in subsection (a), the city of Morehead City, Carteret County, or the city and county jointly shall be given the right of first refusal to purchase, lease, or rent any or all of the parcels at fair market value as determined by rules adopted by the Department under G.S. 146-29. Any lease or rental agreement under this subsection shall provide that the lessee or tenant may not sublease the property, except to a public entity for a public purpose. The right of first refusal shall expire on June 30, 2015.

SECTION 34.20.(c) Following expiration of the right of first refusal period set forth in subsection (b) of this section, or upon written notice from the city of Morehead City and Carteret County waiving the right of first refusal, the Department shall dispose of the properties by sale.

SECTION 34.20.(d) Notwithstanding G.S. 146-30, the Department shall deposit the net proceeds from the disposition of the properties into the Freight Rail & Rail Crossing Safety Improvement Fund of the Highway Fund.

MAINTENANCE CONDITION ASSESSMENT PROGRAM CHANGES

SECTION 34.21. G.S. 136-44.3 reads as rewritten:

"**§ 136-44.3. Maintenance program.**

The Department shall establish performance standards for the maintenance and operation of the State highway system. In each even-numbered year, the Department of Transportation shall survey the condition of the State highway system and shall prepare a report of the findings of the survey. The report shall provide both quantitative and qualitative descriptions of the condition of the system and shall provide estimates of the following:

(1) The annual cost to meet and sustain the established performance standards for the ~~primary and secondary~~State highway system, delineated by costs to the primary or secondary system, to ~~include: (i) routine maintenance and operations, (ii) system preservation, and (iii) pavement and bridge rehabilitation.~~include the following categories of work: (i) contract resurfacing, (ii) pavement preservation, (iii) routine highway maintenance, (iv) disasters and emergencies, (v) structurally sound bridge maintenance, and (vi) structurally unsound bridge rehabilitation, repair, or replacement.

(2) Projected system condition and corresponding optimal funding requirements for a seven-year plan to sustain established performance standards. The report shall also identify target levels of service for each maintenance activity and assess historical program performance across divisions, including project delivery rates, staffing, and direct and indirect costs. The Department shall clearly denote prioritized maintenance needs and recommended resource allocations and distribution methods to achieve each target.

(3) Any significant variations in system conditions among highway divisions. The report should include an examination of how well the highway divisions streamline project delivery, maximize efficiency, and prioritize spending based on needs and make recommendations on ways to improve these processes. The report should analyze the cost of delivering maintenance activities by division and make recommendations on how to reduce these costs regionally and statewide.

(4) An assessment of the level of congestion throughout the primary highway system based on traffic data, and a ranking of the most congested areas based on travel time reliability and the average number of congested hours,

together with the Department's recommendations for congestion reduction and mobility improvement.

(5) An analysis of existing highway division staffing levels and recommendations to ensure staffing levels are distributed appropriately based on need.

(6) A cross-divisional comparison summary document, not to exceed one page in length, which includes the divisional performance data described in subdivision (2) of this section as well as the most deficient roads and bridges in each division.

On the basis of the report and from funds available, the Department of Transportation shall develop a statewide annual maintenance program for the State highway system, which shall be subject to the approval of the Board of Transportation and is consistent with performance standards.

The report on the condition of the State highway system and maintenance funding needs shall be presented to the Joint Legislative Transportation Oversight Committee by December 31 of each even-numbered year, and copies shall be made available to any member of the General Assembly upon request."

DIVISION OF MOTOR VEHICLES POSITION FUNDING

SECTION 34.22. The Department of Transportation shall not use funds appropriated for the 2014-2015 fiscal year from the Highway Trust Fund to fund positions within the Division of Motor Vehicles.

DOT CASH MANAGEMENT

SECTION 34.23.(a) G.S. 143C-6-11 reads as rewritten:

"**§ 143C-6-11. Highway appropriation.**

...

(f) ~~Five Percent (5%) of the Cash Balance Required.~~Seven and One-Half Percent (7.5%) Cash Balance Required. – The Department of Transportation shall maintain an available cash balance at the end of each month equal to at least ~~five percent (5%)~~seven and one-half percent (7.5%) of ~~the unpaid balance of the total transportation project contract obligations.~~the total appropriations for the current fiscal year from the Highway Fund and the Highway Trust Fund. In projecting cash balances in future years, the Department shall use the estimated cash flow as specified in the Current Operations Appropriation Act. In the event this cash position is not maintained, no further transportation project contract commitments may be entered into until the cash balance has been regained. ~~For the purposes of awarding contracts involving federal aid, any amount due from the federal government and the Highway Bond Fund as a result of unreimbursed expenditures may be considered as cash for the purposes of this provision.~~Any federal funds on hand shall not be considered as cash for the purposes of this subsection.

...

(k) The Department of Transportation shall do all of the following:

(1) Utilize cash flow financing to the extent possible to fund transportation projects with the goal of reducing the combined average daily cash balance of the Highway Fund and the Highway Trust Fund to an amount equal to ~~the twelve percent (12%) of the combined estimate of the yearly receipts of the Funds.~~ between fifteen and twenty percent (15-20%) of the total appropriations for the current fiscal year from those funds. In projecting cash balances in future years, the Department shall use the estimated cash flow as specified in the Current Operations Appropriation Act. Any federal funds on

hand shall not be considered as cash for the purposes of this subsection. The target amount shall include an amount necessary to make all municipal-aid funding requirements of the Department.

(2) Establish necessary management controls to facilitate use of cash flow financing, such as establishment of a financial planning committee, development of a monthly financing report, establishment of appropriate fund cash level targets, review of revenue forecasting procedures, and reduction of accrued unbilled costs.

(3) Report annually, on October 1 of each year, to the Joint Legislative Transportation Oversight Committee on its cash management policies and results."

SECTION 34.23.(b) The Board of Transportation shall study the Department's cash management policies and identify ways to strengthen these policies in order to prevent excessive cash balances. The Department shall report to the House of Representatives Appropriations Subcommittee on Transportation, the Senate Appropriations Committee on Department of Transportation, and the Fiscal Research Division by April 1, 2015, on the findings from this study and any resulting policy changes made based on the findings of the study.

SECTION 34.23.(c) In any month in which the Department's total cash balance on hand from the Highway Fund and the Highway Trust Fund exceeds one billion dollars ($1,000,000,000), the Department shall report its cash balance no later than the 15th day of the following month as follows:

(1) To the Board of Transportation.

(2) If the General Assembly is in session, the Department shall report to the Chairs of the House of Representatives Appropriations Subcommittee on Transportation, the Chairs of the Senate Appropriations Committee on Department of Transportation, and the Fiscal Research Division.

(3) If the General Assembly is not in session, the Department shall report to the Chairs of the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division.

The report shall include an explanation from the Department of the reasons the cash balance has exceeded the amount specified in this subsection, the actions to be taken by the Department to reduce the cash balance, and the estimated amount of time it will take to bring the cash balance to the target identified in G.S. 143C-6-11(k)(1), as amended by subsection (a) of this section.

SECTION 34.23.(d) Subsection (c) of this section becomes effective July 1, 2015.

DOT LEGAL SERVICES

SECTION 34.24.(a) Section 34.27 of S.L. 2013-360 reads as rewritten:

"**SECTION 34.27.** The Department of Transportation may engage the services of private counsel with the pertinent expertise to ~~timely defend or otherwise resolve legal challenges~~provide legal services related to transportation projects undertaken by the Department. The Department shall supervise and manage the private counsel engaged under this section and shall not be required to obtain written permission or approval from the Attorney General under G.S. 114-2.3. ~~The Department shall report the engagement of private counsel authorized by this section within 30 days to the General Assembly, as follows:~~

~~(1) If the General Assembly is in session, the Department shall report to the Chairs of the Appropriations Subcommittee on Transportation of the House of Representatives, the Chairs of the Appropriations Committee on Transportation of the Senate, and the Fiscal Research Division.~~

~~(2) If the General Assembly is not in session, or adjourns sine die during the 30 day period, the Department shall report to the Chairs of the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division.~~"

SECTION 34.24.(b) It is the intent of the General Assembly that the Department of Transportation exercise the authority granted by subsection (a) of this section to maximize operational and project delivery benefits attributed to the avoidance or successful defense of litigation. To accomplish this intent, the Department is directed to increase its utilization of external counsel to no less than ten percent (10%) of new cases arising during the 2014-2015 fiscal year, increasing to no less than twenty percent (20%) of new cases arising during the 2015-2016 fiscal year.

SECTION 34.24.(c) The Department shall develop performance metrics to evaluate its utilization of in-house and outside counsel, to include the following:

(1) A summary of new matters opened by legal area.
(2) Case cycle times.
(3) Resolution of cases.
(4) A comparison of in-house costs to billable rates for external counsel.
(5) The process for procurement for legal services.

The Department shall report no later than January 1, 2015, and quarterly thereafter, to the Joint Legislative Transportation Oversight Committee and the Joint Legislative Justice and Public Safety Oversight Committee regarding the performance metrics set forth in this subsection.

SECTION 34.24.(d) G.S. 136-103.1 reads as rewritten:

"**§ 136-103.1. Outside counsel.**

The ~~Attorney General~~Secretary of Transportation is authorized to employ outside counsel as ~~he~~ the Secretary deems necessary for the purpose of obtaining title abstracts and title certificates for transportation system rights-of-way and for assistance in the trial of condemnation cases involving the acquisition of rights-of-way and other interests in land for the purpose of transportation construction. Compensation, as approved by the ~~Attorney General,~~Secretary, shall be paid out of the appropriations from the Highway Fund."

SECTION 34.24.(e) Legal positions assigned to the Department from the Department of Justice which become vacant during the 2014-2015 fiscal year shall not be filled.

PART XXXV. SALARIES AND BENEFITS

GOVERNOR AND COUNCIL OF STATE

SECTION 35.1.(a) G.S. 147-11(a) reads as rewritten:

"(a) The salary of the Governor shall be ~~one hundred forty-one thousand two hundred sixty-five dollars ($141,265)~~ one hundred forty-two thousand seventy-four dollars ($142,074) annually, payable monthly."

SECTION 35.1.(b) Section 35.1(b) of S.L. 2013-360 reads as rewritten:

"**SECTION 35.1.(b)** ~~Effective for the 2013-2015 fiscal biennium, the~~ The annual salaries for members of the Council of State, payable monthly, shall ~~remain unchanged~~ be increased by eight hundred nine dollars ($809.00) as follows:

Council of State	Annual Salary
Lieutenant Governor	~~$124,676~~$125,485
Attorney General	~~124,676~~125,485
Secretary of State	~~124,676~~125,485
State Treasurer	~~124,676~~125,485

State Auditor	~~124,676~~125,485
Superintendent of Public Instruction	~~124,676~~125,485
Agriculture Commissioner	~~124,676~~125,485
Insurance Commissioner	~~124,676~~125,485
Labor Commissioner	~~124,676~~125,485"

SECTION 35.1.(c) Section 35.1(a) of S.L. 2013-360 is repealed.

CERTAIN EXECUTIVE BRANCH OFFICIALS

SECTION 35.2. Section 35.2 of S.L. 2013-360 reads as rewritten:

"**SECTION 35.2.** ~~Effective for the 2013-2015 fiscal biennium, the~~ The annual salaries, payable monthly, for the following executive branch officials shall ~~remain unchanged~~ be increased by eight hundred nine dollars ($809.00) as follows:

Executive Branch Officials	Annual Salary
Chairman, Alcoholic Beverage Control Commission	~~$110,868~~$111,677
State Controller	~~155,159~~155,968
Commissioner of Banks	~~124,676~~125,485
Chair, Board of Review, Division of Employment Security	~~122,255~~123,064
Members, Board of Review, Division of Employment Security	~~120,737~~121,546
Chairman, Parole Commission	~~101,235~~102,044
Members of the Parole Commission	~~93,464~~94,273
Chairman, Utilities Commission	~~138,849~~139,658
Members of the Utilities Commission	~~124,676~~125,485
Executive Director, North Carolina Agricultural Finance Authority	~~107,915~~108,724"

JUDICIAL BRANCH

SECTION 35.3.(a) Section 35.3 of S.L. 2013-360 reads as rewritten:

"**SECTION 35.3.(a)** ~~Effective for the 2013-2015 fiscal biennium, the~~ The annual salaries, payable monthly, for specified judicial branch officials shall ~~remain unchanged~~ be increased by eight hundred nine dollars ($809.00) as follows:

Judicial Branch Officials	Annual Salary
Chief Justice, Supreme Court	~~$142,623~~$143,432
Associate Justice, Supreme Court	~~138,896~~139,705
Chief Judge, Court of Appeals	~~136,682~~137,491
Judge, Court of Appeals	~~133,109~~133,918
Judge, Senior Regular Resident Superior Court	~~129,492~~130,301
Judge, Superior Court	~~125,875~~126,684
Chief Judge, District Court	~~114,301~~115,110
Judge, District Court	~~110,684~~111,493
District Attorney	~~120,737~~121,546
Administrative Officer of the Courts	~~128,259~~129,068
Assistant Administrative Officer of the Courts	~~117,152~~117,961
Public Defender	~~120,737~~121,546
Director of Indigent Defense Services	~~124,498~~125,307

~~**SECTION 35.3.(b)** Effective for the 2013-2015 fiscal biennium, the annual salaries of employees of the Judicial Department shall remain unchanged as follows:~~

~~(1) The annual salaries of permanent full-time and part-time employees of the Judicial Department whose salaries are not itemized in this act shall remain unchanged.~~

~~(2) Notwithstanding anything to the contrary, the annual salaries of clerks of superior court under G.S. 7A-101(a) shall not change when a county changes from one population group to another.~~

~~(3) The annual salaries of assistant and deputy clerks of court set under G.S. 7A-102(c1) shall remain unchanged.~~

~~(4) The annual salaries of magistrates set under G.S. 7A-171.1(a) or G.S. 7A-171.1(a1)(1) shall remain unchanged.~~"

SECTION 35.3.(b) Except for employees eligible to receive step increases under G.S. 7A-102(c1), G.S. 7A-171.1(a), or G.S. 7A-171.1(a1)(1), the annual salaries of permanent full-time and part-time employees of the Judicial Department whose salaries are not itemized in this act shall be increased by eight hundred nine dollars ($809.00).

SECTION 35.3.(c) The district attorney or public defender of a judicial district, with the approval of the Administrative Officer of the Courts or the Commission on Indigent Defense Services, respectively, shall set the salaries of assistant district attorneys or assistant public defenders, respectively, in that district such that the average salaries of assistant district attorneys or assistant public defenders in that district do not exceed seventy-two thousand six hundred six dollars ($72,606) and the minimum salary of any assistant district attorney or assistant public defender is at least thirty-eight thousand four hundred thirty-seven dollars ($38,437), effective July 1, 2014.

SECTION 35.3.(d) G.S. 7A-101(a) reads as rewritten:

"(a) The clerk of superior court is a full-time employee of the State and shall receive an annual salary, payable in equal monthly installments, based on the population of the county as determined in subsection (a1) of this section, according to the following schedule:

Population	Annual Salary
Less than 100,000	~~$ 83,390~~$84,199
100,000 to 149,999	~~93,578~~94,387
150,000 to 249,999	~~103,766~~104,575
250,000 and above	~~113,958~~114,767

When a county changes from one population group to another, the salary of the clerk shall be changed, on July 1 of the fiscal year for which the change is reported, to the salary appropriate for the new population group, except that the salary of an incumbent clerk shall not be decreased by any change in population group during his continuance in office."

SECTION 35.3.(e) G.S. 7A-102(c1) reads as rewritten:

"(c1) A full-time assistant clerk or a full-time deputy clerk, and up to one full-time deputy clerk serving as head bookkeeper per county, shall be paid an annual salary subject to the following minimum and maximum rates:

Assistant Clerks and Head Bookkeeper	Annual Salary
Minimum	$32,609
Maximum	~~55,424~~ 56,233
Deputy Clerks	**Annual Salary**
Minimum	$28,223
Maximum	~~43,107.~~ 43,916."

SECTION 35.3.(f) G.S. 7A-171.1(a)(1) reads as rewritten:

"(a) The Administrative Officer of the Courts, after consultation with the chief district judge and pursuant to the following provisions, shall set an annual salary for each magistrate.

(1) A full-time magistrate shall be paid the annual salary indicated in the table set out in this subdivision. A full-time magistrate is a magistrate who is assigned to work an average of not less than 40 hours a week during the term of office. The Administrative Officer of the Courts shall designate whether a magistrate is full-time. Initial appointment shall be at the entry rate. A

magistrate's salary shall increase to the next step every two years on the anniversary of the date the magistrate was originally appointed for increases to Steps 1 through 3, and every four years on the anniversary of the date the magistrate was originally appointed for increases to Steps 4 through 6. The minimum and maximum salary amounts are as follows:

Table of Salaries of Full-Time Magistrates

Step Level	Annual Salary Range Minimum - Maximum
Entry Rate	~~$33,025~~$33,834
Step 1	35,951 - 36,760
Step 2	39,135 - 39,944
Step 3	42,640 - 43,449
Step 4	46,551 - 47,360
Step 5	50,959 - 51,768
Step 6	~~55,901.~~55,901 - 56,710."

SECTION 35.3.(g) G.S. 7A-171.1(a1)(1) reads as rewritten:

"(a1) Notwithstanding subsection (a) of this section, the following salary provisions apply to individuals who were serving as magistrates on June 30, 1994:

(1) The minimum and maximum salaries of magistrates who on June 30, 1994, were paid at a salary level of less than five years of service under the table in effect that date shall be as follows:

	Minimum	Maximum
Less than 1 year of service	~~$26,846~~	$27,655
1 or more but less than 3 years of service	28,027	- 28,836
3 or more but less than 5 years of service	30,405	- 31,214

Upon completion of five years of service, those magistrates shall receive the salary set as the Entry Rate in the table in subsection (a)."

LEGISLATIVE BRANCH

SECTION 35.4.(a) Section 35.4 of S.L. 2013-360 reads as rewritten:

"**SECTION 35.4.** For the 2013-2015 fiscal biennium, the salaries of members and officers of the General Assembly shall remain unchanged at the amounts set under G.S. 120-3, as provided in 1994 by the 1993 General Assembly. ~~Effective for the 2013-2015 fiscal biennium, salaries in the legislative branch shall remain unchanged, as follows:~~

~~(1) The annual salaries set by G.S. 120-37(c) for the principal clerks in each house shall remain unchanged.~~

~~(2) The annual salaries set by G.S. 120-37(b) of the sergeant-at-arms and the reading clerk in each house shall remain unchanged.~~

~~(3) The annual salaries of the Legislative Services Officer and of nonelected employees of the General Assembly set under G.S. 120-32 shall remain unchanged.~~"

SECTION 35.4.(b) G.S. 120-37(b) reads as rewritten:

"(b) The sergeant-at-arms and the reading clerk in each house shall be paid a salary of ~~three hundred eighty-five dollars ($385.00)~~ four hundred one dollars ($401) per week plus subsistence at the same daily rate provided for members of the General Assembly, plus mileage at the rate provided for members of the General Assembly for one round trip only from their homes to Raleigh and return. The sergeants-at-arms shall serve during sessions of the General Assembly and at such time prior to the convening of, and subsequent to adjournment or recess of, sessions as may be authorized by the Legislative Services Commission. The reading clerks shall serve during sessions only."

SECTION 35.4.(c) G.S. 120-37(c) reads as rewritten:

"(c) The principal clerks shall be full-time officers. Each principal clerk shall be entitled to other benefits available to permanent legislative employees and shall be paid an annual salary of ~~one hundred five thousand three hundred thirty-three dollars ($105,333),~~ one hundred six thousand one hundred forty-two dollars ($106,142), payable monthly. Each principal clerk shall also receive such additional compensation as approved by the Speaker of the House of Representatives or the President Pro Tempore of the Senate, respectively, for additional employment duties beyond those provided by the rules of their House. The Legislative Services Commission shall review the salary of the principal clerks prior to submission of the proposed operating budget of the General Assembly to the Governor and shall make appropriate recommendations for changes in those salaries. Any changes enacted by the General Assembly shall be by amendment to this paragraph."

SECTION 35.4.(d) The annual salaries of the Legislative Services Officer and of nonelected employees of the General Assembly in effect on June 30, 2014, shall be increased by eight hundred nine dollars ($809.00).

COMMUNITY COLLEGES PERSONNEL

SECTION 35.5. Section 35.5 of S.L. 2013-360 reads as rewritten:

"**SECTION 35.5.(a)** The annual salaries of all community college nonfaculty and professional staff whose salaries are supported from the State's General Fund shall ~~remain unchanged for the 2013-2015 fiscal biennium.~~be increased by eight hundred nine dollars ($809.00).

"**SECTION 35.5.(b)** ~~For the 2013-2015 fiscal biennium, the~~ Effective July 1, 2014, the annual salaries of all community college faculty whose salaries are supported from the State's General Fund shall ~~remain unchanged. The~~ be increased by eight hundred nine dollars ($809.00). The minimum salaries for nine-month, full-time curriculum community college faculty shall ~~also remain unchanged~~ be increased as follows:

Education Level	Minimum Salary
Vocational Diploma/Certificate or Less	~~$34,314~~$35,123
Associate Degree or Equivalent	~~34,819~~35,628
Bachelor's Degree	~~37,009~~37,818
Masters Degree or Education Specialist	~~38,952~~39,761
Doctoral Degree	~~41,753~~42,562

No full-time faculty member shall earn less than the minimum salary for his or her education level.

The pro rata hourly rate of the minimum salary for each education level shall be used to determine the minimum salary for part-time faculty members."

UNIVERSITY OF NORTH CAROLINA SYSTEM

SECTION 35.6. Section 35.6 of S.L. 2013-360 reads as rewritten:

"**SECTION 35.6.(a)** The annual compensation of all University of North Carolina ~~EPA faculty, EPA nonfaculty, SPA employees, and teachers employed by the North Carolina School of Science and Mathematics shall remain unchanged for the 2013-2015 fiscal biennium.~~ employees who are not exempt from the North Carolina Human Resources Act shall be increased by eight hundred nine dollars ($809.00).

"**SECTION 35.6.(b)** The annual compensation of all employees of the University of North Carolina Health Care System and the Medical Faculty Practice Plan at East Carolina University shall remain unchanged for the ~~2013-2015 fiscal biennium.~~2013-2014 fiscal year."

SALARY ADJUSTMENT REQUIREMENTS/LIMIT ON CUMULATIVE INCREASES

SECTION 35.7. Section 35.8 of S.L. 2013-360 reads as rewritten:

"**SECTION 35.8.(a)** The annual compensation of all employees subject to or exempt from the ~~State Personnel Act,~~ North Carolina Human Resources Act, including employees of local boards of education, community colleges, and The University of North Carolina, for the ~~2013-2015 fiscal biennium~~ 2013-2014 fiscal year shall remain unchanged from that authorized on June 30, 2013, or the last date in pay status during the 2011-2013 fiscal biennium, if earlier, unless an increase is authorized by this section or under the Salary Adjustment Fund established by this act.

SECTION 35.8.(b) Salary increases may be awarded during the ~~2013-2015 fiscal biennium~~ 2013-2014 fiscal year under this ~~section~~ subsection only for the following special circumstances:

(1) For all State employees regardless of funding source, and for employees of the North Carolina Community College System and local school boards who are paid from State funds, salaries may be increased for reallocations or promotions, in-range adjustments for job change, career progression adjustments for demonstrated competencies, or any other adjustment related to an increase in job duties or responsibilities, none of which are subject to the salary freeze otherwise provided by this Part. All other salary increases are prohibited.

(1a) For employees of the North Carolina Community College System, notwithstanding subdivision (1) of this subsection, salaries may be increased if the increase is (i) funded from local funding sources or (ii) for the purposes of retention or equity.

(2) For The University of North Carolina, (i) faculty using funds from the Faculty Recruiting and Retention Fund, the Distinguished Professors Endowment Fund, or the University Cancer Research Fund in the case of faculty involved in cancer research supported by that fund; (ii) faculty, nonfaculty, and other employee adjustments, including retention adjustments, funded from non-State funding sources; (iii) faculty, nonfaculty, and other employees for the purposes of retention or equity.

(3) For employees of the judicial branch, for local supplementation as authorized by G.S. 7A-300.1.

The cumulative salary adjustment allowed under this subsection ~~for each fiscal year~~ during the ~~2013-2015 fiscal biennium~~ 2013-2014 fiscal year may exceed ten percent (10%) of annual salary only if the adjustment is approved in advance by the Office of State Budget and Management, The University of North Carolina Board of Governors, the Board of the North Carolina Community College System, the Legislative Services Commission, the local board of education, or other authorized body as appropriate.

SECTION 35.8.(b1) For fiscal year 2014-2015, the cumulative salary adjustment awarded to any employee may exceed ten percent (10%) of annual salary only if the adjustment is approved in advance by the Office of State Budget and Management, The University of North Carolina Board of Governors, the Board of the North Carolina Community College System, the Legislative Services Commission, the local board of education, or other authorized body as appropriate.

SECTION 35.8.(c) The automatic salary step increases for assistant and deputy clerks of superior court and magistrates are suspended for the ~~2013-2015 fiscal biennium.~~2013-2014 fiscal year.

SECTION 35.8.(d) The salary increase provisions of G.S. 20-187.3 are suspended for the ~~2013-2015 fiscal biennium.~~2013-2014 fiscal year.

SECTION 35.8.(e) ~~During the 2013-2015 fiscal biennium,~~ For the 2013-2014 fiscal year, notwithstanding G.S. 53C-2-3(c), employees of the Office of the Commissioner of Banks shall

not be awarded (i) compensation increases unless allowed under subdivision (1) of subsection (b) of this section or (ii) compensation bonuses.

SECTION 35.8.(f) Employees of the Lottery Commission shall not receive compensation bonuses during the ~~2013-2015 fiscal biennium.~~2013-2014 fiscal year."

USE OF FUNDS APPROPRIATED FOR LEGISLATIVELY MANDATED SALARY INCREASES

SECTION 35.8.(a) The appropriations set forth in Section 2.1 of this act include appropriations for legislatively mandated salary increases in amounts set forth in the committee report described in Section 38.2 of this act. The Office of State Budget and Management shall ensure that those funds are used only for legislatively mandated salary increases.

SECTION 35.8.(b) If the Director of the Budget determines that funds appropriated to a State agency for legislatively mandated salary increases exceed the amount required by that agency for that purpose, the Director may reallocate those funds to other State agencies that received insufficient funds for legislatively mandated salary increases.

SECTION 35.8.(c) No later than October 1, 2014, the Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations on the expenditure of funds for legislatively mandated salary increases. This report shall include at least the following information for each State agency for the 2014-2015 fiscal year:

(1) The total amount of funds that the agency received for legislatively mandated salary increases.

(2) The total amount of funds transferred from the agency to other State agencies pursuant to subsection (b) of this section. This section of the report shall identify the amounts transferred to each recipient State agency.

(3) The total amount of funds used by the agency for legislatively mandated salary increases.

(4) The total amount of funds received by the agency for legislatively mandated salary increases that are anticipated to revert at the end of the fiscal year.

ALL STATE-SUPPORTED PERSONNEL/SALARY INCREASES

SECTION 35.9.(a) Salaries and related benefits for positions that are funded partially from the General Fund or Highway Fund and partially from sources other than the General Fund or Highway Fund shall be increased from the General Fund or Highway Fund appropriation only to the extent of the proportionate part of the salaries paid from the General Fund or Highway Fund.

SECTION 35.9.(b) The salary increases provided in this act become effective July 1, 2014, and do not apply to persons separated from State service due to resignation, dismissal, reduction in force, death, or retirement, or whose last workday is prior to July 1, 2014.

SECTION 35.9.(c) Payroll checks issued to employees after July 1, 2014, which represent payment of services provided prior to July 1, 2014, shall not be eligible for salary increases provided for in this act. This subsection applies to all employees paid from State funds, whether or not subject to or exempt from the North Carolina Human Resources Act, including employees of public schools, community colleges, and The University of North Carolina.

SECTION 35.9.(d) Nothing in this act authorizes the transfer of funds between the General Fund and the Highway Fund for salary increases.

MOST STATE EMPLOYEES

SECTION 35.10.(a) Section 35.7 of S.L. 2013-360 reads as rewritten:

"SECTION 35.7. ~~For the 2013-2015 fiscal biennium, the salaries in effect June 30, 2013, for the following employees shall remain unchanged, effective July 1, 2013:~~ Except as otherwise specifically set forth in this act, the salaries in effect for the following employees on June 30, 2014, shall be increased by eight hundred nine dollars ($809.00):

(1) Permanent full-time State officials and persons whose salaries are set in accordance with the ~~State Personnel Act.~~North Carolina Human Resources Act.

(2) Permanent full-time State officials and persons in positions exempt from the ~~State Personnel Act.~~North Carolina Human Resources Act.

(3) Permanent part-time State ~~employees.~~employees and temporary and permanent hourly State employees, on a prorated and equitable basis subject to the availability of funds in the employing State agency, department, or institution and within regular State Budget Act procedures.

~~(4) Temporary and permanent hourly State employees.~~

Employees eligible to receive step increases under G.S. 20-187.3, 7A-102(c1), 7A-171.1(a), or 7A-171.1(a1)(1) shall not receive the eight hundred nine dollars ($809.00) salary increase authorized by this act."

SECTION 35.10.(b) An employee eligible to receive a step increase as provided by this act may move up no more than one step on the applicable salary schedule.

STATE EMPLOYEES REASSIGNMENT/NO THIRTY-FIVE-MILE RADIUS REQUIREMENT

SECTION 35.11.(a) G.S. 126-5(e)(2) reads as rewritten:

"(e) An exempt employee may be transferred, demoted, or separated from his or her position by the department head authorized to designate the exempt position except:

...

(2) When an employee who has 10 years or more cumulative service, including the immediately preceding 12 months, in subject positions prior to placement in an exempt position is removed from an exempt position, for reasons other than just cause, the employee shall be reassigned to a subject position within the same department or agency, or if necessary within another agency, ~~and within a 35 mile radius of the exempt position,~~ at the same grade and salary, including all across-the-board increases since placement in the position designated as exempt, as ~~his~~ the employee's most recent subject position."

SECTION 35.11.(b) This section is effective when it becomes law and applies to State employees hired before June 30, 2013.

AMEND THE SALARY CONTINUATION LAWS TO PROVIDE THAT ONLY LAW ENFORCEMENT OFFICERS INJURED AND INCAPACITATED AS THE RESULT OF THE HEIGHTENED RISK AND SPECIAL HAZARDS POSED BY THEIR OFFICIAL DUTIES RECEIVE A HIGHER COMPENSATION RATE FOR THE TWO-YEAR PERIOD BEFORE REVERTING TO THE RATES PROVIDED UNDER THE WORKERS' COMPENSATION LAWS

SECTION 35.12.(a) Article 12B of Chapter 143 of the General Statutes reads as rewritten:

"Article 12B.

"Salary Continuation Plan for Certain State Law-Enforcement Officers.

"§ 143-166.13. Persons entitled to benefits under Article.

(a) The following persons who are subject to the Criminal Justice Training and Standards Act are entitled to benefits under this Article:

(1) State Government Security Officers, Department of Administration;
(2) State Correctional Officers, Division of Adult Correction of the Department of Public Safety;
(3) State Probation and Parole Officers, Division of Adult Correction of the Department of Public Safety;
(4) Sworn State Law-Enforcement Officers with the power of arrest, Division of Adult Correction of the Department of Public Safety;
(5) Alcohol Law-Enforcement Agents, Department of Public Safety;
(6) State Highway Patrol Officers, Department of Public Safety;
(7) General Assembly Special Police, General Assembly;
(8) Sworn State Law-Enforcement Officers with the power of arrest, Department of Health and Human Services;
(9) Juvenile Justice Officers, Division of Juvenile Justice of the Department of Public Safety;
(10) Insurance Investigators, Department of Insurance;
(11) State Bureau of Investigation Officers and Agents, Department of Justice;
(12) Director and Assistant Director, License and Theft Enforcement Section, Division of Motor Vehicles, Department of Transportation;
(13) Members of License and Theft Enforcement Section, Division of Motor Vehicles, Department of Transportation, designated by the Commissioner of Motor Vehicles as either "inspectors" or uniformed weigh station personnel;
(14) Utilities Commission Transportation Inspectors and Special Investigators;
(15) North Carolina Ports Authority Police, Department of Transportation;
(16) Sworn State Law-Enforcement Officers with the power of arrest, Department of Environment and Natural Resources;
(17) Sworn State Law-Enforcement Officers with the power of arrest, Department of Public Safety.
(18) Sworn State Law-Enforcement Officers with the power of arrest, Department of Revenue.
(19) Sworn State Law-Enforcement Officers with the power of arrest, University System.

(b) The following persons are entitled to benefits under this Article regardless of whether they are subject to the Criminal Justice Training and Standards Act:

(1) Driver License Examiners injured by accident arising out of and in the course of giving a road test, Division of Motor Vehicles, Department of Transportation;
(2) Employees of the Division of Adult Correction of the Department of Public Safety injured by a direct and deliberate act of an offender supervised by the Division or while performing supervisory duties over offenders which place the employees at risk of such injury.

(c) As used in this Article, the term "eligible person" or "person" shall mean any individual listed under subsection (a) or (b) of this section.

"§ 143-166.14. Payment of salary notwithstanding incapacity; Workers' Compensation Act applicable after two years; duration of payment.

The salary of any ~~of the above listed persons~~eligible person shall be paid as long as ~~his~~ the person's employment in that position continues, notwithstanding ~~his~~the person's total or partial incapacity to perform any duties to which ~~he~~the person may be lawfully assigned, if that incapacity is the result of an injury ~~by accident or an occupational disease arising out of and in~~

~~the course of the performance by him of his~~or injuries proximately caused by the heightened risk and special hazards directly related to the violent nature of the eligible person's official duties, except if that incapacity continues for more than two years from its inception, the person shall, during the further continuance of that incapacity, be subject to the provisions of Chapter 97 of the General Statutes pertaining to workers' compensation. Salary paid to ~~a~~an eligible person pursuant to this Article shall cease upon the resumption of ~~his~~the person's regularly assigned duties, retirement, resignation, or death, whichever first occurs, except that temporary return to duty shall not prohibit payment of salary for a subsequent period of incapacity which can be shown to be directly related to the original injury.

"§ 143-166.15. Application of § 97-27; how payments made.

Notwithstanding the provisions of G.S. 143-166.14 of this Article, the persons entitled to benefits shall be subject to the provisions of G.S. 97-27 during the two-year period of payment of full salary. All payments of salary shall be made at the same time and in the same manner as other salaries are paid to other persons in the same department.

"§ 143-166.16. Effect on workers' compensation and other benefits; application of § 97-24.

The provisions of G.S. 143-166.14 shall be in lieu of all compensation provided for the first two years of incapacity by G.S. 97-29 and 97-30, but shall be in addition to any other benefits or compensation to which such person shall be entitled under the provisions of the Workers' Compensation Act. The provisions of G.S. 97-24 will commence at the end of the two-year period for which salary is paid pursuant to G.S. 143-166.14.

"§ 143-166.17. Period of incapacity not charged against sick leave or other leave.

The period for which the salary of any person is paid pursuant to G.S. 143-166.14 while ~~he~~ the person is incapacitated as a result of an injury ~~by accident or an occupational disease arising out of and in the course of the performance by him of his~~or injuries proximately caused by the heightened risk and special hazards directly related to the violent nature of the eligible person's official duties, shall not be charged against any sick or other leave to which ~~he~~the person shall be entitled under any other provision of law.

"§ 143-166.18. Report of incapacity.

Any person designated in G.S. 143-166.13, who, as a result of an injury ~~by accident arising out of and in the course of the performance by him of his~~or injuries proximately caused by the heightened risk and special hazards directly related to the violent nature of the eligible person's official duties, is totally or partially incapacitated to perform any duties to which ~~he~~the person may be lawfully assigned, shall report the incapacity as soon as practicable in the manner required by the secretary or other head of the department to which the agency is assigned by statute.

"§ 143-166.19. Determination of cause and extent of incapacity; hearing before Industrial Commission; appeal; effect of refusal to perform duties.

Upon the filing of the report, the secretary or other head of the department or, in the case of the General Assembly, the Legislative Services Officer, shall determine the cause of the incapacity and to what extent the claimant may be assigned to other than ~~his~~the claimant's normal duties. The finding of the secretary or other head of the department shall determine the right of the claimant to benefits under this Article. Notice of the finding shall be filed with the North Carolina Industrial Commission. ~~Unless the claimant, within 30 days after he receives notice, files with the North Carolina Industrial Commission, upon the form it shall require, a request for a hearing, the finding of the secretary or other department head shall be final.~~The finding of the secretary or other department head shall be final unless the claimant, within 30 days of receipt of the notice, files a request for a hearing with the North Carolina Industrial Commission using a form required by the Commission. Upon the filing of a request, the North Carolina Industrial Commission shall proceed to hear the matter in accordance with its

regularly established procedure for hearing claims filed under the Worker's Compensation Act, and shall report its findings to the secretary or other head of the department. From the decision of the North Carolina Industrial Commission, an appeal shall lie as in other matters heard and determined by the Commission. Any person who refuses to perform any duties to which ~~he~~ the person may be properly assigned as a result of the finding of the secretary, other head of the department or of the North Carolina Industrial Commission shall be entitled to no benefits pursuant to this Article as long as the refusal continues. Any eligible person whose salary continuation benefits are terminated by the secretary or other head of the department shall be immediately entitled to benefits under G.S. 97-29 or G.S. 97-30. Such benefits under G.S. 97-29 or G.S. 97-30 shall only be suspended or terminated by the employer pursuant to G.S. 97-18.1.

"**§ 143-166.20. Subrogation.**

The same rights and remedies set forth in G.S. 97-10.2 shall apply in all third party liability cases occurring under this Article, including cases involving the right of the affected State agency to recover the salary paid to an injured officer during ~~his~~the officer's period of disability."

SECTION 35.12.(b) This section becomes effective October 1, 2014, and applies to injuries occurring on or after that date.

SALARY-RELATED CONTRIBUTIONS

SECTION 35.13.(a) Section 35.15(b) of S.L. 2013-360 reads as rewritten:

"**SECTION 35.15.(b)** Effective July 1, 2013, the State's employer contribution rates budgeted for retirement and related benefits as a percentage of covered salaries for the ~~2013-2015 fiscal biennium~~2013-2014 fiscal year are (i) fourteen and sixty-nine hundredths percent (14.69%) – Teachers and State Employees; (ii) nineteen and sixty-nine hundredths percent (19.69%) – State Law Enforcement Officers; (iii) twelve and sixty-eight hundredths percent (12.68%) – University Employees' Optional Retirement Program; (iv) twelve and sixty-eight hundredths percent (12.68%) – Community College Optional Retirement Program; (v) thirty-three and forty-one hundredths percent (33.41%) – Consolidated Judicial Retirement System; and (vi) five and forty hundredths percent (5.40%) – Legislative Retirement System. Each of the foregoing contribution rates includes five and forty hundredths percent (5.40%) for hospital and medical benefits. The rate for the Teachers and State Employees, State Law Enforcement Officers, University Employees' Optional Retirement Program, and the Community College Optional Retirement Program includes forty-four hundredths percent (0.44%) for the Disability Income Plan. The rates for Teachers and State Employees and State Law Enforcement Officers include sixteen hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental Retirement Income. The rate for Teachers and State Employees and State Law Enforcement Officers includes one hundredths percent (0.01%) for the Qualified Excess Benefit Arrangement."

SECTION 35.13.(b) Effective July 1, 2014, the State's employer contribution rates budgeted for retirement and related benefits as a percentage of covered salaries for the 2014-2015 fiscal year are (i) fifteen and twelve hundredths percent (15.12%) – Teachers and State Employees; (ii) twenty and twelve hundredths percent (20.12%) – State Law Enforcement Officers; (iii) twelve and seventy-four hundredths percent (12.74%) – University Employees' Optional Retirement Program; (iv) twelve and seventy-four hundredths percent (12.74%) – Community College Optional Retirement Program; (v) thirty-two and fifty-two hundredths percent (32.52%) – Consolidated Judicial Retirement System; and (vi) five and forty-nine hundredths percent (5.49%) – Legislative Retirement System. Each of the foregoing contribution rates includes five and forty-nine hundredths percent (5.49%) for hospital and

medical benefits. The rate for the Teachers and State Employees, State Law Enforcement Officers, University Employees' Optional Retirement Program, and the Community College Optional Retirement Program includes forty-one hundredths percent (0.41%) for the Disability Income Plan. The rates for Teachers and State Employees and State Law Enforcement Officers include sixteen hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental Retirement Income. The rate for Teachers and State Employees and State Law Enforcement Officers includes one hundredths percent (0.01%) for the Qualified Excess Benefit Arrangement.

SECTION 35.13.(c) Section 35.15(d) of S.L. 2013-360 reads as rewritten:

"**SECTION 35.15.(d)** Effective July 1, 2014, the maximum annual employer contributions, payable monthly, by the State for each covered employee or retiree for the 2014-2015 fiscal year to the State Health Plan for Teachers and State Employees are (i) Medicare eligible employees and retirees – ~~four thousand two hundred twenty-four dollars ($4,224)~~four thousand one hundred seventy-nine dollars ($4,179) and (ii) non-Medicare eligible employees and retirees – ~~five thousand four hundred thirty-five dollars ($5,435).~~five thousand three hundred seventy-eight dollars ($5,378)."

PROVIDE COST-OF-LIVING INCREASES FOR RETIREES OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE JUDICIAL RETIREMENT SYSTEM, AND THE LEGISLATIVE RETIREMENT SYSTEM

SECTION 35.14.(a) G.S. 135-5 is amended by adding a new subsection to read:

"(ttt) From and after July 1, 2014, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2013, shall be increased by eight-tenths of one percent (0.8%) of the allowance payable on June 1, 2014, in accordance with G.S. 135-5(o). Furthermore, from and after July 1, 2014, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2013, but before June 30, 2014, shall be increased by a prorated amount of eight-tenths of one percent (0.8%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 2013, and June 30, 2014."

SECTION 35.14.(b) G.S. 135-65 is amended by adding a new subsection to read:

"(ee) From and after July 1, 2014, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2013, shall be increased by eight-tenths of one percent (0.8%) of the allowance payable on June 1, 2014. Furthermore, from and after July 1, 2014, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2013, but before June 30, 2014, shall be increased by a prorated amount of eight-tenths of one percent (0.8%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 2013, and June 30, 2014."

SECTION 35.14.(c) G.S. 120-4.22A is amended by adding a new subsection to read:

"(y) In accordance with subsection (a) of this section, from and after July 1, 2014, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before January 1, 2014, shall be increased by eight-tenths of one percent (0.8%) of the allowance payable on June 1, 2014. Furthermore, from and after July 1, 2014, the retirement allowance to or on account of beneficiaries whose retirement commenced after January 1, 2014, but before June 30, 2014, shall be increased by a prorated amount of eight-tenths of one percent (0.8%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between January 1, 2014, and June 30, 2014."

USE OF FUNDS APPROPRIATED FOR STATE RETIREMENT SYSTEM CONTRIBUTION INCREASES

SECTION 35.15.(a) The appropriations set forth in Section 2.1 of this act include appropriations for State Retirement System contribution increases in amounts set forth in the committee report described in Section 38.2 of this act. The Office of State Budget and Management shall ensure that those funds are used only for State Retirement System contribution increases.

SECTION 35.15.(b) If the Director of the Budget determines that funds appropriated to a State agency for increases exceed the amount required by that agency for that purpose, the Director may reallocate those funds to other State agencies that received insufficient funds for State Retirement System contribution increases.

SECTION 35.15.(c) No later than October 1, 2014, the Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations on the expenditure of funds for State Retirement System contribution increases. This report shall include at least the following information for each State agency for the 2014-2015 fiscal year:

(1) The total amount of funds that the agency received for State Retirement System contribution increases.

(2) The total amount of funds transferred from the agency to other State agencies pursuant to subsection (b) of this section. This section of the report shall identify the amounts transferred to each recipient State agency.

(3) The total amount of funds used by the agency for State Retirement System contribution increases.

(4) The total amount of funds received by the agency for State Retirement System contribution increases that are anticipated to revert at the end of the fiscal year.

ALTERNATIVE HEALTH BENEFIT COVERAGE FOR NONPERMANENT FULL-TIME STATE EMPLOYEES

SECTION 35.16.(a) Section 1 of S.L. 2013-324 is repealed. The amendment to G.S. 135-48.43(a)(2) made in Section 4 of S.L. 2013-324 is repealed.

SECTION 35.16.(b) G.S. 135-48.22 reads as rewritten:

"**§ 135-48.22. Board powers and duties.**

The Board of Trustees shall have the following powers and duties:

(1) Approve benefit programs, as provided in G.S. 135-48.30(a)(2).

(2) Approve premium rates, co-pays, deductibles, and coinsurance percentages and maximums for the Plan, as provided in G.S. 135-48.30(a)(2).

(2a) Approve the benefit program, premium rates, co-pays, deductibles, and coinsurance percentages and maximums for the coverage offered under G.S. 135-48.40(e).

(3) Oversee administrative reviews and appeals, as provided in G.S. 135-48.24.

(4) Approve large contracts, as provided in G.S. 135-48.33(a).

(5) Consult with and advise the State Treasurer as required by this Article and as requested by the State Treasurer.

(6) Develop and maintain a strategic plan for the Plan."

SECTION 35.16.(c) G.S. 135-48.40 is amended by adding a new subsection to read:

"(e) Other Contributory Coverage. – Any employee of an employing unit is eligible for coverage under this section on a contributory basis, subject to the provisions of G.S. 135-48.43 and of this section, if (i) the employee's employing unit determines that the employee is a full-time employee and (ii) the employee does not qualify for coverage under subdivision (1),

(5), (6), (7), (8), (9), or (10) of G.S. 135-48.40(b). For the purposes of this subsection, the full-time status of an employee shall be determined by the employing unit, in its sole discretion, in accordance with Section 4980H of the Internal Revenue Code and the applicable regulations, as amended. The coverage offered and the contribution required for coverage under this section shall be determined by the Treasurer and approved by the Board of Trustees. Such coverage shall do all of the following:

(1) Be designed to meet the requirements of minimum essential coverage under the Patient Protection and Affordable Care Act, P.L. 111-148, and the applicable regulations, as amended (Affordable Care Act).

(2) Provide no greater coverage than a bronze-level plan, as defined under the Affordable Care Act.

(3) Minimize the required employer contribution in an administratively feasible manner."

SECTION 35.16.(d) G.S. 135-48.43 (a)(2) reads as rewritten:

"(2) New employees may apply for coverage to be effective on the first day of the month following employment, or on a like date the following month if the employee has ~~enrolled.~~enrolled, except that the effective date of coverage for employees who become eligible in accordance with G.S. 135-48.40(e) will be determined by the employing unit in a manner that is consistent with section 4980H of the Internal Revenue Code and the applicable regulations, as amended."

SECTION 35.16.(e) Article 1 of Chapter 116 of the General Statutes is amended by adding the following new section:

"**§ 116-17.3. Health plans for nonretirement eligible employees.**

The university may establish or maintain, through the purchase of insurance or otherwise, health plans or programs to provide medical, surgical, or hospital care and pharmacy benefits, including dependent coverage, to employees who are not eligible for coverage under subdivision (1), (5), (6), (7), (8), (9), or (10) of G.S. 135-48.40(b). If the university establishes a plan under this section, then such employees are not eligible for coverage under G.S. 135-48.40(e)."

SECTION 35.16.(f) Subsection (a) of this section is effective when this act becomes law. Subsections (b) through (e) of this section become effective January 1, 2015, and apply to plan years beginning on or after that date.

SEPARATE INSURANCE BENEFITS PLAN FOR LAW ENFORCEMENT

SECTION 35.17. Section 35.17(c) of S.L. 2013-360 reads as rewritten:

"**SECTION 35.17.(c)** For each fiscal year of the 2013-2015 fiscal biennium, the Department of State Treasurer shall calculate the total compensation for which the Department of Public Safety and Department of Justice have paid retirement contributions on behalf of sworn law enforcement officers. The Department of State Treasurer shall multiply this total compensation by five and forty hundredths percent (5.40%) for months during the 2013-2014 fiscal year and by ~~five and fifty-five hundredths percent (5.55%)~~ five and forty-nine hundredths percent (5.49%) for months during the 2014-2015 fiscal year and shall ensure that the General Fund is fully reimbursed for these costs by executing periodic transfers of the resulting amounts from the Separate Insurance Benefits Plan established under G.S. 143-166.60 to the General Fund."

PART XXXVI. CAPITAL APPROPRIATIONS

CAPITAL APPROPRIATIONS/GENERAL FUND

SECTION 36.1. Section 36.2(a) of S.L. 2013-360 reads as rewritten:

"**SECTION 36.2.(a)** There is appropriated from the General Fund for the 2013-2015 fiscal biennium the following amounts for capital improvements:

Capital Improvements – General Fund	**2013-2014**	**2014-2015**
Department of Administration		
Sandhills State Veterans Facility – Committal Enclosure	$ 125,000	-
Goldsboro State Veterans' Cemetery	600,000	-
Department of Agriculture and Consumer Services		
Western NC Agricultural Center – McGough Arena Roof		$ 2,000,000
Department of Cultural Resources		
USS North Carolina Battleship Hull Repairs		3,000,000
Department of Environment and Natural Resources		
Water Resources Development Projects	11,522,000	5,810,000
Department of Justice		
Western Crime Lab Planning	1,442,000	-
Department of Public Safety		
Samarkand Training Facility	5,250,000	5,173,000
National Guard	5,000,000	3,250,000
Office of State Budget and Management-Special Appropriations		
NC History Museum Challenge Grant		1,000,000
Outer Banks Land Management Reserve		3,000,000
The University of North Carolina System		
University of North Carolina Asheville – Land Purchases	2,000,000	-
Appalachian State University – Health Sciences Building Advance Planning	2,000,000	-
TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND	**$ 27,939,000**	~~**$8,423,000**~~ **$23,233,000**"

WATER RESOURCES DEVELOPMENT PROJECTS

SECTION 36.2.(a) The Department of Environment and Natural Resources shall allocate funds for water resources development projects in accordance with the schedule that follows. The amounts set forth in the schedule include funds appropriated in this act for water resources development projects and funds carried forward from previous fiscal years in accordance with subsection (b) of this section. These funds will provide a State match for an estimated nine million six hundred fifty thousand dollars ($9,650,000) in federal funds.

Name of Project	**2014-2015**
(1) B. Everett Jordan Lake Water Supply Storage	$ 200,000

(2)	Wilmington Harbor Maintenance – Disposal Area 8 & 10	4,000,000
(3)	Morehead City Harbor Maintenance	-
(4)	Wilmington Harbor Deepening	600,000
(5)	Wilmington Harbor Improvements Feasibility Study	200,000
(6)	Natural Resources Conservation Service (NRCS) Equipment Projects	2,000,000
(7)	Planning Assistance to Communities	25,000
(8)	Hookerton, NC – Stream Bank Erosion Repair (Sec 14)	410,000
(9)	State/Local Water Resource Development Grants	1,000,000
TOTALS		**$ 8,435,000**

SECTION 36.2.(b) It is the intent of the General Assembly that funds carried forward from previous fiscal years be used to supplement the five million eight hundred ten thousand dollars ($5,810,000) appropriated for water resources development projects in Section 36.2(a) of S.L. 2013-360, as amended by Section 36.1(a) of this section. Therefore, the following funds carried forward from previous fiscal years shall be used for the following projects:

Name of Project		**Amount Carried Forward**
(1)	Wilmington Harbor Maintenance – Disposal Area 8 & 10	$ 2,000,000
(2)	Wilmington Harbor Deepening	600,000
(3)	Planning Assistance to Communities	25,000
TOTALS		**$ 2,625,000**

SECTION 36.2.(c) Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects funded under subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 2014-2015 fiscal year or if the projects funded under subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

(1) U.S. Army Corps of Engineers project feasibility studies.

(2) U.S. Army Corps of Engineers projects whose schedules have advanced and require State-matching funds in the 2014-2015 fiscal year.

(3) State-local water resources development projects.

Funds subject to this subsection that are not expended or encumbered for the purposes set forth in subdivisions (1) through (3) of this subsection shall revert to the General Fund at the end of the 2015-2016 fiscal year.

SECTION 36.2.(d) The Department shall make semiannual reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include all of the following:

(1) All projects listed in this section.

(2) The estimated cost of each project.

(3) The date that work on each project began or is expected to begin.

(4) The date that work on each project was completed or is expected to be completed.

(5) The actual cost of each project.

The semiannual reports also shall show those projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

SECTION 36.2.(e) Notwithstanding any provision of law to the contrary, funds appropriated for a water resources development project shall be used to provide no more than fifty percent (50%) of the nonfederal portion of funds for the project. This subsection applies to funds appropriated in this act and to funds appropriated prior to the 2013-2015 fiscal biennium that are unencumbered and proposed for reallocation to provide the nonfederal portion of funds for water resources development projects. The limitation on fund usage contained in this subsection applies only to projects in which a local government or local governments participate.

NON-GENERAL FUND CAPITAL IMPROVEMENT AUTHORIZATIONS

SECTION 36.3. The General Assembly authorizes the following capital projects to be funded with receipts or from other non-General Fund sources available to the appropriate department:

Name of Project	**Amount of Non-General Fund Funding Authorized for FY 2014-2015**
Department of Administration	
Salisbury Veteran Home Renovation	$ 3,715,000
Department of Agriculture and Consumer Services	
Alexander County Head Quarters Site Development and Modular Placement	210,000
Alexander County Office Purchase	100,000
Tidewater Research Station – Deer Fence	20,000
DuPont Recreational State Forest – Trail Improvement	100,000
Raleigh Farmers Market	
Parking	200,000
New Vendor Building	700,000
Research Stations	
Safety Improvements	80,000
Land Acquisitions	1,000,000
Jordan Lake Classroom Development and Modular Placement	75,000
Western North Carolina Agricultural Center	
Livestock Improvements	3,000,000
E&F Barns Roof Replacements	500,000
North Carolina State Fairgrounds	
HVAC Improvements	1,500,000
Renovations to Existing Buildings	2,000,000
Infrastructure Repairs	1,550,000
Horse Complex Improvements	2,000,000
Mountain Island Educational Forest – Visitor and Interpretive Center	3,000,000
Holmes Educational State Forest – Repair and Renovation of Facilities	15,000
Tuttle Education Forest – Repair and Renovation of Facilities	15,000
Piedmont Research Station – New Bridge	200,000
Western North Carolina Farmers Market – Paving Improvements	100,000
Rendezvous Mountain Education State Forest – Repair and Renovation	15,000
Department of Cultural Resources	
Museum of Art – East Building Technology Improvement	1,118,750
Department of Justice	
Raleigh Crime Lab Renovation	807,000
Department of Public Safety	
Caledonia Farms Grain Station	361,340
Maury Correctional Institution – Industrial Area Uplift	2,830,499

Raleigh Facilities Maintenance – Latrine Renovations	165,000
Raleigh Troop Motor Pool – Latrine Renovations	130,000
Camp Butner Training Site	
Range Control Building	738,000
Training Building	495,000
Multipurpose Building	800,000
Water Tower and System Improvements	494,000
Land Buffer Acquisitions	300,000
Youngsville Field Maintenance Shop – Lighting Upgrade	95,000
High Point Field Maintenance Shop	
Office and Storage Building	525,000
Military Owned Vehicle Lot Paving	525,000
Morrisville Army Aviation Support Facility	
Latrine Renovations	88,000
Guard Shack and Access Improvements	525,000
Fort Bragg Regional Training Site	
Fire Alarm System	27,000
Wash Rack Addition	525,000
Red Springs Field Maintenance Shop Expansion	788,000
Winston-Salem Field Maintenance Shop – Addition and Alteration	775,000
Wildlife Resources Commission	
Land Acquisition	3,750,000
Fishing Access Areas – New Construction	200,000
Boating Access Areas	
New Construction	900,000
Renovations	900,000
Balsam Depot – Renovation	1,300,000
TOTAL AMOUNT OF NON-GENERAL FUND CAPITAL PROJECTS AUTHORIZED	**$39,257,589**

JUVENILE FACILITIES PROJECTS

SECTION 36.4.(a) Notwithstanding G.S. 143C-4-3, of the funds allocated to the Department of Public Safety from the Reserve for Repairs and Renovations for the 2013-2014 fiscal year, the sum of one million seven hundred seventy-four thousand dollars ($1,774,000) for Dobbs Youth Development Center Kitchen Renovations may be used by the Department to support construction, expansions, renovations, and repairs necessary to implement the Department's 2014 Juvenile Justice Facilities Strategic Plan.

SECTION 36.4.(b) Section 16D.9 of S.L. 2013-360 is repealed.

USE OF CERTAIN FUNDS CARRIED FORWARD BY UNC FOR CAPITAL PROJECTS

SECTION 36.5. G.S. 143C-8-12 reads as rewritten:

"**§ 143C-8-12. University system capital improvement projects from sources that are not General Fund sources: approval of new project or change in scope of existing project.**

(a) Notwithstanding any other provision of this Chapter, the Board of Governors of The University of North Carolina may approve: (i) expenditures to plan a capital improvement project of The University of North Carolina the planning for which is to be funded entirely with non-General Fund money, (ii) expenditures for a capital improvement project of The University

of North Carolina that is to be funded and operated entirely with non-General Fund money, or (iii) a change in the scope of any previously approved capital improvement project of The University of North Carolina provided that both the project and change in scope are funded entirely with non-General Fund money. The Board of Governors shall report any expenditure made pursuant to this section to the Office of State Budget and Management and to the Joint Legislative Commission on Governmental Operations.

(b) For purposes of this section, the term "non-General Fund money" includes funds carried forward from one fiscal year to another pursuant to G.S. 116-30.3 and G.S. 116-30.3B. These funds shall only be used for projects listed in G.S. 143C-4-3(b)."

REPEAL UNC CHANCELLORS' AUTHORITY TO APPROVE CERTAIN MAINTENANCE PROJECTS

SECTION 36.6. G.S. 116-13.1 reads as rewritten:

"**§ 116-13.1. Capital ~~facilities; reports; chancellors may authorize certain repair, renovation, and maintenance projects.~~facilities; reports.**

...

~~(c) Approval of Certain Repair and Maintenance Projects. Notwithstanding G.S. 143C-8-7, the chancellor of a constituent institution may approve the expenditure of available operating funds in an amount not to exceed one million dollars ($1,000,000) per project for projects that are of a type listed in G.S. 143C-4-3(b) and that are for State facilities and related infrastructure that are supported from the General Fund. Funds contractually obligated to an approved project shall not revert at the end of the fiscal year and will remain available to fund the completion of the project. Projects approved pursuant to this subsection shall in all other respects accord with applicable laws governing capital improvement projects. The chancellor of a constituent institution shall report the approval of an expenditure under this subsection to the Office of State Budget and Management and to the Fiscal Research Division of the Legislative Services Commission within 60 days of the approval.~~"

EXPAND UNC LEASING AUTHORITY

SECTION 36.7.(a) G.S. 116-198.34(5) reads as rewritten:

"**§ 116-198.34. General powers of Board of Governors.**

The Board may exercise any one or more of the following powers:

...

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

Notwithstanding G.S. 143-341 and Chapter 146 of the General Statutes, an acquisition for a period of 10 years or less or a disposition of ~~65 years~~ 99 years or less by easement, lease, or rental agreement of real property or space in any building on the Centennial Campus, on the Horace Williams Campus, on a Millennial Campus, or on a Kannapolis Research Campus shall not require the approval of the Governor and the Council of State. The Board shall report the acquisitions or dispositions described in this paragraph of this subdivision to the Department of Administration for inclusion in the inventory maintained by Department pursuant to G.S. 143-341(4)a. and b. and the information regarding those transactions that is required by G.S. 143-341(4)a. and b. All other acquisitions and dispositions made under this subdivision for a period in excess of the terms described in this

paragraph of this subdivision are subject to the provisions of G.S. 143-341 and Chapter 146 of the General Statutes."

SECTION 36.7.(b) Section 11.10(b) of S.L. 2013-360, as amended by Section 3.12 of S.L. 2013-363, is repealed.

INCREASE NATIONAL GUARD FLEXIBILITY WITH RESPECT TO CERTAIN CAPITAL PROJECTS

SECTION 36.8.(a) G.S. 143C-8-12, as amended by Section 36.5 of this act, reads as rewritten:

"**§ 143C-8-12. ~~University system capital~~Capital improvement projects from sources ~~that are not General Fund sources: approval of new project or change in scope of existing project.~~other than the General Fund.**

(a) University Projects. – Notwithstanding any other provision of this Chapter, the Board of Governors of The University of North Carolina may ~~approve: (i) expenditures to plan a capital improvement project of The University of North Carolina the planning for which is to be funded entirely with non-General Fund money, (ii) expenditures for a capital improvement project of The University of North Carolina that is to be funded and operated entirely with non-General Fund money, or (iii) a change in the scope of any previously approved capital improvement project of The University of North Carolina provided that both the project and change in scope are funded entirely with non-General Fund money. The Board of Governors shall report any expenditure made pursuant to this section to the Office of State Budget and Management and to the Joint Legislative Commission on Governmental Operations.~~approve any of the following:

(1) Expenditures to plan a capital improvement project of The University of North Carolina, the planning for which is to be funded entirely with non-General Fund money.

(2) Expenditures for a capital improvement project of The University of North Carolina that is to be funded and operated entirely with non-General Fund money.

(3) A change in the scope of any previously approved capital improvement project of The University of North Carolina provided that both the project and change in scope are funded entirely with non-General Fund money.

(b) Carryforward Funds. – For purposes of this section, the term 'non-General Fund money' includes funds carried forward from one fiscal year to another pursuant to G.S. 116-30.3 and G.S. 116-30.3B. These funds shall only be used for projects listed in G.S. 143C-4-3(b).

(c) National Guard Projects. – Notwithstanding any other provision of this Chapter, the North Carolina National Guard may approve expenditures for a capital project of the North Carolina National Guard but only if (i) the project will be funded entirely with federal funds and (ii) any operating costs associated with the project will be paid entirely with federal funds.

(d) Reporting. – The Board of Governors and the National Guard shall report any expenditure made pursuant to this section to the Office of State Budget and Management and to the Joint Legislative Commission on Governmental Operations."

SECTION 36.8.(b) Section 36.11(c) of S.L. 2013-360 reads as rewritten:

"**SECTION 36.11.(c)** Where the actual costs are different from the estimated costs under subsection (a) of this section, the Adjutant General of the National Guard may adjust the allocations among projects as needed. However, State funds shall not be allocated to a project in excess of the maximum amount of State funds authorized to be allocated to the project under subsection (a) of this section. If any projects funded under subsection (a) of this section are delayed or cancelled and the budgeted State funds cannot be used during the 2013-2015 fiscal

biennium, or if the projects funded under subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

(1) Future project feasibility studies.
(2) Survey, testing, and permitting.
(3) Planning and execution for reversion of facilities no longer in use.
(4) Armory and facilities projects approved by the Congress of the United States that are not listed in subsection (a) of this section and that require State-matching funds."

SECTION 36.8.(c) Article 8 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-129.6. Exemption for certain training projects of the North Carolina National Guard.**

Expenditures for a capital project (i) that is for training purposes and for a single exercise or undertaking at a National Guard facility; (ii) that has a total cost that does not exceed one hundred thousand dollars ($100,000); and (iii) that will be funded entirely with federal funds shall not be subject to this Article."

MUSEUM OF HISTORY CHALLENGE GRANT/EXPANSIONS, RENOVATIONS, AND EXHIBITS

SECTION 36.9.(a) The funds appropriated in this act to the Office of State Budget and Management-Special Appropriations for the North Carolina Museum of History Challenge Grant shall be allocated to the North Carolina Museum of History upon the Museum's raising of the sum of one million dollars ($1,000,000) in non-State funding.

SECTION 36.9.(b) The General Assembly authorizes expansions, renovations, and exhibit designs at the North Carolina Museum of History to be funded at a maximum cost of two million dollars ($2,000,000) with funds allocated to the North Carolina Museum of History pursuant to subsection (a) of this section and non-State funding raised pursuant to that subsection. All non-State funds shall be spent before any State funds are spent on this project.

USS NORTH CAROLINA BATTLESHIP HULL REPAIRS

SECTION 36.10. The General Assembly authorizes USS North Carolina Battleship hull repairs to be funded at a maximum cost of thirteen million dollars ($13,000,000) in accordance with this section. The sum of three million dollars ($3,000,000) of funds appropriated in Section 36.2(a) of S.L. 2013-360, as amended by Section 36.1(a) of this act, shall be used for this project. The remainder of the project shall be funded with receipts or from other non-General Fund sources available to the Department of Cultural Resources, and those funds are hereby appropriated for that purpose.

USE OF UNSPENT FUNDS FOR MCGOUGH ARENA ROOF REPAIRS

SECTION 36.11. Funds appropriated in Section 36.2(a) of S.L. 2013-360, as amended by Section 36.1(a) of this act, for repairs to the roof of the McGough Arena at the Western North Carolina Agricultural Center that remain unspent and unencumbered after completion of that project may be used for projects at the State Fair Grounds that are of a type listed in G.S. 143C-4-3(b).

TWO-THIRDS BONDS ACT OF 2014

SECTION 36.12.(a) Short Title. – This section may be cited as the "Two-Thirds Bonds Act of 2014."

SECTION 36.12.(b) Findings and Determinations. – It is the intent and purpose of the General Assembly by this section to provide for the issuance of general obligation bonds or notes of the State in order to provide funds for the cost of State capital facilities.

SECTION 36.12.(c) Definitions. – The following definitions apply in this section unless the context otherwise requires:

(1) Bonds. – Bonds issued under this section.

(2) Cost. – The term includes all of the following:

a. The cost of constructing, reconstructing, renovating, repairing, enlarging, acquiring, and improving State capital facilities, including the acquisition of land, rights-of-way, easements, franchises, equipment, machinery, furnishings, and other interests in real or personal property acquired or used in connection with a State capital facility.

b. The cost of engineering, architectural, and other consulting services as may be required.

c. Administrative expenses and charges.

d. The cost of providing personnel to ensure effective project management.

e. The cost of bond insurance, investment contracts, credit enhancement and liquidity facilities, interest-rate swap agreements or other derivative products, financial and legal consultants, and related costs of bond and note issuance, to the extent and as determined by the State Treasurer.

f. Finance charges, reserves for debt service, and other types of reserves required pursuant to the terms of any bond or note or related documents, interest before and during construction or acquisition of a State capital facility and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.

g. The cost of bond insurance, investment contracts, credit enhancement facilities and liquidity facilities, interest-rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of any bond or note.

h. The cost of reimbursing the State for any payments made for any cost described in this subdivision.

i. Any other costs and expenses necessary or incidental to the purposes of this section.

(3) Credit facility. – An agreement entered into by the State Treasurer on behalf of the State with a bank, savings and loan association or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States, such agreement providing for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption or acceleration), redemption premium, if any, and interest on any bonds or notes payable on demand or tender by the owner, in consideration of the State agreeing to repay the provider of the credit facility in accordance with the terms and provisions of such agreement.

(4) Notes. – Notes issued under this section.
(5) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne by any bonds or notes, including:
a. A provision providing for such adjustment so that the purchase price of such bonds or notes in the open market would be as close to par as possible.
b. A provision providing for such adjustment based upon a percentage or percentages of a prime rate or base rate, which percentage or percentages may vary or be applied for different periods of time.
c. Such other provision as the State Treasurer may determine to be consistent with this act and will not materially and adversely affect the financial position of the State and the marketing of bonds or notes at a reasonable interest cost to the State.
(6) State. – The State of North Carolina, including any State agency.
(7) State agency. – Any agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.

SECTION 36.12.(d) Authorization of Bonds and Notes. – The State Treasurer is authorized, by and with the consent of the Council of State, to issue and sell at one time or from time to time general obligation bonds of the State to be designated "State of North Carolina General Obligation Bonds," with any additional designations as may be determined, or notes of the State, in the aggregate principal amount of up to two hundred twenty-one million four hundred thousand dollars ($221,400,000), this amount being not in excess of two thirds of the amount by which the State's outstanding indebtedness was reduced during the biennium ended June 30, 2013, for the purpose of providing funds, with any other available funds, for the purposes authorized by this section.

SECTION 36.12.(e) Uses of Bond and Note Proceeds. – The proceeds of bonds and notes shall be used for financing the cost of State capital facilities as provided in this section. Any additional moneys which may be received by grant from the United States of America or any agency or department thereof or from any other source to aid in financing the cost of any State capital facilities authorized by this section may be placed by the State Treasurer in a separate fund or funds and shall be disbursed, to the extent permitted by the terms of the grant, without regard to any limitations imposed by this section.

The proceeds of bonds and notes may be used with any other moneys made available by the General Assembly for the cost of State capital facilities, including the proceeds of any other State bond or special indebtedness issues, whether heretofore made available or which may be made available at the session of the General Assembly at which this section is ratified or any subsequent sessions. The proceeds of bonds and notes shall be expended and disbursed under the direction and supervision of the Director of the Budget. The funds provided by this section shall be disbursed for the purposes provided in this section upon warrants drawn on the State Treasurer by the State Controller, which warrants shall not be drawn until requisition has been approved by the Director of the Budget and which requisition shall be approved only after full compliance with the State Budget Act, Chapter 143C of the General Statutes.

The Office of State Budget and Management shall provide semiannual reports to the Chairs of the Senate and House of Representatives Appropriation Committees and to the Fiscal Research Division on the expenditure of moneys authorized by this section. The reports shall continue until the completion of the projects provided for in this section.

SECTION 36.12.(f) Allocation of Proceeds. – The proceeds of bonds and notes shall be allocated and expended as provided in this subsection:

(1) A maximum aggregate principal amount of fifteen million four hundred thousand dollars ($15,400,000) to finance the capital facility costs of a Western Crime Lab.

(2) A maximum aggregate principal amount of two hundred million six hundred thousand dollars ($200,600,000) to finance the capital facility costs of projects previously authorized or subsequently to be authorized by the General Assembly to be financed pursuant to Article 9 of Chapter 142 of the General Statutes but for which some or all of the amount of bonds authorized to be issued under that Article have not yet been issued. To the extent that bonds and notes are issued pursuant to this subdivision, there shall be a corresponding reduction in the amount of debt that has been authorized to be issued, but has not been issued pursuant to Article 9 of Chapter 142 of the General Statutes.

SECTION 36.12.(g) Issuance of bonds and notes. –

(1) Terms and conditions. – Bonds or notes may bear a date or dates, may be serial or term bonds or notes, or any combination thereof, may mature in such amounts and at such time or times, not exceeding 40 years from their date or dates, may be payable at such place or places, either within or without the United States of America, in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts, may bear interest at such rate or rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at such price or prices, including a price less than or greater than the face amount of the bonds or notes, and under such terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(2) Signatures; form and denomination; registration. – Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer or shall bear the State Treasurer's facsimile signature, and shall bear the Great Seal of the State, or a facsimile of the Seal shall be impressed or imprinted thereon. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent or designated assistant of the State Treasurer. Should any officer whose signature or facsimile signature appears on bonds or notes cease to be such officer before the delivery of the bonds or notes, the signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until delivery. Bonds or notes may bear the facsimile signatures of persons who at the actual time of the execution of the bonds or notes shall be the proper officers to sign any bond or note, although at the date of the bond or note such persons may not have been such officers. The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as the State Treasurer may determine in conformity with this section.

(3) Manner of sale; expenses. – Subject to the approval by the Council of State as to the manner in which bonds or notes shall be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at any rates of interest, which may vary from time to time, and at any prices, including a price less than or greater than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(4) Notes; repayment. –

a. By and with the consent of the Council of State, the State Treasurer is hereby authorized to borrow money and to execute and issue notes of the State for the same, but only in the following circumstances and under the following conditions:

1. For anticipating the sale of bonds, the issuance of which the Council of State has approved, if the State Treasurer considers it advisable to postpone the issuance of the bonds;
2. For the payment of interest on or any installment of principal of any bonds then outstanding, if there are not sufficient funds in the State treasury with which to pay the interest or installment of principal as they respectively become due;
3. For the renewal of any loan evidenced by notes authorized in this section;
4. For the purposes authorized in this section; and
5. For refunding bonds or notes as authorized in this section.

b. Funds derived from the sale of bonds or notes may be used in the payment of any bond anticipation notes issued under this section. Funds provided by the General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which shall have been used in paying interest on or principal of the bonds.

(5) Refunding bonds and notes. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes pursuant to the provisions of the State Refunding Bond Act for the purpose of refunding bonds or notes issued pursuant to this section. The refunding bonds and notes may be combined with any other issues of State bonds and notes similarly secured. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the bonds or notes being refunded or, if not required for the immediate payment of the bonds or notes being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the bonds or notes being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the

United States government, (iii) obligations of any agency or instrumentality of the United States government if the timely payment of principal and interest on the obligations is unconditionally guaranteed by the United States government or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of bonds or notes being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

(6) Tax exemption. – Bonds and notes shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance or gift taxes, income taxes on the gain from the transfer of bonds or notes, and franchise taxes. The interest on bonds or notes is not subject to taxation as income.

(7) Investment eligibility. – Bonds and notes are securities in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions, all insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, other financial institutions engaged in business in the State, executors, administrators, trustees, and other fiduciaries. Bonds and notes are hereby made securities which may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may hereafter be authorized by law.

(8) Faith and credit. – The faith and credit and taxing power of the State are hereby pledged for the payment of the principal of and the interest on bonds and notes. The State expressly reserves the right to amend any provision of this section to the extent it does not impair any contractual right of a bond owner.

(9) Other agreements. – The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with issuance, incurrence, carrying, or securing of bonds or notes. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, and bond attorneys to be associated with any bond or note issue under this section as the State Treasurer considers necessary.

SECTION 36.12.(h) Variable Rate Demand Bonds and Notes. – In fixing the details of bonds and notes, the State Treasurer may provide that any of the bonds or notes may:

(1) Be made payable from time to time on demand or tender for purchase by the owner, if a credit facility supports the bonds or notes, unless the State Treasurer specifically determines that a credit facility is not required upon a finding and determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the

State and the marketing of the bonds or notes at a reasonable interest cost to the State;

(2) Be additionally supported by a credit facility;

(3) Be made subject to redemption or a mandatory tender for purchase prior to maturity;

(4) Bear interest at a rate or rates that may vary for any period of time, as may be provided in the proceedings providing for the issuance of the bonds or notes, including, without limitation, such variations as may be permitted pursuant to a par formula; and

(5) Be made the subject of a remarketing agreement whereby an attempt is made to remarket bonds or notes to new purchasers prior to their presentment for payment to the provider of the credit facility or to the State.

If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of bonds or notes secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium or for any other reason, then the amount of authorized but unissued bonds or notes during the term of such credit facility shall not be less than the amount of such excess, unless the payment of such excess is otherwise provided for by agreement of the State executed by the State Treasurer.

SECTION 36.12.(i) Interpretation of Section. –

(1) Additional method. – The foregoing sections of this section shall be deemed to provide an additional and alternative method for the doing of the things authorized under it and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing.

(2) Statutory references. – References in this section to specific sections or Chapters of the General Statutes or to specific acts are intended to be references to such sections, Chapters, or acts as they may be amended from time to time by the General Assembly.

(3) Broad construction. – This section, being necessary for the health and welfare of the people of the State, shall be broadly construed to effect the purposes thereof.

(4) Inconsistent provisions. – Insofar as the provisions of this section are inconsistent with the provisions of any general, special, or local laws, or parts thereof, the provisions of this section shall be controlling.

(5) Severability. – If any provision of this section or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the section which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared to be severable.

SECTION 36.12.(j) This section is effective when it becomes law.

USE OF FUNDS IN OUTER BANKS LAND MANAGEMENT RESERVE

SECTION 36.13. Funds appropriated in Section 36.2(a) of S.L. 2013-360, as amended by Section 36.1(a) of this act, to the Outer Banks Land Management Reserve shall be transferred to the Outer Banks Land Management Fund created by G.S. 143-345.18A, as enacted by Section 14.7(a) of this act, but only to the extent that the funds are needed to purchase some or all of the property described in Section 14.7(h) of this act. Notwithstanding G.S. 143-345.18A, as enacted by Section 14.7(a) of this act, these funds shall only be used to pay the costs of acquiring the property described in Section 14.7(h) of this act. Any of the funds

that are not spent or encumbered for this purpose as of June 30, 2015, shall revert to the General Fund.

PART XXXVII. FINANCE PROVISIONS

CLARIFY "NET GENERAL FUND TAX COLLECTED" FOR PURPOSES OF THE CORPORATE INCOME TAX RATE REDUCTION TRIGGER

SECTION 37.1.(a) G.S. 105-130.3C reads as rewritten:

"**§ 105-130.3C. Rate reduction trigger.**

(a) Trigger. – If the amount of net General Fund tax collected in fiscal year 2014-2015 or fiscal year 2015-2016 exceeds the ~~anticipated General Fund tax collections~~ targeted amount for that fiscal year, the rate of tax set in G.S. 105-130.3 may be decreased in accordance with this section effective for the taxable year that begins on the following January 1. ~~The amount of net General Fund tax collected for a fiscal year is the amount reported by the State Controller in the State's Comprehensive Annual Financial Report, required to be prepared under G.S. 143B-426.39.~~ The Secretary must ~~monitor the net General Fund tax collections and~~ notify taxpayers if the rate decreases under this section. The rate is decreased by one percent (1%) if net General Fund tax collections for fiscal year 2014-2015 exceed the targeted amount of twenty billion two hundred million dollars ($20,200,000,000). The rate is decreased by one percent (1%) if net General Fund tax collections for fiscal year 2015-2016 exceed the targeted amount of twenty billion nine hundred seventy-five million dollars ($20,975,000,000). Effective for taxable years beginning on or after January 1, 2017, the rate of tax set in G.S. 105-130.3 is the rate determined in accordance with this section.

(b) Tax Collections. – For purposes of this section, the amount of net General Fund tax collected for a fiscal year is the amount of net revenue as reported by the Department of Revenue's June Statement of Collection as "Total General Fund Revenue" for the 12-month period that ended the previous June 30, modified as follows:

(1) Less any large one-time, nonrecurring revenue as reported to the Fiscal Research Division of the General Assembly by the Department and verified by the Fiscal Research Division of the General Assembly.

(2) Adjusted by any changes in net collections resulting from the suspension or termination of transfers out of General Fund tax collections."

SECTION 37.1.(b) This section is effective when it becomes law.

MODIFY COUNTY HOLD HARMLESS FOR REPEALED LOCAL TAXES

SECTION 37.2.(a) Effective July 1, 2014, G.S. 105-523 reads as rewritten:

"**§ 105-523. County hold harmless for repealed local taxes.**

(a) Intent. – It is the intent of the General Assembly that each county benefit by at least ~~five hundred thousand dollars ($500,000)~~ three hundred seventy-five thousand dollars ($375,000) annually from the exchange of a portion of the local sales and use taxes for the State's agreement to assume the responsibility for the non-administrative costs of Medicaid.

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

...

(2) Hold harmless threshold. – The amount of a county's Medicaid service costs and Medicare Part D clawback payments assumed by the State under G.S. 108A-54 for the fiscal year, less ~~five hundred thousand dollars ($500,000).~~three hundred seventy-five thousand dollars ($375,000). A county's Medicaid service costs for fiscal years 2008-2009, 2009-2010, and 2010-2011 are determined without regard to the changes made to the Federal

Medical Assistance Percentage by section 5001 of the American Recovery and Reinvestment Act of 2009.

...."

SECTION 37.2.(b) Effective July 1, 2015, G.S. 105-523, as amended by subsection (a) of this section, reads as rewritten:

"**§ 105-523. County hold harmless for repealed local taxes.**

(a) Intent. – It is the intent of the General Assembly that each county benefit by at least ~~three hundred seventy five thousand dollars ($375,000)~~two hundred fifty thousand dollars ($250,000) annually from the exchange of a portion of the local sales and use taxes for the State's agreement to assume the responsibility for the non-administrative costs of Medicaid.

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

...

(2) Hold harmless threshold. – The amount of a county's Medicaid service costs and Medicare Part D clawback payments assumed by the State under G.S. 108A-54 for the fiscal year, less ~~three hundred seventy five thousand dollars ($375,000).~~two hundred fifty thousand dollars ($250,000). A county's Medicaid service costs for fiscal years 2008-2009, 2009-2010, and 2010-2011 are determined without regard to the changes made to the Federal Medical Assistance Percentage by section 5001 of the American Recovery and Reinvestment Act of 2009.

...."

SECTION 37.2.(c) Effective July 1, 2016, G.S. 105-523, as amended by subsection (b) of this section, reads as rewritten:

"**§ 105-523. County hold harmless for repealed local taxes.**

(a) Intent. – It is the intent of the General Assembly that each county benefit by at least ~~two hundred fifty thousand dollars ($250,000)~~one hundred twenty-five thousand dollars ($125,000) annually from the exchange of a portion of the local sales and use taxes for the State's agreement to assume the responsibility for the non-administrative costs of Medicaid.

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

...

(2) Hold harmless threshold. – The amount of a county's Medicaid service costs and Medicare Part D clawback payments assumed by the State under G.S. 108A-54 for the fiscal year, less ~~two hundred fifty thousand dollars ($250,000).~~one hundred twenty-five thousand dollars ($125,000). A county's Medicaid service costs for fiscal years 2008-2009, 2009-2010, and 2010-2011 are determined without regard to the changes made to the Federal Medical Assistance Percentage by section 5001 of the American Recovery and Reinvestment Act of 2009.

...."

SECTION 37.2.(d) Effective July 1, 2017, G.S. 105-523, as amended by subsection (c) of this section, reads as rewritten:

"**§ 105-523. County hold harmless for repealed local taxes.**

(a) Intent. – It is the intent of the General Assembly that each county ~~benefit by at least one hundred twenty five thousand dollars ($125,000) annually~~be held harmless from the exchange of a portion of the local sales and use taxes for the State's agreement to assume the responsibility for the non-administrative costs of Medicaid.

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

...

(2) Hold harmless threshold. – The amount of a county's Medicaid service costs and Medicare Part D clawback payments assumed by the State under

G.S. 108A-54 for the fiscal ~~year, less one hundred twenty five thousand dollars ($125,000).~~year. A county's Medicaid service costs for fiscal years 2008-2009, 2009-2010, and 2010-2011 are determined without regard to the changes made to the Federal Medical Assistance Percentage by section 5001 of the American Recovery and Reinvestment Act of 2009.

...."

PART XXXVIII. MISCELLANEOUS PROVISIONS

STATE BUDGET ACT APPLIES

SECTION 38.1. The provisions of the State Budget Act, Chapter 143C of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

COMMITTEE REPORT

SECTION 38.2.(a) The Senate Appropriations/Base Budget Committee Report on the Continuation, Expansion and Capital Budgets for Senate Bill 744, dated May 29, 2014, which was distributed in the Senate and used to explain this act, shall indicate action by the Senate on this act and shall, therefore, be used to construe this act, as provided in the State Budget Act, Chapter 143C of the General Statutes, as appropriate, and for these purposes shall be considered a part of this act and, as such, shall be printed as a part of the Session Laws.

SECTION 38.2.(b) The budget enacted by the General Assembly is for the maintenance of the various departments, institutions, and other spending agencies of the State for the 2014-2015 budget as provided in G.S. 143C-3-5. This budget includes the appropriations of State funds as defined in G.S. 143C-1-1(d)(25).

The Director of the Budget submitted recommended adjustments to the budget to the General Assembly in May 2014 in the document "The Governor of North Carolina's Recommended Budget Adjustments" for the 2014-2015 fiscal year for the various departments, institutions, and other spending agencies of the State. The adjustments to these documents made by the General Assembly are set out in the Committee Report.

SECTION 38.2.(c) The budget enacted by the General Assembly shall also be interpreted in accordance with G.S. 143C-5-5, the special provisions in this act, and other appropriate legislation.

In the event that there is a conflict between the line-item budget certified by the Director of the Budget and the budget enacted by the General Assembly, the budget enacted by the General Assembly shall prevail.

REPORT BY FISCAL RESEARCH DIVISION ON CHANGES TO 2014-2015 BUDGET/PUBLICATION

SECTION 38.3.(a) The Fiscal Research Division of the Legislative Services Commission shall issue a report on budget actions taken by the 2013 Regular Session of the General Assembly in 2014. The report shall be in the form of a revision of the Committee Report adopted for Senate Bill 744 pursuant to G.S. 143C-5-5 and shall include all modifications made to the 2014-2015 budget prior to sine die adjournment of the 2013 Regular Session.

SECTION 38.3.(b) The Director of the Fiscal Research Division of the Legislative Services Commission shall send a copy of the report issued pursuant to this section to the Director of the Budget. The report shall be published on the General Assembly's Internet Web site for public access.

MOST TEXT APPLIES ONLY TO 2014-2015 FISCAL YEAR

SECTION 38.4. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2014-2015 fiscal year, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2014-2015 fiscal year.

EFFECT OF HEADINGS

SECTION 38.5. The headings to the parts and sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act, except for effective dates referring to a part.

APPROPRIATIONS LIMITATIONS AND DIRECTIONS APPLY

SECTION 38.6.(a) Except where expressly repealed or amended by this act, the provisions of S.L. 2013-360, S.L. 2013-363, S.L. 2013-364, and S.L. 2013-397 remain in effect.

SECTION 38.6.(b) Notwithstanding any modifications by this act in the amounts appropriated, except where expressly repealed or amended, the limitations and directions for the 2014-2015 fiscal year in S.L. 2013-360, S.L. 2013-363, S.L. 2013-364, and S.L. 2013-397 that applied to appropriations to particular agencies or for particular purposes apply to the newly enacted appropriations and budget reductions of this act for those same particular purposes.

SEVERABILITY

SECTION 38.7. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

EFFECTIVE DATE

SECTION 38.8. Except as otherwise provided, this act becomes effective July 1, 2014.

SENATE APPROPRIATIONS/ BASE BUDGET COMMITTEE

REPORT ON THE CONTINUATION, EXPANSION, AND CAPITAL BUDGETS

Senate Bill 744

North Carolina General Assembly

May 29, 2014

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General Fund Availability Statement

		FY 2014-15
1	Unappropriated Balance Remaining from Previous Year	323,693,704
2	Anticipated Undercollections from FY 2013-14	(445,400,000)
3	Anticipated Reversions from FY 2013-14	371,600,000
4	**Less Earmarkings of Year End Fund Balance**	
5	Savings Reserve	(42,989,870)
6	Repairs and Renovations	(42,989,870)
7	**Beginning Unreserved Fund Balance**	**163,913,964**
8		
9	**Revenues Based on Existing Tax Structure**	**19,972,100,000**
10		
11	**Non-tax Revenues**	
12	Investment Income	11,300,000
13	Judicial Fees	244,500,000
14	Disproportionate Share	109,000,000
15	Master Settlement Agreement	137,500,000
16	Other Non-Tax Revenues	195,500,000
17	Insurance	77,000,000
18	Highway Fund Transfer	215,900,000
19	**Subtotal Non-tax Revenues**	**990,700,000**
20		
21	**Total General Fund Availability**	**21,126,713,964**
22		
23	**Adjustments to Availability: 2014 Session**	
24	Transfer from Cash Balances from Department of Agriculture and Consumer Services Special Funds	1,449,680
25	Transfer from Cash Balances from Alcoholic Beverage Control Enterprise Fund	3,500,000
26	Transfer from Interest from Department of Environment and Natural Resources (DENR) Special Funds	938,670
27	Diversion of Funds from DENR Inspection and Maintenance Control Special Fund	3,000,000
28	Diversion of Funds from DENR Water and Air Account Special Fund	1,000,000
29	Transfer of Federal Insurance Contribution Act (FICA) Fund Cash Balance	5,255,000
30	Adjustment of Transfer from Insurance Regulatory Fund	(399,128)
31	Adjustment of Transfer from Treasurer's Office	1,959,528
32	Increase from ABC Permit Fees	9,600,000
33	Redirection of Funds from Gross Premiums Tax on Property Coverage Contracts to General Fund	1,600,000
34	Four-year Phaseout of Provision of Medicaid Hold Harmless Law Guaranteeing Counties $500,000 Benefit	5,990,000
35	**Subtotal Adjustments to Availability: 2014 Session**	**33,893,750**
36		
37	**Revised General Fund Availability**	**21,160,607,714**
38		
39	Less: General Fund Appropriations	(21,160,607,714)
40		
41	**Unappropriated Balance Remaining**	**0**

SUMMARY:

GENERAL FUND APPROPRIATIONS

Summary of General Fund Appropriations Fiscal Year 2014-15 2014 Legislative Session						
		Legislative Adjustments				Revised
	Enacted Budget 2014-15	Recurring Adjustments	Nonrecurring Adjustments	Net Changes	FTE Changes	Appropriation 2014-15
Education:						
Community Colleges	1,016,487,467	23,002,241	(851,572)	22,150,669	0.00	1,038,638,136
Public Education	8,046,101,622	62,998,391	3,543,410	66,541,801	0.00	8,112,643,423
University System	2,599,901,709	13,731,197	3,920,862	17,652,059	0.00	2,617,553,768
Total Education	**11,662,490,798**	**99,731,829**	**6,612,700**	**106,344,529**	**0.00**	**11,768,835,327**
Health and Human Services:						
Central Management and Support	76,301,328	(5,028,255)	0	(5,028,255)	1.00	71,273,073
Aging and Adult Services	54,342,341	(969,549)	0	(969,549)	0.00	53,372,792
Blind and Deaf / Hard of Hearing Services	8,178,618	0	0	0	0.00	8,178,618
Child Development and Early Education	254,314,609	(1,893,496)	(16,138,232)	(18,031,728)	(1.00)	236,282,881
Health Service Regulation	16,411,479	(288,000)	0	(288,000)	0.00	16,123,479
Medical Assistance	3,608,119,091	47,290,810	148,898,158	196,188,968	0.00	3,804,308,059
Mental Health, Dev. Disabilities, & Sub. Abuse Services	704,985,988	(13,233,565)	(16,598,589)	(29,832,154)	(45.66)	675,153,834
NC Health Choice	57,747,933	(15,813,961)	0	(15,813,961)	0.00	41,933,972
Public Health	141,941,587	(4,488,034)	(5,782,163)	(10,270,197)	(21.00)	131,671,390
Social Services	176,558,432	11,389,357	1,000,000	12,389,357	9.00	188,947,789
Vocational Rehabilitation	38,773,169	(575,336)	0	(575,336)	(11.95)	38,197,833
Total Health and Human Services	**5,137,674,575**	**16,389,971**	**111,379,174**	**127,769,145**	**(69.61)**	**5,265,443,720**
Justice and Public Safety:						
Public Safety	1,690,014,006	65,131,903	(4,501,732)	60,630,171	174.08	1,750,644,177
Judicial	456,426,252	3,502,988	0	3,502,988	0.00	459,929,240
Judicial - Indigent Defense	111,357,264	416,556	0	416,556	(1.00)	111,773,820
Justice	82,308,926	(48,229,079)	0	(48,229,079)	(638.50)	34,079,847
Total Justice and Public Safety	**2,340,106,448**	**20,822,368**	**(4,501,732)**	**16,320,636**	**(465.42)**	**2,356,427,084**
Natural And Economic Resources:						
Agriculture and Consumer Services	115,409,902	(3,058,654)	3,979,671	921,017	(34.45)	116,330,919
Commerce	56,733,282	(3,888,417)	(302,936)	(4,191,353)	(1.00)	52,541,929
Commerce - State Aid	15,624,767	21,473	250,000	271,473	0.00	15,896,240
Environment and Natural Resources	157,767,236	4,101,287	5,121,103	9,222,390	19.78	166,989,626
Labor	16,696,339	(47,201)	0	(47,201)	0.00	16,649,138
Wildlife Resources Commission	14,476,588	(521,982)	400,000	(121,982)	1.00	14,354,606
Total Natural and Economic Resources	**376,708,114**	**(3,393,494)**	**9,447,838**	**6,054,344**	**(14.67)**	**382,762,458**

Summary of General Fund Appropriations Fiscal Year 2014-15 2014 Legislative Session						
		Legislative Adjustments				Revised
	Enacted Budget 2014-15	Recurring Adjustments	Nonrecurring Adjustments	Net Changes	FTE Changes	Appropriation 2014-15
General Government:						
Administration	67,047,033	(2,023,279)	0	(2,023,279)	(11.00)	65,023,754
Auditor	11,217,468	118,338	0	118,338	0.00	11,335,806
Cultural Resources	63,008,100	(556,787)	0	(556,787)	(13.00)	62,451,313
Cultural Resources - Roanoke Island	450,000	(9,000)	0	(9,000)	0.00	441,000
General Assembly	51,634,767	705,474	(750,000)	(44,526)	0.00	51,590,241
Governor	7,172,132	(50,798)	0	(50,798)	(1.00)	7,121,334
Housing Finance Agency	8,411,632	(169,678)	10,000,000	9,830,322	0.00	18,241,954
Insurance	38,003,624	(399,128)	0	(399,128)	(7.80)	37,604,496
Lieutenant Governor	675,089	(5,629)	0	(5,629)	0.00	669,460
Office of Administrative Hearings	5,027,130	24,521	0	24,521	0.00	5,051,651
Revenue	80,896,458	(1,772,532)	2,500,000	727,468	(10.00)	81,623,926
Secretary of State	11,575,183	(22,720)	0	(22,720)	(5.00)	11,552,463
State Board of Elections	5,693,244	(55,410)	0	(55,410)	0.00	5,637,834
State Budget and Management	7,534,217	(71,259)	0	(71,259)	(1.00)	7,462,958
State Budget and Management -- Special	1,520,000	0	175,000	175,000	0.00	1,695,000
State Controller	28,710,691	(516,705)	2,117,205	1,600,500	(4.75)	30,311,191
Treasurer - Operations	7,026,305	1,897,200	62,328	1,959,528	12.00	8,985,833
Fire, Rescue, & National Guard Pension & LDD Benefits	23,179,042	(2,474,496)	0	(2,474,496)	0.00	20,704,546
Total General Government	**418,782,115**	**(5,381,888)**	**14,104,533**	**8,722,645**	**(41.55)**	**427,504,760**
Statewide Reserves and Debt Service:						
Debt Service:						
Interest / Redemption	723,721,279	(8,240,916)	0	(8,240,916)	0.00	715,480,363
Federal Reimbursement	1,616,380	0	0	0	0.00	1,616,380
Subtotal Debt Service	**725,337,659**	**(8,240,916)**	**0**	**(8,240,916)**	**0.00**	**717,096,743**

Summary of General Fund Appropriations Fiscal Year 2014-15 2014 Legislative Session						
		Legislative Adjustments				Revised
	Enacted Budget 2014-15	Recurring Adjustments	Nonrecurring Adjustments	Net Changes	FTE Changes	Appropriation 2014-15
Statewide Reserves:						
Salary Adjustment Reserve	7,500,000	0	0	0	0.00	7,500,000
State Health Plan Contribution	89,000,000	(22,000,000)	0	(22,000,000)	0.00	67,000,000
State Retirement System Contributions	36,000,000	0	0	0	0.00	36,000,000
Reserve for Future Benefit Needs	56,400,000	(56,400,000)	0	(56,400,000)	0.00	0
Judicial Retirement System Contributions	1,000,000	0	0	0	0.00	1,000,000
Firemen's and Rescue Squad Workers' Pension Fund	(820,000)	0	0	0	0.00	(820,000)
Information Technology Fund	10,470,657	2,493,162	3,510,000	6,003,162	0.00	16,473,819
Information Technology Reserve Fund	31,582,485	(2,043,607)	(9,617,485)	(11,661,092)	0.00	19,921,393
NC Government Efficiency and Reform Project	2,000,000	0	0	0	0.00	2,000,000
One North Carolina Fund	9,000,000	0	(7,144,263)	(7,144,263)	0.00	1,855,737
Unemployment Insurance (UI) Reserve	13,600,000	0	0	0	0.00	13,600,000
Reserve for Voter ID	1,000,000	0	0	0	0.00	1,000,000
Contingency and Emergency Fund	5,000,000	0	0	0	0.00	5,000,000
Reserve for Pending Legislation	4,500,000	0	0	0	0.00	4,500,000
Disability Income Plan	0	(3,200,000)	0	(3,200,000)	0.00	(3,200,000)
Job Development Investment Grants (JDIG)	63,045,357	0	(15,571,684)	(15,571,684)	0.00	47,473,673
Subtotal Statewide Reserves	**329,278,499**	**(81,150,445)**	**(28,823,432)**	**(109,973,877)**	**0.00**	**219,304,622**
Total Reserves and Debt Service	**1,054,616,158**	**(89,391,361)**	**(28,823,432)**	**(118,214,793)**	**0.00**	**936,401,365**
Total General Fund for Operations	**20,990,378,208**	**38,777,425**	**108,219,081**	**146,996,506**	**(591.25)**	**21,137,374,714**
Capital Improvements						
National Guard Projects	3,250,000	0	0	0	0.00	3,250,000
Samarkand Training Facility	5,173,000	0	0	0	0.00	5,173,000
McGough Arena Roof Repair	0	0	2,000,000	2,000,000	0.00	2,000,000
USS North Carolina Battleship	0	0	3,000,000	3,000,000	0.00	3,000,000
Water Resources Development Projects	0	0	5,810,000	5,810,000	0.00	5,810,000
Outer Banks Land Management Reserve	0	0	3,000,000	3,000,000	0.00	3,000,000
Museum of History Expansion	0	0	1,000,000	1,000,000	0.00	1,000,000
Total Capital Improvements	**8,423,000**	**0**	**14,810,000**	**14,810,000**	**0.00**	**23,233,000**
Total General Fund Budget	**20,998,801,208**	**38,777,425**	**123,029,081**	**161,806,506**	**(591.25)**	**21,160,607,714**

EDUCATION
Section F

Senate Subcommittee on Education

Public Education

GENERAL FUND

Total Budget Enacted 2013 Session

FY 14-15
$8,046,101,622

Legislative Changes

A. Reserve for Salaries & Benefits

1 Compensation Increase Reserve - Educators $465,317,000 R
$3,410,000 NR

Provides funds for the new 21-step Professional Status Teacher Salary Schedule as well as an experience-based step for educators opting into this new schedule. It increases the Statewide guaranteed minimum starting educator pay to $33,000 annually. Assuming that all educators opt into the Professional Status Schedule, local supplement amounts remain unchanged, there is no turnover, and there are no changes to educators' education attainment or certifications, this schedule provides, on average, an 11% salary increase. Under this comparison, average educator salary from all fund sources would increase to over $51,000.

For individuals at the top of the new salary schedule, funds are provided for a 1% salary bonus. Two corresponding provisions in the Salaries and Benefits section of the bill provide additional information on this item.

2 Compensation Increase Reserve - School-based Administrators $5,818,632 R
$133,410 NR

Provides funds for salary schedule changes and an experience-based step for all step-eligible school-based administrators. In addition, funds are provided for a nonrecurring salaries and benefits bonus of $1,000 ($809 bonus) for all school-based administrators who do not receive a salary increase on this schedule. A corresponding provision in the Salaries and Benefits section of the bill provides additional information on this item.

3 Compensation Increase Reserve - Non-certified and Central Office Staff $32,635,439 R

Provides a $618 recurring salary and benefit increase ($500 salary increase) for permanent full-time non-certified and central office staff.

4 Compensation Increase Reserve - Department of Public Instruction (DPI) $891,973 R

Provides a $1,000 annual recurring salary and benefit increase ($809 salary increase) for permanent full-time employees located administratively under the State Board of Education.

5 **State Retirement System Contributions - School District Personnel** $21,514,025 R

Increases the State's contribution to the Teachers' and State Employees' Retirement System to fund the Annual Required Contribution and provide a 0.8% cost-of-living adjustment to retirees. Total General Fund appropriation across all sections in the committee report is $37 million.

6 **State Retirement System Contributions - DPI** $183,857 R

Increases the State's contribution to the Teachers' and State Employees' Retirement System to fund the Annual Required Contribution and provide a 0.8% cost-of-living adjustment to retirees. Total General Fund appropriation across all sections in the committee report is $37 million.

B. Technical Adjustments

7 **Average Daily Membership (ADM) (Multiple Fund Codes)** ($37,453,734) R

Revises projected ADM for FY 2014-15 to reflect 6,286 fewer students than originally projected. The adjustment includes revisions to all position, dollar, and categorical allotments.

Total allotted ADM for FY 2014-15 is 1,520,305, an increase of 10,320 students over FY 2013-14.

8 **Average Certified Personnel Salaries (Multiple Fund Codes)** ($64,923,926) R

Revises budgeted funding for certified personnel salaries based on actual salary data from December 2013. The adjustment does not reduce any salary paid to certified personnel, nor does it reduce the number of guaranteed State-funded teachers, administrators, or instructional support personnel.

9 **Education Lottery Receipts (1800)** ($56,298,342) R

Adjusts the receipts budgeted for the Classroom Teachers allotment to reflect an updated distribution between the four Lottery programs. This adjustment does not impact the combined total funding from Lottery and General Fund sources available for the Classroom Teachers allotment.

C. Public School Funding Adjustments

10 **Excellent Public Schools Act (Multiple Fund Codes)** $6,015,859 R

Provides additional funds to the Department of Public Instruction to carry out elements of the Excellent Public Schools Act contained in Section 7A.1 and Section 7A.7 of S.L. 2012-142. DPI will have $38.0 million available to implement these requirements.

11	**Classroom Teachers (1800)** Revises adjustment made in the 2013 budget to reduce the classroom teachers allocations in Grades 2 and 3 from 1 teacher per 18 students to 1 teacher per 17 students. This adjustment will forego an additional 788 new teaching positions budgeted to be added in FY 2014-15. FY 2014-15 classroom teacher allocations and class size requirements will remain the same as they are in FY 2013-14. $3.72 billion remains in the budget for this allotment.	($43,362,064)	R
12	**Excellent Public Schools Act - Five Extra Days (Multiple Fund Codes)** Eliminates funding that had been provided to support a requirement that local education agencies (LEAs) provide additional instructional days (S.L. 2011-145, Section 7.29). A subsequent amendment to G.S. 115C-84.2.(a).(1) eliminated this mandate. Funding had previously supported $40,168 for additional costs related to substitute teachers and $351,469 for additional costs related to student transportation.	($391,637)	R
13	**Education-Based Salary Supplements Restoration (1800)** Provides additional funding necessary to restore education-based salary supplements for master's, advanced or doctoral degrees for certain personnel, as directed in a corresponding special provision.	$18,700,000	R
14	**School Bus Replacement (1830)** Reduces this allotment supporting the purchase of replacement school buses to reflect lower-than-expected bus prices and departmental operational efficiencies. This reduction does not reduce the number of replacement buses to be purchased in FY 2014-15. $46.2 million remains in this allotment to support the purchase of 579 replacement buses in FY 2014-15.	($3,369,983)	R
15	**Teacher Assistants (1800)** Reduces funding for teacher assistants and modifies the basis for funding in this allotment. For FY 2014-15, this allotment will provide $971.75 per student in ADM in grades K-1. Previously, this allotment had provided funding on the basis of ADM in grades K-3. LEAs may continue to place teacher assistants in any K-3 classroom with these funds. $240.2 million will remain in this allotment in FY 2014-15.	($233,182,240)	R

16 **Central Office Administration (1810)** ($4,795,567) R

Reduces the allotment to LEAs for the salaries and benefits of central office staff by 5%. This staff includes, but is not limited to, superintendents, associate and assistant superintendents, finance officers, athletic trainers, and transportation directors. $91.1 million will remain to support these local staff in FY 2014-15.

17 **Transportation (1830)** ($28,608,891) R

Reduces by 6% the total support for the allotment, which supports the salaries of transportation personnel, the maintenance of yellow buses, and support for the Driver Training program, which will now be distributed via this allotment. A corresponding provision redirects a transfer from the Highway Fund for Driver Training into this allotment. This transfer will only occur in FY 2014-15, as it is repealed beginning in July 1, 2015 in a corresponding provision. Combined General Fund and receipt support for this allotment will be $448.0 million in FY 2014-15.

18 **Small County Supplemental Funding (1800)** $3,581,140 R

Revises the funding formula to provide differentiated funding based on the size of eligible districts as directed in a corresponding special provision. $46.3 million will be available for this allotment in FY 2014-15.

19 **Panic Alarms (1830)** ($1,100,000) R

Reduces available funding for this program to reflect FY 2013-14 actual expenditures. $900,000 will be available for awards in FY 2014-15, slightly more than the amount awarded in FY 2013-14.

D. **Department of Public Instruction**

20 **DPI Flexible Reduction (Multiple Fund Codes)** ($15,078,150) R

Reduces State support for DPI by 30%. The State Board of Education may allocate this reduction at its discretion, within the guidelines mandated by a corresponding provision.

E. Grants

21	**Teaching Fellows (1900)** Eliminates the General Fund appropriation supporting the Teaching Fellows. Obligations to previous Fellows classes will continue to be supported from funds available in the Teaching Fellows Trust Fund. The Teaching Fellows Trust Fund has a cash balance of $4.7 million as of April 30, 2014. A related special provision charges the State Education Assistance Authority with the responsibility for the program's financial closeout.	($3,095,000)	R

Total Legislative Changes	**$62,998,391**	**R**
	$3,543,410	**NR**
Total Position Changes		
Revised Budget	**$8,112,643,423**	

Community Colleges

GENERAL FUND

Total Budget Enacted 2013 Session	FY 14-15
	$1,016,487,467

Legislative Changes

A. Reserve for Salaries & Benefits

22 Compensation Increase Reserve - Community Colleges $18,397,754 R

Provides a $1,000 annual recurring salary and benefit increase ($809 salary increase) for permanent full-time employees.

23 State Retirement System Contributions - Community Colleges $3,544,341 R

Increases the State's contribution to the Teachers' and State Employees' Retirement System to fund the Annual Required Contribution and provide a 0.8% cost-of-living adjustment to retirees. Total General Fund appropriation across all sections in the committee report is $37 million.

24 Compensation Increase Reserve - System Office $163,791 R

Provides a $1,000 annual recurring salary and benefit increase ($809 salary increase) for permanent full-time employees.

25 State Retirement System Contributions - System Office $44,783 R

Increases the State's contribution to the Teachers' and State Employees' Retirement System to fund the Annual Required Contribution and provide a 0.8% cost-of-living adjustment to retirees. Total General Fund appropriation across all sections in the committee report is $37 million.

B. Technical and Formula Changes

26 Enrollment Growth Adjustment ($17,199,053) R

Adjusts funds for FY 2014-15 based on the estimated decline in community college enrollment.

The Community College system saw its enrollment decline by 2.5% (or 6,156 FTE) from the budgeted amount in the 2013-14 certified budget for a savings of $17.2 million.

27 Closing the Skills Gap $16,499,053 R

Directs the System Office to create a fourth tier in its enrollment funding formula. The tier will be funded at a higher rate than the current highest tier. The new tier shall include health care and technical educational programs that train North Carolinians for jobs that have documented skills gaps and that pay higher wages.

28 Transfer to Commerce to Offset Apprenticeship Fees (1622) ($300,000) NR

Transfers $300,000 from the Customized Industry Training Program to the Department of Commerce for the Apprenticeship and Training Bureau's Registered Apprenticeship program, which helps workers learn new specialized skills needed in the workforce.

The Department of Commerce is directed to use the funds to offset fee revenue lost when apprenticeship fees assessed under G.S. 94-12 are waived.

C. Financial Aid Changes

29 Yellow Ribbon G.I. Education Enhancement Program (1900) $1,000,000 R

Funds financial aid for eligible veterans and dependents attending North Carolina community colleges by providing State dollars to leverage federal matching funds via the Yellow Ribbon program.

The Yellow Ribbon Program provides a direct match of school funds to offset the gap for veterans between non-resident tuition rates and the Post -9/11 G.I. Bill, which pays only up to the resident tuition rate. Funds provided in FY 2014-15 are intended for academic year 2015-16 but may be awarded and disbursed in spring 2015.

There is a corresponding special provision for this item.

D. Other Changes

30 Audit Services (1300) $551,572 R

($551,572) NR

Restores recurring funding for the System Office's Audit Services division, which was made non-recurring by S.L. 2013-360. There is a corresponding special provision for this item.

Total Legislative Changes	**$23,002,241**	**R**
	($851,572)	**NR**
Total Position Changes		
Revised Budget	**$1,038,638,136**	

UNC System

GENERAL FUND

Total Budget Enacted 2013 Session	FY 14-15 $2,599,901,709	
Legislative Changes		
A. Reserve for Salaries & Benefits		
31 Compensation Increase Reserve Provides a $1,000 annual recurring salary and benefit increase ($809 salary increase) for permanent full-time SPA employees.	$14,307,259	R
32 State Retirement System Contributions Increases the State's contribution to the Teachers' and State Employees' Retirement System to fund the Annual Required Contribution and provide a 0.8% cost-of-living adjustment to retirees. Total General Fund appropriation across all sections in the committee report is $37 million.	$4,384,565	R
B. Financial Aid Changes		
33 Yellow Ribbon G.I. Education Enhancement Program Funds financial aid for eligible veterans and dependents attending the University of North Carolina by providing State dollars to leverage federal matching funds via the Yellow Ribbon program. The Yellow Ribbon Program provides a direct match of school funds to offset the gap for veterans between non-resident tuition rates and the Post -9/11 G.I. Bill, which pays only up to the resident tuition rate. Funds provided in FY 2014-15 are intended for academic year 2015-16 but may be awarded and disbursed in spring 2015. There is a corresponding special provision for this item.	$4,863,276	R
B. Technical and Formula Changes		
34 Enrollment Funding Adjustment Reduces budgeted enrollment to match revised projections. The FY 2014-15 budget includes $26.7 million of State appropriation for enrollment growth at the UNC System but only requires $24.9 million based on refined enrollment estimates.	($1,773,018)	R

35	**Enrollment Growth Model Change** Directs UNC General Administration to revise the Enrollment Growth Funding Model for general institutional support. The current model contains an adjustment factor to limit budget cuts to institutional support lines when enrollment declines. UNC is directed to remove this factor from its model and to reduce campus budgets accordingly.	($5,326,425)	R
36	**Building Reserves (16011; 1260)** Reduces funding in reserves for new facilities due to delays in completion dates.	($922,599) ($79,138)	R NR
37	**Teacher Preparation Programs through Distance Education** Eliminates funding for the Teacher Preparation Distance Education Reserve. Funding for distance education teacher preparation was originally provided by the 2001 Appropriations Act (S.L. 2001-424, Sec. 31.7); since that time, these programs have also been added to the enrollment growth funding formula.	($1,801,861)	R

C. Other Changes

38	**NCSU Next Generation Power Electronics Innovation Institute** Provides State matching funds for a federal initiative to establish a regional and national Wide Bandgap Institute at NCSU. This Institute will be part of the U.S. Department of Energy's National Network for Manufacturing Innovation for Wide Bandgap Semiconductors for Power Electronic Devices. The State match represents the first installment of a total $10 million State pledge, and NCSU shall only use these funds to provide the required State match for the federal grant.	$2,000,000	NR
39	**UNCG Public Private Partnership** Provides funds to support Union Square Inc. a non-profit entity formed to create a public private partnership in downtown Greensboro to build a $37 million, 100,000 square-foot facility to focus on health care education. The space will house expansion of the UNC Greensboro abd Guilford Tech Community College nursing programs and training facilities for Cone Health. The building will include office space, laboratory space, and health care education space.	$2,000,000	NR

40 NCSU Food Processing

Provides $250,000 in nonrecurring funding to the College of Agriculture and Life Sciences at NC State University to support the development of the Department's food processing initiative. The University of North Carolina may not collect Facilities and Administrative expenses from these funds. Funding is reflected in the Natural and Economic Resources section of this document.

41 NCSU Plant Science Initiative

Provides $350,000 in nonrecurring funding to the College of Agriculture and Life Sciences at NC State University to support the development of the Department's plant science initiative. The University of North Carolina may not collect Facilities and Administrative expenses from these funds. Funding is reflected in the Natural and Economic Resources section of this document.

Total Legislative Changes	**$13,731,197**	**R**
	$3,920,862	**NR**
Total Position Changes		
Revised Budget	**$2,617,553,768**	

HEALTH
&
HUMAN SERVICES
Section G

Health and Human Services

GENERAL FUND

Total Budget Enacted 2013 Session	FY 14-15 $76,301,328	
Legislative Changes		
(1.0) Division of Central Management and Support		
1 Compensation Increase Reserve Department-Wide Provides a $1,000 annual recurring salary and benefit increase ($809 salary increase) for permanent full-time employees department-wide.	$6,011,140	R
2 State Retirement System Contributions Department-Wide Increases the State's contribution to the Teachers' and State Employees' Retirement System to fund the Annual Required Contribution and provide a 0.8% cost-of-living adjustment department-wide to retirees. Total General Fund appropriation across all sections in the committee report is $37 million.	$1,135,828	R
3 Contracts and Vacant Positions Department-Wide (1119) Reduces funds for vacant positions and contracts across the department. The Department has the flexibility to achieve this reduction through the elimination of vacant positions and elimination or reduction of contract costs.	($16,000,000)	R
4 Maintenance - Cost Allocation (1120) Allocates allowable federal funds for maintenance expenses in the Division of Child Development and Early Education.	($120,000)	R
5 NC TRACKS (2413,1122) Provides funding for continued system development by using prior-year earned revenue in the non-recurring amount of $5,223,975 in FY 2014-15. The total FY 2014-15 budget for development costs is $10.7 million and the budget for ongoing operations and maintenance is an additional $10.7 million.	$0	R

6	**NC FAST (2411)** Provides funding to support the continued development and implementation of the Eligibility Information System for the Child Care, Low Income Energy Assistance and Crisis Intervention Programs, and Federally-Facilitated Exchange Interoperability. The funding will be provided from prior-year earned revenue in the nonrecurring amount of $4,138,002 in FY 2014-15. These projects are funded with 90% federal funds until December 31, 2015. The FY 2014-15 total budget for this project is $55.6 million.	$0	R
7	**Competitive Block Grant Transfers (1910)** Transfers funds from the competitive block grant to the appropriate Divisions. Funds for maternity homes are transferred to the Division of Social Services in the amount of $375,000. Funds for traumatic brain injury are transferred to the Division of Mental Health, Developmental Disability Services and Substance Abuse Services in the amount of $225,223. Combined with item 8, the competitive block grant is reduced by 2.4% to $9,303,911 recurring.	($600,223)	R
8	**Competitive Block Grant Additional Funds (1910)** Provides recurring funds to increase the competitive block grant. Designates $375,000 in FY 2014-15 for the Big Brothers Big Sisters of the Triangle, Inc. In FY 2015-16 the scope of the competitive block grant is expanded to allow for this organization to apply for funding. Combined with item 7 the competitive block grant is reduced by 2.4% to $9,303,911 recurring.	$375,000	R
9	**Actuary Positions (1120)** Creates two actuary positions in the Office of the Secretary for the Medicaid Program. The total cost of the positions is $340,000. Federal Medicaid receipts will be used to cover 50% of the total cost.	$170,000 1.00	R
10	**Health Information Exchange (1910)** Provides State matching funds to support the Health Information Exchange.	$4,000,000	R

Total Legislative Changes	**($5,028,255)**	R
Total Position Changes	1.00	
Revised Budget	**$71,273,073**	

Health and Human Services

GENERAL FUND

	FY 14-15	
Total Budget Enacted 2013 Session	**$54,342,341**	
Legislative Changes		
(2.0) Division of Aging and Adult Services		
11 **Home Care and Community Block Grant Reduction (1370,1451)** Reduces General Fund appropriation for the Home Care and Community Block Grant (HCCBG) by 3%, leaving a balance of $31,808,889.	($969,549)	R
Total Legislative Changes	**($969,549)**	R
Total Position Changes		
Revised Budget	**$53,372,792**	

Total Budget Enacted 2013 Session	FY 14-15 $254,314,609

Legislative Changes

(3.0) Division of Child Development and Early Education

12 TANF Funds for PreK (1330) ($7,195,807) NR

Replaces General Fund appropriation for the PreK program with Temporary Assistance for Needy Families block grant funds on a nonrecurring basis. Combined with item 19, there is a decrease of 3.3% in General Fund appropriation to $62.8 million and a 3.6% increase in total funding for PreK.

13 Administrative Savings due to Efficiencies and Cost Allocation ($1,893,496) R

Reduces General Fund appropriation budgeting overrealized receipts, and replacing General Fund appropriation with Child Care and Development Fund for Child Care Regulation. Additionally the Division's administrative costs have been reduced due to the move to the Dorothea Dix campus, including the elimination of one position. -1.00

#60038615 - Administrative Asst. II - $37,659

14 Child Care Subsidy Block Grant Swap Out (1380) ($13,982,425) NR

Replaces General Fund appropriation for the Child Care Subsidy program with Child Care Development Fund and Temporary Assistance For Needy Families Emergency Contingency block grant funds on a nonrecurring basis. Both block grants have increased availability for FY 2014-15. Combined with items 15, 16, 17 and 18, General Fund appropriation is reduced by 22% to $49.7 million due to the replacement of State funds with federal funding. Total funding for Child Care Subsidy is unchanged.

15 **Child Care Subsidy Eligibility Changes (1380)** ($11,000,000) R

Changes eligibility for Child Care Subsidy from 75% of State Median Income to 200% of Federal Poverty Level (FPL) for children age 0-5 and children with special needs. Children who are age 6-12 are eligible at 133% of FPL. This change is effective September 1, 2014. This change in eligibility reduces funding needs by $22 million; half of these funds; $11 million, will be used to reduce the waiting list by 2,300 eligible children. Combined with items 14, 16, 17, and 18, General Fund appropriation is reduced by 22% to $49.7 million due to the replacement of State funds with federal funding in item 14. Total funding for Child Care Subsidy is unchanged.

16 **Child Care Subsidy Co-Payments Set at 10% of Income (1380)** ($1,812,687) R

Sets co-payments at 10% of income for all households that are required to pay a co-payment effective September 1, 2014. This does not change who pays a co-payment; children receiving child care subsidy through Child Welfare, Child Protective Services and Foster Care will continue to be exempt from the co-payment requirement. This reduction does not change the slot availability for child care subsidy as the amount paid by the Child Care Subsidy Program will be reduced due to the increased co-payment. The co-payment is paid to the child care provider. There were 40,000 children whose families paid a co-payment based on 8% or 9% of their family income out of 110,000 children whose families paid a co-payment in FY 2012-13. Combined with items 14, 15, 17, and 18 General Fund appropriation is reduced by 22% to $49.7 million due to the replacement of state funds with federal funding in item 14. Total funding for Child Care Subsidy is unchanged.

17 **Child Care Subsidy Co-Payment No Longer Prorated for Part-time Care (1380)** ($2,359,965) R

Eliminates the proration of co-payments for part-time care effective September 1, 2014. This reduction does not result in any loss of child care slots. The increased co-payment will reduce the amount paid to child care providers by the Child Care Subsidy program. Providers collect the co-payment from the parents. There were 26,000 children whose families paid a reduced co-payment due to part-time care out of 110,000 children whose families paid a co-payment in FY 2012-13. Combined with items 14, 15, 16, and 18, General Fund appropriation is reduced by 22% to $49.7 million due to the replacement of State funds with federal funding in item 14. Total funding for Child Care Subsidy is unchanged.

	FY 14-15	
18 Child Care Subsidy Waiting List (1380) Provides funding to reduce the Child Care Subsidy waiting list by an estimated 3,200 children. Combined with items 14, 15, 16, and 17, General Fund appropriation is reduced by 22% to $49.7 million due to the replacement of State funds with federal funding in item 14. Total funding for Child Care Subsidy is unchanged.	$15,172,652	R
19 PreK Expansion (1330) Provides funds for 1,000 additional PreK slots to serve at-risk 4 year olds in the PreK program. Combined with item 12 which replaces General Fund appropriation with federal block grant funds, there is a decrease of 3.3% in General Fund appropriation to $62.8 million and a 3.6% increase in total funding for PreK.	$5,040,000	NR
Total Legislative Changes	**($1,893,496)**	R
	($16,138,232)	NR
Total Position Changes	-1.00	
Revised Budget	**$236,282,881**	

Health and Human Services

GENERAL FUND

Total Budget Enacted 2013 Session	FY 14-15 $176,558,432

Legislative Changes

(4.0) Division of Social Services

20 State/County Special Assistance Caseloads (1570) ($4,215,542) R

Reduces funding for State/County Special Assistance (SA) due to decreasing caseloads. The reduced funding has no impact on assistance for eligible recipients. Combined with item 21, reduces General Fund appropriation for SA by 7.2%, leaving $65.2 million recurring.

21 State County Special Assistance Income Eligibility (1570) ($807,864) R

Changes the income eligibility for the State/County Special Assistance Program from a method that bases income eligibility on the payment rate for the facility type where the recipient resides, to a method based on the federal poverty level for all recipients regardless of where they reside. The SA eligibility level is set at 100% of the Federal Poverty Level. Current recipients of SA are grandfathered in and will continue to receive SA. Combined with item 20, the General Fund appropriation for SA is reduced by 7.2%, leaving $65.2 million recurring.

22 State Funding for County Medicaid Administration Eliminated (1376) ($1,682,806) R

Eliminates funding provided to local departments of social services to offset counties' cost for Medicaid enrollment. The federal match rate is increasing from 50% to 75% for eligibility determination for Medicaid, therefore counties will receive additional federal funds for this activity.

23 Adult Care Home Case Management (1453) ($856,058) R

Eliminates funding for the Adult Care Home Case Management Service (ACHCM) which ended in June 2013. This service provided funding for county departments of social services workers to perform the assessment and case management for individuals in adult care homes and licensed family homes who were heavy need residents. The Personal Care Services (PCS) Program now uses an independent assessment to determine eligibility for PCS and therefore the Case Management Service is no longer needed.

24 County Child Protective Services Caseloads (1430) $8,326,627 R

Provides funding to replace $4.5 million in federal block grant funds utilized to pay for Child Protective Services (CPS) workers that counties lost in FY 2013-14 and provides additional funding to reduce county departments of social services caseloads to an average of 10 families per worker performing Child Protective Services assessments. Combined with items 25 and 26, the General Fund appropriation for Child Protective Services is increased by 101% to $27 million.

25 Enhance Oversight of County Child Welfare Services (1430) $750,000 R

Provides funding for nine positions to enhance oversight of child welfare services in local county departments of social services. These positions will monitor, train, and provide technical assistance to the local county departments of social services to ensure children and families are provided services to address safety, permanency and the well-being of children who are served by child welfare services. The funds will increase Division of Social Services staffing for Child Protective Services to 28 positions, an increase of 47%. Combined with items 24 and 26, this General Fund appropriation for Child Protective Services is increased by 101% to $27 million. 9.00

26 Child Welfare In-Home Services Expansion (1430) $4,500,000 R

Increases General Fund appropriation for Child Welfare In-Home Services. In-Home Services are provided to maintain the safety of the child while helping the parent/caretaker learn more effective parenting practices. In-Home Services provide, arrange for, and coordinate interventions and services, as needed that focus on child safety and protection, family preservation, and the prevention of further abuse or neglect. Combined with items 24 and 25, the General Fund appropriation for Child Protective Services is increased by 101% to $27 million.

27 Child Protective Services Statewide Evaluation (1430)

Provides funding for an independent, statewide evaluation of Child Protective Services at local departments of social service and the Department of Health and Human Services. The evaluation will assess performance, caseload sizes, administrative structure, funding and worker turnover and include recommendations on improving Child Protective Services. $700,000 NR

28 Child Protective Services Pilot Program (1430) $300,000 NR

Provides funding to develop and implement a pilot program designed to enhance coordination of services and information among agencies to improve the protection and outcomes for vulnerable children served through Child Welfare Services. The agencies included in the pilot are local county departments of social services, local law enforcement, the court system, Guardian Ad Litem programs and other agencies as determined appropriate by the Department of Health and Human Services.

29 Foster Care Assistance Payments (1532) $5,000,000 R

Provides funding for Foster Care Assistance Payments due to increasing caseloads. Caseloads increased by 9% from March 2013 to March 2014 and are projected to continue to grow. General Fund appropriation is increased by 18% to a total of $32.2 million.

30 State Maternity Home Fund (1110) $375,000 R

Transfers General Fund Appropriation from the Competitive Block grant in the Division of Central Management to the State Maternity Home Fund in the Division of Social Services. Maternity Homes are removed from the competitive block grant. Individuals experiencing an unplanned pregnancy apply to receive funding from the State Maternity Home fund. Once the individual is determined eligible, the payment goes to the appropriate Maternity Home. There is no change in funding for the State Maternity Home Fund.

Total Legislative Changes	**$11,389,357**	**R**
	$1,000,000	**NR**
Total Position Changes	9.00	
Revised Budget	**$188,947,789**	

Health and Human Services

GENERAL FUND

Total Budget Enacted 2013 Session	FY 14-15 $141,941,587

Legislative Changes

(5.0) Division of Public Health

31 ADAP - AIDS Drug Assistance Program (1460) ($5,782,163) NR

Funds ADAP at the full service level. Increased FY 2013-14 pharmaceutical rebates and other federal receipts will be carried forward into FY 2014-15 and will allow the program to serve all eligible persons up to 300% of the Federal Poverty Level. FY 2014-15 funding is reduced by 8%, with $68.8 million remaining for aid and public assistance.

32 Incubation Project (1161) ($100,000) R

Eliminates General Fund support for the North Carolina Public Health Incubator Collaborative. Funds are used to support a contract with the UNC Institute of Public Health. The contract will be discontinued, but regional health department collaboratives will continue to develop and disseminate best practices.

33 Vector Control Program (1153) ($185,992) R

Terminates the Vector Control Program, which provided small grants to a limited number of counties for mosquito control.

34 Child and Family Support Team (1332) ($251,788) R

-2.00

Eliminates funding for the Child and Family Support Team. Funds were originally provided as start-up funding to support schools participating in the Child and Family Support Team program. The school-based program is now fully implemented, and start-up resources are no longer needed. Two positions are eliminated effective July 1, 2014.

#60037795 - Program Development Coordinator - $66,173
#60037797 - Administrative Asst I - $44,648

35 School Nurse Funding Initiative (SNFI) (1332) ($3,487,500) R

Reduces funding (29%) to local education authorities (LEAs) to eliminate 70 school nurse positions and reallocates the remaining 166 SNFI-funded school nurse positions to Tier 1 counties only. As a result, the number of SNFI-funded nurses in the 35 Tier 1 counties will increase to the recommended school nurse-to-student ratio of 1:750 or less. $8.7 million remains in the FY 2014-15 SNFI budget.

36 Operational Efficiencies (1110, 1171, 1261, 1441) ($298,275) R

Reduces operating funds for the Purchase of Medical Care Unit, State Center for Health Statistics, and the Early Intervention, Physical Activity and Nutrition, and Chronic Disease and Prevention Units. Five positions are eliminated effective July 1, 2014. -5.00

#60041103 - Office Assistant IV - $35,891
#60088935 - Processing Asst V - $36,931
#60041452 - Administrative Asst I - $51,304
#60041171 - Nutrition Program Supervisor - $55,808
#60040661 - Business Officer - $50,200

37 Public Health Program Adjustments (1271, 1332) ($337,325) R

Eliminates residual funds for Purchase of Medical Care, Early Hearing Detection and Intervention, and Tobacco Prevention and Control programs. The budgets are being modified to actual or anticipated spending levels, with no reduction to public service.

Fund Code 1271: Purchase of Medical Care - ($142,325)
Fund Code 1332: Early Hearing Detection and Prevention - ($131,000)
Fund Code 1271: Tobacco Prevention and Control - ($64,000)

38 Vital Records (1173) $350,000 R

Provides $350,000 recurring for the Vital Records Automation Fund, increasing the projected FY 2014-15 budget to $1,041,024. The funds will be used to modify and enhance the Electronic Birth Records System, to update Vital Records' system equipment and software, and for continuing information technology system maintenance.

39 Office of Chief Medical Examiner (1172) $1,000,000 R

Provides funding to address operational issues in the statewide medical examiner system. The expansion will increase the FY 2014-15 budget by 23% from $4.4 million to $5.4 million.

40	**On-Site Water Protection (1153)** Transfers the On-Site Water Protection Unit to the Department of Environment and Natural Resources as a Type I transfer. Additional adjustments that are necessary due to legislative salary increases, retirement and medical adjustments, as well as receipt adjustments and transfers from special funds, may be implemented through a type 11 budget revision.	($1,177,154) -14.00	R
41	**Well Water Testing Fee (1174)** Budgets increased receipts from fees charged by the State Public Health Laboratory to analyze private well water samples. The fee charged to test samples from newly constructed wells will increase from $55 to $74, (35%) effective July 1, 2014. In addition, the Laboratory will be authorized to analyze water samples from existing private wells for a fee of $74, effective July 1, 2014. The fee change will increase receipts to cover the costs of supplies used to analyze water samples. Requirements $221,548 Receipts $221,548 Net Appropriation $0		

Total Legislative Changes	**($4,488,034)** **($5,782,163)**	R NR
Total Position Changes	-21.00	
Revised Budget	**$131,671,390**	

Health and Human Services

GENERAL FUND

Total Budget Enacted 2013 Session	FY 14-15 $704,985,988

Legislative Changes

(6.0) Division of Mental Health, Developmental Disabilities, and Substance Abuse Services

42 New Broughton Hospital Reserve (1910) ($16,598,589) NR

Eliminates reserve funds provided to purchase equipment, furniture, and information technology infrastructure for the new Broughton Hospital. S.L. 2013-360 appropriated the nonrecurring funds for the anticipated December 2014 opening of the new facility. Due to construction issues, the opening of the replacement facility is delayed until May 2016.

43 Claims Processing (1110) ($2,400,000) R

Reduces funding by 47% to budget anticipated savings in contracted claims processing costs. In FY 2013-14, the Division began using the NC Tracks system to process community service claims and no longer uses private contractors for this purpose. $2.7 million remains in the FY 2014-15 budget for contractual information technology services.

44 Local Management Entity/Managed Care Organizations (1111) ($1,800,000) R

Reduces the General Fund appropriation for Local Management Entity/Managed Care Organization (LME/MCO administrative cost allocations by 5.6%. Administrative cost savings will be achieved by merging the nine LME/MCOs operating in FY 2013-14 to seven or fewer by June 30, 2015. Approximately $30 million remains in the FY 2014-15 budget for LME/MCO administration.

	FY 14-15	
45 Central Office Administration (1110) Reduces the General Fund appropriation for the Division's central offices by 4.5%. Seven vacant positions are eliminated, effective July 1, 2014. Approximately $9.5 million remains in the Division's FY 2014-15 central administration budget. #65006250, Quality Assurance Officer - $70,840 #60043367, Mental Health Prgm Mgr I - $59,962 #60043463, W/A Primary Care Systems Asso - $49,171 #60043400, Processing Assistant V - $48,979 #60043406, W/A Administrative Asst - $29,856 #60043320, Administrative Off III - $54,498 #60043328, Budget Manager - $90,000	($448,876) -7.00	R
46 LME/MCO General Administration (1111) Eliminates funds held in reserve for LME/MCO risk management. As required by S.L. 2013-85, the Division has increased responsibilities related to monitoring LME/MCO administrative, operational, actuarial, and financial performance, eliminating the need to maintain a reserve fund.	($6,100,000)	R
47 Wright School (1546) Eliminates funding for the Wright School, effective July 1, 2014.	($2,709,912) -38.66	R
48 Brain Injury Association of North Carolina (1451) Continues General Fund appropriation for the Brain Injury Association of North Carolina contract. The association provides information, referral, and training services for persons with traumatic brain injury, their families, and health care professionals.	$225,223	R
Total Legislative Changes	**($13,233,565)** **($16,598,589)**	R NR
Total Position Changes	-45.66	
Revised Budget	**$675,153,834**	

Health and Human Services

GENERAL FUND

	FY 14-15	
Total Budget Enacted 2013 Session	**$38,773,169**	
Legislative Changes		
(7.0) Division of Vocational Rehabilitation		
49 Operational Efficiencies (1110, 1452, 1480)	($575,336)	R
Reduces General Fund appropriation to reflect savings achieved by reducing layers of management and administration. Effective July 1, 2014, 20.75 positions (11.95 full-time equivalents (FTEs) supported by the General Fund), are eliminated from Service Support, Employment Services, and Independent Living Services.	-11.95	
Total Legislative Changes	**($575,336)**	R
Total Position Changes	-11.95	
Revised Budget	**$38,197,833**	

Health and Human Services

GENERAL FUND

	FY 14-15
Total Budget Enacted 2013 Session	**$16,411,479**

Legislative Changes

(8.0) Division of Health Service Regulation

50	**Cost Allocation for Construction Team Inspections (1153)** Allocates the cost for construction team inspections of adult care homes, family homes, and group homes to claim administrative match through Medicaid. The construction teams inspect facilities to ensure compliance with federal licensure standards. The inspection consists of external and internal evaluations, including living quarters, fire safety, electrical and plumbing equipment, to ensure homes and facilitates are maintained in a safe living condition.	($263,000)	R
51	**Health Care Personnel Registry Receipts (1110)** Budgets over-realized receipts for the Health Care Personnel Registry, a tool for monitoring unlicensed health care personnel. The registry lists nurses and medications aides who have met federal and State educational and competency requirements. Further, it lists unlicensed health care personnel who are being investigated for or have been found to have caused harm to a resident or facility. The cost of maintaining the registry is shared with Medicare. For FY 2012-13, actual expenditures totaled $4.1 million. While budgeting the over-realized receipts ($25,000) will result in a corresponding decrease in appropriation, the FY 2014-15 budget (requirements) of $4.4 million is unchanged.	($25,000)	R

Total Legislative Changes	**($288,000)**	**R**
Total Position Changes		
Revised Budget	**$16,123,479**	

Health and Human Services.

GENERAL FUND

	FY 14-15
Total Budget Enacted 2013 Session	**$3,608,119,091**

Legislative Changes

(9.0) Division of Medical Assistance

52	**Provider Assessments for Behavioral Health LME/MCO's (1310)** Implements a 3.5% assessment on all Behavioral Health LME/MCO's effective July 1, 2014. The State will retain 65% of the total amount assessed to fund Medicaid services. The remaining 35% will be used to increase the capitation rates for the Local Management Entities/Managed Care Organizations (LME/MCO's). In FY 2012-13, Medicaid payments totaled $1.4 billion to LME/MCOs. The FY 2013-14 budget is $2.5 billion and is the first year where all LME/MCOs have been operational for the full year.	($59,555,995)	R
53	**Mental Health Drug Management (1310, 1331)** Implements prior authorization of mental health drugs, effective January 1, 2015. This adjustment brings mental health drug policy in line with other drug classes that require prior authorization in the Medicaid program. This represents a 2% reduction in drug spending net of rebates, leaving an estimated budget in FY 2014-15 of $737 million. The amount saved is net of the reduction in drug rebates.	($6,000,000)	R
54	**Automatic Eligibility for ABD/State County Special Assistance (1310)** Eliminates the automatic Medicaid eligibility for Aged, Blind and Disabled/State County Special Assistance recipients effective January 1, 2015. This eligibility standard was established by North Carolina and is not mandated by the federal government. There are currently 11,886 individuals that have Medicaid eligibility as a result of this policy who will lose Medicaid coverage. In FY 2013-14 it is estimated that total spending on this eligibility group will be $167.9 million. Of this amount, $57.5 million are General Fund appropriations.	($28,750,000)	R

55 Medically Needy Eligibility Standards (1310) ($3,563,134) R

Eliminates eligibility for Medically Needy individuals in family and children and Aged, Blind and Disabled categories effective January 1, 2015. This eligibility group is optional and not mandated by Centers for Medicare and Medicaid Services (CMS). There are currently 3,342 individuals that have Medicaid coverage based on this policy. In FY 2013-14 it is estimated that total spending on this eligibility group will be $20.8 million and $7.1 million in General Fund appropriations.

56 Medsolutions Contract Renegotiation and Imaging Request for Proposal (1310) ($5,500,000) R

Requires the department to renegotiate their imaging contract with Medsolutions to reduce capitation rates to achieve improved medical loss ratios. The Department is also directed to issue a Request for Proposal (RFP) for high tech imaging services. This represents a 14.9% reduction in spending on the high tech imaging contract, leaving an estimated $90 million in the budget for FY 2014-15.

57 Nursing Home Case- Mix Index Adjustment (1310) ($2,200,000) R

Freezes the case-mix index adjustments for direct cost of nursing home rates effective January 1, 2015. Historically, nursing home direct care rates are adjusted quarterly for the change in the average case mix or intensity of care for each facility's residents from the previous quarter. The case mix index adjustments do not apply to the indirect care or fair rental value components of the nursing home per diem rates. Total Medicaid payments for nursing homes is projected to be $1.16 billion in FY 2013-14. This represents a 0.5% reduction in overall spending for nursing homes leaving an estimated $1.2 billion in the Medicaid budget for FY 2014-15.

58 Average Acquisition Cost for Drug Pricing (1310) ($975,000) R

Converts the pricing for drug products from a multiple of Wholesale Acquisition Cost (WAC) for brand medications and State Maximum Allowable Cost (SMAC) for generic medications to an average acquisition cost for all Medicaid drugs. This item also adjusts dispensing fees to more closely align with the cost of dispensing. Total spending for drug product and dispensing fees are projected to be $1.4 billion in FY 2013-14. The amount is offset by drug rebates that are estimated at $678 million in FY 2013-14. This represents a 0.3% reduction in spending for drug costs, net of rebates, leaving an estimated net budget of $737 million in FY 2014-15.

59 State Retention of Physician Upper Payment Limit (UPL) Plan (1310) ($9,380,470) R

Implements a new 28.85% retention of the assessment under the University of North Carolina at Chapel Hill (UNC) and East Carolina University (ECU) physician UPL plan effective July 1, 2014. The retention will apply to the total amount assessed and transferred to the Division of Medical Assistance through an intergovernmental transfer or payment by these organizations. The amount not retained will be used to fund the state share of the costs of the supplemental payment under the UPL plan. In FY 2013-14, UNC and ECU transferred $23.1 million to the Division of Medical Assistance for the State share of UPL payments of $66.8 million. The new State retention will increase the amounts transferred from UNC and ECU to approximately $32.5 million, with supplemental payments to the two organizations totaling approximately $66.8 million.

60 State Retention of the Hospital GAP Plan Assessment (1310) ($15,102,794) R

Increases the State retention on assessments through the hospital GAP plan from 25.9% to 28.85% effective July 1, 2014. The increased retention percentage will apply to the total amount assessed under the GAP plan. The residual amount of assessment will be used to make supplemental equity and upper payment limit payments as defined under the plan. The GAP plan for the year ending September 30, 2014 provides for payments from hospitals totaling $366 million and supplemental payments for outpatient equity and inpatient upper payment limit of $787 million. This change will increase the amount of payments from the hospitals, but will not change the supplement payments the hospitals receive.

61 Hospital Outpatient Cost (1310) ($6,078,784) R

Reduces the settlement for the University of North Carolina-Chapel Hill (UNC-CH) and Pitt Memorial (ECU) hospitals for outpatient services to 70% of Medicaid costs effective July 1, 2014. Historically, the State has funded the State share of payment to UNC-CH and ECU at 100% of costs, unlike other hospitals which are paid 70% of cost through the claims and settlement processes. The reduction in settlement percentage will be factored into supplemental payments under the Disproportionate Share Hospital (DSH) and hospital GAP payment plans. This represents a 2.1% reduction in overall hospital outpatient Medicaid spending, leaving an estimated $821 million in the budget for outpatient services for all hospitals in FY 2014-15.

62 Provider Rate Reduction (1310) ($10,803,013) R

Reduces provider rates by 2% effective January 1, 2015. This reduction applies to all fee-for-service providers with the exception of drugs, nursing homes, all cost based providers, and services where rates are set by the federal government, negotiated through a managed care contract, or as specified in special provisions.

63 Single Base Rate for All Hospitals (1310) ($10,800,000) R

Establishes a single base diagnosis related group (DRG) rate for inpatient hospital services based on the statewide median base rate for all hospitals effective January 1, 2015. This reduces payments for hospital services by $12.4 million and increases the GAP plan retention by $9.2 million on an annual basis. In FY 2013-14 total spending for inpatient hospital services is projected to be $938 million. This represents a 1.8% reduction in spending for inpatient hospital services, leaving an estimated $992 million in the FY 2014-15 budget.

64 Personal Care Services (PCS) Rate adjustment (1310)

Reduces the PCS unit rate so that the approval of 50 additional hours included in the Medicaid Clinical policy approved by the Center for Medicare and Medicaid Services (CMS) in May 2014 is budget neutral.

65 Medicaid Rebase (1310,1331,1320) $206,000,000 R

Funds the Medicaid rebase for FY 2014-15 that includes 5.3% growth in enrollment and utilization; a change in mix to a more expensive recipient; current year spending trends for Personal Care Services and settlements; the impact of presumptive eligibility as a result of the Affordable Care Act; the impact of an additional 20,000 children shifting from Health Choice to Medicaid; the impact of not meeting all the budget reduction items approved as part of the FY 2013-15 Biennium Budget; and an increase in the federal match rate.

The following chart details the various components of the rebase calculation:

Growth, Claims and Utilization:$114,100,000
Budget Reductions Not Achieved:
- Outpatient to 70% - $25,300,000
- Shared Savings - $10,800,000
- Drug Savings - $9,400,000
- Rehabilitation Visit Limitation - $5,700,000
- Physician Visit Limitation - $7,600,000
- Freeze Rates - $26,600,000
- Copay Increase - $5,000,000

Presumptive Eligibility:$5,500,000
Additional Children Shifted From Health Choice: $9,400,000
Change in FMAP: ($14,600,000)
PCS Services: $100,000
Settlements:$1,100,000

MEDICAID REBASE FY 2014-15: $ 206,000,000

66 Medicaid Funds for FY 13-14 — $143,800,000 NR

Appropriates nonrecurring funds to address a projected FY 2013-14 Medicaid budget shortfall of $93.9 million. Unachieved S.L. 2013-360 reductions and other unbudgeted items are outlined below:

Medicaid Claims, Utilization and Growth:($149,700,000)
Budget Reduction Items not Achieved: $63,600,000
Presumptive Eligibility: $13,200,000
MAGI Recertification Delay: $2,800,000
Additional Children Shifted from Heath Choice: $8,700,000
PCS Services: $12,400,000
Settlements: $8,200,000
Heath Choice Surplus:($9,100,000)
Medicaid Claims and Enrollment Backlog: $143,800,000

Net Shortfall: $ 93,900,000

A projected FY 2013-14 cash surplus of $49.9 million, anticipated due to backlogs of unpaid claims and unprocessed eligibility applications, will revert on June 30, 2014. Therefore, a nonrecurring appropriation of $143.8 million is needed for the liability associated with the unpaid claims and enrollment backlogs that will be paid in FY 2014-15.

67 Personal Care Services (PCS) Study Optional Program (1102) — $200,000

Provides funding for the Department to transfer $200,000 to the Legislative Services Commission to contract for a study to define a new limited PCS optional service program. This amount represents the State share of the total funding of $400,000. The remaining source of funding will come from the Medicaid administrative funding from the Centers for Medicare and Medicaid Services (CMS). The report from this study is due December 1, 2015.

68 Division of Medical Assistance Reorganization (1101,1102) — $4,898,158 NR

Provides funding for consultants, contractors and initial staffing for the development of a new organization for the Division of Medical Assistance.

Total Legislative Changes	**$47,290,810**	**R**
	$148,898,158	**NR**
Total Position Changes		
Revised Budget	**$3,804,308,059**	

Health and Human Services

GENERAL FUND

	FY 14-15
Total Budget Enacted 2013 Session	**$57,747,933**

Legislative Changes

(10.0) NC Health Choice

69 Health Choice Rebase (1310) ($14,500,000) R

Funds the Health Choice rebase for FY 2014-15 that includes a 5.3% growth in enrollment and utilization, the impact of an additional 20,000 children shifting from Health Choice to Medicaid, and the impact of not meeting all the budget reduction items included in the 2013 Appropriations Act.

The following chart details the various components of the rebase calculation:

Growth, Claims and Utilization: ($9,900,000)
Budget Reductions Not Achieved: $2,900,000
Additional Children Shifted From Health Choice: ($7,500,000)

HEALTH CHOICE REBASE FY 2014-15	($14,500,000)

70 Single Base Rate for all Hospitals (1310) ($63,961) R

Establishes a single base diagnosis related group (DRG) rate for inpatient hospital services based on the statewide median base rate for all hospitals effective January 1, 2015. This represents a 1.8% reduction in claims spending for inpatient hospital services.

71 Health Choice Administrative Budget Adjustment (1102) ($1,250,000) R

Adjusts the Health Choice administrative budget to more accurately reflect actual expenditures and anticipated costs in FY 2014-15.

Total Legislative Changes	**($15,813,961)** R
Total Position Changes	
Revised Budget	**$41,933,972**

Health and Human Services

GENERAL FUND

	FY 14-15
Total Budget Enacted 2013 Session	**$8,178,618**

Legislative Changes

(11.0) Divisions of Services for the Blind and Services for the Deaf and Hard of Hearing

72 **No Action Taken**

Takes no budget action specific to the Divisions of Services for the Blind and Services for the Deaf and Hard of Hearing.

Total Legislative Changes	
Total Position Changes	
Revised Budget	**$8,178,618**

NATURAL & ECONOMIC RESOURCES
Section H

Agriculture and Consumer Services

GENERAL FUND

	FY 14-15
Total Budget Enacted 2013 Session	**$115,409,902**

Legislative Changes

Reserve for Salaries & Benefits

1	**Compensation Increase Reserve** Provides a $1,000 annual recurring salary and benefit increase ($809 salary increase) for permanent full-time employees.	$1,322,367	R
2	**State Retirement System Contributions** Increases the State's contribution to the Teachers' and State Employees' Retirement System to fund the Annual Required Contribution and provide a 0.8% cost-of-living adjustment to retirees. Total General Fund appropriation across all sections in the committee report is $37 million.	$227,746	R

Food and Drug

3	**Commercial Feed and Pet Fees (1070)** Budgets $120,000 in additional license fee receipts to offset General Fund support and more closely align to actual collections. Actual collections from FY 2012-13 totaled $383,080.	($120,000)	R
4	**Commercial Feed and Pet Grants (1070)** Budgets $50,000 in additional grant receipts to offset General Fund support and more closely align to actual collections. Actual collections from FY 2012-13 totaled $279,063.	($50,000)	R
5	**Food, Drug, and Cosmetic Analysis Fees (1100)** Budgets $50,000 in additional license fee receipts to offset General Fund support and more closely align to actual collections. Actual collections from FY 2012-13 totaled $803,820.	($50,000)	R

6 Food, Drug, and Cosmetic Analysis Grants (1100) ($100,000) R

Budgets $100,000 in additional grant receipts to offset General Fund support and more closely align to actual collections. Actual collections from FY 2012-13 totaled over $1.2 million.

7 Vacant Position (1070) ($50,701) R

Eliminates the following vacant position: -1.00

Position	Title	Total Cost
60089066	Chemistry Technician III	$50,701

Forest Service

8 County Cost-Share Adjustment (1510) ($1,056,678) R

Budgets additional receipts to offset General Fund support and fund shifts positions due to changes to the calculation of county cost-share allocations. The funding model for county-specific Forest Service personnel results in revised funding levels of $12.25 million and $9.75 million for the State and counties respectively. -18.35

9 Forestry Management Plans (1510) ($1,761,750) R

Budgets anticipated receipts from fees charged for forestry management plans produced by the NC Forest Service. Forestry management plans are required to receive present-use value property tax assessments on forestland. Fees range from $250 to $750 per forestry management plan depending on acreage.

10 Vacant Positions (1510) ($84,953) R

Eliminates the following vacant positions: -1.50

Position	Title	Total Cost
60031791	District Ranger - LE	$65,126 (1 FTE)
60031916	NCSU Assoc Ranger	$19,827 (0.5 FTE)

Markets

11 NC Farmers Markets (1020) ($325,307) R

Eliminates General Fund support of farmers markets and shifts operating budget and positions from the General Fund to the farmers markets' enterprise fund (53700). The Department may use receipts generated by any of the four farmers markets to support operational expenses at any other farmers market. -5.60

12 Vacant Positions (1020) ($204,847) R

Eliminates the following vacant positions: -3.00

Position	Title	Total Cost
60080945	Travel & Tourism Mkt Coord.	$63,175
60011560	Machine Operator II	$36,075
60011467	International Mkt Specialist	$105,597

Plant Industry

13 Seed and Fertilizer Fees (1175) ($50,000) R

Budgets $50,000 in additional license fee receipts to offset General Fund support and more closely align to actual collections. Actual collections from FY 2012-13 totaled $308,647.

Research Stations

14 Bioenergy Development - TVA Funds (1190)

Budgets TVA settlement funds returned by the Biofuels Center to the Department of Commerce upon dissolution of the nonprofit. Funds will be provided to the Bioenergy Development program administered by the Department and will offset existing General Fund support for FY 2014-15. Total program funding will remain at $1.5 million for FY 2014-15. TVA funds may only be spent in the counties identified in Section 13.3 of S.L. 2013-360. ($438,583) NR

15 Commodity Receipts (1190) ($100,000) R

Budgets additional sales receipts from research station products to more closely match actual experience. In FY 2012-13, the research stations overrealized commodity sales receipts by $681,389.

16 Research Grant Funds (1190) ($50,000) R

Budgets an additional $50,000 in receipts from the University of North Carolina system for use by the Department's research stations. Combined with $50,000 in previously budgeted receipts in FY 2011-12, receipts from the university system total $100,000.

17 Vacant Positions (1190) ($229,531) R

Eliminates the following vacant positions: -5.00

Position	Title	Total Cost
60012609	Administrative Officer III	$48,802
60012700	Research Technician	$40,613
60012656	Research Technician	$40,183
60012672	Office Assistant IV	$51,202
60012632	Office Assistant IV	$48,731

Reserves and Transfers

18 FFA Grant Funding (1990) ($100,000) R

Eliminates expansion funding to the FFA Foundation. The program will continue to receive $40,000 in recurring grant funding.

19 Farmland Preservation Trust Fund (1990) $500,000 NR

Provides an additional $500,000 in nonrecurring funding to the Trust Fund. Funding to the Trust Fund in FY 2014-15 will total over $2.1 million from the General Fund and an additional $1 million from TVA settlement funds.

20 Farmland Preservation Trust Fund - Military Buffers (1990) $1,000,000 NR

Provides $1 million in nonrecurring funding to match federal funds for the purchase of development rights from agricultural operations located near military bases in the State. Funding to the Trust Fund in FY 2014-15 will total over $2.1 million from the General Fund and an additional $1 million from TVA settlement funds.

21 NCSU Food Processing Initiative (1990) $250,000 NR

Provides $250,000 in nonrecurring funding to the College of Agriculture and Life Sciences at NC State University to support the development of the Department's food processing initiative. The University of North Carolina system may not collect Facilities and Administrative expenses from these funds provided to the initiative.

22 NCSU Plant Science Initiative (1990) $350,000 NR

Provides $350,000 in nonrecurring funding to the College of Agriculture and Life Sciences at NC State University to support the development of the Department's plant science initiative. The University of North Carolina system may not collect Facilities and Administrative expenses from these funds provided to the initiative.

Soil and Water Conservation

23 Agriculture Water Resource Assistance Program (1611) $2,318,254 NR

Provides additional nonrecurring funding to support agriculture water resource development projects. Total program funding for FY 2014-15 is over $3.3 million.

Structural Pest Control and Pesticides

24 Pesticide Control and Analysis Fees (1090) ($100,000) R

Budgets $100,000 in additional license fee receipts to offset General Fund support and more closely align to actual collections. Actual collections from FY 2012-13 totaled over $2.9 million.

25 Sleep Products (1120) ($100,000) R

Transfers the operating budget and positions to fund code 1120.- Structural Pest, and reduces the program requirements by $100,000 to more closely align to actual expenditures. Positions will continue to be receipt supported from bedding unit inspection fees.

26 Structural Pest Fees (1120) ($50,000) R

Budgets $50,000 in additional license fee receipts to offset General Fund support and more closely align to actual collections. Actual collections from FY 2012-13 totaled $434,510.

Veterinary Services

27 National Poultry Improvement Plan Certification (1130) ($25,000) R

Budgets anticipated receipts resulting from a modified fee structure for certification services provided to small flock poultry producers.

Total Legislative Changes	($3,058,654)	R
	$3,979,671	NR
Total Position Changes	-34.45	
Revised Budget	$116,330,919	

Senate Subcommittee on Natural and Economic Resources

Labor

	GENERAL FUND	
	FY 14-15	
Total Budget Enacted 2013 Session	**$16,696,339**	
Legislative Changes		
Department-wide		
28 Management Flexibility Reduction Allocates a 2% management flexibility reduction to the Department. The Commissioner may apply the reductions as deemed necessary.	($333,927)	R
Reserve for Salaries & Benefits		
29 Compensation Increase Reserve Provides a $1,000 annual recurring salary and benefit increase ($809 salary increase) for permanent full-time employees.	$238,411	R
30 State Retirement System Contributions Increases the State's contribution to the Teachers' and State Employees' Retirement System to fund the Annual Required Contribution and provide a 0.8% cost-of-living adjustment to retirees. Total General Fund appropriation across all sections in the committee report is $37 million.	$48,315	R
Total Legislative Changes	**($47,201)**	R
Total Position Changes		
Revised Budget	**$16,649,138**	

Environment & Natural Resources

	GENERAL FUND
	FY 14-15
Total Budget Enacted 2013 Session	**$157,767,236**

Legislative Changes

Reserve for Salaries & Benefits

31	**Compensation Increase Reserve** Provides a $1,000 annual recurring salary and benefit increase ($809 salary increase) for permanent full-time employees.	$1,596,965	R
32	**State Retirement System Contributions** Increases the State's contribution to the Teachers' and State Employees' Retirement System to fund the Annual Required Contribution and provide a 0.8% cost-of-living adjustment to retirees. Total General Fund appropriation across all sections in the committee report is $37 million.	$276,858	R

Aquariums

33	**Admission Receipts (1355)** Budgets additional admission fee receipts to offset General Fund support of the State's three aquariums. Admission fees were increased by $2.95 for all age groups effective March 1, 2014, and are estimated to generate an additional $1.4 million in new revenue.	($180,000)	R

Coastal Management

34	**Public Information Efforts (1625)** Reduces funding for a Public Information Officer position (60031534) by 50% in the Division of Coastal Management by cost sharing the position with the Department's Office of Public Affairs. This position will be spilt between the Division and the Office of Public Affairs where it will support department-wide issues.	($42,601) -0.50	R

Energy, Mineral and Land Resources

35 Position Reduction (1740) ($61,049) R

Abolishes a vacant Environmental Senior Specialist position (65002024) in the Wilmington Regional Office's Stormwater Permitting Section. Six Stormwater Engineers and one Engineer who works on National Pollutant Discharge Elimination System permit program will remain in the Wilmington Office. -1.00

36 University Energy Centers (1749) ($816,933) NR

Budgets Stripper Well Settlement funds transferred from budget code 64327-693E to partially offset General Fund support of the university energy centers located at North Carolina State University, North Carolina Agricultural and Technical State University (N.C. A&T), and Appalachian State University. A total of $1,056,933 is appropriated for these centers.

37 Shale Gas (1750) $1,173,324 NR

Provides nonrecurring funding for drilling of test wells and core analysis in the State's shale basins. Also provides $100,000 for marketing and promotion of the State's shale gas resources. There is a corresponding special provision.

38 Operating Funds for Oil and Gas Program (1740) $176,789 R

Provides operating funds to support the Energy Section's requirement to develop and implement a modern regulatory program for oil and gas exploration and development, and to support the Mining and Energy Commission in developing associated administrative rules.

39 Coal Ash Management - Stormwater (1740) $140,811 R

Provides funding for two new positions and associated operating costs to address the long term requirements of stormwater permitting, inspection and compliance activities related to coal based power facilities. 2.00

Position	Total Cost
Engineer	$82,343
Program Assistant V	$41,244

A total of $1.75 million in recurring funds is provided to the Department for coal ash management. This item is contingent upon S.B. 729, 2013 Regular Session, or substantially similar language, becoming law.

40 Coal Ash Management - Dams (1740) $386,390 R

Provides nonrecurring funding for five new positions and associated operating costs to address the long term requirements of permitting, inspection and safety evaluations of all power generating dam facilities in North Carolina. 5.00

Position	Total Cost
2 Engineers	$165,686
2 Environmental Sr. Specialist	$151,210
1 Program Assistant V	$ 41,244

A total of $1.75 million in recurring funds is provided to the Department for coal ash management. This item is contingent upon S.B. 729, 2013 Regular Session, or substantially similar language, becoming law.

Environmental Assistance and Customer Service

41 Utility Savings Initiative (1615)

Budgets Stripper Well Settlement funds transferred from budget code 64327-693E to partially offset General Fund support of the Utility Savings Initiative on a nonrecurring basis. ($183,067) NR

42 Position Reductions (1615) ($113,011) R

Reduces General Fund support for a vacant Environmental Senior Specialist position (60035972) in the Environmental Assistance Center to 50% and abolishes a vacant Senior Economic Developer position (60080986) that was transferred from Commerce as part of the Energy Office move to DENR. The office supplies line-item is reduced by $314, leaving $3,147. -1.22

Marine Fisheries

43 Position Shifts (1320) ($143,760) R

Fund shifts three Marine Fisheries Technician II positions (60032634, 60032668, 60032653) from General Fund support to federal grant support and takes a corresponding General Fund reduction. -3.00

44 Position Reductions (1495) ($148,240) R

Closes the Marine Fisheries office located in Nags Head for an operating savings of $19,422, and shifts two positions to home-based operations. Also abolishes two filled positions, an Environmental Health Specialist (60034501), an Environmental Senior Technician (60034515), and a vacant Microbiology Lab Technician III (60034517) that is currently split funded between General Fund support and a federal grant. -2.50

45 At-Sea Observer Program (1320) ($289,000) R

Eliminates General Fund support for the At-Sea Observer Program. Recurring support will be provided from commercial fishing license fee receipts.

46 Marine Oyster Sanctuary (1320) $150,000 R

Provides funding for habitat mapping and water column/benthic data collection associated with establishing an oyster sanctuary. Also supports any advance analysis and studies that may be required by State or federal agencies to permit shellfish conservation efforts in the sanctuary.

Museum of Natural Sciences

47 Operating Reductions (1360) ($195,616) R

Reduces Museum funding by 1.6% by abolishing a vacant Administrative Assistant I position (60035022) and reducing funding for temporary wages. Also reduces salary reserve by $30,000 and the carpentry and hardware supplies line-item by $30,785. -1.00

48 Museum of Forestry (1360) ($391,117) R

Eliminates funding for the Museum of Forestry in Whiteville, NC and closes the Museum effective July 1, 2014. Provides nonrecurring funding to support positions for three months to assist with the closure and mothballing of exhibits. $97,779 NR
-3.00

Office of Land and Water Stewardship

49 One NC Naturally Initiative (1610) ($59,274) R

Abolishes a filled Educational Development Consultant position (60036213) that provided outreach and education programs for the One NC Naturally initiative to generate interest in and understanding of the State's conservation needs. Duties will be shifted to the remaining employees. -1.00

Parks and Recreation

50 Operating Reductions (1280) ($623,360) R

Abolishes a vacant State Parks Facility Architect position (60092635) supported by the Parks and Recreation Trust Fund. Also reduces various equipment line-items including but not limited to motor vehicles, boats, trailers, voice communication equipment and computers and printers. Operating funds of $9.4 million remain after this reduction. -1.00

51 Consultant Study (1280) $250,000 NR

Provides nonrecurring funds to hire a consultant to review the operations of the State's cultural and natural resource sites and recommend ways to reduce the cost to the State for their operations.

Reserves and Transfers

52 Outer Banks Land Management Fund (1910) $5,000,000 NR

Provides a nonrecurring appropriation to the newly created Outer Banks Land Management Fund to be established in the Department of Environment and Natural Resources. Total funding appropriated to the Fund from all sources is $15 million, including $3 million in a capital reserve contingent upon the land sale. Fund uses are specified in a corresponding special provision.

Secretary's Office

53 Salary Reserve (1140) ($34,949) R

Reduces salary reserve available within the Secretary's Office.

54 Reserve for Coal Ash Management (1910) $438,943 R

Creates a reserve in the Secretary's Office for up to six additional positions to support the coal ash management initiative outlined in Senate Bill 729. Positions and associated operating support will be reallocated to the following divisions as the positions are filled: Water Resources, Waste Management, and Energy, Mineral and Land Resources. 6.00

A total of $1.75 million in recurring funds is provided to the Department for coal ash management. This item is contingent upon S.B. 729, 2013 Regular Session, or substantially similar language, becoming law.

55 Public Information Office (1140)

Expands the Department's public information efforts by transferring 50% of a Public Information Officer position (60031534) from the Division of Coastal Management to the Office of Public Affairs. Position will be supported by indirect cost receipts.

Waste Management

56 Solid Waste Section (1760) ($23,606) R

Reduces the legal services and motor vehicle insurance line-items in the Solid Waste Section, leaving $174,974 for these purposes.

57 Waste Management (1760) ($1,000,000) R

Budgets a transfer of solid waste disposal tax receipts to replace General Fund support of positions that inspect and permit hazardous waste and solid waste facilities. Positions also enforce hazardous waste, solid waste and inactive hazardous sites management standards, and ensure the development and implementation of comprehensive plans for management of waste.

58 Noncommercial Fund (1910) $2,500,000 R
$1,000,000 NR

Provides a $1 million nonrecurring appropriation and a $2.5 million recurring appropriation for the Noncommercial Leaking Petroleum Underground Storage Tank Fund to assist homeowners with the cleanup cost of petroleum releases from home heating oil tanks and small farm tanks.

59 Coal Ash Management - Waste Management (1760) $193,742 R

Provides funding for two new positions and associated operating costs to support the additional workload that is expected with the permitting of industrial landfills for removed combustion products. 2.00

Position	Total Cost
Engineer	$82,343
Geologist/Hydrogeoloist	$76,615

A total of $1.75 million in recurring funds is provided to the Department for coal ash management. This item is contingent upon S.B. 729, 2013 Regular Session, or substantially similar language, becoming law.

Water Infrastructure

60 Operating Support (1460) ($10,000) R

Reduces the supplies line item on a recurring basis, leaving $5,000 for this purpose.

61 Drinking Water State Revolving Fund (DWSRF) (1460) ($1,400,000) NR

Reduces funding for the DWSRF State match by $600,000 due to an anticipated decrease in the federal capitalization grant for the program in federal fiscal year 2014-15. Also transfers $800,000 in unused DWSRF State matching funds back to the division's General Fund budget and takes a corresponding nonrecurring reduction in FY 2014-15.

Water Resources

62 Aquatic Weed Control Transfer (1620) ($54,920) R

Transfers the Aquatic Weed Control program from the Department to the Wildlife Resources Commission as a Type I transfer. Additional adjustments may be implemented through a type 11 budget revision. -1.00

63 Position Reductions (1620 & 1690) ($155,976) R

Abolishes a filled Business & Technology Applications Technician position (60031523) in the Water Resources Management Section and also abolishes a vacant Environmental Regional Supervisor (60035227) in the Fayetteville Regional Office. A receipt-supported supervisor from the Central Office will be reassigned to replace the regional supervisor position. -2.00

64 Coal Ash Management - Water Quality (1690 &1695) $590,114 R

Provides funding for eight General Fund and two receipt-supported positions and associated operating costs. Six of the positions will conduct facility inspections and technical reviews of reports, including the evaluation of groundwater monitoring data and proposed corrective action and closure plans of coal ash ponds. Four of the positions will address the long term requirements of permitting, enforcement, data collection and analysis. Data regarding surface waters, sediment, and fish tissue will be provided to the public. 8.00

Position	Total Cost
5 Geologist/Hydrogeologist	$307,896
1 Environmental Sr. Specialist	$ 75,606
1 Environmental Specialist	$ 67,219
1 Business & Technology App Analyst	$ 95,012
1 Engineer (receipt-supported)	$ 82,843
1 Geologist/Hydrogeologist (receipt-supported)	$ 84,599

A total of $1.75 million in recurring funds is provided to the Department for coal ash management. This item is contingent upon S.B. 729, 2013 Regular Session, or substantially similar language, becoming law.

65 On-Site Wastewater Transfer $1,177,154 R

Transfers the On-Site Water Protection Unit from the Department of Health and Human Services to the Department of Environment and Natural Resources as Type I transfer. Additional adjustments due to legislative salary increases, retirement and medical adjustments, as well as receipt adjustments and transfers from special funds may be implemented through a type 11 budget revision. 14.00

Total Legislative Changes	**$4,101,287**	R
	$5,121,103	NR
Total Position Changes	19.78	
Revised Budget	**$166,989,626**	

Wildlife Resources Commission

GENERAL FUND

	FY 14-15
Total Budget Enacted 2013 Session	**$14,476,588**

Legislative Changes

Reserve for Salaries & Benefits

66 Compensation Increase Reserve $179,544 R

Provides a $1,000 annual recurring salary and benefit increase ($809 salary increase) for permanent full-time employees.

67 State Retirement System Contributions $33,086 R

Increases the State's contribution to the Teachers' and State Employees' Retirement System to fund the Annual Required Contribution and provide a 0.8% cost-of-living adjustment to retirees. Total General Fund appropriation across all sections in the committee report is $37 million.

Wildlife Resources Commission

68 Beaver Management Assistance Program (1151) ($7,700) R

Reduces funding for the Beaver Management Assistance Program by 2%. A total of $377,300 remains in the budget to support the Program.

69 Position Adjustments ($168,785) R

Offsets General Fund appropriated salaries in each of the following programs by budgeting additional fishing and hunting license receipts transferred from the Wildlife Resources Fund established in G.S. 143-250:

1101: Administrative Policy and Regulation	($38,245)
1111: Controller's Office	($26,678)
1113: Information Technology	($58,883)
1115: Purchasing Services Warehouse	($17,825)
1116: Budget, Planning and Audit	($10,386)
1117: Personnel	($16,768)

70 Budget Realignments ($113,047) R

Reduces receipt supported line-items in the customer service and information technology sections and realigns those funds to offset General Fund appropriated salaries in each of those sections as follows:

1112: Customer Service ($29,122)
1113: Information Technology ($83,925)

71 Federal Grant Funds (1166) ($1,000,000) R

Budgets an increase in a federal grant for game land operations and maintenance and reduces the General Fund appropriation by the same amount.

72 Aquatic Weed Control Transfer $554,920 R
$400,000 NR
1.00

Transfers the Aquatic Weed Control program from the Department of Environment and Natural Resources to the Wildlife Resources Commission (WRC) as a Type I transfer. Also transfers $400,000 from WRC's Boating Safety Account on a nonrecurring basis in FY 2014-15 to be used for the Lake Waccamaw Hydrilla Eradication Project. Additional recurring funding for aquatic weed control is provided from the Shallow Draft Navigation Channel and Lake Dredging Fund. There is a corresponding special provision.

Total Legislative Changes	**($521,982)**	R
	$400,000	NR
Total Position Changes	1.00	
Revised Budget	**$14,354,606**	

Commerce

GENERAL FUND

	FY 14-15
Total Budget Enacted 2013 Session	**$56,733,282**

Legislative Changes

Department-wide

73 Management Flexibility Reserve ($1,022,654) R

Reduces funding to the Department by 2%, resulting in a revised General Fund appropriation of $50.1 million (exclusive of Industrial Commission). The Secretary has the flexibility to take the reduction to programs and activities that cause the least disruption in service.

Reserve for Salaries & Benefits

74 Compensation Increase Reserve $272,878 R

Provides a $1,000 annual recurring salary and benefit increase ($809 salary increase) for permanent full-time employees.

75 State Retirement System Contributions $56,108 R

Increases the State's contribution to the Teachers' and State Employees' Retirement System to fund the Annual Required Contribution and provide a 0.8% cost-of-living adjustment to retirees. Total General Fund appropriation across all sections in the committee report is $37 million.

Administration

76 Special Funds (1111) ($663,839) NR

Offsets the General Fund appropriation for Administration by directing the unencumbered cash balance as of June 30, 2014 from the following funds toward operating costs:

Economic Development Reserve (24609-2584)
Energy Research Grants Special Fund (24609-2537)
NC Green Business Fund (24609-2535)
One NC Small Business Fund (24609-2562)
Main Street Solutions Special Fund (24613-2622)

The Economic Development Reserve Fund is closed after the transfer. There is a corresponding special provision.

77 Purchasing Officer (1111) ($76,728) R
Eliminates a vacant Purchasing Officer position (60077170).
-1.00

Commerce Finance Center

78 Job Maintenance and Capital Development Fund (JMAC) (1581) ($364,097) NR
Reduces funds appropriated for JMAC payments. A total of $7.5 million is available for payments to Bridgestone, Goodyear, and Domtar for the 2013 grant year. Funds disbursed in FY 2013-14 were less than what was appropriated due to companies' underperformance.

Industrial Commission

79 Compromise Settlement Agreement Fees (1831) ($500,000) R
Shifts Industrial Commission expenses to Compromise Settlement Agreement fee receipts in the General Fund, which will now be fully budgeted in the General Fund. Net General Fund appropriation to the Commission will be $5 million.

80 Special Fund (1831) ($125,000) NR
Offsets the General Fund appropriation for the Industrial Commission by directing the unencumbered cash balance as of June 30, 2014 from the Investigation Management System Special Fund (24611-2240) toward operating costs. This fund is closed after the transfer.

81 Investigation Management System (1831) ($75,000) R
Eliminates funding for the Industrial Commission's Investigation Management System, which was intended to process, prioritize, and track investigations by the Insurance Compliance Program. Funding was appropriated to the Commission in FY 2013-14 but has not been used. The Commission is working with the Office of Information Technology Services to evaluate future system needs.

Labor and Economic Analysis Division

82 Common Follow-Up System (CFS) (1130)
Budgets $500,000 in nonrecurring receipts for CFS; the Commission on Workforce Development will prescribe a method for calculating the amount that participating agencies shall contribute to CFS. Agencies will transfer funds by December 31, 2014. There is a corresponding special provision.

83 AccessNC and Demand Driven Data Delivery System (D4) (1130) $500,000 NR
Provides nonrecurring funding for contractual services to merge two information technology platforms (AccessNC and D4). AccessNC inventories available business sites statewide and provides economic data to the public. D4 publishes labor market data. There is a corresponding special provision.

Rural Economic Development

84 Limited Resource Communities Grants (1534) ($2,543,021) R
Eliminates the Limited Resource Communities Grant program established in Section 15.10B of S.L. 2013-360. There is a corresponding special provision.

85 Community Assistance and Office of Urban Development (1620) ($637,500) R
Eliminates approximately 9.15 FTEs from Community Assistance and Office of Urban Development. The Rural Economic Development Division Assistant Secretary has the discretion to make this determination among the 26.5 General Fund appropriated FTEs within fund code 1620. There is a corresponding special provision.

86 Community Development Block Grant (CDBG) (1620) $637,500 R
Provides 50% of the required cash match for the CDBG program. FY 2014-15 funds shall be used to purchase and install a new grants management software program, which will be coordinated with the Department of Transportation's existing grant management module. The other 50% match will be in-kind, achieved via staff salaries' who are dedicated to full-time CDBG activities. There is a corresponding special provision.

87 NC Broadband (1477)

Provides six months of nonrecurring funding to allow for continuation of the NC Broadband program from January 1, 2015 to June 30, 2015 as federal funding ends December 31, 2014. There is a corresponding special provision.

$350,000 NR

Workforce Solutions

88 Apprenticeship Program (1912)

Budgets $300,000 in nonrecurring receipts for the Apprenticeship Program from the Community Colleges System Office to offset forgone revenue for waived apprentice fees in FY 2014-15. The Department of Commerce will evaluate the fee waivers effect on increasing participation in the program before requesting a permanent fee change.

Total Legislative Changes	**($3,888,417)**	**R**
	($302,936)	**NR**
Total Position Changes	-1.00	
Revised Budget	**$52,541,929**	

Commerce - State Aid

	GENERAL FUND	
	FY 14-15	
Total Budget Enacted 2013 Session	**$15,624,767**	
Legislative Changes		
Farm Bureau - Ag in the Classroom		
89 Ag in the Classroom (1913) Eliminates funding to the Ag in the Classroom program due to inability to spend funds.	($21,175)	R
Grassroots Science Museums		
90 Museum Additions (1913) Provides base funding to two additional museums (Marbles in Raleigh and HandsOn! in Hendersonville) and eliminates funding to the Health Adventure museum in Asheville due to closure.	$42,648	R
Research Triangle Institute		
91 Research Triangle Institute Grant (1913) Provides $250,000 in nonrecurring funding to the Research Triangle Institute for US Department of Energy grant match requirements. Research findings will be shared with the State Energy Office.	$250,000	NR
Total Legislative Changes	**$21,473**	R
	$250,000	NR
Total Position Changes		
Revised Budget	**$15,896,240**	

DACS - Special Revenue

Budget Code: 23700

	FY 2014-15	
Beginning Unreserved Fund Balance	**$9,332,705**	
Recommended Budget		
Requirements	**$9,997,390**	
Receipts	**$7,230,638**	
Positions	**34.00**	

Legislative Changes

Requirements:

Research Stations NR Fund (2185)	$0	R
Reverts funds in excess of the $1 million cash balance cap on the fund.	$11,208	NR
	0.00	
Sleep Products (2500)	($838,473)	R
Reverts existing cash balance to the General Fund and closes fund code 2500 - Sleep Products. The program and associated budget are transferred to the Structural Pest program (1120) administered by the Department.	$1,196,785	NR
	-10.20	
Plasticulture Tech Training (2147)	$0	R
Reverts existing cash balance to the General Fund and closes fund code 2147 - Plasticulture Tech Training.	$2,697	NR
	0.00	
Subtotal Legislative Changes	**($838,473)**	R
	$1,210,690	NR
	-10.20	

Receipts:

Research Stations NR Fund (2185)	$0	R
Reverts funds in excess of the $1 million cash balance cap on the fund.	$0	NR

	FY 2014-15	
Sleep Products (2500)	($838,473)	R
Reverts existing cash balance to the General Fund and closes fund code 2500 - Sleep Products. The program and associated budget are transferred to the Structural Pest program (1120) administered by the Department.	$0	NR
Plasticulture Tech Training (2147)	$0	R
Reverts existing cash balance to the General Fund and closes fund code 2147 - Plasticulture Tech Training.	$0	NR
Subtotal Legislative Changes	**($838,473)**	R
	$0	NR
Revised Total Requirements	**$10,369,607**	
Revised Total Receipts	**$6,392,165**	
Change in Fund Balance	**($3,977,442)**	
Total Positions	**23.80**	
Unappropriated Balance Remaining	**$5,355,263**	

DACS - Warehouse Investment Fund

Budget Code: 23701

	FY 2014-15
Beginning Unreserved Fund Balance	**$32,438**
Recommended Budget	
Requirements	**$0**
Receipts	**$0**
Positions	**0.00**

Legislative Changes

Requirements:

Warehouse Investment Fund (2201)	$0	R
Reverts existing cash balance to the General Fund and closes budget code 23701 - DACS - Warehouse Investment Fund.	$32,438	NR
	0.00	
Subtotal Legislative Changes	**$0**	R
	$32,438	NR
	0.00	

Receipts:

Warehouse Investment Fund	$0	R
Reverts existing cash balance to the General Fund and closes budget code 23701 - DACS - Warehouse Investment Fund.	$0	NR
Subtotal Legislative Changes	**$0**	R
	$0	NR

	FY 2014-15
Revised Total Requirements	$32,438
Revised Total Receipts	$0
Change in Fund Balance	($32,438)
Total Positions	0.00
Unappropriated Balance Remaining	$0

DACS - Soil & Water Conservation

Budget Code: 23704

	FY 2014-15
Beginning Unreserved Fund Balance	**$13,247,553**
Recommended Budget	
Requirements	**$10,261,581**
Receipts	**$9,581,537**
Positions	**1.00**

Legislative Changes

Requirements:

Swine Waste Fund (2730)	$0	R
Reverts a portion of unencumbered funds appropriated in FY 2007-08 for swine waste management practices due to low demand.	$206,552	NR
	0.00	
Subtotal Legislative Changes	**$0**	R
	$206,552	NR
	0.00	

Receipts:

Swine Waste Fund (2730)	$0	R
Reverts a portion of unencumbered funds appropriated in FY 2007-08 for swine waste management practices due to low demand.	$0	NR
Subtotal Legislative Changes	**$0**	R
	$0	NR

Senate Committee on Appropriations/Base Budget

	FY 2014-15
Revised Total Requirements	$10,468,133
Revised Total Receipts	$9,581,537
Change in Fund Balance	($886,596)
Total Positions	1.00
Unappropriated Balance Remaining	$12,360,957

DACS – Farmers Market

Budget Code: 53700

	FY 2014-15	
Beginning Unreserved Fund Balance	**$1,603,807**	
Recommended Budget		
Requirements	**$2,491,605**	
Receipts	**$2,490,880**	
Positions	**28.50**	

Legislative Changes

Requirements:

Asheville/ Charlotte Farmers Markets	$1,499,079	R
Transfers the operating budget and associated positions to the Farmers Markets Enterprise Fund.	$0	NR
	0.00	
Subtotal Legislative Changes	**$1,499,079**	R
	$0	NR
	0.00	

Receipts:

Asheville/Charlotte Farmers Markets	$1,173,772	R
Transfers the operating budget and associated positions to the Farmers Markets Enterprise Fund.	$0	NR
Subtotal Legislative Changes	**$1,173,772**	R
	$0	NR

	FY 2014-15
Revised Total Requirements	$3,990,684
Revised Total Receipts	$3,664,652
Change in Fund Balance	($326,032)
Total Positions	28.50
Unappropriated Balance Remaining	$1,277,775

Disaster Relief Fund

Budget Code: 24602

	FY 2014-15	
Beginning Unreserved Fund Balance	**$3,317,157**	
Recommended Budget		
Requirements	**$1,500,000**	
Receipts	**$1,500,000**	
Positions	**0.00**	

Legislative Changes

Requirements:

Small Bus Loans, Hurricane Floyd (2959)	$0	R
Transfers all but $1,000 to a reserve in the North Carolina Office of the State Chief Information Officer for LiDAR topological mapping.	$122,243	NR
	0.00	
Small Bus Loans, 2005 Disaster Recovery (2966)	$0	R
Transfers all but $50,000 to a reserve in the North Carolina Office of the State Chief Information Officer for LiDAR topological mapping.	$3,143,914	NR
	0.00	
Subtotal Legislative Changes	**$0**	R
	$3,266,157	NR
	0.00	

Receipts:

Disaster Relief Fund (24602)	$0	R
	$0	NR
Subtotal Legislative Changes	**$0**	R
	$0	NR

	FY 2014-15
Revised Total Requirements	$4,766,157
Revised Total Receipts	$1,500,000
Change in Fund Balance	($3,266,157)
Total Positions	0.00
Unappropriated Balance Remaining	$51,000

Commerce - Special Revenue - GF

Budget Code: 24609

	FY 2014-15
Beginning Unreserved Fund Balance	**$13,537,607**
Recommended Budget	
Requirements	**$29,389,508**
Receipts	**$28,748,168**
Positions	**4.00**

Legislative Changes

Requirements:

Economic Development Reserve (2584)	$0	R
Transfers cash balance to Commerce's Administration Division to offset operating expenses. Fund 24609-2584 is closed.	$49,687	NR
	0.00	
Energy Research Grants (2537)	$0	R
Transfers a portion of the cash balance to Commerce's Administration Division to offset operating expenses.	$3,674	NR
	0.00	
NC Green Business Fund (2535)	$0	R
Transfers a portion of the cash balance to Commerce's Administration Division to offset operating expenses.	$19,018	NR
	0.00	
One NC Small Business Fund (2562)	$0	R
Transfers a portion of the cash balance to Commerce's Administration Division to offset operating expenses.	$172,687	NR
	0.00	
Ag Gas Expansion	$2,500,000	R
Establishes a special fund for Expanded Gas Products Service to Agriculture.	$2,500,000	NR
	0.00	
IDF Utility Account (2568)- Ag Gas Expansion	$2,500,000	R
Transfers $2.5 million in recurring receipts and $2.5 million of cash balance to the newly established special fund for Expanded Gas Products Service to Agriculture.	$2,500,000	NR
	0.00	

	FY 2014-15	
IDF Utility Account (2568)- Oregon Inlet	$0	R
Transfers $3.5 million of the cash balance to the newly created Outer Banks Land Management Fund to be established in the Department of Environment and Natural Resources.	$3,500,000	NR
	0.00	
One North Carolina Small Business Fund (2562)	$0	R
Receives $2.5 million from the One NC Fund.	$2,500,000	NR
	0.00	
One North Carolina Fund (2560)	$0	R
Transfers $2.5 million cash balance to the One North Carolina Small Business Fund.	$2,500,000	NR
	0.00	
Subtotal Legislative Changes	**$5,000,000**	R
	$13,745,066	NR
	0.00	
Receipts:		
Economic Development Reserve (2584)	$0	R
	$0	NR
Energy Research Grants (2537)	$0	R
	$0	NR
NC Green Business Fund (2535)	$0	R
	$0	NR
One North Carolina Small Business Fund (2562)	$0	R
Receives $2.5 M from the One NC Fund.	$2,500,000	NR
Ag Gas Expansion	$2,500,000	R
Establishes a special fund for Expanded Gas Products Service to Agriculture.	$2,500,000	NR
IDF Utility Account (2568)	$6,900,000	R
Increases receipts to reflect FY 2013-14 actuals and transfers $2.5 M to the newly established special fund for Expanded Gas Products Service to Agriculture.	$0	NR

Senate Committee on Appropriations/Base Budget

	FY 2014-15	
One North Carolina Fund (2560)	$0	R
	$0	NR
Subtotal Legislative Changes	**$9,400,000**	R
	$5,000,000	NR
Revised Total Requirements	**$48,134,574**	
Revised Total Receipts	**$43,148,168**	
Change in Fund Balance	**($4,986,406)**	
Total Positions	**4.00**	
Unappropriated Balance Remaining	**$8,551,201**	

Commerce - IT Projects

Budget Code: 24611

	FY 2014-15	
Beginning Unreserved Fund Balance	**$975,165**	
Recommended Budget		
Requirements	**$1,776,205**	
Receipts	**$1,776,205**	
Positions	**0.00**	

Legislative Changes

Requirements:

Investigation Management System (2240)	$0	R
Transfers cash balance to the Industrial Commission to offset operating expenses. Fund 24611-2240 is closed.	$125,000	NR
	0.00	
Subtotal Legislative Changes	**$0**	R
	$125,000	NR
	0.00	

Receipts:

Investigation Management System (2240)	$0	R
	$0	NR
Subtotal Legislative Changes	**$0**	R
	$0	NR

	FY 2014-15
Revised Total Requirements	$1,901,205
Revised Total Receipts	$1,776,205
Change in Fund Balance	($125,000)
Total Positions	0.00
Unappropriated Balance Remaining	$850,165

Commerce - Special Revenue

Budget Code: 24613

	FY 2014-15	
Beginning Unreserved Fund Balance	**$1,605,141**	
Recommended Budget		
Requirements	**$77,958**	
Receipts	**$2,958**	
Positions	**2.00**	

Legislative Changes

Requirements:

Main Street Solutions (2622)	$0	R
Transfers cash balance to Commerce's Administration Division to offset operating expenses.	$418,773	NR
	0.00	
Subtotal Legislative Changes	**$0**	R
	$418,773	NR
	0.00	

Receipts:

Main Street Solutions (2622)	$0	R
	$0	NR
Subtotal Legislative Changes	**$0**	R
	$0	NR

	FY 2014-15
Revised Total Requirements	$496,731
Revised Total Receipts	$2,958
Change in Fund Balance	($493,773)
Total Positions	2.00
Unappropriated Balance Remaining	$1,111,368

Commerce – Enterprise

Budget Code: 54600

	FY 2014-15	
Beginning Unreserved Fund Balance	**$5,880,653**	
Recommended Budget		
Requirements	**$46,432,723**	
Receipts	**$46,229,552**	
Positions	**326.00**	

Legislative Changes

Requirements:

ABC Warehouse (5882)	$0	R
Reverts $2.5 million of the cash balance from fund code 5882 - ABC Warehouse to the General Fund.	$2,500,000	NR
	0.00	
ABC Commission (5881)	$0	R
Reverts $1 million of the cash balance from fund code 5881 - ABC Commission to the General Fund.	$1,000,000	NR
	0.00	
Subtotal Legislative Changes	**$0**	R
	$3,500,000	NR
	0.00	

Receipts:

ABC Warehouse (5882)	$0	R
Reverts $2.5 million of the cash balance from fund code 5882 - ABC Warehouse to the General Fund.	$0	NR
ABC Commission (5881)	$0	R
Reverts $1 million of the cash balance from fund code 5881 - ABC Commission to the General Fund.	$0	NR
Subtotal Legislative Changes	**$0**	R
	$0	NR

Senate Committee on Appropriations/Base Budget

	FY 2014-15
Revised Total Requirements	$49,932,723
Revised Total Receipts	$46,229,552
Change in Fund Balance	($3,703,171)
Total Positions	326.00
Unappropriated Balance Remaining	$2,177,482

DENR - Special

Budget Code: 24300

	FY 2014-15	
Beginning Unreserved Fund Balance	**$19,291,529**	
Recommended Budget		
Requirements	**$46,315,424**	
Receipts	**$37,223,777**	
Positions	**275.50**	

Legislative Changes

Requirements:

Aquariums Admissions Fund (2865)	$180,000	R
Increases the transfer of admission fee receipts to the aquariums' General Fund budget to support the operations of the State's three aquariums.	$0	NR
	0.00	
Inspection & Maintenance Pollution Control	$0	R
No adjustment necessary.	$0	NR
	0.00	
Advance License Sales (2392)	$0	R
Transfers $3.5 million of the cash balance to the newly created Outer Banks Land Management Fund to be established in the Department of Environment and Natural Resources. There is a corresponding special provision.	$3,500,000	NR
	0.00	
Shallow Draft Dredging Fund (2182)	$500,000	R
Transfers up to $500,000 to the Wildlife Resources Commission's General Fund to support the Aquatic Weed Control program.	$0	NR
	0.00	
Subtotal Legislative Changes	**$680,000**	R
	$3,500,000	NR
	0.00	

Receipts:

	FY 2014-15	
Aquariums Admissions Fund (2865) Budgets additional admission fee receipts anticipated to be generated as the result of a fee increase at the State's three aquariums and Jennette's Pier. Aquarium admission fees were increased by $2.95 for all age groups. Pier fees were increased for multi-day fishing passes and sightseeing passes.	$1,400,000	R
	$0	NR
Inspection & Maintenance Pollution Control (2338) Diverts $3 million of the emissions inspection fee from the I & M Air Pollution Control Account to the General Fund in FY 2014-15. Directs the Division of Air Quality to use its cash balance to support the pollution control program for mobile sources in FY 2014-15. There is a corresponding special provision.	$0	R
	($3,000,000)	NR
Advance License Sales (2392) No adjustment necessary.	$0	R
	$0	NR
Shallow Draft Dredging Fund (2182) No adjustment necessary.	$0	R
	$0	NR
Subtotal Legislative Changes	**$1,400,000**	R
	($3,000,000)	NR
Revised Total Requirements	**$50,495,424**	
Revised Total Receipts	**$35,623,777**	
Change in Fund Balance	**($14,871,647)**	
Total Positions	**275.50**	
Unappropriated Balance Remaining	**$4,419,882**	

Reserve for Air Quality - Fuel Tax

Budget Code: 24301

	FY 2014-15	
Beginning Unreserved Fund Balance	**$1,675,632**	
Recommended Budget		
Requirements	**$9,678,445**	
Receipts	**$9,664,348**	
Positions	**99.60**	

Legislative Changes

Requirements:

Air Quality Fuel Tax (2334)	$0	R
No adjustment necessary.	$0	NR
	0.00	
Subtotal Legislative Changes	**$0**	R
	$0	NR
	0.00	

Receipts:

Air Quality Fuel Tax (2334)	$0	R
Diverts $1 million of the fuel tax allocated to the Water and Air Account pursuant to G.S. 105-449.125 from Account to the General Fund in FY 2014-15. Directs the Division of Air Quality to use the cash balance for operations to replace the diverted revenue for one-year.	($1,000,000)	NR
Subtotal Legislative Changes	**$0**	R
	($1,000,000)	NR

	FY 2014-15
Revised Total Requirements	$9,678,445
Revised Total Receipts	$8,664,348
Change in Fund Balance	($1,014,097)
Total Positions	99.60
Unappropriated Balance Remaining	$661,535

DENR - Marine Conservation Fund

Budget Code: 24303

	FY 2014-15	
Beginning Unreserved Fund Balance	**$228,527**	
Recommended Budget		
Requirements	**$208,776**	
Receipts	**$47,737**	
Positions	**0.00**	
Legislative Changes		
Requirements:		
North Carolina Marine Conservation Fund (2990)	($19,557)	R
Adjusts program requirements to reflect the loss of budgeted interest earnings that are being redirected to the General Fund on a permanent basis.	$0	NR
	0.00	
Subtotal Legislative Changes	**($19,557)**	R
	$0	NR
	0.00	
Receipts:		
North Carolina Marine Conservation Fund (2990)	($19,557)	R
Redirects interest earnings credited to the Marine Conservation Fund to the General Fund on a permanent basis. Interest earnings are estimated to be $990 annually.	$0	NR
Subtotal Legislative Changes	**($19,557)**	R
	$0	NR

	FY 2014-15
Revised Total Requirements	$189,219
Revised Total Receipts	$28,180
Change in Fund Balance	($161,039)
Total Positions	0.00
Unappropriated Balance Remaining	$67,488

DENR - Wetlands Trust Fund

Budget Code: 24304

	FY 2014-15
Beginning Unreserved Fund Balance	**$24,634,379**
Recommended Budget	
Requirements	**$67,527,794**
Receipts	**$69,094,523**
Positions	**9.00**

Legislative Changes

Requirements:

Ecosystem Restoration Fund (various)	($4,554)	R
Adjusts program requirements to reflect the loss of budgeted interest earnings that are being redirected to the General Fund on a permanent basis.	$0	NR
	0.00	
Subtotal Legislative Changes	**($4,554)**	R
	$0	NR
	0.00	

Receipts:

Ecosystem Restoration Fund (various)	($4,554)	R
Redirects interest earnings credited to the Ecosystem Restoration Fund to the General Fund on a permanent basis. Interest earnings are estimated to be $98,110 annually.	$0	NR
Subtotal Legislative Changes	**($4,554)**	R
	$0	NR

Senate Committee on Appropriations/Base Budget

	FY 2014-15
Revised Total Requirements	$67,523,240
Revised Total Receipts	$69,089,969
Change in Fund Balance	$1,566,729
Total Positions	9.00
Unappropriated Balance Remaining	$26,201,108

DENR - Clean Water Management Fund

Budget Code: 24305

	FY 2014-15	
Beginning Unreserved Fund Balance	**$26,968,832**	
Recommended Budget		
Requirements	**$8,686,976**	
Receipts	**$8,686,976**	
Positions	**0.00**	

Legislative Changes

Requirements:

Clean Water Management Trust Fund (2002)	($260,000)	R
Adjusts program requirements to reflect the loss of budgeted interest earnings that are being redirected to the General Fund on a permanent basis.	$0	NR
	0.00	
Subtotal Legislative Changes	**($260,000)**	R
	$0	NR
	0.00	

Receipts:

Clean Water Management Trust Fund (2002)	($260,000)	R
Redirects interest earnings credited to the Clean Water Management Trust Fund to the General Fund on a permanent basis. Interest earnings are estimated to be $256,590 annually.	$0	NR
Subtotal Legislative Changes	**($260,000)**	R
	$0	NR

	FY 2014-15
Revised Total Requirements	$8,426,976
Revised Total Receipts	$8,426,976
Change in Fund Balance	$0
Total Positions	0.00
Unappropriated Balance Remaining	$26,968,832

DENR - Dry Cleaning Solvent Tax

Budget Code: 24306

	FY 2014-15
Beginning Unreserved Fund Balance	**$9,613,324**
Recommended Budget	
Requirements	**$16,108,204**
Receipts	**$15,235,048**
Positions	**18.80**

Legislative Changes

Requirements:

Dry-Cleaning Solvent Cleanup Fund (2127)	($1,136,500)	R
Adjusts program requirements to reflect the loss of budgeted interest earnings that are being redirected to the General Fund on a permanent basis.	$0	NR
	0.00	
Subtotal Legislative Changes	**($1,136,500)**	R
	$0	NR
	0.00	

Receipts:

Dry-Cleaning Solvent Cleanup Fund (2127)	($1,136,500)	R
Redirects interest earnings credited to the Dry-Cleaning Solvent Cleanup Fund to the General Fund on a permanent basis. Interest earnings are estimated to be $46,935 annually.	$0	NR
Subtotal Legislative Changes	**($1,136,500)**	R
	$0	NR

	FY 2014-15
Revised Total Requirements	$14,971,704
Revised Total Receipts	$14,098,548
Change in Fund Balance	($873,156)
Total Positions	18.80
Unappropriated Balance Remaining	$8,740,168

DENR - Parks and Recreation Trust Fund

Budget Code: 24309

	FY 2014-15	
Beginning Unreserved Fund Balance	**$24,793,469**	
Recommended Budget		
Requirements	**$11,968,082**	
Receipts	**$13,523,231**	
Positions	**0.00**	

Legislative Changes

Requirements:

Parks and Recreation Trust Fund Interest (2235)	($130,000)	R
Adjusts program requirements to reflect the loss of budgeted interest earnings that are being redirected to the General Fund on a permanent basis.	$0	NR
	0.00	
Subtotal Legislative Changes	**($130,000)**	R
	$0	NR
	0.00	

Receipts:

Parks and Recreation Trust Fund Interest (2235)	($130,000)	R
Redirects interest earnings credited to the Parks and Recreation Trust Fund to the General Fund on a permanent basis. Interest earnings are estimated to be $106,120 annually.	$0	NR
Subtotal Legislative Changes	**($130,000)**	R
	$0	NR

	FY 2014-15
Revised Total Requirements	$11,838,082
Revised Total Receipts	$13,393,231
Change in Fund Balance	$1,555,149
Total Positions	0.00
Unappropriated Balance Remaining	$26,348,618

DENR - Special Interest Bearing

Budget Code: 24318

	FY 2014-15	
Beginning Unreserved Fund Balance	**$796,808**	
Recommended Budget		
Requirements	**$400,000**	
Receipts	**$400,000**	
Positions	**1.00**	

Legislative Changes

Requirements:

Bernard Allen Drinking Water Fund (2054)	$0	R
No adjustment necessary.	$0	NR
	0.00	
Subtotal Legislative Changes	**$0**	R
	$0	NR
	0.00	

Receipts:

Bernard Allen Drinking Water Fund (2054)	$0	R
Redirects interest earnings credited to the Bernard Allen Memorial Emergency Drinking Water Fund to the General Fund on a permanent basis. Interest earnings are estimated to be $2,725 annually. No impact to the Fund is anticipated because interest earnings were not budgeted to be spent.	$0	NR
Subtotal Legislative Changes	**$0**	R
	$0	NR

	FY 2014-15
Revised Total Requirements	$400,000
Revised Total Receipts	$400,000
Change in Fund Balance	$0
Total Positions	1.00
Unappropriated Balance Remaining	$796,808

DENR - Marine Resources Fund

Budget Code: 24323

	FY 2014-15
Beginning Unreserved Fund Balance	**$9,845,087**
Recommended Budget	
Requirements	**$10,761,101**
Receipts	**$8,499,708**
Positions	**25.00**

Legislative Changes

Requirements:

Marine Resources Fund (various)	($316,276)	R
Adjusts program requirements to reflect the loss of budgeted interest earnings that are being redirected to the General Fund on a permanent basis.	$0	NR
	0.00	
Subtotal Legislative Changes	**($316,276)**	R
	$0	NR
	0.00	

Receipts:

Marine Resources Fund (various)	($316,276)	R
Redirects interest earnings credited to the Marine Resources Fund to the General Fund on a permanent basis. Interest earnings are estimated to be $47,465 annually.	$0	NR
Subtotal Legislative Changes	**($316,276)**	R
	$0	NR

Senate Committee on Appropriations/Base Budget

	FY 2014-15
Revised Total Requirements	$10,444,825
Revised Total Receipts	$8,183,432
Change in Fund Balance	($2,261,393)
Total Positions	25.00
Unappropriated Balance Remaining	$7,583,694

DENR - Waste Water Operating Training

Budget Code: 64301

	FY 2014-15	
Beginning Unreserved Fund Balance	**$581,192**	
Recommended Budget		
Requirements	**$658,489**	
Receipts	**$568,384**	
Positions	**7.00**	

Legislative Changes

Requirements:

Water Pollution Control System Account (6342)	($19,125)	R
Adjusts program requirements to reflect the loss of budgeted interest earnings that are being redirected to the General Fund on a permanent basis.	$0	NR
	0.00	
Subtotal Legislative Changes	**($19,125)**	R
	$0	NR
	0.00	

Receipts:

Water Pollution Control System Account (6342)	($19,125)	R
Redirects interest earnings credited to the Water Pollution Control System Account to the General Fund on a permanent basis. Interest earnings are estimated to be $2,130 by annually.	$0	NR
Subtotal Legislative Changes	**($19,125)**	R
	$0	NR

	FY 2014-15
Revised Total Requirements	$639,364
Revised Total Receipts	$549,259
Change in Fund Balance	($90,105)
Total Positions	7.00
Unappropriated Balance Remaining	$491,087

DENR - Commercial LUST Cleanup

Budget Code: 64305

	FY 2014-15
Beginning Unreserved Fund Balance	**$87,735,200**
Recommended Budget	
Requirements	**$31,408,298**
Receipts	**$29,881,200**
Positions	**14.20**

Legislative Changes

Requirements:

Brownfield Superfund Fund (6376)
No adjustment necessary.

$0	R
$0	NR
0.00	

Commercial Leaking Petroleum UST Fund (6370)
Adjusts program requirements to reflect the loss of budgeted interest earnings that are being redirected to the General Fund on a permanent basis.

($30,000)	R
$0	NR
0.00	

Emergency Response Fund (6373)
No adjustment necessary.

$0	R
$0	NR
0.00	

Inactive Hazardous Sites Cleanup Fund (6372)
No adjustment necessary.

$0	R
$0	NR
0.00	

Inactive Hazardous Sites Fund -SB 1492 (6379)
No adjustment necessary.

$0	R
$0	NR
0.00	

	FY 2014-15	
Administrative Funds (6379)	($1,000,000)	R
Transfers a portion of the solid waste disposal tax allowed for administrative expenses to the Division of Waste Management's General Fund budget to support positions in the Solid Waste and Hazardous Waste sections. There is a corresponding special provision that increases the administrative allowance.	$0	NR
	0.00	
Noncommercial Leaking Petroleum UST Fund (6371)	($70,000)	R
Adjusts program requirements to reflect the loss of budgeted interest earnings that are being redirected to the General Fund on a permanent basis.	$0	NR
	0.00	
Superfund Cost Share (6375)	($28,561)	R
Adjusts program requirements to reflect the loss of budgeted interest earnings that are being redirected to the General Fund on a permanent basis.	$0	NR
	0.00	
Subtotal Legislative Changes	**($1,128,561)**	R
	$0	NR
	0.00	

Receipts:

Brownfield Superfund Fund (6376)	$0	R
Redirects interest earnings credited to the Brownfield Superfund Fund to the General Fund on a permanent basis. Interest earnings are estimated to be $3,075 annually. No impact to the Fund is anticipated because interest earnings were not budgeted to be spent.	$0	NR
Commercial Leaking Petroleum UST Fund (6370)	($30,000)	R
Redirects interest earnings credited to the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund to the General Fund on a permanent basis. Interest earnings are estimated to be $179,215 annually.	$0	NR

	FY 2014-15	
Emergency Response Fund (6373)	$0	R
Redirects interest earnings credited to the Emergency Response Fund to the General Fund on a permanent basis. Interest earnings are estimated to be $2,210 annually. No impact to the Fund is anticipated because interest earnings were not budgeted to be spent.	$0	NR
Inactive Hazardous Sites Cleanup Fund (6372)	$0	R
Redirects interest earnings credited to the Inactive Hazardous Sites Cleanup Fund to the General Fund on a permanent basis. Interest earnings are estimated to be $23,980 annually. No impact to the Fund is anticipated because interest earnings were not budgeted to be spent.	$0	NR
Inactive Hazardous Sites Cleanup Fund (6379)	$0	R
Redirects interest earnings credited to the Inactive Hazardous Sites Cleanup Fund to the General Fund on a permanent basis. Interest earnings are estimated to be $137,445 annually. No impact to the Fund is anticipated because interest earnings were not budgeted to be spent.	$0	NR
Noncommercial Leaking Petroleum UST Fund (6371)	($70,000)	R
Redirects interest earnings created to the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund to the General Fund on a permanent basis. Interest earnings are estimated to be $2,400 annually.	$0	NR
Superfund Cost Share (6375)	($28,561)	R
Redirects interest earnings credited to the Superfund Cost Share Fund to the General Fund on a permanent basis. Interest earnings are estimated to be $29,280 annually.	$0	NR
Subtotal Legislative Changes	**($128,561)**	R
	$0	NR

	FY 2014-15
Revised Total Requirements	$30,279,737
Revised Total Receipts	$29,752,639
Change in Fund Balance	($527,098)
Total Positions	14.20
Unappropriated Balance Remaining	$87,208,102

DENR - Drinking Water State Revolving Fund

Budget Code: 64320

	FY 2014-15	
Beginning Unreserved Fund Balance	**$88,864,479**	
Recommended Budget		
Requirements	**$53,707,408**	
Receipts	**$46,934,583**	
Positions	**47.20**	

Legislative Changes

Requirements:

Drinking Water State Revolving Fund (6D12)	$0	R
Transfers $800,000 from the cash balance to the Division of Water Infrastructure in Department of Environment and Natural Resources. These funds were not needed to meet the State match in FY 2013-14.	$800,000	NR
	0.00	
Subtotal Legislative Changes	**$0**	R
	$800,000	NR
	0.00	

Receipts:

Drinking Water State Revolving Fund (6D12)	$0	R
No adjustment necessary.	$0	NR
Subtotal Legislative Changes	**$0**	R
	$0	NR

Senate Committee on Appropriations/Base Budget

	FY 2014-15
Revised Total Requirements	$54,507,408
Revised Total Receipts	$46,934,583
Change in Fund Balance	($7,572,825)
Total Positions	47.20
Unappropriated Balance Remaining	$81,291,654

DENR - Energy Stripper Well

Budget Code: 64327

	FY 2014-15	
Beginning Unreserved Fund Balance	**$2,037,967**	
Recommended Budget		
Requirements	**$0**	
Receipts	**$0**	
Positions	**0.00**	
Legislative Changes		
Requirements:		
Petroleum Violation Escrow Funds (693E)	$0	R
Transfers $1,000,000 from the cash balance in the Stripper Well fund to the Division of Energy, Mineral and Land Resources to offset the General Fund support of the university energy centers and the Utility Savings Initiative.	$1,000,000	NR
	0.00	
Subtotal Legislative Changes	**$0**	R
	$1,000,000	NR
	0.00	
Receipts:		
Petroleum Violation Escrow Funds (693E)	$0	R
No adjustment necessary.	$0	NR
Subtotal Legislative Changes	**$0**	R
	$0	NR

Senate Committee on Appropriations/Base Budget

	FY 2014-15
Revised Total Requirements	$1,000,000
Revised Total Receipts	$0
Change in Fund Balance	($1,000,000)
Total Positions	0.00
Unappropriated Balance Remaining	$1,037,967

Senate Committee on Appropriations/Base Budget

Motor Boat Interest Bearing

Budget Code: 24352

	FY 2014-15	
Beginning Unreserved Fund Balance	**$542,450**	
Recommended Budget		
Requirements	**$10,777,735**	
Receipts	**$10,777,735**	
Positions	**0.00**	

Legislative Changes

Requirements:

Boating Safety Account (2314)		R
Transfers $400,000 of the cash balance to Wildlife Resources Commission's General Fund budget to be used for the Lake Waccamaw Hydrilla Eradication Project.	$400,000	NR
	0.00	
Subtotal Legislative Changes		R
	$400,000	NR
	0.00	

Receipts:

Boating Safety Account (2314)	$0	R
No adjustment necessary.	$0	NR
Subtotal Legislative Changes	**$0**	R
	$0	NR

	FY 2014-15
Revised Total Requirements	
Revised Total Receipts	$10,777,735
Change in Fund Balance	
Total Positions	0.00

Unappropriated Balance Remaining

JUSTICE
&
PUBLIC SAFETY
Section I

Senate Subcommittee on Justice and Public Safety

Public Safety

	GENERAL FUND
	FY 14-15
Total Budget Enacted 2013 Session	**$1,690,014,006**

Legislative Changes

A. Reserve for Salaries & Benefits

1 Compensation Increase Reserve Provides a $1,000 annual recurring salary and benefit increase ($809 salary increase) for permanent full-time employees. Employees eligible for a step increase through a statutory pay plan are provided a step increase in lieu of the $1,000 salary and benefit increase.	$24,604,298	R
2 Experience-based Step Increase Reserve - State Highway Patrol Provides funds for one experience-based step increase for all step-eligible State Highway Patrol Troopers. State Highway Patrol Troopers who are not eligible for a step are provided a $1,000 salary and benefit increase ($809 salary increase).	$1,709,254	R
3 State Retirement System Contributions Increases the State's contribution to the Teachers' and State Employees' Retirement System to fund the Annual Required Contribution and provide a 0.8% cost-of-living adjustment to retirees. Total General Fund appropriation across all sections in the committee report is $37 million.	$3,649,390	R

B. Department-wide

4 Management Flexibility Reduction Allows the Department to identify additional savings on a nonrecurring basis for FY 2014-15. These reductions will be replaced by the increased savings associated with prison closures and other budget changes that will be annualized in FY 2015-16. This amount is 0.5% of the total Department of Public Safety budget.	($6,331,032)	NR
5 State Crime Laboratory Transfers the State Crime Laboratory to the Department of Public Safety.	$15,023,865	R
	193.50	

C. Administration

6 Various Administrative Reductions ($625,520) R

Eliminates 3.5 FTE positions that have been vacant for a year or more. The positions are: -3.50

Fund Code	Position Number	Title	Position Cost
1100	60056105	Office Assistant IV	$44,833
1100	60084591	Processing Assistant III	$38,651
1100	60001065	Personnel Analyst II	$80,958
1250	60000343	Office Assistant IV	$24,739

This item also makes reductions totaling $436,339 to various operating line items within the Division of Administration, for a total reduction of $625,520. The total budget for the Division of Administration (including External Affairs, the Governor's Crime Commission and Victims' Services) after this 1.1% reduction is $55,961,766.

7 NCVAN (1170) ($112,725) R

Eliminates the grant to the NC Victims Assistance Network. This is the last direct appropriation to a non-profit in the Department's budget; the others were eliminated in the 2011 budget. This reduction will have no impact on services provided by State agencies to victims of crime.

D. Law Enforcement

8 State Highway Patrol Vacant Trooper Positions ($3,817,125) R

Eliminates 75 vacant trooper positions in the State Highway Patrol (SHP). As of March 2014, there were 134.5 vacant trooper positions, of which 56 had been vacant for longer than six months. These positions are budgeted at the starting trooper salary of $35,700, for a total position cost of $50,895 each including retirement, social security, and health benefits. After this reduction, there will be 1,719 sworn law enforcement positions in the Highway Patrol. -75.00

9 State Highway Patrol Uniforms (1411) $823,984 R

Increases funding for State Highway Patrol uniforms to provide adequate resources for Troopers. After the reduction in Item 5, there are a total of 1,651 General Fund supported troopers (68 troopers are supported by federal funds). Uniform expenditures for Troopers are $985 each for 1,390 traditional patrol and $1,008 each for 261 Size and Weight troopers. The total annual cost is $1,632,238. The Authorized Budget for FY 2014-15 appropriates $808,254 for this purpose, leaving a shortfall of $823,984. This item increases the budget for uniforms by 102% to fully fund SHP uniform needs.

10 **State Highway Patrol Vehicles (1411)** — $456,754 R

Provides additional funds for the purchase of State Highway Patrol Vehicles. This is a 14% increase from the FY 2014-15 Authorized General Fund appropriation of $3,265,619. The total amount available for SHP vehicle purchases in FY 2014-15 will be $5,995,231 ($3,722,373 from the General Fund and $2,272,858 from receipts from the sale of used vehicles).

11 **State Bureau of Investigation (SBI)** — $31,590,747 R

Transfers the State Bureau of Investigation from the Department of Justice to the Department of Public Safety (DPS), Law Enforcement Division. DPS is directed to identify $750,000 in savings in FY 2014-15 from the merger. Consolidation of all of the State's major law enforcement agencies and criminal information sections under the Department of Public Safety should result in additional savings in the future. — 445.00

12 **ALE District Office Consolidation (1401)** — ($231,439) R

Reduces the budget for Alcohol Law Enforcement (ALE) district offices. These offices can be co-located with SBI offices, producing savings in rent and lease costs, utilities, and maintenance agreements. This reduction is a prorated amount based on closures effective October 1, 2014. FY 2015-16 annualized General Fund savings will be $308,585, a reduction of 4% to the General Fund appropriation of $6,941,552 for ALE.

13 **ALE Positions (1401)** — $724,454 R

Restores funding for 13 ALE positions that were transferred to nonrecurring receipt support by the Department to meet a management flexibility reduction included in the 2013 budget. — 13.00

E. **Emergency Management and National Guard**

14 **Geodetic Survey Receipts (1511)** — ($89,489) R

Shifts 1.25 FTE and some operating costs to receipt support. Geodetic Survey has a total budget of $1,209,391. This item increases budgeted receipts and reduces General Fund support for the program. The budget will be as follows: — -1.25

Total Requirements:	$1,209,391
Less Receipts:	$ 356,899
Net General Fund Approp.:	$ 852,492

15 **Geodetic Survey Transfer (1511)** — ($852,492) R

Transfers the Geodetic Survey function from the Division of Emergency Management to the Office of the State Chief Information Officer. — -12.67

16 **Geospatial and Technology Management (GTM) (1504)** ($6,002) R

Transfers the Geospatial and Technology Management (GTM) section of the Division of Emergency Management to the Office of the State Chief Information Officer. GTM is primarily receipt supported and includes floodplain mapping. The total certified budget for FY 2014-15 is:

Total Requirements:	$30,950,905
Less Receipts:	$30,944,903
Net General Fund Approp.:	$ 6,002

17 **Joint Forces Headquarters Building Repairs (1500)** ($89,488) R

Reduces Emergency Management's budget for building repairs at its Joint Forces Headquarters facility by 44%. $111,632 remains in the budget for this purpose.

18 **Hazardous Materials and Regional Response Teams (1506)** ($172,818) R

Creates a fee structure for facilities that store or process hazardous materials. Funds generated by the fee will be used to fund the Hazardous Materials Database for use by first responders and to support the seven Regional Response Teams (RRT) for Hazardous Materials located in Wilmington, Williamston, Raleigh, Fayetteville, Greensboro, Charlotte and Asheville. The RRT are currently funded by a General Fund appropriation that supports a program coordinator and two emergency management officers, as well as operating costs for the teams. FY 2015-16 annualized General Fund savings will be $691,277. FY 2014-15 savings are prorated to account for delayed collections in the first year of implementation. -3.00

19 **National Guard Adjutant General's Office (1600)** ($11,000) R

Reduces the National Guard's Adjutant General's administrative services budget by $6,000 and the employee travel meal account by $5,000. The total reduction is a 0.23% reduction to the Adjutant General's budget, leaving $4,690,442.

F. **Adult Correction and Juvenile Justice - Prisons**

20 **Regional Office and Female Command** ($477,134) R

Eliminates a prison regional office and the female command and distributes the prisons into four remaining regional offices. Sixteen prisons have closed since 2009 and the four regional offices are capable of supporting the remaining facilities. The female command will end operations effective November 1, 2014, and a regional office for male prisons will close March 1, 2015. FY 2015-16 annualized General Fund savings will be $1,017,778. -13.00

21 Chaplains ($244,532) R

Eliminates the following Chaplain positions: -4.00

Fund Code	Position Number	Title	Position Cost
1305	60064442	Chaplain Coord.	$71,505
1345	60067018	Clinical Chaplain I	$53,720
1345	60064443	Clinical Chaplain II	$64,124
1345	60067065	Clinical Chaplain II	$55,183

22 Tillery CC and Caledonia CI ($1,565,182) R

Consolidates the management of Tillery Correctional Center (CC) and Caledonia Correctional Institution (CI) in Halifax County. The prisons are adjacent to one another and Tillery CC supports the mission of Caledonia CI. -32.00

23 Operating and Vacant Position Reduction ($1,056,848) R

Reduces line items in supplies ($28,000), medical contracts and equipment ($258,196), PC software ($200,000), and training ($38,299). This item also eliminates 11 vacant health care-related positions at Central Prison, NC Correctional Institution for Women and Pender Correctional Institution ($532,353). -11.00

24 Prison Misdemeanants ($2,662,357) R

Eliminates all misdemeanants from State prison. Currently, offenders with sentences between 91-180 days serve their sentence in county jails supported by the Statewide Misdemeanant Confinement Program (SMCP). SMCP is managed by the NC Sheriffs' Association and pays counties for housing, transportation, and medical care for offenders. SMCP will support approximately 1,000 additional misdemeanants with sentences greater than 180 days. The misdemeanants will shift to county jails with convictions on or after October 1, 2014, and DWI offenders will shift on or after January 1, 2015. SMCP will also expand to provide appropriate treatment for DWI offenders. Currently, North Carolina is one of three states that house misdemeanants in the state prison system without exceptional circumstances. FY 2015-16 annualized General Fund savings will be $4,374,854.

25 Fountain Correctional Center for Women (CCW) ($4,397,312) R

Closes Fountain CCW, a 531-bed minimum-custody unit in Nash County, effective October 1, 2014. This closure is part of the plan to convert Eastern Correctional Institution to a female minimum-custody facility. FY 2015-16 annualized General Fund savings will be $8,794,623. -176.00

26 North Piedmont CCW ($1,965,095) R

Closes North Piedmont Correctional Center for Women, a 136-bed minimum-custody unit in Davidson County, effective August 1, 2014. This closure is part of the plan to convert Eastern Correctional Institution to a female minimum-custody facility. FY 2015-16 annualized General Fund savings will be $2,143,740. -44.00

	FY 14-15	
27 Eastern CI Converts Eastern Correctional Institution, a 429-bed medium-custody male facility in Greene County, to a female minimum-custody facility effective November 1, 2014. This conversion is part of the Division's prison closure plan and is dependent on the elimination of all misdemeanants from State prison. FY 2015-16 annualized General Fund savings will be $4,336,433.	($2,560,955) -102.00	R
G. Adult Correction and Juvenile Justice - Community Corrections		
28 Burke County Confinement in Response to Violation (CRV) Facility Provides funding for a facility dedicated to housing offenders who have violated the terms of their probation and are subject to a mandatory 90-day sentence as directed by the Justice Reinvestment Act.	$3,743,335	R
29 Robeson County CRV Facility Provides funding for a facility dedicated to housing offenders who have violated the terms of their probation and are subject to a mandatory 90-day sentence as directed by the Justice Reinvestment Act.	$3,743,335	R
30 Vehicles for Probation/Parole Officers (1370) Provides funds to purchase new vehicles required for 100 new Probation/Parole Officer positions funded in the 2014-15 budget. Funds will be transferred to the Department of Administration Motor Fleet Management Division to purchase the vehicles, which will then be leased to the Department of Public Safety. Funds for the annual lease costs of each vehicle were included in the position costs for 175 new Probation/Parole Officers authorized by the 2013-15 budget.	$1,829,300	NR
Total Legislative Changes	**$65,131,903** **($4,501,732)**	R NR
Total Position Changes	174.08	
Revised Budget	**$1,750,644,177**	

Justice

	GENERAL FUND
	FY 14-15
Total Budget Enacted 2013 Session	**$82,308,926**

Legislative Changes

A. Reserve for Salaries & Benefits

31 Compensation Increase Reserve $314,759 R

Provides a $1,000 annual recurring salary and benefit increase ($809 salary increase) for permanent full-time employees.

32 State Retirement System Contributions $70,774 R

Increases the State's contribution to the Teachers' and State Employees' Retirement System to fund the Annual Required Contribution and provide a 0.8% cost-of-living adjustment to retirees. Total General Fund appropriation across all sections in the committee report is $37 million.

B. Department-wide

33 Management Flexibility Reserve ($1,000,000) R

Directs the Department to identify efficiencies in its operations by eliminating positions, transitioning expenditures to receipt support, or reducing operating line items such as travel, purchased services, and supplies. This is a 3.2% reduction to the Department's remaining budget after transfer of the State Bureau of Investigation and the State Crime Laboratory.

C. State Bureau of Investigation (1300)

34 Transfer to Department of Public Safety ($32,340,747) R

Transfers the State Bureau of Investigation from the Department of Justice to the Department of Public Safety (DPS), Law Enforcement Division. DPS is directed to identify $750,000 in savings in FY 2014-15 from the merger. Consolidation of all of the State's major law enforcement agencies and criminal information sections under the Department of Public Safety should result in additional savings in the future. -445.00

D. State Crime Laboratory (1400)

35 Toxicology Outsourcing Funds ($250,000) R

Reduces the appropriation for private toxicology testing by 33% to $500,000.

Senate Subcommittee on Justice and Public Safety	FY 14-15	
36 Transfer to DPS Transfers the State Crime Laboratory to the Department of Public Safety.	($15,023,865) -193.50	R
Total Legislative Changes	**($48,229,079)**	R
Total Position Changes	-638.50	
Revised Budget	**$34,079,847**	

Senate Subcommittee on Justice and Public Safety

Judicial - Indigent Defense

GENERAL FUND

	FY 14-15	
Total Budget Enacted 2013 Session	**$111,357,264**	
Legislative Changes		
A. Reserve for Salaries & Benefits		
37 Compensation Increase Reserve Provides a $1,000 annual recurring salary and benefit increase ($809 salary increase) for permanent full-time employees.	$524,880	R
38 State Retirement System Contributions Increases the State's contribution to the Teachers' and State Employees' Retirement System to fund the Annual Required Contribution and provide a 0.8% cost-of-living adjustment to retirees. Total General Fund appropriation across all sections in the committee report is $37 million.	$124,866	R
B. Indigent Defense Service (1380)		
39 Administrative Reduction for IDS Reduces the appropriation for the IDS administrative division by 10%, leaving $2,102,388. This reduction includes the elimination of the Public Defender Administrator (65014895) with a budgeted salary of $79,006, for a total position cost reduction of $102,091.	($233,190) -1.00	R
Total Legislative Changes	**$416,556**	R
Total Position Changes	-1.00	
Revised Budget	**$111,773,820**	

Judicial

GENERAL FUND

	FY 14-15
Total Budget Enacted 2013 Session	$456,426,252

Legislative Changes

A. Reserve for Salaries & Benefits

40 Compensation Increase Reserve — $2,970,428 R

Provides a $1,000 annual recurring salary and benefit increase ($809 salary increase) for permanent full-time employees. Employees eligible for a step increase through a statutory pay plan are provided a step increase in lieu of the $1,000 salary and benefit increase.

41 Experience-based Step Increase Reserve - Assistant & Deputy Clerks of Superior Court — $3,621,172 R

Provides funds for one experience-based step increase for all step-eligible Assistant and Deputy Clerks of Superior Court. Assistant and Deputy Clerks of Superior Court who are not eligible for a step are provided a $1,000 salary and benefit increase ($809 salary increase).

42 Experience-based Step Increase Reserve - Magistrates — $2,570,088 R

Provides funds for one experience-based step increase for all step-eligible Magistrates. Magistrates who are not eligible for a step are provided a $1,000 salary and benefit increase ($809 salary increase).

43 State Retirement System Contributions — $926,036 R

Increases the State's contribution to the Teachers' and State Employees' Retirement System to fund the Annual Required Contribution and provide a 0.8% cost-of-living adjustment to retirees. Total General Fund appropriation across all sections in the committee report is $37 million.

44 Consolidated Judicial Retirement System — ($686,000) R

Reduces the State's contribution to the Consolidated Judicial Retirement System for FY 2014-15 to match the Annual Required Contribution after providing a 0.8% cost-of-living adjustment to retirees.

B. Administration and Service (1100)

45 Technology Services — ($3,737,904) R

Reduces the appropriation for the Administrative Office of the Court's (AOC) Technology Services Division by 24%, leaving $11,858,113.

	FY 14-15	
46 Administrative Reduction for AOC Reduces the appropriation for the remaining areas under the AOC Administrative and Service budget code other than Technology Services by 5%, leaving $28,208,088.	($1,489,582)	R
C. Pass-throughs (1800)		
47 Access to Civil Justice Grant Eliminates the Access to Civil Justice funds, which pass through AOC's budget to the NC State Bar.	($671,250)	R
Total Legislative Changes	**$3,502,988**	**R**
Total Position Changes		
Revised Budget	**$459,929,240**	

GENERAL GOVERNMENT
Section J

Senate Subcommittee on General Government

(1.0) Cultural Resources

GENERAL FUND

Total Budget Enacted 2013 Session	FY 14-15 $63,008,100

Legislative Changes

Reserve for Salaries & Benefits

1	**Compensation Increase Reserve** Provides a $1,000 annual recurring salary and benefit increase ($809 salary increase) for permanent full-time employees.	$629,536	R
2	**State Retirement System Contributions** Increases the State's contribution to the Teachers' and State Employees' Retirement System to fund the Annual Required Contribution and provide a 0.8% cost-of-living adjustment to retirees. Total General Fund appropriation across all sections in the committee report is $37 million.	$95,433	R

Agency Wide

3	**Position Eliminations** Eliminates vacant positions across the Department of Cultural Resources. These positions have been vacant for over 100 days.	($255,000) -5.00	R

60083555	Development Manager	$52,342
60083615	History Preservation and Restoration Specialist II	$43,751
65010816	Museum Librarian/Archivist	$33,190
60083880	Library Supervisor	$45,420
60083380	Processing Assistant V	$34,881

Archives and Records (1230)

4	**Operations Reduction** Reduces funds appropriated for operations by 2% within the Archives and Records Division and leaves a total budget of $2,953,572.	($65,000)	R

Historic Publications (1220)

5 Historic Publications ($247,449) R

Reduces staff and operations funds for the Historic Publications Unit. There remains approximately $173,484 in the account to be used to continue producing the publications that are required in G.S. 121-4. -4.00

60083324 Editor I $39,761
60083313 Administrator $61,676
60083316 Editor III $44,600
60083322 Administrative Secretary II $38,947

Historic Sites (1241)

6 Position Elimination ($63,870) R

Eliminates an educator position located in Kinston vacated by a retirement. -1.00

60084315 Education Coordinator $47,887

7 House in the Horseshoe ($127,551) R

Eliminates funds available for House in the Horseshoe, and closes this historic site effective July 1, 2014. -3.00

60083479 Manager I $36,248
60083480 Site Assistant $25,159
60083481 Interpreter I $25,375

NC Museum of Art (1320)

8 Museum of Art ($123,925) R

Reduces funds appropriated to the Museum of Art by 2%; the budget for FY 2014-15 will be $6.4 million.

NC Museum of History (1500)

9 Museum of History ($114,961) R

Reduces funds appropriated to the Museum of History by 2%. State appropriations for the museum will be $5.6 million for FY 2014-15.

Statewide Library Programs and Grants (1480)

10	**Library Grants** Reduces funds appropriated for grants to local libraries by 2%. There remains $13,207,033 in State appropriations and $4,381,126 available in federal grants for FY 2014-15.	($284,000)	R

Total Legislative Changes	**($556,787)**	R
Total Position Changes	-13.00	
Revised Budget	**$62,451,313**	

Senate Subcommittee on General Government

(2.0) Cultural Resources - Roanoke Island Commission

GENERAL FUND

	FY 14-15
Total Budget Enacted 2013 Session	**$450,000**
Legislative Changes	
Roanoke Island Commission	
11 Operations Reduces funds appropriated to The Roanoke Island Commission for operation of the Roanoke Island Festival Park by 2%. The State appropriations for FY 2014-15 will be $441,000.	($9,000) R
Total Legislative Changes	**($9,000) R**
Total Position Changes	
Revised Budget	**$441,000**

(3.0) Insurance

GENERAL FUND

Total Budget Enacted 2013 Session	FY 14-15
	$38,003,624

Legislative Changes

Reserve for Salaries & Benefits

12 Compensation Increase Reserve $368,001 R

Provides a $1,000 annual recurring salary and benefit increase ($809 salary increase) for permanent full-time employees.

13 State Retirement System Contributions $86,826 R

Increases the State's contribution to the Teachers' and State Employees' Retirement System to fund the Annual Required Contribution and provide a 0.8% cost-of-living adjustment to retirees. Total General Fund appropriation across all sections in the committee report is $37 million.

Administration (1100)

14 Operations ($20,000) R

Reduces funds available for miscellaneous contracts throughout Administration, by .36% and leaves $5,570,747 remaining for FY 2014-15.

Agency Wide

15 Position Eliminations ($433,955) R

Eliminates 4 vacant and 3.8 filled positions. The remaining amount is $34,206,053 in personal services for FY 2014-15. -7.80

60013402	Office Assistant IV	$26,013
60013409	Administrative Assistant I	$29,856
60013487	Program Assistant V	$27,875
60013668	Insurance Company Examiner	$54,648
60013694	Insurance Co. Examiner	$69,401
60013467	Office Assistant IV	$34,518
60013489	Office Assistant III	$29,745
60013531	Insurance Regulations Analyst III (.8 FTE)	$47,116

Senate Subcommittee on General Government	FY 14-15	
16 Over-realized Receipts Reduces appropriations based upon anticipated additional receipts from collection agencies for license fees.	($200,000)	R
Office of State Fire Marshal (1500)		
17 Communications, Printing, and Various Line Items Reduces funds appropriated for the purpose of communications, data, and programming and brings the budget closer to actual expenditures of prior years. The FY 2014-15 State appropriations for 5328XX accounts will be approximately $800,000.	($200,000)	R
Total Legislative Changes	**($399,128)**	R
Total Position Changes	-7.80	
Revised Budget	**$37,604,496**	

(5.0) State Board of Elections

GENERAL FUND

Total Budget Enacted 2013 Session	FY 14-15 $5,693,244	
Legislative Changes		
Reserve for Salaries & Benefits		
18 **Compensation Increase Reserve** Provides a $1,000 annual recurring salary and benefit increase ($809 salary increase) for permanent full-time employees.	$51,013	R
19 **State Retirement System Contributions** Increases the State's contribution to the Teachers' and State Employees' Retirement System to fund the Annual Required Contribution and provide a 0.8% cost-of-living adjustment to retirees. Total General Fund appropriation across all sections in the committee report is $37 million.	$10,992	R
Information Systems Division (1300)		
20 **Contract Elimination** Eliminates funds for contracting of data services; the functions previously performed by a vendor are now completed by State Board of Elections staff.	($117,415)	R
Total Legislative Changes	**($55,410)**	R
Total Position Changes		
Revised Budget	**$5,637,834**	

(6.0) General Assembly

GENERAL FUND

Total Budget Enacted 2013 Session	FY 14-15 $51,634,767

Legislative Changes

Reserve for Salaries & Benefits

21	**Compensation Increase Reserve** Provides a $1,000 annual recurring salary and benefit increase ($809 salary increase) for permanent full-time employees.	$529,381	R
22	**State Retirement System Contributions** Increases the State's contribution to the Teachers' and State Employees' Retirement System to fund the Annual Required Contribution and provide a 0.8% cost-of-living adjustment to retirees. Total General Fund appropriation across all sections in the committee report is $37 million.	$141,360	R

House and Senate (1110 & 1120)

23	**General Government Oversight Committee** Provides funds for the Joint Legislative Oversight Committee on General Government. The Committee will be comprised of 12 members who will meet during the interim to monitor implementation of laws, budget, and receive reports from the seventeen agencies within the purview of the appropriations subcommittees on General Government.	$34,733	R

Information Systems Division (1217)

24	**Operations** Reduces funds appropriated for operations for FY 2014-15. This reduction will be off-set by one-time carry-forward funds that would have overwise transferred into a reserve account. The budget for ISD will remain at $5,812,913 for FY 2014-15.	($750,000)	NR

Total Legislative Changes	**$705,474**	**R**
	($750,000)	**NR**
Total Position Changes		
Revised Budget	**$51,590,241**	

(7.0) Governor

GENERAL FUND

	FY 14-15
Total Budget Enacted 2013 Session	**$7,172,132**
Legislative Changes	
25 Operations Reduction and Position Elimination	($115,430) R
Eliminates funding for one Washington, DC-based federal government liaison and other operating costs. Funds had been transferred annually to North Carolina Department of Transportation to partially fund this position.	-1.00
60014914 Federal Legislative Programs Coordinator $80,000	
Reserve for Salaries & Benefits	
26 Compensation Increase Reserve	$51,713 R
Provides a $1,000 annual recurring salary and benefit increase ($809 salary increase) for permanent full-time employees.	
27 State Retirement System Contributions	$12,919 R
Increases the State's contribution to the Teachers' and State Employees' Retirement System to fund the Annual Required Contribution and provide a 0.8% cost-of-living adjustment to retirees. Total General Fund appropriation across all sections in the committee report is $37 million.	
Total Legislative Changes	**($50,798)** R
Total Position Changes	-1.00
Revised Budget	**$7,121,334**

(8.0) State Budget & Management

GENERAL FUND

	FY 14-15	
Total Budget Enacted 2013 Session	**$7,534,217**	
Legislative Changes		
28 Position Elimination	($50,684)	R
Eliminates one vacant position.	-1.00	
60056045 Grants Assistant $37,000		
Reserve for Salaries & Benefits		
29 Compensation Increase Reserve	$60,695	R
Provides a $1,000 annual recurring salary and benefit increase ($809 salary increase) for permanent full-time employees.		
30 State Retirement System Contributions	$18,730	R
Increases the State's contribution to the Teachers' and State Employees' Retirement System to fund the Annual Required Contribution and provide a 0.8% cost-of-living adjustment to retirees. Total General Fund appropriation across all sections in the committee report is $37 million.		
Technology and Data Services (1310)		
31 Contract	($100,000)	R
Reduces funds for a maintenance agreement/server software contract by 15%, leaving $587,487 for FY 2014-15.		
Total Legislative Changes	**($71,259)**	R
Total Position Changes	-1.00	
Revised Budget	**$7,462,958**	

(9.0) State Budget and Management - Special

GENERAL FUND

Total Budget Enacted 2013 Session	FY 14-15 $1,520,000	
Legislative Changes		
Special Appropriations		
32 Amphitheater Rehabilitation Provides funds to The Andrew Jackson Historical Foundation, Inc. to rebuild a dilapidated amphitheater. This grant requires a match of other funds locally.	$100,000	NR
33 Resources Education Assistance Counseling and Housing of Macon County Provides funding to Resources Education Assistance Counseling and Housing of Macon County, Inc. (REACH) to match other funds for the construction of a shelter for battered women and families. The complex will serve individuals in and around Macon and Jackson counties.	$75,000	NR
Total Legislative Changes	**$175,000**	**NR**
Total Position Changes		
Revised Budget	**$1,695,000**	

(10.0) Auditor

GENERAL FUND

Total Budget Enacted 2013 Session	FY 14-15 $11,217,468	
Legislative Changes		
Reserve for Salaries & Benefits		
34 Compensation Increase Reserve Provides a $1,000 annual recurring salary and benefit increase ($809 salary increase) for permanent full-time employees.	$122,030	R
35 State Retirement System Contributions Increases the State's contribution to the Teachers' and State Employees' Retirement System to fund the Annual Required Contribution and provide a 0.8% cost-of-living adjustment to retirees. Total General Fund appropriation across all sections in the committee report is $37 million.	$33,308	R
Agency Wide		
36 Operations Reductions Reduces funds appropriated for travel, lodging and telephone services in the 537XX accounts. There remains $286,303 in these accounts for FY 2014-15.	($37,000)	R
Total Legislative Changes	**$118,338**	R
Total Position Changes		
Revised Budget	**$11,335,806**	

(11.0) Revenue

GENERAL FUND

Total Budget Enacted 2013 Session	FY 14-15
	$80,896,458

Legislative Changes

Reserve for Salaries & Benefits

37 Compensation Increase Reserve $930,480 R

Provides a $1,000 annual recurring salary and benefit increase ($809 salary increase) for permanent full-time employees.

38 State Retirement System Contributions $181,532 R

Increases the State's contribution to the Teachers' and State Employees' Retirement System to fund the Annual Required Contribution and provide a 0.8% cost-of-living adjustment to retirees. Total General Fund appropriation across all sections in the committee report is $37 million.

Administrative Services (1681)

39 Asheville Office Space Lease $103,061 R

Increases the budget for the Asheville office space lease to pay for the physical security upgrades required by new IRS regulations.

Agency Wide

40 Vacant Positions Elimination ($627,180) R

Eliminates positions vacant for more than one year. The positions eliminated are: -9.00

60081349	Business And Technology ApplicSpec I($62,865)
60081578	Processing Assistant III ($26,215)
60081418	Tax Administrator I ($86,681)
60081363	Business And Technology Applic Analyst ($43,917)
60082209	Business Systems Analyst ($51,487)
60081943	Tax Auditor Mgr ($47,195)
60082400	Field Auditor Team Leader ($68,454)
60081970	Field Auditor Team Leader ($60,311)
60082578	Processing Assistant IV ($25,199)

41 Operating Expenses Transferred to Receipt Support ($2,360,425) R

Shifts ongoing expenses and one position to the Collection Assistance Fee. The position is Revenue Officer I and a salary of $40,125. -1.00

Fund 1605 - Information Technology
Fund 1660 - Collection
Fund 1663 - Examination
Fund 1681 - Administrative Services

Information Technology (1605)

42 Scanner Replacement

Provides nonrecurring funds to the Department of Revenue to purchase new document scanners. The current scanners are out of date and will be vulnerable to computer viruses once Microsoft ceases patching Windows XP. The Department of Revenue will receive four new scanners responsible for scanning correspondence, checks, and returns. In 2013, the current scanners processed more than 11 million documents. $2,500,000 NR

Property Tax (1629)

43 Local Government Division Positions

Adds five positions to the Local Government Division. The cost of the positions will be $400,575 recurring and $36,575 nonrecurring. Funding for the positions will come from local sales and use tax receipts. These positions will aid counties in auditing refund requests from nonprofits and governmental units.

44 MotoTax Project

Authorizes the Department of Revenue to pay for expenditures related to the MotoTax Project, a collaboration between the Department of Transportation and the Department of Revenue. The cost will be $795,236 recurring and will come from property tax collections on motor vehicles collected by the Division of Motor Vehicles.

Total Legislative Changes	**($1,772,532)**	**R**
	$2,500,000	**NR**
Total Position Changes	-10.00	
Revised Budget	**$81,623,926**	

Project Collect Tax

Budget Code: 24704

	FY 2014-15
Beginning Unreserved Fund Balance	**$56,140,869**
Recommended Budget	
Requirements	**$22,632,612**
Receipts	**$22,632,612**
Positions	**0.00**

Legislative Changes

Requirements:

Collection E-Service
Transfers funds to Budget Code 24708 Fund 2478 to support the collection e-service initiative as part of the Integrated Tax Administration System (ITAS) replacement project.

$0	R
$7,549,000	NR
0.00	

Criminal Investigation Division Special Agents
Authorizes the Department of Revenue to use funds collected through the Collection Assistance Fee to hire three new special agents to pursue individuals and businesses with overdue tax debts. The cost for the new agents will be $342,634 recurring and $15,645 nonrecurring.

$342,634	R
$15,645	NR
3.00	

Taxpayer Assistance Call Center
Authorizes the Department of Revenue to spend $1,477,585 in nonrecurring funds to upgrade technology for the Interactive Voice Response (IVR) system and provide the flexibility for the installation of additional phone lines. Funds for the call center come from the 20% Collection Assistance Fee levied on overdue tax debts.

$0	R
$1,477,585	NR
0.00	

Collection Agency Service
Authorizes the Department of Revenue to spend up to $7.5 million per year to contract with third party collection agencies to pursue overdue tax debts. Payments will only occur once the contracted agency has collected the overdue debt.

$7,500,000	R
$0	NR
0.00	

	FY 2014-15	
Locator Services	$350,000	R
Increases the cap on taxpayer locator services from $150,000 to $500,000. Funds for the increase will come from the Collection Assistance Fee. Funds pay for extending the program that works with financial institutions in the State to locate asset information for taxpayers with overdue tax debts.	$0	NR
	0.00	
ABC Permit/Tax Compliance Program	$0	R
Authorizes the Department of Revenue to spend $30,000 from the Collection Assistance Fee to implement software applications that will ensure applicants for Alcoholic Beverage Control retail permits are in compliance with North Carolina Tax Statutes.	$30,000	NR
	0.00	
Operating Expenses Transferred to Receipt Support	$2,360,425	R
Shifts ongoing expenses and one position to the Collection Assistance Fee. The position is Revenue Officer I with a salary of $40,125.	$0	NR
	1.00	
Fund 1605 - Information Technology Fund 1660 - Collection Fund 1663 - Examination Fund 1681 - Administrative Services		
Subtotal Legislative Changes	**$10,553,059**	R
	$9,072,230	NR
	4.00	

Receipts:		
Operating Expenses Transferred to Receipt Support	$0	R
	$0	NR
Guilford Call Center	$0	R
	$0	NR
Criminal Investigation Division Special Agents	$0	R
	$0	NR

Senate Committee on Appropriations/Base Budget

	FY 2014-15	
Collection Agency Service	$0	R
	$0	NR
ABC Permit/Tax Compliance Program	$0	R
	$0	NR
Subtotal Legislative Changes	**$0**	R
	$0	NR
Revised Total Requirements	**$42,257,901**	
Revised Total Receipts	**$22,632,612**	
Change in Fund Balance	**($19,625,289)**	
Total Positions	**4.00**	
Unappropriated Balance Remaining	**$36,515,580**	

ITAS Replacement, code 2478

Budget Code: 24708

	FY 2014-15
Beginning Unreserved Fund Balance	**$29,853,135**
Recommended Budget	
Requirements	**$51,024,601**
Receipts	**$27,874,319**
Positions	**7.00**

Legislative Changes

Requirements:

Collections Case Management
Authorizes the Department of Revenue to use funds available to begin implementation of a new case management system for the Collections Division as part of the replacement of the Integrated Tax Administration System (ITAS).

$0	R
$5,000,000	NR
0.00	

Collection E-Service
Provides funds from the Collection Assistance fee to implement an e-garnishment project that will automate management of the garnishment process, verification of NC-3s and W-2s, web portal for installment payments, and a decision analytics framework.

$0	R
$7,549,000	NR
0.00	

Tax Information Management System Funding
Authorizes the Department of Revenue to use available funds to support the remediation of the backlog and ongoing support and maintenance of Release 3 of the Tax Information Management System (TIMS) for several tax schedules including alcoholic beverage, tobacco products, estate, and gift tax. Funding for the time limited positions is included in the appropriated funds. The funds come from a special fund containing money from General Fund appropriations, Collection Assistance Fee, and the TIMS benefit stream.

$0	R
$11,080,942	NR
0.00	

	FY 2014-15	
ITAS Replacement - Budget Adjustment Revises the ITAS budget to reflect the changed authorization to the public private partnership found in the IT section of the appropriations bill. The requirements for the ITAS replacement for FY 2014-15 include the following initiatives: Collections Case Management, Collection E-Services, and Tax Information Management System Funding.	$0 ($51,024,601) 0.00	R NR
Subtotal Legislative Changes	**$0** **($27,394,659)** 0.00	R NR

Receipts:

ITAS Replacement - Budget Adjustment Revises the ITAS budget to reflect the changed authorization to the public private partnership found in the IT section of the appropriations bill. The requirements for the ITAS replacement for FY 2014-15 include the following initiatives: Collections Case Management, Collection E-Services, and Tax Information Management System Funding.	$0 ($27,874,319)	R NR
Tax Information Management System Funding	$0 $0	R NR
Collections Case Management	$0 $0	R NR
Collection E-Service	$0 $7,549,000	R NR
Subtotal Legislative Changes	**$0** **($20,325,319)**	R NR

	FY 2014-15
Revised Total Requirements	**$23,629,942**
Revised Total Receipts	**$7,549,000**
Change in Fund Balance	**($16,080,942)**
Total Positions	**7.00**
Unappropriated Balance Remaining	**$13,772,193**

(12.0) Secretary of State

GENERAL FUND

Total Budget Enacted 2013 Session	FY 14-15
	$11,575,183

Legislative Changes

Reserve for Salaries & Benefits

45 Compensation Increase Reserve — $173,793 R

Provides a $1,000 annual recurring salary and benefit increase ($809 salary increase) for permanent full-time employees.

46 State Retirement System Contributions — $29,658 R

Increases the State's contribution to the Teachers' and State Employees' Retirement System to fund the Annual Required Contribution and provide a 0.8% cost-of-living adjustment to retirees. Total General Fund appropriation across all sections in the committee report is $37 million.

Corporations (1210)

47 Position Eliminations — ($75,660) R

Eliminates two vacant positions from the Corporations Division. The positions are: -2.00

60008687 Processing Assistant IV ($26,013)
60094557 Processing Assistant IV ($26,946)

Publications Division (1120)

48 Position Eliminations — ($150,511) R

Reduces staff in the Publications Division. The positions eliminated are: -3.00

60008653 Public Information Assistant V ($35,971)
60008654 Public Information Assistant ($38,402)
60094565 Editorial Assistant ($35,326)

Total Legislative Changes	**($22,720)**	**R**
Total Position Changes	-5.00	
Revised Budget	**$11,552,463**	

Senate Subcommittee on General Government

(13.0) Lieutenant Governor

GENERAL FUND

	FY 14-15	
Total Budget Enacted 2013 Session	**$675,089**	
Legislative Changes		
Reserve for Salaries & Benefits		
49 **Compensation Increase Reserve** Provides a $1,000 annual recurring salary and benefit increase ($809 salary increase) for permanent full-time employees.	$6,001	R
50 **State Retirement System Contributions** Increases the State's contribution to the Teachers' and State Employees' Retirement System to fund the Annual Required Contribution and provide a 0.8% cost-of-living adjustment to retirees. Total General Fund appropriation across all sections in the committee report is $37 million.	$1,872	R
Administration (1100)		
51 **Operating Expense Reductions** Reduces the budget for the following line items. Reduces in State ground transportation by 50%, leaving $1,500. Reduces in State lodging by 71%, leaving $1,229. Reduces in State meals by 84%, leaving $1,133. Reduces telephone services by 16%, leaving $5,096. Reduces food supplies by 83%, leaving $400.	($13,502)	R
Total Legislative Changes	**($5,629)**	R
Total Position Changes		
Revised Budget	**$669,460**	

(14.0) State Controller

GENERAL FUND

Total Budget Enacted 2013 Session	FY 14-15 $28,710,691	
Legislative Changes		
Reserve for Salaries & Benefits		
52 Compensation Increase Reserve Provides a $1,000 annual recurring salary and benefit increase ($809 salary increase) for permanent full-time employees.	$183,755	R
53 State Retirement System Contributions Increases the State's contribution to the Teachers' and State Employees' Retirement System to fund the Annual Required Contribution and provide a 0.8% cost-of-living adjustment to retirees. Total General Fund appropriation across all sections in the committee report is $37 million.	$49,588	R
Office of State Controller (1000)		
54 BEACON Hardware Provides nonrecurring funds to upgrade the computer systems that process the State's human resources and payroll functions.	$2,117,205	NR
55 IBM Cognos DSS Contract Increase Provides funds for a software license fee increase. Cognos Decision Support System is a data warehouse of financial transactions.	$100,000	R
56 Maintenance for the Cash Management System Provides funds for ongoing maintenance of the Cash Management System.	$180,821	R
57 Oracle DSS Contract Increase Provides funds to pay for the increase in Oracle software licensing fees.	$21,000	R

58	**Operating Budget Reductions** Reduces budgeted line items for communication and data processing accounts to bring them in line with prior year actual expenditures, leaving $1,702,770 for these purposes.	($520,086)	R
59	**Personnel Reductions** Eliminates 3.75 filled and one vacant positions. The positions eliminated are:	($531,783) -4.75	R

60087099 Financial/Business Systems Manager ($111,320)
60087082 (.75 Full Time Equivalent) Administrative Assistant ($41,328)
60087181 Deputy State Controller ($115,298)
60087105 Business and Technology Application Specialist ($95,165)
60087116 Support Services Supervisor ($40,632)

Total Legislative Changes	**($516,705)**	R
	$2,117,205	NR
Total Position Changes	-4.75	
Revised Budget	**$30,311,191**	

Federal Insurance Contribution Act (FICA) Savings

Budget Code: 24160

	FY 2014-15	
Beginning Unreserved Fund Balance	**$21,062,088**	
Recommended Budget		
Requirements	**$4,317,261**	
Receipts	**$0**	
Positions	**0.00**	
Legislative Changes		
Requirements:		
Federal Insurance Contribution Act (FICA) Savings	$0	R
Transfers $5,255,000 in FY 2014-15 to general availability.	$5,255,000	NR
	0.00	
Subtotal Legislative Changes	**$0**	R
	$5,255,000	NR
	0.00	
Receipts:		
Federal Insurance Contribution Act (FICA) Savings	$0	R
	$0	NR
Subtotal Legislative Changes	**$0**	R
	$0	NR

	FY 2014-15
Revised Total Requirements	**$9,572,261**
Revised Total Receipts	**$0**
Change in Fund Balance	**($9,572,261)**
Total Positions	**0.00**
Unappropriated Balance Remaining	**$11,489,827**

(15.0) Administration

GENERAL FUND

Total Budget Enacted 2013 Session	FY 14-15 $67,047,033

Legislative Changes

Reserve for Salaries & Benefits

60 Compensation Increase Reserve Provides a $1,000 annual recurring salary and benefit increase ($809 salary increase) for permanent full-time employees.	$469,030	R
61 State Retirement System Contributions Increases the State's contribution to the Teachers' and State Employees' Retirement System to fund the Annual Required Contribution and provide a 0.8% cost-of-living adjustment to retirees. Total General Fund appropriation across all sections in the committee report is $37 million.	$95,727	R

Agency Wide

62 Vacant Positions Eliminates ten full time equivalent positions and benefits throughout the Department of Administration that have been vacant for more than a year. The positions are as follows:	($586,352) -10.00	R

65015255 Engineering/Architectural Technician $40,000
60014820 Building & Environmental Technician (0.25 FTE) $33,515
60014768 Facility Maintenance Tech - Bldg. Trades $39,915
60013897 Contract Specialist II $52,467
60013862 Attorney $57,566
65015257 Administrative Officer III $24,000
60013923 Administrative Assistant I I (0.75 FTE) $24,001
60014242 Processing Assistant IV $32,796
60014704 Maintenance Mechanic V $35,926
60013870 Strategic Sourcing Specialist II $65,000
60014218 W/A Processing Assistant IV $31,470

63 Operations Reductions and Efficiency ($184,451) R

Reduces operating budgets throughout divisions within the Department to more closely reflect actual expenditures and to achieve efficiencies. The Divisions impacted are as follows:

1121 - Fiscal Management:	$22,900
1122 - Human Resources:	$11,818
1123 - Historically Underutilized Business:	$12,727
1241 - Management Information Systems:	$16,341
1411 - State Construction:	$43,704
1412 - State Property:	$17,749
1511 - Purchase and Contract:	$59,212

Facilities Management (1421)

64 Janitorial Services Contract ($300,000) R

Reduces the janitorial services contract (532184) by 11% to more closely reflect actual expenditures leaving $2,206,823.

65 Utilities Expenditures ($1,224,000) R

Reduces the appropriation for utilities within the Department (5322XX) by 8%to more closely reflect actual expenditures leaving $13,247,559.

Office of State Human Resources

66 Position Elimination ($71,193) R

Eliminates a position within Office of State Human Resources identified in the voluntary reduction in force project. -1.00

Office of State Human Resources (1311)

67 Operations Reduction - Agency Wide ($71,175) R

Reduces funds appropriated for operations. There remains approximately $7 million for Office of State Human Resources' operations.

State Ethics Commission (1810)

68 Operating Expense Reductions ($12,865) R

Reduces line items for information technology expenditures, printing expenses, and office supplies. The total operating reduction is 11% and leaves $105,281 in operating funds.

Veterans Affairs (1771)

69	**Aid to County Veterans Services Offices** Eliminates the grant in aid program to county governments for the provision of veterans' services.	($138,000)	R

Veterans Home Program (1772)

70	**Veterans Homes Building Reserves** Appropriates funds from the State Veteran's Trust Fund to fully operate the two recently opened State Veterans Homes in Black Mountain and Kinston. The additional amount appropriated from the Trust Fund is $18,268,588 which brings the total operating budget for the Homes to $42,056,930 for FY 2014-15.		

Total Legislative Changes	**($2,023,279)**	R
Total Position Changes	-11.00	
Revised Budget	**$65,023,754**	

NC Veterans Trust Fund

Budget Code: 64106

	FY 2014-15
Beginning Unreserved Fund Balance	**$23,038,009**
Recommended Budget	
Requirements	**$23,788,342**
Receipts	**$23,785,816**
Positions	**0.00**

Legislative Changes

Requirements:

State Veterans Homes	$18,268,588	R
Appropriates funds to fully operate the two recently opened state Veterans Homes in Black Mountain and Kinston.	$0	NR
	0.00	
Subtotal Legislative Changes	**$18,268,588**	R
	$0	NR
	0.00	

Receipts:

State Veterans Homes	$18,268,588	R
Increases receipts to reflect the recently opened State Veterans Homes in Black Mountain and Kinston	$0	NR
Subtotal Legislative Changes	**$18,268,588**	R
	$0	NR

	FY 2014-15
Revised Total Requirements	**$42,056,930**
Revised Total Receipts	**$42,054,404**
Change in Fund Balance	**($2,526)**
Total Positions	**0.00**
Unappropriated Balance Remaining	**$23,035,483**

State Parking System

Budget Code: 74103

	FY 2014-15	
Beginning Unreserved Fund Balance	**$1,691,613**	
Recommended Budget		
Requirements	**$1,835,325**	
Receipts	**$1,835,722**	
Positions	**14.75**	

Legislative Changes

Requirements:

State Parking Fund	$800,000	R
Increases receipts to actual required amounts for the purposes of improving facility maintenance and repairs as well as security upgrades.	$0	NR
	0.00	
Subtotal Legislative Changes	**$800,000**	R
	$0	NR
	0.00	

Receipts:

State Parking Correction	$800,000	R
Budgets receipts to actual.	$0	NR
Subtotal Legislative Changes	**$800,000**	R
	$0	NR

	FY 2014-15
Revised Total Requirements	**$2,635,325**
Revised Total Receipts	**$2,635,722**
Change in Fund Balance	**$397**
Total Positions	**14.75**
Unappropriated Balance Remaining	**$1,692,010**

Department of Administration Special Fund

Budget Code: 7100-7211

	FY 2014-15	
Beginning Unreserved Fund Balance	**$45,453,806**	
Recommended Budget		
Requirements	**$40,799,693**	
Receipts	**$46,491,012**	
Positions	**48.00**	

Legislative Changes

Requirements:

Motor Fleet Management	$10,979,483	R
Appropriates receipts from the Motor Fleet Management Fund to bring the State Fleet Replacement schedule closer to the industry standard. The funds will be used to purchase 800 to 1,000 additional vehicles per year.	$0	NR
	0.00	
Subtotal Legislative Changes	**$10,979,483**	R
	$0	NR
	0.00	

Receipts:

Motor Fleet Management	$10,979,483	R
Budgets receipts to actual.	$0	NR
Subtotal Legislative Changes	**$10,979,483**	R
	$0	NR

	FY 2014-15
Revised Total Requirements	**$51,779,176**
Revised Total Receipts	**$57,470,495**
Change in Fund Balance	**$5,691,319**
Total Positions	**48.00**
Unappropriated Balance Remaining	**$51,145,125**

Temporary Solutions

Budget Code: 7100-7511

	FY 2014-15	
Beginning Unreserved Fund Balance	**($3,954,660)**	
Recommended Budget		
Requirements	**$22,234,149**	
Receipts	**$22,434,444**	
Positions	**7.50**	

Legislative Changes

Requirements:

Temporary Solutions - Budget Adjustment Increases the requirements for the operations of Temporary Solutions. Executive Order #4 required State agencies to utilize Temporary Solutions for their temporary employment needs; therefore, the budget has increased due to the increased usage of this service.	$21,918,668 $0 0.00	R NR
Subtotal Legislative Changes	**$21,918,668** **$0** 0.00	R NR

Receipts:

Temporary Solutions Increases the receipts for Temporary Solutions resulting from increased revenues due to Executive Order #4.	$21,918,668 $0	R NR
Subtotal Legislative Changes	**$21,918,668** **$0**	R NR

	FY 2014-15
Revised Total Requirements	**$44,152,817**
Revised Total Receipts	**$44,353,112**
Change in Fund Balance	**$200,295**
Total Positions	**7.50**
Unappropriated Balance Remaining	**($3,754,365)**

(16.0) Housing Finance Agency

GENERAL FUND

Total Budget Enacted 2013 Session	FY 14-15 $8,411,632	
Legislative Changes		
HOME Match (1100)		
71 **HOME Match** Reduces the State match for the federal HOME Program by 2%. The General Fund appropriation for FY 2014-15 is $1,458,649.	($29,678)	R
Housing Trust Fund (1100)		
72 **Workforce Housing Loan Program** Appropriates funds to the Housing Trust Fund in order to create a Low Income Housing Loan program to assist in the development of low income housing units throughout the State.	$10,000,000	NR
73 **Housing Trust Fund** Reduces the General Fund appropriation to the Housing Trust Fund by 2%. For FY 2014-15, the General Fund appropriation to the Housing Trust Fund is $6,860,000.	($140,000)	R
Total Legislative Changes	**($169,678)** **$10,000,000**	**R** **NR**
Total Position Changes		
Revised Budget	**$18,241,954**	

(17.0) Office of Administrative Hearings

GENERAL FUND

	FY 14-15	
Total Budget Enacted 2013 Session	**$5,027,130**	
Legislative Changes		
Reserve for Salaries & Benefits		
74 **Compensation Increase Reserve** Provides a $1,000 annual recurring salary and benefit increase ($809 salary increase) for permanent full-time employees.	$45,011	R
75 **State Retirement System Contributions** Increases the State's contribution to the Teachers' and State Employees' Retirement System to fund the Annual Required Contribution and provide a 0.8% cost-of-living adjustment to retirees. Total General Fund appropriation across all sections in the committee report is $37 million.	$11,621	R
Administration (1100)		
76 **Operating Reduction** Reduces various operating line items within the Office to more closely reflect actual expenditures. The following line items are reduced: Maintenance Agreements/Service Contracts (532499), Intangible Assets(5347XX), Postage/Freight/Delivery (532840). The operating reduction reflects a 1% decrease to the Office, leaving $2,999,244.	($32,111)	R
Total Legislative Changes	**$24,521**	R
Total Position Changes		
Revised Budget	**$5,051,651**	

(18.0) Treasurer

GENERAL FUND

Total Budget Enacted 2013 Session	FY 14-15	
	$7,026,305	
Legislative Changes		
Reserve for Salaries & Benefits		
77 Compensation Increase Reserve Provides a $1,000 annual recurring salary and benefit increase ($809 salary increase) for permanent full-time employees.	$37,409	R
78 State Retirement System Contributions Increases the State's contribution to the Teachers' and State Employees' Retirement System to fund the Annual Required Contribution and provide a 0.8% cost-of-living adjustment to retirees. Total General Fund appropriation across all sections in the committee report is $37 million.	$9,856	R
Financial Operations (1510)		
79 Operating Reduction Reduces budgeted Computer and Data Processing (532821) expenditures to more closely reflect actual expenditures.	($70,662)	R
Investments (1510)		
80 Investments Internalization Provides funds to the Investments Division to internalize a variety of investments currently managed by external fund managers. The appropriation will provide funding to hire five Portfolio Managers and seven Investment Analysts to manage investments for global equity, private equity, credit strategies, real estate, and inflation protection. There is also additional funding for software licenses and employee related expenses.	$1,920,597 $62,328 12.00	R NR

Total Legislative Changes	**$1,897,200**	**R**
	$62,328	**NR**
Total Position Changes	12.00	
Revised Budget	**$8,985,833**	

(19.0) Fire Rescue Nat Guard Pensions & LDD Benefits

GENERAL FUND

Total Budget Enacted 2013 Session	FY 14-15
	$23,179,042

Legislative Changes

Firefighters' Pension Fund (1412)

81 General Fund Contribution ($696,253) R

Reduces the General Fund contribution to match the Annual Required Contribution to the Firefighters' and Rescue Squad Workers' Pension Fund. The reduction reflects changes that allow distributions at age 55 regardless of pay status. The payment of these pension benefits is made pursuant to Article 86 of G.S. 58, as amended in a special provision. The amount of the recurring General Fund contribution is $13,319,481.

National Guard (1414)

82 General Fund Contribution ($1,747,897) R

Reduces the General Fund contribution to the National Guard Pension Fund to match the Annual Required Contribution. The payment of these pension benefits is made pursuant to G.S. 127A-40. The amount of the recurring General Fund contribution to the fund is $5,259,546.

Rescue Squad (1413)

83 General Fund Contribution ($30,346) R

Reduces the General Fund contribution to match the Annual Required Contribution to the Rescue Squad Workers' Pension Fund. The reduction reflects changes that allow distributions at age 55 regardless of pay status. The payment of these pension benefits is made pursuant to Article 86 of G.S. 58, as amended in a special provision. The amount of the recurring General Fund contribution is $580,519.

Total Legislative Changes	**($2,474,496)**	R
Total Position Changes		
Revised Budget	**$20,704,546**	

TRANSPORTATION
Section K

Highway Fund

HIGHWAY FUND

	FY 14-15
Total Budget Enacted 2013 Session	**$1,916,310,500**

Legislative Changes

Adjustments to Availability

1 Revenue Adjustment

Repeals the Motor Fuels Tax refund for taxicabs in G.S. 105-449.106(b), effective on January 1, 2015, increasing revenue availability by $69,188 in FY 2014-15.

2 Intermodal Division Balances

Transfers $12,000,000 of the unallotted and unexpended balance of funds within the intermodal divisions to the Pavement Preservation Program.

3 Shallow Draft Navigation Channel and Lake Dredging Fund

Reduces Highway Fund revenue availability to reflect a one-time transfer of $1,677,134 to the Shallow Draft Navigation Channel and Lake Dredging Fund.

Administration

4 Division Cuts ($1,705,907) R

Reduces the Communications, Strategic Planning Office, Office of Inspector General, Financial Management, Information Technology, and Facilities Management programs by 2% of the certified 2014-15 budgets for these programs, as recommended in the Governor's Budget. The cuts include $1,705,907 to the Highway Fund and $10,130 in receipts.

Divisional adjustments are enumerated below:

Communications Division (Fund Code 84210-0002): $29,957
Strategic Planning Office (Fund Code 84210-1096): $3,958
Office of Inspector General (Fund Code 84210-7011): $39,353
Financial Management Division (Fund Code 84210-7020): $149,903
Information Technology Division (Fund Code 84210-7025): $1,091,183
Facilities Management Division (Fund Code 84210-7030): $401,683

5 Division of Highways Administration Cuts

Reduces the Intergovernmental Affairs, Program Development, Technical Services, Transportation Planning, and Transportation Mobility and Safety programs by 2% of the certified 2014-15 budgets for these programs, as recommended in the Governor's Budget. The cuts include $198,056 to receipts.

Divisional adjustments are enumerated below:

Intergovernmental Affairs (Fund Code 84210-1078/1129): $13,878
Program Development Division (Fund Code 84210-1256): $15,266
Technical Services Division (Fund Code 84210-7153): $110,738
Transportation Planning Program (Fund Code 84210-7070): $4,000
Transportation Mobility and Safety Division (Fund Code 84210-0149): $54,174

6 Financial Management ($4,200,000) R

Reduces funding for the Financial Management Division (Fund Code 84210-7020) by $4,200,000 to realign the budget to reflect actual spending. Budgeted funds total $5,688,248 in FY 2014-15.

7 Governance Office ($424,545) R

Eliminates one vacant support staff position in the Governance Office (Fund Code 84210-1104) that has been vacant less than 180 days. -5.00
Eliminates four positions, of which three are filled positions, and associated costs previously associated with the Quality Enhancement Unit.

Position	Title	Total Position Cost
60015422	Management Engineer II	$96,657
60015416	Business Systems Analyst	$110,260
60015423	Management Engineer I	$82,516
60015420	Management Engineer I (vacant)	$84,840
60027692	Administrative Assistant I (vacant)	$50,272

8 Occupational Safety & Health Program (OSHA) ($7,307) R

Reduces funding for the OSHA Program (Fund Code 84210-7832), as recommended in the Governor's budget. The program provides funding to address safety deficiencies that impact the workplace environment. Eligible projects include mitigation of deficiencies discovered in routine inspections by OSHA, building code, or health code inspectors and employee safety training. This $7,307 reduction represents a 2.0% adjustment to the certified 2014-15 budget for this program. Budgeted funds total $358,030 in FY 2014-15.

9 Secretary's Office ($300,365) R

Eliminates one full-time filled position in the Secretary's Office (Fund Code 84210-0007) and two vacant positions that have been vacant less than 180 days. -3.00

Position	Title	Total Position Cost
60014914	Federal Legislative Programs Coord	$180,669
60014929	Processing Asst V (vacant)	$46,095
60015792	Administrative Officer I (vacant)	$73,601

10 Vacant Position Eliminations ($1,483,664) R

Eliminates 21 vacant administrative positions and 270 vacant positions assigned to equipment and field units which have been vacant for 180 days or longer. Estimated recurring savings total $1,483,664. -21.00

Aid to Municipalities

11 State Aid to Municipalities $9,453,990 R

Appropriates additional funding for the Aid to Municipalities program based on revised projections for motor fuels tax consumption in accordance with G.S. 136-41.1. Budgeted funds total $146,328,000 in FY 2014-15.

Construction

12 Economic Development Program Fund

Eliminates all funding for the Economic Development Program (Fund Code 84210-7838). ($4,036,171) NR

Division of Motor Vehicles

13 Credit/Debit Transaction Payments ($3,707,308) R

Realigns funding for payments to card vendors for credit/debit transactions based on actual transaction rates and the deployment of point-of-sale capability to driver license offices. Funding for Vehicle Services (Fund Code 84210-7055) is reduced by $3,707,308 recurring, a 28.0% adjustment to the certified 2014-15 budget for this line item. Funding for Driver Services (Fund Code 84210-0049) is reduced by $648,879 nonrecurring, a 46.9% adjustment to the certified 2014-15 budget for this line item. ($648,879) NR

14 Title Conversion Fees ($30,000) R

Budgets anticipated net receipts from the authorized $3.00 fee for the conversion of paper titles under the Electronic Lien and Titling system required pursuant to G.S. 20-58.4A.

15 License and Identification Card Costs $1,585,443 R

Increases funding for the production of new format driver license and identification cards issued by the Division of Motor Vehicles, as recommended in the Governor's budget. This $1,585,443 increase to Driver Services (Fund Code 84210-0049) represents a 36.2% adjustment to the certified 2014-15 budget for this line item.

16 Medical Review Unit $350,000 R

Increases funding for contractual physician case reviews and Medical Review Board hearings, as recommended in the Governor's budget. This $350,000 increase represents a 0.7% adjustment to the certified 2014-15 budget for Driver Services (Fund Code 84210-0049).

17 Ignition Interlock Program $617,495 R

$46,450 NR

10.00

Increases funding to establish a stand-alone Ignition Interlock Unit, as recommended in the Governor's budget. This $663,945 increase represents an 8.4% adjustment to the certified 2014-15 budget for the Commissioner's Office.

Governor's Highway Safety Program

18 Governor's Highway Safety Program ($5,699) R

Reduces the Governor's Highway Safety Program (Fund Code 84210-0042) administrative budget for car mileage reimbursement by $11,398, including $5,699 in receipts, as recommended in the Governor's Budget. Budgeted funds for the program total $279,233 in FY 2014-15.

Information Technology

19	**SOA Governance and Competency Center** Provides funds to establish enterprise-level Service Oriented Architecture (SOA) Governance to support the design, development and deployment of products and services as part of the Division of Motor Vehicle Modernization effort and other ongoing initiatives, as recommended in the Governor's budget. The Department will also establish an SOA competency center to retrain existing technical resources and develop the new technologies to be delivered via modernization. This $3,000,000 funding increase represents a 5.6% adjustment to the certified 2014-15 budget for the Information Technology Division.	$640,000 $2,360,000	R NR
20	**Modernization of Driver Services** Increases funding to advance Phase 3 of the State Automated Driver License System replacement project, supplementing $5.3 million of available funding from current appropriations for the modernization initiative in FY 2014-15. This $3,024,503 funding increase represents a 5.6% adjustment to the certified 2014-15 budget for the Information Technology Division.	$3,024,503	NR
21	**Online License Renewal** Provides $475,000 nonrecurring to develop an online renewal capability for Driver Services. This $475,000 funding increase represents a 0.9% adjustment to the certified 2014-15 budget for the Information Technology Division.	$475,000	NR
22	**Hearing Fee Implementation** Provides $256,000 nonrecurring for web application development to facilitate the future implementation of hearing fees. This $256,000 funding increase represents a 0.5% adjustment to the certified 2014-15 budget for the Information Technology Division.	$256,000	NR
23	**DMV Service Initiatives** Provides additional Information Technology (IT) staffing for the State Automated Driver License System (SADLS) and State Titling and Registration System (STARS) project teams, as recommended in the Governor's budget. Four (4.00) additional positions are authorized for the SADLS project team and three (3.00) additional positions are authorized for the STARS project team. This $830,707 funding increase represents a 1.5% adjustment to the certified 2014-15 budget for the Information Technology Division.	$830,707 7.00	R

24 Channel Strategy Development $1,800,000 R

Provides funding to design, develop and deploy tools, applications, solutions and systems for internal and external users, as recommended in the Governor's budget. This $1,800,000 funding increase represents a 3.3% adjustment to the certified 2014-15 budget for the Information Technology Division.

25 Card Payment Operation and Maintenance $1,032,919 R

Provides funding for maintenance, licensing costs, and required Payment Card Industry (PCI) Data Security Standards associated with the acceptance of credit cards, as recommended in the Governor's budget. This $1,032,919 funding increase represents a 1.9% adjustment to the certified 2014-15 budget for the Information Technology Division.

Intermodal

26 Aviation, Rail, Public Transportation, and Ferry Operating Reductions ($6,726,408) R

Reduces operating and grant funding for the Divisions of Aviation, Rail, Public Transportation, Ferry, and Bicycle and Pedestrian Transportation. Recurring reductions total $6,726,407, a 4.0% adjustment to the certified 2014-15 budgets for these programs. Funds allocated for grants for transportation services associated with the High Point Furniture Market are exempt from this reduction.

Divisional adjustments are enumerated below:

Aviation Division (Fund Code 84210-7830): $800,000
Rail Division (Fund Code 84210-7829): $960,325
Public Transportation Division (Fund Code 84210-7831): $3,393,723
Ferry Division (Fund Code 84210-7825): $1,542,317
Bicycle & Pedestrian Division (Fund Code 84210-0035): $30,043

27 Division of Aviation - Executive Passenger Program ($8,452) R

Reallocates operating and maintenance funding attributed to the Sikorsky S-76C+ helicopter and eliminates one vacant Pilot position (60080839), as recommended in the Governor's budget. Of the $158,452 in savings, $150,000 is reserved for contractual passenger service. -1.00

Maintenance

28 Pavement Preservation Program $80,824,381 R

Establishes funding for the Pavement Preservation Program.

29 Primary System ($6,678,148) R

Reduces funding for Primary System Maintenance Program, as recommended in the Governor's budget. Budgeted funds total $140,845,060 in FY 2014-15.

30 Secondary System ($10,709,290) R

Reduces funding for the Secondary System Maintenance Program, as recommended in the Governor's budget. Budgeted funds total $262,872,935 in FY 2014-15.

Reserves

31 Reserve for Compensation Increases $7,516,510 R

Provides a $1,000 recurring salary and benefit increase ($809 salary increase) for permanent full-time employees.

32 State Retirement System Contributions $1,220,000 R

Increases the State's contribution to the Teachers' and State Employees' Retirement System to fund the Annual Required Contribution and provide a 0.8% cost-of-living adjustment to retirees.

33 State Health Plan ($1,050,000) R

Reduces the reserve for health benefit coverage for enrolled active and retired employees supported by the Highway Fund to reflect zero premium increase at January 1, 2015.

34 Disability Income Plan ($98,700) R

Reduces contributions to the Disability Income Plan for FY 2014-15 to match the Annual Required Contribution.

35 Reserve for Future Benefit Needs ($1,745,000) R

Eliminates the Highway Fund reserve for future benefit needs.

Transfers

36	**Global TransPark** Reduces the operating transfer to the Global TransPark Authority by $250,000, a 25% adjustment to the certified 2014-15 budget.	($250,000)	R
37	**Governor's Office** Eliminates an $80,000 transfer from the Governor's Office used to pay a portion of the salary for Position No. 60014914. This position is eliminated in Item 9.	($80,000)	R
38	**Department of Public Instruction - Driver Education** Converts funding to nonrecurring and adjusts the transfer from the Highway Fund to the Department of Public Instruction based on the forecast ninth-grade Average Daily Membership (ADM) for the 2014-15 school year.	($26,682,132) $26,376,131	R NR

Total Legislative Changes	**$39,978,520**	R
	$27,853,034	NR
Total Position Changes	-13.00	
Revised Budget	**$1,984,142,054**	

Highway Trust Fund

	HIGHWAY TRUST FUND
	FY 14-15
Total Budget Enacted 2013 Session	**$1,105,400,000**

Legislative Changes

Adjustments to Availability

39 Revenue Adjustments

Raises the Highway Use Tax caps in G.S. 105-187.3 to phase in a higher cap for certificates of title issued for a Class A or Class B motor vehicle that is a commercial vehicle (currently set at $2,000) and for recreational vehicles (currently set at $1,500). The caps increase to $2,000 on January 1, 2015 and to $3,000 on July 1, 2015.

Raises the Highway Use Tax cap in G.S. 105-187.6(c) on out-of-state vehicles from $150 to $250, effective October 1, 2014.

Repeals the Motor Fuels Tax refund for taxicabs in G.S. 105-449.106(b), effective January 1, 2015.

These changes increase revenue availability by $5,691,890 in FY 2014-15.

Administration

40 Administration ($11,000,000) R

Reduces funding for Highway Trust Fund administration by $11,000,000 to realign the budget to reflect actual spending. Budgeted funds total $34,590,880 in FY 2014-15.

Construction

41 Strategic Transportation Investments $73,661,890 R

Increases funding for Strategic Transportation Investments to $1,023,763,562 in FY 2014-15.

Total Legislative Changes	$62,661,890	R
Total Position Changes		
Revised Budget	**$1,168,061,890**	

Turnpike Authority

Budget Code: 64208

	FY 2014-15	
Beginning Unreserved Fund Balance	**$0**	
Recommended Budget		
Requirements	**$88,725,718**	
Receipts	**$88,725,718**	
Positions	**20.00**	

Legislative Changes

Requirements:

Administration Reduces funding for the Turnpike Authority administration budget by $42,601, as recommended in the Governor's budget. Budgeted funds to the Turnpike Authority total $1,442,878 in FY 2014-15.	($42,601) $0 0.00	R NR
Subtotal Legislative Changes	**($42,601)** **$0** 0.00	R NR

Receipts:

Administration Reduces associated receipts for Turnpike Authority administration.	($42,601) $0	R NR
Subtotal Legislative Changes	**($42,601)** **$0**	R NR

	FY 2014-15
Revised Total Requirements	$88,683,117
Revised Total Receipts	$88,683,117
Change in Fund Balance	$0
Total Positions	20.00
Unappropriated Balance Remaining	$0

RESERVES/ DEBT SERVICE/ ADJUSTMENTS

Section L

Senate Committee on Appropriations/Base Budget

Statewide Reserves

	GENERAL FUND
	FY 14-15
Total Budget Enacted 2013 Session	**$1,054,616,158**

Legislative Changes

A. Employee Benefits

1	**Reserve for Future Benefit Needs** Eliminates the General Fund Reserve for Future Benefit Needs.	($56,400,000)	R
2	**State Health Plan** Reduces the reserve for health benefit coverage for enrolled active and retired employees supported by the General Fund to reflect a zero premium increase as of January 1, 2015.	($22,000,000)	R
3	**Disability Income Plan** Reduces contributions to the Disability Income Plan for FY 2014-15 to match the Annual Required Contribution.	($3,200,000)	R

B. Other Reserves

4	**Information Technology Reserve** Continues funding of $19,921,393 to upgrade, simplify, and modernize the State's IT operations and internal infrastructure. This includes replacing obsolete computers and applications and ensuring State agencies are meeting IT security requirements.	($2,043,607) ($9,617,485) 0.00	R NR
5	**Information Technology Fund** Maintains funding of $7,416,816 to support the Office of the State Chief Information Officer and statewide information technology projects. Additional funding of $3.5 million is provided to the Government Data Analytics Center (GDAC) to improve fraud detection. An additional $1,129,488 is provided for the Criminal Justice Law Enforcement Automated Data System (CJLEADS) to support law enforcement and the Administrative Office of the Courts.	$2,493,162 $3,510,000 0.00	R NR
6	**Job Development Investment Grant (JDIG) Reserve** Decreases funding for the JDIG Reserve to align funding with needs for FY 2014-15. Combined with available cash balance, total funds appropriated for FY 2014-15 will be $54,024,000.	($15,571,684)	NR
7	**One North Carolina Fund** Decreases funding for the One NC Fund to align funding with needs for FY 2014-15. Combined with available cash balance, total funds appropriated for FY 2014-15 will be $11,402,677.	($7,144,263)	NR

C. Debt Service

8	**Debt Service Savings** Decreases debt service to reflect the authorization of Two-Thirds bonds to replace existing authorized but unissued special indebtedness.	($200,000)	R
9	**Debt Service Increase** Increases debt service to reflect the authorization of Two-Thirds bonds to construct the Western Crime Lab.	$1,300,000	R
10	**Debt Service Adjustment** Adjusts debt service appropriations based on updated cash flow requirements.	($9,340,916)	NR

Total Legislative Changes	**($80,050,445)**	R
	($38,164,348)	NR
Total Position Changes	0.00	
Revised Budget	**$936,401,365**	

State Health Plan (Administration)

Budget Code: 23450

	FY 2014-15	
Beginning Unreserved Fund Balance		
Recommended Budget		
Requirements	**$212,151,548**	
Receipts	**$212,151,548**	
Positions	**46.00**	
Legislative Changes		
Requirements:		
Medical Benefits Administration Contracts (2A25)	$10,150,000	R
Adjusts the budgeted amounts for Third Party Administrative Services contracts to reflect revised estimates.	$0	NR
	0.00	
Agency Administration (2A10)	$2,650,000	R
Adjusts the budgeted amounts for the Plan's other administrative costs to reflect revised estimates.	$0	NR
	0.00	
Subtotal Legislative Changes	**$12,800,000**	R
	$0	NR
	0.00	
Receipts:		
Adjust Transfers from Trust Funds	$12,800,000	R
Adjusts the amount of transfer from the Plan's health benefit trust fund budget codes to support administrative costs authorized for FY 2014-15.	$0	NR
Subtotal Legislative Changes	**$12,800,000**	R
	$0	NR

	FY 2014-15
Revised Total Requirements	**$224,951,548**
Revised Total Receipts	**$224,951,548**
Change in Fund Balance	**$0**
Total Positions	**46.00**

Unappropriated Balance Remaining

CAPITAL
Section M

Senate Committee on Appropriations/Base Budget

Capital

	GENERAL FUND
	FY 14-15
Total Budget Enacted 2013 Session	$8,423,000

Legislative Changes

A. Department of Agriculture and Consumer Services

1 McGough Arena Roof Repair
Provides funding to repair the roof of the McGough Arena located at the Western North Carolina Agricultural Center. Any unexpended funds from this project may be used for other repair and renovation projects located on the State Fair Grounds. $2,000,000 NR

B. Department of Cultural Resources

2 U.S.S. North Carolina Battleship
Appropriates funds to repair the U.S.S. North Carolina Battleship's hull. The funds will match non-State funds. The total estimated cost of the project is $13 million. $3,000,000 NR

C. Department of Environment and Natural Resources

3 Water Resource Development Projects
Provides funds for the State's share of Water Resource Development Projects. State funds will match $9.65 million in federal funds and $1.47 million in local funds. The projects are specified in a special provision. $5,810,000 NR

D. Office of State Budget and Management

4 Outer Banks Land Management Reserve
Creates a reserve to be used for Oregon Inlet land purchases. Funds shall remain in the reserve and shall not be released until the federal government enters into an agreement to sell land on, or near Oregon Inlet. $3,000,000 NR

5 Museum of History Expansion
Appropriates funds to the Museum of History to plan an expansion, renovation, and exhibit development for the Museum of History in Raleigh. Funds are to match non-State funds. The total amount appropriated is $2 million, of which $1 million is from the General Fund. There is an accompanying special provision detailing the requirements of the State General Fund appropriation. The estimated total cost of the project is $45.2 million. $1,000,000 NR

E. Two-Thirds Bonds

6 Bond Reauthorization
Reauthorizes $206 million of authorized but unissued special indebtedness with Two-Thirds Bonds.

7 **Department of Justice - Western Crime Lab**
Authorizes the issuance of Two-Thirds Bonds for the purpose of constructing the Western Crime Lab in Edneyville, NC, as planned in S.L. 2012-142 and S.L. 2013-360. The total amount of debt authorized is $15.4 million.

Total Legislative Changes	**$14,810,000**	**NR**
Total Position Changes		
Revised Budget	**$23,233,000**	

INFORMATION TECHNOLOGY SERVICES
Section N

Information Technology Fund

Budget Code: 24667

	FY 2014-15
Beginning Unreserved Fund Balance	**$3,909,023**
Recommended Budget	
Requirements	**$10,470,657**
Receipts	**$10,472,857**
Positions	**31.00**

Legislative Changes

Requirements:

Criminal Justice Information Network (2705) Maintains funding of $189,563 for the Criminal Justice Information Network (CJIN). The CJIN is a statewide criminal justice infrastructure that allows the sharing of information between State and local criminal justice agencies.	$0 $0 0.00	R NR
Center for Geographic Information and Analysis Maintains funding of $495,338 for the Center for Geographic Information and Analysis (CGIA) (Fund Code 2715), the lead agency for geographic information systems (GIS) services and GIS coordination for North Carolina, providing GIS services to State and local governments. On a nonrecurring basis, transfers $3,266,157 from two Department of Commerce Small Business Loan disaster accounts to support Light Detecting and Ranging (LiDAR) (Fund Codes 2959 and 2966) topological mapping. Transfers the Geodetic Survey function (Fund Code 1511) from the Division of Emergency Management to the Office of the State Chief Information Officer, along with associated funding of $852,492. Transfers the Office of Geospatial and Technology Management (GTM) (Fund Code 1504) of the Division of Emergency Management to the Office of the State Chief Information Officer. GTM is primarily receipt-supported and includes floodplain mapping. The total certified budget for GTM for 2014-2015 is: Receipts $30,944,903 General Fund $ 6,002 Total Requirements $30,950,905	$858,494 $3,266,157 12.67	R NR

	FY 2014-15	
Enterprise Security Risk Management Office (2720)	$0	R
Maintains funding of $864,148 for Enterprise Security Risk Management. The Enterprise Security and Risk Management Office (ESRMO) is responsible for the development, delivery and maintenance of an information security and risk management program that safeguards the State's information assets and the supporting infrastructure against unauthorized use, disclosure, modification, damage, or loss.	$0	NR
	0.00	
Enterprise Project Management Office (2740)	$0	R
Maintains funding of $1,473,285 for the Enterprise Project Management Office (EPMO). The EPMO was established to improve the management of IT projects in State government.	$0	NR
	0.00	
Architecture and Engineering (2750)	$0	R
Maintains funding of $851,986 for the Office of Enterprise Architecture. The Office acts as a strategic planner and architect for the State's IT programs and is responsible for formulating and advancing a vision for those programs.	$0	NR
	0.00	
State Portal (2760)	$1,363,674	R
Provides $1,588,415 to support the State Chief Information Officer's internal development of a fully functional State portal, continuing funding of $224,741 to maintain the current web site and adding $1,363,674 to begin development of a portal.	$0	NR
	0.00	
Enterprise Licenses (2780)	$0	R
Maintains funding of $33,000 to support enterprise license agreements. Enterprise license agreements support multiple agencies' IT projects and applications.	$0	NR
	0.00	
Consolidation (2790)	$0	R
Maintains funding of $1,021,081 for consolidation, allowing the State Chief Information Officer to work to centralize IT operations in the State.	$0	NR
	0.00	
Electronic Forms and Digital Signatures (2790)		R
Maintains $900,000 in funding for the State's effort to develop an enterprise electronic forms and digital signatures capability.	$0	NR
	0.00	

	FY 2014-15	
GDAC (2800, 2404, 2457, 2459)	$1,129,488	R
Increases funding from the Information Technology Fund by $5,000,000, or 53%, to $6,417,515 to continue the efforts of the Government Data Analytics Center (GDAC) and the North Carolina Financial Accountability and Compliance Technology System (NCFACTS) to develop an enterprise business intelligence capability. Included in the $5 million is $1.5 million in GDAC carryforward. It also includes an increase in recurring funding for the Criminal Justice Law Enforcement Automated Data System (CJLEADS) of $1,129,488 to support ongoing operations and allow the development of additional capabilities. In addition to funding from the IT Fund, GDAC receives an appropriation in the Office of the State Controller's budget. Total funding for GDAC operations from all funding sources in fiscal year 2014-2015 is anticipated to be $17,069,414.	$5,000,000	NR
	0.00	
Longitudinal Data System Board Staffing	$0	R
Provides funding of $5,000 for administrative support for the Longitudinal Data Board.	$5,000	NR
	0.00	
Unmanned Aircraft Systems (UAS) Board	$0	R
Establishes funding to support administrative requirements for the Unmanned Aircraft Systems (UAS) Board. The Board will oversee the procurement and operation of UAS in North Carolina.	$5,000	NR
	0.00	
Subtotal Legislative Changes	**$3,351,656**	R
	$8,276,157	NR
	12.67	

Receipts:

Interest	$2,200	R
Accounts for interest generated by the Information Technology Fund during FY 2013-14.	$0	NR

	FY 2014-15	
GDAC Funding (2404, 2457, 2459, 2800) Provides $5 million in nonrecurring funding from the IT Fund for the Government Data Analytics Center (GDAC) and the North Carolina Financial Accountability and Compliance Technology System (NCFACTS), an increase of 53%. This includes GDAC carryforward of $1.5 million. An additional $1,129,488 in recurring funding is provided for the Criminal Justice Law Enforcement Automated Data System (CJLEADS). All of this funding will be used to continue the State's efforts to develop an enterprise business intelligence capability.	$1,129,488 $5,000,000	R NR
Funding for State Portal (2760) Increases funding from $224,741 to $1,588,415 to support internal development of a statewide portal by the State Chief Information Officer.	$1,363,674 $0	R NR
Funding for Longitudinal Data Board Provides funding to support administrative requirements for the Longitudinal Data Board.	$0 $5,000	R NR
Unmanned Aircraft Systems (UAS) Board Provides funding for administrative requirements for the Unmanned Aircraft Systems Board.	$0 $5,000	R NR
LiDAR Topological Mapping (2959 and 2966) Transfers funding from two Department of Commerce small business loans disaster recovery funds to the Office of the State Chief Information Officer for Light Detecting and Ranging (LiDAR) topological mapping, providing a total of $3,266,157 for use by the Center for Geographic Information and Analysis.	$0 $3,266,157	R NR
Geodetic Survey Transfer (1511) Transfers funding for the Geodetic Survey function from the Division of Emergency Management to the Office of the State Chief Information Officer.	$852,492 $0	R NR
GTM Transfer (1504) Transfers the Office of Geospatial and Technology Management (GTM) to the Office of the State Chief Information Officer. GTM is primarily receipt-supported and includes floodplain mapping.	$6,002 $0	R NR
Subtotal Legislative Changes	**$3,353,856** **$8,276,157**	R NR

	FY 2014-15
Revised Total Requirements	$22,098,470
Revised Total Receipts	$22,102,870
Change in Fund Balance	$4,400
Total Positions	43.67
Ending Unreserved Fund Balance	$3,913,423

Information Technology Reserve Fund

Budget Code: 00000

	FY 2014-15
Beginning Unreserved Fund Balance	**$0**
Recommended Budget	
Requirements	**$31,582,485**
Receipts	**$31,582,485**
Positions	**33.00**

Legislative Changes

Requirements:

Plan (Enterprise Architecture) (2725)
Reduces State CIO funding for Enterprise Architecture support by 30% to the FY 2013-14 level, continuing funding of $1,570,806 for personnel with the skills necessary to ensure that the State has an enterprise architecture that can be used as the basis for planning Statewide IT support and integrating agency requirements. As part of this effort, a consistent, detailed business case development process will be created that is based on best practices and ensures that the State acquires the best support at the lowest cost.

($668,706) R
$0 NR
0.00

Build (Project Management) (2725)
Reduces funding for project management by 48% to the FY 2013-14 level of $1,507,353 to allow the State CIO to maintain staff with the skills required to create and deploy a development model for Cabinet agencies that will assist them in defining software requirements and require standard methodologies for project management and system development.

($1,374,901) R
$0 NR
0.00

Remediation (Equipment Relocation) (2725)
Continues the relocation of information technology equipment from substandard facilities to State data centers. For FY 2014-15, funding of $600,000 is provided for equipment costs associated with the effort.

$0 R
$0 NR
0.00

	FY 2014-15	
Security (2775) Continues the State CIO's effort to assess IT security requirements, then implement improvements, with nonrecurring funding of $250,000 for FY 2014-15. Recurring funding of $142,788 is provided to support an additional security specialist in the Office of the State Chief Information Officer.	$0 $0 0.00	R NR
Desktop Remediation (2725) Reduces desktop remediation funding for hosted virtual desktop (HVD) by $9 million, delaying its implementation until FY 2015-16. Provides an additional $2 million in funding to purchase a load balancer necessary for the implementation of HVD.	$0 ($7,000,000) 0.00	R NR
Network Simplification (2725) Provides nonrecurring funding of $4,832,485 to allow for the upgrade, simplification, and modernization of the State's internal IT infrastructure to accommodate current technology. Applications will also be upgraded.	$0 $0 0.00	R NR
MS Office (2725) Maintains funding of $2.3 million to update approximately 50,000 agency software licenses to meet current standards.	$0 $0 0.00	R NR
Operate (Standards and Measures) (2775) Eliminates nonrecurring funding of $500,000 for a consultant to support standardization of IT services.	$0 ($500,000) 0.00	R NR
Customer Data (2725) Eliminates nonrecurring funding of $1 million for a consultant to support the development of standard State policy regarding access to and use of data held by the State.	$0 ($1,000,000) 0.00	R NR
Secure Sign-On (2775) Maintains recurring funding of $70,000 for secure sign-on, but reduces nonrecurring funding by 34%, from $3,280,000 to $2,162,515 to support the upgrade of the State's identity management system. This will allow the implementation of increasing security requirements for access to certain types of data.	$0 ($1,117,485) 0.00	R NR

	FY 2014-15	
Innovation Center (2725)	$0	R
Continues operation of the State Information Technology Innovation Center to encourage collaboration among State agencies, institutions of higher learning, citizens, and the private sector to create information technology solutions with potential benefit to the State and anyone using government services.	$0	NR
	0.00	
Subtotal Legislative Changes	**($2,043,607)**	R
	($9,617,485)	NR
	0.00	
Receipts:		
IT Reserve Receipts (2725 and 2775)	($2,043,607)	R
Sets IT Reserve receipts at $19,921,393, a reduction of 37%.	($9,617,485)	NR
Subtotal Legislative Changes	**($2,043,607)**	R
	($9,617,485)	NR
Revised Total Requirements	**$19,921,393**	
Revised Total Receipts	**$19,921,393**	
Change in Fund Balance	**$0**	
Total Positions	**33.00**	
Ending Unreserved Fund Balance	**$0**	

Information Technology Internal Service Fund

Budget Code: 74660

	FY 2014-15
Beginning Unreserved Fund Balance	**$18,557,047**
Recommended Budget	
Requirements	**$190,000,002**
Receipts	**$190,000,000**
Positions	**507.00**

Legislative Changes

Requirements:

Information Technology Internal Service Fund Provides funding for the Office of Information Technology Services. For FY 2014-15, the Fund is limit is increased by $1 to $190,000,001 (Fund Codes 7105,7115, 7280, 7217, 7250, 7EPA, 7228, 7100, 7240, 7260, 7224, and 7USG). Receipts in the IT Internal Service Fund are to be nonrecurring for FY 2014-15.	$0 $1 0.00	R NR
Subtotal Legislative Changes	**$0** **$1** 0.00	R NR

Receipts:

IT Internal Service Fund Receipts Limits receipts for FY 2013-14 and FY 2014-15 to $190,000,001 each year. These receipts are to be nonrecurring (Fund Codes 7115, 7280, 7217, 7250, 7EPA, 7228, 7100, 7240, 7260, 7224, and 7USG).	$0 $1	R NR
Subtotal Legislative Changes	**$0** **$1**	R NR

	FY 2014-15
Revised Total Requirements	$190,000,003
Revised Total Receipts	$190,000,001
Change in Fund Balance	($2)
Total Positions	507.00
Ending Unreserved Fund Balance	$18,557,045

SENATE BILL 744:
Appropriations Act of 2014

2013-2014 General Assembly

Committee:	Senate Sequential Referral To Pensions & Retirement and Aging Added	**Date:**	May 28, 2014
Introduced by:	Sens. Brown, Harrington, Hunt	**Prepared by:**	Cindy Avrette Committee Counsel
Analysis of:	PCS to First Edition S744-CSMDxf-29		

SUMMARY: ***The Committee Substitute for Senate Bill 744, with un-engrossed amendments, received a favorable report from Senate Appropriations this morning. The bill contains several tax and fee provisions. The fee provisions are highlighted in the attached chart. The tax provisions include the following:***

- ***Section 12H.18, on page 98, directs the Secretary of Health and Human Services to implement a Medicaid assessment for local management entities/managed care organizations. The rate of the assessment would be 3.5% of the non-Medicare net payments to the LME/MCOs for services performed on or after July 1, 2014.***
- ***Section 34.6, beginning on page 231, increases the cap on the highway use tax applicable to commercial vehicles and out-of-state vehicles registered in this State; it repeals the exemption from the motor fuel excise tax for taxicabs and buses operated as part of a city transit system; and it delays the expansion of the highway use tax base to include dealer administrative fees from July 1, 2014, to October 1, 2014.***
- ***Section 37.1, on page 271, clarifies what is meant by the term "net General Fund tax collected" for purposes of the corporate income tax rate trigger.***
- ***Section 37.2, beginning on page 271, phases out over four years the Medicaid hold harmless provision that guaranteed counties an additional $500,000 benefit.***

CURRENT LAW, BILL ANALYSIS, AND EFFECTIVE DATE:

Assessment for LME/MCOs

Section 12H.18 would direct the Secretary of Health and Human Services to implement a Medicaid assessment program for local management entities/managed care organizations. A Medicaid-related provider assessment collects revenue from specific categories of providers to generate new state funds, these funds can be used to reduce state general fund appropriations or matched with federal funds to increase provider payments. States have used Medicaid-related provider assessments since 1990 to help pay for the costs of states' Medicaid programs. North Carolina began utilizing provider assessments in 2003 to enhance payment rates for nursing facilities and intermediate care facilities for the mentally retarded and developmentally disabled[1] and in 2011 to enhance payment rates for hospitals.[2]

Because Medicaid is an entitlement program, the amount of total federal matching funds for Medicaid has no statutory limit. Federal spending is only limited by states' ability to provide matching funds. In

[1] Section 10.28 of S.L. 2003-284, the Appropriations Act of 2003.
[2] S.L. 2011-11.

most states that impose a provider assessment, the cost of the assessment is promised back to providers through an increase in the Medicaid reimbursement rate. Under federal law, a state's ability to use provider-specific assessments to fund their state share of Medicaid expenditures has limits. This section would impose an assessment on LME/MCOs at a rate of 3.5% of the non-Medicare net payments they receive for services. The section provides that 65% of the amount collected will be used to reduce the General Fund appropriation for the Medicaid program; the remaining 35% will be used to increase capitation payments to the LME/MCOs..

Highway Use Tax and Motor Fuel Tax Changes

Section 34.6 increases the highway use tax cap for commercial vehicles to $3,000 over two years. The highway use tax is imposed on a motor vehicle whenever a certificate of title is issued for the vehicle. The rate is 3% of the retail value of the vehicle. The General Assembly eliminated the $1,500 cap applicable to noncommercial vehicles in 2001.[3] This section would eliminate the cap for commercial and recreational vehicles as follows:

	Current Law	January 1, 2015	July 1, 2015
Commercial Vehicle	$1,000	$2,000	$3,000
Recreational Vehicle[4]	$1,500	$2,000	$3,000

This section also does the following:

- It increases the maximum highway use tax that applies when a certificate of title is issued to a motor vehicle that, at the time of applying for a certificate of title, is and has been titled in another state for at least 90 days. The cap is increased from $150 to $250, effective October 1, 2014.
- It delays the expansion of the highway use tax base to include dealer administrative fees from July 1, 2014, to October 1, 2014. This change in the base was enacted in last year's budget bill with an effective date of January 1, 2014. This date was changed to July 1, 2014, in S.L. 2013-363.
- It repeals the exemption from the motor fuel excise tax for taxicabs and buses operated as part of a city transit system, effective January 1, 2015.

Corporate Tax Rate Trigger

Section 37.1 clarifies what the term "net General Fund tax collected for a fiscal year" means for purposes of the corporate income tax rate trigger in G.S. 105-130.3C. Last session, the General Assembly reduced the corporate income tax rate from 6.9% to 6% for the 2014 taxable year and to 5% for the 2015 taxable year. In addition to these rate reductions, the law provides for a potential 1% rate reduction for taxable year 2016 if net General Fund tax collections for fiscal year 2014-15 meet the statutory target amount of $20,200,000,000 and a potential 1% rate reduction for taxable year 2017 if net General Fund tax collections for fiscal year 2014-15 meet the statutory target amount of $20,975,000,000.

To see whether or not the targeted collection amount has been met, the current law uses the amount reported by the State Controller in the State's Comprehensive Annual Financial Report. This report

[3] Section 34.24, S.L. 2001-424.
[4] S.L. 2001-424 repealed the $1,500 cap applicable to recreational vehicles. S.L. 2001-497 restored the $1,500 cap for recreational vehicles.

contains several different reports, and none of the reports necessarily reflect the collections used by the General Assembly and the Appropriations Committees when Fiscal Research Division prepares the budget availability statement for a fiscal year. The number most commonly used by the legislature when it begins budget discussions is the amount reported by the Department of Revenue. This section clarifies that net General Fund tax collected for a fiscal year means the amount of net revenue reported by the Department of Revenue's June Statement of Collection as "Total General Fund Revenue" for the 12-month period that ended the previous June 30, modified as follows:

- Less any large one-time, nonrecurring revenue
- Adjusted by any changes in net collections resulting from suspension or termination of transfers out of the General Fund.

Modify County Hold Harmless for Repealed Local Taxes

In 2008, the State assumed the counties' share of the nonfederal share of Medicaid costs. To provide the financial resources to assume these costs, S.L. 2007-323 phased out the third one-half cent local sales tax and made a corresponding increase in the State sales tax rate. In addition, the legislation provided for a State hold harmless so that every county would benefit from these changes by at least $500,000 annually.

This section phases out the provision that each county will benefit by $500,000 annually over a four-year period as follows:

- Effective July 1, 2014, the amount is reduced to $325,000
- Effective July 1, 2015, the amount is reduced to $250,000
- Effective July 1, 2016, the amount is reduced to $125,000
- Effective July 1, 2017, each county will be held harmless from the exchange of a portion of the local sales and use taxes for the State's agreement to assume responsibility for the administrative costs of Medicaid, but there will not be any supplemental amount provided.

SB 744: Appropriations Act of 2014
Fee-related Provisions

Senate

Fee/Provision Name	Effective Date	Section Number in Bill	Annual General Fund Impact	Annual Special Fund Impact	Special Fund Impacted by Fee	Notes
JPS						
Hazardous Materials Facilities Fee	07/01/2014	16B.3	$172,818			Creates a new fee for hazardous materials. The fee will be used to support the hazardous materials database and the hazardous materials regional response teams in the Division of Emergency Management. The fee will be $50 per hazardous material; and $90 per extremely hazardous material. Annualized revenue will be $691,277
ABC Permit Fee Increases	07/01/2014	16B.2	$9,600,000			Increases the renewal and registration fee for ABC permits to the initial permit fee amounts. Beer and wine will be $400 and mixed beverages will be $1,000.
Private Hospital Toxicology Fee	07/01/2014	18B.14	Unknown			Allows the DA's to request a fee for toxicology be imposed on guilty defendants when the toxicology testing has been conducted by a local hospital. Currently, this fee can only be collected if the testing was done by a local or State crime lab.
unity Work Crew Fee	07/01/2014	16C.2	$0			Allows the Department of Public Safety to charge a fee sufficient to cover the cost of the program for community work crew services. Currently, the fee is capped at $150. No local government has contracted with the State for this service since the fee was implemented.
Transportation						
DMV Hearings Fees	Report no later than 12/1/2014	34.9		N/A	Highway Fund	DMV is directed to develop a fee schedule to offset the full costs of administering hearings and to report that schedule to JLTOC. Implementation is also contingent upon information technology system modifications.
DOT Signage Fees		34.14		N/A	Highway Fund	Allows the Board to increase the fees for LOGO and Tourist Oriented Directional Signs (TODS) to recapture the costs to administer the programs. Current fees: LOGO - $300; TODS - $200.

HHS						
Increased Fee for Private Well Water Testing	07/01/2014	12E.3	221,548			Fee increased from $55 to $74 and adds existing wells to be tested. Previously the fee was only imposed on newly constructed wells. Effective July 1, 2014
State Retention of the Hospital GAP Plan Assessment	07/01/2014	12H.17	15,102,794			Increases the state retention on assessments from 25.9% to 28.85% effective July 1, 2014.
NER						
ry Management Plans	07/01/2014	13.13	$1,761,750			Implements new fees for forestry management plans produced by the Forest Service. Plans less than 20 acres will cost $250. Plans 20-less than 50 acres will cost $500. Plans for 50 or more acres will cost $750.
National Poultry Improvement Plan Fees	07/01/2014	13.11	$25,000			Increases the fee for the National Poultry Improvement Plan certification. For the initial certification, the fee is $50 plus $0.10 per bird. For each subsequent year, the fee is $10 plus $0.10 per bird.
ercial Fishing Licenses	07/01/2014	14.9		$1,323,612		Doubles six commercial fishing licenses over the FY 2012-13 level (not the current level) . These include: Standard Commercial Fishing License - FY 2012-13 $200, Current $250, Proposed $400 Retired Standard Commercial Fishing License - FY 2012-13 $100, Current $125, Proposed $200 Shellfish License - FY 2012-13 $25, Current $31.25, Proposed $50 Fish Dealer Licenses - FY 2012-13 $50, Current $62.50, Proposed $100 License to Land or Sell - FY 2012-13 $200, Current $250, Proposed $400 Recreational Commercial Gear License - FY 2012-13 $35, Current $43.75, Proposed $70 Also eliminates various permits fee increases authorized in SL 2013-360, Section 14.8.
Total			**$26,883,910**	**$1,323,612**		

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 744

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S744-AMH-52 [v.3]

Comm. Sub. [YES]
Amends Title [NO]
S744-PCS35555- MDxf-29

Date _____,2014

Senator Harrington

moves to amend the bill on page 244, line 33, by inserting the following language after that line:

SECTION 34.25(a). G.S. 136-200.2 reads as rewritten:

"...

(g) Ethics Provisions. – All individuals with voting authority serving on a metropolitan planning organization who are not members of the Board of Transportation shall do all of the following:

...

(4) File, with and in the same manner as the statement of economic interest filed under subdivision (3) of this subsection, an additional disclosure of a list of all real estate owned wholly or in part by the MPO member, the MPO member's extended family, or a business with which the MPO member is associated within the jurisdiction of the MPO on which the MPO member is serving. All additional disclosures of real estate filed by MPO members are public records under Chapter 132 of the General Statutes. The penalties for failure to file shall be as set forth in G.S. 138A-25(d).

...

(j) Violations. – A violation of subdivision (1) of subsection (g) of this section shall be a Class 1 misdemeanor. An MPO member who knowingly conceals or knowingly fails to disclose information that is required to be disclosed on a required filing under subdivisions (3) or (4) of subsection (g) of this section shall be guilty of a Class 1 misdemeanor. An MPO member who provides false information on a required filing under subdivisions (3) or (4) of subsection (g) of this section knowing that the information is false is guilty of a Class H felony. If the State Ethics Commission receives written allegations of violations of this section, the Commission shall report such violations to the Attorney General for investigation and referral to the District Attorney for possible prosecution. All written allegations or related documents are confidential and are not matters of public record.

..."

SECTION 34.25.(b) G.S. 136-211 reads as rewritten:

"...

(f) Ethics Provisions. – All individuals with voting authority serving on a rural transportation planning organization who are not members of the Board of Transportation shall do all of the following:

...

(4) File, with and in the same manner as the statement of economic interest filed under subdivision (3) of this subsection, an additional disclosure of a list of all real estate owned wholly or in part by the rural transportation planning organization member, the rural transportation planning organization member's extended family, or a business with which the rural transportation planning organization member is associated within the jurisdiction of the rural transportation planning organization on which the rural transportation planning organization member is serving. All additional disclosures of real estate filed by members are public records under Chapter 132 of the General Statutes. The penalties for failure to file shall be as set forth in G.S. 138A-25(d).

...

(j) Violations. – A violation of subdivision (1) of subsection (f) of this section shall be a Class 1 misdemeanor. A rural transportation planning organization member who knowingly conceals or knowingly fails to disclose information that is required to be disclosed on a required filing under subdivisions (3) or (4) of subsection (f) of this section shall be guilty of a Class 1 misdemeanor. A rural transportation planning organization member who provides false information on a required filing under subdivisions (3) or (4) of subsection (f) of this section knowing that the information is false is guilty of a Class H felony. If the State Ethics Commission receives written allegations of violations of this section, the Commission shall report such violations to the Attorney General for investigation and referral to the District Attorney for possible prosecution. All written allegations or related documents are confidential and are not matters of public record.

..."

SECTION 34.25.(c) G.S. 138A-25 is amended by adding the following new sections to read:

(d) Within 30 days after the date due under G.S. 138A-22, the Commission shall notify persons who are required to file a Statement of Economic Interest under G.S. 136-200.2(g)(3) or G.S. 136-211(f)(3) of a failure to file the Statement of Economic Interest or the filing of an incomplete Statement of Economic Interest. The Commission shall notify the filing person that if the Statement of Economic Interest is not filed or completed within 30 days of receipt of the notice of failure to file or complete, the filing person shall be fined and referred for prosecution after an additional 30 days, as provided for in this section.

(1) Any filing person who fails to file a Statement of Economic Interest under G.S. 136-200.2(g)(3) or G.S. 136-211(f)(3) within 30 days of the receipt of the notice required under this section shall be fined two hundred fifty dollars ($250.00) by the Commission for not filing or filing an incomplete Statement of Economic Interest, except in extenuating circumstances as determined by the Commission.

(2) Failure by any filing person to file or complete the Statement of Economic Interest within 60 days of the receipt of the notice required under this subsection shall be a Class 1 misdemeanor. The Commission shall report such failure to the Attorney General for investigation and referral to the District Attorney for possible prosecution, unless the Commission determines extenuating circumstances exist.

(e) Within 30 days after the date due under G.S. 138A-22, the Commission shall notify persons who are required to file an additional disclosure under G.S. 136-200.2(g)(4) or 136-34 211(f)(4) of a failure to file the additional disclosure or the filing of an incomplete additional disclosure. The Commission shall notify the filing person that if the additional disclosure is not filed or completed within 30 days of receipt of the notice of failure to file or complete, the filing person shall be fined and referred for prosecution after an additional 30 days, as provided for in this section.

(1) Any filing person who fails to file or who files an incomplete additional disclosure within 30 days of the receipt of the notice required under this section shall be fined two hundred fifty dollars ($250.00) for not filing or filing an incomplete additional disclosure, except in extenuating circumstances as determined by the Commission.

(2) Failure by any filing person to file or complete the additional disclosure within 60 days of the receipt of the notice required under this subsection shall be a Class 1 misdemeanor. The Commission shall report such failure to the Attorney General for investigation and referral to the District Attorney for possible prosecution, unless the Commission determines extenuating circumstances exist."

SECTION 34.25.(d) This section is effective October 1, 2014, and applies to obligations to file additional disclosures arising on or after that date.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 744

AMENDMENT NO. 1
(to be filled in by Principal Clerk)

S744-ALH-63 [v.2]

Comm. Sub. [YES]
Amends Title [NO]
PCS

Date ,2014

Senator Ford

moves to amend the bill on page 18, lines 45-46
by inserting between those lines the following:
"**FISCAL RESPONSIBILITY IN BUDGETING**

SECTION 6.11.(a) G.S. 143C-5-3 reads as rewritten:

'**§ 143C-5-3. ~~Availability statement~~ Statements of revenue, expenses, and statutory compliance required.**

(a) In Act. – The Current Operations Appropriations Act enacted by the General Assembly shall ~~state the General Fund, Highway Fund, and Highway Trust Fund availability used as basis for appropriations from those funds.~~set out all of the following information:

(1) The availability used as a basis for appropriations from the General Fund, the Highway Fund, and the Highway Trust Fund.

(2) The amount of nonrecurring revenue the act appropriates from the General Fund, the Highway Fund, and the Highway Trust Fund for recurring expenses and the recurring source of revenue that is expected to support the recurring expenses in the next five fiscal years.

(3) The amount required by G.S. 143C-4-2 to be reserved to the Savings Reserve Account, the difference in the amount the statute requires and the act reserves, and the target amount set by statute for the Account.

(4) The amount required by G.S. 143C-4-3 to be reserved to the Repairs and Renovations Reserve, the difference in the amount the statute requires and the act reserves, the amount needed to meet the repair and renovations requirements for that year as identified in the most recent six-year capital improvement plan submitted by the Director under G.S. 143C-8-5, and the amount equal to one percent (1%) of the valuation of State buildings supported by the Reserve.

(b) In Committee Report. – The committee report that accompanies the Current Operations Appropriations Act enacted by the General Assembly shall include a budget outlook that forecasts the anticipated revenue and expenses of the General Fund, the Highway Fund, and the Highway Trust Fund for the upcoming five-year period. The forecast shall state the assumptions on which it is based and shall separately identify the expenses of any new program or program that is expanded by more than ten percent (10%). Anticipated expenses include all of the following:

8:58
2

(1) Those required to be included in a continuation budget.
(2) Those considered necessary by the Controller to provide a realistic forecast.
(3) A step increase in pay for each year for teachers and State employees paid on a stepped salary schedule that are eligible for an experience-based step and a pay increase of at least one percent (1%) for all State employees not paid on a stepped salary schedule.'

SECTION 6.11.(b) G.S. 143C-3-5 reads as rewritten:

'§ 143C-3-5. Budget recommendations and budget message.

...

(e) ~~Availability Estimates.~~ Revenue Information. – The recommended Current Operations Appropriations Act shall contain ~~a statement showing the estimates of General Fund availability, Highway Fund availability, and Highway Trust Fund availability upon which the Recommended State Budget is based.~~the information on revenue and expenses required by G.S. 143C-5-3(a).

(f) Budget Message. – The Governor's budget recommendations shall be accompanied by a written budget message that does all of the following:

(1) Explains the goals embodied in the recommended budget.
(2) Explains important features of the activities anticipated in the budget.
(3) Explains the assumptions underlying the statement of revenue availability.
(4) Sets forth the reasons for changes from the previous biennium or fiscal year, as appropriate, in terms of programs, program goals, appropriation levels, and revenue yields.
(5) Identifies anticipated sources of funding for major spending initiatives.
(6) ~~Prepares a fiscal analysis that addresses the~~ Provides a forecast of the State's budget outlook for the upcoming five-year ~~period.~~ period that includes the information required in G.S. 143C-5-3. ~~This fiscal analysis shall include detailed estimates for five years for any proposals to create new or significantly expand programs and for proposals to create new or change existing law.~~

....'

SECTION 6.11.(c) G.S. 120-36.7(a) reads as rewritten:

'(a) Budget Outlook; Proposed Legislation. – Every fiscal analysis or forecast of the State budget outlook shall encompass the upcoming five-year period. Every fiscal analysis of the impact of proposed legislation on the State budget shall estimate the impact for the first five fiscal years the legislation would be in effect.'"

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 744

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S744-ALH-63 [v.2]

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 744

AMENDMENT NO. 2
(to be filled in by Principal Clerk)

S744-ALG-45 [v.4]

Comm. Sub. [YES]
Amends Title [NO]
S744-PCS35555-MDXf-29

Date _____,2014

Senator Tucker

moves to amend the bill on page 221, lines 24-25, by inserting between those lines a new section to read:

"DCR TO STUDY THE FEASIBILITY OF DESIGNATING THE AVERASBORO BATTLEFIELD AS A STATE HISTORIC SITE

SECTION 19.3. The Department of Cultural Resources shall study the feasibility of designating the Averasboro Battlefield as a State Historic Site. The Department shall submit the results of its study to the 2015 General Assembly upon its convening.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED V FAILED _____ TABLED _____

9:06
3

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 744

AMENDMENT NO. 3
(to be filled in by Principal Clerk)

S744-ALH-64 [v.4]

Comm. Sub. [YES]
Amends Title [NO]
PCS35555-MDxf-29

Date _____,2014

Senator Apodaca

moves to amend the Senate Appropriations Committee Report dated May 29, 2014, on page F-11 by adding the following two new items:

"

	FY 14-15
"42 Appalachian State University – Health Sciences Building Funds advance planning for Appalachian State University's College of Nursing and Health Sciences Building. The 200,000 sq. ft. facility will be constructed in association with the Watauga Medical Center. This project received $2 million in non-recurring planning funds in FY 2013-14; the project's total cost is estimated to be $80.2 million.	$2,000,000 NR
43 NC Need-based Scholarship Reduces funding for the NC Need-based Scholarship program for private college students by 2.3%. Total program funding for FY 2014-15 will be $84,351,588. ";	($2,000,000 NR)

And by adjusting the appropriate totals accordingly.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

9:30
4

S744-ALH-64-V-4

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 744

AMENDMENT NO. 4
(to be filled in by Principal Clerk)

S744-AMH-49 [v.1]

Comm. Sub. [YES]
Amends Title [NO]
PCS35555-MDxf-29

Date ,2014

Senator Brock

moves to amend the Senate Appropriations Committee Report dated May 29, 2014, on page H-2, by deleting items 7 and 10 and by increasing the recurring reduction in item 9 by three hundred twenty-five thousand three hundred seven dollars ($325,307);

and on page H-3, by deleting items 11 and 12;

and on page H-4, by deleting item 17 and by reducing the nonrecurring expansion in item 19 by two hundred fifty-one thousand seven hundred seventy-eight dollars ($251,778);

and on page H-5, by reducing the nonrecurring increase in item 23 by three hundred eighteen thousand two hundred fifty-four dollars ($318,254);

and on page H-13, by increasing the nonrecurring expansion in item 58 by five hundred seventy thousand thirty-two dollars ($570,032) and by decreasing the recurring expansion in item 58 by five hundred seventy thousand thirty-two dollars ($570,032);

and by adjusting the appropriate totals accordingly.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

S744-AMH-49-V-1

9:38
S

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 744

AMENDMENT NO. 5
(to be filled in by Principal Clerk)

S744-AMK-63 [v.1]

Comm. Sub. [YES]
Amends Title [NO]
PCS

Date _____,2014

Senator Tillman

moves to amend the bill on page 34, line 45, by rewriting that line to read:

"Carolina Center for the Advancement of Teaching, the Eastern North Carolina School for the Deaf, and the North Carolina School for the Deaf, and shall make no reduction in funding to".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

9:44

6

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 744

AMENDMENT NO. 5
(to be filled in by Principal Clerk)

S744-AMK-64 [v.2]

Comm. Sub. [YES]
Amends Title [NO]
PCS

Date _____,2014

Senator Tillman

moves to amend the Senate Appropriations Committee report dated May 29, 2014, on page F-7 by adding the following two new items:

"

	FY 14-15	
"31 Manufacturing Solutions Center	**$150,000**	**R**

Provides additional funding for the Manufacturing Solutions Center at Catawba Valley Community College. Annual funding for this program will be $846,922.

"32 Textile Technology Center	**$150,000**	**R**

Provides additional funding for the Textile Technology Center at Gaston College. Annual funding for this program will be $653,954."; and

on page F-7, by reducing the recurring increase in item 27 by three hundred thousand dollars ($300,000);

And by adjusting the appropriate totals accordingly.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

S-744-AMK-64-V-2

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 744

AMENDMENT NO. 60
(to be filled in by Principal Clerk)

S744-AMD-57 [v.4]

Comm. Sub. [NO]
Amends Title [NO]
PCS

Date _____,2014

Senator Apodaca

moves to amend the bill on page 169, line 10, by inserting immediately after the line a new section to read:

"**STUDY OF FUTURE USE OF BROUGHTON FACILITIES**

SECTION 15.20.(a) Upon the Department of Commerce's raising of the sum of two hundred thousand dollars ($200,000) in non-State funds for the study described in subsection (b) of this section, the Department shall use those funds, together with the sum of two hundred thousand dollars ($200,000) of funds appropriated to the Rural Economic Development Division in fund code 1534 for the 2014-2015 fiscal year, to conduct the study described in subsection (b) of this section.

SECTION 15.20.(b) The Department of Commerce shall, in conjunction with the Department of Health and Human Services, the Department of Administration, the City of Morganton, and the County of Burke, use the funds described in subsection (a) of this section to study potential uses for vacated Broughton Hospital facilities and potential development or redevelopment of adjoining State-owned properties, to ascertain the economic benefits of use, development, and redevelopment. The study required by this section shall examine all of the following:

(1) Potential uses of vacated Broughton Hospital facilities and development or redevelopment of adjoining State-owned properties.
(2) Benefits to the State, local governments, and the private sector of each potential use identified in the study.
(3) Costs to the State, to the City of Morganton, to the County of Burke, and to the private sector of each potential use identified in the study.
(4) Opportunities to use the properties for public-private partnerships.
(5) Any other matters that the Department of Administration deems relevant to this study of potential economic benefits in the use of vacated Broughton Hospital facilities and properties.

SECTION 15.20.(c) No later than December 31, 2014, the Department of Commerce shall submit an interim report on the study to the chairs of the Joint Legislative Oversight Committee on Health and Human Services, to the chairs of the Joint Legislative Committee on Economic Development and Global Engagement, and to the chairs of the Joint Legislative Commission on Governmental Operations. No later than June 30, 2015, the

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9

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 744

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S744-AMD-57 [v.4]

Department of Administration shall submit a final report on the results of the study to the chairs of the same committee."; and

SECTION 15.20.(d) The Department of Administration shall cooperate fully with the performance of the study required by this section and shall provide timely information about the facilities and other properties being evaluated as part of the study to the Department of Commerce."; and

Moves to amend the Committee Report on page H-21, by inserting a new item to read:

"**87A** **Grant Program Reduction** **($200,000) NR**
Makes an reduction to the Rural Economic Development Division grant programs."; and

87B **Challenge Grant for Study of Future Use of Broughton Hospital** **$200,000 NR**
Provides funds for a challenge grant for a study of the future use of Broughton Hospital facilities."; and

Moves to adjust the appropriate totals accordingly.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 744

AMENDMENT NO. 7
(to be filled in by Principal Clerk)

S744-AML-13 [v.3]

Comm. Sub. [YES]
Amends Title [NO]
PCS

Date _____,2014

Senator Brown

Moves to amend the bill on Page 106, Lines 17-20, by deleting those lines;

And on Page 106, after Line 20, by inserting the following:

"**EXTEND EXISTING IMAGING UTILIZATION MANAGEMENT SERVICES CONTRACT; CONTAIN COSTS OF FUTURE CONTRACTS**

SECTION 12H.30.(a) The Department of Health and Human Services, Division of Medical Assistance, shall renegotiate the existing contract for imaging utilization management services in order to achieve five million five hundred thousand dollars ($5,500,000) in annual savings of net General Fund appropriations.

SECTION 12H.30.(b) The Department of Health and Human Services, Division of Medical Assistance, shall issue a request for proposals (RFP) for a contract for imaging utilization management services to ascertain whether the State can achieve better savings with an alternative vendor and, if so, enter into a contract with the alternative vendor. Such an RFP shall incorporate the same requirements as those specified in Section 10.68B of S.L. 2009-451, which was enacted by Section 6 of S.L. 2009-575.

SECTION 12H.30.(c) No later than March 1, 2015, the Department of Health and Human Services, Division of Medical Assistance, shall report on the results of this section to (i) the House Appropriations Subcommittee on Health and Human Services, (ii) the Senate Appropriations Committee on Health and Human Services, and (iii) the Fiscal Research Division.";

And on Page 128, Line 48, by inserting between the words "Administration" and "for" the words "or the Department of Environment and Natural Resources";

And in the Senate Appropriations/Base Budget Committee Report on the Continuation, Expansion, and Capital Budgets, dated May 29, 2014, on page H-12 by adding the following two new items:

"

	FY 14-15
50.1 Parks and Recreation Trust Fund	($70,000)R
Reduces support to the Trust Fund by	

$70,000, leaving over $12,830,000 in the Fund.

50.2 Camp Sertoma Land Management $70,000 R

Provides funds to support the management of the Camp Sertoma Property, which is being transferred from The University System to the State Parks System in Section 11.7(d) of this Act.";

And moves to adjust the appropriate totals accordingly.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

Senate Committee on Finance
Tuesday, June 10, 2014, 1:00 PM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 133	Clinton/Use Design-Build Method.	Rep. L. Bell Rep. Brisson
HB 531	ETJ/Zoning-Weaverville & Buncombe/Correction.	Rep. Ramsey Rep. Moffitt
SB 797	911 Board/Back-up PSAP.	Sen. Brock
HB 573	Stormwater Management Fee Uses.	Rep. Jeter Rep. Samuelson Rep. R. Moore
SB 790	Maintain Cape Hatteras EMC Exempt Status.	Sen. Cook
SB 853	Business Court Modernization.	Sen. Rucho Sen. Barringer

Adjournment

Senate Committee on Finance
Tuesday, June 10, 2014 at 1:00 PM
Room 544 of the Legislative Office Building

MINUTES

The Senate Committee on Finance met at 1:00 PM on June 10, 2014 in Room 544 of the Legislative Office Building. Thirty-one members were present.

Senator Bob Rucho, Chair, presided.

HB 133 - Charlotte Airport Commission Clarifications.

Representative Samuelson was recognized to explain the bill. Senator Harrington moved to adopt the proposed committee substitute (PCS) for discussion and the motion carried. The PCS removes the contents of the original bill and substitutes provisions clarifying that the Charlotte Douglas International Airport Commission is an agency within the City of Charlotte and extending the Charlotte Douglas International Airport Oversight Committee from July 1, 2015, to July 1, 2016. Senator Hise moved for a favorable report and the motion carried. A copy of the PCS, the summary and a letter from the Federal Aviation Administration is attached.

HB 531 - Weaverville, Buncombe & Henderson.

Representative Moffitt was recognized to explain the bill. Senator Apodaca moved to adopt the PCS for discussion and the motion carried. The bill would eliminate the Town of Weaverville's authority to exercise extraterritorial jurisdiction and allow the County of Buncombe to zone certain donut holds. It clarifies that Weaverville would retain authority for planning and development within its corporate limits. The PCS adds the repeal of the Buncombe Culture and Recreation Authority, enacted in 2013, allows the Henderson County Board of Commissioners to enact an ordinance that increases the existing special fire protection district tax from a maximum of 10¢ to a maximum of 15¢ for every $100 of taxable property owned by a taxpayer, and changes the effective date. Senator Tillman moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

SB 853 - Business Court Modernization.

Senator Barringer was recognized to explain the bill. It makes a number of procedural and jurisdictional changes to the North Carolina Business Court. As it relates to the Finance Committee, the bill would require that tax cases be designated as mandatory complex business cases, and it would increase from $1,000 to $1,100 the filing fee for all Business Court cases. Senator Apodaca moved for a favorable report and a referral to the Judiciary I committee. The motion carried. A copy of the bill and the summary is attached.

SB 790 - Cape Hatteras/Gas Cities/Infrastructure Land.

Senator Cook was recognized to explain the bill and moved for the adoption of the PCS for discussion, the motion carried. The PCS would phase in the sales tax on sales of electricity by the Cape Hatteras Membership Corporation over two years. Senator Curtis moved for a favorable report and the motion carried. A copy of the PCS, the summary, and the fiscal memo is attached.

SB 797 - 911 Board/Back-up PSAP.

Senator Brock was recognized to explain the bill. He moved to adopt the PCS for discussion and the motion carried. The PCS requires public safety answering points (PSAPs) to provide for backup PSAPs to provide 911 call taking in the event the primary PSAP cannot process calls. The PCS also clarifies the authority of the Department of Revenue to collect the 911 fee on prepaid wireless service, and clarifies the fees the Department may retain as costs of administering collection. Senator Rabin moved for a favorable report and the motion carried. A copy of the PCS and the summary is attached.

HB 573 - Stormwater Management Fee Uses.

Representative Samuelson was recognized to explain the bill. It would expand the purposes of a county stormwater program to include flood control activities under certain circumstances as outlined in a policy document that must be approved by the board of county commissioners. The bill would be limited to counties with a population in excess of 910,000; the only county that currently satisfies this threshold is Mecklenburg County. Senator Tillman moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

The meeting adjourned at 1:52 p.m.

Senator Bob Rucho, Chair
Presiding

DeAnne Mangum, Committee Clerk

Principal Clerk ____
Reading Clerk ____

Corrected #4: H133 has been added to the agenda

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Tuesday	June 10, 2014	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 133	Clinton/Use Design-Build Method.	Representative L. Bell Representative Brisson
HB 531	ETJ/Zoning-Weaverville & Buncombe/Correction.	Representative Ramsey Representative Moffitt
SB 797	911 Board/Back-up PSAP.	Senator Brock
HB 573	Stormwater Management Fee Uses.	Representative Jeter Representative Samuelson Representative R. Moore
SB 790	Maintain Cape Hatteras EMC Exempt Status.	Senator Cook
SB 853	Business Court Modernization.	Senator Rucho Senator Barringer

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Tuesday	June 10, 2014	1:00 PM	544 LOB

Agenda to be determined.

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Tuesday, June 10, 2014

Senator Rucho,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

SB **797** 911 Board/Back-up PSAP.

Draft Number:	S797-PCS25161-TD-41
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Senator Andrew Brock will handle SB 797

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Tuesday, June 10, 2014

Senator Rucho,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

SB **790** Maintain Cape Hatteras EMC Exempt Status.

Draft Number:	S790-PCS15442-TD-42
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

UNFAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 2

HB **531** **(SCS#1)** ETJ/Zoning-Weaverville & Buncombe/Correction.

Draft Number:	H531-PCS20187-STx-102
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 2

Senator Bill Cook will handle SB 790
Senator Tom Apodaca will handle HB 531

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H D

HOUSE BILL 133*
Committee Substitute Favorable 5/2/13
PROPOSED SENATE COMMITTEE SUBSTITUTE H133-PCS40237-LB-125

Short Title: Charlotte Airport Commission Clarifications. (Local)

Sponsors:

Referred to:

February 21, 2013

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THAT THE CHARLOTTE DOUGLAS INTERNATIONAL AIRPORT COMMISSION IS AN AGENCY WITHIN THE CITY OF CHARLOTTE AND TO EXTEND THE CHARLOTTE DOUGLAS INTERNATIONAL AIRPORT OVERSIGHT COMMITTEE BY ONE YEAR.

The General Assembly of North Carolina enacts:

SECTION 1. This Act shall be known and may be cited as the "Charlotte Douglas International Airport Commission Clarification Act."

SECTION 2.(a) Section 4(d) of S.L. 2013-358 (Charlotte Douglas International Airport Oversight Committee) reads as rewritten:

"**SECTION 4.(d)** This section expires and the Committee terminates ~~July 1, 2015.~~ July 1, 2016."

SECTION 2.(b) Section 4(b) of S.L. 2013-358 (Charlotte Douglas International Airport Oversight Committee) reads as rewritten:

"**SECTION 4.(b)** The Committee shall monitor the actions of the Charlotte Douglas International Airport Commission (Commission) established by this act and make regular reports and recommendations, if needed (including, but not limited to, an interim report in June of ~~2014~~ 2015 and a final report in June of ~~2015)~~ 2016) to the Mayor and City Council on the following points:

(1) Whether the Charlotte Douglas International Airport (Airport) continues to be one of the best performing and lowest cost major hub airports.

(2) Whether that Airport finances are completely separate from those of the State or of any local government.

(3) Whether the Airport contracts and pays for only the services it needs and uses, including services from the State or from any local government.

(4) Whether the Airport continues to have a compensation system that enables it to attract and retain top talent.

(5) Whether the operations of the Commission comply with the provisions of this act."

SECTION 3. Section 5.51 of the Charter of the City of Charlotte, being S.L. 2000-26, as added by S.L. 2013-358, reads as rewritten:

"Section 5.51. **Charlotte Douglas International Airport Commission.**

There is created the Charlotte Douglas International Airport Commission, which shall be an agency of and within the City, having the powers, authority, and jurisdiction set out in this

Article and such other and additional powers and authority as shall be conferred upon it by future acts of the General Assembly."

SECTION 4. Section 5.55(a) of the Charter of the City of Charlotte, being S.L. 2000-26, as added by S.L. 2013-358, reads as rewritten:

"(a) The members of the Commission shall elect annually from their membership a chair, vice-chair, and shall elect a secretary and such other officers as they deem appropriate and otherwise provide for the efficient administration of the Commission's affairs; provided, however, the Commission may provide by resolution that the finance officer of the City shall by virtue of that office be also the finance officer of the Commission, and in such case shall serve as such finance officer without additional compensation. All funds of the Commission shall be kept by its treasurer in a separate bank account or accounts from other funds of the City and shall be paid out only in accordance with procedures established by such Commission. Quarterly operating statements of the Commission and an annual audited statement shall be presented to the Council. The Commission shall ~~be deemed a "special district," as defined in G.S. 159-7, for purposes of the Local Government Budget and Fiscal Control Act and shall budget and administer its fiscal affairs according to the provisions of that act applicable to special districts.~~budget and administer its fiscal affairs according to the provisions of the Local Government Budget and Fiscal Control Act, Article 3 of Chapter 159 of the General Statutes, applicable to special districts, but in no event shall the Commission be deemed a special district for any purpose."

SECTION 5. Section 5.56 of the Charter of the City of Charlotte, being S.L. 2000-26, as added by S.L. 2013-358, reads as rewritten:

"Section 5.56. **Powers and Duties.**

(a) The Commission shall operate the airport in a proper, efficient, economical, and business-like manner, to the end that it may effectively serve the public needs for which it was established at the least cost and expense to the City. To that end, the Commission shall have the power and authority to do the following:

...

(4) Operate the ~~airport.~~Airport on behalf of the City.

(5) Purchase, acquire, develop, establish, construct, own, control, lease, equip, improve, administer, maintain, operate, and/or ~~regulate~~regulate, on behalf of the City, airports and/or landing fields for the use of airplanes and other aircraft and all facilities incidental thereto, within the limits of Mecklenburg County; and for any of such purposes, purchase, acquire, own, develop, hold, lease, sublease, and ~~operate~~operate, on behalf of the City, real and/or personal property comprising such airports.

(6) Purchase real and personal ~~property.~~property on behalf of the City.

...

(10) Make all reasonable rules and regulations and policies as it may from time to time deem to be necessary, beneficial, or helpful for the proper maintenance, use, occupancy, operation, and/or control of any airport or airport facility owned, leased, subleased, or controlled by the ~~Commission~~City and provide and enforce civil and criminal penalties for the violation of such rules, regulations, and/or policies; provided that such rules, regulations, policies, and penalties are not in conflict with (i) any applicable law, rules, or regulation of the State of North Carolina, the United States, or any agency, department, or subdivision of either of them, including the rules and regulations of the FAA or the Transportation Security ~~Administration.~~Administration or (ii) the terms of any grant agreement in effect with the FAA.

(11) With the approval of the ~~City, Council,~~ sell, exchange, lease, sublease, or otherwise dispose of any property, real or personal, ~~belonging to~~ owned by the Commission and not needed by the Commission to operate any airport owned or operated by it or to generate revenues to pay debt obligations of the Commission, or grant easements over, through, under, or across any real property belonging to the Commission, or donate to another governmental entity within North Carolina or to the United States any surplus, obsolete, or unused personal property; provided Article 12 of Chapter 160A of the General Statutes does not apply and is not applicable to any such sale, exchange, lease, sublease, grant, donation, or other disposition.

...

(15) Accept on behalf of the City grants of money and/or materials or property of any kind for any existing or future airport facilities from the State of North Carolina, the United States, or any agency, department, or subdivision of either of them, including the FAA or from any private agency, entity, or individual, upon such terms and conditions as may be imposed, and enter into contracts and grant agreements on behalf of the City with the FAA and/or with the State of North Carolina or any of its agencies, departments, or subdivisions, in the capacity of sponsor or cosponsor of any airport development project involving the acquisition, construction, development, reconstruction, improvement, extension, enlargement, or equipping of any existing or future airport facilities.

...

(18) Employ, hire, retain, or contract with such servants whose services may from time to time be deemed by the Commission to be necessary, beneficial, or helpful. In order to effectuate a seamless ~~transfer of the Airport from the ownership and operation by the City of Charlotte to the ownership and operation by~~ start-up of the ~~Commission,~~ Commission's operation, the Commission will honor and be bound by all existing contracts between the City and such servants as presently are engaged to assist the City with respect to the Airport.

(19) Apply for and hold an airport operating certificate issued by the FAA. Should the FAA or a court of competent jurisdiction determine that the Commission lacks any necessary FAA authorizations, the Commission shall not exercise any rights, powers, or duties that require authorization from the FAA until the Commission either obtains such authorizations or secures an appropriate determination from the FAA or a court of competent jurisdiction.

(b) As provided by general law, it shall be the responsibility of the City ~~as governed by its Council~~ Council to take all necessary actions for all issuance of revenue bonds and/or refunding revenue bonds pursuant to the State and Local Government Revenue Bond Act, Article 5 of Chapter 159 of the General Statutes, all issuance of general obligation debt pursuant to the Local Government Bond Act, Article 4 of Chapter 159 of the General Statutes, and all purchase of any of its outstanding bonds or notes. The Commission shall keep the City Manager and Council promptly appraised of any future need for such actions."

SECTION 6. Section 5.57 of the Charter of the City of Charlotte, being S.L. 2000-26, as added by S.L. 2013-358, reads as rewritten:

"Section 5.57. **Eminent Domain.**

The Commission may not exercise any powers of eminent domain. Any eminent domain with respect to acquisition of property for airport purposes shall be exercised by the ~~City.~~ Council."

SECTION 7. Section 5.58 of the Charter of the City of Charlotte, being S.L. 2000-26, as added by S.L. 2013-358, reads as rewritten:

"Section 5.58. **Exemptions; Taxes.**

The Commission has the same exemptions with respect to payment of taxes and license fees as otherwise provided for the City by the laws of this State. The Commission is not authorized to levy any tax."

SECTION 8. Section 5.59 of the Charter of the City of Charlotte, being S.L. 2000-26, as added by S.L. 2013-358, reads as rewritten:

"Section 5.59. **Funds and Property.**

(a) The Commission shall have control, on behalf of the City, of the Airport Property, Airport Facilities, and all other property held or owned by the City of Charlotte with respect to the Airport, real or personal, tangible or intangible, and includes all cash and cash equivalents and checking, investment, and demand deposit bank accounts held by the City pertaining to or generated from revenues of the Airport, including, without limiting the generality hereof, amounts on deposit in or with respect to the Discretionary Fund, the Cannon Fund, the Revenue Fund, the Operating Fund, the Bond Funds, the Debt Service Funds, the Construction Funds, the Capital Projects Funds, Passenger Facility Charges, Contract Facility Charges, and all other funds and accounts of the City with respect to the Airport. This Article does not impair the City's obligations to servants and employees of the Commission and bondholders of the City's General Airport Revenue Bonds, and including, without limiting the generality hereof, the obligations under the Revenue Bond Order adopted November 18, 1985, and all Series Resolutions issued under the Bond Order, the Special Facility Bond Order adopted May 11, 1987, and all Series Resolutions adopted under the Special Facility Bond Order, and the Taxable Special Facility Revenue Bonds (Consolidated Car Rental Facilities Project) Series 2011 General Trust Indenture and the Series Indenture, Number 1, both dated November 1, 2011, and all agreements and understandings with respect to trustee(s) or paying agent(s) of the City's airport revenue bonds, letters of credit, or other credit facilities of the City with respect to airport revenue bonds, and all leases, licenses, options to purchase, and other encumbrances on the Airport Property and Airport Facilities, whether or not those encumbrances are recorded. Any such payments shall be made by the City through the Commission under the terms of such contracts first with funds under the jurisdiction of the Commission. This act does not affect the title of any property. ~~If the property was~~ Property titled to the City of Charlotte prior to enactment of this ~~Article, that title remains with the City.~~Article remains titled to the City following enactment of this Article.

(b) The Commission acts on behalf of the City with respect to all rights, duties, and obligations of the City in any commercial or development agreements pertaining to or related to the Airport Property and Airport Facilities that are in effect at the time of the ~~transfer,~~ enactment of this Article, and any commercial agreements, development agreements, and other contracts of the City pertaining to or related to the Airport Property and Airport Facilities that are in effect on enactment of this Article remain in effect.

(c) The Commission, on behalf of the City, shall:

(1) Honor and be bound by all pending or executory land or real property purchase contracts by the City with respect to property and lands to be acquired for and in connection with the Airport.

(2) Honor and be bound by all existing rules and regulations of the Aviation Department of the City ~~of Charlotte~~ with respect to the Airport, including the Airport Security Plan, until such rules and regulations shall be amended by the Commission in accordance with the provisions of this Article.

(3) Honor and be bound by all existing contracts of the City with third-party concessionaires and management contractors with respect to the Airport.

(4) Honor and be bound by all existing contracts and grant agreements of the City with respect to the Airport.

(5) Be deemed as a matter of law to have appointed as its initial Executive Director the Aviation Director of the City of Charlotte as of February 14, 2013, with initial compensation and benefits of the initial Executive Director being the same compensation and benefits as were being received from the City of Charlotte on February 14, 2013, and the initial Executive Director shall be entitled as a matter of law to the continuation of the rights and benefits extended to him or her under the existing retirement system of the City.

(6) Be deemed as a matter of law to have adopted initially the employment and human resources policies of the Commission, such policies of the City as they applied to employees of the Airport on the effective date of this Article, and the Commission shall be deemed to have adopted the current employee handbook of the City applicable to the Airport until the Commission adopts different policies or a different employee handbook."

SECTION 9. Section 5.60 of the Charter of the City of Charlotte, being S.L. 2000-26, as added by S.L. 2013-358, reads as rewritten:

"Section 5.60. ~~Assistance by City.~~**Implementation; Assistance from other City departments.**

(a) The Council, Mayor, and City Manager shall, and are hereby required to, take all actions within their respective powers in order to do the following:

(1) Implement the provisions of this Article.

(2) Secure for the Commission the right and ability to fully exercise the powers granted to it under this Charter and the laws of this State.

(3) Obtain a determination from the FAA that the Commission may operate the Airport under the existing operating certificate issued to the City or, in the alternative, a new operating certificate permitting the Commission to operate the Airport.

(4) Enter into such agreements or provide such assurances as the FAA may request in connection with its provisions of grants to the City or Commission for the improvement or development of the Airport.

(b) Upon the request of the Executive Director of the Commission, the ~~City~~ Council, City Manager, and other City departments shall continue to provide such services to the Commission as ~~it currently provides~~ they previously provided to the ~~Airport~~ City's Aviation Department and shall receive as compensation therefor from the Commission in such amount as is appropriate for such services as provided by OMB Circular A-87 until the Commission shall direct the City Manager to terminate such services."

SECTION 10. Section 5.61(b) of the Charter of the City of Charlotte, being S.L. 2000-26, as added by S.L. 2013-358, reads as rewritten:

"(b) Following the time this bill becomes law, the Airport Employees shall continue to receive, until provided otherwise by the Commission through the adoption of new personnel policies as provided by this Article, all employment benefits currently available to the Airport Employees, including, but not limited to, health care benefits, retirement benefits, disability insurance, life insurance, and accrued time off or leave, and the Commission shall promptly reimburse the City departments providing these services the costs of ~~providing~~ such benefits."

SECTION 11. Section 5.62 of the Charter of the City of Charlotte, being S.L. 2000-26, as added by S.L. 2013-358, reads as rewritten:

"Section 5.62. **Statutory Construction.**

(a) The powers of the Commission created by this Article shall be construed liberally in favor of the Commission. No listing of powers included in this Article is intended to be

exclusive or restrictive, and the specific mention of, or failure to mention, particular powers in this act shall not be construed as limiting in any way the general powers of the Commission as stated in Section 5.56 of this Charter. It is the intent of this Article to grant the Commission full power and right to exercise all authority necessary for the effective operation and conduct of the Commission. It is further intended that the Commission should have all implied powers necessary or incidental to carrying out the expressed powers and the expressed purposes for which the Commission is created. The fact that this Article specifically states that the Commission possesses a certain power does not mean that the Commission must exercise such power unless this Article specifically so requires.

(b) It is intended that the Commission shall be an agency of and within the City and thus part of the City's government. Nothing in this Article is intended to transfer the Airport or any Airport-related property away from the City. It is further intended that, following the enactment of this Article, the City, acting through the Commission, shall (i) continue to own and operate the Airport, (ii) continue to serve as sponsor of the Airport in connection with any grants given by the FAA, and (iii) refrain from taking any action that would impair the Commission's exercise of the powers granted to the Commission or that would impair the efficient operation and management of the Airport by the Commission.

(c) Notwithstanding any reference in this Article to ownership by the Commission of real or personal property, all real or personal property subject to this Article is owned by the City and is operated and/or administered by the Commission."

SECTION 12. If any provision of this Part or its application is held invalid, the invalidity does not affect other provisions or applications of this Part that can be given effect without the invalid provisions or application, and to this end the provisions of this Part are severable.

SECTION 13. This act is effective when it becomes law.

HOUSE BILL 133:
Charlotte Airport Commission Clarifications

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 10, 2014
Introduced by:		**Prepared by:**	Cindy Avrette Committee Counsel
Analysis of:	PCS to Second Edition H133-CSLB-125		

SUMMARY: ***The Senate PCS for HB 133 removes the contents of the original bill[1] and substitutes provisions clarifying that the Charlotte Douglas International Airport Commission is an agency within the City of Charlotte and extending the Charlotte Douglas International Airport Oversight Committee from July 1, 2015, to July 1, 2016.***

CURRENT LAW: Last session, S.L. 2013-358 amended the Charter of the City of Charlotte by creating the "Charlotte Douglas International Airport Commission". The Commission[2] is an agency of the City and is responsible for the management and operation of the Airport.

The act also created a Charlotte Douglas International Airport Oversight Committee that will exist for one year to monitor the actions of the Airport Commission. The Oversight Committee consists of five members.[3] The purpose of the Committee is to monitor the actions of the Airport Commission and to report regularly to the Charlotte Mayor and City Council on whether the Airport Commission is complying with the provisions of this Act. The Committee will terminate on July 1, 2015.

BACKGROUND: The City of Charlotte brought an action against the State of North Carolina, *City of Charlotte v. State of North Carolina,* 13 CVS 12678 (Mecklenburg). In its Second Amended Complaint the City of Charlotte alleged three causes of action. First, the City alleged that the Charlotte Douglas International Airport Commission Act, S.L. 2013-358, is an unconstitutional local law.[4] Second, the City contends that the Act unconstitutionally "subverts" federal law in violation of Article I, Section 5 of the North Carolina Constitution by granting to the Commission authority over the Airport allegedly in violation of Federal Aviation Administration (FAA) authorizations issued to the City. This claim raises the issue of whether the Commission is independent of the City or is within the governance structure of the City. Finally, the City claimed that the Act unconstitutionally impairs its contracts by transferring control of the Airport to the Commission and thereby impairing the City's means of making good on pre-existing contract obligations regarding the Airport.

On November 19, 2013, the Court granted in part and denied in part the State's motion to dismiss. The Court dismissed the City's first claim – unconstitutional local law. However, the Court denied the motion to dismiss as to the City's second claim – subversion of federal law. At the hearing, the Court suggested that it could not rule on the City's second claim until the FAA clarified its position regarding

[1] The contents of the original bill, Clinton/Design-Build Method, were enacted in S.L. 2013-115.

[2] The Commission consists of 13 members: seven appointed by the City of Charlotte, at least two of whom are resident of the west side of the City, and the remaining six members are appointed by each of the following surrounding counties: Mecklenburg, Cabarrus, Gaston, Iredell, Lincoln, and Union counties.

[3] One appointed by each of the following: Governor, President Pro Tempore, Speaker, Mayor of Charlotte, and City Council of Charlotte.

[4] The City argues, Article XIV, Section 3 and Article V, Section 13 of the North Carolina Constitution, when read together, bar the General Assembly from enacting local laws governing airports.

O. Walker Reagan
Director

Research Division
(919) 733-2578

whether the Commission could lawfully implement the Act under existing FAA authorizations or whether new authorizations were needed. On December 2, 2013, the State moved for judgment on the pleadings on the City's second and third claims. As to the second claim, the State contended that the FAA is a necessary party that is outside the jurisdiction of the Court and so the Court cannot adjudicate the claim. On December 6, 2013, the City dismissed its third claim – impairment of contract – with prejudice.

There have been no further formal proceedings before the Court or filings since December 6, 2013. However, on May 22, 2014, the Acting Associate Administrator for Airports of the FAA indicated, in a letter to U.S. Representative Robert Pittenger that the FAA would need clarification on the following two issues before it could determine whether it needs to issue any further authorizations:

- Whether the Commission is an agency of the city or an independent, special district.
- Who is responsible for the key roles of the airport sponsor and operator.

BILL ANALYSIS: The Senate proposed committee substitute for House Bill 133 amends S.L. 2013-358 to clarify that the Commission is an agency of the City of Charlotte and to extend the Charlotte Douglas International Airport Oversight Committee for one year, from July 1, 2015, to July 1, 2016.

Section 2 of the PCS extends the sunset of the Oversight Committee.

Section 3 amends the creation of the Commission to state that it is an agency of and within the City of Charlotte. Sections 6 through 8 and sections 9 through 11 make similar changes to clarify that the Commission is an agency of and within the City.

Section 4 clarifies that the Commission is not a special district. The Commission does keep its funds in a separate bank account and must budget and administer its fiscal affairs according to the provisions of the Local Government Budget and Fiscal Control Act applicable to special districts.

Section 5 clarifies that the Commission operates the Airport on behalf of the City, and that in exercising this responsibility it must abide by the terms of any grant agreement in effect with the FAA. This section also adds a provision specifying that the Commission may apply for and hold an airport operating certificate issued by the FAA.

Section 9 adds a provision to the Charter of the City of Charlotte requiring the Council, Mayor, and City Manager to do the following:

- Secure for the Commission the right and ability to fully exercise the powers granted to it under the Charter.
- Obtain a determination from the FAA that the Commission may operate the Airport under the existing operating certificate issued to the City, or, in the alternative, obtain a new operating certificate permitting the Commission to operate Airport.
- Provide whatever assurances are necessary to the FAA in connection with its provisions of grants to the City or Commission for the improvement or development of the Airport.

EFFECTIVE DATE: This local act is effective when it becomes law.

U.S. Department
of Transportation
Federal Aviation
Administration

Office of the Associate Administrator
for Airports

800 Independence Ave., SW.
Washington, DC 20591

MAY 22 2014

The Honorable Robert Pittenger
House of Representatives
Washington, DC 20515

Dear Congressman Pittenger:

Thank you for your April 17 letter, cosigned by your congressional colleagues, about the Charlotte Douglas International Airport Commission.

The Federal Aviation Administration (FAA) routinely reviews and approves the transfer of Federal obligations from one airport sponsor to another eligible airport sponsor. The FAA also issues airport operating certificates under title 49 United States Code, § 44706, as implemented by title 14 Code of Federal Regulations, part 139.

The FAA's policy is that airport governance is a local decision. However, we must ensure that federally obligated airports remain safe and financially self-sustaining. The FAA has the obligation to ensure that an airport sponsor is also capable of assuming all grant assurances and safety compliance. We make a determination on whether an entity is an eligible Airport Improvement Program (AIP) airport sponsor. We assess the airport sponsor's legal authority to apply for and comply with AIP grants. We review the airport sponsor's ability to finance and implement a proposed AIP project. This obligation extends to reviewing airport sponsor eligibility when state and local governments propose a change in the airport governance structure and ensuring that responsibility for the Federal obligations is assigned.

Typically, an airport sponsor or state authority considering the creation of an airport authority will solicit the FAA's comments on draft legislation prior to enactment. Either the airport sponsor's counsel or the State's Attorney General will provide a legal opinion regarding the status of the new airport authority.

With respect to the Commission, we did not have an opportunity to comment on the legislation prior to enactment. The FAA sought from the North Carolina Attorney General a legal opinion concerning which entity under North Carolina law – the city of Charlotte or the Commission – is empowered to enter into grant agreements and to fulfill requirements under the part 139 operating certificate. The FAA anticipated that the opinion would explain the Commission's status and clarify whether the Commission acts independently of the city. The absence of an interpretation from the Attorney General or the State Superior Court impedes

the FAA's ability to fulfill its fundamental obligation under Federal law. We need clarification of:

- whether the Commission is an agency of the city or an independent, special district; and
- who is now responsible for the key roles of the airport sponsor and operator.

As stated in our reply to Commission Chairman Robert Stolz, it is our view that the governance structure must be addressed at the state and local level before FAA could determine whether a part 139 operating certificate needs to be issued. Until the State's Attorney General and the city of Charlotte resolve this matter, the city remains the airport sponsor and holder of the part 139 operating certificate.

The FAA encourages the State and city to work together to resolve the status and authority of the Commission under State law.

We have sent an identical letter to each of the cosigners of your letter.

If you need further assistance, please contact Roderick D. Hall, Assistant Administrator for Government and Industry Affairs, at (202) 267-3277.

Sincerely,

Benito De Leon
Acting Associate Administrator
for Airports

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H D

HOUSE BILL 531

Committee Substitute Favorable 4/15/13
Committee Substitute #2 Favorable 4/25/13
Fourth Edition Engrossed 4/30/13
Senate State and Local Government Committee Substitute Adopted 7/16/13
PROPOSED SENATE COMMITTEE SUBSTITUTE H531-CSSTx-102 [v.6]
6/9/2014 3:22:34 PM

Short Title: Weaverville, Buncombe & Henderson. (Local)

Sponsors:

Referred to:

April 4, 2013

A BILL TO BE ENTITLED

AN ACT TO AMEND THE EXTRATERRITORIAL JURISDICTION AUTHORITY OF THE TOWN OF WEAVERVILLE, TO MAKE A SIMILAR TECHNICAL CORRECTION AS TO THE CITY OF ASHEVILLE, TO ALLOW THE COUNTY OF BUNCOMBE TO ZONE CERTAIN DONUT HOLES, TO REPEAL THE BUNCOMBE COUNTY CULTURE AND RECREATION AUTHORITY, AND TO ALLOW THE BOARD OF COMMISSIONERS OF HENDERSON COUNTY TO STANDARDIZE THE CEILING ON FIRE DISTRICT TAXES IN HENDERSON COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 160A-360 is amended by adding a new subsection to read:

"(n) The Town of Weaverville shall have no authority to exercise any power under this section outside its corporate limits."

SECTION 1.(b) Upon relinquishment of the jurisdiction over an area that the Town of Weaverville is regulating under Article 19 of Chapter 160A of the General Statutes, the city regulations and powers of enforcement shall remain in effect until (i) Buncombe County has adopted the regulation or (ii) a period of 120 days has elapsed following the effective date of this section, whichever is sooner. During this period, Buncombe County may hold hearings and take other measures that may be required in order to adopt county regulations for the area.

SECTION 1.(c) This section applies to the Town of Weaverville only.

SECTION 2. G.S. 160A-360(m), as it applies to the City of Asheville under S.L. 2013-30, reads as rewritten:

"(m) The City of Asheville shall have no authority to exercise any power under this ~~section.~~section outside its corporate limits."

SECTION 3.(a) G.S. 153A-342(d) reads as rewritten:

"(d) A county may determine that the public interest does not require that the entire territorial jurisdiction of the county be zoned and may designate one or more portions of that jurisdiction as a zoning area or areas. ~~A zoning area must originally contain at least 640 acres and at least 10 separate tracts of land in separate ownership and may thereafter be expanded by the addition of any amount of territory.~~ A zoning area may be regulated in the same manner as if the entire county were zoned, and the remainder of the county need not be regulated."

SECTION 3.(b) This section applies to the County of Buncombe only.

SECTION 4. S.L. 2013-262 is repealed.

SECTION 5.(a) G.S. 69-25.1 reads as rewritten:

"**§ 69-25.1. Election to be held upon petition of voters.**

Upon the petition of thirty-five percent (35%) of the resident freeholders living in an area lying outside the corporate limits of any city or town, which area is described in the petition and designated as "_____ Fire District," the board of
(Here insert name)
county commissioners of the county shall call an election in said district for the purpose of submitting to the qualified voters therein the question of levying and collecting a special tax on all taxable property in said district, of not exceeding fifteen cents (15¢) on the one hundred dollars ($100.00) valuation of property, for the purpose of providing fire protection in said district. The county tax office shall be responsible for checking the freeholder status of those individuals signing the petition and confirming the location of the property owned by those individuals. Unless specifically excluded by other law, the provisions of Chapter 163 of the General Statutes concerning petitions for referenda and elections shall apply. If the voters reject the special tax under the first paragraph of this section, then no new election may be held under the first paragraph of this section within two years on the question of levying and collecting a special tax under the first paragraph of this section in that district, or in any proposed district which includes a majority of the land within the district in which the tax was rejected.

The Board of Commissioners of a county may by ordinance applicable to ~~Upon the petition of thirty-five percent (35%) of the resident freeholders living in~~ an area which has previously been established as a fire protection district and in which there has been authorized by a vote of the people a special tax not exceeding ten cents (10¢) on the one hundred dollars ($100.00) valuation of property within the area, ~~the board of county commissioners shall call an election in said area for the purpose of submitting to the qualified voters therein the question of increasing the~~ increase the maximum allowable special tax for fire protection within said district from ten cents (10¢) on the one hundred dollars ($100.00) valuation to fifteen cents (15¢) on the one hundred dollars ($100.00) valuation on all taxable property within such district. ~~Elections on the question of increasing the allowable tax rate for fire protection shall not be held within the same district at intervals less than two years.~~"

SECTION 5.(b) G.S. 69-25.4(a) reads as rewritten:

"**§ 69-25.4. Tax to be levied and used for furnishing fire protection.**

(a) If a majority of the qualified voters voting at said election vote in favor of levying and collecting a tax in said district, then the board of county commissioners is authorized and directed to levy and collect a tax in said district in such amount as it may deem necessary, not exceeding ten cents (10¢) on the one hundred dollars ($100.00) valuation of property in said district from year to year, and shall keep the same as a separate and special fund, to be used only for furnishing fire protection within said district, as provided in G.S. 69-25.5.

~~Provided, that if a majority of the qualified voters voting at such elections vote in favor of levying and collecting a tax in such district, or vote in favor of increasing the tax limit in said district,~~ Upon adoption of an ordinance pursuant to G.S. 69-25.1, ~~then~~ the board of county commissioners is authorized and directed to levy and collect a tax in such districts in such amount as it may deem necessary, not exceeding fifteen cents (15¢) on the one hundred dollars ($100.00) valuation of property in said district from year to year."

SECTION 5.(c) This section applies to Henderson County only.

SECTION 6. Section 1 of this act becomes effective July 1, 2014. Section 2 of this act is effective on and after April 17, 2013. Section 4 of this act is effective June 30, 2014. The remainder of this act is effective when it becomes law.

HOUSE BILL 531: Weaverville & Buncombe

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	May 30, 2014
Introduced by:	Reps. Ramsey, Moffitt	**Prepared by:**	R. Erika Churchill
Analysis of:	PCS to Fifth Edition H531-CSST-102		Staff Attorney

SUMMARY: ***House Bill 531 would eliminate the Town of Weaverville's authority to exercise extraterritorial jurisdiction and allow the County of Buncombe to zone certain donut holes. The bill clarifies that Weaverville would retain authority for planning and development within its corporate limits. It makes a similar clarifying change to a session law enacted earlier this session that applied to Asheville.***

The Proposed Committee Substitute adds the repeal of the Buncombe Culture and Recreation Authority, enacted in 2013, allows the Henderson County Board of Commissioners to enact an ordinance that increases the existing special fire protection district tax from a maximum of 10¢ to a maximum of 15¢ for every $100 of taxable property owned by a taxpayer, and changes the effective date.

CURRENT LAW & BILL ANALYSIS:

Sections 1 & 2. Extraterritorial Jurisdiction: Except under certain circumstances, the General Statutes allow municipalities to regulate land-use within an area one-mile beyond their municipal boundaries, commonly referred to as extraterritorial jurisdiction (ETJ). Land use regulation may take the form of zoning, subdivision regulation, minimum housing codes, and open spaces and community appearance regulations. With the approval of the county commissioners, a city with a population between 10,000 and 25,000 may extend its extraterritorial land-use planning jurisdiction to two miles beyond its corporate limits; a city with a population of 25,000 or more may extend its extraterritorial land-use planning jurisdiction to three miles beyond its corporate limits. G.S. 160A-360(a).

Once a city exercises its ETJ authority, the county in which the area lies has the duty to appoint an individual residing in that area to serve on the city's planning board and board of adjustment.

The pcs would eliminate the Town of Weaverville's authority to exercise ETJ. The area currently within the ETJ would return to the County of Buncombe for enforcement of land use planning regulations.

The pcs clarifies also that Weaverville retains authority for planning/development within its corporate limits. Effective July 1, 2014.

It makes a similar clarifying change to a session law enacted earlier this session that applies to Asheville, which is effective on and after April 17, 2013, the effective date of that portion of S.L. 2013-30 that is being clarified.

Section 3. County Zoning: G.S. 153A-320 grants counties the authority to exercise land use planning regulations throughout the territorial jurisdiction of the county. The territorial jurisdiction of the county does not include incorporated municipal areas and any area in a municipality's ETJ when that municipality is exercising its ETJ authority.

For zoning regulations, a county may determine that the public interest does not require zoning the entire territorial jurisdiction of the county, and may designate one or more portions of the county's territorial jurisdiction to be zoned. If a county does this, the area being zoned must originally contain at least 640 acres and at least 10 separate tracts of land in separate ownership. G.S. 153A-342(d).

The pcs would remove the size requirements for less than whole-county zoning for Buncombe County only.

Section 4. Buncombe Culture and Recreation Authority: In 2013, the General Assembly, by local act, granted authorization to Buncombe County to establish a Culture and Recreation Authority. The Authority has not been created.

The pcs would repeal the local act granting authorization to establish the Authority.

Effective June 30, 2014.

Section 5. Henderson County Fire Districts: Under G.S. 69-25.1, if 35% of property owners in a fire protection district sign a petition requesting an increase in the special fire protection district tax from a maximum of 10¢ to a maximum of 15¢ for every $100 of taxable property owned by a taxpayer, the Board of Commissioners must call an election and put the measure before the qualified voters. Elections on the question of increasing the tax rate can only occur in the district every two years.

The pcs is applicable only to Henderson County and would eliminate the petition and election requirements for an increase in the fire protection tax *if* the voters have previously authorized a tax not to exceed 10¢ for every $100 of real property owned.

If the 10¢ maximum tax is already in effect, then the Board of Commissioners of Henderson County would be permitted to pass an ordinance raising the maximum tax to 15¢ for every $100 of taxable property owned by a taxpayer.

EFFECTIVE DATE: Except as noted, the act is effective when it becomes law.

SENATE BILL 853

Short Title:	Business Court Modernization.	(Public)
Sponsors:	Senators Rucho and Barringer (Primary Sponsors).	
Referred to:	Judiciary I.	

May 28, 2014

A BILL TO BE ENTITLED

AN ACT TO MODERNIZE THE BUSINESS COURT BY MAKING TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES TO THE PROCEDURES FOR COMPLEX BUSINESS CASES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-27(a) reads as rewritten:

"**§ 7A-27. Appeals of right from the courts of the trial divisions.**

(a) Appeal lies of right directly to the Supreme Court in any of the following cases:

(1) ~~all~~ All cases in which the defendant is convicted of murder in the first degree and the judgment of the superior court includes a sentence of death.

(2) From any final judgment in a case designated as a mandatory complex business case pursuant to G.S. 7A-45.4 or designated as a discretionary complex business case pursuant to Rule 2.1 of the General Rules of Practice for the Superior and District Courts."

SECTION 2. G.S. 7A-45.3 reads as rewritten:

"**§ 7A-45.3. Superior court judges designated for complex business cases.**

The Chief Justice may exercise the authority under rules of practice prescribed pursuant to G.S. 7A-34 to designate one or more of the special superior court judges authorized by G.S. 7A-45.1 to hear and decide complex business cases as prescribed by the rules of practice. Any judge so designated shall be known as a Business Court Judge and shall preside in the Business Court. If there is more than one business court judge, the Chief Justice may designate one of them as the Senior Business Court Judge. If there is no designation by the Chief Justice, the judge with the longest term of service on the court shall serve as Senior Business Court Judge until the Chief Justice makes an appointment to the position. Upon the final disposition of a complex business case, the presiding Business Court Judge shall issue a written opinion."

SECTION 3. G.S. 7A-45.4 reads as rewritten:

"**§ 7A-45.4. Designation of complex business cases.**

(a) ~~A mandatory complex business case is~~ Any party may designate as a mandatory complex business case an action that involves a material issue related to any of the following:

(1) Disputes arising under Chapters 55, 55A, 55B, 57D, and 59 of the General Statutes concerning partnerships, limited liability companies, and corporations, except charitable and religious organizations qualified under G.S. 55A-1-40(4) on the grounds of religious purpose. ~~The law governing corporations, except charitable and religious organizations qualified under G.S. 55A-1-40(4) on the grounds of religious purpose, partnerships, limited liability companies, and limited liability partnerships, including issues~~

~~concerning governance, involuntary dissolution of a corporation, mergers and acquisitions, breach of duty of directors, election or removal of directors, enforcement or interpretation of shareholder agreements, and derivative actions.~~

(2) Disputes involving securities law arising under Chapter 78A of the General Statutes.~~Securities law, including proxy disputes and tender offer disputes.~~

(3) ~~Antitrust law,~~ Disputes involving antitrust or unfair competition law arising under common law or under Chapter 75 of the General Statutes, except claims based solely on unfair competition under G.S. 75-1.1.

(4) Disputes involving trademark law arising under Chapter 80 of the General Statutes.~~State trademark or unfair competition law, except claims based solely on unfair competition under G.S. 75-1.1.~~

~~(5) Intellectual property law, including software licensing disputes.~~

~~(6) The Internet, electronic commerce, and biotechnology.~~

~~(7) Tax law, when the dispute has been the subject of a contested tax case for which judicial review is requested under G.S. 105-241.16 or the dispute is a civil action under G.S. 105-241.17.~~

(8) Disputes involving trade secrets under Article 24 of Chapter 66 of the General Statutes.

(9) Contract disputes in which all of the following conditions are met:

(i) At least one plaintiff and at least one defendant is an entity authorized to transact business in North Carolina under Chapter 55, 55A, 55B, 57D, or 59 of the General Statutes.

(ii) The complaint asserts a claim for breach of contract or seeks a declaration of rights, status, or other legal relations under a contract.

(iii) The amount in controversy computed in accordance with G.S. 7A-243 is at least one million dollars ($1,000,000).

(b) The following actions shall be designated as mandatory complex business cases:

(1) An action involving a material issue related to tax law that has been the subject of a contested tax case for which judicial review is requested under G.S. 105-241.16 or that is a civil action under G.S. 105-241.17 shall be designated as a mandatory complex business case by the petitioner or plaintiff.

(2) An action described in subsection (a) of this section in which the amount in controversy computed in accordance with G.S. 7A-243 is at least five million dollars ($5,000,000) shall be designated as a mandatory complex business case by the party whose pleading caused the amount in controversy to equal or exceed five million dollars ($5,000,000).

(3) An action involving regulation of pole attachments brought pursuant to G.S. 62-350 shall be designated as a mandatory complex business case by the plaintiff.

~~Any party may designate a civil action or a petition for judicial review under G.S. 105-241.16 as a mandatory complex business case by filing a Notice of Designation in the Superior Court in which the action has been filed and simultaneously serving the notice on each opposing party or counsel and on the Special Superior Court Judge for Complex Business Cases who is then the senior Business Court Judge. A copy of the notice shall also be sent contemporaneously by e-mail or facsimile transmission to the Chief Justice of the Supreme Court for approval of the designation of the action as a mandatory complex business case and assignment to a specific Business Court Judge.~~

(c) A party designating an action as a mandatory complex business case shall file a Notice of Designation in the Superior .Court in which the action has been filed, shall

contemporaneously serve the notice on each opposing party or counsel and on the Special Superior Court Judge for Complex Business Cases who is then the senior Business Court Judge, and shall contemporaneously send a copy of the notice by e-mail or facsimile transmission to the Chief Justice of the Supreme Court for approval of the designation of the action as a mandatory complex business case and assignment to a specific Business Court Judge. The Notice of Designation shall, in good faith and based on information reasonably available, succinctly state the basis of the designation and include a certificate by or on behalf of the designating party that the civil action meets the criteria for designation as a mandatory complex business case pursuant to subsection (a) or (b) of this section.

(d) The Notice of Designation shall be filed:

(1) By the plaintiff, the third-party plaintiff, or the petitioner for judicial review contemporaneously with the filing of the complaint, third-party complaint, or the petition for judicial review in the action.

(2) By any intervenor when the intervenor files a motion for permission to intervene in the action.

(3) By any defendant or any other party within 30 days of receipt of service of the pleading seeking relief from the defendant or party.

(4) By any party whose pleading caused the amount in controversy computed in accordance with G.S. 7A-243 to equal or exceed five million dollars ($5,000,000) contemporaneously with the filing of that pleading.

(e) Within 30 days after service of the Notice of Designation, any other party may, in good faith, file and serve an opposition to the designation of the action as a mandatory complex business case. Based on the opposition or ~~ex mero motu,~~on its own motion, the Business Court Judge may determine that the action should not be designated as a mandatory complex business case. If a party disagrees with the decision, the party may appeal to the Chief Justice of the Supreme Court.

(f) Once a designation is filed under subsection (d) of this section, and after preliminary approval by the Chief Justice, a case shall be designated and administered a complex business case. All proceedings in the action shall be before the Business Court Judge to whom it has been assigned unless and until an order has been entered under subsection (e) of this section ordering that the case not be designated a mandatory complex business case or the Chief Justice revokes approval. If complex business case status is revoked or denied, the action shall be treated as any other civil action, unless it is designated as an exceptional civil case or a discretionary complex business case pursuant to Rule 2.1 of the General Rules of Practice for the Superior and District Courts.

(g) If an action required by subsection (b) of this section to be designated as a mandatory complex business case is not so designated, the Superior Court in which the action has been filed shall by order entered sua sponte either dismiss the action without prejudice or stay the action until it has been designated as a mandatory complex business case in accordance with this section."

SECTION 4. G.S. 7A-305(a)(2) reads as rewritten:

"**§ 7A-305. Costs in civil actions.**

(a) In every civil action in the superior or district court, except for actions brought under Chapter 50B of the General Statutes, shall be assessed:

...

(2) For support of the General Court of Justice, the sum of one hundred eighty dollars ($180.00) in the superior court and the sum of one hundred thirty dollars ($130.00) in the district court except that if the case is assigned to a magistrate the sum shall be eighty dollars ($80.00). If a case is assigned to a special superior court judge as a complex business case under G.S. 7A-45.3, upon assignment the party filing the notice of designation pursuant to

G.S. 7A-45.4 or the motion for complex business designation shall pay an additional one thousand one hundred dollars ~~($1,000)~~ ($1,100) for support of the General Court of Justice; if a case is assigned to a special superior court judge as a complex business case under G.S. 7A-45.3 by a court on its own motion, upon assignment the plaintiff shall pay an additional one thousand one hundred dollars ~~($1,000)~~ ($1,100) for support of the General Court of Justice. Sums collected under this subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of one dollar and fifty cents ($1.50) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4, and ninety-five cents ($.95) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.19."

SECTION 5. G.S. 7A-343 reads as rewritten:

"**§ 7A-343. Duties of Director.**

The Director is the Administrative Officer of the Courts, and the Director's duties include all of the following:

...

(8) Prepare and submit an annual report on the work of the Judicial Department to the Chief Justice, and transmit a copy to each member of the General Assembly. The annual report shall include the activities of each North Carolina Business Court site, including the number of new, closed, and pending cases, the average age of pending cases, and the annual expenditures for the prior fiscal year.

(8a) Prepare and submit a semiannual report on the activities of each North Carolina business court site to the Chief Justice and to each member of the General Assembly. The semiannual report required under this subdivision shall be separate from the report required under subdivision (8) of this section and shall include the total number of civil cases pending in each business court site over three years after being designated as a mandatory complex business case, motions pending over six months after being filed and being fully ripe for decision, and civil cases in which bench trials have been concluded for over six months without entry of judgment, including any accompanying explanation provided by the Business Court.

...."

SECTION 6. Section 1 applies to appeals filed on or after October 1, 2014. Sections 3 and 4 apply to actions commenced or petitions filed on or after October 1, 2014. The remainder of this act is effective when it becomes law.

SENATE BILL 853:
Business Court Modernization

2013-2014 General Assembly

Committee:	Senate Sequential Referral To Judiciary I Added	**Date:**	June 10, 2014
Introduced by:	Sens. Rucho, Barringer	**Prepared by:**	Trina Griffin Committee Counsel
Analysis of:	First Edition		

SUMMARY: ***Senate Bill 853 would make a number of procedural and jurisdictional changes to the North Carolina Business Court. As it relates to the Finance Committee, the bill would require that tax cases be designated as mandatory complex business cases, and it would increase from $1,000 to $1,100 the filing fee for all Business Court cases.***

CURRENT LAW: The North Carolina Business Court is a specialized forum of the North Carolina State Courts' trial division. It is not a court of jurisdiction, but rather an administrative division of the General Court of Justice. Three special superior court judges designated by the Chief Justice of the Supreme Court serve as Business Court judges presiding over complex business cases.

G.S. 7A-45.4 provides an expedited method for certain types of actions to be assigned to Business Court. An action involving a material issue related to any of the following subjects is considered a "mandatory complex business case."

(1) Claims under the law governing corporations,[1] partnerships, limited liability companies, and limited liability partnerships.

(2) Claims under securities law.

(3) Antitrust law claims not based solely on unfair competition under G.S. 75 1.1.

(4) State trademark or unfair competition claims not based solely on unfair competition under G.S. 75 1.1.

(5) Intellectual property law, including software licensing disputes.

(6) The Internet, electronic commerce, and biotechnology.

(7) Any tax law dispute that was the subject of a contested tax case for which the taxpayer seeks judicial review under G.S. 105-241.16 or challenges in a civil action under G.S. 105-241.17.

These cases are "mandatory" in the sense that if a party seeks designation as a mandatory complex business case by filing a notice with the court and the case fits within one of these categories, then the Business Court is required to retain jurisdiction. A party may oppose the designation of the action, or the court, on its own motion, may determine the action should not be designated. However, the option of seeking to have the case heard in Business Court currently lies with the parties to the case.

In 2007, tax cases were added to G.S. 7A-45.4 as part of the comprehensive overhaul of the tax appeals process (S.L. 2007-491). The intent of the provision was to treat tax cases like the other cases on the list. That is, a party to the case would have the option to seek designation. The intent was not to require

[1] Other than certain charitable and religious organizations qualified under G.S. 55A-1-40(4) on the grounds of religious purpose.

all tax cases to be heard in Business Court, but rather to allow taxpayers to retain the choice of forum and in recognition of the fact that not all tax cases are suitable for Business Court.[2] However, in practice, the Business Court has treated tax cases differently than the other six categories by deeming their designation as required. All tax actions since the enactment of the 2007 legislation, of which there have been 12 (4 of which were consolidated into one case), have been heard in the Business Court.[3]

A party also has flexibility to seek to have a case designated as a complex business case under Rule 2.1 of the General Rules of Practice. Rather than being heard in Business Court, the case would be assigned to a special superior court judge designated by the Chief Justice to hear complex business cases. The Chief Justice may designate a case under this rule as well, either on his or her own motion or upon recommendation of a judge.

The filing fee for cases that are designated as mandatory complex business cases is $1,000.

Under Rule 2.1(b) of the General Rules of Practice for the Superior and District Courts, Business Court judges are currently required to issue a written opinion upon the final disposition of each case. Although not required to do so, Business Court judges also generally issue written opinions on dispositive motions and on some non-dispositive motions involving novel issues. Appeals from the Business Court currently go to the Court of Appeals.

The AOC is currently required to include in its annual report to the General Assembly information on the activities of the Business Court, including the number of new, closed and pending cases, the average age of pending cases, and the annual expenditures for the prior fiscal year.

BILL ANALYSIS:

Section 1 of the bill amends G.S. 7A-27 to provide for a direct appeal to the Supreme Court, bypassing the Court of Appeals, from final judgments entered in the Business Court.

Section 2 of the bill requires Business Court judges to issue a written opinion upon final disposition of a complex business case. This would codify in the statutes the current practice by rule.

Section 3 of the bill does two things. First, it modifies the list of cases that *may* be designated as mandatory complex business cases by adding certain contract disputes and disputes involving trade secrets[4] and by eliminating intellectual property, Internet, e-commerce, and biotechnology cases. Second, it specifically creates a second category of cases that *must* be designated as mandatory complex business cases. Those cases are:

- Tax cases on appeal from a decision of OAH after a contested case hearing and actions challenging the constitutionality of a tax statute.
- An action that may be designated as a mandatory complex business case (those actions listed in subsection (a)) and in which the amount in controversy is at least $5 million.
- An action involving regulation of pole attachments.

Under current law, actions involving the regulation of pole attachments are required to be heard in Business Court under G.S. 62-350. Therefore, this would not change the current law.

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[2] Bill Analysis for S.L. 2007-491 and *North Carolina's New Tax Assessment, Refund, and Appeals Process,* State Tax Notes (October 29, 2007).

[3] According to information provided to committee staff by the administrative assistant for the Senior Business Court Judge and an Assistant Attorney General who defends these cases, all cases involving these tax appeals have been heard in the Business Court since the effective date of S.L. 2007-491.

[4] Trade secrets would have previously been covered under intellectual property.

With regard to the other two types of cases, it removes the choice of forum that a party currently has and requires a party to have the case designated as a complex business case to be heard in Business Court. For tax cases, however, this would not change current practice because of the Business Court's interpretation of the statute. Therefore, it essentially codifies the Business Court's current interpretation of the statute, but it does not necessarily reflect the intent of the original legislation.

Section 4 of the bill increases the filing fee for complex business court cases from $1,000 to $1,100.

Section 5 of the bill requires the AOC to submit a semiannual report to the General Assembly showing the number of Business Court cases pending for more than three years, motions pending for more than six months, and cases in which bench trials have been concluded for more than six months without entry of judgment, together with any explanation provided by the Business Court.

EFFECTIVE DATE: Section 1 applies to appeals filed on or after October 1, 2014. Sections 3 and 4 apply to actions commenced or petitions filed on or after October 1, 2014. The remainder of the act is effective when it becomes law.

Bill Patterson, counsel to Senate Judiciary I, substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S D

SENATE BILL 790
PROPOSED COMMITTEE SUBSTITUTE S790-CSTD-42 [v.4]

6/9/2014 2:37:54 PM

Short Title: Cape Hatteras EMC Tax Status. (Public)

Sponsors:

Referred to:

May 19, 2014

A BILL TO BE ENTITLED

AN ACT TO PHASE IN THE SALES TAX ON ELECTRICITY SOLD BY CAPE HATTERAS ELECTRICAL MEMBERSHIP CORPORATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.4(a) is amended by adding a new subdivision to read:

"(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and three-quarters percent (4.75%).

...

(14a) The rate of three and one-half percent (3.5%) applies to the gross receipts derived from sales of electricity by Cape Hatteras Electric Membership Corporation."

SECTION 2. This act is effective July 1, 2014, and expires July 1, 2015.

SENATE BILL 790:
Cape Hatteras EMC Tax Status

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 10, 2014
Introduced by:	Sen. Cook	**Prepared by:**	Heather Fennell
Analysis of:	PCS to First Edition S790-CSTD-42		Committee Counsel

SUMMARY: ***The PCS to S790 would phase in the sales tax on sales of electricity by the Cape Hatteras Electric membership Corporation over two years.***

CURRENT LAW: Electric membership corporations (EMCs) are not-for-profit entities that provide electric service in rural areas. North Carolina enacted legislation to allow EMCs in 1935 to promote electric service in the State. EMCs are not regulated by the Utilities Commission, but are governed by the board of directors that are elected by the customers of the EMC.

Prior to 1965, each EMC was designated as a "public agency." As public agencies, the EMCs did not pay taxes on the sales of electricity by the EMCs. In 1965, the General Assembly enacted legislation clarifying the service area territories of EMCs and investor-owned public utilities. As part of the negotiation over the service areas, the legislation repealed the "public agency" designation for most of the EMCs. However, Cape Hatteras EMC retained its status as a "public agency" under the law.

In 2000, the Department of Revenue informed Cape Hatteras EMC it would be required to remit sales tax on its sales of electricity.[1] Cape Hatteras paid the tax, but also filed suit for the return of taxes and clarification of its liability for the tax. In 2011, the North Carolina Court of Appeals held that Cape Hatteras that the EMC was not liable for the franchise or the sales tax on its sales of electricity.[2]

S.L. 2013-316 (*Tax Simplification and Reduction Act*) provided for the uniform taxation of all utilities. The Act repealed the franchise tax on electricity and increased the sales tax on electricity to the combined general rate. The Act specifically repealed the prior legislation that designated Cape Hatteras EMC as a "public agency" and stated:

> Cape Hatteras Electric Membership Corporation is subject to any other taxes to the same extent as other electric membership corporations established under Chapter 117 of the General Statutes.

BILL ANALYSIS: The PCS to S790 would phase in the sales tax on sales of electricity by the Cape Hatteras Electric membership Corporation over two years. For the year starting July 1, 2014, and ending June 30, 2015, Cape Hatteras would collect a sales tax of 3.5% on its sales of electricity. For years starting on or after July 1, 2015, Cape Hatteras would collect a sales tax at the combined general rate on its sales of electricity. Currently, the combined general rate is 7%.

EFFECTIVE DATE: This act is effective July 1, 2014, and expires July 1, 2015.

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[1] In 1965, only the franchise tax was imposed on the sale of electricity. In 1984, the General Assembly lowered the franchise tax on electricity and imposed a sales tax on sales of electricity.

[2] *Cape Hatteras Electric Membership Corporation v. Lay*, 210 N.C.App. 92 (2011).

O. Walker Reagan
Director

Research Division
(919) 733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: June 10, 2014

TO: Senate Finance Committee

FROM: Sandra Johnson
Fiscal Research Division

RE: Senate Bill 790 (Proposed Committee Substitute)

FISCAL IMPACT
($ in millions)

☑ Yes ☐ No ☐ No Estimate Available

	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
State Impact					
General Fund Revenues:	(0.23)	0.0	0.0	0.0	0.0
NET STATE IMPACT	**(0.23)**	**$0.0**	**$0.0**	**$0.0**	**$0.0**
Local Impact					
Revenues:	(0.18)	0.0	0.0	0.0	0.0
NET LOCAL IMPACT	**(0.18)**	**$0.0**	**$0.0**	**$0.0**	**$0.0**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Department Revenue

EFFECTIVE DATE: July 1, 2014

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY: SB 790 repeals Section 4.5 of S.L. 2013-316, the sales tax on electricity sold by the Cape Hatteras Electric Membership Corporation and implements a phase in of the full sales tax rate of 7%.

ASSUMPTIONS AND METHODOLOGY:
Fiscal Research estimates that the PCS to SB 790 will result in a General Fund revenue loss of $0.23 million in FY 2014-15. The bill will also eliminate a $0.18 million distribution to the municipalities served by the Cape Hatteras Electric Membership Corporation. This fiscal estimate is based on data gathered from the U.S. Energy Information Administration (EIA).

According to the EIA, the Cape Hatteras Electric Membership Corporation generated $11.9 million in residential utility sales in 2012. The fiscal impact of exempting these sales from the sales tax rate on electricity (7%) is $0.84 million. After adjusting for inflation and accounting for the local distribution (44% of tax revenue from electricity sold within city limits), the net loss to the General Fund is $0.23 million.

SOURCES OF DATA: Energy Information Administration
Department of Revenue

TECHNICAL CONSIDERATIONS: None

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 797*
PROPOSED COMMITTEE SUBSTITUTE S797-CSTD-41 [v.9]
6/9/2014 6:24:23 PM

Short Title: 911 Board/Back-up PSAP. (Public)

Sponsors:

Referred to:

May 20, 2014

A BILL TO BE ENTITLED

AN ACT TO AMENDING THE DUTIES OF THE 911 BOARD RELATING TO PUBLIC SAFETY ANSWERING POINTS, AS RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON INFORMATION TECHNOLOGY, TO CLARIFY THE COLLECTION AUTHORITY OF THE DEPARTMENT OF REVENUE FOR THE 911 FEE ON PREPAID WIRELESS, AND TO CLARIFY .

The General Assembly of North Carolina enacts:

SECTION 1.1 G.S. 62A-42 is amended by adding a new subsection to read:

"(4a) Back-up PSAP. – A facility equipped to operate as part of the 911 System and all other features of its associated primary PSAP. The term includes a back-up PSAP that receives 911 calls only when they are transferred from the primary PSAP or on an alternate routing basis when calls cannot be completed to the primary PSAP."

SECTION 1.2 G.S. 62A-42(a) reads as rewritten:

"(a) Duties. – The 911 Board has the following powers and duties:

(1) To develop the 911 State Plan. In developing and updating the plan, the 911 Board must monitor trends in voice communications service technology and in enhanced 911 service technology, investigate and incorporate GIS mapping and other resources into the plan, ensure individual PSAP plans incorporate a back-up PSAP, and formulate strategies for the efficient and effective delivery of enhanced 911 service.

...

(4) To establish policies and procedures to fund advisory services and training for PSAPs, to set operating standards for PSAPs, and back-up PSAPs and to provide funds in accordance with these policies, procedures, and standards.

..."

SECTION 1.3 G.S. 62A-46 reads as rewritten:

"**§ 62A-46. Fund distribution to PSAPs.**

(a) Monthly Distribution. – The 911 Board must make monthly distributions to primary PSAPs from the amount allocated to the 911 Fund for PSAPs. A PSAP is not eligible for a distribution under this section unless it complies with the requirements of this Article, provides enhanced 911 ~~service~~ service, and received distributions from the 911 Board in the 2008-2009 fiscal year. The Board may reduce, suspend, or terminate distributions under this subsection if a PSAP does not comply with the requirements of this Article.

The Board must comply with all of the following:

(1) Administration. – The Board must notify PSAPs of the estimated distributions no later than December 31 of each year. The Board must determine actual distributions no later than June 1 of each year. The Board must determine a method for establishing distributions that is equitable and sustainable and that ensures distributions for eligible operating costs and anticipated increases for all funded PSAPs. The Board must establish a formula to determine each PSAP's base amount. The formula must be determined and published to PSAPs in the first quarter of the fiscal year preceding the fiscal year in which the formula is used. The Board may not change the funding formula for the base amount more than once every year.

(2) Reports. – The Board must report to the Joint Legislative Commission on Governmental Operations and the Revenue Laws Study Committee within 45 days of a change in the funding formula. The report must contain a description of the differences in the old and new formulas and the projected distributions to each PSAP from the new formula.

(3) Formula. – The funding formula established by the Board must consider all of the following:

a. The population of the area served by a PSAP.

b. PSAP reports and budgets, disbursement histories, and historical costs.

c. PSAP operations, 911 technologies used by the PSAP, compliance with operating standards of the 911 Board, level of service a PSAP delivers dispatching fire, emergency medical services, law enforcement, and Emergency Medical Dispatch.

d. The tier designation of the county in which the PSAP is located as designated in G.S. 143B-437.08.

e. Any interlocal government funding agreement between a primary PSAP and a secondary PSAP, if the secondary PSAP was in existence as of June 1, 2010, receives funding under the agreement, and is within the service area of the primary PSAP.

f. Any other information the Board considers relevant.

(4) Additional distributions. – In the first quarter of the Board's fiscal year, the Board must determine whether payments to PSAPs during the preceding fiscal year exceeded or were less than the eligible costs incurred by each PSAP during the fiscal year. If a PSAP receives less than its eligible costs in any fiscal year, the Board may increase a PSAP's distribution in the following fiscal year above the base amount as determined by the formula to meet the estimated eligible costs of the PSAP as determined by the Board. The Board may not distribute less than the base amount to each PSAP except as provided in subsection (b1) of this section. The Board must provide a procedure for a PSAP to request a reconsideration of its distribution or eligible expenses.

...

(c) Use of Funds. – A PSAP that receives a distribution from the 911 Fund may not use the amount received to pay for the lease or purchase of real estate, cosmetic remodeling of emergency dispatch centers, hiring or compensating telecommunicators, or the purchase of mobile communications vehicles, ambulances, fire engines, or other emergency vehicles. Distributions received by a PSAP may be used only to pay for the following:

(1) The lease, purchase, or maintenance of:

a. Emergency telephone equipment, including necessary computer hardware, software, and database provisioning.

b. Addressing.
c. Telecommunicator furniture.
d. Dispatch equipment located exclusively within a building where a PSAP or back-up PSAP is located, excluding the costs of base station transmitters, towers, microwave links, and antennae used to dispatch emergency call information from the ~~PSAP.~~PSAP or back-up PSAP.

(1a) The nonrecurring costs of establishing a 911 system.

(2) Expenditures for in-State training of 911 personnel regarding the maintenance and operation of the 911 system. Allowable training expenses include the cost of transportation, lodging, instructors, certifications, improvement programs, quality assurance training, training associated with call taking, and emergency medical, fire, or law enforcement procedures, and training specific to managing a PSAP or supervising PSAP staff. Training outside the State is not an eligible expenditure unless the training is unavailable in the State or the PSAP documents that the training costs are less if received out-of-state. Training specific to the receipt of 911 calls is allowed only for intake and related call taking quality assurance and improvement. Instructor certification costs and course required prerequisites, including physicals, psychological exams, and drug testing, are not allowable expenditures.

(3) Charges associated with the service supplier's 911 service and other service supplier recurring charges. The PSAP providing 911 service is responsible to the voice communications service provider for all 911 installation, service, equipment, operation, and maintenance charges owed to the voice communications service provider. A PSAP may contract with a voice communications service provider on terms agreed to by the PSAP and the provider.

...

(e) Compliance. – A PSAP, or the governing entity of a PSAP, must comply with all of the following in order to receive a distribution under this section:

(1) A county or municipality that has one or more PSAPs must submit in writing to the 911 Board information that identifies the PSAPs in the manner required by the FCC Order.

(2) A participating PSAP must annually submit to the 911 Board a copy of its governing agency's proposed or approved budget detailing the revenues and expenditures associated with the operation of the PSAP. The PSAP budget must identify revenues and expenditures for eligible expense reimbursements as provided in this Article and rules adopted by the 911 Board.

(3) A PSAP must be included in its governing entity's annual audit required under the Local Government Budget and Fiscal Control Act. The Local Government Commission must provide a copy of each audit of a local government entity with a participating PSAP to the 911 Board.

(4) A PSAP must comply with all requests by the 911 Board for financial information related to the operation of the PSAP.

(4a) A PSAP must have a plan and means for 911 call taking in the event 911 calls cannot be received and processed in the primary PSAP.

(5) A primary PSAP must comply with the rules, policies, procedures, and operating standards for primary PSAPs adopted by the 911 Board.

..."

SECTION 1.4 This section is effective when it becomes law, and applies to distributions made on or after July 1, 2016.

SECTION 2.1 G.S. 62A-54(c) reads as rewritten:

"(c) Administration. – Administration, auditing, requests for review, making returns, collection of tax debts, promulgation of rules and regulations by the Secretary of Revenue, additional taxes and liens, assessments, refunds, and penalty provisions of Article 9 of Chapter 105 of the General Statutes apply to the collection of the 911 service charge for prepaid wireless telecommunications service. An audit of the collection of the 911 service charge for prepaid wireless telecommunications service shall only be conducted in connection with an audit of the taxes imposed by Article 5 of Chapter 105 of the General Statutes. Underpayments shall be subject to the same interest rate as imposed for taxes under G.S. 105-241.21. Overpayments shall be subject to the same interest rate as imposed for taxes under G.S. 105-241.21(c)(2). Excessive and erroneous collections of the service charge will be subject to G.S. 105-164.11. The Department of Revenue shall establish procedures for a seller of prepaid wireless telecommunications service to document that a sale is not a retail transaction, and the procedures established shall substantially coincide with the procedures for documenting a sale for resale transaction under G.S. 105-164.28. The Secretary of Revenue may retain the costs of collection from the remittances received under subsection (b) of this section, not to exceed five hundred thousand dollars ($500,000) a year of the total 911 service charges for prepaid wireless telecommunications service remitted to the Department. Within 45 days of the end of each month in which 911 service charges for prepaid wireless telecommunications service are remitted to the Department, the Secretary of Revenue shall transfer the total 911 service charges remitted to the Department less the costs of collection to the 911 Fund established under G.S. 62A-44."

SECTION 2.2 Section 8 of S.L. 2011-122, as amended by Section 52 of S.L. 2013-414, is repealed.

SECTION 2.3 Notwithstanding G.S. 62A-54(c), the Department may retain six hundred and forty thousand dollars ($640,000) of the 911 fee service charges for prepaid wireless telecommunications service remitted to the Department in the 2014-2015 fiscal year.

SECTION 2.3 This section is effective July 1, 2014.

SENATE BILL 797:
911 Board/Back-up PSAP

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 10, 2014
Introduced by:	Sen. Brock	**Prepared by:**	Heather Fennell
Analysis of:	PCS to First Edition S797-CSTD-41		Committee Counsel

SUMMARY: ***The PCS to S797 would require public safety answering points (PSAPs) to provide for backup PSAPs to provide 911 call taking in the event the primary PSAP cannot process calls. The PCS also clarifies the authority of the Department of Revenue to collect the 911 fee on prepaid wireless service, and clarifies the fees the Department may retain as costs of administering collection.***

CURRENT LAW: A monthly fee of 60¢ is imposed on each telecommunications subscriber. Other than prepaid wireless providers, each provider of telecommunications service collects the 911 fee from each subscriber of their service. Until July 1, 2013, the 911 fee was not collected on prepaid wireless phones. S.L. 2011-122 imposed the fee on retailers of prepaid wireless service. The 911 fee on prepaid wireless is collected by the Department of Revenue and remitted to the 911 Board each month within 45 days of the end of the month the service charges were collected.

The 911 Board distributes the 911 fees to "public safety answering points" (PSAP). Each PSAP is the public safety agency that receives incoming 911 calls and dispatches public safety agencies in response. The distributions from the 911 fees may only be used for certain eligible purchases by the PSAP.

BILL ANALYSIS: **Section 1** of the PCS requires each PSAP to plan for 911 call taking in the event the primary PSAP cannot process calls. PSAPs will be authorized to use distributions from the 911 Fund to pay for dispatch equipment at a back-up PSAP. As of July 1, 2016, PSAPs will not be eligible for distributions from the 911 Fund if the PSAP does not have a back-up PSAP.

Section 2 of the PCS clarifies the authority of the Department of Revenue to collect the 911 fee on prepaid wireless service. Although the fee is not a tax, the Department collects the fee from retailers. The initial legislation authorizing the collection of the fee limited the authority of the Department to certain administrative provisions. The Department has requested this clarification to provide that the Department may enforce collection of the fee.

The Department of Revenue is authorized to retain the costs of collecting the fee on prepaid wireless, not to exceed $500,000 a year. The original legislation allowed the Department to retain and additional $200,000, for a total of $700,000 in the 2013-14 fiscal year, to pay for start-up costs. Due to a delay in the implementation of the Department's new computer system, the Department only retained $60,000 in total costs in the 2013-14 fiscal year. This section authorizes the Department to retain the additional $140,000 in start-up costs for the 2014-15 fiscal year, allowing the Department a total of $640,000 for costs retained in the 2014-15 fiscal year.

EFFECTIVE DATE: The section related to back up PSAPs is effective when it becomes law and applies to distributions on or after July 1, 2016. The section related to the Department of Revenue is effective July 1, 2014.

O. Walker Reagan
Director

S797-SMTD-104 CSTD-41 -V4

Research Division
(919) 733-2578

HOUSE BILL 573*
Committee Substitute Favorable 5/14/13

Short Title: Stormwater Management Fee Uses. (Public)

Sponsors:

Referred to:

April 4, 2013

A BILL TO BE ENTITLED

AN ACT TO BROADEN THE PERMITTED USE OF STORMWATER FEES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 15 of Chapter 153A is amended by adding a new statutory section to read:

"**§ 153A-274.1. Flood control activities under stormwater management programs.**

(a) Findings. – The General Assembly finds that it is in the best interest of the residents of North Carolina to promote and fund the implementation of stormwater management programs to control and manage water quantity and flow in order to reduce the chances of loss of life and damage to property due to flooding. The General Assembly also finds that a county has an integral role in furthering this public purpose by promoting and funding implementation of stormwater management programs within the county's territorial jurisdiction to reduce reliance on emergency response services, to reduce negative financial impacts on the community and the public from flooding, including the cost of public infrastructure repairs, to decrease the number of flood-prone homes and businesses, to increase infiltration of stormwater into the ground, and to reduce pollutants from entering the streams.

(b) Scope. – For purposes of operating a public enterprise under this Article, a county is authorized to do any of the following activities within its stormwater management program:

(1) Purchase property for the purpose of demolishing flood-prone buildings.

(2) Implement flood damage reduction techniques that result in improvements to private property in accordance with subsection (c) of this section, to include:

a. Elevating structures or their associated components.

b. Demolishing flood-prone structures.

c. Retrofitting flood-prone structures.

(c) Policy Document. – The county may engage in the activities listed in subdivision (2) of subsection (b) of this section only under the circumstances contained in a policy document approved by the board of county commissioners. The policy document shall, at a minimum, establish, and may elaborate on, the following:

(1) Private property owner's written consent must be obtained prior to implementation of flood reduction improvements on the owner's property.

(2) The county has determined that improving the stormwater system is not practically feasible or cost-effective, and the activities in subdivision (2) of subsection (b) provide savings to the stormwater fund.

(3) The improvements to private property are the minimum necessary to accomplish the stormwater benefit.

(4) Funding provided by the county, above a certain amount, to the property owner or expended upon improvements to the property shall be reimbursed to the county if the property is sold within five years of the completion of the flood reduction improvement project. The amount of reimbursement due to the county may be calculated as the difference between the established premitigation fair market value and the sale price of the property, not to exceed the total funding provided by the county.

(5) The minimum financial contribution the private property owner must make to the project.

(d) Advisory Committee. – An existing stormwater advisory committee established by the board of commissioners and having specific charges, duties, and representation as set forth by the board of county commissioners must review and approve projects that implement flood damage reduction techniques under subdivision (2) of subsection (b) of this section. The committee shall submit an annual report to the board of county commissioners for its review.

(e) Application. – This section applies only to counties with a population of 910,000 or greater according to the most recent annual population estimates certified by the State Budget Officer."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 573:
Stormwater Management Fee Uses

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 9, 2014
Introduced by:	Reps. Jeter, Samuelson, R. Moore	**Prepared by:**	Cindy Avrette Committee Counsel
Analysis of:	Second Edition		

SUMMARY: ***House Bill 573 would expand the purposes of a county stormwater program to include flood control activities under certain circumstances as outlined in a policy document that must be approved by the board of county commissioners. The bill would be limited to counties with a population in excess of 910,000; the only county that currently satisfies this threshold is Mecklenburg County.***

CURRENT LAW: County governments are authorized to operate seven public enterprises: (1) water supply and distribution systems; (2) wastewater collection, treatment, and disposal systems of all types; (3) solid waste collection and disposal systems and facilities; (4) airports; (5) off-street parking facilities; (6) public transportation systems; and (7) stormwater management program designed to protect water quality by controlling the level of pollutants in, and the quantity and flow of, stormwater and structural and natural stormwater and drainage systems of all types. Stormwater and drainage systems were initially added to the public enterprise statute in 1989 and further amended in 2000.

Counties have broad authority and flexibility in providing and financing these services. They may own and operate all of the listed enterprises both inside and outside their boundaries and may condemn land needed in connection with their operation. Both general obligation and revenue bonds may be issued for these purposes. Counties may levy property taxes to finance the permitted enterprises. Rates, fees, and charges may be imposed for all of the enterprises.

BILL ANALYSIS: House Bill 573 would authorize a county with a population in excess of 910,000 to engage in the following activities as part of its stormwater program:

- Purchase property for the purpose of demolishing flood prone buildings.
- Implement flood damage reduction techniques that result in improvements to private property, including:
  - Elevating structures or their associated components.
  - Demolishing flood prone structures.
  - Retrofitting flood prone structures.

Prior to implementing flood damage reduction techniques on private property, the board of county commissioners must adopt a policy document that establishes the conditions under which the improvements must be made. The policy document must include the following conditions:

(1) Private property owner's written consent must be obtained prior to implementation of flood reduction improvements on the owner's property.

(2) The county has determined that improving the stormwater system is not practically feasible or cost-effective and the activities provide savings to the stormwater fund.

(3) The improvements to private property are the minimum necessary to accomplish the stormwater benefit.

(4) Funding provided by the county, above a certain amount, to the property owner or expended upon improvements to the property shall be reimbursed to the county if the property is sold within five years of the completion of the flood reduction improvement project. The amount of reimbursement due the county may be calculated as the difference between the established pre-mitigation fair market value and the sale price of the property, not to exceed the total funding provided by the county.

(5) The minimum financial contribution the private property owner must make to the project.

The bill would also require that an existing stormwater advisory committee established by the board of commissioners review and approve projects that implement flood damage reduction techniques. The committee shall submit an annual report to the board of county commissioners for its review.

EFFECTIVE DATE: This act is effective when it becomes law.

Trina Griffin, counsel to the House & Senate Finance Committees, substantially contributed to this summary.

SENATE SERGEANT-AT-ARMS

COMMITTEE: Senate Finance Committee

DATE: June 10, 2014 ROOM: 544

1. STEVE WILSON
2. DONNA BLAKE
3. ANDERSON MEADOWS
4. GILES JEFFREYS
5. _____
6. _____

Chrm: Rabon & Rucho

SENATE PAGES ATTENDING

COMMITTEE: Finance ROOM: 544

DATE: 6-10 TIME: 1 pm

PLEASE PRINT LEGIBILY!!!!!!!!!!!!....*or else!*

	Page Name	Hometown	Sponsoring Senator
1.	Sarah Womack	Sanford	Rabin
2.	Grant Buchanan	Wilson	Newton
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4.	Seam Kurz	Raleigh	Stein
5.	Will Hausen	Durham	Woodard
6.	Maribelle Scoggin	Raleigh	Berger
7.	Deirdre Logan	Durham	McKissick
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9.	Mackin Boylan	Raleigh	Hunt
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Do not add names below the grid.

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

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 10, 2014

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

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Bill Grey	DPS / SHP
Billy Clayton	DPS/SLLP
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Britt Allen	Allen Law Offices PLLC
Preston Howard	NCMA
Daniel Balam	Troutman Sanders
[signature]	NCAEC
Mike Carpenter	NCBTA
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Joe Lanier	Nelson Mullins

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 10, 2014

Name of Committee — **Date**

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RICHARD TAYLOR	NC 911 BOARD
Meghan Cook	ITS
[illegible]	[illegible]
John Palinski	NCAHA
Amy McCurley	NC BeV
Maeve Gardner	GSK
Kara Weishaar	SA
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VISITOR REGISTRATION SHEET

Senate Finance Committee — June 10, 2014

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

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Steve Brewer	CDR
Erin Jones	TWC
Tray Raborn	AT&T
[illegible]	CSC
David Heiken	NC Center for Nonprofits
[illegible]	NMRS
Patrick Buffkin	NCASC
David Fowler	CITENC
PA Sachsman	NCSHP
[illegible]	NCRMA

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 11, 2014

Name of Committee — **Date**

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Chris Greenidge	Senate Intern
Melissa D'Daine	Senate Intern
Steven Pennington	Commerce – LEAD
Mildred Spearman	NCAOC
John W Smith	NC AOC
Jackson Court	NSJ
Chris Agnew	DOJ
Sal Shinn	NCACC
Julie Hochsztein	NCACC
Hugh Johnson	Governor's Office
Brianna Van Stekelenburg	Sierra Club

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 11, 2014

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
William Stribling	Brubaker and Associates
Betsy Bailey	PENC
Jason Beadle	Synda Intern

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 11, 2014
Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Rick Zechini	WM
Sarah Preston	ACLU-NC
Todd Barlow	NCAJ
Rhiannon Bell	NCMMC
Julie White	NCMMC
Jack Cozort	NSS
Michelle Frazier	MFTS
Bruce Thompson	Parker Poe
Dana Fenton	City of Charlotte
Lisa Martin	NC HBA
Steven Webb	

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 11, 2014

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Ellie Wayne	NCDOR
Fred Baggett	NC Police Chiefs Assn
Whitney Christensen	NCLM
	Misc.
	NCAOC
	Smith Anderson
JAKE PARKER	NCHB

Senate Committee on Finance
Wednesday, June 11, 2014, 1:00 PM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 648	NC Commerce Protection Act of 2014.	Sen. B. Jackson Sen. Meredith Sen. J. Davis
SB 741	Add Franklin Cty-Tax Cert Before Recordation.	Sen. Barefoot
SB 767	Rockingham Deannexation.	Sen. McLaurin
SB 871	Raleigh/Durham/Deannexation/Annexation.	Sen. McKissick Sen. Woodard
SB 874	Spruce Pine Deannexation.	Sen. Hise
SB 876	Brevard Meals Tax.	Sen. Apodaca
HB 558	Soil and Water District Refunds.	Rep. Whitmire Rep. Ramsey Rep. Dixon Rep. Waddell
HB 569	Foxfire/Satellite Annexations.	Rep. Boles
HB 618	Amend Firearm Restoration Law.	Rep. Speciale Rep. Pittman
HB 1069	Unemployment Insurance Law Changes.	Rep. Howard Rep. Warren Rep. Arp

Adjournment

Senate Committee on Finance
Wednesday, June 11, 2014 at 1:00 PM
Room 544 of the Legislative Office Building

MINUTES

The Senate Committee on Finance met at 1:00 PM on June 11, 2014 in Room 544 of the Legislative Office Building. Thirty-two members were present.

Senator Bill Rabon, Chair, presided.

SB 741 - Bladen, Columbus, Franklin, Hoke/Tax Cert.

Senator Barefoot was recognized to explain the bill. Senator Tillman was recognized to make a motion to adopt the proposed committee substitute (PCS) for discussion. The motion carried. The PCS would authorize Bladen, Columbus, and Franklin Counties to require payment of delinquent property taxes prior to recording deeds conveying property. Senator Tillman moved for a favorable report and the motion carried. A copy of the PCS and the summary is attached.

SB 767 - Rockingham Deannexation.

Senator McLaurin was recognized to explain the bill which would deannex a described area from the City of Rockingham. Senator Hartsell moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

SB 871 - Raleigh/Durham/Deannexation/Annexation.

Senator McKissick was recognized to explain the bill. Senator Tillman moved to adopt the PCS for discussion and the motion carried. The PCS would deannex a described area from the City of Raleigh and add the area to the City of Durham. Senator Tillman moved for a favorable report and the motion carried. A copy of the PCS and the summary is attached.

SB - 874 Spruce Pine Deannexation.

Senator Hise was recognized to explain the bill which would deannex a described area from the Town of Spruce Pine. Senator Tillman moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

SB 876 - Brevard Meals Tax.

Senator Apodaca was recognized to explain the bill which authorize the City of Brevard to levy a prepared food and beverages tax of 1.5%, the net proceeds of which would be used to construct and improve public infrastructure and facilities, including projects related to the historic downtown, recreations-based infrastructure and facilities, and

gateway opportunities that exist, such as Pisgah National Forest or Brevard Music Center. Frank Gray, the NC Restaurant and Lodging Association lobbyist, was recognized to speak in opposition to the bill. Senator Tillman was recognized to offer a technical amendment. Senator Apodaca moved for its adoption and the motion carried. Senator Tillman moved for a favorable report as amended and the motion carried. A copy of the bill, the summary and the amendment is attached.

HB 569 - Foxfire/Satellite Annexations.

Senator Tillman was recognized to explain the bill which permits the Village of Foxfire to voluntarily annex a portion of a subdivision, exempts the Town of Harrisburg from the 10% area cap on voluntary satellite annexations. Senator Apodaca moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

SB - 648 NC Commerce Protection Act of 2014.

Senator Brent Jackson was recognized to explain the bill. It would make various changes to statutes governing commerce in the State, including provisions to create transparency in contingency fee contracts between State agencies and private attorneys, prevents the abuse of patents, enforces excusive forum provisions assented to by shareholders in derivative actions, and creates a three-judge panel to hear challenges to the constitutionality of statutes. Senator Apodaca moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

HB 558 - Soil & Water/Regional Jails Refunds.

Representative Whitmire was recognized to explain the bill. Senator Apodaca moved to adopt the PCS for discussion and the motion carried. The PCS authorizes a sales tax refund for soil and water conservation districts and regional jails. Senator Apodaca moved for a favorable report and the motion carried. A copy of the PCS, the summary and the fiscal memo is attached.

HB 618 - Amend Firearm Restoration Law.

Senator Cook was recognized to explain the bill. It would restore firearms rights to persons whose rights were restored prior to December 1, 1995; but were subsequently forfeited because of the enactment of S.L. 1995-487; would increase the fee for petitioning to restore firearms rights from $200 to $250; and would prohibit certain offenses from being eligible for expunction. Senator Daniel moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

HB 1069 - Unemployment Insurance Law Changes.

Senator Rucho was recognized to explain the bill. Jan Paul, a Research Division staff attorney, was recognized to explain the confidentiality provisions and Greg Roney, committee counsel, explained the remainder of the bill.

The bill would make the following changes to the unemployment insurance (UI) laws as recommended by the Joint Legislative Oversight Committee on Unemployment Insurance:

- Clarify that UI claim information is confidential unless the disclosure is permitted by federal regulation, and would exempt UI information from the public records disclosure requirements of Chapter 132 of the General Statutes;
- Authorize the Division of Motor Vehicles to disclose social security numbers to the Division of Employment Security (DES) for the purpose of verifying employer and claimant identity; require UI claimants to contact five potential employers per week; eliminate the procedure to request reconsideration of DES decisions; and make other technical changes to modernize language and fix statutory references to DES.
- Clarify DES authority to garnish and attach the credit card receipts of delinquent taxpayers.
- Eliminate the variable range for UI duration and base the duration of UI benefits only on the unemployment rate. Under the proposal, all UI claimants would receive the maximum number of weeks of UI benefits currently allowed.
- Require photo identification to receive UI benefits.

Senator Rucho was recognized to offer any amendment which adds a new section for a Board of Review for unemployment Insurance, and some technical changes. He moved for its adoption and the motion carried. Senator Tillman moved for a favorable report and the motion carried. A copy of the bill, the summary, the fiscal memo, and the amendment is attached.

The meeting adjourned at 1:38 p.m.

Senator Bill Rabon, Chair
Presiding

DeAnne Mangum, Committee Clerk

Principal Clerk ____
Reading Clerk ____

Corrected #3: The following bill has been added: H1069

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	June 11, 2014	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
SB 648	NC Commerce Protection Act of 2014.	Senator B. Jackson Senator Meredith Senator J. Davis
SB 741	Add Franklin Cty-Tax Cert Before Recordation.	Senator Barefoot
SB 767	Rockingham Deannexation.	Senator McLaurin
SB 871	Raleigh/Durham/Deannexation/Annexation.	Senator McKissick Senator Woodard
SB 874	Spruce Pine Deannexation.	Senator Hise
SB 876	Brevard Meals Tax.	Senator Apodaca
HB 558	Soil and Water District Refunds.	Representative Whitmire Representative Ramsey Representative Dixon Representative Waddell
HB 569	Foxfire/Satellite Annexations.	Representative Boles
HB 618	Amend Firearm Restoration Law.	Representative Speciale Representative Pittman
HB 1069	Unemployment Insurance Law Changes.	Representative Howard Representative Warren Representative Arp

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

Principal Clerk ____
Reading Clerk ____

Corrected #2: The following bills have been added: H569, S648, S876

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	June 11, 2014	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
SB 648	NC Commerce Protection Act of 2014.	Senator B. Jackson Senator Meredith Senator J. Davis
SB 741	Add Franklin Cty-Tax Cert Before Recordation.	Senator Barefoot
SB 767	Rockingham Deannexation.	Senator McLaurin
SB 871	Raleigh/Durham/Deannexation/Annexation.	Senator McKissick Senator Woodard
SB 874	Spruce Pine Deannexation.	Senator Hise
SB 876	Brevard Meals Tax.	Senator Apodaca
HB 558	Soil and Water District Refunds.	Representative Whitmire Representative Ramsey Representative Dixon Representative Waddell
HB 569	Foxfire/Satellite Annexations.	Representative Boles
HB 618	Amend Firearm Restoration Law.	Representative Speciale Representative Pittman

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

Principal Clerk ____
Reading Clerk ____

Corrected #1: The following bills have been added: S741, S767, S871, S874, H558, H618.

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	June 11, 2014	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
SB 741	Add Franklin Cty-Tax Cert Before Recordation.	Senator Barefoot
SB 767	Rockingham Deannexation.	Senator McLaurin
SB 871	Raleigh/Durham/Deannexation/Annexation.	Senator McKissick Senator Woodard
SB 874	Spruce Pine Deannexation:	Senator Hise
HB 558	Soil and Water District Refunds.	Representative Whitmire Representative Ramsey Representative Dixon Representative Waddell
HB 618	Amend Firearm Restoration Law.	Representative Speciale Representative Pittman

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	June 11, 2014	1:00 PM	544 LOB

Agenda to be determined.

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Wednesday, June 11, 2014

Senator Rabon,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

HB **1069 (CS#1)** Unemployment Insurance Law Changes.

Draft Number:	H1069-PCS10582-MC-30
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Senator Robert Rucho will handle HB 1069

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Wednesday, June 11, 2014

Senator Rabon,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

SB **876** Brevard Meals Tax.

Draft Number:	S876-PCS15448-SVx-45
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Senator Tom Apodaca will handle SB 876

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT

Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Wednesday, June 11, 2014

Senator Rabon,
submits the following with recommendations as to passage:

FAVORABLE

HB **569** **(SCS#1)** Foxfire/Satellite Annexations.

Draft Number:	None
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

HB **618** **(SCS#1)** Amend Firearm Restoration Law.

Draft Number:	None
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

SB **648** **(CS#2)** NC Commerce Protection Act of 2013.

Draft Number:	None
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

SB **767** Rockingham Deannexation.

Draft Number:	None
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

SB **874** Spruce Pine Deannexation.

Draft Number:	None
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

SB **741** Add Franklin Cty-Tax Cert Before Recordation.

Draft Number:	S741-PCS45187-TD-45
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

SB **871** Raleigh/Durham/Deannexation/Annexation.

Draft Number:	S871-PCS45186-TDx-44
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

HB **558** Soil and Water District Refunds.

Draft Number:	H558-PCS40239-TD-43
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 8

Senator Jerry Tillman will handle HB 569
Senator Bill Cook will handle HB 618
Senator W. Jackson will handle SB 648
Senator Eugene McLaurin will handle SB 767
Senator Ralph Hise will handle SB 874
Senator John Barefoot will handle SB 741
Senator Floyd McKissick will handle SB 871
Senator W. Jackson will handle HB 558

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 741
PROPOSED COMMITTEE SUBSTITUTE S741-CSTD-45 [v.1]

6/10/2014 6:01:49 PM

Short Title: Bladen, Columbus, Franklin/Tax Cert. (Local)

Sponsors:

Referred to:

May 15, 2014

A BILL TO BE ENTITLED

AN ACT TO ALLOW BLADEN COUNTY, COLUMBUS COUNTY, AND FRANKLIN COUNTY TO NOT ACCEPT THE REGISTRATION OF A DEED TRANSFERRING REAL PROPERTY WHEN TAXES ARE DELINQUENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 161-31 reads as rewritten:

"**§ 161-31. Tax certification.**

(a) Tax Certification. – The board of commissioners of a county may, by resolution, require the register of deeds not to accept any deed transferring real property for registration unless the county tax collector has certified that no delinquent ad valorem county taxes, ad valorem municipal taxes, or other taxes with which the collector is charged are a lien on the property described in the deed. The county commissioners may describe the form the certification must take in its resolution.

(a1) Exception to Tax Certification. – If a board of county commissioners adopts a resolution pursuant to subsection (a) of this section, notwithstanding the resolution, the register of deeds shall accept without certification a deed submitted for registration under the supervision of a closing attorney and containing this statement on the deed: "This instrument prepared by: _____, a licensed North Carolina attorney. Delinquent taxes, if any, to be paid by the closing attorney to the county tax collector upon disbursement of closing proceeds.

(b) Applicability. – This section applies only to Alamance, Alexander, Anson, Beaufort, Bertie, Bladen, Brunswick, Buncombe, Burke, Cabarrus, Camden, Carteret, Caswell, Catawba, Cherokee, Chowan, Clay, Cleveland, Columbus, Currituck, Dare, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gaston, Gates, Graham, Granville, Greene, Halifax, Harnett, Haywood, Henderson, Hertford, Hyde, Iredell, Jackson, Johnston, Jones, Lee, Lenoir, Lincoln, Macon, Madison, Martin, McDowell, Montgomery, Nash, Northampton, Onslow, Pasquotank, Pender, Perquimans, Person, Pitt, Polk, Robeson, Rockingham, Rowan, Rutherford, Sampson, Stanly, Stokes, Surry, Swain, Transylvania, Tyrrell, Vance, Warren, Washington, Wayne, Wilson, Yadkin, and Yancey Counties."

SECTION 2. This act is effective when it becomes law.

SENATE BILL 741:
Bladen, Columbus, Franklin/Tax Cert.

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 11, 2014
Introduced by:	Sen. Barefoot	**Prepared by:**	Heather Fennell Committee Counsel
Analysis of:	PCS to First Edition S741-CSTD-45		

SUMMARY: The PCS to S741 would authorize Bladen, Columbus, and Franklin Counties to require payment of delinquent property taxes prior to recording deeds conveying property.

CURRENT LAW: *G.S. 161-31(a)* allows a county board of commissioners, by resolution, to require the register of deeds not to accept any deed transferring real property for registration unless the county tax collector has certified that no delinquent ad valorem county taxes, ad valorem municipal taxes, or other taxes with which the collector is charged are a lien on the property described in the deed. The county commissioners may describe the form the certification must take in its resolution.[1]

G.S. 161-31(a1) provides an exception. It requires the register of deeds to accept, without certification, a deed containing the following statement: "This instrument prepared by: _____, a licensed North Carolina attorney. Delinquent taxes, if any, to be paid by the closing attorney to the county tax collector upon disbursement of closing proceeds."

BILL ANALYSIS: The bill amends G.S. 161-31(b) to add Bladen, Columbus, and Franklin Counties to the list of counties in which the board of commissioners is permitted to pass a resolution requiring the register of deeds not to accept any deed transferring real property unless the county tax collector certifies that the taxes listed in the statute are not delinquent and are not a lien on the property.

EFFECTIVE DATE: S741 would be effective when it becomes law.

BACKGROUND: The following 4 counties have a similar requirement but under different authorizing legislation:

Avery County	Chapter 305 of the 1963 Session Laws, as amended by S.L. 1997-410 and S.L. 1998-73
Ashe County	S.L. 1993-657, as amended by S.L. 1997-410 and S.L. 2005-433
Alleghany County	S.L. 1997-410
Mitchell County	S.L. 1987-537, as amended by S.L. 1997-410 and S.L. 1999-326

These local acts provide that the Register of Deeds shall not record any deed unless it is accompanied by a certification that all delinquent taxes have been paid. These local acts are in contrast to G.S. 161-31, which gives certain counties the discretion to pass a resolution to that effect.

Trina Griffin substantially contributed to this summary.

[1] G.S. 161-31 applies to the following 75 counties: Alamance, Alexander, Anson, Beaufort, Bertie, Brunswick, Buncombe, Burke, Cabarrus, Camden, Carteret, Caswell, Catawba, Cherokee, Chowan, Clay, Cleveland, Currituck, Dare, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Gaston, Gates, Graham, Granville, Greene, Halifax, Harnett, Haywood, Henderson, Hertford, Hyde, Iredell, Jackson, Johnston, Jones, Lee, Lenoir, Lincoln, Macon, Madison, Martin, McDowell, Montgomery, Nash, Northampton, Onslow, Pasquotank, Pender, Perquimans, Person, Pitt, Polk, Robeson, Rockingham, Rowan, Rutherford, Sampson, Stanly, Stokes, Surry, Swain, Transylvania, Tyrrell, Vance, Warren, Washington, Wayne, Wilson, Yadkin, and Yancey.

O. Walker Reagan
Director

S741-SMTD-106 CSTD-45 -V3

Research Division
(919) 733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S 1

SENATE BILL 767

Short Title:	Rockingham Deannexation.	(Local)
Sponsors:	Senator McLaurin (Primary Sponsor).	
Referred to:	State and Local Government.	

May 19, 2014

A BILL TO BE ENTITLED

AN ACT REMOVING CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE CITY OF ROCKINGHAM.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is removed from the corporate limits of the City of Rockingham:

All and Singular, that certain tract of land located in the Rockingham Township, Richmond County, North Carolina containing 24.61 acres and identified by Richmond County parcel identification number 7474-02-89-5229. Said tract is the eastern portion of the following tract: Beginning at an iron stake in the center of State Road #1434, said point also being the southern line of the original tract of which this is a part, and also being the northwestern corner of the Richmond County Board of Education tract, and the Northeastern corner of the James Wise tract, and the southwestern corner of the Robert S. Reynolds tract previously conveyed by this Executor [Charles B. Deane, Jr., executor of the estate of Hector A. Little]; and runs thence with State Road #1434 the following courses and distances: North 38-38 East, 100 feet; North 45-00 East, 100 feet; North 51-02 East, 100 feet; North 54-54 East, 100 feet; North 56-31 East, 621 feet to an iron stake in the center of rural paved road #1434, the same being the Southeastern corner of the Robert S. Reynolds tract; thence South 19-38 East 5.6 feet, an original corner in the rural paved road, and also an original corner of the Cecil Terry land; thence with rural paved road #1434 the following courses and distances: North 56-27 East, 300 feet; North 64-57 East, 213.8 feet; South 78-03 East, 326.7 feet to an iron stake in the center of rural paved road #1434; thence with the Betty Knight Branch the following courses and distances: South 14-20 East, 180 feet; South 4-50 East, 215 feet; South 30-50 East, 188 feet; South 36-20 West, 95 feet; South 19-50 West, 210 feet; thence in the direction due South approximately 160 feet to an iron stake in the edge of said branch; thence South 41-47 West, 653.6 feet to an iron stake; thence with the Northern boundary of Richmond County Board of Education tract North 61-00 West, 1,306.8 feet to the beginning in the center of State Road #1434, and containing 32.8 acres, more or less.

The western portion of the above described tract, which is described as follows, was specifically excluded from the Town's annexation of the above described tract, and therefore is not affected in any way by the provisions of this act: Beginning at an iron stake in the center of State Road Number 1434, said point also being the northwestern corner of the Richmond County Board of Education tract, the northeastern corner of the James Wise tract, and the southwestern corner of the Robert S. Reynolds tract, and runs thence with the center of State Road Number 1434 as follows: North 36-59 East 75 feet; North 42-39 East 75 feet; North 47-21 East 75 feet; North 51-45 East 75 feet; North 54-53 East 75 feet; North 56-21 East 75

feet; and North 56-45 East 298.3 feet to a corner in the center of said road; thence runs a new line South 23-19 East 560.48 feet to an iron stake near a pond; thence crosses said pond South 15-33 West 352.54 feet to an iron stake in the southern line of the tract which this a part, and in the northern line of the Richmond County Board of Education tract; thence runs with said line North 61-00 West 812.3 feet to the beginning, containing 8.19 acres, more or less.

SECTION 2. This act has no effect upon the validity of any liens of the City of Rockingham for ad valorem taxes or special assessments outstanding before the effective date of this act. Such liens may be collected or foreclosed upon after the effective date of this act as though the property were still within the corporate limits of the City of Rockingham.

SECTION 3. This act becomes effective June 30, 2014.

SENATE BILL 767:
Rockingham Deannexation

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 11, 2014
Introduced by:	Sen. McLaurin	**Prepared by:**	Heather Fennell Committee Counsel
Analysis of:	First Edition		

SUMMARY: Senate Bill 767 would deannex a described area from the City of Rockingham.

CURRENT LAW: Under Section 1 of Article VII of the N.C. Constitution, the General Assembly is empowered to "provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions, and, except as otherwise prohibited by this Constitution, may give such powers and duties to counties, cities and towns, and other governmental subdivisions as it may deem advisable."

Pursuant to this Section, the General Assembly enacted Article 4A of Chapter 160A of the General Statutes, which authorize municipalities to enact ordinances to add territory to their municipal limits by annexation.

The General Assembly has not enacted any method for municipalities to *deannex* property -- that power remains with the General Assembly.

BILL ANALYSIS: Senate Bill 767 would deannex a described area totaling approximately 24.61 acres from the City of Rockingham.

EFFECTIVE DATE: This act becomes effective June 30, 2014.

O. Walker Reagan
Director

S767-SMTD-107 E1 -V1

Research Division
(919) 733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 871
PROPOSED COMMITTEE SUBSTITUTE S871-CSTDx-44 [v.3]

6/10/2014 7:08:34 PM

Short Title: Raleigh/Durham/Deannexation/Annexation. (Local)

Sponsors:

Referred to:

May 29, 2014

A BILL TO BE ENTITLED

AN ACT TO REMOVE CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE CITY OF RALEIGH AND TO ADD THE PROPERTY TO THE CORPORATE LIMITS OF THE CITY OF DURHAM.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is removed from the corporate limits of the City of Raleigh:

PIN 0768-39-2255 (0.35 acre)
PIN 0768-39-4288 (0.07 acre)
PIN 0768-39-6587 (0.65 acre).

SECTION 2. This act has no effect upon the validity of any liens of the City of Raleigh for ad valorem taxes or special assessments outstanding before the effective date of this act. Such liens may be collected or foreclosed upon after the effective date of this act as though the property were still within the corporate limits of the City of Raleigh.

SECTION 3. The following described property is added to the corporate limits of the City of Durham:

PIN 0768-39-2255 (0.35 acre)
PIN 0768-39-4288 (0.07 acre)
PIN 0768-39-6587 (0.65 acre).

SECTION 4. This act becomes effective June 30, 2014.

SENATE BILL 871:
Raleigh/Durham/Deannexation/Annexation

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 11, 2014
Introduced by:	Sens. McKissick, Woodard	**Prepared by:**	Heather Fennell Committee Counsel
Analysis of:	PCS to First Edition S871-CSTDx-44		

SUMMARY: ***Senate Bill 871 would deannex a described area from the City of Raleigh and add the area to the City of Durham.***

CURRENT LAW: Under Section 1 of Article VII of the N.C. Constitution, the General Assembly is empowered to "provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions, and, except as otherwise prohibited by this Constitution, may give such powers and duties to counties, cities and towns, and other governmental subdivisions as it may deem advisable."

Pursuant to this Section, the General Assembly enacted Article 4A of Chapter 160A of the General Statutes, which authorize municipalities to enact ordinances to add territory to their municipal limits by annexation.

The General Assembly has not enacted any method for municipalities to *deannex* property -- that power remains with the General Assembly.

BILL ANALYSIS: Senate Bill 871 would deannex a described area from the City of Raleigh and add the area to the City of Durham.

EFFECTIVE DATE: This act becomes effective June 30, 2014.

O. Walker Reagan
Director

S871-SMTD-108 CSTDX-44 -V2

Research Division
(919) 733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S 1

SENATE BILL 874

Short Title:	Spruce Pine Deannexation.	(Local)
Sponsors:	Senator Hise (Primary Sponsor).	
Referred to:	Finance.	

May 29, 2014

A BILL TO BE ENTITLED

AN ACT REMOVING CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE TOWN OF SPRUCE PINE.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is removed from the corporate limits of the Town of Spruce Pine:

BEGINNING at the southeast corner of the property herein described, the same being an existing iron pipe, a corner common with what is now or formerly Miller and Phillips Investments, thence N 90° 00' 00" W 157.51 feet to an existing iron pipe, the same being located S 29° 17' 35" W 137.31 feet from the southwest corner of a one story brick dwelling located on the property herein described; thence N 90° 00' 00" W 14.68 feet to a point, thence S 89° 51' 03" W 165.67 feet to an existing iron pin; thence N 01° 03' 39" E 38.06 feet to an existing iron pin; a corner common with what is now or formerly Young and Carpenter; thence N 03° 49' 29" E 99.93 feet to an existing iron pin; thence N 03° 49' 29" E 12.20 feet to an existing iron pin; thence N 16° 26' 29" W 208.12 feet to an existing iron pin; thence N 17° 32' 01" W 13.31 feet to an existing iron pin; thence N 89° 37' 44" W 63.53 feet to an existing iron pin; thence N 01° 53' 48" W 50.00 feet to an existing iron pin; thence N 89° 37' 44" W 83.57 feet to an existing iron pin; thence N 46° 39' 23" E 291.42 feet to an existing iron pin; thence S 20° 16' 10" E 62.78 feet to an existing iron pin; thence S 87° 31' 51" E 312.18 feet to an existing iron pin at an old apple tree corner; thence S 00° 31' 34" W 196.31 feet to an existing iron pin; thence S 00° 24' 04" W 344.12 feet to the point of beginning, containing 4.99 acres by DMD and being the property described on a survey map by High Mountain Land Surveying, David A. Wiseman, PLS L-3890, dated 22 October 2001, Map No. 02161. Rev.

SECTION 2. This act has no effect upon the validity of any liens of the Town of Spruce Pine for ad valorem taxes or special assessments outstanding before the effective date of this act. Such liens may be collected or foreclosed upon after the effective date of this act as though the property were still within the corporate limits of the Town of Spruce Pine.

SECTION 3. This act becomes effective June 30, 2014.

SENATE BILL 874:
Spruce Pine Deannexation

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 11, 2014
Introduced by:	Sen. Hise	**Prepared by:**	Heather Fennell
Analysis of:	First Edition		Committee Counsel

SUMMARY: ***Senate Bill 874 would deannex a described area from the Town of Spruce Pine.***

CURRENT LAW: Under Section 1 of Article VII of the N.C. Constitution, the General Assembly is empowered to "provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions, and, except as otherwise prohibited by this Constitution, may give such powers and duties to counties, cities and towns, and other governmental subdivisions as it may deem advisable."

Pursuant to this Section, the General Assembly enacted Article 4A of Chapter 160A of the General Statutes, which authorize municipalities to enact ordinances to add territory to their municipal limits by annexation.

The General Assembly has not enacted any method for municipalities to *deannex* property -- that power remains with the General Assembly.

BILL ANALYSIS: Senate Bill 874 would deannex a described area from the Town of Spruce Pine.

EFFECTIVE DATE: This act becomes effective June 30, 2014.

O. Walker Reagan
Director

S874-SMTD-109 E1 -V1

Research Division
(919) 733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S 1

SENATE BILL 876*

Short Title:	Brevard Meals Tax.	(Local)
Sponsors:	Senator Apodaca (Primary Sponsor).	
Referred to:	Finance.	

May 29, 2014

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF BREVARD TO LEVY A PREPARED FOOD AND BEVERAGES TAX.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Authority. – The city council of the City of Brevard may, by resolution and after not less than 10 days' public notice and a public hearing, levy a prepared food and beverages tax of up to one and one-half percent (1.5%) of the sales price of prepared food and beverages sold within the City of Brevard at retail for consumption on or off the premises by a retailer subject to sales tax under G.S. 105-164.4(a)(1). For purposes of catering, the tax applies to food served in the city without regard to the residency of the caterer. This tax is in addition to State and local sales tax.

SECTION 1.(b) Definitions. – The definitions in G.S. 105-164.3 apply to this section to the extent they are not inconsistent with the provisions of this section. In addition, the following definitions apply in this act:

(1) Net proceeds. – Gross proceeds less the cost to the city of administering and collecting the tax.

(2) Prepared food and beverages. – The term includes the following:

a. Prepared food, as defined in G.S. 105-164.3, including any food to which a retailer has added value or altered its state, other than by cooling, by preparing, combining, dividing, heating, or serving, in order to make the food available for human consumption.

b. An alcoholic beverage, as defined in G.S. 18B-101, that meets at least one of the conditions of prepared food under G.S. 105-164.3.

SECTION 1.(c) Exemptions. – The prepared food and beverages tax does not apply to the following sales of prepared food and beverages:

(1) Prepared food and beverages served to residents in boardinghouses and sold together on a periodic basis with rental of a sleeping room or lodging.

(2) Retail sales exempt from taxation under G.S. 105-164.13.

(3) Retail sales through or by means of vending machines.

(4) Prepared food and beverages served by a retailer subject to the local occupancy tax if the charge for the prepared food and beverages is included in a single, nonitemized sales price together with the charge for rental of a room, lodging, or accommodation furnished by the retailer.

(5) Prepared food and beverages furnished without charge by an employer to an employee.

(6) Retail sales by grocers or by grocery sections of supermarkets or other diversified retail establishments, other than sales of prepared food and beverages in the delicatessen or similar department of the grocer or grocery section.

(7) Prepared food and beverages served on a federal military reservation.

SECTION 1.(d) Collection. – Every retailer subject to the tax levied under this section shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing prepared food and beverages. The tax shall be stated separately on the sale document and shall be paid by the purchaser to the retailer as trustee for and on account of the city. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the retailer. The entity collecting the tax shall design, print, and furnish to all appropriate businesses and persons in the city the necessary forms for filing returns and instructions to ensure the full collection of the tax.

SECTION 1.(e) Administration. – The City of Brevard may enter into an agreement with Transylvania County for the administration and collection of the tax levied under this section. In the absence of an agreement, the city shall administer the tax levied under this section. A tax levied under this section is due and payable to the local administering authority as agent for the taxing entity in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every retailer liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the city or, at the city's direction, the entity administering and collecting the tax. The return shall show the total gross receipts derived in the preceding month from sales to which the tax applies.

A return filed under this section is not a public record and may not be disclosed except in accordance with G.S. 160A-208.1.

The provisions of Article 5 and Article 9 of Chapter 105 of the General Statutes apply to this section to the extent they are not inconsistent with the provisions of this section. The uniform meals tax penalty provisions of G.S. 160A-214.1 apply to a tax levied under this section.

SECTION 1.(f) Refunds. – The entity administering the tax shall refund to a nonprofit or governmental entity the prepared food and beverages tax paid by the entity on eligible purchases of prepared food and beverages. A nonprofit or governmental entity's purchase of prepared food and beverages is eligible for a refund under this subsection if the entity is entitled to a refund under G.S. 105-164.14(b) or (c) of local sales and use tax paid on the purchase or if the sale is exempt under G.S. 105-164.13. The time limitations, application requirements, penalties, and restrictions provided in G.S. 105-164.14(b), (d), and (d1) apply to refunds to nonprofit entities; the time, limitations, application requirements, penalties, and restrictions provided in G.S. 105-164.14(c), (d), and (d1) apply to refunds to governmental entities. When an entity applies for a refund of the prepared food and beverages tax paid by it on purchases, it shall attach to its application a copy of the application submitted to the Department of Revenue under G.S. 105-164.14 for a refund of the sales and use tax on the same purchases or a written statement that the purchases were exempt from the tax. An applicant for a refund under this subsection shall provide any information required by the entity administering the tax to substantiate the claim.

SECTION 1.(g) Use of Proceeds. – The proceeds of a tax levied under this section shall be used as provided in this subsection. The entity administering and collecting the tax may deduct from the gross proceeds of the taxes collected under this act an amount not to exceed three percent (3%) of the gross proceeds to pay for the direct cost of administering and collecting the taxes. The remaining proceeds shall be used to construct and improve public infrastructure and facilities, including projects located in or related to the historic downtown,

recreation-based infrastructure and facilities, and gateway opportunities that exist, such as Pisgah National Forest or Brevard Music Center.

SECTION 1.(h) Effective Date of Levy. – A tax levied under this section shall become effective on the date specified in the resolution levying the tax. The date shall be the first day of a calendar month and may not be before the first day of the fourth month after the date the resolution is adopted.

SECTION 1.(i) Repeal. – A tax levied under this section may be repealed or reduced by a resolution adopted by the Brevard City Council. Any repeal or reduction shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution is adopted. Repeal or reduction of a tax levied under this section does not affect a liability for a tax that attached before the effective date of the repeal or reduction, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal or reduction.

SECTION 2. This act is effective when it becomes law.

SENATE BILL 876: Brevard Meals Tax

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 11, 2014
Introduced by:	Sen. Apodaca	**Prepared by:**	Trina Griffin Committee Counsel
Analysis of:	First Edition		

SUMMARY: ***Senate Bill 876 would authorize the City of Brevard to levy a prepared food and beverages tax of 1.5%, the net proceeds of which would be used to construct and improve public infrastructure and facilities, including projects related to the historic downtown, recreations-based infrastructure and facilities, and gateway opportunities that exist, such as Pisgah National Forest or Brevard Music Center.***

[As introduced, this bill was identical to H1249, as introduced by Rep. Whitmire, which is currently in House Finance.]

CURRENT LAW: Cumberland, Dare, Mecklenburg[1], and Wake Counties and the Town of Hillsborough currently levy a prepared food and beverage tax. The General Assembly has also authorized the City of Monroe and Durham County to hold a referendum on the issue of whether to levy a prepared food and beverage tax but the issue was defeated for both localities. The rate of tax for all localities that levy it is one percent (1%).

BILL ANALYSIS:

Levy of tax. – The bill would authorize the City of Brevard to levy a prepared food and beverages tax of up to one and a half percent (1.5%) on the sales price of prepared food and beverages sold within the City of Brevard at retail for consumption on or off the premises by a retailer.

Prepared food is food that meets at least one of the following conditions:

- It is sold in a heated state or it is heated by the retailer.
- It consists of two or more foods mixed or combined by the retailer for sale as a single item. This does not include foods containing raw eggs, fish, meat, or poultry that require cooking by the consumer as recommended by the Food and Drug Administration to prevent food borne illnesses.
- It is sold with eating utensils provided by the retailer, such as plates, knives, forks, spoons, glasses, cups, napkins, and straws.

Prepared food does not include food the retailer sliced, repackaged, or pasteurized but did not heat, mix, or sell with eating utensils.

An **alcoholic beverage** is defined as "any beverage containing at least one-half of one percent (0.5%) alcohol by volume, including malt beverages, unfortified wine, fortified wine, spirituous liquor, and mixed beverages."

Exemptions. – The tax would not apply to the following:

(1) Prepared food and beverages served to residents in boardinghouses and sold together on a periodic basis with rental of a sleeping room or lodging.

[1] The City of Charlotte has authority to levy a prepared food and beverage tax to the extent Mecklenburg County does not levy the tax, but the County does currently levy the tax.

(2) Retail sales exempt from taxation under G.S. 105-164.13.
(3) Retail sales through or by means of vending machines.
(4) Prepared food and beverages served by a retailer subject to the local occupancy tax if the charge for the prepared food and beverages is included in a single, nonitemized sales price together with the charge for rental of a room, lodging, or accommodation furnished by the retailer.
(5) Prepared food and beverages furnished without charge by an employer to an employee.
(6) Retail sales by grocers or by grocery sections of supermarkets or other diversified retail establishments, other than sales of prepared food and beverages in the delicatessen or similar department of the grocer or grocery section.
(7) Prepared food and beverages served on a federal military reservation.

Administration. – The bill would authorize Brevard to enter into an agreement with Transylvania County for the administration and collection of the tax.

Use. – The net proceeds of the tax would be used to construct and improve public infrastructure and facilities, including projects related to the historic downtown, recreations-based infrastructure and facilities, and gateway opportunities that exist, such as Pisgah National Forest or Brevard Music Center.

EFFECTIVE DATE: This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 876*

AMENDMENT NO. 1
(to be filled in by
Principal Clerk)

S876-ASV-96 [v.1]

Comm. Sub. [NO]
Amends Title [NO]
First Edition

Date June 11 ,2014

Senator Apodaca

moves to amend the bill on page 1, lines 18-23, by rewriting the lines to read:

"a. Prepared food, as defined in G.S. 105-164.3.
b. An alcoholic beverage, as defined in G.S. 18B-101.";

And on page 2, lines 18 and 20, by deleting the word "15th" and substituting the word "20th".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H 1

HOUSE BILL 569

Short Title:	Foxfire/Satellite Annexations.	(Local)
Sponsors:	Representative Boles (Primary Sponsor).	
	For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.	
Referred to:	Government, if favorable, Finance.	

April 4, 2013

A BILL TO BE ENTITLED

AN ACT REMOVING CERTAIN RESTRICTION ON SATELLITE ANNEXATIONS FOR THE VILLAGE OF FOXFIRE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-58.1(b)(4) is repealed.

SECTION 2. This act applies to the Village of Foxfire only.

SECTION 3. This act becomes effective June 30, 2013.

HOUSE BILL 569:
Foxfire/Satellite Annexations

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 10, 2014
Introduced by:	Rep. Boles	**Prepared by:**	R. Erika Churchill
Analysis of:	Second Edition		Committee Counsel

SUMMARY: ***House Bill 569 would permit the Village of Foxfire to voluntarily annex a portion of a subdivision, and would exempt the Town of Harrisburg from the 10% area cap on voluntary satellite annexations.***

CURRENT LAW: GS 160A-58.1 governs voluntary municipal annexation of noncontiguous property (known as voluntary satellite annexation). If all property owners in a satellite area petition a municipality for voluntary annexation of the noncontiguous property, the municipality may annex the property, if it meets all of the following five standards:

1. The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. If the area proposed for annexation, or any portion thereof, is a subdivision as defined in GS 160A-376, all of the subdivision must be included.
5. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

The term "subdivision" is defined by GS 160A-376 to mean "all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets." The term does not include: "The division of land into parcels greater than 10 acres where no street right of way dedication is involved."

BILL ANALYSIS:

Section 1. The bill exempts the Village of Foxfire from the requirement of GS 160A-58.1 that subdivisions must be taken in their entirety, thereby permitting the Village to voluntarily annex a portion of a subdivision.

Section 2. The bill adds the Town of Harrisburg to the group of municipalities exempted from the 10% area cap on voluntary satellite annexation.

BACKGROUND: The bill allows the Village of Foxfire to annex lots in a subdivision without annexing the entire subdivision as is required for voluntary satellite annexation under current law. The Village of Foxfire wants to allow lot owners in a gated, equestrian subdivision to voluntarily join Foxfire lot-by-lot. The subdivision is over 750 acres and most lots are over 10 acres, but some are less than 10 acres.

EFFECTIVE DATE: June 30, 2014.

SENATE BILL 648
Commerce Committee Substitute Adopted 5/7/13
Judiciary I Committee Substitute Adopted 6/11/14

Short Title: NC Commerce Protection Act of 2014. (Public)

Sponsors:

Referred to:

April 4, 2013

A BILL TO BE ENTITLED

AN ACT TO CREATE TRANSPARENCY IN CONTRACTS BETWEEN THE ATTORNEY GENERAL AND PRIVATE ATTORNEYS, TO PREVENT THE ABUSE OF PATENTS, TO ALLOW FOR SHAREHOLDER ASSENT TO EXCLUSIVE FORUM, AND TO CREATE A THREE-JUDGE PANEL TO RULE ON CLAIMS THAT AN ACT OF THE GENERAL ASSEMBLY IS FACIALLY INVALID BASED UPON THE NORTH CAROLINA OR UNITED STATES CONSTITUTIONS.

The General Assembly of North Carolina enacts:

PART I. CREATE TRANSPARENCY IN CONTRACTS BETWEEN THE ATTORNEY GENERAL AND PRIVATE ATTORNEYS

SECTION 1.1. Chapter 114 of the General Statutes is amended by adding a new Article to read:

"Article 2A.

"Transparency in Third-Party Contracting by Attorney General.

"**§ 114-9.2. Title.**

This Article shall be known and may be cited as the "Transparency in Private Attorney Contracts Act (TIPAC)."

"**§ 114-9.3. Definitions.**

The following definitions apply in this Article:

(1) Contingency fee contract. – A contract entered into by a State agency to retain private counsel that contains a contingency fee arrangement, including, but not limited to, pure contingency fee agreements and hybrid agreements, including a contingency fee aspect.

(2) Government attorney. – An attorney employed by the State as a staff attorney in a State agency.

(3) Private attorney. – An attorney in private practice or employed by a private law firm.

(4) State. – The State of North Carolina, including State officers, departments, boards, commissions, divisions, bureaus, councils, and units of organization, however designated, of the executive branch of State government and any of its agents.

(5) State agency. – Every agency, institution, department, bureau, board, or commission of the State of North Carolina authorized by law to retain private counsel.

"**§ 114-9.4. Procurement.**

(a) A State agency may not enter into a contingency fee contract with a private attorney unless the Attorney General makes a written determination prior to entering into the contract that contingency fee representation is both cost-effective and in the public interest. Any written determination shall include specific findings for each of the following factors:

(1) Whether there exists sufficient and appropriate legal and financial resources within the Attorney General's office to handle the matter.

(2) The time and labor required; the novelty, complexity, and difficulty of the questions involved; and the skill requisite to perform the attorney services properly.

(3) The geographic area where the attorney services are to be provided.

(4) The amount of experience desired for the particular kind of attorney services to be provided and the nature of the private attorney's experience with similar issues or cases.

(b) If the Attorney General makes the determination described in subsection (a) of this section, the Attorney General shall request proposals from private attorneys to represent the State agency on a contingency fee basis and draft a written request for proposals from private attorneys, unless the Attorney General determines that requesting proposals is not feasible under the circumstances and sets forth the basis for this determination in writing. A request for proposals under this provision is not subject to Article 3 of Chapter 143 of the General Statutes. Until the conclusion of the legal proceeding or other matter for which the services of the private attorney were sought, all proposals received shall be maintained by the Attorney General and shall not be deemed a public record within the meaning of Chapter 132 of the General Statutes. All proposals maintained under this subsection shall be made available to the State Auditor for oversight purposes, upon request.

(c) A private attorney who submits a proposal under this section shall simultaneously pay a fee in the amount of fifty dollars ($50.00). All fees collected under this subsection shall be used for the maintenance of the Attorney General's Web site.

"**§ 114-9.5. Contingency fees.**

(a) The Attorney General may not give permission under G.S. 114-2.3 for a State agency to enter into a contingency fee contract that provides for the private attorney to receive a contingency fee, exclusive of reasonable costs and expenses, in excess of twenty-two and one-half percent (22.5%).

(b) In its discretion, the court may reduce the private attorney's fee after the State agency has reached a settlement or obtained an award.

(c) A contingency fee shall not be based on penalties or civil fines awarded or any amounts attributable to penalties or civil fines.

"**§ 114-9.6. Control.**

(a) Decisions regarding disposition of the case are reserved exclusively to the discretion of the State agency in consultation with a government attorney.

(b) The Attorney General shall develop a standard addendum to every contract for contingency fee attorney services that shall be used in all cases, describing in detail what is expected of both the contracted private attorney and the State agency, including, without limitation, the requirements listed in subsection (a) of this section.

"**§ 114-9.7. Oversight.**

(a) Until the conclusion of the legal proceeding or other matter for which the services of the private attorney have been retained, the executed contingency fee contract and the Attorney General's written determination pursuant to G.S. 114-9.4 shall not be deemed a public record within the meaning of Chapter 132 of the General Statutes. All records maintained under this subsection shall be made available to the State Auditor for oversight purposes, upon request.

(b) The amount of any payment of contingency fees pursuant to a contingency fee contract subject to this Article shall be posted on the Attorney General's Web site within 15 days after the payment of those contingency fees to the private attorney and shall remain posted on the Web site for at least 365 days thereafter.

(c) Any private attorney under contract to provide services to a State agency on a contingency fee basis shall, from the inception of the contract until at least four years after the contract expires or is terminated, maintain detailed current records, including documentation of all expenses, disbursements, charges, credits, underlying receipts and invoices, and other financial transactions that concern the provision of those attorney services. In addition, the private attorney shall maintain detailed contemporaneous time records for all attorneys and paralegals working on the matter in increments of no greater than one-tenth of an hour and shall promptly provide these records to the Attorney General, upon request. All records maintained under this subsection shall be made available to the State Auditor for oversight purposes, upon request.

(d) By February 1 of each year, the Attorney General shall submit a report to the President Pro Tempore of the Senate and the Speaker of the House of Representatives describing the use of contingency fee contracts with private attorneys in the preceding calendar year. To the fullest extent possible without waiving the evidentiary privileges of the State in any pending matters, the report shall:

(1) Identify each new contingency fee contract entered into during the year and each previously executed contingency fee contract that remains current during any part of the year.

(2) Include the name of the private attorney with whom the department has contracted in each instance, including the name of the attorney's law firm.

(3) Describe the nature and status of the legal matter that is the subject of each contract.

(4) Provide the name of the parties to each legal matter.

(5) Disclose the amount of recovery.

(6) Disclose the amount of any contingency fee paid.

(7) Include copies of any written determinations made under G.S. 114-9.4.

"**§ 114-9.8. No expansion of authority.**

Nothing in this Article shall be construed to expand the authority of any State agency or officer or employee of this State to enter into contracts for legal representation where no authority previously existed."

SECTION 1.2. G.S. 114-2.3 reads as rewritten:

"**§ 114-2.3. Use of private counsel limited.**

(a) Every agency, institution, department, bureau, board, or commission of the State, authorized by law to retain private counsel, shall obtain written permission from the Attorney General prior to employing private counsel. This section does not apply to counties, cities, towns, other municipal corporations or political subdivisions of the State, or any agencies of these municipal corporations or political subdivisions, or to county or city boards of education.

(b) Article 2A of this Chapter applies to any contract to retain private counsel authorized by the Attorney General under this section."

SECTION 1.3. Sections 1.1 and 1.2 of this act are effective when they become law and apply to any contract to retain private counsel authorized by the Attorney General entered into on or after that date.

PART IV. PREVENT THE ABUSE OF PATENTS

SECTION 4.1. Chapter 75 of the General Statutes is amended by adding a new Article to read:

"Article 8.

"Abusive Patent Assertions.

"**§ 75-136. Title.**

This Article shall be known and may be cited as the "Abusive Patent Assertions Act."

"**§ 75-137. Purpose.**

(a) The General Assembly finds the following:

(1) North Carolina is home to a growing high-technology, knowledge-based economy. With its top-tier research universities and active technology sector, North Carolina is poised to continue its growth. To continue growing, North Carolina must attract new, small, and mid-sized technology companies. Doing so will help provide jobs for North Carolina's residents and boost North Carolina's economy. North Carolina also is home to companies in retail, manufacturing, and other industries, many of whom are customers of technology companies. Those other businesses are more likely to succeed if not inhibited by abusive and bad-faith demands and litigation.

(2) Patents encourage research, development, and innovation. Patent holders have legitimate rights to enforce their patents.

(3) The General Assembly does not wish to interfere with good-faith patent litigation or the good-faith enforcement of patents. The General Assembly also recognizes that North Carolina is preempted from passing any law that conflicts with federal patent law.

(4) Patent litigation can be technical, complex, and expensive. The expense of patent litigation, which may cost millions of dollars, can be a significant burden on companies. North Carolina wishes to help its businesses avoid these costs by encouraging the most efficient resolution of patent infringement claims without conflicting with federal law.

(5) In order for North Carolina companies to be able to respond promptly and efficiently to patent infringement assertions against them, it is necessary that they receive specific information regarding how their product, service, or technology may have infringed the patent at issue. Receiving this information at an early stage will facilitate the resolution of claims and lessen the burden of potential litigation on North Carolina companies.

(6) Abusive patent litigation, and especially the assertion of bad-faith infringement claims, can harm North Carolina companies. A business that receives a letter asserting such claims faces the threat of expensive and protracted litigation and may feel that it has no choice but to settle and to pay a licensing fee even if the claim is meritless. This is especially so for small- and medium-sized companies and nonprofits that lack the resources to investigate and defend themselves against infringement claims.

(7) Not only do bad-faith patent infringement claims impose a significant burden on individual North Carolina businesses, they also undermine North Carolina's efforts to attract and nurture technology and other companies. Funds used to avoid the threat of bad-faith litigation are no longer available to invest, produce new products, expand, or hire new workers, thereby harming North Carolina's economy.

(8) North Carolina has a strong interest in patent matters involving its citizens and its businesses, including protecting its citizens and businesses against abusive patent assertions and ensuring North Carolina companies are not subjected to abusive patent assertion by entities acting in bad faith.

(9) In lawsuits involving abusive patent assertions, an accused infringer prevailing on the merits may be awarded costs and, less frequently, fees. These awards do not serve as a deterrent to abusive patent assertion entities

who have limited liability, as these companies may hold no cash or other assets. North Carolina has a strong interest in making sure that prevailing North Carolina companies sued by abusive patent assertions entities can recover what is awarded to them.

(b) The General Assembly seeks, by this narrowly tailored act, to strike a balance between (i) the interests of efficient and prompt resolution of patent infringement claims, protection of North Carolina businesses from abusive and bad-faith assertions of patent infringement, and building of North Carolina's economy and (ii) the intentions to respect federal law and be careful to not interfere with legitimate patent enforcement actions. Except as specifically set forth in this act regarding bad-faith patent assertions, nothing in this act is intended to alter current law concerning personal liability of principals in business entities.

"**§ 75-138. Definitions.**

The following definitions apply in this Article:

(1) Affiliate. – A business establishment, business, or other legal entity that wholly or substantially owns, is wholly or substantially owned by, or is under common ownership with another entity.

(2) Demand. – A letter, e-mail, or other communication asserting or claiming that a target has engaged in patent infringement or should obtain a license to a patent.

(3) Institution of higher education. – Defined in 20 U.S.C. § 1001(a).

(4) Interested party. – A person, other than the party alleging infringement, that (i) is an assignee of the patent or patents at issue; (ii) has a right, including a contingent right, to enforce or sublicense the patent or patents at issue; or (iii) has a direct financial interest in the patent or patents at issue, including the right to any part of an award of damages or any part of licensing revenue. A "direct financial interest" does not include either of the following:

a. An attorney or law firm providing legal representation in the civil action alleging patent infringement if the sole basis for the financial interest of the attorney or law firm in the patent or patents at issue arises from the attorney or law firm's receipt of compensation reasonably related to the provision of the legal representation.

b. A person whose sole financial interest in the patent or patents at issue is ownership of an equity interest in the party alleging infringement, unless such person also has the right or ability to influence, direct, or control the civil action.

(5) Operating entity. – A person primarily engaged in, when evaluated with its affiliates over the preceding 24-month period and when disregarding the selling and licensing of patents, one or more of the following activities:

a. Research and technical or experimental work to create, test, qualify, modify, or validate technologies or processes for commercialization of goods or services;

b. Manufacturing; or

c. The provision of goods or commercial services.

(6) Target. – A North Carolina person that meets one or more of the following:

a. The person has received a demand or is the subject of an assertion or allegation of patent infringement.

b. The person has been threatened with litigation or is the defendant of a filed lawsuit alleging patent infringement.

c. The person has customers who have received a demand asserting that the person's product, service, or technology has infringed a patent.

"**§ 75-139. Abusive patent assertions.**

(a) It is unlawful for a person to make a bad-faith assertion of patent infringement. A court may consider the following factors as evidence that a person has made a bad-faith assertion of patent infringement:

(1) The demand does not contain all of the following information:

a. The patent application number or patent number.

b. The name and address of the patent owner or owners and assignee or assignees, if any.

c. Factual allegations concerning the specific areas in which the target's products, services, and technology infringe the patent or are covered by specific, identified claims in the patent.

d. An explanation of why the person making the assertion has standing, if the United States Patent and Trademark Office's assignment system does not identify the person asserting the patent as the owner.

(2) Prior to sending the demand, the person failed to conduct an analysis comparing the claims in the patent to the target's products, services, and technology, or the analysis was done but does not identify specific areas in which the products, services, and technology are covered by the claims in the patent.

(3) The demand lacks the information described in subdivision (1) of this subsection, the target requests the information, and the person fails to provide the information within a reasonable period of time.

(4) The person demands payment of a license fee or response within an unreasonably short period of time.

(5) The person offers to license the patent for an amount that is not based on a reasonable estimate of the value of the license, or the person offers to license the patent for an amount that is based on the cost of defending a potential or actual lawsuit.

(6) The claim or assertion of patent infringement is meritless, and the person knew or should have known that the claim or assertion is meritless; or the claim or assertion relies on an interpretation of the patent that was disclaimed during prosecution, and the person making the claim or assertion knows or should have known about the disclaimer, or would have known about the disclaimer if the person reviewed the patent's prosecution history.

(7) The claim or assertion of patent infringement is deceptive.

(8) The person or its subsidiaries or affiliates have previously or concurrently filed or threatened to file one or more lawsuits based on the same or similar claim of patent infringement and (i) those threats or lawsuits lacked the information described in subdivision (1) of this subsection, or (ii) the person attempted to enforce the claim of patent infringement in litigation and a court found the claim to be meritless.

(9) The person making the claim or assertion sent the same demand or substantially the same demand to multiple recipients and made assertions against a wide variety of products and systems without reflecting those differences in a reasonable manner in the demands.

(10) The person making the claim or assertion is aware of, but does not disclose, any final, nonfinal, or preliminary postgrant finding of invalidity or unpatentability involving the patent.

(11) The person making the claim or assertion seeks an injunction when that is objectively unreasonable under the law.

(12) Any other factor the court finds relevant.

(b) A court may consider the following factors as evidence that a person has not made a bad-faith assertion of patent infringement:

(1) The demand contains the information described in subdivision (1) of subsection (a) of this section.

(2) Where the demand lacks the information described in subdivision (1) of subsection (a) of this section and the target requests the information, the person provides the information within a reasonable period of time.

(3) The person engages in a good-faith effort to establish that the target has infringed the patent and to negotiate an appropriate remedy.

(4) The person makes a substantial investment in the use of the patent or in the production or sale of a product or item that the person reasonably believes is covered by the patent. "Use of the patent" in the preceding sentence means actual practice of the patent and does not include licensing without actual practice.

(5) The person is either (i) the inventor or joint inventor of the patent or, in the case of a patent filed by and awarded to an assignee of the original inventor or joint inventor, is the original assignee or (ii) an institution of higher education or a technology transfer organization owned or affiliated with an institution of higher education.

(6) The person has demonstrated good-faith business practices in previous efforts to enforce the patent, or a substantially similar patent, or has successfully enforced the patent, or a substantially similar patent, through litigation.

(7) Any other factor the court finds relevant.

(c) This Article does not apply to any of the following:

(1) A demand letter or assertion of patent infringement arising under any of the following:

a. 7 U.S.C. § 136 et seq.

b. 7 U.S.C. § 2321 et seq.

c. 21 U.S.C. § 301 et seq.

d. 35 U.S.C. § 161 et seq.

e. 35 U.S.C. § 271(e)(2).

f. 42 U.S.C. § 262.

(2) A demand letter or assertion of patent infringement by or on behalf of (i) an institution of higher education incorporated under the laws of and with its principal offices in North Carolina or (ii) a technology transfer organization owned by or affiliated with the institution of higher education.

(3) A demand letter or assertion of patent infringement by or on behalf of a nonprofit research organization recognized as exempt from federal income tax under 26 U.S.C. § 501(c)(3) incorporated under the laws of and with its principal offices in North Carolina, or a technology transfer organization owned by or affiliated with the organization.

(4) A demand letter or assertion of patent infringement made by an operating entity or its affiliate.

(d) Subject to the provisions of subsections (a) and (b) of this section, and provided the activities are not carried out in bad faith, nothing in this section shall be construed to deem it an unlawful practice for any person who owns or has the right to license or enforce a patent to do any of the following:

(1) Advise others of that ownership or right of license or enforcement.

(2) Communicate to others that the patent is available for license or sale.

(3) Notify another of the infringement of the patent.

(4) Seek compensation on account of past or present infringement or for a license to the patent.

"**§ 75-140. Bond.**

(a) Upon motion by a target and a finding by the court that a target has established a reasonable likelihood that a person has made a bad-faith assertion of patent infringement in violation of this Chapter, the court shall require the person to post a bond in an amount equal to a good-faith estimate of the target's fees and costs to litigate the claim and amounts reasonably likely to be recovered under G.S. 75-141, conditioned upon payment of any amounts finally determined to be due to the target. A hearing shall be held if either party so requests. A bond ordered pursuant to this section shall not exceed five hundred thousand dollars ($500,000).

(b) The court may waive the bond requirement of subsection (a) of this section if it finds the person has available assets equal to the amount of the proposed bond or for other good cause shown.

(c) If the person asserting patent infringement fails within 30 days to pay any fee or cost ordered by a court in a matter related to the asserted patent infringement, the amount not paid shall be paid out of the bond posted under subsection (a) of this section, without affecting the obligation of the person asserting patent infringement to pay any remainder of those fees or costs not paid out of the bond.

"**§ 75-141. Enforcement; remedies; damages.**

(a) The Attorney General shall have the same authority under this Article to make rules, conduct civil investigations, bring civil actions, and enter into assurances of discontinuance as provided under this Chapter. In an action brought by the Attorney General pursuant to this section, the court may award or impose any relief available under this Chapter.

(b) A target or a person aggrieved by a violation of this Article or by a violation of rules adopted under this Article may bring an action in superior court against a person that has made a bad-faith assertion of patent infringement. A court may award to a plaintiff who prevails in an action brought pursuant to this subsection one or more of the following remedies:

(1) Equitable relief.

(2) Damages.

(3) Costs and fees, including reasonable attorneys' fees.

(4) Exemplary damages in an amount equal to fifty thousand dollars ($50,000) or three times the total of damages, costs, and fees, whichever is greater.

(c) A court may award to a defendant who prevails in an action brought pursuant to this section costs and fees, including reasonable attorneys' fees, if the court finds the action was not well-grounded in fact and warranted by existing law or was interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

(d) Joinder of Interested Parties. – In an action arising under subsection (a) or (b) of this section, the court shall grant a motion by the Attorney General or a target to join an interested party if the moving party shows that the party alleging infringement has no substantial interest in the patent or patents at issue other than making demands or asserting such patent claim in litigation.

(e) In an action arising under subsection (a) or (b) of this section, any person who has delivered or sent a demand to a target in North Carolina has purposefully availed himself or herself of the privileges of conducting business in this State and shall be subject to suit in this State, whether or not the person is transacting or has transacted any other business in this State. This Article shall be construed as a special jurisdiction statute in accordance with G.S. 1-75.4(2).

(f) If a party is unable to pay an amount awarded by the court pursuant to subsection (a) or (b) of this section, the court may find any interested party joined pursuant to subsection (d)

of this section jointly and severally liable for the abusive patent assertion and make the award recoverable against any or all of the joined interested parties.

(g) This Article shall not be construed to limit rights and remedies available to the State of North Carolina or to any person under any other law and shall not alter or restrict the Attorney General's authority under this Article with regard to conduct involving assertions of patent infringement."

SECTION 4.2. Section 4.1 of this act is effective when it becomes law and applies to causes of actions commenced on or after that date and demands made on or after that date.

PART V. SHAREHOLDER ASSENT TO EXCLUSIVE FORUM

SECTION 5.1. Article 7 of Chapter 55 of the General Statutes is amended by adding a new section to read:

"**§ 55-7-50. Shareholder assent to exclusive forum.**

A provision included in the articles of incorporation of a corporation that provides that the State courts of the State of North Carolina shall be the exclusive forum for any derivative proceeding under this Chapter shall be effective and enforceable against any shareholder who shall have voted in favor of approval of any amendment to include such a provision in the articles of incorporation and any shareholder with respect to any shares acquired after the inclusion of such a provision in the articles of incorporation."

SECTION 5.2. Section 5.1 of this act is effective when it becomes law and applies to all articles of incorporation and all amendments to articles of incorporation adopted on or after that date.

PART VI. JOINT SELECT COMMITTEE TO STUDY THE NEED FOR REFORM IN THE LAWS GOVERNING THE APPORTIONMENT OF TORT LIABILITY

SECTION 6.1. There is established the Joint Select Committee to Study the Need for Reform in the Laws Governing Apportionment of Tort Liability.

SECTION 6.2. The Committee shall be composed of 10 members, as follows:

(1) Five members of the Senate appointed by the President Pro Tempore of the Senate.

(2) Five members of the House of Representatives appointed by the Speaker of the House of Representatives.

Vacancies on the Committee shall be filled by the appointing authority. The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair who shall be a member of the General Assembly. A quorum of the Committee shall be a majority of its members.

The Committee, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Committee may meet at any time upon call of the cochairs. The Committee may meet in the Legislative Building or the Legislative Office Building.

The Legislative Services Committee, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. The House of Representatives' and Senate's Directors of Legislative Assistants shall assign clerical staff to the Committee, and the expenses relating to the clerical employees shall be borne by the Committee. Members of the Committee shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1.

SECTION 6.3. The Committee shall study issues related to the need for reform of the laws governing apportionment of tort liability and successor liability, including adoption of comparative negligence and the abrogation of joint and several liability, and any other issues related to tort liability.

SECTION 6.4. The Committee may make a final report, including any proposed legislation, to the 2015 General Assembly upon its convening. The Committee shall terminate

upon filing its final report or upon the convening of the 2015 General Assembly, whichever is earlier.

PART VII. THREE-JUDGE PANEL TO HEAR CLAIMS CHALLENGING THE FACIAL CONSTITUTIONALITY OF AN ACT OF THE GENERAL ASSEMBLY

SECTION 7.1. Article 26A of Chapter 1 of the General Statutes reads as rewritten:

"Article 26A.

"Three-Judge Panel for Redistricting ~~Challenges.~~Challenges and for Certain Challenges to State Laws.

"**§ 1-267.1. Three-judge panel for actions challenging plans apportioning or redistricting State legislative or congressional ~~districts.~~districts; claims challenging the facial validity of an act of the General Assembly.**

(a) Any action challenging the validity of any act of the General Assembly that apportions or redistricts State legislative or congressional districts shall be filed in the Superior Court of Wake County and shall be heard and determined by a three-judge panel of the Superior Court of Wake County organized as provided by subsection (b) of this section.

(a1) Except as otherwise provided in subsection (a) of this section, any challenge to the validity of an act of the General Assembly on its face shall be transferred pursuant to G.S. 1A-1, Rule 42(b)(4), to the Superior Court of Wake County and shall be heard and determined by a three-judge panel of the Superior Court of Wake County, organized as provided by subsection (b1) of this section.

(b) Whenever any person files in the Superior Court of Wake County any action challenging the validity of any act of the General Assembly that apportions or redistricts State legislative or congressional districts, a copy of the complaint shall be served upon the senior resident superior court judge of Wake County, who shall be the presiding judge of the three-judge panel required by subsection (a) of this section. Upon receipt of that complaint, the senior resident superior court judge of Wake County shall notify the Chief Justice, who shall appoint two additional resident superior court judges to the three-judge panel of the Superior Court of Wake County to hear and determine the action. Before making those appointments, the Chief Justice shall consult with the North Carolina Conference of Superior Court Judges, which shall provide the Chief Justice with a list of recommended appointments. To ensure that members of the three-judge panel are drawn from different regions of the State, the Chief Justice shall appoint to the three-judge panel one resident superior court judge from the First through Fourth Judicial Divisions and one resident superior court judge from the Fifth through Eighth Judicial Divisions. In order to ensure fairness, to avoid the appearance of impropriety, and to avoid political bias, no member of the panel, including the senior resident superior court judge of Wake County, may be a former member of the General Assembly. Should the senior resident superior court judge of Wake County be disqualified or otherwise unable to serve on the three-judge panel, the Chief Justice shall appoint another resident superior court judge of Wake County as the presiding judge of the three-judge panel. Should any other member of the three-judge panel be disqualified or otherwise unable to serve on the three-judge panel, the Chief Justice shall appoint as a replacement another resident superior court judge from the same group of judicial divisions as the resident superior court judge being replaced.

(b1) Any challenge to the validity of an act of the General Assembly on its face filed in the Superior Court of Wake County, other than a challenge to plans apportioning or redistricting State legislative or congressional districts that shall be heard pursuant to subsection (b) of this section, or any claim transferred to the Superior Court of Wake County pursuant to subsection (a1) of this section, shall be assigned by the senior resident Superior Court Judge of Wake County to the three-judge panel established pursuant to subsection (b2) of this section.

(b2) The Chief Justice of the Supreme Court shall appoint three resident superior court judges to a three-judge panel of the Superior Court of Wake County to hear and determine challenges to the validity of statutes and acts pursuant to subsection (a1) of this section. The initial judges appointed to the panel shall remain as a standing three-judge panel to hear any action transferred to the panel for determination pursuant to this section, and the Chief Justice shall appoint a presiding judge of the three-judge panel. To ensure that members of the three-judge panel are drawn from different regions of the State, the Chief Justice shall appoint to the three-judge panel one resident superior court judge from the First or Second Judicial Division, one resident superior court judge from the Seventh or Eighth Judicial Division, and one resident superior court judge from the Third, Fourth, Fifth, or Sixth Division. Should any member of the three-judge panel be disqualified or otherwise unable to serve on the three-judge panel or is removed from the panel at the discretion of the Chief Justice, the Chief Justice shall appoint as a replacement another resident superior court judge from the same group of judicial divisions as the resident superior court judge being replaced.

(c) No order or judgment shall be entered affecting the validity of any act of the General Assembly that apportions or redistricts State legislative or congressional ~~districts~~ districts, or finds that an act of the General Assembly is facially invalid based upon the North Carolina or United States Constitutions, except by the three-judge panel of the Superior Court of Wake County organized as provided by subsection (b) or subsection (b1) of this section. In the event of disagreement among the three resident superior court judges comprising the three-judge panel, then the opinion of the majority shall prevail.

(d) This section applies only to civil proceedings, and nothing in this section shall be deemed to apply to a defendant in criminal proceedings or to proceedings in which Chapter 15A of the General Statutes is applicable."

SECTION 7.2. G.S. 1-81.1 reads as rewritten:

"**§ 1-81.1. Venue in apportionment or redistricting ~~cases.~~cases; certain injunctive relief actions.**

(a) Venue lies exclusively with the Wake County Superior Court in any action concerning any act of the General Assembly apportioning or redistricting State legislative or congressional ~~districts lies exclusively with the Wake County Superior Court.~~districts.

(a1) Venue lies exclusively with the Wake County Superior Court with regard to any claim, seeking an order or judgment of a court, either final or interlocutory, to restrain the enforcement, operation, or execution of an act of the General Assembly, in whole or in part, based upon an allegation that the act of the General Assembly is unconstitutional on its face pursuant to the United States Constitution or North Carolina Constitution. Pursuant to G.S. 1-267.1(a) and G.S. 1-1A, Rule 42(b)(4), claims described in this subsection that are filed or raised in courts other than Wake County Superior Court or are filed in Wake County Superior Court, shall be transferred to the three-judge panel of the Wake County Superior Court if, after all other matters in the action have been resolved, a determination as to the facial validity of an act of the General Assembly must be made in order to completely resolve any issues in the case.

(b) Any action brought concerning an act of the General Assembly apportioning or redistricting the State legislative or congressional districts shall be filed in the Superior Court of Wake County."

SECTION 7.3. G.S. 1A-1, Rule 42, reads as rewritten:

"**Rule 42. Consolidation; separate trials.**

(a) Consolidation. – Except as provided in subdivision (b)(2) of this section, when actions involving a common question of law or fact are pending in one division of the court, the judge may order a joint hearing or trial of any or all the matters in issue in the actions; he may order all the actions consolidated; and he may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay. When actions involving a common

question of law or fact are pending in both the superior and the district court of the same county, a judge of the superior court in which the action is pending may order all the actions consolidated, and he may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.

(b) Separate trials. –

(1) The court may in furtherance of convenience or to avoid prejudice and shall for considerations of venue upon timely motion order a separate trial of any claim, cross-claim, counterclaim, or third-party claim, or of any separate issue or of any number of claims, cross-claims, counterclaims, third-party claims, or issues.

(2) Upon motion of any party in an action that includes a claim commenced under Article 1G of Chapter 90 of the General Statutes involving a managed care entity as defined in G.S. 90-21.50, the court shall order separate discovery and a separate trial of any claim, cross-claim, counterclaim, or third-party claim against a physician or other medical provider.

(3) Upon motion of any party in an action in tort wherein the plaintiff seeks damages exceeding one hundred fifty thousand dollars ($150,000), the court shall order separate trials for the issue of liability and the issue of damages, unless the court for good cause shown orders a single trial. Evidence relating solely to compensatory damages shall not be admissible until the trier of fact has determined that the defendant is liable. The same trier of fact that tries the issues relating to liability shall try the issues relating to damages.

(4) Pursuant to G.S. 1-267.1, any challenge to the validity of an act of the General Assembly on its face, other than a challenge to plans apportioning or redistricting State legislative or congressional districts, shall be heard by a three-judge panel in the Superior Court of Wake County. If a claimant brings such a challenge in any court in this State, or if such a challenge is raised by the defendant in the defendant's motions or pleadings in any court in this State, the court shall, on its own motion, transfer that portion of the action challenging the validity of the act of the General Assembly to the Superior Court of Wake County for resolution by the three-judge panel if, after all other matters in the action have been resolved, a determination as to the facial validity of an act of the General Assembly must be made in order to completely resolve any matters in the case. The court in which the action originated shall maintain jurisdiction over all matters other than the constitutional challenge. The court shall stay all matters that are contingent upon the outcome of the constitutional challenge pending a ruling on the constitutional challenge and until all appeal rights are exhausted. Once the three-judge panel has ruled and all appeal rights have been exhausted, the matter shall be transferred or remanded back to the trial court in which the action originated for resolution of any outstanding matters."

SECTION 7.4. G.S. 1A-1, Rule 62, reads as rewritten:

"**Rule 62. Stay of proceedings to enforce a judgment.**

(a) Automatic stay; exceptions – Injunctions and receiverships. – Except as otherwise stated herein, no execution shall issue upon a judgment nor shall proceedings be taken for its enforcement until the expiration of the time provided in the controlling statute or rule of appellate procedure for giving notice of appeal from the judgment. Unless otherwise ordered by the court, an interlocutory or final judgment in an action for an injunction or in a receivership action shall not be stayed during the period after its entry and until an appeal is taken or during the pendency of an appeal. The provisions of section (c) govern the suspending, modifying, restoring, or granting of an injunction during the pendency of an appeal.

(b) Stay on motion for new trial or for judgment. – In its discretion and on such conditions for the security of the adverse party as are proper, the court may stay the execution of or any proceedings to enforce a judgment pending the disposition of a motion for a new trial or to alter or amend a judgment made pursuant to Rule 59, or of a motion for relief from a judgment or order made pursuant to Rule 60, or of a motion for judgment made pursuant to Rule 50, or of a motion for amendment to the findings or for additional findings made pursuant to Rule 52(b). If the time provided in the controlling statute or rule of appellate procedure for giving notice of appeal from the judgment had not expired before a stay under this subsection was entered, that time shall begin to run immediately upon the expiration of any stay under this section, and no execution shall issue nor shall proceedings be taken for enforcement of the judgment until the expiration of that time.

(c) Injunction pending appeal. – When an appeal is taken from an interlocutory or final judgment granting, dissolving, or denying an injunction, the court in its discretion may suspend, modify, restore, or grant an injunction during the pendency of the appeal upon such terms as to bond or otherwise as it considers proper for the security of the rights of the adverse party.

(d) Stay upon appeal. – When an appeal is taken, the appellant may obtain a stay of execution, subject to the exceptions contained in section (a), by proceeding in accordance with and subject to the conditions of G.S. 1-289, G.S. 1-290, G.S. 1-291, G.S. 1-292, G.S. 1-293, G.S. 1-294, and G.S. 1-295.

When stay is had by giving supersedeas bond, the bond may be given at or after the time of filing the notice of appeal or of procuring the order allowing the appeal as the case may be, and stay is then effective when the supersedeas bond is approved by the court.

(e) Stay in favor of North Carolina, city, county, local board of education, or agency thereof. – When an appeal is taken by the State of North Carolina, or a city or a county thereof, a local board of education, or an officer in his official capacity or agency thereof or by direction of any department or agency of the State of North Carolina or a city or county thereof or a local board of education and the operation or enforcement of the judgment is stayed, no bond, obligation, or other security shall be required from the appellant.

(f) Power of appellate court not limited. – The provisions of this rule do not limit any power of an appellate court or of a judge or justice thereof to stay proceedings during the pendency of an appeal or to suspend, modify, restore, or grant an injunction during the pendency of an appeal or to make any order appropriate to preserve the status quo or the effectiveness of the judgment subsequently to be entered.

(g) Stay of judgment as to multiple claims or multiple parties. – When a court has ordered a final judgment under the conditions stated in Rule 54(b), the court may stay enforcement of that judgment until the entering of a subsequent judgment or judgments and may prescribe such conditions as are necessary to secure the benefit thereof to the party in whose favor the judgment is entered.

(h) Injunction pending appeal of as-applied constitutional challenge. – Notwithstanding any other provision of law where a trial court grants interlocutory, temporary, or permanent injunctive or declaratory relief restraining the State or a political subdivision of the State from enforcing the operation or execution of an act of the General Assembly as applied against a party in a civil action, the court shall stay the relief granted pending appeal. This subsection only applies where the State or a political subdivision of the State is a party in the civil action. This subsection does not apply to facial challenges heard by a three-judge panel pursuant to G.S. 1-267.1."

SECTION 7.5. G.S. 7A-27 reads as rewritten:

"**§ 7A-27. Appeals of right from the courts of the trial divisions.**

(a) Appeal lies of right directly to the Supreme Court in all cases in which the defendant is convicted of murder in the first degree and the judgment of the superior court includes a sentence of death.

(a1) Appeal lies of right directly to the Supreme Court from any order or judgment of a court, either final or interlocutory, that holds that an act of the General Assembly, based upon the United States Constitution or North Carolina Constitution, is unconstitutional on its face.

(b) Appeal lies of right directly to the Court of Appeals in any of the following cases:

(1) From any final judgment of a superior court, other than the one described in subsection (a) of this section, or one based on a plea of guilty or nolo contendere, including any final judgment entered upon review of a decision of an administrative agency, except for a final judgment entered upon review of a court martial under G.S. 127A-62.

(2) From any final judgment of a district court in a civil action.

(3) From any interlocutory order or judgment of a superior court or district court in a civil action or proceeding which does any of the following:

a. Affects a substantial right.

b. In effect determines the action and prevents a judgment from which an appeal might be taken.

c. Discontinues the action.

d. Grants or refuses a new trial.

e. Determines a claim prosecuted under G.S. 50-19.1.

f. Grants temporary injunctive relief restraining the State or a political subdivision of the State from enforcing the operation or execution of an act of the General Assembly as applied against a party in a civil action. This subsection only applies where the State or a political subdivision of the State is a party in the civil action. This subsection does not apply to facial challenges heard by a three-judge panel pursuant to G.S. 1-267.1.

(4) From any other order or judgment of the superior court from which an appeal is authorized by statute.

(c) through (e) Repealed by Session Laws 2013-411, s. 1, effective August 23, 2013."

SECTION 7.6. This section becomes effective on July 1, 2014, and applies to any claim filed on or after that date, whether alleged in any filed action or raised as a defense or claim during proceedings on any action, that asserts that an act of the General Assembly is either facially invalid or invalid as applied to a set of factual circumstances, based upon the North Carolina or United States Constitutions.

PART VIII. SEVERABILITY AND EFFECTIVE DATE

SECTION 8.1. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

SECTION 8.2. Except as otherwise provided, this act is effective when it becomes law.

SENATE BILL 648:
NC Commerce Protection Act of 2013

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 11, 2014
Introduced by:	Sens. B. Jackson, Meredith, J. Davis	**Prepared by:**	Peter Ledford
Analysis of:	Third Edition		Staff Attorney

SUMMARY: ***Senate Bill 648 would make various changes to statutes governing commerce in the State, including provisions to create transparency in contingency fee contracts between State agencies and private attorneys, to prevent the abuse of patents, to enforce exclusive forum provisions assented to by shareholders in derivative actions, and to create a three-judge panel to hear challenges to the constitutionality of statutes.***

PART I. CREATE TRANSPARENCY IN CONTRACTS BETWEEN THE ATTORNEY GENERAL AND PRIVATE ATTORNEYS

CURRENT LAW: Under G.S. 114-2.3, any state agency that is authorized to retain private counsel must obtain written permission from the Attorney General prior to employing private counsel.

BILL ANALYSIS: Section 1.1 of the bill would create procedures governing contingency fee agreements between the State and private attorneys.

Before granting a State agency permission to retain private counsel using a contingency fee contract, Section 1.1 of the bill would require the Attorney General to issue a written determination that the representation is both cost-effective and in the public interest. Section 1 would also exempt requests for contingent fee representation proposals from private attorneys from State purchasing and contracting requirements under Article 3, Chapter 143, and all proposals received would be deemed not to be public records under Chapter 132 until the conclusion of the proceeding for which the services of the private attorney were sought. Private attorneys submitting proposals would be required to pay a $50 fee that would go toward maintenance of the Attorney General's website.

The following documents related to contingency fee contracts must be provided to the State Auditor for oversight purposes, upon request:

- The Attorney General's written determination that a State agency should utilize the services of a private attorney.
- The proposals received by the Attorney General from private attorneys.
- The executed contingency fee contract.
- Documentation of all expenses incurred by the private attorney and the time records maintained by the private attorney.

Section 1.1 would cap the permitted contingency fee under a contract approved by the Attorney General at 22.5%, exclusive of reasonable costs and expenses, and would grant courts discretion to reduce the fee after a settlement or award in the proceeding. The fee could not be based on penalties or civil fines awarded. The State agency would retain exclusive authority over decisions regarding case disposition in consultation with a government attorney.

Additionally, Section 1.1 would require the Attorney General to report annually to the President Pro Tempore and Speaker describing the use of contingency fee contracts with private attorneys.

Section 1.2 of the bill would amend G.S. 114-2.3 to apply the provisions enacted in Section 1.1 of the bill to all contracts to retain private counsel authorized by the Attorney General.

EFFECTIVE DATE: Sections 1.1 and 1.2 of this act are effective when they become law and apply to any contract to retain private counsel authorized by the Attorney General entered into on or after that date.

PART IV. PREVENT THE ABUSE OF PATENTS

CURRENT LAW: Patent law is primarily governed by and preempted by federal law, which limits state regulation of patentable subject matter. In 1999, the U.S. Court of Appeals for the Federal Circuit held that patent law does not preempt allegations of state-law unfair competition requiring a showing of bad faith. *Zenith Elecs. Corp. v. Exzec, Inc.*, 182 F.3d 1340 (Fed. Cir. 1999). In 2004, the court clarified that to survive federal preemption the allegedly bad-faith patent assertion "must be objectively baseless in the sense that no reasonable litigant could realistically expect success on the merits. If an objective litigant could conclude that the suit is reasonably calculated to elicit a favorable outcome, the suit is immunized." *Globetrotter Software, Inc. v. Elan Computer Group. Inc.*, 362 F.3d 1367 (Fed. Cir. 2004). Objective baselessness is not the standard for the state court action contemplated by this part. Therefore, it could be argued that this part could be applied in instances that implicate federal preemption decisions.

BILL ANALYSIS: **Section 4.1** of the bill would make bad faith assertions of patent infringement an unfair and deceptive trade practice. The assertion involves communicating that (1) patent infringement has occurred or (2) certain entities need to license a patent. The entity to whom the communication is made is a "target," which can be (1) the person receiving the demand or assertion of patent infringement, (2) a person threatened with or made the defendant of patent litigation, or (3) a person with customers who have received a demand asserting patent infringement.

The court may consider the following factors indicating bad faith:

- The demand does not contain the patent number or patent application number, name and address of patent owner or owners and assignee or assignees, specific identification of areas of infringement, and an explanation of why the person making the assertion has standing (where they are not identified as the patent owner). An additional factor includes failing to respond to a request for this same information within a reasonable time.
- The person making the assertion did not analyze the claims in the patent to the alleged infringing device or activity.
- The person making the assertion demands payment of a licensing fee or response within an unreasonably short period of time.
- The person making the assertion offers to license the patent for an amount that is not a reasonable estimate of the value of the license or bases the license fee on the cost of litigation.
- The claim of infringement is meritless and the person making the assertion knew or should have known it was meritless. Alternatively, the factor is satisfied if a claimant bases an assertion on a patent interpretation disclaimed during prosecution and knew or should have known about the disclaimer or would have known upon review of prosecution history.

- The assertion is deceptive.
- The person making the assertion has previously or concurrently filed or threatened to file other lawsuits based on the same or similar claim of patent infringement without the information required above or there has been a previous attempt to enforce the claim where the claim was found to be meritless.
- The person making the assertion has made substantially the same claim against multiple recipients against a wide variety of products without reflecting the differences in a reasonable manner.
- The person making the assertion identifies but does not disclose any finding of invalidity or unpatentability involving the patent.
- The person making the assertion seeks an injunction that is objectively unreasonable.
- Any other factor the court finds relevant.

The court may consider the following factors indicating good faith:

- The demand contains the information described above or timely responds with the information upon demand.
- The person engages in a good faith effort to establish the target has infringed the patent and to negotiate an appropriate remedy.
- The person substantially invests in the use of the patent, which involves active practice of the patent and not licensing alone.
- The person is (i) the inventor or joint inventor or the original assignee or (ii) an institution of higher education or a technology transfer organization owned or affiliated with an institution of higher education.
- The person has demonstrated good faith business practices in previous efforts to enforce the patent or has successfully enforced the patent via litigation.
- Any other factor the court finds relevant.

Specific exemptions from the purview of the new statute include (i) assertions concerning patent infringement concerning drugs and biological products regulated under the Food, Drug, and Cosmetic Act, (ii) assertions concerning infringement on asexually reproducing plant patents, (iii) assertions concerning rights under the Plant Variety Protection Act, (iv) assertions concerning usage of pesticide products enforced by the EPA under federal law, (v) assertions by or on behalf of North Carolina institutions of higher education, technology transfer organizations, or 501(c)(3) nonprofit research organizations, and (vi) assertions by an entity primarily engaged in research and development, manufacturing, or the provisions of goods or commercial services or an affiliate of that entity.

If the court determines there is a reasonable likelihood of bad faith patent assertion, the court must require the person making the assertion post a bond estimated to equal the costs and fees incurred by the target to litigate the claim and the amount likely to be recovered by the target due to the state claim created by the act.[1] Payment of the bond would be conditioned on a determination of an amount being finally determined to be due to the target and is capped at $500,000. The court may waive the requirement where the person asserting the claim has assets equal to the amount of the proposed bond or for good cause shown. The bond does not insulate the person making a bad faith assertion from liability

[1] This requirement does not apply where the person asserting the claim has assets equal to the amount of the proposed bond or the court otherwise finds good cause to waive the requirement.

above the bond amount, and the bond may be used for amounts awarded but not paid within 30 days of payment being ordered by a court.

Other provisions of the civil cause of action include:

- The Attorney General is empowered to make rules, conduct investigations, bring civil actions, or enter assurances of discontinuance provided in Chapter 75 of the General Statutes.
- A target may bring an action in Superior Court. Damages authorized to be awarded to a target include equitable relief, damages, costs and fees, and exemplary damages equal to $50,000 or three times the total of damages, costs, and fees, whichever is greater.
- The court is permitted to join interested parties if the person asserting infringement has no substantial interest in the patent other than the assertion. Joined parties may be held jointly and severally liable if the party making the assertion is unable to pay amounts awarded.
- Making a demand to a North Carolina target subjects the person to the jurisdiction of North Carolina courts.

EFFECTIVE DATE: Section 4.1 of the bill creating the civil cause of action is effective when it becomes law and applies to causes of actions commenced on or after that date and demands made on or after that date.

BACKGROUND: According to recent studies, people or companies that misuse patents as a business strategy ("patent trolling") has jumped by nearly 250%, rising from 29% of infringement suits to 62% of infringement suits in 2 years. As a result, the federal government has taken, is taking, or is contemplating the following courses of action:

- The Department of Justice Antitrust Division and Federal Trade Commission ("FTC") are jointly working towards modifying modern patent law to account for trolling practices. The FTC is actively investigating trolling activity and has stated its intention to use statutory authority, such as Section 5 of the Federal Trade Commission Act to prevent unfair and deceptive acts such as those typically employed by patent trolls.
- There have been federal legislation proposals that range from disclosure/transparency requirements to filing of written offers to settle + payment of offeror's costs/expenses where the ultimate result is less favorable than the offer).
- The President has ordered the Patent and Trademark Office ("PTO") to adopt rules requiring patent applicants and owners involved in PTO proceedings to disclose real-party-in-interest information and creating a national, searchable database of patent infringement letters coupled with enabling the PTO or the district courts to impose sanctions for non-compliance.

PART V. SHAREHOLDER ASSENT TO EXCLUSIVE FORUM

CURRENT LAW: In response to shareholder litigation in multiple forums, some corporations have begun specifying an exclusive forum for shareholder lawsuits. Under North Carolina law, such a provision can be adopted by the board of directors without shareholder approval for inclusion in the bylaws of a corporation (G.S. 55-10-20) or can be included in the articles of incorporation of a corporation, either during the initial formation of the corporation (G.S. 55-2-02) or by amending existing articles of incorporation with the approval of shareholders (G.S. 55-10-03). However, initial court rulings regarding exclusive forum provisions that were adopted by the board of directors without shareholder approval have been varied in their outcomes. See *Galaviz v. Berg*, 763 F.Supp.2d 1170

(N.D. Cal. 2011) refusing to enforce such a provision and *Boilermakers Local 154 Ret. v. Chevron Corp.*, 73 A.3d 934 (Del. Ch. 2013) enforcing such a provision.

BILL ANALYSIS: **Section 5.1** of the bill would make a provision in the articles of incorporation providing that the state courts of the State of North Carolina shall be the exclusive forum for a derivative shareholder lawsuit effective and enforceable against any shareholder who voted in favor of an amendment to include the provision and any shareholder who purchased shares after the inclusion of the provision.

EFFECTIVE DATE: Section 5.1 of this act is effective when it becomes law and applies to all articles of incorporation and all amendments to articles of incorporation adopted on or after that date.

PART VI. JOINT SELECT COMMITTEE TO STUDY THE NEED FOR REFORM IN THE LAWS GOVERNING THE APPORTIONMENT OF TORT LIABILITY

Part VI of the bill would establish the Joint Select Committee to Study the Need for Reform in the Laws Governing Apportionment of Tort Liability. The committee would consist of five members of the Senate appointed by the President Pro Tempore and five members of the House of Representatives appointed by the Speaker of the House. The committee would be directed to study issues related to the need for reform of the laws governing apportionment of trot liability and successor liability, including adoption of comparative negligence and the abrogation of joint and several liability, and any other issues related to tort liability. The committee may make a final report, including any proposed legislation, to the regular session of the 2015 General Assembly. The committee would terminate upon the filing of its report or upon the convening of the 2015 General Assembly, whichever is earlier.

PART VII. THREE-JUDGE PANEL TO HEAR CLAIMS CHALLENGING THE FACIAL CONSTITUTIONALITY OF AN ACT OF THE GENERAL ASSEMBLY

CURRENT LAW: Under current law, actions challenging plans for apportioning or redistricting State legislative and congressional districts are heard by a three-judge panel of the Superior Court of Wake County. Actions challenging the constitutionality of all other acts of the General Assembly may be heard in any county in which the cause of action arises.

BILL ANALYSIS: **Section 7.1** of the bill would require that all challenges that an act of the General Assembly is facially unconstitutional be heard by a three-judge panel of the Superior Court of Wake County. Any challenge filed in a different county would be required to be transferred to Wake County. The Chief Justice of the Supreme Court would appoint three resident superior court judges to the three-judge panel, with one judge being from the First or Second Judicial Division (the eastern part of the State), one judge being from the Seventh or Eighth Judicial Division (the western part of the State), and one judge being from the Third, Fourth, Fifth, or Sixth Division (the central part of the State).

Section 7.2 of the bill would amend the statute governing the proper venue for certain lawsuits to specify that the proper venue for that all challenges seeking an order or judgment to restrain the enforcement, operation, or execution of an act of the General Assembly based on a claim that the act is facially unconstitutional is in Wake County Superior Court and that the challenges are to be resolved by the three-judge panel. Any such challenge filed in a different county would be required to be transferred to Wake County.

Section 7.3 of the bill would make conforming changes to Rule 42 of the Rules of Civil Procedure. This section would also amend the Rule to require that any individual claim that challenges the validity of an act of the General Assembly as facially unconstitutional that is contained in a lawsuit with additional

claims be transferred to the Superior Court of Wake County for resolution by the three-judge panel. The court in the originating county would retain jurisdiction over all other claims.

Section 7.4 of the bill would amend Rule 62 of the Rules of Civil Procedure to require an automatic stay of relief pending appeal when a trial court grants injunctive or declaratory relief restraining the State from enforcing the operation or execution of an act of the General Assembly because the act has been found by the court to be unconstitutional as applied. This section would not apply to challenges that an act of the General Assembly is facially unconstitutional.

Section 7.5 of the bill would allow appeal as of right from the trial court directly to the Supreme Court in any challenge that an act of the General Assembly is facially unconstitutional. This section would also allow appeal as of right from the trial court to the Court of Appeals in cases where the trial court grants temporary injunctive relief restraining the State from enforcing the operation or execution of an act of the General Assembly when the State is a party to the action.

EFFECTIVE DATE: Section 7 of this act is effective July 1, 2014, and applies to any claim filed on or after that date, whether alleged in any filed action or raised as a defense or claim during proceedings on any action, that asserts that an act of the General Assembly is either facially invalid or invalid as applied to a set of factual circumstances, based upon the North Carolina or United States Constitutions.

Shelly DeAdder, counsel to Senate Rules, Bill Patterson, counsel to Senate Judiciary I, Dan Ettefagh, counsel to the Joint Legislative Economic Development and Global Engagement Oversight Committee, and Brad Krehely, counsel to House Judiciary Subcommittee B substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 558
PROPOSED SENATE COMMITTEE SUBSTITUTE H558-CSTD-43 [v.2]

6/10/2014 7:34:13 PM

Short Title: Soil & Water/ Regional Jails Refunds. (Public)

Sponsors:

Referred to:

April 4, 2013

A BILL TO BE ENTITLED

AN ACT TO ALLOW SALES TAX REFUNDS FOR SOIL AND WATER CONSERVATION DISTRICTS AND REGIONAL JAILS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.14(c) is amended by adding a new subdivision to read:

"(c) Certain Governmental Entities. – A governmental entity listed in this subsection is allowed an annual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services, other than electricity, telecommunications service, and ancillary service. Sales and use tax liability indirectly incurred by a governmental entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the governmental entity and is being erected, altered, or repaired for use by the governmental entity is considered a sales or use tax liability incurred on direct purchases by the governmental entity for the purpose of this subsection. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the governmental entity's fiscal year.

This subsection applies only to the following governmental entities:

...

(25) A soil and water conservation district organized under Chapter 139 of the General Statutes.

(26) A district confinement facility created pursuant to G.S. 153A-219, including a local act modifying G.S. 153A-219."

SECTION 2. This act becomes effective July 1, 2015, and applies to sales made on or after that date.

HOUSE BILL 558:
Soil & Water/Regional Jails Refunds

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 11, 2014
Introduced by:	Reps. Whitmire, Ramsey, Dixon, Waddell	**Prepared by:**	Heather Fennell Committee Counsel
Analysis of:	PCS to First Edition H558-CSTD-43		

SUMMARY: ***The PCS to Senate Bill 261 would authorize a sales tax refund for soil and water conservation districts and regional jails.***

CURRENT LAW: G.S. 105-164.14 authorizes certain governmental entities to receive an annual refund of certain sales and use taxes paid on direct purchases of tangible personal property and services. The governmental entities entitled to a refund are listed at the end of this summary.

A soil and water conservation district is a governmental subdivision of this State, and a public body corporate and politic, organized in accordance with the provisions Chapter 139 of the General Statutes. According to the North Carolina Division of Soil and Water Conservation, there are 96 local conservation districts in the State. Districts partner with federal, state and local entities to deliver state and federal conservation programs related to water quality practices, farmland protection, wetlands restoration and wildlife habitat enhancement. Districts assist with community conservation planning in natural resource management areas, such as erosion and sediment control, stormwater management, flood control, water use efficiency, stream restoration, small-plot forestry management and restoration efforts after natural disasters. Districts also help implement conservation easements and respond to local projects, such as building environmental education centers.

A local confinement facility is a county or city jail, a local lockup, a regional or district jail, a juvenile detention facility, a detention facility for adults operated by a local government, and any other facility operated by a local government for confinement of persons awaiting trial or serving sentences. G.S. 153A-219 authorizes two or more units of local government to enter into an agreement to establish and operate a district confinement facility.

BILL ANALYSIS: The bill would add the following to the list of governmental entities entitled to an annual sales tax refund:

- Soil and water conservation districts organized under Chapter 139 of the General Statutes.
- District confinement facilities created under G.S. 153A-219, including those created under a local act modifying G.S. 153A-219.

EFFECTIVE DATE: July 1, 2015, and applies to sales made on or after that date.

O. Walker Reagan
Director

H558-SMTD-105 CSTD-43 -V4

Research Division
(919) 733-2578

Governmental entities entitled to a sales tax refund:

• Counties • Cities • Metropolitan sewerage districts or a metropolitan water districts • Water and sewer authorities created under Chapter 162A • Lake authorities created by a board of county commissioners pursuant to an act of the General Assembly • Sanitary districts • Regional solid waste management authority created pursuant to G.S. 153A-421 • Area mental health, developmental disabilities, and substance abuse authority, other than a single-county area authority, established pursuant to Article 4 of Chapter 122C	• District health departments, or a public health authorities created pursuant to Part 1A of Article 2 of Chapter 130A of the General Statutes • Regional councils of governments • Regional planning and economic development commissions or a regional economic development commission created under Chapter 158 • Regional planning commissions created pursuant to G.S. 153A-391 • Regional sports authorities created pursuant to G.S. 160A-479	• Public transportation authorities created pursuant to Article 25 of Chapter 160A Facility authorities created pursuant to Part 4 of Article 20 of Chapter 160A • Regional public transportation authorities created pursuant to Article 26 of Chapter 160A, or a regional transportation authority created pursuant to Article 27 of Chapter 160A • Local airport authorities was created pursuant to a local act of the General Assembly • Joint agencies created by interlocal agreement to operate a public broadcasting television station	• Constituent institutions of The University of North Carolina, but only with respect to sales and use tax paid by it through the expenditure of contract and grant funds • The University of North Carolina Health Care System • Regional natural gas districts created pursuant to Article 28 of Chapter; special district created under Article 43 of Chapter 105 • Public libraries created pursuant to an act of the General Assembly.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: June 10, 2014

TO: Senate Finance Committee

FROM: Sandra Johnson
Fiscal Research Division

RE: House Bill 558 (Unknown Edition)

FISCAL IMPACT
($ in millions)

☑ Yes ☐ No ☐ No Estimate Available

State Impact	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
Soil and Water Districts	0.0	(0.0)	(0.0)	(0.0)	(0.0)
Regional Jails	Fiscal Impact Unknown				
NET STATE IMPACT	$0.0	($0.0)	($0.0)	($0.0)	($0.0)

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:
North Carolina Department of Revenue

EFFECTIVE DATE: July 1, 2015

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY: HB 558 adds soil and water conservation districts organized under G.S. 139 to the list of entities eligible for sales tax refunds under G.S. 105-164.14(c)(25). HB 558 also creates a sales tax refund under G.S. 105-164.14(c)(26) for regional jails. This bill becomes effective July 1, 2015.

The NC Department of Agriculture and Consumer Services (NCDA&CS) and the NC Department Environment and Natural Resources (DENR) collect very little if any financial information on soil and water conservation districts. The NC Soil & Water Conservation Commission (also referenced under G.S. 139 and mentioned below as the Division of Soil and Water Conservation) does not oversee districts but it does have a direct statutory connection to districts. Both the commission and the Division of Soil and Water Conservation were transferred from DENR to the NCDA&CS on July 1, 2011.

In North Carolina there are 96 districts. Ninety-five districts have the same boundaries as their respective counties. The 96th district is the Albemarle Soil and Water Conservation District and is made up of Currituck, Camden, Pasquotank, Perquimans and Chowan counties. Financially, the Albemarle Soil and Water Conservation District members operate separately under their respective county governments.

ASSUMPTIONS AND METHODOLOGY:

HB 558 expands the sales tax refund to soil and water conservation districts organized under G.S. 139 and will reduce General Fund availability by $5,000 to $10,000 per fiscal year. To estimate the impact of HB 558, Fiscal Research relied on information from the Department of Revenue and a survey conducted by the Division of Soil and Water Conservation (DSWC) providing financial information for 30 soil and water conservation districts.

DSWC surveyed the districts at the request of the Fiscal Research Division. Sixty-six of the 96 districts responded. Only one district responded "yes" that they sought a sales tax refund over the last 5 years; one district responded "don't know" and the remaining 63 districts responded "no."

According to the Department of Revenue, only one soil and water conservation district has applied for a sales tax refund over the last three years for an amount of $1,600.[1] Thirty counties also responded to the DSWC survey providing FY 2011-12 and FY 2012-13 financial information.[2] Based on the survey information, Fiscal Research estimates that the financial impact of HB 558 could reduce General Fund Availability from $5,000 to $10,000.

Most of the districts operate under a local government and participate in their county's annual financial reporting process. Some of these soil and water conservation districts receive a sales tax refund through their respective county governments.

A smaller percentage of districts operate as stand-alone entities or departments. Their budget process is similar to county government in that they too are subject to the Local Government Budget and Fiscal Control Act (LGBFCA). These soil and water conservation districts, however, because of the absence of county government oversight do not receive a sales tax refund. Representatives from the North Carolina Association of Soil and Water Conservation Districts estimate that the sales tax refund provided in HB 558 would apply to roughly 10-30 districts.

The sales tax refund for regional jails applies to those created pursuant to G.S. 153A-219. Two facilities, Albemarle District Jail (a joint project between Camden, Perquimans and Pasquotank counties) and Bertie-Martin Regional Jail (a joint project between Bertie and Martin counties), would qualify for the newly enacted sales and use tax refund should the bill become law.

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[1] Explanation of sales tax refund denial as provided by the North Carolina Department of Revenue: soil and water conservation districts are currently ineligible under G.S. 105-164.14(c) as a governmental entity eligible for a refund of North Carolina's sales and use tax. A soil and water conservation district is created by Chapter 139 of the North Carolina General Statute[s]. Soil and water conservation districts are not on the list of eligible organization types to receive a sales tax refund under G.S. 105-164.14(c).

[2] Avery, Burke, Carteret, Cherokee, Clay, Davidson, Durham, Edgecombe, Franklin, Gates, Graham, Granville, Harnett, Haywood, Hoke, Iredell, Johnston, Lee, Mecklenburg, Mitchell, New Hanover, New River (Ashe), Pender, Polk, Robeson, Stokes, Swain, Wake, Warren, Wilkes

The sales tax refund under G.S. 105-164.14(c)(26) for regional jails of HB 558 will reduce General Fund availability and local government revenues. The fiscal impact is unknown.

SOURCES OF DATA: NC Department of Agriculture and Consumer Services (NCDA&CS), NC Department Environment and Natural Resources (DENR), and North Carolina Department of Revenue.

TECHNICAL CONSIDERATIONS: None

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H 5

HOUSE BILL 618

Committee Substitute Favorable 6/27/13
Committee Substitute #2 Favorable 7/24/13
Fourth Edition Engrossed 7/25/13
Senate Judiciary II Committee Substitute Adopted 6/10/14

Short Title: Amend Firearm Restoration Law. (Public)

Sponsors:

Referred to:

April 10, 2013

A BILL TO BE ENTITLED

AN ACT TO RESTORE THE FIREARMS RIGHTS OF CERTAIN PERSONS WHO WERE CONVICTED OF NONVIOLENT FELONIES BEFORE DECEMBER 1, 1995, AND WHOSE FIREARMS RIGHTS HAD BEEN RESTORED BEFORE DECEMBER 1, 1995, TO INCREASE THE FEE TO PETITION FOR THE RESTORATION OF FIREARMS RIGHTS, AND TO ADD TO THE LIST OF OFFENSES INELIGIBLE FOR EXPUNCTION CERTAIN FELONY BREAKING AND ENTERING OFFENSES, AND ANY OFFENSE THAT IS AN ATTEMPT TO COMMIT AN OFFENSE THAT IS NOT ELIGIBLE FOR EXPUNCTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-415.1 is amended by adding a new subsection to read:

"(f) This section does not apply to, there is no disentitlement under this section for, and the firearms rights as defined in 14-415.4 are restored to any person who satisfies all of the following criteria:

(1) The person's firearms rights were restored prior to December 1, 1995, and the forfeiture of the person's firearms rights on December 1, 1995, occurred only because amendments to G.S. 14-415.1, enacted by S.L. 1995-487 and applicable to any person convicted of a felony before December 1, 1995, became effective.

(2) The person's felony convictions prior to December 1, 1995, are only for nonviolent felonies as defined in G.S. 14-415.4.

(3) The person has not been convicted of any subsequent felony on or after December 1, 1995, that would require forfeiture of the person's firearms rights and cause the person to be disentitled under this section."

SECTION 2. G.S. 14-415.4(k) reads as rewritten:

"(k) Fee. – A person who files a petition for restoration of firearms rights under this section shall pay the clerk of court a fee of ~~two hundred dollars ($200.00)~~ two hundred fifty dollars ($250.00) at the time the petition is filed. Fees collected under this subsection shall be deposited in the General Fund. This subsection does not apply to petitions filed by an indigent."

SECTION 3. G.S. 15A-145.5(a) reads as rewritten:

"(a) For purposes of this section, the term "nonviolent misdemeanor" or "nonviolent felony" means any misdemeanor or felony except the following:

(1) A Class A through G felony or a Class A1 misdemeanor.
(2) An offense that includes assault as an essential element of the offense.
(3) An offense requiring registration pursuant to Article 27A of Chapter 14 of the General Statutes, whether or not the person is currently required to register.
(4) Any of the following sex-related or stalking offenses: G.S. 14-27.7A(b), 14-190.7, 14-190.8, 14-190.9, 14-202, 14-208.11A, 14-208.18, 14-277.3, 14-277.3A, 14-321.1.
(5) Any felony offense in Chapter 90 of the General Statutes where the offense involves methamphetamines, heroin, or possession with intent to sell or deliver or sell and deliver cocaine.
(6) An offense under G.S. 14-12.12(b), 14-12.13, or 14-12.14, or any offense for which punishment was determined pursuant to G.S. 14-3(c).
(7) An offense under G.S. 14-401.16.
(7a) An offense under G.S. 14-54(a), 14-54(a1), 14-54.1, 14-55, or 14-56.
(8) Any felony offense in which a commercial motor vehicle was used in the commission of the offense.
(9) Any offense that is an attempt to commit an offense described in subdivisions (1) through (8) of this subsection."

SECTION 3. Sections 1 and 2 and of this act become effective October 1, 2014. Section 3 of this act becomes effective December 1, 2014, and applies to petitions filed on or after that date, but petitions filed prior to that date are not abated by this act.

HOUSE BILL 618:
Amend Firearm Restoration Law

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 11, 2014
Introduced by:	Reps. Speciale, Pittman	**Prepared by:**	Heather Fennell
Analysis of:	Fifth Edition		Committee Counsel

SUMMARY: ***House Bill 618 would restore firearms rights to persons whose rights were restored prior to December 1, 1995, but were subsequently forfeited because of the enactment of S.L. 1995-487; increase the fee for petitioning to restore firearms rights from $200 to $250; and would prohibit certain offenses from being eligible for expunction.***

CURRENT LAW: In 1995, S.L. 1995-487 was enacted and made changes to the firearms statutes in order to comply with the federal Brady Handgun Violence Prevention Act. The Session Law amended G.S. 14-415.1 to prohibit any person who was convicted of a felony in North Carolina before, on, or after December 1, 1995 from possessing a firearm. Consequently, individuals who had their rights restored prior to December 1, 1995, forfeited those rights.

Under certain circumstances, a person may petition for expunction of nonviolent misdemeanors and felonies. G.S. 15A-145.5(a) lists specific offenses that may not be expunged.

BILL ANALYSIS: House Bill 618 does all of the following:

Section 1: Those persons who had their firearms rights restored prior to December 1, 1995, but whose rights were removed by the enactment of S.L. 1995-487, may petition to have their rights restored if:

- The person's felony convictions that occurred prior to December 1, 1995, are only for nonviolent felonies, and
- The person has not been convicted of a subsequent felony on or after December 1, 1995, that would require forfeiture of his or her firearms rights.

Section 2: Raises the fee for petitioning for restoration of firearm rights from $200 to $250.

Section 3: Adds the following crimes to the list of offenses that are not eligible for expunction:

- The felony offense of breaking and entering.
- Breaking and entering a place of worship.
- Preparation to commit a burglary, or breaking and entering, by possession of a dangerous weapon, or a picklock or other implement of housebreaking.
- The felony offense of entering into or breaking out of railroad cars, motor vehicles, trailers, aircraft, boats, or other watercraft.
- Any offense that is an attempt to commit an offense that is not eligible for expunction.

EFFECTIVE DATE: Sections 1 and 2 and of this act become effective October 1, 2014. Section 3 of this act becomes effective December 1, 2014, and applies to petitions filed on or after that date, but petitions filed prior to that date are not abated by this act.

Shelly DeAdder and Hal Pel, Staff Attorneys, substantially contributed to this summary.

O. Walker Reagan
Director

H618-SMTD-110 E5 -V3

Research Division
(919) 733-2578

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1069*

AMENDMENT NO. 1
(to be filled in by
Principal Clerk)

H1069-ARB-127 [v.2]

Comm. Sub. [YES]
Amends Title [NO]
Second Edition

Date _____,2014

Senator Rucho

moves to amend the bill on page 8, lines 31 through 33, by rewriting the lines to read:

"**PART VI: BOARD OF REVIEW FOR UNEMPLOYMENT INSURANCE**

SECTION 6.1.(a) G.S. 96-4(b) is repealed.

SECTION 6.1.(b) Article 2D of Chapter 96 of the General Statutes is amended by adding a new section to read:

"**§ 96-15.3. Board of Review.**

(a) Purpose. – The Board of Review is created to determine appeals policies and procedures and to hear appeals arising from the decisions and determinations of the Division. The Board of Review must exercise its decision-making processes independent of the Governor, the General Assembly, the Department, and the Division. The Department of Commerce must assign staff to the Board of Review.

(b) Members. – The Board of Review consists of three members appointed by the Governor and subject to confirmation by the General Assembly as provided in subsection (c) of this section. One member must be classified as representative of employees, one member must be classified as representative of employers, and one member must be classified as representative of the general public. The member appointed to represent the general public will serve as chair of the Board of Review and must be a licensed attorney in this State.

Members of the Board of Review serve staggered four-year terms. A term begins on July 1 of the year of appointment and ends on June 30 of the fourth year. No individual may serve more than two terms on the Board of Review, including any term served prior to the effective date of this section. In calculating the number of terms served, a partial term that is less than twenty-four months in length will not be included. The General Assembly must set the annual salaries of the Board of Review in the current Operations Appropriations Act.

(c) Confirmation. – Appointments of members to serve on the Board of Review are subject to confirmation by the General Assembly by joint resolution. The Governor must submit the name of the individual nominated by the Governor to be appointed to the Board of Review to the General Assembly for confirmation on or before May 1 of the year of the expiration of the term. If the General Assembly does not confirm the appointment by May 30, the office will be considered vacant and must be filled in accordance with subsection (d) of this section. The Governor may not re-submit the name of the nominee whom the General Assembly did not confirm for the office. If the Governor fails to timely submit a nomination, the General Assembly will appoint to fill the succeeding term upon the joint recommendation

of the President Pro Tempore of the Senate and the Speaker of the House of Representatives in accordance with G.S. 120-121.

(d) Vacancies. – A vacancy in an office of the Board of Review prior to the expiration of the term of office must be filled in accordance with this subsection. The Governor must submit the name of the individual to be appointed to fill the vacancy for the remainder of the unexpired term within 30 days after the vacancy arises to the General Assembly for confirmation by the General Assembly. If the General Assembly does not confirm the appointment within 30 days after the General Assembly receives the nomination, the office will be considered vacant and must be filled in accordance with this subsection. The Governor may not re-submit the name of the nominee whom the General Assembly did not confirm for the vacancy. If the Governor fails to timely submit a nomination, the General Assembly will appoint to fill the vacancy upon the joint recommendation of the President Pro Tempore of the Senate and the Speaker of the House of Representatives in accordance with G.S. 120-121.

If a vacancy in an office arises or exists when the General Assembly is not in session, and the appointment is deemed urgent by the Governor, the Governor may appoint an individual to that office to serve on an interim basis pending confirmation by the General Assembly. The Governor must submit the name of the individual serving on an interim basis to the General Assembly for confirmation within 14 days of the date the General Assembly convenes or reconvenes the next Regular Session. If the Governor fails to timely submit the nomination, the General Assembly will appoint to fill the vacancy upon the joint recommendation of the President Pro Tempore of the Senate and the Speaker of the House of Representatives in accordance with G.S. 120-121. For the purpose of this subsection, the General Assembly is not in session only (i) prior to convening of the Regular Session, (ii) during any adjournment of the Regular Session for more than 10 days, and (iii) after sine die adjournment of the Regular Session."

SECTION 6.1.(c) This section becomes effective July 1, 2014.

SECTION 6.2.(a) Section 4.1 of S.L. 2011-401 provided that the Board of Review, established by that act under G.S. 96-4(b), was to be appointed by November 15, 2011. Members appointed to the Board of Review pursuant to G.S. 96-4(b) are subject to confirmation by the General Assembly. The Board of Review was not appointed by June 30, 2013. Section 21 of S.L. 2013-224 directed the Governor to appoint members to the Board of Review by September 1, 2013, and provided that notwithstanding G.S. 96-4(b), the appointments made pursuant to S. L. 2013-224 did not require General Assembly confirmation. The Board of Review was not appointed by September 1, 2013, and therefore the provisions of Section 21 of S.L. 2013-224 no longer apply. The names of the individuals appointed by the Governor in December 2013 to serve on the Board of Review have not been submitted by the Governor to the General Assembly for confirmation as required by G.S. 96-4(b) and those appointments have not been confirmed by the General Assembly.

SECTION 6.2.(b) Section 21 of S.L. 2013-224 is repealed.

SECTION 6.2.(c) To achieve the staggered terms for the members of the Board of Review in accordance with G.S. 96-15.3, as enacted by this Part, and notwithstanding the appointment provisions in G.S. 96-4(b), as repealed by this Part, and in G.S. 96-15.3, as enacted by this Part, the individuals appointed by the Governor in December 2013 to serve as

members of the Board of Review may serve as members of the Board of Review, as provided in this section:

(1) Keith Holliday is designated as the member serving on the Board of Review that represents employers. The term of the member serving on the Board of Review that represents employers expires June 30, 2014. The Governor must fill this expired term in accordance with G.S. 96-15.3(d), as enacted by this Part, as if the office for the term that begins July 1, 2014, is a vacancy.

(2) Stanley Campbell is designated as the member serving on the Board of Review that represents employees. The term of the member serving on the Board of Review that represents employees expires June 30, 2015. The Governor must fill this expired term in accordance with G.S. 96-15.3(c), as enacted by this Part.

(3) Jeanette Doran is the member serving on the Board of Review that represents the general public. The term of the member serving on the Board of Review that represents the general public expires June 30, 2017. The Governor must fill this expired term in accordance with G.S. 96-15.3(c), as enacted by this Part.

SECTION 6.2.(d) This section is effective when it becomes law.

SECTION 6.3.(a) The following decisions in an appeal by a party to a decision of an appeals referee or hearing officer under Chapter 96 of the General Statutes are hereby validated and given the same legal effect as if those decisions had been issued by the Board of Review:

(1) Decisions issued by the Assistant Secretary of Commerce for the Division of Employment Security or by the Secretary of Commerce's designee.

(2) Decisions issued by the three individuals appointed by the Governor in December 2013 to serve as members of the Board of Review.

SECTION 6.3.(b) This section is effective when it becomes law, and subsection (b) applies to decisions rendered on or after November 1, 2011, and before July 1, 2014.

PART VII: EFFECTIVE DATE

SECTION 7.1. Except as otherwise provided, this act is effective when it becomes law.".

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1069*

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H1069-ARB-127 [v.2]

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

HOUSE BILL 1069*
Committee Substitute Favorable 6/4/14

Short Title: Unemployment Insurance Law Changes. (Public)

Sponsors:

Referred to:

May 15, 2014

A BILL TO BE ENTITLED

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE LAWS, AS RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON UNEMPLOYMENT INSURANCE.

Whereas, the confidentiality of unemployment insurance information is governed by federal regulations at 20 C.F.R. Part 603; and

Whereas, the United States Department of Labor has notified the State that certain practices of the Department of Commerce, Division of Employment Security, are not in compliance with federal confidentiality requirements; and

Whereas, this lack of compliance could jeopardize the State's Title III grant funding and affect the federal Unemployment Tax Act tax rate of the State's employers; and

Whereas, the United States Department of Labor recommends that the General Assembly adopt legislation to ensure the State's compliance with federal law and regulations; Now, therefore,

The General Assembly of North Carolina enacts:

PART I: CONFIDENTIALITY OF UI INFORMATION

SECTION 1.1.(a) G.S. 96-4(x) reads as rewritten:

"(x) Confidentiality of Records, Reports, and Information Obtained from Claimants, Employers, and Units of Government. – ~~Disclosure~~ For purposes of this Chapter, the term "confidential information" means any unemployment compensation information in the records of the Division of Employment Security that pertains to the administration of the Employment Security Law that is required to be kept confidential under 20 C.F.R. Part 603, including claim information and any information that reveals the name or any identifying particular about any individual or any past or present employer or employing unit, or that could foreseeably be combined with other publicly available information to reveal any such particulars.

Confidential information is exempt from the public records disclosure requirements of Chapter 132 of the General Statutes. Confidential information may be disclosed only as permitted in this subsection. Any disclosure and redisclosure of confidential information ~~shall~~ must be consistent with 20 C.F.R. Part 603 and any written guidance promulgated and issued by the U.S. Department of Labor consistent with this regulation and any successor regulation. To the extent a disclosure or redisclosure of confidential information is permitted or required by this federal regulation, the Department's authority to disclose or redisclosure the information includes the following:

(1) Confidentiality of Information Contained in Records and Reports. – (i) Except as hereinafter otherwise provided, it shall be unlawful for any person

to obtain, disclose, or use, or to authorize or permit the use of any information which is obtained from an employer, individual, or unit of government pursuant to the administration of this Chapter or G.S. 108A-29. (ii) Any claimant or employer or their legal representatives shall be supplied with information from the records of the Division to the extent necessary for the proper presentation of claims or defenses in any proceeding under this Chapter. Notwithstanding any other provision of law, any claimant may be supplied, subject to restrictions as the Division may by regulation prescribe, with any information contained in his payment record or on his most recent monetary determination, and any individual, as well as any interested employer, may be supplied with information as to the individual's potential benefit rights from claim records. (iii) Subject to restrictions as the Secretary may by regulation provide, information from the records of the Division may be made available to any agency or public official for any purpose for which disclosure is required by statute or regulation. (iv) The Division may, in its sole discretion, permit the use of information in its possession by public officials in the performance of their public duties. (v) The Division shall release the payment and the amount of unemployment compensation benefits upon receipt of a subpoena in a proceeding involving child support. (vi) The Division shall furnish to the State Controller any information the State Controller needs to prepare and publish a comprehensive annual financial report of the State or to track debtors of the State. (vii) The Secretary may disclose or authorize redisclosure of any confidential information to an individual, agency, or entity, public or private, consistent with the requirements enumerated in 20 C.F.R. Part 603 or any successor regulation and any written guidance promulgated and issued by the U.S. Department of Labor consistent with 20 C.F.R. Part 603. (viii) The Division may disclose final decisions and the records of the hearings that led to those decisions only after the expiration of the appeal rights as provided under G.S. 96-15.

...."

SECTION 1.1.(b) G.S. 132-1.1 is amended by adding a new subsection to read:

"(h) Employment Security Information. – Confidential information obtained, compiled, or maintained by the Division of Employment Security may not be disclosed except as provided in G.S. 96-4. As used in this subsection, the term "confidential information" has the same meaning as in G.S. 96-4(x)."

SECTION 1.1.(c) The Department of Commerce, Division of Employment Security, shall immediately take any action necessary to implement this Part. On or before September 1, 2014, the Division of Employment Security shall report to the Joint Legislative Oversight Committee on Unemployment Insurance on the status of the implementation of this Part."

PART II: AUTHORIZING DMV TO DISCLOSE SOCIAL SECURITY NUMBERS; REQUIRING UI CLAIMANTS TO CONTACT FIVE POTENTIAL EMPLOYERS PER WEEK; AND ELIMINATING THE PROCEDURE TO REQUEST RECONSIDERATION OF DECISIONS.

SECTION 2.1. G.S. 20-7(b2) reads as rewritten:

"(b2) Disclosure of Social Security Number. – The social security number of an applicant is not a public record. The Division may not disclose an applicant's social security number except as allowed under federal law. A violation of the disclosure restrictions is punishable as provided in 42 U.S.C. § 408, and amendments to that law.

In accordance with 42 U.S.C. 405 and 42 U.S.C. 666, and amendments thereto, the Division may disclose a social security number obtained under subsection (b1) of this section only as follows:

(1) For the purpose of administering the drivers license laws.

(2) To the Department of Health and Human Services, Child Support Enforcement Program for the purpose of establishing paternity or child support or enforcing a child support order.

(3) To the Department of Revenue for the purpose of verifying taxpayer identity.

(4) To the Office of Indigent Defense Services of the Judicial Department for the purpose of verifying the identity of a represented client and enforcing a court order to pay for the legal services rendered.

(5) To each county jury commission for the purpose of verifying the identity of deceased persons whose names should be removed from jury lists.

(6) To the Office of the State Controller for the purposes of G.S. 143B-426.38A.

(7) To the Department of Commerce, Division of Employment Security, for the purpose of verifying employer and claimant identity."

SECTION 2.2.(a) G.S. 96-9.2(c) reads as rewritten:

"(c) Contribution Rate for Experience-Rated Employer. – The contribution rate for an experience-rated employer who does not qualify as a beginning employer under subsection (b) of this section is determined in accordance with the table set out below and then rounded to the nearest one-hundredth percent (0.01%), subject to the minimum and maximum contribution rates. The minimum contribution rate is six-hundredths of one percent (0.06%). The maximum contribution rate is five and seventy-six hundredths percent (5.76%). "Total insured wages" are the total wages reported by all insured employers for the 12-month period ending on ~~July 31~~ June 30 preceding the computation date. An employer's experience rating is computed as a reserve ratio in accordance with G.S. 96-9.4. An employer's reserve ratio percentage (ERRP) is the employer's reserve ratio multiplied by sixty-eight hundredths. A positive ERRP produces a lower contribution rate, and a negative ERRP produces a higher contribution rate.

...."

SECTION 2.2.(b) This section is effective when it becomes law and applies to contributions payable for calendar quarters beginning on or after January 1, 2014.

SECTION 2.3.(a) G.S. 96-14.9(e) reads as rewritten:

"(e) Actively Seeking Work. – The Division's determination of whether an individual is actively seeking work is based upon the following:

(1) The individual is registered for employment services, as required by the Division.

(2) The individual has engaged in an active search for employment that is appropriate in light of the employment available in the labor market and the individual's skills and capabilities.

(3) The individual has ~~sought work on at least two different days during the week and~~ made at least ~~two~~ five job contacts with potential ~~employers.~~employers during the week.

(4) The individual has maintained a record of the individual's work search efforts. The record must include the potential employers contacted, the method of contact, and the date contacted. The individual must provide the record to the Division upon request."

SECTION 2.3.(b) This section becomes effective July 1, 2014, and applies to claims for benefits filed on or after that date.

SECTION 2.4.(a) G.S. 96-15(h) reads as rewritten:

"(h) Judicial Review. – ~~Any~~ A decision of the ~~Division, in the absence of judicial review as herein provided, or in the absence of an interested party filing a request for reconsideration, shall become~~ Board of Review becomes final 30 days after the date of ~~notification or~~ mailing ~~thereof, whichever is earlier.~~ unless a party to the decision seeks judicial review as provided in this subsection. Judicial review ~~shall be~~ is permitted only after a party claiming to be aggrieved by the decision has exhausted ~~his remedies before the Division as provided in this Chapter~~ the remedies provided in this Chapter and has filed a petition for review in the superior court of the county in which ~~he~~ the petitioner resides or ~~has his~~ the county in which the petitioner's principal place of ~~business.~~ business is located. The petition for review ~~shall~~ must explicitly state what exceptions are taken to the decision or procedure ~~of the Division~~ and what relief the petitioner seeks. Within 10 days after the petition is filed with the court, the petitioner ~~shall~~ must serve copies of the petition by personal service or by certified mail, return receipt requested, upon the Division and upon all parties of record to the Division proceedings. The Division must furnish the petitioner the names ~~Names~~ and addresses of the parties ~~shall be furnished to the petitioner by the Division~~ upon request. The Division ~~shall be deemed to be~~ is a party to any judicial action involving any of its decisions and may be represented in the judicial action by any qualified attorney who has been designated by it for that purpose. Any questions regarding the requirements of this subsection concerning the service or filing of a petition ~~shall~~ must be determined by the superior court. Any party to the Division proceeding may become a party to the review proceeding by notifying the court within 10 days after receipt of the copy of the petition. Any person aggrieved may petition to become a party by filing a motion to intervene as provided in G.S. 1A-1, Rule 24.

Within 45 days after receipt of the copy of the petition for review or within such additional time as the court may allow, the Division ~~shall~~ must transmit to the reviewing court the original or a certified copy of the entire record of the proceedings under review. With the permission of the court the record may be shortened by stipulation of all parties to the review proceedings. Any party unreasonably refusing to stipulate to limit the record may be taxed by the court for ~~such~~ the additional cost ~~as is occasioned~~ incurred by the refusal. The court may require or permit subsequent corrections or additions to the record when ~~deemed~~ the court considers the changes desirable."

SECTION 2.4.(b) This section becomes effective July 1, 2014, and applies to decisions made on or after that date.

SECTION 2.5.(a) G.S. 96-3 reads as rewritten:

"**§ 96-3. Division of Employment Security.**

The Division of Employment Security (DES) is created within the Department of Commerce and shall administer the provisions of this Chapter under the supervision of the Assistant Secretary of ~~Commerce~~ Commerce. ~~through two coordinate sections: the Employment Security Section and the Employment Insurance Section. The Employment Security Section shall administer the employment services functions of the Division. The Employment Insurance Section shall administer the unemployment taxation and assessment functions of the Division.~~"

SECTION 2.5.(b) G.S. 96-4(j) reads as rewritten:

"(j) Hearings. – The Assistant Secretary shall appoint hearing officers or appeals referees to hear contested matters arising from the ~~Employment Security Section and the Employment Insurance Section.~~ Division of Employment Security. Appeals from the decisions of the hearing officers or appeals referees shall be heard by the Board of Review."

SECTION 2.5.(c) G.S. 96-9.15(f) reads as rewritten:

"(f) Domestic Employer Exception. – The Division may authorize an employer of domestic service employees to file an annual report and to file that report by telephone. An annual report allowed under this subsection is due on or before the last day of the month following the close of the calendar year in which the wages are paid. A domestic service employer that files a report by telephone must contact either the tax auditor assigned to the

employer's account or the ~~Employment Insurance Section~~ Division of Employment Security in Raleigh and report the required information to that auditor or to that section by the date the report is due."

PART III: GARNISHMENT AND ATTACHMENT FOR THE COLLECTION OF UNPAID UI TAXES

SECTION 3.1.(a) G.S. 1-359 reads as rewritten:

"**§ 1-359. Debtors of judgment debtor may satisfy execution.**

(a) After the issuing of an execution against property, all persons indebted to the judgment debtor, or to any one of several debtors in the same judgment, may pay to the sheriff the amount of their debt, or as much thereof as is necessary to satisfy the execution; and the sheriff's receipt is a sufficient discharge for the amount paid.

(b) When the Division of Employment Security of the Department of Commerce (Division) prevails in a civil action against an employer to collect unpaid employment taxes under G.S. 96-10(b), the Division may attach or garnish the employer's credit card receipts in payment of the unpaid taxes in the manner provided by subsection (a) of this section. Direct receipt by the Division is a sufficient discharge for the amount paid by a credit card company or clearinghouse."

SECTION 3.1.(b) G.S. 96-10(b)(1) reads as rewritten:

"(b) Collection. –

(1) If, after due notice, any employer defaults in any payment of contributions or interest thereon, the amount due shall be collected by civil action in the name of the Division, and the employer adjudged in default shall pay the costs of such action. Civil actions brought under this section to collect contributions or interest thereon from an employer shall be heard by the court at the earliest possible date, and shall be entitled to preference upon the calendar of the court over all other civil actions, except petitions for judicial review under this Chapter and cases arising under the Workers' Compensation Law of this State; or, if any contribution imposed by this Chapter, or any portion thereof, and/or penalties duly provided for the nonpayment thereof shall not be paid within 30 days after the same become due and payable, and after due notice and reasonable opportunity for hearing, the Division, under the hand of the Assistant Secretary, may certify the same to the clerk of the superior court of the county in which the delinquent resides or has property, and additional copies of said certificate for each county in which the Division has reason to believe the delinquent has property located. If the amount of a delinquency is less than fifty dollars ($50.00), the Division may not certify the amount to the clerk of court until a field tax auditor or another representative of the Division personally contacts, or unsuccessfully attempts to personally contact, the delinquent and collect the amount due. A certificate or a copy of a certificate forwarded to the clerk of the superior court shall immediately be docketed and indexed on the cross index of judgments, and from the date of such docketing shall constitute a preferred lien upon any property which said delinquent may own in said county, with the same force and effect as a judgment rendered by the superior court. The Division shall forward a copy of said certificate to the sheriff or sheriffs of such county or counties, or to a duly authorized agent of the Division, and when so forwarded and in the hands of such sheriff or agent of the Division, shall have all the force and effect of an execution issued to such sheriff or agent of the Division by the clerk of the superior court upon a judgment of the superior court duly docketed in said county.

Provided, however, the Division may in its discretion withhold the issuance of said certificate or execution to the sheriff or agent of the Division for a period not exceeding 180 days from the date upon which the original certificate is certified to the clerk of superior court. The Division is further authorized and empowered to issue alias copies of said certificate or execution to the sheriff or sheriffs of such county or counties, or to a duly authorized agent of the Division in all cases in which the sheriff or duly authorized agent has returned an execution or certificate unsatisfied; when so issued and in the hands of the sheriff or duly authorized agent of the Division, such alias shall have all the force and effect of an alias execution issued to such sheriff or duly authorized agent of the Division by the clerk of the superior court upon a judgment of the superior court duly docketed in said county. Provided, however, that notwithstanding any provision of this subsection, upon filing one written notice with the Division, the sheriff of any county shall have the sole and exclusive right to serve all executions and make all collections mentioned in this subsection and in such case no agent of the Division shall have the authority to serve any executions or make any collections therein in such county. A return of such execution, or alias execution, shall be made to the Division, together with all moneys collected thereunder, and when such order, execution, or alias is referred to the agent of the Division for service the said agent of the Division shall be vested with all the powers of the sheriff to the extent of serving such order, execution or alias and levying or collecting thereunder. The agent of the Division to whom such order or execution is referred shall give a bond not to exceed three thousand dollars ($3,000) approved by the Division for the faithful performance of such duties. The liability of said agent shall be in the same manner and to the same extent as is now imposed on sheriffs in the service of executions. If any sheriff of this State or any agent of the Division who is charged with the duty of serving executions shall willfully fail, refuse, or neglect to execute any order directed to him by the said Division and within the time provided by law, the official bond of such sheriff or of such agent of the Division shall be liable for the contributions, penalty, interest, and costs due by the employer. Any judgment that is executable and allowed under this section shall be subject to attachment and garnishment under G.S. 1-359(b) in payment of unpaid taxes that are due from the employer and collectable under this Article."

PART IV: SET THE DURATION OF UNEMPLOYMENT BENEFITS BASED ONLY ON UNEMPLOYMENT RATES

SECTION 4.1.(a) G.S. 96-14.4 is repealed.

SECTION 4.1.(b) G.S. 96-14.3 reads as rewritten:

"**§ 96-14.3. ~~Minimum and maximum duration~~ Duration of benefits.**

(a) Duration. – The ~~minimum and maximum~~ number of weeks an individual is allowed to receive unemployment benefits depends on the seasonal adjusted statewide unemployment rate that applies to the six-month base period in which the claim is filed. One six-month base period begins on January 1 and one six-month base period begins on July 1. For the base period that begins January 1, the average of the seasonal adjusted unemployment rates for the State for the preceding months of July, August, and September applies. For the base period that begins July 1, the average of the seasonal adjusted unemployment rates for the State for the preceding months of January, February, and March applies. The Division must use the most recent seasonal adjusted unemployment rate determined by the U.S. Department of Labor, Bureau of

Labor Statistics, and not the rate as revised in the annual benchmark. ~~The number of weeks allowed for an individual is determined in accordance with G.S. 96-14.4.~~

Seasonal Adjusted Unemployment Rate	~~Minimum Number of Weeks~~	~~Maximum~~ Number of Weeks
Less than or equal to 5.5%	~~5~~	12
Greater than 5.5% up to 6%	~~6~~	13
Greater than 6% up to 6.5%	~~7~~	14
Greater than 6.5% up to 7%	~~8~~	15
Greater than 7% up to 7.5%	~~9~~	16
Greater than 7.5% up to 8%	~~10~~	17
Greater than 8% up to 8.5%	~~11~~	18
Greater than 8.5% up to 9%	~~12~~	19
Greater than 9%	~~13~~	20

(b) Total Benefits. – The total benefits paid to an individual equals the individual's weekly benefit amount allowed under G.S. 96-14.2 multiplied by the number of weeks allowed under subsection (a) of this section."

SECTION 4.1.(c) G.S. 96-14.12(b) reads as rewritten:

"(b) Duration of Benefits. – This subsection applies to an individual and the spouse of an individual who is unemployed based on services performed for a corporation in which the individual held five percent (5%) or more of the outstanding shares of the voting stock of the corporation. The maximum number of weeks an individual or an individual's spouse may receive benefits is ~~limited to the lesser of~~ six ~~weeks or the applicable weeks determined under G.S. 96-14.4.~~weeks."

SECTION 4.1.(d) G.S. 96-16(f) reads as rewritten:

"(f) (1) A seasonal worker shall be eligible to receive benefits based on seasonal wages only for a week of unemployment which occurs, or the greater part of which occurs within the active period or periods of the seasonal pursuit or pursuits in which he earned base period wages.

(2) A seasonal worker shall be eligible to receive benefits based on nonseasonal wages for any week of unemployment which occurs during any active period or periods of the seasonal pursuit in which he has earned base period wages provided he has exhausted benefits based on seasonal wages. Such worker shall also be eligible to receive benefits based on nonseasonal wages for any week of unemployment which occurs during the inactive period or periods of the seasonal pursuit in which he earned base period wages irrespective as to whether he has exhausted benefits based on seasonal wages.

(3) The maximum amount of benefits which a seasonal worker shall be eligible to receive based on seasonal wages shall be an amount, adjusted to the nearest multiple of one dollar ($1.00), determined by multiplying the maximum benefits payable in his benefit year, as provided in ~~G.S. 96-14.4,~~ G.S. 96-14.3, by the percentage obtained by dividing the seasonal wages in his base period by all of his base period wages.

(4) The maximum amount of benefits which a seasonal worker shall be eligible to receive based on nonseasonal wages shall be an amount, adjusted to the nearest multiple of one dollar ($1.00), determined by multiplying the maximum benefits payable in his benefit year, as provided in ~~G.S. 96-14.4,~~ G.S. 96-14.3, by the percentage obtained by dividing the nonseasonal wages in his base period by all of his base period wages.

(5) In no case shall a seasonal worker be eligible to receive a total amount of benefits in a benefit year in excess of the maximum benefits payable for such benefit year, as provided in ~~G.S. 96-14.4.~~G.S. 96-14.3."

SECTION 4.1.(e) This section becomes effective July 1, 2014. Changes made by this section to unemployment benefits apply to claims for benefits filed on or after July 1, 2014.

PART V: REQUIRE PHOTO IDENTIFICATION TO RECEIVE UI BENEFITS

SECTION 5.1. G.S. 96-14.9 reads as rewritten:

"**§ 96-14.9. Weekly certification.**

(a) Requirements. – An individual's eligibility for a weekly benefit amount is determined on a week-to-week basis. An individual must meet all of the requirements of this section for each weekly benefit period. An individual who fails to meet one or more of the requirements is ineligible to receive benefits until the condition causing the ineligibility ceases to exist:

(1) File a claim for benefits.

(2) Report ~~at an employment office~~ as requested by the ~~Division.~~Division and present valid photo identification meeting the requirements of subsection (k) of this section.

(3) Meet the work search requirements of subsection (b) of this section.

...

(k) Photo Identification. – The individual must present the Division one of the following documents bearing the individual's photograph:

(1) A drivers license, learner's permit, provisional license, or nonoperators identification card issued by North Carolina, another state, the District of Columbia, United States territory, or United States commonwealth.

(2) A United States passport.

(3) A United States military identification card.

(4) A Veterans Identification Card issued by the United States Department of Veterans Affairs.

(5) A tribal enrollment card issued by a federally recognized tribe.

(6) Any other document issued by the United States or any state that the Division determines adequately identifies the individual."

PART VI: EFFECTIVE DATE

SECTION 6.1. Except as otherwise provided, this act is effective when it becomes law.

HOUSE BILL 1069:
Unemployment Insurance Law Changes

2013-2014 General Assembly

Committee:		**Date:**	June 10, 2014
Introduced by:	Reps. Howard, Warren, Arp	**Prepared by:**	Cindy Avrette
Analysis of:	Second Edition		Committee Counsel

SUMMARY: ***House Bill 1069[1] would make the following changes to the unemployment insurance (UI) laws as recommended by the Joint Legislative Oversight Committee on Unemployment Insurance:***

- ***Clarify that UI claim information is confidential unless the disclosure is permitted by federal regulation, and would exempt UI information from the public records disclosure requirements of Chapter 132 of the General Statutes.***
- ***Authorize the Division of Motor Vehicles (DMV) to disclose social security numbers to Division of Employment Security (DES) for the purpose of verifying employer and claimant identity; require UI claimants to contact 5 potential employers per week; eliminate the procedure to request reconsideration of DES decisions; and make other technical changes to modernize language and fix statutory references to DES.***
- ***Clarify DES authority to garnish and attach the credit card receipts of delinquent taxpayers.***
- ***Eliminate the variable range for UI duration and base the duration of UI benefits only on the unemployment rate. Under the proposal, all UI claimants would receive the maximum number of weeks of UI benefits currently allowed.***
- ***Require photo identification to receive UI benefits.***

PART I: CONFIDENTIALITY OF UI INFORMATION

CURRENT LAW: The Employment Security Law, Chapter 96, currently provides for disclosure of UI information only as permitted or required by Federal regulations. UI information is not specifically exempted from the public records disclosure requirements of Chapter 132 of the General Statutes.

BILL ANALYSIS:

Section 1.(a) of the bill would define "confidential information" in G.S. 96-4(x) to mean:

- Any information in the records of DES relating to the administration of the UI Law that is confidential under Federal regulations.
- Claim information as defined in the Federal regulations, including any information that might identify a claimant, employer, or employing unit in an UI matter.

This section would exempt confidential information from the public records disclosure requirements of G.S. Chapter 132. Finally, this section would amend G.S. 96-4(x) to authorize DES to disclose final decisions of appeals proceedings and the records of those hearings that led to the final decisions.

[1] As introduced, this bill was identical to S759, as introduced by Sens. Rucho, Clark, which is currently in Senate Finance.

Section 1.(b) would amend G.S. 132-1.1 to exempt confidential UI information from the disclosure requirements of the Public Records Law.

Section 1.(c) of the bill would direct DES to take immediate action to comply with the provisions of the bill.

BACKGROUND: DES generates notices of hearing to inform claimants and employers in UI cases of the date and time of scheduled appeals before an Appeals Referee. In 2004, DES received a request under the Public Records Law for access to those notices, and DES began making the notices available on a daily basis to those who requested them and paid a fee as allowed under Chapter 132 of the General Statutes.

In February 2014, DES announced that the hearing notices would be made available only three times monthly and that the fee would be increased. A lawsuit[2] was filed in Wake County Superior Court, alleging that the agency's practice violated the Public Records Law. Subsequently, a temporary restraining order and preliminary injunction were issued, ordering DES to continue providing the notices of hearing until the case could be tried.

Confidentiality of UI information is governed by Federal regulations at 20 C.F.R. Part 603. After learning of the agency's practice, in a letter dated March 7, 2014, the US Department of Labor (USDOL) officially notified DES that it must cease providing the hearing notices.[3] USDOL stated that such disclosure constitutes a failure to comply with Federal laws and regulations relating to confidentiality of UI information. The USDOL letter states that State law conforms to Federal requirements, but that the DES practices did not comply with Federal law. The letter also stated that continuing to provide the notices would jeopardize the State's receipt of Title III grant funds, which funds the administrative operations of the State's UI program.

USDOL sent a follow-up letter to DES on April 25, 2014,[4] reiterating its position that DES practice of providing notices of UI appeals hearings raises "several issues of substantial compliance with Federal law requirements," and again instructing DES to immediately cease that practice. The USDOL letter stated that "[t]o be in substantial compliance with Federal law, DES must cease the practice of providing notice of appeals hearings to attorneys who do not already represent a claimant or an employer, and provide assurances that the practice has stopped and will not be resumed," and that DES must request that recipients of confidential UI information either destroy that information or return it to DES. The USDOL made clear that "DES has an affirmative duty to explore all avenues to comply with Federal law, including through the court system with the current proceedings, but also potentially via legislative remedy...." USDOL recommended that although the provisions of G.S. 96-4(x) conform to Federal law and regulations, the State's Public Records Law should be amended to exempt UI information from public records disclosures.

PART II: AUTHORIZING DMV TO DISCLOSE SOCIAL SECURITY NUMBERS; REQUIRING UI CLAIMANTS TO CONTACT 5 POTENTIAL EMPLOYERS PER WEEK; AND ELIMINATING THE PROCEDURE TO REQUEST RECONSIDERATION OF DECISIONS.

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[2] Monica Wilson and Wilson Law Group PLLC v. North Carolina Department of Commerce; NC Department of Commerce, Division of Employment Security; Sharon Allred Decker, in her capacity as Secretary of Commerce; and Dale R. Folwell, in his capacity as Assistant Secretary of Employment Security, Wake County General Court of Justice 14 CvD 2499 (filed Feb 28, 2014).

[3] Letter dated March 7, 2014, from Gay M. Gilbert, Administrator, Office of Unemployment Insurance, U.S. Department of Labor.

[4] Letter dated April 25, 2014, from Gay M. Gilbert, Administrator, Office of Unemployment Insurance, U.S. Department of Labor.

CURRENT LAW: G.S. 20-7(b2) authorizes DMV to disclose social security numbers to a list of State entities subject to federal limitations. DMV obtained the social security numbers when a person applied for an identification card, learners permit, or driver's license.

G.S. 96-14.9(e) requires UI claimants to actively search for work while receiving UI benefits. The claimant must make 2 job contacts with potential employers on 2 different days during a week. G.S. 96-15(h) provides a procedure for parties to any decision of DES to request reconsideration of the decision. The decision is not final until the request for reconsideration has been decided.

BILL ANALYSIS: Section 1.1 would add DES to the list of State entities authorized to receive social security numbers from DMV. The social security numbers are disclosed for the purpose of verifying employer and claimant identity.

Section 2.2 would make a technical change to move the date for the calculation of tax rates for certain employers from July 31 to June 30. The calculation is based on a 12-month period, and June 30 is the end of the calendar quarter.

Section 2.3 would modify the work search requirement by increasing the number of job contacts to 5 per week and eliminating the requirement to search on 2 different days.

Section 2.4 would eliminate the procedure to request reconsideration of decisions of DES and modernize the language of G.S. 96-15(h).

Section 2.5 would correct 3 references to DES.

EFFECTIVE DATE: Section 2.2 would be effective for contributions payable for calendar quarters beginning on or after January 1, 2014. Sections 2.3 and 2.4 would be effective July 1, 2014.

PART III: GARNISHMENT AND ATTACHMENT FOR THE COLLECTION OF UNPAID UI TAXES

CURRENT LAW: DES is authorized by G.S. 96-10(b) to bring civil actions to collect delinquent UI taxes. G.S. 1-359 governs the manner in which debtors of a judgment debtor may satisfy an execution.

BILL ANALYSIS: The bill clarifies DES authority to use attachment and garnishment of credit card receipts to satisfy a judgment for unpaid employment taxes.

Section 3.1.(a) amends G.S. 1-359 to specifically allow DES to execute a judgment by attaching or garnishing a delinquent employer's credit card receipts and then receiving those funds directly from a credit card company or clearinghouse in discharge of the debt.

Section 3.1.(b) clarifies that, under G.S. 96-10(b)(1), DES may garnish or attach credit card receipts due an employer using the process for execution authorized by new G.S. 1-359(b) to receive direct payment.

BACKGROUND: DES is responsible for collecting unemployment taxes from employers who fail to remit unemployment tax payments. DES may use the same forms of execution available to any other judgment creditor who prevails against a defendant. Obtaining payment from a debtor's debtor is one such method.

PART IV: SET THE DURATION OF UNEMPLOYMENT BENEFITS BASED ONLY ON UNEMPLOYMENT RATES

CURRENT LAW: The duration of UI benefits is determined based on a formula in G.S. 96-14.4 and a table in G.S. 96-14.3. The formula in G.S. 96-14.4 was designed to reward UI claimants who have a higher attachment to the workforce by comparing base period wages and wages in the last 2 quarters. The formula resulted in some UI claimants receiving less than the maximum number of weeks of UI benefits allowed under the table. The table in G.S. 96-14.3 gives the minimum and maximum number of

weeks an individual is allowed to receive UI benefits depending on the seasonal adjusted statewide unemployment rate that applies to the six-month period in which the claim is filed.[5] The table follows:

Seasonal Adjusted Unemployment Rate	Minimum Number of Weeks	Maximum Number of Weeks
Less than or equal to 5.5%	5	12
Greater than 5.5% up to 6%	6	13
Greater than 6% up to 6.5%	7	14
Greater than 6.5% up to 7%	8	15
Greater than 7% up to 7.5%	9	16
Greater than 7.5% up to 8%	10	17
Greater than 8% up to 8.5%	11	18
Greater than 8.5% up to 9%	12	19
Greater than 9%	13	20

BILL ANALYSIS: The bill would eliminate the variable range for the duration of UI benefits and pay all UI claimants based on the maximum number of weeks currently allowed. The bill also makes conforming changes to statutory cross-references.

BACKGROUND: S.L. 2013-2 (House Bill 4), UI Fund Solvency & Program Changes, reduce the maximum duration of regular UI benefits from 26 weeks to 20 weeks and tied the duration of UI benefits to the seasonal adjusted unemployment rate under a table. S.L. 2013-2 did not change the formula setting a variable number of weeks based on attachment to the workforce. The interaction of the existing formula and the new table does not reduce benefits below 17 weeks – making the minimum number of weeks in the table inoperable below 17 weeks. The bill would remove the variable range and place all UI claimants at the maximum duration.

EFFECTIVE DATE: Part IV of the bill would be effective July 1, 2014 and apply to claims for UI benefits filed on or after July 1, 2014.

PART V: REQUIRE PHOTO IDENTIFICATION TO RECEIVE UI BENEFITS

CURRENT LAW AND BACKGROUND: DES administratively requires UI claimants present photo identification before receiving services. DES imposed the photo identification requirement to address fraudulent UI claims and create an audit trail. The photograph is evidence of the individual who committed fraud and aids prosecution of criminal offenses. USDOL supports program integrity measures such as requiring photo identification. USDOL provided a staff opinion that photo identification is a permissible eligibility requirement for UI claimants as part of the requirement to report to DES.

BILL ANALYSIS: The bill would add a new, statutory eligibility requirement to receive UI benefits that claimants must present photo identification. Valid photo identification requires the individual's photograph and must be one of the following documents:

- A driver's license, learner's permit, provisional license, or nonoperators identification card issued by North Carolina, another state, the District of Columbia, United States territory, or United States commonwealth.
- A United States passport.

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[5] One six month base period begins on January 1 and one six month base period begins on July 1. For the base period that begins January 1, the average of the seasonal adjusted unemployment rates for the State for the preceding months of July, August, and September applies. For the base period that begins July 1, the average of the seasonal adjusted unemployment rates for the State for the preceding months of January, February, and March applies.

- A United States military identification card.
- A Veterans Identification Card issued by the United States Department of Veterans Affairs.
- A tribal enrollment card issued by a federally recognized tribe.
- Any other document issued by the United States or any state that the Division determines adequately identifies the individual.

PART VI: EFFECTIVE DATE

Except as otherwise provided, the PCS would become effective when it becomes law.

Cindy Avrette and Janice Paul with the Research Division and Phyllis Pickett with the Bill Drafting Division substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: June 11, 2014

TO: Senate Finance Committee

FROM: Rodney Bizzell
Fiscal Research Division

RE: PCS to H1069n1

FISCAL IMPACT
($ in millions)

☑ Yes ☑ No ☐ No Estimate Available

State Impact	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
General Fund Revenues:					
General Fund Expenditures:					
State Positions:					
NET STATE IMPACT	$0.0	$0.0	$0.0	$0.0	$0.0

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Division of Employment Security

EFFECTIVE DATE: July 1, 2014

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY:
This fiscal memo pertains only to Part III of the bill, which sets the duration of unemployment benefits to a single fixed duration for each specified unemployment rate. HB 4 provided for benefit durations based on a sliding scale depending on the unemployment rate. The maximum benefit durations range from 12 weeks when the unemployment rate is less than or equal to 5.5% to 20 weeks when the unemployment rate is greater than 9%. The maximum benefit duration increases or declines by one week for each one-half percent change in the unemployment rate.

For each specified unemployment rate range, there is a corresponding benefit duration range of 7 weeks. For example, when the maximum duration is 12 weeks, there is a range of 5 to 12 weeks for which the claimant may qualify. The exact duration depends on a formula that divides base period wages by the average wages of the most recent two quarters. This quotient is multiplied by 8.67 and the claimant qualifies for the resulting number of weeks, but not less than the minimum or more than the maximum duration.

ASSUMPTIONS AND METHODOLOGY:
The formula used to determine duration is based on the formula used prior to HB 4 when high-quarter wages, rather than an average of two quarters' wages, were used to determine weekly benefit amounts. As a result, the current formula does not yield results covering the full range of variable durations on the sliding scale. Claimants may receive benefits ranging from 17 to 20 weeks when the unemployment rate is 8% or higher; however, the formula does not yield results less than 17 weeks. If the unemployment rate is 8% or less, the maximum rate applies.

HB 1069 eliminates the range of weeks and assigns the maximum week for each corresponding unemployment rate. This is the same result that the formula would yield for unemployment rates of 8% or less. Because the unemployment rate used to determine the benefit duration beginning July 1, 2014 is projected to be between 6% and 6.5%, the change will have no fiscal impact. If the rate were to increase to greater than 8.5%, there would be a small impact to the UI Trust Fund; however, the simulation used to project the payoff date considered only maximum duration rates, so there is no impact on the payoff date for the UI Trust Fund debt.

SOURCES OF DATA: Upjohn Institute

TECHNICAL CONSIDERATIONS: None

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 11, 2014

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Dick Fowler	NC Assoc of Soil + Water Districts
Genesis Rocks	Nelson Mullins Intern
Chip Sullivan	Nelson Mullins
Erin Jones	TWC
Bill Scoggin	TS
John Poliwoda	NCDOA
Maria Gardner	GSK
Rick Buff	NCAEC
Rick Zechini	WM
Joe Lanier	Nelson Mullins
[illegible]	NMRS

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Senate Finance Committee — June 11, 2014

Name of Committee — **Date**

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Sarah Preston	ACLU-NC
Steven Wells	NCHBA
Laura Payne	NC State Grange
Philip Riley	BMD
Erin Wynia	NC LM
Meaghan Lewis	NC chamber
CADY THOMAS	NCAR
Steve Brewer	CTL
[illegible]	MPC
Dan McLaurin	
Charles King	School of Govt

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Senate Finance Committee — June 11, 2014

Name of Committee — **Date**

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NAME	FIRM OR AGENCY AND ADDRESS
Rob Kaylor	Kaylor Law Firm
JOEL MATHIAS	GPM & ASSOC
Mike Carpenter	NCDHSA

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Senate Finance Committee — June 11, 2014

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Bruce Thompson	Pacific P&C
Eric Wagner	NCOIR
Bill Rowe	NC Justice Center
Cory Dunn	DRNC
Jon McNeill	NCFIS
John Delbrondo	Brubaker + Assoc.
Lew Ebert	NC Chamber of Commerce
Lisa Martin	NC HBA
Steven McCallister	NC DOJ
J Goodman	NC Chamber

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 11, 2014

Name of Committee — **Date**

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Dana Home	Smith Anderson
William Stirling	Brooker and associates
Kirk Warren	Smith Anderson
Steven Pennington	Commerce - LEAD
Chancellor Lechman	JDRA
Amanda Symm	NCRMA
Kevin Harris	7352 Red Fox Rd Bailey NC 27807
Edwin Ingram	BAYER
Jeremy Ray	DES
Chris Farr	DES
Lockhart Taylor	DES

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 11, 2014
Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Sarah Hardin	CR
Ed Sinclair	BP
Sam Vick	FSP
Wesley Vick	FSP
Todd Barlow	NCAJ
Julie Hochstein	NCACC
Conaan Thrie	MVA
Alton Hardison	CASCWMA
David Heinen	NC Center for Nonprofits
Kevin Anderson	NC DOT
Wm C. McKinney	NC DOJ

Senate Committee on Finance
Thursday, June 19, 2014, 8:30 AM
643 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 346	Governing Bodies/Collect Unpaid Judgments.	Rep. Faircloth Rep. Stam Rep. Hardister Rep. Glazier
HB 1034	Volunteer Fire and Rescue Finances (PED).	Rep. Howard Rep. Moffitt Rep. Lucas
HB 1080	Watha Deannexation.	Rep. Millis
SB 729	Coal Ash Management Act of 2014.	Sen. Apodaca Sen. Berger
SB 731	Southport Occupancy Tax Modification.	Sen. Rabon
SB 742	Adjust the Utility Regulatory Fee.	Sen. Brown
SB 846	Shallotte Deannexations.	Sen. Rabon

Adjournment

Senate Committee on Finance
Thursday, June 19, 2014 at 8:30 AM
Room 643 of the Legislative Office Building

MINUTES

The Senate Committee on Finance met at 8:30 AM on June 19, 2014 in Room 643 of the Legislative Office Building. Thirty-three members were present.

Senator Bob Rucho, Chair, presided.

HB 1080 - Watha Deannexation.

Senator Rabon was recognized to explain the bill which would deannex a parcel of land from the corporate limits of the Town of Watha. Senator Tillman moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

SB 731 - Southport Occupancy Tax Modification.

Senator Rabon explained the bill which would modify the occupancy tax of the Town of Southport. Senator Rabin moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

SB 846 - Shallotte Deannexations/Southport Occ Tax.

Senator Rabon was recognized to explain the bill and Senator Meredith moved to adopt the proposed committee substitute (PCS) for discussion. The motion carried. The PCS would deannex five tracts from the Town of Shallotte. Senator Curtis moved for a favorable report and the motion carried. A copy of the PCS and the summary is attached.

HB 346 - Governing Bodies/Collect Unpaid Judgments.

Representative Faircloth was recognized to explain the bill. It authorizes additional methods of collecting final judgments awarding monetary damages against member of county commissions and city councils. Senator Tillman moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

HB - 1034 Volunteer Fire and Rescue Finances (PED).

Representative Howard was recognized to explain the bill and Senator Tillman moved to adopt the PCS for discussion. The motion carried. The bill implements the recommendations of a four-part series of reports published by the Program Evaluation Division by making changes to safety workers' relief funds, compensation, and supplemental pension funds, as well as by making changes to grant funds for fire and rescue departments. The PCS makes two changes in the bill. First, it adds a new

section that repeals a local act pertaining to the Mebane Firemen's Supplemental Retirement Fund at the request of the Mebane Fire Chief. Second, it clarifies the Volunteer Fire Department Fund grants for equipment and capital improvements must be used for purposes related to emergency medical services. Senator Apodaca moved for a favorable report and the motion carried. A copy of the PCS, the summary, the fiscal memo, and the retirement note is attached.

SB 729 - Coal Ash Management Act of 2014.

Senator Apodaca was recognized to explain the bill. It prohibits recovery of costs related to unlawful discharges from coal ash ponds, provides for comprehensive management of coal ash, issues moratoriums and a study on the use of coal ash a structural fill and the disposal of coal ash in landfills, strengthens the reporting and notification requirements in regards to wastewater discharges, and requires notification to DENR about emergency dam repairs and requires emergency act plans for certain dams as well as inspection of coal ash impoundment dams. It also transfers the solid waste rule-making authority from the Commission for Public Health to the Environmental Management Commission and provides the resources for implanting the law. Senator Curtis moved for a favorable report and the motion carried. A copy of the PCS and the summary is attached.

SB 742 - Adjust the Utility Regulatory Fee.

Senator Hartsell was recognized to explain the bill which would allow the General Assembly to establish a different utility regulatory fee for the retail services of telecommunications providers that have elected to be regulated Under G.S. 62-133.5(h) or G.S. 62-133.5(m) and would set those rates for the 2015 and 2016 fiscal years. Senator Krawiec moved for a favorable report and the motion carried. A copy of the bill, the summary and the fiscal memo is attached.

The meeting adjourned at 8:58 a.m.

Senator Bob Rucho, Chair
Presiding

DeAnne Mangum, Committee Clerk

Principal Clerk ____
Reading Clerk ____

Corrected #1: The agenda has been updated.

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Thursday	June 19, 2014	8:30 AM	643 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 346	Governing Bodies/Collect Unpaid Judgments.	Representative Faircloth Representative Stam Representative Hardister Representative Glazier
HB 1034	Volunteer Fire and Rescue Finances (PED).	Representative Howard Representative Moffitt Representative Lucas
HB 1080	Watha Deannexation.	Representative Millis
SB 729	Coal Ash Management Act of 2014.	Senator Apodaca Senator Berger
SB 731	Southport Occupancy Tax Modification.	Senator Rabon
SB 742	Adjust the Utility Regulatory Fee.	Senator Brown
SB 846	Shallotte Deannexations.	Senator Rabon

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Thursday	June 19, 2014	8:30 AM	643 LOB

Agenda to be determined.

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT

Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Thursday, June 19, 2014

Senator Rucho,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

SB **846** Shallotte Deannexations.

Draft Number:	S846-PCS45203-TD-47
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2

SB **731** **(CS#1)** Southport Occupancy Tax Modification.

Draft Number:	S731-PCS45204-TD-48
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 2

Senator William Rabon will handle SB 846
Senator William Rabon will handle SB 731

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Thursday, June 19, 2014

Senator Rucho,
submits the following with recommendations as to passage:

FAVORABLE

HB **346** **(SCS#1)** Governing Bodies/Collect Unpaid Judgments.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

HB **1080** Watha Deannexation.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

SB **729** **(CS#1)** Coal Ash Management Act of 2014.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

SB **742** Adjust the Utility Regulatory Fee.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

HB **1034** **(CS#2)** Volunteer Fire and Rescue Finances (PED).
Draft Number: H1034-PCS30780-ME-20
Sequential Referral: Pensions & Retirement and Aging
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED: 5

Senator Trudy Wade will handle HB 346
Senator William Rabon will handle HB 1080
Senator Tom Apodaca will handle SB 729
Senator Harry Brown will handle SB 742
Senator Fletcher Hartsell will handle HB 1034

HOUSE BILL 1080*

Short Title:	Watha Deannexation.	(Local)
Sponsors:	Representative Millis (Primary Sponsor). *For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*	
Referred to:	Government, if favorable, Finance.	

May 19, 2014

A BILL TO BE ENTITLED

AN ACT REMOVING CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE TOWN OF WATHA.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is removed from the corporate limits of the Town of Watha:

Located in Union Township, Pender County, North Carolina adjacent to and West of the paved centerline of U.S. Highway No. 117, adjacent to and East of the Eastern right-of-way line of Interstate Highway No. 40 and being more fully described as follows, to wit:

BEGINNING at a point in the paved centerline of U.S. Highway No. 117, said point being located along said line at a point that is North 32 degrees 40 minutes 32 seconds West 710.405 feet (said point having N.C. Grid Coordinates: N=334,595.63' & E=2,319,710.56' NAD 83/NSRS 2007) from N.C. Grid Monument "CHERRY" which as N.C. Grid Coordinates of N=333,997.65' & E=2,320,094.10 and CF=0.99992975.3 (NAD 83/NSRS 2007); and running thence from the Beginning so located, along an old marked line South 44 degrees 56 minutes 03 seconds West 2,260.33 feet (passing over an existing iron stake in line at 75.92 feet) to an existing iron pipe in the Eastern right-of-way line of Interstate Highway No. 40; thence with said right-of-way line North 09 degrees 01 minutes 04 seconds West 43.49 feet to an existing concrete right-of-way monument in line; thence continuing with said road right-of-way line North 09 degrees 26 minutes 49 seconds West 402.66 feet to an existing iron stake in said line; thence continuing with said road right-of-way line North 09 degrees 26 minutes 25 seconds West 557.706 feet to an existing iron pipe that marks the Southwestern corner of the Town of Watha land shown on a map recorded in Map Book 48, at Page 83 of the Pender County Registry; thence along the Southeastern line of said lands North 43 degrees 28 minutes 17 seconds East 512.95 feet to an existing iron pipe that marks the Southeastern corner of said Town of Watha lands; thence with the Betty Crumpler line North 44 degrees 15 minutes 04 seconds East 986.79 feet to an existing 1 inch square iron stake; thence continuing with the Betty Crumpler line North 42 degrees 17 minutes 02 seconds East 632.61 feet to an existing nail and cap in the paved centerline of U.S. Highway No. 117; thence with said paved centerline of U.S. Highway No. 117 South 12 degrees 49 minutes 19 seconds East 389.98 feet to the point of beginning of a curve to the left in said roadway; thence continuing with the curved paved centerline of said road as it curves to the left the following chord courses and distances: South 13 degrees 40 minutes 40 seconds East 122.78 feet, South 16 degrees 15 minutes 03 seconds East 101.20 feet, South 19 degrees 19 minutes 52 seconds East 100.65 feet

and South 23 degrees 36 minutes 10 seconds East 129.57 feet to an existing "PK" Nail in said road centerline that is directly above the center of a large box concrete culvert that accommodates the waters of Powell's Pond Branch beneath the roadway; thence continuing with said road centerline South 26 degrees 55 minutes 51 seconds East 142.35 feet to the Beginning, containing 39.669 acres, more or less after the exclusion of the portion of U.S. Highway No. 117 (150 foot wide right-of-way) contained within the above-described boundaries and is as surveyed by Daniel H. Thompson, NCPLS No. L-2174 of Burgaw, North Carolina during April 2013. As a reference to the described tracts, see Deed Book 1379, at Page 68, Deed Book 632, at Page 64 – Tracts 1 and 2, Deed Book 2161, at Page 310 and Deed Book 3209, at Page 003 of the Pender County Registry. Also, see Map Book 40, at Page 34, Map Book 52, at Page 43 and Map Book 48, at Page 83 each recorded in the Office of the Pender County Register of Deeds. That the above-described tract of real property is shown on survey map entitled "Annexation Map To The Town of Watha, North Carolina" as prepared by Daniel H. Thompson, NCPLS on April 25, 2013 and recorded in Map Book 55, at Page 68 in the Office of the Pender County Register of Deeds, State of North Carolina.

SECTION 2. This act has no effect upon the validity of any liens of the Town of Watha for ad valorem taxes or special assessments outstanding before the effective date of this act. Such liens may be collected or foreclosed upon after the effective date of this act as though the property were still within the corporate limits of the Town of Watha.

SECTION 3. This act becomes effective June 30, 2014.

HOUSE BILL 1080:
Watha Deannexation

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 19, 2014
Introduced by:	Rep. Millis	**Prepared by:**	Heather Fennell
Analysis of:	First Edition		Committee Counsel

SUMMARY: ***House Bill 1080 would deannex a parcel of land from the corporate limits of the Town of Watha.***

[As introduced, this bill was identical to S733, as introduced by Sen. Rabon, which is currently in Senate State and Local Government.]

CURRENT LAW: Under Section 1 of Article VII of the NC Constitution, the General Assembly is empowered to "provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions, and, except as otherwise prohibited by this Constitution, may give such powers and duties to counties, cities and towns, and other governmental subdivisions as it may deem advisable."

Pursuant to this Section, the General Assembly enacted Article 4A of Chapter 160A of the General Statutes, which governs municipal annexations. The General Assembly has not enacted any method for municipalities to *deannex* property — that power remains with the General Assembly.

BILL ANALYSIS: House Bill 1080 deannexes a parcel of land consisting of approximately 39.669 acres from the corporate limits of the Town of Watha. The act also provides that it does not affect the validity of any liens of the Town of Watha for outstanding ad valorem taxes or special assessments.

EFFECTIVE DATE: The act becomes effective June 30, 2014.

Shelly DeAdder with the Research Division substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S 2

SENATE BILL 731
State and Local Government Committee Substitute Adopted 6/18/14

Short Title: Southport Occupancy Tax Modification. (Local)

Sponsors:

Referred to:

May 15, 2014

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE TOURISM DEVELOPMENT AUTHORITY REQUIREMENTS PERTAINING TO THE OCCUPANCY TAX AUTHORIZED FOR THE TOWN OF SOUTHPORT.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1(e) of Chapter 639 of the 1989 Session Laws, as enacted by S.L. 2002-129, reads as rewritten:

"(e) Distribution and use of tax revenue. – ~~The~~ Until the Southport Board of Aldermen adopts a resolution levying a room occupancy tax under subsection (a1) of this section, the City of Southport shall use at least two-thirds of the funds to promote travel and tourism in Southport and shall use the remainder for tourism-related expenditures. When the Southport Board of Aldermen adopts a resolution levying a room occupancy tax under subsection (a1) of this section, City of Southport shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Southport Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Southport and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. – Gross proceeds less the cost to the city of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a city or to attract tourists or business travelers to the city. The term includes tourism-related capital expenditures."

SECTION 2. Section 1.2 of Chapter 639 of the 1989 Session Laws, as enacted by S.L. 2002-129, reads as rewritten:

"**Sec. 1.2.** Southport Tourism Development Authority. – When the Southport Board of Aldermen adopts a resolution levying a room occupancy tax under subsection (a1) of Section 1

of this act, it shall also adopt a resolution creating a city Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the city, and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the city. The Board of Aldermen shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Southport shall be the ex officio finance officer of the Authority."

SECTION 3. This act is effective when it becomes law.

SENATE BILL 731:
Southport Occupancy Tax Modification

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 19, 2014
Introduced by:	Sen. Rabon	**Prepared by:**	Heather Fennell
Analysis of:	Second Edition		Committee Counsel

SUMMARY: Senate Bill 731 would modify the occupancy tax of the Town of Southport.

CURRENT LAW: In 1989, the Town of Southport was authorized to levy up to a 3% room occupancy tax. Southport administered the occupancy tax, due and payable on a monthly basis. The proceeds were to be used to promote tourism and economic development, for waterfront development, and other public purposes.

In 2002, the authority for the occupancy tax was modified to allow for the levy of an additional 2% room occupancy tax, if Southport had levied the first occupancy tax. The 2002 changes also provided that the proceeds from the occupancy tax would be remitted, on a quarterly basis, to the Southport Tourism Development Authority by Southport. The Authority was required to us at least 2/3 of the proceeds to promote travel and tourism in Southport, and the remainder for tourism related expenditures. The 2002 changes specified what qualified as promotion of travel and tourism, and tourism-related expenditures.

BILL ANALYSIS: Senate Bill 731 would modify the distribution process for the proceeds of the occupancy tax to provide that until the supplemental 2% occupancy tax is levied by the Southport Board of Aldermen, Southport must use at least 2/3 of the proceeds to promote travel and tourism, and the remainder for tourism related expenditures. When the supplemental 2% occupancy tax is levied, then Southport is to remit the proceeds to the Southport Tourism Development Authority, with at least 2/3 of the proceeds to be used to promote travel and tourism and the remainder for tourism related expenditures.

EFFECTIVE DATE: Senate Bill 731 is effective when it becomes law.

O. Walker Reagan
Director

S731-SMTD-120 E2 -V2

Research Division
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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S D

SENATE BILL 846
PROPOSED COMMITTEE SUBSTITUTE S846-CSTD-47 [v.3]
6/18/2014 2:43:10 PM

Short Title: Shallotte Deannexations. (Local)

Sponsors:

Referred to:

May 28, 2014

A BILL TO BE ENTITLED

AN ACT REMOVING CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE TOWN OF SHALLOTTE.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is removed from the corporate limits of the Town of Shallotte:

FIRST TRACT:

BEING all of that certain tract or parcel containing 15.60 acres more or less as more fully described in a survey plat dated 4 January 2005, revised 21 February 2005 entitled "Survey for Charles Andrew Russ of 15.60 acres" prepared by James R. Tompkins, PLS, and recorded in Map Cabinet 32, Page 163 in the Office of the Register of Deeds for Brunswick County, North Carolina which plat reference is made and which is incorporated herein for greater certainty of description of said property.

SECOND TRACT:

BEING all right, title and interest of Grantor in and to that certain road right-of-way and easement as more fully described in an instrument dated 29 November 2000 from Slickrock Development, LLC to Register Estate Corporation recorded in Deed Book 1419, Page 51 in the Office of the Register of Deeds for Brunswick County, North Carolina which right-of-way and easement connects the northern line of the property herein conveyed with State Road 1147 (Todd Road) as more fully shown and described in said easement and in the plate hereinabove referenced. Reserving and preserving nevertheless a non-exclusive right-of-way and easement for ingress, egress and regress between State Road 1147 (Todd Road) and the Register Cemetery in favor of the Representatives and/or Trustees of the Register Cemetery and family members thereof as more fully described in an instrument recorded in Deed Book 1419, Page 46, Brunswick County Registry.

THIRD TRACT:

That certain Tract of land being in Lockwood Folly Township, Brunswick County, North Carolina, said Tract being the Tracts described in deed book 2086 page 215 and deed book 2415 page 511 of the Brunswick County Register of Deeds and being more fully described as follows: Commencing at NCGS monument Sauce Reset, said monument having Nad 83 grid coordinates of North 70,535.97 and East 2,178,838.44; thence South 73°54'24" East a distance of 7629.15 feet to NCGS monument B 161 Reset, said monument having Nad 83 grid coordinates of North 68,420.48 and East 2,186,168.62; thence South 44°28'15"West, a distance of 2089.53 feet an iron rod found, the true Point of Beginning. Thence from the Point of Beginning, South 08°55'07" West, a distance of 204.17 feet to a point; thence South 07°07'05" East, a distance of 95.22 feet to a point; thence South 11°57'21" East, a distance of

283.58 feet to a point; thence North 05°39'18" East, a distance of 104.98 feet to an iron rod found; thence North 89°36'15" East, a distance of 223.85 feet to an iron rod found; thence South 07°57'04" East, a distance of 68.60 feet to a point; thence South 07°57'04" East, a distance of 104.44 feet to a point; thence South 51°07'43" East, a distance of 264.88 feet to a point; thence South 42°58'09" East, a distance of 408.71 feet to a point on the western right of way of Bay Road (60' ROW); thence with said right of way, South 19°16'42" West, a distance of 72.77 feet to a point; thence leaving said right of way, North 54°11'34" West, a distance of 103.79 feet to a point; thence North 47°01'40" East, a distance of 124.55 feet to a point; thence North 42°58'20" West, a distance of 319.33 feet to a point; thence South 41°15'52" West, a distance of 151.16 feet to a point; thence North 51°07'02" West, a distance of 121.56 feet to a point; thence South 37°25'11" West, a distance of 134.79 feet to a point; thence South 37°25'11" West, a distance of 123.96 feet to a point; thence South 40°42'01" West, a distance of 58.59 feet to a point; thence South 46°34'05" West, a distance of 46.09 feet to a point; thence South 50°42'25" West, a distance of 28.18 feet to a point; thence South 48°33'52" East, a distance of 112.43 feet to a point; thence South 41°15'52" West, a distance of 119.66 feet to a point; thence South 14°48'49" East, a distance of 50.33 feet to a point; thence South 76°16'18" West, a distance of 448.29 feet to a point; thence South 76°29'21" West, a distance of 251.75 feet to a point; thence North 18°38'59" West, a distance of 288.42 feet to a point; thence South 73°47'59" West, a distance of 57.92 feet to a point; thence South 71°59'06" West, a distance of 162.40 feet to a point; thence South 76°50'13" West, a distance of 168.30 feet to a point; thence South 87°14'55" West, a distance of 51.88 feet to a point; thence North 66°29'30" West, a distance of 100.71 feet to a point; thence North 68°42'36" West, a distance of 108.06 feet to a point; thence North 06°12'56" East, a distance of 352.96 feet to a point; thence North 06°01'47" East, a distance of 448.48 feet to a point; thence South 76°32'40" West, a distance of 77.30 feet to a point; thence South 65°55'40" West, a distance of 271.81 feet to a point; thence South 74°57'40" West, a distance of 323.67 feet to a point; thence North 02°42'40" East, a distance of 49.10 feet to a point; thence North 83°51'24" West, a distance of 234.44 feet to a point; thence North 02° 20'49" East, a distance of 1237.35 feet to a point; thence South 68°27'50" East, a distance of 587.44 feet to a point; thence South 70°59'01" East, a distance of 40.77 feet to a point; thence South 68°09'35" East, a distance of 46.56 feet to a point; thence South 72°19'06" East, a distance of 65.62 feet to a point; thence South 73°33'49" East, a distance of 60.29 feet to a point; thence South 67°11'59" East, a distance of 485.15 feet to a point; thence North 15°05'18" East, for a distance of 190.95 feet; thence North 88°02'30" East, for a distance of 152.36 feet; thence North 87°02'30" East, for a distance of 133.34 feet; thence South 02°07'24" West, for a distance of 301.81 feet; thence South 02°07'24" West, for a distance of 50.22 feet; thence South 82°29'10" East, a distance 471.74 feet to the Point of Beginning, containing 69.14 acres, more or less as shown on a plat prepared by McKim & Creed, entitled Annexation Plat of Four existing Tracts of Land Equaling 69.14 Acres and dated February 22, 2007.

FOURTH TRACT:

A certain tract or parcel of land lying and being in Lockwood Folly Township, Brunswick County, North Carolina and being that certain tract as described in Deed Book 1258, Page 691, Records of Brunswick County and being more particularly described as follows: Beginning at an iron stake set on the southern right-of-way of U.S. 17 (R/W varies), said iron being located by the following tie traverse: Commencing on an existing tack at the intersection of centerlines of the southbound lane of said U.S. 17 and S.R. 1131 and runs thence North 70 degrees 27 minutes 18 seconds 2703.03 feet to an existing N.C.D.O.T. Right-of-way Monument (Sta. No. 1096+00) located on the aforesaid southern right-of-way of U.S. 17; thence with said right-of-way North 67 degrees 22 minutes 39 seconds East 92.28 feet to the Point and Place of Beginning and proceeds from said beginning and with said right-of-way North 67 degrees 22 minutes 39 seconds East 279.92 feet to an iron stake set, said iron being located South 67 degrees 22 minutes 39 seconds West 142.37 feet from an existing N.C.D.O.T.

Right-of-Way Monument (Sta. No. 1101+14.52); thence leaving said right of way South 07 degrees 19 minutes 26 seconds East 804.50 feet to an existing iron; thence North 73 degrees 42 minutes 42 seconds West 347.57 feet to an existing iron pipe; thence North 02 degrees 38 minutes 20 seconds West 593.41 feet to the beginning and contains 4.73 acres and being according to a survey by Jimmy D. Etheridge, P.L.S. dated January 13, 1999.

FIFTH TRACT:

Beginning at a point being a concrete monument in the south R/W of SR 1147, Todd Road SW, and located North 77 degrees 10 minutes 41 Seconds West a distance of 1,962.18 feet from a nail in the intersection of SR 1147 and SR 1151; Thence from said beginning point leaving said R/W and with property line of Denney B. Stevens South 08 degrees 04 minutes 57 seconds West a distance of 1237.00 feet to an existing iron rod, thence continuing with Stevens South 08 degrees 10 minutes 53 seconds West a distance of 309.67 feet to an existing iron rod, a corner to Stevens and Weldon Todd, thence with Todd North 61 degrees 24 minutes 28 seconds West a distance of 392.55 feet to an existing iron rod, a corner to Todd and J.P. Russ, thence with Russ North 61 degrees 39 minutes 15 seconds West a distance of 573.26 feet to an existing iron rod, a corner to J.P. Russ and Charles A. Russ, thence with Russ North 61 degrees 39 minutes 15 seconds West a distance of 570.78 feet to a right-of-way disc, thence South 19 degrees 38 minutes 53 seconds West a distance of 206.14 feet to a point, thence South 17 degrees 53 minutes 40 seconds West a distance of 240.01 feet to an existing iron rod (bent) a corner to Russ and Albert Joyner heirs, thence with Joyner North 80 degrees 06 minutes 43 seconds West a distance of 923.21 feet to an existing iron rod, a corner to Clifton Black, thence with Black North 09 degrees 50 minutes 38 seconds East a distance of 342.72 feet to an existing iron rod, a corner to James Johnson Heirs, thence with Johnson North 88 degrees 25 minutes 20 seconds East a distance of 537.45 feet, to an existing iron rod on line at the edge of a pond, continuing 226.50 feet, a total of 763.95 feet to a point in said pond, thence North 28 degrees 01 minutes 46 seconds West a distance of 49.19 feet, thence North 63 degrees 13 minutes 04 seconds West a distance of 87.66 feet, thence North 15 degrees 21 minutes 19 seconds West a distance of 558.73 feet to an existing iron rod, thence North 01 degrees 17 minutes 20 seconds East a distance of 150.64 feet to a new iron rod set, thence North 07 degrees 56 minutes 05 seconds West a distance of 210.49 feet to a new iron rod set, thence north 12 degrees 46 minutes 53 seconds West a distance of 155.08 feet to a new iron rod set, thence North 04 degrees 16 minutes 12 seconds East a distance of 135.74 feet to an existing iron rod, thence North 04 degrees 10 minutes 30 seconds East a distance of 300.82 feet to an existing iron rod (bent) located in the south R/W of Todd Road, thence with said R/W South 87 degrees 50 minutes 36 seconds East a distance of 70.63 feet to a new iron rod set, thence South 84 degrees 19 minutes 43 seconds East a distance of 55.97 feet to a new iron rod set, thence South 81 degrees 12 minutes 50 seconds East a distance of 56.59 feet to a new iron rod set, thence south 78 degrees 11 minutes 43 seconds East a distance of 55.49 feet to a new iron rod set, thence South 75 degrees 34 minutes 28 seconds East a distance 58.13 feet to a new iron rod set, thence south 74 degrees 03 minutes 29 seconds East a distance of 59.35 feet to a new iron rod set, thence South 73 degrees 29 minutes 54 seconds East a distance of 76.51 feet to a new iron rod set, thence South 73 degrees 10 minutes 12 seconds East a distance of 102.57 feet to a new iron rod set, thence South 73 degrees 13 minutes 13 seconds East a distance of 82.02 feet to a new iron rod set, thence 71 degrees 32 minutes 02 seconds East a distance of 118.04 feet to a new iron rod set, thence South 67 degrees 15 minutes 09 seconds East a distance of 106.89 feet to a new iron rod set, thence South 63 degrees 53 minutes 32 seconds East a distance of 120.40 feet to a new iron rod set, thence South 62 degrees 07 minutes 15 seconds East a distance of 127.54 feet to a concrete monument, thence south 62 degrees 50 minutes 29 seconds East a distance of 1,775.38 feet to the place and point of beginning. Excepted from this boundary is an interior parcel known as the Register Cemetery with description as follows: Beginning at an existing iron rod in the west side of a 20 foot easement

recorded in the Brunswick county registry at Deed Book 644, page 493 said iron rod located South 12 degrees 52 minutes 09 seconds West a distance of 552.31 feet from the R/W of Todd Road, thence along west side of said easement South 12 degrees 28 minutes 32 seconds West a distance of 211.08 feet too an existing iron rod, thence North 83 degrees 32 minutes 05 seconds West a distance of 131.97 feet to an existing iron, thence leaving said easement North 61 degrees 47 minutes 06 seconds West a distance of 12.04 feet to an existing iron rod, thence North 10 degrees 27 minutes 26 seconds East a distance of 180.92 feet to an existing iron rod, thence North 87 degrees 10 minutes 30 seconds East a distance of 154.69 feet to the place and point of beginning. Together with and subject to covenants, easements and restrictions of record. Said property contains 79.48 acres, more or less. Also this property is subject to easements as recorded in the Brunswick county registry at Deed Book 1419, page 52 and Deed book 644, page 493 and a lease with easement as recorded at Deed book 1957, page 769. For a more accurate description reference is hereby made to a plat of survey for William L. Smith dated August 14, 2006.

SECTION 2. This act has no effect upon the validity of any liens of the Town of Shallotte for ad valorem taxes or special assessments outstanding before the effective date of this act. Such liens may be collected or foreclosed upon after the effective date of this act as though the property were still within the corporate limits of the Town of Shallotte.

SECTION 3. This act becomes effective June 30, 2014.

SENATE BILL 846:
Shallotte Deannexations

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 19, 2014
Introduced by:	Sen. Rabon	**Prepared by:**	Heather Fennell Committee Counsel
Analysis of:	PCS to First Edition S846-CSTD-47		

SUMMARY: ***Senate Bill 846 would deannex five described tracts from the Town of Shallotte.***

CURRENT LAW: Under Section 1 of Article VII of the N.C. Constitution, the General Assembly is empowered to "provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions, and, except as otherwise prohibited by this Constitution, may give such powers and duties to counties, cities and towns, and other governmental subdivisions as it may deem advisable."

Pursuant to this Section, the General Assembly enacted Article 4A of Chapter 160A of the General Statutes, which authorize municipalities to enact ordinances to add territory to their municipal limits by annexation.

The General Assembly has not enacted any method for municipalities to *deannex* property -- that power remains with the General Assembly.

BILL ANALYSIS: Senate Bill 846 would deannex five described areas from the Town of Shallotte. The property owners requested the deannexation and the town agreed.

EFFECTIVE DATE: This act becomes effective June 30, 2014.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H 4

HOUSE BILL 346

Committee Substitute Favorable 4/4/13
Third Edition Engrossed 4/11/13
Senate State and Local Government Committee Substitute Adopted 6/10/14

Short Title: Governing Bodies/Collect Unpaid Judgments. (Public)

Sponsors:

Referred to:

March 20, 2013

A BILL TO BE ENTITLED

AN ACT AUTHORIZING COUNTIES AND CITIES TO ATTACH AND GARNISH A MEMBER OF THE GOVERNING BODY IF THE COUNTY OR CITY HAS BEEN GRANTED A MONEY JUDGMENT AGAINST THAT MEMBER AND THE MONEY JUDGMENT HAS NOT BEEN SATISFIED.

The General Assembly of North Carolina enacts:

SECTION 1. Part 1 of Article 5 of Chapter 160A of the General Statutes is amended by adding a new section to read as follows:

"**§ 160A-64.1. Withholding compensation; money judgment against council member.**

In addition to any other enforcement available, the finance officer of a city that obtains a final judgment awarding monetary damages against an elected or appointed member of the city council, either individually or jointly, may enforce that final judgment using any of the remedies set forth in G.S. 105-366(b) or the procedure for attachment and garnishment set forth in G.S. 105-368 as if final judgment awarding monetary damages were delinquent taxes and that finance officer were the tax collector. The provision of G.S. 105-368(a) that limits the amount of compensation that may be garnished to not more than ten percent (10%) for any one pay period shall not apply to this section."

SECTION 2. Part 1 of Article 4 of Chapter 153A of the General Statutes is amended by adding a new section to read as follows:

"**§ 153A-30. Withholding compensation; money judgment against board member.**

In addition to any other enforcement available, the finance officer of a county that obtains a final judgment awarding monetary damages against an elected or appointed member of the board of commissioners, either individually or jointly, may enforce that final judgment using any of the remedies set forth in G.S. 105-366(b) or the procedure for attachment and garnishment set forth in G.S. 105-368 as if final judgment awarding monetary damages were delinquent taxes and that finance officer were the tax collector. The provision of G.S. 105-368(a) that limits the amount of compensation that may be garnished to not more than ten percent (10%) for any one pay period shall not apply to this section."

SECTION 3. This act becomes effective October 1, 2014, and applies to final judgments awarding monetary damages that are unsatisfied or entered on or after that date.

HOUSE BILL 346:
Governing Bodies/Collect Unpaid Judgments

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 19, 2014
Introduced by:	Reps. Faircloth, Stam, Hardister, Glazier	**Prepared by:**	Heather Fennell Committee Counsel
Analysis of:	Fourth Edition		

SUMMARY: ***House Bill 346 authorizes additional methods of collecting final judgments awarding monetary damages against members of county commissions and city councils.***

CURRENT LAW: Pursuant to G.S. 105-366(b), when taxes are delinquent but have not yet gone into foreclosure, the tax collector may levy upon and sell or attach the following property for failure to pay taxes:

- Any personal property owned by the taxpayer or transferred by the taxpayer to a relative.
- Personal property in the hands of a receiver for the taxpayer.
- Personal property of a deceased taxpayer if the levy or attachment is made before final settlement of the estate.
- The stock of goods or fixtures of a wholesale merchant or retailer, under certain conditions.
- Personal property of the taxpayer that has been repossessed by one having a security interest therein so long as the property remains in the hands of the person who has repossessed it or the person to whom it has been transferred other than by bona fide sale for value.
- Personal property due the taxpayer or to become due to him within the calendar year.
- Personal property of a partner in satisfaction of taxes on partnership property, but only under specified conditions.
- Personal property transferred by the taxpayer by any type of transfer other than by bona fide sale for value if the levy or attachment is made within six months of the transfer.

Pursuant to G.S. 105-368, the tax collector may, by notice to the taxpayer and garnishee, attach wages and other compensation, rents, bank deposits, the proceeds of property subject to levy, or any other intangible personal property, including property held in the Escheat Fund, to collect taxes owed to the county or city. Immediately upon receiving the notice of attachment, the garnishee is liable to the tax collector for all taxes, interest, fees, and penalties identified in the notice of attachment up to the amount of funds the garnishee owes the taxpayer.

In the case when wages or other compensation for personal services are attached, no more than ten percent (10%) of such compensation for any one pay period may be garnished. If the taxpayer is an official or employee of a county or city, the notice of attachment shall be served upon the taxpayer and upon the payroll officer of the county of city.

BILL ANALYSIS: The bill would authorize the finance officer of any county or city with a final judgment awarding monetary damages against an elected official of that county or city to use the collection remedies against personal property authorized for tax collectors to fulfill that final judgment, including garnishment of wages.

EFFECTIVE DATE: October 1, 2014, and applies to final judgments awarding monetary damages that are unsatisfied or entered on or after that date.

Erika Churchill, counsel to Senate State and Local Government, substantially contributed to this summary.

O. Walker Reagan
Director

H346-SMTD-115 E4 -V1

Research Division
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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S 2

SENATE BILL 729

Agriculture/Environment/Natural Resources Committee Substitute Adopted 6/17/14

Short Title: Coal Ash Management Act of 2014. (Public)

Sponsors:

Referred to:

May 15, 2014

A BILL TO BE ENTITLED

AN ACT TO (1) PROHIBIT RECOVERY OF COSTS RELATED TO UNLAWFUL DISCHARGES FROM COAL COMBUSTION RESIDUALS SURFACE IMPOUNDMENTS; (2) ESTABLISH A MORATORIUM ON CERTAIN RATE CASES; (3) CREATE THE COAL ASH MANAGEMENT COMMISSION TO REVIEW AND APPROVE COAL COMBUSTION RESIDUALS SURFACE IMPOUNDMENTS CLASSIFICATIONS AND CLOSURE PLANS AND OTHERWISE STUDY AND MAKE RECOMMENDATIONS ON LAWS GOVERNING MANAGEMENT OF COAL COMBUSTION RESIDUALS; (4) REQUIRE EXPEDITED REVIEW BY THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES OF ANY PERMIT NECESSARY TO CONDUCT ACTIVITIES REQUIRED BY THIS ACT; (5) ESTABLISH VARIOUS REPORTING REQUIREMENTS TO THE GENERAL ASSEMBLY, INCLUDING A QUARTERLY REPORT FROM THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES ON ITS OPERATIONS, ACTIVITIES, PROGRAMS, AND PROGRESS WITH RESPECT TO ITS OBLIGATIONS UNDER THIS ACT FOR COAL COMBUSTION RESIDUALS SURFACE IMPOUNDMENTS; (6) PROHIBIT LOCAL GOVERNMENT REGULATION OF MANAGEMENT OF COAL COMBUSTION RESIDUALS OR COAL COMBUSTION PRODUCTS; (7) PROHIBIT CONSTRUCTION OF NEW OR EXPANSION OF EXISTING COAL COMBUSTION RESIDUALS SURFACE IMPOUNDMENTS EFFECTIVE JULY 1, 2014; (8) PROHIBIT THE DISPOSAL OF COAL COMBUSTION RESIDUALS INTO COAL COMBUSTION RESIDUALS SURFACE IMPOUNDMENTS AT COAL-FIRED GENERATING UNITS THAT ARE NO LONGER PRODUCING COAL COMBUSTION RESIDUALS EFFECTIVE OCTOBER 1, 2014; (9) PROHIBIT DISPOSAL OF STORMWATER TO COAL COMBUSTION RESIDUALS SURFACE IMPOUNDMENTS EFFECTIVE DECEMBER 31, 2018; (10) REQUIRE ALL ELECTRIC GENERATING FACILITIES TO CONVERT TO GENERATION OF DRY FLY ASH ON OR BEFORE DECEMBER 31, 2017, AND DRY BOTTOM ASH ON OR BEFORE DECEMBER 31, 2020, OR RETIRE; (11) REQUIRE THE ASSESSMENT OF GROUNDWATER AT COAL COMBUSTION RESIDUALS SURFACE IMPOUNDMENTS; (12) REQUIRE CORRECTIVE ACTION FOR THE RESTORATION OF GROUNDWATER QUALITY AT COAL COMBUSTION RESIDUALS SURFACE IMPOUNDMENTS; (13) REQUIRE A SURVEY OF DRINKING WATER SUPPLY WELLS AND REPLACEMENT OF CONTAMINATED WATER SUPPLIES; (14) REQUIRE THE IDENTIFICATION, ASSESSMENT, AND CORRECTION OF UNPERMITTED DISCHARGES FROM

COAL COMBUSTION RESIDUALS SURFACE IMPOUNDMENTS; (15) REQUIRE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO, AS SOON AS PRACTICABLE BUT NO LATER THAN AUGUST 1, 2015, PRIORITIZE FOR THE PURPOSE OF CLOSURE AND REMEDIATION COAL COMBUSTION RESIDUALS SURFACE IMPOUNDMENTS, INCLUDING ACTIVE AND RETIRED SITES, BASED ON THESE SITES' RISKS TO PUBLIC HEALTH, SAFETY, WELFARE, THE ENVIRONMENT, AND NATURAL RESOURCES; (16) REQUIRE OWNERS OF COAL COMBUSTION RESIDUALS SURFACE IMPOUNDMENTS TO SUBMIT A PROPOSED PLAN FOR CLOSURE OF ALL IMPOUNDMENTS TO THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES; (17) REQUIRE CLOSURE AND REMEDIATION OF CERTAIN COAL COMBUSTION RESIDUALS SURFACE IMPOUNDMENTS AS SOON AS PRACTICABLE, BUT NO LATER THAN AUGUST 1, 2019; (18) REQUIRE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO ESTABLISH A SCHEDULE AND PROCESS FOR CLOSURE AND REMEDIATION OF ALL COAL COMBUSTION RESIDUALS SURFACE IMPOUNDMENTS BASED UPON THE DEPARTMENT'S RISK ASSESSMENT OF THESE SITES, BASELINE REQUIREMENTS SET BY THE GENERAL ASSEMBLY, EVALUATION OF PROPOSED CLOSURE PLANS SUBMITTED BY IMPOUNDMENT OWNERS, AND INPUT FROM THE PUBLIC AND OTHER STAKEHOLDERS; (19) ESTABLISH MINIMUM STATUTORY REQUIREMENTS FOR STRUCTURAL FILL PROJECTS USING COAL COMBUSTION PRODUCTS AND REQUIRE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO INVENTORY AND INSPECT CERTAIN STRUCTURAL FILL PROJECTS; (20) PLACE A MORATORIUM ON CERTAIN PROJECTS USING COAL COMBUSTION PRODUCTS AS STRUCTURAL FILL UNTIL AUGUST 1, 2015, AND DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AND THE ENVIRONMENTAL MANAGEMENT COMMISSION TO STUDY THE ADEQUACY OF CURRENT LAW GOVERNING USE OF COAL COMBUSTION PRODUCTS AS STRUCTURAL FILL AND FOR BENEFICIAL USE; (21) PLACE A MORATORIUM ON THE EXPANSION AND CONSTRUCTION OF COAL COMBUSTION RESIDUALS LANDFILLS UNTIL AUGUST 1, 2015, AND DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO ASSESS THE RISKS TO PUBLIC HEALTH, SAFETY, WELFARE, THE ENVIRONMENT, AND NATURAL RESOURCES OF COAL COMBUSTION RESIDUALS SURFACE IMPOUNDMENTS LOCATED BENEATH THESE LANDFILLS TO DETERMINE THE ADVISABILITY OF CONTINUED OPERATION OF THESE LANDFILLS; (22) STRENGTHEN THE REPORTING AND NOTIFICATION REQUIREMENTS APPLICABLE TO DISCHARGES OF WASTEWATER TO WATERS OF THE STATE; (23) REQUIRE CERTAIN EMERGENCY CALLS TO BE RECORDED; (24) REQUIRE DEVELOPMENT OF EMERGENCY ACTION PLANS FOR HIGH AND INTERMEDIATE HAZARD DAMS AND AMEND OTHER DAM SAFETY LAW REQUIREMENTS APPLICABLE TO COAL COMBUSTION RESIDUALS SURFACE IMPOUNDMENTS; (25) TRANSFER SOLID WASTE RULE-MAKING AUTHORITY FROM COMMISSION FOR PUBLIC HEALTH TO ENVIRONMENTAL MANAGEMENT COMMISSION; (26) PROVIDE FOR VARIOUS STUDIES; AND (27) PROVIDE RESOURCES FOR IMPLEMENTATION OF THIS ACT.

The General Assembly of North Carolina enacts:

PART I. PROHIBIT RECOVERY OF COSTS RELATED TO UNLAWFUL DISCHARGES FROM COAL COMBUSTION RESIDUALS SURFACE IMPOUNDMENTS; MORATORIUM ON RATE CASES

SECTION 1.(a) Article 7 of Chapter 62 of the General Statutes is amended by adding a new section to read:

"**§ 62-133.13. Recovery of costs related to unlawful discharges from coal combustion residuals surface impoundments to the surface waters of the State.**

The Commission shall not allow an electric public utility to recover from the retail electric customers of the State costs resulting from an unlawful discharge to the surface waters of the State from a coal combustion residuals surface impoundment, unless the Commission determines the discharge was due to an event of force majeure. For the purposes of this section, "coal combustion residuals surface impoundments" has the same meaning as in G.S. 130A-309.201. For the purposes of this section, "unlawful discharge" shall mean a discharge that results in a violation of State or federal surface water quality standards."

SECTION 1.(b) Section 1(a) of this act is effective when it becomes law and applies to discharges occurring on or after January 1, 2014.

SECTION 2.(a) Moratorium on Cost Recovery. – The Utilities Commission shall not issue an order authorizing an electric public utility the recovery of any additional costs related to coal combustion residuals surface impoundments until the end of the moratorium provided in this section. For the purposes of this section, "coal combustion residuals surface impoundments" has the same meaning as in G.S. 130A-309.201. The Utilities Commission shall not enter a final order granting an increase in base rates of an electric public utility for costs related to coal combustion residuals surface impoundments under G.S. 62-133 or G.S. 62-134 prior to January 15, 2015.

SECTION 2.(b) Purpose of Moratorium. – The purpose of the moratorium is to allow the State to study the disposition of coal combustion residuals surface impoundments, including any final rules adopted by the United States Environmental Protection Agency on the regulation of coal combustion residuals.

PART II. PROVISIONS FOR COMPREHENSIVE MANAGEMENT OF COAL COMBUSTION RESIDUALS

SECTION 3.(a) Article 9 of Chapter 130A of the General Statutes is amended by adding a new Part to read:

"Part 2I. Coal Ash Management.

"Subpart 1. Short Title, Definitions, and General Provisions.

"**§ 130A-309.200. Title.**

This Part may be cited as the "Coal Ash Management Act of 2014."

"**§ 130A-309.201. Definitions.**

Unless a different meaning is required by the context, the definitions of G.S. 130A-290 and the following definitions shall apply throughout this Part:

(1) "Beneficial and beneficial use" means projects promoting public health and environmental protection, offering equivalent success relative to other alternatives, and preserving natural resources.

(2) "Boiler slag" means the molten bottom ash collected at the base of slag tap and cyclone type furnaces that is quenched with water. It is made up of hard, black, angular particles that have a smooth, glassy appearance.

(3) "Bottom ash" means the agglomerated, angular ash particles formed in pulverized coal furnaces that are too large to be carried in the flue gases and collect on the furnace walls or fall through open grates to an ash hopper at the bottom of the furnace.

(4) "Coal combustion products" means fly ash, bottom ash, boiler slag, or flue gas desulfurization materials, which are beneficially used, including use for structural fill.

(5) "Coal combustion residuals" has the same meaning as defined in G.S. 130A-290.

(6) "Coal combustion residuals surface impoundment" means a topographic depression, excavation, or diked area that is: (i) primarily formed from earthen materials; (ii) without a base liner approved for use by Article 9 of Chapter 130A of the General Statutes or rules adopted thereunder for a combustion products landfill or coal combustion residuals landfill, industrial landfill, or municipal solid waste landfill; and (iii) designed to hold accumulated coal combustion residuals in the form of liquid wastes, wastes containing free liquids, or sludges, and that is not backfilled or otherwise covered during periods of deposition. For purposes of this Part, "coal combustion residuals surface impoundment" shall only include impoundments owned by a public utility, as defined in G.S. 62-3. "Coal combustion residuals surface impoundment" includes all of the following:

a. An impoundment that is dry due to the deposited liquid having evaporated, volatilized, or leached.

b. An impoundment that is wet with exposed liquid.

c. Lagoons, ponds, aeration pits, settling ponds, tailings ponds, and sludge pits; when these structures are designed to hold accumulated coal combustion residuals.

d. A coal combustion residuals surface impoundment that has been covered with soil after the final deposition of coal combustion residuals at the impoundment.

(7) "Commission" means the Environmental Management Commission.

(8) "Fly ash" means the very fine, powdery material, composed mostly of silica with nearly all particles spherical in shape, which is a product of burning finely ground coal in a boiler to produce electricity and is removed from the plant exhaust gases by air emission control devices.

(9) "Flue gas desulfurization material" means the material produced through a process used to reduce sulfur dioxide emissions from the exhaust gas system of a coal-fired boiler. The physical nature of these materials varies from a wet sludge to a dry powdered material, depending on the process, and their composition comprises either sulfites, sulfates, or a mixture thereof.

(10) "Mine" means an area of land from which minerals, inorganic and organic, have been extracted from their natural deposits.

(11) "Minerals" means soil, clay, coal, phosphate, metallic ore, and any other solid material or substance of commercial value found in natural deposits on or in the earth.

(12) "Owner" or "owner of a coal combustion residuals surface impoundment" means a public utility, as defined in G.S. 62-3, that owns a coal combustion residuals surface impoundment.

(13) "Receptor" means any human, plant, animal, or structure which is, or has the potential to be, affected by the release or migration of contaminants. Any well constructed for the purpose of monitoring groundwater and contaminant concentrations shall not be considered a receptor.

(14) "Structural fill" means an engineered fill with a projected beneficial end use constructed using coal combustion products that are properly placed and compacted. For purposes of this Part, the term includes fill used to reclaim

abandoned mines and for embankments, greenscapes, foundations, construction foundations, and for bases/sub-bases under a structure or a footprint of a paved road, parking lot, sidewalk, walkway, or similar structure.

(15) "Use or reuse of coal combustion products" means the procedure whereby coal combustion products are directly used as either of the following:

a. As an ingredient in an industrial process to make a product, unless distinct components of the coal combustion products are recovered as separate end products.

b. In a function or application as an effective substitute for a commercial product or natural resource.

"**§ 130A-309.202. Coal Ash Management Commission.**

(a) Creation. – In recognition of the complexity and magnitude of the issues associated with the management of coal combustion residuals and the proper closure and remediation of coal combustion residuals surface impoundments, the Coal Ash Management Commission is hereby established.

(b) Membership. – The Commission shall consist of nine members as follows:

(1) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121 who shall at the time of appointment be a resident of the State.

(2) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121 who shall at the time of appointment have special training or scientific expertise in waste management, including solid waste disposal, hauling, or beneficial use.

(3) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121 who shall at the time of appointment be a licensed physician or a person with experience in public health.

(4) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121 who shall at the time of appointment be a member of a nongovernmental conservation interest.

(5) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121 who shall at the time of appointment be actively employed by, or recently retired from, an industrial manufacturing facility.

(6) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121 who shall at the time of appointment have experience in the use of coal combustion residuals as structural fill for construction or development projects.

(7) One appointed by the Governor who shall at the time of appointment have experience in economic development.

(8) One appointed by the Governor who shall at the time of appointment be a representative of an electric membership corporation organized under Article 2 of Chapter 117 of the General Statutes.

(9) One appointed by the Governor who shall at the time of appointment be a be a person with experience in science or engineering.

(c) Chair; Vice-Chair. – The Commission shall have a chair and a vice-chair. The Commission shall elect one of its members to serve as chair and one of its members to serve as vice-chair. The chair and vice-chair shall serve two-year terms.

(d) Vacancies. – Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term. The Governor may reappoint a gubernatorial appointee of the Commission to an additional term if, at the time of the reappointment, the member qualifies for membership on the Commission under subdivisions (7) through (9) of subsection (b) of this section. Appointments by the General Assembly shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be filled in accordance with G.S. 120-122.

(e) Removal. – The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of G.S. 143B-13 of the Executive Organization Act of 1973.

(f) Powers and Duties. – The Commission shall have all of the following powers and duties:

(1) To review and approve the classification of coal combustion residuals surface impoundments required by G.S. 130A-309.211.

(2) To review and approve Coal Combustion Residuals Surface Impoundment Closure Plans as provided in G.S. 130A-309.212.

(3) To review and make recommendations on the provisions of this Part and other statutes and rules related to the management of coal combustion residuals.

(4) To undertake any additional studies as requested by the General Assembly.

(g) Reimbursement. – The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(h) Quorum. – Five members of the Commission shall constitute a quorum for the transaction of business.

(i) Staff. – The Commission is authorized and empowered to employ staff as the Commission may determine to be necessary for the proper discharge of the Commission's duties and responsibilities. The Chair of the Commission shall organize and direct the work of the Commission staff. The salaries and compensation of all such personnel shall be fixed in the manner provided by law for fixing and regulating salaries and compensation by other State agencies. The chair, within allowed budgetary limits and as allowed by law, shall authorize and approve travel, subsistence, and related expenses of such personnel incurred while traveling on official business. All State agencies, including the constituent institutions of The University of North Carolina, shall provide information and support to the Commission upon request.

(j) Conflicts of Interest; Disclosure. – The Governor shall require adequate disclosure of potential conflicts of interest by members. The Governor, by executive order, shall promulgate criteria regarding conflicts of interest and disclosure thereof for determining the eligibility of persons under this subsection, giving due regard to the requirements of federal legislation and, for this purpose, may promulgate rules, regulations, or guidelines in conformance with those established by any federal agency interpreting and applying provisions of federal law.

(k) Covered Persons. – All members of the Commission are covered persons for the purposes of Chapter 138A of the General Statutes, the State Government Ethics Act. As covered persons, members of the Commission shall comply with the applicable requirements of the State Government Ethics Act, including mandatory training, the public disclosure of economic interests, and ethical standards for covered persons. Members of the Commission shall comply with the provisions of the State Government Ethics Act to avoid conflicts of interest.

(l) Meetings. – The Commission shall meet at least once every two months and may hold special meetings at any time and place within the State at the call of the Chair or upon the written request of at least five members.

(m) Reports. – The Commission shall submit quarterly written reports as to its operation, activities, programs, and progress to the Environmental Review Commission. The Commission shall supplement the written reports required by this subsection with additional written and oral reports as may be requested by the Environmental Review Commission. The Commission shall submit the written reports required by this subsection whether or not the General Assembly is in session at the time the report is due.

(n) Administrative Location; Independence. – The Commission shall be administratively located in the Division of Emergency Management of the Department of Public Safety. The Commission shall exercise all of its powers and duties independently and shall not be subject to the supervision, direction, or control of the Division or Department.

"**§ 130A-309.203. Expedited permit review.**

(a) The Department shall act as expeditiously as practicable, but no later than the deadlines established under subsection (b) of this section, except in compliance with subsection (c) of this section, to issue all permits necessary to conduct activities required by this Part.

(b) Notwithstanding G.S. 130A-295.8(e), the Department shall determine whether an application for any permit necessary to conduct activities required by this Part is complete within 30 days after the Department receives the application for the permit. A determination of completeness means that the application includes all required components but does not mean that the required components provide all of the information that is required for the Department to make a decision on the application. If the Department determines that an application is not complete, the Department shall notify the applicant of the components needed to complete the application. An applicant may submit additional information to the Department to cure the deficiencies in the application. The Department shall make a final determination as to whether the application is complete within the later of (i) 30 days after the Department receives the application for the permit less the number of days that the applicant uses to provide the additional information or (ii) 10 days after the Department receives the additional information from the applicant. The Department shall issue a draft permit decision on an application for a permit within 60 days after the Department determines that the application is complete. The Department shall hold a public hearing and accept written comment on the draft permit decision for a period of not less than 30 or more than 60 days after the Department issues a draft permit decision. The Department shall issue a final permit decision on an application for a permit within 30 days after the comment period on the draft permit decision closes. If the Department fails to act within any time period set out in this subsection, the applicant may treat the failure to act as a denial of the permit and may challenge the denial as provided in Chapter 150B of the General Statutes.

(c) If the Department finds that compliance with the deadlines established under subsection (b) of this section would result in insufficient review of a permit application that would pose a risk to public health, safety, and welfare; the environment; or natural resources, the applicable deadline shall be waived for the application as necessary to allow for adequate review. If a deadline is waived pursuant to this subsection, the Secretary shall issue a written declaration, including findings of fact, documenting the need for the waiver.

"**§ 130A-309.204. Reports.**

(a) The Department shall submit quarterly written reports to the Environmental Review Commission and the Coal Ash Management Commission on its operations, activities, programs, and progress with respect to its obligations under this Part concerning all coal combustion residuals surface impoundments. At a minimum, the report shall include information concerning the status of assessment, corrective action, prioritization, and closure for each coal combustion residual surface impoundment and information on costs connected

therewith. The report shall include an executive summary of each annual Groundwater Protection and Restoration Report submitted to the Department by the operator of any coal combustion residuals surface impoundments pursuant to G.S. 130A-309.209(d) and a summary of all groundwater sampling, protection, and restoration activities related to the impoundment for the preceding year. The report shall also include an executive summary of each annual Surface Water Protection and Restoration Report submitted to the Department by the operator of any coal combustion residuals surface impoundments pursuant to G.S. 130A-309.210(e) and a summary of all surface water sampling, protection, and restoration activities related to the impoundment for the preceding year, including the status of the identification, assessment, and correction of unpermitted discharges from coal combustion residuals surface impoundments to the surface waters of the State. The Department shall supplement the written reports required by this subsection with additional written and oral reports as may be requested by the Environmental Review Commission. The Department shall submit the written reports required by this subsection whether or not the General Assembly is in session at the time the report is due.

(b) On or before October 1 of each year, the Department shall report to each member of the General Assembly who has a coal combustion residuals surface impoundment in the member's district. This report shall include the location of each impoundment in the member's district, the amount of coal combustion residuals known or believed to be located in the impoundment, the last action taken at the impoundment, and the date of that last action.

(c) On or before October 1 of each year, a public utility generating coal combustion residuals and coal combustion products shall submit an annual summary to the Department. The annual summary shall be for the period July 1 through June 30 and shall include all of the following:

(1) The volume of coal combustion residuals and products produced.

(2) The volume of coal combustion residuals disposed.

(3) The volume of coal combustion products used in structural fill projects.

(4) The volume of coal combustion products beneficially used, other than for structural fill.

"**§ 130A-309.205. Local ordinances regulating management of coal combustion residuals and coal combustion products invalid; petition to preempt local ordinance.**

(a) It is the intent of the General Assembly to maintain a uniform system for the management of coal combustion residuals and coal combustion products, including matters of disposal and beneficial use, and to place limitations upon the exercise by all units of local government in North Carolina of the power to regulate the management of coal combustion residuals and coal combustion products by means of ordinances, property restrictions, zoning regulations, or otherwise. Notwithstanding any authority granted to counties, municipalities, or other local authorities to adopt local ordinances, including those imposing taxes, fees, or charges or regulating health, environment, or land use, all provisions of local ordinances, including those regulating land use, adopted by counties, municipalities, or other local authorities that regulate or have the effect of regulating the management of coal combustion residuals and coal combustion products within the jurisdiction of a local government are invalidated, to the extent necessary to effectuate the purposes of this Part, that do the following:

(1) Place any restriction or condition not placed by this Part upon management of coal combustion residuals and coal combustion products within any county, city, or other political subdivision.

(2) Conflict or are in any manner inconsistent with the provisions of this Part.

(b) If a local zoning or land-use ordinance imposes requirements, restrictions, or conditions that are generally applicable to development, including, but not limited to, setback, buffer, and stormwater requirements, and coal combustion residuals and coal combustion products would be regulated under the ordinance of general applicability, the operator of the

proposed activities may petition the Environmental Management Commission to review the matter. After receipt of a petition, the Commission shall hold a hearing in accordance with the procedures in subsection (c) of this section and shall determine whether or to what extent to preempt the local ordinance to allow for the management of coal combustion residuals and coal combustion products.

(c) When a petition described in subsection (b) of this section has been filed with the Environmental Management Commission, the Commission shall hold a public hearing to consider the petition. The public hearing shall be held in the affected locality within 60 days after receipt of the petition by the Commission. The Commission shall give notice of the public hearing by both of the following means:

(1) Publication in a newspaper or newspapers having general circulation in the county or counties where the activities are to be conducted, once a week for three consecutive weeks, the first notice appearing at least 30 days prior to the scheduled date of the hearing.

(2) First-class mail to persons who have requested notice. The Commission shall maintain a mailing list of persons who request notice in advance of the hearing pursuant to this section. Notice by mail shall be complete upon deposit of a copy of the notice in a postage-paid wrapper addressed to the person to be notified at the address that appears on the mailing list maintained by the Commission in a post office or official depository under the exclusive care and custody of the United States Postal Service.

(d) Any interested person may appear before the Environmental Management Commission at the hearing to offer testimony. In addition to testimony before the Commission, any interested person may submit written evidence to the Commission for the Commission's consideration. At least 20 days shall be allowed for receipt of written comment following the hearing.

(e) A local zoning or land-use ordinance is presumed to be valid and enforceable to the extent the zoning or land-use ordinance imposes requirements, restrictions, or conditions that are generally applicable to development, including, but not limited to, setback, buffer, and stormwater requirements, unless the Environmental Management Commission makes a finding of fact to the contrary. The Commission shall determine whether or to what extent to preempt local ordinances so as to allow the project involving management of coal combustion residuals and coal combustion products no later than 60 days after conclusion of the hearing. The Commission shall preempt a local ordinance only if the Commission makes all of the following findings:

(1) That there is a local ordinance that would regulate the management of coal combustion residuals and coal combustion products.

(2) That all legally required State and federal permits or approvals have been issued by the appropriate State and federal agencies or that all State and federal permit requirements have been satisfied and that the permits or approvals have been denied or withheld only because of the local ordinance.

(3) That local citizens and elected officials have had adequate opportunity to participate in the permitting process.

(4) That the project involving management of coal combustion residuals and coal combustion products will not pose an unreasonable health or environmental risk to the surrounding locality and that the operator has taken or consented to take reasonable measures to avoid or manage foreseeable risks and to comply to the maximum feasible extent with applicable local ordinances.

(f) If the Environmental Management Commission does not make all of the findings under subsection (e) of this section, the Commission shall not preempt the challenged local

ordinance. The Commission's decision shall be in writing and shall identify the evidence submitted to the Commission plus any additional evidence used in arriving at the decision.

(g) The decision of the Environmental Management Commission shall be final, unless a party to the action files a written appeal under Article 4 of Chapter 150B of the General Statutes, as modified by this section, within 30 days of the date of the decision. The record on appeal shall consist of all materials and information submitted to or considered by the Commission, the Commission's written decision, a complete transcript of the hearing, the specific findings required by subsection (e) of this section, and any minority positions on the specific findings required by subsection (e) of this section. The scope of judicial review shall be as set forth in G.S. 150B-51, except as this subsection provides regarding the record on appeal.

(h) If the court reverses or modifies the decision of the Environmental Management Commission, the judge shall set out in writing, which writing shall become part of the record, the reasons for the reversal or modification.

(i) In computing any period of time prescribed or allowed by the procedure in this section, the provisions of Rule 6(a) of the Rules of Civil Procedure, G.S. 1A-1, shall apply.

"**§ 130A-309.206. Federal preemption; severability.**

The provisions of this Part shall be severable, and if any phrase, clause, sentence, or provision is declared to be unconstitutional or otherwise invalid or is preempted by federal law or regulation, the validity of the remainder of this Part shall not be affected thereby.

"**§ 130A-309.207. General rulemaking for Part.**

The Environmental Management Commission shall adopt rules as necessary to implement the provisions of the Part. Such rules shall be exempt from the requirements of G.S. 150B-19.3.

"Subpart 2. Management of Coal Ash Residuals; Closure of Coal Ash Impoundments.

"**§ 130A-309.208. Generation, disposal, and use of coal combustion residuals.**

(a) On or after July 1, 2014, the construction of new and expansion of existing coal combustion residuals surface impoundments is prohibited.

(b) On or after October 1, 2014, the disposal of coal combustion residuals into a coal combustion residuals surface impoundment at an electric generating facility where the coal-fired generating units are no longer producing coal combustion residuals is prohibited.

(c) On or after December 31, 2018, the discharge of stormwater into a coal combustion surface impoundment at an electric generating facility where the coal-fired generating units are no longer producing coal combustion residuals is prohibited.

(d) On or after December 31, 2019, the discharge of stormwater into a coal combustion surface impoundment at an electric generating facility where the coal-fired generating units are actively producing coal combustion residuals is prohibited.

(e) On or before December 31, 2018, all electric generating facilities owned by a public utility shall convert to the disposal of "dry" fly ash or the facility shall be retired. For purposes of this subsection, the term "dry" shall mean coal combustion residuals which are not in the form of liquid wastes, wastes containing free liquids, or sludges.

(f) On or before December 31, 2019, all electric generating facilities owned by a public utility shall convert to the disposal of "dry" bottom ash or the facility shall be retired. For purposes of this subsection, the term "dry" shall mean coal combustion residuals which are not in the form of liquid wastes, wastes containing free liquids, or sludges.

"**§ 130A-309.209. Groundwater assessment and corrective action; drinking water supply well survey and provision of alternate water supply; reporting.**

(a) Groundwater Assessment of Coal Combustion Residuals Surface Impoundments. – The owner of a coal combustion residuals surface impoundment shall conduct groundwater monitoring and assessment as provided in this subsection. The requirements for groundwater monitoring and assessment set out in this subsection are in addition to any other groundwater monitoring and assessment requirements applicable to the owners of coal combustion residuals surface impoundments.

(1) No later than December 31, 2014, the owner of a coal combustion residuals surface impoundment shall submit a proposed Groundwater Assessment Plan for the impoundment to the Department for its review and approval. The Groundwater Assessment Plan shall, at a minimum, provide for all of the following:

a. A description of all receptors and significant exposure pathways.

b. An assessment of the horizontal and vertical extent of soil and groundwater contamination for all contaminants confirmed to be present in groundwater in exceedance of groundwater quality standards.

c. A description of all significant factors affecting movement and transport of contaminants.

d. A description of the geological and hydrogeological features influencing the chemical and physical character of the contaminants.

e. A schedule for continued groundwater monitoring.

f. Any other information related to groundwater assessment required by the Department.

(2) The Department shall approve the Groundwater Assessment Plan if it determines that the Plan complies with the requirements of this subsection and will be sufficient to protect public health, safety, and welfare; the environment; and natural resources.

(3) No later than 10 days from approval of the Groundwater Assessment Plan, the owner shall begin implementation of the Plan.

(4) No later than 180 days from approval of the Groundwater Assessment Plan, the owner shall submit a Groundwater Assessment Report to the Department. The Report shall describe all exceedances of groundwater quality standards associated with the impoundment.

(b) Corrective Action for the Restoration of Groundwater Quality. – The owner of a coal combustion residuals surface impoundment shall implement corrective action for the restoration of groundwater quality as provided in this subsection. The requirements for corrective action for the restoration of groundwater quality set out in this subsection are in addition to any other corrective action for the restoration of groundwater quality requirements applicable to the owners of coal combustion residuals surface impoundments.

(1) No later than 90 days from submission of the Groundwater Assessment Report required by subsection (a) of this section, the owner of the coal combustion residuals surface impoundment shall submit a proposed Groundwater Corrective Action Plan to the Department for its review and approval. The Groundwater Corrective Action Plan shall provide for the restoration of groundwater in conformance with the requirements of Subchapter L of Chapter 2 of Title 15A of the North Carolina Administrative Code. The Groundwater Corrective Action Plan shall include, at a minimum, all of the following:

a. A description of all exceedances of the groundwater quality standards, including any exceedances that the owner asserts are the result of natural background conditions.

b. A description of the methods for restoring groundwater in conformance with the requirements of Subchapter L of Chapter 2 of Title 15A of the North Carolina Administrative Code and a detailed explanation of the reasons for selecting these methods.

c. Specific plans, including engineering details, for restoring groundwater quality.

d. A schedule for implementation of the Plan.
e. A monitoring plan for evaluating the effectiveness of the proposed corrective action and detecting movement of any contaminant plumes.
f. Any other information related to groundwater assessment required by the Department.

(2) The Department shall approve the Groundwater Corrective Action Plan if it determines that the Plan complies with the requirements of this subsection and will be sufficient to protect public health, safety, and welfare; the environment; and natural resources.

(3) No later than 30 days from the approval of the Groundwater Corrective Action Plan, the owner shall begin implementation of the Plan in accordance with the Plan's schedule.

(c) Drinking Water Supply Well Survey and Provision of Alternate Water Supply. – No later than October 1, 2014, the owner of a coal combustion residuals surface impoundment shall conduct a Drinking Water Supply Well Survey that identifies all drinking water supply wells within one-half mile down-gradient from the established compliance boundary of the impoundment and submit the Survey to the Department. The Survey shall include well locations, the nature of water uses, available well construction details, and information regarding ownership of the wells. No later than December 1, 2014, the Department shall determine, based on the Survey, which drinking water supply wells the owner is required to sample and how frequently and for what period sampling is required. The Department shall require sampling for drinking water supply wells where data regarding groundwater quality and flow and depth in the area of any surveyed well provide a reasonable basis to predict that the quality of water from the surveyed well may be adversely impacted by constituents associated with the presence of the impoundment. No later than January 1, 2015, the owner shall initiate sampling and water quality analysis of the drinking water supply wells. A property owner may elect to have an independent third party selected from a laboratory certified by the Department's Wastewater/Groundwater Laboratory Certification program sample wells located on their property in lieu of sampling conducted by the owner of the coal combustion residuals surface impoundment. The owner of the coal combustion residuals surface impoundment shall pay for the reasonable costs of such sampling. Nothing in this subsection shall be construed to preclude or impair the right of any property owner to refuse such sampling of wells on their property. If the sampling and water quality analysis indicates that water from a drinking water supply well exceeds groundwater quality standards for constituents associated with the presence of the impoundment, the owner shall replace the contaminated drinking water supply well with an alternate supply of potable drinking water. The alternate supply of potable drinking water shall be supplied within 30 days of the Department's determination that there is an exceedance of groundwater quality standards attributable to constituents associated with the presence of the impoundment. The requirement to replace a contaminated drinking water supply well with an alternate supply of potable drinking water set out in this subsection is in addition to any other requirements to replace a contaminated drinking water supply well with an alternate supply of potable drinking water applicable to the owners of coal combustion residuals surface impoundments.

(d) Reporting. – In addition to any other reporting required by the Department, the owner of a coal combustion residuals surface impoundment shall submit an annual Groundwater Protection and Restoration Report to the Department no later than January 31 of each year. The Report shall include a summary of all groundwater monitoring, protection, and restoration activities related to the impoundment for the preceding year, including the status of the Groundwater Assessment Plan, the Groundwater Assessment Report, the Groundwater Corrective Action Plan, the Drinking Water Supply Well Survey, and the replacement of any

contaminated drinking water supply wells. The owner of a coal combustion residuals surface impoundment shall also submit all information required to be submitted to the Department pursuant to this section to the Coal Ash Management Commission.

"**§ 130A-309.210. Identification, assessment, and correction of unpermitted discharges.**

(a) Identification of Unpermitted Discharges from Coal Combustion Residuals Surface Impoundments to the Surface Waters of the State. –

(1) The owner of a coal combustion residuals surface impoundment shall identify all unpermitted discharges from the impoundment to the surface waters of the State as provided in this subsection. The requirements for identifying all unpermitted discharges from an impoundment set out in this subsection are in addition to any other requirements for identifying unpermitted discharges applicable to the owners of coal combustion residuals surface impoundments.

(2) No later than December 31, 2014, the owner of a coal combustion residuals surface impoundment shall submit a topographic map that identifies the location of all: (i) outfalls from engineered channels designed or improved for the purpose of collecting water from the toe of the impoundment to the Department; and (ii) seeps discharging from the impoundment that are not captured by engineered channels designed or improved for the purpose of collecting water from the toe of the impoundment to the Department. The topographic map shall comply with all of the following:

a. Be at a scale as required by the Department.

b. Specify the latitude and longitude of each toe drain outfall and each seep.

c. Specify whether the discharge from each toe drain outfall and each seep is continuous or intermittent.

d. Provide an average flow measurement of the discharge from each toe drain outfall and each seep, including a description of the method used to measure average flow.

e. Specify whether the discharge from each toe drain outfall and seep identified reaches the surface waters of the State. If the discharge from a toe drain outfall or seep reaches the surface waters of the State, the map shall specify the latitude and longitude of where the discharge reaches the surface waters of the State.

f. Any other information related to the topographic map required by the Department.

(b) Assessment of Unpermitted Discharges from Coal Combustion Residuals Surface Impoundments to the Surface Waters of the State. – The owner of a coal combustion residuals surface impoundment shall conduct an assessment of unpermitted discharges from the coal combustion residuals surface impoundment to the surface waters of the State as provided in this subsection. The requirements for assessment of unpermitted discharges from the coal combustion residuals surface impoundment to the surface waters of the State set out in this subsection are in addition to any other requirements for the assessment of unpermitted discharges from coal combustion residuals surface impoundments to surface waters of the State applicable to the owners of coal combustion residuals surface impoundments.

(1) No later than December 31, 2014, the owner of a coal combustion residuals surface impoundment shall submit a proposed Unpermitted Discharge Assessment Plan to the Department. The Unpermitted Discharge Assessment Plan shall include information sufficient to allow the Department to determine whether any unpermitted discharge, including a discharge from a toe drain outfall or seep, has reached the surface waters of the State and has

caused a violation of surface water quality standards. The Unpermitted Discharge Assessment Plan shall include, at a minimum, all of the following:

a. Upstream and downstream sampling locations within all channels that could potentially carry a discharge.

b. A description of the surface water quality analyses that will be performed.

c. A sampling schedule, including the frequency and duration of sampling activities.

d. Reporting requirements.

e. Any other information related to the assessment of unpermitted discharges required by the Department.

(2) The Department shall approve the Unpermitted Discharge Assessment Plan if it determines that the Plan complies with the requirements of this subsection and will be sufficient to protect public health, safety, and welfare; the environment; and natural resources.

(3) No later than 30 days from the approval of the Unpermitted Discharge Assessment Plan, the owner shall begin implementation of the Plan in accordance with the Plan's schedule.

(c) Corrective Action to Prevent Unpermitted Discharges from Coal Combustion Residuals Surface Impoundments to the Surface Waters of the State. – The owner of a coal combustion residuals surface impoundment shall implement corrective action to prevent unpermitted discharges from the coal combustion residuals surface impoundment to the surface waters of the State as provided in this subsection. The requirements for corrective action to prevent unpermitted discharges from coal combustion residuals surface impoundments to the surface waters of the State set out in this subsection are in addition to any other requirements for corrective action to prevent unpermitted discharges from coal combustion residuals surface impoundments to the surface waters of the State applicable to the owners of coal combustion residuals surface impoundments.

(1) If the Department determines, based on surface water quality sampling information provided in an Unpermitted Discharge Assessment Plan submitted pursuant to subsection (b) of this section, that an unpermitted discharge from a coal combustion residuals surface impoundment, including a discharge from a toe drain outfall or seep, has violated State or federal surface water quality standards, the Department shall notify the owner of the impoundment of its determination.

(2) No later than 30 days from the notification of violation, the owner of the coal combustion residuals surface impoundment shall submit a proposed Unpermitted Discharge Corrective Action Plan to the Department for its review and approval. The proposed Unpermitted Discharge Corrective Action Plan shall include, at a minimum, all of the following:

a. One of the following methods of proposed corrective action:

1. Elimination of the unpermitted discharge.

2. Capture and rerouting of the unpermitted discharge through a permitted outfall.

3. Implementation of best management practices to prevent the unpermitted discharge.

4. Application for a National Pollutant Discharge Elimination System (NPDES) permit amendment to bring the unpermitted discharge under permit regulations.

b. A detailed explanation of the reasons for selecting the method of corrective action.
c. Specific plans, including engineering details, to prevent the unpermitted discharge.
d. A schedule for implementation of the Plan.
e. A monitoring plan for evaluating the effectiveness of the proposed corrective action.
f. Any other information related to the correction of unpermitted discharges required by the Department.

(3) The Department shall approve the Unpermitted Discharge Corrective Action Plan if it determines that the Plan complies with the requirements of this subsection and will be sufficient to protect public health, safety, and welfare; the environment; and natural resources.

(4) No later than 30 days from the approval of the Unpermitted Discharge Corrective Action Plan, the owner shall begin implementation of the Plan in accordance with the Plan's schedule.

(d) Identification of New Unpermitted Discharges. – No later than August 1, 2014, the owner of a coal combustion residuals surface impoundment shall submit a proposed Plan for the Identification of New Unpermitted Discharges to the Department for its review and approval as provided in this subsection.

(1) The proposed Plan for the Identification of New Unpermitted Discharges shall include, at a minimum, all of the following:
a. A procedure for routine inspection of the coal combustion residuals surface impoundment to identify indicators of potential new unpermitted discharges, including toe drain outfalls and seeps.
b. A procedure for determining whether a new unpermitted discharge is actually present.
c. A procedure for notifying the Department when a new unpermitted discharge is confirmed.
d. Any other information related to the identification of new unpermitted discharges required by the Department.

(2) The Department shall approve the Plan for the Identification of New Unpermitted Discharges if it determines that the Plan complies with the requirements of this subsection and will be sufficient to protect public health, safety, and welfare; the environment; and natural resources.

(3) No later than 30 days from the approval of the Plan for the Identification of New Unpermitted Discharges, the owner shall begin implementation of the Plan in accordance with the Plan.

(e) Reporting. – In addition to any other reporting required by the Department, the owner of a coal combustion residuals surface impoundment shall submit an annual Surface Water Protection and Restoration Report to the Department no later than January 31 of each year. The Report shall include a summary of all surface water sampling, protection, and restoration activities related to the impoundment for the preceding year, including the status of the identification, assessment, and correction of unpermitted discharges from coal combustion residuals surface impoundments to the surface waters of the State. The owner of a coal combustion residuals surface impoundment shall also submit all information required to be submitted to the Department pursuant to this section to the Coal Ash Management Commission.

"**§ 130A-309.211. Prioritization of coal combustion residuals surface impoundments.**

(a) As soon as practicable, but no later than August 1, 2015, the Department shall develop proposed classifications for all coal combustion residuals surface impoundments,

including active and retired sites, for the purpose of closure and remediation based on these sites' risks to public health, safety, and welfare; the environment; and natural resources and shall determine a schedule for closure and required remediation that is based on the degree of risk to public health, safety, and welfare; the environment; and natural resources posed by the impoundments and that gives priority to the closure and required remediation of impoundments that pose the greatest risk. In assessing the risk, the Department shall evaluate information received pursuant to G.S. 130A-309.209 and G.S. 130A-309.210 and any other information deemed relevant and, at a minimum, consider all of the following:

(1) Any imminent hazards to public health, safety, or welfare resulting from the impoundment.
(2) Structural condition and hazard potential of the impoundment.
(3) The proximity of surface waters to the impoundment and whether any surface waters are contaminated or imminently threatened by contamination as a result of the impoundment.
(4) Information concerning the horizontal and vertical extent of soil and groundwater contamination for all contaminants confirmed to be present in groundwater in exceedance of groundwater quality standards and all significant factors affecting contaminant transport.
(5) The location and nature of all receptors and significant exposure pathways.
(6) The geological and hydrogeological features influencing the movement and chemical and physical character of the contaminants.
(7) Amount and characteristics of coal combustion residuals in the impoundment.
(8) Any other factor the Department deems relevant to establishment of risk.

(b) The Department shall issue a proposed classification for each coal combustion residuals surface impoundment based upon the assessment conducted pursuant to subsection (a) of this section as high-risk, intermediate-risk, or low-risk. Within 30 days after a proposed classification has been issued, the Department shall issue a written declaration, including findings of fact, documenting the proposed classification. The Department shall provide for public participation on the proposed risk classification as follows:

(1) The Department shall make copies of the written declaration issued pursuant to this subsection available for inspection as follows:
a. A copy of the declaration shall be provided to the local health director.
b. A copy of the declaration shall be provided to the public library located in closest proximity to the site in the county or counties in which the site is located.
c. The Department shall post a copy of the declaration on the Department's Web site.
d. The Department may place copies of the declaration in other locations so as to assure the availability thereof to the public.
(2) Before issuing a proposed classification of an impoundment as high-risk, intermediate-risk, or low-risk, the Department shall give notice of the written declaration issued pursuant to this subsection as follows:
a. A notice and summary of the declaration shall be published weekly for a period of three consecutive weeks in a newspaper having general circulation in the county or counties where the site is located.
b. Notice of the written declaration shall be given by first-class mail to persons who have requested such notice. Such notice shall include a summary of the written declaration and state the locations where a copy of the written declaration is available for inspection. The

Department shall maintain a mailing list of persons who request notice pursuant to this section.

c. Notice of the written declaration shall be given by electronic mail to persons who have requested such notice. Such notice shall include a summary of the written declaration and state the locations where a copy of the written declaration is available for inspection. The Department shall maintain a mailing list of persons who request notice pursuant to this section.

(3) No later than 60 days after issuance of the written declaration, the Department shall conduct a public meeting in the county or counties in which the site is located to explain the written declaration to the public. The Department shall give notice of the hearing at least 15 days prior to the date thereof by all of the following methods:

a. Publication as provided in subdivision (1) of this subsection, with first publication to occur not less than 30 days prior to the scheduled date of the hearing.

b. First-class mail to persons who have requested notice as provided in subdivision (2) of this subsection.

c. Electronic mail to persons who have requested notice as provided in subdivision (2) of this subsection.

(4) At least 30 days from the latest date on which notice is provided pursuant to subdivision (2) of this subsection shall be allowed for the receipt of written comment on the written declaration prior to issuance of a final risk classification. At least 20 days will be allowed for receipt of written comment following a hearing conducted pursuant to subdivision (3) of this subsection prior to issuance of a final risk classification.

(c) Within 30 days of the receipt of all written comment as required by subdivision (4) of subsection (b) of this section, the Department shall submit a proposed classification for a coal combustion residuals surface impoundment to the Coal Ash Management Commission established pursuant to G.S. 130A-309.202. The Commission shall evaluate all information submitted in accordance with this Part related to the proposed classification and any other information the Commission deems relevant. The Commission shall only approve the proposed classification if it determines that the classification was developed in accordance with this section and that the classification accurately reflects the level of risk posed by the coal combustion residuals surface impoundment. The Commission shall issue its determination in writing, including findings in support of its determination. If the Commission fails to act on a proposed classification within 60 days of receipt of the proposed classification, the proposed classification shall be deemed approved. Parties aggrieved by a final decision of the Commission pursuant to this subsection may appeal the decision as provided under Article 4 of Chapter 150B of the General Statutes.

"**§ 130A-309.212. Closure of coal combustion residuals surface impoundments.**

(a) An owner of a coal combustion residuals surface impoundment shall submit a proposed Coal Combustion Residuals Surface Impoundment Closure Plan for the Department's approval. If corrective action to restore groundwater has not been completed pursuant to the requirements of G.S. 130A-309.209(b), the proposed closure plan shall include provisions for completion of activities to restore groundwater in conformance with the requirements of Subchapter L of Chapter 2 of Title 15A of the North Carolina Administrative Code. In addition, the following requirements, at a minimum, shall apply to such plans:

(1) High-risk impoundments shall be closed as soon as practicable, but no later than December 31, 2019. A proposed closure plan for such impoundments must be submitted as soon as practicable, but no later than December 31,

2016. At a minimum, such impoundments shall be dewatered, and the owner of an impoundment shall either:

a. Convert the coal combustion residuals impoundment to an industrial landfill, as that term is defined by this Article, by removing all coal combustion residuals from the impoundment temporarily, safely storing the residuals on-site, and complying with the siting and design requirements for disposal sites established by Section .0503 of Subchapter B of Chapter 13 of Title 15A of the North Carolina Administrative Code, except with respect to those requirements that pertain to buffers. In lieu of the buffer requirement established by Section .0503(f)(2)(iii) of Subchapter B of Chapter 13 of Title 15A of the North Carolina Administrative Code, the owner of the impoundment shall establish and maintain a 300-foot buffer between streams and rivers and disposal areas. After the temporarily displaced coal combustion residuals have been returned for disposal in the industrial landfill constructed pursuant to the requirements of this sub-subdivision, the owner of the landfill shall comply with the closure and post-closure requirements established by Section .1627 of Subchapter B of Chapter 13 of Title 15A of the North Carolina Administrative Code. A landfill constructed pursuant to this sub-subdivision shall otherwise be subject to all applicable requirements of this Chapter and rules adopted thereunder. Prior to closure, the Department may allow the disposal of coal combustion residuals, in addition to those originally contained in the impoundment, to the landfill constructed pursuant to this sub-subdivision, if the Department determines that the site is suitable for additional capacity and that disposal of additional coal combustion residuals will not pose an unacceptable risk to public health, safety, welfare; the environment; and natural resources.

b. Remove all coal combustion residuals from the impoundment, return the former impoundment to a nonerosive and stable condition, and (i) transfer the coal combustion residuals for disposal in a coal combustion residuals landfill, industrial landfill, or municipal solid waste landfill or (ii) use the coal combustion products in a structural fill or other beneficial use as allowed by law. The use of coal combustion products (i) as structural fill shall be conducted in accordance with the requirements Subpart 3 of this Part and (ii) for other beneficial uses shall be conducted in accordance with the requirements of 15A NCAC 13B .1701, et seq., (Requirements for Beneficial Use of Coal Combustion By-Products).

(2) Intermediate-risk impoundments shall be closed as soon as practicable, but no later than December 31, 2024. A proposed closure plan for such impoundments must be submitted as soon as practicable, but no later than December 31, 2017. At a minimum, such impoundments shall be dewatered, and the owner of an impoundment shall close the impoundment in any manner allowed pursuant to subdivision (1) of this subsection.

(3) Low-risk impoundments shall be closed as soon as practicable, but no later than December 31, 2029. A proposed closure plan for such impoundments must be submitted as soon as practicable, but no later than December 31, 2018. Such impoundments shall be dewatered. The Department shall require such sites to comply with the closure and post-closure requirements

established by Section .1627 of Subchapter B of Chapter 13 of Title 15A of the North Carolina Administrative Code. The Department may require implementation of any other measure it deems necessary to protect public health, safety, and welfare; the environment; and natural resources, including imposition of institutional controls that are sufficient to protect public health, safety, and welfare; the environment; and natural resources.

(4) Closure Plans for all impoundments shall include all of the following:

a. Facility and coal combustion residuals surface impoundment description. – A description of the operation of the site that shall include, at a minimum, all of the following:

1. Site history and history of site operations, including details on the manner in which coal combustion residuals have been stored and disposed of historically.
2. Estimated volume of material contained in the impoundment.
3. Analysis of the structural integrity of dikes or dams associated with impoundment.
4. All sources of discharge into the impoundment, including volume and characteristics of each discharge.
5. Whether the impoundment is lined, and, if so, the composition thereof.
6. A summary of all information available concerning the impoundment as a result of inspections and monitoring conducted pursuant to this Part and otherwise available.

b. Site maps, which, at a minimum, illustrate all of the following:

1. All structures associated with the operation of any coal combustion residuals surface impoundment located on the site. For purposes of this sub-subdivision, the term "site" shall mean the land or waters within the property boundary of the applicable electric generating station.
2. All current and former coal combustion residuals disposal and storage areas on the site, including details concerning coal combustion residuals produced historically by the electric generating station and disposed of through transfer to structural fills.
3. The property boundary for the applicable site, including established compliance boundaries within the site.
4. All potential receptors within 2,640 feet from established compliance boundaries.
5. Topographic contour intervals of the site shall be selected to enable an accurate representation of site features and terrain and in most cases should be less than 20-foot intervals.
6. Locations of all sanitary landfills permitted pursuant to this Article on the site, which are actively receiving waste or are closed, as well as the established compliance boundaries and components of associated groundwater and surface water monitoring systems.
7. All existing and proposed groundwater monitoring wells associated with any coal combustion residuals surface impoundment on the site.

8. All existing and proposed surface water sample collection locations associated with any coal combustion residuals surface impoundment on the site.

c. The results of a hydrogeologic, geologic, and geotechnical investigation of the site, including, at a minimum, all of the following:

1. A description of the hydrogeology and geology of the site.
2. A description of the stratigraphy of the geologic units underlying each coal combustion residuals surface impoundment located on the site.
3. The saturated hydraulic conductivity for (i) the coal combustion residuals within any coal combustion residuals surface impoundment located on the site and (ii) the saturated hydraulic conductivity of any existing liner installed at an impoundment, if any.
4. The geotechnical properties for (i) the coal combustion residuals within any coal combustion residuals surface impoundment located on the site, (ii) the geotechnical properties of any existing liner installed at an impoundment, if any, and (iii) the uppermost identified stratigraphic unit underlying the impoundment, including the soil classification based upon the Unified Soil Classification System, in-place moisture content, particle size distribution, Atterberg limits, specific gravity, effective friction angle, maximum dry density, optimum moisture content, and permeability.
5. A chemical analysis of the coal combustion residuals surface impoundment, including water, coal combustion residuals, and coal combustion residuals-affected soil.
6. Identification of all substances with concentrations determined to be in excess of the groundwater quality standards for the substance established by Subchapter L of Chapter 2 of Title 15A of the North Carolina Administrative Code, including all laboratory results for these analyses.
7. Summary tables of historical records of groundwater sampling results.
8. A map that illustrates the potentiometric contours and flow directions for all identified aquifers underlying impoundments (shallow, intermediate, and deep) and the horizontal extent of areas where groundwater quality standards established by Subchapter L of Chapter 2 of Title 15A of the North Carolina Administrative Code for a substance are exceeded.
9. Cross-sections that illustrate the following: the vertical and horizontal extent of the coal combustion residuals within an impoundment; stratigraphy of the geologic units underlying a impoundment; and the vertical extent of areas where groundwater quality standards established by Subchapter L of Chapter 2 of Title 15A of the North Carolina Administrative Code for a substance are exceeded.

d. The results of groundwater modeling of the site that shall include, at a minimum, all of the following:

1. An account of the design of the proposed Closure Plan that is based on the site hydrogeologic conceptual model developed and includes (i) predictions on post-closure groundwater elevations and groundwater flow directions and velocities, including the effects on and from the potential receptors, and (ii) predictions at the compliance boundary for substances with concentrations determined to be in excess of the groundwater quality standards for the substance established Subchapter L of Chapter 2 of Title 15A of the North Carolina Administrative Code.
2. Predictions that include the effects on the groundwater chemistry and should describe migration, concentration, mobilization, and fate for substances with concentrations determined to be in excess of the groundwater quality standards for the substance established by Subchapter L of Chapter 2 of Title 15A of the North Carolina Administrative Code pre- and post-closure, including the effects on and from potential receptors.
3. A description of the groundwater trend analysis methods used to demonstrate compliance with groundwater quality standards for the substance established by Subchapter L of Chapter 2 of Title 15A of the North Carolina Administrative Code and requirements for corrective action of groundwater contamination established by Subchapter L of Chapter 2 of Title 15A of the North Carolina Administrative Code.

e. A description of any plans for beneficial use of the coal combustion residuals in compliance with the requirements of Section .1200 of Subchapter T of Chapter 2 of Title 15A of the North Carolina Administrative Code and Section .1700 of Subchapter B of Chapter 13 of Title 15A of the North Carolina Administrative Code.

f. All engineering drawings, schematics, and specifications for the proposed Closure Plan. If required by Chapter 89C of the General Statutes, engineering design documents should be prepared, signed, and sealed by a professional engineer.

g. A description of the construction quality assurance and quality control program to be implemented in conjunction with the Closure Plan, including the responsibilities and authorities for monitoring and testing activities, sampling strategies, and reporting requirements.

h. A description of the provisions for disposal of wastewater and management of stormwater and the plan for obtaining all required permits.

i. A description of the provisions for the final disposition of the coal combustion residuals. If the coal combustion residuals are to be removed, the owner must (i) identify the location and permit number for the coal combustion residuals landfills, industrial landfills, or municipal solid waste landfills in which the coal combustion residuals will be disposed and (ii) in the case where the coal combustion residuals are planned for beneficial use, the location and manner in which the residuals will be temporarily stored. If the coal combustion residuals are to be left in the impoundment, the owner must (i) in the case of closure pursuant to sub-subdivision (a)(1)a. of

this section, provide a description of how the ash will be stabilized prior to completion of closure in accordance with closure and post-closure requirements established by Section .1627 of Subchapter B of Chapter 13 of Title 15A of the North Carolina Administrative Code and (ii) in the case of closure pursuant to sub-subdivision (a)(1)b. of this section, provide a description of how the ash will be stabilized pre- and post-closure. If the coal combustion residuals are to be left in the impoundment, the owner must provide an estimate of the volume of coal combustion residuals remaining.

j. A list of all permits that will need to be acquired or modified to complete closure activities.

k. A description of the plan for post-closure monitoring and care for an impoundment for a minimum of 30 years. The length of the post-closure care period may be (i) proposed to be decreased or the frequency and parameter list modified if the owner demonstrates that the reduced period or modifications are sufficient to protect public health, safety, and welfare; the environment; and natural resources and (ii) increased by the Department at the end of the post-closure monitoring and care period if there are statistically significant increasing groundwater quality trends or if contaminant concentrations have not decreased to a level protective of public health, safety, and welfare; the environment; and natural resources. If the owner determines that the post-closure care monitoring and care period is no longer needed and the Department agrees, the owner shall provide a certification, signed and sealed by a professional engineer, verifying that post-closure monitoring and care has been completed in accordance with the post-closure plan. If required by Chapter 89C of the General Statutes, the proposed plan for post-closure monitoring and care should be signed and sealed by a professional engineer. The plan shall include, at a minimum, all of the following:

1. A demonstration of the long-term control of all leachate, affected groundwater, and stormwater.
2. A description of a groundwater monitoring program that includes (i) post-closure groundwater monitoring, including parameters to be sampled and sampling schedules; (ii) any additional monitoring well installations, including a map with the proposed locations and well construction details; and (iii) the actions proposed to mitigate statistically significant increasing groundwater quality trends.

l. An estimate of the milestone dates for all activities related to closure and post-closure.

m. A description of the anticipated future use of the site and the necessity for the implementation of institutional controls following closure, including property use restrictions, and requirements for recordation of notices documenting the presence of contamination, if applicable, or historical site use.

(b) The Department shall review a proposed Coal Combustion Residuals Surface Impoundment Closure Plan for consistency with the minimum requirements set forth in subsection (a) of this section and whether the proposed Closure Plan is protective of public health, safety, and welfare; the environment; and natural resources and otherwise complies with

the requirements of this Part. Prior to issuing a decision on a proposed Closure Plan, the Department shall provide for public participation on the proposed Closure Plan as follows:

(1) The Department shall make copies of the proposed Closure Plan available for inspection as follows:

a. A copy of the proposed Closure Plan shall be provided to the local health director.

b. A copy of the proposed Closure Plan shall be provided to the public library located in closest proximity to the site in the county or counties in which the site is located.

c. The Department shall post a copy of the proposed Closure Plan on the Department's Web site.

d. The Department may place copies of the proposed Closure Plan in other locations so as to assure the availability thereof to the public.

(2) Before approving a proposed Closure Plan, the Department shall give notice as follows:

a. A notice and summary of the proposed Closure Plan shall be published weekly for a period of three consecutive weeks in a newspaper having general circulation in the county or counties where the site is located.

b. Notice that a proposed Closure Plan has been developed shall be given by first-class mail to persons who have requested such notice. Such notice shall include a summary of the proposed Closure Plan and state the locations where a copy of the proposed Closure Plan is available for inspection. The Department shall maintain a mailing list of persons who request notice pursuant to this section.

c. Notice that a proposed Closure Plan has been developed shall be given by electronic mail to persons who have requested such notice. Such notice shall include a summary of the proposed Closure Plan and state the locations where a copy of the proposed Closure Plan is available for inspection. The Department shall maintain a mailing list of persons who request notice pursuant to this section.

(3) No later than 60 days after receipt of a proposed Closure Plan, the Department shall conduct a public meeting in the county or counties in which the site is located to explain the proposed Closure Plan and alternatives to the public. The Department shall give notice of the hearing at least 30 days prior to the date thereof by all of the following methods:

a. Publication as provided in subdivision (1) of this subsection, with first publication to occur not less than 30 days prior to the scheduled date of the hearing.

b. First-class mail to persons who have requested notice as provided in subdivision (2) of this subsection.

c. Electronic mail to persons who have requested notice as provided in subdivision (2) of this subsection.

(4) At least 30 days from the latest date on which notice is provided pursuant to subdivision (2) of this subsection shall be allowed for the receipt of written comment on the proposed Closure Plan prior to its approval. At least 20 days will be allowed for receipt of written comment following a hearing conducted pursuant to subdivision (3) of this subsection prior to the approval of the proposed Closure Plan.

(c) The Department shall disapprove a proposed Coal Combustion Residuals Surface Impoundment Closure Plan unless the Department finds that the Closure Plan is protective of

public health, safety, and welfare; the environment; and natural resources and otherwise complies with the requirements of this Part. The Department shall provide specific findings to support its decision to approve or disapprove a proposed Closure Plan. If the Department disapproves a proposed Closure Plan, the person who submitted the Closure Plan may seek review as provided in Article 3 of Chapter 150B of the General Statutes. If the Department fails to approve or disapprove a proposed Closure Plan within 120 days after a complete Closure Plan has been submitted, the person who submitted the proposed Closure Plan may treat the Closure Plan as having been disapproved at the end of that time period. The Department may require a person who proposes a Closure Plan to supply any additional information necessary for the Department to approve or disapprove the Closure Plan.

(d) Within 30 days of its approval of a Coal Combustion Residuals Surface Impoundment Closure Plan, the Department shall submit the Closure Plan to the Coal Ash Management Commission. The Commission shall evaluate all information submitted in accordance with this Part related to the Closure Plan and any other information the Commission deems relevant. The Commission shall only approve the Closure Plan if it determines that the Closure Plan was developed in accordance with this section; that implementation of the Closure Plan according to the Closure Plan's schedule is technologically feasible; and that the benefits to public health, safety, and welfare; the environment; and natural resources outweigh the negative impacts on electricity costs and reliability. The Commission shall issue its determination in writing, including findings in support of its determination. If the Commission fails to act on a Closure Plan within 60 days of receipt of the Closure Plan, the Closure Plan shall be deemed approved. Parties aggrieved by a final decision of the Commission pursuant to this subsection may appeal the decision as provided under Article 4 of Chapter 150B of the General Statutes.

(e) As soon as practicable, but no later than 60 days after a Coal Combustion Residuals Surface Impoundment Closure Plan has been approved by the Coal Ash Management Commission, the owner of the coal combustion residuals impoundment shall begin implementation of the approved plan. Modifications to an approved closure plan may only be allowed in conformance with the requirements of this Part, upon written request of an owner of an impoundment, with the written approval of the Department, and after public notice of the change in accordance with the requirements of subdivision (2) of subsection (b) of this section.

(f) Nothing in this section shall be construed to obviate the need for sampling, remediation, and monitoring activities at the site as required by G.S. 130A-309.209 and G.S. 130A-309.310.

"Subpart 3. Use of Coal Combustion Products in Structural Fill.

"**§ 130A-309.213. Applicability.**

The provisions of this Subpart shall apply to the siting, design, construction, operation, and closure of projects that utilize coal combustion products for structural fill.

"**§ 130A-309.214. Permit requirements for projects using coal combustion products for structural fill.**

(a) Permit Requirements. –

(1) Projects using coal combustion products as structural fill involving the placement of less than 10,000 tons of coal combustion products per acre or less than 100,000 tons of coal combustion products in total per project, which proceed in compliance with the requirements of this section and rules adopted thereunder, are deemed permitted. Any person proposing such a project shall submit an application for a permit to the Department upon such form as the Department may prescribe including, at a minimum, the information set forth in subdivision (1) of subsection (b) of this section.

(2) No person shall commence or operate a project using coal combustion residuals as structural fill involving the placement of 10,000 or more tons of

coal combustion products per acre or 100,000 or more tons of coal combustion products in total per project without first receiving an individual permit from the Department. Any person proposing such a project shall submit an application for a permit to the Department upon such form as the Department may prescribe including, at a minimum, the information set forth in subdivisions (1) and (2) of subsection (b) of this section.

(b) Information to Be Provided to the Department. – At least 60 days before initiation of a proposed project using coal combustion products as structural fill, the person proposing the project shall submit all of the following information to the Department on a form as prescribed by the Department:

(1) For projects involving placement of less than 10,000 tons of coal combustion products per acre or less than 100,000 tons of coal combustion products in total per project, the person shall provide, at a minimum, the following information:

a. The description of the nature, purpose, and location of the project.

b. The estimated start and completion dates for the project.

c. An estimate of the volume of coal combustion products to be used in the project.

d. A Toxicity Characteristic Leaching Procedure analysis from a representative sample of each different coal combustion product's source to be used in the project for, at a minimum, all of the following constituents: arsenic, barium, cadmium, lead, chromium, mercury, selenium, and silver.

e. A signed and dated statement by the owner of the land on which the structural fill is to be placed, acknowledging and consenting to the use of coal combustion products as structural fill on the property and agreeing to record the fill in accordance with the requirements of G.S. 130A-390.218.

f. The name, address, and contact information for the generator of the coal combustion products.

g. Physical location of the project at which the coal combustion products were generated.

(2) For projects involving placement of 10,000 or more tons of coal combustion products per acre or 100,000 or more tons of coal combustion products in total per project, the person shall provide all information required pursuant to subdivision (1) of this subsection and shall provide construction plans for the project, including a stability analysis as the Department may require. If required by the Department, a stability analysis shall be prepared, signed, and sealed by a professional engineer in accordance with sound engineering practices. A construction plan shall, at a minimum, include a groundwater monitoring system and an encapsulation liner system in compliance with the requirements of G.S. 130A-309.215.

"**§ 130A-309.215. Design requirements for projects using coal combustion products for structural fill.**

(a) Design, Construction, and Operation of Structural Fill Sites. –

(1) A structural fill site must be designed, constructed, operated, closed, and maintained in such a manner as to minimize the potential for harmful release of constituents of coal combustion residuals to the environment or create a nuisance to the public.

(2) Coal combustion products shall be collected and transported in a manner that will prevent nuisances and hazards to public health and safety. Coal

combustion products shall be moisture conditioned, as necessary, and transported in covered trucks to prevent dusting.

(3) Coal combustion products shall be placed uniformly and compacted in lifts not exceeding one foot in thickness and shall be compacted to standards, including in-situ density, compaction effort, and relative density, specified by a registered professional engineer for a specific end-use purpose.

(4) Equipment shall be provided which is capable of placing and compacting the coal combustion products and handling the earthwork required during the periods that coal combustion products are received at the fill project.

(5) The coal combustion product structural fill project shall be effectively maintained and operated as a nondischarge system to prevent discharge to surface water resulting from the project.

(6) The coal combustion product structural fill project shall be effectively maintained and operated to ensure no violations of groundwater standards adopted by the Commission pursuant to Article 21 of Chapter 143 of the General Statutes due to the project.

(7) Surface waters resulting from precipitation shall be diverted away from the active coal combustion product placement area during filling and construction activity.

(8) Site development shall comply with the North Carolina Sedimentation Pollution Control Act of 1973, as amended.

(9) The structural fill project shall be operated with sufficient dust control measures to minimize airborne emissions and to prevent dust from creating a nuisance or safety hazard and shall not violate applicable air quality regulations.

(10) Coal combustion products utilized on an exterior slope of a structural fill shall not be placed with a slope greater than 3.0 horizontal to 1.0 vertical.

(11) Compliance with this subsection shall not insulate any of the owners or operators of a structural fill project from claims for damages to surface waters, groundwater, or air resulting from the operation of the structural fill project. If the project fails to comply with the requirements of this section, the constructor, generator, owner, or operator shall notify the Department and shall take any immediate corrective action as may be required by the Department.

(b) Liners, Leachate Collection System, Cap, and Groundwater Monitoring System Required for Large Structural Fills. – For projects involving placement of 10,000 or more tons of coal combustion products per acre or 100,000 or more tons of coal combustion products in total per project shall have an encapsulation liner system. The encapsulation liner system shall be constructed on and around the structural fill and shall be designed to efficiently contain, collect, and remove leachate generated by the coal combustion products, as well as separate the coal combustion products from any exposure to surrounding environs. At a minimum, the components of the liner system shall consist of the following:

(1) A base liner. The base liner shall consist of one of the following designs:

a. A composite liner utilizing a compacted clay liner. This composite liner is one liner that consists of two components: a geomembrane liner installed above and in direct and uniform contact with a compacted clay liner with a minimum thickness of 24 inches (0.61 m) and a permeability of no more than 1.0×10^{-7} centimeters per second.

b. A composite liner utilizing a geosynthetic clay liner. This composite liner is one liner that consists of three components: a geomembrane

liner installed above and in uniform contact with a geosynthetic clay liner overlying a compacted clay liner with a minimum thickness of 18 inches (0.46 m) and a permeability of no more than 1.0 X 10^{-5} centimeters per second.

(2) A leachate collection system, which is constructed directly above the base liner and shall be designed to effectively collect and remove leachate from the project.

(3) A cap liner, which shall consist of two components: a geomembrane liner installed across the limits of the coal combustion products covered with a minimum thickness of 24 inches (0.61 m) compacted earth, and a permeability of no more than 1.0 X 10^{-7} centimeters per second, and an additional surface six inches of soil capable of supporting native plant growth.

(4) A groundwater monitoring system, which shall be approved by the Department and, at a minimum, consist of all of the following:

a. A sufficient number of wells, installed at appropriate locations and depths, to yield groundwater samples from the uppermost aquifer that represent the quality of groundwater passing the relevant point of compliance as approved by the Department. A downgradient monitoring system shall be installed at the relevant point of compliance so as to ensure detection of groundwater contamination in the uppermost aquifer.

b. A proposed monitoring plan, which shall be certified by a licensed geologist or professional engineer to be effective in providing early detection of any release of hazardous constituents from any point in a structural fill or leachate surface impoundment to the uppermost aquifer, so as to be protective of public health, safety, and welfare; the environment; and natural resources.

c. A groundwater monitoring program, which shall include consistent sampling and analysis procedures that are designed to ensure monitoring results that provide an accurate representation of groundwater quality at the background and downgradient wells. Monitoring shall be conducted through construction and the post-closure care period. The sampling procedures and frequency shall be protective of public health, safety, and welfare; the environment; and natural resources.

d. A detection monitoring program for all Appendix I constituents. For purposes of this subdivision, the term "Appendix I" means Appendix I to 40 C.F.R. Part 258, "Appendix I Constituents for Detection Monitoring," including subsequent amendments and editions.

e. An assessment monitoring program and corrective action plan if one or more of the constituents listed in Appendix I is detected in exceedance of a groundwater protection standard.

"**§ 130A-309.216. Financial assurance requirements for large projects using coal combustion products for structural fill.**

(a) For projects involving placement of 10,000 or more tons of coal combustion products per acre or 100,000 or more tons of coal combustion products in total per project, the applicant for a permit or a permit holder to construct or operate a structural fill shall establish financial assurance that will ensure that sufficient funds are available for facility closure, post-closure maintenance and monitoring, any corrective action that the Department may require, and to satisfy any potential liability for sudden and nonsudden accidental occurrences,

and subsequent costs incurred by the Department in response to an incident at a structural fill project, even if the applicant or permit holder becomes insolvent or ceases to reside, be incorporated, do business, or maintain assets in the State.

(b) To establish sufficient availability of funds under this section, the applicant for a permit or a permit holder may use insurance, financial tests, third-party guarantees by persons who can pass the financial test, guarantees by corporate parents who can pass the financial test, irrevocable letters of credit, trusts, surety bonds, or any other financial device, or any combination of the foregoing shown to provide protection equivalent to the financial protection that would be provided by insurance if insurance were the only mechanism used.

(c) The applicant for a permit or a permit holder, and any parent, subsidiary, or other affiliate of the applicant, permit holder, or parent, including any joint venturer with a direct or indirect interest in the applicant, permit holder, or parent shall be a guarantor of payment for closure, post-closure maintenance and monitoring, any corrective action that the Department may require, and to satisfy any potential liability for sudden and nonsudden accidental occurrences arising from the operation of the hazardous waste facility.

(d) Assets used to meet the financial assurance requirements of this section shall be in a form that will allow the Department to readily access funds for the purposes set out in this section. Assets used to meet financial assurance requirements of this section shall not be accessible to the permit holder except as approved by the Department.

(e) The Department may provide a copy of any filing that an applicant for a permit or a permit holder submits to the Department to meet the financial responsibility requirements under this section to the State Treasurer. The State Treasurer shall review the filing and provide the Department with a written opinion as to the adequacy of the filing to meet the purposes of this section, including any recommended changes.

(f) In order to continue to hold a permit for a structural fill, a permit holder must maintain financial responsibility as required by this Part and must provide any information requested by the Department to establish that the permit holder continues to maintain financial responsibility.

(g) An applicant for a permit or a permit holder shall satisfy the Department that the applicant or permit holder has met the financial responsibility requirements of this Part before the Department is required to otherwise review the application.

"**§ 130A-309.217. Closure of projects using coal combustion products for structural fill.**

(a) Closure of Structural Fill Projects. –

(1) No later than 30 working days or 60 calendar days, whichever is less, after coal combustion product placement has ceased, the final cover shall be applied over the coal combustion product placement area.

(2) The final surface of the structural fill shall be graded and provided with drainage systems that do all of the following:

a. Minimize erosion of cover materials.

b. Promote drainage of area precipitation, minimize infiltration, and prevent ponding of surface water on the structural fill.

(3) Other erosion control measures, such as temporary mulching, seeding, or silt barriers shall be installed to ensure no visible coal combustion product migration to adjacent properties until the beneficial end use of the project is realized.

(4) The constructor or operator shall submit a certification to the Department signed and sealed by a registered professional engineer or signed by the Secretary of the Department of Transportation or his designee certifying that all requirements of this Subpart have been met. The report shall be submitted within 30 days of application of the final cover.

(b) Additional Closure and Post-Closure Requirements for Large Structural Fill Projects. – For projects involving placement of 10,000 or more tons of coal combustion products per acre or 100,000 or more tons of coal combustion products in total per project, a constructor or operator shall conduct post-closure care. Post-closure care shall be conducted for 20 years, which period may be increased by the Department upon a determination that a longer period is necessary to protect public health, safety, welfare; the environment; and natural resources, or decreased upon a determination that a shorter period is sufficient to protect public health, safety, welfare; the environment; and natural resources. Additional closure and post-closure requirements include, at a minimum, all of the following:

(1) Submit a written closure plan, which includes all of the following:

a. A description of the cap liner system and the methods and procedures used to install the cap that conforms to the requirement in G.S. 130A-309.215(b).

b. An estimate of the largest area of the structural fill project ever requiring the cap liner system at any time during the overall construction period that is consistent with the drawings prepared for the structural fill.

c. An estimate of the maximum inventory of coal combustion products ever on-site over the construction duration of the structural fill.

d. A schedule for completing all activities necessary to satisfy the closure criteria set forth in this section.

(2) Submit a written post-closure plan, which includes all of the following:

a. A description of the monitoring and maintenance activities required for the project and the frequency at which these activities must be performed.

b. The name, address, and telephone number of the person or office responsible for the project during the post-closure period.

c. A description of the planned uses of the property during the post-closure period. Post-closure use of the property must not disturb the integrity of the cap system, base liner system, or any other components of the containment system, or the function of the monitoring systems unless necessary to comply with the requirements of this subsection. The Department may approve disturbance if the constructor or operator demonstrates that disturbance of the cap system, base liner system, or other component of the containment system will not increase the potential threat to public health, safety, and welfare; the environment; and natural resources.

d. The cost estimate for post-closure activities required under this section.

(3) Maintain the integrity and effectiveness of any cap system, including repairing the system as necessary to correct the defects of settlement, subsidence, erosion, or other events and preventing run-on and runoff from eroding or otherwise damaging the cap system.

(4) Maintain and operate the leachate collection system as necessary to allow the coal combustion products to reach terminal moisture condition. Upon a satisfactory showing to the Department by the constructor or operator that the encapsulating liner system has eliminated any recharge sources, and contact water and leachate generation has ceased and no longer poses a threat to public health, safety, and welfare; the environment; and natural resources, the leachate collection system may be closed.

(5) Monitor and maintain the groundwater monitoring system in accordance with G.S. 130A-309.215 and monitor the surface water in accordance with 15A NCAC 13B .0602.

(c) Completion of Post-Closure Care. – Following completion of the post-closure care period, the constructor or operator shall submit a certification, signed by a registered professional engineer, to the Department, verifying that post-closure care has been completed in accordance with the post-closure plan, and include the certification in the operating record.

"**§ 130A-309.218. Recordation of projects using coal combustion products for structural fill.**

(a) The owner of land where coal combustion products have been used in volumes of more than 1,000 cubic yards shall file a statement of the volume and locations of the coal combustion residuals with the Register of Deeds in the county or counties where the property is located. The statement shall identify the parcel of land according to the complete legal description on the recorded deed, either by metes and bounds, or by reference to a recorded plat map. The statement shall be signed and acknowledged by the landowners in the form prescribed by G.S. 47-38 through G.S. 47-43.

(b) Recordation shall be required within 90 days after completion of a structural fill project using coal combustion residuals.

(c) The Register of Deeds, in accordance with G.S. 161-14, shall record the notarized statement and index it in the Grantor Index under the name of the owner of the land. The original notarized statement with the Register's seal and the date, book, and page number of recording shall be returned to the Department after recording.

(d) When property with more than 1,000 cubic yards of coal combustion products is sold, leased, conveyed, or transferred in any manner, the deed or other instrument of transfer shall contain in the description section in no smaller type than used in the body of the deed or instrument a statement that coal combustion products have been used as structural fill material on the property.

"**§ 130A-309.219. Department of Transportation projects.**

The Department and the Department of Transportation may agree on specific design, construction, siting, operation, and closure criteria that may apply to the Department of Transportation structural fill projects.

"**§ 130A-309.220. Inventory and inspection of certain structural fill projects.**

No later than July 1, 2015, the Department shall prepare an inventory of all structural fill projects with a volume of 10,000 cubic yards or more. The Department shall update the structural fill project inventory at least annually. The Department shall inspect each structural fill project with a volume of 10,000 cubic yards or more at least annually to determine if the project or facility has been constructed and operated in compliance with 15A NCAC 13B .1701, et seq., (Requirements for Beneficial Use of Coal Combustion By-Products) and all other applicable laws.

"**§ 130A-309.221. Amendments required to rules.**

Requirements under existing rules governing the use of coal combustion products for structural fill that do not conflict with the provisions of this Subpart shall continue to apply to such projects. The Environmental Management Commission shall amend existing rules governing the use of coal combustion products for structural fill as necessary to implement the provisions of this Subpart. Such rules shall be exempt from the requirements of G.S. 150B-19.3."

SECTION 3.(b) Notwithstanding G.S. 130A-309.211 or G.S. 130A-309.212, as enacted by Section 3(a) of this act, and except as otherwise preempted by the requirements of federal law, the following coal combustion residuals surface impoundments shall be deemed high-priority, and, as soon as practicable, but no later than August 1, 2019, shall be closed in conformance with Section 3(c) of this act:

(1) Coal combustion residuals surface impoundments located at the Dan River Steam Station, owned and operated by Duke Energy Progress, and located in Rockingham County.

(2) Coal combustion residuals surface impoundments located at the Riverbend Steam Station, owned and operated by Duke Energy Carolinas, and located in Gaston County.

(3) Coal combustion residuals surface impoundments located at the Asheville Steam Electric Generating Plant, owned and operated by Duke Energy Progress, and located in Buncombe County.

(4) Coal combustion residuals surface impoundments located at the Sutton Plant, owned and operated by Duke Energy Progress, and located in New Hanover County.

SECTION 3.(c) The impoundments identified in subsection (b) of this section shall be closed as follows:

(1) The impoundments shall be dewatered.

(2) All coal combustion residuals shall be removed from the impoundments and transferred for (i) disposal in a coal combustion residuals landfill, industrial landfill, or municipal solid waste landfill or (ii) use in a structural fill or other beneficial use as allowed by law. Any disposal or use of coal combustion products pursuant to this section shall comply with the moratoriums enacted under Section 4(a) and Section 5(a) of this act and any extensions thereof. The use of coal combustion products (i) as structural fill, as authorized by Section 4(b) of this act, shall be conducted in accordance with the requirements of Subpart 3 of Part 2I of Article 9 of the General Statutes, as enacted by Section 3(a) of this act, and (ii) for other beneficial uses shall be conducted in accordance with the requirements of 15A NCAC 13B .1701, et seq., (Requirements for Beneficial Use of Coal Combustion By-Products).

(3) Where groundwater quality is degraded as a result of the impoundment, corrective action to restore groundwater quality shall be implemented by the owner or operator as provided in G.S. 130A-309.204.

SECTION 3.(d) G.S. 130A-290(a) reads as rewritten:

"**§ 130A-290. Definitions.**

(a) Unless a different meaning is required by the context, the following definitions shall apply throughout this Article:

...

(2b) ~~"Combustion products"~~"Coal combustion residuals" means residuals, including fly ash, bottom ash, boiler slag, mill rejects, and flue gas desulfurization residue produced by a coal-fired generating ~~unit.~~unit destined for disposal. The term does not include coal combustion products as defined in G.S. 130A-309.201(4).

(2c) ~~"Combustion products landfill"~~"Coal combustion residuals landfill" means a facility or unit for the disposal of combustion products, where the landfill is located at the same facility with the coal-fired generating unit or units producing the combustion products, and where the landfill is located wholly or partly on top of a facility that is, or was, being used for the disposal or storage of such combustion products, including, but not limited to, landfills, wet and dry ash ponds, and structural fill facilities.

...

(3a) "Commission" means the Environmental Management Commission.

...

(20) "Open dump" means any facility or site where solid waste is disposed of that is not a sanitary landfill and that is not a coal combustion residuals surface impoundment or a facility for the disposal of hazardous waste.

...

(35) "Solid waste" means any hazardous or nonhazardous garbage, refuse or sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, domestic sewage and sludges generated by the treatment thereof in sanitary sewage collection, treatment and disposal systems, and other material that is either discarded or is being accumulated, stored or treated prior to being discarded, or has served its original intended use and is generally discarded, including solid, liquid, semisolid or contained gaseous material resulting from industrial, institutional, commercial and agricultural operations, and from community activities. Notwithstanding sub-sub-subdivision b.3. of this subdivision, the term includes coal combustion residuals. The term does not include:

a. Fecal waste from fowls and animals other than humans.

b. Solid or dissolved material in:

1. Domestic sewage and sludges generated by treatment thereof in sanitary sewage collection, treatment and disposal systems which are designed to discharge effluents to the surface waters.

2. Irrigation return flows.

3. Wastewater discharges and the sludges incidental to and generated by treatment which are point sources subject to permits granted under Section 402 of the Water Pollution Control Act, as amended (P.L. 92-500), and permits granted under G.S. 143-215.1 by the ~~Environmental Management Commission.~~ Commission, including coal combustion products. However, any sludges that meet the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this Article.

...."

SECTION 3.(e) This section is effective when it becomes law. Subpart 3 of Part 2I of Article 9 of the General Statutes, as enacted by Section 3(a) of this act, applies to the use of coal combustion products as structural fill contracted for on or after that date. The first report due under G.S. 130A-309.210, as enacted by Section 3(a) of this act, is due October 1, 2014. Members to be appointed pursuant to G.S. 130A-309.202(b), as enacted by Section 3(a) of this act, shall be appointed no later than September 1, 2014.

PART III. MORATORIUMS AND STUDY ON (1) USE OF COAL COMBUSTION PRODUCTS AS STRUCTURAL FILL AND (2) CONSTRUCTION OR EXPANSION OF COMBUSTION PRODUCTS LANDFILLS

SECTION 4.(a) Notwithstanding 15A NCAC 13B .1701, et seq., and except as provided in Section 4(b) of this act, the use of coal combustion products, as defined in G.S. 130A-290, as structural fill is prohibited until August 1, 2015, in order to allow the Department of Environment and Natural Resources, the Environmental Management Commission, and the General Assembly time to review and evaluate the use of coal combustion residuals as structural fill.

SECTION 4.(b) Coal combustion products may be used as structural fill for any of the following types of projects:

(1) A project where the structural fill is used with a base liner, leachate collection system, cap liner, groundwater monitoring system and where the constructor or operator establishes financial assurance, as required by G.S. 130A–309.216.

(2) As the base or sub-base of a concrete or asphalt paved road constructed under the authority of a public entity.

SECTION 4.(c) The use of coal combustion products (i) as structural fill as authorized by Section 4(b) of this act shall be conducted in accordance with the requirements of Subpart 3 of Part 2I of Article 9 of the General Statutes, as enacted by Section 3(a) of this act, and (ii) for other beneficial uses shall be conducted in accordance with the requirements of 15A NCAC 13B .1701, et seq., (Requirements for Beneficial Use of Coal Combustion By-Products).

SECTION 4.(d) The Department of Environment and Natural Resources and the Environmental Management Commission shall jointly review Subpart 3 of Part 2I of Article 9 of the General Statutes, as enacted by Section 3(a) of this act, and 15A NCAC 13B .1701, et seq. In conducting this review, the Department and Commission shall do all of the following:

(1) Review the uses of coal combustion products as structural fill and the regulation of this use under Subpart 3 of Part 2I of Article 9 of the General Statutes, as enacted by Section 3(a) of this act, to protect public health, safety, and welfare; the environment; and natural resources.

(2) Review the uses of coal combustion products for other beneficial uses and the regulation of these uses under 15A NCAC 13B .1701, et seq., and other applicable rules, to determine if the rules are sufficient to protect public health, safety, and welfare; the environment; and natural resources.

(3) Evaluate additional opportunities for the use of coal combustion products as structural fill and for other beneficial uses that would reduce the volume of coal combustion residuals that are being disposed of in coal combustion residuals landfills, industrial landfills, or municipal solid waste landfills while still being protective of public health, safety, and welfare; the environment; and natural resources.

(4) Monitor any actions of the United States Environmental Protection Agency regarding the use of coal combustion products as structural fill or for other beneficial uses.

(5) Jointly report to the Environmental Review Commission no later than January 15, 2015, on their findings and recommendations regarding the use of coal combustion products as structural fill and for other beneficial uses.

SECTION 4.(e) All electric generating facilities owned by a public utility that produce coal combustion residuals and coal combustion products shall issue a request for proposals on or before December 31, 2014, for (i) the conduct of a market analysis for the concrete industry and other industries that might beneficially use coal combustion residuals and coal combustion products; (ii) the study of the feasibility and advisability of installation of technology to convert existing and newly generated coal combustion residuals to commercial-grade coal combustion products suitable for use in the concrete industry and other industries that might beneficially use coal combustion residuals; and (iii) an examination of all innovative technologies that might be applied to diminish, recycle or reuse, or mitigate the impact of existing and newly generated coal combustion residuals. All electric generating facilities shall present the materials and information received in response to a request for proposals issued pursuant to this section and an assessment of the materials and information, including a forecast of specific actions to be taken in response to the materials and information received, to the Environmental Management Commission and the Coal Ash Management Commission on or before August 1, 2016.

SECTION 4.(f) This section is effective when it becomes law and applies to the use of coal combustion residuals as structural fill contracted for on or after that date.

SECTION 5.(a) There is hereby established a moratorium on construction of new or expansion of existing coal combustion residuals landfills, as defined by G.S. 130A-290(2c) and amended by Section 3(d) of this act. The purpose of this moratorium is to allow the State to assess the risks to public health, safety, welfare; the environment; and natural resources of coal combustion residuals impoundments located beneath coal combustion residuals landfills to determine the advisability of continued operation of these landfills.

SECTION 5.(b) The Department of Environment and Natural Resources shall evaluate each coal combustion residuals landfills currently operating in the State, and, in particular, assess the risks to public health, safety, welfare; the environment; and natural resources, of coal combustion residuals surface impoundments located beneath coal combustion residuals landfills to determine the advisability of continued operation of these landfills. The Department shall report to the Environmental Review Commission no later than January 15, 2015, on its findings and recommendations concerning the risk assessment of each of these sites and the advisability of continued operation of coal combustion residuals landfills.

SECTION 5.(c) This section is effective when it becomes law and expires August 1, 2015.

PART IV. STRENGTHEN THE REPORTING AND NOTIFICATION REQUIREMENTS APPLICABLE TO DISCHARGES OF WASTEWATER TO WATERS OF THE STATE; REQUIRE CERTAIN EMERGENCY CALLS TO BE RECORDED

SECTION 6.(a) G.S. 143-215.1C reads as rewritten:

"**§ 143-215.1C. Report to wastewater system customers on system performance; <u>report discharge of untreated wastewater to the Department; publication of notice of discharge of untreated wastewater and waste.**

(a) Report to Wastewater System Customers. – The owner or operator of any wastewater collection or treatment works, the operation of which is primarily to collect or treat municipal or domestic wastewater and for which a permit is issued under this Part and having an average annual flow greater than 200,000 gallons per day, shall provide to the users or customers of the collection system or treatment works and to the Department an annual report that summarizes the performance of the collection system or treatment works and the extent to which the collection system or treatment works has violated the permit or federal or State laws, regulations, or rules related to the protection of water quality. The report shall be prepared on either a calendar or fiscal year basis and shall be provided no later than 60 days after the end of the calendar or fiscal year.

<u>(a1) Report Discharge of Untreated Wastewater to the Department. – The owner or operator of any wastewater collection or treatment works for which a permit is issued under this Part shall report a discharge of 1,000 gallons or more of untreated wastewater to the surface waters of the State to the Department within 24 hours after the owner or operator has determined that the discharge has reached the surface waters of the State. This reporting requirement shall be in addition to any other reporting requirements applicable to the owner or operator of the wastewater collection or treatment works.</u>

(b) Publication of Notice of Discharge of Untreated Wastewater. – The owner or operator of any wastewater collection or treatment works, the operation of which is primarily to collect or treat municipal or domestic wastewater and for which a permit is issued under this Part shall:

(1) In the event of a discharge of 1,000 gallons or more of untreated wastewater to the surface waters of the State, issue a press release to all print and electronic news media that provide general coverage in the county where the

discharge occurred setting out the details of the discharge. The owner or operator shall issue the press release within ~~48~~ 24 hours after the owner or operator has determined that the discharge has reached the surface waters of the State. The owner or operator shall retain a copy of the press release and a list of the news media to which it was distributed for at least one year after the discharge and shall provide a copy of the press release and the list of the news media to which it was distributed to any person upon request.

(2) In the event of a discharge of 15,000 gallons or more of untreated wastewater to the surface waters of the State, publish a notice of the discharge in a newspaper having general circulation in the county in which the discharge occurs and in each county downstream from the point of discharge that is significantly affected by the discharge. The Secretary shall determine, at the Secretary's sole discretion, which counties are significantly affected by the discharge and shall approve the form and content of the notice and the newspapers in which the notice is to be published. The notice shall be captioned "NOTICE OF DISCHARGE OF UNTREATED SEWAGE". The owner or operator shall publish the notice within 10 days after the Secretary has determined the counties that are significantly affected by the discharge and approved the form and content of the notice and the newspapers in which the notice is to be published. The owner or operator shall file a copy of the notice and proof of publication with the Department within 30 days after the notice is published. Publication of a notice of discharge under this subdivision is in addition to the requirement to issue a press release under subdivision (1) of this subsection.

(c) Publication of Notice of Discharge of Untreated Waste. – The owner or operator of any wastewater collection or treatment works, other than a wastewater collection or treatment works the operation of which is primarily to collect or treat municipal or domestic wastewater, for which a permit is issued under this Part shall:

(1) In the event of a discharge of 1,000 gallons or more of untreated waste to the surface waters of the State, issue a press release to all print and electronic news media that provide general coverage in the county where the discharge occurred setting out the details of the discharge. The owner or operator shall issue the press release within ~~48~~ 24 hours after the owner or operator has determined that the discharge has reached the surface waters of the State. The owner or operator shall retain a copy of the press release and a list of the news media to which it was distributed for at least one year after the discharge and shall provide a copy of the press release and the list of the news media to which it was distributed to any person upon request.

(2) In the event of a discharge of 15,000 gallons or more of untreated waste to the surface waters of the State, publish a notice of the discharge in a newspaper having general circulation in the county in which the discharge occurs and in each county downstream from the point of discharge that is significantly affected by the discharge. The Secretary shall determine, at the Secretary's sole discretion, which counties are significantly affected by the discharge and shall approve the form and content of the notice and the newspapers in which the notice is to be published. The notice shall be captioned "NOTICE OF DISCHARGE OF UNTREATED WASTE". The owner or operator shall publish the notice within 10 days after the Secretary has determined the counties that are significantly affected by the discharge and approved the form and content of the notice and the newspapers in which the notice is to be published. The owner or operator shall file a copy

of the notice and proof of publication with the Department within 30 days after the notice is published. Publication of a notice of discharge under this subdivision is in addition to the requirement to issue a press release under subdivision (1) of this subsection."

SECTION 6.(b) Section 6(a) of this act becomes effective September 1, 2014.

SECTION 6.(c) G.S. 166A-19.12(16) reads as rewritten:

"(16) Establishing and operating a 24-hour Operations Center to serve as a single point of contact for local governments to report the occurrence of emergency and disaster events and to coordinate local and State response assets. The Division shall record all telephone calls to the 24-hour Operations Center emergency hotline and shall maintain the recording of each telephone call for at least one year."

PART V. REQUIRE NOTIFICATION OF THE DEPARTMENT OF EMERGENCY DAM REPAIRS; REQUIRE EMERGENCY ACTION PLANS FOR CERTAIN DAMS; REQUIRE INSPECTION OF DAMS AT COAL COMBUSTION RESIDUALS SURFACE IMPOUNDMENTS

SECTION 7. G.S. 143-215.27 reads as rewritten:

"**§ 143-215.27. Repair, alteration, or removal of dam.**

(a) Before commencing the repair, alteration or removal of a dam, application shall be made for written approval by the Department, except as otherwise provided by this Part. The application shall state the name and address of the applicant, shall adequately detail the changes it proposes to effect and shall be accompanied by maps, plans and specifications setting forth such details and dimensions as the Department requires. The Department may waive any such requirements. The application shall give such other information concerning the dam and reservoir required by the Department, such information concerning the safety of any change as it may require, and shall state the proposed time of commencement and completion of the work. When an application has been completed it may be referred by the Department for agency review and report, as provided by subsection (b) of G.S. 143-215.26 in the case of original construction.

(b) When emergency repairs are necessary to safeguard life and property they may be started immediately but the Department shall be notified ~~forthwith~~ of the proposed repairs and of the work ~~under way, and they~~underway as soon as possible, but not later than 24 hours after first knowledge of the necessity for the emergency repairs, and the emergency repairs shall be made to conform to ~~its~~ the Department's orders."

SECTION 8.(a) G.S. 143-215.31 reads as rewritten:

"**§ 143-215.31. Supervision over maintenance and operation of dams.**

(a) The Commission shall have jurisdiction and supervision over the maintenance and operation of dams to safeguard life and property and to satisfy minimum streamflow requirements. The Commission may adopt standards for the maintenance and operation of dams as may be necessary for the purposes of this Part. The Commission may vary the standards applicable to various dams, giving due consideration to the minimum flow requirements of the stream, the type and location of the structure, the hazards to which it may be exposed, and the peril of life and property in the event of failure of a dam to perform its function.

(a1) The owner of a dam classified by the Department as a high hazard dam or an intermediate hazard dam shall develop an Emergency Action Plan for the dam as provided in this subsection.

(1) The owner of the dam shall submit a proposed Emergency Action Plan for the dam within 90 days after the dam is classified as a high hazard dam or an intermediate hazard dam to the Department and the Department of Public

Safety for their review and approval. The Department and the Department of Public Safety shall approve the Emergency Action Plan if they determine that it complies with the requirements of this subsection and will protect public health, safety, and welfare; the environment; and natural resources.

(2) The Emergency Action Plan shall include, at a minimum, all of the following:

a. A description of potential emergency conditions that could occur at the dam.

b. A description of actions to be taken in response to an emergency condition at the dam.

c. Emergency notification procedures to aid in warning and evacuations during an emergency condition at the dam.

d. A downstream inundation map depicting areas affected by a dam failure and sudden release of the impoundment.

(3) The owner of the dam shall update the Emergency Action Plan annually and shall submit it to the Department and the Department of Public Safety for their review and approval within one year of the prior approval.

(4) The Department shall provide a copy of the Emergency Action Plan to the regional offices of the Department that might respond to an emergency condition at the dam.

(5) The Department of Public Safety shall provide a copy of the Emergency Action Plan to all local emergency management agencies that might respond to an emergency condition at the dam.

(6) Information included in an Emergency Action Plan that constitutes sensitive public security information, as provided in G.S. 132-1.7, shall be maintained as confidential information and shall not be subject to disclosure under the Public Records Act. For purposes of this section, "sensitive public security information" shall include Critical Energy Infrastructure Information protected from disclosure under rules adopted by the Federal Energy Regulatory Commission in 18 C.F.R. § 333.112.

...."

SECTION 8.(b) Notwithstanding G.S. 143-215.31, as amended by Section 8(a) of this act, the owners of all high hazard dams and intermediate hazard dams in operation on the effective date of this act shall submit their proposed Emergency Action Plans to the Department of Environment and Natural Resources and the Department of Public Safety no later than October 1, 2015.

SECTION 9. Section 3(b) of S.L. 2009-390 reads as rewritten:

"**SECTION 3.(b)** Any impoundments or other facilities that were in use ~~on the effective date of this section~~January 1, 2010, in connection with nonnuclear electric generating facilities under the jurisdiction of the North Carolina Utilities Commission, and that had been exempted under the provisions of G.S. 143-215.25A(4), prior to ~~amendment by Section 3(a) of this act,~~ January 1, 2010, shall be deemed to have received all of the necessary approvals from the Department of Environment and Natural Resources and the Commission for Safety.~~Dam Safety, and shall not be required to submit application, certificate, or other materials in connection with the continued normal operation and maintenance of those facilities.~~"

SECTION 10. G.S. 143-215.32 reads as rewritten:

"**§ 143-215.32. Inspection of dams.**

(a) The Department may at any time inspect any dam, including a dam that is otherwise exempt from this Part, upon receipt of a written request of any affected person or agency, or upon a motion of the Environmental Management Commission. Within the limits of available

funds the Department shall endeavor to provide for inspection of all dams at intervals of approximately five years.

(a1) Coal combustion residuals surface impoundments, as defined by G.S. 130A-309.201, shall be inspected as provided in this subsection.

(1) The Department shall inspect each dam associated with a coal combustion residuals surface impoundment at least annually.

(2) The owner of a coal combustion residuals surface impoundment shall inspect the impoundment weekly and after storms to detect evidence of any of the following conditions:

a. Deterioration, malfunction, or improper operation of spillway control systems.

b. Sudden drops in the level of the contents of the impoundment.

c. Severe erosion or other signs of deterioration in dikes or other containment devices or structures.

d. New or enlarged seeps along the downstream slope or toe of the dike or other containment devices or structures.

e. Any other abnormal conditions at the impoundment that could pose a risk to public health, safety, or welfare; the environment; or natural resources.

(3) If any of the conditions described in subdivision (2) of this subsection are observed, the owner shall provide documentation of the conditions to the Department and a registered professional engineer. The registered professional engineer shall investigate the conditions and, if necessary, develop a plan of corrective action to be implemented by the owner of the impoundment. The owner of the impoundment shall provide documentation of the completed corrective action to the Department.

(4) The owner of a coal combustion residuals surface impoundment shall provide for the annual inspection of the impoundment by an independent registered professional engineer to ensure that the structural integrity and the design, operation, and maintenance of the impoundment is in accordance with generally accepted engineering standards. Within 30 days of the inspection, the owner shall provide to the Department the inspection report and a certification by the engineer that the impoundment is structurally sound and that the design, operation, and maintenance of the impoundment is in accordance with generally accepted engineering standards. The owner and the Department shall each place the inspection report and certification on a publicly accessible Internet site.

(b) If the Department upon inspection finds that any dam is not sufficiently strong, is not maintained in good repair or operating condition, is dangerous to life or property, or does not satisfy minimum streamflow requirements, the Department shall present its findings to the Commission and the Commission may issue an order directing the owner or owners of the dam to make at his or her expense maintenance, alterations, repairs, reconstruction, change in construction or location, or removal as may be deemed necessary by the Commission within a time limited by the order, not less than 90 days from the date of issuance of each order, except in the case of extreme danger to the safety of life or property, as provided by subsection (c) of this section.

(c) If at any time the condition of any dam becomes so dangerous to the safety of life or property, in the opinion of the Environmental Management Commission, as not to permit sufficient time for issuance of an order in the manner provided by subsection (b) of this section, the Environmental Management Commission may immediately take such measures as may be essential to provide emergency protection to life and property, including the lowering of the

level of a reservoir by releasing water impounded or the destruction in whole or in part of the dam or reservoir. The Environmental Management Commission may recover the costs of such measures from the owner or owners by appropriate legal action.

(d) An order issued under this Part shall be served on the owner of the dam as provided in G.S. 1A-1, Rule 4."

PART VI. TRANSFER SOLID WASTE RULE-MAKING AUTHORITY FROM COMMISSION FOR PUBLIC HEALTH TO ENVIRONMENTAL MANAGEMENT COMMISSION

SECTION 11.(a) G.S. 130A-29 reads as rewritten:

"§ 130A-29. Commission for Public Health – Creation, powers and duties.

...

(c) The Commission shall adopt rules:

(1) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1022, s. 5.

(2) Establishing standards for approving sewage-treatment devices and holding tanks for marine toilets as provided in G.S. 75A-6(o).

(3) Establishing specifications for sanitary privies for schools where water-carried sewage facilities are unavailable as provided in G.S. 115C-522.

(4) Establishing requirements for the sanitation of local confinement facilities as provided in Part 2 of Article 10 of Chapter 153A of the General Statutes.

(5) Repealed by Session Laws 1989 (Regular Session, 1990), c. 1075, s. 1.

(5a) Establishing eligibility standards for participation in Department reimbursement programs.

~~(6) Requiring proper treatment and disposal of sewage and other waste from chemical and portable toilets.~~

(7) Establishing statewide health outcome objectives and delivery standards.

(8) Establishing permit requirements for the sanitation of premises, utensils, equipment, and procedures to be used by a person engaged in tattooing, as provided in Part 11 of Article 8 of this Chapter.

(9) Implementing immunization requirements for adult care homes as provided in G.S. 131D-9 and for nursing homes as provided in G.S. 131E-113.

(10) Pertaining to the biological agents registry in accordance with G.S. 130A-479.

(11) For matters within its jurisdiction that allow for and regulate horizontal drilling and hydraulic fracturing for the purpose of oil and gas exploration and development.

...."

SECTION 11.(b) G.S. 130A-291.1 reads as rewritten:

"§ 130A-291.1. Septage management program; permit fees.

...

(d) Septage shall be treated and disposed only at a wastewater system that has been approved by the Department under rules adopted by the Commission ~~or by the Environmental Management Commission~~ or at a site that is permitted by the Department under this section. A permit shall be issued only if the site satisfies all of the requirements of the rules adopted by the Commission.

...."

SECTION 11.(c) G.S. 130A-294(a)(4) reads as rewritten:

"§ 130A-294. Solid waste management program.

(a) The Department is authorized and directed to engage in research, conduct investigations and surveys, make inspections and establish a statewide solid waste management program. In establishing a program, the Department shall have authority to:

...

(4) a. Develop a permit system governing the establishment and operation of solid waste management facilities. A landfill with a disposal area of 1/2 acre or less for the on-site disposal of land clearing and inert debris is exempt from the permit requirement of this section and shall be governed by G.S. 130A-301.1. Demolition debris from the decommissioning of manufacturing buildings, including electric generating stations, that is disposed of on the same site as the decommissioned buildings, is exempt from the permit requirement of this section and rules adopted pursuant to this section and shall be governed by G.S. 130A-301.3. The Department shall not approve an application for a new permit, the renewal of a permit, or a substantial amendment to a permit for a sanitary landfill, excluding demolition landfills as defined in the rules of the Commission, except as provided in subdivisions (3) and (4) of subsection (b1) of this section. No permit shall be granted for a solid waste management facility having discharges that are point sources until the Department has referred the complete plans and specifications to the ~~Environmental Management~~ Commission and has received advice in writing that the plans and specifications are approved in accordance with the provisions of G.S. 143-215.1. In any case where the Department denies a permit for a solid waste management facility, it shall state in writing the reason for denial and shall also state its estimate of the changes in the applicant's proposed activities or plans that will be required for the applicant to obtain a permit.

b. Repealed by Session Laws 2007-550, s. 1(a), effective August 1, 2007.

c. The Department shall deny an application for a permit for a solid waste management facility if the Department finds that:

1. Construction or operation of the proposed facility would be inconsistent with or violate rules adopted by the Commission.

2. Construction or operation of the proposed facility would result in a violation of water quality standards adopted by the ~~Environmental Management~~ Commission pursuant to G.S. 143-214.1 for waters, as defined in G.S. 143-213.

3. Construction or operation of the facility would result in significant damage to ecological systems, natural resources, cultural sites, recreation areas, or historic sites of more than local significance. These areas include, but are not limited to, national or State parks or forests; wilderness areas; historic sites; recreation areas; segments of the natural and scenic rivers system; wildlife refuges, preserves, and management areas; areas that provide habitat for threatened or endangered species; primary nursery areas and critical fisheries habitat designated by the Marine Fisheries Commission; and Outstanding Resource Waters designated by the ~~Environmental Management~~ Commission.

...."

SECTION 11.(d) G.S. 130A-300 reads as rewritten:

"**§ 130A-300. Effect on laws applicable to water pollution control.**

This Article shall not be considered as amending, repealing or in any manner abridging or interfering with those sections of the General Statutes of North Carolina relative to the control of water pollution as now administered by the ~~Environmental Management~~ Commission nor shall the provisions of this Article be construed as being applicable to or in any way affecting the authority of the ~~Environmental Management~~ Commission to control the discharges of wastes to the waters of the State as provided in Articles 21 and 21A, Chapter 143 of the General Statutes."

SECTION 11.(e) G.S. 130A-302 reads as rewritten:

"**§ 130A-302. Sludge deposits at sanitary landfills.**

Sludges generated by the treatment of wastewater discharges which are point sources subject to permits granted under Section 402 of the Federal Water Pollution Act, as amended (P.L. 92-500), or permits generated under G. S. 143-215.1 by the ~~Environmental Management~~ Commission shall not be deposited in or on a sanitary landfill permitted under this Article unless in a compliance with the rules concerning solid waste adopted under this Article."

SECTION 11.(f) G.S. 130A-310.3 reads as rewritten:

"**§ 130A-310.3. Remedial action programs for inactive hazardous substance or waste disposal sites.**

...

(b) Where possible, the Secretary shall work cooperatively with any owner, operator, responsible party, or any appropriate agency of the State or federal government to develop and implement the inactive hazardous substance or waste disposal site remedial action program. The Secretary shall not take action under this section to the extent that the ~~Environmental Management~~ Commission, the Commissioner of Agriculture, or the Pesticide Board has assumed jurisdiction pursuant to Articles 21 or 21A of Chapter 143 of the General Statutes.

...

(d) In any inactive hazardous substance or waste disposal site remedial action program implemented hereunder, the Secretary shall ascertain the most nearly applicable cleanup standard as would be applied under CERCLA/SARA, and may seek federal approval of any such program to insure concurrent compliance with federal standards. State standards may exceed and be more comprehensive than such federal standards. The Secretary shall assure concurrent compliance with applicable standards set by the ~~Environmental Management~~ Commission.

...."

SECTION 11.(g) G.S. 130A-310.4(g) reads as rewritten:

"(g) The Commission ~~on Health Services [Commission for Public Health]~~ shall adopt rules prescribing the form and content of the notices required by this section. The proposed remedial action plan shall include a summary of all alternatives considered in the development of the plan. A record shall be maintained of all comment received by the Department regarding the remedial action plan."

SECTION 11.(h) G.S. 130A-310.31(b)(5) reads as rewritten:

"(5) "Unrestricted use standards" when used in connection with "cleanup", "remediated", or "remediation" means contaminant concentrations for each environmental medium that are considered acceptable for all uses and that comply with generally applicable standards, guidance, or established methods governing the contaminants that are established by statute or adopted, published, or implemented by the ~~Environmental Management Commission, the~~ Commission, or the Department instead of the site-specific contaminant levels established pursuant to this Part."

SECTION 11.(i) G.S. 130A-310.65 reads as rewritten:

"**§ 130A-310.65. Definitions.**

As used in this Part:

(1) "Background standard" means the naturally occurring concentration of a substance in the absence of the release of a contaminant.

~~(2) "Commission" means the Environmental Management Commission created pursuant to G.S. 143B-282.~~

...

(12) "Unrestricted use standards" means contaminant concentrations for each environmental medium that are acceptable for all uses; that are protective of public health, safety, and welfare and the environment; and that comply with generally applicable standards, guidance, or methods established by statute or adopted, published, or implemented by the ~~Commission, the Commission for Public Health,~~Commission or the Department."

SECTION 11.(j) G.S. 113-391(a)(5)f. reads as rewritten:

"f. Management of wastes produced in connection with oil and gas exploration and development and use of horizontal drilling and hydraulic fracturing treatments for that purpose. Such rules shall address storage, transportation, and disposal of wastes that may contain radioactive materials or wastes that may be toxic or have other hazardous wastes' characteristics that are not otherwise regulated as a hazardous waste by the federal Resource Conservation and Recovery Act (RCRA), such as top-hole water, brines, drilling fluids, additives, drilling muds, stimulation fluids, well servicing fluids, oil, production fluids, and drill cuttings from the drilling, alteration, production, plugging, or other activity associated with oil and gas wells. Wastes generated in connection with oil and gas exploration and development and use of horizontal drilling and hydraulic fracturing treatments for that purpose that constitute hazardous waste under RCRA shall be subject to rules adopted by the Environmental Management Commission ~~for Public Health~~ to implement RCRA requirements in the State."

SECTION 11.(k) G.S. 113-415 reads as rewritten:

"**§ 113-415. Conflicting laws.**

No provision of this Article shall be construed to repeal, amend, abridge or otherwise ~~affect: (i)~~ affect the authority and ~~responsibility~~responsibility (i) vested in the Environmental Management Commission by Article 7 of Chapter 87 of the General Statutes, pertaining to the location, construction, repair, operation and abandonment of ~~wells, or the authority and responsibility~~ wells; (ii) vested in the Environmental Management Commission related to the control of water and air pollution as provided in Articles 21 and 21A of Chapter 143 of the General Statutes; ~~or (ii) the authority or responsibility~~(iii) vested in the Department and the Environmental Management Commission ~~for Public Health~~ by Article 10 of Chapter 130A of the General Statutes pertaining to public water-supply ~~requirements,~~requirements; or ~~the authority and responsibility~~(iv) vested in the Environmental Management Commission ~~for Public Health~~ related to the management of solid and hazardous waste as provided in Article 9 of Chapter 130A of the General Statutes."

SECTION 11.(l) The Revisor of Statutes shall make any conforming statutory changes necessary to reflect the transfer of rule-making authority under Article 9 of Chapter 130A of the General Statutes from the Commission for Public Health to the Environmental Management Commission.

SECTION 11.(m) The Codifier of Rules shall make any conforming rule changes necessary to reflect the transfer of rule-making authority under Article 9 of Chapter 130A of

the General Statutes from the Commission for Public Health to the Environmental Management Commission.

PART VII. OTHER STUDIES

SECTION 12. The Coal Ash Management Commission, established pursuant to G.S. 130A-309.202, as enacted by Section 3(a) of this act, shall study whether and under what circumstances no further action or natural attenuation is appropriate for a coal combustion residuals surface impoundment that is classified as low-priority pursuant to G.S. 130A-309.211, as enacted by Section 3(a) of this act. In conducting this study, the Commission shall specifically consider whether there is any contact or interaction between coal combustion residuals and groundwater and surface water, whether the area has reverted to a natural state as evidenced by the presence of wildlife and vegetation, and whether no further action or natural attenuation would be protective of public health, safety, and welfare; the environment; and natural resources. The Commission shall report the results of its study, including any recommendations, to the Environmental Review Commission no later than October 1, 2015.

SECTION 13. The Department of Transportation shall evaluate additional opportunities for the use of coal combustion residuals in the construction and maintenance of roads and bridges within the State. The Department shall report the results of its study, including any recommendations, to the Environmental Review Commission no later than December 1, 2014.

PART VIII. PROVIDE RESOURCES FOR IMPLEMENTATION OF THIS ACT

SECTION 14.(a) Article 14 of Chapter 62 of the General Statutes is amended by adding a new section to read:

"**§ 62-302.1. Regulatory fee for combustion residual surface impoundments.**

(a) Fee Imposed. – Each public utility with a coal combustion residuals surface impoundment shall pay a regulatory fee for the purpose of defraying the costs of oversight of coal combustion residuals. The fee is in addition to the fee imposed under G.S. 62-302. The fees collected under this section shall only be used to pay the expenses of the Coal Ash Management Commission and the Department of Environment and Natural Resources in providing oversight of coal combustion residuals.

(b) Rate. – The combustion residuals surface impoundment fee shall be three-hundredths of one percent (0.03%) of the North Carolina jurisdictional revenues of each public utility with a coal combustion residuals surface impoundment. For the purposes of this section, the term "North Carolina jurisdictional revenues" has the same meaning as in G.S. 62-302.

(c) When Due. – The fee shall be paid in quarterly installments. The fee is payable to the Coal Ash Management Commission on or before the 15th of the second month following the end of each quarter. Each public utility subject to this fee shall, on or before the date the fee is due for each quarter, prepare and render a report on a form prescribed by the Commission. The report shall state the public utility's total North Carolina jurisdictional revenues for the preceding quarter and shall be accompanied by any supporting documentation that the Coal Ash Management Commission may by rule require. Receipts shall be reported on an accrual basis.

(d) Use of Proceeds. – A special fund in the Office of State Treasurer and the Coal Ash Management Commission is created. The fees collected pursuant to this section and all other funds received by the Coal Ash Management Commission shall be deposited in the Coal Combustion Residuals Management Fund. The Fund shall be placed in an interest-bearing account, and any interest or other income derived from the Fund shall be credited to the Fund. Moneys in the Fund shall only be spent pursuant to appropriation by the General Assembly.

The Commission shall be subject to the provisions of the State Budget Act, except that no unexpended surplus of the Coal Combustion Residuals Management Fund shall revert to the General Fund. All funds credited to the Commission Fund shall be used only to pay the expenses of the Coal Ash Management Commission and the Department of Environment and Natural Resources in providing oversight of coal combustion residuals.

(e) Recovery of Fee. – The North Carolina Utilities Commission shall not allow an electric public utility to recover this fee from the retail electric customers of the State."

SECTION 14.(b) Notwithstanding G.S. 62-302.1, as enacted by this section, for the first two quarters of fiscal year 2014-2015, each public utility shall pay the fee in G.S. 62-302.1 on a monthly basis. The fee shall be paid by the fifteenth of the following month.

SECTION 14.(c) Twenty-five receipt-supported positions are created in the Department of Environment and Natural Resources to carry out the duties in Part 2I of Article 9 of Chapter 130A of the General Statutes. There is appropriated from the Coal Combustion Residuals Management Fund the sum of one million seven hundred fifty thousand dollars ($1,750,000) to the Department of Environment and Natural Resources to support the positions for the 2014-2015 fiscal year.

SECTION 14.(d) Four receipt supported positions are created in the Division of Emergency Management of the Department of Public Safety to carry out the duties in G.S. 130A-309.202. The funds remaining in the Coal Combustion Residuals Management Fund after the appropriation to the Department of Environment and Natural Resources are appropriated to the Department of Public Safety for the 2014-2015 fiscal year. These positions shall be used to provide assistance to the Coal Ash Commission. The positions shall be assigned in the following manner: one of the positions shall be the executive director of the staff, two positions shall be assigned as analysts, and one position shall be assigned as administrative. The Division of Emergency Management in the Department of Public Safety shall consult with the Chair of the Commission in hiring the staff for the Coal Ash Commission. The Division of Emergency Management in the Department of Public Safety shall provide support to the Commission until the staff of the Commission is hired, including the designation of an individual to serve as an interim executive director of the staff.

SECTION 14.(e) This section becomes effective July 1, 2014.

PART IX. SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 15. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

SECTION 16. Except as otherwise provided, this act is effective when it becomes law.

SENATE BILL 729:
Coal Ash Management Act of 2014

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 19, 2014
Introduced by:	Sens. Apodaca, Berger	**Prepared by:**	Jennifer McGinnis, Jeff Hudson, and Heather Fennell, Staff Attorneys
Analysis of:	Second Edition		

BILL ANALYSIS:

PART I. PROHIBIT RECOVERY OF COSTS RELATED TO UNLAWFUL DISCHARGES FROM COAL COMBUSTION RESIDUALS SURFACE IMPOUNDMENTS; MORATORIUM ON RATE CASES

SECTION 1. of the PCS would prohibit the Utilities Commission from allowing an electric public utility to recover from the retail electric customers of the State costs resulting from an unlawful discharge to the surface waters of the State from a coal combustion residuals surface impoundment (impoundment), unless the Commission determines the discharge was due to an event of force majeure. The section would apply to discharges occurring on or after January 1, 2014.

SECTION 2. of the PCS would establish a moratorium on orders of the Utilities Commission to grant an increase in base rates of an electric public utility for costs related to impoundments prior to January 15, 2015, in order to allow the State to study the disposition of impoundments including any final rules adopted by the United States Environmental Protection Agency (USEPA) on the regulation of coal combustion residuals (CCR).

PART II. PROVISIONS FOR COMPREHENSIVE MANAGEMENT OF COAL COMBUSTION RESIDUALS

SECTION 3. of the PCS would create a new Part in the Article of the General Statutes governing management of solid and hazardous waste to address matters related to management of coal ash. Specifically the Part would include provisions as follows:

SUBPART 1. Short Title, Definitions, and General Provisions

- **Definitions**: Establish pertinent definitions. *Note that in a subsequent portion of the bill, the definition for "solid waste" is modified to include wet CCR, which has historically been excluded from the definition of solid waste (see Sec. 3(d)).*
- **Coal Ash Management Commission**: Establish a nine member Coal Ash Management Commission (Commission), which would, in recognition of the complexity and magnitude of the issues associated with the management of coal combustion residuals and the proper closure and remediation of coal combustion residuals surface impoundments, have the following powers and duties:
  - To review and approve the prioritization classification of impoundments.
  - To review and approve closure plans for impoundments.
  - To review and make recommendations on the provisions of this legislation and other statutes and rules related to the management of CCR.
  - To undertake any additional studies as requested by the General Assembly.

The Commission would be:

- Administratively located in the Division of Emergency Management of the Department of Public Safety, but exercise all of its powers and duties independently of the agency and would not be subject to the supervision, direction, or control of the agency.
- Required to submit quarterly written reports as to its operation, activities, programs, and progress to the Environmental Review Commission (ERC).

- **Expedited permit review**: Require expedited review by the Department of Environment and Natural Resources (DENR) of permits necessary to conduct activities required by the legislation. In particular, DENR would be required to issue a draft permit decision on an application for a permit within 60 days after DENR determines that the application is complete. After DENR issues a draft permit decision, it would be required to hold a public hearing and accept written comment on the draft permit decision. DENR would be required to issue a final permit decision on an application for a permit within 30 days after the comment period on the draft permit decision closes. If DENR finds, however, that compliance with the deadlines would result in insufficient review of a permit application that would pose a risk to public health, safety, and welfare, the environment, or natural resources, the applicable deadline would be waived for the application as necessary to allow for adequate review. If a deadline is waived, the Secretary would be required to issue a written declaration, including findings of fact, documenting the need for the waiver.
- **Reports:** Require a number of reports:
  - Quarterly written reports from DENR to the ERC on DENR's operations, activities, programs, and progress with respect to its obligations under the legislation concerning impoundments. At a minimum, the report shall include information concerning the status of assessment, corrective action, prioritization, and closure for each coal combustion residual surface impoundment, and information on costs connected therewith, as well as a summary of all surface and groundwater sampling, protection, and restoration activities related to the impoundment for the preceding year.
  - Annual reports from DENR to each member of the General Assembly who has an impoundment in the member's district, including the location, the amount of CCR known or believed to be located in the impoundment, the last action taken at the impoundment, and the date of that last action.
  - Annual reports from a public utility generating CCR and coal combustion products (CCP) summarizing the following:
    - The volume of CCR and CCP produced.
    - The volume of CCR disposed.
    - The volume of CCP used in structural fill projects.
    - The volume of CCP beneficially used, other than for structural fill.
- **Preemption of local regulation**: Invalidate local ordinances that prohibit or have the effect of regulating the management of coal combustion residuals and coal combustion products. The provision closely mirrors a statute preempting local government regulation of hazardous waste facilities (G.S. 130A-293). Specifically, the provision would invalidate ordinances that:
  - Regulate the management of coal combustion residuals and coal combustion products within any county, city, or other political subdivision.
  - Place any restriction or condition not placed by this legislation upon management of coal combustion residuals and coal combustion products within any county, city, or other political subdivision.
  - In any manner are in conflict or inconsistent with the provisions of this legislation.
- **Federal preemption**: Provide that if any phrase, clause, sentence, or provision of the legislation is declared to be unconstitutional or otherwise invalid or is preempted by federal law or regulation, that provision would be severable and the validity of the remainder of this Part would not be affected thereby.
- **Rulemaking**: Direct the Environmental Management Commission (EMC) to adopt rules as necessary to implement the provisions of the legislation, and exempt such rules from the requirements of

G.S. 150B-19.3 (a provision under the Administrative Procedure Act that places limitations on the adoption of certain environmental rules).

SUBPART 2. Management of Coal Ash Residuals; Closure of Coal Ash Impoundments

Restrictions on generation, disposal, and use of coal combustion residuals:

- Prohibit the construction of new and expansion of existing impoundments on or after July 1, 2014.
- Prohibit the disposal of CCR into an impoundment at an electric generating facility where the coal-fired generating units are no longer producing CCR on or after October 1, 2014.
- Prohibit the discharge of stormwater into an impoundment: (i) at an electric generating facility where the coal-fired generating units are no longer producing CCR on or after December 31, 2018; and (ii) at an electric generating facility where the coal-fired generating units are actively producing CCR on or after December 31, 2019.
- Require all electric generating facilities owned by a public utility to convert to disposal of "dry" fly ash, or retire the facility on or before December 31, 2018.
- Require all electric generating facilities owned by a public utility to convert to disposal of "dry" bottom ash, or retire the facility on or before December 31, 2019.

Groundwater assessment and corrective action; drinking water supply well survey and provision of alternate water supply; reporting:

- Require the owner of an impoundment to conduct groundwater monitoring and assessment on a specified timeline, including:
  - Submission of a Groundwater Assessment Plan to DENR for its review and approval, and implementation of the Plan, followed by submission of a Groundwater Assessment Report to DENR describing all exceedances of groundwater quality standards associated with the impoundment.
  - Submission of a Groundwater Corrective Action Plan to DENR for its review and approval, and implementation of corrective action for the restoration of groundwater in conformance with the requirements of Subchapter 2L of Title 15A of the North Carolina Administrative Code.
  - Conduct of a Drinking Water Supply Well Survey that identifies all drinking water supply wells within one-half mile from the established compliance boundary of the impoundment, and submission of the Survey to DENR. DENR would be directed to: (i) determine, based on the Survey, which drinking water supply wells the owner of the impoundment is required to sample and how frequently and for what period sampling is required; and (ii) require sampling for drinking water supply wells where data regarding groundwater quality and flow and depth in the area of any surveyed well provide a reasonable basis to predict that the quality of water from the surveyed well may be adversely impacted by constituents associated with the presence of the impoundment. The owner would be required to initiate sampling and water quality analysis of the drinking water supply wells (or pay the costs of third party sampling upon election of a property owner). If the sampling and water quality analysis indicated that water from a drinking water supply well exceeds groundwater quality standards for constituents associated with the presence of the impoundment, the owner would be required to replace the contaminated drinking water supply well with an alternate supply of potable drinking water within 30 days of the determination that there is an exceedance of groundwater quality standards.
  - Submission of an annual Groundwater Protection and Restoration Report from an impoundment owner to DENR and the Commission, to include a summary of all groundwater monitoring, protection, and restoration activities related to the impoundment for the preceding year, including the status of the Groundwater Assessment Plan, the Groundwater Assessment Report, the Groundwater Corrective Action Plan, the Drinking Water Supply Well Survey, and the replacement of any contaminated drinking water supply wells.

Identification, assessment, and correction of unpermitted discharges:

- Require an impoundment owner to identify, assess, and correct all unpermitted discharges from the impoundment to the surface waters of the State on a specified timeline, including:
  - Submission of topographic maps to DENR that identify: (i) the location of all outfalls from engineered channels designed or improved for the purpose of collecting water from the toe of the impoundment; and (ii) the location of all seeps discharging from the impoundment that are not captured by engineered channels designed or improved for the purpose of colleting water from the toe of the impoundment.
  - Conduct of an assessment of unpermitted discharges from the impoundment to surface waters of the State including submission of a proposed Unpermitted Discharge Assessment Plan to DENR with information sufficient to allow DENR to determine whether any unpermitted discharge, including a discharge from a toe drain outfall or seep, has reached the surface waters of the State and has caused a violation of surface water quality standards. Within 30 days after DENR approval of a Plan, the owner would be required to begin implementation of the Plan in accordance with the Plan's schedule.
  - Implementation of corrective action to prevent unpermitted discharges from the impoundment to the surface waters of the State. If DENR determines, based on surface water quality sampling information provided in an Unpermitted Discharge Assessment Plan that an unpermitted discharge from an impoundment, including a discharge from a toe drain outfall or seep, has violated State or federal surface water quality laws, DENR must notify the owner of the impoundment of its determination. Within 30 days from the notification of violation, the owner of an impoundment must submit a proposed Unpermitted Discharge Corrective Action Plan to DENR for its review and approval. Within 30 days after DENR approval of a Plan, the owner would be required to begin implementation of the Plan in accordance with the Plan's schedule.
  - Submission of a plan for the Identification of New Unpermitted Discharges for DENR's review and approval. Within 30 days after DENR approval of a Plan, the owner would be required to begin implementation of the Plan in accordance with the Plan's schedule.
  - Submission of an annual Surface Water Protection and Restoration Report to DENR and the Commission, including a summary of all surface water sampling, protection, and restoration activities related to the impoundment for the preceding year, including the status of the identification, assessment, and correction of unpermitted discharges from coal combustion residuals surface impoundments to the surface waters of the State.

Prioritization of coal combustion residuals surface impoundments: would require DENR to develop, no later than August 1, 2015, proposed classifications for all impoundments, including active and retired sites, for the purpose of closure and remediation based on these sites' risks to public health, safety, and welfare; the environment; and natural resources, and to determine a schedule for closure and required remediation that is based on the degree of risk to public health, safety, and welfare; the environment; and natural resources posed by the impoundments and that gives priority to the closure and required remediation of impoundments that pose the greatest risk. In assessing the risk, DENR would be required to evaluate information received pursuant to assessments conducted of the impoundments and impacts to groundwater and surface water, and any other information deemed relevant, and, at a minimum, consider all of the following:

- Any imminent hazards to public health, safety, or welfare resulting from the impoundment.
- Structural condition and hazard potential of the impoundment.
- The proximity of surface waters to the impoundment, and whether any surface waters are contaminated or imminently threatened by contamination as a result of the impoundment.
- Information concerning the horizontal and vertical extent of soil and groundwater contamination for all contaminants confirmed to be present in groundwater in exceedance of groundwater quality standards and all significant factors affecting contaminant transport.
- The location and nature of all receptors and significant exposure pathways.

- The geological and hydrogeological features influencing the movement, chemical, and physical character of the contaminants.
- The amount and characteristics of coal combustion residuals in the impoundment.
- Any other factor DENR deems relevant to establishment of risk.

DENR would be required to issue a proposed classification for each impoundment as low-risk, intermediate-risk, or high-risk. Within 30 days after issuance of a proposed classification DENR would be required to issue a written declaration, including findings of fact, documenting the proposed classification, provide public notice, and conduct public hearings on the proposed classification.

Within 30 days of the receipt of all written comment received through public notice and public hearings, DENR would be required to submit a proposed classification for an impoundment to the Coal Ash Management Commission. The Commission would be required to approve a proposed classification if it determines that the classification was developed in accordance with the relevant requirements of the legislation and that the classification accurately reflects the level of risk posed by the impoundment. The Commission would be required to issue its determination in writing, including findings in support of its determination. Parties aggrieved by a final decision of the Commission on classification could appeal the decision as provided under Article 4 of Chapter 150B of the General Statutes.

Closure of coal combustion residual surface impoundments: An owner of a coal combustion residuals surface impoundment would be required to submit a proposed Coal Combustion Residuals Surface Impoundment Closure Plan for DENR's approval subject to the following requirements:

- High-risk impoundments would be required to close as soon as practicable, but no later than December 31, 2019. A proposed closure plan for such impoundments would need to be submitted as soon as practicable, but no later than December 31, 2016. At a minimum, such impoundments would be required to be dewatered, and the owner of an impoundment could either:
  - Convert the impoundment to an industrial landfill, by removing all CCR from the impoundment temporarily, safely storing the CCR on-site, and complying with the siting and design requirements for sanitary landfills under the Administrative Code, except with respect to those requirements that pertain to buffers. In lieu of the buffer requirements under the Administrative Code, the owner of the impoundment would be required to establish and maintain a 300-foot buffer between streams and rivers and disposal areas. After the temporarily displaced CCR's are returned for disposal in the industrial landfill, the owner of the landfill would be required to comply with the closure and post-closure requirements for sanitary landfills established by the Administrative Code. Prior to closure, however, DENR could allow the disposal of CCR, in addition to those originally contained in the impoundment, to the landfill, if DENR determines that the site is suitable for additional capacity, and that disposal of additional CCR would not pose an unacceptable risk to public health, safety, welfare; the environment; and natural resources.
  - Remove all CCR from the impoundment, return the former impoundment to a non-erosive and stable condition, and: (i) transfer the CCR for disposal in a combustion products landfill or coal combustion residuals landfill, industrial landfill, or municipal solid waste landfill; or (ii) use the CCP in a structural fill, or other beneficial use as allowed by law. The use of CCP as structural fill would need to be conducted in accordance with the enhanced requirements for structural fill included in the legislation, and other beneficial uses would need to be conducted in accordance with the applicable requirements of the Administrative Code.

- Intermediate-risk impoundments would be required to close as soon as practicable, but no later than December 31, 2024. A proposed closure plan for such impoundments would need to be submitted as soon as practicable, but no later than December 31, 2017. At a minimum, such impoundments would

need to be dewatered, and the owner of such an impoundment would be required to close it in any manner allowed for high-risk impoundments.

- Low-risk impoundments would be required to close as soon as practicable, but no later than December 31, 2029. A proposed closure plan for such impoundments would need to be submitted as soon as practicable, but no later than December 31, 2018. At a minimum, such impoundments would need to be dewatered and would be required to comply with the closure and post-closure requirements applicable to sanitary landfills under the Administrative Code. The applicable rule requires installation of a cap system and conduct of post-closure care for a period of 30 years, including, among other things:
  - Maintaining the integrity and effectiveness of any cap system, including making repairs to the cover as necessary to correct the effects of settlement, subsidence, erosion, or other events, and preventing run-on and run-off from eroding or otherwise damaging the cap system.
  - Maintaining and operating a leachate collection system.
  - Monitoring the ground water and surface water and maintaining the groundwater monitoring system.

  In addition, DENR may require implementation of any other measure it deems necessary to protect public health, safety, and welfare; the environment; and natural resources, including imposition of institutional controls that are sufficient to protect public health, safety, and welfare; the environment; and natural resources.

DENR would be required to review a proposed Closure Plan for consistency with the minimum requirements for closure established by the legislation, and to determine whether the proposed Closure Plan otherwise complies with the legislation and is protective of public health, safety, and welfare; the environment; and natural resources. Prior to issuing a decision on a proposed Closure Plan, DENR would be required to provide public notice, and conduct public hearings on the proposed classification.

DENR would be required to provide specific findings to support its decision to approve or disapprove a proposed Closure Plan, and within 30 days of an approval of a Closure Plan, DENR would need to submit the Closure Plan to the Coal Ash Management Commission. The Commission could approve a Closure Plan only if it determines that the Closure Plan was developed in accordance with the legislation; that implementation of the Closure Plan according to the Closure Plan's schedule is technologically feasible; and that the benefits to public health, safety, and welfare; the environment; and natural resources outweigh the negative impacts on electricity costs and reliability. The Commission would be required to issue its determination in writing, including findings in support of its determination. Parties aggrieved by a final decision of the Commission on classification could appeal the decision as provided under Article 4 of Chapter 150B of the General Statutes.

An impoundment owner would be required to begin implementation of a Closure Plan within 60 days after Commission approval.

Notwithstanding the requirements for prioritization and closure methods described above, the following impoundments would be deemed high-priority (see Sec. 3(b)):

(1) Coal combustion residuals surface impoundment(s) located at the Dan River Steam Station, owned and operated by Duke Energy Progress, and located in Rockingham County.

(2) Coal combustion residuals surface impoundment(s) located at the Riverbend Steam Station, owned and operated by Duke Energy Carolinas, and located in Gaston County.

(3) Coal combustion residuals surface impoundment(s) located at the Asheville Steam Electric Generating Plant, owned and operated by Duke Energy Progress, and located in Buncombe County.

(4) Coal combustion residuals surface impoundment(s) located at the Sutton Plant, owned and operated by Duke Energy Progress, and located in New Hanover County.

Except as preempted by federal law, these impoundments would need to be closed as soon as practicable, but no later than August 1, 2019, as follows:

- *The impoundments would be required to be dewatered.*
- *All CCR would need to be removed from the impoundments and transferred for: (i) disposal in a combustion products landfill or coal combustion residuals landfill, industrial landfill, or municipal solid waste landfill; or (ii) use in a structural fill, or other beneficial use as allowed by law.*
- *Where groundwater quality is degraded as a result of the impoundment, corrective action would be required to restore groundwater quality.*

SUBPART 3. Use of Coal Combustion Products in Structural Fill

This portion of the legislation would codify requirements applicable to the use of CCP's in structural fill currently found under the Administrative Code, and would add a number of new requirements to large structural fill projects (those involving the placement of 10,000 or more tons of coal combustion products per acre or 100,000 or more tons of coal combustion products in total per project). In particular, the provisions would do the following:

- Require individual permits for large structural fill projects using CCP (smaller structural fill projects would be deemed permitted), and specify information to be provided to DENR for permitting purposes.
- Codify design and siting requirements for projects using CCP for structural fill currently in rule, and establish new provisions requiring large structural fill projects to have an encapsulation liner system constructed on and around the structural fill to efficiently contain, collect, and remove leachate generated by the CCP, as well as separate the CCP from any exposure to surrounding environs. At a minimum, the components of the liner system would need to include a base liner, a leachate collection system, and a cap liner.
- Require groundwater monitoring for large structural fill projects using CCP. Specifically, large structural fills would be required to install a groundwater monitoring system and conduct groundwater monitoring through construction and the post-closure care period. In addition, a constructor or operator of a large structural fill would be required to implement an assessment monitoring program and initiate corrective action measures if exceedances of groundwater standards are detected through monitoring.
- Require financial assurance for large structural fill projects using CCP for structural fill that will ensure that sufficient funds are available for facility closure, post-closure maintenance and monitoring, any corrective action that DENR may require, and to satisfy any potential liability for sudden and nonsudden accidental occurrences, and subsequent costs incurred by DENR in response to an incident at a structural fill project, even if the applicant or permit holder becomes insolvent or ceases to reside, be incorporated, do business, or maintain assets in the State.
- Codify closure requirements for projects using CCP for structural fill currently in rule, and establish new provisions requiring large structural fill projects to submit closure and post-closure plans and conduct post-closure care for 20 years, which period may be increased or decreased by DENR based on evaluations of impacts to public health, welfare, the environment, and natural resources, or decreased upon a determination that a shorter period is sufficient to protect public health, welfare, the environment, and natural resources.
- Codify recordation requirements for projects using CCP structural fill facilities currently in rule.
- Codify an exemption for Department of Transportation projects using CCP structural fill facilities currently in rule.
- Require DENR to prepare an inventory of all structural fill projects with a volume of 10,000 cubic yards or more, and update the inventory at least annually. In addition, DENR would be directed to inspect each

structural fill project with a volume of 10,000 cubic yards or more at least annually to determine if the project or facility has been constructed and operated in compliance with governing law.

- Direct the EMC to amend existing rules governing the use of CCP for structural fill as necessary to implement the provisions of the legislation, and exempt these rules from a limitation found in the Administrative Procedure Act on adoption of certain environmental rules.

PART III. MORATORIUMS AND STUDY ON: (1) USE OF COAL COMBUSTION PRODUCTS AS STRUCTURAL FILL AND (2) DISPOSAL OF COAL COMBUSTION RESIDUALS TO COMBUSTION PRODUCTS LANDFILLS

SECTION 4.(a) through (d) of the PCS would prohibit certain uses of CCP's as structural fill until August 1, 2015, in order to allow DENR, the EMC, and the General Assembly time to review and evaluate the use of coal combustion residuals as structural fill.

CCP's used as structural fill for any of the following types of projects would be exempt from the moratorium, provided, however, that they comply with requirements of the legislation:

- A project where the structural fill is used with a base liner, leachate collection system, cap liner, groundwater monitoring system, and with sufficient financial assurance.
- As the base or sub-base of a concrete or asphalt paved road constructed under the authority of a public entity.

During the pendency of the moratorium, DENR and the EMC would be required to jointly review the requirements for structural fills using CCP's included in the legislation, as well as rules for beneficial use under the Administrative Code. In particular DENR and EMC would be required to study all of the following:

- Review the uses of CCP: (i) as structural fill, and the regulation of this use as would be established by the legislation, to determine if the requirements are sufficient to protect public health, safety, and welfare; the environment; and natural resources; and (ii) for other beneficial uses and the regulation of these uses under the rules to determine if the rules are sufficient to protect public health, safety, and welfare; the environment; and natural resources.
- Evaluate additional opportunities for the use of CCP as structural fill and for other beneficial uses that would reduce the volume of CCR that are being disposed of in sanitary landfills while still being protective of public health, safety, and welfare; the environment; and natural resources.
- Monitor any actions of the USEPA regarding the use of CCP as structural fill or for other beneficial uses.
- Jointly report to the ERC no later than January 15, 2015, on their findings and recommendations regarding the use of CCP as structural fill and for other beneficial uses.

SECTION 4.(e) of the PCS would require all electric generating facilities owned by a public utility that produce CCR's and CCP's to issue a request for proposals (RFP) on or before December 31, 2014, for (i) the conduct of a market analysis for the concrete industry and other industries that might beneficially use CCR's and CCP's; (ii) the study of the feasibility and advisability of installation of technology to convert existing and newly generated CCR's to commercial-grade CCP's suitable for use in the concrete industry and other industries that might beneficially use coal combustion residuals; and (iii) an examination of all innovative technologies that might be applied to diminish, recycle or reuse, or mitigate the impact of existing and newly generated CCR's. The facilities would be required to present the materials and information received in response to an RFP and an assessment of the materials and information, including a forecast of specific actions to be taken in response to the materials and information received, to the Environmental Management Commission and the Coal Ash Management Commission on or before August 1, 2016.

SECTION 5. of the PCS would establish a moratorium on construction of new or expansion of existing combustion products landfills through August 1, 2015. During the pendency of the moratorium DENR would be required to evaluate each combustion products landfill currently operating in the State, and, in particular, assess the risks to public health, safety, welfare; the environment; and natural resources, of coal combustion residuals surface impoundments located beneath combustion products landfills to determine the advisability of continued operation of these landfills. DENR would be required to report to the ERC no later than January 15, 2015.

PART IV. STRENGTHEN THE REPORTING AND NOTIFICATION REQUIREMENTS APPLICABLE TO DISCHARGES OF WASTEWATER TO WATERS OF THE STATE; REQUIRE CERTAIN EMERGENCY CALLS TO BE RECORDED

SECTION 6.(a) and (b) of the PCS would amend existing requirements for reporting and notification applicable to discharges of wastewater to waters of the State, to: (i) require an owner or operator of any wastewater collection or treatment works to report a discharge of 1,000 gallons or more of untreated wastewater to the surface waters of the State to DENR within 24 hours after the owner or operator has determined that the discharge has reached the surface waters of the State; and (ii) reduce the time periods allowed for a publication of notice of discharge of untreated wastewater from a wastewater collection or treatment works from 48 to 24 hours.

SECTION 6.(c) of the PCS would require that the 24-hour Operations Center established to serve as a single point of contact for local governments to report the occurrence of emergency and disaster events and to coordinate local and State response assets record all telephone calls to the emergency hotline and maintain the recording of each telephone call for at least one year.

PART V. REQUIRE NOTIFICATION TO DENR OF EMERGENCY DAM REPAIRS; REQUIRE EMERGENCY ACTION PLANS FOR CERTAIN DAMS; REQUIRE INSPECTION OF DAMS AT COAL COMBUSTION RESIDUALS SURFACE IMPOUNDMENTS

SECTION 7. of the PCS would amend requirements applicable to dam safety to require that a dam owner notify DENR as soon as possible, but not later than 24 hours after first knowledge of the necessity for emergency repairs to a dam.

SECTION 8. of the PCS would amend requirements applicable to dam safety to require that the owner of a dam classified by DENR as a high hazard dam or an intermediate hazard dam develop an Emergency Action Plan for the dam, addressing specific criteria outlined in the legislation, which must be submitted to DENR and the of Public Safety for approval.

SECTION 9. of the PCS would amend legislation enacted in 2009 that brought certain dams used in connection with electric generating facilities, not including those associated with nuclear generating facilities, under the State Dam Safety Act. The 2009 legislation provided that those facilities would be deemed to have received all of the necessary approvals from DENR and the Commission for Dam Safety, and were not required to submit application, certificate, or other materials in connection with the continued normal operation and maintenance of those facilities. The PCS would eliminate the language exempting these facilities from submission applications, certificates, or other materials.

SECTION 10. of the PCS would amend dam safety requirements to establish specific inspection requirements for impoundments as follows:

- Require DENR to inspect each dam associated with an impoundment at least annually.

- Require the owner of an impoundment to inspect the impoundment weekly and after storms to detect evidence of any of the following conditions:
  - Deterioration, malfunction, or improper operation of spillway control systems.
  - Sudden drops in the level of the contents of the impoundment.
  - Severe erosion or other signs of deterioration in dikes or other containment devices or structures.
  - New or enlarged seeps along the downstream slope or toe of the dike or other containment devices or structures.
  - Any other abnormal conditions at the impoundment that could pose a risk to public health, safety, or welfare; the environment; or natural resources.
- Require the owner of an impoundment to have the impoundment inspected annually by an independent registered professional engineer to ensure that the structural integrity and the design, operation, and maintenance of the impoundment is in accordance with generally accepted engineering standards. Within 30 days of the inspection, the owner must provide DENR the inspection report and a certification by the engineer that the impoundment is structurally sound and that the design, operation, and maintenance of the impoundment is in accordance with generally accepted engineering standards.

PART VI. TRANSFER SOLID WASTE RULE-MAKING AUTHORITY FROM COMMISSION FOR PUBLIC HEALTH TO ENVIRONMENTAL MANAGEMENT COMMISSION

SECTION 11. of the PCS would transfer all rule-making authority for matters related to solid and hazardous waste management (Article 9 of Chapter 130A of the General Statutes), from the Commission for Public Health to the Environmental Management Commission, and makes conforming changes throughout the statutes.

PART VII. OTHER STUDIES

SECTION 12. of the PCS would require the Coal Ash Management Commission, to study whether and under what circumstances no further action or natural attenuation is appropriate for impoundments classified as low-risk. In conducting the study, the Commission must specifically consider whether there is any contact or interaction between CCR and groundwater and surface water, whether the area has reverted to a natural state as evidenced by the presence of wildlife and vegetation, and whether no further action or natural attenuation would be protective of public health, safety, and welfare; the environment; and natural resources. The Commission would be required to report the results of its study, including any recommendations, to the ERC no later than October 1, 2015.

SECTION 13. of the PCS would require the Department of Transportation to evaluate additional opportunities for the use of CCR in the construction and maintenance of roads and bridges within the State. The Department would be required to report the results of its study, including any recommendations, to the ERC no later than December 1, 2014.

PART VIII. PROVIDE RESOURCES FOR IMPLEMENTATION OF THIS ACT

SECTION 14. of the PCS would create a new regulatory fee to defray the costs to the State of CCR management and appropriates the funds. Currently, all public utilities operating in the State pay a regulatory fee that is a percentage of their jurisdictional revenues. This regulatory fee is used to pay the expenses incurred by the Utilities Commission and the Public Staff in regulating public utilities. Section 14(a) of the PCS would create a new regulatory fee that will only be used to pay the costs of the Coal Ash Management Commission and the costs of DENR in providing oversight for CCR and CCP. The fee is set at 0.03% of the jurisdictional revenues of public utilities with an impoundment. Section 14(c) appropriates $1.75 million of the fee to DENR to fund 25 positions to carry out the duties of CCR and CCP management. Section 14(d)

appropriates the funds generated by the new regulatory fee remaining after the appropriation to DENR to the Coal Ash Management Commission to fund 4 positions to support the Commission.

PART XI. SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 15. of the PCS would provide that if any provision of the act or its application were held invalid, the invalidity would not affect other provisions or applications of the act that can be given effect without the invalid provisions or application, and to this end the provisions of this act would be severable.

SECTION 16. Except as otherwise provided, the act would be effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S 1

SENATE BILL 742*

Short Title:	Adjust the Utility Regulatory Fee.	(Public)
Sponsors:	Senator Brown (Primary Sponsor).	
Referred to:	Commerce.	

May 15, 2014

A BILL TO BE ENTITLED

AN ACT TO ADJUST THE UTILITY REGULATORY FEE TO REFLECT THE CHANGING REGULATORY CLIMATE FOR THE TELECOMMUNICATIONS INDUSTRY, AS RECOMMENDED BY THE LRC COMMITTEE ON THE ASSESSMENT OF REGULATED AND NON-REGULATED INDUSTRY UTILITY FEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 62-302 reads as rewritten:

"**§ 62-302. Regulatory fee.**

(a) Fee Imposed. – It is the policy of the State of North Carolina to provide fair regulation of public utilities in the interest of the public, as provided in G.S. 62-2. The cost of regulating public utilities is a burden incident to the privilege of operating as a public utility. Therefore, for the purpose of defraying the cost of regulating public utilities, every public utility subject to the jurisdiction of the Commission shall pay a quarterly regulatory fee, in addition to all other fees and taxes, as provided in this section. The fees collected shall be used only to pay the expenses of the Commission and the Public Staff in regulating public utilities in the interest of the public.

It is also the policy of the State to provide limited oversight of certain electric membership corporations as provided in G.S. 62-53. Therefore, for the purpose of defraying the cost of providing the oversight authorized by G.S. 62-53 and G.S. 117-18.1, each fiscal year each electric membership corporation whose principal purpose is to furnish or cause to be furnished bulk electric supplies at wholesale as provided in G.S. 117-16 shall pay an annual fee as provided in this section.

(b) Public Utility Rate. –

(1) Repealed by Session Laws 2000-140, s. 56, effective July 21, 2000.

(2) ~~The~~ For noncompetitive jurisdictional revenues as defined in sub-subdivision (4)a. of this subsection, the public utility regulatory fee for each fiscal year ~~shall be~~ is the greater of (i) a percentage rate, established by the General Assembly, of each public utility's ~~North Carolina~~ noncompetitive jurisdictional revenues for each quarter or (ii) six dollars and twenty-five cents ($6.25) each quarter. For subsection (h) competitive jurisdictional revenues as defined in sub-subdivision (4)b. of this subsection, and subsection (m) competitive jurisdictional revenues as defined in sub-subdivision (4)c. of this subsection, the public utility regulatory fee for each fiscal year is a percentage rate established by the General Assembly of each public utility's competitive jurisdictional revenues for each quarter.

When the Commission prepares its budget request for the upcoming fiscal year, the Commission shall propose a percentage rate of the public utility regulatory fee. For fiscal years beginning in an odd-numbered year, that proposed rate shall be included in the budget message the Governor submits to the General Assembly pursuant to G.S. 143C-3-5. For fiscal years beginning in an even-numbered year, that proposed rate shall be included in a special budget message the Governor shall submit to the General Assembly. The General Assembly shall set the percentage rate of the public utility regulatory fee by law.

The percentage rate may not exceed the amount necessary to generate funds sufficient to defray the estimated cost of the operations of the Commission and the Public Staff for the upcoming fiscal year, including a reasonable margin for a reserve fund. The amount of the reserve may not exceed the estimated cost of operating the Commission and the Public Staff for the upcoming fiscal year. In calculating the amount of the reserve, the General Assembly shall consider all relevant factors that may affect the cost of operating the Commission or the Public Staff or a possible unanticipated increase or decrease in North Carolina jurisdictional revenues.

(3) If the Commission, the Public Staff, or both experience a revenue shortfall, the Commission shall implement a temporary public utility regulatory fee surcharge to avert the deficiency that would otherwise occur. In no event may the total percentage rate of the public utility regulatory fee plus any surcharge established by the Commission exceed twenty-five hundredths percent (0.25%).

(4) As used in this ~~section, the term "North Carolina jurisdictional revenues" means:~~section:

a. "Noncompetitive jurisdictional revenues" means all~~All~~ revenues derived or realized from intrastate tariffs, rates, and charges approved or allowed by the Commission or collected pursuant to Commission order or rule, but not including tap-on fees or any other form of contributions in aid of construction.

b. "Subsection (h) competitive jurisdictional revenues" means all~~All~~ revenues derived from retail services provided by local exchange companies and competing local providers that have elected to operate under ~~no longer otherwise regulated by the operation of G.S. 62-133.5(h) or~~ G.S. 62-133.5(h).~~G.S. 62-133.5(m) for a local exchange company or competing local provider that has elected to be regulated under those subsections.~~

c. "Subsection (m) competitive jurisdictional revenues" means all revenues derived from retail services provided by local exchange companies and competing local providers that have elected to operate under G.S. 62-133.5(m).

...

(e) Recovery of fee increase. – If a utility's regulatory fee obligation is increased, the Commission shall either adjust the utility's rates to allow for the recovery of the increased fee obligation, or approve the utility's request for an accounting order allowing deferral of the increase in the fee obligation."

SECTION 2.(a) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) for each public utility's North Carolina subsection (h) competitive jurisdictional revenues as defined by G.S. 62-302(b)(4)b. earned during each quarter that begins on or after July 1, 2015, is six hundredths of one percent (0.06%).

SECTION 2.(b) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) for each public utility's North Carolina subsection (h) competitive jurisdictional revenues as defined by G.S. 62-302(b)(4)b. earned during each quarter that begins on or after July 1, 2016, is four hundredths of one percent (0.04%).

SECTION 3.(a) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) for each public utility's North Carolina subsection (m) competitive jurisdictional revenues as defined by G.S. 62-302(b)(4)c. earned during each quarter that begins on or after July 1, 2015, is five hundredths of one percent (0.05%).

SECTION 3.(b) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) for each public utility's North Carolina subsection (m) competitive jurisdictional revenues as defined by G.S. 62-302(b)(4)c. earned during each quarter that begins on or after July 1, 2016, is two hundredths of one percent (0.02%).

SECTION 4. For the 2015-2016 and 2016-2017 fiscal years, the percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) for each public utility's North Carolina noncompetitive jurisdictional revenues as defined by G.S. 62-302(b)(4)a. shall be adjusted to reflect the decrease in the total regulatory fee collected as a result of Sections 2 and 3 of this act and shall be set to ensure the total regulatory fee collected for each fiscal year is at least an amount sufficient to defray the cost of the operations of the Commission and the Public Staff for the upcoming fiscal year, including a reasonable margin for a reserve fund.

SECTION 5. This act becomes effective July 1, 2015.

SENATE BILL 742:
Adjust the Utility Regulatory Fee

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 19, 2014
Introduced by:	Sen. Brown	**Prepared by:**	Heather Fennell
Analysis of:	First Edition		Committee Counsel

SUMMARY: ***Senate Bill 742 would allow the General Assembly to establish a different utility regulatory fee for the retail services of telecommunications providers that have elected to be regulated under G.S. 62-133.5(h) or G.S. 62-133.5(m) and would set those rates for the 2015 and 2016 fiscal years.***

[As introduced, this bill was identical to H1052, as introduced by Rep. Hager, which is currently in House Finance.]

CURRENT LAW: Currently, all public utilities operating in the State pay a regulatory fee that is a percentage of their jurisdictional revenues. The regulatory fee is used to pay the expenses incurred by the Utilities Commission and the Public Staff in regulating public utilities. The amount of the fee is set by the General Assembly.

G.S. 62-133.5(h), enacted in 2009, allows a local exchange company whose territory is open to competition from other local providers to elect to participate in an alternative form of regulation. After electing to be regulated under (h), local exchange companies are no longer required to file tariffs and certain reports, including service line, access line, and service quality reports with the Utilities Commission. Local exchange companies may not elect regulation under subsection (h) unless they commit to providing stand-alone basic service to rural customers at rates comparable to rates charged to urban customers. Once a local exchange company elects regulation under the plan, it may not increase the rates for stand-alone basic service by more than the GDP price index unless otherwise authorized by the Utilities Commission. Other than to enforce this rate increase standard, the Commission cannot regulate rates or service standards for basic service.

G.S. 62-133.5(m), enacted in 2011, allows a local exchange company whose territory is open to competition from other local providers to elect to participate in another alternative form of regulation. After electing to be regulated under subsection (m), regulation is the same as for companies that are regulated under subsection (h), except that local exchange companies no longer have carrier of last resort responsibilities, are not eligible to receive funds from a state fund that may be established to support universal service, and are not required to provide stand-alone basic service to rural companies at rates comparable to rates charged to urban customers.

BILL ANALYSIS: **Section 1** of the bill would amend the statute governing the regulatory fee paid by public utilities by dividing the revenues of public utilities into three categories:

- Non-competitive jurisdictional revenues.
- Subsection (h) competitive jurisdictional revenues.
- Subsection (m) competitive jurisdictional revenues. Each category of revenue will be subject to its own regulatory fee, as established by the General Assembly.

The percentage rate applied to the jurisdictional revenues is typically set in the Appropriations bill passed by the General Assembly each year.

Sections 2.(a) and 2.(b) would set the regulatory fee for subsection (h) competitive jurisdictional revenues at 0.06% for each quarter that begins on or after July 1, 2015, and at 0.04% for each quarter that begins on or after July 1, 2016.

Sections 3.(a) and 3.(b) would set the regulatory fee for subsection (m) competitive jurisdictional revenues at 0.05% for each quarter that begins on or after July 1, 2015, and at 0.02% for each quarter that begins on or after July 1, 2016.

The regulatory fee over the next three fiscal years would be:

	Noncompetitive Jurisdictional Revenues	Subsection (h) Jurisdictional Revenues	Subsection (m) Jurisdictional Revenues
FY 2014-2015	0.13% (Senate Budget)/ 0.14% (House Budget)		
FY 2015-2016	Not set	0.06%	0.05%
FY 2016-2017	Not set	0.04%	0.02%

Section 4 would direct that the regulatory fee for non-competitive jurisdictional revenues be adjusted to reflect the overall decrease in the total regulatory fee collected as a result of the fee for subsection (h) and subsection (m) competitive jurisdictional revenues such that the total regulatory fee collected for each fiscal year is at least sufficient to cover the operations of the Utilities Commission and the Public Staff.

EFFECTIVE DATE: This act becomes effective July 1, 2015.

GENERAL ASSEMBLY OF NORTH CAROLINA

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: May 21, 2014
TO: Chairs of the Public Utilities and Energy Committee
FROM: Timothy Dale
Fiscal Research Division
RE: **Fiscal Memo for HB 1052**

FISCAL IMPACT
($ in millions)

☑ Yes ☐ No ☐ No Estimate Available

State Impact	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
Special Fund Revenues:	$0 to $0	($0.82) to ($1.06)	($1.10) to ($1.46)	($1.10) to ($1.46)	($1.10) to ($1.46)
Special Fund Expenditures:	$0 to $0	$0 to $0	$0 to $0	$0 to $0	$0 to $0
State Positions:	N/A	N/A	N/A	N/A	N/A
NET STATE IMPACT	$0 to $0	($0.82) to ($1.06)	($1.10) to ($1.46)	($1.10) to ($1.46)	($1.10) to ($1.46)

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Utilities Commission & Public Staff

EFFECTIVE DATE: July 1, 2015

TECHNICAL CONSIDERATIONS: Yes - See Technical Considerations Section

BILL SUMMARY:

Section 1

Section 1 of the bill adds new definitions for the types of jurisdictional utility revenues that are subject to the public utility regulatory fee. "Non-competitive" jurisdictional revenues will continue to be assessed the public utility regulatory fee established by the General Assembly. "Competitive" jurisdictional revenues will be assessed a lower regulatory fee that is established in statute. Competitive jurisdictional revenues are separated into two categories:

1. Subsection (h) competitive jurisdictional revenues – revenues derived from retail services provided by local exchange companies and competing local providers that elected to operate under G.S. 62-133.5(h).
2. Subsection (m) competitive jurisdictional revenues – revenues derived from retail services provided by local exchange companies and competing local providers that elected to operate under G.S. 62-133.5(m).

Section 1 also directs the Utilities Commission to adjust established utility rates to allow for the recovery of any future increases in regulatory fees. As an alternative, the Commission may approve a utility's request to defer any future fee increases.

Section 2(a)
For FY 2015-16, the regulatory fee applied to retail service revenue of public utilities operating under G.S. 62-133.5(h) will be set at 0.06%.

Section 2(b)
Beginning July 1, 2016, the regulatory fee applied to retail service revenue of public utilities operating under G.S. 62-133.5(h) will be decreased from 0.06% to 0.04%.

Section 3(a)
For FY 2015-16, the regulatory fee applied to retail service revenue of public utilities operating under G.S. 62-133.5(m) will be decreased to 0.05%.

Section 3(b)
Beginning July 1, 2016, the regulatory fee applied to retail service revenue of public utilities operating under G.S. 62-133.5(m) will be decreased from 0.05% to 0.02%.

Section 4
Section 4 states that the regulatory fee applied to non-competitive jurisdictional revenues will be increased to generate sufficient revenue to offset revenue lost from the fee reductions detailed in Sections 2(a), 2(b), 3(a), and 3(b).

ASSUMPTIONS AND METHODOLOGY:

Background

There are currently five types of regulation on telecommunication providers in the State:

1) Price-Plan Regulation
2) Rate-of-Return Regulation
3) G.S. 62-133.5(h)
4) G.S. 62-133.5(m)
5) Certification

There are two types of regulated entities that would be eligible to be regulated under G.S. 62-133.5(h) or G.S. 62-133.5(m):

1) Incumbent Local Exchange Companies (ILECs)
2) Competing Local Providers (CLPs)

Telecommunication providers can elect to be regulated under any of the regulation types listed above, with the exception that only CLPs are eligible for the certification process.

Information supplied by the Utilities Commission for the 2012 Calendar Year details the entity participation by regulation type as displayed in Table 1:

Table 1: Number of Providers by Regulation Type

Regulation Type	Number of ILECs	Number of CLPs
Price-Plan	4	0
Rate-of-Return	1	0
G.S. 62-133.5(h)	10	5
G.S. 62-133.5(m)	1	8
Certification	0	161

The same information provided by the Commission included jurisdictional revenues and regulatory fees paid to the Commission from all regulated entities. In addition, 10 of the 16 ILECs provided a breakdown between "competitive" or retail revenues and "non-competitive" or wholesale revenues. The same breakdown was not available for any CLPs.[1]

In CY 2012, jurisdictional revenues received by all ILECs and CLPs totaled $1,595,297,288. Of this amount, $1,083,469,223 was derived from the 10 of 16 ILECs providing a breakdown of wholesale and retail revenues. The retail revenues reported by these 10 ILECs totaled $894,596,745, or 83% of their total jurisdictional revenues.

[1] See Technical Consideration 2.

Assumptions

For this analysis, the percentage of revenues derived from retail operations as reported by 10 of the 16 ILECs (83%) will be applied to the total jurisdictional revenues within the State to calculate total retail jurisdictional revenues. When the experience from the 10 reporting ILECs is applied to total jurisdictional revenue for all ILECs and CLPs, the result is total retail jurisdictional revenue of $1,324,096,749.

All ILECs and CLPs listed above can elect to be regulated under G.S. 62-133.5(h) or G.S. 62-133.5(m). The likelihood of a provider electing to be regulated under G.S. 62-133.5(h) or G.S. 62-133.5(m) will vary among each provider. Since providers opting to be regulated under G.S. 62-133.5(h) or G.S. 62-133.5(m) will pay a lower regulatory fee on retail revenues, an incentive exists for eligible providers to elect to be regulated under these statutes. If more providers choose to be regulated under these statutes, the fiscal impact on the Utilities Commission will increase. Since all ILECs and CLPs are eligible, but must elect to be regulated under G.S. 62-133.5(h) or G.S. 62-133.5(m), three scenarios are presented below:

1) Status Quo
   This scenario assumes that providers continue to be regulated as they were regulated in 2012.

2) G.S. 62-133.5(m) Only
   In the proposed legislation, the regulatory fee for retail revenue is the lowest for G.S. 62-133.5(m) regulated providers. This scenario assumes that all providers elect to be regulated under G.S. 62-133.5(m).

3) Best Estimate
   This scenario provides staff's best estimate of the actual fiscal impact. Staff assumes that all eligible providers elect to be regulated under G.S. 62-133.5(h) or G.S. 62-133.5(m), with jurisdictional revenue divided equally amongst the two regulatory types.

Status Quo

In this scenario, no providers choose to change their existing type of regulation following a fee reduction to providers regulated by G.S. 62-133.5(h) or G.S. 62-133.5(m). Total jurisdictional revenues for G.S. 62-133.5(h) and G.S. 62-133.5(m) providers were $560,595,932 and $746,796,940 respectively. Estimated fee reduction impacts are presented in Table 2:

Table 2: Scenario 1 – Status Quo

	G.S. 62-133.5(h)	G.S. 62-133.5(m)
Total Juris. Revenue	$560,595,932	$746,796,940
Estimated Retail Revenue	$465,294,624	$619,841,460
FY 2015-16 Fee Reduction	($325,706)	($495,873)
FY 2016-17 Fee Reduction	($418,765)	($681,826)

G.S. 62-133.5(m) Only

In this scenario, all providers opt to be regulated under G.S. 62-133.5(m) due to the decreased regulatory oversight fee. Total jurisdictional revenue for all ILECs and CLPs eligible to be regulated under G.S. 62-133.5(m) is $1,595,297,288. Estimated fee reduction impacts are presented in Table 3:

Table 3: Scenario 2 – G.S. 62-133.5(m) Only

	G.S. 62-133.5(m)
Total Juris. Revenue	$1,595,297,288
Estimated Retail Revenue	$1,324,096,749
FY 2015-16 Fee Reduction	($1,059,278)
FY 2016-17 Fee Reduction	($1,456,507)

Best Estimate

A variety of factors can influence a provider's election of regulatory coverage. Some examples would include ease of rate increases, positioning for funding from a possible universal service fund, inertia, cost of regulation, etc. Accurately forecasting which providers elect certain types of regulation in a lower-fee environment is improbable. As a result, staff has assumed that if the bill were to become law, all eligible providers will elect to be regulated under G.S. 62-133.5(h) or G.S. 62-133.5(m) and jurisdictional revenues would be split equally between the regulatory types. Estimated fee reduction impacts are presented in Table 4:

Table 4: Scenario 3 – Best Estimate

	G.S. 62-133.5(h)	G.S. 62-133.5(m)
Total Juris. Revenue	$797,648,644	$797,648,644
Estimated Retail Revenue	$662,048,375	$662,048,375
FY 2015-16 Fee Reduction	($463,434)	($529,639)
FY 2016-17 Fee Reduction	($595,844)	($728,253)

To compare the estimated fiscal impacts of the fee reductions based on the three scenarios presented above, please refer to Table 5:

Table 5: Projected Competitive Revenue Fee Reduction Impact on NCUC/ Public Staff

Fee Reduction Impact on NC Utilities Commission/ Public Staff Revenue					
	FY 2014-15 ($)	**FY 2015-16 ($)**	**Δ Fee Revenue ($)**	**FY 2016-17 ($)**	**Δ Fee Revenue ($)**
Scenario 1 (Status Quo)	$14,662,857	$13,841,278	($821,579)	$13,562,266	($1,100,591)
Scenario 2 (G.S. 62-133.5(m) Only)	$14,662,857	$13,603,579	($1,059,278)	$13,206,350	($1,456,507)
Scenario 3 (Best Estimate)	$14,662,857	$13,669,784	($993,073)	$13,338,760	($1,324,097)

Section 4 of the bill states that the regulatory fee applied to non-competitive jurisdictional revenues shall be adjusted to reflect the decrease in fees collected from competitive jurisdictional revenues.[2] While the bill does not adjust the regulatory fee, Table 6 displays the associated percentage increases necessary to offset revenue lost from the lower fee applied to competitive jurisdictional revenues.

Table 6 – Non-Competitive Revenue Fee Adjustment Necessary to Replace Reduced Receipts

Fee Increase to Maintain NC Utilities Commission/ Public Staff Revenue						
	FY 2015-16 Δ Fee Revenue ($)	**Fee Increase (%)**	**New Regulatory Fee (%)**	**FY 2016-17 Δ Fee Revenue ($)**	**Fee Increase (%)**	**New Regulatory Fee (%)**
Scenario 1 (Status Quo)	($821,579)	.008%	0.138%	($1,100,591)	.011%	0.141%
Scenario 2 (G.S. 62-133.5(m) Only)	($1,059,278)	.011%	0.141%	($1,456,507)	.015%	0.145%
Scenario 3 (Best Estimate)	($993,073)	.010%	0.140%	($1,324,097)	.013%	0.143%
Note: Percentages rounded to the nearest one-thousandth of one percent *Utility regulatory fee is set at 0.13% for FY 2013-15						

SOURCES OF DATA: Utilities Commission, Public Staff

TECHNICAL CONSIDERATIONS:

1) Section 4 of the bill directs the regulatory fee for the Utilities Commission to be adjusted to offset any revenue lost as a result of Sections 2 and 3 of the bill. However, pursuant to

[2] See Technical Consideration 1.

G.S. 62-302(b)(2), the regulatory fee is either a percentage rate established by the General Assembly or $6.25 for each quarter.

Currently, the General Assembly establishes the regulatory fee during the appropriations process. If the bill becomes law in its current form, Section 4 does not change current practice. The Utilities Commission would receive revenue resulting from the regulatory fee established by the next General Assembly.

For this bill to offset revenue reductions described in Sections 2 and 3 of this bill, the bill must either establish the regulatory fee for FY 2015-16 and FY 2016-17, or insert the regulatory fee in statute.

2) The Commission currently does not receive revenue information from telecommunication providers that separates retail service revenues from total jurisdictional revenues. Some providers may classify this information as trade secret information. For fee reporting purposes, requiring revenue reporting that lists retail revenue may be desired.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H D

HOUSE BILL 1034*
Committee Substitute Favorable 5/21/14
Committee Substitute #2 Favorable 5/28/14
PROPOSED SENATE COMMITTEE SUBSTITUTE H1034-CSME-20 [v.3]
6/18/2014 3:19:13 PM

Short Title: Volunteer Fire and Rescue Finances (PED). (Public)

Sponsors:

Referred to:

May 15, 2014

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAWS RELATED TO (1) LOCAL FIREFIGHTERS' RELIEF FUNDS, THE STATEWIDE FIREFIGHTERS' RELIEF FUND, AND THE RESCUE SQUAD WORKERS' RELIEF FUND, (2) WORKERS' COMPENSATION FOR FIREFIGHTERS AND RESCUE SQUAD WORKERS, (3) SUPPLEMENTAL PENSIONS FOR FIREFIGHTERS AND RESCUE SQUAD WORKERS, AND (4) THE VOLUNTEER FIRE DEPARTMENT FUND AND VOLUNTEER RESCUE/EMS FUND, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. Relief Funds. – (a) Article 84 of Chapter 58 of the General Statutes reads as rewritten:

"Article 84.

"~~Fund Derived from Insurance Companies.~~Local Firefighters' Relief Funds.

"**§ 58-84-1.** Repealed by Session Laws 2006-196, s. 6, effective January 1, 2008, and applicable to proceeds credited to the Department of Insurance on or after that date.

"**§ 58-84-5. Definitions.**

The following definitions apply in Articles 84 through 88 of this Chapter:

(1) City. – A fire district.

(2) Clerk. – The clerk of a fire district or, if there is no clerk, the person so designated by the governing body of the fire district.

(3) Fire district. – Any political subdivision of the State that meets all of the following conditions:

a. It has an organized fire department under the control of its governing body.

b. Its fire department has apparatus and equipment that is in serviceable condition for fire duty and is valued at one thousand dollars ($1,000) or more.

c. It ~~enforces the fire laws to the satisfaction of the~~ is rated and certified by the Commissioner.

d. Its response area has been approved by the local municipal government or, if there is no local municipal government, by the local board of county commissioners.

(4) Town. – A fire district.

"**§§ 58-84-10 through 58-84-20:** Repealed by Session Laws 1995 (Regular Session, 1996), c. 747, s. 6.

"**§ 58-84-25. Disbursement of funds by Insurance Commissioner.**

(a) Distribution. – The Insurance Commissioner shall deduct the sum of three percent (3%) from the tax proceeds credited to the Department pursuant to G.S. 105-228.5(d)(3) and pay the same over to the treasurer of the State Firemen's Association for ~~general~~ administrative purposes. The Insurance Commissioner shall deduct the sum of ~~one percent (1%)~~ two percent (2%) from the tax proceeds and retain the same in the budget of the Department of Insurance for the purpose of administering the disbursement of funds by the board of trustees in accordance with the provisions of G.S. 58-84-35. The Insurance Commissioner shall, pursuant to G.S. 58-84-50, credit the amount forfeited by nonmember fire districts to the North Carolina State Firemen's Association. The Insurance Commissioner shall distribute the remaining tax proceeds to the treasurer of each fire district as provided in subsections (b) and (c) of this section.

(b) Allocation to Counties. – The Insurance Commissioner shall allocate to each county an amount of tax proceeds based upon the amount allocated to it in the previous year. If the amount allocable in the current year is less than the amount allocated in the previous year, then the Commissioner shall reduce the amount allocated to each county. The amount of the reduction is equal to the difference in the amount allocated in the previous year and the amount allocable in the current year multiplied by a fraction, the numerator of which is the population of the county and the denominator of which is the population of the State. If the amount allocable in the current year is greater than the amount allocated in the previous year, then the Commissioner shall increase the amount allocated to each county. The amount of the increase is equal to the excess proceeds multiplied by a fraction, the numerator of which is the population of the county and the denominator of which is the population of the State.

(c) Distribution to Fire Districts. – Once the Insurance Commissioner has allocated the tax proceeds to a county under subsection (b) of this section, the Commissioner shall distribute those allocations to the fire districts in that county. The amount distributed to each fire district is equal to the total amount allocated to the county multiplied by a fraction, the numerator of which is the tax value of the property located in the fire district and the denominator of which is the tax value of all property located in any fire district in that county. A county shall provide the Commissioner with the tax value of property located in each fire district in that county by ~~January 1~~February 1 of each year. If a county does not submit information that the Commissioner needs to make a distribution by the date the information is due, the Commissioner shall distribute the allocation based on the most recent information the Commissioner has.

(d) Administration. – These funds shall be held by the treasurer of a fire district as a separate and distinct fund. The fire district shall immediately pay the funds to the treasurer of the local board of trustees upon the treasurer's election and qualification, for the use of the board of trustees of the firemen's local relief fund in each fire ~~district, which board shall be composed of five members,~~district to be used by it for the purposes provided in G.S. 58-84-35.

"**§ 58-84-30. Trustees appointed; organization.**

For each county, town or city complying with and deriving benefits from the provisions of this Article, there shall be appointed a local board of trustees, known as the trustees of the local Firefighters' Relief Fund, to be composed of five members, two of whom shall be elected by the members of the local fire department who are qualified as beneficiaries of such fund, two of whom shall be elected by the mayor and board of aldermen or other local governing body, and one of whom shall be named by the Commissioner of Insurance. Their selection and term of office shall be as follows:

(1) The members of the fire department shall hold an election each January to elect their representatives to above board. In January 1950, the firefighters

shall elect one member to serve for two years and one member to serve for one year, then each year in January thereafter, they shall elect only one member and his term of office shall be for two years. Members elected pursuant to this section shall be either (i) residents of the fire district or (ii) active or retired members of the fire department.

(2) The mayor and board of aldermen or other local governing body shall appoint, in January 1950, two representatives to above board, one to hold office for two years and one to hold office for one year, and each year in January thereafter they shall appoint only one representative and his term of office shall be for two years. Members appointed pursuant to this section shall be residents of the fire district.

(3) The Commissioner of Insurance shall appoint one representative to serve as trustee and he shall serve at the pleasure of the Commissioner. The member appointed pursuant to this section shall be either (i) a resident of the fire district or (ii) an active or retired member of the fire department.

All of the above trustees shall hold office for their elected or appointed time, or until their successors are elected or appointed, and shall serve without pay for their services. They shall immediately after election and appointment organize by electing from their members a chairman and a secretary and treasurer, which two last positions may be held by the same person. The treasurer of said board of trustees shall give a good and sufficient surety bond in a sum equal to the amount of moneys in his hand, to be approved by the Commissioner of Insurance. The cost of this bond may be deducted by the Insurance Commissioner from the receipts collected pursuant to G.S. 58-84-10 before distribution is made to local relief funds. If the chief or chiefs of the local fire departments are not named on the board of trustees as above provided, then they shall serve as ex officio members without privilege of voting on matters before the board.

"**§ 58-84-32. Prudent management of funds.**

Local boards of trustees shall manage local relief funds as prudent trustees of the funds, subject to Chapter 36E of the General Statutes.

"**§ 58-84-35. Disbursement of funds by trustees.**

(a) The board of trustees shall have entire control of the funds derived from the provisions of this Article, and shall disburse the funds only for the following purposes:

(1) To safeguard any ~~fireman~~ firefighter in active service from financial loss, occasioned by sickness contracted or injury received while in the performance of his duties as a ~~fireman.~~ firefighter.

(2) To provide a reasonable support for those actually dependent upon the services of any ~~fireman~~ firefighter who may lose his life in the fire service of his town, city, or State, either by accident or from disease contracted or injury received by reason of such service. The amount is to be determined according to the earning capacity of the deceased.

(2a) To provide assistance, upon approval by the ~~Secretary~~ Executive Director of the State Firemen's Association, to a destitute member ~~fireman~~ firefighter who has served honorably for at least five years. The determination of destitute shall be based on the inability of the firefighters, through no fault of their own, to provide basic provisions to themselves or their families. Such basic provisions include, but are not limited to, assistance with housing, vehicle or commuting expenses, food, clothing, utilities, medical care, and funeral expenses.

(3) Repealed by Session Laws 1985, c. 666, s. 61:

(4) To provide for the payment of any ~~fireman's~~ firefighter's assessment in the Firemen's Fraternal Insurance Fund of the State of North Carolina if the

board of trustees finds as a fact that said ~~fireman~~ firefighter is unable to pay the said assessment by reason of disability.

(5) To provide for benefits of (i) supplemental retirement, including payment of firefighters' monthly assessments for the North Carolina Firefighters' and Rescue Squad Workers' Pension Fund, (ii) workers compensation, including the payment of premiums to the Workers' Compensation Fund established under G.S. 58-87-10, and (iii) other insurance and pension protection for firefighters otherwise qualifying for benefits from the Firefighters' Relief Fund as set forth in Article 85 of this Chapter.

(6) To provide for educational benefits to ~~firemen~~ firefighters and their dependents who otherwise qualify for benefits from the Firefighters' Relief Fund as set forth in Article 85 of this Chapter.

(7) To provide for annual physicals that are required for firefighter positions by the Department of Labor or are recommended by the National Fire Protection Association.

(b) Notwithstanding any other provisions of law, no expenditures shall be made pursuant to ~~subsections (5) and (6)~~ subdivision (5), (6), or (7) of subsection (a) of this section unless the State Firemen's Association has certified that such expenditures will not render the Fund ~~actuarially~~ financially unsound for the purposes of providing the benefits set forth in ~~subsections~~ subdivisions (1), (2), and (4) of subsection (a) of this section. If, for any reason, funds made available for ~~subsections (5) and (6) of this section~~ subdivision (5), (6), or (7) shall be insufficient to pay in full any benefits, the benefits pursuant to ~~subsections~~ subdivisions (5) and (6) shall be reduced pro rata for as long as the amount of insufficient funds ~~exists.~~ exists, after first eliminating the benefits pursuant to subdivision (7). No claim shall accrue with respect to any amount by which a benefit under ~~subsections~~ subdivisions (5) and (6) shall have been reduced.

(c) As used in subsection (b) of this section, the term "financially unsound" means that a local fund could not sustain a requested expenditure or could not make similar payments for five years without the local fund's balance falling below the greater of the following:

(1) Five hundred dollars ($500.00) multiplied by the number of eligible firefighters in the local department.

(2) Twenty thousand dollars ($20,000).

(d) A local board of trustees shall not be restricted to making disbursements solely from the interest earned on the local board's relief fund.

"§ 58-84-40. Trustees to keep account and file certified reports.

(a) Each local board of trustees shall keep a correct account of all moneys received and disbursed by them. On a form prescribed by the North Carolina State Firemen's Association, each local board shall certify by October 31 of each year the following to the Association: the balance of the local fund, proof of sufficient bonding, a full and detailed accounting of the previous year's expenditures, and a full accounting of membership qualifications. Such certification shall be made concurrently with the local unit's statement of Fire Readiness. The accounting of the previous year's expenditures shall include the amounts spent on each of the purposes listed in G.S. 58-84-35(a), including the number of firefighters that received benefits for each of the purposes.

(b) In turn, the State Firemen's Association shall certify to the Department of Insurance by January 1 of each year on a form prescribed by the Department, the following:

(1) The local units ~~which~~ that have complied with the requirements of subsection (a) of this section.

(2) A listing of the members of each of the local units.

(3) The fund balances for each of the local units' relief funds.

(4) Any departments that have exceeded the maximum balance provided under G.S. 58-84-33(a).

(5) Details on the disbursements from local relief funds, including how much was disbursed for each allowable purpose and how many members received disbursements for those purposes, on both a unit-by-unit basis and total basis.

(6) Information on any improper disbursements.

(c) In the event that any board of trustees in any of the towns and cities benefited by this Article shall neglect or fail to perform their duties, or shall willfully misappropriate the funds entrusted in their care by obligating or disbursing such funds for any purpose other than those set forth in G.S. 58-84-35, then the Insurance Commissioner shall withhold any and all further payments to such board of trustees, or their successors, until the matter has been fully investigated by an official of the State Firemen's Association, and adjusted to the satisfaction of the Insurance Commissioner.

(d) In the event that any local relief fund provided for in this Article becomes impaired, then the Statewide Firefighters' Relief Fund may in the discretion of its board of trustees assist the local unit administering the fund in providing for relief to injured firefighters and their dependents or survivors; provided, however, that any funds so provided to such impaired units shall be repaid in full at the statutory rate of interest from future local unit receipts if the impairment resulted from violations of this Article.

"**§ 58-84-41. Commissioner of Insurance to maintain database of reports; fire department identification numbers.**

(a) Working with the North Carolina State Firemen's Association, the Commissioner of Insurance shall develop and maintain a database of the information reported under G.S. 58-84-40(b).

(b) The Commissioner of Insurance shall issue to each fire department within the State a unique fire department identification number (FDID) that shall be used by the Commissioner and the North Carolina State Firemen's Association to coordinate database records and reports.

"**§ 58-84-45.** Repealed by Session Laws 2000-67, s. 26.21(a).

"**§ 58-84-46. Certification to Commissioner.**

On or before October 31 of each year the clerk or finance officer of each city or county that has a local board of trustees under ~~G.S. 58-84-30~~G.S. 58-84-30, or a fire chief if authorized by such a city or county to file the certificate, shall file a certificate of eligibility with the Commissioner. The certificate shall contain information prescribed by administrative rule adopted by the Commissioner. If the certificate is not filed with the Commissioner on or before January 31 in the ensuing year:

(1) The city or county that failed to file the certificate shall forfeit the payment next due to be paid to its board of trustees.

(2) The Commissioner shall pay over that amount to the treasurer of the North Carolina State Firemen's Association.

(3) That amount shall constitute a part of the Statewide Firefighters' Relief Fund.

"**§ 58-84-50. Fire departments to be members of State Firemen's Association.**

For the purpose of supervision and as a guaranty that provisions of this Article shall be honestly administered in a businesslike manner, it is provided that every department enjoying the benefits of this law shall be a member of the North Carolina State Firemen's Association and comply with its constitution and bylaws. If the fire department of any city, town or village shall fail to comply with the constitution and bylaws of said Association, said city, town or village shall forfeit its right to the next annual payment due from the funds mentioned in this Article, and the Commissioner of Insurance shall pay over said amount to the treasurer of the

North Carolina State Firemen's Association and same shall constitute a part of the Statewide Firefighters' Relief Fund.

"**§ 58-84-52. Benefits available to individual firefighters whose departments are not members of the State Firemen's Association.**

(a) Individual firefighters whose departments are not members of the North Carolina State Firemen's Association shall be covered under the line of duty coverage offered by the Association.

(b) Benefits under this section shall be paid from the funds that are forfeited from local departments to the Statewide Firefighters' Relief Fund.

"**§ 58-84-55. No discrimination on account of race.**

The local boards of trustees of the local Firefighters' Relief ~~Fund~~Funds shall make no discrimination based upon race in the payment of benefits.

"**§ 58-84-60. Immunity.**

A person serving on a local board of trustees of ~~the~~a local Firefighters' Relief Fund shall be immune individually from civil liability for monetary damages, except to the extent covered by insurance, for any act or failure to act arising out of this service, except where the person:

(1) Was not acting within the scope of that person's official duties;

(2) Was not acting in good faith;

(3) Committed gross negligence or willful or wanton misconduct that resulted in the damages or injury;

(4) Derived an improper personal financial benefit, either directly or indirectly, from the transaction; or

(5) Incurred the liability from the operation of a motor vehicle.

"**§ 58-84-65. Repeal of certain local laws inconsistent with this Article.**

The following provisions contained within any local act enacted or amended prior to January 1, 2014, are hereby repealed:

(1) Any redirection, at the time of receipt, of funds directed to a fire district under G.S. 58-84-25(c) to a fund other than a local relief fund.

(2) Any restriction that would be inconsistent with G.S. 58-84-35(d).

(3) Any transfer of interest earned on a local relief fund from the local relief fund to another fund.

(4) Any transfer of funds from a local relief fund to a supplemental retirement fund based on the local relief fund exceeding a certain amount.

(5) Any allowable expenditures that are not within the scope of the list provided in G.S. 58-84-35(a).

(6) Any variation from the certification requirement under G.S. 58-84-35(b)."

SECTION 1.(b) The database required by G.S. 58-84-41, as enacted by subsection (a) of this section, shall be operational no later than December 1, 2015, so the Department of Insurance can receive and include in its database the information from the North Carolina State Firemen's Association that is due by January 1, 2016.

SECTION 1.(c) Effective July 1, 2015, G.S. 58-84-25, as amended by subsection (a) of this section, reads as rewritten:

"**§ 58-84-25. Disbursement of funds by Insurance Commissioner.**

...

(c) Distribution to Fire Districts. – Once the Insurance Commissioner has allocated the tax proceeds to a county under subsection (b) of this section, the Commissioner shall distribute those allocations directly to the fire districts in that county. The Commissioner shall distribute the allocations by electronic funds transfer, unless a fire district's account cannot accept electronic funds transfers, in which case the Commissioner shall distribute the district's allocation by paper check. The amount distributed to each fire district is equal to the total amount allocated to the county multiplied by a fraction, the numerator of which is the tax value

of the property located in the fire district and the denominator of which is the tax value of all property located in any fire district in that county. A county shall provide the Commissioner with the tax value of property located in each fire district in that county by February 1 of each year. If a county does not submit information that the Commissioner needs to make a distribution by the date the information is due, the Commissioner shall distribute the allocation based on the most recent information the Commissioner has.

(c1) Certain Amounts Redistributed. – Notwithstanding subsection (c) of this section, the Insurance Commissioner shall not distribute funds to a fire district whose local relief fund's balance exceeds the amount provided under G.S. 58-84-33(a). Instead, the Commissioner shall, using the methodology provided in subsections (b) and (c) of this section, distribute those funds to the fire districts whose local relief funds' balances do not exceed the amount provided under G.S. 58-84-33(a). If all of a county's fire districts' local relief funds' balances exceed the amount provided under G.S. 58-84-33(a), then the Commissioner shall reallocate the amount the county would have received to the counties with fire districts that do not exceed the amount provided under G.S. 58-84-33(a)."

SECTION 1.(d) Effective July 1, 2015, Article 84 of Chapter 58 of the General Statutes, as amended by subsection (a) of this section, is further amended by adding a new section to read as follows:

"**§ 58-84-33. Maximum fund balances.**

(a) The balance of a local fire department's Firefighter's Relief Fund for a given year shall not exceed the product of multiplying the number of members on the department's roster as of January 1 for that year by the sum of two thousand five hundred dollars ($2,500).

(b) The North Carolina State Firemen's Association shall annually calculate and notify each local department of its relief fund's maximum allowable balance.

(c) A local fire department whose relief fund balance, at the time of annual distribution by the Insurance Commissioner, exceeds the amount allowable under subsection (a) of this section shall not be entitled to receive a distribution for that year, and the Commissioner shall redistribute the funds that the department would have received, as provided under G.S. 58-84-25(c1).

(d) A board of trustees of a local Firefighters' Relief Fund may, with the authorization of and under guidelines provided by the North Carolina State Firemen's Association, dedicate a portion of the local Firefighters' Relief Fund towards providing supplemental retirement. Notwithstanding subsection (a) of this section, if such dedicated amounts are used solely for supplemental retirement within the guidelines provided by the North Carolina State Firemen's Association, then such dedicated amounts shall not count towards the maximum allowable balance under subsection (a) of this section."

SECTION 1.(e) Article 85 of Chapter 58 of the General Statutes reads as rewritten:

"Article 85.

"~~State Appropriation.~~Statewide Firefighters' Relief Fund.

"**§ 58-85-1. Application of fund.**

The money paid into the hands of the treasurer of the North Carolina State Firemen's Association shall be known and remain as the "Firefighters' Relief Fund" of North Carolina, and shall be used as a fund for the relief of firefighters and county fire marshals, who are members of this Association, who may be injured or rendered sick by disease contracted in the actual discharge of duty as firefighters or county fire marshals, and for the relief of surviving spouses, children, and if there be no surviving spouse or children, then dependent mothers of the firefighters and county fire marshals killed or dying from disease so contracted in the discharge of duty; to be paid in the manner and in the sums to the individuals of the classes herein named and described as may be provided for and determined upon in accordance with the constitution and bylaws of the Association, and any provisions and determinations made under the constitution and bylaws shall be final and conclusive as to the persons entitled to

benefits and as to the amount of benefit to be received, and no action at law shall be maintained against the Association to enforce any claim or recover any benefit under this Article or under the constitution and bylaws of the Association; but if any officer or committee of the Association omit or refuse to perform any duty imposed upon the officer or them, nothing herein contained shall be construed to prevent any proceedings against that officer or committee to compel the officer or them to perform that duty. ~~No firefighter or county fire marshal shall be entitled to receive any benefits under this section until the firefighters' relief fund of his city or town has been exhausted.~~ Notwithstanding the above provisions, the Executive Board of the North Carolina State Firemen's Association is hereby authorized to grant educational scholarships to members and the children of members, to subsidize premium payments of members over 65 years of age to the Firemen's Fraternal Insurance Fund of the North Carolina State Firemen's Association, and to provide accidental death and dismemberment insurance for members of ~~those~~ fire ~~departments not eligible for benefits pursuant to standards of certification adopted by the State Firemen's Association for the use of local relief funds.~~ departments.

"§ 58-85-5. Reserved for future codification purposes.

"§ 58-85-10. Treasurer to file report and give bond.

[] The treasurer of the North Carolina State Firemen's Association shall make a detailed report to the State Treasurer and the Commissioner of Insurance of the yearly expenditures of the appropriation under Articles 84 through 88 of this Chapter on or before the end of the fiscal year, showing the total amount of money in his hands at the time of the filing of the report, and shall give a bond to the State of North Carolina with good and sufficient sureties to the satisfaction of the Treasurer of the State of North Carolina in a sum not less than the amount of money on hand as shown by said report.

"§ 58-85-15. Who shall participate in the fund.

The line of duty entitling one to participate in the fund shall be so construed as to mean actual fire duty only, and any actual duty connected with the fire department or county fire marshal office when directed to perform the same by an officer in charge.

"§ 58-85-20. Who may become members.

Any organized fire company in North Carolina, holding itself ready for duty, may, upon compliance with the requirements of its constitution and bylaws, become a member of the North Carolina State Firemen's Association, and any ~~fireman~~ firefighter of good moral character in North Carolina, and belonging to an organized fire company, who complies with the requirements of the constitution and bylaws of the North Carolina State Firemen's Association, may become a member of the Association. Any county fire marshal office may, upon compliance with the requirements of its constitution and bylaws, become a member of the North Carolina Firemen's Association, and any employee of a county fire marshal office of good moral character whose sole duty is to act as a fire marshal, deputy fire marshal, assistant fire marshal, or firefighter of the county, who complies with the requirements of its constitution and bylaws, may become a member of the North Carolina Firemen's Association.

"§ 58-85-25. Applied to members of regular fire company.

G.S. 58-85-1, 58-85-10, 58-85-15, 58-85-20, and 58-85-25 shall apply to any ~~fireman~~ firefighter or fire marshal who is a member of a regularly organized fire company or county fire marshal office, and is a member in good standing of the North Carolina State Firemen's Association.

"§ 58-85-30. Treasurer to pay fund to Volunteer Firemen's Association.

(a) The treasurer of the North Carolina State Firemen's Association shall pay to the treasurer of the North Carolina State Volunteer Firemen's Association one sixth of the funds arising from the three percent (3%) paid the treasurer of the North Carolina State Firemen's Association by the Commissioner each year to be used by the North Carolina State Volunteer Firemen's Association for the purposes set forth in G.S. 58-84-35.

(b) Local units of the North Carolina State Volunteer Firemen's Association shall maintain records and report to the North Carolina State Firemen's Association in accordance with G.S. 58-84-40, and shall be subject to the sanctions in G.S. 58-84-40.

"**§ 58-85-35. Prudent management of Firefighters' Relief Fund.**

The North Carolina State Firemen's Association shall manage the Firefighters' Relief Fund as a prudent trustee of the funds, subject to Chapter 36E of the General Statutes."

SECTION 1.(f) G.S. 58-88-5(c)(5) reads as rewritten:

"(5) Notwithstanding any other provision of law, no expenditures shall be made pursuant to subdivisions (1), (2), (3), (4), and (4a) of this subsection unless the Board has certified that the expenditures will not render the Fund ~~actuarially~~ financially unsound for the purpose of providing the benefits set forth in subdivisions (1), (2), (3), (4), and (4a). If, for any reason, funds made available for subdivisions (1), (2), (3), (4), and (4a) are insufficient to pay in full any benefit, the benefits pursuant to subdivisions (1), (2), (3), (4), and (4a) shall be reduced pro rata for as long as the amount of insufficient funds exists. No claims shall accrue with respect to any amount by which a benefit under subdivisions (1), (2), (3), (4), and (4a) has been reduced."

SECTION 1.(g) Article 88 of Chapter 58 of the General Statutes is amended by adding a new section to read as follows:

"**§ 58-88-35. Prudent management of Rescue Squad Workers' Relief Fund.**

The Association shall manage the Rescue Squad Workers' Relief Fund as a prudent trustee of the funds, subject to Chapter 36E of the General Statutes."

SECTION 1.(h) Beginning on April 1, 2016, and each year thereafter, the Department of Insurance shall report to the House Appropriations Subcommittee on General Government and the Senate Appropriations Committee on General Government and Information Technology the following information about each local firefighters' relief fund board, the North Carolina State Firemen's Association, and the North Carolina Association of Rescue and Emergency Medical Services, Inc.:

(1) The total amount of money disbursed from the relief funds controlled by each of the entities.

(2) The amount of money spent by each entity for each of the statutorily permissible uses.

(3) Each entity's ending fund balance.

The report also should describe any problems with data collection and quality and, if applicable, make recommendations on actions the General Assembly could take to resolve any data issues.

SECTION 1.(i) S.L. 1979-183 is repealed. Any funds remaining in the Mebane Firemen's Supplemental Retirement Fund at the time of this repeal shall be transferred to the Mebane Local Firefighters' Relief Fund.

SECTION 2. Workers' Compensation. – (a) G.S. 58-87-10 reads as rewritten:

"**§ 58-87-10. Workers' Compensation Fund for the benefit of ~~volunteer~~ certain safety workers.**

(a) ~~Definition.~~ Definitions. – As used in this section, the ~~term~~ following terms apply:

(1) Eligible entity. – One of the following entities that support eligible units and members of eligible units:

a. North Carolina State Firemen's Association.

b. The North Carolina Association of Fire Chiefs, Incorporated.

c. North Carolina Association of Rescue and Emergency Medical Services, Inc.

(2) ~~"eligible unit" means a volunteer~~ Eligible unit. – A fire department or ~~volunteer~~ rescue/EMS unit that (i) is not part of a unit of local government and (ii) is exempt from State income tax under G.S. 105-130.11.

(b) Creation. – The Workers' Compensation Fund is created in the Department of Insurance as an expendable trust fund. Accordingly, interest and other investment income earned by the Fund accrues to it, and revenue in the Fund at the end of a fiscal year remains in the Fund and does not revert.

(c) Use. – Revenue in the Workers' Compensation Fund shall be used to provide workers' compensation benefits to (i) members of eligible ~~units.~~ units and (ii) the employees and volunteers of eligible entities. Chapter 97 of the General Statutes governs the payment of benefits from the Fund. Benefits are payable for compensable injuries or deaths that occur on or after July 1, 1996.

(d) Administration. – The State Fire and Rescue Commission, established under G.S. 58-78-1, shall administer the Workers' Compensation Fund and shall perform this duty by contracting with a third-party administrator. The contracting procedure is not subject to Article 3C of Chapter 143 of the General Statutes. The reasonable and necessary expenses incurred by the Commission in administering the Fund shall be paid out of the Fund by the State Treasurer. The Commission may adopt rules to implement this section.

(e) Revenue Source. – Revenue is credited to the Workers' Compensation Fund from a portion of the proceeds of the tax levied under G.S. 105-228.5(d)(3). In addition, every eligible unit and eligible entity that elects to participate shall pay into the Fund an amount set annually by the State Fire and Rescue Commission to ensure that the Fund will be able to meet its payment obligations under this section. The amount shall be set as ~~a per capita fixed dollar~~ an amount for each member of the roster of the eligible ~~unit.~~ unit or for each employee or volunteer of an eligible entity, and the amount may vary based on whether an individual is a volunteer, a part-time employee, or a full-time employee. The payment shall be made to the State Fire and Rescue Commission on or before July 1 of each year. The Commission shall remit the payments it receives to the State Treasurer, who shall credit the payments to the Fund.

(f) The amount of the tax imposed by G.S. 105-228.5(d)(3) credited to the Workers' Compensation Fund shall be the maximum allowed under that statute."

SECTION 2.(b) Effective April 1, 2016, G.S. 58-87-10(f), as amended by Section 20.2(e) of S.L. 2013-360, reads as rewritten:

"(f) Funding Study. – The Department of Insurance shall annually conduct ~~a periodic~~ an actuarial study ~~to~~ that shall do all of the following:

(1) ~~calculate~~ Calculate the amount required to meet the needs of the ~~Fund.~~ Fund, projecting at least five years into the future. ~~The study shall be based on a revenue amount that is the greater of the amount paid by members of the Fund as determined under subsection (e) of this section for the fiscal year to which the study applies or the amount paid by members of the Fund as determined under subsection (e) of this section for fiscal year 2012-2013.~~

(2) Report on the nature of the claims paid by the Fund and any claims-related trends that impact the financial status of the Fund.

(3) Calculate how much revenue from the State and from member premiums would be required to meet the needs of the Fund for each of the following scenarios:

a. The Fund receives twenty percent (20%) of the net proceeds from the tax collected under G.S. 105-228.5(d)(3).

b. Member premiums do not change from the prior year.

c. Member premiums fully fund the Fund without any State support.

(4) Be published no later than February 1 of each year. Upon publishing the study, the Department shall notify the following of its publication:

a. The Office of State Budget and Management.
b. The House Appropriations Committee.
c. The Senate Appropriations/Base Budget Committee.
d. The Fiscal Research Division.

Additionally, beginning in 2016 and every five years thereafter, the study shall include (i) a comparison of Fund premium levels to the premium levels of employees of municipal fire and rescue departments and (ii) a calculation of the amount of revenue generated by experience-rating premium surcharges and, if necessary, recommend changes to experience-rating premium surcharges given claim trends. The Department may contract with a third party to conduct the study required under this section, and the cost of the study may be paid from the Fund. However, if the Department contracts with the same actuary that the Volunteer Safety Workers' Compensation Board contracts with to perform the study under this section, then the Department shall not pay the actuary for data collection and analysis that the actuary has already performed as part of its loss reserve analysis for the Board.

(g) Allocation of Taxes. – The study conducted under subsection (f) of this section shall be reviewed by the Office of State Budget and Management. On or before March 1 of each year, the Office of State Budget and Management, in consultation with the Department of Insurance, must notify the Secretary of Revenue of the amount required to meet the needs of the Fund, as determined by the study, for the upcoming fiscal year. The Secretary of Revenue shall remit that amount, subject to the twenty percent (20%) limitation in G.S. 105-228.5(d)(3), to the Fund."

SECTION 2.(c) G.S. 97-2(5) reads as rewritten:

"(5) Average Weekly Wages. – "Average weekly wages" shall mean the earnings of the injured employee in the employment in which the employee was working at the time of the injury during the period of 52 weeks immediately preceding the date of the injury, including the subsistence allowance paid to veteran trainees by the United States government, provided the amount of said allowance shall be reported monthly by said trainee to the trainee's employer, divided by 52; but if the injured employee lost more than seven consecutive calendar days at one or more times during such period, although not in the same week, then the earnings for the remainder of such 52 weeks shall be divided by the number of weeks remaining after the time so lost has been deducted. Where the employment prior to the injury extended over a period of fewer than 52 weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed; provided, results fair and just to both parties will be thereby obtained. Where, by reason of a shortness of time during which the employee has been in the employment of his employer or the casual nature or terms of his employment, it is impractical to compute the average weekly wages as above defined, regard shall be had to the average weekly amount which during the 52 weeks previous to the injury was being earned by a person of the same grade and character employed in the same class of employment in the same locality or community.

But where for exceptional reasons the foregoing would be unfair, either to the employer or employee, such other method of computing average weekly wages may be resorted to as will most nearly approximate the amount which the injured employee would be earning were it not for the injury.

Wherever allowances of any character made to an employee in lieu of wages are specified part of the wage contract, they shall be deemed a part of his earnings.

Where a minor employee, under the age of 18 years, sustains a permanent disability or dies leaving dependents surviving, the compensation payable for permanent disability or death shall be calculated, first, upon the average weekly wage paid to adult employees employed by the same employer at the time of the accident in a similar or like class of work which the injured minor employee would probably have been promoted to if not injured, or, second, upon a wage sufficient to yield the maximum weekly compensation benefit. Compensation for temporary total disability or for the death of a minor without dependents shall be computed upon the average weekly wage at the time of the accident, unless the total disability extends more than 52 weeks, and then the compensation may be increased in proportion to the employee's expected earnings.

In case of disabling injury or death to a volunteer ~~fireman;~~ firefighter; volunteer member of an organized rescue squad; an authorized pickup firefighter, as defined in subdivision (2) of this section, when that individual is engaged in emergency fire suppression activities for the North Carolina Forest Service; a duly appointed and sworn member of an auxiliary police department organized pursuant to G.S. 160A-282; or senior members of the State Civil Air Patrol functioning under Subpart C of Part 5 of Article 13 of Chapter 143B of the General Statutes, under compensable circumstances, compensation payable shall be calculated upon the average weekly wage the volunteer ~~fireman,~~ firefighter, volunteer member of an organized rescue squad, authorized pickup firefighter of the North Carolina Forest Service; when that individual is engaged in emergency fire suppression activities for the North Carolina Forest Service, member of an auxiliary police department, or senior member of the State Civil Air Patrol was earning in the employment wherein he principally earned his livelihood as of the date of injury. Provided, however, that the minimum compensation payable to a volunteer ~~fireman,~~ firefighter, volunteer member of an organized rescue squad, an authorized pickup firefighter of the North Carolina Forest Service of the Department of Agriculture and Consumer Services, when that individual is engaged in emergency fire suppression activities for the North Carolina Forest Service, a sworn member of an auxiliary police department organized pursuant to G.S. 160A-282, or senior members of the State Civil Air Patrol shall be sixty-six and two-thirds percent (66 2/3%) of the maximum weekly benefit established in G.S. 97-29."

SECTION 2.(d) When renewing its existing contract with its third-party administrator, which contract expires on June 30, 2014, or contracting with a different third-party administrator, the State Fire and Rescue Commission shall, through its contract, require its workers' compensation third-party administrator to do all of the following:

(1) Establish a performance management system to set loss prevention goals and track and measure the effectiveness of loss prevention interventions.

(2) Evaluate how additional data analytics software or cost models could help manage claim costs.

(3) Determine the expenditures per department allocated to loss prevention services geared toward experience-rating reductions and compare the expenditures allocated per department to the experience-rating premium surcharges paid by each department.

(4) Assess the different ways in which the Rating Modification Model could be adjusted to generate more revenue and incentivize departments to be more engaged in loss prevention services; and, if warranted, implement changes to

the Experience Rating Modification Model based on the approval of the Volunteer Safety Workers' Compensation Fund Board.

(5) Track all legal claims and associated expenses open as of July 1, 2014, and filed thereafter, including information on the reasons each claim was filed and the conditions of the settlement or court ruling, and then share the information and analysis from the database with the Volunteer Safety Workers' Compensation Fund Board at every quarterly board meeting.

(6) Track suspected and confirmed fraudulent claims open as of July 1, 2014, and filed thereafter and then share the information and analysis from the database with the Volunteer Safety Workers' Compensation Fund Board at every quarterly board meeting.

(7) Track information for all claims awarded indemnity compensation affected by the minimum weekly compensation provision, as provided in G.S. 97-2(5), that are open on July 1, 2014, and filed on or after July 1, 2014. The database should include the following:

a. The date of the volunteer's injury.
b. A detailed description of the injury.
c. The volunteer's (paid) occupation, or status as a "student" or "unemployed."
d. The volunteer's weekly wages from his or her regular paid occupation.
e. The amount of indemnity compensation awarded per week based on weekly wages from the regular, paid occupation.
f. Whether the claim is affected by the minimum weekly compensation provision.
g. The volunteer's post-injury return date to volunteer duties.

(8) Report to the Volunteer Safety Workers' Compensation Fund Board at every quarterly meeting on all claims awarded indemnity compensation affected by the minimum compensation provision. The report shall include the following:

a. The total indemnity compensation awarded for each claim, as well as the compensation per week and the number of weeks of compensation.
b. For each claim, the difference between the indemnity compensation awarded per week to the volunteer and the volunteer's weekly wages from his or her regular, paid occupation.
c. For each claim, the difference between the total indemnity compensation awarded to the volunteer for number of weeks unable to return to volunteer duties and the volunteer's total wages from regular, paid occupation for the same time period.
d. The total number of claims affected by the minimum weekly compensation provision (within a specified time period).
e. The total workers' indemnity compensation amount awarded for all claims affected by the minimum weekly compensation provision (within a specified time period).
f. The difference between the total indemnity compensation awarded to volunteers and the total of all volunteers' wages from their regular, paid occupations for the same time period (within a specific time period).

(9) Track information for all claims awarded indemnity compensation in which a volunteer can return to his or her paid occupation but not his or her

volunteer duty that are open on July 1, 2014, and filed on or after July 1, 2014. The database should include the following:

a. Whether the volunteer has the ability to perform his or her paid occupation but not his or her volunteer duty.
b. The volunteer's weekly wages from his or her regular, paid occupation.
c. The amount of indemnity compensation awarded per week based on weekly wages from regular, paid occupation.
d. The volunteer's post injury return date to volunteer duties.

(10) Report to the Volunteer Safety Workers' Compensation Fund Board at every quarterly meeting on the claims awarded indemnity compensation in which the volunteer can return to his or her paid occupation but not to his or her volunteer duty. The report shall include:

a. The total number of claims where the volunteer is being awarded indemnity compensation when they can return to their regular, paid occupations (within a specified time period).
b. The total indemnity compensation awarded for each claim, as well as the compensation per week and the number of weeks of compensation.
c. The total indemnity compensation awarded for all claims (within a specified time period).

(11) Include a form in the claims-closing material for volunteers who will not be able to return to their regular, paid occupations even though they can return to their volunteer duties, and track these claims and associated wages lost and prepare a report to share with the Volunteer Safety Workers' Compensation Fund Board at every quarterly meeting.

(12) Develop a model return-to-work program for use by fire and rescue departments that participate in the Fund and work with a limited number of departments to implement and test the program for a two-year time period.

(13) Develop metrics by which to determine if the return-to-work program reduces workers' compensation costs.

By January 1, 2015, the State Fire and Rescue Commission shall report to the Fiscal Research Division, the House Appropriations Subcommittee on General Government, and the Senate Appropriations Committee on General Government and Information Technology on the status of the Commission's data collection and analysis efforts and shall include in the report a copy of the State Fire and Rescue Commission's contract with the third-party administrator.

The State Fire and Rescue Commission shall include the provisions of this subsection in all future contracts with its workers' compensation third-party administrators.

This subsection is effective when this act becomes law.

SECTION 3. Supplemental Pensions. – (a) G.S. 58-86-55 reads as rewritten:

"**§ 58-86-55. Monthly pensions upon ~~retirement.~~ attaining the age of 55 years.**

(a) Any member who has served 20 years as an "eligible firefighter" or "eligible rescue squad worker" in the State of North Carolina, as provided in G.S. 58-86-25 and G.S. 58-86-30, and who has attained the age of 55 years is entitled to be paid a monthly pension from this fund. The monthly pension shall be in the amount of one hundred seventy dollars ($170.00) per month. Any retired firefighter receiving a pension shall, effective July 1, 2008, receive a pension of one hundred seventy dollars ($170.00) per month.

(b) Members shall pay ten dollars ($10.00) per month as required by G.S. 58-86-35 and G.S. 58-86-40 for a period of no longer than 20 years. No "eligible rescue squad member" shall receive a pension prior to July 1, 1983. ~~No member shall be entitled to a pension hereunder until the member's official duties as a fireman or rescue squad worker for which the member is~~

~~paid compensation shall have been terminated and the member shall have retired as such according to standards or rules fixed by the board of trustees.~~

(c) A member who is totally and permanently disabled while in the discharge of the member's official duties as a result of bodily injuries sustained or as a result of extreme exercise or extreme activity experienced in the course and scope of those official duties and who leaves the fire or rescue squad service because of this disability shall be entitled to be paid from the fund a monthly benefit in an amount of one hundred seventy dollars ($170.00) per month beginning the first month after the member's fifty-fifth birthday. All applications for disability are subject to the approval of the board who may appoint physicians to examine and evaluate the disabled member prior to approval of the application, and annually thereafter. Any disabled member shall not be required to make the monthly payment of ten dollars ($10.00) as required by G.S. 58-86-35 and G.S. 58-86-40.

(d) A member who is totally and permanently disabled for any cause, other than line of duty, who leaves the fire or rescue squad service because of this disability and who has at least 10 years of service with the pension fund, may be permitted to continue making a monthly contribution of ten dollars ($10.00) to the fund until the member has made contributions for a total of 240 months. The member shall upon attaining the age of 55 years be entitled to receive a pension as provided by this section. All applications for disability are subject to the approval of the board who may appoint physicians to examine and evaluate the disabled member prior to approval of the application and annually thereafter.

(e) A member who, because the member's residence is annexed by a city under Part 2 or Part 3 of Article 4A of Chapter 160A of the General Statutes, or whose department is closed because of an annexation by a city under Part 2 or Part 3 of Article 4A of Chapter 160A of the General Statutes, or whose volunteer department is taken over by a city or county, and because of such annexation or takeover is unable to perform as a firefighter or rescue squad worker of any status, and if the member has at least 10 years of service with the pension fund, may be permitted to continue making a monthly contribution of ten dollars ($10.00) to the fund until the member has made contributions for a total of 240 months. The member upon attaining the age of 55 years and completion of such contributions shall be entitled to receive a pension as provided by this section. Any application to make monthly contributions under this section shall be subject to a finding of eligibility by the Board of Trustees upon application of the member.

(f) The pensions provided shall be in addition to all other pensions or benefits under any other statutes of the State of North Carolina or the United States, notwithstanding any exclusionary provisions of other pensions or retirement systems provided by law."

SECTION 3.(b) G.S. 105-228.5(d)(3) reads as rewritten:

"(3) Additional Rate on Property Coverage Contracts. – An additional tax at the rate of seventy-four hundredths percent (0.74%) applies to gross premiums on insurance contracts for property coverage. The tax is imposed on ten percent (10%) of the gross premiums from insurance contracts for automobile physical damage coverage and on one hundred percent (100%) of the gross premiums from all other contracts for property coverage. ~~Twenty-five percent (25%)~~ Twenty percent (20%) of the net proceeds of this additional tax must be credited to the Volunteer Fire Department Fund established in Article 87 of Chapter 58 of the General Statutes. Twenty percent (20%) of the net proceeds must be credited to the Department of Insurance for disbursement pursuant to G.S. 58-84-25. Up to twenty percent (20%), as determined in accordance with G.S. 58-87-10(f), must be credited to the Workers' Compensation Fund. The remaining net proceeds must be credited to the General Fund."

SECTION 3.(c) Using a portion of the additional funds made available to the General Fund through the amendment to G.S. 105-228.5 made by Section 3(b) of this act, the sum of one million four hundred thousand dollars ($1,400,000) is appropriated for fiscal year 2014-2015, recurring from the General Fund to the North Carolina Firefighters' and Rescue Squad Workers' Pension Fund established under G.S. 58-86-1.

SECTION 3.(d) The Department of State Treasurer shall report by March 1, 2015, and for two years thereafter, to the House Committee on State Personnel and the Senate Committee on Pensions & Retirement and Aging on the Department's progress toward the following efforts related to the North Carolina Firefighters' and Rescue Squad Workers' Pension Fund:

(1) Building appropriate lapse assumptions into the State's annual required contribution to the pension fund.

(2) Collecting timely member contributions to the pension fund.

SECTION 4. Grant Funds. – (a) Effective January 1, 2015, and applicable to the 2015 grant process, G.S. 58-87-1(a1) reads as rewritten:

"(a1) Grant Program. – An eligible fire department may apply to the Commissioner for a grant under this section. In awarding grants under this section, the Commissioner must, to the extent possible, select applicants from all parts of the State based upon need. The Commissioner must award the grants on ~~May 15~~May 15, or on the first business day after May 15 if May 15 falls on a weekend or a holiday, of each year subject to the following limitations:

(1) The size of a grant may not exceed thirty thousand dollars ($30,000).

(2) The applicant shall match the grant on a dollar-for-dollar ~~basis.~~ basis, unless the applicant receives less than fifty thousand dollars ($50,000) per year from municipal and county funding, in which case the applicant shall match one dollar ($1.00) for each three dollars ($3.00) of grant funds.

(3) The grant may be used only for equipment purchases, payment of highway use taxes on those purchases, costs of putting property acquired from the Department of Defense through the Firefighter Property (FFP) and federal Excess Property (FEPP) programs in service, or capital expenditures necessary to provide fire protection services."

SECTION 4.(b) G.S. 58-87-1(c) reads as rewritten:

"(c) Report. – The Commissioner must submit a written report to the General Assembly within 60 days after the grants have been made. This report must contain the following:

(1) The amount of the grant and the name of the recipient.

(2) The Fund balance at the beginning of the grant cycle.

(3) Cash receipts through the grant cycle.

(4) Cash disbursements through the grant cycle.

(5) The Fund balance at the end of the grant cycle."

SECTION 4.(c) G.S. 58-87-5 reads as rewritten:

"**§ 58-87-5. Volunteer Rescue/EMS Fund.**

(a) There is created in the Department of Insurance the Volunteer Rescue/EMS Fund to provide grants to volunteer rescue ~~units~~ units, rescue/EMS units, and EMS units providing rescue or rescue and emergency medical services to purchase equipment and make capital improvements. An eligible ~~rescue or rescue/EMS~~ unit may apply to the Department of Insurance for a grant under this section. The application form and criteria for grants shall be established by the Department. The North Carolina Association of Rescue and Emergency Medical Services, Inc., shall provide the Department with an advisory priority listing for rescue equipment eligible for funding, and the Department of Health and Human Services shall provide the Department with an advisory priority listing of EMS equipment eligible for funding. The State Treasurer shall invest the Fund's assets according to law, and the earnings shall remain in the Fund. On ~~December 15~~ December 15, or on the first business day after

December 15 if December 15 falls on a weekend or a holiday, of each year, the Department shall make grants to eligible ~~rescue or rescue/EMS~~ units subject to all of the following limitations:

(1) A grant to an applicant who is required to match the grant with non-State funds may not exceed twenty-five thousand dollars ($25,000), and a grant to an applicant who is not required to match the grant with non-State funds may not exceed three thousand dollars ($3,000).

(2) An applicant whose liquid assets, when combined with the liquid assets of any corporate affiliate or subsidiary of the applicant, are more than one thousand dollars ($1,000) shall match the grant on a dollar-for-dollar basis with non-State funds.

(3) The grant may be used only for equipment purchases or capital expenditures.

(4) An applicant may receive no more than one grant per fiscal year.

(5) The grant may be used only for purposes related to emergency medical services that the unit is authorized to provide.

In awarding grants under this section, the Department shall to the extent possible select applicants from all parts of the State based upon ~~need.~~ need, subject to the following priority order: (i) rescue units, (ii) rescue/EMS units, (iii) EMS units that are licensed as EMS providers under G.S 131E-155.1, and, finally, (iv) EMS units that are volunteer fire departments that are a part of a county's EMS system plan. Up to two percent (2%) of the Fund may be used for additional staff and resources to administer the Fund in each fiscal year. In addition, notwithstanding G.S. 58-78-20, up to four percent (4%) of the Fund may be used for additional staff and resources for the North Carolina Fire and Rescue Commission.

(b) A ~~rescue, emergency medical services, or rescue/EMS~~ unit is eligible for a grant under this section if it meets all of the following conditions:

(1) Repealed by Session Laws 1989 (Regular Session, 1990), c. 1066, s. 33(a).

(2) It consists entirely of volunteer members, with the exception that the unit may have paid members to fill the equivalent of 10 full-time paid positions.

(3) It has been recognized by the Department as ~~an organization that provides rescue, emergency medical services, or rescue and emergency medical services. A unit that provides emergency medical services only is eligible for grant funding only after all those eligible rescue or rescue and emergency medical services units that are approved have been funded each grant year. A unit that only provides emergency medical services may be funded up to the level of emergency medical services that the unit is approved to provide by the authority having jurisdiction.~~ a rescue unit, a rescue/EMS unit, or an EMS unit.

(4) It satisfies the eligibility criteria established by the Department under subsection (a) of this section.

(c) For the purpose of this section and Article 88 of this Chapter, "rescue" means the removal of individuals facing external, nonmedical, and nonpatient related peril to areas of relative safety. A "rescue unit" or "rescue squad" means a group of individuals who are not necessarily trained in emergency medical services, fire fighting, or law enforcement, but who expose themselves to an external, nonmedical, and nonpatient related peril to effect the removal of individuals facing the same type of peril to areas of relative safety. The unit or squad must comply with existing State statutes and with eligibility criteria established by the North Carolina Association of Rescue and Emergency Medical Services, Inc.

(d) For the purposes of this section, "emergency medical services" or "EMS" has the same meaning as in G.S. 131E-155(6). Unless otherwise more narrowly specified, an "EMS unit" means either (i) an EMS provider licensed under G.S 131E-155.1 or (ii) a volunteer fire or fire/rescue department that is part of its county's EMS system plan. The unit or squad must

comply with existing State statutes and with eligibility criteria established by the North Carolina Association of Rescue and Emergency Medical Services, Inc.

(e) Report. – The Commissioner must submit a written report to the General Assembly within 60 days after the grants have been made. This report must contain the following:

(1) The amount of the grant and the name of the recipient.

(2) The Fund balance at the beginning of the grant cycle.

(3) Cash receipts through the grant cycle.

(4) Cash disbursements through the grant cycle.

(5) The Fund balance at the end of the grant cycle."

SECTION 4.(d) Effective July 1, 2015, G.S. 58-87-7 reads as rewritten:

"**§ 58-87-7. Oversight and accountability of grant awards.**

(a) Examination of Purchased Equipment and Supplies. – To increase accountability and to expedite receipt of certain grant awards, notwithstanding any other provision, the Office of the State Fire Marshal and other employees of the Department of Insurance may in their discretion conduct on-site examinations of fire, rescue, and EMS equipment and supplies purchased with funds awarded from either the Volunteer Fire Department Fund or the Volunteer Rescue/EMS ~~Fund.~~ Fund for up to five years from the date of the grant award. The on-site examinations may include the inspection of equipment purchased from prior grants and may be conducted prior to or simultaneous with the delivery of the grant awards. The on-site examination shall document what equipment and supplies have been purchased by the volunteer fire department or volunteer rescue/EMS department and whether those items were received by the department and visually reviewed by the on-site examiner. Items that have already been distributed or put in the field shall be noted by the on-site examiner. The Office of the State Fire Marshal shall maintain records of on-site inspections and provide ~~them, or a summary thereof, in reports~~ reports of such inspections, upon request, to the State Auditor or the Office of State Budget and Management.

(b) Reimbursement to Funds. – If equipment purchased with grant funds is disposed of within five years of the date of the grant award funding its purchase, then the grant recipient shall reimburse the appropriate fund the amount of matching funds used for the purchase of the equipment, less depreciation.

(c) Transfer of Purchased Equipment. – If a grant recipient shall cease to exist within five years of the date of award of the grant, it shall transfer, subject to the approval of the Department of Insurance, any and all equipment purchased with such grant funds to whichever department shall assume responsibility for providing service to the grant recipient's area of service or to another appropriate department that may effectively use the equipment."

SECTION 4.(e) By the effective date of subsection (d) of this section, the Department of Insurance shall take the following actions to facilitate the implementation and enforcement of G.S. 58-87-7:

(1) Adopt rules to establish specific guidelines for the following:

a. G.S. 58-87-7(b), enacted by subsection (d) of this section.

b. G.S. 58-87-7(c), enacted by subsection (d) of this section, including guidelines for determining which department receives the equipment of a dissolved department and under what circumstances.

(2) Provide transfer of equipment forms to fire and rescue departments that receive grant equipment from dissolved departments.

Additionally, in time for the 2015 grant cycle, the Department shall add language to the Agreement of Payment form departments must fill out as part of the grant application process to ensure that departments understand what will happen to grant equipment in the event of dissolution.

SECTION 4.(f) No later than January 1, 2015, the Department of Insurance shall report to the Joint Program Evaluation Oversight Committee on the Department's efforts to

update and correct its computer code that assigns points to grant applicants for funds awarded under Article 87 of Chapter 58 of the General Statutes.

SECTION 5. Effective Dates. – Except as otherwise provided, this act becomes effective July 1, 2014.

HOUSE BILL 1034:
Volunteer Fire and Rescue Finances (PED)

2013-2014 General Assembly

Committee:	Senate Ref to Finance. If fav, re-ref to Pensions & Retirement and Aging	**Date:**	June 19, 2014
Introduced by:	Reps. Howard, Moffitt, Lucas	**Prepared by:**	Ryan Blackledge Committee Counsel
Analysis of:	PCS to Third Edition H1034-CSME-20		

SUMMARY: ***House Bill 1034 implements the recommendations of a four-part series of reports published by the Program Evaluation Division by making changes to safety workers' relief funds, compensation, and supplemental pension funds, as well as by making changes to grant funds for fire and rescue departments.***

The Proposed Committee Substitute makes two changes in the bill:

- ***Adds a new section 1.(i) that repeals a local act pertaining to the Mebane Firemen's Supplemental Retirement Fund at the request of the Mebane Fire Chief.***
- ***Clarifies the Volunteer Fire Department Fund grants for equipment and capital improvements must be used for purposes related to emergency medical services.***

[As introduced, this bill was identical to S747, as introduced by Sens. Hartsell, Bingham, Randleman, which is currently in Senate Ref to Finance. If fav, re-ref to Pensions & Retirement and Aging.]

CURRENT LAW: Safety workers and their departments receive benefits that are supported (in whole or in part) by a portion of the revenue from gross premium taxes on property insurance and from vehicle inspection fees. Benefits vary and are paid from various funds:

1. Firefighters' relief funds (both local and statewide) and the Rescue Squad Workers' Relief Fund generally provide assistance to safety workers suffering from sickness or financial distress caused by their service. Relief funds are managed either by local boards or by a statewide organization.
2. The Safety Workers' Compensation Fund provides workers compensation through participating departments to volunteer firefighters and rescue squad workers.
3. The Firefighters' and Rescue Squad Workers' Pension Fund provides a supplemental pension payment of $170 per month after paying $10 per month for 20 years and retiring.
4. The Volunteer fire Department Fund and Volunteer Rescue/EMS Fund provide grants to help smaller departments to purchase equipment and supplies.

BILL ANALYSIS: **Section 1** of the bill amends existing statutes related to the local firefighters' relief funds, the statewide Firefighters' Relief Fund, and the Rescue Squad Workers' Relief Fund, as recommended by the Program Evaluation Division's Report Number 2013-06. In addition to several technical and conforming changes, Section 1, in amending Article 84 of Chapter 58 of the General Statutes and other statutes, does the following:

- Increases from 1% to 2% the portion of certain tax proceeds that the Department of Insurance retains for administering the local relief funds. The Department is given additional reporting requirements and must create a new database of relief fund expenditures.

- Provides guidance on minimum and maximum local relief fund balances. Effective July 1, 2015, if a local relief fund exceeds the maximum, then that department's annual allocation will be reallocated to the departments throughout the State that do not exceed the maximum balance.
- Moves to February 1, from January 1, the date by which counties must provider the Commissioner of Insurance with the tax value of property located in each fire district.
- Explicitly provides that local relief fund boards, the State Firemen's Association, and the N.C. Association of Rescue and Emergency Medical Services, Inc. are to act as prudent trustees of the relief funds.
- Provides line of duty death benefits to firefighters whose departments are not members of the North Carolina Firemen's Association.
- Adjusts the list of allowable expenditures for local firefighter relief funds found in G.S. 58-84-35.
- Requires additional reporting of local firefighter funds' expenditures from local boards.
- Repeals certain local laws inconsistent with expenditures allowed under and procedures provided under G.S. 58-84-35.
- Specifically repeals a local law related to the Mebane Fire Department.

Section 2 of the bill makes changes to the volunteer firefighter and rescue worker workers' compensation statutes. Specifically, it does the following:

- Amends statutes to correspond to practice, by adding certain statewide associations to the list and removing the requirement that an "eligible unit" be a volunteer unit. (An eligible unit must still be non-municipal and non-profit.)
- Requires an annual actuarial study of the workers' compensation fund.
- Provides a detailed list of requirements for the State Fire and Rescue Commission when renewing its contract with the workers compensation third-party administrator.

Section 3 of the bill extends supplemental pension payments to all participants aged 55 and over who have paid $10 per month for the required 20 years (the maximum contribution time), regardless of whether they have actually retired from firefighting or rescue squad work. This extension of payments is paid for by a reduction of funds going to the Volunteer Fire Department Fund.

Section 4 of the bill allows fire departments with less than $50,000 of income to match Volunteer Fire Department Fund grants on a lower 25/75 match rate, rather than the current 50/50 match rate. Section 4 would also require (i) additional reporting from the Department of Insurance, (ii) that a department reimburse a fund if the department disposes of equipment purchased with grants, (iii) that a dissolved department transfer all equipment purchased with grant funds to a successor department, and (iv) the grants may only be used for purposes related to emergency medical services.

EFFECTIVE DATES: The majority of the bill becomes effective July 1, 2014. Section 2(e)'s requirements on a renewed or new workers compensation third-party administrator contract are effective when the bill becomes law. Section 2(c), which requires a detailed actuarial study on Workers' Compensation Fund, becomes effective April 1, 2016. Modifications in Section 4(a) to allow for 25/75 matching on grant funds become effective January 1, 2015. Provisions found in Section 4(d) on the reimbursement of grant funds and transfer of equipment become effective July 1, 2015; the Department of Insurance is to have specific rules in place by that date. Provisions in Sections 1(b) and 1(c) related to electronic funds transfers of local relief funds, maximum fund balance requirements for local relief funds, and the distribution of funds to local departments that have not exceeded the maximum fund

balances for local relief funds all become effective July 1, 2015. Finally, there are various due dates for required reports.

BACKGROUND: The bill is based on the following four reports published by the Program Evaluation Division:

1. *Local Boards and Associations Administer Firefighters' and Rescue Squad Workers' Relief Funds with Limited State Oversight*, Report Number 2013-06 (November 2013)
2. *Revenue and Cost Trends Indicate Deficit in Volunteer Safety Workers' Compensation Fund in FY 2020–21*, Report Number 2014-01 (February 2014)
3. *Department of State Treasurer Should Strengthen Its Oversight of the Firefighters' and Rescue Squad Workers' Pension Fund*, Report Number 2014-03 (March 2014)
4. *Improved Oversight of Volunteer Fire Department Fund and Volunteer Rescue/EMS Fund Needed; $8 Million Surplus Found*, Report Number 2014-06 (April 2014)

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: June 18, 2014

TO: Senate Finance

FROM: Rodney Bizzell
Fiscal Research Division

RE: House Bill 1034 (Third Edition)

FISCAL IMPACT

($ in millions)

☐ Yes ☑ No ☐ No Estimate Available

State Impact	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
General Fund Revenues:					
General Fund Expenditures:					
State Positions:					
NET STATE IMPACT	$0.0	$0.0	$0.0	$0.0	$0.0

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Department of Insurance; NC Department of Revenue

EFFECTIVE DATE: July 1, 2014

TECHNICAL CONSIDERATIONS:

None

BILL SUMMARY:

HB 1034 implements recommendations of a series of reports by the Program Evaluation Division by making changes to safety workers' relief funds, compensation, and supplemental pension funds, as well as by making changes to grant funds for fire and rescue departments.

ASSUMPTIONS AND METHODOLOGY:

Section 3 reduces the percentage of funds allocated from the gross premiums tax on property coverage to the Volunteer Fire Department Fund from 25% to 20%. The percentage reduction equates to approximately $1.6 million. These funds would be used to pay for the extension of supplemental pension payments to all participants aged 55 and over who have paid $10 per month for the required 20 years, regardless of whether they have actually retired from firefighting or rescue squad work. The funds would be appropriated from the General Fund to the NC Firefighter's and Rescue Squad Worker's Pension Fund.

Section 1 increases from 1% to 2% the portion of tax proceeds that the Department of Insurance retains for administering the local relief funds. When the Volunteer Fire Department Fund share of

funding is reduced from 25% to 20%, the 1% share will generate approximately $60,000. As a result, the total amount retained by the Department of Insurance will be approximately $120,000 (2%).

SOURCES OF DATA: NCGA Program Evaluation Division; NC Department of Revenue; NC Department of Insurance

TECHNICAL CONSIDERATIONS: None

GENERAL ASSEMBLY OF NORTH CAROLINA
Session 2013
Legislative Retirement Note

BILL NUMBER: House Bill 1034 (Second Edition)
SHORT TITLE: Volunteer Fire and Rescue Finances (PED).
SPONSOR(S):

FUNDS AFFECTED: State General Fund

SYSTEM OR PROGRAM AFFECTED: North Carolina Firefighters' and Rescue Squad Workers' Pension Fund (FRSWPF).

BILL SUMMARY:

Section 1: Amends statutes related to local firefighters' relief funds in Article 84 of Chapter 58 of the General Statutes. While this section permits fire departments and rescue squads to use relief funds to pay member contributions to the FRSWPF, this change does not affect the liability or the State's contribution for the FRSWPF.

Section 2: Amends statutes related to the workers' compensation fund for certain safety workers. These changes do not affect the FRSWPF.

Section 3: Amends G.S. 58-86-55 to allow payment of monthly benefits in the FRSWPF at age 55 with 20 years of service, despite continued paid employment as a firefighter or rescue squad worker. This section appropriates $1,400,000 for FY 2014-15, recurring, from the General Fund to the FRSWPF, which will be more than sufficient to meet the increased required contribution due to this provision, as detailed below. This section also redirects to the General Fund 5% of the proceeds of the tax on gross premiums from property insurance coverage, which does not affect the FRSWPF.

Section 4: Amends statutes related to grant funds for fire departments. These changes do not affect the FRSWPF.

EFFECTIVE DATE: July 1, 2014

ESTIMATED IMPACT ON STATE:

Buck Consultants, the actuary for the FRSWPF, and Hartman & Associates, the actuary for the General Assembly, estimate that the provisions of Section 3 will increase the normal cost and accrued liability contributions in FY 2014-15 and subsequent years as follows:

	Buck Consultants	Hartman & Associates
Normal Cost	$200,000	$228,000
Accrued Liability Contribution	$800,000	$872,000
Total Annual Cost	$1,000,000	$1,100,000

ASSUMPTIONS AND METHODOLOGY:

The cost estimates of both actuaries are based on the employee data, actuarial assumptions and actuarial methods used to prepare the June 30, 2012 actuarial valuation, except as noted below. Significant membership and financial statistics, assumptions, and methods are shown in the following tables:

Membership Statistics (as of 6/30/2012 unless otherwise noted, M = millions)	
	FRSWPF
Active Members	
Count	40,870
Average Age	40
Average Service	11.3
Inactive Members	
Count	154
Retired Members	
Count	11,912
Annual Benefits	$24M
Average Age	68
New Retirees During 2013	575

Financial Statistics (as of 6/30/2012 unless otherwise noted, M = millions)	
	FRSWPF
Accrued Liability (AL)	$404M
Actuarial Value of Assets (AVA)	$339M
Market Value of Assets (MVA)	$322M
Unfunded Accrued Liability (AL - AVA)	$65M
Funded Status (AVA / AL)	84%
Annual Required Contribution (ARC) for FY 2014-15 (as % of pay)	$14.6M
Assumed Rate of Investment Return	7.25%
Salary Increase Assumption (includes 3.50% inflation and productivity)	Not applicable
Cost Method	Entry Age Normal
Amortization	12 year, closed, flat $
Demographic assumptions based on 2005-2009 experience, RP-2000 mortality with age adjustments, and projection of future mortality improvement with scale AA	

Benefit Provisions	
	FRSWPF
Formula	$170 per month
Unreduced retirement age/service	55/20
Employee contribution (as % of pay)	$10 per month

In addition to the assumptions above from the June 30, 2012 valuation, both actuaries used an assumption that some portion of current members have lapsed (ceased making contributions) and will thus neither contribute in the future nor earn future service. This assumption is based on an initial audit of records performed by Buck Consultants and presented to the Board of Trustees in January, 2014 and is further detailed in the notes from the individual actuaries.

Further detailed information concerning these assumptions and methods is shown in the actuary's report, which is available upon request from David Vanderweide.

SOURCES OF DATA:

Buck Consultants, "Volunteer Fire & Rescue Finances (House Bill 1034 and Senate Bill 747)", May 21, 2014, original of which is on file in the General Assembly's Fiscal Research Division.

Hartman & Associates, LLC, "House Bill 1034/Senate Bill 747, Section 3: An Act to Amend the Supplemental Pensions for Firefighters and Rescue Squad Workers", May 27, 2014, original of which is on file in the General Assembly's Fiscal Research Division.

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION: (919) 733-4910.

The above information is provided in accordance with North Carolina General Statute 120-114 and applicable rules of the North Carolina Senate and House of Representatives.

PREPARED BY: David Vanderweide

APPROVED BY:

Mark Trogdon, Director
Fiscal Research Division

DATE: May 27, 2014

Signed Copy Located in the NCGA Principal Clerk's Offices

SENATE SERGEANT-AT-ARMS

COMMITTEE: Senate Finance

DATE: 06-19-2014 ROOM: ~~544~~ 643

1. ANDERSON MEADOWS
2. STEVE WILSON
3. HAL ROACH
4. MATT URBEN
5. _____
6. _____

SENATE PAGES ATTENDING

COMMITTEE: Finance ROOM: 643

DATE: 6-19 TIME: 8:30

PLEASE PRINT LEGIBILY!!!!!!!!!!!!....*or else!*

Page Name	Hometown	Sponsoring Senator
1. Tyler Dabbs	Eden	Berger
2. Will Dabbs	Eden	Berger
3. Connor Badgett	Statesville	Brock
4. Lilli Canaday	Burlington	Gunn
5. Lilly Black	Burlington	Gunn
6. Sophia Politis	Harrisburg	Hartsell
7. Meredith Roach	Wendell	Barefoot
8.		
9. McKay Dula	Weddington	Tucker
10.		

Do not add names below the grid.

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

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 19, 2014

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Andy Brandon	DPS
Ian Skinner	NCACC
Ryan Mc	DOR
Nicole Hines	Gov office
Fred Boney	Boney Assoc.
Gordon Joyner	NCARSMS
Dan Crawford	NCLCV
Karen Wells	Arts NC
Mia Bailey	ElectriCities
Brooks Rainey Pearson	SELC
Sharon Miller	CUCA

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 19, 2014

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Ken Melton	K. M. A.
Tom Bean	EDF, NCSEA
Sarah Preston	ACLU-NC
Tim Bradley	NCSFA
Kevin S Gordon	NCSFA
Shirley Gordon	Visitor
Tracy Davis	DENR-DENLR
Rhiannon Bell	NCMMC
[illegible]	MFS
[illegible]	WM
J. Bade	B&H

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 19, 2014

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Bill McCee	Dept of Treas
Sam Watts	Dept of Transportation
Debbie Clary	NCSP
A.B. Swindell	Bldg Stars
Mary Maclin Abell	SELC
Cassie Gavin	Sierra Club
Nadia Luhr	NCCN
[illegible] (Press)	[illegible]
Rebekah Givens	NCLCV
Meghan Cook	ITS
[illegible]	NCAOC

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 19, 2014

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Paul Sherman	NCCBS
Bill Scoggin	TS
Mike Mann	CSC
Thi Vu	EWA
Amanda Horaker	TS
Cady Thomas	NCAR
Elizabeth W Robinson	NCRMA
TJ Bugbee	NP
Chuck Greene	AT+T
George Everett	Duke Energy
Chip Killian	Nelson Mullins
David Anders	PFPAC

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 19, 2014

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Bill Moss	Hendersonville Lightning
Charles King	School of Govt.
Wellon Jones	Jordan Price
Sarah Hardin	CTR
Stanny Robertson	TWC
ERIN Jones ☺	TWC
Sarah collins	NCLM
Morgan Abbott	CTNC
William Stirling	Brubaker and Associates
Sara Salisbury	NC DOJ
Dwight Allen	Allen Law Offices, PLLC

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 19, 2014

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Jay Rouse	NCAEC
Bob Goodson	NCAEC
Kelli Kuma	Duke Energy
Preston Howard	NCMA
Allen Hardison	CRSWMA
Doug Lassiter	NCSTA
Kathy Hawkins	Duke
Richard Stevens	Smith Anderson
Tracy Kimbrell	Parker Poe
Patrick Buffkin	NCAGC
David Farrell	VB LLP

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 19, 2014

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
R. W. Kaylor	Kaylor Law Firm

VISITOR REGISTRATION SHEET

Senate Finance Committee — June 19, 2014

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Chris McClure	BP

Senate Committee on Finance
June, 25, 2014, 1:00pm
Room 544

AGENDA

Welcome

Introduction of Pages and Sgt.-At Arms

Bills:

BILL NO.	SHORT TITLE	SPONSOR
HB 366	NC Farm Act of 2014	Rep. Langdon Rep. Dixon Rep. Brisson Rep. S. Martin
HB 379	Amend Veterinary Practice Act/Fees	Rep. Langdon
HB 1052	Adjust the Utility Regulatory Fee	Rep. Hager
HB 1067	Murphy Annexation	Rep. West
HB 1182	UNC Nonappropriated Capital Projects	Rep. W. Brawley Rep. Ramsey Rep. B. Brown

Adjournment

Senate Committee on Finance
Wednesday, June 25, 2014 at 1:00 PM
Room 544 of the Legislative Office Building

MINUTES

The Senate Committee on Finance met at 1:00 PM on June 25, 2014 in Room 544 of the Legislative Office Building. Thirty-one members were present.

Senator Bill Rabon, Chair, presided.

HB 1067 - Murphy Deannexation.

Representative West was recognized to explain the bill which would deannex two described tracts from the corporate limits of the Town of Murphy. Senator Tillman moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

HB 366 - NC Farm Act of 2014.

Senator Jackson was recognized to explain the bill, which would amend various agricultural and environmental laws. Senator Brock moved for a favorable report and the motion carried. A copy of the bill, the summary, the fiscal memo and the incarceration note is attached.

HB 379 - Amend Veterinary Practice Act/Fees.

Senator Wade was recognized to explain the bill. It would allow the NC Veterinary Medical Board to increase fees provided that no fee is increased more than 15% in a calendar year and the cumulative total increase of any fee do not exceed 100% of the fee amounts in statute. The bill would also create a new process for reinstatement of a license or registration under the Nor4th Carolina Veterinary Practice Act and amends laws pertaining to license and registration reinstatement. Senator Wade moved for a favorable report and the motion carried. A copy of the bill, the summary and the fiscal note is attached.

HB 1052 - Adjust the Utility Regulatory Fee.

Representative Hager was recognized to explain the bill which would allow the General Assembly to establish a different utility regulatory fee for the retail services of telecommunications providers that have elected to be regulated under G.S. 62-133.5(h) or G.S. 62-133.5(m) and would set those rates for the 2015 and 2016 fiscal years. Senator Brown moved for a favorable report and the motion carried. A copy of the bill, the summary and the fiscal memo is attached.

HB 1182 - UNC Nonappropriated Capital Projects.

Representative Bill Brawley was recognized to explain the bill. It would authorize the construction of numerous projects by The University of North Carolina. The projects will be

financed through revenue bonds and special obligation bonds, not appropriations from the General Fund. Jonathan Pruett, the UNC General Administration Vice President, was recognized to speak in favor of the bill and to answer questions. Senator Tillman moved for a favorable report and the motion carried. A copy of the bill, the summary and the fiscal note is attached.

The meeting adjourned at 1:38 p.m.

Senator Bill Rabon, Chair
Presiding

DeAnne Mangum, Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Wednesday, June 25, 2014

Senator Rabon,
submits the following with recommendations as to passage:

FAVORABLE

HB **366** **(SCS#2)** NC Farm Act of 2014.

Draft Number:	None
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

HB **379** **(SCS#1)** Amend Veterinary Practice Act/Fees.

Draft Number:	None
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

HB **1052** Adjust the Utility Regulatory Fee.

Draft Number:	None
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

HB **1067** **(CS#1)** Murphy Deannexation.

Draft Number:	None
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

HB **1182** UNC Nonappropriated Capital Projects.

Draft Number:	None
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 5

Senator W. Jackson will handle HB 366
Senator Trudy Wade will handle HB 379
Senator Harry Brown will handle HB 1052
Senator Jerry Tillman will handle HB 1067
Senator Tom Apodaca will handle HB 1182

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Wednesday, June 25, 2014

Senator Rabon,
submits the following with recommendations as to passage:

FAVORABLE

HB **366** **(SCS#2)** NC Farm Act of 2014.
- Draft Number: None
- Sequential Referral: None
- Recommended Referral: None
- Long Title Amended: No

HB **379** **(SCS#1)** Amend Veterinary Practice Act/Fees.
- Draft Number: None
- Sequential Referral: None
- Recommended Referral: None
- Long Title Amended: No

HB **1052** Adjust the Utility Regulatory Fee.
- Draft Number: None
- Sequential Referral: None
- Recommended Referral: None
- Long Title Amended: No

HB **1067** **(CS#1)** Murphy Deannexation.
- Draft Number: None
- Sequential Referral: None
- Recommended Referral: None
- Long Title Amended: No

HB **1182** UNC Nonappropriated Capital Projects.
- Draft Number: None
- Sequential Referral: None
- Recommended Referral: None
- Long Title Amended: No

TOTAL REPORTED: 5

Senator W. Jackson will handle HB 366
Senator Trudy Wade will handle HB 379
Senator Harry Brown will handle HB 1052
Senator Jerry Tillman will handle HB 1067
Senator Tom Apodaca will handle HB 1182

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H 2

HOUSE BILL 1067*
Committee Substitute Favorable 5/29/14

Short Title: Murphy Deannexation. (Local)

Sponsors:

Referred to:

May 15, 2014

A BILL TO BE ENTITLED

AN ACT TO DEANNEX TWO DESCRIBED TRACTS FROM THE CORPORATE LIMITS OF THE TOWN OF MURPHY.

The General Assembly of North Carolina enacts:

SECTION 1. The corporate limits of the Town of Murphy are reduced by removing the following described tracts:

FIRST TRACT:

In District #3 of Cherokee County and in Murphy Township, and bounded and more particularly described as follows:

It being a part of Tract #117, in said District.

BEGINNING on a Holly on the line of #116 and #117 standing on the North bank of a small branch that empties into Axley Mill Creek, runs up said branch with its meanders S 84 and 20 poles to a stake on said branch near two Maples; then N 39-1/2 E 27 1/2 poles to a Pine on the top of a ridge; thence N 58 1/2 W 26 poles to a small Sourwood just North of the top of the ridge; then N 78 W 14 1/2 poles to a small Black Oak on the South side of the old road on the top of the ridge and on the line of #116 and #117; then with said line S 3 1/2 W 35 poles to the BEGINNING, containing 6 1/2 acres, more or less.

SECOND TRACT:

This being a strip of land 16 feet wide and being the old Unica roadway and public road leading from where J.W. Dyer's land lies in an Eastern direction with the meanders of the said old roadway to the point where the same intersects the Hayesville and Murphy public road in the West side of Hiwassee River at the old Blackwell Mill place, the said land being located and situated in Murphy Township and being a part of the G.W. Hampton farm.

SECTION 2. This act has no effect upon the validity of any liens of the Town of Murphy for ad valorem taxes or special assessments outstanding before the effective date of this act. Such liens may be collected or foreclosed upon after the effective date of this act as though the property were still within the corporate limits of the Town of Murphy.

SECTION 3. This act becomes effective June 30, 2014.

HOUSE BILL 1067:
Murphy Deannexation

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 25, 2014
Introduced by:	Rep. West	**Prepared by:**	Cindy Avrette
Analysis of:	Second Edition		Committee Counsel

SUMMARY: ***House Bill 1067 would deannex two tracts of land from the corporate limits of the Town of Murphy.***

[As introduced, this bill was identical to S736, as introduced by Sen. J. Davis, which is currently in Senate State and Local Government.]

CURRENT LAW: Under Section 1 of Article VII of the NC Constitution, the General Assembly is empowered to "provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions, and, except as otherwise prohibited by this Constitution, may give such powers and duties to counties, cities and towns, and other governmental subdivisions as it may deem advisable."

Pursuant to this Section, the General Assembly enacted Article 4A of Chapter 160A of the General Statutes, which governs municipal annexations. The General Assembly has not enacted any method for municipalities to *deannex* property — that power remains with the General Assembly.

BILL ANALYSIS: The bill deannexes two tracts of land from the corporate limits of the Town of Murphy. The first tract consists of approximately 6 ½ acres. The second tract is a strip of land approximately 16 feet wide, located on what is known as the G.W. Hampton farm. The act also provides that it does not affect the validity of any liens of the Town of Murphy for outstanding ad valorem taxes or special assessments.

EFFECTIVE DATE: The act becomes effective June 30, 2014.

Shelly DeAdder with the Research Division substantially contributed to this summary.

O. Walker Reagan
Director

H1067-SMRB-135 E2 -V1

Research Division
(919) 733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H 4

HOUSE BILL 366

Committee Substitute Favorable 4/3/13
Senate Judiciary II Committee Substitute Adopted 6/23/14
Senate Agriculture/Environment/Natural Resources Committee Substitute Adopted 6/24/14

Short Title: NC Farm Act of 2014. (Public)

Sponsors:

Referred to:

March 21, 2013

A BILL TO BE ENTITLED

AN ACT TO (1) MAINTAIN THE CONFIDENTIALITY OF ENVIRONMENTAL INVESTIGATIONS FOR AGRICULTURAL OPERATIONS AND DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO ADOPT RULES FOR A FORMAL COMPLAINT PROCEDURE; (2) CLARIFY THE AUTHORITY OF LOCAL GOVERNMENTS TO ADOPT ORDINANCES RELATED TO FERTILIZER; (3) REWRITE THE LANDSCAPE CONTRACTOR LICENSING STATUTES; (4) STUDY THE STATE'S PARTICIPATION IN THE COMMERCIAL VEHICLE SAFETY ALLIANCE NORTH AMERICAN STANDARD INSPECTION PROGRAM; (5) CLARIFY THE MEANING OF THE TERMS "PLANTING AND HARVESTING SEASON" AND "PLANTING AND HARVESTING PERIOD" FOR PURPOSES OF APPLYING FEDERAL LAWS OR REGULATIONS RELATING TO HOURS OF SERVICE RULES FOR CERTAIN DRIVERS TRANSPORTING AGRICULTURAL PRODUCTS; (6) AMEND THE CHAIRMANSHIP OF THE AGRICULTURE AND FORESTRY AWARENESS STUDY COMMISSION; (7) ALLOW THE COMMISSIONER OF AGRICULTURE TO APPOINT LAW ENFORCEMENT OFFICERS TO CARRY OUT THE LAW ENFORCEMENT RESPONSIBILITIES OF THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES; (8) ALLOW THE USE OF PESTICIDES TO CONTROL MOLES; (9) CLASSIFY TRESPASSING ON AN AGRICULTURAL FACILITY AS A FIRST DEGREE TRESPASS; (10) REQUIRE WRITTEN CONSENT TO OPERATE AN ALL-TERRAIN VEHICLE ON PROPERTY OWNED BY ANOTHER; (11) ALLOW DRAINAGE DISTRICTS TO MAINTAIN DITCHES IN BUFFER ZONES; (12) CLARIFY PERIODIC INSPECTIONS AUTHORITY OF THE NORTH CAROLINA HOUSING FINANCE AGENCY; AND (13) PERMIT SECURITY GRILLES AT ALL EXITS OF A BUILDING SUBJECT TO CERTAIN CONDITIONS.

The General Assembly of North Carolina enacts:

MAINTAIN THE CONFIDENTIALITY OF ENVIRONMENTAL INVESTIGATIONS FOR AGRICULTURAL OPERATIONS AND DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO ADOPT RULES FOR A FORMAL COMPLAINT PROCEDURE

SECTION 1.(a) Article 21 of Chapter 143 of the General Statutes is amended by adding two new sections to read:

"**§ 143-215.9D. Agricultural operation investigations confidential.**

Complaints of violations of this Article relating to an agricultural operation and all other records accumulated in conjunction with the investigation of these complaints shall be considered confidential records and may be released only by order of a court of competent jurisdiction. Any information obtained by the Department from any law enforcement agency, administrative agency, or regulatory organization on a confidential or otherwise restricted basis in the course of an investigation shall be confidential and exempt from G.S. 132-6 to the same extent that it is confidential in the possession of the providing agency or organization.

"**§ 143-215.9E. Initial consideration of complaint.**

(a) When a complaint alleging a violation of this Article is filed with the Department, the Department may, at its sole discretion, request additional information to be provided by the complainant within a specified period of time of no less than seven business days.

(b) The Department may decline to accept or further investigate a complaint about an agricultural operation if, after an initial assessment of the complaint, the Department finds reasonable grounds to believe that the complaint is frivolous or was filed in bad faith."

SECTION 1.(b) The Department of Environment and Natural Resources shall adopt rules developing a system for receiving, investigating, and responding to environmental complaints about agricultural operations in accordance with Article 2A of Chapter 150B of the General Statutes, the Administrative Procedure Act.

CLARIFY THE AUTHORITY OF LOCAL GOVERNMENTS TO ADOPT ORDINANCES RELATED TO FERTILIZER

SECTION 2.(a) If Senate Bill 38, 2013 Regular Session, becomes law, then G.S. 106-678, as enacted by Senate Bill 38, reads as rewritten:

"**§ 106-678. Authority to regulate fertilizers.**

No county, city, or other political subdivision of the State shall adopt or continue in effect any ordinance or resolution regulating the use, sale, distribution, storage, transportation, disposal, formulation, labeling, registration, manufacture, or application of fertilizer. Nothing in this section shall prohibit a county, city, or other political subdivision of the State from exercising its planning and zoning authority under Article 19 of Chapter 160A of the General Statutes or Article 18 of Chapter 153A of the General Statutes, or from exercising its fire prevention or inspection authority. Nothing in this section shall limit the authority of the Department of Environment and Natural Resources or the Environmental Management Commission to enforce water quality standards. Nothing in this section shall prohibit a county, city, or other political subdivision of the State from adopting ordinances regulating fertilizers to protect water quality, provided that the ordinances have been approved by the Environmental Management Commission or the Department of Environment and Natural Resources as part of a local plan or National Pollutant Discharge Elimination System permit application and do not exceed the State's minimum requirements to protect water quality as established by the Environmental Management Commission under Part 1, Article 21 of Chapter 143 of the General Statutes. Nothing in this section shall prohibit a county or city from exercising its authority to regulate explosive, corrosive, inflammable, or radioactive substances pursuant to G.S. 153A-128 or G.S. 160A-183."

SECTION 2.(b) If Senate Bill 38, 2013 Regular Session, does not become law, then Article 56 of Chapter 106 of the General Statutes is amended by adding a new section to read:

"**§ 106-678. Authority to regulate fertilizers.**

No county, city, or other political subdivision of the State shall adopt or continue in effect any ordinance or resolution regulating the use, sale, distribution, storage, transportation,

disposal, formulation, labeling, registration, manufacture, or application of fertilizer. Nothing in this section shall prohibit a county, city, or other political subdivision of the State from exercising its planning and zoning authority under Article 19 of Chapter 160A of the General Statutes or Article 18 of Chapter 153A of the General Statutes or from exercising its fire prevention or inspection authority. Nothing in this section shall limit the authority of the Department of Environment and Natural Resources or the Environmental Management Commission to enforce water quality standards. Nothing in this section shall prohibit a county, city, or other political subdivision of the State from adopting ordinances regulating fertilizers to protect water quality, provided that the ordinances have been approved by the Environmental Management Commission or the Department of Environment and Natural Resources as part of a local plan or National Pollutant Discharge Elimination System permit application and do not exceed the State's minimum requirements to protect water quality as established by the Environmental Management Commission under Part 1 of Article 21 of Chapter 143 of the General Statutes. Nothing in this section shall prohibit a county or city from exercising its authority to regulate explosive, corrosive, inflammable, or radioactive substances pursuant to G.S. 153A-128 or G.S. 160A-183."

REWRITE THE LANDSCAPE CONTRACTOR LICENSING STATUTES

SECTION 3.(a) G.S. 89D-1 through G.S. 89D-10 are repealed.

SECTION 3.(b) Chapter 89D of the General Statutes is amended by adding the following new sections to read:

"**§ 89D-11. Definitions.**

The following definitions apply in this Chapter:

(1) Board. – The North Carolina Landscape Contractors' Licensing Board.

(2) Landscape construction or contracting. – The act of providing services as a landscape contractor, as defined in this section, for compensation or other consideration.

(3) Landscape contractor. – Any person who, for compensation or other consideration, does any of the following:

a. Engages in the business requiring the art, experience, ability, knowledge, science, and skill to prepare contracts and bid for the performance of landscape services, including installing, planting, repairing, and managing gardens, lawns, shrubs, vines, trees, or other decorative vegetation, including the finish grading and preparation of plots and areas of land for decorative utilitarian treatment and arrangement.

b. Practices the act of horticulture consultation or planting design for employment purposes.

c. Constructs, installs, or maintains landscape drainage systems and cisterns; provided the landscaping contractor makes no connection to pipes, fixtures, apparatus, or appurtenances installed upon the premises, or in a building, to supply water thereto or convey sewage or other waste therefrom as defined in G.S. 87-21.

d. Designs, installs, or maintains low-voltage landscape lighting systems; provided (i) the work does not exceed the scope of the exception set forth in G.S. 87-43.1(7); and (ii) the low-voltage lighting systems do not exceed 50 volts and constitute a Class II or Class III cord and plug connected power system.

e. Engages in the construction of garden pools, retaining walls, walks, patios, or other decorative landscape features.

(4) Person. – An individual, firm, partnership, association, corporation, or other legal entity.

"**§ 89D-12. License required; use of seal; posting license.**

(a) Except as otherwise provided in this Chapter, no person shall engage in the practice of landscape construction or contracting, use the designation "landscape contractor," or advertise using any title or description that implies licensure as a landscape contractor unless the person is licensed as a landscape contractor as provided by this Chapter. All landscape construction or contracting performed by a partnership, association, corporation, firm, or other group shall be performed under an individual who is readily available to exercise supervision over the landscape construction and contracting work and who is licensed by the Board under this Chapter.

(b) Nothing in this Chapter shall be construed to authorize a landscape contractor to engage in any of the following:

(1) The practice of landscape architecture as defined in G.S. 89A-1.

(2) The practice of engineering as defined in G.S. 89C-3.

(3) Practice as a well contractor certified under Article 7A of Chapter 87 of the General Statutes.

(4) The practice of irrigation contracting as defined in G.S. 89G-1.

(5) The practice of architecture as defined in G.S. 83A-1.

(6) The practice of plumbing, heating group number one, heating group number two, heating group number three, fire sprinkler, or fuel piping contracting as defined in G.S. 87-21; provided the landscaping contractor may install piping, fittings, valves, and associated components for the purpose of landscape contracting that is downstream of a potable water source, groundwater source, or grey water source, and downstream of a backflow prevention assembly.

(7) The practice of electrical contracting as defined in G.S. 87-43.

(c) A landscape contractor licensed under this Chapter is not required to be licensed as a general contractor under Article 1 of Chapter 87 of the General Statutes if the licensed landscape contractor is performing landscape construction or contracting work valued at an amount greater than thirty thousand dollars ($30,000).

(d) Upon licensure by the Board, each landscape contractor shall obtain a seal of the design authorized by the Board and bearing the name of the licensee, the number of the license, and the legend "N.C. Licensed Landscape Contractor." A landscape contractor may use the seal only while the license is valid.

(e) Every landscape contractor issued a license under this Chapter shall display the license conspicuously in the landscape contractor's place of business. Every landscape contractor shall display the license number issued to the contractor by the Board on all business cards, contracts, and vehicles used by the contractor in the landscape contracting business.

"**§ 89D-13. Exemptions.**

The provisions of this Chapter shall not apply to the following:

(1) Any federal, State, or local governmental agency performing landscaping on public property.

(2) The North Carolina Department of Transportation (NCDOT). However, for landscape installations or establishment periods for any project that exceeds the current contract amount requiring performance and payment bonds according to State law, NCDOT shall require a licensed landscape contractor to perform the work. NCDOT, at its discretion, may require a licensed landscape contractor for landscape projects of any cost.

(3) Any property owner performing landscape work on his or her own property.

(4) Any person or business owning or operating a golf course.

(5) Any landscaping work where the price of all contracts for labor, material, and other items for a given job site during any consecutive 12-month period is less than twenty-five thousand dollars ($25,000). A local governmental unit shall not enact a local ordinance or regulation requiring licensure for landscaping work performed pursuant to this subdivision.

(6) A general contractor licensed under Article 1 of Chapter 87 of the General Statutes who possesses a classification under G.S. 87-10(b) as a building contractor, a residential contractor, or a public utilities contractor.

(7) Any person or business licensed as an electrical contractor under Article 4 of Chapter 87 of the General Statutes who is designing, installing, or maintaining any electric work, wiring, devices, appliances, or equipment.

(8) Any person or business licensed as a plumbing contractor under Article 2 of Chapter 87 of the General Statutes who is installing pipes, fixtures, apparatus, or appurtenances to supply water thereto or convey sewage or other waste therefrom, including the installation, repair, or maintenance of water mains, water taps, services lines, water meters, or backflow prevention assemblies supplying water for irrigation systems or repairs to an irrigation system.

(9) A professional engineer licensed pursuant to Chapter 89C of the General Statutes.

(10) A professional landscape architect licensed under Chapter 89A of the General Statutes.

(11) An individual or a business engaged in any of the following activities while performing that activity:

a. Clearing and grading plots and areas of land.

b. Erosion control.

c. Arboriculture, including consultations on pruning and removal of trees.

d. The installation of sod, seed, or plugs by sod producers certified by the Plant Industry Division of the North Carolina Department of Agriculture and Consumer Services.

e. Landscape construction performed by utilities contractors for the purpose of grading and erosion control.

f. Lawn mowing, turf edging, and debris removal services.

g. Turf management or lawn care services only, including fertilization, aeration, weed control, or other turf management or lawn care practices other than mowing or edging.

h. Design, installation, and maintenance of on-site wastewater disposal or reuse systems within the on-site wastewater permit specifications.

(12) Any person performing landscaping work on a farm for use in agriculture production, farming, or ranching.

"**§ 89D-14. The North Carolina Landscape Contractors' Licensing Board.**

(a) There is created the North Carolina Landscape Contractors' Licensing Board. The Board shall consist of nine members appointed as follows:

(1) One member appointed by the Governor who is a member of the general public.

(2) One member appointed by the Commissioner of Agriculture pursuant to recommendations from The North Carolina Green Industry Council.

(3) One member appointed by the Board of Directors of the North Carolina Nursery and Landscape Association, Inc., who is a practicing nurseryman

operating a nursery certified by the North Carolina Department of Agriculture and Consumer Services Plant Industry Division.

(4) Four members who are licensed landscape contractors in the business of landscape construction or contracting. One of the four members shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives pursuant to recommendations from The North Carolina Green Industry Council; one shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate pursuant to recommendations from the Carolinas Irrigation Association, who is also a licensed irrigation contractor; and two shall be appointed by the Board of Directors of the North Carolina Nursery and Landscape Association, Inc.

(5) One member appointed by the Board of Directors of the North Carolina Chapter of the American Society of Landscape Architects who is a registered landscape architect.

(6) One member appointed by the President of The University of North Carolina from within the land grant university community who is knowledgeable in landscaping methods and practices.

(b) All appointments shall be for three-year terms. No member shall serve more than two complete consecutive terms.

(c) A vacancy on the Board created by death, resignation, or otherwise shall be filled in the same manner as the original appointment, except that all unexpired terms of Board members appointed by the General Assembly shall be filled in accordance with G.S. 120-122. Appointees to fill vacancies shall serve the remainder of the unexpired term and until their successors are appointed and qualified.

(d) The Board shall elect annually a chair and other officers as it deems necessary to carry out the purposes of this Chapter and shall hold meetings at least twice a year. A majority of the Board shall constitute a quorum.

(e) Each member of the Board may receive per diem and reimbursement for travel and subsistence as set forth in G.S. 93B-5.

(f) The Board shall be entitled to the services of the Attorney General in connection with the affairs of the Board or may, in its discretion, employ an attorney to assist or represent it in the enforcement of this Chapter.

"**§ 89D-15. Powers and duties.**

The Board shall have the following powers and duties:

(1) Administer and enforce the provisions of this Chapter.

(2) Adopt, amend, or repeal rules to carry out the provisions of this Chapter.

(3) Examine and determine the qualifications and fitness of applicants for licensure and licensure renewal.

(4) Issue, renew, deny, restrict, suspend, or revoke licenses.

(5) Reprimand or otherwise discipline licensees under this Chapter.

(6) Receive and investigate complaints from members of the public.

(7) Conduct investigations to determine whether violations of this Chapter exist or constitute grounds for disciplinary action against licensees under this Chapter.

(8) Conduct administrative hearings in accordance with Article 3A of Chapter 150B of the General Statutes.

(9) Seek injunctive relief through any court of competent jurisdiction for violations of this Chapter.

(10) Collect fees required by G.S. 89D-21 and any other moneys permitted by law to be paid to the Board.

(11) Require licensees to file and maintain an adequate surety bond.
(12) Establish and approve continuing education requirements for persons licensed under this Chapter.
(13) Employ a secretary-treasurer and any other clerical personnel the Board deems necessary to carry out the provisions of this Chapter and to fix compensation for employees.
(14) Maintain a record of all proceedings conducted by the Board and make available to licensees and other concerned parties an annual report of all Board action.
(15) Adopt and publish a code of professional conduct for all persons licensed under this Chapter.
(16) Adopt and publish a code of minimum practice standards for landscape construction and contracting.
(17) Adopt a seal containing the name of the Board for use on licenses and official reports issued by the Board.

"**§ 89D-16. Application for license; qualifications; examination; issuance.**

(a) Upon application to the Board and payment of the required fees, an applicant for licensure as a landscape contractor may sit for the examination if the applicant submits evidence demonstrating the applicant's qualifications for licensure under this Chapter as prescribed in rules adopted by the Board and meets all of the following qualifications:

(1) Is at least 18 years of age.
(2) Is of good moral character as determined by the Board.
(3) Provides evidence of business identification as required by the Board.
(4) Files with the Board and maintains a corporate surety bond executed by a company authorized to do business in this State or an irrevocable letter of credit issued by an insured institution. The surety bond or the letter of credit shall be in the amount of ten thousand dollars ($10,000). The surety bond or letter of credit shall be approved by the Board as to form and shall be conditioned upon the obligor faithfully conforming to and abiding by the provisions of this Chapter. Any person claiming to be injured by an act of a licensed landscape contractor that constitutes a violation of this Chapter may institute an action to recover against the licensee and the surety.

(b) If the applicant meets all the qualifications in subsection (a) of this section, the applicant shall be required to pass an examination administered by the Board before the Board may issue the license. The Board shall establish the scope and subject matter of the examination to be administered. The Board shall administer examinations at least twice a year at a time and place to be determined by the Board.

(c) When the Board determines that an applicant has met all the qualifications for licensure, submitted the required fee, and passed the examination, the Board shall issue a license to the applicant.

"**§ 89D-17. Corporations; partnerships; persons doing business under trade name.**

(a) The Board may issue a license in the name of a corporation if the corporation complies with the following:

(1) One or more officers or full-time employees, or both, empowered to act for the corporation are individuals licensed under this Chapter.
(2) Only the officers or employees described in subdivision (1) of this subsection execute contracts for landscape construction or contracting in the name of a corporation and are readily available to exercise supervision over the work performed pursuant to the contract.

(b) The Board may issue a license in the name of a limited liability company if the company complies with the following:

(1) One or more managers, as defined in G.S. 57D-1-03, executives, or full-time employees, or a combination thereof, are individuals licensed under this Chapter.

(2) Only the managers, executives, or employees described in subdivision (1) of this subsection execute contracts for landscape construction or contracting in the name of the limited liability company and are readily available to exercise supervision over the work performed pursuant to the contract.

(c) The Board may issue a license in the name of a partnership if the partnership complies with the following:

(1) One or more general partners or full-time employees empowered to act for the partnership are individuals licensed under this Chapter.

(2) Only the partners or employees described in subdivision (1) of this subsection execute contracts for landscape construction or contracting in the name of the partnership and are readily available to exercise supervision over the work performed pursuant to the contract.

(d) The Board may issue a license in an assumed or designated trade name if the owner of the business complies with the following:

(1) The owner or one or more full-time employees empowered to act for the owner is an individual licensed under this Chapter.

(2) Only the persons described in subdivision (1) of this subsection execute contracts for landscape construction or contracting in the assumed or designated trade name of the business and are readily available to exercise supervision over the work performed pursuant to the contract.

(e) When the Board issues a license under this section, the Board shall indicate on the license the name and license number of the individual licensee connected to the corporation, partnership, or business conducted under an assumed or designated trade name.

(f) A person licensed pursuant to this section shall be readily available to exercise supervision over a contract for landscape construction or contracting until the contract is completed.

(g) When a licensee executes a contract for landscape construction or contracting in any capacity other than as a sole proprietor contracting on the licensee's own behalf, the person on whose behalf the licensee is executing the contract shall be licensed under this section.

(h) A corporation, partnership, or person doing business under an assumed or designated trade name shall notify the Board in accordance with rules adopted by the Board if an individual licensee who is indicated in the license issued under this section ceases to be an officer, partner, owner, or employee of the corporation, partnership, or person doing business under the assumed or designated trade name. If the corporation, partnership, or person no longer has an officer, general partner, owner, or employee described in subdivision (a)(1), (b)(1), or (c)(1) of this section, the corporation, partnership, or person shall have 120 days from the date the officer, general partner, owner, or employee ceases the relationship with the corporation, partnership, or person to satisfy the requirements described in subdivision (a)(1), (b)(1), or (c)(1) of this section. The Board may, in its discretion, grant the corporation, partnership, or person a period greater than 120 days to satisfy the requirements described in subdivision (a)(1), (b)(1), or (c)(1) of this section as it deems appropriate. After 120 days, or a time period greater than 120 days as approved by the Board, if the corporation, partnership, or person does not have an officer, general partner, owner, or employee as described in subdivision (a)(1), (b)(1), or (c)(1) of this section, the license issued under this section is automatically suspended and the corporation, partnership, or person shall cease practicing landscape construction or contracting.

"**§ 89D-18. Licensing of nonresidents.**

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

(1) Delinquent income tax debt. – The amount of income tax due as stated in a final notice of assessment issued to a taxpayer by the Secretary of Revenue when the taxpayer no longer has the right to contest the amount.
(2) Foreign corporation. – A corporation as defined in G.S. 55-1-40.
(3) Foreign entity. – A foreign corporation, a foreign limited liability company, or a foreign partnership.
(4) Foreign limited liability company. – A company as defined in G.S. 57D-1-03.
(5) Foreign partnership. – One of the following that does not have a permanent place of business in this State:
a. A foreign limited partnership as defined in G.S. 59-102.
b. A general partnership formed under the laws of a jurisdiction other than this State.

(b) Licensing. – Except as provided in this section, the Board may issue a license to a nonresident individual or a foreign entity that meets the requirements for licensure under this Chapter.

(c) Certificate of Authority Required. – The Board shall not issue a license for a foreign corporation unless the corporation has obtained a certificate of authority from the Secretary of State pursuant to Article 15 of Chapter 55 of the General Statutes. The Board shall not issue a license for a foreign limited liability company unless the company has obtained a certificate of authority from the Secretary of State pursuant to Article 7 of Chapter 57D of the General Statutes.

(d) Information. – The Board, upon request, shall provide the Secretary of Revenue the name, address, and tax identification number of every nonresident individual and foreign entity licensed by the Board. The information to be provided under this section shall be in a form required by the Secretary of Revenue.

(e) Delinquents. – If the Secretary of Revenue determines that any nonresident individual or foreign entity licensed by the Board owes a delinquent income tax debt, the Secretary of Revenue may notify the Board of the nonresident individual or foreign entity and instruct the Board not to renew the nonresident individual or foreign entity's license. The Board shall not renew the license of a nonresident individual or foreign entity identified by the Secretary of Revenue unless the Board receives a written statement from the Secretary that (i) the debt has been paid or (ii) the debt is being paid pursuant to an installment agreement.

"**§ 89D-19. Reciprocity.**

The Board may issue a license, without examination, to any person who is a landscape contractor licensed, certified, or registered in another state or country if the requirements for licensure, certification, or registration in the other state or country are substantially equivalent to the requirements for licensure in this State.

"**§ 89D-20. License renewal and continuing education.**

(a) Every license issued under this Chapter shall be renewed on or before the first day of August of each year. Any person who desires to continue to practice shall apply for a license renewal and shall submit the required fee. Licenses that are not renewed shall be automatically revoked. A license may be renewed at any time within one year after its expiration if (i) the applicant pays the required renewal fee and late renewal fee, (ii) the Board finds that the applicant has not used the license in a manner inconsistent with the provisions of this Chapter or engaged in the practice of landscape construction or contracting after notice of revocation, and (iii) the applicant is otherwise eligible for licensure under the provisions of this Chapter. When necessary, the Board may require licensees to demonstrate continued competence as a condition of license renewal.

(b) As a condition of license renewal, a licensee shall meet the continuing education requirements set by the Board. Each licensee shall complete seven continuing education units

per year. The Board may suspend a licensee's license for 30 days for failure to obtain continuing education units required by this subsection. Upon payment of a reinstatement fee, submission to the Board of proof of the continuing education units required by this subsection, and payment of the license renewal fee and late renewal fee, the licensee's license shall be reinstated. Failure to request a reinstatement of the license and failure to pay the reinstatement fee, renewal fee, and late renewal fee shall result in the forfeiture of a license. Upon forfeiture, a person shall be required to submit a new application and retake the examination as provided in this Chapter.

"**§ 89D-21. Expenses and fees.**

(a) The Board may impose the following fees not to exceed the amounts listed below:

(1)	Application fee	$100.00
(2)	Examination fee	250.00
(3)	Individual license fee and individual license renewal	100.00
(4)	Initial corporate, limited liability company, partnership, or trade name license	100.00
(5)	Corporate, limited liability company, partnership, or trade-name license renewal	100.00
(6)	Late renewal fee	50.00
(7)	Reinstatement fee	250.00
(8)	License by reciprocity	250.00
(9)	Duplicate license	25.00

(b) When the Board uses a testing service for the preparation, administration, or grading of examinations, the Board may charge the applicant the actual cost of the examination services and a prorated portion of the examination fee.

"**§ 89D-22. Disciplinary action.**

(a) The Board may deny, restrict, suspend, or revoke a license or refuse to issue or renew a license if a licensee or applicant does any of the following:

(1) Employs the use of fraud, deceit, or misrepresentation in obtaining or attempting to obtain a license or the renewal of a license.

(2) Practices or attempts to practice landscape construction or contracting by fraudulent misrepresentation.

(3) Commits an act of gross malpractice or incompetence as determined by the Board.

(4) Has been convicted of or pled guilty or no contest to a crime that indicates that the person is unfit or incompetent to practice as a landscape contractor or that indicates that the person has deceived or defrauded the public.

(5) Has been declared incompetent by a court of competent jurisdiction.

(6) Has willfully violated any provision in this Chapter or any rules adopted by the Board.

(7) Uses or attempts to use the seal in a fraudulent or unauthorized manner.

(8) Fails to file the required surety bond or letter of credit or to keep the bond or letter of credit in force.

(b) The Board may assess costs, including reasonable attorneys' fees and investigatory costs, in a proceeding under this section against an applicant or licensee found to be in violation of this Chapter.

"**§ 89D-23. Civil penalties.**

(a) In addition to taking any of the actions permitted under G.S. 89D-22, the Board may assess a civil penalty not in excess of two thousand dollars ($2,000) for each violation of any section of this Chapter or the violation of any rules adopted by the Board. The clear proceeds of any civil penalty assessed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) Before imposing and assessing a civil penalty and fixing the amount of the penalty, the Board shall, as a part of its deliberations, take into consideration the following factors:

(1) The nature, gravity, and persistence of the particular violation.

(2) The appropriateness of the imposition of a civil penalty when considered alone or in combination with other punishment.

(3) Whether the violation was willful and malicious.

(4) Any other factors that would tend to mitigate or aggravate the violations found to exist.

"**§ 89D-24. Injunction to prevent violation; notification of complaints.**

(a) If the Board finds that a person who does not have a license issued under this Chapter is engaging in the practice of landscape construction or contracting, the Board may appear in its own name in superior court in actions for injunctive relief to prevent any person from violating the provisions of this Chapter or the rules adopted by the Board.

(b) A licensed landscape contractor shall notify the Board of any written complaints filed against the landscape contractor not resolved within 30 days from the date the complaint was filed by registered mail to the Board."

SECTION 3.(c) Members serving on the North Carolina Landscape Contractors' Registration Board on the effective date of this act shall continue to serve until members of the North Carolina Landscape Contractors' Licensing Board, newly structured under G.S. 89D-14(a), as enacted by Section 3(b) of this act, are appointed.

SECTION 3.(d) Once the term of one of the current public members appointed by the Governor expires, the General Assembly, upon the recommendation of the Speaker of the House of Representatives, shall appoint a licensed landscape contractor in the business of landscape construction and contracting. Once the term of one of the current members appointed by the Commissioner of Agriculture expires, the General Assembly, upon the recommendation of the President Pro Tempore of the Senate, shall appoint a licensed landscape contractor in the business of landscape construction and contracting. All records, staff, funds, and other items of the North Carolina Landscape Contractors' Registration Board are transferred to and made the property of the North Carolina Landscape Contractors' Licensing Board.

SECTION 3.(e) Any person who, on or before December 31, 2014, meets at least one of the following criteria shall be issued a landscape contractor's license by the North Carolina Landscape Contractors' Licensing Board, without the requirement of examination, upon submission of a completed application and payment of the application fee on or before August 1, 2015:

(1) Is registered as a landscape contractor.

(2) Is licensed as an irrigation contractor.

(3) Is certified as a turf grass professional.

(4) Has three years of documented experience in the person's own business as a landscape contractor or three years of documented experience as an employee in a landscape contracting business and meets all other requirements and qualifications for licensure as a landscape contractor. Educational experience can be applied towards the three-year experience requirement as follows:

a. One year of credit for a two-year degree in related educational training.

b. Two years of credit for a four-year degree in related educational training.

c. Up to two years of credit for education or business experience in general business management.

Landscape contractors currently registered under Chapter 89D of the General Statutes shall not be required to renew the registration for the 2015 calendar year to qualify for the landscape contractor's license, as enacted by Section 3(b) of this act.

SECTION 3.(f) This section becomes effective August 1, 2015.

STUDY THE STATE'S PARTICIPATION IN THE COMMERCIAL VEHICLE SAFETY ALLIANCE NORTH AMERICAN STANDARD INSPECTION PROGRAM

SECTION 4. The Department of Public Safety shall study the State's participation in the Commercial Vehicle Safety Alliance North American Standard Inspection Program for roadside commercial vehicle safety inspections. The study shall include (i) a history of when North Carolina joined the program; (ii) an explanation of how the program is currently being implemented; (iii) data on how many safety inspection decals are issued annually; and (iv) a geographic analysis of where safety inspection decals are issued within the State. The Department shall report the results of its study to the Agriculture and Forestry Awareness Study Commission on or before November 1, 2014.

CLARIFY THE MEANING OF THE TERMS "PLANTING AND HARVESTING SEASON" AND "PLANTING AND HARVESTING PERIOD" FOR PURPOSES OF APPLYING FEDERAL LAWS OR REGULATIONS RELATING TO HOURS OF SERVICE RULES FOR CERTAIN DRIVERS TRANSPORTING AGRICULTURAL PRODUCTS

SECTION 5. G.S. 20-381 is amended by adding a new subsection to read:

"**§ 20-381. Specific powers and duties of Department of Public Safety applicable to motor carriers; agricultural exemption.**

...

(c) For purposes of 49 C.F.R. § 395.1(k) and any other federal law or regulation relating to hours-of-service rules for drivers engaged in the transportation of agricultural commodities and farm supplies for agricultural purposes, the terms "planting and harvesting season" and "planting and harvesting period" refer to the period from January 1 through December 31 of each year."

AMEND THE CHAIRMANSHIP OF THE AGRICULTURE AND FORESTRY AWARENESS STUDY COMMISSION

SECTION 6. G.S. 120-150 reads as rewritten:

"**§ 120-150. Creation; appointment of members.**

There is created an Agriculture and Forestry Awareness Study Commission. Members of the Commission shall be citizens of North Carolina who are interested in the vitality of the agriculture and forestry sectors of the State's economy. Members shall be as follows:

(1) Three appointed by the Governor.

(2) Three appointed by the President Pro Tempore of the Senate.

(3) Three appointed by the Speaker of the ~~House.~~House of Representatives.

(4) ~~The chairs of the House Agriculture Committee.~~Two members of the House of Representatives appointed by the Speaker of the House of Representatives.

(5) ~~The chairs of the Senate Committee on Agriculture, Environment, and Natural Resources.~~Two members of the Senate appointed by the President Pro Tempore of the Senate.

(6) The Commissioner of Agriculture or the Commissioner's designee.

(7) A member of the Board of Agriculture designated by the chair of the Board of Agriculture.

(8) The President of the North Carolina Farm Bureau Federation, Inc., or the President's designee.
(9) The President of the North Carolina State Grange or the President's designee.
(10) The Secretary of Environment and Natural Resources or the Secretary's designee.
(11) The President of the North Carolina Forestry Association, Inc., or the President's designee.

Members shall be appointed for two-year terms beginning October 1 of each odd-numbered year. ~~The Chairs of the House Agriculture Committee and the Chairs of the Senate Committee on Agriculture, Environment, and Natural Resources shall serve as cochairs.~~The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate two members to serve as cochairs of the Commission."

ALLOW THE COMMISSIONER OF AGRICULTURE TO APPOINT LAW ENFORCEMENT OFFICERS TO CARRY OUT THE LAW ENFORCEMENT RESPONSIBILITIES OF THE DEPARTMENT OF AGRICULTURE

SECTION 7. G.S. 106-900 reads as rewritten:

"**§ 106-900. Powers of ~~forest~~ Department of Agriculture and Consumer Services law-enforcement officers.**

The Commissioner is authorized to appoint as many ~~forest law-enforcement~~Department of Agriculture and Consumer Services law enforcement officers as he or she deems necessary to ~~carry out the forest law-enforcement responsibilities of the Department~~ investigate and enforce any violation of the laws within the authority of the Department or which occur on Department property. Such officers shall meet the requirements of Chapter 17C of the General Statutes and shall take the oath of office prescribed by Article VI, Section 7 of the North Carolina Constitution. ~~Forest law-enforcement officers shall~~ Of these officers, the Commissioner may designate certain officers to also have ~~all~~ the powers and the duties of a forest ranger enumerated in G.S. 106-898 and ~~G.S. 106-899.~~ G.S. 106-899 and the power to enforce the forest laws. ~~Forest law-enforcement officers shall, in addition to their other duties, have the powers of peace officers to enforce the forest laws. Any forest~~ A Department ~~law-enforcement~~law enforcement officer may arrest, without warrant, any person or persons committing any crime in ~~his~~ the officer's presence or ~~whom~~ who such officer has probable cause for believing has committed a crime in ~~his~~ the officer's presence and bring such person or persons forthwith before a district court or other officer having jurisdiction. ~~Forest~~ Department ~~law-enforcement~~law enforcement officers shall also have authority to obtain and serve warrants including warrants for violation of any duly promulgated rule of the Department.

PESTICIDE USE FOR MOLES

SECTION 8. G.S. 113-300.2 is amended by adding a new subsection to read:

"(g) Notwithstanding any other provision of law, it is lawful to use any pesticide registered by the Pesticide Board to control any species of mole other than the Star-Nosed Mole (Condylura cristata parva), provided that (i) all rules regulating the application of pesticides adopted by the Pesticide Board are followed, and (ii) pesticides used to control these species are applied in a manner that minimizes hazards to nontarget species."

ADD AGRICULTURAL FACILITIES TO FIRST DEGREE TRESPASS

SECTION 9.(a) G.S. 14-159.12(c)(1) is amended by adding a new sub-subdivision to read:

"**§ 14-159.12. First degree trespass.**

...

(c) Except as otherwise provided in subsection (d) of this section, a violation of subsection (a) of this section is a Class A1 misdemeanor if all of the following circumstances exist:

(1) The offense is committed on the premises of any of the following:

a. A facility that is owned or operated by an electric power supplier as defined in G.S. 62-133.8(a)(3) and that is either an electric generation facility, a transmission substation, a transmission switching station, a transmission switching structure, or a control center used to manage transmission operations or electrical power generating at multiple plant locations.

b. Any facility used or available for use in the collection, treatment, testing, storing, pumping, or distribution of water for a public water system.

c. Any facility, including any liquefied natural gas storage facility or propane air facility, that is owned or operated by a natural gas local distribution company, natural gas pipeline carrier operating under a certificate of public convenience and necessity from the Utilities Commission, municipal corporation operating a municipally owned gas distribution system, or regional natural gas district organized and operated pursuant to Article 28 of Chapter 160A of the General Statutes used for transmission, distribution, measurement, testing, regulating, compression, control, or storage of natural gas.

d. Any facility used or operated for agricultural activities, as that term is defined in G.S. 106-581.1."

SECTION 9.(b) This section becomes effective December 1, 2014, and applies to offenses committed on or after that date.

REQUIRE WRITTEN CONSENT TO OPERATE ALL TERRAIN VEHICLES ON PRIVATE PROPERTY

SECTION 10.(a) G.S. 14-159.3 reads as rewritten:

"**§ 14-159.3. Trespass to land on motorized all terrain vehicle.**

(a) No person shall operate any motorized all terrain vehicle:

(1) On any private property not owned by the operator, without the written consent of the owner; or

(2) Within the banks of any stream or waterway, but excluding a sound or the Atlantic Ocean, the adjacent lands of which are not owned by the operator, without the consent of the owner or outside the restrictions imposed by the owner.

(a1) A landowner who gives a person written consent to operate an all terrain vehicle on his or her property owes the person the same duty of care that he owes a trespasser.

(b) A "motorized all terrain vehicle", as used in this section, is a two or more wheeled vehicle designed for recreational off-road use.

(c) A violation of this section shall be a Class 2 misdemeanor."

SECTION 10.(b) This section becomes effective December 1, 2014, and applies to offenses committed on or after that date.

ALLOW DRAINAGE DISTRICTS TO MAINTAIN DITCHES IN BUFFER ZONES

SECTION 11. G.S. 156-82.1 is amended by adding a new subsection to read:

"**§ 156-82.1. Duties and powers of the board of drainage commissioners.**

(a) The board of drainage commissioners shall proceed with the levying of assessments, issuance of bonds and construction of canals, water retardant structures and other

improvements and acquisition of equipment as approved by the court in the adjudication upon the final report of the board of viewers, either in the creation of the district or in subsequent proceedings authorized by Article 7B.

(b) The commissioners shall maintain the canals, water retardant structures, and all other improvements and equipment of the district.

(b1) No State statute or rule or local government ordinance for the establishment, preservation, or maintenance of riparian buffers for the protection of water quality shall apply to the construction, operation, maintenance, or repair of canals, water retardant structures, or other improvements under the control and supervision of a board of drainage commissioners.

...."

CLARIFY PERIODIC INSPECTIONS AUTHORITY OF HOUSING FINANCE AGENCY

SECTION 12.(a) G.S. 153A-364 reads as rewritten:

"**§ 153A-364. Periodic inspections for hazardous or unlawful conditions.**

...

(b) A county may require periodic inspections as part of a targeted effort within a geographic area that has been designated by the county commissioners. The county shall not discriminate in its selection of areas or housing types to be targeted and shall (i) provide notice to all owners and residents of properties in the affected area about the periodic inspections plan and information regarding a public hearing regarding the plan; (ii) hold a public hearing regarding the plan; and (iii) establish a plan to address the ability of low-income residential property owners to comply with minimum housing code standards. A residential building or structure that is subject to periodic inspections by the North Carolina Housing Finance Agency (hereinafter "Agency") shall not be subject to periodic inspections under this subsection if the Agency has issued a finding that the building or structure is in compliance with federal standards established by the United States Department of Housing and Urban Development to assess the physical condition of residential property. The owner or manager of a residential building or structure subject to periodic inspections by the Agency shall, within 10 days of receipt, submit to the inspection department a copy of the Compliance Results Letter issued by the Agency showing that the residential building or structure is in compliance with federal housing inspection standards. If the owner or manager fails to submit a copy of the Compliance Results Letter as provided in this subsection, the residential building or structure shall be subject to periodic inspections as provided in this subsection until the Compliance Results Letter is submitted to the inspection department.

...."

SECTION 12.(b) G.S. 160A-424 reads as rewritten:

"**§ 160A-424. Periodic inspections.**

...

(b) A city may require periodic inspections as part of a targeted effort within a geographic area that has been designated by the city council. The municipality shall not discriminate in its selection of areas or housing types to be targeted and shall (i) provide notice to all owners and residents of properties in the affected area about the periodic inspections plan and information regarding a public hearing regarding the plan; (ii) hold a public hearing regarding the plan; and (iii) establish a plan to address the ability of low-income residential property owners to comply with minimum housing code standards. A residential building or structure that is subject to periodic inspections by the North Carolina Housing Finance Agency (hereinafter "Agency") shall not be subject to periodic inspections under this subsection if the Agency has issued a finding that the building or structure is in compliance with federal standards established by the United States Department of Housing and Urban Development to assess the physical condition of residential property. The owner or manager of a residential

building or structure subject to periodic inspections by the Agency shall, within 10 days of receipt, submit to the inspection department a copy of the Compliance Results Letter issued by the Agency showing that the residential building or structure is in compliance with federal housing inspection standards. If the owner or manager fails to submit a copy of the Compliance Results Letter as provided in this subsection, the residential building or structure shall be subject to periodic inspections as provided in this subsection until the Compliance Results Letter is submitted to the inspection department.

...."

SECURITY GRILLES

SECTION 13.(a) Notwithstanding Section 1008.1.4.5 of the 2012 NC State Building Code (Fire Code), horizontal sliding or vertical security grilles shall be permitted at all exits or exit access doorways, provided that the grilles are openable from the inside without the use of a key or special knowledge or effort during periods that the space is occupied by authorized persons and that the grilles remain secured in the full-open position during the period of occupancy by the general public.

SECTION 13.(b) The Building Code Council shall adopt a rule to amend Section 1008.1.4.5 of the 2012 NC State Building Code (Fire Code) consistent with Section 13(a) of this section.

SECTION 13.(c) Section 13(a) of this section expires on the date that the rule adopted pursuant to Section 13(b) of this section becomes effective.

EFFECTIVE DATE

SECTION 14. Except as otherwise provided, this act is effective when it becomes law.

HOUSE BILL 366:
NC Farm Act of 2014

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 25, 2014
Introduced by:	Reps. Langdon, Dixon, Brisson, S. Martin	**Prepared by:**	Chris Saunders Committee Counsel
Analysis of:	Fourth Edition		

SUMMARY: House Bill 366 would amend various agricultural and environmental laws.

[As introduced, this bill was identical to S387, as introduced by Sens. Barefoot, Cook, Walters]

BILL ANALYSIS:

Section 1 of the bill would provide that complaints to the Department of Environment and Natural Resources (DENR) concerning an agricultural operation, and all records accumulated in conjunction with the investigation of the complaint, are confidential and may be released only by court order. This section would also allow DENR to request additional information from a complainant and permit the Department to decline to accept or further investigate a complaint about an agricultural operation if an initial assessment of the complaint leads to a finding that the complaint is frivolous or was filed in bad faith. Section 1 would also direct DENR to adopt rules to develop a formal system for receiving, investigating, and responding to environmental complaints.

Section 2 would prohibit cities and counties from adopting ordinances regulating the use, sale, distribution, storage, transportation, disposal, formulation, labeling, registration, manufacture, or application of fertilizer. This section would not limit the authority of DENR or the Environmental Management Committee (EMC) to enforce water quality standards. Cities and counties would be permitted to adopt ordinances to regulate fertilizers to protect water quality, provided that the ordinances have been approved by the EMC or DENR as part of a local plan or National Pollutant Discharge Elimination System permit application and do not exceed the State's minimum requirements to protect water quality. This section would not prohibit a city or county from regulating explosive or inflammable substances by ordinance.

Sections 3.(a) and 3.(b) would rewrite the statutes regulating landscape contractors to require that any person engaged in the business of landscape contracting must obtain a license. This section would:

- create definitions for the terms "Board," "landscape construction or contracting," "landscape contractor," and "person" (89D-11);
- provide that unless otherwise permitted, no person shall engage in landscape construction or contracting, use the designation "landscape contractor," or advertise using a title that implies licensure unless the person is licensed as a landscape contractor (89D-12(a));
- provide for exemptions for licensure, including:
    - a governmental agency performing landscaping on public property;
    - the North Carolina Department of Transportation;
    - a property owner performing landscape work on his or her own property;

- a person or business owning or operating a golf course;
- work where the price of all items for a given jobsite during any consecutive 12 month period is less than $25,000;
- licensed general contractors who possess a classification as a building contractor, residential contractor, or public utilities contractor;
- licensed electricians and certain plumbing contractors;
- professional engineers or professional landscape architects; or
- individuals or businesses involved in several specific activities including clearing and grading plots and areas of land, erosion control, arboriculture, and others (89D-13);

- establish the North Carolina Landscape Contractors' Licensing Board (89D-14);
- set forth powers and duties of the Board, including the authority to administer and enforce this Chapter and the ability to issue and revoke licenses, among others (89D-15);
- establish requirements for landscape contractor licensure including application requirements, qualifications, and examination and continuing education. Applicants must meet certain qualifications before sitting for the examination (at least 18 years of age, good moral character, evidence of business ID, at least 3 years of experience in landscape construction or contracting or educational equivalent, and maintains corporate surety bond or letter of credit in the amount of $10,000). The applicant must pass an examination administered by the Board (89D-16, 89D-18, 89D-19, 89D-20);
- establish standards for issuing licenses to corporations, partnerships, and persons doing business under a trade name (89D-17);
- authorize the Landscape Contractor Board to impose the following fees:

Application Fee	$100
Exam Fee	$250
Individual License Fee and Renewal Fee	$100
Corporate License Fee and Renewal Fee	$100
Late Renewal Fee	$50
Reinstatement Fee	$250
License by Reciprocity	$250
Duplicate License	$25

(89D-21);

- articulate causes for disciplinary action, civil penalties, and injunctions (89D-22, 89D-23, 89D-24).

Section 3.(c) would provide that members currently serving on the North Carolina Landscape Contractors' Registration Board will continue to serve until the new Board is appointed.

Section 3.(d) offers provisions of how certain appointments will be made when the terms of the appointees named in this section expire. It also provides that all records, staff, funds and other items of the North Carolina Landscape Contractors' Registration Board are transferred to the North Carolina Landscape Contractors' Licensing Board.

Section 3.(e) would provide that any person who meets at least one of the following criteria on or before December 31, 2010, shall be issued a license without needing to take an exam (if the person has submitted an application and paid the application fee on or before August 1, 2011):

- Is registered as a landscape contractor.
- Is licensed as an irrigation contractor.
- Is certified as a turf grass professional.
- Has 10 years experience in the person's own business as a landscape contractor or 10 years experience as an employee, meets all other requirements for licensure, and has one of the following:
    - One year of credit for a two-year degree in related educational training.
    - Two years of credit for a four-year-degree in related educational training.
    - Up to two years credit for education or business experience in general business management.

This section also provides that landscape contractors currently registered under Chapter 89D are not required to renew the registration for the 2015 calendar year to qualify for the landscape contractor's license.

Sections 3.(a) through 3.(e) would become effective August 1, 2015.

Section 4 would direct The Department of Public Safety to study North Carolina's participation in the Commercial Vehicle Safety Alliance North American Standard Inspection Program. This program allows commercial vehicles that pass a roadside safety inspection to receive a decal indicating that another inspection is not needed for a certain period of time.

Section 5 would define the "planting and harvesting season" and "planting and harvesting period" as January 1 through December 31 of each year, for purposes of the agricultural operations exemption to the federal motor carrier regulations on hours of service.

Section 6 would amend the chairmanship of the Agriculture and Forestry Awareness Study Commission to allow the President Pro Tempore of the Senate to appoint two members of the Senate and the Speaker of the House to appoint two members of the House of Representatives to serve as co-chairs of the Commission.

Section 7 would authorize the Commissioner of Agriculture to appoint as many Department of Agriculture and Consumer Services (DACS) law-enforcement officers as he or she deems necessary to carry out the Department's law-enforcement responsibilities. These officers must meet the training standards of the North Carolina Criminal Justice Education and Training Standards Commission and take the constitutional oath of office. Certain officers could be designated to have the powers and duties of forest rangers and the power to enforce the forest laws. The officers would have the authority to arrest, without warrant, any person or persons committing any crime in their presence or whom they have probable cause to believe has committed a crime in their presence. These powers are currently granted to forest law-enforcement officers.

Session Law 2008-107 requires State agencies, including DACS, to receive approval from the Director of the Budget to establish a new receipt supported position. The Department's State Fair Police are

receipt supported positions; so DACS would have to receive approval from the Director of the Budget before creating any more of these positions.

Section 8 would authorize the use of any pesticide registered by the Pesticide Board to control any species of mole other than the Star-Nosed mole if Pesticide Board rules are followed and hazards to nontarget species are minimized.

Section 9 would amend the statute for first degree trespass to provide that trespassing in an agricultural facility is a first degree trespass punishable as a Class A1 misdemeanor (the statute in question currently addresses trespass to locations such as electric generation facilities, water treatment facilities, and liquefied natural gas storage facilities). If the trespass is committed with the intent to disrupt the normal operation of the facility or if it places the offender or others at serious risk of bodily injury, the trespass is punishable as a Class H felony.

This section would become effective December 1, 2014, and would apply to offenses committed on or after that date.

Section 10 would require a person, before operating a motorized all terrain vehicle on property not owned by the person, to obtain written consent from the owner of the property. A person given written consent under this section is owed the duty of care that a trespasser would be owed. Under current law, only verbal consent from the owner of the property is required.

This section would become effective December 1, 2014, and would apply to offenses committed on or after that date.

Section 11 would provide that no State statute or rule or local government ordinance concerning riparian buffers for the protection of water quality shall apply to the construction, operation, maintenance, or repair of canals, water retardant structures, or other improvements under the control and supervision of a board of drainage commissioners.

Section 12 would exempt any residential building subject to periodic inspections by the North Carolina Housing Finance Agency from a county or city's authority to conduct periodic inspections as part of a targeted effort within a geographic area, if the residential building is in compliance with federal standards and provided the owner of the residential building supplies the compliance results letters from the North Carolina Housing Financing Agency to the local inspections department.

Section 13 would require the Building Code Council to amend the NC State Building Code (Code) such that security grilles are permitted at all exits if the grilles may be opened from the inside during periods when the building is occupied by authorized persons and remain open when the building is occupied by the general public. Under current law, Section 1008.1.4.5 of the Code requires that no more than one-half of the doors of certain buildings be equipped with security grilles when two or more means of egress are required.

EFFECTIVE DATE: Except as otherwise provided, this act would be effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: June 24, 2014

TO: **Sen. Brock and Sen. Jackson**

FROM: Brian Slivka
Fiscal Research Division

RE: **PCS to H366v3**

FISCAL IMPACT
($ in millions)

☑ Yes ☐ No ☐ No Estimate Available

	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
State Impact					
General Fund Revenues:					
General Fund Expenditures:					
State Positions:					
NET STATE IMPACT	**$0.0**	**$0.0**	**$0.0**	**$0.0**	**$0.0**
Local Impact					
Revenues:	0.5	0.7	0.4	0.4	0.4
Expenditures:					
NET LOCAL IMPACT	**$0.5**	**$0.7**	**$0.4**	**$0.4**	**$0.4**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Landscape Contracters' Licensing Board

EFFECTIVE DATE: This act is effective when it becomes law.

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY:

Section 3 of the PCS to H366v3 would, effective August 1, 2015, rewrite the laws to require that any person engaged in the business of landscape contracting must obtain a license. This section would: more clearly define the term "landscape contractor"; establish requirements for landscape contractor licensure including application requirements, qualifications, and examination and

continuing education; provide for exemptions for licensure; establish the North Carolina Landscape Contractors' Licensing Board; establish standards for issuing licenses to corporations, partnerships, and persons doing business under a trade name; establish fees; and articulate causes for disciplinary action, civil penalties, and injunctions.

ASSUMPTIONS AND METHODOLOGY:

The table below illustrates the current and proposed maximum fees for the North Carolina Landscape Contractors' Licensing Board:

	Current	Proposed
Application Fee	75.00	100.00
Examination Fee	75.00	250.00
Individual license fee and individual license renewal	75.00	100.00
Initial corporate, limited liability company, partnership, or trade name license	NA	100.00
Corporate, limited liability company, partnership, or trade-name license renewal	NA	100.00
Late renewal fee	25.00	50.00
Reinstatement fee	25.00	250.00
License by reciprocity	75.00	250.00
Duplicate license	5.00	25.00

The North Carolina Green Industry Council estimates there are currently 1,200 licensed landscape contractors. They estimate that by rewriting the landscape contractor licensing statutes, the number of licenses could reach 5,000 by the end of 2015. Of those 5,000, approximately 2,500 would not have to take the examination, due to grandfathering language in Section 3.31(e).

Fiscal Research has estimated that the North Carolina Landscape Contractors' Licensing Board would collect approximately $500,000 more in revenue in FY14-15. This assumes the distribution of 3,750 licenses by June 2015. In FY15-16, when all of the new fees are in place, revenue would increase by approximately $700,000. This amount includes all 5,000 estimated licenses. Subsequent years would see approximately $400,000 in new revenue.

SOURCES OF DATA: Committee Counsel Summary; North Carolina Green Industry Council; Moody's Analytics

TECHNICAL CONSIDERATIONS: None

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Incarceration Fiscal Note

BILL NUMBER: House Bill 366 (Third Edition)

SHORT TITLE: NC Farm Act of 2014.

SPONSOR(S):

FISCAL IMPACT

($ in millions)

☐ Yes ☐ No ☑ No Estimate Available

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
State Impact					
General Fund Revenues:					
General Fund Expenditures:					
Special Fund Revenues:					
Special Fund Expenditures:					
State Positions:					
NET STATE IMPACT	**Likely budget cost. See Assumptions & Methodology section for additional details.**				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:
Administrative Office of the Courts; Indigent Defense Services; Department of Public Safety

EFFECTIVE DATE December 1, 2014

TECHNICAL CONSIDERATIONS:
None

FISCAL IMPACT SUMMARY:

The proposed bill may have a fiscal impact to address the expanded scope of existing offenses being enforced, adjudicated and having penalties applied to those convicted of the offenses. However, given there is no historical data on the expanded scope of these offenses, or similar offenses to use as a proxy for predicting the total number of new offenses, the Fiscal Research Division cannot reasonably estimate the total additional costs that may be incurred. The following costs may be incurred for every one person charged and convicted of this crime:

- Administrative Office of the Courts: $31 to $198 per disposition
- Indigent Defense Services: $182 in district court
  $359 in superior court without a trial
  $847 in superior court with a trial
- Prison Section: No cost
- Community Corrections: Minimum of $494 to $1,606

Please see the Assumptions and Methodology section for additional information.

BILL SUMMARY:

Section 1(a) of the bill creates a new G.S. 143-215.9D, Agricultural operation investigations confidential, which requires that complaints of violations of this Article relating to an agricultural operation and the records related to any subsequent investigation shall be considered confidential records and may be released only under certain conditions. Violation of this act would be a Class 3 misdemeanor under existing G.S. 143-215.36, thus expanding the scope of that offense.

Section 7 of the bill amends G.S. 14-159.12(c)(1), First degree trespass, by adding "any facility used or operated for agricultural activities" to the list of protected properties. Violation of this statute is a Class A1 misdemeanor.

Section 8 of the bill expands the scope of a Class 2 misdemeanor offense found in G.S. 14-159.3, Trespass to land on motorized all-terrain vehicles, to require written rather than oral permission from the landowner before operating an all-terrain vehicle on their land.

ASSUMPTIONS AND METHODOLOGY:

General

The Sentencing and Policy Advisory Commission prepares prison population projections for each bill containing a criminal penalty. The Commission assumes for such bills that expanding existing or creating new criminal offenses produces no deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume deterrent effects for any criminal penalty bill.

S.L. 2011-192 (H.B. 642), the Justice Reinvestment Act (JRA), made changes to North Carolina's court system, corrections system (both to prisons and probation), and to post-release supervision. The Act also created a statewide confinement program for housing misdemeanants with sentences of less than 180 days in county jails. Previously, county jails were only required to house misdemeanants with sentences of 90 days or less. In addition, all F-I felons are now subject to nine months of post-release supervision (PRS). B1-E felony PRS has been increased from nine months to twelve months. Due to the lack of historical data about JRA implementation, it is not possible to estimate the number of prison beds that may be needed as a result of revocations.

Since the bill expands the scope of existing penalties, the Sentencing Commission does not have any data from which to estimate the impact of this bill on the prison population. It is not known how many offenders might be convicted and sentenced under the expanded statutes.

Judicial Branch

The Administrative Office of the Courts provides Fiscal Research with a fiscal impact analysis for most criminal penalty bills. For such bills, fiscal impact is typically based on the assumption that court time will increase due to anticipated increases in trials and corresponding increases in workload for judges, clerks, and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

Section 1(a) of the bill expands the scope of an existing Class 3 misdemeanor offense. Because this is a new type of confidential information and thus a new potential offense for violation of the confidentiality, AOC does not have historical data upon which to estimate the number of charges that might occur. AOC provides estimates of the average cost to the court for a charge by offense class. For every additional person charged with a Class 3 misdemeanor, the average cost to the court would be $31.

Section 7 adds facilities used for or operating for agricultural activities to a list of specific facilities that increase the penalty for first degree trespass from the baseline Class 2 misdemeanor to the enhanced Class A1 misdemeanor. AOC does not have data on the number of charges that are currently arising from first degree trespass in such facilities. Therefore, it is not possible to estimate how many charges may arise under the higher penalty. For every person charged under the new penalty, the cost to the court will be the difference between the average cost for the two offense classes. The cost difference between a Class 2 misdemeanor and a Class A1 misdemeanor is $198 ($286 cost of Class A1 misdemeanor minus $88 cost of a Class 2 misdemeanor).

Section 8 of the bill expands the scope of an existing Class 2 misdemeanor. The cost to the courts for every person charged with a Class 2 misdemeanor is $88.

The Office of Indigent Defense Services (IDS) provides Fiscal Research with a fiscal impact analysis for criminal penalty bills that will result in greater expenditures for indigent defense. IDS estimates that the cost of additional misdemeanor offenses (regardless of class) will be $182 per case for a private appointed counsel (PAC) attorney in district court. In superior court, IDS estimates that the cost would be $359 if the case does not go to trial and $847 if it does. These estimates assume the appointment of a PAC attorney. In districts that have Public Defender offices, cases may be handled by those offices. In those instances, these costs may not be incurred.

Department of Public Safety – Prison Section

This bill expands the scope of several misdemeanor offenses. The North Carolina Sentencing and Policy Advisory Commission expects no impact on the prison population because offenders who receive active sentences of less than 180 days will serve them in the local jail. Therefore, the Department of Public Safety does not anticipate an impact on prison custody projections.

Department of Public Safety – Community Correction Section

All active sentences for felony offenses now result in a minimum of twelve months of post-release supervision (PRS) for B1-E level offenses and a minimum of nine months of PRS for F-I level offenses. Additionally, for felony offense classes E through I and all misdemeanor classes, offenders may be given non-active (intermediate or community) sentences exclusively, or in conjunction with imprisonment (split-sentence). Sanctions include electronic house arrest, community service, substance abuse treatment, participation in educational or vocational skills development, payment of court costs, fines, and restitution, and short-term jail sentences not exceeding six days per month.

All types of post-release supervision, including intermediate or community sanctions, are supervised by the Community Corrections Section (CCS); CCS also oversees community service. General post-release supervision and supervision of intermediate and community offenders by a probation officer costs $123.50 per offender, per month; no cost is assumed for those receiving unsupervised probation, or who are only ordered to pay fines, fees, or restitution. Total costs are based on average supervision length and the percentage of offenders (per offense class) sentenced to active sentences requiring post-release supervision, intermediate sanctions and supervised probations.

Section 1(a) of the bill expands the scope of an existing Class 3 misdemeanor. In FY 2012-13, 32 percent of Class 3 misdemeanor offenders received active sentences; one percent received intermediate sentences; and 68 percent received community punishments. Active misdemeanor sentences of less than 180 days are served in local jails and do not require any post-release supervision. The average lengths of intermediate and community punishment imposed for this offense class were 14 and 12 months, respectively. Therefore, at a minimum, one conviction resulting from Section 1 of this bill will require at least 12 months of

supervision. The cost of 12 months of supervision is $1,482 per offender ($123.50 per month times 12 months).[1]

Section 7 of the bill adds facilities used for or operating for agricultural activities to a list of specific facilities that increase the penalty for first degree trespass from the baseline Class 2 misdemeanor to the enhanced Class A1 misdemeanor. Additional costs will be incurred if offenders who would have previously been charged with a Class 2 misdemeanor are now charged with a Class A1 misdemeanor, which carries a longer average sentence. In FY 2012-13, 36 percent of Class A1 misdemeanor offenders received active sentences; five percent received intermediate sentences; and 59 percent received community punishments. The average lengths of intermediate and community punishment imposed for this offense class were 19 and 17 months, respectively. In the same year, 31 percent of Class 2 misdemeanor offenders received active sentences; one percent received intermediate sentences; and 68 percent received community punishments. The average lengths of intermediate and community punishment imposed for this offense class were 15 and 13 months, respectively. The difference will be at least four months, for a cost of $494 per offender ($123.50 per month times four months).[1]

Section 8 of the bill expands the scope of an existing Class 2 misdemeanor. In FY 2012-13, 31 percent of Class 2 misdemeanor offenders received active sentences; one percent received intermediate sentences; and 68 percent received community punishments. Active misdemeanor sentences of less than 180 days are served in local jails and do not require any post-release supervision. The average lengths of intermediate and community punishment imposed for this offense class were 15 and 13 months, respectively. Therefore, at a minimum, one conviction resulting from Section 8 of this bill will require at least 13 months of supervision. The cost of 13 months of supervision is $1,606 per offender ($123.50 per month times 13 months).[1]

SOURCES OF DATA: Department of Public Safety; Administrative Office of the Courts; North Carolina Sentencing and Policy Advisory Commission; Office of Indigent Defense Services.

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED **BY:** Kristine Leggett

APPROVED **BY:**

DATE: June 24, 2014

Official Fiscal Research Division Publication

Signed Copy **Located in the NCGA Principal Clerk's Offices**

[1] Due to the effective date of December 1, 2014 and the typical lag time between charge and conviction (6 months), little impact is assumed for CCS in FY 2014-15. Though some offenders may come under CCS supervision during this time, this note assumes an even entry over the course of FY 2015-16.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H 2

HOUSE BILL 379

Senate Agriculture/Environment/Natural Resources Committee Substitute Adopted 6/24/14

Short Title: Amend Veterinary Practice Act/Fees. (Public)

Sponsors:

Referred to:

March 21, 2013

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE NORTH CAROLINA VETERINARY MEDICAL BOARD TO AMEND THE BOARD'S LAWS PERTAINING TO LICENSURE FEES AND LICENSE REINSTATEMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-186(6) reads as rewritten:

"**§ 90-186. Special powers of the Board.**

In addition to the powers set forth in G.S. 90-185 above, the Board may:

...

(6) Set and require fees pursuant to administrative ~~rule for the following:~~rule. The Board may increase the following fees, provided (i) no fee shall be increased more than fifteen percent (15%) within a calendar year and (ii) the cumulative total increases of any fee shall not exceed one hundred percent (100%) of the fee amounts set in this subdivision:

a. Issuance or renewal of a certificate of registration for a professional corporation, in ~~an~~ the amount ~~not to exceed~~of one hundred fifty dollars ($150.00).

b. Administering a North Carolina license ~~examination,~~examination for applicants for licensure, certification, and registration, in ~~an~~ the amount ~~not to exceed~~of two hundred fifty dollars ($250.00).

c. ~~Securing and administering national examinations, including the National Board Examination or the Clinical Competency Test,~~Administering competency examinations for applicants seeking licensure or registration, in amounts directly related to ~~the~~ costs to the Board. Fees associated with administering national competency examinations shall be set in rules adopted by the Board.

d. Inspection of a veterinary practice facility in ~~an amount not to exceed seventy-five dollars ($75.00).~~the amount of one hundred twenty-five dollars ($125.00).

e. Issuance or renewal of a license or a limited ~~license~~ license, in ~~an~~ the amount ~~not to exceed~~of one hundred fifty dollars ($150.00).

f. Issuance or renewal of a veterinary faculty certificate, in ~~an~~ the amount ~~not to exceed~~of one hundred fifty dollars ($150.00).

g. Issuance or renewal of a zoo veterinary certificate, in ~~an~~ the amount ~~not to exceed~~of one hundred fifty dollars ($150.00).

h. Reinstatement of ~~an expired~~ a revoked license, a limited license, a veterinary faculty certificate, a zoo veterinary certificate, a veterinary technician registration, or a professional corporation ~~registration~~ registration, in ~~an~~ the amount ~~not to exceed~~of one hundred dollars ($100.00).

i. Issuance or renewal of a veterinary technician registration, in ~~an~~ the amount ~~not to exceed~~of fifty dollars ($50.00).

j. Issuance of a veterinary student intern registration, in ~~an~~ the amount ~~not to exceed~~of twenty-five dollars ($25.00).

k. Issuance of a veterinary student preceptee registration, in ~~an~~ the amount ~~not to exceed~~of twenty-five dollars ($25.00).

l. Late fee for renewal of a license, a limited license, a veterinary technician registration, a veterinary faculty certificate, a zoo veterinary certificate, or a professional corporation registration, in ~~an~~ the amount ~~not to exceed~~of fifty dollars ($50.00).

m. Issuance of a temporary permit to practice veterinary ~~medicine~~ medicine, in ~~an~~ the amount ~~not to exceed~~of one hundred fifty dollars ($150.00).

~~n. Providing copies, upon request, of Board publications, rosters, or other materials available for distribution from the Board, in an amount determined by the Board that is reasonably related to the costs of providing those copies.~~

The fees set under this subdivision for the renewal of a license, a limited license, a registration, or a certificate apply to each year of the renewal period."

SECTION 2. G.S. 90-187.9 reads as rewritten:

"**§ 90-187.9. Reinstatement.**

~~Any person whose license is suspended or revoked may, at the discretion of the Board, be relicensed or reinstated at any time without an examination by majority vote of the Board on written application made to the Board showing cause justifying relicensing or reinstatement.~~

(a) A person licensed or registered as a veterinary technician under this Article who has had his or her license or registration revoked for failure to apply for renewal may be reinstated at any time within three years following revocation upon filing an application for reinstatement and paying all accrued renewal fees and the reinstatement fee. As a condition of reinstatement, the applicant shall submit proof to the Board that the applicant has earned the continuing education credits required under this Article and rules adopted by the Board for each year the license or registration was revoked.

(b) A person whose license has been revoked for more than three years for failure to apply for license renewal may qualify for licensure upon filing an application with the Board and meeting the requirements of G.S. 90-187 or G.S. 90-187.3.

(c) A person whose registration has been revoked for more than three years for failure to apply for registration renewal may qualify for registration upon filing an application with the Board and meeting the requirements of G.S. 90-186(4) and any applicable rules adopted by the Board.

(d) Subject to conditions as may be imposed by the Board, any person whose license or registration is revoked for reasons other than failure to apply for renewal may, in the Board's discretion, be relicensed or reregistered at any time by majority vote of the Board upon submitting written application to the Board showing cause for justifying relicensure or reregistration."

SECTION 3. This act becomes effective October 1, 2014.

HOUSE BILL 379:
Amend Veterinary Practice Act/Fees

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 24, 2014
Introduced by:	Rep. Langdon	**Prepared by:**	Cindy Avrette
Analysis of:	Second Edition		Committee Counsel

SUMMARY: The Senate Committee Substitute for House Bill 379[1] would do the following:

- ***Allow the North Carolina Veterinary Medical Board ("Board") to increase fees provided that no fee is increased more than 15% in a calendar year and the cumulative total increases of any fee do not exceed 100% of the fee amounts in statute.***
- ***Create a new process for reinstatement of a license or registration under the North Carolina Veterinary Practice Act and amend laws pertaining to license and registration reinstatement.***

CURRENT LAW AND BILL ANALYSIS: **Section 1** would allow the Board to increase fees provided no fee is increased more than 15% in a calendar year and the cumulative total increases of any fee does not exceed 100% of the fee amounts set in G.S. 90-186(6). Section 1 would also set fees on the various certifications, licenses, and examinations covered under G.S. 90-186(6) at the highest rate previously allowed. Under current law, maximum fees are set, but the Board may require less than the maximum fee. Section 1 would increase the cost of inspection of a veterinary practice facility from $75 to $125.

Section 2 would create a new process for reinstatement of a license to practice veterinary medicine or registration as a veterinary technician under the North Carolina Veterinary Practice Act. Under this process:

- A person who has lost his or her license or registration for failure to apply for renewal may be reinstated at any time within three years of the revocation upon submitting proof of continuing education and paying required fees.
- A person whose license has been revoked for more than three years for failure to apply for license renewal may qualify for licensure by filing an application with the Board and meeting the requirements for a new license.
- A person whose registration has been revoked for more than three years for failure to apply for registration renewal may qualify for registration by filing an application with the Board and meeting the Board's requirements for special registration of veterinary technicians.
- A person whose license or registration was revoked for reasons other than failure to apply for renewal may be relicensed or reregistered at any time by a majority vote of the Board if the applicant submits a written application showing cause to justify why he or she should be relicensed or reregistered.

EFFECTIVE DATE: This act becomes effective October 1, 2014.

Chris Saunders, counsel to Senate Agriculture/Environment/Natural Resources, substantially contributed to this summary.

[1] The contents of this bill are substantially the same as Sections 1 and 2 of SB 382. SB 382 also included a provision that identifying information received by the Board was confidential and not a public record. SB 382 is in Senate Agriculture/Env/Nat'l Resources.

GENERAL ASSEMBLY OF NORTH CAROLINA
Session 2013
Legislative Fiscal Note

BILL NUMBER: House Bill 379 (Second Edition)

SHORT TITLE: Amend Veterinary Practice Act/Fees.

SPONSOR(S): Representative Langdon

FISCAL IMPACT

☑ Yes ☐ No ☐ No Estimate Available

State Impact	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
General Fund Revenues:	to	to	to	to	to
General Fund Expenditures:	to	to	to	to	to
State Positions:	to	to	to	to	to
NET STATE IMPACT	$0 to $0	$0 to $0	$0 to $0	$0 to $0	$0 to $0
Local Impact					
Revenues:	29,200 to 29,200	29,200 to 173,943	29,200 to 340,396	29,200 to 531,818	29,200 to 751,954
Expenditures:	to	to	to	to	to
NET LOCAL IMPACT	$29,200 to $29,200	$29,200 to $173,943	$29,200 to $340,396	$29,200 to $531,818	$29,200 to $751,954

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: The North Carolina Veterinary Medical Board

EFFECTIVE DATE: This act becomes effective October 1, 2014.

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY:

H379 Amends GS 90-186 (Special powers of the Board), providing that the North Carolina Veterinary Medical Board (Board) may increase fees as long as no fee is increased more than 15 percent within a calendar year and the cumulative total increases of any fee does not exceed 100 percent of the fee amounts set in this subdivision.

It provides for set fees on all the different certifications, licenses, and examinations; fees are set at the highest rate previously allowed (previously, there was a sliding scale with only a ceiling price set), with the inspection of a veterinary practice facility being raised to $125 ($75 was the highest that could be charged before). The bill deletes the provision for charging for copies of Board materials.

H379 amends GS 90-187.9 (Reinstatement), deleting language of old section and creating a new GS 90-187.9(a-d), that sets forth provisions to renew one's license.

ASSUMPTIONS AND METHODOLOGY:

H379 changes the language regarding the fees collected by the North Carolina Veterinary Medical Board. The language changes the current fees from their "up to" amount to a set amount. The table below (Table 1) lists those fees that would be changed, comparing current fees to the proposed fees.

Table 1

Fee explanation	Current	H379
Issuance or renewal of a certificate of registration for a professional corporation	up to $150.00	$150.00
Administering a NC license examination for applicants for licensure, certification, and registration	up to $250.00	$250.00
Administering competency examinations for applicants seeking licensure or registration	set by board	set by board
Inspection of a veterinary practice facility	up to $75.00	$125.00
Issuance or renewal of a license or a limited license	up to $150.00	$150.00
Issuance or renewal of a veterinary faculty certificate	up to $150.00	$150.00
Issuance or renewal of a zoo veterinary certificate	up to $150.00	$150.00
Reinstatement of a revoked license, a limited license, a veterinary faculty certificate, a zoo veterinary certificate, a veterinary technician registration, or a professional corporation registration	up to $100.00	$100.00
Issuance or renewal of a veterinary technician registration	up to $50.00	$50.00
Issuance of a veterinary student intern registration	up to $25.00	$25.00
Issuance of a veterinary student preceptee registration	up to $25.00	$25.00
Late fee for renewal of a license, a limited license, a veterinary technician registration, a veterinary faculty certificate, a zoo veterinary certificate, or a professional corporation registration	up to $50.00	$50.00
Issuance of a temporary permit to practice veterinary medicine	up to $150.00	$150.00

The only fee changed to exceed the current maximum increases the inspection of a veterinary practice facility fee from $75.00 to $125.00. The Board estimates approximately 584 inspections take place yearly, yielding an increase of $29,200.

Also, the bill allows the Board to increase all set fees, provided that no fee shall be increased more than 15% within a calendar year and that the cumulative total increases of any fee shall not exceed 100% of the listed fee amounts. Table 2 shows the impact of the maximum 15% yearly fee increase on the fee amount. Also, the potential minimum (Table 3) and maximum (Table 4) revenue impacts are shown below. Table 3 assumes that the Board keeps the current rate stable, while Table 4 assumes the Board adopts the possible 15% maximum yearly fee increase capped at 100% of the listed fee amount.

Table 3

			Revenue - Minimum			
Fee Description	**Number of instances**	**2014-15**	**2015-16**	**2016-17**	**2014-18**	**2018-19**
Professional Corporations	869	0	0	0	0	0
Veterinary Exam	250	0	0	0	0	0
Practice Facility inspecion	584	29,200	29,200	29,200	29,200	29,200
License Renewal	4,200	0	0	0	0	0
Faculty Certificate	100	0	0	0	0	0
Zoo Certificate	1	0	0	0	0	0
Reinstatement	20	0	0	0	0	0
Technician Registrations	624	0	0	0	0	0
Student Intern	30	0	0	0	0	0
Student Preceptee	0	0	0	0	0	0
Late fee	100	0	0	0	0	0
Temporary Permit	100	0	0	0	0	0
TOTAL		**29,200**	**29,200**	**29,200**	**29,200**	**29,200**

Table 4

			Revenue - Maximum			
Fee Description	**Number of instances**	**2014-15**	**2015-16**	**2016-17**	**2014-18**	**2018-19**
Professional Corporations	869	0	19,553	42,038	67,896	97,633
Veterinary Exam	250	0	9,375	20,156	32,555	46,813
Practice Facility inspecion	584	29,200	40,150	52,743	67,224	83,877
License Renewal	4,200	0	94,500	203,175	328,151	471,874
Faculty Certificate	100	0	2,250	4,838	7,813	11,235
Zoo Certificate	1	0	23	48	78	112
Reinstatement	20	0	300	645	1,042	1,498
Technician Registrations	624	0	4,680	10,062	16,251	23,369
Student Intern	30	0	113	242	391	562
Student Preceptee	0	0	0	0	0	0
Late fee	100	0	750	1,613	2,604	3,745
Temporary Permit	100	0	2,250	4,838	7,813	11,235
TOTAL		**29,200**	**173,943**	**340,396**	**531,818**	**751,954**

SOURCES OF DATA: North Carolina Veterinary Medical Board

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Brian Slivka

APPROVED BY:

Mark Trogdon, Director
Fiscal Research Division

DATE: June 25, 2014

Signed Copy Located in the NCGA Principal Clerk's Offices

HOUSE BILL 1052*

Short Title:	Adjust the Utility Regulatory Fee.	(Public)
Sponsors:	Representative Hager (Primary Sponsor). *For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*	
Referred to:	Public Utilities and Energy, if favorable, Finance.	

May 15, 2014

A BILL TO BE ENTITLED

AN ACT TO ADJUST THE UTILITY REGULATORY FEE TO REFLECT THE CHANGING REGULATORY CLIMATE FOR THE TELECOMMUNICATIONS INDUSTRY, AS RECOMMENDED BY THE LRC COMMITTEE ON THE ASSESSMENT OF REGULATED AND NON-REGULATED INDUSTRY UTILITY FEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 62-302 reads as rewritten:

"**§ 62-302. Regulatory fee.**

(a) Fee Imposed. – It is the policy of the State of North Carolina to provide fair regulation of public utilities in the interest of the public, as provided in G.S. 62-2. The cost of regulating public utilities is a burden incident to the privilege of operating as a public utility. Therefore, for the purpose of defraying the cost of regulating public utilities, every public utility subject to the jurisdiction of the Commission shall pay a quarterly regulatory fee, in addition to all other fees and taxes, as provided in this section. The fees collected shall be used only to pay the expenses of the Commission and the Public Staff in regulating public utilities in the interest of the public.

It is also the policy of the State to provide limited oversight of certain electric membership corporations as provided in G.S. 62-53. Therefore, for the purpose of defraying the cost of providing the oversight authorized by G.S. 62-53 and G.S. 117-18.1, each fiscal year each electric membership corporation whose principal purpose is to furnish or cause to be furnished bulk electric supplies at wholesale as provided in G.S. 117-16 shall pay an annual fee as provided in this section.

(b) Public Utility Rate. –

(1) Repealed by Session Laws 2000-140, s. 56, effective July 21, 2000.

(2) ~~The~~ For noncompetitive jurisdictional revenues as defined in sub-subdivision (4)a. of this subsection, the public utility regulatory fee for each fiscal year ~~shall be~~ is the greater of (i) a percentage rate, established by the General Assembly, of each public utility's ~~North Carolina~~ noncompetitive jurisdictional revenues for each quarter or (ii) six dollars and twenty-five cents ($6.25) each quarter. For subsection (h) competitive jurisdictional revenues as defined in sub-subdivision (4)b. of this subsection, and subsection (m) competitive jurisdictional revenues as defined in sub-subdivision (4)c. of this subsection, the public utility regulatory fee for

each fiscal year is a percentage rate established by the General Assembly of each public utility's competitive jurisdictional revenues for each quarter.

When the Commission prepares its budget request for the upcoming fiscal year, the Commission shall propose a percentage rate of the public utility regulatory fee. For fiscal years beginning in an odd-numbered year, that proposed rate shall be included in the budget message the Governor submits to the General Assembly pursuant to G.S. 143C-3-5. For fiscal years beginning in an even-numbered year, that proposed rate shall be included in a special budget message the Governor shall submit to the General Assembly. The General Assembly shall set the percentage rate of the public utility regulatory fee by law.

The percentage rate may not exceed the amount necessary to generate funds sufficient to defray the estimated cost of the operations of the Commission and the Public Staff for the upcoming fiscal year, including a reasonable margin for a reserve fund. The amount of the reserve may not exceed the estimated cost of operating the Commission and the Public Staff for the upcoming fiscal year. In calculating the amount of the reserve, the General Assembly shall consider all relevant factors that may affect the cost of operating the Commission or the Public Staff or a possible unanticipated increase or decrease in North Carolina jurisdictional revenues.

(3) If the Commission, the Public Staff, or both experience a revenue shortfall, the Commission shall implement a temporary public utility regulatory fee surcharge to avert the deficiency that would otherwise occur. In no event may the total percentage rate of the public utility regulatory fee plus any surcharge established by the Commission exceed twenty-five hundredths percent (0.25%).

(4) As used in this ~~section, the term "North Carolina jurisdictional revenues" means:~~section:

a. "Noncompetitive jurisdictional revenues" means all~~All~~ revenues derived or realized from intrastate tariffs, rates, and charges approved or allowed by the Commission or collected pursuant to Commission order or rule, but not including tap-on fees or any other form of contributions in aid of construction.

b. "Subsection (h) competitive jurisdictional revenues" means all~~All~~ revenues derived from retail services provided by local exchange companies and competing local providers that have elected to operate under ~~no longer otherwise regulated by the operation of G.S. 62-133.5(h) or~~ G.S. 62-133.5(h).~~G.S. 62-133.5(m) for a local exchange company or competing local provider that has elected to be regulated under those subsections.~~

c. "Subsection (m) competitive jurisdictional revenues" means all revenues derived from retail services provided by local exchange companies and competing local providers that have elected to operate under G.S. 62-133.5(m).

...

(e) Recovery of fee increase. – If a utility's regulatory fee obligation is increased, the Commission shall either adjust the utility's rates to allow for the recovery of the increased fee obligation, or approve the utility's request for an accounting order allowing deferral of the increase in the fee obligation."

SECTION 2.(a) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) for each public utility's North Carolina subsection (h)

competitive jurisdictional revenues as defined by G.S. 62-302(b)(4)b. earned during each quarter that begins on or after July 1, 2015, is six hundredths of one percent (0.06%).

SECTION 2.(b) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) for each public utility's North Carolina subsection (h) competitive jurisdictional revenues as defined by G.S. 62-302(b)(4)b. earned during each quarter that begins on or after July 1, 2016, is four hundredths of one percent (0.04%).

SECTION 3.(a) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) for each public utility's North Carolina subsection (m) competitive jurisdictional revenues as defined by G.S. 62-302(b)(4)c. earned during each quarter that begins on or after July 1, 2015, is five hundredths of one percent (0.05%).

SECTION 3.(b) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) for each public utility's North Carolina subsection (m) competitive jurisdictional revenues as defined by G.S. 62-302(b)(4)c. earned during each quarter that begins on or after July 1, 2016, is two hundredths of one percent (0.02%).

SECTION 4. For the 2015-2016 and 2016-2017 fiscal years, the percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) for each public utility's North Carolina noncompetitive jurisdictional revenues as defined by G.S. 62-302(b)(4)a. shall be adjusted to reflect the decrease in the total regulatory fee collected as a result of Sections 2 and 3 of this act and shall be set to ensure the total regulatory fee collected for each fiscal year is at least an amount sufficient to defray the cost of the operations of the Commission and the Public Staff for the upcoming fiscal year, including a reasonable margin for a reserve fund.

SECTION 5. This act becomes effective July 1, 2015.

HOUSE BILL 1052:
Adjust the Utility Regulatory Fee

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 25, 2014
Introduced by:	Rep. Hager	**Prepared by:**	Heather Fennell Committee Counsel
Analysis of:	First Edition		

SUMMARY: ***House Bill 1052 would allow the General Assembly to establish a different utility regulatory fee for the retail services of telecommunications providers that have elected to be regulated under G.S. 62-133.5(h) or G.S. 62-133.5(m) and would set those rates for the 2015 and 2016 fiscal years.***

[As introduced, this bill was identical to S742, as introduced by Sen. Brown, which is currently in Senate Finance.]

CURRENT LAW: Currently, all public utilities operating in the State pay a regulatory fee that is a percentage of their jurisdictional revenues. The regulatory fee is used to pay the expenses incurred by the Utilities Commission and the Public Staff in regulating public utilities. The amount of the fee is set by the General Assembly.

G.S. 62-133.5(h), enacted in 2009, allows a local exchange company whose territory is open to competition from other local providers to elect to participate in an alternative form of regulation. After electing to be regulated under (h), local exchange companies are no longer required to file tariffs and certain reports, including service line, access line, and service quality reports with the Utilities Commission. Local exchange companies may not elect regulation under subsection (h) unless they commit to providing stand-alone basic service to rural customers at rates comparable to rates charged to urban customers. Once a local exchange company elects regulation under the plan, it may not increase the rates for stand-alone basic service by more than the GDP price index unless otherwise authorized by the Utilities Commission. Other than to enforce this rate increase standard, the Commission cannot regulate rates or service standards for basic service.

G.S. 62-133.5(m), enacted in 2011, allows a local exchange company whose territory is open to competition from other local providers to elect to participate in another alternative form of regulation. After electing to be regulated under subsection (m), regulation is the same as for companies that are regulated under subsection (h), except that local exchange companies no longer have carrier of last resort responsibilities, are not eligible to receive funds from a state fund that may be established to support universal service, and are not required to provide stand-alone basic service to rural companies at rates comparable to rates charged to urban customers.

BILL ANALYSIS: **Section 1** of the bill would amend the statute governing the regulatory fee paid by public utilities by dividing the revenues of public utilities into three categories:

- Non-competitive jurisdictional revenues.
- Subsection (h) competitive jurisdictional revenues.
- Subsection (m) competitive jurisdictional revenues. Each category of revenue will be subject to its own regulatory fee, as established by the General Assembly.

The percentage rate applied to the jurisdictional revenues is typically set in the Appropriations bill passed by the General Assembly each year.

Sections 2.(a) and 2.(b) would set the regulatory fee for subsection (h) competitive jurisdictional revenues at 0.06% for each quarter that begins on or after July 1, 2015, and at 0.04% for each quarter that begins on or after July 1, 2016.

Sections 3.(a) and 3.(b) would set the regulatory fee for subsection (m) competitive jurisdictional revenues at 0.05% for each quarter that begins on or after July 1, 2015, and at 0.02% for each quarter that begins on or after July 1, 2016.

The regulatory fee over the next three fiscal years would be:

	Noncompetitive Jurisdictional Revenues	Subsection (h) Jurisdictional Revenues	Subsection (m) Jurisdictional Revenues
FY 2014-2015	0.13% (Senate Budget)/ 0.14% (House Budget)		
FY 2015-2016	Not set	0.06%	0.05%
FY 2016-2017	Not set	0.04%	0.02%

Section 4 would direct that the regulatory fee for non-competitive jurisdictional revenues be adjusted to reflect the overall decrease in the total regulatory fee collected as a result of the fee for subsection (h) and subsection (m) competitive jurisdictional revenues such that the total regulatory fee collected for each fiscal year is at least sufficient to cover the operations of the Utilities Commission and the Public Staff.

EFFECTIVE DATE: This act becomes effective July 1, 2015.

GENERAL ASSEMBLY OF NORTH CAROLINA

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: May 21, 2014
TO: Chairs of the Public Utilities and Energy Committee
FROM: Timothy Dale
Fiscal Research Division
RE: **Fiscal Memo for HB 1052**

FISCAL IMPACT
($ in millions)

☑ Yes ☐ No ☐ No Estimate Available

	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
State Impact					
Special Fund Revenues:	$0 to $0	($0.82) to ($1.06)	($1.10) to ($1.46)	($1.10) to ($1.46)	($1.10) to ($1.46)
Special Fund Expenditures:	$0 to $0	$0 to $0	$0 to $0	$0 to $0	$0 to $0
State Positions:	N/A	N/A	N/A	N/A	N/A
NET STATE IMPACT	$0 to $0	($0.82) to ($1.06)	($1.10) to ($1.46)	($1.10) to ($1.46)	($1.10) to ($1.46)

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Utilities Commission & Public Staff

EFFECTIVE DATE: July 1, 2015

TECHNICAL CONSIDERATIONS: Yes - See Technical Considerations Section

BILL SUMMARY:

Section 1

Section 1 of the bill adds new definitions for the types of jurisdictional utility revenues that are subject to the public utility regulatory fee. "Non-competitive" jurisdictional revenues will continue to be assessed the public utility regulatory fee established by the General Assembly. "Competitive" jurisdictional revenues will be assessed a lower regulatory fee that is established in statute. Competitive jurisdictional revenues are separated into two categories:

1. Subsection (h) competitive jurisdictional revenues – revenues derived from retail services provided by local exchange companies and competing local providers that elected to operate under G.S. 62-133.5(h).
2. Subsection (m) competitive jurisdictional revenues – revenues derived from retail services provided by local exchange companies and competing local providers that elected to operate under G.S. 62-133.5(m).

Section 1 also directs the Utilities Commission to adjust established utility rates to allow for the recovery of any future increases in regulatory fees. As an alternative, the Commission may approve a utility's request to defer any future fee increases.

Section 2(a)
For FY 2015-16, the regulatory fee applied to retail service revenue of public utilities operating under G.S. 62-133.5(h) will be set at 0.06%.

Section 2(b)
Beginning July 1, 2016, the regulatory fee applied to retail service revenue of public utilities operating under G.S. 62-133.5(h) will be decreased from 0.06% to 0.04%.

Section 3(a)
For FY 2015-16, the regulatory fee applied to retail service revenue of public utilities operating under G.S. 62-133.5(m) will be decreased to 0.05%.

Section 3(b)
Beginning July 1, 2016, the regulatory fee applied to retail service revenue of public utilities operating under G.S. 62-133.5(m) will be decreased from 0.05% to 0.02%.

Section 4
Section 4 states that the regulatory fee applied to non-competitive jurisdictional revenues will be increased to generate sufficient revenue to offset revenue lost from the fee reductions detailed in Sections 2(a), 2(b), 3(a), and 3(b).

ASSUMPTIONS AND METHODOLOGY:

Background

There are currently five types of regulation on telecommunication providers in the State:

1) Price-Plan Regulation
2) Rate-of-Return Regulation
3) G.S. 62-133.5(h)
4) G.S. 62-133.5(m)
5) Certification

There are two types of regulated entities that would be eligible to be regulated under G.S. 62-133.5(h) or G.S. 62-133.5(m):

1) Incumbent Local Exchange Companies (ILECs)
2) Competing Local Providers (CLPs)

Telecommunication providers can elect to be regulated under any of the regulation types listed above, with the exception that only CLPs are eligible for the certification process.

Information supplied by the Utilities Commission for the 2012 Calendar Year details the entity participation by regulation type as displayed in Table 1:

Table 1: Number of Providers by Regulation Type

Regulation Type	Number of ILECs	Number of CLPs
Price-Plan	4	0
Rate-of-Return	1	0
G.S. 62-133.5(h)	10	5
G.S. 62-133.5(m)	1	8
Certification	0	161

The same information provided by the Commission included jurisdictional revenues and regulatory fees paid to the Commission from all regulated entities. In addition, 10 of the 16 ILECs provided a breakdown between "competitive" or retail revenues and "non-competitive" or wholesale revenues. The same breakdown was not available for any CLPs.[1]

In CY 2012, jurisdictional revenues received by all ILECs and CLPs totaled $1,595,297,288. Of this amount, $1,083,469,223 was derived from the 10 of 16 ILECs providing a breakdown of wholesale and retail revenues. The retail revenues reported by these 10 ILECs totaled $894,596,745, or 83% of their total jurisdictional revenues.

[1] See Technical Consideration 2.

Assumptions

For this analysis, the percentage of revenues derived from retail operations as reported by 10 of the 16 ILECs (83%) will be applied to the total jurisdictional revenues within the State to calculate total retail jurisdictional revenues. When the experience from the 10 reporting ILECs is applied to total jurisdictional revenue for all ILECs and CLPs, the result is total retail jurisdictional revenue of $1,324,096,749.

All ILECs and CLPs listed above can elect to be regulated under G.S. 62-133.5(h) or G.S. 62-133.5(m). The likelihood of a provider electing to be regulated under G.S. 62-133.5(h) or G.S. 62-133.5(m) will vary among each provider. Since providers opting to be regulated under G.S. 62-133.5(h) or G.S. 62-133.5(m) will pay a lower regulatory fee on retail revenues, an incentive exists for eligible providers to elect to be regulated under these statutes. If more providers choose to be regulated under these statutes, the fiscal impact on the Utilities Commission will increase. Since all ILECs and CLPs are eligible, but must elect to be regulated under G.S. 62-133.5(h) or G.S. 62-133.5(m), three scenarios are presented below:

1) Status Quo
   This scenario assumes that providers continue to be regulated as they were regulated in 2012.

2) G.S. 62-133.5(m) Only
   In the proposed legislation, the regulatory fee for retail revenue is the lowest for G.S. 62-133.5(m) regulated providers. This scenario assumes that all providers elect to be regulated under G.S. 62-133.5(m).

3) Best Estimate
   This scenario provides staff's best estimate of the actual fiscal impact. Staff assumes that all eligible providers elect to be regulated under G.S. 62-133.5(h) or G.S. 62-133.5(m), with jurisdictional revenue divided equally amongst the two regulatory types.

Status Quo

In this scenario, no providers choose to change their existing type of regulation following a fee reduction to providers regulated by G.S. 62-133.5(h) or G.S. 62-133.5(m). Total jurisdictional revenues for G.S. 62-133.5(h) and G.S. 62-133.5(m) providers were $560,595,932 and $746,796,940 respectively. Estimated fee reduction impacts are presented in Table 2:

Table 2: Scenario 1 – Status Quo

	G.S. 62-133.5(h)	G.S. 62-133.5(m)
Total Juris. Revenue	$560,595,932	$746,796,940
Estimated Retail Revenue	$465,294,624	$619,841,460
FY 2015-16 Fee Reduction	($325,706)	($495,873)
FY 2016-17 Fee Reduction	($418,765)	($681,826)

G.S. 62-133.5(m) Only

In this scenario, all providers opt to be regulated under G.S. 62-133.5(m) due to the decreased regulatory oversight fee. Total jurisdictional revenue for all ILECs and CLPs eligible to be regulated under G.S. 62-133.5(m) is $1,595,297,288. Estimated fee reduction impacts are presented in Table 3:

Table 3: Scenario 2 – G.S. 62-133.5(m) Only

	G.S. 62-133.5(m)
Total Juris. Revenue	$1,595,297,288
Estimated Retail Revenue	$1,324,096,749
FY 2015-16 Fee Reduction	($1,059,278)
FY 2016-17 Fee Reduction	($1,456,507)

Best Estimate

A variety of factors can influence a provider's election of regulatory coverage. Some examples would include ease of rate increases, positioning for funding from a possible universal service fund, inertia, cost of regulation, etc. Accurately forecasting which providers elect certain types of regulation in a lower-fee environment is improbable. As a result, staff has assumed that if the bill were to become law, all eligible providers will elect to be regulated under G.S. 62-133.5(h) or G.S. 62-133.5(m) and jurisdictional revenues would be split equally between the regulatory types. Estimated fee reduction impacts are presented in Table 4:

Table 4: Scenario 3 – Best Estimate

	G.S. 62-133.5(h)	G.S. 62-133.5(m)
Total Juris. Revenue	$797,648,644	$797,648,644
Estimated Retail Revenue	$662,048,375	$662,048,375
FY 2015-16 Fee Reduction	($463,434)	($529,639)
FY 2016-17 Fee Reduction	($595,844)	($728,253)

To compare the estimated fiscal impacts of the fee reductions based on the three scenarios presented above, please refer to Table 5:

Table 5: Projected Competitive Revenue Fee Reduction Impact on NCUC/ Public Staff

Fee Reduction Impact on NC Utilities Commission/ Public Staff Revenue					
	FY 2014-15 ($)	FY 2015-16 ($)	Δ Fee Revenue ($)	FY 2016-17 ($)	Δ Fee Revenue ($)
Scenario 1 (Status Quo)	$14,662,857	$13,841,278	($821,579)	$13,562,266	($1,100,591)
Scenario 2 (G.S. 62-133.5(m) Only)	$14,662,857	$13,603,579	($1,059,278)	$13,206,350	($1,456,507)
Scenario 3 (Best Estimate)	$14,662,857	$13,669,784	($993,073)	$13,338,760	($1,324,097)

Section 4 of the bill states that the regulatory fee applied to non-competitive jurisdictional revenues shall be adjusted to reflect the decrease in fees collected from competitive jurisdictional revenues.[2] While the bill does not adjust the regulatory fee, Table 6 displays the associated percentage increases necessary to offset revenue lost from the lower fee applied to competitive jurisdictional revenues.

Table 6 – Non-Competitive Revenue Fee Adjustment Necessary to Replace Reduced Receipts

Fee Increase to Maintain NC Utilities Commission/ Public Staff Revenue						
	FY 2015-16 Δ Fee Revenue ($)	Fee Increase (%)	New Regulatory Fee (%)	FY 2016-17 Δ Fee Revenue ($)	Fee Increase (%)	New Regulatory Fee (%)
Scenario 1 (Status Quo)	($821,579)	.008%	0.138%	($1,100,591)	.011%	0.141%
Scenario 2 (G.S. 62-133.5(m) Only)	($1,059,278)	.011%	0.141%	($1,456,507)	.015%	0.145%
Scenario 3 (Best Estimate)	($993,073)	.010%	0.140%	($1,324,097)	.013%	0.143%
Note: Percentages rounded to the nearest one-thousandth of one percent *Utility regulatory fee is set at 0.13% for FY 2013-15						

SOURCES OF DATA: Utilities Commission, Public Staff

TECHNICAL CONSIDERATIONS:

1) Section 4 of the bill directs the regulatory fee for the Utilities Commission to be adjusted to offset any revenue lost as a result of Sections 2 and 3 of the bill. However, pursuant to

[2] See Technical Consideration 1.

G.S. 62-302(b)(2), the regulatory fee is either a percentage rate established by the General Assembly or $6.25 for each quarter.

Currently, the General Assembly establishes the regulatory fee during the appropriations process. If the bill becomes law in its current form, Section 4 does not change current practice. The Utilities Commission would receive revenue resulting from the regulatory fee established by the next General Assembly.

For this bill to offset revenue reductions described in Sections 2 and 3 of this bill, the bill must either establish the regulatory fee for FY 2015-16 and FY 2016-17, or insert the regulatory fee in statute.

2) The Commission currently does not receive revenue information from telecommunication providers that separates retail service revenues from total jurisdictional revenues. Some providers may classify this information as trade secret information. For fee reporting purposes, requiring revenue reporting that lists retail revenue may be desired.

HOUSE BILL 1182

Short Title:	UNC Nonappropriated Capital Projects.	(Public)
Sponsors:	Representatives W. Brawley, Ramsey, B. Brown, and R. Moore (Primary Sponsors).	
	For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.	
Referred to:	Appropriations.	

May 22, 2014

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ACQUISITION OR CONSTRUCTION AND THE FINANCING, WITHOUT APPROPRIATIONS FROM THE GENERAL FUND, OF CERTAIN CAPITAL IMPROVEMENTS PROJECTS OF THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. The purpose of this act is to authorize (i) the acquisition or construction of the capital improvements projects listed in the act for the respective institutions of The University of North Carolina and (ii) the financing of these projects with funds available to the institutions from gifts, grants, receipts, self-liquidating indebtedness, Medicare reimbursements for education costs, hospital receipts from patient care, or other funds, or any combination of these funds, but not including funds received for tuition or appropriated from the General Fund of the State unless previously authorized by General Statute.

SECTION 2. The capital improvements projects, and their respective costs, authorized by this act to be acquired or constructed and financed as provided in Section 1 of this act, including by revenue bonds, by special obligation bonds as authorized in Section 4 of this act, or by both, are as follows:

East Carolina University	
New Student Union, Parking Structure & Health Sciences Campus Student Services Building	$ 156,300,000
North Carolina State University	
Reynolds Coliseum Renovation	35,000,000
The University of North Carolina at Asheville	
Completion of Karl Straus Track Building	550,000
Student Recreation Center Improvements	440,000
The University of North Carolina at Chapel Hill	
Chilled Water Plant at Manning Drive	32,000,000
The University of North Carolina at Charlotte	
Campus Infrastructure Development Phase II	46,000,000

Elm/Maple/Pine (Phase V) Renovation	18,550,000
Sanford Hall Renovation	19,000,000
Residence Hall, Phase XIV	45,829,000
Western Carolina University	
Brown Building Renovation and Addition	22,510,000

SECTION 3. At the request of the Board of Governors of The University of North Carolina and upon determining that it is in the best interest of the State to do so, the Director of the Budget may authorize an increase or decrease in the cost of, or a change in the method of, funding the projects authorized by this act. In determining whether to authorize a change in cost or funding, the Director of the Budget may consult with the Joint Legislative Commission on Governmental Operations.

SECTION 4. Pursuant to G.S. 116D-26, the Board of Governors may issue, subject to the approval of the Director of the Budget, at one time or from time to time, special obligation bonds of the Board of Governors for the purpose of paying all or any part of the cost of acquiring, constructing, or providing for the projects authorized by Section 2 of this act. The maximum principal amount of bonds to be issued shall not exceed the specified project costs in Section 2 of this act plus five percent (5%) of such amount to pay issuance expenses, fund reserve funds, pay capitalized interest and pay other related additional costs, plus any increase in the specific project costs authorized by the Director of the Budget pursuant to Section 3 of this act.

SECTION 5. This act is effective when it becomes law.

This Bill Analysis reflects the contents of the bill as it was presented in committee.

HOUSE BILL 1182:
UNC Nonappropriated Capital Projects

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	June 25, 2014
Introduced by:	Reps. W. Brawley, Ramsey, B. Brown, R. Moore	**Prepared by:**	Cindy Avrette Committee Counsel
Analysis of:	First Edition		

SUMMARY: ***House Bill 1182 would authorize the construction of numerous projects by The University of North Carolina. The projects will be financed through revenue bonds and special obligation bonds, not appropriations from the General Fund.***

CURRENT LAW: Under Article 8 of the State Budget Act, no State agency may expend funds for the construction or renovation of a capital improvement project unless authorized to do so by the General Assembly. The Board of Governors of The University of North Carolina may approve expenditures for projects that are to be funded entirely with non-General Fund money. However, under Article 3 of Chapter 116D, the General Assembly must approve the issuance of special obligation bonds for UNC projects.

There are two types of self-liquidating bonds that may be issued by the Board of Governors of the University of North Carolina. Article 21 of Chapter 116 of the General Statutes authorizes the Board of Governors to issue revenue bonds for the types of projects enumerated in the article. The types of projects for which **revenue bonds** may be issued include educational buildings, dormitories, recreational facilities, dining facilities, student centers, health care buildings, parking decks, etc. for the educational institutions, the University of North Carolina Health Care System, the University of North Carolina General Administration, and the University of North Carolina Hospitals at Chapel Hill. The revenue bonds are payable from rentals, charges, fees, and other revenues generated by the facility. The bonds are not payable from tax revenues.

Article 3 of Chapter 116D of the General Statutes authorizes the Board of Governors to issue **special obligation bonds** payable with any sources of income or receipts of the Board of Governors or a constituent or affiliated institution, but not including tuition payments or appropriations from the General Fund from State revenues. The bond proceeds could be used for construction, improvement, and acquisition of any capital facilities located at UNC constituent and affiliated institutions. The project must be approved by the board of trustees for the respective institution for which the project is authorized and the General Assembly must approve the project and the maximum aggregate principal amount for the project. The bonds are not payable from tax revenues.

BILL ANALYSIS: House Bill 1182 would authorize the campuses of The University of North Carolina (UNC) to finance and construct capital improvement projects utilizing obligated resources. UNC is authorized to change, with approval of the Director of the Budget, the means of finance for the projects authorized in the bill and increase or decrease the cost of the project. UNC is allowed to issue debt above 5% of the total cost of the project, including any increase authorized by the Director of the Budget, to cover various costs of issuance of the debt. The proposed indebtedness authorized under this bill is not a debt of the State.

The table below provides an overview of the projects. For a more detailed description of each project, please see the Fiscal Note.

O. Walker Reagan
Director

Research Division
(919) 733-2578

Campus	Project	Amount	Source	Existing Fee/Receipt Increase	New Fee
ECU	New Student Union, Parking Structure, and Health Sciences Campus Student Services Building	$156,300,000	Debt Service Fee, etc.	Yes	$425*
NCSU	Reynolds Coliseum Renovation	$35,000,000	Gifts and Institutional Trust Funds	No	No
UNC-A	Completion of Karl Straus Track Building	$550,000	Debt Service Fee	No	$15
UNC-A	Student Recreation Center Improvements	$440,000	Debt Service Fee	No	$12
UNC-CH	Chilled Water Plant at Manning Drive	$32,000,000	F/A Receipts	No	No
UNC-C	Campus Infrastructure Development Phase II	$46,000,000	Debt Service Fee	Yes	$50
UNC-C	Elm/MaplePine (Phase V) Renovation	$18,550,000	Housing Receipts	6.5%	No
UNC-C	Sanford Hall Renovation	$19,000,000	Housing Receipts	6.5%	No
UNC-C	Residence Hall, Phase XIV	$45,829,000	Housing Receipts	6.5%	No
WCU	Brown Building Renovation and Addition	$22,510,000	See Project Description	Yes	$136
Total			$376,179,000		

EFFECTIVE DATE: This act is effective when it becomes law.

Mark Bondo, Fiscal Analyst, and Trina Griffin, counsel to the House Finance Committee, substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Fiscal Note

BILL NUMBER: House Bill 1182 (First Edition)

SHORT TITLE: UNC Nonappropriated Capital Projects.

SPONSOR(S): Representatives W. Brawley, Ramsey, B. Brown, and R. Moore

FISCAL IMPACT

($ in millions)

☑ Yes ☐ No ☐ No Estimate Available

State Impact	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
General Fund Revenues:					
General Fund Expenditures:					
Special Fund Revenues:					
Special Fund Expenditures:					
State Positions:					
NET STATE IMPACT	**$0.0**	**$0.0**	**$0.0**	**$0.0**	**$0.0**

INCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:

University of North Carolina

EFFECTIVE DATE: When the Bill becomes law

TECHNICAL CONSIDERATIONS:

None

BILL SUMMARY:

House Bill 1182 authorizes the campuses of the University of North Carolina (UNC) to finance and construct capital improvement projects utilizing obligated resources. The projects are discussed in the Assumptions and Methodology Section of this Note. The statutory framework to authorize and issue debt lies within Article 3 of G.S. 116D. Under this Article, obligated resources refers to: rents, charges, or fees; earnings on investments of endowment funds, overhead receipts, and other resources that do not include appropriations from the General Assembly or tuition. UNC is authorized to change, with approval of the Director of the Budget, the means of finance for the projects authorized in the Bill and increase or decrease the cost of the project. UNC is allowed to issue debt above 5% of the total cost of the project, including any increase authorized by the Director of the Budget, to cover various costs of issuance of the debt. The proposed indebtedness authorized under this Bill is not a debt of the State

ASSUMPTIONS AND METHODOLOGY:

Each campus is presented discretely due to the varied nature of the projects under consideration. The table below provides information on the projects within Section 2 of this bill and provides the proposed sources of funding. Article 3 of G.S. 116D authorizes all obligated resources to be used as means of repayment and does not limit the source of funding to those presented in the table below. If an existing fee or receipt is to be used, the table identifies the fee and any annual increase associated with the fee. In some cases, the project will be financed by a new fee, and the amount is provided in the table. UNC and the campuses assume no General Fund impact from the projects proposed for authorization and Fiscal Research concurs with this assumption.

Table 1: Project Description

Campus	Project	Amount	Source	Existing Fee/Receipt Increase	New Fee
ECU	New Student Union, Parking Structure, and Health Sciences Campus Student Services Building	$156,300,000	Debt Service Fee, etc.	Yes	$425*
NCSU	Reynolds Coliseum Renovation	$35,000,000	Gifts and Institutional Trust Funds	No	No
UNC-A	Completion of Karl Straus Track Building	$550,000	Debt Service Fee	No	$15
UNC-A	Student Recreation Center Improvements	$440,000	Debt Service Fee	No	$12
UNC-CH	Chilled Water Plant at Manning Drive	$32,000,000	F/A Receipts	No	No
UNC-C	Campus Infrastructure Development Phase II	$46,000,000	Debt Service Fee	Yes	$50
UNC-C	Elm/MaplePine (Phase V) Renovation	$18,550,000	Housing Receipts	6.5%	No
UNC-C	Sanford Hall Renovation	$19,000,000	Housing Receipts	6.5%	No
UNC-C	Residence Hall, Phase XIV	$45,829,000	Housing Receipts	6.5%	No
WCU	Brown Building Renovation and Addition	$22,510,000	See Project Description	Yes	$136
Total		$376,179,000			

*ECU's debt service fee will be phased in over three years.
** WCU's debt service fee is prospective and subject to Board of Governor approval in 2015.

In addition to the debt to be authorized above, the campuses at the UNC system have existing debt that has been authorized under Article 3 of G.S. 116D and Part 4 of G.S. 116 (Revenue Bonds). The amount of outstanding debt, revenue available to support debt service, and annual debt service payment for FY 2013 at the UNC System campuses requesting the authorization to issue debt are presented in the table below:

	Outstanding Debt	Resources Available for Debt Service	Debt Service Payment
ECU	155,662,641	467,939,528	14,725,528
NCSU	580,432,894	598,854,000	27,540,643
UNC-A	47,296,264	36,497,128	1,598,200
UNC-CH	1,408,141,537	1,816,332,000	111,840,436
UNC-C	433,548,957	273,168,360	9,748,628
WCU	113,168,205	92,995,849	8,474,073

Each campus was sent an information request with detailed questions. In many cases, when reviewing the tables below, expenses will appear greater than revenues. This is because projects may not require an increase in revenues to cover debt service or operating expenditures. In other cases there may also not be a corresponding operating expense increase as a result of a project. The reasons for these situations are a result of projects replacing or renovating existing space. Or, it may be the result of normal projected expenditures. As Fiscal Notes only look at changes as a result of a bill, these normal increases in expenditures and revenues are not reported.

East Carolina University:

East Carolina University (ECU) has one planned project under consideration: the New Student Union and the Health Sciences Complex Student Services Structure. The New Student Union will comprise a 210,000 square foot facility and a 700 car parking deck. The Health Sciences Complex Student Services Structure will be a 68,000 square foot facility for student related services on the Health Sciences Campus. The total amount of debt authorized in this bill is $156.3 million. However, ECU estimates that they will finance only $142.3 million and fund balances from the Parking, Dining, Bookstore, Student Health, and Student Activity operations will contribute the additional $14 million in cash toward the project. Of the remaining debt, $128.8 million will be financed by a new $425 per student debt service fee that will be phased in over three years. Receipts from parking, bookstore, and dining will support $13.5 million in debt. This Fiscal Note only looks at changes to revenues and expenditures as a result of the proposed projects. Existing revenue streams are expected to grow at 1 to 3% annually and are sufficient to cover operating and debt service requirements. Operating expenditures are expected to increase with the opening of the larger facilities. The Student Union is expected to open in FY 2016-17 and the Health Sciences Complex is expected in FY 2017-18.

Table 2: East Carolina Financial Information

	Description	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19

Revenues	Debt Service Fee	2,832,900	6,027,900	9,0525,00	9,052,500	9,052,500
	Transfer from Fund Balance	14,000,000				
Expenses	Debt Service	3,924,900	7,119,900	10,144,500	10,144,500	10,144,500
	Operating			1,200,000	1,500,000	1,545,000
	Transfer from Fund Balance	14,000,000				
FTE				6	11	11

North Carolina State University:

North Carolina State University (NCSU) has one planned project under consideration: the renovation of Reynolds Coliseum. The renovation includes the creation of program space for athletic offices and the Reserve Officer Training Corps (ROTC), and the creation of exhibit space for athletic history. The proposed debt will be financed from the Wolfpack Club ($20 million) and from the Athletics Trust ($15 million). This Fiscal Note only looks at changes to revenues and expenditures as a result of the proposed projects. As this is a renovation of an existing project, revenue streams and expenses largely remain the same. The NCSU project is expected to open in FY 2016-17.

Table 3: North Carolina State Financial Information

	Description	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
Revenues	Trust Fund			2,400,000	2,400,000	2,400,000
Expenses	Debt Service			1,793,544	1,341,971	1,342,362
FTE				2	2	2

University of North Carolina – Asheville

The University of North Carolina – Asheville (UNC-A) has two planned projects under consideration: the completion of a building next to the Karl Straus Track; and improvements to the Student Recreation Center. The Karl Straus Track building is the completion of a $1.5 million building, of which $906,000 has already been spent. The remainder of the building cost will be financed by a new debt service fee of $15 per student. The building also has slight operating costs that will be covered with athletic receipts related to track events. The improvements to the Student Recreation Center involve court floor replacement and locker room renovation at a cost of $440,000. This project will be financed by a new $12 student debt service fee. The projects are expected to be complete within the next Fiscal Year.

Table 4: Consolidated UNC-A Financial Information

	Description	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
Revenues	Debt Service Fee	91,800	92,340	92,880	93,420	93,960
	Athletic Receipts	20,000	10,000	10,000	10,000	10,000
Expenses	Operating	20,000	10,000	10,000	10,000	10,000
	Debt Service	89,042	89,042	89,042	89,042	89,042

University of North Carolina – Chapel Hill

The University of North Carolina – Chapel Hill (UNC-CH) has one proposed project under consideration: a new chilled water plant. The new chilled water plant will create new capacity that will replace existing chilled water facilities. The existing facilities are in poor condition due to age. The entire $32 million project will be financed from facilities and administration receipts related to chilled water. As this is a replacement of an existing facility, revenue streams and expenses largely remain the same. Existing revenues are sufficient to cover related debt service. The project is expected to be complete in FY 2017-18.

Table 5: UNC-CH Financial Information

	Description	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
Revenues		Not Applicable				
Expenses	Debt Service				2,130,545	2,130,545

University of North Carolina – Charlotte

The University of North Carolina – Charlotte (UNC-C) has four proposed projects under consideration: Campus Infrastructure Phase II, Elm/Maple/Pine (Phase V) Renovation, Sanford Hall Renovation, and Residence Hall Phase XIV. The Campus Infrastructure Phase II project will include renovations of the chemistry and physics buildings; modernizations of core campus buildings; and infrastructure (road, telecommunications, water/sewer) improvements. Of the $46 million authorization for this project, $35 million will be financed from proceeds of a $100 debt service fee, of which $50 is new. The remaining $11 million will be financed from reserves that were created by an earlier approved debt service fee for infrastructure. The Elm/Maple/Pine (Phase V) Renovation will renovate building systems, roofs, windows, and related code improvements to a residential facility. The project cost is $18.55 million and will be financed from housing receipts. The Sanford Hall Renovation renovates an existing residential facility to meet current building code requirements, update building systems, replace the roof and windows, and improve interior layouts. The project cost is $19 million and will be financed from housing receipts. UNC-C is proposing to construct a new 400 bed residence hall. The project cost is $45.83 million and will be financed from housing receipts. For all three residence hall projects, existing housing receipts are projected increase by 6.5% per tenant – this increase is part of normal housing charge increases. In the event of project delay or cost over-runs UNC-C has

$17.4 million within their Housing Fund that may be used to offset costs. The three housing projects are expected to be complete in FY 2016-17.

Table 6: UNC-C Financial Information

	Description	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
Revenues	Debt Service Fee	2,069,500	2,110,890	2,153,108	2,196,170	2,240,093
	New Housing Receipts			3,815,089	4,063,070	4,327,169
	Transfer from Reserves	11,000,000				
Expenses	Operating	0	0	722,819	744,504	766,839
	Debt Service	0	0	6,959,901	6,959,901	6,959,901
	Transfer from Reserves	11,000,000				
New FTE				7.5	7.5	7.5

Western Carolina University

Western Carolina University (WCU) has one project under consideration: the Brown Building Renovation and Addition. This purpose of this project is to renovate 30,240 square feet of existing space cafeteria space and build a 25,124 square foot addition. The new facility will house Food Services and Dining, Residential Living Administration, student group offices, and student support units. The total cost of the project is $22.51 million, of which $16.01 million will be debt financed to be repaid by dining receipts and a new debt service fee of $136. The debt service fee in this proposal is prospective and should be viewed as a maximum. WCU has not yet received authorization to charge a fee by the Board of Governors but anticipates making a request in January/February 2015. Of the portion that is not to be debt financed, $4 million is from the dining services vendor and $2.5 million will be from Housing Fund reserves. The project is expected to open in FY 2016-17.

Table 7: Western Carolina University Financial Information

	Description	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
Revenues	Debt Service Fee		885,720	885,720	885,720	885,720
	Vendor Support	4,000,000				
	Transfer from Reserves	2,500,000				

Expense	Debt Service		978,996	983,446	980,921	978,546
FTE				5	5	5

SOURCES OF DATA: University of North Carolina

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Mark Bondo

APPROVED BY:
Mark Trogdon, Director
Fiscal Research Division

DATE: June 11, 2014

Official Fiscal Research Division Publication

Signed Copy Located in the NCGA Principal Clerk's Offices

SENATE SERGEANT-AT-ARMS

COMMITTEE: **Senate Finance**

DATE: 06-25-2014 ROOM: 544

1. KEN KIRBY
2. HAL ROACH
3. CHARLES HARPER
4. ANDERSON MEADOWS
5. _____
6. _____

PAGES ATTENDING

Date: 6/25 1pm

Committee: Finance **Room:** 544

PLEASE PRINT LEGIBILY!!!!!

Page Name	Hometown	Sponsoring Senator
1 Harrison Idol	High Point	Stan Bingham
2 Jake Satisky	Raleigh	Josh Stein
3 ZACK MAHER	WAXHAW	TOMMY TUCKER
Troy Garrett	Asheboro	Jerry Tillman
5 Ryan Burnett	Raleigh	Neil Hunt
6 Andrew Smith	Raleigh	Stein
7 Chase Crawford CRAWFORD	High Point	Stan Bingham
8 Taylor Gaines	Wilmington	Goodsby
9 Michael Sonnenberg SONENBERG	Littleton	Angela Bryant

Do not add additional names below the grid.

Pages: Please present this form to either the Committee Clerk at the eting or a Sgt. at Arms.

VISITOR REGISTRATION SHEET

(SENATE FINANCE)

June 25, 2014
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
BJ Miller	Cove Health
CR Hand	NCHA
Tom Jan	attorney Raleigh
JAKE PARKER	NCFB
David McGowan	NC Petro Council
Canaan Hicks	MVA
David Farrell	NCLTA
Sam Watts	N.C. Dept of State Treasurer
Dianna Downey	PSNCUE
TJ Bugbee	NR
Laura Gunter	NCBIO
Mitch Leonard	SEANC
Chuck Stone	SEANC
Thom Mansfield	NCMB
Susanna Davis	WM
Kathy Hawkins	Duke

09-21-201

VISITOR REGISTRATION SHEET

(SENATE FINANCE)

June 25, 2014
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	CSS
	CSS
	CSS
Butch Gunnells	NC Bev
Steve Brewer	CTL
	ED&A
	MWC
	NCFB
	NCLC
	NCDA
Keith Larick	NCDA
Charles King	School of Government
Meghan Cook	ITS
Nicole Hines	Gov office
Andy Chase	KMA

09-21-201

VISITOR REGISTRATION SHEET

(SENATE FINANCE)

June 25, 2014
Date

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Jamyen Jones	NC Grange
Bobby Neer	NC Grange
Betty Boston	UNC charlotte
John Hill	NC Motorcycle Dealers Assocdia 4300 Synergy Greensboro NC 274
Todd Cooper	Capital City Strategies
Julie White	
Sherry Gray	UnitedHealthcare
Philip Ridley	BMLP
Vanessa Vogler	BMLI
Chris McClure	BP
Elizabeth Biser	BP
Brad Olds	NC Grange
Marissa Mueller	NC GRANGE
Emily Henson	NC Grange
Darby Madewell	NC Grange
Lori Ann Harris	LAHA
	NCACC

09-21-201

VISITOR REGISTRATION SHEET

(SENATE FINANCE)

June 25, 2014
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Padraig Gibbons	Capital
Erin Wynia	NCLM
Tonya Hatton	TSS
Laurie Craig	LCLC
Terrence Wilson	ACLU-NC
Jaime King Fogoay	NCEL
Sarah Hardin	CTL
Marissa Jarrell	K+L Gates

09-21-201

VISITOR REGISTRATION SHEET

(SENATE FINANCE)

June 25, 2014
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Andy Ellen	NCRMA
Mike Zimmerman	NCHBA
Lisa Martin	NCHBA
Steven Webb	NCHBA
John Bode	B & H
Ryan Minto	NC DOR
[illegible]	[illegible]
Scott Mabry	NCLCRB
Bruce Thompson	Parker Poe
[illegible]	AG Alliance & N.C
[illegible]	NC State Grange
[illegible]	NC State Grange
[illegible]	Taylor Inc
Michael Hauser	THEG
[illegible]	
Bennett Yeargan	NC Grange
Justin Leonard	NC Grange

VISITOR REGISTRATION SHEET

(SENATE FINANCE)

June 25, 2014
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Greg Carter	UNC Asheville
Steve Flaggen	DOA
Michelle Brooks	ECU
PAIGE WORSHAM	NC Center for Public Policy Research
ALLISON Waller	Nelson Mullins
Steven Pennington	Commerce - LEAD

09-21-201

Senate Committee on Finance
Tuesday, July 15, 2014, 10:00 AM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 1114	Elk Park/Deed Transferring Property.	Representative Dobson
HB 1145	Insurance & Registration Required for Mopeds.	Representative Shepard Representative R. Brown Representative Millis
HB 1154	Moore Co. Schools Transfer of Property.	Representative Boles
HB 1155	Pinehurst Annexation.	Representative Boles
HB 1212	Burlington Charter/Revision and Consolidation.	Representative S. Ross Representative Riddell
SB 788	Town of Duck/Eminent Domain.	Senator Cook

Adjournment

Senate Committee on Finance
Tuesday, July 15, 2014 at 10:00 AM
Room 544 of the Legislative Office Building

MINUTES

The Senate Committee on Finance met at 10:00 AM on July 15, 2014 in Room 544 of the Legislative Office Building. Twenty-seven members were present.

Senator Bill Rabon, Chair, presided.

HB 1114 - Elk Park/Deed Transferring Property.

Representative Dobson was recognized to explain the bill. It would prohibit the Avery County Register of Deeds from recording deeds transferring property in the Town of Elk Park unless the deed has a certificate from the Town's tax collector stating that no taxes are delinquent. Senator Tucker moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

HB 1154 Moore Co. Schools Transfer of Property.

Senator Tillman was recognized to explain the bill which would authorize the Moore County Board of Education to convey the Academy Heights Elementary school to the Town of Taylortown. Senator Cook moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

HB 1155 Pinehurst Annexation.

Senator Tillman explained the bill. It would extend the corporate limits of the Village of Pinehurst to include the Cotswold Subdivision in Mineral Springs Township in Moore County, and it would authorize the Village to levy special assessments to meet the cost of construction of a stormwater management system to serve the annexed property. Senator Tillman was recognized to offer an amendment correcting the effective date and moved for its adoption. The amendment was adopted. Senator Tillman moved for a favorable report as amended and the motion carried. A copy of the bill, the summary and the amendment is attached.

HB 1212 - Burlington Charter/Revision and Consolidation.

Senator Gunn was recognized to explain the bill which would revise and consolidate the Charter of the City of Burlington. Cindy Avrette, committee counsel, was recognized to answer questions. Senator McKissick moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

SB 788 - Town of Duck/Eminent Domain.

Senator Cook was recognized to explain the bill which would permit the Town of Duck to use eminent domain for the purpose of engaging in beach erosion control and flood and hurricane protection works. Senator Brock moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

HB 1145 - Registration for Mopeds.

Senator Apodaca was recognized to explain the bill. Senator Curtis moved to adopt the proposed committee substitute (PCS) for discussion and the motion carried. The bill would require that mopeds be registered with the Division of Motor Vehicles and that operators of mopeds have liability insurance. The PCS would make a technical change to this provision and would clarify that the registration fee for mopeds does not include the $2 fee by motorcycle registrants for the Motorcycle Safety Instruction Program. The PCS would also remove the provisions that add Elizabethtown and Matthews to the State Health Plan. Tim Lucas, NC Rate Bureau, was recognized to answer jurisdictional questions. Rose Vaughn Williams, Department of Insurance's legal counsel, was recognized to answer questions about moped insurance rates (licensed v. unlicensed v. suspended license). Tim McLaughhorn, NC Department of Motor Vehicles, was recognized to answer questions about the differences between mopeds and motorcycles; and registrations. John Hill, a small business owner, was recognized to speak in opposition to the bill. Senator Rabin moved for a favorable report and the motion carried. A copy of the PCS, the summary, the fiscal memo, and the incarceration fiscal note is attached.

The meeting adjourned at 10:39 a.m.

Senator Bill Rabon, Chair
Presiding

DeAnne Mangum, Committee Clerk

Principal Clerk
Reading Clerk

Corrected #1: H1154, H1155, H1212 and S788 have been added to the agenda

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Tuesday	July 15, 2014	10:00 AM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 1114	Elk Park/Deed Transferring Property.	Representative Dobson
HB 1145	Insurance & Registration Required for Mopeds.	Representative Shepard Representative R. Brown Representative Millis
HB 1154	Moore Co. Schools Transfer of Property.	Representative Boles
HB 1155	Pinehurst Annexation.	Representative Boles
HB 1212	Burlington Charter/Revision and Consolidation.	Representative S. Ross Representative Riddell
SB 788	Town of Duck/Eminent Domain.	Senator Cook

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

Principal Clerk
Reading Clerk

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

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HB 1145	Insurance & Registration Required for Mopeds.	Representative Shepard Representative R. Brown Representative Millis

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Tuesday, July 15, 2014

Senator Rabon,
submits the following with recommendations as to passage:

FAVORABLE

HB **1114** Elk Park/Deed Transferring Property.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

HB **1154 (CS#1)** Moore Co. Schools Transfer of Property.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

HB **1212 (CS#2)** Burlington Charter/Revision and Consolidation.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

SB **788** Town of Duck/Eminent Domain.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

FAVORABLE, AS AMENDED

HB **1155** Pinehurst Annexation.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

UNFAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 2

HB 1145 (SCS#1) Insurance & Registration Required for Mopeds.

Draft Number:	H1145-PCS30805-TDf-51
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 6

Senator Daniel Soucek will handle HB 1114
Senator Jerry Tillman will handle HB 1154
Senator Richard Gunn will handle HB 1212
Senator Bill Cook will handle SB 788
Senator Jerry Tillman will handle HB 1155
Senator Tom Apodaca will handle HB 1145

HOUSE BILL 1114

Short Title:	Elk Park/Deed Transferring Property.	(Local)
Sponsors:	Representative Dobson (Primary Sponsor). *For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*	
Referred to:	Government, if favorable, Finance.	

May 19, 2014

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE REGISTER OF DEEDS OF AVERY COUNTY TO REFUSE RECORDATION OF A DEED FOR PROPERTY SUBJECT TO DELINQUENT MUNICIPAL PROPERTY TAXES FOR THE TOWN OF ELK PARK.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of Chapter 305 of the 1963 Session Laws, as amended by S.L. 1997-410, S.L. 1998-73, and S.L. 2010-51, reads as rewritten:

"Section 1. The Register of Deeds of Avery County shall not receive for recordation any deed unless the following conditions are met:

(1) The deed is accompanied by a certificate from the Avery County Tax Collector to the effect that all delinquent county taxes and all delinquent taxes for municipalities for which the county collects taxes have been paid with respect to the property described in the deed.

(2) If the property described in the deed is located in whole or in part in the Town of Newland, the deed is accompanied by a certificate from the tax collector for the town to the effect that all delinquent municipal taxes have been paid with respect to the property.

(3) If the property described in the deed is located in whole or in part in the Town of Banner Elk, the deed is accompanied by a certificate from the tax collector for the town to the effect that all delinquent municipal taxes have been paid with respect to the property.

(4) If the property described in the deed is located in whole or in part in the Village of Sugar Mountain, the deed is accompanied by a certificate from the tax collector for the village to the effect that all delinquent municipal taxes have been paid with respect to the property.

(5) If the property described in the deed is located in whole or in part in the Town of Elk Park, the deed is accompanied by a certificate from the tax collector for the town to the effect that all delinquent municipal taxes have been paid with respect to the property."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 1114:
Elk Park/Deed Transferring Property

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	July 14, 2014
Introduced by:	Rep. Dobson	**Prepared by:**	Cindy Avrette
Analysis of:	First Edition		Committee Counsel

SUMMARY: ***House Bill 1114 would prohibit the Avery County Register of Deeds from recording deeds transferring property in the Town of Elk Park unless the deed has a certificate from the Town's tax collector stating that no taxes are delinquent.***

CURRENT LAW: The Avery County Register of Deeds is prohibited from recording any deed unless it is accompanied by a certificate from the Avery County Tax Collector indicating that all County taxes and municipal taxes collected by the County have been paid.[1] For property in Newland[2], Banner Elk[3], and Sugar Mountain[4], the Avery County Register of Deeds is also prohibited from recording any deed unless it is accompanied by a certificate from the municipalities' tax collector.

BILL ANALYSIS: House Bill 1114 would add the Town of Elk Park to the list of municipalities in Avery County that require deeds be accompanied by a certificate indicating all delinquent Town taxes have been paid.

EFFECTIVE DATE: This act would be effective when it becomes law.

BACKGROUND: G.S. 161-31(a) provides that the board of commissioners of a county may, by resolution, require the register of deeds not to accept any deed transferring real property unless the county tax collector has certified that there are no delinquent ad valorem county taxes, ad valorem municipal taxes, or other taxes. In the resolution, the county commissioners may describe the form the certification must take.[5]

G.S. 161-31(a1) requires that the register of deeds must accept, without certification, a deed that contains the following statement: "This instrument prepared by: _____, a licensed North Carolina attorney. Delinquent taxes, if any, to be paid by the closing attorney to the county tax collector upon disbursement of closing proceeds."

Municipal property taxes are covered by G.S. 161-31 only if the county collects the tax for the municipality. If a city collects its own taxes, G.S. 161-31 will not prevent a deed from being recorded due to delinquent taxes owed to that city. Currently only Duplin County[6] is subject to a local bill that extends G.S. 161-31's requirements to cover all municipal property taxes regardless of who collects those taxes.

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[1] Chapter 305 of the 1963 Session Laws.
[2] S.L. 1997-410.
[3] S.L. 1998-73.
[4] S.L. 2010-51.
[5] G.S. 161-31 applies to the following 75 counties: Alamance, Alexander, Anson, Beaufort, Bertie, Brunswick, Buncombe, Burke, Cabarrus, Camden, Carteret, Caswell, Catawba, Cherokee, Chowan, Clay, Cleveland, Currituck, Dare, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Gaston, Gates, Graham, Granville, Greene, Halifax, Harnett, Haywood, Henderson, Hertford, Hyde, Iredell, Jackson, Johnston, Jones, Lee, Lenoir, Lincoln, Macon, Madison, Martin, McDowell, Montgomery, Nash, Northampton, Onslow, Pasquotank, Pender, Perquimans, Person, Pitt, Polk, Robeson, Rockingham, Rowan, Rutherford, Sampson, Stanly, Stokes, Surry, Swain, Transylvania, Tyrrell, Vance, Warren, Washington, Wayne, Wilson, Yadkin, and Yancey.
[6] S.L. 2010-24.

O. Walker Reagan
Director

Research Division
(919) 733-2578

Kelly Quick with the Research Division substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H 2

HOUSE BILL 1154
Committee Substitute Favorable 6/9/14

Short Title: Moore Co. Schools Transfer of Property. (Local)

Sponsors:

Referred to:

May 21, 2014

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE MOORE COUNTY BOARD OF EDUCATION TO CONVEY CERTAIN REAL PROPERTY.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the provisions of G.S. 115C-518 and G.S. 160A-274, the Moore County Board of Education may convey to the Town of Taylortown, with consideration, all of its right, title, and interest to the Academy Heights Elementary School site located at 143 Douglas Street in Pinehurst, North Carolina.

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 1154:
Moore Co. Schools Transfer of Property

2013-2014 General Assembly

Committee:	Senate State and Local Government	**Date:**	July 14, 2014
Introduced by:	Rep. Boles	**Prepared by:**	Cindy Avrette Committee Counsel
Analysis of:	Second Edition		

SUMMARY: ***House Bill 1154 authorizes the Moore County Board of Education to convey the Academy Heights Elementary school to the Town of Taylortown.***

CURRENT LAW: G.S. 115C-518 authorizes local boards of education to dispose of real or personal property that it determines is unnecessary or undesirable for public school purposes using the same procedures available to municipalities under Article 12 of Chapter 160A of the General Statutes. However, with regard to real property, a board must first offer the property to the board of county commissioners in the county in which the property is located for fair market value or at a price negotiated between the two parties. The proceeds of any sale or from any lease for a term of over one year is applied to reduce the county's bonded indebtedness for the school unit disposing of the property or for capital outlay purposes.

G.S. 160A-274 allows a governmental unit to transfer to another governmental unit real or personal property, with or without consideration. However, the North Carolina Supreme Court has held that a local school board must receive fair consideration when it conveys property for a non-school use, including some other governmental use.[1] Although it is not clear from the case what constitutes fair consideration, the transfer may not be without consideration.

BILL ANALYSIS: The bill authorizes the Moore County Board of Education to convey the Academy Heights Elementary school to the Town of Taylortown, with consideration, notwithstanding the provisions of G.S. 115C-518 and G.S. 160A-274.

EFFECTIVE DATE: This act is effective when it becomes law.

Shelly DeAdder, counsel to House Government, substantially contributed to this summary.

[1] *Boney v. Board of Trustees*, 229 N.C. 136, 48 S.E.2d 56 (1948).

HOUSE BILL 1155

Short Title:	Pinehurst Annexation.	(Local)
Sponsors:	Representative Boles (Primary Sponsor).	
	For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.	
Referred to:	Government, if favorable, Finance.	

May 21, 2014

A BILL TO BE ENTITLED

AN ACT ADDING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE VILLAGE OF PINEHURST AND AUTHORIZING THE VILLAGE TO LEVY SPECIAL ASSESSMENTS TO MEET THE COST OF CONSTRUCTION OF A STORMWATER MANAGEMENT SYSTEM TO SERVE THE PROPERTY ADDED.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is added to the corporate limits of the Village of Pinehurst:

A certain tract or parcel of land situated in Mineral Springs Township, Moore County, N.C. west of the Village of Pinehurst about 500 yards west of the intersection of Chicken Plant Road and Linden Road, fronting and lying on the north side of Linden Road bounded on the west and north by Carolyn B. Smith, on the east by Stephen J. DiMaggio and others, and being further described as follows:

BEGINNING at an existing concrete monument within the north 60 foot right of way line of Linden Road situated about 600 yards southwest of the intersection of Chicken Plant Road and Linden Road, said monument being the southeast corner of Carolyn B. Smith's tract described in Deed Book 92E, Page 319 in the Moore County Registry of Deeds; running thence from said beginning corner N 55 degrees 49 minutes 33 seconds W for a distance of 571.51 feet to an existing concrete monument, another corner of said Smith tract; thence N 55 degrees 49 minutes 46 seconds W for a distance of 409.25 feet to an existing concrete monument, another corner of said Smith tract; thence N 34 degrees 10 minutes 00 seconds E for a distance of 1067.16 feet to an existing concrete monument, another corner of said Smith tract situated in the southwest line of Florence Cox's tract described in Deed Book 241, Page 565 in the Moore County Registry of Deeds; thence S 55 degrees 46 minutes 15 seconds E for a distance of 408.89 feet to an existing concrete monument, said monument being the south corner of Roger L. Craven's tract described in Deed Book 503, Page 673 in the Moore County Registry of Deeds, the same being the west corner of James Talbert Jr. tract described in Deed Book 434, Page 504 in the Moore County Registry of Deeds, the same also being the northwest corner of Stephen J. DiMaggio tract described in Deed Book 3212, Page 150 in the Moore County Registry of Deeds; thence with the west line of said DiMaggio tract, S 04 degrees 30 minutes 31 seconds W for a distance of 374.94 feet to an existing iron pipe, the west corner of said DiMaggio tract; thence with the southwest line of said DiMaggio tract, S 69 degrees 28 minutes 23 seconds E for a distance of 397.12 feet to an existing concrete monument within the north 60 foot right of way line of Linden Road; thence as and within the north 60 foot right of

way line of Linden Road S 34 degrees 08 minutes 14 seconds W for a distance of 834.65 feet, to the BEGINNING, containing 20.85 acres, more or less.

SECTION 2.(a) Upon the annexation of the property described in Section 1 of this act and the dedication of the existing roads in the property, which are currently owned by the Cotswold Homeowners Association and Planet Development, to the Village of Pinehurst, the Village Council of the Village of Pinehurst may levy special assessments upon the property owners of the property described in Section 1 of this act to meet the cost of a stormwater management system constructed by the Village of Pinehurst. The assessment roll shall become effective on a date set by the Village Council that is at least 30 days following the formal advertising for bids for the proposed work. The Village Council shall levy the special assessments in accord with a schedule that it develops and that is at an equal rate per lot for the 51 existing residences and 14 vacant lots and building sites located in the property described in Section 1 of this act. The amount levied by special assessment against the property owners shall not exceed sixty-six percent (66%) of the full cost of constructing the stormwater management system. Notwithstanding any provision of G.S. 160A-224 to the contrary, the Village Council may cause notice of the amount of assessment for each parcel of land assessed to be sent by mail to the owner thereof as shown on the tax records of the Village of Pinehurst prior to confirmation of the assessment roll.

SECTION 2.(b) The Village Council may give owners of assessed property the option of paying the assessment either in cash or in installments, provided, however, that the period over which the installments are paid does not exceed five years from the date the assessment roll is confirmed. All installment payments shall be interest free.

SECTION 2.(c) In levying the special assessments, the Village Council shall follow, insofar as practicable, the procedures set forth in Article 10 of Chapter 160A of the General Statutes.

SECTION 3. This act becomes effective June 30, 2014.

HOUSE BILL 1155:
Pinehurst Annexation

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	July 15, 2014
Introduced by:	Rep. Boles	**Prepared by:**	Greg Roney
Analysis of:	First Edition		Committee Counsel

SUMMARY: ***House Bill 1155 would extend the corporate limits of the Village of Pinehurst to include the Cotswold Subdivision in Mineral Springs Township in Moore County, and would authorize the Village to levy special assessments to meet the cost of construction of a stormwater management system to serve the annexed property.***

CURRENT LAW: The North Carolina Constitution, in Section 1 of Article VII, authorizes the General Assembly to "provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions, and, except as otherwise prohibited by this Constitution, may give such powers and duties to counties, cities and towns, and other governmental subdivisions as it may deem advisable." The General Assembly enacted Article 4A of Chapter 160A of the General Statutes governing municipal annexations. The General Assembly retains the authority to extend the boundaries of any municipality.

Special assessments are levied against property to pay for the construction or improvement of particular public works, including water, sewer, and stormwater systems. There are two different statutory methods in Chapter 160A for imposing special assessments:

- Article 10 governs the "traditional" special assessment method, which allows municipalities to impose special assessments to finance (1) constructing, reconstructing, paving, widening, or otherwise building or improving streets and sidewalks; and (2) constructing, reconstructing, extending, or otherwise building or improving water systems, sewage collection and disposal systems including septic tank systems, storm sewer and drainage systems, and beach erosion control or hurricane protection works. The governing board of the municipality must adopt a preliminary resolution containing a statement of intent, description of the nature and local of the project, the proposed basis for making assessments, the percentage of the cost of the work that is to be assessed, and a statement as the proposed terms of payment of the assessment. Notice to the public and a public hearing are required. To levy special assessments for street or sidewalk improvements, the municipality must receive a petition for the improvements signed by at least a majority in number of the owners of property to be assessed, who must represent at least a majority of all the lineal feet of frontage of the lands abutting on the street or portion of the street to be improved.
- Article 10A allows municipalities to fund all or a portion of the capital costs for which project development financing debt instruments may be used under G.S. 159-103 or for financing the installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently affixed to residential, commercial, industrial, or other real property. These assessments for "critical infrastructure needs" require that municipalities receive a petition for any of the authorized projects to be financed by assessments signed by at least a majority of the owners of real property to be assessed and who represent at least 66 percent of the assessed value of all real property to be assessed. Article 10A allows municipalities to impose the special assessments before the projects are completed. **The provisions of Article 10A expire on July 1, 2015.**

BILL ANALYSIS: House Bill 1155 would extend the corporate limits of the Village of Pinehurst to include the Cotswold Subdivision in the Mineral Springs Township in Moore County. The bill also authorizes the Village to levy a special assessment to meet the cost of construction of a stormwater management system to serve the annexed property. The assessment roll (the list of properties responsible for paying the special assessment) becomes effective on a date set by the Village Council, at least 30 days following the formal advertising for bids for the proposed work. The amount levied by the special assessment cannot exceed 66 percent of the full cost of constructing the stormwater management system.

EFFECTIVE DATE: This act becomes effective June 30, 2014.

Kelly Quick with the Research Division substantially contributed to this summary.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1155

AMENDMENT NO. 1
(to be filled in by
Principal Clerk)

H1155-ATM-55 [v.1]

Comm. Sub. [NO]
Amends Title [NO]
First Edition

Date July 15 ,2014

Senator Tillman

moves to amend the bill on page 2, line 26, by rewriting the line to read:
"**SECTION 3.** This act becomes effective July 31, 2014.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

HOUSE BILL 1212
Committee Substitute Favorable 6/9/14
Committee Substitute #2 Favorable 6/19/14

Short Title: Burlington Charter/Revision and Consolidation. (Local)

Sponsors:

Referred to:

May 28, 2014

A BILL TO BE ENTITLED

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE CITY OF BURLINGTON.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the City of Burlington is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE CITY OF BURLINGTON.

"CHAPTER I. ORGANIZATION AND POWERS.

"SUBCHAPTER A. INCORPORATION, CORPORATE POWERS AND THEIR EXERCISE.

"Section 1.01. Incorporation and Corporate Powers. The City of Burlington shall continue to be a body politic and corporate by the name of "City of Burlington." Under that name, the City shall continue to be vested with all property and rights of property that now belong to the municipal corporation; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure; may sue and be sued; may contract and be contracted with; may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold, or in any manner conveyed or dedicated to or otherwise acquired by it and, from time to time, may hold or invest, sell, or dispose of the same; and shall have and may exercise in conformity with this Charter all municipal powers, functions, rights, privileges, and immunities of every name and nature whatsoever.

"Section 1.02. Exercise of Power. All powers, functions, rights, privileges, and immunities of the City, its officers, agencies, or employees shall be carried into execution as provided by this Charter. If this Charter makes no provision, such powers, functions, rights, privileges, and immunities shall be carried into execution as provided by ordinance or resolution of the City Council and as provided by the pertinent general laws of North Carolina.

"SUBCHAPTER B. CITY BOUNDARIES.

"Section 1.21. Corporate Limits. The corporate limits of the City shall be those existing at the time of ratification of this Charter, as set forth on the official map of the City and as they may be altered from time to time in accordance with law. An official map of the City, showing the current boundaries, shall be maintained permanently in the Office of the City Clerk and shall be available for public inspection. Immediately upon alteration of the corporate limits made pursuant to law, the appropriate changes to the official map shall be made, and copies shall be filed in the Office of the Secretary of State, the Alamance County Register of Deeds, the Guilford County Register of Deeds, and the appropriate boards of elections.

"SUBCHAPTER C. CHAPTER AMENDMENTS.

"Section 1.41. Incorporation of Amendments.

(a) As soon as possible after the adjournment of each General Assembly, the City Attorney shall present to the City Council copies of all local laws relating to the property, affairs, and government of the City of Burlington that were enacted by the General Assembly, whether or not in terms amending this Charter, which the City Attorney recommends be incorporated into this Charter. Such recommendations may include suggestions for renumbering or rearranging the provisions of the laws, for providing titles and catch lines, and for such other changes in arrangement and form that do not change the law as may be thought necessary to implement the purposes of this section.

(b) After considering the recommendations of the City Attorney, the City Council may provide for the incorporation of such laws into this Charter.

(c) The purpose of this section is to enable the City to maintain at all times a current and accurate City Charter, organized in clear and orderly fashion and embracing all local laws relating to the property, affairs, and government of the City.

"CHAPTER II. COMPOSITION OF CITY COUNCIL; ELECTIONS.

"SUBCHAPTER A. COMPOSITION AND METHOD OF ELECTION OF CITY COUNCIL.

"Section 2.01. Composition, Election, and Terms of City Council.

(a) The City Council shall consist of four members and a Mayor who shall be elected at large by and from the qualified voters of the City. The Mayor shall be elected for a term of two years and the members of City Council for a term of four years.

(b) The terms of all members shall begin at the date and hour prescribed by Section 3.03 of this Charter for the taking of the oath of office, but members shall serve until their successors are elected and qualified. In the event that it is not possible otherwise to determine which of two or more persons should be considered a holdover Council member or holdover Council members, a decision shall be made by lot between the outgoing Council members who are willing to serve, the lots to be cast under the supervision of the remaining qualified Council members.

"SUBCHAPTER B. CONDUCT OF CITY ELECTIONS.

"Section 2.21. Regular City Elections. Regular City elections shall be held in each odd-numbered year in accordance with the uniform election laws of North Carolina.

"Section 2.22. Method and Determination of Results. The election shall be by the nonpartisan primary method as provided by G.S. 163-294.

"Section 2.23. Special Elections. The procedure for calling and conducting special elections shall be as provided by G.S. 163-287.

"CHAPTER III. ORGANIZATION AND POWERS OF CITY COUNCIL.

"SUBCHAPTER A. CITY COUNCIL: QUALIFICATIONS; VACANCIES; COMPENSATION; OATHS OF OFFICE.

"Section 3.01. Qualifications of Council Members and Mayor; Vacancies; Removal.

(a) No person shall be eligible to be nominated or elected to the City Council, nor to serve thereon, unless the person is a qualified voter and a resident of the City. No person shall be eligible to be nominated or elected to the office of Mayor or to serve as such unless he or she is a qualified voter and resident of the City.

(b) In the case of a vacancy in the office of Mayor, the remaining members of the City Council shall select from their own number the Mayor's successor for the unexpired term.

(c) If there is a vacancy in the office of Council member after election or qualification, or if any Council member is unable to discharge the duties of office, the City Council shall choose some person for the unexpired term, or during the member's disability, as the case may be, to act as Council member. Council members so selected shall have all the powers and duties of regularly elected Council members.

"Section 3.02. Compensation of Mayor, Mayor Pro Tem, and Council Members.

(a) The Mayor, Mayor Pro Tem, and each Council member shall receive as compensation for service to the City an amount fixed by the City Council in the annual budget.

(b) In addition to the compensation provided for by subsection (a) of this section, the Mayor, Mayor Pro Tem, and Council members may be reimbursed for actual and necessary travel expenses or other expenses incurred by them in the performance of their official duties.

"Section 3.03. Oaths of Office. All newly elected or appointed Council members and the Mayor, before entering upon their duties, shall take and subscribe before the City Clerk an oath to perform faithfully the duties of their offices and the oaths of office required by general law. Elected Council members and the Mayor shall meet at the City Hall for the purpose of taking such oaths at the organizational meeting following the date of their election. A member appointed to fill a vacancy shall take the oath at the next City Council meeting following his or her appointment. The Mayor appointed to fill a vacancy shall take the oath at the next City Council meeting following his or her appointment. Any member who is not present at the time and place provided for by this section may take the oaths at any time thereafter. In the absence of the City Clerk, the oaths may be administered by any other person authorized by law to administer oaths of office.

"SUBCHAPTER B. CITY COUNCIL: ORGANIZATION AND PROCEDURE.

"Section 3.21. Organizational Meeting; Mayor Pro Tem. The organizational meeting of each City Council shall be held in accordance with G.S. 160A-68. The City Council shall elect, by the choice of its members, a Mayor Pro Tem who shall hold office as such for a term of two years and until a successor is selected and qualified. The organization of the City Council shall take place notwithstanding the absence, death, refusal to serve, or nonelection of one or more members, provided that at least three of the persons entitled to be members are present and, if necessary, take oath.

"Section 3.22. Regular and Special Meetings; Emergency Meetings. Except where otherwise specifically provided by this Charter, the City Council shall have authority to determine the time and place of City Council meetings within or outside Alamance County, to make such provisions as it may deem wise relative to regular, special, emergency, adjourned, and continued meetings, to adopt rules of procedure, and generally to regulate the time, place, manner, and method of the exercise of its powers.

"Section 3.23. Quorum; Votes.

(a) A majority of the members of the City Council shall constitute a quorum to do business, but a lesser number may adjourn from time to time and compel the attendance of absent members by ordering them taken into custody.

(b) No member shall be excused from voting except upon matters involving the consideration of the member's own official conduct or involving his or her financial interest. In all other cases, a failure to vote by a member who is present or who, having been present, has withdrawn from the meeting without being excused, shall be deemed an affirmative vote and shall be so recorded. A member who has withdrawn from a meeting without being excused shall be counted as present for purposes of determining whether or not a quorum is present.

"SUBCHAPTER C. CITY COUNCIL: POWERS AND DUTIES.

"Section 3.41. General powers of City Council.

(a) The government of the City and the general management of the City shall be vested in the City Council, except that the City Manager shall have the powers hereinafter specified and provided by general law.

(b) In addition to other powers conferred upon it by law, the City Council may adopt and provide for the execution of such ordinances, rules, and regulations, not inconsistent with this Charter, as may be necessary or appropriate to protect health, life, or property, or to preserve or promote the comfort, convenience, security, good order, better government, or general welfare of the City or its inhabitants; may enforce the same by imposing penalties on such as violate them; and may compel the performance of the duties imposed upon others by suitable penalties.

"Section 3.42. Residential Development Projects in Municipal Service Districts. The City Council may, in accordance with G.S. 158-7.1, et seq., make appropriations and authorize economic incentives for the purposes of aiding and encouraging residential development projects within the city in a municipal service district established pursuant to Article 23 of Chapter 160A of the General Statutes that, in the discretion of the City Council, are likely to have a significant effect on the economic revitalization of that district. In connection with the foregoing, the City Council may make loans and grants from public funds for revitalization projects that will have a significant revitalization effect on the city.

"SUBCHAPTER D. CITY COUNCIL: ORDINANCE PROCEDURE.

"Section 3.61. Applicable General Laws. Except as otherwise herein provided, the adoption, amendment, repeal, pleading, and proving of ordinances shall be governed by provisions of general law applying to cities.

"Section 3.62. Adoption of Ordinances and Resolutions. The affirmative vote of a majority of the members of the City Council shall be necessary to adopt any ordinance or resolution. Notwithstanding the provisions of G.S. 160A-75, an ordinance may be finally passed on the date on which it was introduced by vote of a majority of the members of the Council.

"SUBCHAPTER E. MAYOR.

"Section 3.81. Powers and Duties of Mayor.

(a) The powers and duties of the Mayor shall be as conferred upon him or her by this Charter or general law, together with any other powers and duties conferred by the City Council pursuant to law.

(b) The Mayor shall preside at all meetings of the City Council and shall have the right to vote upon all questions but shall have no additional vote in case of a tie and no veto. The Mayor shall be considered a member of the City Council for all purposes. The Mayor shall be recognized as the official head of the City by the courts for the purpose of serving civil process and by the public for all ceremonial purposes. The Mayor shall have the power to administer oaths.

"Section 3.82. Mayor Pro Tem. During the disability of the Mayor or the Mayor's absence from the City, the functions of the office of Mayor shall devolve upon the Mayor Pro Tem. The Mayor Pro Tem shall preside at all City Council meetings in the absence of the Mayor.

"CHAPTER IV. ADMINISTRATIVE OFFICES; POWERS AND PROCEDURE.

"SUBCHAPTER A. CREATION AND FUNCTIONS OF DEPARTMENTS, OFFICES, AND OTHER AGENCIES IN GENERAL.

"Section 4.01. Offices, Positions, Departments, and Other Agencies Continued by Charter or Created by Council.

(a) The following administrative offices and positions, are hereby provided for by this Charter: City Manager, City Clerk, Finance Director, City Attorney, Chief of Police, and Fire Chief.

(b) The City Council may create, change, abolish, and consolidate boards and commissions whose members it appoints.

(c) The City Manager may create new positions or departments or assign additional functions to offices, positions, or departments as provided by general law.

"SUBCHAPTER B. CITY MANAGER.

"Section 4.21. City Manager: Appointment, Qualifications, Term, Compensation, and Oath.

(a) The City Council shall appoint a City Manager who shall be the administrative head of the City government and shall be responsible for the administration of all City departments. The Manager shall be appointed with regard to merit only and need not be a resident of the City.

(b) The City Manager shall hold office at the pleasure of the City Council and shall receive such compensation as the City Council may fix by ordinance.

"Section 4.22. City Manager: Powers and Duties. The City Manager shall (i) be the administrative head of the City government and, as such, shall be responsible for the administration of all City offices, positions, and departments created by or under this Charter and general law; (ii) ensure that within the jurisdiction of the City, the laws of the State and the ordinances, resolutions, and regulations of the City Council are faithfully executed; (iii) attend all meetings of the Council and recommend for adoption such measures as he or she shall deem expedient; and (iv) make reports to the Council from time to time upon the affairs of the City and keep the City Council fully advised of the City's financial condition and its future financial needs.

"SUBCHAPTER C. PERSONNEL.

"ARTICLE 1. APPOINTMENTS AND REMOVALS.

"Section 4.61. Appointment, Removal, and Supervision of Department Heads and Employees by City Manager.

(a) The City Manager, except as otherwise provided in this Charter, shall be responsible for the appointment, suspension, and removal of heads of City departments and City employees.

(b) Except where expressly authorized by this Charter, neither the City Council nor any of its members shall take any part in the appointment or removal of department heads, officers, or employees who are subject to appointment by the City Manager. Except for the purpose of inquiry or investigation, the City Council and its members shall deal with the department heads, officers, and employees through the City Manager, and neither the City Council nor any of its members shall give orders to any subordinate of the City Manager, either publicly or privately.

(c) Subject to the provisions of this Charter, the department heads, officers, and employees subject to appointment by the City Manager shall perform such duties as may be required of them by the Manager under general regulations of the City Council.

"Section 4.62. Appointment and removal of members of boards and commissions. Except as otherwise provided by this Charter, and notwithstanding any other provision of law, the City Council shall appoint and may suspend and remove all members of boards and commissions subject to appointment by the Council.

"ARTICLE 2. COMPENSATION; PERSONNEL POLICIES.

"Section 4.71. Classification and Compensation of Employees and Officers. The City Manager shall be responsible for the preparation of position classifications and pay plans that shall be submitted to the City Council for approval. The plans may apply to any or all employees of the City and any of its agencies and offices. Salaries of employees shall be fixed by the City Manager within salary ranges approved by the City Council.

"Section 4.72. Personnel Policies. The City Council may adopt ordinances and policies consistent with applicable laws (i) concerning annual leave, sick leave, hours of employment, and holidays and (ii) concerning other personnel policies, including policies relating to working conditions. The ordinances may apply to any or all employees of the City and any of its agencies and offices.

"SUBCHAPTER D. FINANCES AND FISCAL MATTERS.

"ARTICLE 1. TAXATION.

"Section 4.111. Levy, Collection, and Payment of Property Taxes.

(a) Except as otherwise herein provided, property taxes shall be imposed and collected in the manner provided by general law.

(b) Property taxes shall become due and payable on the date provided by general law. Interest shall be charged for late payment, and discounts may be allowed for prepayment of taxes in the amounts and during the periods covered by general law.

"ARTICLE 2. BORROWING.

"Section 4.121. Borrowing Authority and Procedures. The City shall be governed by applicable general laws concerning borrowing authority and procedures.

"ARTICLE 3. BUDGETING, ACCOUNTING, FISCAL AFFAIRS.

"Section 4.131. Application of Local Government Budget and Fiscal Control Act. Subject to the provisions of this Charter, all of the provisions of the Local Government Budget and Fiscal Control Act, Article 3 of Chapter 159 of the General Statutes, apply to the City.

"Section 4.132. Reserve Funds. The City may establish reserve funds as provided by general law.

"Section 4.133. Investment of Surplus Funds. The City may invest surplus funds as provided by general law.

"SUBCHAPTER E. PROCUREMENT AND PROPERTY MANAGEMENT.

"ARTICLE 1. CONTRACTING PROCEDURES.

"Section 4.151. Contracting Procedures; Authentication of Documents.

(a) In all respects not provided for by this Charter, formal requirements concerning the making and execution of contracts by the City shall be governed by general law.

"ARTICLE 2. LEASING, DISPOSITION, AND SALE OF PROPERTY PROVISIONS.

"Section 4.161. Lease of Real Property in Municipal Service Districts.

(a) Notwithstanding the provisions of G.S. 160A-272, the City Council may, in its discretion, lease city-owned property in its municipal service districts established pursuant to Article 23 of Chapter 160A of the General Statutes for such consideration and upon such terms and conditions as the City Council may determine, including terms of more than 10 years in accordance with the procedures of this subsection. Before leasing its interest in property owned in its municipal service districts, the city shall hold a public hearing. The city shall publish notice of the public hearing at least 10 days before the hearing is held; the notice shall describe the property being leased, the terms and conditions of the lease, the proposed consideration, and the City Council's intention to approve the lease.

(b) The provisions of this section shall be construed in addition to all other provisions of law authorizing or prescribing the method of leasing property owned by the city.

"Section 4.162. Conveyances with Covenants of Warranty.

(a) The City Council is hereby authorized to execute and deliver conveyances to any property, whether acquired by tax or assessment foreclosure or otherwise, with full covenants of warranty whenever in its discretion it is to the best interest of the City to convey by warranty deed.

(b) Members of the City Council are hereby relieved of any personal or individual liability by reason of the execution of any such conveyances with covenants of warranty.

"Section 4.163. Quitclaims of City Property. The City may quitclaim any rights it may have in property not needed for public purposes upon report by the City Manager and adoption of a resolution by the City Council, both finding that the property is not needed for public purposes and that the interest of the City has no readily ascertainable monetary value.

"Section 4.164. Sale of Personal Property of Less Than Two Thousand Five Hundred Dollars ($2,500) Value. Notwithstanding any other provision of law, the City Council may sell or exchange without advertisement and at either public or private sale any personal property not exceeding two thousand five hundred dollars ($2,500) in value at the time of sale.

"SUBCHAPTER F. OTHER DEPARTMENTS, OFFICES, AND AGENCIES.

"ARTICLE 1. CITY ATTORNEY.

"Section 4.171. City Attorney. As provided by general law, the City Council shall appoint a City Attorney to serve at its pleasure and to be its legal advisor.

"ARTICLE 2. CITY CLERK AND FINANCE DIRECTOR.

"Section 4.181. City Clerk and Finance Director.

(a) The City Manager shall appoint a City Clerk and Finance Director.

(b) The City Clerk shall do all of the following:

(1) Keep a journal of City Council proceedings.

(2) Record in a book kept for the purpose all ordinances and resolutions.

(3) Be the custodian of all City records.
(4) Perform such other duties as prescribed by law or this Charter or required by the City Council that are not inconsistent with general law.

(c) The Finance Director shall perform the duties of finance officer as set forth in the Local Government Budget and Fiscal Control Act, Article 3 of Chapter 159 of the General Statutes, or as may be set forth elsewhere in general law, and as required by the City Manager or City Council that are not inconsistent with general law.

"ARTICLE 3. POLICE.

"Section 4.191. Powers and Duties of Chief of Police and Members of Police Force. The Chief of Police, each member of the police force, and any other designated officers shall have the powers and duties as provided in Article 13 of Chapter 160A of the General Statutes and otherwise provided for by general law.

"CHAPTER V. REGULATORY AND PLANNING FUNCTIONS.

"SUBCHAPTER A. MOTOR VEHICLES AND TRAFFIC.

"Section 5.01. Location of Traffic Control Devices.

(a) The Traffic Commission shall recommend to the City Council the location or removal of any and all official traffic control devices in the City.
(1) If the recommendation is for installation of such a device at a particular location, the recommendation shall state why its installation is necessary in order to control traffic congestion in the interest of public safety.
(2) If the device is to be moved or removed from a particular location, the recommendation shall state why the device is no longer required at such location for the control of traffic congestion in the interest of public safety.

An "official traffic control device," as used in this section, is a sign, signal, marking, or device, including a parking meter, that is intended to regulate vehicular or pedestrian traffic.

(b) Upon adoption by the City Council of any recommendation from the Traffic Commission pursuant to subsection (a) of this section, the action shall be recorded in the minutes of the Council. The installation, moving, or removal of the official traffic control device shall then be carried out by City staff.

(c) For purposes of enforcement, the installation, moving, or removing of a traffic control device pursuant to subsection (a) of this section shall take effect immediately when the device is installed, moved, or removed. The location of a traffic control device may be proved by the testimony of the official who installed or moved it.

(d) The installation, moving, or removing of a traffic control device pursuant to the provisions of this section shall have the force and effect of an ordinance, and the failure to obey any such device shall be punishable as a violation of an ordinance.

(e) Nothing in G.S. 20-175 shall prohibit the City Council from adopting ordinances placing additional restrictions or prohibitions on persons standing on any street, highway, or right-of-way, excluding sidewalks, while soliciting or attempting to solicit any employment, business, or contributions from the driver or occupants of any motor vehicle. The City may not adopt ordinances placing restrictions or prohibitions on the activities of licensees, employees, or contractors of the North Carolina Department of Transportation.

"Section 5.02. Obstruction of Alleys. If, in the opinion of the City Council, a fire hazard is created by the obstruction of private alleys, the City Council may adopt regulations governing the obstruction of private alleys, either by reason of the parking of motor vehicles or otherwise.

"Section 5.03. Regulation of Ambulances and Wreckers. The City Council may establish regulations governing the operation of ambulances, wreckers, and other motor vehicles used in connection with emergencies, disasters, or accidents.

"SUBCHAPTER B. OCCUPATIONAL AND BUSINESS LICENSING AND REGULATION.

"Section 5.21. Liability Insurance or Surety Bond to be Furnished by Demolition Contractors.

(a) The City Council may require every demolition contractor to furnish and keep in effect for each building demolition project in the City he or she may undertake, or as a condition of engaging in the business of building demolition in the City, a policy of insurance or surety bond with sureties, licensed to do business in North Carolina, whose solvency shall at all times be subject to the approval of the Council. The policy or bond shall be in such amount or amounts as may be fixed by the Council and shall be conditioned upon the contractor responding in damages for any liability incurred on account of any injury to persons or damages to property resulting from the prosecution of the demolition project. The policy or bond, if required, shall be filed with the City Council as a condition precedent to conducting any building demolition project in the City.

(b) As used in this section, the term "demolition contractor" means a person, firm, or corporation who undertakes on his or her account or for another, whether for an agreed price or for cost plus a fixed fee or otherwise, to raze, dismantle, or demolish a building.

"SUBCHAPTER C. PLANNING ZONING; BUILDING REGULATIONS AND RELATED MEASURES.

"ARTICLE 1. SUBDIVISION CONTROLS.

"Section 5.41. Authority To Require Installation of Certain Improvements Prior to Approval of Plats.

(a) In connection with subdivision or platting controls, the City Council may require the improvement and grading of streets and the construction and installation of street pavements, curbs, gutters, sidewalks, and water, sewer, surface water drainage, and other utility mains as a condition precedent to the approval of a plat. The requirements may provide for tentative approval of the plat previous to the improvement and installation, but any tentative approval shall not be entered on the plat. The requirements may provide that, in lieu of completion of the work and installations prior to final approval of the plat, the City Council may accept a bond from a company licensed to do business in North Carolina, in an amount and with surety and condition satisfactory to it, providing for and securing to the City the actual construction and installation of the improvements and utilities within a period specified by the City Council and expressed in the bond. The City is empowered to enforce the bond by all appropriate legal and equitable remedies. Requirements adopted under this subsection may be adopted throughout the area over which the City is authorized by law to exercise platting or subdivision controls.

(b) The requirements may provide, in lieu of the completion prior to the final approval of the plat of the work and installation on land within the corporate limits of the City, for an assessment under this Charter, Article 10 of Chapter 160A of the General Statutes, or other general or local law whereby the City may do the work and make the installations at the cost to the owners of the property within the subdivision using any of the bases and methods prescribed by law.

"Section 5.42. Authority to Require Reservation of Recreation Areas and School Sites. In connection with subdivision or platting controls, the City Council may, as provided by G.S. 160A-372, require the reservation of recreation areas and school sites as a condition precedent to the approval of a plat. The reservation shall be for a period of no longer than two years, subject to future acquisition by purchase or condemnation by a governmental unit or agency.

"Section 5.43. Territorial Extent of Powers. The authority conferred by Section 5.41 and Section 5.42 of this Charter may be exercised throughout the area within which the City Council is now or hereafter empowered to regulate the platting and recording of any subdivision of land.

"ARTICLE 2. BUILDING REGULATIONS.

"Section 5.51. Power to Destroy Property to Stop Fires. The Chief of the Fire Department may order the blowing up, tearing down, or other destruction of any building when it is deemed necessary to stop the progress of a fire. No person shall be held liable, civilly or criminally, for

acting in obedience to orders thus given, nor shall the Fire Chief be held liable, civilly or criminally, for the giving of such orders or for damages to property ordered destroyed.

"ARTICLE 2A. HOUSING COMMISSION.

"Section 5.52. Housing Commission. The City Council may provide for the creation and organization of a housing commission to which appeals may be taken from the decision of the building inspector upon any provision of the Housing Code of the City.

"ARTICLE 3. STREET IMPROVEMENTS.

"Section 5.61. Comprehensive Transportation Plan. Transportation planning, including street improvements for the City, shall be carried out by and through the Burlington-Graham Metropolitan Planning Organization (MPO) established pursuant to 23 U.S.C. § 23. The City Council shall adopt the portion of the comprehensive transportation plan pertaining to the City and its planning jurisdiction and may from time to time propose revisions for consideration by the MPO.

"Section 5.62. Subdivision Streets. Dedication, extension, and construction of new streets in subdivisions shall be carried out as provided in the City's subdivision ordinance.

"Section 5.63. Transportation Corridor Plan. In the event of a particular roadway improvement project, the City Council shall adopt a transportation corridor official map pursuant to Article 2E of Chapter 136 of the General Statutes. A certified copy of the map shall be filed with the Alamance County Register of Deeds. Advance acquisition of property, issuance of building permits, and approval of subdivisions within the officially designated corridor shall be as provided for in Article 2E of Chapter 136 of the General Statutes.

"SUBCHAPTER D. MAINTENANCE OF RAILROAD CROSSINGS.

"Section 5.81. Railroad Crossings. As authorized by general law, the City shall have the power to require any railroad or railway company to keep in good repair any grade crossings over its tracks and to construct and keep in repair from curb to curb railroad bridges and crossings over all ditches running under any grade crossings so that the tracks, turnouts, and switches shall interfere, as little as may be reasonable, with travel over the streets at the grade crossing, and to regulate the grade of all of the streets of the City as they may hereafter be or are now established, except as herein otherwise provided.

"CHAPTER VI. CITY SERVICES AND FACILITIES.

"SUBCHAPTER A. ESTABLISHMENT AND MAINTENANCE OF SERVICES AND FACILITIES.

"ARTICLE 1. LOCAL DEVELOPMENT.

"Section 6.01. Authority to Levy Tax for Local Development. Nothing in this Charter shall affect the power of the City to levy taxes for local development purposes under Article 1 of Chapter 158 of the General Statutes.

"SUBCHAPTER B. EMINENT DOMAIN.

"Section 6.41. Authority to Acquire Needed Property. The City shall have authority to purchase or acquire by condemnation a property right for any lawful public use or purpose. The procedure in all such condemnation proceedings shall conform to the procedure provided in Article 3 of Chapter 40A of the General Statutes.

"SUBCHAPTER C. ASSESSMENTS FOR LOCAL IMPROVEMENTS.

"Section 6.61. Authority to Make Local Improvements. The City Council shall have authority to make the local improvements as described in this Charter in and to assess the cost against benefited property. The procedure set forth in this subchapter shall not be exclusive, but shall be in addition to any other procedure provided by law.

"Section 6.62. Separate Proceedings not Required. One or more local improvements may be made in a single proceeding, and assessments for one or more local improvements may be combined.

"Section 6.63. Definitions. Certain words and phrases will be used with the following meanings with reference to local improvements, unless some other meaning is plainly intended.

(a) A "street" is the entire width between property lines of every way or place, of whatever nature, when any part thereof is dedicated or open to the use of the public as a matter of right for the purpose of vehicular or pedestrian traffic.

(b) A "sidewalk" is the part of a street that is used, or to be used, for pedestrian traffic.

(c) A "storm sewer" is a conduit above or below ground for the passage of storm water, and may include a pumping station and outlet where deemed necessary, and may also include the building of culverts over or the enclosing of streams where needed to carry off storm water.

(d) A "sanitary sewer" is an underground conduit for the passage of sewage and may include a pumping station and outlet.

(e) A "water main" is a pipe for the passage of city water for public hydrants and private and public use and consumption.

(f) A "lateral" is a pipe connecting a storm or sanitary sewer or water main with the line of adjacent property or the curbline, being either a sewer lateral or water lateral, but does not include a building connection that is a pipe extending from a lateral at the property line or curbline to the house or plumbing fixture to be served.

(g) A "roadway" is the part of a street that is used, or to be used, for vehicular traffic.

(h) The word "sewer" includes both sanitary and storm sewers unless a contrary intention is shown.

"Section 6.64. Improvements Described. The Council shall have authority to make the following local improvements:

(a) Roadway paving improvements that include the grading, regrading, paving, repaving, and widening of roadways, or the improvement thereof with any treatment designed to provide an improved wearing surface, with necessary drainage, sewer inlets, manholes, and catch basins and the construction or reconstruction of retaining walls made necessary by any change of grade incident to such improvement, and in any case where the improvement is made upon petition if the petition so requests, or in any case, where the improvement is made without petition if the Council so directs, it may include the construction or reconstruction of curbs, gutters, drains, and sidewalks.

(b) Water main improvements that include the laying or construction of water mains, the relaying where necessary of parts of paved roadways and sidewalks torn up or damaged by the laying or construction of such mains, and, in any case where the improvement is made upon petition and the petition so requests, or in any case where the improvement is made without petition and the Council so directs, the laying of water laterals.

(c) Sanitary sewer improvements that include the laying or construction of sanitary sewers, the relaying, where necessary, of parts of roadways and sidewalks torn up or damaged by the laying or construction of such sewers, and in any case where the improvement is made upon petition and the petition so requests, or in any case where the improvement is made without petition and the City Council so directs, the laying of sanitary sewer laterals.

(d) Storm sewer improvements that include the laying or construction of storm sewers, the relaying, where necessary, of parts of paved roadways and sidewalks torn up or damaged by the laying or construction of such sewers, and in any case where the improvement is made upon petition and the petition so requests, or in any case where the improvement is made without petition and the Council so directs, the laying of storm sewer laterals.

(e) Sidewalk improvements that include the grading, regrading, construction, reconstruction, and repair of paved or other improved sidewalks, the construction or reconstruction of retaining walls made necessary by and incident to such improvements, and, in any case where the improvement is made upon petition, if the petition so requests, or in any case where the improvement is made without petition if the Council so directs, it may include the construction or reconstruction of curbs, gutters and drains, and the construction or reconstruction of all such portions of driveways as in the judgment of the Council ought to be laid in the street area.

(f) Grassplot improvements that include the grading and planting of grassplots in a street.

"Section 6.65. Bases for Making Assessments. Assessments may be made on any of the bases authorized in G.S. 160A-218 or any statute amending or replacing it.

"Section 6.66. Optional Cost Sharing. Without regard to the limitations stated in Article 10 of Chapter 160A of the General Statutes or in any other provision of law, the Council acting for the City may assume such proportion of the total cost of local improvements (including street improvements, sidewalk improvements, curb and gutter, and water and sewer improvements, or any one or more of them) as the Council may from time to time deem appropriate.

"Section 6.67. Water and Sewer Mains Between Streets. Whenever the Council finds it in the public interest, and it will be more economical and the interest of the property owners will best be served by constructing either water or sanitary sewer mains, or both, between streets rather than in a street, the petition may provide therefor, or in the event the water and sanitary sewer mains may be constructed in a street without petition, they may be constructed between streets without petition. The cost of the construction of such water or sewer mains and laterals shall be assessed according to the street frontage in the same manner and to the same extent that it would be assessed if the improvements were constructed in a street, provided that the City shall provide the rights-of-way for construction and maintenance of such mains at its own expense without assessing the cost thereof.

"Section 6.68. Inclusion of More Than One Improvement in Single Proceeding.

(a) Any proceeding may include one or more local improvements on one or more streets, but all improvements included in one procedure shall be practically uniform in cost and kind. A petition may include improvements on only one side of a street.

(b) The petition may provide for making any one or more local improvements in or on a street or streets and for the assessment of the cost thereof, except the City's portion, wholly against the property abutting one side of such street or streets or otherwise against such abutting property as may be designated in the petition in any of the following cases:

(1) In any case where there is park land or unimproved land abutting one side, or a part of one side, of a street.

(2) Where the land abutting one side, or a part of one side of a street, is of such a nature or is devoted to such a purpose that a special assessment against it cannot be made, or, if made would probably exceed the value of the land assessed.

(3) Where the owners of all the property to be assessed agree thereto.

"Section 6.69. The Petition; Certificate of Sufficiency.

(a) Except as otherwise provided in subsection (b) of this section, the petition for any local improvements shall designate by a general description the improvements proposed and shall request that such proportion of the cost of each of such improvements as may be specified in the petition be specially assessed against the property abutting on the street or streets or part thereof in which or on which such improvements are proposed to be made. The petition shall be filed with the City Clerk.

(b) (1) In any case where the improvement is to be made on one side of a street only, the petition shall request that the assessment be made only against the property abutting that side of the street whereon the improvement is to be made.

(2) In any case where it is proposed to assess the cost of any local improvement covering the entire width of a street against the land abutting one side of the street only or against any lands less than all of those abutting the improved portion of the street, such petition shall designate the lands to be assessed.

(c) Except as otherwise provided in subsection (d) of this section, the petition shall be signed by at least a majority in number of the owners, which majority must own at least a

majority of all the lineal feet of frontage of the lands abutting the street or streets or part of a street or streets proposed to be improved, excluding street intersections.

(d) (1) A petition for the making of local improvements on one side of a street only need be signed only by a majority in number of the owners of land abutting the side of the street whereon such improvement is to be made, which majority must own at least a majority of all the lineal feet of frontage of the lands abutting such side of the street, excluding street intersections.

(2) Any petition for the making of any improvements covering the entire width of a street and the assessment of the cost thereof against the land abutting one side of the street only or against any lands less than all of those abutting the improved portion of the street, shall be signed by all of the owners of the lands thus proposed to be assessed.

(e) (1) For the purpose of the petition, all the owners of undivided interests in any land shall be deemed and treated as one person and such land shall be sufficiently signed for when the petition is signed by the owner or owners of a majority in amount of such undivided interest.

(2) For the purpose of this section, the word "owner" shall be considered to include the owners of any life estate, of an estate by entirety, or of the estate of inheritance, and shall not include mortgages, trustees of a naked trust, trustees under deeds of trust to secure the payment of money, lienholders, or persons having inchoate rights of courtesy or dower.

(f) Upon the filing of such petition, the City Clerk shall investigate the sufficiency of the petition, and if it is found to be sufficient, the City Clerk shall certify the same to the Council.

"Section 6.70. When Petition Unnecessary.

(a) No petition shall be necessary for the making of any local improvements for which the City bears the entire cost without assessment.

(b) If, in the judgment of the City Council, the abutting property to be assessed will be benefited in an amount at least equal to the assessment, no petition for local improvement shall be necessary in the cases set forth in subsection (c) through subsection (g) of this section.

(c) Street Paving Improvements. — When, in the judgment of the Council:

(1) Any street or part of a street is unsafe; or

(2) The improvement of a street or part of a street not more than three blocks in length is necessary to connect streets already paved; or

(3) The improvement of a street or part of a street is necessary to connect a paved street, or portion thereof, within the city with a paved highway beyond the city limits; or

(4) The improvement of a street or part of a street is necessary to provide a paved approach to a railroad or street grade separation or any bridge; or

(5) Any street or part of a street should be widened.

(d) Water Main Improvements. — When, in the judgment of the Council, any street or part of a street, or any property within the City, is without a public water supply and can be served, and water service should be provided in the public interest.

(e) Sanitary Sewer Improvements. — When, in the judgment of the Council, any street or part of a street, or any property within the City, is without a public sanitary sewer system and can be served, and sanitary sewer service should be provided in the public interest.

(f) Storm Sewer Improvements. — When, in the judgment of the Council, any street or part of a street, or any property within the City, is without storm sewer facilities, and can be served, and storm sewers should be provided in the public interest.

(g) Sidewalk Improvements. — When, in the judgment of the Council, any street or part of a street is without sidewalks and sidewalks should be provided in the public interest, or that any existing sidewalk is unsafe and should be repaired.

"Section 6.71. Notice of Hearing.

(a) Upon the presentation of a sufficient petition for local improvements, or when it is proposed to make without petition any improvements authorized to be made without petition, a notice shall be prepared by the City Attorney that shall contain substantially the following:

(1) That a sufficient petition has been filed for the making of the improvements, or, if it is proposed to make the improvements without petition, a statement of the reasons proposed for the making thereof;

(2) A brief description of the proposed improvements;

(3) The proportion of the cost of the improvements to be assessed and the terms of payment;

(4) A statement of the time and place of a public hearing on the proposed improvements;

(5) A statement that all objections to the legality of the making of the proposed improvements shall be made in writing, signed in person or by attorney, and filed with the City Clerk at or before the time of the hearing, and that any objections not so made will be waived.

(b) The notice shall be published one time in a newspaper published in the City that is qualified to carry legal notices, or, if there be no such newspaper, the City Clerk shall cause it to be posted in three public places in the City, the date of publication or posting to be not less than five days prior to the date fixed for the hearing. A copy of the notice shall be served upon the owners of the lands subject to assessment for such improvements by certified or registered mail. The certificate of the person designated to mail the notices that such notices were mailed shall be conclusive in the absence of fraud. The mailing of notices shall be completed not less than five days prior to the date fixed for the hearing. The word "owners," as used herein, has the same meaning as in Section 6.69.

"Section 6.72. Public Hearing. At the time for the public hearing, or at some subsequent time to which such hearing shall be adjourned, the Council shall consider objections to the legality of the improvements made in compliance with subdivision (5) of subsection (a) of the preceding section, together with objections to the policy or expediency of the making of the improvements, and the Council shall thereafter determine whether it will order the making of the improvements. Any objections to the legality of the making of the improvements not made in writing, signed in person or by attorney, and filed with the City Clerk at or before the time or adjourned time of the hearing shall be considered as waived; and if any such objection shall be made and shall not be sustained by the Council, the adoption of the resolution ordering the making of the improvements shall be the final adjudication of the issues presented, unless within 10 days after the adoption of the resolution proper steps shall be taken in a court of competent jurisdiction to secure relief.

"Section 6.73. Resolution Ordering Improvements; Publication. After the public hearing, if the Council determines to make the improvements proposed, it shall adopt a resolution that shall contain the following:

(1) If the improvements are to be made by petition, a finding by the Council as to the sufficiency of the petition, which finding shall be final and conclusive.

(2) If the improvements are to be made without petition, a finding by the Council of such facts as are required in order to authorize improvements without petition.

(3) A general description of the improvements to be made and the designation of the street or streets or parts thereof where the work is to be done.

(4) If the improvement directed to be made is the paving of a roadway or part thereof wherein a railroad company has tracks, a direction that said company pave that part of the street occupied by its tracks, the rails of the tracks, and 18 inches in width outside such tracks, with such material and in such manner as the governing body may prescribe, and that unless such paving be completed on or before a day specified in the resolution, the governing body will cause the same to be done. Where such railroad company shall occupy such street or streets under a franchise or contract that otherwise provides, such franchise or contract shall not be affected by this section, except insofar as may be consistent with the provisions of such franchise or contract.

(5) If the improvement directed to be made includes the construction of water mains or sewers, and in order to provide the mains or sewers in the street or streets to be improved it is necessary to extend them beyond the limits of the street or streets, the resolution shall contain a provision for the necessary extension of such mains or sewers and a further provision that the cost of such extension shall eventually be assessed against the lots or parcels of land abutting the street or streets in which such extensions are made but that assessments shall not be made until such time as the Council shall thereafter determine by appropriate resolution.

(6) If the improvement directed to be made is the paving of a roadway or part thereof, or the construction of sidewalks, the resolution may, but need not, contain a direction that the owner of each lot abutting the part of the street to be improved, connect his lot by means of laterals with water mains, gas or sewer pipes, or any one or more thereof, located in the street adjacent to his premises in accordance with the requirements governing the laying of laterals, and that unless the owners cause laterals to be laid on or before a date specified in the resolution, the date to be not less than 30 days after the date of the resolution, the Council will cause the same to be laid.

(7) A designation of the proportion of the cost of the improvements to be assessed against abutting property, and of the number of equal annual installments in which assessments may be paid.

"Section 6.74. Details of Construction; Contracts for Construction. The Council shall have power to determine the character and type of construction and of material to be used and to determine any other details of plan or construction necessary to be determined in making any local improvements and to determine whether any work to be done by the City shall be done by contract or by the City. The Council shall have power also, unless otherwise limited, to determine the number of water, sewer, and gas laterals that shall be laid to any lot on any street to be improved. If the work or any part thereof is to be done by contract, the Council may let all of the work in one contract, or it may divide it into several contracts, and may let contracts separately.

"Section 6.75. Determination as to Cost of Improvements. Upon completion of the improvements, the Council shall ascertain the total cost. In addition to other items of cost, there may be included therein the cost of all necessary legal services, the amount of interest paid during construction, the amount of damages paid or to be paid for injury to property by reason of any change of grade or drainage, including court costs and other expenses incidental to the determination of damages, and the cost of retaining walls, sidewalks, or fences built or altered in lieu of cash payment for property damage, including the cost of moving or altering any building. The determination of the Council as to the total cost of any improvement shall be conclusive.

"Section 6.76. Preliminary Assessment.

(a) Having determined the total cost, the Council shall make a preliminary assessment. The preliminary assessment shall be advisory only and shall be subject to modification. Except as otherwise provided in subsection (b) of this section, the preliminary assessment shall be as follows:

(1) Roadway paving. The total cost of any roadway paving improvement, excluding the cost incurred at street intersections, shall be specially assessed against the lots and parcels of land abutting the street containing the roadway paved, according to the frontages thereon, by an equal rate per foot of frontage, except that, where the petition so requested, the cost shall be assessed against the lands on one side of the street only or against such lands as were designated in the petition.

(2) Water mains and sewers. The cost of not exceeding an eight-inch water or sanitary sewer main and of not exceeding a 30-inch storm sewer main shall be assessed against the abutting property. Such cost shall be assessed against the lots and parcels of land according to their respective frontages thereon by an equal rate per foot of such frontage or upon such other basis as the Council may determine. If a water or sanitary sewer main in excess of eight inches in size or a storm sewer in excess of 30 inches in size is laid, the excess cost shall be borne by the city. If the resolution ordered the construction of any pumping station, outfall, septic tank, or disposal plant, no part of the cost of the same shall be specially assessed. Nothing contained herein shall be construed to limit the power of the Council to contract with any property owner or owners for the construction of any pumping station, outfall, septic tank, or disposal plant or for the construction of water mains or storm or sanitary sewers and for the assessment of the cost thereof according to the terms of such contract. The entire cost of each water and sewer lateral shall be specially charged against the particular lot or parcel of land for or in connection with which it was constructed, except that the assessments shall be calculated as if the lateral were laid from the center of the street. The cost of installing storm sewers may, however, be assessed as part of the cost of roadway paving.

(3) Sidewalks. The total cost of constructing or reconstructing sidewalks shall be assessed against the lots and parcels of land abutting that side of the street upon which the improvement is made according to their respective frontages thereon by an equal rate per foot of such frontage, the lots within a block being deemed to abut upon a sidewalk although the latter extends beyond the lot to the curbline of an intersecting street. The total cost of constructing portions of driveways within the street area shall be assessed against the lots for which they are constructed.

(4) Grassplots. The entire cost of grading or otherwise improving or of planting the grassplots in any street or part thereof shall be assessed against the lots and parcels of land abutting the street or part thereof where or whereon the improvements are made by an equal rate per foot front of such frontage, provided that this subsection shall be construed to mean that when a grassplot in any street is graded or planted or otherwise improved, the cost thereof shall be assessed against all of the property abutting the street within the block where such grassplot is located.

(b) If the petition (or the resolution in those cases where the improvement was ordered made without petition) specified that there should be specially assessed against the abutting property a smaller proportion of the cost of any improvement other than that set forth in subdivision (2) of subsection (a) of this section, there shall be assessed against abutting

property only the proportion of the cost as was specified in the petition or in said resolution. No restriction or denial of access to an abutting street shall affect the levy or collection of any assessment for local improvements.

(c) The cost of paving, water, sewer, and sidewalk improvements upon, in, or to any portion of a right-of-way or any property owned by the State of North Carolina, any agency or subdivision thereof, shall be assessed against the right-of-way or property and shall be paid by the State, its agency, or subdivision.

"Section 6.77. Corner Lot Exemptions. The Council shall have authority to determine the amount and applicability of assessment exemptions for corner lots and to distinguish between different classifications of property uses. The exemptions for water mains and sanitary sewers shall not exceed 150 feet for residential uses and 100 feet for business uses. If the corner formed by two intersecting streets is rounded into a curve or is foreshortened for the purpose of providing sight distance or for any other purpose of construction, the frontage for assessment purposes shall be calculated to the midpoint of the curve or foreshortened corner.

"Section 6.78. Preliminary Assessment Roll. The Council shall cause to be prepared a preliminary assessment roll, on which shall be entered a brief description of each lot or parcel of land assessed, the amount assessed against each lot, the name or names of the owner or owners of each lot, as far as the same can be ascertained, provided that a map of the improvements on which is shown the frontage and location of each affected lot, together with the amount assessed against each lot and the name or names of the owner or owners thereof, as far as the same can be ascertained, shall be a sufficient assessment roll. If the resolution directed the making of more than one improvement, a single preliminary assessment roll for all the improvements authorized by such resolution shall be sufficient, but the cost of each improvement to each lot affected shall be shown separately. After the preliminary assessment roll has been completed, it shall be filed in the office of the City Clerk, and there shall be published in some newspaper published in the City that is qualified to carry legal notices, or if there be no such newspaper, the City Clerk shall cause to be posted in three public places in the City, a notice of the completion of the assessment roll, setting forth a description in general terms of the improvements, the amount of each assessment, and stating the time fixed for the meeting of the Council for the hearing of objections to the special assessments, such meeting to be not earlier than five days after the publication or from the date of posting of said notice. Any number of assessment rolls may be included in one notice.

"Section 6.79. Hearing; Revision; Confirmation; Lien. At the time appointed for that purpose or at some other time to which it may adjourn, the Council shall hear objections to the preliminary assessment roll of all persons interested who may appear and offer proof in relation thereto. Then or thereafter, the Council shall either annul or sustain or modify in whole or in part the assessment, either by confirming the preliminary assessment against any or all lots or parcels described thereon, or by cancelling, increasing, or reducing the same, according to the special benefits that the Council decides each of the lots or parcels has received or will receive on account of the improvements, except that assessments against railroads because of contract or franchise obligations shall be in accordance with such obligations. If any property is omitted from the preliminary roll, the Council may place it on the roll and levy the proper assessment. The Council may thereupon confirm the assessment roll, and the assessments so confirmed shall be in proportion to the special benefits, except in the case of franchise obligations of railroads. Whenever the governing body shall confirm assessments for local improvements, the City Clerk shall enter on the Council minutes and on the assessment roll the date, hour, and minute of confirmation, and from the time of confirmation, the assessments shall be a lien on the property assessed of the same nature and to the same extent as county and City taxes and shall be superior to all other liens and encumbrances. After the assessment roll is confirmed, a copy of the same shall be delivered to the City Tax Collector.

"Section 6.80. Appeal to Superior Court. If the owner of, or any person interested in, any lot or parcel of land against which an assessment is made is dissatisfied with the amount of the assessment, the owner or person interested may, within 10 days after the confirmation of the assessment roll, give written notice to the Council that the owner or person interested takes an appeal to the Superior Court of Alamance County, in which case the owner or person interested shall, within 20 days after the confirmation of the assessment roll, serve on the Mayor or City Clerk a statement of facts upon which the owner or person interested bases the appeal. The appeal shall be tried as other actions at law. The remedy herein provided for any person dissatisfied with the amount of the assessment against any property of which that person is the owner or in which that person is interested shall be exclusive.

"Section 6.81. Power to Correct Error in Assessment. If it shall appear after confirmation of any assessment roll that an error has been made, the City Clerk shall cause to be published one time in some newspaper published in the City, or if there be no such newspaper, the City Clerk shall cause to be posted at three public places in the City a notice referring to the assessment roll in which the error was made, naming the owner or owners of the lot or parcel of land affected by the error, if the same can be ascertained, and naming the time and place fixed for a hearing by the Council for the correction of the error, such meeting not to be earlier than 10 days from the publication or from the date of the posting of the notice. At the time fixed in the notice or at some subsequent time to which the Council may adjourn, the Council, after giving the owner or owners of the property affected and other persons interested therein an opportunity to be heard, may proceed to correct the error, and the assessment then made shall have the same force and effect as if it had originally been properly made. No notice and hearing shall be necessary if the correction does not increase an assessment against any property not owned by the City or if all of the property owners affected by the correction waive notice in writing.

"Section 6.82. Reassessment. The Council shall have the power, when in its judgment there is any irregularity, omission, error, or lack of jurisdiction in any of the proceedings relating thereto, to set aside the whole of the local assessment made by it, and thereupon to make a reassessment. In such case there shall be included, as a part of the cost of the improvements involved, all interest paid or accrued on notes or certificates of indebtedness, or bonds issued by the City to pay the expenses of such improvement. The proceeding shall, as far as practicable, be in all respects as in the case of original assessments, and the reassessment shall have the same force as if it had originally been properly made.

"Section 6.83. Publication of Notice of Confirmation of Assessment Roll. Within 10 days from the confirmation of the assessment roll, the City Clerk shall give notice to all owners of lands to be assessed that the assessment roll has been confirmed, and that assessments may be paid at any time before the expiration of 30 days from the date of such notice, without interest from the date of the confirmation of the assessment roll, but that if such assessment is not paid in full within said time, all installments thereof shall bear interest at the rate of eight percent (8%) per annum from the date of confirmation of the assessment roll. Such notice by the City Clerk shall be given by regular mail. The certificate of the Clerk that such notices have been mailed shall be conclusive in the absence of fraud. (Ord. No. 80-22(a), § 1, 5-6-80)

"Section 6.84. Payment of Assessments in Cash or by Installments. The property owner hereinbefore mentioned in this act shall have the option and privilege of paying for the improvements hereinbefore provided for in cash as provided in the preceding section or in not less than five or more than 10 equal annual installments as may have been determined in the original resolution ordering the improvement or improvements. If paid in installments, such installments shall bear interest at the rate of eight percent (8%) per annum from the date of confirmation of the assessment roll. If any assessment is not paid in cash, the first installment thereof with interest thereon shall become due and payable 30 days after the notice required by the preceding section and one subsequent installment and interest thereon shall be due and

payable on the same day of the same month in each successive year until said assessment is paid in full, provided, however, that if the governing body shall so direct such installments shall become due and payable on the same date when property taxes of the City are due and payable. If any installment with interest thereon is not paid when due, it shall be subject to the same penalties as are now prescribed by law for unpaid taxes, in addition to the interest herein provided for. The whole assessment may be paid at any time by the payment of the full amount due with accrued interest. (Ord. No. 80-22(a), § 1, 5-6-80)

"Section 6.85. Enforcement of Payment of Assessments. Upon the failure of any property owner to pay any installment when due and payable, all of the installments remaining unpaid shall immediately become due and payable, and property and rights-of-way may be sold by the City under the same rules, regulations, rights of redemption, and savings as are now prescribed by law for the sale of land for unpaid taxes. Unpaid assessments, interest, and penalties owed by railroad companies and the State of North Carolina, its agencies or subdivisions, may be collected by writs of mandamus issued by the Superior Court of Alamance County. Collection of assessments with interest and penalties may also be made by the City by proceedings to foreclose the lien of assessments as a lien for mortgages is or may be foreclosed under the laws of the State, and it shall be lawful to join in any bill for foreclosure any one or more lots or parcels of land, by whomsoever owned, if assessed for an improvement ordered by the same resolution, after default in the payment of any installment. The payment of all installments due, together with interest and penalties due thereon and costs, before the lot or parcel of land, against which the same is a lien, is sold or said lien is foreclosed shall bar the right of the City to sell land or to foreclose the lien by reason of default.

"Section 6.86. Assessment of Cost of Water Main and Sewer Extensions. If the resolution ordering the making of any improvement or improvements included a provision for any necessary extension of a water main or sewer or sewers beyond the limit of a street or streets, at such time after the completion of said extension or extensions as, in the judgment of the Council, circumstances justify the assessment of the cost thereof, the Council shall cause a preliminary assessment to be made and the procedure thereafter to be followed with respect to such assessment and the force and effect thereof shall be as already prescribed for other assessments.

"Section 6.87. Apportionment of Assessments. In any case where one or more special assessments have been made, and property has been, or is about to be, subdivided, and it is desirable that the assessments be apportioned among the subdivisions of such property, the Council may, upon application by the owner or owners, apportion the assessments among the subdivisions. Thereafter, each subdivision shall be relieved of any part of the original assessment except the part apportioned to the subdivision, and the part of the original assessment apportioned to any subdivision shall be of the same force and effect as the original assessment.

"Section 6.88. Change of Ownership. No change of ownership of any property or interest therein after the passage of a resolution ordering the making of a local improvement shall affect subsequent proceedings, and the improvement may be completed and assessment made therefor as if there had been no change in ownership.

"Section 6.89. Lands Subject to Assessment. No lands in the City, including railroad company lands and rights-of-way and property of the State of North Carolina, its agencies, or subdivisions shall be exempt from special assessments except lands belonging to the United States that are exempt under the provisions of Federal Statutes, and the Council and the officers, trustees, or boards of all incorporated or unincorporated bodies in whom is vested the right to hold and dispose of real property shall have the right by authority duly given to sign the petition for any local improvements.

"Section 6.90. Proceedings In Rem. All proceedings for special assessments shall be proceedings in rem, and no mistake or omission as to the name of any owner or person

interested in any lot or parcel of land affected thereby shall be regarded as a substantial mistake or omission.

"Section 6.91. Grassplot, Sidewalk, and Driveway Maintenance. It shall be the responsibility of the abutting property owner to maintain any grassplot or driveway between the property line and the curb of a paved street and to maintain in good, passable condition any sidewalk immediately fronting his lot.

"Section 6.92. Council may Hold in Abeyance Certain Water and Sewer Assessments.

(a) The City Council may provide by resolution that assessments levied against abutting lots or parcels of land for water main improvements or sanitary sewer improvements, when in its opinion such improvements may not presently be used by the owner or owners of the abutting lots or parcels of land, may be held in abeyance without the payment of any interest thereon until such time as the Council shall determine that any such assessments shall be paid in accordance with the terms set out in the confirming resolution. A part of the assessments levied for the improvements herein set out on a street or streets, or portion thereof, may be held in abeyance as herein provided without holding all of said assessments in abeyance.

(b) All statutes of limitations are hereby suspended during the time that any assessment is held in abeyance without the payment of interest, as provided in subsection (a) of this section. Such time shall not be a part of the time limited for the commencement of action for the enforcement of the payment of any such assessment, and such action may be brought at any time within 10 years from the date of the adoption of a resolution by the Council, determining that such assessment shall be paid in accordance with the original resolution confirming it.

(c) Nothing herein shall be construed to revive any right of action that has heretofore been barred by the statute of limitations.

"Section 6.93. Abutting Property Outside City Limits. If any lots or parcels of land abutting any local improvements are located outside the city limits, the Council may continue and delay the levy of assessments against such property until the city limits are extended to include such property, or the Council may provide that no water or sewer service connections shall be made to such property, pending the annexation thereof, until all assessments thereon are paid. Upon annexation, if not paid prior thereto, the Council may levy assessments for such local improvements against such property, and the procedure therefor shall be the same as provided in this Charter. Nothing contained in this section shall be construed to prohibit or restrict the City Council and a property owner from entering into an agreement for payment in lieu of assessment.

"CHAPTER VII. MISCELLANEOUS.

"Section 7.01. Settlement of Claims by City Manager. The City Manager shall have authority to settle claims against the City as provided by ordinance."

SECTION 2. The purpose of this act is to revise the Charter of the City of Burlington and to consolidate certain acts concerning the property, affairs, and government of the City. It is intended to continue without interruption those provisions of prior acts that are expressly consolidated into this act so that all rights and liabilities that have accrued are preserved and may be enforced.

SECTION 3. This act does not repeal or affect any acts concerning the property, affairs, or government of public schools or any acts validating official actions, proceedings, contracts, or obligations of any kind.

SECTION 4. The following acts, having served the purposes for which they were enacted or having been consolidated into this act, are expressly repealed:

(1) Chapter 119 of the 1961 Session Laws, Section 1 only.
(2) Chapter 765 of the 1961 Session Laws.
(3) Chapter 828 of the 1963 Session Laws.
(4) Chapter 400 of the 1967 Session Laws.
(5) Chapter 362 of the 1967 Session Laws.

(6) Chapter 479 of the 1967 Session Laws.
(7) Chapter 642 of the 1969 Session Laws.
(8) Chapter 679 of the 1979 Session Laws.
(9) S.L. 2005-30.
(10) S.L. 2010-25.
(11) S.L. 2010-53.

SECTION 5. This act does not repeal by implication any local acts otherwise applicable to the City of Burlington.

SECTION 6. The Mayor and City Council members serving on the date of ratification of this act shall serve until the expiration of their terms or until their successors are elected and qualified.

SECTION 7. This act does not affect any rights or interests that arose under any provisions repealed by this act.

SECTION 8. All existing ordinances, resolutions, and other provisions of the City of Burlington not inconsistent with the provisions of this act shall continue in effect until repealed or amended.

SECTION 9. No action or proceeding pending on the effective date of this act by or against the City of Burlington or any of its departments or agencies shall be abated or otherwise affected by this act.

SECTION 10. Whenever a reference is made in this act to a particular provision of the General Statutes and such provision is later amended, superseded, or recodified, the reference shall be deemed amended to refer to the amended General Statute or to the General Statute that most clearly corresponds to the statutory provision that is superseded or recodified.

SECTION 11. This act is effective when it becomes law.

HOUSE BILL 1212:
Burlington Charter/Revision and Consolidation

2013-2014 General Assembly

Committee:	Senate Ref to State and Local Government. If fav, re-ref to Finance	**Date:**	July 14, 2014
Introduced by:	Reps. S. Ross, Riddell	**Prepared by:**	Cindy Avrette Committee Counsel
Analysis of:	Third Edition		

SUMMARY: ***House Bill 1212[1] revises and consolidates the Charter of the City of Burlington.***

CURRENT LAW: The Charter of the City of Burlington is contained in the provisions of 11 local acts of the General Assembly, enacted from 1961-2010.

BILL ANALYSIS: House Bill 1212 contains standard Charter provisions:

- Establishing the City.
- Restating its existing corporate limits.
- Providing for a four-member city council elected at-large in odd-numbered years with staggered four-year terms.
- Providing for two-year terms for the Mayor.

Notable additional provisions of the Charter, that have been included in the City's Charter since it was last revised in 1961, include:

- Sec. 5.03 authority to regulate ambulances and wreckers.
- Sec. 5.51 concerning powers of the Fire Department to destroy property to stop fires.
- Sec. 6.67 procedure for special assessments for water and sewer mains between streets. (formerly Sec. 6.65 of old Charter)

EFFECTIVE DATE: This act is effective when it becomes law.

Giles Perry, counsel to House Government, substantially contributed to this summary.

[1] Sen. Gunn introduced a companion bill, Senate Bill 861. Senate Bill 861 is in Senate State and Local Government Committee.

O. Walker Reagan
Director

Research Division
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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 788*

Short Title:	Town of Duck/Eminent Domain.	(Local)
Sponsors:	Senator Cook (Primary Sponsor).	
Referred to:	State and Local Government.	

May 19, 2014

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE TOWN OF DUCK TO EXERCISE THE POWER OF EMINENT DOMAIN FOR PURPOSES OF ENGAGING IN BEACH EROSION CONTROL AND FLOOD AND HURRICANE PROTECTION WORKS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 40A-3(b1) reads as rewritten:

"(b1) Local Public Condemnors – Modified Provision for Certain Localities. – For the public use or benefit, the governing body of each municipality or county shall possess the power of eminent domain and may acquire by purchase, gift or condemnation any property or interest therein, either inside or outside its boundaries, for the following purposes.

(1) Opening, widening, extending, or improving roads, streets, alleys, and sidewalks. The authority contained in this subsection is in addition to the authority to acquire rights-of-way for streets, sidewalks and highways under Article 9 of Chapter 136. The provisions of this subdivision (1) shall not apply to counties.

(2) Establishing, extending, enlarging, or improving any of the public enterprises listed in G.S. 160A-311 for cities, or G.S. 153A-274 for counties.

(3) Establishing, enlarging, or improving parks, playgrounds, and other recreational facilities.

(4) Establishing, extending, enlarging, or improving storm sewer and drainage systems and works, or sewer and septic tank lines and systems.

(5) Establishing, enlarging, or improving hospital facilities, cemeteries, or library facilities.

(6) Constructing, enlarging, or improving city halls, fire stations, office buildings, courthouse jails and other buildings for use by any department, board, commission or agency.

(7) Establishing drainage programs and programs to prevent obstructions to the natural flow of streams, creeks and natural water channels or improving drainage facilities. The authority contained in this subdivision is in addition to any authority contained in Chapter 156.

(8) Acquiring designated historic properties, designated as such before October 1, 1989, or acquiring a designated landmark designated as such on or after October 1, 1989, for which an application has been made for a certificate of appropriateness for demolition, in pursuance of the purposes of G.S. 160A-399.3, Chapter 160A, Article 19, Part 3, effective until October 1, 1989, or G.S. 160A-400.14, whichever is appropriate.

(9) Opening, widening, extending, or improving public wharves.

(10) Engaging in or participating with other governmental entities in acquiring, constructing, reconstructing, extending, or otherwise building or improving beach erosion control or flood and hurricane protection works, including, but not limited to, the acquisition of any property that may be required as a source for beach renourishment.

(11) Establishing access for the public to public trust beaches and appurtenant parking areas.

The board of education of any municipality or county or a combined board may exercise the power of eminent domain under this Chapter for purposes authorized by Chapter 115C of the General Statutes.

The power of eminent domain shall be exercised by local public condemnors under the procedures of Article 3 of this chapter.

This subsection applies only to Carteret and Dare Counties, the Towns of Atlantic Beach, Carolina Beach, Caswell Beach, Emerald Isle, Holden Beach, Indian Beach, Kill Devil Hills, Kitty Hawk, Kure Beach, Nags Head, North Topsail Beach, Oak Island, Ocean Isle Beach, Pine Knoll Shores,Sunset Beach, Surf City, Topsail Beach, and Wrightsville Beach, and the Village of Bald Head Island. This subsection, excluding subdivision (11) of this subsection, applies to the Town of Duck."

SECTION 2. G.S. 40A-42(a)(2) reads as rewritten:

"(a) ...

(2) Modified Provision for Certain Localities. – When a local public condemnor is acquiring property by condemnation for a purpose set out in G.S. 40A-3(b1)(1), (4), (7), (10), or (11), or when a city is acquiring property for a purpose set out in G.S. 160A-311(1), (2), (3), (4), (6), or (7), or when a county is acquiring property for a purpose set out in G.S. 153A-274(1), (2) or (3), or when a local board of education or any combination of local boards of education is acquiring property for any purpose set forth in G.S. 115C-517, or when a condemnor is acquiring property by condemnation as authorized by G.S. 40A-3(c)(8), (9), (10), (12), or (13) title to the property and the right to immediate possession shall vest pursuant to this subsection. Unless an action for injunctive relief has been initiated, title to the property specified in the complaint, together with the right to immediate possession thereof, shall vest in the condemnor upon the filing of the complaint and the making of the deposit in accordance with G.S. 40A-41.

This subdivision applies only to Carteret and Dare Counties, the Towns of Atlantic Beach, Carolina Beach, Caswell Beach, Duck, Emerald Isle, Holden Beach, Indian Beach, Kill Devil Hills, Kitty Hawk, Kure Beach, Nags Head, North Topsail Beach, Oak Island, Ocean Isle Beach, Pine Knoll Shores, Sunset Beach, Surf City, Topsail Beach, and Wrightsville Beach, and the Village of Bald Head Island."

SECTION 3. This act is effective when it becomes law.

SENATE BILL 788:
Town of Duck/Eminent Domain

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	July 14, 2014
Introduced by:	Sen. Cook	**Prepared by:**	Cindy Avrette Committee Counsel
Analysis of:	First Edition		

SUMMARY: Senate Bill 788[1] would permit the Town of Duck to use eminent domain for the purpose of engaging in beach erosion control and flood and hurricane protection works.

CURRENT LAW: Under current law, cities and counties may use the power of eminent domain for the purposes listed in G.S. 40A-3(b), such as constructing city streets, building water and sewer lines, establishing parks, etc.

G.S. 40A-3(b1) provides several coastal counties and towns the following two additional purposes for which they may use the power of eminent domain:

- Beach renourishment.
- Public access to beaches and appurtenant parking areas.

In exercising the power of eminent domain, a city or county may acquire the property by purchase, gift, or condemnation. Article 3 of Chapter 40A provides the procedures by which a county or city may condemn property. Generally, the public condemnor must file a civil action to condemn the property in the superior court in which the land is located and must provide a deposit in the amount estimated by the condemnor to be just compensation for the taking. Compensation is generally the fair market value (FMV) of the property. In the case of a taking of less than an entire tract, compensation is usually the greater of (i) the diminution on value, or (ii) the FMV of the property taken.

In limited circumstances under G.S. 40A-42, the condemnor has the right to immediate possession when the complaint is filed. Beach renourishment and public access to beaches and appurtenant parking areas are included in the limited instances in which the right to immediate possession of the property may occur.

G.S. 40A-3(b1) and G.S. 40A-42(a)(2) currently applies only to Carteret and Dare Counties, the Towns of Atlantic Beach, Carolina Beach, Caswell Beach, Emerald Isle, Holden Beach, Indian Beach, Kill Devil Hills, Kitty Hawk, Kure Beach, Nags Head, North Topsail Beach, Oak Island, Ocean Isle Beach, Pine Knoll Shores, Sunset Beach, Surf City, Topsail Beach, and Wrightsville Beach, and the Village of Bald Head Island.

BILL ANALYSIS: The bill would add the Town of Duck to the list of counties and municipalities that may utilize the power of eminent domain and may acquire property by condemnation for the purpose of engaging in beach erosion control and flood and hurricane protection works.

EFFECTIVE DATE: This act is effective when it becomes law.

Shelly DeAdder with the Research Division substantially contributed to this summary.

[1] The bill is identical to House Bill 1070, which is currently in Senate State and Local Government.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 1145

Committee Substitute Favorable 6/17/14
Committee Substitute #2 Favorable 6/19/14
Fourth Edition Engrossed 6/19/14
Senate Insurance Committee Substitute Adopted 6/25/14
PROPOSED SENATE COMMITTEE SUBSTITUTE H1145-CSTD-51 [v.4]
7/14/2014 8:05:09 PM

Short Title: Insurance & Registration for Mopeds. (Public)

Sponsors:

Referred to:

May 21, 2014

A BILL TO BE ENTITLED

AN ACT TO REQUIRE MOPEDS TO BE REGISTERED WITH THE DIVISION OF MOTOR VEHICLES AND FOR OPERATORS OF MOPEDS TO HAVE IN FULL FORCE AND EFFECT A POLICY OF FINANCIAL RESPONSIBILITY.

The General Assembly of North Carolina enacts:

SECTION 1. Article 3 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"**§ 20-53.4. Registration of Mopeds.**

(a) Registration. – Mopeds shall be registered with the Division. The owner of the moped shall pay the same base fees and be issued the same type of registration card and plate issued for a motorcycle. In order to be registered with the Division and operated upon a highway or public vehicular area, a moped must meet the following requirements:

(1) The moped has a manufacturer's certificate of origin.

(2) The moped was designed and manufactured for use on highways or public vehicular areas.

(b) Financial Responsibility. – It shall be unlawful to operate a moped on a public street, highway, or vehicular area without having in full force and effect financial responsibility as required by the provisions of Article 9A and Article 13 of this Chapter. The Division shall treat a moped the same as any other motor vehicle for the purposes of compliance with Article 9A and Article 13 of this Chapter."

SECTION 2. G.S. 20-51(9) is repealed.

SECTION 3. G.S. 20-76 is amended by adding a new subsection to read:

"(c) Whenever an applicant for the registration of a moped is unable to present a manufacturer's certificate of origin for the moped, the applicant must submit an affidavit stating why the applicant does not have the manufacturer's certificate of origin and attesting that the applicant is entitled to registration. Upon receipt of the application and accompanying affidavit, the Division shall issue the applicant a registration card and plate. The Division may not require the applicant to post a bond as required under subsection (b) of this section. A person damaged by issuance of the registration card does not have a right of action against the Division."

SECTION 4. G.S. 58-36-3 reads as rewritten:

"**§ 58-36-3. Limitation of scope; motorcycle and moped endorsements allowed; Department of Insurance report.**

(a) The Bureau has no jurisdiction over:

...

(7) Personal excess liability or personal "umbrella" insurance.

(8) Liability insurance and theft or physical damage insurance on mopeds, as defined in G.S. 105-164.3.

(b) Member companies writing motorcycle liability insurance under this Article and writing insurance against theft of or physical damage to motorcycles under Article 40 of this Chapter may incorporate motorcycle theft and physical damage coverage as an endorsement to the liability policy issued under this Article. Member companies writing moped liability insurance or theft and physical damage insurance under Article 40 of this Chapter may incorporate either or both types of insurance as an endorsement to liability and physical damage policies issued under this Article.

...."

SECTION 5. G.S. 58-37-1(6) reads as rewritten:

"(6) "Motor vehicle" means every self-propelled vehicle that is designed for use upon a highway, including trailers and semitrailers designed for use with such vehicles (except traction engines, road rollers, farm tractors, tractor cranes, power shovels, and well drillers). "Motor vehicle" also means a motorcycle, as defined in G.S. 20-4.01(27)d. "Motor vehicle" does not mean a moped, as defined in G.S. 105-164.3. Notwithstanding any other provisions of this Article, liability insurance on a moped is not eligible for cession to the Facility."

SECTION 6. G.S. 58-40-10(1) reads as rewritten:

"(1) "Private passenger motor vehicle" means:

a. A motor vehicle of the private passenger or station wagon type that is owned or hired under a long-term contract by the policy named insured and that is neither used as a public or livery conveyance for passengers nor rented to others without a driver; or

b. A motor vehicle that is a pickup truck or van that is owned by an individual or by husband and wife or individuals who are residents of the same household if it:

1. Has a gross vehicle weight as specified by the manufacturer of less than 14,000 pounds; and

2. Is not used for the delivery or transportation of goods or materials unless such use is (i) incidental to the insured's business of installing, maintaining, or repairing furnishings or equipment, or (ii) for farming or ranching. Such vehicles owned by a family farm copartnership or a family farm corporation shall be considered owned by an individual for the purposes of this section; or

c. A motorcycle, motorized scooter or other similar motorized vehicle not used for commercial purposes. A moped, as defined in G.S. 105-164.3, is not considered a motorcycle, motorized scooter, or other similar motorized vehicle."

SECTION 7. G.S. 58-40-15 reads as rewritten:

"**§ 58-40-15. Scope of application.**

The provisions of this Article shall apply to all insurance on risks or on operations in this State, ~~except:~~except for all of the following:

(1) Reinsurance, other than joint reinsurance to the extent stated in ~~G.S. 58-40-60;~~G.S. 58-40-60.

(2) Any policy of insurance against loss or damage to or legal liability in connection with property located outside this State, or any motor vehicle or aircraft principally garaged and used outside of this State, or any activity wholly carried on outside this ~~State;~~State.

(3) Insurance of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance ~~policies;~~policies.

(4) Accident, health, or life ~~insurance;~~insurance.

(5) ~~Annuities;~~Annuities.

(6) Repealed by Session Laws 1985, c. 666, s. 43.

(7) Mortgage guaranty ~~insurance;~~insurance.

(8) Workers' compensation and employers' liability insurance written in connection ~~therewith;~~therewith.

(9) For private passenger (nonfleet) motor vehicle liability insurance, automobile medical payments insurance, uninsured motorists' coverage and other insurance coverages written in connection with the sale of such liability insurance; except this Article applies to motor vehicle liability insurance, automobile medical payments insurance, uninsured motorists' coverage, and theft or physical damage insurance on mopeds, as defined in G.S. 105-164.3.

(10) Theft of or physical damage to nonfleet private passenger motor vehicles; except this Article applies to insurance against theft of or physical damage to motorcycles, as defined in ~~G.S. 20-4.01(27)d.; and~~G.S. 20-4.01(27)d.

(11) Insurance against loss to residential real property with not more than four housing units located in this State or any contents thereof or valuable interest therein and other insurance coverages written in connection with the sale of such property insurance. Provided, however, that this Article shall apply to insurance against loss to farm dwellings, farm buildings and their appurtenant structures, farm personal property and other coverages written in connection with farm real or personal property; travel or camper trailers designed to be pulled by private passenger motor vehicles unless insured under policies covering nonfleet private passenger motor vehicles; residential real and personal property insured in multiple line insurance policies covering business activities as the primary insurable interest; and marine, general liability, burglary and theft, glass, and animal collision insurance except when such coverages are written as an integral part of a multiple line insurance policy for which there is an indivisible premium.

The provisions of this Article shall not apply to hospital service or medical service corporations, investment companies, mutual benefit associations, or fraternal beneficiary associations."

SECTION 8. The Joint Legislative Transportation Oversight Committee shall study whether additional statutory changes are needed to ensure the safe operation of mopeds. The report shall include data on (i) the number of mopeds involved in traffic accidents, (ii) the number and types of injuries resulting from traffic accidents involving mopeds, and (iii) the causes for the traffic accidents involving mopeds. The Committee shall report its findings, together with any recommended legislation, to the 2015 Regular Session of the General Assembly upon its convening.

SECTION 9. Section 8 is effective when it becomes law. The remainder of this act becomes effective December 1, 2014, and applies to offenses committed on or after that date.

HOUSE BILL 1145:
Insurance & Registration Required for Mopeds

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	July 15, 2014
Introduced by:	Reps. Shepard, R. Brown, Millis	**Prepared by:**	Heather Fennell Committee Counsel
Analysis of:	PCS to Fifth Edition H1145-CSTD-51		

SUMMARY: ***House Bill 1145 would require that mopeds be registered with the Division of Motor Vehicles and that operators of mopeds have liability insurance. The PCS makes a technical change to this provision and clarifies that the registration fee for mopeds does not include the $3 fee paid by motorcycle registrants for the Motorcycle Safety Instruction Program.***

The PCS also removes the provisions that add Elizabethtown and Matthews to the State Health Plan.

CURRENT LAW: A moped is defined as a vehicle that has two or three wheels, no external shifting device, and a motor that does not exceed 50 cubic centimeters piston displacement and cannot propel the vehicle at a speed greater than 30 miles per hour on a level surface (G.S. 105-164.3). Mopeds are not generally treated as motor vehicles under State laws (G.S. 20-4.01(23)). Mopeds are not required to be registered (G.S. 20-51(9)), inspected (G.S. 20-183.2), or insured (G.S. 20-309), and are not subject to property tax (G.S. 105-330.1) or highway use tax (G.S. 105-187.3). Mopeds are subject to sales tax.

Operators must be at least 16 years old to operate a moped on a highway or public vehicular area (G.S. 20-10.1) but are not required to be licensed (G.S. 20-8). Operators are subject to the same requirements as operators of motorcycles with regard to carrying passengers and wearing a helmet – the number of passengers may not exceed the number the vehicle was designed to carry, and the operator and passengers must wear helmets that comply with federal standards (G.S. 20-140.4).

BILL ANALYSIS: House Bill 1145 would require that mopeds be registered with the Division of Motor Vehicles and that operators of mopeds have liability insurance.

Registration: House Bill 1145 would repeal the current registration exemption that applies to mopeds and require that mopeds be registered with the Division of Motor Vehicles (DMV). The registration fee would be the same as the base fee for motorcycles, which is currently $15. The bill would require that a moped have a manufacturer's certificate of origin, and only mopeds designed and manufactured for highway use could be registered with DMV and operated on a highway or public vehicular area. An applicant who is unable to provide a manufacturer's certificate of origin would be required to provide an affidavit stating why a certificate is not available and attesting that the applicant is entitled to register the vehicle. By virtue of current law, failure to register a moped would be a Class 2 misdemeanor (G.S. 20-176).

Insurance: House Bill 1145 would make it unlawful to operate a moped on a street or highway without having liability insurance coverage. Companies writing moped liability insurance or theft and physical damage insurance would be authorized to incorporate both types of insurance as an endorsement to liability and physical damage policies. Liability insurance on a moped would not be eligible for transfer to the North Carolina Motor Vehicle Reinsurance Facility, and a moped would not be considered a private passenger motor vehicle for purposes of the regulation of insurance rates.

Study: Section 8 of the bill would direct the Joint Legislative Transportation Oversight Committee to study further statutory changes related to mopeds. As part of the study, the Committee is directed to

examine the number of mopeds in accidents, the injuries resulting from moped accidents, and the causes for accidents involving mopeds.

EFFECTIVE DATE: The provisions of the bill related to the State Health Plan are effective when the bill becomes law. The provisions of the bill related to mopeds would become effective December 1, 2014, and apply to offenses committed on or after that date.

Brenda Carter, counsel to House Transportation, and Trina Griffin, counsel to House Finance, substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: 07/14/2014

TO: Senate Finance Committee

FROM: Bryce Ball
Fiscal Research Division

RE: House Bill 1145 (Fifth Edition)

FISCAL IMPACT
($ in millions)

☑ Yes ☐ No ☐ No Estimate Available

State Impact	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
Special Fund Revenues:	**1.45**	**0.91**	**1.06**	**1.20**	**1.35**
Highway Fund (Registrations/Titles)	*0.40*	*0.50*	*0.62*	*0.74*	*0.86*
Highway Trust Fund (Titles)	*0.96*	*0.31*	*0.31*	*0.31*	*0.31*
Motorcycle Safety Improvement Fund	*0.08*	*0.10*	*0.12*	*0.15*	*0.17*
DENR - Mercury Pollution Prevention Account	*0.01*	*0.00*	*0.00*	*0.00*	*0.00*
Special Fund Expenditures:	**0.99**	**0.87**	**0.89**	**0.90**	**0.91**
Division of Motor Vehicles	*0.89*	*0.87*	*0.89*	*0.90*	*0.91*
DOT - Information Technology	*0.11*	*0.00*	*0.00*	*0.00*	*0.00*
State Positions:	10.0	10.0	10.0	10.0	10.0
NET STATE IMPACT	**$0.5**	**$0.0**	**$0.2**	**$0.3**	**$0.4**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:
Division of Motor Vehicles; DOT – Information Technology

EFFECTIVE DATE: December 1, 2014

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY: HB 1145 modifies the titling, registration, and financial responsibility requirements for mopeds.

Sections 1 and 2 repeal the current exemptions for mopeds, subjecting them to similar titling and registration requirements as motorcycles under Chapter 20 of the North Carolina General Statutes, and further requiring financial responsibility for the lawful operation of a moped.

Section 3 requires submission of an affidavit concerning registration eligibility in lieu of demonstration of the manufacturer's certificate of origin for a moped, when the certificate is unavailable.

Sections 4 through 7 modify Chapter 58 of the North Carolina General Statutes to authorize liability insurance and theft and physical damage insurance for mopeds.

Section 8 requires the Joint Legislative Oversight Committee to examine additional policy changes for the safe operation of mopeds and to report its findings to the 2015 Regular Session of the General Assembly.

Section 9 authorizes Elizabethtown and Matthews to enroll employees in the teachers' and state employees' comprehensive major medical plan.

Section 10 makes the titling, registration, and financial responsibility requirements effective December 1, 2014, and the remainder of the act upon enactment.

ASSUMPTIONS AND METHODOLOGY: HB 1145 subjects mopeds, defined by G.S. 105-164.3(22) as two or three-wheeled motorized vehicles with piston displacement of less than 50 cubic centimeters and maximum speed of 30 miles per hour, to similar registration and titling requirements as motorcycles. Only mopeds which are designed and manufactured for use on highways or public vehicular areas may be registered and operated. This requirement is assumed to exclude other low speed vehicles such as "pocket bikes" or "motor scooters" which are not recognized by the National Highway Traffic Safety Administration and do not meet federal safety standards for use on public roads.

There is presently no reliable data to indicate the number of vehicles in operation within the state which meet both criteria of 1) manufacture for use on highways and 2) piston displacement of less than 50 cubic centimeters. However, based on a survey of retailers, the Division of Motor Vehicles estimates that approximately 8,000 mopeds are sold annually with a potential population of 17,000 vehicles currently in operation. Therefore, this analysis assumes that 25,000 mopeds could be registered and titled during FY 2014-15, with 8,000 mopeds registered and titled annually thereafter. These estimates also assume stable growth, as there is no estimate for the number of vehicles that may be removed from operation.

Highway Fund, Highway Trust Fund, and Other Revenues:

Registration Fee: Per G.S. 20-87(6), base motorcycle registration fees are either $15.00 or $22.00, depending upon the attached equipment (e.g. sidecar). Assuming the base fee of $15.00 and an initial registration of 25,000 mopeds, registration revenues could approach $375,000 during the

first year of implementation. Revenues could increase by $120,000 thereafter based on registration renewals and continued sales growth. Registration fees are credited to the Highway Fund.[1]

An additional $3.00 fee is remitted to the North Carolina Community College System to fund the Motorcycle Safety Instruction Program (G.S. 115D-72). Based on estimated registrations, $75,000 could be credited to the Community College System in the first year, potentially increasing by $24,000 annually thereafter.

Certificate of Title: Per G.S. 20-85(a)(1), the fee for a certificate of title is $40.00. Collections are distributed as follows: $1.00 is credited to the Highway Fund; $0.50 is credited to the Mercury Pollution Prevention Account in the Department of Environment and Natural Resources; and the remaining $38.50 is credited to the Highway Trust Fund. Potential certificate of title collections and remittances based on the assumed titling of 25,000 mopeds in the first year and 8,000 annually thereafter are shown in Table 1.

Table 1. Certificate of Title Fees (G.S. 20-85)[2]

	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
Highway Trust Fund	$ 962,500	$ 308,000	$ 308,000	$ 308,000	$ 308,000
Highway Fund	$ 25,000	$ 8,000	$ 8,000	$ 8,000	$ 8,000
DENR – Mercury Pollution Prevention Account	$ 12,500	$ 4,000	$ 4,000	$ 4,000	$ 4,000

No estimates are available for potential revenues from the assessment of late penalties, requests for duplicate registrations, duplicate titles, replacement plates, registration transfers, etc. as authorized by Chapter 20 of the General Statutes.

Division of Motor Vehicles (DMV)

DMV projects that ten additional law enforcement personnel will be required to perform physical examinations of vehicles to validate authenticity and compliance with federal safety standards, as well as other processing requirements resulting from HB 1145. Estimated recurring personnel ($642,883) and operating ($173,760) costs for the License & Theft Bureau total $816,643.

Costs would also be incurred for materials (i.e. plates, registration stickers, etc.), postage, and payments to license plate agents. DMV estimates that roughly 60% of transactions will be performed by license plate agents, 20% will be processed through mail or internet channels, and 20% will be performed by the State-operated registration offices. License plate agents will be compensated for each combined title and registration transaction at $2.43 and at $1.43 for each registration renewal pursuant to G.S. 20-63. Estimated materials, postage, and agent compensation costs total $68,725.

Department of Transportation - Information Technology

[1] This analysis does not address applicable Regional Transit Authority and Piedmont Authority Regional Transportation taxes for moped registrations.

[2] This analysis assumes that all title and registration transactions for existing mopeds will be completed within the remaining seven months of FY 2014-15.

According to the Department of Transportation - Information Technology section (DOT-IT), modifications to the State Titling and Registration System (STARS), Crash Reporting System (CRS) in-house data entry application, North Carolina Traffic and Criminal Software (NC TraCS) System road-side/field data entry application, and Electronic Crash Reporting System (ECRS) third-party data entry application are necessary to implement the proposed requirements. Principal modifications to STARS include:

- Modification of titling functions, including lien recording and printing;
- Coding to generate the affidavit required during titling;
- Modification of registration functions relating to the issuance, renewal, exchange, and transfer of plates;
- Revision of appropriate tables to add new body style, vehicle use, and plate categories for mopeds;
- Modifications to mail-in and internet renewal processes;
- Modifications for on-line dealer (TRIVIN and CVR) systems to support STARS changes.

DOT-IT estimates implementation costs of $108,000 for these modifications, representing 1,200 projected hours of contractual labor at a rate of $90.00 per hour. Existing resources will be used to support any additional implementation and recurring application maintenance/support requirements.

SOURCES OF DATA: Department of Transportation

TECHNICAL CONSIDERATIONS: N/A

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Actuarial Note

BILL NUMBER: House Bill 1145 (Fifth Edition)

SHORT TITLE: Insurance & Registration Required for Mopeds.

SPONSOR(S):

SYSTEM OR PROGRAM AFFECTED: State Health Plan for Teachers and State Employees (Plan).

FUNDS AFFECTED: State General Fund, State Highway Fund, other State employer receipts; premium payments for dependents of active employees and retired employees of State agencies and universities, local public schools and local community colleges; premium payments for coverage's selected by eligible former employees; premium payments for coverages selected by firefighters, rescue squad workers, members of the National Guard, and certain authorized local governments.

BILL SUMMARY: Section 9 of the Fifth Edition allows the towns of Matthews and Elizabethtown to enroll their employees and dependents in the Plan. No one would be eligible for coverage as a retiree of either town. We have assumed that the two towns would participate under the same conditions as other local governments currently in the Plan, including:

- Each town shall determine the eligibility of its employees and their dependents and what portion of premiums the employees will pay.
- The total premiums paid to the Plan will be the same as the fully contributory premiums for State employees.

EFFECTIVE DATE: Section 9 of the Fifth Edition is effective when it becomes law.

ESTIMATED IMPACT ON STATE:

Elizabethtown

The Segal Company, the actuary for the Plan, estimates the following net financial impact on the Plan due to adding Elizabethtown:

Fiscal Year:	FY 2014-15	FY 2015-16	FY 2016-17
Net Financial Impact:	$52,000	$74,000	$79,000

The Segal Company based its estimates on Elizabethtown's existing premiums and plan design and a 150% assumption for adverse selection, i.e. that towns will typically seek to join the Plan when their costs are anticipated to increase.

Hartman & Associates, the actuary for the General Assembly, estimates that the overall impact of adding Elizabethtown will not be material to the Plan. Hartman & Associates noted that the premiums the town is currently paying for similar coverage are quite a bit lower than the average premium they would pay under the Plan. The town is not allowed to continue coverage at the current premiums because under the federal Affordable Care Act, premiums for small employers can no longer reflect positive (or negative) experience of the group for plan years starting in 2014.

Matthews

The Segal Company estimates the following net financial impact on the Plan due to adding Matthews:

Fiscal Year:	FY 2014-15	FY 2015-16	FY 2016-17
Net Financial Impact:	$154,000	$219,000	$235,000

The Segal Company based its estimates on the demographic structure of the employee group and the assumptions of adverse selection discussed above.

Hartman & Associates estimates a net financial impact on the Plan due to adding Matthews of $80,000 to $250,000 per year. Hartman & Associates noted that current premiums indicate a high cost group.

Other Comments on Impact

The additional cost impact of the bill would be expected to impact total claims growth by less than one hundredth of a percent (0.01%) for the 2014-2015 fiscal year. Because the bill does not provide coverage to retirees of either town, it does not impact the State's liability for Other Post-Employment Benefits (OPEB).

ASSUMPTIONS AND METHODOLOGY: The actuarial analyses used by each respective consulting actuary are on file with the Fiscal Research Division. Copies of each respective consulting actuary's analysis, including assumptions, are also attached to the original copy of this Legislative Actuarial note.

Data Submitted by Elizabethtown: The Segal Company and Hartman & Associates based their respective analyses in part on a Distribution of Participants schedule submitted by the town. The schedule below reflects the age and sex demographic data for employees and dependents of the town. Complete claims experience data is typically not available for an employer of this size. However, the town did note that the total premiums for its current coverage range from $367 per month for employee-only coverage to $1,372 for family coverage and provided details on the benefits in its current program, which include:

- Co-pays of $25 for primary care providers and $50 for specialists (preventive care is free)
- In-network deductibles of $1,000 for an individual and $2,000 for a family
- 80% coinsurance for most in-network inpatient and outpatient services up to a maximum of $2,000 for an individual or $4,000 for a family
- Prescription drug co-pays for a 30-day supply of $10 for generics and $35 for preferred brands

Distribution of Participants - Elizabethtown

	Active Employees			Dependents of Active Employees		
Ages	Male	Female	Total	Male	Female	Total
0-4			0	3	1	4
5-9			0		1	1
10-14			0	2	3	5
15-19			0		1	1
20-24	6		6		1	1
25-29	3		3			0
30-34	4		4			0
35-39	8	1	9			0
40-44	4		4			0
45-49	2		2			0
50-54	5	3	8	1	2	3
55-59	1		1		1	1
60-64	2	2	4			0
65-69	1		1			0
70-74			0			0
75-79			0			0
>79			0			0
Unknown			0			0
TOTAL	36	6	42	6	10	16

Data Submitted by Matthews: The Segal Company and Hartman & Associates based their respective analyses in part on a Distribution of Participants schedule submitted by the town. The schedule below reflects the age and sex demographic data for employees and dependents of the town.

Distribution of Current Participants - Matthews

	Active Employees			Dependents of Active Employees		
Ages	Male	Female	Total	Male	Female	Total
0-4			0	5	2	7
5-9			0	5	1	6
10-14			0	9	10	19
15-19			0	7	6	13
20-24	3	3	6	1	3	4
25-29	11	1	12			0
30-34	9	4	13			0
35-39	12	3	15			0
40-44	23	5	28			0
45-49	21	3	24			0
50-54	8	7	15			0
55-59	6	4	10			0
60-64	7	3	10			0
65-69	0		0			0
70-74			0			0
75-79			0			0
>79			0			0
Unknown			0			0
TOTAL	100	33	133	27	22	49

Hartman & Associates also based its analysis on the premiums and plan provisions of the coverage currently offered by the town. While the town offers two plans, the vast majority of employees choose the Blue Options HSA plan. Total premiums under that plan are $455 per month for employee-only coverage, $602 per month for employee-child coverage and $838 per month for employee-children coverage. The major benefit provisions include in-network deductibles of $2,700 for an individual and $5,450 for a family. The deductibles apply to all goods and services covered by the plan and 100% of costs are covered after the deductible is met.

Summary Information and Data about the Plan

The Plan administers health benefit coverage for active employees from employing units of State agencies and departments, universities, local public schools, and local community colleges. Eligible retired employees of authorized employing units may also access health benefit coverage under the Plan. Eligible dependents of active and retired employees are authorized to participate in the Plan provided they meet certain requirements. Employees and retired employees of selected local governments and charter schools may also participate in the Plan under certain conditions. Members of fire, rescue squads, and the National Guard may also obtain coverage under the Plan provided they meet certain eligibility criteria.

The State finances the Plan on a self-funded basis and administers benefit coverage under a Preferred Provider Option (PPO) arrangement, with the exception of many Medicare-eligible retirees who are in fully-insured Medicare Advantage plans. The Plan's receipts are derived through premium contributions, investment earnings and other receipts. Premiums for health benefit coverage are paid by (1) employing agencies for active employees, (2) the Retiree Health Benefit Fund for retired employees, and (3) employees and retirees who participate in a plan with a non-zero premium or who elect dependent coverage. Starting in 2014, benefit and premium changes are typically effective at January 1. The Plan's PPO benefit design includes three alternative benefit levels listed below:

1) The "Traditional" 70/30 plan that offers higher out-of pocket requirements in return for lower employee and retiree premiums without needing to complete wellness activities,

2) The "Enhanced" 80/20 plan that offers lower out-of-pocket requirements with higher employee and retiree premiums, which can be lowered by completing wellness activities, and

3) The Consumer-Directed Health Plan (CDHP) that applies deductibles and co-insurance to all services and offers lower employee and retiree premiums if one completes wellness activities

Medicare-eligible retirees are offered three alternative plans:

1) The "Traditional" 70/30 plan as coverage secondary to Medicare for medical services plus a pharmacy benefit plan,

2) "Base" Medicare Advantage Prescription Drug Plans (MA-PDPs) from a choice of two carriers, Humana or United Healthcare, that are actuarially equivalent to the "Enhanced" 80/20 Plan and apply in-network out-of-pocket requirements at out-of-network providers

3) "Enhanced" MA-PDPs, identical to the "Base" MA-PDPs, except with lower co-pays and higher retiree premiums

The following tables provide a summary of the most common monthly premium rates for the Plan in 2014:

Active Employees and Non-Medicare Retirees

Wellness Plans

	Employer Share	Employee/Retiree Share	
		Complete All Wellness Activities *	Complete No Wellness Activities
Enhanced 80/20 Plan	$448.11	$13.56	$63.56
Consumer-Directed Health Plan	$448.11	$0.00	$40.00

Alternate Plan

	Employer Share	Employee/Retiree Share
Traditional 70/30 Plan	$448.11	$0.00

* Members receive credits for each activity. We have shown all or none for simplicity.

Medicare Retirees

Medicare Advantage Plans

	Employer Share	Employee/Retiree Share
MA-PDP Base Plan	$348.25	$0.00
MA-PDP Enhanced Plan	$348.25	$33.00

Alternate Plan

	Employer Share	Employee/Retiree Share
Traditional 70/30 Plan	$348.25	$0.00

Dependents

	All Dependents are Non-Medicare			One or More Medicare Dependents		
	Enhanced 80/20	CDHP	Traditional 70/30	MA-PDP Base	MA-PDP Enhanced	Traditional 70/30
Employee/Retiree + Children	$272.80	$184.60	$205.12	$114.50	$147.50	$145.94
Employee/Retiree + Spouse	$628.54	$475.68	$528.52	$114.50	$147.50	$383.72
Employee/Retiree + Family	$666.38	$506.64	$562.94	$229.00	$295.00	$418.10

The employer share of premiums for retirees is paid from the Retiree Health Benefit Fund. During FY 2013-14, employers contribute 5.40% of active employee payroll into the Fund. Total contributions for the year are projected to be approximately $834 million.

Financial Condition

Projected Results for CY 2014 and CY 2015 – The following summarizes projected financial results for 2014 and 2015, based on financial experience through December, 2013 and enrollments for January, 2014. The projection assumes an 8.5% annual claims growth trend, benefit provisions and member-paid premiums as currently adopted by the Board, and assumed premium increases in 2015 based on the maximum annual employer premium for FY 2014-15.

	($ millions) Projected CY 2014	Projected CY 2015
Beginning Cash Balance	$838.4	$819.9
Receipts:		
Net Premium Collections	$2,910.7	$2,996.6
Medicare Part D / EGWP Subsidies	$36.0	$38.0
Investment Earnings	$3.3	$3.1
Total	$2,950.0	$3,037.8
Disbursements:		
Net Medical Claim Payment Expenses	$1,982.2	$2,124.5
Net Pharmacy Claim Payment Expenses	$640.2	$635.3
Medicare Advantage Premiums	$157.8	$196.9
Administration and Claims-Processing Expenses	$188.4	$214.4
Total	$2,968.6	$3,171.2
Net Operating Income (Loss)	($18.6)	($133.4)

Of the premiums paid in CY 2014, an estimated $2.0 billion is derived from General Fund sources and an estimated $0.1 billion is derived from Highway Fund sources.

Other Information

Additional assumptions include Medicare benefit "carve-outs," cost containment strategies including prior approval for certain medical services, utilization of the "Blue Options" provider network, case and disease management for selected medical conditions, mental health case management, coordination of benefits with other payers, a prescription drug benefit manager with manufacturer rebates from formularies, fraud detection, and other authorized actions by the State Treasurer, Executive Administrator, and Board of Trustees to manage the Plan to maintain and improve the Plan's operation and financial condition where possible. Claim cost trends are expected to increase at a rate of 8.5% annually according to the Plan's consulting actuary. The active population is projected to decline by 1% per year and the retired population is projected to increase by 1% per year.

Enrollment as of January 1, 2014

I. No. of Participants	Traditional 70/30	Enhanced 80/20	Consumer Directed	Medicare Advantage	Total	Percent of Total
Actives						
Employees	145,741	160,388	8,432	-	314,561	46.5%
Dependents	81,434	69,832	8,581	-	159,847	23.6%
Sub-total	227,175	230,220	17,013	-	474,408	70.1%
Retired						
Employees	53,590	30,249	791	96,532	181,162	26.8%
Dependents	6,329	3,884	299	6,851	17,363	2.6%
Sub-total	59,919	34,133	1,090	103,383	198,525	29.3%
Other						
Employees	1,326	1,448	35	-	2,809	0.4%
Dependents	830	510	35	-	1,375	0.2%
Sub-total	2,156	1,958	70	-	4,184	0.6%
Total						
Employees	200,657	192,085	9,258	96,532	498,532	73.6%
Dependents	88,593	74,226	8,915	6,851	178,585	26.4%
Grand Total	**289,250**	**266,311**	**18,173**	**103,383**	**677,117**	**100%**
Percent of Total	**42.7%**	**39.3%**	**2.7%**	**15.3%**	**100.0%**	

II. Enrollment by Contract	Traditional	Enhanced	CDHP	MA	Total
Employee Only	154,239	153,049	5,041	96,532	408,861
Employee Child(ren)	27,169	24,228	2,077	195	53,669
Employee Spouse	6,685	5,630	567	6,656	19,538
Employee Family	11,079	8,407	1,499		
Other (e.g. Split Contract)	1,485	771	74		2,330
Total	**200,657**	**192,085**	**9,258**	**103,383**	**484,398**

Percent Enrollment by Contract	Traditional	Enhanced	CDHP	MA	Total
Employee Only	76.9%	79.7%	54.5%	93.4%	84.4%
Employee Child(ren)	13.5%	12.6%	22.4%	0.2%	11.1%
Employee Spouse	3.3%	2.9%	6.1%	6.4%	4.0%
Employee Family	5.5%	4.4%	16.2%	0.0%	0.0%
Other (e.g. Split Contract)	0.7%	0.4%	0.8%	0.0%	0.5%
Total	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**

III. Enrollment by Sex	Traditional	Enhanced	CDHP	MA	Total
Female	170,705	174,259	10,133	67,923	423,020
Male	118,545	92,052	8,040	35,460	254,097
Total	**289,250**	**266,311**	**18,173**	**103,383**	**677,117**

Percent Enrollment by Sex	Traditional	Enhanced	CDHP	MA	Total
Female	59.0%	65.4%	55.8%	65.7%	62.5%
Male	41.0%	34.6%	44.2%	34.3%	37.5%
Total	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**

IV. Enrollment by Age	Traditional	Enhanced	CDHP	MA	Total
24 & Under	76,689	61,793	6,901	14	145,397
25 to 44	80,007	70,332	5,155	344	155,838
45 to 54	49,210	53,187	3,236	1,328	106,961
55 to 64	50,478	74,807	2,712	1,821	129,818
65 & Over	32,866	6,192	169	99,876	139,103
Total	**289,250**	**266,311**	**18,173**	**103,383**	**677,117**

Percent Enrollment by Age	Traditional	Enhanced	CDHP	MA	Total
24 & Under	26.5%	23.2%	38.0%	0.0%	21.5%
25 to 44	27.7%	26.4%	28.4%	0.3%	23.0%
45 to 54	17.0%	20.0%	17.8%	1.3%	15.8%
55 to 64	17.5%	28.1%	14.9%	1.8%	19.2%
65 & Over	11.4%	2.3%	0.9%	96.6%	20.5%
Total	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**

V. Retiree Enrollment by Category	Employee	Dependents	Total
Non-Medicare Eligible	54,826	9,292	64,118
Medicare Eligible in Traditional 70/30	29,803	1,220	31,023
Medicare Eligible in Base Medicare Advantage Plans	62,843	2,633	65,476
Medicare Eligible in Enhanced Medicare Advantage Plans	33,689	4,218	37,907
Total	**181,161**	**17,363**	198,524

Percent Enrollment by Category (Retiree)	Employee	Dependents	Total
Non-Medicare Eligible	30.3%	53.5%	32.3%
Medicare Eligible in Traditional 70/30	16.5%	7.0%	15.6%
Medicare Eligible in Base Medicare Advantage Plans	34.7%	15.2%	33.0%
Medicare Eligible in Enhanced Medicare Advantage Plans	18.6%	24.3%	19.1%
Total	**100.0%**	**100.0%**	100.0%

VI. Enrollment By Major Employer Groups	Employees	Dependents	Total
State Agencies	70,922	32,938	103,860
UNC System	51,237	31,643	82,880
Local Public Schools	173,477	85,054	258,531
Charter Schools	3,056	1,766	4,822
Local Community Colleges	15,869	8,446	24,315
Other			
Local Governments	1,887	965	2,852
COBRA/Reduction in Force	917	405	1,322
Nat. Guard, Fire & Rescue	6	4	10
Sub-total	317,371	161,221	478,592
Retirement System	181,162	17,363	198,525
Total	**498,533**	**178,584**	**677,117**

Percent Enrollment by Major Employer Groups	Employees	Dependents	Total
State Agencies	14.2%	18.4%	15.3%
UNC System	10.3%	17.7%	12.2%
Local Public Schools	34.8%	47.6%	38.2%
Charter Schools	0.6%	1.0%	0.7%
Local Community Colleges	3.2%	4.7%	3.6%
Other			
Local Governments	0.4%	0.5%	0.4%
COBRA/Reduction in Force	0.2%	0.2%	0.2%
Nat. Guard, Fire & Rescue	0.0%	0.0%	0.0%
Sub-total	63.7%	90.3%	70.7%
Retirement System	36.3%	9.7%	29.3%
Total	**100.0%**	**100.0%**	**100.0%**

SOURCES OF DATA:

The Segal Company; North Carolina State Health Plan; Financial Projections – Dec 2013; March 20, 2014. Filename "NCSHP Q2 Financial Update - Baseline Modified Jan Enrollment Estimate Adj Reserve.pdf"

-Actuarial Note, Hartman & Associates, "Proposed Committee Substitute to Senate Bill 105, Section 2: An Act to Authorize the Town of Matthews to Enroll Its Employees and Dependents in the State Health Plan", June 26, 2014, original of which is on file in the General Assembly's Fiscal Research Division.

-Actuarial Note, Hartman & Associates, "Proposed Committee Substitute: An Act to Authorize the Town of Elizabethtown to Enroll Its Employees, Retirees, and Dependents in the Teachers' and State Employees' Comprehensive Major Medical Plan", June 24, 2014, original of which is on file in the General Assembly's Fiscal Research Division.

-Actuarial Note, The Segal Company, "Proposed House Committee Substitute S105-CSSV-56 [v.1] Political Signs/Add Towns to SHP", June 26, 2014, original of which is on file with the State Health Plan for Teachers and State Employees and the General Assembly's Fiscal Research Division.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: David Vanderweide

APPROVED BY:

Mark Trogdon, Director
Fiscal Research Division

DATE: July 14, 2014

Signed Copy Located in the NCGA Principal Clerk's Offices

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Incarceration Fiscal Note

BILL NUMBER: House Bill 1145 (Fourth Edition)

SHORT TITLE: Registration Required for Mopeds.

SPONSOR(S): Representatives Shepard, R. Brown, and Millis

FISCAL IMPACT

($ in millions)

☐ Yes ☐ No ☑ No Estimate Available

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
State Impact					
General Fund Revenues:					
General Fund Expenditures:					
Special Fund Revenues:					
Special Fund Expenditures:					
State Positions:					
NET STATE IMPACT	**Likely budget cost. See Assumptions & Methodology section for additional details.**				

Local Impact					
Revenues:					
Expenditures:					
NET LOCAL IMPACT	**Likely budget savings. See Assumptions & Methodology section for additional details.**				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Public Safety; Administrative Office of the Courts; Office of Indigent Defense Services.

EFFECTIVE DATE: July 1, 2015

TECHNICAL CONSIDERATIONS:

None

FISCAL IMPACT SUMMARY:

The proposed bill may have a fiscal impact to address a new chargeable offense being enforced, adjudicated and having penalties applied to those convicted of the new offense. However, given there is no historical data on this new offense, or similar offenses to use as a proxy for predicting the total number of new offenses, the Fiscal Research Division cannot reasonably estimate the total additional costs that may be incurred. The following costs may be incurred for every one person charged and convicted of this crime:

- Administrative Office of the Courts: $88 per disposition

- Indigent Defense Services: $182 in district court
  $359 in superior court without a trial
  $847 in superior court with a trial
- Community Corrections: Minimum of $1,606

Please see the Assumptions and Methodology section for additional information.

BILL SUMMARY:

Section 1 requires mopeds to register with the Division of Motor Vehicles. Registrants must have a manufacturer's certificate of origin and be designed and manufactured for use on the highway or public vehicular areas. Violations of this section are a Class 2 misdemeanor.

ASSUMPTIONS AND METHODOLOGY:

General

The Sentencing and Policy Advisory Commission prepares prison population projections for each bill containing a criminal penalty. The Commission assumes for such bills that expanding existing or creating new criminal offenses produces no deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume deterrent effects for any criminal penalty bill.

S.L. 2011-192 (H.B. 642), the Justice Reinvestment Act (JRA), made changes to North Carolina's court system, corrections system (both to prisons and probation), and to post-release supervision. The Act also created a statewide confinement program for housing misdemeanants with sentences of less than 180 days in county jails. Previously, county jails were only required to house misdemeanants with sentences of 90 days or less. In addition, all F-I felons are now subject to nine months of post-release supervision (PRS). B1-E felony PRS has been increased from nine months to twelve months. Due to the lack of historical data about JRA implementation, it is not possible to estimate the number of prison beds that may be needed as a result of revocations.

Since the bill creates a new offense, the Sentencing Commission does not have any historical data from which to estimate the impact of this bill on the prison population. It is not known how many offenders might be convicted and sentenced under the new statute.

Judicial Branch

The Administrative Office of the Courts provides Fiscal Research with a fiscal impact analysis for most criminal penalty bills. For such bills, fiscal impact is typically based on the assumption that court time will increase due to anticipated increases in trials and corresponding increases in workload for judges, clerks, and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

Section 1 of the bill creates a new Class 2 misdemeanor offense. Because this is a new offense, AOC does not have historical data upon which to estimate the number of charges that might occur. AOC provides estimates of the average cost to the court for a charge by offense class. For every additional person charged with a Class 2misdemeanor the average cost to the court would be $88.

The Office of Indigent Defense Services (IDS) provides Fiscal Research with a fiscal impact analysis for criminal penalty bills that will result in greater expenditures for indigent defense. IDS estimates that the cost of a new Class 2 misdemeanor will be $182 per case for a private appointed counsel (PAC) attorney in district court. In superior court, IDS estimates that the cost would be $359 if the case does not go to trial

and $847 if it does. These estimates assume the appointment of a PAC attorney. In districts that have Public Defender offices, cases may be handled by those offices. In those instances, these costs may not be incurred.

Department of Public Safety –Prison Section

This bill creates a new Class 2 misdemeanor offense. The North Carolina Sentencing and Policy Advisory Commission expects no impact on the prison population because offenders who receive active sentences of less than 180 days will serve them in the local jail. Therefore, the Department of Public Safety does not anticipate an impact on prison custody projections.

Department of Public Safety – Community Correction Section

All misdemeanor classes, offenders may be given non-active (intermediate or community) sentences exclusively, or in conjunction with imprisonment (split-sentence). Sanctions include electronic house arrest, community service, substance abuse treatment, participation in educational or vocational skills development, payment of court costs, fines, and restitution, and short-term jail sentences not exceeding six days per month.

All types of post-release supervision, including intermediate or community sanctions, are supervised by the Community Corrections Section (CCS); CCS also oversees community service. General post-release supervision and supervision of intermediate and community offenders by a probation officer costs $123.50 per offender, per month; no cost is assumed for those receiving unsupervised probation, or who are only ordered to pay fines, fees, or restitution. Total costs are based on average supervision length and the percentage of offenders (per offense class) sentenced to active sentences requiring post-release supervision, intermediate sanctions and supervised probations.

In FY 2012-13, 31 percent of Class 2 misdemeanor offenders received active sentences; one percent received intermediate sentences; and 68 percent received community punishments. Active misdemeanor sentences of less than 180 days are served in local jails and do not require any post-release supervision. The average lengths of intermediate and community punishment imposed for this offense class were 15 and 13 months, respectively. Therefore, at a minimum, one conviction resulting from Section (bill section) of this bill will require at least 13 months of supervision. The cost of 13 months of supervision is $1,606 per offender ($123.50 per month times 13 months).[1]

SOURCES OF DATA: Department of Public Safety; Administrative Office of the Courts; North Carolina Sentencing and Policy Advisory Commission; Office of Indigent Defense Services.

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: John Poteat

APPROVED BY:

[1] Due to the effective date of December 1, 2014 and the typical lag time between charge and conviction (6 months), little impact is assumed for CCS in FY 2014-15. Though some offenders may come under CCS supervision during this time, this note assumes an even entry over the course of FY 2015-16.

Mark Trogdon, Director
Fiscal Research Division

DATE: June 25, 2014

Signed Copy Located in the NCGA **Principal Clerk's Offices**

SENATE SERGEANT-AT-ARMS

COMMITTEE: **Senate Finance**

DATE: 07-15-2014 ROOM: 544

1. ANDERSON MEADOWS
2. STEVE McKAIG
3. GILES JEFFREYS
4. BILLY FRITSCHER
5. _____
6. _____

SENATE PAGES ATTENDING

COMMITTEE: Finance **ROOM:** 544

DATE: 7-15 **TIME:** 10 AM

PLEASE PRINT LEGIBILY!!!!!!!!!!!!....*or else!*

Page Name	Hometown	Sponsoring Senator
1. Carly Robertson	Cary	Barringer
2. Weston Davis	Raleigh	Hunt
3. Michaela Allred	Yadkinville	Krawiec
4. Sophia Hennings	East Bend	Krawiec
5. Autumn Fulton	Pleasant Garden	Robinson
6. ERIN RAY	Raleigh	FORD
7.		
8.		
9.		
10.		

Do not add names below the grid.

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

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 15, 2014

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Kathy Hawkins	Duke Energy
Kelli Kurkura	Duke Energy
Alex Miller	KLG
Brian Lupo, RN	Nurse of the Day
Rose Williams	NC DOI
Robert Mack	NCDOI
TJ Bugbee	NP
Vicki Pope	NC DMV
Jim McLaughlin	NC DMV
Paul Sherman	NCFB
JAKE PARKER	NCFB
Preston Howard	NCMA

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Senate Finance Committee — July 15, 2014

Name of Committee — **Date**

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Dana Lassiter	NCSTA
Jay Dicks	NCDOT
Kara Weisharar	SA
David McGowan	NCPC
David Ferrell	VB
Charlotte Massengill	NCDMV
Paula Kindley	NCDMV
William Stumpf	Brubaker and Associates
M. T. Faine	NC DOT - IT
ROBERT BROOME	NCAR
John Patterson	NCAOA

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Senate Finance Committee — July 15, 2014

Name of Committee — **Date**

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NAME	FIRM OR AGENCY AND ADDRESS
Wendy Kelly	Focus Carolinas
Cady Thomas	NCAR
Erin Jones	TWC
[illegible]	[illegible]
Will Parry-Hill	NCHFA
Jason Sofer	NCDOT
Carley Ruff	NCHC
[illegible]	K&L Gates
[illegible]	[illegible]
Tonya Hoban	TSS
Amanda Honaker	TSS

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Senate Finance Committee — July 15, 2014
Name of Committee — **Date**

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NAME	FIRM OR AGENCY AND ADDRESS
Annaliese Dolph	DL
Angie Harris	Ward and Smith
Canaan Hunt	MVA
Lauren Payne	NC GRANGE
Jake Cashion	NC Chamber
Kees Burns	NC DENR
Kim Crumb	NCBA
Rhiannon Bell	NCMMC
Julie White	NCMMC
Trent Womble	DHHS
Lexi Morgan	Cullen Consulting
Amanda Lyon	NCRA
Laurie Orrio	2020

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Senate Finance Committee — July 15, 2014

Name of Committee — **Date**

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BJ Miller	CoNE
Kay Lawson *	Kay Lawson Firm
Rick Zechini	LWM *
Whitney Christensen	NCLM
Shawntri Mann	NCLM
Charles King	School of Government
Sarah Wolfe	MWC
Fred Baggett	Police Chiefs Assn
Henri McClees	McClees Consulting
Joe McClees	McClees Consulting
Alex Krepp	PENC
Chip Killian	Nelson Mullins

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Senate Finance Committee — July 15, 2014

Name of Committee — **Date**

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NAME	FIRM OR AGENCY AND ADDRESS
Jordan Comm	NSS
Hope Mozeney	NCDMV

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Senate Finance Committee — July 15, 2014
Name of Committee — **Date**

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NAME	FIRM OR AGENCY AND ADDRESS
Andy Brandon	DPS
Conner Randolph	NCMS
Steve Mange	NCRLA
Allison Waller	Nelson Mullins
Lisa Martin	
Mike Carpenter	NC HBA
Steven Webb	
William Power	Jordan Price
John Hill	Select Cycle / Scooter Nerds 431 Battleground Ave. Greensboro, NC
Dorrie Hill	
[illegible]	[illegible]
Regina Hawkins	DOT/DMV
Debra Johnson	BSA
Mildred Spearman	NCAOC

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Senate Finance Committee — July 15, 2014

Name of Committee — **Date**

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NAME	FIRM OR AGENCY AND ADDRESS
Steven Pennington	Commerce – LEAD
[signature]	SEANC
[signature]	MFJS
Hayes Griggs	CCNC
Joanna Spruill	NCAFP
[signature]	MFJS
[signature]	BP
[signature]	NCACC
Johnnie Reese	NCACC
Mary Shuping	NCCCS
Drew Martz	UNCGA
Hayden Hemphill	DPS
[signature]	PLA
[signature]	DOT

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Senate Finance Committee — July 15, 2014

Name of Committee — **Date**

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NAME	FIRM OR AGENCY AND ADDRESS
Tom Beaan	EDF, NCWF
	NWC
Michelle Frazier	MFS
Chelsie Knust	NCDENR
	CSS
	~~FTI~~
	NCSBA
Adam Pridemore	NCASA
Jon Carr	Jordan Price Law Firm
Andy Chase	KMA
Zane Stilwell	NC SBE

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Senate Finance Committee — July 15, 2014

Name of Committee — **Date**

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NAME	FIRM OR AGENCY AND ADDRESS
[signature]	NMRS
[signature]	CSS
[signature]	CSS

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Senate Finance Committee — July 15, 2014

Name of Committee — **Date**

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NAME	FIRM OR AGENCY AND ADDRESS
Elizabeth Biser	BP
Chris McClure	BP
Padraig Gibbons	Capital
Susan Valum	Northrup
Dave Dow	SA

Senate Committee on Finance
Wednesday, July 16, 2014, 1:00 PM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 101	Repeal Estate Tax.	Rep. S. Martin Rep. Howard Rep. Moffitt Rep. Setzer
HB 1033	Special Assessment/Dam Repair.	Rep. Goodman
HB 1224	JMAC Development Fund Modifications.	Rep. Presnell
HB 1245	Pleasant Garden Annex/Watha Deannex.	Rep. Hardister Rep. Faircloth
SB 763	Omnibus Tax Law Changes.	Sen. Rabon Sen. Rucho

Adjournment

Senate Committee on Finance
Wednesday, July 16, 2014 at 1:00 PM
Room 544 of the Legislative Office Building

MINUTES

The Senate Committee on Finance met at 1:00 PM on July 16, 2014 in Room 544 of the Legislative Office Building. Thirty-three members were present.

Senator Bob Rucho, Chair, presided.

HB 1245 - Pleasant Garden Annex/Watha Deannex.

Senator Wade was recognized to explain the bill which would annex a parcel of land constituting of approximately 26.2 acres into the corporate limits of the Town of Pleasant Garden. It would deannex a parcel of land from the corporate limits of the Town of Watha. Senator Tillman moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

HB 101 - Special License Plate Development Process.

Senator Rabon was recognized to explain the bill and moved to adopt the proposed committee substitute (PCS) for discussion. The motion carried. The PCS would reenact the 116 special registration plates that expired on July 1, 22013, until October 1, 2014. It would authorize four existing or reauthorized plates to be on a full-color background, assuming the organization obtains the minimum number of required paid applications before their authorization expires. Finally, it would create a new process for establishing or reenacting special registration plates that require and organization to obtain the minimum number of paid applications and submit the total payment to DMV prior to seeking legislation authorizing the plate. Senator Tillman moved for a favorable report and the motion carried. A copy of the PCS, the summary, and the fiscal memo is attached.

HB 1033 - Special Assessment/Dam Repair.

Senator McLaurin was recognized to explain the bill which would authorize counties to impose a special assessment for a dam repair if the dam meets certain conditions. The authority would expire July 1, 2019. Senator Hise moved for a favor report and the motion carried. A copy of the bill and the summary is attached.

HB 1224 - Local Sales Tax Options/Econ. Devpt. Changes.

Senator Gunn was recognized to explain the bill. Senator Rabon moved to adopt the PCS for discussion and the motion carried. Part I of the PCS would authorize counties to use the proceeds of a portion of the local option sales and use tax for public transportation or for public education, and would cap the overall total local sales and use tax rate at two and one-half (2 ½%). Part II would expand the eligibility criteria for the Job Maintenance and Capital

Development Fund (JMAC). Part III would create the Job Catalyst Fund inside the Department of Commerce. Part IV would provide an additional $14 million to the Job Development Investment Grant cap for the 2013-2015 biennium and would provide limited flexibility with respect to the impact of JCF grants on the cost/benefit analysis required for JDIG grants. Dan Ettefagh, committee counsel, was recognized to explain Part VI and answer questions. Trina Griffin, committee counsel, was recognized to explain Part I. Johanna Reese, Director of Government Relations for the Association of County Commissioners, was recognized to voice concern about the PCS and to request a Revenue Laws study of the issues. Erin Wynia, Regulatory and Legislative Issues manager for the League of Municipalities, was recognized to express concerns about the effect of limiting flexible uses of funds. Senator Hise moved for a favorable report and the motion carried. A copy of the PCS, the summary and the fiscal memo is attached.

SB 763 - Revenue Laws Tech. Changes and Other Changes.

This bill was removed from the agenda.

The meeting adjourned at 1:43 p.m.

Senator Bob Rucho, Chair
Presiding

DeAnne Mangum, Committee Clerk

Principal Clerk
Reading Clerk

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Finance** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	July 16, 2014	1:00 PM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 101	Repeal Estate Tax.	Representative S. Martin Representative Howard Representative Moffitt Representative Setzer
HB 1033	Special Assessment/Dam Repair.	Representative Goodman
HB 1224	JMAC Development Fund Modifications.	Representative Presnell
HB 1245	Pleasant Garden Annex/Watha Deannex.	Representative Hardister Representative Faircloth
SB 763	Omnibus Tax Law Changes.	Senator Rabon Senator Rucho

Senator Bill Rabon, Co-Chair
Senator Bob Rucho, Co-Chair

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Wednesday, July 16, 2014

Senator Rucho,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

HB **101** Repeal Estate Tax.

Draft Number:	H101-PCS30806-SVf-64
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Senator William Rabon will handle HB 101

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Wednesday, July 16, 2014

Senator Rucho,
submits the following with recommendations as to passage:

FAVORABLE

HB **1033 (CS#2)** Special Assessment/Dam Repair.

Draft Number:	None
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

HB **1245 (CS#1)** Pleasant Garden Annex/Watha Deannex.

Draft Number:	None
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 2

Senator Eugene McLaurin will handle HB 1033
Senator Trudy Wade will handle HB 1245

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Wednesday, July 16, 2014

Senator Rucho,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

HB **1224** JMAC Development Fund Modifications.

Draft Number:	H1224-PCS40284-MCx-34
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Senator Richard Gunn will handle HB 1224

H

HOUSE BILL 1245
Committee Substitute Favorable 6/25/14

Short Title: Pleasant Garden Annex/Watha Deannex. (Local)

Sponsors:

Referred to:

May 29, 2014

A BILL TO BE ENTITLED

AN ACT ADDING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF PLEASANT GARDEN AT THE REQUEST OF THE PROPERTY OWNER AND THE TOWN; AND REMOVING CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE TOWN OF WATHA.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The following described property is added to the corporate limits of the Town of Pleasant Garden:

That certain tract or parcel of land lying and being situate in Guilford County, North Carolina, more particularly described in Deed Book 2849, Page 887, Guilford County Register of Deeds as follows:

BEGINNING at an iron stake in the eastern right-of-way line of N.C. Highway 22, said point being the southwest corner of that tract conveyed to Frank M. Plunkett et ux by deed recorded in Book 2456, page 444, in the Office of the Register of Deeds of Guilford County, North Carolina, and running thence from said beginning point, and with the south line of Jesse R. Hawkins, South 85° 04' East 250.0 feet to an iron stake, Hawkins' southeast corner; thence again with Hawkins' line North 06° 28' East 100.0 feet to an iron stake in George Jackson's south line; thence with George Jackson's line South 85° 04' East approximately 1,416.5 feet to an oak tree, a corner with Lora L. Harris; thence with the Harris line South 01° 00' West 700.0 feet to an iron stake; thence a new line with the Grantors North 85° 04' West approximately 1,666.5 feet to an iron stake in the eastern right-of-way line of N.C. Highway 22; thence northwardly with the eastern right-of-way line of said road 600.00 feet to the point of BEGINNING, containing 26.2 acres more or less, and being the northern portion of the First Tract described in that deed from Cameron L. Tucker to W. Charles Kirkman, recorded in Book 124, page 40, Guilford County Registry, and devised to Robert L. Kirkman by the Will of W. Charles Kirkman. Said property being known as 4591 Alliance Church Road, Pleasant Garden, North Carolina; Guilford County Tax Parcel ID Number 0130818.

SECTION 1.(b) The property described in Section 1(a) of this act is being added to the corporate limits of the Town of Pleasant Garden at the request of the property owner and the Town and therefore is a voluntary annexation of the property.

SECTION 1.(c) This section becomes effective July 1, 2014.

SECTION 2.(a) The following described property is removed from the corporate limits of the Town of Watha:

Located in Union Township, Pender County, North Carolina adjacent to and West of the paved centerline of U.S. Highway No. 117, adjacent to and East of the Eastern

right-of-way line of Interstate Highway No. 40 and being more fully described as follows, to wit:

BEGINNING at a point in the paved centerline of U.S. Highway No. 117, said point being located along said line at a point that is North 32 degrees 40 minutes 32 seconds West 710.405 feet (said point having N.C. Grid Coordinates: N=334,595.63' & E=2,319,710.56' NAD 83/NSRS 2007) from N.C. Grid Monument "CHERRY" which as N.C. Grid Coordinates of N=333,997.65' & E=2,320,094.10 and CF=0.99992975.3 (NAD 83/NSRS 2007); and running thence from the Beginning so located, along an old marked line South 44 degrees 56 minutes 03 seconds West 2,260.33 feet (passing over an existing iron stake in line at 75.92 feet) to an existing iron pipe in the Eastern right-of-way line of Interstate Highway No. 40; thence with said right-of-way line North 09 degrees 01 minutes 04 seconds West 43.49 feet to an existing concrete right-of-way monument in line; thence continuing with said road right-of-way line North 09 degrees 26 minutes 49 seconds West 402.66 feet to an existing iron stake in said line; thence continuing with said road right-of-way line North 09 degrees 26 minutes 25 seconds West 557.706 feet to an existing iron pipe that marks the Southwestern corner of the Town of Watha land shown on a map recorded in Map Book 48, at Page 83 of the Pender County Registry; thence along the Southeastern line of said lands North 43 degrees 28 minutes 17 seconds East 512.95 feet to an existing iron pipe that marks the Southeastern corner of said Town of Watha lands; thence with the Betty Crumpler line North 44 degrees 15 minutes 04 seconds East 986.79 feet to an existing 1 inch square iron stake; thence continuing with the Betty Crumpler line North 42 degrees 17 minutes 02 seconds East 632.61 feet to an existing nail and cap in the paved centerline of U.S. Highway No. 117; thence with said paved centerline of U.S. Highway No. 117 South 12 degrees 49 minutes 19 seconds East 389.98 feet to the point of beginning of a curve to the left in said roadway; thence continuing with the curved paved centerline of said road as it curves to the left the following chord courses and distances: South 13 degrees 40 minutes 40 seconds East 122.78 feet, South 16 degrees 15 minutes 03 seconds East 101.20 feet, South 19 degrees 19 minutes 52 seconds East 100.65 feet and South 23 degrees 36 minutes 10 seconds East 129.57 feet to an existing "PK" Nail in said road centerline that is directly above the center of a large box concrete culvert that accommodates the waters of Powell's Pond Branch beneath the roadway; thence continuing with said road centerline South 26 degrees 55 minutes 51 seconds East 142.35 feet to the Beginning, containing 39.669 acres, more or less after the exclusion of the portion of U.S. Highway No. 117 (150 foot wide right-of-way) contained within the above-described boundaries and is as surveyed by Daniel H. Thompson, NCPLS No. L-2174 of Burgaw, North Carolina during April 2013. As a reference to the described tracts, see Deed Book 1379, at Page 68, Deed Book 632, at Page 64 – Tracts 1 and 2, Deed Book 2161, at Page 310 and Deed Book 3209, at Page 003 of the Pender County Registry. Also, see Map Book 40, at Page 34, Map Book 52, at Page 43 and Map Book 48, at Page 83 each recorded in the Office of the Pender County Register of Deeds. That the above-described tract of real property is shown on survey map entitled "Annexation Map To The Town of Watha, North Carolina" as prepared by Daniel H. Thompson, NCPLS on April 25, 2013 and recorded in Map Book 55, at Page 68 in the Office of the Pender County Register of Deeds, State of North Carolina.

SECTION 2.(b) This section has no effect upon the validity of any liens of the Town of Watha for ad valorem taxes or special assessments outstanding before the effective date of this section. Such liens may be collected or foreclosed upon after the effective date of this section as though the property were still within the corporate limits of the Town of Watha.

SECTION 2.(c) This section becomes effective June 30, 2014.

SECTION 3. Except as otherwise provided, this act is effective when it becomes law.

HOUSE BILL 1245:
Pleasant Garden Annex/Watha Deannex

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	July 16, 2014
Introduced by:	Reps. Hardister, Faircloth	**Prepared by:**	Heather Fennell Committee Counsel
Analysis of:	Second Edition		

SUMMARY: House Bill 1245 would:

- ***Annex a parcel of land constituting approximately 26.2 acres into the corporate limits of the Town of Pleasant Garden.***
- ***Deannex a parcel of land from the corporate limits of the Town of Watha. Senate Finance approved the same provision to deannex this parcel in H1080 on 6/19/15.***

CURRENT LAW: Under Section 1 of Article VII of the NC Constitution, the General Assembly is empowered to "provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions, and, except as otherwise prohibited by this Constitution, may give such powers and duties to counties, cities and towns, and other governmental subdivisions as it may deem advisable."

Annexation is a method by which municipalities alter their boundaries. The municipality must follow the statutorily prescribed steps in order to add an area into its boundaries. The municipality must provide, or contract to provide, basic services to the area. These services include police protection, fire protection, solid waste collection and the extension of water and sewer lines to the area. North Carolina law sets forth four basic ways in which a municipality may annex an area.

- Voluntary Annexation. – The owners of all real property in an area contiguous to the municipality desiring to be annexed sign a petition requesting annexation.
- Voluntary Satellite Annexation. – The owners of all real property in the area desiring to be annexed sign a petition requesting annexation, if it otherwise meets the statutory requirements.
- Municipal-Initiated Annexation subject to a referendum. – The municipality initiates annexation proceeding, pursuant to statutory requirements.
- Legislative Act. – The General Assembly has the authority to extend the boundaries of any municipality.
- Pursuant to this Section, the General Assembly enacted Article 4A of Chapter 160A of the General Statutes, which governs municipal annexations. The General Assembly has not enacted any method for municipalities to *deannex* property — that power remains with the General Assembly.

BILL ANALYSIS: Section 1 of the bill would annex a parcel of land constituting approximately 26.2 acres into the corporate limits of the Town of Pleasant Garden.

Section 2 of the bill would deannex a parcel of land consisting of approximately 39.669 acres from the corporate limits of the Town of Watha. The act also provides that it does not affect the validity of any liens of the Town of Watha for outstanding ad valorem taxes or special assessments.

EFFECTIVE DATE: Section 1 would become effective July 1, 2014. Section 2 would become effective June 30, 2014.

Kelly DeAdder with the Research Division substantially contributed to this summary.

O. Walker Reagan
Director

H1245-SMTD-130 E2 -V1

Research Division
(919) 733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H D

HOUSE BILL 101
PROPOSED SENATE COMMITTEE SUBSTITUTE H101-CSSVf-64 [v.1]

7/15/2014 11:16:02 PM

Short Title: Special License Plate Development Process. (Public)

Sponsors:

Referred to:

February 14, 2013

A BILL TO BE ENTITLED

AN ACT TO REAUTHORIZE EXPIRED SPECIAL REGISTRATION PLATES, TO AUTHORIZE ADDITIONAL SPECIAL REGISTRATION PLATES TO BE ON A BACKGROUND OTHER THAN THE "FIRST IN FLIGHT" BACKGROUND, AND TO ESTABLISH A PROCESS BY WHICH PERSONS OR ORGANIZATIONS MUST OBTAIN A MINIMUM NUMBER OF PAID APPLICATIONS PRIOR TO OBTAINING LEGISLATIVE APPROVAL FOR THE DEVELOPMENT OF A SPECIAL REGISTRATION PLATE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Any special registration plate authorized under G.S. 20-79.4 that expired as a matter of law on July 1, 2013, pursuant to G.S. 20-79.8, is reenacted. The corresponding provisions for fees under G.S. 20-79.7(a1) and (b) and any other corresponding requirements for the plates under G.S. 20-81.12 are also reenacted. A special registration plate reenacted under this section is subject to the requirements of G.S. 20-63(b1) if the plate is authorized to be on a background other than a "First in Flight" background.

SECTION 1.(b) This section is effective when it becomes law. A special registration plate reenacted by this section shall expire, as a matter of law, on October 1, 2014, if the required number of applications for the special registration plate has not been received by the Division of Motor Vehicles by that date. The notification procedure and the responsibilities of the Revisor of Statutes for a special registration plate that expires pursuant to this subsection shall be in accordance with G.S. 20-79.8 except that the notification date shall be no later than October 15, 2015. The Division shall not accept applications for nor advertise any special registration plate that has expired pursuant to this subsection.

SECTION 2. G.S. 20-63(b1) reads as rewritten:

"(b1) The following special registration plates do not have to be a "First in Flight" plate as provided in subsection (b) of this section. The design of the plates that are not "First in Flight" plates must be developed in accordance with G.S. 20-79.4(a3). For special plates authorized in G.S. 20-79.7 on or after July 1, 2013, the Division may not issue the plate on a background under this subsection unless it receives at least 200 applications for the plate in addition to the applications required under G.S. 20-79.4 or G.S. 20-81.12.

(1) Friends of the Great Smoky Mountains National Park.
(2) Rocky Mountain Elk Foundation.
(3) Blue Ridge Parkway Foundation.
(4) Friends of the Appalachian Trail.
(5) NC Coastal Federation.
(6) In God We Trust.

(7) Stock Car Racing Theme.
(8) Buddy Pelletier Surfing Foundation.
(9) Guilford Battleground Company.
(10) National Wild Turkey Federation.
(11) North Carolina Aquarium Society.
(12) First in Forestry.
(13) North Carolina Wildlife Habitat Foundation.
(14) NC Trout Unlimited.
(15) Ducks Unlimited.
(16) Lung Cancer Research.
(17) NC State Parks.
(18) Support Our Troops.
(19) US Equine Rescue League.
(20) Fox Hunting.
(21) Back Country Horsemen of North Carolina.
(22) Hospice Care.
(23) Home Care and Hospice.
(24) NC Tennis Foundation.
(25) AIDS Awareness.
(26) Donate Life.
(27) Farmland Preservation.
(28) Travel and Tourism.
(29) Battle of Kings Mountain.
(30) NC Civil War.
(31) North Carolina Zoological Society.
(32) United States Service Academy.
(33) Carolina Raptor Center.
(34) Carolinas Credit Union Foundation.
(35) North Carolina State Flag.
(36) NC Mining.
(37) Coastal Land Trust.
(38) ARTS NC.
(39) Choose Life.
(40) North Carolina Green Industry Council.
(41) NC Horse Council.
(42) Core Sound Waterfowl Museum and Heritage Center.
(43) Mountains-to-Sea Trail, Inc.
(44) Native Brook Trout.
(45) Red Drum.
(46) S.T.A.R.
(47) Alpha Phi Alpha."

SECTION 3.(a) Article 3 of Chapter 20 of the General Statutes is amended by adding a new statutory section to read:

"**§ 20-79.3A. Requirements to establish a special registration plate.**

(a) Minimum Number of Paid Applications. – An applicant under this section is a person, organization, or other legal entity seeking authorization to establish a special registration plate for a motor vehicle or a motorcycle. An applicant must obtain the minimum number of paid applications from potential purchasers before submitting a Special Registration Plate Development Application to the Division. A "paid application" means an application completed by a potential purchaser and submitted to the applicant requesting purchase of the

special registration plate being proposed by the applicant plus payment of the proposed additional fee amount. The minimum number of paid applications is as follows:

(1) 300 for a special registration plate on a standard background described in G.S. 20-63(b).

(2) 500 for a special registration plate on a background authorized under G.S. 20-63(b1).

(b) Application. – An applicant must submit all of the items listed in this subsection to the Division by February 15 in order for a bill authorizing the special registration plate to be considered for approval during the legislative session being held that year. The Division shall consider an application received after February 15 for approval in the legislative session that begins in the year following the submission date. The application items must include:

(1) A completed Special Registration Plate Development Application.

(2) A fee equal to number of paid applications received by the applicant, which shall be no less than the minimum number of paid applications required under subsection (a) of this section, multiplied by the proposed additional fee amount stated on the Special Registration Plate Development Application submitted by the applicant.

(c) Report to General Assembly. – On or before March 15 of each year, the Division shall submit to the chairs of the House and Senate Transportation Committees, the chairs of the House and Senate Finance Committees, and the Research Division of the General Assembly a report that identifies each applicant that has applied for a special registration plate to be authorized in the legislative session being held that year and indicates whether the applicant met the requirements of this section. If an applicant meets the requirements of this section, then a bill may be considered during the legislative session being held that year to authorize a special registration plate for the applicant that submitted the application.

(d) Legislative Approval. – If a special registration plate requested under this section is approved by law, the applicant must submit all of the following items to the Division no later 60 days after the act approving the plate becomes law. If the applicant fails to timely submit the items required under this subsection, the authorization for the special registration plate shall expire in accordance with G.S. 20-79.8(a1). The items to be submitted are:

(1) The final artwork for the plate. The Division must review the artwork to ensure it complies with the standardized format established by G.S. 20-79.4(a3).

(2) A list of purchasers who submitted to the applicant a paid application for the special registration plate and any additional fees submitted by potential purchasers to the applicant after submission of the Special Registration Plate Development Application.

(e) Legislative Disapproval. – If the special registration plate is not authorized in the legislative session in which the authorization was sought, the Division shall refund to the applicant the fee submitted under subdivision (2) of subsection (b) of this section.

(f) Issuance. – Within 180 days after receipt of the requester's design and the minimum number of paid applications, the Division shall issue the special registration plate.

SECTION 3.(b) This section becomes effective October 1, 2014, and applies to requests for the establishment of new special registration plates on or after that date, or to requests for the reenactment of special registration plates for which the authorization expired on or after that date.

SECTION 3.(c) Notwithstanding the deadlines established in G.S. 20-79.3A(b) and (c), as enacted by this act, the Division shall accept through April 1, 2015, Special Registration Plate Development Applications and shall report the list of qualified applicants to the General Assembly in accordance with G.S. 20-79.3A(c) by May 1, 2015, for a bill to be

considered during the 2015 Regular Session of the 2015 General Assembly authorizing a special registration plate requested by an applicant.

SECTION 4.(a) The Division of Motor Vehicles shall develop an application form for use by an applicant to be completed by potential purchasers of a proposed special registration plate. The form must include an explanation of the application process, the fees that must be submitted to the applicant with the application, and the refund process. Specifically, the form must state that the applicant, and not DMV, is responsible for collecting the fees and for refunding the fees to potential purchasers if the request for a special registration plate is not approved by the General Assembly. The form must also include space for the applicant to provide identifying information of the person or organization seeking the special registration plate and point of contact information.

SECTION 4.(b) This section is effective when it becomes law. The Division of Motor Vehicles must, by October 1, 2014, develop the form required by this section and make it available on the Division's website along with an explanation of the special registration plate application process established under this act.

SECTION 5.(a) The Division of Motor Vehicles shall develop a Special Registration Plate Development Application Form for use by an applicant seeking to establish or to reauthorize a special registration plate. The form shall require the following information:

(1) The applicant's identifying information, including point of contact information.

(2) A description of the proposed plate, including a draft copy of the proposed plate design in substantially final form that conforms to the specifications set by the Division.

(3) The proposed fee for the plate, which must be a minimum of ten dollars ($10.00) that is remitted to the Special Registration Plate Account. If an applicant is proposing a fee in excess of the amount remitted to the Special Registration Plate Account, the applicant must state the additional fee amount and describe the proposed use of the additional fee proceeds.

(4) The name of at least one current member of the General Assembly who would sponsor legislation to authorize the special registration plate.

(5) A statement that must be signed by the applicant indicating that the applicant has obtained the minimum number of paid applications and will submit the list of purchasers and the final artwork to the Division within 60 days of legislation authorizing the requested special registration plate becoming law.

SECTION 5.(b) This section is effective when it becomes law. The Division of Motor Vehicles must, by February 1, 2015, develop the form required by this section and make it available on the Division's website. The Division must, by February 1, 2015, make the necessary programming changes to be able to accept Special Registration Plate Development Applications in accordance with this act.

SECTION 6. G.S. 20-79.8 reads as rewritten:

"**§ 20-79.8. Expiration of special registration plate authorization.**

(a) ~~Expiration.~~ Expiration of Plates Authorized Prior to October 1, 2014. – A special registration plate authorized after July 1, 2011, and before October 1, 2014, pursuant to G.S. 20-79.4 shall expire, as a matter of law, on July 1 of the second calendar year following the year in which the special plate was authorized if the number of required applications for the authorized special plate has not been received by the Division. The Division shall not accept applications for nor advertise any special registration plate that has expired pursuant to this section.

(a1) Expiration of Plates Authorized On or After October 1, 2014. – A special registration plate authorized on or after October 1, 2014, pursuant to G.S. 20-79.4, shall expire as a matter of law upon an applicant's failure to submit to the Division all of the items required

under G.S. 20-79.3A(d) within 60 days of the act approving the special registration plate becoming law. The Division shall not accept applications for nor advertise any special registration plate that has expired pursuant to this section.

(b) Notification. – The Division shall notify the Revisor of Statutes in writing, not later than ~~July 15~~ August 1 of each year, which special registration plate authorizations have expired as a matter of law pursuant to subsection (a) of this section. The Division shall publish a copy of the written notification sent to the Revisor of Statutes pursuant to this subsection on a Web site maintained by the Division or the Department of Transportation.

(c) Revisor of Statutes Responsibilities. – Upon notification of expiration of the authorization for any special registration plate by the Division pursuant to this section, the Revisor of Statutes shall verify that the authorization for each special registration plate listed has expired and shall notate ~~such~~ the expiration in the applicable statutes. If an authorization for a special registration plate listed in G.S. 20-79.4 expires, the Revisor of Statutes shall revise the subdivision referring to the special registration plate to leave the name of the special registration plate authorized and the date the special registration plate's authorization expired. If an authorization for a special registration plate listed in G.S. 20-79.4 expires, the Revisor of Statutes shall also make corresponding changes to reflect the expiration of the special registration plate's authorization, if applicable, in G.S. 20-63(b), 20-79.7, and 20-81.12."

SECTION 7. The Revenue Laws Study Committee is directed as follows as it relates to registration plates:

(1) To identify whether the process for requests to establish or reauthorize special registration plates under this act requires any modifications and to examine the costs incurred by the Division of Motor Vehicles to administer special registration plates.

(2) To study whether certain governmental entities should have different eligibility or renewal requirements for permanent registration plates; to study whether non-governmental entities should be eligible for permanent plates and, if so, what the criteria should be; and to examine the costs incurred by the Division of Motor Vehicles to administer permanent registration plates.

The Committee shall report its findings, together with any recommended legislation, to the 2015 Regular Session of the General Assembly upon its convening.

SECTION 8. Except as otherwise provided, this act is effective when it becomes law.

HOUSE BILL 101:
Special License Plate Development Process

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	July 15, 2014
Introduced by:	Reps. S. Martin, Howard, Moffitt, Setzer	**Prepared by:**	Trina Griffin Committee Counsel
Analysis of:	PCS to First Edition H101-CSSVf-64		

SUMMARY: ***The Proposed Committee Substitute for House Bill 101 does the following:***

- ***It reenacts the 116 special registration plates that expired on July 1, 2013, until October 1, 2014.***
- ***It authorizes 4 existing or reauthorized plates to be on a full-color background, assuming the organization obtains the minimum number of required paid applications before their authorization expires.***
- ***It creates a new process for establishing or reenacting special registration plates that requires an organization to obtain the minimum number of paid applications and submit the total payment to DMV prior to seeking legislation authorizing the plate.***

CURRENT LAW: North Carolina offers approximately 150 special license plates. The process for developing a special license plate is not codified or published; an organization usually contacts a legislator or DMV to find out what the process is.

Generally speaking, an organization seeking a special license plate must find a legislative member to sponsor a bill authorizing the plate. Once the legislation is enacted, an organization must contact DMV for the next steps of the process. DMV may assist the organization with developing a form or will direct the organization to develop the form itself to give to potential purchasers who want to apply for the plate. An organization must then collect the minimum number of paid applications and develop the artwork for the plate. Once DMV has the list of purchasers, the payment by those purchasers, and the final artwork, it will proceed with developing the plate. Over the years, there have been many more authorizations for plates than actual plates that are developed, either due to an inability to meet the minimum number of applications or lack of knowledge about the process.

Upon application and payment of the required registration fees, a person may obtain from the Department of Motor Vehicles (DMV) a special registration plate for a motor vehicle registered in that person's name if the person qualifies for the registration plate. The issuance of most authorized plates is contingent upon the receipt by DMV of at least 300 applications for the particular plate if it is on a standard "First in Flight" background and at least 500 applications if it is on a full-color background.

As a general rule, the fee for a special registration plate is the regular vehicle registration fee, which is $28, plus a $10 special registration plate fee. The $10 special registration plate fee is credited to the Special Registration Plate Account. After deducting the cost of the plates from this account, $1.3 million is appropriated to provide operating assistance for Visitor Centers. The remaining revenue in the account is transferred quarterly to the Department of Commerce for advertising (33%), the Department of Transportation for highway beautification (50%), and the Department of Human Resources to promote travel accessibility for disabled persons (17%).

BILL ANALYSIS:

Temporary Reauthorization of Expired Plates

In 2011, the General Assembly created a mechanism by which special license plate authorizations would expire if the sponsoring organization had not obtained the minimum number of paid applications within two years of the plate being authorized or within two years of the passage of that legislation for plates authorized prior to July 1, 2011. On July 1, 2013, the authorization for 116 special license plates expired.[1] At least one of the organizations has indicated that it subsequently obtained the minimum number of paid applications.

Section 1 of the bill would reauthorize the expired plates until October 1, 2014. This extension would allow an organization that has obtained the required number of paid applications to proceed with the development of its plate. For any organization that does not submit the required number of paid applications to DMV by October 1, 2014, the authorization for the plate will expire on that date.

Authorize Additional Plates on Full-Color Background

In order for a plate to be on a background other than the "First in Flight" background (referred to as a "full-color plate"), it must be authorized under G.S. 20-63(b1). In 2013, the General Assembly began requiring organizations seeking a full-color plate to obtain an additional 200 paid applications, or a total of 500 paid applications.

Section 2 of the bill adds four plates to the list of plates that are authorized to be on a full-color background. Two of the plates, Native Brook Trout and Red Drum, were authorized last year. Those plates have until July 1, 2015, to obtain 500 paid applications in order for the plate to be produced. Otherwise, the authorization will expire. The other two plates, S.T.A.R. and Alpha Phi Alpha, are plates being reenacted by this bill. They have until October 1, 2014, to obtain 500 paid applications or the authorization will expire.

New Special License Plate Development Process

Section 3 of the bill establishes a new process for establishing or reauthorizing special license plates. This would codify the process and require DMV to explain the process on its website so that the public is aware of the process. The new process would be similar to the current process, except that the timing shifts as to when a requesting organization must obtain the minimum number of paid applications. The new process would become effective October 1, 2014.

The new process would operate as follows:

Step 1: Organization Obtains Paid Applications

An organization seeking a plate would obtain a form from DMV to be completed by potential purchasers. DMV must make this form available on its website by October 1, 2014 **(Section 4)**. The form will explain the application process and the fees that must be remitted to pre-pay for the plate. The organization must collect the minimum number of applications and payment from potential purchasers.

This step is similar to what happens now except that the organization must obtain the applications and payment after the General Assembly has authorized the plate.

Step 2: Organization Submits Development Application & Pre-Payment to DMV

[1] A list of expired plates appears at the end of this Bill Analysis.

Once an organization has obtained the minimum number of paid applications, it must submit to DMV a Special Registration Plate Development Application along with a single payment representing the total pre-payment received from potential purchasers. The deadline for submission would be February 15 in order for a bill to be considered in the legislative session being held that year. If an organization submits the application after February 15, a bill would be considered in the following year.

Organizations make this same payment to DMV now but only after legislation has been approved and once they have obtained the minimum number of paid applications from potential purchasers. The Special Registration Plate Development Application would be a new form that DMV must develop and make available on its website by February 1, 2015 **(Section 5)**. The form would require the organization to provide identifying information, point of contact information, a description of the proposed plate, the proposed fee for the plate, the name of at least one current member of the General Assembly who would sponsor legislation authorizing the plate, and sign a statement indicating that it has obtained the minimum number of paid applications.

At this point, an organization should have made contact with a legislator about sponsoring a bill to authorize the proposed plate. This bill does not restrict a member's ability to introduce legislation for a particular plate at any time within the filing deadlines.

Step 3: DMV Reports to General Assembly

By March 15 of each year, DMV would send to the Transportation and Finance chairs of both houses, as well as the Research Division, a list of the applicant-organizations that submitted an application and the required payment. The General Assembly may consider a bill during that year's session to authorize a special plate for those applicant-organizations.

Step 4: General Assembly Approves or Does Not Approve Bill

The General Assembly may approve, disapprove, or not take action on a bill authorizing a special license plate that applied in accordance with this process.

This step is the same as what happens now in that the General Assembly currently has discretion to approve, disapprove, or not take action on a bill authorizing a particular plate.

Step 5: Organization Submits Artwork & List of Purchasers to DMV

If the General Assembly approves the plate, the organization has 60 days within the bill becoming law to submit the artwork and list of purchasers to DMV or the authorization will expire **(Section 6)**. DMV will apply pre-payment at that time. If the General Assembly does not authorize the plate, DMV must refund the payment to the organization, and the organization is responsible for refunding the fees to each of the purchasers.

Step 5: DMV Issues Plate

DMV has 6 months to develop a plate that met all of the necessary requirements.

Deadline Extension for 2015 Session

Section 3(c) extends the deadlines for the first year that the new process would be in place to allow DMV to create and implement the new forms and the application process and to afford members and organizations an opportunity to become aware of and participate in the new process. In order for a bill to be considered in the 2015 Regular Session authorizing a new plate, an organization would have until April 1, 2015 to submit an application to DMV. DMV must report the list of applicant-organizations to the General Assembly by May 1, 2015.

Study of Special Registration Plates and Permanent License Plates

Section 7 of the bill directs the Revenue Laws Study Committee to study the new process for special registration plates, as well as the costs incurred by DMV to administer the special plates, and to study the eligibility criteria for permanent license plates and report its findings and recommendations to the 2015 General Assembly.

EXPIRED SPECIAL PLATES AS OF JULY 1, 2013			
AIDS AWARENESS	DAUGHTERS OF THE AMERICAN REVOLUTION	NC EMERGENCY MEDICAL MANAGEMENT	TOPSAIL ISLAND SHORELINE PROTECTION
ALPHA PHI ALPHA FRATERNITY	DON'T TREAD ON ME	NC FISHERIES ASSOCIATION	TOWN OF OAK ISLAND
ALS RESEARCH (JIM "CATFISH" HUNTER CHAPTER)	E 911 TELECOMMUNICATORS	NC 4-H DEVELOPMENT FUND	TRAVEL & TOURISM
ALTERNATIVE FUEL VEHICLES	EL PUEBLO	NC GREEN INDUSTRY COUNCIL	UNIVERSITY HEALTH SYSTEMS
AMERICAN RED CROSS	EMERGENCY MED. TECH	NC LIBRARIES	US EQUINE RESCUE LEAGUE
ARC OF NORTH CAROLINA	FIRST IN TURF	NC MASTER GARDENER	US SERVICE ACADEMY
ARMED FORCES EXPEDITIONARY MEDAL	FOX HUNTING	NC MINING	USA TRIATHLON
ARTHRITIS FOUNDATION	FUTURE FARMERS OF AMERICA	NC STATE FLAG	USO OF NC
AUDUBON NORTH CAROLINA	GIRL SCOUTS	NC VETERINARY MEDICAL ASSOCIATION	VICTORY JUNCTION GANG
AVIATION MAINTENANCE TECHNICIAN	GIRL SCOUTS GOLD AWARD RECIPIENT	NC VICTIM ASSISTANCE NETWORK	VIETNAM VETERANS OF AMERICA
BACK COUNTRY HORSEMEN OF NC	GOODNESS GROWS	NC WILDLIFE FEDERATION	ZETA PHI BETA SORORITY
BATTLE OF KINGS MOUNTAIN	GREENSBORO SYMPHONY GUILD	NC YOUTH SOCCER ASSOCIATION	
BE ACTIVE NC	GREYHOUND FRIENDS OF NC	OUTER BANKS PRESERVATION ASSOC	
BLUE KNIGHTS	HIGH POINT FURNITURE MARKET	PAMLICO-TAR RIVER FOUNDATION	
BOY SCOUTS OF AMERICA	HOLLERIN'	PARAMEDICS	
BRAIN INJURY AWARENESS	HOME OF AMERICAN GOLF	P.E.O. SISTERHOOD	
BRENNER CHILDREN'S HOSPITAL (DOWNSYNDROME)	HOSPICE CARE	POW/MIA	
BUFFALO SOLDIERS	JAYCEES	PROSTATE CANCER AWARENESS	
CAROLINA RAPTOR CENTER	KAPPA ALPHA ORDER	RED HAT SOCIETY	
CAROLINA REGIONAL VOLLEYBALL ASSOC.	LEUKEMIA & LYMPHOMA SOCIETY	RELAY FOR LIFE	
CAROLINAS AVIATION MUSEUM	LIFETIME SPORTSMAN	SCENIC RIVERS	
CAROLINAS CREDIT UNION FOUNDATION	LUNG CANCER RESEARCH	SCHOOL BOARD	
CAROLINAS GOLF ASSOCIATION	MAGGIE VALLEY TROUT FEST.	SCHOOL TECHNOLOGY	
CELEBRATE ADOPTION	MARCH OF DIMES	SIGMA GAMMA RHO SORORITY	
CHILDHOOD CANCER AWARENESS	MAYOR	SOIL & WATER CONSERVATION	
CITY/COUNTY CLERK	MILITARY VETERAN	SPECIAL FORCES ASSOCIATION	
COASTAL CONSERVATION ASSOCIATION	MORGAN HORSE CLUB	SPECIAL OLYMPICS	
COMBAT INFANTRY BADGE	MOTHERS AGAINST DRUNK DRIVING	SPORT FISHING	
COMBAT VETERAN	MUNICIPAL COUNCIL	S.T.A.R.	
COMMERCIAL FISHING	NATIONAL DEFENSE SERVICE MEDAL	STREET ROD OWNER	
CONCERNED BIKERS ASSOC/ABATE OF NC	NATIONAL KIDNEY FOUNDATON	SUPPORT NC EDUCATION	
CORVETT CLUB	NC AGRIBUSINESS	SURVEYOR	
COUNTY COMMISSIONER	NC BEEKEEPERS	SUSTAINABLE FISHERIES	
CRYSTAL COAST	NC CHILDRENS PROMISE	SWEET POTATO	
DANIEL STOWE BOTANICAL GARDEN	NC CIVIL WAR	TOASTMASTERS CLUB	

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

FISCAL ANALYSIS MEMORANDUM

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DATE: 07/16/2014

TO: Senate Finance Committee

FROM: Bryce Ball
Fiscal Research Division

RE: H101-CSSVf-64 [v.1]

FISCAL IMPACT
($ in millions)

☐ Yes ☐ No ☑ No Estimate Available

	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
State Impact					
Special Fund Revenues:					
Special Fund Expenditures:					
State Positions:					
NET STATE IMPACT	**No estimate available. Please see Assumptions & Methodology section for additional details.**				
Local Impact					
Revenues:					
Expenditures:					
NET LOCAL IMPACT	**No estimate available. Please see Assumptions & Methodology section for additional details.**				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:
Special Registration Plate Account; Division of Motor Vehicles

EFFECTIVE DATE: Sections 3 & 4 are effective October 1, 2014. Remainder is effective upon enactment.

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY:

Section 1: Reauthorizes special registration plates which expired July 1, 2013. This reauthorization under current issuance procedure expires October 1, 2014 if the minimum number of applications is not received by the Division of Motor Vehicles (DMV) by that date.

Section 2: Authorizes four special registration plates – Native Brook Trout, Red Drum, S.T.A.R., and Alpha Phi Alpha – with non-standard backgrounds.

Section 3: Establishes a new process for the collection and pre-payment of applications for a new special registration plate, effective October 1, 2014. Minimums of 300 or 500 applications are required for plate production on standard and non-standard backgrounds, respectively.

Application and pre-payment of the proposed plate fees to DMV are required by February 15th of each year; however, an extended application window (April 1, 2015 deadline) is given for consideration in the 2015 Regular Session. DMV must subsequently report these applications to the General Assembly no later than March 15th, or May 1, 2015 for the 2015 calendar year.

Should the General Assembly disapprove of the plate authorization, DMV must refund the pre-paid fees. If the authorization is enacted, production and issuance must be completed within 180 days of receipt of the plate design and minimum paid applications.

Section 4: Requires DMV to publicize the application and fee collection processes by October 1, 2014.

Section 5: Requires DMV to develop a new Special Registration Plate Development Application Form and make necessary modifications to information technology systems to accept these forms by February 1, 2015.

Section 6: Establishes an expiration date for plates authorized between July 1, 2011 and October 1, 2014 and provides that an authorization made on or after October 1, 2014 expires if the applicant fails to submit all required items within 60 days of enactment of that authorization.

Section 7: Directs the Revenue Laws Study Committee to examine further modifications to special registration plate and permanent registration plate policies, and to examine DMV administrative costs.

Section 8: Unless otherwise provided, makes these changes effective upon enactment.

ASSUMPTIONS AND METHODOLOGY:

Special Registration Plate Account: Fiscal Research cannot project the potential impact on special registration plate demand due to the proposed application minimums and procedural changes. However, because the bill advances the collection of special registration plate fees and does not materially alter the fee structure, Fiscal Research does not anticipate significant revenue impacts for the Special Registration Plate Account (SRPA).

Section 5 maintains the current $10.00 standard remittance to the SRPA, from which DMV is authorized to deduct funds to support the costs of special registration plate production and issuance. Receipts in excess of these costs are then allocated pursuant to G.S. 20-79.7(c) for:

a) Visitor center operating grants ($1,300,000);

b) Travel and industrial development advertising by the Department of Commerce (33% of remaining funds);
c) Highway beautification by the Department of Transportation (50% of remaining funds); and
d) Promotion of travel accessibility by the Department of Health and Human Services (17% of remaining funds).

Consequently, any increase in application frequency could generate additional revenue for the programs enumerated above.

Division of Motor Vehicles: Because DMV is currently authorized to deduct the costs incurred for program administration, including personnel, plate manufacture, and issuance, resultant costs will be offset with collected receipts. Additionally, due to the structuring of application timing, an initial fluctuation in employee workload is expected to implement this new process. However, Fiscal Research anticipates that these workload fluctuations may be accommodated through existing personnel within the Special Plates Unit. Should resultant workload warrant the addition of a full-time equivalent position, DMV may initiate establishment under current policy (i.e. G.S. 143C-6-4 and G.S. 143C-6-6) and subject to the approval of the Office of State Budget and Management.

Department of Transportation – Information Technology (DOT-IT): Based on the existing workload of the State Titling and Registration System (STARS) team and proposed effective date, DOT-IT projects that contract labor will be necessary to implement the proposed tracking, reporting, and fee collection requirements. DOT-IT projects 990 development hours at an approximate cost of $84,150.

SOURCES OF DATA: Division of Motor Vehicles, DOT-Information Technology

TECHNICAL CONSIDERATIONS: None

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H 3

HOUSE BILL 1033
Committee Substitute Favorable 6/18/14
Committee Substitute #2 Favorable 6/25/14

Short Title: Special Assessment/Dam Repair. (Public)

Sponsors:

Referred to:

May 15, 2014

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE A COUNTY TO IMPOSE A SPECIAL ASSESSMENT FOR REPAIR OF A DAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-210.1 is amended by adding a new subsection to read:

"(a1) Purpose of Dam Repair. – The General Assembly finds that dam repair is a public purpose promoting flood control and public safety."

SECTION 2. G.S. 153A-210.1(b) reads as rewritten:

"(b) Sunset. – This Article expires July 1, 2015. For projects authorized in G.S. 153A-210.2(a1), this Article expires July 1, 2019. The expiration does not affect the validity of assessments imposed or bonds issued or authorized under the provisions of this Article prior to the effective date of the expiration."

SECTION 3. G.S. 153A-210.2 is amended by adding a new subsection to read:

"(a1) Dam Repair Project. – The board of commissioners of a county may make special assessments as provided in this Article against property that is contiguous to a lake, and benefits from access to the same lake, for the purpose of repairing the dam of that lake. The provisions of this subsection only apply to a privately owned dam formerly used for textile mill purposes, forming a lake between 225 and 325 acres in area."

SECTION 4. This act is effective when it becomes law.

HOUSE BILL 1033:
Special Assessment/Dam Repair

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	July 16, 2014
Introduced by:	Rep. Goodman	**Prepared by:**	Heather Fennell
Analysis of:	Third Edition		Committee Counsel

SUMMARY: ***House Bill 1033 would authorize counties to impose a special assessment for dam repair if the dam meets certain conditions. The authority would expire July 1, 2019.***

[As introduced, this bill was identical to S766, as introduced by Sen. McLaurin, which is currently in Senate Ref to State and Local Government. If fav, re-ref to Finance.]

CURRENT LAW: In 2008, the General Assembly gave counties and cities the opportunity to use special assessments on benefitted property as a financing tool for long-term capital projects. The authority was set to expire July 1, 2013. Last year, the General Assembly extended the sunset date to July 1, 2015. At that time, no unit of local government had yet used this method of financing.

Assessment-based financing may be used for any purpose for which project development financing may be used. Those purposes include water and sewer systems, public transportation facilities, school facilities, gas systems, electric systems, industrial parks, parks and recreation facilities, and streets and sidewalks. Special assessments may be pledged as additional security for project development financing debt instruments as well as revenue bond financing debt instruments. If the assessment is pledged to secure financing, the city or county must covenant to enforce the payment of assessments.[1] Special assessments must be paid in annual installments over a period not to exceed 30 years.

A county or city may only impose special assessments if it receives a petition for the project to be financed through assessments that meets a two-prong test:

- The petition must be signed by a majority of the owners of the property assessed.
- And those owners must represent ownership of at least 66% of the assessed value of the property to be assessed.[2]

The county board of commissioners or city must adopt a preliminary assessment resolution that describes the project, the proposed basis for making the assessment, and information concerning the cost of the work and the terms of payment of the assessment. The proposed basis for making the assessment method most accurately assess property according to the benefits conferred upon it by the project for which the assessment is made. The county or city must hold a public hearing on the matter, prepare a preliminary assessment roll, and publish a confirmation of the assessment roll once it is adopted. An owner of property against which an assessment is made may file a notice of appeal to the General Court of Justice if the owner is dissatisfied with the amount of the assessment.

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[1] Unpaid assessments bear interest at a rate fixed in the assessment resolution. A county or city may foreclose assessment liens under procedures provided by law for the foreclosure of property tax liens.

[2] For example, if there are 21 owners involved and 10 hold 67% of the assessed value of the property to be assessed, at least one of the other 11 owners would have to sign the petition for the county or city to be able to impose the special assessments. Likewise, if 21 owners are involved and one owner owns 67% of the assessed value of the property, that one owner would have to be one of the signatures on the petition for the county or city to impose the special assessments.

BILL ANALYSIS: House Bill 1033 would authorize counties to make special assessments against property that is contiguous to a lake and benefits from access to the lake for the purpose of repairing the dam of that lake. This authority applies only to a privately-owned dam formerly used for textile mill purposes forming a lake between 225 and 325 acres in area.

EFFECTIVE DATE: This act is effective when it becomes law and the authorization for the use of the assessment procedure for dam repair would expire on July 1, 2019. The expiration would not affect the validity of any assessments imposed or bonds issued prior to the effective date of the expiration.

Giles Perry, counsel to House Government, substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

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DATE: July 16, 2014
TO: Senate Finance Committee
FROM: Sandra Johnson & Aubrey Incorvaia
Fiscal Research Division
RE: PCS to H1224

FISCAL IMPACT

($ in millions)

☑ Yes ☐ No ☐ No Estimate Available

State Impact	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
General Fund Revenues:					
General Fund Expenditures:	See Assumptions and Methodlogy				
NET STATE IMPACT	$0.0	$0.0	$0.0	$0.0	$0.0

Local Impact					
Revenues:	See Assumptions and Methodlogy				
NET LOCAL IMPACT	$0.0	$0.0	$0.0	$0.0	$0.0

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:
Commerce, North Carolina Department of Revenue

EFFECTIVE DATE: July 1, 2014

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY:

Part I of the PCS enacts Article 43A, the Local Option Sales Tax for Education, and modifies existing local sales tax articles, Article 43 and Article 46. Part II of the PCS would expand the eligibility criteria for the Job Maintenance and Capital Development Fund. Part III of the PCS would create the Job Catalyst Fund inside the Department of Commerce. Part IV would provide an additional $14M to the JDIG cap for the 2013-2015 biennium.

ASSUMPTIONS AND METHODOLOGY:

PART I LOCAL OPTION SALES TAX FOR EDUCATION

HB 1224 creates Article 43A. Article 43A grants local jurisdictions the authority to levy an additional sales ta designated for education. The bill also limits the maximum local sales tax rate to 2.5% in all but two counties, Durham County and Orange County, where the local rate is currently 2.75%. Table 1 below highlights the fiscal impact of enacting Article 43A at the maximum possible rate during the 2015-16 fiscal year.

Table 1. Maximum Sales and Use Tax Levy and Additional Revenue under Article 43A, by County, Fiscal Year 2015-16

County	Current Rate	Article 43A 2.25%	Article 43A 2.50%
Alamance	2%		$9,471,497
Alexander	2.25%	$429,327	
Alleghany	2%		$332,160
Anson	2%		$633,702
Ashe	2%		$1,028,718
Avery	2%		$1,023,458
Beaufort	2%		$2,154,416
Bertie	2%		$395,156
Bladen	2%		$1,031,719
Brunswick	2%		$6,425,215
Buncombe	2.25%	$10,337,325	
Burke	2%		$3,012,717
Cabarrus	2.25%	$6,950,468	
Caldwell	2%		$2,660,782
Camden	2%		$283,508
Carteret	2%		$4,859,546
Caswell	2%		$289,751
Catawba	2.25%	$4,930,009	
Chatham	2%		$2,239,828
Cherokee	2%		$1,224,004
Chowan	2%		$553,044
Clay	2%		$325,302
Cleveland	2%		$4,032,516
Columbus	2%		$1,884,654
Craven	2%		$4,884,160
Cumberland	2.25%	$10,130,063	
Currituck	2%		$2,244,787
Dare	2%		$6,758,031
Davidson	2%	$2,542,035	
Davie	2%		$1,463,108
Duplin	2.25%	$932,806	
Durham	2.75%		
Edgecombe	2.25%	$841,171	
Forsyth	2%		$23,292,486
Franklin	2%		$1,562,140
Gaston	2%		$9,030,729
Gates	2%		$151,725
Graham	2%		$294,500
Granville	2%		$1,459,005
Greene	2.25%	$152,379	
Guilford	2%		$31,996,220

Table 1. Maximum Sales and Use Tax Levy and Additional Revenue under Article 43A, by County, Fiscal Year 2015-16

County	Current Rate	Article 43A 2.25%	Article 43A 2.50%
Halifax	2.25%	$1,154,351	
Harnett	2.25%	$1,629,411	
Haywood	2.25%	$1,595,227	
Henderson	2%		$5,012,673
Hertford	2.25%	$549,388	
Hoke	2%		$929,305
Hyde	2%		$288,347
Iredell	2%		$9,590,186
Jackson	2%		$1,929,605
Johnston	2%		$7,188,541
Jones	2%		$162,871
Lee	2.25%	$1,649,370	
Lenoir	2%		$2,697,362
Lincoln	2%		$2,710,617
Macon	2%		$2,162,
Madison	2%		$443,
Martin	2.25%	$521,013	
McDowell	2%		$1,543,880
Mecklenburg	2.5%		
Mitchell	2%		$694,646
Montgomery	2.25%	$380,395	
Moore	2%		$5,400,349
Nash	2%		$4,947,940
New Hanover	2.25%	$9,236,387	
Northampton	2%		$447,420
Onslow	2.25%	$5,333,338	
Orange	2.75%		
Pamlico	2%		$368,465
Pasquotank	2%		$2,445,676
Pender	2%		$1,672,609
Perquimans	2%		$263,781
Person	2%		$1,443,933
Pitt	2.25%	$5,243,318	
Polk	2%		$475,672
Randolph	2.25%	$2,448,354	
Richmond	2%		$1,678,680
Robeson	2.25%	$2,391,361	
Rockingham	2%		$3,150,575
Rowan	2.25%	$2,677,499	
Rutherford	2%		$2,547,
Sampson	2.25%	$1,047,991	
Scotland	2%		$1,303,301

Table 1. Maximum Sales and Use Tax Levy and Additional Revenue under Article 43A, by County, Fiscal Year 2015-16			
unty	Current Rate	Article 43A 2.25%	Article 43A 2.50%
Stanly	2%		$2,500,923
Stokes	2%		$928,184
Surry	2.25%	$2,066,687	
Swain	2%		$512,488
Transylvania	2%		$1,411,774
Tyrrell	2%		$102,991
Union	2%		$7,523,025
Vance	2%		$1,969,027
Wake	2%		$64,974,739

Table 1. Maximum Sales and Use Tax Levy and Additional Revenue under Article 43A, by County, Fiscal Year 2015-16			
County	Current Rate	Article 43A 2.25%	Article 43A 2.50%
Warren	2%		$383,470
Washington	2%		$394,006
Watauga	2%		$3,609,571
Wayne	2%		$5,542,204
Wilkes	2.25%	$1,358,424	
Wilson	2%		$4,543,748
Yadkin	2%		$935,074
Yancey	2%		$567,507

PART II JMAC MODIFICATIONS

While the PCS to House Bill 1224 broadens eligibility for the JMAC program and increases total award capacity to $79 million, the legislation does not expressly require this capacity to be used.

However, Commerce has relayed to the Fiscal Research Division that the impetus for JMAC program expansion is the retention of Evergreen Packaging in Haywood County. If the PCS is enacted, Commerce plans to award the company a JMAC in FY 2014-15 and structure the contract for the company to receive a total of $12 million over six fiscal years, with payments of $2 million annually (FY 2015-16 through FY 2020-21). Committing this award would absorb the remaining available $12 million JMAC award capacity ($79 million permissible award capacity proposed in the PCS less $67 million utilized liability to-date for awards to Bridgestone, Goodyear and ⁻)mtar).

Existing JMAC statutes limit a grant period to up to 10 years and restrict the annual cost of any one award to no more than $6 million. Regardless of whether Commerce's plans for Evergreen Packaging become reality, if the PCS is enacted, then JMAC will have $12 million worth of unutilized award capacity. If fully utilized, cost implications range between $1.2 million a year for 10 years and $6 million a year for two years, which would require future General Fund appropriations.

PART III JOB CATALYST FUND

This section of the bill establishes the Fund, but has no fiscal impact since the PCS does not provide the Fund with 1) an appropriation or 2) a threshold under which awards are authorized to be committed.[1]

PART IV JDIG MODIFICATIONS

This section of the bill increases the 2013-15 fiscal biennium award capacity for the Job Development Investment Grant program by $14 million. Given that grant terms can be up to 12 years, the PCS generates an additional maximum liability for the program of $168 million (actual payments are based on company performance).

SOURCES OF DATA: Commerce; North Carolina Department of Revenue

TECHNICAL CONSIDERATIONS: None

[1] Other economic development grant programs are permitted a certain award capacity threshold under which to make grant commitments; examples include the Job Development Investment Grant program, One North Carolina Fund, and JMAC.

GENERAL ASSEMBLY OF NORTH CAROLINA

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Fiscal Research Division

RE: PCS to H1224

FISCAL IMPACT

($ in millions)

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General Fund Revenues:					
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PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:
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Guilford	2%		$31,996,220

Table 1. Maximum Sales and Use Tax Levy and Additional Revenue under Article 43A, by County, Fiscal Year 2015-16

County	Current Rate	Article 43A 2.25%	Article 43A 2.50%
Halifax	2.25%	$1,154,351	
Harnett	2.25%	$1,629,411	
Haywood	2.25%	$1,595,227	
Henderson	2%		$5,012,673
Hertford	2.25%	$549,388	
Hoke	2%		$929,305
Hyde	2%		$288,347
Iredell	2%		$9,590,186
Jackson	2%		$1,929,605
Johnston	2%		$7,188,541
Jones	2%		$162,871
Lee	2.25%	$1,649,370	
Lenoir	2%		$2,697,362
Lincoln	2%		$2,710,617
Macon	2%		$2,162,
Madison	2%		$443,
Martin	2.25%	$521,013	
McDowell	2%		$1,543,880
Mecklenburg	2.5%		
Mitchell	2%		$694,646
Montgomery	2.25%	$380,395	
Moore	2%		$5,400,349
Nash	2%		$4,947,940
New Hanover	2.25%	$9,236,387	
Northampton	2%		$447,420
Onslow	2.25%	$5,333,338	
Orange	2.75%		
Pamlico	2%		$368,465
Pasquotank	2%		$2,445,676
Pender	2%		$1,672,609
Perquimans	2%		$263,781
Person	2%		$1,443,933
Pitt	2.25%	$5,243,318	
Polk	2%		$475,672
Randolph	2.25%	$2,448,354	
Richmond	2%		$1,678,680
Robeson	2.25%	$2,391,361	
Rockingham	2%		$3,150,575
Rowan	2.25%	$2,677,499	
Rutherford	2%		$2,547,
Sampson	2.25%	$1,047,991	
Scotland	2%		$1,303,301

Table 1. Maximum Sales and Use Tax Levy and Additional Revenue under Article 43A, by County, Fiscal Year 2015-16			
unty	Current Rate	Article 43A 2.25%	Article 43A 2.50%
Stanly	2%		$2,500,923
Stokes	2%		$928,184
Surry	2.25%	$2,066,687	
Swain	2%		$512,488
Transylvania	2%		$1,411,774
Tyrrell	2%		$102,991
Union	2%		$7,523,025
Vance	2%		$1,969,027
Wake	2%		$64,974,739

Table 1. Maximum Sales and Use Tax Levy and Additional Revenue under Article 43A, by County, Fiscal Year 2015-16			
County	Current Rate	Article 43A 2.25%	Article 43A 2.50%
Warren	2%		$383,470
Washington	2%		$394,006
Watauga	2%		$3,609,571
Wayne	2%		$5,542,204
Wilkes	2.25%	$1,358,424	
Wilson	2%		$4,543,748
Yadkin	2%		$935,074
Yancey	2%		$567,507

PART II JMAC MODIFICATIONS

While the PCS to House Bill 1224 broadens eligibility for the JMAC program and increases total award capacity to $79 million, the legislation does not expressly require this capacity to be used.

However, Commerce has relayed to the Fiscal Research Division that the impetus for JMAC program expansion is the retention of Evergreen Packaging in Haywood County. If the PCS is enacted, Commerce plans to award the company a JMAC in FY 2014-15 and structure the contract for the company to receive a total of $12 million over six fiscal years, with payments of $2 million annually (FY 2015-16 through FY 2020-21). Committing this award would absorb the remaining available $12 million JMAC award capacity ($79 million permissible award capacity proposed in the PCS less $67 million utilized liability to-date for awards to Bridgestone, Goodyear and Domtar).

Existing JMAC statutes limit a grant period to up to 10 years and restrict the annual cost of any one award to no more than $6 million. Regardless of whether Commerce's plans for Evergreen Packaging become reality, if the PCS is enacted, then JMAC will have $12 million worth of unutilized award capacity. If fully utilized, cost implications range between $1.2 million a year for 10 years and $6 million a year for two years, which would require future General Fund appropriations.

PART III JOB CATALYST FUND

This section of the bill establishes the Fund, but has no fiscal impact since the PCS does not provide the Fund with 1) an appropriation or 2) a threshold under which awards are authorized to be committed.[1]

PART IV JDIG MODIFICATIONS

This section of the bill increases the 2013-15 fiscal biennium award capacity for the Job Development Investment Grant program by $14 million. Given that grant terms can be up to 12 years, the PCS generates an additional maximum liability for the program of $168 million (actual payments are based on company performance).

SOURCES OF DATA: Commerce; North Carolina Department of Revenue

TECHNICAL CONSIDERATIONS: None

[1]ther economic development grant programs are permitted a certain award capacity threshold under which to make grant commitments; examples include the Job Development Investment Grant program, One North Carolina Fund, and JMAC.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H D

HOUSE BILL 1224
PROPOSED SENATE COMMITTEE SUBSTITUTE H1224-CSMCx-34 [v.18]

7/16/2014 12:14:30 PM

Short Title: Local Sales Tax for Education/Econ. Dev Chngs. (Public)

Sponsors:

Referred to:

May 28, 2014

A BILL TO BE ENTITLED

AN ACT TO LIMIT THE TOTAL LOCAL GOVERNMENT SALES AND USE TAX RATE TO TWO AND ONE-HALF PERCENT; TO ALLOW COUNTIES TO USE A PORTION OF THE PROCEEDS OF THE LOCAL GOVERNMENT SALES AND USE TAX FOR PUBLIC TRANSPORTATION OR FOR PUBLIC EDUCATION; AND TO MAKE VARIOUS CHANGES TO TAX AND ECONOMIC DEVELOPMENT LAWS.

The General Assembly of North Carolina enacts:

PART I. LOCAL OPTION SALES TAX FOR EDUCATION

SECTION 1.1 Subchapter VIII of Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 43A.

"County Sales and Use Tax for Public Education.

"**§ 105-512.1. Short title; purpose.**

This Article is the Local Government Sales and Use Tax for Public Education. Article 43 of this Chapter and this Article give the counties of this State an opportunity to obtain an additional source of revenue with which to meet their needs. A county may choose to use this source of revenue to finance local public transportation systems, as provided in Article 43 of this Chapter, or for public education needs, as provided in this Article. A tax levied under this Article may not be in effect in a county at the same time as a tax levied under Article 43 of this Chapter.

"**§ 105-512.2. Levy.**

(a) Referendum. – A tax levied under this Article must be approved in a referendum. The board of commissioners of a county may direct the county board of elections to conduct an advisory referendum on the question of whether to levy a local sales and use tax in the county at a rate of up to one-half percent (1/2%). The applicable rate must meet all of the conditions listed in this subsection. The election shall be held in accordance with the procedures of G.S. 163-287. The conditions are:

(1) It must be in an increment of one-quarter percent (1/4%).

(2) It must be at a rate that, if levied, would result in a total local sales and use tax rate in the county of two and one-half percent (2½%).

(b) Ballot Question. – The form of the question to be presented on a ballot for a special election concerning the levy of the tax authorized by this Article shall be:

'[ ] FOR [ ] AGAINST

Local sales and use tax at the [applicable rate stated in both words and as a percentage] in addition to the current local sales and use taxes, to be used only for public education.'

(c) Authority. – If the majority of those voting in a referendum held pursuant to this Article vote for the levy of the tax, the board of commissioners of the county may, by resolution and after 10 days' public notice, levy a local sales and use tax at the rate specified in the ballot.

"**§ 105-512.3. Administration.**

Except as provided in this Article, the adoption, levy, collection, administration, and repeal of these additional taxes must be in accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this Article, references to "this Article" mean "Article 43A of Chapter 105 of the General Statutes." G.S. 105-468.1 is an administrative provision that applies to this Article. A tax levied under this Article does not apply to the sales price of food that is exempt from tax pursuant to G.S. 105-164.13B or to the sales price of a bundled transaction taxable pursuant to G.S. 105-467(a)(5a). The Secretary shall not divide the amount allocated to a county between the county and the municipalities within the county.

"**§ 105-512.4. Use.**

Counties may use the proceeds of a tax levied under this Article only for the following purposes:

(1) Public school capital outlay purposes as defined in G.S. 115C-426(f) or to retire any indebtedness incurred by the county for these purposes.

(2) Salaries of classroom teachers, salaries of classroom teacher assistants, and supplements of classroom teacher salaries. For the purposes of this section, a classroom teacher is an employee of a local board of education employed as a teacher who spends at least seventy percent (70%) of his or her work time in classroom instruction and a classroom teacher assistant is an employee of a local board of education employed as a teacher assistant who spends at least seventy percent (70%) of his or her work time assisting in a classroom.

(3) Financial support of community colleges, including funds to supplement State financial support of community colleges."

SECTION 1.2.(a) G.S. 115C-429(b) reads as rewritten:

"(b) The board of county commissioners shall complete its action on the school budget on or before July 1, or such later date as may be agreeable to the board of education. The commissioners shall determine the amount of county revenues to be appropriated in the county budget ordinance to the local school administrative unit for the budget year. The board of county commissioners may, in its discretion, allocate part or all of its appropriation by purpose, function, or project as defined in the uniform budget format. For allocations made by the board of county commissioners for the purpose of or for a function related to instructional services, the board of county commissioners may direct the amount of funds to be used for salaries of classroom teachers, salaries of classroom teacher assistants, and supplements of classroom teacher salaries. For the purposes of this section, a classroom teacher is an employee of a local board of education employed as a teacher who spends at least seventy percent (70%) of his or her work time in classroom instruction and a classroom teacher assistant is an employee of a local board of education employed as a teacher assistant who spends at least seventy percent (70%) of his or her work time assisting in a classroom."

SECTION 1.2.(b) G.S. 115C-433(b) reads as rewritten:

"(b) If the board of county commissioners allocates part or all of its appropriations pursuant to G.S. 115C-429(b), the board of education must obtain the approval of the board of county commissioners for an amendment to the budget that does any of the following:

(1)~~(i)~~ ~~increases~~ Increases or decreases expenditures from the capital outlay fund for projects listed in G.S. 115C-426(f)(1) or ~~(2),~~(2). ~~or (ii)~~

(2) ~~increases~~ Increases or decreases the amount of county appropriation allocated to a purpose or function by twenty-five percent (25%) or more from the amount contained in the budget ordinance adopted by the board of

county commissioners: ~~Provided,~~provided, that at its discretion, the board may in its budget ordinance specify a lesser percentage, so long as such percentage is not less than ~~ten percent (10%).~~ten percent (10%).

(3) Decreases the amount of funds allocated for salaries of classroom teachers, salaries of classroom teacher assistants, and supplements of classroom teacher salaries. For the purposes of this section, a classroom teacher is an employee of a local board of education employed as a teacher who spends at least seventy percent (70%) of his or her work time in classroom instruction and a classroom teacher assistant is an employee of a local board of education employed as a teacher assistant who spends at least seventy percent (70%) of his or her work time assisting in a classroom."

SECTION 1.3.(a) G.S. 115D-55(a) reads as rewritten:

"(a) Approval of Budget by Local Tax-Levying Authority. – By a date fixed by the local tax-levying authority, the budget shall be submitted to the local tax-levying authority for approval of that portion within its authority as stated in G.S. 115D-54(b). On or before July 1, or such later date as may be agreeable to the board of trustees, but in no instance later than September 1, the local tax-levying authority shall determine the amount of county revenue to be appropriated to an institution for the budget year. The local tax-levying authority may allocate part or all of an appropriation by purpose, function, or project as defined in the budget manual as adopted by the State Board of Community Colleges. The local tax-levying authority may direct the use of funds appropriated to the institution derived from a tax levied under Article 43A of Chapter 105 of the General Statutes.

The local tax-levying authority shall have full authority to call for all books, records, audit reports, and other information bearing on the financial operation of the institution except records dealing with specific persons for which the persons' rights of privacy are protected by either federal or State law.

Nothing in this Article shall be construed to place a duty on the local tax-levying authority to fund a deficit incurred by an institution through failure of the institution to comply with the provisions of this Article or rules and regulations issued pursuant hereto."

SECTION 1.3.(b) G.S. 115D-58(b) reads as rewritten:

"(b) If the local tax-levying authority allocates part or all of an appropriation pursuant to G.S. 115D-55, the board of trustees must obtain approval of the local tax-levying authority for an amendment to the budget which does any of the following:

(1) ~~increases~~ Increases or decreases the amount of that appropriation allocated to a purpose, function, or project by twenty-five percent (25%) or more from the amount contained in the budget ordinance adopted by the local tax-levying authority or such lesser percentage as specified by the local tax-levying authority in the original budget ordinance, so long as such percentage is not less than ten percent (10%).

(2) Decreases the amount of the appropriation directed by the tax-levying authority for a specific use from funds appropriated to the institution derived from a tax levied under Article 43A of Chapter 105 of the General Statutes."

SECTION 1.4.(a) G.S. 105-506 reads as rewritten:

"**§ 105-506. Short title; purpose.**

This Article is the Local Government Public Transportation Sales Tax Act and may be cited by that name. This Article and Article 43A of this Chapter ~~gives~~ give the counties ~~and transportation authorities~~ of this State an opportunity to obtain an additional source of revenue with which to meet their ~~needs for~~ needs. Counties and transportation authorities may choose to use this source of revenue to ~~financing~~ finance local public transportation ~~systems.~~ systems under this Article, or to finance public education needs, as provided in Article 43A of this Chapter. A tax levied under this Article may not be in effect in a county at the same time as a

tax levied under Article 43A of this Chapter. ~~It provides them with authority to levy sales and use taxes. All such taxes~~ A tax levied under this Chapter must be approved in a referendum."

SECTION 1.4.(b) Part 1 of Article 43 of Chapter 105 of the General Statutes is amended by a new section to read:

"**§ 105-506.3. Tax rate.**

(a) Rate. – The applicable rate of local sales and use tax that may be levied under this Article must meet all of the following conditions:

(1) It must be in an increment of one-quarter percent (1/4%).

(2) It must be at a rate that, if levied, would result in a total local sales and use tax rate in the county or special district of two and one-half percent (2½%).

(b) Cap. – Except as provided in this subsection, a county's local sales and use tax rate may not exceed two and one-half percent (2.5%). A county's local sales and use tax rate may exceed two and one-half percent (2.5%) if the county conducted one or more advisory referendums on or before December 31, 2012, in which a majority of the voters approved the levy of a local sales and use tax resulting in a total local sales and use tax rate in the county of two and three-quarters percent (2.75%). In no event may a county's local sales and use tax rate exceed two and three-quarters percent (2.75%). If a county's local sales and use tax rate is two and three-quarters percent (2.75%) on April 1, 2013, and the county repeals the levy of a tax authorized under Subchapter VIII of this Chapter so that the county's local sales and use tax rate falls below two and three-quarters percent (2.75%), the county may not enact a local sales and use tax under this Subchapter that results in a county local sales and use tax rate that exceeds two and one-half percent (2.5%)."

SECTION 1.4.(c) G.S. 105-507.1 reads as rewritten:

"**§ 105-507.1. Local election on adoption of sales and use tax.**

(a) Resolution. – The board of commissioners of a county may direct the county board of elections to conduct an advisory referendum within the county on the question of whether a local sales and use tax at the rate of up to one-half percent (1/2%) may be levied in accordance with this Part. The applicable rate must be in accordance with G.S. 105-506.3. The election shall be held in accordance with the procedures of G.S. 163-287. The board of commissioners shall hold a public hearing on the question at least 30 days before the date the election is to be held.

(b) Ballot Question. – The form of the question to be presented on a ballot for a special election concerning the levy of a tax authorized by this Article shall be:

"[ ] FOR [ ] AGAINST

~~One-half percent (1/2%)~~[The applicable rate stated in both words and as a percentage] local sales and use taxes, in addition to the current local sales and use taxes, to be used only for public transportation systems.""

SECTION 1.4.(d) G.S. 105-507.2 reads as rewritten:

"**§ 105-507.2. Levy and collection of sales and use tax.**

If the majority of those voting in a referendum held pursuant to G.S. 105-507.1 vote for the levy of the tax, the board of commissioners of the county may, by resolution, levy ~~one-half percent (½%) local sales and use taxes~~ a local sales and use tax at the rate specified in the ballot in addition to any other State and local sales and use taxes levied pursuant to law. Except as provided in this Part, the adoption, levy, collection, administration, and repeal of these additional taxes shall be in accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this Part, references to "this Article" mean "Part 1 of Article 43 of Chapter 105 of the General Statutes"."

SECTION 1.4.(e) G.S. 105-509 reads as rewritten:

"**§ 105-509. Local election on adoption of sales and use tax – regional public transportation authority.**

...

(b) Resolution. – The board of trustees of the regional public transportation authority may, if all of the conditions listed in this subsection have been met, direct the respective county board or boards of elections to conduct an advisory referendum within the special district on the question of whether a local sales and use tax at the rate of up to one-half percent (1/2%) may be levied within the district in accordance with this Part. The applicable rate must be in accordance with G.S. 105-506.3. The tax may not be levied without voter approval. The election shall be held on a date jointly agreed upon by the authority, the county board or boards of commissioners, and the county board or boards of elections and shall be held on a date permitted by and in accordance with the procedures of G.S. 163-287. The conditions are as follows:

(1) The board of trustees has obtained approval to conduct a referendum by a vote of the following:
   a. A majority vote of each of the county boards of commissioners within the special district, if it is a multicounty special district.
   b. A majority of the county board of commissioners within the special district, if it is a single-county special district.

(2) A public hearing is held on the question by the board or boards of commissioners at least 30 days before the date the election is to be held.

(c) Ballot Question. – The form of the question to be presented on a ballot for a special election concerning the levy of a tax authorized by this Article shall be:

"[ ] FOR [ ] AGAINST

~~One-half percent (1/2%)~~ [The applicable rate stated in both words and as a percentage] local sales and use taxes, in addition to the current local sales and use taxes, to be used only for public transportation systems."

..."

SECTION 1.4.(f) G.S. 105-509.1 reads as rewritten:

"**§ 105-509.1. Levy and collection of sales and use tax – regional public transportation authority.**

If the majority of those voting in a referendum held pursuant to G.S. 105-509 vote for the levy of the tax, the transportation authority may, by resolution, levy ~~one-half percent (½%) local sales and use taxes~~ a local sales and use tax at the rate specified in the ballot within the special district, in addition to any other State and local sales and use taxes levied pursuant to law. In determining the results of the election in a multicounty district, all the counties of the district shall be considered to be one unit but also must receive a majority vote in each county, except that if the referendum is passed in one or more but not all of the counties, the counties in which the referendum was not approved are removed from the special district upon certification of the election result and the county or counties that approved the referendum shall remain in the special district. Except as provided in this Part, the adoption, levy, collection, administration, and repeal of these additional taxes shall be in accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this Article, references to "this Article" mean "Part 4 of Article 43 of Chapter 105 of the General Statutes." Any repeal of the tax shall be done by the same procedure as its enactment under this section, and in a multicounty district a petition for repeal under G.S. 105-473 shall be judged by the total votes in all the counties in the district."

SECTION 1.4.(g) G.S. 105-510 reads as rewritten:

"**§ 105-510. Local election on adoption of sales and use tax – regional transportation authority.**

...

(b) Resolution. – The board of trustees of the regional transportation authority may, if all of the conditions listed in this subsection have been met, direct the respective county board or boards of elections to conduct an advisory referendum within the special district on the

question of whether a local sales and use tax at the rate of up to one-half percent (1/2%) may be levied within the district in accordance with this Part. The applicable rate must be in accordance with G.S. 105-506.3. The tax may not be levied without voter approval. The election shall be held on a date jointly agreed upon by the authority, the county board or boards of commissioners, and the county board or boards of elections and shall be held on a date permitted by and in accordance with the procedures of G.S. 163-287. The conditions are as follows:

(1) The board of trustees has obtained approval to conduct a referendum by a vote of the following:
   a. A majority vote of both of the county boards of commissioners within the special district, if it is a multicounty special district.
   b. A majority of the county board of commissioners within the special district, if it is a single-county special district.

(2) A public hearing is held on the question by the board or boards of commissioners at least 30 days before the date the election is to be held.

(c) Ballot Question. – The form of the question to be presented on a ballot for a special election concerning the levy of a tax authorized by this Article shall be:

"[ ] FOR [ ] AGAINST

~~One-half percent (1/2%)~~ [The applicable rate stated in both words and as a percentage] local sales and use taxes, in addition to the current local sales and use taxes, to be used only for public transportation systems."

..."

SECTION 1.4.(h) G.S. 105-510.1 reads as rewritten:

"**§ 105-510.1. Levy and collection of sales and use tax – regional transportation authority.**

If the majority of those voting in a referendum held pursuant to G.S. 105-510 vote for the levy of the tax, the transportation authority may, by resolution, levy ~~one-half percent (1/2%) local sales and use taxes~~ a local sales and use tax at the rate specified in the ballot within the special district, in addition to any other State and local sales and use taxes levied pursuant to law. In determining the results of the election in a multicounty district, all the counties of the district shall be considered to be one unit but also must receive a majority vote in each county, except that if the referendum is passed in one but not both of the counties, the county in which the referendum was not approved is removed from the special district upon certification of the election result and the county that approved the referendum shall remain in the special district. Except as provided in this Part, the adoption, levy, collection, administration, and repeal of these additional taxes shall be in accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this Article, references to "this Article" mean "Part 5 of Article 43 of Chapter 105 of the General Statutes." Any repeal of the tax shall be done by the same procedure as its enactment under this section, and in a multicounty district a petition for repeal under G.S. 105-473 shall be judged by the total votes in all the counties in the district."

SECTION 1.4.(i) G.S. 105-511.2 reads as rewritten:

"**§ 105-511.2. Local election on adoption of sales and use tax.**

(a) Resolution. – The board of commissioners of a county may direct the county board of elections to conduct an advisory referendum within the county on the question of whether a local sales and use tax at ~~the rate of one-quarter percent (1/4%)~~ a rate of up to one-half percent (1/2%) may be levied in accordance with this Part. The applicable rate must be in accordance with G.S. 105-506.3. The election shall be held on a date jointly agreed upon by the boards and shall be held on a date permitted by and in accordance with the procedures of G.S. 163-287. The board of commissioners shall hold a public hearing on the question at least 30 days before the date the election is to be held.

(b) Ballot Question. – The form of the question to be presented on a ballot for a special election concerning the levy of a tax authorized by this Article shall be:

"[ ] FOR [ ] AGAINST

~~One-quarter percent (1/4%)~~ [The applicable rate stated in both words and as a percentage] local sales and use taxes, in addition to the current local sales and use taxes, to be used only for public transportation systems."

SECTION 1.4.(j) G.S. 105-511.3 reads as rewritten:

"**§ 105-511.3. Levy and collection of sales and use tax.**

(a) Authority to Levy. – If the majority of those voting in a referendum held pursuant to this Part vote for the levy of the tax, the board of commissioners of the county may, by resolution, levy ~~one-quarter percent (1/4%) local sales and use taxes~~ a local sales and use tax at the rate specified in the ballot in addition to any other State and local sales and use taxes levied pursuant to law.

(b) Administration. – Except as provided in this Part, the adoption, levy, collection, administration, and repeal of these additional taxes shall be in accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this Part, references to "this Article" mean "Part 6 of Article 43 of Chapter 105 of the General Statutes.""

SECTION 1.4.(k) This section is effective when it becomes law.

SECTION 1.5.(a) G.S. 105-537 reads as rewritten:

"(a) Authority. – A tax levied under this Article must be approved in a referendum. If the majority of those voting in a referendum held pursuant to this Article vote for the levy of the tax, the board of county commissioners may, by resolution and after 10 days' public notice, levy a local sales and use tax at a rate of one-quarter percent (0.25%).

...

(e) Expiration. – A board of county commissioners may not direct the county board of elections to conduct an advisory referendum on the question of whether to levy a local sales and use tax in the county as provided in this Article on or after August 1, 2014."

SECTION 1.5.(b) This section is effective when it becomes law. Notwithstanding G.S. 105-537(e), as enacted by this act, a county that meets both of the conditions listed in this subsection, as of the date this act becomes law, may direct the county board of elections to conduct an advisory referendum under this Article:

(1) The county has directed the county board of elections to put the question of whether to levy a local sales and use tax in the county under this Article on the ballot in a State, county, or municipal general election to be held in 2014.

(2) The total rate of local sales and use tax in the county is less than two and one-half percent (2 ½%).

SECTION 1.6. Except as otherwise provided, this Part is effective when it becomes law.

PART II. JMAC MODIFICATIONS

SECTION 2.(a) G.S. 143B-437.012 reads as rewritten:

"**§ 143B-437.012. Job Maintenance and Capital Development Fund.**

...

(d) Eligibility. – A business is eligible for consideration for a grant under this section if it satisfies the conditions of either subdivision (1) or (2) of this subsection and satisfies ~~the conditions of both subdivisions (3) and~~subdivision (4) of this subsection:

(1) The business is a major employer. A business is a major employer if the business meets the following requirements:

a. The Department certifies that the business has invested or intends to invest at least two hundred million dollars ($200,000,000) of private funds in improvements to real property and additions to tangible personal property in the project within a six-year period beginning with the time the investment commences.

b. The business employs at least 2,000 full-time employees or equivalent full-time contract employees at the project that is the subject of the grant at the time the application is made, and the business agrees to maintain at least 2,000 full-time employees or equivalent full-time contract employees at the project for the full term of the grant agreement.

c. The project is located in a development tier one area at the time the business applies for a grant.

(2) The business is a large manufacturing employer. A business is a large manufacturing employer if the business meets the following requirements:

a. The business is in manufacturing, as defined in G.S. 105-129.81, and is converting its manufacturing process to change the product it ~~manufactures.~~manufactures or is investing in its manufacturing process by enhancing pollution controls or transitioning the manufacturing process from using coal to using natural gas for the purpose of becoming more energy efficient or reducing emissions.

b. The Department certifies that the business has invested or intends to invest at least ~~sixty-five~~fifty million dollars ~~($65,000,000)~~($50,000,000) of private funds in improvements to real property and additions to tangible personal property in the project within a ~~three-year~~five-year period beginning with the time the investment commences.

c. The business meets one of the following employment requirements:

1. If in a development tier one area, the business employs at least 320 full-time employees at the project that is the subject of the grant at the time the application is made, and the business agrees to maintain at least 320 full-time employees at the project for the full term of the grant.

2. If in a development tier two area with a population of less than 60,000 as of July 1, 2013, the business employs at least 800 full-time employees or equivalent full-time contract employees at the project that is the subject of the grant at the time the application is made, and the business agrees to maintain at least 800 full-time employees or equivalent full-time contract employees at the project for the full term of the grant.

~~(3) The project is located in a development tier one area at the time the business applies for a grant.~~

(4) All newly hired employees of the business must be citizens of the United ~~States,~~States or have proper identification and documentation of their authorization to reside and work in the United States.

...

(n) Limitations. – The Department may enter into no more than five agreements under this section. The total aggregate cost of all agreements entered into under this section may not exceed ~~sixty-nine million dollars ($69,000,000).~~seventy-nine million dollars ($79,000,000). The total annual cost of an agreement entered into under this section may not exceed six million dollars ($6,000,000)."

SECTION 2.(b) This section becomes effective July 1, 2014.

PART III. JOB CATALYST FUND

SECTION 3.(a) G.S. 143B-437.50 reads as rewritten:

"Part 2G. Job ~~Development Investment Grant Program.~~Development.

"**§ 143B-437.50. Legislative findings and purpose.**

The General Assembly finds that:

(1) It is the policy of the State of North Carolina to stimulate economic activity and to create new jobs for the citizens of the State by encouraging and promoting the expansion of existing business and industry within the State and by recruiting and attracting new business and industry to the State.

...."

SECTION 3.(b) G.S. 143B-437.51 reads as rewritten:

"**§ 143B-437.51. Definitions.**

The following definitions apply in this Part:

...

(6) Full-time employee. – A person who is employed for consideration for at least 35 hours a week, whose wages are subject to withholding under Article 4A of Chapter 105 of the General Statutes, and who is determined by the Committee to be employed in a permanent position according to criteria it develops in consultation with the Attorney General. The term does not include any person who works as an independent contractor or on a consulting basis for the business.

(6a) Full-time worker. – A person who is employed for consideration for at least 35 hours a week, whose wages are subject to withholding under Article 4A of Chapter 105 of the General Statutes, and who is determined by the Department to be employed in a permanent position. The term does not include any person who works as an independent contractor or on a consulting basis for the business.

(7) New employee. – A full-time employee or a full-time worker who represents a net increase in the number of the business's employees or workers statewide.

...."

SECTION 3.(c) G.S. 143B-437.52 reads as rewritten:

"Subpart A. Job Development Investment Grant Program.

"**§ 143B-437.52. Job Development Investment Grant Program.**

(a) Program. – There is established the Job Development Investment Grant Program to be administered by the Economic Investment Committee. In order to foster job creation and investment in the economy of this State, the Committee may enter into agreements with businesses to provide grants in accordance with the provisions of this Part. The Committee, in consultation with the Attorney General, shall develop criteria to be used in determining whether the conditions of this section are satisfied and whether the project described in the application is otherwise consistent with the purposes of this Part. Before entering into an agreement, the Committee must find that all the following conditions are met:

...

...."

SECTION 3.(d) The Revisor of Statutes is authorized to change references of "this Part" in Subpart A of Part 2G of Article 10 of Chapter 143B of the General Statutes to "this Subpart" as appropriate.

SECTION 3.(e) Part 2G of Article 10 of Chapter 143B of the General Statutes is amended by adding a new Subpart to read:

"Subpart B. Job Catalyst Fund.

"**§ 143B-437.67. Job Catalyst Fund.**

(a) Creation and Purpose of Fund. – There is created in the Department of Commerce a special, nonreverting account to be known as the Job Catalyst Fund to provide funds to a local governmental unit for projects that result in the creation of jobs. The Secretary of Commerce is

solely responsible for the administration of the program and shall adopt guidelines applicable to program administration. The guidelines shall include the following provisions, which shall apply to each grant from the account:

(1) The funds are reserved for a project for which a business agrees to create and maintain, for the greater of 10 years or a time period not less than the sum of the full term of the grant plus five years, the number of new worker positions at the project as follows:
   a. For development tier one areas, 500 full-time workers.
   b. For development tier two areas, 800 full-time workers.
   c. For development tier three areas, 1,200 full-time workers.

(2) The funds are reserved for a project for which a business agrees to make an investment at the project as provided in this subdivision. The investment required by this subdivision must be private funds in improvements to real property and additions to tangible personal property located at the project for the greater of 10 years or a time period not less than the sum of the full term of the grant plus five years. The investment must be commenced no later than the time when the first disbursement is made to the business and must be completed no later than five years from the time the first disbursement is made to the business. Tangible personal property transferred by the business or from a related member of the business from one area in the State to the project is not considered an investment in tangible personal property located at the project for purposes of this section. The Department shall certify the amount of the investment made by the business at the project. The minimum investment at the project the business agrees to make is as follows:
   a. For development tier one areas, twenty million dollars ($20,000,000).
   b. For development tier two areas, thirty-five million dollars ($35,000,000).
   c. For development tier three areas, fifty million dollars ($50,000,000).

(3) The funds are (i) used to acquire or improve land or infrastructure, for facility development, or for capital investment and (ii) used for manufacturing projects. For purposes of this subdivision, "manufacturing" is defined in G.S. 143B-437.01.

(4) The funds are provided to a local governmental unit, and the local governmental unit matches a portion of the funds allocated by the Department as provided in this subdivision. A local match may include cash, fee waivers, in-kind services, the donation of assets, the provision of infrastructure, or a combination. The local match requirement is as follows:
   a. For development tier one areas, a local match of at least three dollars for every one hundred dollars ($100) from the State is required.
   b. For development tier two areas, a local match of at least six dollars for every one hundred dollars ($100) from the State is required.
   c. For development tier three areas, a local match of at least nine dollars for every one hundred dollars ($100) from the State is required.

(5) The funds are reserved for a project for which a business agrees to meet, for the greater of 10 years or a time period not less than the sum of the full term of the grant plus five years, the wage standard provided in this subdivision for all full-time workers at the project. In making the wage calculation, all full-time position jobs filled during the year for at least 1,600 hours are included. The required wage standard is as follows:

a. For development tier one and two areas, an average weekly wage that is at least equal to the lesser of one hundred percent (100%) of the average wage for all insured private employers in the county.

b. For development tier three areas, an average weekly wage that is at least equal to the lesser of one hundred ten percent (110%) of the average wage for all insured private employers in the county.

(6) The funds are reserved for projects for which a business agrees to meet, for the greater of 10 years or a time period not less than the sum of the full term of the grant plus five years, a requirement to provide health insurance for all full-time workers at the project. For purposes of this subdivision, a business provides health insurance if it pays at least fifty percent (50%) of the premiums for health care coverage that equals or exceeds the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee pursuant to G.S. 58-50-125. A business shall provide a certification that it continues to provide health insurance as required by this subdivision.

(7) The funds are not used for a project at which is located, during the greater of 10 years or a time period not less than the sum of the full term of the grant plus five years, a business that has received a notice of an overdue tax debt and that overdue tax debt has not been satisfied or otherwise resolved.

(8) The funds are not used in favor of jobs created or property investments made for which a business receives a tax credit under Article 3J of Chapter 105 of the General Statutes.

(9) The funds are reserved for projects for a business that has no citations under the Occupational Safety and Health Act that have become a final order within the past three years for willful serious violations or for failing to abate serious violations. In addition, the business must, for the greater of 10 years or a time period not less than the sum of the full term of the grant plus five years, have no citations under the Occupational Safety and Health Act that have become a final order within the past three years for willful serious violations or for failing to abate serious violations with respect to the project. For purposes of this subsection, "serious violation" has the same meaning as in G.S. 95-127.

(10) The funds are not used for a project that consists of a professional or semiprofessional sports team or club or a project that consists solely of retail facilities. If a project consists of both retail facilities and nonretail facilities, only the portion of the project consisting of nonretail facilities is eligible for a grant, and only full-time workers employed exclusively in the portion of the project that represents nonretail facilities may be counted for purposes of fulfilling the new worker position requirement. If a warehouse facility is part of a retail facility and supplies only that retail facility, the warehouse facility investment and full-time workers are not counted for purposes of the requirements of this section. For the purposes of this Subpart, catalog distribution centers are not retail facilities.

(b) Forfeiture. – If the business at the project fails to timely create and maintain the required new jobs, to timely make the required level of investment, or to otherwise meet the requirements of this section, the local governmental unit shall provide a means to recapture from the business at the project an amount equal to the amount disbursed from the Fund for the project, and the local governmental unit must reimburse the Fund for that disbursement.

(c) Records. – A business located at a project for which a grant was made from the Fund shall maintain records and make available for inspection by the Secretary of Commerce

any records the Secretary considers necessary to determine and verify the business has met the requirements of this section.

(d) Report. – The Department shall publish a report on the Job Catalyst Fund on or before April 30 of each year. The Department shall submit the report electronically to the House of Representatives Finance Committee, the Senate Finance Committee, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division. The report shall include the following:

(1) A listing of each grant awarded during the preceding calendar year, including the name of the business locating at the project, a description of the project, the term of the grant, and the liability under the grant

(2) An update on the status of projects under grants awarded before the preceding calendar year.

(3) The number and development tier area of new worker positions to be created by projects with respect to which grants have been awarded.

(4) A listing of the employment level for all businesses located at projects with respect to which grants have been awarded and any changes in those levels from the level of the next preceding year.

(5) The wage levels of all new worker positions to be created at projects with respect to which grants have been awarded, aggregated and listed in increments of ten thousand dollars ($10,000) or other appropriate increments.

(6) The number of awards made for projects for new businesses and the number of awards made for projects for existing, expanding businesses in the preceding calendar year.

(7) The environmental impact of businesses at projects with respect to which grants have been awarded.

(8) The geographic distribution of grants, by number and amount, awarded under the program.

(9) For the first annual report after adoption of the guidelines developed by the Department to implement this Subpart, a copy of such guidelines, and, for subsequent reports, identification of any changes in those guidelines from the previous calendar year."

SECTION 3.(f) The Secretary of Commerce shall develop guidelines related to the administration of the Jobs Catalyst Fund, as authorized by this section, and to the selection of projects. At least 20 days before the effective date of any guidelines or nontechnical amendments to guidelines, the proposed guidelines must be published on the Department's Web site and provide notice to persons who have requested notice of proposed guidelines. In addition, the Department of Commerce shall accept oral and written comments on the proposed guidelines during the 15 business days beginning on the first day the notice requirement of this subsection have been completed. For purposes of this subsection, a technical amendment is one that corrects a spelling or grammatical error or that makes a clarification based on public comment and could have been anticipated by the public notice that immediately preceded the public comment.

SECTION 3.(g) G.S. 150B-1(d) reads as rewritten:

"(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the following:

...

(10) The Economic Investment Committee in developing criteria for the Job Development Investment Grant Program under ~~Part 2F~~Subpart A of Part 2G of Article 10 of Chapter 143B of the General Statutes.

(10a) The Secretary of Commerce in developing criteria for the Job Catalyst Fund under Subpart B of Part 2G of Article 10 of Chapter 143B of the General Statutes.

...."

SECTION 3.(h) G.S. 143B-437.07(c) reads as rewritten:

"(c) Economic Development Incentive. – An economic development incentive includes any grant from the following programs: Job Development Investment Grant Program; the Job Catalyst Fund; the Job Maintenance and Capital Development Fund; One North Carolina Fund; and the Utility Account. The State also incents economic development through the use of tax expenditures in the form of tax credits and refunds. The Department of Revenue must report annually on these statutory economic development incentives, as required under G.S. 105-256."

SECTION 3.(i) This section is effective when it becomes law.

PART IV. JDIG MODIFICATIONS

SECTION 4.(a) Section 15.19(a1) of S.L. 2013-360 reads as rewritten:

"**SECTION 15.19.(a1)** Notwithstanding G.S. 143B-437.52(c), for the 2013-2015 fiscal biennium, the maximum total liability for grants awarded, including amounts transferred to the Utility Account pursuant to G.S. 143B-437.61, is ~~twenty-two million five hundred thousand dollars ($22,500,000)~~thirty-six million five hundred thousand dollars ($36,500,000) and, for the period from July 1, 2015, to December 31, 2015, the maximum total liability for grants awarded, including amounts transferred to the Utility Account pursuant to G.S. 143B-437.61, is seven million five hundred thousand dollars ($7,500,000). No agreement may be entered into that, when considered together with other existing agreements governing grants awarded during an applicable time period provided in this subsection, could cause the State's potential total ~~annual~~ liability for grants awarded in that time period to exceed the designated maximum amount."

SECTION 4.(b) G.S. 143B-437.52 reads as rewritten:

"**§ 143B-437.52. Job Development Investment Grant Program.**

(a) Program. – There is established the Job Development Investment Grant Program to be administered by the Economic Investment Committee. In order to foster job creation and investment in the economy of this State, the Committee may enter into agreements with businesses to provide grants in accordance with the provisions of this ~~Part.~~Subpart. The Committee, in consultation with the Attorney General, shall develop criteria to be used in determining whether the conditions of this section are satisfied and whether the project described in the application is otherwise consistent with the purposes of this ~~Part.~~Subpart. Before entering into an agreement, the Committee must find that all the following conditions are met:

...

(5) The total benefits of the project to the State outweigh its costs and render the grant appropriate for the project. If the total costs of the project to the State outweigh the benefits as a result of an award from the Job Catalyst Fund under Subpart B of this Part, the Committee may disregard the Job Catalyst Fund award in determining whether a grant is appropriate for the project.

...."

PART V. EFFECTIVE DATE

SECTION 5. Except as otherwise provided, this act is effective when it becomes law.

2013-2014 General Assembly

HOUSE BILL 1224: Local Options Sales Tax for Education/Tax and Econ. Dev. Fund Modifications

Committee:	Senate Finance	**Date:**	July 14, 2014
Introduced by:	Rep. Presnell	**Prepared by:**	Dan Ettefagh and Trina Griffin Committee Counsel
Analysis of:	PCS to First Edition H1224-CSMC-34		

SUMMARY: ***Part I of the PCS would authorize counties to use the proceeds of a portion of the local option sales and use tax for public transportation or for public education, and would cap the overall total local sales and use tax rate at two and one-half percent (2½%).***

Part II of the PCS would expand the eligibility criteria for the Job Maintenance and Capital Development Fund (JMAC). Part III of the PCS would create the Job Catalyst Fund (JCF) inside the Department of Commerce. Part IV would provide an additional $14M to the Job Development Investment Grant (JDIG) cap for the 2013-2015 biennium and provide limited flexibility with respect to the impact of JCF grants on the cost/benefit analysis required for JDIG grants..

PART I: LOCAL SALES TAX OPTION FOR PUBLIC EDUCATION

CURRENT LAW & BILL ANALYSIS: Part I of the PCS establishes a new local option sales tax for public education at a rate of up to one-half percent (1/2%), increases from ¼% to ½% the rate at which the 94 counties may levy the public transportation tax, and caps the overall local sales and use tax rate at two and one-half percent (2½%). Under the bill, a county may levy a local option sales and use tax for public transportation or for public education, but not both. A county seeking to hold a referendum on either tax must elect a rate that would bring the total local rate in the county to 2½%. Counties that currently levy the quarter-cent under Article 46 may continue to levy the tax, but no new counties would be able to hold a referendum on that tax after August 1, 2014, with the exception of two counties that already have the question on the November ballot and have a current rate of less than 2½%.

New Article 43A: County Sales Tax for Public Education

Section 1.1 of the PCS would give counties the authority to levy a local sales and use tax at a rate of up to one-half percent (1/2/%) if the majority of voters approve the levy of the tax in a referendum. The rate of tax must be in an increment of ¼% and must be at a rate that, if levied, would result in a total local rate in the county of two and one-half percent (2 1/2%). A county may not levy a tax under this Article at the same time as a local sales and use tax for public transportation is in effect.

The proceeds of the tax are not shared with the cities and may only be used as follows:

- Public school capital outlay purposes or to retire any indebtedness incurred by the county for these purposes.
- Salaries of classroom teachers, salaries of classroom teacher assistants, and supplements of classroom teacher salaries. A classroom teacher is an employee of a local board of education employed as a teacher who spends at least seventy percent (70%) of his or her work time in classroom instruction and a classroom teacher assistant is an employee of a local board of education employed as a teacher assistant who spends at least seventy percent (70%) of his or her work time assisting in a classroom.

- Financial support of community colleges, including funds to supplement State financial support of community colleges.

Allocation of Article 43A Proceeds by County Commissioners

Section 1.2 of the PCS would authorize a board of county commissioners to direct the amount of funds derived from the tax levied under Article 43A to be used for salaries of classroom teachers, salaries of classroom teacher assistants, and supplements of classroom teacher salaries. Without this language, the board could allocate funds to instructional services generally, but it could not allocate funds more specifically within that category of expenditures. In addition, a board of education would need approval from the board of county commissioners before it could decrease the amount of funds that were allocated by the board of county commissioners. **Section 1.3** has similar provisions with regard to allocating funds for community colleges.

Under current law, local board of education is required to prepare a budget using the uniform budget format and submit that budget to the board of county commissioners no later than May 15 of each year. The board of county commissioners must then determine the amount of county revenues to be appropriated in the county budget to the local board of education and may "in its discretion, allocate part or all of its appropriation by purpose, function, or project as defined in the uniform budget format." Once the board of county commissioners makes its appropriation, the board of education adopts its budget resolution subject to certain requirements found in G.S. 115C-432. Amendments to the budget resolution are allowed after adoption, but are subject to certain limitations found in G.S. 115C-433.

For community colleges, a similar process is followed.[1] The board of trustees of a community college prepares a budget using forms developed by the State Board of Community Colleges. Community college budgets are broken into different parts requiring approval by different groups as follows:

- State Current Fund Budget – Approved by the board of trustees and State Board of Community Colleges.
- County Current Fund Budget - Approved by the board of trustees and the local tax-levying authority.
- Institutional Fund Budget - Approved by the board of trustees.
- Plant Fund Budget - Approved by the board of trustees, partly by the local tax-levying authority and partly by the State Board of Community Colleges.

G.S. 115D-55 requires the tax-levying authority to determine the amount of county revenues to be appropriated in the county budget to the community college and allows the authority to "allocate part or all of an appropriation by purpose, function, or project as defined in the budget manual as adopted by the State Board of Community Colleges." Once the tax-levying authority has made its appropriation, the budget is submitted to the State Board of Community Colleges for approval. G.S. 115D-56 requires that, once approved, the board of trustees must adopt a final budget resolution, and permits under G.S. 115D-58 that amendments be made to the budget subject to rules and regulations adopted by the State Board of Community Colleges and certain limits on amendments to local appropriations established in statute.

Changes to Article 43: Local Government Sales and Use Tax for Public Transportation

Under current law, counties may levy, upon referendum, a local sales and use tax to be used only for public transportation if the county or at least one unit of local government in the county operates a public transportation system.

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[1] Article 4A of Chapter 115D establishes the budget process for community colleges.

The rate of tax is ½% for the following six counties: Durham, Forsyth, Guilford, Mecklenburg, Orange, and Wake.[2] The rate of tax is ¼% for all other counties. Currently, the only counties levying a tax under this Article are Mecklenburg, Durham, and Orange Counties. None of the 94 counties levy the 1/4¢ tax under this Article.

Section 1.4 of the PCS would give all counties the ability to levy the public transportation tax at the same rate by increasing from 1/4¢ to 1/2¢ the maximum rate of tax that the 94 counties under Part 6 of Article 43 may levy for public transportation. It would also allow the other six counties to levy the tax at the rate of ¼% or 1/2% depending on what the total local rate is at the time of the referendum. If a county chooses to hold a referendum to levy the public transportation tax, the rate must be at a rate that, if levied, would result in a total local rate in the county of two and one-half percent (2 1/2%). A county may not levy a tax under this Article at the same time as a local sales and use tax for public education is in effect.

Changes to Article 46: One-Quarter Cent (1/4¢) County Sales and Use Tax

In 2007, the General Assembly gave counties a local-option, quarter-cent sales tax. The tax must be approved by voters in a referendum before it can be adopted. The proceeds of the tax are not shared with the cities and may be used for any general purpose.

Since the enactment of the authorization, 94 referendums have been held in 59 counties; of those, 27 were approved.

Section 5 of the PCS would prohibit any county from holding a referendum on the question of whether to levy a tax under this Article on or after August 1, 2014. The 27 counties that levy the tax would be able to continue levying the tax as long as their total local tax rate does not exceed 2½%.

Notwithstanding this prohibition, any county that already has the issue on the November 2014 ballot and whose total local rate of sales and use tax is currently less than two and one-half percent (2½%) may proceed with the referendum. There are three counties that have this issue on the November 2014 ballot: Bladen, Guilford, and Mecklenburg. Only Bladen and Guilford have a total rate of local sales and use tax that is less than two and one-half percent (2 ½%).

Rate Cap for all Local Sales and Use Taxes

The local sales and use tax rate varies among the counties, ranging from 2% to 2.75%.[3] Under current law, there are 6 counties that *could* have a total local sales and use tax rate of two and three-quarters (2.75%), for a total State and local rate of 7.5%. Those counties are: Durham, Forsyth, Guilford, Mecklenburg, Orange, and Wake. To reach the maximum, a county would have to levy the first cent, the first one-half cent, the second one-half cent, the one-half cent public transportation tax, and the one-quarter cent tax. To date, only 2 of the 6 counties levy the maximum: Durham and Orange. That rate became effective in those counties in April of 2013.

The maximum that could be levied in the other 94 counties is two and one-half percent (2½%). The reason for the difference is that those 94 counties may only levy a one-quarter cent (1/4%) tax for public transportation. The remaining local taxes for those counties are the same.

Under the PCS, the total local sales and use tax rate that a county may levy would be two and one-half percent (2½%). The PCS carves out an exception for the two counties that currently levy a 2.75% local

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[2] Of these six counties, Durham and Orange are the only ones that also levy the quarter-cent tax under Article 46. Guilford and Mecklenburg have the quarter-cent on the November 2014 ballot.

[3] See table in the **BACKGROUND** section for this Part of the Bill Analysis.

:ax, but if either of those counties repeals any of the local sales and use taxes it currently levies, bringing :he county rate below 2.75%, that county would become subject to the 2.5% cap.

BACKGROUND: The following table identifies the current total local sales and use tax rate in the counties.

Local Rate of Sales & Use Tax	Counties	
2.75%	Durham Orange	
2.50%	Mecklenburg	
2.25%	Alexander Buncombe Cabarrus Catawba Cumberland Duplin Edgecombe Greene Halifax Harnett Haywood Hertford	Lee Martin Montgomery New Hanover Onslow Pitt Randolph Robeson Rowan Sampson Surry Wilkes
2.00%	Remaining 73 counties	

The following table sets out how the local sales and use taxes may be used, how they are distributed, and whether their enactment required a referendum.

Statutory Authority	Use of Proceeds		Distribution Method	Referendum Requirement
1st 1-cent (Article 39)	Any lawful purpose		Point of collection	Permitted, but not required
1st ½-cent (Article 40)	Counties – 30% school capital		Per capita * Adjustment formula	Permitted but not required
2nd ½-cent (Article 42)	Counties – 60% school capital		Point of collection	Permitted, but not required
½-cent or ¼-cent (Article 43)	Counties/Transportation Authorities – public transportation systems only		Per capita among county and units of local government in county that operate public transportation system	Required
	½-cent Part 2: Mecklenburg Part 4: Triangle (Wake, Durham, Orange) Part 5: Triad (Forsyth, Guilford)	**¼-cent** Part 6 – All other counties		
¼-cent (Article 46)	Any lawful purpose		Point of collection – distributed to county only	Required

PART II: JMAC MODIFICATIONS

CURRENT LAW: The General Assembly created JMAC in 2007 as a non-reverting account in the Department of Commerce.[4] The purpose of JMAC is to maintain jobs in the State. Three companies have received a grant from JMAC. The Department may not enter more than five agreements, and this act does not change that limitation. The total aggregate cost of all agreements for grants from JMAC is limited to $69 million, and the annual cost of any one agreement is $6 million. A grant agreement obligates the State to make a series of grant payments over a period of time, but it does not authorize the taxing power of the State to be pledged.

BILL ANALYSIS: The PCS expands eligibility for a JMAC grant for large manufacturing employers in four ways. First, the PCS allows eligibility for a large manufacturing employer if it is investing in its manufacturing process by enhancing pollution controls or transitioning from use of coal to natural gas for efficiency or emissions purposes. Previously, the conversion had to be for the purpose of changing the product it manufactures. Second, the PCS lowers the investment threshold from $69 million to $50 million. Third, the PCS increases the time for the investment from three to five years. Finally, the PCS allows the large manufacturing employer to be in an area that is tier 2, instead of a tier 1, if the area has a population of less than 60,000 as of 7/1/13, the manufacturer employs at least 800 FTEs at the project, and the manufacturer maintains that level of employment throughout the term of the grant.

The PCS also increases the total aggregate cost limitation of all JMAC agreements from $69 million to $79 million.

PART III: JOB CATALYST FUND

BILL ANALYSIS: Part III of the PCS creates the Job Catalyst Fund (JCF), a new special, non-reverting account in the Department of Commerce, for the purpose of providing funds to local governmental units for certain manufacturing projects. The guidelines and administration of the Fund is vested solely in the Secretary of Commerce, subject to the following minimum requirements that apply to each grant from the JCF:

1. A business at a project must agree, for the greater of 10 years or the term of the grant plus five years, to the following:
    a. To create 500, 800, or 1,200 full-time jobs for development tier one, two, or three areas, respectively.
    b. To invest at the project $20M, $35M, or $50M in real and/or personal property for development tier one, two, or three areas, respectively.
    c. To satisfy a wage requirement equal to a percentage of the average wage for all insured private employers in the county. If tiers one or two, the percentage is 100%. If tier three, the percentage is 110%.
    d. To provide health insurance.
    e. To avoid notices of overdue tax debts and citations under OSHA for willful serious violations or failing to abate serious violations.
2. The local governmental unit agrees to match State funds at a rate of 3%, 6%, or 9% for tier one, two, or three areas, respectively.
3. The funds are used to acquire/improve land or infrastructure, for facility development, or for capital investment and used for manufacturing projects.

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[4] S. L. 2007-552, G.S. 143B-437.11; S. L. 2008-187 recodified the statute as G.S. 143B-437.012.

4. Funds are not used in favor of jobs created or property investments for which a tax credit under Article 3J was given and are not used for retail facility development or for semiprofessional sports teams/clubs.

Local governmental units must provide a means to recapture from the business at a project an amount equal to that disbursed from the Fund in the event the business fails to satisfy any of the requirements for the disbursement, and the local governmental unit must, in turn, reimburse the Fund. The Department must report annually on each grant awarded, the status of each project, the number and development tier area of created positions, a listing of employment levels at projects and changes to employment levels from the preceding year, wage levels, number of awards for new/existing businesses, environmental impact, geographic distribution, and developed guidelines/changes to guidelines.

For purposes of guidelines for and administration of the program, the Secretary is exempt from the APA and must, instead, allow 20 days' notice before the effective date of guidelines (via publication) and 15 additional days for comment.

PART IV: JDIG MODIFICATIONS

BILL ANALYSIS: In the 2013 budget, the annual cap for JDIG commitments was modified from a calendar year basis to a fiscal biennium basis for the 2013-15 fiscal biennium only. This modification brought forward from the 2015 fiscal year an additional $7.5M in JDIG commitment availability. Subsection 4(a) of the PCS would increase the cap for JDIG commitment by an additional $14M for the 2013-15 fiscal biennium. Subsection 4(b) concerns the requirement in JDIG to conduct a cost/benefit analysis to determine whether a JDIG award is appropriate. Currently, all costs are considered for purposes of determining whether a JDIG award is appropriate. The PCS would allow disregarding of costs associated with an award from the newly created Job Catalyst Fund if, absent that award, the cost/benefit analysis would affirm the propriety of making a JDIG grant.

EFFECTIVE DATE: Part I is effective when it becomes law. Part II of the act becomes effective July 1, 2014. Parts III and IV of the act are effective when they become law.

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4. Ruth Parsons	Raleigh	Hunt
5. Candace Brown	Raleigh	Blue
6. Michalia Smith	Holly Springs	Blue
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8. ERIN RAY	Raleigh	FORD
9. ~~Tyler Hood~~	~~Dunn~~	~~Robin~~
10.		

Do not add names below the grid.

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

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 16, 2014

Name of Committee — **Date**

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Whitney Christensen	NCLM
Shaunda Martin	NCLM
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John Merritt	MWC LLC
[illegible]	CSG
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Paul Kayla	Kaylin Lawton
Sam Skinner	NCACC
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Angie Harris	Ward and Smith
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Greg Radford	NC DOR
Brendan Burns	NCGA
Ginny Upchurch	NCDOR
Janice Davidson	NC DOR
Allison Walker	Nelson Mullins
JOE LANIER	NELSON MULLINS
John Hardin	MFJS
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Name of Committee — **Date**

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Name of Committee — **Date**

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CS Hollis	CS Hollis
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JAKE PARKER	NCFB
Paul Sherman	NCFB
Josh Gray	NCMHA

Senate Committee on Finance
Monday, July 21, 2014 at 5:30 PM
Room 544 of the Legislative Office Building

MINUTES

The Senate Committee on Finance met at 5:30 PM on July 21, 2014 in Room 544 of the Legislative Office Building. Thirty-five members were present.

Senator Bill Rabon, Chair, presided. He recognized Gerry Cohen for his 37 years working at the General Assembly. Mr. Cohen received a standing ovation.

HB 1224 - Local Sales Tax Options/Econ. Devpt. Changes.

Senator Gunn was recognized to explain the bill and moved that the proposed committee substitute (PCS) be adopted for discussion. The motion carried. Part I of the PCS would authorize counties to use the proceeds of a portion of the local option sales and use tax for public transportation or for public education, and would cap the overall total local sales and use tax rate at two and one-half percent (2 ½%). Counties would not be limited to levying a local sales and use tax for either public education or public transportation. The total rate would still be capped at 2.5%, but a county would not be required to levy the public transportation tax or the public education tax at a rate that would bring their total rate up to the maximum. A county may levy either tax at the rate of ¼% if it so choses. The PCS would modify the current Article 46 by providing that for referenda held on or after January 1, 2015, a county must pair the ¼% tax under Article 46 with either the tax for public education or for public transportation. The ¼% may not be levied outhit one of those other taxes being levied. The counties that currently have the Article 46 tax could continue to levy the tax alone or could opt to pair it with the public transportation tax or the public education tax, but only at the rate of ¼%. Any county that is scheduled to have this issue on the November 2014 ballot would not be required to pair the Article 46 tax with ¼% transportation or education tax. However, no county with a current rate of 2 ½% or higher may hold a referendum on the Article 46 tax. Parts II-IV of the PCS would expand the eligibility criteria for the Job Maintenance and Capital Development Fund. Part II would create the Job Catalyst Fund inside the Department of Commerce. Part IV would provide an additional $14 million to the Job Development Investment Grant cap for the 2013-2015 biennium and would provide limited flexibility with respect to the impact of JCF grants on the cost/benefit analysis required for JDIG grants. The PCS adds a new Part V, which would allow NC companies to sell $1 million ($2 million in some cases) of unregistered securities to NC residents. The Secretary of State would be authorized to charge a nonrefundable filing fee of $150 for filing a notice for unregistered securities. Greg Roney, committee counsel, was recognized to answer crowd funding questions. Senator Ford and Trina Griffin, committee counsel, were recognized to discuss the sales tax cap. Senator Blue was recognized to voice constitutional concerns. A copy of the PCS, the summary and the fiscal note is attached.

The meeting adjourned at 6:26 p.m.

Senator Bill Rabon, Chair
Presiding

DeAnne Mangum, Committee Clerk

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H D

HOUSE BILL 1224
Senate Finance Committee Substitute Adopted 7/16/14
PROPOSED SENATE COMMITTEE SUBSTITUTE H1224-CSSVx-66 [v.1]
7/21/2014 4:21:40 PM

Short Title: Local Sales Tax Options/Econ. Devpt. Changes. (Public)

Sponsors:

Referred to:

May 28, 2014

A BILL TO BE ENTITLED

AN ACT TO LIMIT THE TOTAL LOCAL GOVERNMENT SALES AND USE TAX RATE TO TWO AND ONE-HALF PERCENT; TO CONDITION THE ONE-QUARTER CENT (1/4%) GENERAL PURPOSE LOCAL SALES AND USE TAX UPON LEVY OF A ONE-QUARTER CENT LOCAL SALES AND USE TAX FOR PUBLIC EDUCATION OR PUBLIC TRANSPORTATION; AND TO MAKE VARIOUS CHANGES TO TAX AND ECONOMIC DEVELOPMENT LAWS.

The General Assembly of North Carolina enacts:

PART I. LOCAL OPTION SALES TAX OPTIONS

SECTION 1.1. Subchapter VIII of Chapter 105 of the General Statutes is amended by adding two new Articles to read:

"Article 43A.

"County Sales and Use Tax for Public Education.

"**§ 105-513.1. Short title; purpose.**

This Article is the Local Government Sales and Use Tax for Public Education. Article 43 of this Chapter and this Article give the counties of this State an opportunity to obtain an additional source of revenue with which to meet their needs. A county may choose to use this source of revenue to finance local public transportation systems, as provided in Article 43 of this Chapter, or for public education needs, as provided in this Article.

"**§ 105-513.2. Levy.**

(a) Referendum. – A tax levied under this Article must be approved in a referendum. The board of commissioners of a county may direct the county board of elections to conduct an advisory referendum on the question of whether to levy a local sales and use tax in the county at a rate of up to one-half percent (1/2%). The applicable rate must meet all of the conditions listed in this subsection. The election shall be held in accordance with the procedures of G.S. 163-287. The conditions are:

(1) It must be in an increment of one-quarter percent (1/4%).

(2) It must be at a rate that, if levied, would not result in a total local sales and use tax rate in the county in excess of two and one-half percent (2 1/2%).

(b) Ballot Question. – The form of the question to be presented on a ballot for a special election concerning the levy of the tax authorized by this Article shall be:

"[ ] FOR [ ] AGAINST

Local sales and use tax at the [applicable rate stated in both words and as a percentage] in addition to the current local sales and use taxes, to be used only for public education."

(c) Authority. – If the majority of those voting in a referendum held pursuant to this Article vote for the levy of the tax, the board of commissioners of the county may, by resolution and after 10 days' public notice, levy a local sales and use tax at the rate specified in the ballot.

"**§ 105-513.3. Administration.**

Except as provided in this Article, the adoption, levy, collection, administration, and repeal of these additional taxes must be in accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this Article, references to "this Article" mean "Article 43B of Chapter 105 of the General Statutes." G.S. 105-468.1 is an administrative provision that applies to this Article. A tax levied under this Article does not apply to the sales price of food that is exempt from tax pursuant to G.S. 105-164.13B or to the sales price of a bundled transaction taxable pursuant to G.S. 105-467(a)(5a). The Secretary shall not divide the amount allocated to a county between the county and the municipalities within the county.

"**§ 105-513.4. Use.**

Counties may use the proceeds of a tax levied under this Article only for the following purposes:

(1) Public school capital outlay purposes, as defined in G.S. 115C-426(f) or to retire any indebtedness incurred by the county for these purposes.

(2) Salaries of classroom teachers, salaries of classroom teacher assistants, and supplements of classroom teacher salaries. For the purposes of this section, a classroom teacher is an employee of a local board of education employed as a teacher who spends at least seventy percent (70%) of his or her work time in classroom instruction and a classroom teacher assistant is an employee of a local board of education employed as a teacher assistant who spends at least seventy percent (70%) of his or her work time assisting in a classroom.

(3) Financial support of community colleges, including funds to supplement State financial support of community colleges."

SECTION 1.2.(a) G.S. 115C-429(b) reads as rewritten:

"(b) The board of county commissioners shall complete its action on the school budget on or before July 1, or such later date as may be agreeable to the board of education. The commissioners shall determine the amount of county revenues to be appropriated in the county budget ordinance to the local school administrative unit for the budget year. The board of county commissioners may, in its discretion, allocate part or all of its appropriation by purpose, function, or project as defined in the uniform budget format. For allocations made by the board of county commissioners for the purpose of or for a function related to instructional services, the board of county commissioners may direct the amount of funds to be used for salaries of classroom teachers, salaries of classroom teacher assistants, and supplements of classroom teacher salaries. For the purposes of this section, a classroom teacher is an employee of a local board of education employed as a teacher who spends at least seventy percent (70%) of his or her work time in classroom instruction and a classroom teacher assistant is an employee of a local board of education employed as a teacher assistant who spends at least seventy percent (70%) of his or her work time assisting in a classroom."

SECTION 1.2.(b) G.S. 115C-433(b) reads as rewritten:

"(b) If the board of county commissioners allocates part or all of its appropriations pursuant to G.S. 115C-429(b), the board of education must obtain the approval of the board of county commissioners for an amendment to the budget that does any of the following:

(1)~~(i)~~ ~~increases~~ Increases or decreases expenditures from the capital outlay fund for projects listed in G.S. 115C-426(f)(1) or ~~(2), or (ii)~~ (2).

(2) ~~increases~~ Increases or decreases the amount of county appropriation allocated to a purpose or function by twenty-five percent (25%) or more from the amount contained in the budget ordinance adopted by the board of county commissioners: ~~Provided,~~provided, that at its discretion, the board may in its budget ordinance specify a lesser percentage, so long as such percentage is not less than ~~ten percent (10%).~~ten percent (10%).

(3) Decreases the amount of funds allocated for salaries of classroom teachers, salaries of classroom teacher assistants, and supplements of classroom teacher salaries. For the purposes of this section, a classroom teacher is an employee of a local board of education employed as a teacher who spends at least seventy percent (70%) of his or her work time in classroom instruction and a classroom teacher assistant is an employee of a local board of education employed as a teacher assistant who spends at least seventy percent (70%) of his or her work time assisting in a classroom."

SECTION 1.3.(a) G.S. 115D-55(a) reads as rewritten:

"(a) Approval of Budget by Local Tax-Levying Authority. – By a date fixed by the local tax-levying authority, the budget shall be submitted to the local tax-levying authority for approval of that portion within its authority as stated in G.S. 115D-54(b). On or before July 1, or such later date as may be agreeable to the board of trustees, but in no instance later than September 1, the local tax-levying authority shall determine the amount of county revenue to be appropriated to an institution for the budget year. The local tax-levying authority may allocate part or all of an appropriation by purpose, function, or project as defined in the budget manual as adopted by the State Board of Community Colleges. The local tax-levying authority may direct the use of funds appropriated to the institution derived from a tax levied under Article 43A of Chapter 105 of the General Statutes.

The local tax-levying authority shall have full authority to call for all books, records, audit reports, and other information bearing on the financial operation of the institution except records dealing with specific persons for which the persons' rights of privacy are protected by either federal or State law.

Nothing in this Article shall be construed to place a duty on the local tax-levying authority to fund a deficit incurred by an institution through failure of the institution to comply with the provisions of this Article or rules and regulations issued pursuant hereto."

SECTION 1.3.(b) G.S. 115D-58(b) reads as rewritten:

"(b) If the local tax-levying authority allocates part or all of an appropriation pursuant to G.S. 115D-55, the board of trustees must obtain approval of the local tax-levying authority for an amendment to the budget which does any of the following:

(1) ~~increases~~ Increases or decreases the amount of that appropriation allocated to a purpose, function, or project by twenty-five percent (25%) or more from the amount contained in the budget ordinance adopted by the local tax-levying authority or such lesser percentage as specified by the local tax-levying authority in the original budget ordinance, so long as such percentage is not less than ten percent (10%).

(2) Decreases the amount of the appropriation directed by the tax-levying authority for a specific use from funds appropriated to the institution derived from a tax levied under Article 43A of Chapter 105 of the General Statutes."

SECTION 1.4.(a) The name of Article 43 of Chapter 105 of the General Statutes reads as rewritten:

"Article 43.

Local Government Sales and Use Taxes for Public Transportation."

SECTION 1.4.(b) G.S. 105-506 reads as rewritten:

"**§ 105-506. Short title; purpose.**

This Article is the Local Government Public Transportation Sales Tax Act and may be cited by that name. This ~~Article~~ Article and Article 43A of this Chapter ~~gives~~ give the counties ~~and transportation authorities~~ of this State an opportunity to obtain an additional source of revenue with which to meet their ~~needs for~~ needs. Counties and transportation authorities may choose to use this source of revenue to ~~financing~~ finance local public transportation ~~systems.~~systems under this Article, or counties may choose to use this source of revenue to finance public education needs, as provided in Article 43A of this Chapter. ~~It provides them with authority to levy sales and use taxes. All such taxes~~ A tax levied under this Article must be approved in a referendum."

SECTION 1.4.(c) Part 1 of Article 43 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-506.3. Tax rate.**

(a) Rate. – The applicable rate of local sales and use tax that may be levied under this Article must meet all of the following conditions:

(1) It must be in an increment of one-quarter percent (1/4%).

(2) It must be at a rate that, if levied, would not result in a total local sales and use tax rate in the county in excess of two and one-half percent (2 1/2%).

(b) Cap. – Except as provided in this subsection, a county's local sales and use tax rate may not exceed two and one-half percent (2 1/2%). A county's local sales and use tax rate may exceed two and one-half percent (2 1/2%) if the county conducted one or more advisory referendums on or before December 31, 2012, in which a majority of the voters approved the levy of a local sales and use tax resulting in a total local sales and use tax rate in the county of two and three-quarters percent (2 3/4%). In no event may a county's local sales and use tax rate exceed two and three-quarters percent (2 3/4%). If a county's local sales and use tax rate is two and three-quarters percent (2 3/4%) on April 1, 2013, and the county repeals the levy of a tax authorized under Subchapter VIII of this Chapter so that the county's local sales and use tax rate falls below two and three-quarters percent (2 3/4%), the county may not enact a local sales and use tax under this Subchapter that results in a county local sales and use tax rate that exceeds two and one-half percent (2 1/2%)."

SECTION 1.4.(d) G.S. 105-507.1 reads as rewritten:

"**§ 105-507.1. Local election on adoption of sales and use tax.**

(a) Resolution. – The board of commissioners of a county may direct the county board of elections to conduct an advisory referendum within the county on the question of whether a local sales and use tax at the rate of up to one-half percent (1/2%) may be levied in accordance with this Part. The applicable rate must be in accordance with G.S. 105-506.3. The election shall be held in accordance with the procedures of G.S. 163-287. The board of commissioners shall hold a public hearing on the question at least 30 days before the date the election is to be held.

(b) Ballot Question. – The form of the question to be presented on a ballot for a special election concerning the levy of a tax authorized by this Article shall be:

"[ ] FOR [ ] AGAINST

~~One-half percent (1/2%)~~ [The applicable rate stated in both words and as a percentage] local sales and use taxes, in addition to the current local sales and use taxes, to be used only for public transportation systems.""

SECTION 1.4.(e) G.S. 105-507.2 reads as rewritten:

"**§ 105-507.2. Levy and collection of sales and use tax.**

If the majority of those voting in a referendum held pursuant to G.S. 105-507.1 vote for the levy of the tax, the board of commissioners of the county may, by resolution, levy ~~one-half percent (½%) local sales and use taxes~~ a local sales and use tax at the rate specified in the ballot in addition to any other State and local sales and use taxes levied pursuant to law. Except as provided in this Part, the adoption, levy, collection, administration, and repeal of these

additional taxes shall be in accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this Part, references to "this Article" mean "Part 1 of Article 43 of Chapter 105 of the General Statutes"."

SECTION 1.4.(f) G.S. 105-509 reads as rewritten:

"**§ 105-509. Local election on adoption of sales and use tax – regional public transportation authority.**

...

(b) Resolution. – The board of trustees of the regional public transportation authority may, if all of the conditions listed in this subsection have been met, direct the respective county board or boards of elections to conduct an advisory referendum within the special district on the question of whether a local sales and use tax at the rate of up to one-half percent (1/2%) may be levied within the district in accordance with this Part. The applicable rate must be in accordance with G.S. 105-506.3. The tax may not be levied without voter approval. The election shall be held on a date jointly agreed upon by the authority, the county board or boards of commissioners, and the county board or boards of elections and shall be held on a date permitted by and in accordance with the procedures of G.S. 163-287. The conditions are as follows:

(1) The board of trustees has obtained approval to conduct a referendum by a vote of the following:

a. A majority vote of each of the county boards of commissioners within the special district, if it is a multicounty special district.

b. A majority of the county board of commissioners within the special district, if it is a single-county special district.

(2) A public hearing is held on the question by the board or boards of commissioners at least 30 days before the date the election is to be held.

(c) Ballot Question. – The form of the question to be presented on a ballot for a special election concerning the levy of a tax authorized by this Article shall be:

"[ ] FOR [ ] AGAINST

~~One-half percent (1/2%)~~ [The applicable rate stated in both words and as a percentage] local sales and use taxes, in addition to the current local sales and use taxes, to be used only for public transportation systems."

...."

SECTION 1.4.(g) G.S. 105-509.1 reads as rewritten:

"**§ 105-509.1. Levy and collection of sales and use tax – regional public transportation authority.**

If the majority of those voting in a referendum held pursuant to G.S. 105-509 vote for the levy of the tax, the transportation authority may, by resolution, levy ~~one-half percent (½%) local sales and use taxes~~ a local sales and use tax at the rate specified in the ballot within the special district, in addition to any other State and local sales and use taxes levied pursuant to law. In determining the results of the election in a multicounty district, all the counties of the district shall be considered to be one unit but also must receive a majority vote in each county, except that if the referendum is passed in one or more but not all of the counties, the counties in which the referendum was not approved are removed from the special district upon certification of the election result and the county or counties that approved the referendum shall remain in the special district. Except as provided in this Part, the adoption, levy, collection, administration, and repeal of these additional taxes shall be in accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this Article, references to "this Article" mean "Part 4 of Article 43 of Chapter 105 of the General Statutes." Any repeal of the tax shall be done by the same procedure as its enactment under this section, and in a multicounty district a petition for repeal under G.S. 105-473 shall be judged by the total votes in all the counties in the district."

SECTION 1.4.(h) G.S. 105-510 reads as rewritten:

"**§ 105-510. Local election on adoption of sales and use tax – regional transportation authority.**

...

(b) Resolution. – The board of trustees of the regional transportation authority may, if all of the conditions listed in this subsection have been met, direct the respective county board or boards of elections to conduct an advisory referendum within the special district on the question of whether a local sales and use tax at the rate of up to one-half percent (1/2%) may be levied within the district in accordance with this Part. The applicable rate must be in accordance with G.S. 105-506.3. The tax may not be levied without voter approval. The election shall be held on a date jointly agreed upon by the authority, the county board or boards of commissioners, and the county board or boards of elections and shall be held on a date permitted by and in accordance with the procedures of G.S. 163-287. The conditions are as follows:

(1) The board of trustees has obtained approval to conduct a referendum by a vote of the following:

a. A majority vote of both of the county boards of commissioners within the special district, if it is a multicounty special district.

b. A majority of the county board of commissioners within the special district, if it is a single-county special district.

(2) A public hearing is held on the question by the board or boards of commissioners at least 30 days before the date the election is to be held.

(c) Ballot Question. – The form of the question to be presented on a ballot for a special election concerning the levy of a tax authorized by this Article shall be:

"[ ] FOR [ ] AGAINST

~~One-half percent (1/2%)~~ [The applicable rate stated in both words and as a percentage] local sales and use taxes, in addition to the current local sales and use taxes, to be used only for public transportation systems."

....."

SECTION 1.4.(i) G.S. 105-510.1 reads as rewritten:

"**§ 105-510.1. Levy and collection of sales and use tax – regional transportation authority.**

If the majority of those voting in a referendum held pursuant to G.S. 105-510 vote for the levy of the tax, the transportation authority may, by resolution, levy ~~one-half percent (1/2%) local sales and use taxes~~ a local sales and use tax at the rate specified in the ballot within the special district, in addition to any other State and local sales and use taxes levied pursuant to law. In determining the results of the election in a multicounty district, all the counties of the district shall be considered to be one unit but also must receive a majority vote in each county, except that if the referendum is passed in one but not both of the counties, the county in which the referendum was not approved is removed from the special district upon certification of the election result and the county that approved the referendum shall remain in the special district. Except as provided in this Part, the adoption, levy, collection, administration, and repeal of these additional taxes shall be in accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this Article, references to "this Article" mean "Part 5 of Article 43 of Chapter 105 of the General Statutes." Any repeal of the tax shall be done by the same procedure as its enactment under this section, and in a multicounty district a petition for repeal under G.S. 105-473 shall be judged by the total votes in all the counties in the district."

SECTION 1.4.(j) G.S. 105-511.2 reads as rewritten:

"**§ 105-511.2. Local election on adoption of sales and use tax.**

(a) Resolution. – The board of commissioners of a county may direct the county board of elections to conduct an advisory referendum within the county on the question of whether a local sales and use tax at ~~the rate of one-quarter percent (1/4%)~~ a rate of up to one-half percent

(1/2%) may be levied in accordance with this Part. The applicable rate must be in accordance with G.S. 105-506.3. The election shall be held on a date jointly agreed upon by the boards and shall be held on a date permitted by and in accordance with the procedures of G.S. 163-287. The board of commissioners shall hold a public hearing on the question at least 30 days before the date the election is to be held.

(b) Ballot Question. – The form of the question to be presented on a ballot for a special election concerning the levy of a tax authorized by this Article shall be:

"[ ] FOR [ ] AGAINST

~~One-quarter percent (1/4%)~~ [The applicable rate stated in both words and as a percentage] local sales and use taxes, in addition to the current local sales and use taxes, to be used only for public transportation systems."

SECTION 1.4.(k) G.S. 105-511.3 reads as rewritten:

"**§ 105-511.3. Levy and collection of sales and use tax.**

(a) Authority to Levy. – If the majority of those voting in a referendum held pursuant to this Part vote for the levy of the tax, the board of commissioners of the county may, by resolution, levy ~~one-quarter percent (1/4%) local sales and use taxes~~ a local sales and use tax at the rate specified in the ballot in addition to any other State and local sales and use taxes levied pursuant to law.

(b) Administration. – Except as provided in this Part, the adoption, levy, collection, administration, and repeal of these additional taxes shall be in accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this Part, references to "this Article" mean "Part 6 of Article 43 of Chapter 105 of the General Statutes.""

SECTION 1.4.(l) This section is effective when it becomes law.

SECTION 1.5.(a) Article 46 of Chapter 105 reads as rewritten:

"Article 46.

One-Quarter Cent (1/4¢) County Sales and Use Tax.

§ 105-535. Short title.

This Article is the One-Quarter Cent (1/4¢) County Sales and Use Tax Act.

§ 105-536. ~~Limitations.~~Applicability.

(a) Referenda Held On or Before January 1, 2015. – A county that approves the levy of a tax under this Article in an advisory referendum held on or before January 1, 2015, may only levy a tax under this Article if the county ~~This Article applies only to counties that levy the first one-cent (1¢) sales and use tax under~~ levies a tax under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, the first one-half cent (1/2¢) local sales and use tax under Article 40 of this Chapter, and the second one-half cent (1/2¢) local sales and use tax under Article 42 of this Chapter.

(b) Referenda Held After January 1, 2015. – A county that approves the levy of a tax under this Article in an advisory referendum held after January 1, 2015, may only levy a tax under this Article if the county levies the taxes in subsection (a) of this section and levies a tax under either Article 43 of this Chapter or Article 43A of this Chapter.

§ 105-537. Levy.

(a) Authority. – A tax levied under this Article must be approved in a referendum. If the majority of those voting in a referendum held pursuant to this Article vote for the levy of the tax, the board of county commissioners may, by resolution and after 10 days' public notice, levy a local sales and use tax at a rate of one-quarter percent (0.25%). An advisory referendum on the question of whether to levy a local sales and use tax under this Article may not be held if the levy would result in a total local sales and use tax rate in the county in excess of two and one-half percent (2 1/2%).

(b) Vote. – The board of county commissioners may direct the county board of elections to conduct an advisory referendum on the question of whether to levy a local sales

and use tax in the county as provided in this Article. The election shall be held in accordance with the procedures of G.S. 163-287.

(c) Ballot Question. – The form of the question to be presented on a ballot for a special election concerning the levy of the tax authorized by this Article shall be:

"[ ] FOR [ ] AGAINST

Local sales and use tax at the rate of one-quarter percent (0.25%) in addition to all other State and local sales and use taxes."

...

§ 105-538. Administration of taxes.

Except as provided in this Article, the adoption, levy, collection, administration, and repeal of these additional taxes must be in accordance with Article 39 of this Chapter. G.S. 105-468.1 is an administrative provision that applies to this Article. A tax levied under this Article does not apply to the sales price of food that is exempt from tax pursuant to G.S. 105-164.13B or to the sales price of a bundled transaction taxable pursuant to G.S. 105-467(a)(5a). The Secretary shall not divide the amount allocated to a county between the county and the municipalities within the county.

§ 105-539. Use.

(a) Referenda Held On or Before January 1, 2015. – A county that approves the levy of a tax under this Article in a referendum held on or before January 1, 2015, must use the proceeds of the tax levied under this Article for any lawful public purpose.

(b) Referenda Held After January 1, 2015. – A county that approves the levy of a tax under this Article in a referendum held after January 1, 2015, must use the proceeds of a tax levied under this Article for any lawful public purpose, except that the proceeds may not be used for any of the following purposes regardless of whether the county levies a tax under Article 43 of this Chapter or under Article 43A of this Chapter:

(1) A purpose for which a tax levied under Article 43 of this Chapter must be used.

(2) A purpose for which a tax levied under Article 43A must be used.

SECTION 1.5.(b) This section is effective when it becomes law.

SECTION 1.6. Except as otherwise provided, this Part is effective when it becomes law.

PART II. JMAC MODIFICATIONS

SECTION 2.(a) G.S. 143B-437.012 reads as rewritten:

"**§ 143B-437.012. Job Maintenance and Capital Development Fund.**

...

(d) Eligibility. – A business is eligible for consideration for a grant under this section if it satisfies the conditions of either subdivision (1) or (2) of this subsection and satisfies ~~the conditions of both subdivisions (3) and~~subdivision (4) of this subsection:

(1) The business is a major employer. A business is a major employer if the business meets the following requirements:

a. The Department certifies that the business has invested or intends to invest at least two hundred million dollars ($200,000,000) of private funds in improvements to real property and additions to tangible personal property in the project within a six-year period beginning with the time the investment commences.

b. The business employs at least 2,000 full-time employees or equivalent full-time contract employees at the project that is the subject of the grant at the time the application is made, and the business agrees to maintain at least 2,000 full-time employees or

equivalent full-time contract employees at the project for the full term of the grant agreement.

c. The project is located in a development tier one area at the time the business applies for a grant.

(2) The business is a large manufacturing employer. A business is a large manufacturing employer if the business meets the following requirements:

a. The business is in manufacturing, as defined in G.S. 105-129.81, and is converting its manufacturing process to change the product it ~~manufactures.~~manufactures or is investing in its manufacturing process by enhancing pollution controls or transitioning the manufacturing process from using coal to using natural gas for the purpose of becoming more energy efficient or reducing emissions.

b. The Department certifies that the business has invested or intends to invest at least ~~sixty-five~~fifty million dollars ~~($65,000,000)~~($50,000,000) of private funds in improvements to real property and additions to tangible personal property in the project within a ~~three-year~~five-year period beginning with the time the investment commences.

c. The business meets one of the following employment requirements:

1. If in a development tier one area, the business employs at least 320 full-time employees at the project that is the subject of the grant at the time the application is made, and the business agrees to maintain at least 320 full-time employees at the project for the full term of the grant.

2. If in a development tier two area with a population of less than 60,000 as of July 1, 2013, the business employs at least 800 full-time employees or equivalent full-time contract employees at the project that is the subject of the grant at the time the application is made, and the business agrees to maintain at least 800 full-time employees or equivalent full-time contract employees at the project for the full term of the grant.

~~(3) The project is located in a development tier one area at the time the business applies for a grant.~~

(4) All newly hired employees of the business must be citizens of the United ~~States,~~States or have proper identification and documentation of their authorization to reside and work in the United States.

...

(n) Limitations. – The Department may enter into no more than five agreements under this section. The total aggregate cost of all agreements entered into under this section may not exceed ~~sixty-nine million dollars ($69,000,000).~~seventy-nine million dollars ($79,000,000). The total annual cost of an agreement entered into under this section may not exceed six million dollars ($6,000,000)."

SECTION 2.(b) This section becomes effective July 1, 2014.

PART III. JOB CATALYST FUND

SECTION 3.(a) G.S. 143B-437.50 reads as rewritten:

"Part 2G. Job ~~Development Investment Grant Program.~~Development.

"**§ 143B-437.50. Legislative findings and purpose.**

The General Assembly finds that:

(1) It is the policy of the State of North Carolina to stimulate economic activity and to create new jobs for the citizens of the State by encouraging and promoting the expansion of existing business and industry within the State and by recruiting and attracting new business and industry to the State.

...."

SECTION 3.(b) G.S. 143B-437.51 reads as rewritten:

"**§ 143B-437.51. Definitions.**

The following definitions apply in this Part:

...

(6) Full-time employee. – A person who is employed for consideration for at least 35 hours a week, whose wages are subject to withholding under Article 4A of Chapter 105 of the General Statutes, and who is determined by the Committee to be employed in a permanent position according to criteria it develops in consultation with the Attorney General. The term does not include any person who works as an independent contractor or on a consulting basis for the business.

(6a) Full-time worker. – A person who is employed for consideration for at least 35 hours a week, whose wages are subject to withholding under Article 4A of Chapter 105 of the General Statutes, and who is determined by the Department to be employed in a permanent position. The term does not include any person who works as an independent contractor or on a consulting basis for the business.

(7) New employee. – A full-time employee or a full-time worker who represents a net increase in the number of the business's employees or workers statewide.

...."

SECTION 3.(c) G.S. 143B-437.52 reads as rewritten:

"Subpart A. Job Development Investment Grant Program.

"**§ 143B-437.52. Job Development Investment Grant Program.**

(a) Program. – There is established the Job Development Investment Grant Program to be administered by the Economic Investment Committee. In order to foster job creation and investment in the economy of this State, the Committee may enter into agreements with businesses to provide grants in accordance with the provisions of this Part. The Committee, in consultation with the Attorney General, shall develop criteria to be used in determining whether the conditions of this section are satisfied and whether the project described in the application is otherwise consistent with the purposes of this Part. Before entering into an agreement, the Committee must find that all the following conditions are met:

...."

SECTION 3.(d) The Revisor of Statutes is authorized to change references of "this Part" in Subpart A of Part 2G of Article 10 of Chapter 143B of the General Statutes to "this Subpart" as appropriate.

SECTION 3.(e) Part 2G of Article 10 of Chapter 143B of the General Statutes is amended by adding a new Subpart to read:

"Subpart B. Job Catalyst Fund.

"**§ 143B-437.67. Job Catalyst Fund.**

(a) Creation and Purpose of Fund. – There is created in the Department of Commerce a special, nonreverting account to be known as the Job Catalyst Fund to provide funds to a local governmental unit for projects that result in the creation of jobs. The Secretary of Commerce is solely responsible for the administration of the program and shall adopt guidelines applicable to program administration. The guidelines shall include the following provisions, which shall apply to each grant from the account:

(1) The funds are reserved for a project for which a business agrees to create and maintain, for the greater of 10 years or a time period not less than the sum of the full term of the grant plus five years, the number of new worker positions at the project as follows:
a. For development tier one areas, 500 full-time workers.
b. For development tier two areas, 800 full-time workers.
c. For development tier three areas, 1,200 full-time workers.

(2) The funds are reserved for a project for which a business agrees to make an investment at the project as provided in this subdivision. The investment required by this subdivision must be private funds in improvements to real property and additions to tangible personal property located at the project for the greater of 10 years or a time period not less than the sum of the full term of the grant plus five years. The investment must be commenced no later than the time when the first disbursement is made to the business and must be completed no later than five years from the time the first disbursement is made to the business. Tangible personal property transferred by the business or from a related member of the business from one area in the State to the project is not considered an investment in tangible personal property located at the project for purposes of this section. The Department shall certify the amount of the investment made by the business at the project. The minimum investment at the project the business agrees to make is as follows:
a. For development tier one areas, twenty million dollars ($20,000,000).
b. For development tier two areas, thirty-five million dollars ($35,000,000).
c. For development tier three areas, fifty million dollars ($50,000,000).

(3) The funds are (i) used to acquire or improve land or infrastructure, for facility development, or for capital investment and (ii) used for manufacturing projects. For purposes of this subdivision, "manufacturing" is defined in G.S. 143B-437.01.

(4) The funds are provided to a local governmental unit, and the local governmental unit matches a portion of the funds allocated by the Department as provided in this subdivision. A local match may include cash, fee waivers, in-kind services, the donation of assets, the provision of infrastructure, or a combination. The local match requirement is as follows:
a. For development tier one areas, a local match of at least three dollars ($3.00) for every one hundred dollars ($100.00) from the State is required.
b. For development tier two areas, a local match of at least six dollars ($6.00) for every one hundred dollars ($100.00) from the State is required.
c. For development tier three areas, a local match of at least nine dollars ($9.00) for every one hundred dollars ($100.00) from the State is required.

(5) The funds are reserved for a project for which a business agrees to meet, for the greater of 10 years or a time period not less than the sum of the full term of the grant plus five years, the wage standard provided in this subdivision for all full-time workers at the project. In making the wage calculation, all full-time position jobs filled during the year for at least 1,600 hours are included. The required wage standard is as follows:

a. For development tier one and two areas, an average weekly wage that is at least equal to the lesser of one hundred percent (100%) of the average wage for all insured private employers in the county.

b. For development tier three areas, an average weekly wage that is at least equal to the lesser of one hundred ten percent (110%) of the average wage for all insured private employers in the county.

(6) The funds are reserved for projects for which a business agrees to meet, for the greater of 10 years or a time period not less than the sum of the full term of the grant plus five years, a requirement to provide health insurance for all full-time workers at the project. For purposes of this subdivision, a business provides health insurance if it pays at least fifty percent (50%) of the premiums for health care coverage that equals or exceeds the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee pursuant to G.S. 58-50-125. A business shall provide a certification that it continues to provide health insurance as required by this subdivision.

(7) The funds are not used for a project at which is located, during the greater of 10 years or a time period not less than the sum of the full term of the grant plus five years, a business that has received a notice of an overdue tax debt and that overdue tax debt has not been satisfied or otherwise resolved.

(8) The funds are not used in favor of jobs created or property investments made for which a business receives a tax credit under Article 3J of Chapter 105 of the General Statutes.

(9) The funds are reserved for projects for a business that has no citations under the Occupational Safety and Health Act that have become a final order within the past three years for willful serious violations or for failing to abate serious violations. In addition, the business must, for the greater of 10 years or a time period not less than the sum of the full term of the grant plus five years, have no citations under the Occupational Safety and Health Act that have become a final order within the past three years for willful serious violations or for failing to abate serious violations with respect to the project. For purposes of this subsection, "serious violation" has the same meaning as in G.S. 95-127.

(10) The funds are not used for a project that consists of a professional or semiprofessional sports team or club or a project that consists solely of retail facilities. If a project consists of both retail facilities and nonretail facilities, only the portion of the project consisting of nonretail facilities is eligible for a grant, and only full-time workers employed exclusively in the portion of the project that represents nonretail facilities may be counted for purposes of fulfilling the new worker position requirement. If a warehouse facility is part of a retail facility and supplies only that retail facility, the warehouse facility investment and full-time workers are not counted for purposes of the requirements of this section. For the purposes of this Subpart, catalog distribution centers are not retail facilities.

(b) Forfeiture. – If the business at the project fails to timely create and maintain the required new jobs, to timely make the required level of investment, or to otherwise meet the requirements of this section, the local governmental unit shall provide a means to recapture from the business at the project an amount equal to the amount disbursed from the Fund for the project, and the local governmental unit must reimburse the Fund for that disbursement.

(c) Records. – A business located at a project for which a grant was made from the Fund shall maintain records and make available for inspection by the Secretary of Commerce

any records the Secretary considers necessary to determine and verify the business has met the requirements of this section.

(d) Report. – The Department shall publish a report on the Job Catalyst Fund on or before April 30 of each year. The Department shall submit the report electronically to the House of Representatives Finance Committee, the Senate Finance Committee, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division. The report shall include the following:

(1) A listing of each grant awarded during the preceding calendar year, including the name of the business locating at the project, a description of the project, the term of the grant, and the liability under the grant.

(2) An update on the status of projects under grants awarded before the preceding calendar year.

(3) The number and development tier area of new worker positions to be created by projects with respect to which grants have been awarded.

(4) A listing of the employment level for all businesses located at projects with respect to which grants have been awarded and any changes in those levels from the level of the next preceding year.

(5) The wage levels of all new worker positions to be created at projects with respect to which grants have been awarded, aggregated, and listed in increments of ten thousand dollars ($10,000) or other appropriate increments.

(6) The number of awards made for projects for new businesses and the number of awards made for projects for existing, expanding businesses in the preceding calendar year.

(7) The environmental impact of businesses at projects with respect to which grants have been awarded.

(8) The geographic distribution of grants, by number and amount, awarded under the program.

(9) For the first annual report after adoption of the guidelines developed by the Department to implement this Subpart, a copy of such guidelines, and, for subsequent reports, identification of any changes in those guidelines from the previous calendar year."

SECTION 3.(f) The Secretary of Commerce shall develop guidelines related to the administration of the Jobs Catalyst Fund, as authorized by this section, and to the selection of projects. At least 20 days before the effective date of any guidelines or nontechnical amendments to guidelines, the proposed guidelines must be published on the Department's Web site and provide notice to persons who have requested notice of proposed guidelines. In addition, the Department of Commerce shall accept oral and written comments on the proposed guidelines during the 15 business days beginning on the first day the notice requirement of this subsection have been completed. For purposes of this subsection, a technical amendment is one that corrects a spelling or grammatical error or that makes a clarification based on public comment and could have been anticipated by the public notice that immediately preceded the public comment.

SECTION 3.(g) G.S. 150B-1(d) reads as rewritten:

"(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the following:

...

(10) The Economic Investment Committee in developing criteria for the Job Development Investment Grant Program under ~~Part 2F~~Subpart A of Part 2G of Article 10 of Chapter 143B of the General Statutes.

(10a) The Secretary of Commerce in developing criteria for the Job Catalyst Fund under Subpart B of Part 2G of Article 10 of Chapter 143B of the General Statutes.

...."

SECTION 3.(h) G.S. 143B-437.07(c) reads as rewritten:

"(c) Economic Development Incentive. – An economic development incentive includes any grant from the following programs: Job Development Investment Grant Program; the Job Catalyst Fund; the Job Maintenance and Capital Development Fund; One North Carolina Fund; and the Utility Account. The State also incents economic development through the use of tax expenditures in the form of tax credits and refunds. The Department of Revenue must report annually on these statutory economic development incentives, as required under G.S. 105-256."

SECTION 3.(i) This section is effective when it becomes law.

PART IV. JDIG MODIFICATIONS

SECTION 4.(a) Section 15.19(a1) of S.L. 2013-360 reads as rewritten:

"**SECTION 15.19.(a1)** Notwithstanding G.S. 143B-437.52(c), for the 2013-2015 fiscal biennium, the maximum total liability for grants awarded, including amounts transferred to the Utility Account pursuant to G.S. 143B-437.61, is ~~twenty-two million five hundred thousand dollars ($22,500,000)~~thirty-six million five hundred thousand dollars ($36,500,000) and, for the period from July 1, 2015, to December 31, 2015, the maximum total liability for grants awarded, including amounts transferred to the Utility Account pursuant to G.S. 143B-437.61, is seven million five hundred thousand dollars ($7,500,000). No agreement may be entered into that, when considered together with other existing agreements governing grants awarded during an applicable time period provided in this subsection, could cause the State's potential total ~~annual~~ liability for grants awarded in that time period to exceed the designated maximum amount."

SECTION 4.(b) G.S. 143B-437.52 reads as rewritten:

"**§ 143B-437.52. Job Development Investment Grant Program.**

(a) Program. – There is established the Job Development Investment Grant Program to be administered by the Economic Investment Committee. In order to foster job creation and investment in the economy of this State, the Committee may enter into agreements with businesses to provide grants in accordance with the provisions of this ~~Part.~~Subpart. The Committee, in consultation with the Attorney General, shall develop criteria to be used in determining whether the conditions of this section are satisfied and whether the project described in the application is otherwise consistent with the purposes of this ~~Part.~~Subpart. Before entering into an agreement, the Committee must find that all the following conditions are met:

...

(5) The total benefits of the project to the State outweigh its costs and render the grant appropriate for the project. If the total costs of the project to the State outweigh the benefits as a result of an award from the Job Catalyst Fund under Subpart B of this Part, the Committee may disregard the Job Catalyst Fund award in determining whether a grant is appropriate for the project.

...."

PART V. CROWD FUNDING

SECTION 5.(a) G.S. 78A-17 is amended by adding a new subdivision to read:

"(20) Any offer or sale of a security by an issuer if the offer or sale is conducted in accordance with G.S. 78A-17.1."

SECTION 5.(b) Article 3 of Chapter 78A of the General Statutes is amended by adding a new section to read:

"§ 78A-17.1. Invest NC exemption.

(a) Exemption. – Except as otherwise provided in this Chapter, an offer or sale of a security by an issuer is exempt from G.S. 78A-24 and G.S. 78A-49(d) if the offer or sale is conducted in accordance with each of the following requirements:

(1) The issuer of the security is a business entity formed under the laws of the State and registered with the Secretary of State.

(2) The transaction meets the requirements of the federal exemption for intrastate offerings in section 3(a)(11) of the Securities Act of 1933, 15 U.S.C. § 77c(a)(11), and SEC rule 147, 17 C.F.R. § 230.147.

(3) The sum of all cash and other consideration to be received for all sales of the security in reliance upon this exemption does not exceed the cap provided in this subdivision.

a. One million dollars ($1,000,000), less the aggregate amount received for all sales of securities by the issuer within the 12 months before the first offer or sale made in reliance upon this exemption, if the issuer has not undergone and made available to each prospective investor and the Administrator the documentation resulting from a financial audit with respect to its most recently completed fiscal year and meeting generally accepted accounting principles.

b. Two million dollars ($2,000,000), less the aggregate amount received for all sales of securities by the issuer within the 12 months before the first offer or sale made in reliance upon this exemption, if the issuer has undergone and made available to each prospective investor and the Administrator the documentation resulting from a financial audit with respect to its most recently completed fiscal year and meeting generally accepted accounting principles.

(4) The issuer has not accepted more than two thousand dollars ($2,000) from any single purchaser unless the purchaser is an accredited investor as defined by rule 501 of SEC regulation D, 17 C.F.R. § 230.501.

(5) Not less than 10 days prior to the commencement of an offering of securities in reliance on this exemption or the use of any publicly available Web site in connection with any such offering, the issuer shall file a notice with the Administrator, in writing or in electronic form as specified by the Administrator, containing the following:

a. A notice of claim of exemption from registration, specifying that the issuer will be conducting an offering in reliance upon this exemption, accompanied by the filing fee as specified in this section.

b. A copy of the disclosure statement to be provided to prospective investors in connection with the offering, containing the following:

1. A description of the company, its type of entity, the address and telephone number of its principal office, its history, its business plan, and the intended use of the offering proceeds, including any amounts to be paid, as compensation or otherwise, to any owner, executive officer, director, managing member, or other person occupying a similar status or performing similar functions on behalf of the issuer.

2. The identity of all persons owning more than ten percent (10%) of the ownership interests of any class of securities of the company.

3. The identity of the executive officers, directors, managing members, and other persons occupying a similar status or

performing similar functions in the name of and on behalf of the issuer, including their titles and their prior experience.

4. The terms and conditions of the securities being offered and of any outstanding securities of the company, the minimum and maximum amount of securities being offered, if any, and either the percentage ownership of the company represented by the offered securities or the valuation of the company implied by the price of the offered securities.

5. The identity of any person who has been or will be retained by the issuer to assist the issuer in conducting the offering and sale of the securities, including any Web sites, but excluding persons acting solely as accountants or attorneys and employees whose primary job responsibilities involve the operating business of the issuer rather than assisting the issuer in raising capital, and for each person identified in response to this paragraph, a description of the consideration being paid to such person for such assistance.

6. A description of any litigation or legal proceedings involving the company or its management.

7. The names and addresses, including URL, of any Web sites that will be used in connection with the offering.

c. An escrow agreement with a bank or other depository institution located within this State in which the investor funds will be deposited, providing that all offering proceeds will be released to the issuer only when the aggregate capital raised from all investors is equal to or greater than the minimum target offering amount specified in the business plan as necessary to implement the business plan and that all investors may cancel their commitments to invest if that target offering amount is not raised by the time stated in the disclosure document.

(6) The issuer is not, either before or as a result of the offering, an investment company, as defined in section 3 of the Investment Company Act of 1940, 15 U.S.C. § 8a-3, or an entity that would be an investment company but for the exclusions provided in section 3(c) of the act, or subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. § 78m and 78o(d).

(7) The issuer shall inform all prospective purchasers under this section that the securities have not been registered under federal or State securities law and that the securities are subject to limitations on resale. The issuer shall display the following legend conspicuously on the cover page of the disclosure document:

"IN MAKING AN INVESTMENT DECISION, INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF THE ISSUER AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES COMMISSION OR REGULATORY AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL

OFFENSE. THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED BY SUBSECTION (E) OF SEC RULE 147, 17 C.F.R. § 230.147(E) AS PROMULGATED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND THE APPLICABLE STATE SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. INVESTORS SHOULD BE AWARE THAT THEY WILL BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME."

(8) The issuer shall require each purchaser to certify in writing "I understand and acknowledge that:

a. I am investing in a high-risk, speculative business venture. I may lose all of my investment, and I can afford the loss of my investment.

b. This offering has not been reviewed or approved by any state or federal securities commission or other regulatory authority and that no such person or authority has confirmed the accuracy or determined the adequacy of any disclosure made to me relating to this offering.

c. The securities I am acquiring in this offering are illiquid, that there is no ready market for the sale of such securities, that it may be difficult or impossible for me to sell or otherwise dispose of this investment, and that, accordingly, I may be required to hold this investment indefinitely.

d. I may be subject to tax on my share of the taxable income and losses of the company, whether or not I have sold or otherwise disposed of my investment or received any dividends or other distributions from the company.

(9) If the offer and sale of securities is made through an Internet Web site, the following requirements apply:

a. Prior to the offer of an investment opportunity to residents of this State through a Web site, the issuer shall provide to the Web site and to the Administrator evidence that the issuer is organized under North Carolina law and that it is authorized to do business within the State.

b. The issuer shall obtain from each purchaser of a security under this section evidence that the purchaser is a resident of North Carolina and, if applicable, an accredited investor.

c. The Web site operator shall register with the Administrator by filing a statement that it is a business entity that is organized under North Carolina law and that it is authorized to do business within the State and that it is being utilized to offer and sell securities pursuant to this exemption. As part of the registration, the Web site shall notify the Administrator of its and the issuer's identity, location, and contact information.

d. The issuer and the Web site must keep and maintain records of the offers and sales of securities effected through the Web site and must provide ready access to the records to the Administrator, upon request. The Administrator may access, inspect, and review any Web site and its records.

(10) All payments for purchase of securities must be directed to and held by the bank or depository institution subject to the provisions of sub-subdivision (a)(5)c. of this section. The bank or depository institution shall notify the Administrator of the receipt of payments for securities and the identity and residence of the investors. The information shall be confidential and considered trade secrets within the scope of G.S. 132-1.2 while in the possession of the Administrator.

(11) No offers or sales of a security shall be made through an Internet Web site unless the Web site is registered with the Administrator pursuant to sub-subdivision (a)(9)c. of this section. The Web site shall not be subject to the registration provisions of G.S. 78A-36 provided that all of the following apply:

a. It does not offer investment advice or recommendations.

b. It does not solicit purchases, sales, or offers to buy the securities offered or displayed on the Web site.

c. It does not compensate employees, agents, or other persons for the solicitation or based on the sale of securities displayed or referenced on the Web site.

d. It is not compensated based on the amount of securities sold, and it does not hold, manage, possess, or otherwise handle investor funds or securities.

e. It does not engage in such other activities as the Administrator, by rule, determines appropriate.

(12) An executive officer, director, managing member, or person occupying a similar status or performing similar functions in the name of and on behalf of the issuer shall be exempt from the registration provisions of G.S. 78A-36, provided that the person does not receive, directly or indirectly, any commission or remuneration for offering and selling securities of the issuer pursuant to this exemption.

(13) The issuer must provide a copy of the disclosure document provided to the Administrator pursuant to sub-subdivision (a)(5)b. of this section to each prospective investor at the time the offer of securities is made to the prospective investor. In addition to the information described in sub-subdivision (a)(5)b. of this section, the disclosure document provided to the Administrator and to prospective investors should include additional information material to the offering, including, where appropriate, a discussion of significant factors that make the offering speculative or risky. This discussion must be concise and organized logically and should not present risks that could apply to any issuer or any offering.

(b) Indexing. – The dollar limitations provided in subdivision (a)(3) of this section shall be cumulatively adjusted every fifth year by the Administrator to reflect the change in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics, setting each dollar limitation to the nearest fifty thousand dollars ($50,000).

(c) Report. – An issuer of a security, the offer and sale of which is exempt under this section, shall provide a quarterly report to the issuer's investors until no securities issued under this section are outstanding. The report required by this subsection shall be free of charge. An issuer may satisfy the reporting requirement of this subsection by making the information available on an Internet Web site address if the information is made available within 45 days of the end of each fiscal quarter and remains available until the succeeding quarterly report is issued. An issuer shall file each such quarterly report with the Administrator and must provide

a written copy of the report to any investor upon request. The report must contain each of the following:

(1) Compensation received by each director and executive officer, including cash compensation earned since the previous report and on an annual basis and any bonuses, stock options, other rights to receive securities of the issuer or any affiliate of the issuer, or other compensation received.

(2) An analysis by management of the issuer of the business operations and financial condition of the issuer.

(d) Offers and Sales to Controlling Persons. – The exemption provided in this section shall not be used in conjunction with any other exemption under this Chapter, except offers and sales to controlling persons shall not count toward the limitation in subdivision (3) of subsection (a) of this section. A controlling person is an officer, director, partner, trustee, or individual occupying similar status or performing similar functions with respect to the issuer or to a person owning ten percent (10%) or more of the outstanding shares of any class or classes of securities of the issuer.

(e) Disqualification. – The exemption allowed by this section shall not apply if an issuer or person affiliated with the issuer or offering is subject to any disqualification contained in 18 NCAC 06A .1207(a)(1) through (a)(6) or contained in Rule 262 as promulgated under the Securities Act of 1933 (17 C.F.R. § 230.262). The provisions of this subsection shall not apply if (i) upon a showing of good cause and without prejudice to any other action by the Administrator, the Administrator determines that it is not necessary under the circumstances that an exemption be denied and (ii) the issuer establishes that it made factual inquiry into whether any disqualification existed under this subsection but did not know, and in the exercise of reasonable care could not have known, that a disqualification existed under this subsection. The nature and scope of the requisite inquiry will vary based on the circumstances of the issuer and the other offering participants.

(f) Rules. – The Administrator may adopt rules to implement the provisions of this section and to protect investors who purchase securities under this section.

(g) Fee. – The Administrator shall charge a nonrefundable filing fee of one hundred fifty dollars ($150.00) for filing an exemption notice required by subsection (a) of this section. The fees paid to the Administrator pursuant to this subsection shall be used to pay the costs incurred in administering and enforcing this Chapter. The revenue derived from the fee shall be credited to a nonreverting agency revenue account."

SECTION 5.(c) G.S. 78A-49(d) reads as rewritten:

"(d) The Administrator may by rule or order require the filing of any prospectus, pamphlet, circular, form letter, advertisement, or other sales literature or advertising communication addressed or intended for distribution to prospective investors, unless the security or transaction is exempted by ~~G.S. 78A-16 or 78A-17 (except 78A-17(9), (17), and (19))~~G.S. 78A-16 and G.S. 78A-17 (except G.S. 78A-17(9), (17), (19), and (20)) and such exemption has not been denied or revoked under G.S. 78A-18 or the security is a security covered under federal law or the transaction is with respect to a security covered under federal law."

SECTION 5.(d) Notwithstanding any provision of Article 2A of Chapter 150B of the General Statutes, within 12 months of the effective date of this act, the Secretary of State shall adopt rules to implement the provisions of this act in accordance with the following procedure:

(1) At least 15 business days prior to adopting a rule, submit the rule and a notice of public hearing to the Codifier of Rules. The Codifier of Rules shall publish the proposed rule and the notice of public hearing on the Internet within five business days.

(2) At least 15 business days prior to adopting a rule, notify persons on the mailing list maintained pursuant to G.S. 150B-21.2(d) and any other interested parties of the Secretary's intent to adopt a rule and of the public hearing.

(3) Accept written comments on the proposed rule for at least 15 business days prior to adoption of the rule.

(4) Hold at least one public hearing on the proposed rule no less than five days after the rule and notice have been published.

A rule adopted in accordance with this section becomes effective on the first day of the month following the month the Secretary adopts the rule and submits the rule to the Codifier of Rules for entry into the North Carolina Administrative Code. Any rule adopted more than 12 months after the effective date of this act shall comply with the requirement of Article 2A of Chapter 150B of the General Statutes.

SECTION 5.(e) Subsection (d) of this section is effective when it becomes law and expires 12 months after the effective date of this act. The remainder of this section is effective when it becomes law and expires on July 1, 2017."

PART VI. EFFECTIVE DATE

SECTION 6. Except as otherwise provided, this act is effective when it becomes law.

HOUSE BILL 1224:
Local Sales Tax for Education/Econ. Dev Chngs

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	July 21, 2014
Introduced by:	Rep. Presnell	**Prepared by:**	Trina Griffin Committee Counsel
Analysis of:	PCS to Second Edition H1224-CSSVx-66		

SUMMARY: ***Part I of the PCS would authorize counties to use the proceeds of a portion of the local option sales and use tax for public transportation or for public education, and would cap the overall total local sales and use tax rate at two and one-half percent (2½%).***

This PCS differs from the PCS considered last week in the following ways:

- ***A county would not be limited to levying a local sales and use tax for either public education or public transportation.***
- ***The total rate would still be capped at 2.5% but a county would not be required to levy the public transportation tax or the public education tax at a rate that would bring their total rate up to the maximum. In other words, a county may levy either tax at the rate of ¼% if it so chooses.***
- ***It modifies the current Article 46 by providing that for referenda held on or after January 1, 2015, a county must pair the ¼% tax under Article 46 with either the tax for public education or the tax for public transportation. The ¼% may not be levied without one of those other taxes being levied. The counties that currently the Article 46 tax could continue to levy the tax alone or could opt to pair it with the public transportation tax or the public education tax but only at the rate of ¼%. Any county that is scheduled to have this issue on the November 2014 ballot would not be required to pair the Article 46 tax with a ¼% transportation or education tax. However, no county with a current rate of 2 ½% or higher may hold a referendum on the Article 46 tax.***

Parts II-IV of the PCS would expand the eligibility criteria for the Job Maintenance and Capital Development Fund (JMAC). Part III of the PCS would create the Job Catalyst Fund (JCF) inside the Department of Commerce. Part IV would provide an additional $14M to the Job Development Investment Grant (JDIG) cap for the 2013-2015 biennium and provide limited flexibility with respect to the impact of JCF grants on the cost/benefit analysis required for JDIG grants.

This PCS also adds a new Part V, which would allow NC companies to sell $1 million ($2 million in some cases) of unregistered securities to NC residents. The Secretary of State would be authorized to charge a nonrefundable filing fee of $150 for filing a notice for unregistered securities.

PART I: LOCAL SALES TAX OPTIONS

CURRENT LAW & BILL ANALYSIS: Part I of the PCS establishes two new local sales and use tax options for counties, increases from ¼% to ½% the rate at which 94 counties may levy the public transportation tax, renames the public transportation tax the "public transit" tax, and caps the overall local sales and use tax rate at two and one-half percent (2½%). Under the bill, a county may levy any combination of the three local option sales and use taxes so long as the total local sales and use tax rate

in the county does not exceed two and one-half percent (2 ½%). Plus, a county would not be required to reach the maximum with any particular levy. Counties that currently levy the quarter-cent under Article 46 may continue to levy the tax, but no new counties would be able to hold a referendum on that tax after August 1, 2014, with the exception of two counties that already have the question on the November ballot and have a current rate of less than 2½%.

New Article 43A: County Sales Tax for Public Education

Section 1.1 of the PCS would give counties the authority to levy a local sales and use tax at a rate of up to one-half percent (1/2/%) if the majority of voters approve the levy of the tax in a referendum. The rate of tax must be in an increment of ¼% and must be at a rate that, if levied, would not result in a total local rate in the county in excess of two and one-half percent (2 1/2%). There is no limitation on a county's ability to also levy a local sales and use tax under Article 43 as long as the total local rate in the county does not exceed 2 ½%.

The proceeds of the tax are not shared with the cities and may only be used as follows:

- Public school capital outlay purposes or to retire any indebtedness incurred by the county for these purposes.
- Salaries of classroom teachers, salaries of classroom teacher assistants, and supplements of classroom teacher salaries. A classroom teacher is an employee of a local board of education employed as a teacher who spends at least seventy percent (70%) of his or her work time in classroom instruction and a classroom teacher assistant is an employee of a local board of education employed as a teacher assistant who spends at least seventy percent (70%) of his or her work time assisting in a classroom.
- Financial support of community colleges, including funds to supplement State financial support of community colleges.

Changes to Article 43: Local Government Sales and Use Tax for Public Transportation

Under current law, counties may levy, upon referendum, a local sales and use tax to be used only for public transportation if the county or at least one unit of local government in the county operates a public transportation system. "Public transportation system" is broadly defined as any combination of real and personal property established for purposes of public transportation, but specifically excludes streets, roads, and highways (except to the extent they are dedicated to public transportation vehicles).

The rate of tax is ½% for the following six counties: Durham, Forsyth, Guilford, Mecklenburg, Orange, and Wake.[1] The rate of tax is ¼% for all other counties. Currently, the only counties levying a tax under this Article are Mecklenburg, Durham, and Orange Counties. None of the 94 counties levy the 1/4¢ tax under this Article.

Section 1.4 of the PCS would give all counties the ability to levy the public transit tax at the same rate by increasing from 1/4¢ to 1/2¢ the maximum rate of tax that the 94 counties under Part 6 of Article 43 may levy for public transit. It would also allow the other six counties to levy the tax at the rate of ¼% or 1/2% depending on what the total local rate is at the time of the referendum. If a county chooses to hold a referendum to levy the public transit tax, the rate must be at a rate that, if levied, would not result in a total local rate in the county that exceeds two and one-half percent (2 1/2%). There is no limitation on a county's ability to also levy a local sales and use tax under new Article 43A as long as the total local rate in the county does not exceed 2 ½%.

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[1] Of these six counties, Durham and Orange are the only ones that also levy the quarter-cent tax under Article 46. Guilford and Mecklenburg have the quarter-cent on the November 2014 ballot.

Changes to Article 46: One-Quarter Cent (1/4¢) County Sales and Use Tax

In 2007, the General Assembly gave counties a local-option, quarter-cent sales tax. The tax must be approved by voters in a referendum before it can be adopted. The proceeds of the tax are not shared with the cities and may be used for any general purpose.

Since the enactment of the authorization, 94 referendums have been held in 59 counties; of those, 27 were approved.

Section 1.5 of the PCS modifies the current Article 46 as follows:

- For referenda held on or after January 1, 2015, a county must pair the ¼% tax under Article 46 with either the tax for public education (new Article 43A) or the tax for public transportation (Article 43). The Article 46 tax may not be levied without one of those other taxes being levied. Moreover, once levied, the proceeds of the Article 46 tax may not be used for education or public transportation, regardless of which tax the county is levying in addition to the Article 46 tax.
- The counties that currently levy the Article 46 tax may continue to levy the tax alone or they could opt to pair it with the public transportation tax or the public education tax, but only at the rate of ¼%.
- Any county that is scheduled to have this issue on the November 2014 ballot would not be required to also levy a ¼%-cent transportation or education tax. However, no county with a current rate of 2 ½% or higher may hold a referendum on the Article 46 tax. There are four counties that have voted to put this issue on the November 2014 ballot: Bladen, Guilford, Mecklenburg, and Richmond. All but Mecklenburg have a total rate of local sales and use tax that is less than two and one-half percent (2 ½%). Wake, Rockingham, and Carteret are also considering whether to add this issue to the November ballot.

Rate Cap for all Local Sales and Use Taxes

The local sales and use tax rate varies among the counties, ranging from 2% to 2.75%.[2] Under current law, there are 6 counties that *could* have a total local sales and use tax rate of two and three-quarters (2.75%), for a total State and local rate of 7.5%. Those counties are: Durham, Forsyth, Guilford, Mecklenburg, Orange, and Wake. To reach the maximum, a county would have to levy the first cent, the first one-half cent, the second one-half cent, the one-half cent public transportation tax, and the one-quarter cent tax. To date, only 2 of the 6 counties levy the maximum: Durham and Orange. That rate became effective in those counties in April of 2013.

The maximum that could be levied in the other 94 counties is two and one-half percent (2½%). The reason for the difference is that those 94 counties may only levy a one-quarter cent (1/4%) tax for public transportation. The remaining local taxes for those counties are the same.

Under the PCS, the total local sales and use tax rate that a county may levy would be two and one-half percent (2½%). The PCS carves out an exception for the two counties that currently levy a 2.75% local tax, but if either of those counties repeals any of the local sales and use taxes it currently levies, bringing the county rate below 2.75%, that county would become subject to the 2.5% cap.

[2]See table in the **BACKGROUND** section for this Part of the Bill Analysis.

Allocation of Article 43B Proceeds by County Commissioners

Section 1.2 of the PCS would authorize a board of county commissioners to direct the amount of funds derived from the tax levied under Article 43A to be used for salaries of classroom teachers, salaries of classroom teacher assistants, and supplements of classroom teacher salaries. Without this language, the board could allocate funds to instructional services generally, but it could not allocate funds more specifically within that category of expenditures. In addition, a board of education would need approval from the board of county commissioners before it could decrease the amount of funds that were allocated by the board of county commissioners. **Section 1.3** has similar provisions with regard to allocating funds for community colleges.

Under current law, local board of education is required to prepare a budget using the uniform budget format and submit that budget to the board of county commissioners no later than May 15 of each year. The board of county commissioners must then determine the amount of county revenues to be appropriated in the county budget to the local board of education and may "in its discretion, allocate part or all of its appropriation by purpose, function, or project as defined in the uniform budget format." Once the board of county commissioners makes its appropriation, the board of education adopts its budget resolution subject to certain requirements found in G.S. 115C-432. Amendments to the budget resolution are allowed after adoption, but are subject to certain limitations found in G.S. 115C-433.

For community colleges, a similar process is followed.[3] The board of trustees of a community college prepares a budget using forms developed by the State Board of Community Colleges. Community college budgets are broken into different parts requiring approval by different groups as follows:

- State Current Fund Budget – Approved by the board of trustees and State Board of Community Colleges.
- County Current Fund Budget - Approved by the board of trustees and the local tax-levying authority.
- Institutional Fund Budget - Approved by the board of trustees.
- Plant Fund Budget - Approved by the board of trustees, partly by the local tax-levying authority and partly by the State Board of Community Colleges.

G.S. 115D-55 requires the tax-levying authority to determine the amount of county revenues to be appropriated in the county budget to the community college and allows the authority to "allocate part or all of an appropriation by purpose, function, or project as defined in the budget manual as adopted by the State Board of Community Colleges." Once the tax-levying authority has made its appropriation, the budget is submitted to the State Board of Community Colleges for approval. G.S. 115D-56 requires that, once approved, the board of trustees must adopt a final budget resolution, and permits under G.S. 115D-58 that amendments be made to the budget subject to rules and regulations adopted by the State Board of Community Colleges and certain limits on amendments to local appropriations established in statute.

[3] Article 4A of Chapter 115D establishes the budget process for community colleges.

BACKGROUND: The following table identifies the current total local sales and use tax rate in the counties.

Local Rate of Sales & Use Tax	Counties	
2.75%	Durham Orange	
2.50%	Mecklenburg	
2.25%	Alexander Buncombe Cabarrus Catawba Cumberland Duplin Edgecombe Greene Halifax Harnett Haywood Hertford	Lee Martin Montgomery New Hanover Onslow Pitt Randolph Robeson Rowan Sampson Surry Wilkes
2.00%	Remaining 73 counties	

The following table sets out how the local sales and use taxes may be used, how they are distributed, and whether their enactment required a referendum.

Statutory Authority	Use of Proceeds		Distribution Method	Referendum Requirement
1st 1-cent (Article 39)	Any lawful purpose		Point of collection	Permitted, but not required
1st ½-cent (Article 40)	Counties – 30% school capital		Per capita * Adjustment formula	Permitted but not required
2nd ½-cent (Article 42)	Counties – 60% school capital		Point of collection	Permitted, but not required
½-cent or ¼-cent (Article 43)	Counties/Transportation Authorities – public transportation systems only		Per capita among county and units of local government in county that operate public transportation system	Required
	½-cent Part 2: Mecklenburg Part 4: Triangle (Wake, Durham, Orange) Part 5: Triad (Forsyth, Guilford)	**¼-cent** Part 6 – All other counties		
¼-cent (Article 46)	Any lawful purpose		Point of collection – distributed to county only	Required

PART II: JMAC MODIFICATIONS

CURRENT LAW: The General Assembly created JMAC in 2007 as a non-reverting account in the Department of Commerce.[4] The purpose of JMAC is to maintain jobs in the State. Three companies have received a grant from JMAC. The Department may not enter more than five agreements, and this act does not change that limitation. The total aggregate cost of all agreements for grants from JMAC is limited to $69 million, and the annual cost of any one agreement is $6 million. A grant agreement obligates the State to make a series of grant payments over a period of time, but it does not authorize the taxing power of the State to be pledged.

BILL ANALYSIS: The PCS expands eligibility for a JMAC grant for large manufacturing employers in four ways. First, the PCS allows eligibility for a large manufacturing employer if it is investing in its manufacturing process by enhancing pollution controls or transitioning from use of coal to natural gas for efficiency or emissions purposes. Previously, the conversion had to be for the purpose of changing the product it manufactures. Second, the PCS lowers the investment threshold from $65 million to $50 million. Third, the PCS increases the time for the investment from three to five years. Finally, the PCS allows the large manufacturing employer to be in an area that is tier 2, instead of a tier 1, if the area has a population of less than 60,000 as of 7/1/13, the manufacturer employs at least 800 FTEs at the project, and the manufacturer maintains that level of employment throughout the term of the grant.

The PCS also increases the total aggregate cost limitation of all JMAC agreements from $69 million to $79 million.

PART III: JOB CATALYST FUND

BILL ANALYSIS: Part III of the PCS creates the Job Catalyst Fund (JCF), a new special, non-reverting account in the Department of Commerce, for the purpose of providing funds to local governmental units for certain manufacturing projects. The guidelines and administration of the Fund is vested solely in the Secretary of Commerce, subject to the following minimum requirements that apply to each grant from the JCF:

1. A business at a project must agree, for the greater of 10 years or the term of the grant plus five years, to the following:
    a. To create 500, 800, or 1,200 full-time jobs for development tier one, two, or three areas, respectively.
    b. To invest at the project $20M, $35M, or $50M in real and/or personal property for development tier one, two, or three areas, respectively.
    c. To satisfy a wage requirement equal to a percentage of the average wage for all insured private employers in the county. If tiers one or two, the percentage is 100%. If tier three, the percentage is 110%.
    d. To provide health insurance.
    e. To avoid notices of overdue tax debts and citations under OSHA for willful serious violations or failing to abate serious violations.
2. The local governmental unit agrees to match State funds at a rate of 3%, 6%, or 9% for tier one, two, or three areas, respectively.

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[4] S. L. 2007-552, G.S. 143B-437.11; S. L. 2008-187 recodified the statute as G.S. 143B-437.012.

3. The funds are used to acquire/improve land or infrastructure, for facility development, or for capital investment and used for manufacturing projects.
4. Funds are not used in favor of jobs created or property investments for which a tax credit under Article 3J was given and are not used for retail facility development or for semiprofessional sports teams/clubs.

Local governmental units must provide a means to recapture from the business at a project an amount equal to that disbursed from the Fund in the event the business fails to satisfy any of the requirements for the disbursement, and the local governmental unit must, in turn, reimburse the Fund. The Department must report annually on each grant awarded, the status of each project, the number and development tier area of created positions, a listing of employment levels at projects and changes to employment levels from the preceding year, wage levels, number of awards for new/existing businesses, environmental impact, geographic distribution, and developed guidelines/changes to guidelines.

For purposes of guidelines for and administration of the program, the Secretary is exempt from the APA and must, instead, allow 20 days' notice before the effective date of guidelines (via publication) and 15 additional days for comment.

PART IV: JDIG MODIFICATIONS

BILL ANALYSIS: In the 2013 budget, the annual cap for JDIG commitments was modified from a calendar year basis to a fiscal biennium basis for the 2013-15 fiscal biennium only. This modification brought forward from the 2015 fiscal year an additional $7.5M in JDIG commitment availability. Subsection 4(a) of the PCS would increase the cap for JDIG commitment by an additional $14M for the 2013-15 fiscal biennium. Subsection 4(b) concerns the requirement in JDIG to conduct a cost/benefit analysis to determine whether a JDIG award is appropriate. Currently, all costs are considered for purposes of determining whether a JDIG award is appropriate. The PCS would allow disregarding of costs associated with an award from the newly created Job Catalyst Fund if, absent that award, the cost/benefit analysis would affirm the propriety of making a JDIG grant.

PART V: CROWD FUNDING

Part V of the PCS would add a new exemption to the list of transactions that are exempt from the registration and filing requirements for the offer or sale of securities. Specifically, the PCS creates the Invest NC exemption that requires:

- **NC Issuer** – The issuer must be a North Carolina business entity formed under the laws of the State and registered with the Secretary of State.
- **Intrastate Offering** – The transaction must meet the federal exemption for an intrastate offering, which means that the issuer and all purchasers must be located in NC, that purchasers cannot transfer the securities for a period of time, that a certain percentage of the proceeds must be used in the State, and that the issuer cannot sell or have an economic impact outside the state.
- **$1/$2 Million Maximum Per Offering** – If the issuer has not undergone a financial audit, the maximum amount of cash raised under the exemption must not exceed $1 million minus the amount received in the 12 months before the exemption. If the issuer has undergone a financial audit, the maximum amount allowed is $2 million minus the amount received in the 12 months before the exemption. Offers and sales to controlling persons of the issuer are exempt from the funding cap. The funding cap will be adjusted for inflation every fifth year.
- **$2,000 Maximum Per Purchaser** – The issuer has not accepted more than $2,000 from a single purchaser, unless the purchaser is an accredited investor.

- **Notice to Secretary of State** – The issuer must file a notice with the Secretary of State no less than 10 days before beginning to offer securities under the exemption. The notice must include a disclosure statement with specified financial information that will be provided to investors and an escrow agreement between the issuer and a NC bank providing that funds received from investors will be held until the minimum target offering amount is reached and that investors may cancel their purchase if the target is not reached.
- **Issuer Not Investment Company** – The issuer may not be an investment company.
- **Notice of Unregistered Securities and Limitations on Resale** – The issuer must conspicuously display on the cover of the disclosure document a notice to investors that the securities being offered have not been registered under federal or State law, that the investor bears the risk of the investment, and that the securities are subject to limitations on resale.
- **Written Acknowledgement by Purchaser** – The issuer shall require each purchaser to certify in writing that the purchaser understands and acknowledges the securities are a high-risk speculative business venture; no state or federal governmental authority has reviewed the offering; the securities are illiquid; and the purchaser may be subject to tax on a share of the taxable income and losses of the company whether or not the purchaser sold or otherwise disposed of the securities.
- **Registration and Recordkeeping by Internet Web Sites** – If the offer and sale are made through an internet web site, the issuer and the website must provide certain information to the Secretary of State, including evidence that both are NC businesses and that all purchasers are NC residents.
- **Notice and Recordkeeping by Escrow Holder** – The bank holding the escrow funds shall notify the Secretary of State of the receipt of payments for securities and the identity and residence of the investors.
- **Registration Exemption for Web Site** – The web site is exempt from the requirement to register as a dealer or salesperson if the web site meets specified conditions.
- **Registration Exemption for Issuer's Employees** – The executives and management of the issuer are exempt from the requirement to register as a dealer or salesperson as long as they do not receive any remuneration or commission for offering and selling securities under the exemption.
- **Quarterly Reporting** – The issuer must provide a quarterly report to investors until no securities issued under the exemption are outstanding.
- **Disqualification** – The exemption does not apply if the issuer or someone affiliated with the issuer is subject to any disqualification under State or federal law.
- **Rules** – The Secretary of State may adopt rules to implement the exemption and protect investors.

The PCS authorizes the Secretary of State to charge a nonrefundable filing fee of $150 for filing the exemption notice. The PCS also authorizes the Secretary of State to adopt rules to implement the exemption on an expedited basis for the first year.

EFFECTIVE DATE: Part I is effective when it becomes law. Part II of the act becomes effective July 1, 2014. Parts III and IV of the act are effective when they become law.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: July 16, 2014
TO: Senate Finance Committee
FROM: Sandra Johnson & Aubrey Incorvaia
Fiscal Research Division
RE: PCS to H1224

FISCAL IMPACT

($ in millions)

☑ Yes ☐ No ☐ No Estimate Available

State Impact	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
General Fund Revenues:					
General Fund Expenditures:	See Assumptions and Methodlogy				
NET STATE IMPACT	$0.0	$0.0	$0.0	$0.0	$0.0

Local Impact					
Revenues:	See Assumptions and Methodlogy				
NET LOCAL IMPACT	$0.0	$0.0	$0.0	$0.0	$0.0

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:
Commerce, North Carolina Department of Revenue

EFFECTIVE DATE: July 1, 2014

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY:
Part I of the PCS enacts Article 43A, the Local Option Sales Tax for Education, and modifies existing local sales tax articles, Article 43 and Article 46. Part II of the PCS would expand the eligibility criteria for the Job Maintenance and Capital Development Fund. Part III of the PCS would create the Job Catalyst Fund inside the Department of Commerce. Part IV would provide an additional $14M to the JDIG cap for the 2013-2015 biennium.

ASSUMPTIONS AND METHODOLOGY:

PART I LOCAL OPTION SALES TAX FOR EDUCATION

HB 1224 creates Article 43A. Article 43A grants local jurisdictions the authority to levy an additional sales tax designated for education. The bill also limits the maximum local sales tax rate to 2.5% in all but two counties, Durham County and Orange County, where the local rate is currently 2.75%. Table 1 below highlights the fiscal impact of enacting Article 43A at the maximum possible rate during the 2015-16 fiscal year.

Table 1. Maximum Sales and Use Tax Levy and Additional Revenue under Article 43A, by County, Fiscal Year 2015-16

County	Current Rate	Article 43A 2.25%	Article 43A 2.50%
Alamance	2%		$9,471,497
Alexander	2.25%	$429,327	
Alleghany	2%		$332,160
Anson	2%		$633,702
Ashe	2%		$1,028,718
Avery	2%		$1,023,458
Beaufort	2%		$2,154,416
Bertie	2%		$395,156
Bladen	2%		$1,031,719
Brunswick	2%		$6,425,215
Buncombe	2.25%	$10,337,325	
Burke	2%		$3,012,717
Cabarrus	2.25%	$6,950,468	
Caldwell	2%		$2,660,782
Camden	2%		$283,508
Carteret	2%		$4,859,546
Caswell	2%		$289,751
Catawba	2.25%	$4,930,009	
Chatham	2%		$2,239,828
Cherokee	2%		$1,224,004
Chowan	2%		$553,044
Clay	2%		$325,302
Cleveland	2%		$4,032,516
Columbus	2%		$1,884,654
Craven	2%		$4,884,160
Cumberland	2.25%	$10,130,063	
Currituck	2%		$2,244,787
Dare	2%		$6,758,031
Davidson	2%	$2,542,035	
Davie	2%		$1,463,108
Duplin	2.25%	$932,806	
Durham	2.75%		
Edgecombe	2.25%	$841,171	
Forsyth	2%		$23,292,486
Franklin	2%		$1,562,140
Gaston	2%		$9,030,729
Gates	2%		$151,725
Graham	2%		$294,500
Granville	2%		$1,459,005
Greene	2.25%	$152,379	
Guilford	2%		$31,996,220

Table 1. Maximum Sales and Use Tax Levy and Additional Revenue under Article 43A, by County, Fiscal Year 2015-16

County	Current Rate	Article 43A 2.25%	Article 43A 2.50%
Halifax	2.25%	$1,154,351	
Harnett	2.25%	$1,629,411	
Haywood	2.25%	$1,595,227	
Henderson	2%		$5,012,673
Hertford	2.25%	$549,388	
Hoke	2%		$929,305
Hyde	2%		$288,347
Iredell	2%		$9,590,186
Jackson	2%		$1,929,605
Johnston	2%		$7,188,541
Jones	2%		$162,871
Lee	2.25%	$1,649,370	
Lenoir	2%		$2,697,362
Lincoln	2%		$2,710,617
Macon	2%		$2,162,9
Madison	2%		$443,2
Martin	2.25%	$521,013	
McDowell	2%		$1,543,880
Mecklenburg	2.5%		
Mitchell	2%		$694,646
Montgomery	2.25%	$380,395	
Moore	2%		$5,400,349
Nash	2%		$4,947,940
New Hanover	2.25%	$9,236,387	
Northampton	2%		$447,420
Onslow	2.25%	$5,333,338	
Orange	2.75%		
Pamlico	2%		$368,465
Pasquotank	2%		$2,445,676
Pender	2%		$1,672,609
Perquimans	2%		$263,781
Person	2%		$1,443,933
Pitt	2.25%	$5,243,318	
Polk	2%		$475,672
Randolph	2.25%	$2,448,354	
Richmond	2%		$1,678,680
Robeson	2.25%	$2,391,361	
Rockingham	2%		$3,150,575
Rowan	2.25%	$2,677,499	
Rutherford	2%		$2,547,3
Sampson	2.25%	$1,047,991	
Scotland	2%		$1,303,301

Table 1. Maximum Sales and Use Tax Levy and Additional Revenue under Article 43A, by County, Fiscal Year 2015-16			
ɔunty	Current Rate	Article 43A 2.25%	Article 43A 2.50%
Stanly	2%		$2,500,923
Stokes	2%		$928,184
Surry	2.25%	$2,066,687	
Swain	2%		$512,488
Transylvania	2%		$1,411,774
Tyrrell	2%		$102,991
Union	2%		$7,523,025
Vance	2%		$1,969,027
Wake	2%		$64,974,739

Table 1. Maximum Sales and Use Tax Levy and Additional Revenue under Article 43A, by County, Fiscal Year 2015-16			
County	Current Rate	Article 43A 2.25%	Article 43A 2.50%
Warren	2%		$383,470
Washington	2%		$394,006
Watauga	2%		$3,609,571
Wayne	2%		$5,542,204
Wilkes	2.25%	$1,358,424	
Wilson	2%		$4,543,748
Yadkin	2%		$935,074
Yancey	2%		$567,507

PART II JMAC MODIFICATIONS

While the PCS to House Bill 1224 broadens eligibility for the JMAC program and increases total award capacity to $79 million, the legislation does not expressly require this capacity to be used.

However, Commerce has relayed to the Fiscal Research Division that the impetus for JMAC program expansion is the retention of Evergreen Packaging in Haywood County. If the PCS is enacted, Commerce plans to award the company a JMAC in FY 2014-15 and structure the contract for the company to receive a total of $12 million over six fiscal years, with payments of $2 million annually (FY 2015-16 through FY 2020-21). Committing this award would absorb the remaining available $12 million JMAC award capacity ($79 million permissible award capacity proposed in the PCS less $67 million utilized liability to-date for awards to Bridgestone, Goodyear and ɔomtar).

Existing JMAC statutes limit a grant period to up to 10 years and restrict the annual cost of any one award to no more than $6 million. Regardless of whether Commerce's plans for Evergreen Packaging become reality, if the PCS is enacted, then JMAC will have $12 million worth of unutilized award capacity. If fully utilized, cost implications range between $1.2 million a year for 10 years and $6 million a year for two years, which would require future General Fund appropriations.

PART III JOB CATALYST FUND

This section of the bill establishes the Fund, but has no fiscal impact since the PCS does not provide the Fund with 1) an appropriation or 2) a threshold under which awards are authorized to be committed.[1]

PART IV JDIG MODIFICATIONS

This section of the bill increases the 2013-15 fiscal biennium award capacity for the Job Development Investment Grant program by $14 million. Given that grant terms can be up to 12 years, the PCS generates an additional maximum liability for the program of $168 million (actual payments are based on company performance).

SOURCES OF DATA: Commerce; North Carolina Department of Revenue

TECHNICAL CONSIDERATIONS: None

Other economic development grant programs are permitted a certain award capacity threshold under which to make grant commitments; examples include the Job Development Investment Grant program, One North Carolina Fund, and JMAC.

SENATE PAGES ATTENDING

COMMITTEE: Finance ROOM: 544

DATE: 7-21 TIME: 5:30

PLEASE PRINT LEGIBILY!!!!!!!!!!!!!....*or else!*

Page Name	Hometown	Sponsoring Senator
1. Marika Samuelsson	Selma	Robinson
2. Alton Gayton	Raleigh	Blue
3. Nicholas Kroll	Holly Springs	Apodaca
4. Hayle Holberg	Apex	Stein
5.		
6.		
7.		
8.		
9.		
10.		

Do not add names below the grid.

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

SENATE SERGEANT-AT-ARMS

COMMITTEE: **Senate Finance**

DATE: 07-21-2014 ROOM: 544

1. STEVE McKAIG
2. ERNIE SHERRELL
3. ISAAC WALKER
4. BILLY FRITSCHER
5. _____
6. _____

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 21, 2014

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Julie White	NCMMC
SOLARI	DST
John Marth	MWC LLC
Cassie Gavin	Siena Cons
Sarah Preston	ACLU-NC
Elizabeth Biser	BP
Chris McClure	BP
Sarah Bales	BCA
Susan Vick	FSP
Hayden Bauguess	FSP
Steven Wells	NCHCA

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 21, 2014

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Erin Wynia	NCLM
Johanna Reese	NCACC
Andy Chase	KMA
Michelle Frazier	MF+S
John McMillan	MF+S
Johnny Tillett	MWC
Mitch Leonard	SEANC
Becki Gray	2 of 2
Annette Etheridge	Crender Consulting
Nick Baker	League of Women Voters

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 21, 2014

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Emily Atkinson	GRCC
[illegible]	MWC
Deni Burns	MWC
Connie Wilson	ECNC
[illegible]	NS
[illegible]	AT&T
Weldon Jones	Jordan Price

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 21, 2014

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Ryan Minto	NC DOR
Drew Moretz	UNC GA
Mary McAllen Ashill	SELC
John Peterson	--NCEDA
CASANDRA SKINNER	NCACC
Seth Palmer	Lanier Strategy Group
[illegible]	MLSC
Tony Adams	Adams & Assoc.
Dana Fenton	City of Charlotte
[illegible]	ETOR
Annalise Dolph	bc

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 21, 2014

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Lee Tonyan	DSBHA
Fred Bone	Bonn: Assoc.
Jillian Delaup	Poyner Spruill LLP
ROB BROOME	NCAR
Carley Ruff	NCHC
Leanne Winner	NCSBA
John Patterson	NCMPA
[illegible]	[illegible]
Wendy Kelly	Focus Carolina
Allison Waller	Nelson Mullins
Adam Pridemore	NCRSA

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 21, 2014

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Dr. Patricia Mitchell	Dept. of Commerce
Dave Horne	Smith Anderson
Andy Ellen	NCRMA
Kara Weisshaar	SA
Daniel Bauer	Troutman Sanders
Fred Baggett	NCACP / City of High Point
Sam Searcy	NP
Tim McDowell	NCICU
David Crawford	AHANC
Betsy Bailey	PENC
Mike Ceretta	NCCBSA

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 21, 2014

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Isabel Villa-Garcia	UCSBA
Carmen Idrio	MVA
Sean Madden	Sutton Law
Trent Womble	DHHS
Charles King	School of Government
Carr McLamb	NCDENR
Meghan Cook	ITS
[signature]	SEANC
Ashley Jones	NCDOC
Susan Fleetwood	NCDOC
John Hoomani	NCDOC

VISITOR REGISTRATION SHEET

Senate Finance Committee — July 21, 2014

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Zane Stilwell	NCSBE

Public Comment on HB 1224

VISITOR REGISTRATION SHEET

Senate Finance — 7/21/14

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

	NAME	FIRM OR AGENCY AND ADDRESS
(1)	Johanna Reese	NCACC appreciates ~~the partial cancel~~ concerns re: flexibility but still concerned about cap
(2)	Erin Wynia	NCLM Excited that issues addressed in econ. dev bill, but concerned about how infrastructure will not be addressed due to restrictions & cap placed on local govt.

Senate Committee on Finance
Tuesday, July 22, 2014, 10:00 AM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 27	Workers' Comp Fund/Safety Workers Allocation.	Rep. Howard Rep. Hager Rep. Torbett
HB 625	Zoning/Health Care Structure.	Rep. Moffitt Rep. Howard Rep. Setzer Rep. Ramsey
HB 1044	Averasboro Township TDA Changes.	Rep. Lewis
HB 1054	Spindale/Cape Fear Sewer Fee Collection.	Rep. Hager
HB 1059	Venus Flytrap-Taking Penalty/Occup. Tax Use.	Rep. Davis
HB 1224	Local Sales Tax for Education/Econ. Dev Chngs.	Rep. Presnell
SB 763	Omnibus Tax Law Changes.	Sen. Rabon Sen. Rucho

Adjournment

Senate Committee on Finance
Tuesday, July 22, 2014 at 10:00 AM
Room 544 of the Legislative Office Building

MINUTES

The Senate Committee on Finance met at 10:00 AM on July 22, 2014 in Room 544 of the Legislative Office Building. Thirty-one members were present.

Senator Bob Rucho, Chair, presided.

HB 1044 - Averasboro Township TDA Changes.

Representative Lewis was recognized to explain the bill. It would make changes to the composition, meeting requirements, and authority of the Averasboro Township Tourism Development Authority. Senator Rabin moved for a favorable report and the motion carried. A copy of the bill, the summary and the fiscal memo is attached.

HB 1054 - Spindale/Cape Fear Sewer Fee Collection.

Representative Hager was recognized to explain the bill which would authorize the Town of Spindale and the Cape Fear Public Utility Authority to collect an unpaid sewer availability fee in the same manner as delinquent property taxes are collected. Senator Tucker moved for a favorable report and the motion carried. A copy of the bill and the summary is attached.

HB 1059 - New Hanover Occup. Tax Use.

Senator Goolsby was recognized to explain the bill. Senator Curtis moved to adopt the proposed committee substitute (PCS) for discussion and the motion carried. The PCS would modify the use of the 3% room occupancy tax currently levied in the unincorporated areas of New Hanover County. It would remove the provision that created a Class H felony in certain counties for the taking of a Venus flytrap with the intent to steal. Senator Wade moved for a favorable report and the motion carried. A copy of the PCS and the summary is attached.

Senator Rucho recessed the meeting at 10:58 a.m. to reconvene at 5 p.m.

At 5 p.m. the meeting reconvened.

SB 763 - Revenue Laws Tech. Changes and Other Changes.

Senator Rabon was recognized to explain the bill and Senator Hartsell moved to adopt the PCS for discussion. The motion carried. The PCS would make several technical corrections and clarifying changes to the tax statutes largely based on recommendations of the Department of Revenue. Senator Rabon offered an amendment which Cindy Avrette, committee counsel, explained. The amendment would make changes to S Corporations, retail sales and use taxes, and distribution of funds by the Department of Revenue. Senator Rabon moved for its adoption

and the motion carried. Senator Hartsell was recognized to offer an amendment, but the amendment was declined. Senator Apodaca was recognized to offer an amendment, but the amendment was declined. Heather Fennell, committee counsel, was recognized to answer questions about tobacco taxes on vapor products. Eric Wayne, Department of Revenue, was recognized to answer questions about gap accounting methods v. accrual accounting. Senator Rabon moved for a favor report as amended and the motion carried. A copy of the PCS, the amendment, and the summary is attached.

HB 625 - Zoning/Health Care Structure.

Representative Moffitt was recognized to explain the bill which would exempt temporary family health care structures from zoning requirements applicable to single family residential zoning by counties and cities; and would require issuance of a permit for installation. Senator Rucho offered a technical amendment and moved for its adoption. The motion carried. Senator Ford moved for a favorable report as amended and the motion carried. A copy of the bill, the summary and the amendment is attached.

HB 1224 - Local Sales Tax Options/Econ. Devpt. Changes.

Senator Gunn was recognized to explain the bill and senator Rabon moved to adopt the PCS for discussion. The motion carried. Part I of the PCS would authorize counties to use the proceeds of a portion of the local option sales and use tax for public transportation or for public education, and would cap the overall total local sales and use tax rate at two and one-half percent (2 ½%). Counties would not be limited to levying a local sales and use tax for either public education or public transportation. The total rate would still be capped at 2.5%, but a county would not be required to levy the public transportation tax or the public education tax at a rate that would bring their total rate up to the maximum. A county may levy either tax at the rate of ¼% if it so choses. The PCS would modify the current Article 46 by providing that for referenda held on or after January 1, 2015, a county must pair the ¼% tax under Article 46 with either the tax for public education or for public transportation. The ¼% may not be levied outhit one of those other taxes being levied. The counties that currently have the Article 46 tax could continue to levy the tax alone or could opt to pair it with the public transportation tax or the public education tax, but only at the rate of ¼%. Any county that is scheduled to have this issue on the November 2014 ballot would not be required to pair the Article 46 tax with ¼% transportation or education tax. However, no county with a current rate of 2 ½% or higher may hold a referendum on the Article 46 tax. Parts II-IV of the PCS would expand the eligibility criteria for the Job Maintenance and Capital Development Fund. Part II would create the Job Catalyst Fund inside the Department of Commerce. Part IV would provide an additional $14 million to the Job Development Investment Grant cap for the 2013-2015 biennium and would provide limited flexibility with respect to the impact of JCF grants on the cost/benefit analysis required for JDIG grants. The PCS adds a new Part V, which would allow NC companies to sell $1 million ($2 million in some cases) of unregistered securities to NC residents. The Secretary of State would be authorized to charge a nonrefundable filing fee of $150 for filing a notice for unregistered securities. Senator Apodaca moved for a favorable report and the motion carried. A copy of the PCS, the fiscal note and a summary chart is attached.

HB 27 - Escheat Savings Bond Trust Fund/Scholarships.

Representative Howard was recognized to explain the bill. Senator Brown moved to adopt the PCS for discussion and the motion carried. The PCS would enable the Treasurer to institute a judicial proceeding to claim title and ownership of unclaimed US savings bonds so that the Treasurer may redeem the bonds and credit the funds received into the Escheat Fund. Brenda Williams from the Treasurer's office was recognized to answer questions. Senator Tillman moved for a favorable report and the motion carried. A copy of the PCS and the summary is attached.

The meeting adjourned at 5:44 p.m.

Senator Bob Rucho, Chair
Presiding

DeAnne Mangum, Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Tuesday, July 22, 2014

Senator Rucho,
submits the following with recommendations as to passage:

FAVORABLE

HB **1044 (SCS#1)** Averasboro Township TDA Changes.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

HB **1054 (CS#1)** Spindale/Cape Fear Sewer Fee Collection.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

HB **625** Zoning/Health Care Structure.
Draft Number: H625-PCS30809-TD-54
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

UNFAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 2

HB **1059 (SCS#1)** Venus Flytrap-Taking Penalty/Occup. Tax Use.
Draft Number: H1059-PCS40287-TD-53
Sequential Referral: None
Recommended Referral: None
Long Title Amended: Yes

TOTAL REPORTED: 4

Senator Ronald Rabin will handle HB 1044
Senator Ralph Hise will handle HB 1054
Senator Tom Apodaca will handle HB 625
Senator Thomas Goolsby will handle HB 1059

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Tuesday, July 22, 2014

Senator Rucho,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

SB **763** Omnibus Tax Law Changes.

Draft Number:	S763-PCS35588-RBx-67
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

HB **27** **(CS#2)** Workers Comp Fund/Safety Workers Allocation.

Draft Number:	H27-PCS10600-RB-68
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 2

Senator William Rabon will handle SB 763
Senator Ronald Rabin will handle HB 27

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

FINANCE COMMITTEE REPORT
Senator Rabon, Co-Chair
Senator Rucho, Co-Chair

Tuesday, July 22, 2014

Senator Rucho,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 2

HB **1224 (SCS#1)** Local Sales Tax for Education/Econ. Dev Chngs.

Draft Number:	H1224-PCS10601-SVx-67
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Senator Richard Gunn will handle HB 1224

HOUSE BILL 1044

Senate State and Local Government Committee Substitute Adopted 6/24/14

Short Title: Averasboro Township TDA Changes. (Local)

Sponsors:

Referred to:

May 15, 2014

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES TO THE AVERASBORO TOWNSHIP TOURISM DEVELOPMENT AUTHORITY.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 142 of the 1987 Session Laws, as amended by Part XII of S.L. 2001-439, reads as rewritten:

"**Section 1.** Occupancy Tax. – (a) Authorization and Scope. – The Harnett County Board of Commissioners may levy a room occupancy tax in an amount not to exceed three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within Averasboro Township that is subject to sales tax imposed by the State under G.S.105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious institutions or organizations.

(a1) Additional Occupancy Tax. – In addition to the tax authorized by subsection (a) of this section, the Harnett County Board of Commissioners may levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of accommodations taxable under that subsection. The county may not levy a tax under this section unless it also levies the tax under subsection (a) of this section. A tax levied under this section may not become effective before the first day of the second month after the resolution levying the tax is adopted. The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with this section.

(b) Repealed.

(c) Administration. – For the purpose of levying and administering the tax authorized by this act, Averasboro Township shall be a body politic and corporate and shall have the power to carry out the provisions of this act. The Harnett County Board of Commissioners shall serve, ex officio, as the governing body of the Township, and the officers of the board of commissioners shall serve as the officers of the governing body of the township. A simple majority of the governing body constitutes a quorum, and approval by a majority of those present is sufficient to determine any matter before the governing body, if a quorum is present.

The Harnett County Board of Commissioners, as the governing body of Averasboro Township, shall administer a tax levied under this act. A tax levied under this act shall be levied, administered, collected, and repealed as provided in G.S. 153A-155 as if Averasboro Township were a county. The penalties provided in G.S. 153A-155 apply to a tax levied under this act.

(d) Repealed.

(e) Distribution and Use of Tax Revenue. – The township shall, on a ~~quarterly~~ monthly basis, remit the net proceeds of the occupancy tax to the Averasboro Township Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Averasboro Township and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. – Gross proceeds less the cost to the township of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a township or to attract tourists or business travelers to the township. The term includes tourism-related capital expenditures.

(f) Repealed.

(g) Repealed.

"**Sec. 2.** Tourism Development Authority. – (a) Appointment and membership. – When the board of commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating an Averasboro Township Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. There shall be ~~seven~~ nine members of the Authority as follows:

(1) Three members, appointed by the Authority from applications submitted to the Authority, each of whom is a hotel, motel, or bed and breakfast operator from Averasboro Township.

(2) One individual currently active in tourism promotion and who does not own or operate a hotel, motel, or other taxable tourist accommodation, to be appointed by the Authority from applications submitted to the Authority.

(3) One individual currently active in tourism promotion and who does not own or operate a hotel, motel, or other taxable tourist accommodation. This individual will be the President of the Dunn Area Chamber of Commerce or a designee to be appointed by the Board of Directors of the Dunn Area Chamber of Commerce. ~~Two members appointed by the board of commissioners from nominations submitted by the Dunn Area Chamber of Commerce, one who is a hotel or motel operator from Averasboro Township and one who is a representative of the travel industry;~~

~~(2)~~(4) The Harnett County Manager, to serve ex ~~officio;~~officio.

~~(3)~~(5) ~~The~~ A Harnett County Commissioner representing Averasboro Township, to serve ex ~~officio;~~officio.

~~(4) The President of the Dunn Area Chamber of Commerce, to serve ex officio;~~

~~(5) The Vice President of Economic and Industrial Development of the Dunn Area Chamber of Commerce, to serve ex officio; and~~

(6) The City Manager of the Town of Dunn, to serve ex officio.

(7) A city council member of Dunn, appointed by the Dunn City Council, to serve ex officio.

~~The members appointed by the board of commissioners shall serve for a term of one year; vacancies~~ Vacancies shall be filled in the same manner as the initial appointments. All of the members, including those who serve ex officio, shall be voting members of the Authority. A majority of the members shall constitute a quorum for the transaction of business and an affirmative vote of the majority of the members present at a meeting of the Authority shall be required to constitute action of the Authority. The ~~board of commissioners~~ Authority shall designate one member of the Authority as chair and one member of the Authority to serve as vice-chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet monthly or at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for ~~Harnett County~~ the City of Dunn shall be the ex officio finance officer of the Authority.

(b) Duties. – The authority shall develop, promote, and advertise travel and tourism in Averasboro Township, sponsor tourist-oriented events and activities for Averasboro Township, operate and maintain museums and historic sites throughout Averasboro Township, and purchase, operate, ~~and~~ maintain a convention facility for Averasboro ~~Township.~~ Township, and finance tourist-related capital projects in Averasboro Township.

(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the board of county commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

"**Sec. 3.** This act is effective upon ratification."

SECTION 2. This act is effective when it becomes law and applies to the distribution of the net proceeds of the occupancy tax on or after the earlier of October 1, 2014, or the date specified in a resolution adopted in accordance with this act.

HOUSE BILL 1044:
Averasboro Township TDA Changes

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	July 22, 2014
Introduced by:	Rep. Lewis	**Prepared by:**	Heather Fennell
Analysis of:	Second Edition		Committee Counsel

SUMMARY: ***House Bill 1044 makes changes to the composition, meeting requirements, and authority of the Averasboro Township Tourism Development Authority (the Authority***

CURRENT LAW: The Authority was created in 1987 by S.L. 1987-142 and is charged with developing, promoting, and advertising travel and tourism in Averasboro Township; sponsoring tourist-oriented events and activities; operating and maintaining museums and historic sites; and purchasing, operating, and maintaining a convention facility.

The Authority meets at the call of the chair and is currently composed of seven members as follows:

- Two members appointed by the board of commissioners from nominations submitted by the Dunn Area Chamber of Commerce, one who is a hotel or motel operator from Averasboro Township and one who is a representative of the travel industry.
- The Harnett County Manager, ex officio.
- The Harnett County Commissioner representing Averasboro Township, ex officio.
- The President of the Dunn Area Chamber of Commerce, ex officio.
- The Vice President of Economic and Industrial Development of the Dunn Area Chamber of Commerce, ex officio.
- The City Manager of the Town of Dunn, ex officio.

The Finance Officer for the Harnett County serves as the ex officio finance officer of the authority. The township is required to remit the net proceeds of occupancy tax collected to the Authority on a quarterly basis.

BILL ANALYSIS: The bill increases the membership of the Authority from seven to nine members and alters the qualifications for membership. The membership of the Authority would change to:

- Three members, appointed by the Authority from applications submitted to the Authority, each of whom is a hotel, motel, or bed and breakfast operator from Averasboro Township.
- One individual currently active in tourism promotion and who does *not* own or operate a hotel, motel, or other taxable tourist accommodation, to be appointed by the Authority from applications submitted to the Authority.
- One individual currently active in tourism promotion and who does *not* own or operate a hotel, motel, or other taxable tourist accommodation. This individual will be the President of the Dunn Area Chamber of Commerce or a designee to be appointed by the Board of Directors of the Dunn Area Chamber of Commerce.
- The Harnett County Manager, ex officio.

- A Harnett County Commissioner representing Averasboro Township, ex officio.
- The City Manager of the Town of Dunn, ex officio.
- A city council member of Dunn, appointed by the Dunn City Council, ex officio.

Under the bill, the Finance Officer for the City of Dunn replaces the Finance Officer of Harnett County as the ex officio finance officer of the Authority.

Additionally, the bill creates the position of vice-chair, designated by the Authority; requires the Authority to meet monthly, or at the call of the chair; directs the township to remit the net proceeds of the occupancy tax to the Authority on a monthly basis (as opposed to quarterly); and gives the Authority the ability to finance tourist-related capital projects in Averasboro Township.

EFFECTIVE DATE: The act is effective when it becomes law and applies to the distribution of the net proceeds of the occupancy tax on or after the earlier of October 1, 2014, or the date specified in a resolution adopted in accordance with this act.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Fiscal Note

BILL NUMBER: House Bill 1044 (First Edition)

SHORT TITLE: Averasboro Township TDA Changes.

SPONSOR(S): Representative Lewis

FISCAL IMPACT
($ in millions)

☐ Yes ☒ No ☐ No Estimate Available

	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
State Impact					
General Fund Revenues:					
General Fund Expenditures:					
State Positions:					
NET STATE IMPACT	**$0.0**	**$0.0**	**$0.0**	**$0.0**	**$0.0**
Local Impact					
Revenues:					
Expenditures:					
NET LOCAL IMPACT	**$0.0**	**$0.0**	**$0.0**	**$0.0**	**$0.0**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:
Averasboro Township Tourism Development Authority

EFFECTIVE DATE: This act is effective when it becomes law

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY:

House Bill 1044 amends SL 1987-142, as amended, to require that the Averasboro Township remit the proceeds of the local occupancy tax on a monthly (was, quarterly) basis to the Averasboro Township Tourism Development Authority. Also, it increases the membership of the Averasboro Township Tourism Development Authority from seven to nine members and changes the membership of that Authority. It deletes the provision setting one-year terms and requires the Authority (was, the board of commissioners) to designate one member of the Authority to serve as chair and one member to serve as vice-chair. The bill requires that the Authority meet monthly. It names the finance officer for Dunn (was, for Harnett County) as the ex officio finance officer. House Bill 1044 requires the Authority to finance tourist-related capital projects in the Averasboro Township. The bill applies to the distribution of the net proceeds of the occupancy tax on or after the earlier of October 1, 2014, or the date specified in a resolution adopted in accordance with the act.

ASSUMPTIONS AND METHODOLOGY:

House Bill 1044 makes changes to the membership and structure of the Averasboro Township Tourism Development Authority. It has no fiscal impact.

SOURCES OF DATA:

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

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Mark Trogdon, Director
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DATE: June 10, 2014

Signed Copy Located in the NCGA Principal Clerk's Offices

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 1054
Committee Substitute Favorable 6/18/14

Short Title: Spindale/Cape Fear Sewer Fee Collection. (Local)

Sponsors:

Referred to:

May 15, 2014

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE TOWN OF SPINDALE AND THE CAPE FEAR PUBLIC UTILITY AUTHORITY TO ATTACH PERSONAL PROPERTY, GARNISH WAGES, AND PLACE LIENS ON CERTAIN REAL PROPERTY TO COLLECT UNPAID FEES FOR SEWER AVAILABILITY.

The General Assembly of North Carolina enacts:

SECTION 1. If a town enters into an interlocal contract or agreement pursuant to G.S. 160A-461 for the county to place on the tax bill and to collect a sewer availability fee charged by the town, the county may collect the fee in any manner by which delinquent real property taxes can be collected. Fees become delinquent and accrue interest in the same manner as delinquent real property taxes. The delinquent fee is a lien on the real property owned by the person and benefitted by the sewer availability and shall have the same priority as local property tax liens. Fees and associated liens shall be released or refunded by the town only pursuant to the release and refund provisions that apply to property taxes under G.S. 105-381.

SECTION 2. Section 1 applies only to the Town of Spindale.

SECTION 3. A water and sewer authority created under Article 1 of Chapter 162A of the General Statutes may adopt an ordinance providing that a fee charged by the authority for sewer availability services and remaining unpaid for a period of 90 days may be collected in any manner by which delinquent real property taxes can be collected. If the ordinance states that delinquent fees may be collected in the same manner as delinquent real property taxes, the delinquent fees are a lien on the real property owned by the person and benefitted by the sewer availability. The ordinance adopted by the authority shall provide for an appeals process.

SECTION 4. Section 3 of this act is not intended to in any way alter or modify the priority of a lien established for city and county taxes under Chapter 105 of the General Statutes, and any debt due the Cape Fear Public Utility Authority shall be expressly subordinate to any county or city tax.

SECTION 5. Sections 3 and 4 apply only to the Cape Fear Public Utility Authority.

SECTION 6. This act is effective when it becomes law.

HOUSE BILL 1054:
Spindale/Cape Fear Sewer Fee Collection

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	July 22, 2014
Introduced by:	Rep. Hager	**Prepared by:**	Heather Fennell
Analysis of:	Second Edition		Committee Counsel

SUMMARY: ***House Bill 1054 would authorize the Town of Spindale and the Cape Fear Public Utility Authority to collect an unpaid sewer availability fee in the same manner as delinquent property taxes are collected.***

CURRENT LAW: G.S. 160A-31 authorizes municipalities to collect a sewer availability fee. G.S. 162A-6 authorizes a water and sewer authority to collect a sewer availability fee.

BILL ANALYSIS: House Bill 1054 authorizes the Town of Spindale and the Cape Fear Public Utility Authority to adopt ordinances providing for collection of a delinquent sewer availability fee in the same manner as delinquent property taxes.

Delinquent property taxes may be collected in the following ways:

- Placement under lien and sale of real property.
- Attachment and garnishment of wages and bank accounts.
- Levy and sale of personal property.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: The following local legislation regarding delinquent water and sewer fees has been enacted:

- S.L. 1993-768: Authorizes City of Durham to collect delinquent water and sewer fees resulting from leaking or broken pipes of the real property owner in the same manner as property taxes.
- S.L. 2003-270: Authorizes Davie, Duplin, and Lenoir Counties, the municipalities in these counties, and in Columbus County, and water and wastewater authorities in Davie, Duplin, and Lenoir Counties to collect delinquent water and sewer fees in the same manner as delinquent property taxes.
- S.L. 2009-402 Authorizes Montgomery County to collect delinquent water and sewer fees in the same manner as delinquent property taxes.
- S.L. 2010-59 Authorizes the City of Locust and the Towns of New London and Stanfield to collect delinquent sewer fees in the same manner as delinquent property taxes.

Giles Perry with the Research Division substantially contributed to this summary.

O. Walker Reagan
Director

H1054-SMTD-124 E2 -V3

Research Division
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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H D

HOUSE BILL 1059

Committee Substitute Favorable 6/4/14
Committee Substitute #2 Favorable 6/19/14
Senate State and Local Government Committee Substitute Adopted 6/26/14
PROPOSED SENATE COMMITTEE SUBSTITUTE H1059-CSTD-53 [v.1]
7/16/2014 4:01:45 PM

Short Title: New Hanover Occup. Tax Use. (Local)

Sponsors:

Referred to:

May 15, 2014

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE NEW HANOVER OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Section 7(d) of S.L. 2006-167 reads as rewritten:

"**SECTION 7.(d)** Distribution and Use of Tax Revenue. – New Hanover County District U shall ~~deposit one hundred percent (100%) of the net proceeds of the room occupancy and tourism development tax levied under this section into a special fund, the cash balance of which shall be deposited at interest or invested in accordance with G.S. 159-30. These funds shall be used only for beach nourishment.~~ distribute and use the net proceeds of the room occupancy and tourism development tax levied under this section as set out in this subsection. In accordance with the North Carolina Constitution and the United States Constitution, the tax proceeds may be used only for the direct benefit of the jurisdiction of New Hanover District U. ~~None of the proceeds may be used for beach nourishment in areas within New Hanover County that are outside of the district.~~ As used in this subsection, the term "Authority" means the Cape Fear Coast Convention and Visitors Bureau, which has been established as a tourism development authority.

(1) Proceeds collected prior to July 1, 2014. – Within 30 days of the effective date of this act, New Hanover County District U shall remit to the Authority the net proceeds of the tax that have been collected by the district prior to July 1, 2014. The Authority shall use one hundred percent (100%) of the funds remitted to it under this subdivision for tourism-related expenditures in the district.

(2) Proceeds collected on or after July 1, 2014. – New Hanover County District U shall, on a quarterly basis, remit to the Authority the net proceeds of the tax collected by the district on or after July 1, 2014. The Authority shall use at least two-thirds of the funds remitted to it under this subdivision for tourism promotion and shall use the remainder for tourism-related expenditures in the district."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 1059:
Venus Flytrap-Taking Penalty/Occup. Tax Use

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	July 22, 2014
Introduced by:	Rep. Davis	**Prepared by:**	Trina Griffin Committee Counsel
Analysis of:	PCS to Fourth Edition H1059-CSTD-53		

SUMMARY: ***The PCS to House Bill 1059 modifies the use of the 3% room occupancy tax currently levied in the unincorporated areas of New Hanover County.***

The PCS removes the provision that created a Class H felony in certain counties for the taking of a Venus flytrap with the intent to steal.

CURRENT LAW: New Hanover District U consists of the unincorporated areas of New Hanover County. The district has the authority to levy a 3% room occupancy tax. One hundred percent (100%) of the proceeds must be used only for beach nourishment. Since its enactment, the tax has generated approximately $1 million in revenue, which currently sits in a special fund, but the district has indicated that it does not have a need for a beach nourishment project.

BILL ANALYSIS: The PCS to House Bill 1059 would redirect the proceeds that have accrued since the levy of the tax to the Cape Fear Convention and Visitors Bureau, which is New Hanover's tourism development authority, to be used for tourism-related expenditures. The district would have 30 days after the enactment of the bill to remit the proceeds that are in the special fund. Beginning on and after July 1, 2014, at least two-thirds of the proceeds must be used by the Authority for tourism promotion and the remainder must be used for tourism-related expenditures.

EFFECTIVE DATE: This act would be effective when the act becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S D

SENATE BILL 763*
PROPOSED COMMITTEE SUBSTITUTE S763-PCS45223-RBx-64

Short Title: Revenue Laws Technical Changes. (Public)

Sponsors:

Referred to:

May 15, 2014

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL AND CLARIFYING CHANGES TO VARIOUS REVENUE LAWS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Section 7.2(a) of S.L. 2014-3 reads as rewritten:

"**SECTION 7.2.(a)** This act shall not be construed to affect the interpretation of any statute that is the subject of a State tax audit ~~pending as of the effective date of this act~~ for taxable years beginning before January 1, 2015, or litigation that is a direct result of such audit."

SECTION 1.(b) Section 7.3 of S.L. 2014-3 reads as rewritten:

"**SECTION 7.3.** This Part becomes effective January 1, 2015, and applies to withdrawals of items from inventory for contracts entered into on or after that date, sales on or after that ~~date~~ date, and contracts entered into on or after that date."

SECTION 2.(a) Section 8.1(c) of S.L. 2014-3 reads as rewritten:

"**SECTION 8.1.(c)** With respect to the change in this section regarding the rental of a private residence, cottage, or similar accommodation that is rented for fewer than 15 days in a calendar year and that is listed with a real estate broker or agent, the following provisions apply:

(1) A retailer is ~~not~~ liable for an overcollection ~~or undercollection~~ of sales tax or occupancy tax for the rental of such an accommodation that is occupied or available to be occupied for nights beginning June 14, 2012, and ending June 30, 2014, and must remit the tax collected.

(2) A retailer is not liable for an undercollection of sales tax or occupancy tax for the rental of such an accommodation that is occupied or available to be occupied for nights beginning June 1, 2014, and ending June 30, 2014, if the retailer ~~has~~ made a good-faith effort to comply with the law and collect the proper amount of ~~tax and has, due to the change under this section, overcollected or undercollected the amount of sales tax or occupancy tax that is due. This subsection applies only to the period beginning June 14, 2012, and ending July 1, 2014.~~tax."

SECTION 2.(b) This section becomes effective June 1, 2014.

SECTION 3. Section 14.26 of S.L. 2014-3 is repealed.

SECTION 4.(a) G.S. 105-113.35(d) reads as rewritten:

"(d) Manufacturer's Option. – A manufacturer who is not a retail dealer and who ships tobacco products other than cigarettes to either a wholesale dealer or retail dealer licensed under this Part may apply to the Secretary to be relieved of paying the tax imposed by this section on the tobacco products. A manufacturer who ships vapor products to either a

wholesale dealer or retail dealer licensed under this Part may apply to the Secretary to be relieved of paying the tax imposed by this section on the vapor products shipped to either a wholesale dealer or retail dealer. Once granted permission, a manufacturer may choose not to pay the tax until otherwise notified by the Secretary. To be relieved of payment of the tax imposed by this section, a manufacturer must comply with the requirements set by the Secretary.

Permission granted under this subsection to a manufacturer to be relieved of paying the tax imposed by this section applies to an integrated wholesale dealer with whom the manufacturer is an affiliate. A manufacturer must notify the Secretary of any integrated wholesale dealer with whom it is an affiliate when the manufacturer applies to the Secretary for permission to be relieved of paying the tax and when an integrated wholesale dealer becomes an affiliate of the manufacturer after the Secretary has given the manufacturer permission to be relieved of paying the tax.

If a person is both a manufacturer of cigarettes and a wholesale dealer of tobacco products other than cigarettes and the person is granted permission under G.S. 105-113.10 to be relieved of paying the cigarette excise tax, the permission applies to the tax imposed by this section on tobacco products other than cigarettes. A cigarette manufacturer who becomes a wholesale dealer after receiving permission to be relieved of the cigarette excise tax must notify the Secretary of the permission received under G.S. 105-113.10 when applying for a license as a wholesale dealer."

SECTION 4.(b) This section becomes effective June 1, 2015.

SECTION 5. G.S. 105-129.16A reads as rewritten:

"**§ 105-129.16A. Credit for investing in renewable energy property.**

(a) Credit. – ~~If a taxpayer that has constructed, purchased, or leased renewable energy property places it in service in this State during the taxable year, the taxpayer is allowed a credit equal to thirty-five percent (35%) of the cost of the property.~~ A taxpayer that has constructed, purchased, or leased renewable energy property is allowed a credit equal to thirty-five percent (35%) of the cost of the property if the property is placed in service in this State during the taxable year. In the case of renewable energy property that serves a nonbusiness purpose, the credit must be taken for the taxable year in which the property is placed in service. For all other renewable energy property, the entire credit may not be taken for the taxable year in which the property is placed in service but must be taken in five equal installments beginning with the taxable year in which the property is placed in service. Upon request of a taxpayer that leases renewable energy property, the lessor of the property must give the taxpayer a statement that describes the renewable energy property and states the cost of the property. No credit is allowed under this section to the extent the cost of the renewable energy property was provided by public funds. For the purposes of this section, "public funds" does not include grants made under section 1603 of the American Recovery and Reinvestment Tax Act of 2009.

...."

SECTION 6. Section 1.1(a) of S.L. 2014-3 is rewritten to read:

"**SECTION 1.1.(a)** G.S. 105-130.5(b), as amended by Section 14.3 of this act, reads as rewritten:

"(b) The following deductions from federal taxable income shall be made in determining State net income:

...

(4) ~~Losses in the nature~~ Any unused portion of a net economic loss as allowed under G.S. 105-130.8A(e). ~~losses sustained by the corporation in any or all of the 15 preceding years pursuant to the provisions of G.S. 105-130.8. A corporation required to allocate and apportion its net income under the provisions of G.S. 105-130.4 shall deduct its allocable and apportionable net~~

~~economic loss only from total income allocable and apportionable to this State pursuant to the provisions of G.S. 105-130.8~~ This subdivision expires for taxable years beginning on or after January 1, 2030.

(4a) A State net loss as allowed under G.S. 105-130.8A. A corporation may deduct its allocable and apportionable State net loss only from total income allocable and apportionable to this State.

...."

SECTION 7.(a) G.S. 105-134.6A, as amended by S.L. 2014-3, reads as rewritten:

"(h) Definitions. – ~~For purposes of this section, a "transferor" is an~~ The following definitions apply in this section:

(1) Transferor. – An individual, partnership, corporation, S Corporation, limited liability company, or an estate or trust that does not fully distribute income to its ~~beneficiaries, and an "owner in a transferor" is a~~ beneficiaries.

(2) Owner in a transferor. – One or more of the following of a transferor:

a. A partner, shareholder, ~~member, or beneficiary~~ or member.

b. A beneficiary subject to tax under Part 2 or 3 of Article 4 of this ~~Chapter of a transferor.~~Chapter."

SECTION 7.(b) G.S. 105-153.6, as amended by S.L. 2014-3, reads as rewritten:

"(h) Definitions. – ~~For purposes of this section, a "transferor" is an~~ The following definitions apply in this section:

(1) Transferor. – An individual, partnership, corporation, S Corporation, limited liability company, or an estate or trust that does not fully distribute income to its ~~beneficiaries, and an "owner in a transferor" is a~~ beneficiaries.

(2) Owner in a transferor. – One or more of the following of a transferor:

a. A partner, shareholder, ~~member, or beneficiary~~ or member.

b. A beneficiary subject to tax under Part 2 or 3 of Article 4 of this ~~Chapter of a transferor.~~Chapter."

SECTION 7.(c) Subsection (a) of this section is effective for taxable years beginning on or after January 1, 2013. Subsection (b) of this section is effective for taxable years beginning on or after January 1, 2014. The remainder of this section is effective when it becomes law.

SECTION 8.(a) G.S. 105-153.4 reads as rewritten:

"**§ 105-153.4. North Carolina taxable income defined.**

(a) Residents. – For an individual who is a resident of this State, the term "North Carolina taxable income" means the taxpayer's adjusted gross income as modified in G.S. 105-153.5 and ~~G.S. 105-153.6 and G.S. 105-134.6A.~~G.S. 105-153.6.

(b) Nonresidents. – For a nonresident individual, the term "North Carolina taxable income" means the taxpayer's adjusted gross income as modified in G.S. 105-153.5 and ~~G.S. 105-153.6 and G.S. 105-134.6A,~~ G.S. 105-153.6, multiplied by a fraction the denominator of which is the taxpayer's gross income as modified in G.S. 105-153.5 and ~~G.S. 105-153.6 and G.S. 105-134.6A,~~ G.S. 105-153.6, and the numerator of which is the amount of that gross income, as modified, that is derived from North Carolina sources and is attributable to the ownership of any interest in real or tangible personal property in this State, is derived from a business, trade, profession, or occupation carried on in this State, or is derived from gambling activities in this State.

(c) Part-year Residents. – If an individual was a resident of this State for only part of the taxable year, having moved into or removed from the State during the year, the term "North Carolina taxable income" has the same meaning as in subsection (b) of this section except that the numerator includes gross income, as modified under G.S. 105-153.5 and ~~G.S. 105-153.6 and G.S. 105-134.6A,~~ G.S. 105-153.6, derived from all sources during the period the individual was a resident.

(d) S Corporations and Partnerships. – In order to calculate the numerator of the fraction provided in subsection (b) of this section, the amount of a shareholder's pro rata share of S Corporation ~~income~~ income, as modified in G.S. 105-153.5 and G.S. 105-153.6, that is includable in the numerator is the shareholder's pro rata share of the S Corporation's income attributable to the State, as defined in G.S. 105-131(b)(4). In order to calculate the numerator of the fraction provided in subsection (b) of this section for a member of a partnership or other unincorporated business that has one or more nonresident members and operates in one or more other states, the amount of the member's distributive share of the total net income of the ~~business~~ business, as modified in G.S. 105-153.5 and G.S. 105-153.6, that is includable in the numerator is determined ~~by multiplying the total net income of the business by the ratio ascertained under the~~ in accordance with the provisions of G.S. 105-130.4. As used in this subsection, total net income means the entire gross income of the business less all expenses, taxes, interest, and other deductions allowable under the Code that were incurred in the operation of the business.

(e) Tax Year. – A taxpayer must compute North Carolina taxable income on the basis of the taxable year used in computing the taxpayer's income tax liability under the Code."

SECTION 8.(b) This section becomes effective for taxable years beginning on or after January 1, 2014.

SECTION 9.(a) Notwithstanding G.S. 105-163.15, the Secretary of Revenue may not impose interest with respect to an underpayment of income tax to the extent the underpayment was created or increased by the changes made in Section 2.2 of S.L. 2014-3. Notwithstanding G.S. 105-163.8, a withholding agent is not liable for the amount of tax the agent fails to withhold to the extent the amount of tax not withheld was created or increased by the changes made in Section 2.2 of S.L. 2014-3.

SECTION 9.(b) This section is effective when it becomes law and applies to taxable years beginning on or after January 1, 2014, and before January 1, 2015, and to payroll periods beginning on or after January 1, 2014, and before January 1, 2015.

SECTION 10. G.S. 105-164.3(35), as amended by Section 14.7 of S.L. 2014-3, reads as rewritten:

"**§ 105-164.3. Definitions.**

The following definitions apply in this Article:

...

(35) Retailer. – ~~A person engaged in business of any of the following:~~ Any of the following persons:

a. ~~Making~~ A person engaged in business of making sales at retail, offering to make sales at retail, or soliciting sales at retail of tangible personal property, digital property, or services for storage, use, or consumption in this State. When the Secretary finds it necessary for the efficient administration of this Article to regard any sales representatives, solicitors, representatives, consignees, peddlers, or truckers as agents of the dealers, distributors, consignors, supervisors, employers, or persons under whom they operate or from whom they obtain the items sold by them regardless of whether they are making sales on their own behalf or on behalf of these dealers, distributors, consignors, supervisors, employers, or persons, the Secretary may so regard them and may regard the dealers, distributors, consignors, supervisors, employers, or persons as "retailers" for the purpose of this Article.

b. ~~Delivering,~~ A person engaged in business of delivering, erecting, installing, or applying tangible personal property for use in this State,

regardless of whether the property is permanently affixed to real property or other tangible personal property.

c. ~~Making~~ A person engaged in business of making a remote sale, if one of the conditions listed in G.S. 105-164.8(b) is met.

d. A person, other than a facilitator, required to collect the tax levied under G.S. 105-164.4(a)."

SECTION 11. G.S. 105-164.4G, as enacted by S.L. 2014-3, reads as rewritten:

"**§ 105-164.4G. Entertainment activity.**

...

(f) Exemptions. – The sale at retail and the use, storage, or consumption in this State of the following gross receipts derived from an admission charge to an entertainment activity are specifically exempt from the tax imposed by this Article.

(g) Sourcing. – ~~Admission~~ An admission charge to an entertainment activity is sourced to the location where admission to the entertainment activity may be gained by a person. When the location where admission may be gained is not known at the time of the receipt of the gross receipts for an admission charge, the sourcing principles in G.S. 105-164.4B(a) apply."

SECTION 12.(a) G.S. 105-164.13, as amended by Section 6.1(f) of S.L. 2014-3, reads rewritten:

"**§ 105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property, digital property, and services are specifically exempted from the tax imposed by this Article:

...

(8a) Sales to a small power production facility, as defined in 16 U.S.C. § 796(17)(A), of fuel and piped natural gas used by the facility to generate electricity.

...

(10) Sales of the following to commercial laundries or to pressing and dry cleaning establishments:

a. Articles or materials used for the identification of garments being laundered or dry cleaned, wrapping paper, bags, hangers, starch, soaps, detergents, cleaning fluids and other compounds or chemicals applied directly to the garments in the direct performance of the laundering or the pressing and cleaning service.

b. Laundry and dry-cleaning machinery, parts and accessories attached to the machinery, and lubricants applied to the machinery.

c. Fuel, other than ~~electricity,~~ electricity and piped natural gas, used in the direct performance of the laundering or the pressing and cleaning service.

...

(57) ~~Fuel and~~Fuel, piped natural gas, and electricity sold to a manufacturer for use in connection with the operation of a manufacturing facility. The exemption does not apply to electricity used at a facility at which the primary activity is not manufacturing.

...

(62) An item used to maintain or repair tangible personal property or a motor vehicle pursuant to a service contract taxable under this Article if the purchaser of the contract is not charged for the item. ~~This exemption does not apply to an item used to maintain or repair tangible personal property pursuant to a service contract exempt from tax under G.S. 105-164.4I(b).~~ For purposes of this exemption, the term "item" does not include a tool,

equipment, supply, or similar tangible personal property used to complete the maintenance or repair and that is not deemed to be a component or repair part of the tangible personal property or motor vehicle for which a service contract is sold to a purchaser."

SECTION 12.(b) Section 6.1(j) of S.L. 2014-3 reads as rewritten:

"**SECTION 6.1.(j)** ~~This~~Sections 6.1(d), 6.1(i), and 6.1(j) of this Part are effective when they become law. Subsection (f) of this section becomes effective January 1, 2014, and notwithstanding G.S. 105-164.13(62), as amended by this Part, applies to service contracts sold before January 1, 2014, that are effective on or after January 1, 2014. The remainder of this Part becomes effective October 1, 2014, and applies to gross receipts derived from a service contract sold at retail on or after that date."

SECTION 12.(c) G.S. 105-164.13(8a), (10), and (57), as amended by subsection (a) of this section, become effective July 1, 2014. The remainder of this section is effective when it becomes law.

SECTION 13. G.S. 105-164.13E, as amended by S.L. 2014-3, reads as rewritten:

"**§ 105-164.13E. Exemption for farmers.**

(a) Exemption. – A qualifying farmer is a person who has an annual gross income for the preceding taxable year of ten thousand dollars ($10,000) or more from farming operations or who has an average annual gross income for the three preceding taxable years of ten thousand dollars ($10,000) or more from farming operations. A qualifying farmer includes a dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a farmer of an aquatic species, as defined in G.S. 106-758. A qualifying farmer may apply to the Secretary for an exemption certificate number under G.S. 105-164.28A. The exemption certificate expires when a person fails to meet the income threshold for three consecutive taxable years or ceases to engage in farming ~~operations.~~operations, whichever comes first.

The following tangible personal property, digital property, and services are exempt from sales and use tax if purchased by a qualifying farmer and for use by the farmer in farming operations. For purposes of this section, an item is used by a farmer for farming operations if it is used for the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals:

(1) ~~Fuel and~~Fuel, piped natural gas, and electricity that ~~is~~ are measured by a separate meter or another separate device and used for a purpose other than preparing food, heating dwellings, and other household purposes.

...

(b) Conditional Exemption. – A person who does not meet the definition of a qualifying farmer in subsection (a) of this section may apply to the Department for a conditional exemption certificate under G.S. 105-164.28A. A person with a conditional exemption certificate is allowed to purchase items exempt from sales and use tax to the same extent as a qualifying farmer under subsection (a) of this section. To receive a conditional exemption certificate under this subsection, the person must certify that the person intends to engage in farming operations, as that term is described in subsection (a) of this section, and that the person will timely file State and federal income tax returns that reflect income and expenses incurred from farming operations during the taxable years that the conditional exemption certificate applies.

A conditional exemption certificate issued under this subsection is valid for the taxable year in which the certificate is issued and the following two taxable years, provided the person to whom the certificate is issued provides copies of applicable State and federal income tax returns to the Department within 90 days following the end of each taxable year covered by the conditional exemption ~~certificate.~~ certificate and provided the person is engaged in farming operations. A conditional exemption certificate issued under this subsection may not be extended or renewed beyond the original three-year period. The Department may not issue a

conditional exemption certificate to a person who has had a conditional exemption certificate issued under this subsection during the prior 15 taxable years.

A person who purchases items with a conditional exemption certificate must maintain documentation of the items purchased and copies of State and federal income tax returns that reflect activities from farming operations for the period of time covered by the conditional exemption certificate for three years following the expiration of the conditional exemption certificate. The Secretary may require a person who has a conditional exemption certificate to provide any other information requested by the Secretary to verify the person met the conditions of this subsection. A person who fails to provide the information requested by the Secretary in a timely manner or who fails to meet the requirements of this subsection becomes liable for any taxes for which an exemption under this subsection was claimed. The taxes become due and payable at the expiration of the conditional exemption certificate, and interest accrues from the date of the original purchase. Additionally, where the person does not timely provide the information requested by the Secretary, the misuse of exemption certificate penalty in G.S. 105-236(a)(5a) applies to each seller identified by the Department from which the person made a purchase."

(c) Definition. – For purposes of this section, the term "taxable year" has the same meaning as defined in G.S. 105-153.3."

SECTION 14. G.S. 105-164.16A, as enacted by S.L. 2014-3, reads as rewritten:

"**§ 105-164.16A. Reporting ~~option~~ for prepaid meal plans.**

(a) Reporting Option. – This ~~section~~ subsection provides a ~~taxpayer~~ retailer that offers ~~to sell~~ a prepaid meal ~~plan~~ plan subject to the tax imposed by G.S. 105-164.4 with an option concerning the method by which the sales tax will be remitted to the Secretary and a return filed under G.S. 105-164.16. When the retailer enters into an agreement with a food service contractor by which the food service contractor agrees to provide food or prepared food under a prepaid meal plan, and the food service contractor with whom the retailer contracts is also a retailer under this Article, the retailer may include in the agreement that the food service contractor is liable for ~~collecting~~ reporting and remitting the sales tax due on the gross receipts derived from the prepaid meal plan on behalf of the retailer. The agreement must provide that the tax applies to the allocated sales price of the prepaid meal plan paid by or on behalf of the person entitled to the food or prepaid food under the plan and not the amount charged by the food service contractor to the retailer under the agreement for the food and prepared food for the person.

A retailer who elects this option must report to the food service contractor with whom it has an agreement the gross receipts a person pays to the retailer for a prepaid meal plan. The retailer must send the food service contractor the tax due on the gross receipts derived from a prepaid meal plan. Tax payments received by a food service contractor from a retailer are held in trust by the food service contractor for remittance to the Secretary. A food service contractor that receives a tax payment from a retailer must remit the amount received to the Secretary. A food service contractor is not liable for tax due but not received from a retailer. A retailer that does not send the food service contractor the tax due on the gross receipts derived from a prepaid meal plan is liable for the amount of tax the retailer fails to send to the food service contractor.

(b) Basis of Reporting. – A retailer must report gross receipts derived from a prepaid meal plan on an accrual basis of accounting for purposes of this Article, notwithstanding that the retailer reports tax on the cash basis for other sales at retail and notwithstanding that the revenue has not been recognized for accounting purposes."

SECTION 15. Section 4.1(g) of S.L. 2014-3 reads as rewritten:

"**SECTION 4.1.(g)** This Part is effective when it becomes law and applies to the following:

(1) ~~gross~~ Gross receipts derived from a prepaid meal plan sold or billed on or after July 1, 2014.

(2) Gross receipts derived from a prepaid meal plan sold or billed before July 1, 2014, if the prepaid meal plan is not authorized for use or available to the person until on or after August 1, 2014."

SECTION 16. G.S. 105-164.20 reads as rewritten:

"**§ 105-164.20. Cash or accrual basis of reporting.**

~~Any retailer, except a retailer who sells electricity or telecommunications service,~~ Except as otherwise provided in this section, a retailer may report sales for purposes of this Article on either the cash or accrual basis of accounting upon making application to the Secretary for permission to use the basis selected. Permission granted by the Secretary to report on a selected basis continues in effect until revoked by the Secretary or the taxpayer receives permission from the Secretary to change the basis selected. ~~A retailer who sells electricity or telecommunications service~~ A retailer of the following must report its sales on an accrual ~~basis. A sale of electricity or telecommunications service~~ basis for purposes of this Article and the tax on the sales price or gross receipts derived from the sale is considered to accrue when the retailer bills its customer for the ~~sale.~~sale or gross receipts:

(1) Electricity.

(2) Telecommunications service.

(3) Piped natural gas.

(4) Admission charges.

(5) Prepaid meal plans."

SECTION 17. G.S. 105-164.29(a), as amended by Section 14.9(b) of S.L. 2014-3, reads as rewritten:

"(a) Requirement and Application. – Before a person may engage in business as a retailer or a wholesale merchant or when a facilitator is liable for tax under G.S. 105-164.4F, the person must obtain a certificate of registration. To obtain a certificate of registration, a person must register with the Department. A person who has more than one business is required to obtain only one certificate of registration for each legal entity to cover all operations of each business throughout the State. An application for registration must be signed as follows:

(1) By the owner, if the owner is an individual.

(2) By a manager, member, or company official, ~~partner,~~ if the owner is ~~an association, a partnership,~~ a limited liability company.

(2a) By a manager, member, or partner, if the owner is a partnership.

(3) By an executive officer or some other person specifically authorized by the corporation to sign the application, if the owner is a corporation. If the application is signed by a person authorized to do so by the corporation, written evidence of the person's authority must be attached to the application."

SECTION 18. G.S. 105-241.6(b)(5) reads as rewritten:

"(b) Exceptions. – The exceptions to the general statute of limitations for obtaining a refund of an overpayment are as follows:

...

(5) Contingent Event. – The period to request a refund of an overpayment may be extended as provided in this subdivision if an event or condition prevents the taxpayer from possessing the information necessary to file an accurate and definite request for a refund of an overpayment under this Chapter:

a. If a taxpayer is subject to a contingent event and files written notice with the Secretary, the period to request a refund of an overpayment is six months after the contingent event concludes.

~~b.~~ ~~For purposes of this subdivision,~~ For purposes of this subdivision, a "contingent event" means litigation or a ~~State~~ state tax audit initiated prior to the expiration of the statute of limitations under subsection (a) of this section, the pendency of which prevents the taxpayer from possessing the information necessary to file an accurate and definite request for a refund of an overpayment under this Chapter.

~~c.~~ ~~For purposes of this subdivision, "notice to the Secretary" means written notice~~ The written notice to the Secretary must be filed ~~with the Secretary~~ prior to expiration of the statute of limitations under subsection (a) of this section for a return or payment in which a contingent event prevents a taxpayer from filing a definite request for a refund of an overpayment. The notice must identify and describe the contingent event, identify the type of tax, list the return or payment affected by the contingent event, and state in clear terms the basis for and an estimated amount of the overpayment.

~~d.~~b. ~~A~~ If a taxpayer ~~who~~ contends that an event or condition other than ~~litigation or a State tax audit~~ a contingent event, as defined in this subdivision, has occurred that prevents the taxpayer from filing an accurate and definite request for a refund of an overpayment within the period under subsection (a) of this ~~section~~section, the taxpayer may submit a written request to the Secretary seeking an extension of the statute of limitations allowed under this subdivision. The request must establish by clear, convincing proof that the event or condition is beyond the taxpayer's control and that it prevents the taxpayer's timely filing of an accurate and definite request for a refund of an overpayment. The request must be filed within the period under subsection (a) of this section. The Secretary's decision on the request is final and is not subject to administrative or judicial review.

SECTION 19.(a) G.S. 105-338(c), as amended by Section 11.1(e) of S.L. 2014-3, reads as rewritten:

"(c) Certain Property of Bus Line, Motor Freight Carrier, ~~Airline, and Mobile Telecommunications~~ and Airline Companies. –

...

~~(4) The appraised valuation of the tangible personal property of a mobile telecommunications company (excluding towers) that is appraised in accordance with the provisions of G.S. 105-336(c) is allocated among the local taxing units in which the property of the company is situated on January 1 in the proportion that the original cost of the property in the taxing unit bears to the original cost of all such property in this State.~~"

SECTION 19.(b) G.S. 105-339, as amended by Section 11.1(f) of S.L. 2014-3, reads as rewritten:

"**§ 105-339. Certification of appraised valuations of nonsystem property and locally assigned rolling stock, tangible personal property of tower aggregator companies, and ~~certain~~ tangible personal property of mobile telecommunications companies.**

Having determined the appraised valuations of the nonsystem properties of public service companies in accordance with subdivisions (b)(2) and (b)(3) of G.S. 105-335 and the appraised valuations of locally assigned rolling stock in accordance with subdivision (c)(1) of G.S. 105-335, the appraised valuations of the tangible personal property of tower aggregator companies in accordance with G.S. 105-336(d) and the appraised valuations of ~~towers of~~ the tangible personal property of mobile telecommunications companies in accordance with

~~G.S. 105-336(d),~~G.S. 105-336(c) and (d) the Department of Revenue shall assign those appraised valuations to the taxing units in which such properties are situated by certifying the valuations to the appropriate counties and municipalities. Each local taxing unit receiving such certified valuations shall assess them at the figures certified and shall tax the assessed valuations at the rate of tax levied against other property subject to taxation therein."

SECTION 19.(c) Section 11.1(g) of S.L. 2014-3 is repealed.

SECTION 19.(d) Subsection (c) of this section is effective when it becomes law. The remainder of this section is effective for taxes imposed for taxable years beginning on or after July 1, 2015.

SECTION 20.(a) G.S. 160A-206 reads as rewritten:

"**§ 160A-206. General power to impose taxes.**

(a) Authority. – A city shall have power to impose taxes only as specifically authorized by act of the General Assembly. Except when the statute authorizing a tax provides for penalties and interest, the power to impose a tax shall include the power to impose reasonable penalties for failure to declare tax liability, if required, or to impose penalties or interest for failure to pay taxes lawfully due within the time prescribed by law or ordinance. In determining the liability of any taxpayer for a tax, a city may not employ an agent who is compensated in whole or in part by the city for services rendered on a contingent basis or any other basis related to the amount of tax, interest, or penalty assessed against or collected from the taxpayer. The power to impose a tax shall also include the power to provide for its administration in a manner not inconsistent with the statute authorizing the tax.

(b) Prohibition. – A city may not impose a license, franchise, or privilege tax on a person engaged in any of the businesses listed in this subsection. These businesses are subject to sales tax at the combined general rate for which the city receives a share of the tax revenue or they are subject to the local sales tax:

(1) Supplying piped natural gas.

(2) Providing telecommunications service taxed under G.S. 105-164.4(a)(4c).

(3) Providing video programming taxed under G.S. 105-164.4(a)(6).

(4) Providing electricity."

SECTION 20.(b) G.S. 153A-146 reads as rewritten:

"**§ 153A-146. General power to impose taxes.**

(a) Authority. – A county may impose taxes only as specifically authorized by act of the General Assembly. Except when the statute authorizing a tax provides for penalties and interest, the power to impose a tax includes the power to impose reasonable penalties for failure to declare tax liability, if required, and to impose penalties or interest for failure to pay taxes lawfully due within the time prescribed by law or ordinance. In determining the liability of any taxpayer for a tax, a county may not employ an agent who is compensated in whole or in part by the county for services rendered on a contingent basis or any other basis related to the amount of tax, interest, or penalty assessed against or collected from the taxpayer. The power to impose a tax also includes the power to provide for its administration in a manner not inconsistent with the statute authorizing the tax.

(b) Prohibition. – A county may not impose a license, franchise, or privilege tax on a person engaged in any of the businesses listed in this subsection:

(1) Supplying piped natural gas.

(2) Providing telecommunications service taxed under G.S. 105-164.4(a)(4c).

(3) Providing video programming taxed under G.S. 105-164.4(a)(6).

(4) Providing electricity."

SECTION 21. Except as otherwise provided, this act is effective when it becomes law.

SENATE BILL 763:
Revenue Laws Technical Changes

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	July 16, 2014
Introduced by:	Sens. Rabon, Rucho	**Prepared by:**	Cindy Avrette
Analysis of:	PCS to First Edition S763-CSRBx-64		Committee Counsel

SUMMARY: ***The Proposed Committee Substitute for Senate Bill 763 replaces the contents of the original bill[1] with several technical corrections and clarifying changes to the tax statutes largely based on recommendations of the Department of Revenue. This PCS makes two changes to the one sent to members last night: in section 5, it adds the word "leased" because the word was inadvertently omitted; the addition maintains the current law, it does not make a substantive change. In section 8, it adds an effective date subsection.***

CURRENT LAW, BILL ANALYSIS, AND EFFECTIVE DATE:

Section	Explanation and Effective Date
1	This section does two things. First, it clarifies that the changes related to retailer-contractors, which become effective January 1, 2015, are not to be construed to affect the interpretation of any statute that is the subject of a State tax audit for taxable years beginning prior to the effective date of the changes. The prior language referred to "audit pending," which the Department indicated was unclear. The changes made by Part VII of S.L. 2014-3 are not intended to be retroactive, and therefore any audit or litigation resulting derived from an audit for taxable years prior to January 1, 2015 is subject to the statutes and interpretations of the Department for those years. Second, it clarifies the effective date by providing that the changes apply to withdrawals from inventory on or after that date as well as sales since retailer-contractors do both; they make retail sales of items and they withdraw items from inventory that are used in the performance of a real property contract. This section is effective when it becomes law.
2	This section clarifies the conditions under which a retailer is or is not liable for the collection of tax on the rental of private residences rented for fewer than 15 days and listed with a real estate broker during the period in which the Department's Important Notice was in effect and during the 30-day period following the effective date of S.L. 2014-3. The original provision was not specific to the private residence changes but generically referred to the entire section, which could have been interpreted to affect the liability of retailers required to collect tax on the rental of accommodations generally.

[1] The contents of the original bill have been enacted as S.L. 2014-3.

	This section becomes effective June 1, 2014.
3	This section repeals an unnecessary provision; Section 14.1 of S.L. 2014-3 made the same change.
4	S.L. 2014-3 enacted a new tax on vapor products as part of the current tax on other tobacco products (OTP). This section makes a technical change that allows North Carolina manufacturers of vapor products to collect the new vapor tax on internet retail sales, while allowing the manufacturers to continue to the current practice of applying to the Secretary of Revenue to be relieved of the tax for vapor products shipped to wholesale and retail dealers. The Secretary allows manufacturers to be relieved of paying the tax on OTP when the tax is paid by the wholesale or retail dealer.
5	This section clarifies that the credit may be taken when the property is placed into service in this State. When a renewable energy project is put together, there are usually two sets of investors, those that want the federal credit and those that want the State credit. If the lessee is to get the federal credit, it must "place it into service". However, if the lessor wants the State credit, it must "place it into service". As clarified by this section, the lessor may claim the State credit. as long as somebody (the lessee) places the property into service.
6	This section incorporates a revision made to G.S. 15-130.5(b)(4) made by Section 14.3 of S.L. 2014-3 so that the changes engross correctly in the codification process.
7	This section clarifies that the phrase "subject to tax under Part 2 or 3 of Article 4" applies to a beneficiary of a transferor. Subsection (a) becomes effective for the 2013 taxable year; subsection (b) becomes effective for the 2014 taxable year.
8	This section removes reference to a repealed statute and clarifies in the personal income tax statutes that income of a partnership that is apportionable to multiple states is allocated and apportioned in accordance with G.S. 105-130.4. Income that is not apportionable should be allocated to the appropriate state. The current statute refers to a ratio rather than to the rules of allocation and apportionment. This section becomes effective for taxable years beginning on or after January 1, 2014.
9	S.L. 2014-3 clarified that a person who is not eligible for a federal standard deduction is not eligible for a State standard deduction. A nonresident alien individual is not allowed a standard deduction This section provides that neither an individual nor a withholding agent may be penalized for underpayment of income tax for the 2014 taxable year if the reason for the underpayment is this clarification in the law. This section does not change the effective date of the substantive law change or the amount of tax due and payable.
10	This section clarifies that the term "retailer" is any person required to collect sales tax imposed under G.S. 105-164.4, other than a facilitator. The current definition does not reflect the expansion of the sales tax base to prepaid meal plans, admission charges, piped natural gas, and service contracts.
11	This section makes technical and conforming changes.

12	Subsection (a) of this section does two things: • It clarifies that the exemption provisions applicable to fuel also include piped natural gas. PNG is considered fuel, but since the imposition of the combined rate of tax for PNG is separate from the general tax imposed on fuel, the Department of Revenue requested this clarifying change. • It clarifies that the exemption for items used to maintain or repair tangible personal property applies to those items used pursuant to a service contract subject to sales tax. If the service contract is not subject to tax, then the item used to maintain or repair the property is subject to tax. Subsection (b) of this section does two things: • It provides that the exemption applies, regardless of when the service contract was purchased. It would be difficult for a person to know, when a service is performed pursuant to a service contract, whether the service contract was purchased before or after January 1, 2014. • It allows a person a refund of sales tax paid on a rescinded sale or cancelled service, effective when S.L. 2014-3 became law, May 29, 2014. S.L. 2014-3 created the refund provision; the provision becomes effective October 1, 2014. The Department of Revenue has received inquiries about seeking the refund allowed by this section. This section makes the provision effective earlier.
13	This section makes a similar clarifying change as made in Section 9 of this bill for the farm exemption for fuel and PNG. It also makes other technical changes suggested by the Department of Revenue.
14	This section does two things: • It provides that a retailer who has an agreement with a food service contractor to collect and remit the sales tax on gross receipts derived from a prepaid meal plan is not liable for the tax that the retailer remits to the food service contractor. • It requires a retailer to report gross receipts derived from a prepaid meal plan on an accrual basis of accounting for purposes of reporting sales tax.
15	This section provides that the changes made by S.L. 2014-3 for sales tax derived from a prepaid meal plan apply to a plan that is sold or billed before July 1, 2014, if the plan cannot be used before August 1, 2014. Many institutions of higher education sold prepaid meal plans for the fall semester before July 1, 2014.
16	This section provides that for sales tax purposes, a retailer must report its sales on an accrual basis for the following: PNG, admission charges, and prepaid meal plans.
17	This section makes a change as to who may apply for a certificate of registration for legal entity so that it is consistent with the changes made in Section 14.18 of S.L. 2014-3 as to who may be liable for unpaid sales tax for a legal entity.
18	This section changes a statute that was not codified as it was intended to be amended by Section 47 of S.L. 2013-414. The section does not change the substance of the

	subdivision. The change made last session codified the Department's administrative practice of allowing protective refund claims to be filed when an event prevented a taxpayer from having the information necessary to file a request for refund, such as pending litigation or an ongoing income tax audit in another state that may affect the taxpayer's NC tax liability.[2]
19	Part XI of S.L. 2014-3 established a procedure for the central assessment of mobile telecommunications property. The intent of this Part was to shift the responsibility for conducting the valuations of this particular kind of property from the individual counties to the Department of Revenue without creating any "winners" or "losers" in terms of the values allocated to the counties. This section makes minor modifications to that Part to ensure that there is no shifting of value among counties as a result of the change. The Department appraises this property at its "true value," which includes consideration of its original cost but with deductions made for all forms of depreciation to arrive at the property's fair market value. However, under S.L. 2014-3, the allocation of the value among the counties in which the property is located would have been based only on original cost. Using original cost would have had the effect of overinflating the value allocated to a particular county and decreasing the value allocated to other counties. This section provides that once the Department determines the value of the property, it will be allocated among the counties based on where the property is located.
20	Cities have historically been prohibited from imposing a license, franchise, or privilege tax on certain utility-related businesses, such as telecommunications, video programming, and electricity. With the repeal of G.S. 160A-211, effective July 1, 2015, the specific prohibition language would also be repealed. While cities only have the power to tax or charge a fee to the extent the legislature has granted them the authority to do so, and the repeal of this prohibition is not necessarily a grant of authority otherwise, the utilities industry has concerns about the deletion of the prohibition as it relates to rights-of way and has requested that the language be kept in the statutes. This section recodifies the language in a more appropriate place in the statutes.
21	Except as otherwise noted in the summary, the sections are effective when they become law.

[2] Generally speaking, there is a time limit within which a taxpayer may file a claim for refund. If the claim for refund is not timely filed, it will be barred. The Department has administratively allowed for a taxpayer in these circumstances to file a timely but incomplete claim for refund, known as a "protective refund claim," and then later perfect the claim when the essential information becomes available.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 763*

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S763-ARBx-147 [v.5]

Comm. Sub. [YES]
Amends Title [NO]
S763-PCS45223-RBx-64

Date _____,2014

Senator Rabon

moves to amend the bill on page 4, line 17, by rewriting the line to read:

"**SECTION 8.(b)** G.S. 105-153.5 is amended by adding a new subsection to read:

'(c1) Other Additions. – S Corporations subject to the provisions of Part 1A of this Article, partnerships subject to the provisions of this Part, and estates and trusts subject to the provisions of Part 3 of this Article must add any amount deducted under section 164 of the Code as state, local, or foreign income tax.'

SECTION 8.(c) This section becomes effective for taxable years beginning on or"

And on page 5, line 45 through page 6, line 14, by rewriting the lines to read:

"...'

SECTION 12.(b) G.S. 105-164.13, as amended by Section 6.1(f) of S.L. 2014-3, reads rewritten:

'§ 105-164.13. Retail sales and use tax.

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property, digital property, and services are specifically exempted from the tax imposed by this Article:

...

(62) An item used to maintain or repair tangible personal property or a motor vehicle pursuant to a service con...tract taxable under this Article if the purchaser of the contract is not charged for the item. ~~This exemption does not apply to an item used to maintain or repair tangible personal property pursuant to a service contract exempt from tax under G.S. 105-164.4I(b).~~ For purposes of this exemption, the term "item" does not include a tool, equipment, supply, or similar tangible personal property used to complete the maintenance or repair and that is not deemed to be a component or repair part of the tangible personal property or motor vehicle for which a service contract is sold to a purchaser.'

SECTION 12.(c) G.S. 105-187.52(c) reads as rewritten:

"(c) Exemption. – State agencies are exempted from the privilege taxes imposed by this Article. The exemption in G.S. 105-164.13(62) does not apply to an item used to maintain or repair tangible personal property pursuant to a service contract exempt from tax under G.S. 105-164.4I(b)(4)."

SECTION 12.(d) Notwithstanding G.S. 105-164.13(62), as amended by S.L. 2014-3 and by subsection (b) of this section, the sales and use tax exemption in G.S. 105-164.13(62) applies to an item used pursuant to a service contract that meets the definition of a "service contract" as defined in G.S. 105-164.3(38b), notwithstanding that the service contract was sold before January 1, 2014, and effective on, before, or after January 1, 2014.

SECTION 12.(e) Subsection (b) of this section becomes effective October 1, 2014. The remainder of this section is effective when it becomes law.";

And on page 10, line 1, by rewriting the line to read:
"~~G.S. 105-336(d),~~G.S. 105-336(c) and (d), the Department of Revenue shall assign those";

And on page 8, lines 21 and 22, by rewriting the lines to read:
"(4) Prepaid meal plans.";

And on page 10, line 48, by rewriting the line to read:
"SECTION 21. The Department of Revenue may draw the funds needed to make the following distributions from the sales and use tax collections under Article 5 of Chapter 105 of the General Statutes:

(1) The September 15, 2014, distribution of the franchise tax to cities under G.S. 105-116.1 for the calendar quarter than begins April 1, 2014.

(2) The September 15, 2014, distribution of the excise tax to cities under G.S. 105-187.44 for the calendar quarter than begins April 1, 2014.

SECTION 22. Except as otherwise provided, this act is effective when it becomes".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

HOUSE BILL 625

Short Title:	Zoning/Health Care Structure.	(Public)
Sponsors:	Representatives Moffitt, Howard, Setzer, and Ramsey (Primary Sponsors). *For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*	
Referred to:	Government.	

April 10, 2013

A BILL TO BE ENTITLED

AN ACT RELATING TO ZONING PROVISIONS FOR TEMPORARY HEALTH CARE STRUCTURES.

The General Assembly of North Carolina enacts:

SECTION 1. Part 3 of Article 18 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"**§ 153A-341.3. Zoning of temporary health care structures.**

A county exercising powers under this Article shall comply with G.S. 160A-383.5."

SECTION 2. Part 3 of Article 19 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"**§ 160A-383.5. Zoning of temporary health care structures.**

(a) The following definitions apply in this section:

(1) Activities of daily living. – Bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating.

(2) Caregiver. – An individual 18 years of age or older who (i) provides care for a mentally or physically impaired person and (ii) is a first or second degree relative of the mentally or physically impaired person for whom the individual is caring.

(3) First or second degree relative. – A spouse, lineal ascendant, lineal descendant, sibling, uncle, aunt, nephew, or niece and includes half, step, and in-law relationships.

(4) Mentally or physically impaired person. – A person who is a resident of this State and who requires assistance with two or more activities of daily living as certified in writing by a physician licensed to practice in this State.

(5) Temporary family health care structure. – A transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the State Building Code and G.S. 143-139.1(b). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.

(b) A city shall consider a temporary family health care structure used by a caregiver in providing care for a mentally or physically impaired person on property owned or occupied by

the caregiver as the caregiver's residence as a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings.

(c) A city shall consider a temporary family health care structure used by an individual who is the named legal guardian of the mentally or physically impaired person a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings in accordance with this section if the temporary family health care structure is placed on the property of the residence of the individual and is used to provide care for the mentally or physically impaired person.

(d) Only one temporary family health care structure shall be allowed on a lot or parcel of land. The temporary family health care structures under subsections (b) and (c) of this section shall not require a special use permit or be subjected to any other local zoning requirements beyond those imposed upon other authorized accessory use structures, except as otherwise provided in this section. Such temporary family health care structures shall comply with all setback requirements that apply to the primary structure and with any maximum floor area ratio limitations that may apply to the primary structure.

(e) Any person proposing to install a temporary family health care structure shall first obtain a permit from the city. The city may charge a fee of up to one hundred dollars ($100.00) for the initial permit and an annual renewal fee of up to fifty dollars ($50.00). The city may not withhold a permit if the applicant provides sufficient proof of compliance with this section. The city may require that the applicant provide evidence of compliance with this section on an annual basis as long as the temporary family health care structure remains on the property. The evidence may involve the inspection by the city of the temporary family health care structure at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation, and annual renewal of the doctor's certification.

(f) Notwithstanding subsection (i) of this section, any temporary family health care structure installed under this section may be required to connect to any water, sewer, and electric utilities serving the property and shall comply with all applicable State law, local ordinances, and other requirements, including Part 5 of this Article, as if the temporary family health care structure were permanent real property.

(g) No signage advertising or otherwise promoting the existence of the temporary health care structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property.

(h) Any temporary family health care structure installed pursuant to this section shall be removed within 60 days in which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section. If the temporary family health care structure is needed for another mentally or physically impaired person, the temporary family health care structure may continue to be used, or may be reinstated on the property within 60 days of its removal, as applicable.

(i) The city may revoke the permit granted pursuant to subsection (e) of this section if the permit holder violates any provision of this section or G.S. 160A-202. The city may seek injunctive relief or other appropriate actions or proceedings to ensure compliance with this section or G.S. 160A-202.

(j) Temporary family health care structures shall be treated as tangible personal property for purposes of taxation."

SECTION 3. G.S. 130A-250 is amended by adding a new subdivision to read:

"(14) Temporary family health care structures under G.S. 153A-341.1 or G.S. 160A-383.5."

SECTION 4. G.S. 131D-2.1(10) reads as rewritten:

"(10) Multiunit assisted housing with services. – An assisted living residence in which hands-on personal care services and nursing services which are arranged by housing management are provided by a licensed home care or

hospice agency through an individualized written care plan. The housing management has a financial interest or financial affiliation or formal written agreement which makes personal care services accessible and available through at least one licensed home care or hospice agency. The resident has a choice of any provider, and the housing management may not combine charges for housing and personal care services. All residents, or their compensatory agents, must be capable, through informed consent, of entering into a contract and must not be in need of 24-hour supervision. Assistance with self-administration of medications may be provided by appropriately trained staff when delegated by a licensed nurse according to the home care agency's established plan of care. Multiunit assisted housing with services programs are required to register annually with the Division of Health Service Regulation. Multiunit assisted housing with services programs are required to provide a disclosure statement to the Division of Health Service Regulation. The disclosure statement is required to be a part of the annual rental contract that includes a description of the following requirements:

a. Emergency response system;
b. Charges for services offered;
c. Limitations of tenancy;
d. Limitations of services;
e. Resident responsibilities;
f. Financial/legal relationship between housing management and home care or hospice agencies;
g. A listing of all home care or hospice agencies and other community services in the area;
h. An appeals process; and
i. Procedures for required initial and annual resident screening and referrals for services.

Continuing care retirement communities, subject to regulation by the Department of Insurance under Chapter 58 of the General Statutes, and temporary family health care structures, as defined in G.S. 160A-383.5, are exempt from the regulatory requirements for multiunit assisted housing with services programs."

SECTION 5. G.S. 160A-442(2) reads as rewritten:

"(2) "Dwelling" means any building, structure, manufactured home or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith, except that it does not include any manufactured home or mobile home, which is used solely for a seasonal vacation purpose. Temporary family health care structures, as defined in G.S. 160A-383.5, shall be considered dwellings for purposes of this Part, provided that any ordinance provision requiring minimum square footage shall not apply to such structures."

SECTION 6. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

SECTION 7. This act becomes effective July 1, 2013, and applies to temporary family health care structures existing on or after that date. No county or city may impose a fee

as authorized by Section 1 of this act on any temporary family health care structure existing on that date.

HOUSE BILL 625:
Zoning/Health Care Structure

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	July 22, 2014
Introduced by:	Reps. Moffitt, Howard, Setzer, Ramsey	**Prepared by:**	Heather Fennell Committee Counsel
Analysis of:	First Edition		

SUMMARY: ***House Bill 625 would exempt temporary family health care structures from zoning requirements applicable to single family residential zoning by counties and cities and would require issuance of a permit for installation.***

CURRENT LAW: Counties and cities have the authority to zone as part of the jurisdiction's land use planning authority. Zoning ordinances often limit a property certain uses, and places constraints on those uses. Application can be made for an exemption to the zoning ordinance for a specific use.

BILL ANALYSIS: House Bill 887 would exempt from the zoning authority of cities and counties "temporary family health care structures," when those structures are within an area zoned single-family residential. A temporary family health care structure is a transportable residential structure, providing an environment facilitating a caregiver's provision of care that meets all of the following requirements:

1. Is primarily assembled at a location other than the site of installation.
2. Is limited to 1 occupant who is mentally or physically impaired (an individual who requires assistance with 2 of more personal functions essential for health and well-being).
3. Has no more than 300 gross square feet.
4. Complies with the State Building Code.

Limitations. – Only one temporary family health care structure could be placed on a property and no signage advertising or otherwise promoting the existence of the structure permitted.

Requirements. –

- A person must obtain a permit in order to install a structure on the person's property. A city or county could charge up to $100 for the initial permit, and up to $50 for an annual renewal.
- A county or city may require that the structure be connected to water, sewer or electric utilities serving the property.
- The structure must comply with building inspections and State Building Code.
- The structure must be removed within 60 days of it no longer being needed. It could be returned to the property for re-installation within 60 days of removal if it becomes needed for a subsequent mentally or physically impaired person.

Exemptions. – The structures are exempt from:

- The regulation of food and lodging provisions in Part 6 of Article 8 of Chapter 130A.
- Licensure of adult care homes.
- The minimum square footage requirements of the minimum housing standards.

EFFECTIVE DATE: The bill would become effective July 1, 2013, and applies to temporary family health care structures on after that date. The permit fee may not be charged for existing structures.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 625

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H625-ATD-190 [v.1]

Comm. Sub. [NO]
Amends Title [NO]
First Edition

Date _____,2014

~~Representative~~ Senator Rucho

moves to amend the bill on page 2, line 46, by deleting the term "G.S. 153A-341.1" and substituting the term "G.S. 153A-341.3";

and on page 3, line 49, by deleting the term "July 1, 2013" and substituting the term "October 1, 2014";

and on page 4, line 1, by inserting after the term "Section 1" the phrase "and Section 2".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H D

HOUSE BILL 1224
Senate Finance Committee Substitute Adopted 7/16/14
PROPOSED SENATE COMMITTEE SUBSTITUTE H1224-CSSVx-67 [v.4]

Short Title: Local Sales Tax Options/Econ. Devpt. Changes. (Public)

Sponsors:

Referred to:

May 28, 2014

A BILL TO BE ENTITLED

AN ACT TO LIMIT THE TOTAL LOCAL GOVERNMENT SALES AND USE TAX RATE TO TWO AND ONE-HALF PERCENT; TO GIVE COUNTIES THE FLEXIBILITY TO USE UP TO ONE-HALF PERCENT (1/2%) OF THE LOCAL SALES AND USE TAX FOR PUBLIC TRANSPORTATION, FOR PUBLIC EDUCATION, FOR GENERAL PURPOSES, OR FOR A COMBINATION THEREOF; AND TO MAKE VARIOUS CHANGES TO TAX AND ECONOMIC DEVELOPMENT LAWS.

The General Assembly of North Carolina enacts:

PART I. LOCAL OPTION SALES TAX OPTIONS

SECTION 1.1. Subchapter VIII of Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 43A.

"County Sales and Use Tax for Public Education.

"**§ 105-513.1. Short title; purpose.**

This Article is the County Sales and Use Tax for Public Education. Article 43 of this Chapter, Article 46 of this Chapter, and this Article give the counties of this State an opportunity to obtain an additional source of revenue with which to meet their needs. A county may choose to use this source of revenue to finance local public transportation systems, as provided in Article 43 of this Chapter, for public education needs, as provided in this Article, or for general purposes, as provided in Article 46 of this Chapter.

"**§ 105-513.2. Levy.**

(a) Referendum. – A tax levied under this Article must be approved in a referendum. The board of commissioners of a county may direct the county board of elections to conduct an advisory referendum on the question of whether to levy a local sales and use tax in the county at a rate of up to one-half percent (1/2%). The applicable rate must meet all of the conditions listed in this subsection. The election shall be held in accordance with the procedures of G.S. 163-287. The conditions are:

(1) It must be in an increment of one-quarter percent (1/4%).

(2) It must be at a rate that, if levied, would not result in a total local sales and use tax rate in the county in excess of two and one-half percent (2 1/2%).

(b) Ballot Question. – The form of the question to be presented on a ballot for a special election concerning the levy of the tax authorized by this Article shall be:

"[ ] FOR [ ] AGAINST

Local sales and use tax at the [applicable rate stated in both words and as a percentage] in addition to the current local sales and use taxes, to be used only for public education."

(c) Authority. – If the majority of those voting in a referendum held pursuant to this Article vote for the levy of the tax, the board of commissioners of the county may, by resolution and after 10 days' public notice, levy a local sales and use tax at the rate specified in the ballot.

"**§ 105-513.3. Administration.**

Except as provided in this Article, the adoption, levy, collection, administration, and repeal of these additional taxes must be in accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this Article, references to "this Article" mean "Article 43A of Chapter 105 of the General Statutes." G.S. 105-468.1 is an administrative provision that applies to this Article. A tax levied under this Article does not apply to the sales price of food that is exempt from tax pursuant to G.S. 105-164.13B or to the sales price of a bundled transaction taxable pursuant to G.S. 105-467(a)(5a). The Secretary shall not divide the amount allocated to a county between the county and the municipalities within the county.

"**§ 105-513.4. Use.**

A county may use the proceeds of a tax levied under this Article only for the following purposes:

(1) Public school capital outlay purposes, as defined in G.S. 115C-426(f) or to retire any indebtedness incurred by the county for these purposes.

(2) Salaries of classroom teachers, salaries of classroom teacher assistants, and supplements of classroom teacher salaries. For the purposes of this section, a classroom teacher is an employee of a local board of education employed as a teacher who spends at least seventy percent (70%) of his or her work time in classroom instruction and a classroom teacher assistant is an employee of a local board of education employed as a teacher assistant who spends at least seventy percent (70%) of his or her work time assisting in a classroom.

(3) Financial support of community colleges, including funds to supplement State financial support of community colleges."

SECTION 1.2.(a) G.S. 115C-429(b) reads as rewritten:

"(b) The board of county commissioners shall complete its action on the school budget on or before July 1, or such later date as may be agreeable to the board of education. The commissioners shall determine the amount of county revenues to be appropriated in the county budget ordinance to the local school administrative unit for the budget year. The board of county commissioners may, in its discretion, allocate part or all of its appropriation by purpose, function, or project as defined in the uniform budget format. For allocations made by the board of county commissioners for the purpose of or for a function related to instructional services, the board of county commissioners may direct the amount of funds to be used for salaries of classroom teachers, salaries of classroom teacher assistants, and supplements of classroom teacher salaries. For the purposes of this section, a classroom teacher is an employee of a local board of education employed as a teacher who spends at least seventy percent (70%) of his or her work time in classroom instruction and a classroom teacher assistant is an employee of a local board of education employed as a teacher assistant who spends at least seventy percent (70%) of his or her work time assisting in a classroom."

SECTION 1.2.(b) G.S. 115C-433(b) reads as rewritten:

"(b) If the board of county commissioners allocates part or all of its appropriations pursuant to G.S. 115C-429(b), the board of education must obtain the approval of the board of county commissioners for an amendment to the budget that does any of the following:

(1)~~(i)~~ ~~increases~~ Increases or decreases expenditures from the capital outlay fund for projects listed in G.S. 115C-426(f)(1) or ~~(2), or (ii)~~ (2).

(2) ~~increases~~ Increases or decreases the amount of county appropriation allocated to a purpose or function by twenty-five percent (25%) or more from the amount contained in the budget ordinance adopted by the board of county commissioners: ~~Provided,~~provided, that at its discretion, the board may in its budget ordinance specify a lesser percentage, so long as such percentage is not less than ten percent.

(3) Decreases the amount of funds allocated for salaries of classroom teachers, salaries of classroom teacher assistants, and supplements of classroom teacher salaries. For the purposes of this section, a classroom teacher is an employee of a local board of education employed as a teacher who spends at least seventy percent (70%) of his or her work time in classroom instruction and a classroom teacher assistant is an employee of a local board of education employed as a teacher assistant who spends at least seventy percent (70%) of his or her work time assisting in a classroom."

SECTION 1.3.(a) G.S. 115D-55(a) reads as rewritten:

"(a) Approval of Budget by Local Tax-Levying Authority. – By a date fixed by the local tax-levying authority, the budget shall be submitted to the local tax-levying authority for approval of that portion within its authority as stated in G.S. 115D-54(b). On or before July 1, or such later date as may be agreeable to the board of trustees, but in no instance later than September 1, the local tax-levying authority shall determine the amount of county revenue to be appropriated to an institution for the budget year. The local tax-levying authority may allocate part or all of an appropriation by purpose, function, or project as defined in the budget manual as adopted by the State Board of Community Colleges. The local tax-levying authority may direct the use of funds appropriated to the institution derived from a tax levied under Article 43A of Chapter 105 of the General Statutes.

The local tax-levying authority shall have full authority to call for all books, records, audit reports, and other information bearing on the financial operation of the institution except records dealing with specific persons for which the persons' rights of privacy are protected by either federal or State law.

Nothing in this Article shall be construed to place a duty on the local tax-levying authority to fund a deficit incurred by an institution through failure of the institution to comply with the provisions of this Article or rules and regulations issued pursuant hereto."

SECTION 1.3.(b) G.S. 115D-58(b) reads as rewritten:

"(b) If the local tax-levying authority allocates part or all of an appropriation pursuant to G.S. 115D-55, the board of trustees must obtain approval of the local tax-levying authority for an amendment to the budget which does any of the following:

(1) ~~increases~~ Increases or decreases the amount of that appropriation allocated to a purpose, function, or project by twenty-five percent (25%) or more from the amount contained in the budget ordinance adopted by the local tax-levying authority or such lesser percentage as specified by the local tax-levying authority in the original budget ordinance, so long as such percentage is not less than ten percent (10%).

(2) Decreases the amount of the appropriation directed by the tax-levying authority for a specific use from funds appropriated to the institution derived from a tax levied under Article 43A of Chapter 105 of the General Statutes."

SECTION 1.4.(a) G.S. 105-506 reads as rewritten:

"**§ 105-506. Short title; purpose.**

This Article is the Local Government Public Transportation Sales Tax Act and may be cited by that name. This ~~Article gives~~ Article, Article 43A of this Chapter, and Article 46 of this Chapter give the counties ~~and transportation authorities~~ of this State an opportunity to obtain an additional source of revenue with which to meet their ~~needs for financing~~ needs. Counties and

transportation authorities may choose to use this source of revenue to finance local public transportation ~~systems.~~systems under this Article, counties may choose to use this source of revenue to finance public education needs, as provided in Article 43A of this Chapter, or counties may choose to use this source of revenue for general purposes, as provided in Article 46 of this Chapter. ~~It provides them with authority to levy sales and use taxes. All such taxes~~ A tax levied under this Article must be approved in a referendum."

SECTION 1.4.(b) Part 1 of Article 43 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-506.4. Tax rate.**

(a) Rate. – The applicable rate of local sales and use tax that may be levied under this Article must meet all of the following conditions:

(1) It must be in an increment of one-quarter percent (1/4%).

(2) It must be at a rate that, if levied, would not result in a total local sales and use tax rate in the county in excess of two and one-half percent (2 1/2%).

(b) Cap. – Except as provided in this subsection, a county's local sales and use tax rate may not exceed two and one-half percent (2 1/2%). A county's local sales and use tax rate may exceed two and one-half percent (2 1/2%) if the county conducted one or more advisory referendums on or before December 31, 2012, in which a majority of the voters approved the levy of a local sales and use tax resulting in a total local sales and use tax rate in the county of two and three-quarters percent (2 3/4%). In no event may a county's local sales and use tax rate exceed two and three-quarters percent (2 3/4%). If a county's local sales and use tax rate is two and three-quarters percent (2 3/4%) on April 1, 2013, and the county repeals the levy of a tax authorized under Subchapter VIII of this Chapter so that the county's local sales and use tax rate falls below two and three-quarters percent (2 3/4%), the county may not enact a local sales and use tax under this Subchapter that results in a county local sales and use tax rate that exceeds two and one-half percent (2 1/2%)."

SECTION 1.4.(c) G.S. 105-507.1 reads as rewritten:

"**§ 105-507.1. Local election on adoption of sales and use tax.**

(a) Resolution. – The board of commissioners of a county may direct the county board of elections to conduct an advisory referendum within the county on the question of whether a local sales and use tax at the rate of up to one-half percent (1/2%) may be levied in accordance with this Part. The applicable rate must be in accordance with G.S. 105-506.4. The election shall be held in accordance with the procedures of G.S. 163-287. The board of commissioners shall hold a public hearing on the question at least 30 days before the date the election is to be held.

(b) Ballot Question. – The form of the question to be presented on a ballot for a special election concerning the levy of a tax authorized by this Article shall be:

"[ ] FOR [ ] AGAINST

~~One-half percent (1/2%)~~ [The applicable rate stated in both words and as a percentage] local sales and use taxes, in addition to the current local sales and use taxes, to be used only for public transportation systems.""

SECTION 1.4.(d) G.S. 105-507.2 reads as rewritten:

"**§ 105-507.2. Levy and collection of sales and use tax.**

If the majority of those voting in a referendum held pursuant to G.S. 105-507.1 vote for the levy of the tax, the board of commissioners of the county may, by resolution, levy ~~one-half percent (1/2%) local sales and use taxes~~ a local sales and use tax at the rate specified in the ballot in addition to any other State and local sales and use taxes levied pursuant to law. Except as provided in this Part, the adoption, levy, collection, administration, and repeal of these additional taxes shall be in accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this Part, references to "this Article" mean "Part 1 of Article 43 of Chapter 105 of the General Statutes"."

SECTION 1.4.(e) G.S. 105-509 reads as rewritten:

"**§ 105-509. Local election on adoption of sales and use tax – regional public transportation authority.**

...

(b) Resolution. – The board of trustees of the regional public transportation authority may, if all of the conditions listed in this subsection have been met, direct the respective county board or boards of elections to conduct an advisory referendum within the special district on the question of whether a local sales and use tax at the rate of up to one-half percent (1/2%) may be levied within the district in accordance with this Part. The applicable rate must be in accordance with G.S. 105-506.4. The tax may not be levied without voter approval. The election shall be held on a date jointly agreed upon by the authority, the county board or boards of commissioners, and the county board or boards of elections and shall be held on a date permitted by and in accordance with the procedures of G.S. 163-287. The conditions are as follows:

(1) The board of trustees has obtained approval to conduct a referendum by a vote of the following:

a. A majority vote of each of the county boards of commissioners within the special district, if it is a multicounty special district.

b. A majority of the county board of commissioners within the special district, if it is a single-county special district.

(2) A public hearing is held on the question by the board or boards of commissioners at least 30 days before the date the election is to be held.

(c) Ballot Question. – The form of the question to be presented on a ballot for a special election concerning the levy of a tax authorized by this Article shall be:

"[ ] FOR [ ] AGAINST

~~One half percent (1/2%)~~ [The applicable rate stated in both words and as a percentage] local sales and use taxes, in addition to the current local sales and use taxes, to be used only for public transportation systems."

...."

SECTION 1.4.(f) G.S. 105-509.1 reads as rewritten:

"**§ 105-509.1. Levy and collection of sales and use tax – regional public transportation authority.**

If the majority of those voting in a referendum held pursuant to G.S. 105-509 vote for the levy of the tax, the transportation authority may, by resolution, levy ~~one-half percent (1/2%) local sales and use taxes~~ a local sales and use tax at the rate specified in the ballot within the special district, in addition to any other State and local sales and use taxes levied pursuant to law. In determining the results of the election in a multicounty district, all the counties of the district shall be considered to be one unit but also must receive a majority vote in each county, except that if the referendum is passed in one or more but not all of the counties, the counties in which the referendum was not approved are removed from the special district upon certification of the election result and the county or counties that approved the referendum shall remain in the special district. Except as provided in this Part, the adoption, levy, collection, administration, and repeal of these additional taxes shall be in accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this Article, references to "this Article" mean "Part 4 of Article 43 of Chapter 105 of the General Statutes." Any repeal of the tax shall be done by the same procedure as its enactment under this section, and in a multicounty district a petition for repeal under G.S. 105-473 shall be judged by the total votes in all the counties in the district."

SECTION 1.4.(g) G.S. 105-510 reads as rewritten:

"**§ 105-510. Local election on adoption of sales and use tax – regional transportation authority.**

...

(b) Resolution. – The board of trustees of the regional transportation authority may, if all of the conditions listed in this subsection have been met, direct the respective county board or boards of elections to conduct an advisory referendum within the special district on the question of whether a local sales and use tax at the rate of up to one-half percent (1/2%) may be levied within the district in accordance with this Part. The applicable rate must be in accordance with G.S. 105-506.4. The tax may not be levied without voter approval. The election shall be held on a date jointly agreed upon by the authority, the county board or boards of commissioners, and the county board or boards of elections and shall be held on a date permitted by and in accordance with the procedures of G.S. 163-287. The conditions are as follows:

(1) The board of trustees has obtained approval to conduct a referendum by a vote of the following:
   a. A majority vote of both of the county boards of commissioners within the special district, if it is a multicounty special district.
   b. A majority of the county board of commissioners within the special district, if it is a single-county special district.

(2) A public hearing is held on the question by the board or boards of commissioners at least 30 days before the date the election is to be held.

(c) Ballot Question. – The form of the question to be presented on a ballot for a special election concerning the levy of a tax authorized by this Article shall be:

"[ ] FOR [ ] AGAINST

~~One-half percent (1/2%)~~ [The applicable rate stated in both words and as a percentage] local sales and use taxes, in addition to the current local sales and use taxes, to be used only for public transportation systems."

...."

SECTION 1.4.(h) G.S. 105-510.1 reads as rewritten:

"**§ 105-510.1. Levy and collection of sales and use tax – regional transportation authority.**

If the majority of those voting in a referendum held pursuant to G.S. 105-510 vote for the levy of the tax, the transportation authority may, by resolution, levy ~~one-half percent (1/2%) local sales and use taxes~~ a local sales and use tax at the rate specified in the ballot within the special district, in addition to any other State and local sales and use taxes levied pursuant to law. In determining the results of the election in a multicounty district, all the counties of the district shall be considered to be one unit but also must receive a majority vote in each county, except that if the referendum is passed in one but not both of the counties, the county in which the referendum was not approved is removed from the special district upon certification of the election result and the county that approved the referendum shall remain in the special district. Except as provided in this Part, the adoption, levy, collection, administration, and repeal of these additional taxes shall be in accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this Article, references to "this Article" mean "Part 5 of Article 43 of Chapter 105 of the General Statutes." Any repeal of the tax shall be done by the same procedure as its enactment under this section, and in a multicounty district a petition for repeal under G.S. 105-473 shall be judged by the total votes in all the counties in the district."

SECTION 1.4.(i) G.S. 105-511.2 reads as rewritten:

"**§ 105-511.2. Local election on adoption of sales and use tax.**

(a) Resolution. – The board of commissioners of a county may direct the county board of elections to conduct an advisory referendum within the county on the question of whether a local sales and use tax at ~~the rate of one-quarter percent (1/4%)~~ a rate of up to one-half percent (1/2%) may be levied in accordance with this Part. The applicable rate must be in accordance with G.S. 105-506.4. The election shall be held on a date jointly agreed upon by the boards and shall be held on a date permitted by and in accordance with the procedures of G.S. 163-287.

The board of commissioners shall hold a public hearing on the question at least 30 days before the date the election is to be held.

(b) Ballot Question. – The form of the question to be presented on a ballot for a special election concerning the levy of a tax authorized by this Article shall be:

"[ ] FOR [ ] AGAINST

~~One-quarter percent (1/4%)~~ [The applicable rate stated in both words and as a percentage] local sales and use taxes, in addition to the current local sales and use taxes, to be used only for public transportation systems.""

SECTION 1.4.(j) G.S. 105-511.3 reads as rewritten:

"**§ 105-511.3. Levy and collection of sales and use tax.**

(a) Authority to Levy. – If the majority of those voting in a referendum held pursuant to this Part vote for the levy of the tax, the board of commissioners of the county may, by resolution, levy ~~one-quarter percent (1/4%) local sales and use taxes~~ a local sales and use tax at the rate specified in the ballot in addition to any other State and local sales and use taxes levied pursuant to law.

(b) Administration. – Except as provided in this Part, the adoption, levy, collection, administration, and repeal of these additional taxes shall be in accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this Part, references to "this Article" mean "Part 6 of Article 43 of Chapter 105 of the General Statutes.""

SECTION 1.4.(k) This section is effective when it becomes law.

SECTION 1.5.(a) Part 1 of Article 43 of Chapter 105 of the General Statutes, as amended by Section 1.4 of this act, is amended by adding a new section to read:

"**§ 105-506.3. Applicability.**

A tax levied under Part 4 of this Article may not be in effect in a county at the same time as a tax levied by that county under Part 6 of this Article."

SECTION 1.5.(b) G.S. 105-511 reads as rewritten:

"**§ 105-511. Applicability.**

This Part applies only in counties other than Durham, Forsyth, Guilford, Mecklenburg, ~~Orange, or Wake.~~ or Orange."

SECTION 1.5.(c) This section is effective when it becomes law.

SECTION 1.6.(a) Article 46 of Chapter 105 of the General Statutes reads as rewritten:

"Article 46.

"One-Quarter Cent (1/4¢) or One-Half Cent (1/2%) County Sales and Use Tax.

"**§ 105-535. Short title.**

This Article is the One-Quarter Cent (1/4¢) or One-Half Cent (1/2%) County Sales and Use Tax Act.

"**§ 105-536. Limitations.**

This Article applies only to counties that levy the first one-cent (1¢) sales and use tax under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, the first one-half cent (1/2¢) local sales and use tax under Article 40 of this Chapter, and the second one-half cent (1/2¢) local sales and use tax under Article 42 of this Chapter.

"**§ 105-537. Levy.**

(a) Authority. – A tax levied under this Article must be approved in a referendum. If the majority of those voting in a referendum held pursuant to this Article vote for the levy of the tax, the board of county commissioners may, by resolution and after 10 days' public notice, levy a local sales and use tax at ~~a rate of one-quarter percent (0.25%).~~ the applicable rate. The applicable rate must meet all of the following conditions:

(1) It must be in an increment of one-quarter percent (1/4%).

(2) It must be at a rate that, if levied, would not result in a total local sales and use tax rate in the county in excess of two and one-half percent (2 1/2%).

(b) Vote. – The board of county commissioners may direct the county board of elections to conduct an advisory referendum on the question of whether to levy a local sales and use tax in the county as provided in this Article. The election shall be held in accordance with the procedures of G.S. 163-287.

(c) Ballot Question. – The form of the question to be presented on a ballot for a special election concerning the levy of the tax authorized by this Article shall be:

"[ ] FOR [ ] AGAINST

Local sales and use tax at the rate of ~~one quarter percent (0.25%)~~ [The applicable rate stated in both words and as a percentage] in addition to all other State and local sales and use taxes."

...

"§ 105-538. Administration of taxes.

Except as provided in this Article, the adoption, levy, collection, administration, and repeal of these additional taxes must be in accordance with Article 39 of this Chapter. G.S. 105-468.1 is an administrative provision that applies to this Article. A tax levied under this Article does not apply to the sales price of food that is exempt from tax pursuant to G.S. 105-164.13B or to the sales price of a bundled transaction taxable pursuant to G.S. 105-467(a)(5a). The Secretary shall not divide the amount allocated to a county between the county and the municipalities within the county.

"§ 105-539. Use.

(a) Referenda Held On or Before January 1, 2015. – A county that approves the levy of a tax under this Article in a referendum held on or before January 1, 2015, must use the proceeds of the tax levied under this Article for any lawful public purpose.

(b) Referenda Held After January 1, 2015. – A county that approves the levy of a tax under this Article in a referendum held after January 1, 2015, must use the proceeds of a tax levied under this Article for any lawful public purpose, except that the proceeds may not be used for a purpose for which a tax levied under Article 43 of this Chapter must be used."

SECTION 1.6.(b) G.S. 105-164.3(4a) reads as rewritten:

"(4a) Combined general rate. – The sum of all of the following:

a. The State's general rate of tax set in G.S. ~~105-164.4(a)~~ 105-164.4(a).

b. ~~plus the~~ The sum of the rates of the local sales and use taxes authorized for every county in this State by ~~Subchapter VIII~~ Article 39 of this Chapter or Chapter 1096 of the 1967 Session Laws, Article 40 of this Chapter, and Article 42 of this Chapter.~~Chapter for every county in this State.~~

c. One-half of the maximum rate of tax authorized by Article 46 of this Chapter."

SECTION 1.6.(c) This section is effective when it becomes law.

SECTION 1.7. Except as otherwise provided, this Part is effective when it becomes law.

PART II. JMAC MODIFICATIONS

SECTION 2.(a) G.S. 143B-437.012 reads as rewritten:

"§ 143B-437.012. Job Maintenance and Capital Development Fund.

...

(d) Eligibility. – A business is eligible for consideration for a grant under this section if it satisfies the conditions of either subdivision (1) or (2) of this subsection and satisfies ~~the conditions of both subdivisions (3) and~~subdivision (4) of this subsection:

(1) The business is a major employer. A business is a major employer if the business meets the following requirements:

a. The Department certifies that the business has invested or intends to invest at least two hundred million dollars ($200,000,000) of private

funds in improvements to real property and additions to tangible personal property in the project within a six-year period beginning with the time the investment commences.

b. The business employs at least 2,000 full-time employees or equivalent full-time contract employees at the project that is the subject of the grant at the time the application is made, and the business agrees to maintain at least 2,000 full-time employees or equivalent full-time contract employees at the project for the full term of the grant agreement.

c. The project is located in a development tier one area at the time the business applies for a grant.

(2) The business is a large manufacturing employer. A business is a large manufacturing employer if the business meets the following requirements:

a. The business is in manufacturing, as defined in G.S. 143B-437.01, and is converting its manufacturing process to change the product it ~~manufactures.~~manufactures or is investing in its manufacturing process by enhancing pollution controls or transitioning the manufacturing process from using coal to using natural gas for the purpose of becoming more energy efficient or reducing emissions.

b. The Department certifies that the business has invested or intends to invest at least ~~sixty-five~~fifty million dollars ~~($65,000,000)~~($50,000,000) of private funds in improvements to real property and additions to tangible personal property in the project within a ~~three-year~~five-year period beginning with the time the investment commences.

c. The business meets one of the following employment requirements:

1. If in a development tier one area, the business employs at least 320 full-time employees at the project that is the subject of the grant at the time the application is made, and the business agrees to maintain at least 320 full-time employees at the project for the full term of the grant.

2. If in a development tier two area with a population of less than 60,000 as of July 1, 2013, the business employs at least 800 full-time employees or equivalent full-time contract employees at the project that is the subject of the grant at the time the application is made, and the business agrees to maintain at least 800 full-time employees or equivalent full-time contract employees at the project for the full term of the grant.

~~(3) The project is located in a development tier one area at the time the business applies for a grant.~~

(4) All newly hired employees of the business must be citizens of the United ~~States,~~States or have proper identification and documentation of their authorization to reside and work in the United States.

...

(n) Limitations. – The Department may enter into no more than five agreements under this section. The total aggregate cost of all agreements entered into under this section may not exceed ~~sixty-nine million dollars ($69,000,000).~~seventy-nine million dollars ($79,000,000). The total annual cost of an agreement entered into under this section may not exceed six million dollars ($6,000,000)."

SECTION 2.(b) This section becomes effective July 1, 2014.

PART III. JOB CATALYST FUND

SECTION 3.(a) G.S. 143B-437.50 reads as rewritten:

"Part 2G. Job ~~Development Investment Grant Program.~~Development.

"**§ 143B-437.50. Legislative findings and purpose.**

The General Assembly finds that:

(1) It is the policy of the State of North Carolina to stimulate economic activity and to create new jobs for the citizens of the State by encouraging and promoting the expansion of existing business and industry within the State and by recruiting and attracting new business and industry to the State.

...."

SECTION 3.(b) G.S. 143B-437.51 reads as rewritten:

"**§ 143B-437.51. Definitions.**

The following definitions apply in this Part:

...

(6) Full-time employee. – A person who is employed for consideration for at least 35 hours a week, whose wages are subject to withholding under Article 4A of Chapter 105 of the General Statutes, and who is determined by the Committee to be employed in a permanent position according to criteria it develops in consultation with the Attorney General. The term does not include any person who works as an independent contractor or on a consulting basis for the business.

(6a) Full-time worker. – A person who is employed for consideration for at least 35 hours a week, whose wages are subject to withholding under Article 4A of Chapter 105 of the General Statutes, and who is determined by the Department to be employed in a permanent position. The term does not include any person who works as an independent contractor or on a consulting basis for the business.

(7) New employee. – A full-time employee or a full-time worker who represents a net increase in the number of the business's employees or workers statewide.

...."

SECTION 3.(c) G.S. 143B-437.52 reads as rewritten:

"Subpart A. Job Development Investment Grant Program.

"**§ 143B-437.52. Job Development Investment Grant Program.**

(a) Program. – There is established the Job Development Investment Grant Program to be administered by the Economic Investment Committee. In order to foster job creation and investment in the economy of this State, the Committee may enter into agreements with businesses to provide grants in accordance with the provisions of this Part. The Committee, in consultation with the Attorney General, shall develop criteria to be used in determining whether the conditions of this section are satisfied and whether the project described in the application is otherwise consistent with the purposes of this Part. Before entering into an agreement, the Committee must find that all the following conditions are met:

...."

SECTION 3.(d) The Revisor of Statutes is authorized to change references of "this Part" in Subpart A of Part 2G of Article 10 of Chapter 143B of the General Statutes to "this Subpart" as appropriate.

SECTION 3.(e) Part 2G of Article 10 of Chapter 143B of the General Statutes is amended by adding a new Subpart to read:

"Subpart B. Job Catalyst Fund.

"**§ 143B-437.67. Job Catalyst Fund.**

(a) Creation and Purpose of Fund. – There is created in the Department of Commerce a special, nonreverting account to be known as the Job Catalyst Fund to provide funds to a local governmental unit for projects that result in the creation of jobs. The Secretary of Commerce is solely responsible for the administration of the program and shall adopt guidelines applicable to program administration. The guidelines shall include the following provisions, which shall apply to each grant from the account:

(1) The funds are reserved for a project for which a business agrees to create and maintain, for the greater of 10 years or a time period not less than the sum of the full term of the grant plus five years, the number of new worker positions at the project as follows:

a. For development tier one areas, 500 full-time workers.

b. For development tier two areas, 800 full-time workers.

c. For development tier three areas, 1,200 full-time workers.

(2) The funds are reserved for a project for which a business agrees to make an investment at the project as provided in this subdivision. The investment required by this subdivision must be private funds in improvements to real property and additions to tangible personal property located at the project for the greater of 10 years or a time period not less than the sum of the full term of the grant plus five years. The investment must be commenced no later than the time when the first disbursement is made to the business and must be completed no later than five years from the time the first disbursement is made to the business. Tangible personal property transferred by the business or from a related member of the business from one area in the State to the project is not considered an investment in tangible personal property located at the project for purposes of this section. The Department shall certify the amount of the investment made by the business at the project. The minimum investment at the project the business agrees to make is as follows:

a. For development tier one areas, twenty million dollars ($20,000,000).

b. For development tier two areas, thirty-five million dollars ($35,000,000).

c. For development tier three areas, fifty million dollars ($50,000,000).

(3) The funds are (i) used to acquire or improve land or infrastructure, for facility development, or for capital investment and (ii) used for manufacturing projects. For purposes of this subdivision, "manufacturing" is defined in G.S. 143B-437.01.

(4) The funds are provided to a local governmental unit, and the local governmental unit matches a portion of the funds allocated by the Department as provided in this subdivision. A local match may include cash, fee waivers, in-kind services, the donation of assets, the provision of infrastructure, or a combination. The local match requirement is as follows:

a. For development tier one areas, a local match of at least three dollars ($3.00) for every one hundred dollars ($100.00) from the State is required.

b. For development tier two areas, a local match of at least six dollars ($6.00) for every one hundred dollars ($100.00) from the State is required.

c. For development tier three areas, a local match of at least nine dollars ($9.00) for every one hundred dollars ($100.00) from the State is required.

(5) The funds are reserved for a project for which a business agrees to meet, for the greater of 10 years or a time period not less than the sum of the full term

of the grant plus five years, the wage standard provided in this subdivision for all full-time workers at the project. In making the wage calculation, all full-time position jobs filled during the year for at least 1,600 hours are included. The required wage standard is as follows:

a. For development tier one and two areas, an average weekly wage that is at least equal to the lesser of one hundred percent (100%) of the average wage for all insured private employers in the county.

b. For development tier three areas, an average weekly wage that is at least equal to the lesser of one hundred ten percent (110%) of the average wage for all insured private employers in the county.

(6) The funds are reserved for projects for which a business agrees to meet, for the greater of 10 years or a time period not less than the sum of the full term of the grant plus five years, a requirement to provide health insurance for all full-time workers at the project. For purposes of this subdivision, a business provides health insurance if it pays at least fifty percent (50%) of the premiums for health care coverage that equals or exceeds the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee pursuant to G.S. 58-50-125. A business shall provide a certification that it continues to provide health insurance as required by this subdivision.

(7) The funds are not used for a project at which is located, during the greater of 10 years or a time period not less than the sum of the full term of the grant plus five years, a business that has received a notice of an overdue tax debt and that overdue tax debt has not been satisfied or otherwise resolved.

(8) The funds are not used in favor of jobs created or property investments made for which a business receives a tax credit under Article 3J of Chapter 105 of the General Statutes.

(9) The funds are reserved for projects for a business that has no citations under the Occupational Safety and Health Act that have become a final order within the past three years for willful serious violations or for failing to abate serious violations. In addition, the business must, for the greater of 10 years or a time period not less than the sum of the full term of the grant plus five years, have no citations under the Occupational Safety and Health Act that have become a final order within the past three years for willful serious violations or for failing to abate serious violations with respect to the project. For purposes of this subsection, "serious violation" has the same meaning as in G.S. 95-127.

(10) The funds are not used for a project that consists of a professional or semiprofessional sports team or club or a project that consists solely of retail facilities. If a project consists of both retail facilities and nonretail facilities, only the portion of the project consisting of nonretail facilities is eligible for a grant, and only full-time workers employed exclusively in the portion of the project that represents nonretail facilities may be counted for purposes of fulfilling the new worker position requirement. If a warehouse facility is part of a retail facility and supplies only that retail facility, the warehouse facility investment and full-time workers are not counted for purposes of the requirements of this section. For the purposes of this Subpart, catalog distribution centers are not retail facilities.

(b) Forfeiture. – If the business at the project fails to timely create and maintain the required new jobs, to timely make the required level of investment, or to otherwise meet the requirements of this section, the local governmental unit shall provide a means to recapture

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 20134

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: July 22, 2014

TO: Senate Finance Committee

FROM: Sandra Johnson, Aubrey Incorvaia and Daniel Sater
Fiscal Research Division

RE: PCS to HB 1224n1

FISCAL IMPACT

($ in millions)

☑ Yes ☐ No ☐ No Estimate Available

	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
State Impact					
General Fund Revenues:					
General Fund Expenditures:	See Assumptions and Methodlogy				
NET STATE IMPACT	**$0.0**	**$0.0**	**$0.0**	**$0.0**	**$0.0**
Local Impact					
Revenues:	See Assumptions and Methodlogy				
NET LOCAL IMPACT	**$0.0**	**$0.0**	**$0.0**	**$0.0**	**$0.0**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:
Commerce, Department of Revenue, Secretary of State

EFFECTIVE DATE: July 1, 2014

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY:

'art I of the PCS enacts Article 43A, the County Sales and Use Tax for Education and Article 43B, County Sales nd Use Tax for Transit. The PCS also modifies Article 46. Part II of the PCS would expand the eligibility criteria tor the Job Maintenance and Capital Development Fund. Part III of the PCS would create the Job Catalyst Fund

inside the Department of Commerce. Part IV would provide an additional $14M to the JDIG cap for the 2013-2015 biennium. Part V adds a new exemption to the list of transactions exempt from registration and filing requirements for the offer or sale of securities.

ASSUMPTIONS AND METHODOLOGY:

PART I LOCAL OPTION SALES TAX FOR EDUCATION

HB 1224 creates Article 43A and Article 43B. Article 43A grants counties the authority to levy an additional sales tax designated for transportation. Article 43B grants counties the authority to levy an additional sales tax designated for education. The bill also limits the maximum local sales tax rate to 2.5% in all but two counties, Durham County and Orange County, where the local rate is currently 2.75%. Table 1 below highlights the fiscal impact of enacting Article 43A or Article 43 B at the maximum possible rate during the 2015-16 fiscal year.

Table 1. Maximum Sales and Use Tax Levy and Additional Revenue under Article 43A or Article 43B, by County, Fiscal Year 2015-16

County	Current Rate	Article 43A 2.25%	Article 43A 2.50%
Alamance	2%		$9,471,497
Alexander	2.25%	$429,327	
Alleghany	2%		$332,160
Anson	2%		$633,702
Ashe	2%		$1,028,718
Avery	2%		$1,023,458
Beaufort	2%		$2,154,416
Bertie	2%		$395,156
Bladen	2%		$1,031,719
Brunswick	2%		$6,425,215
Buncombe	2.25%	$10,337,325	
Burke	2%		$3,012,717
Cabarrus	2.25%	$6,950,468	
Caldwell	2%		$2,660,782
Camden	2%		$283,508
Carteret	2%		$4,859,546
Caswell	2%		$289,751
Catawba	2.25%	$4,930,009	
Chatham	2%		$2,239,828
Cherokee	2%		$1,224,004
Chowan	2%		$553,044
Clay	2%		$325,302
Cleveland	2%		$4,032,516
Columbus	2%		$1,884,654
Craven	2%		$4,884,160
Cumberland	2.25%	$10,130,063	
Currituck	2%		$2,244,787
Dare	2%		$6,758,031
Davidson	2%	$2,542,035	
Davie	2%		$1,463,108
Duplin	2.25%	$932,806	
Durham	2.75%		
Edgecombe	2.25%	$841,171	
Forsyth	2%		$23,292,486
Franklin	2%		$1,562,140

Table 1. Maximum Sales and Use Tax Levy and Additional Revenue under Article 43A or Article 43B, by County, Fiscal Year 2015-16

County	Current Rate	Article 43A 2.25%	Article 43A 2.50%
Gaston	2%		$9,030,729
Gates	2%		$151,725
Graham	2%		$294,500
Granville	2%		$1,459,005
Greene	2.25%	$152,379	
Guilford	2%		$31,996,220
Halifax	2.25%	$1,154,351	
Harnett	2.25%	$1,629,411	
Haywood	2.25%	$1,595,227	
Henderson	2%		$5,012,(
Hertford	2.25%	$549,388	
Hoke	2%		$929,305
Hyde	2%		$288,347
Iredell	2%		$9,590,186
Jackson	2%		$1,929,605
Johnston	2%		$7,188,541
Jones	2%		$162,871
Lee	2.25%	$1,649,370	
Lenoir	2%		$2,697,362
Lincoln	2%		$2,710,617
Macon	2%		$2,162,931
Madison	2%		$443,247
Martin	2.25%	$521,013	
McDowell	2%		$1,543,880
Mecklenburg	2.5%		
Mitchell	2%		$694,646
Montgomery	2.25%	$380,395	
Moore	2%		$5,400,349
Nash	2%		$4,947,940
New Hanover	2.25%	$9,236,387	
Northampton	2%		$447,420
Onslow	2.25%	$5,333,338	
Orange	2.75%		
Pamlico	2%		$368,(
Pasquotank	2%		$2,445,(

Table 1. Maximum Sales and Use Tax Levy and Additional Revenue under Article 43A or Article 43B, by County, Fiscal Year 2015-16			
ounty	Current Rate	Article 43A 2.25%	Article 43A 2.50%
ender	2%		$1,672,609
Perquimans	2%		$263,781
Person	2%		$1,443,933
Pitt	2.25%	$5,243,318	
Polk	2%		$475,672
Randolph	2.25%	$2,448,354	
Richmond	2%		$1,678,680
Robeson	2.25%	$2,391,361	
Rockingham	2%		$3,150,575
Rowan	2.25%	$2,677,499	
Rutherford	2%		$2,547,320
Sampson	2.25%	$1,047,991	
Scotland	2%		$1,303,301
Stanly	2%		$2,500,923
Stokes	2%		$928,184

Table 1. Maximum Sales and Use Tax Levy and Additional Revenue under Article 43A or Article 43B, by County, Fiscal Year 2015-16			
County	Current Rate	Article 43A 2.25%	Article 43A 2.50%
Surry	2.25%	$2,066,687	
Swain	2%		$512,488
Transylvania	2%		$1,411,774
Tyrrell	2%		$102,991
Union	2%		$7,523,025
Vance	2%		$1,969,027
Wake	2%		$64,974,739
Warren	2%		$383,470
Washington	2%		$394,006
Watauga	2%		$3,609,571
Wayne	2%		$5,542,204
Wilkes	2.25%	$1,358,424	
Wilson	2%		$4,543,748
Yadkin	2%		$935,074
Yancey	2%		$567,507

PART II JMAC MODIFICATIONS

While the PCS to House Bill 1224 broadens eligibility for the JMAC program and increases total award capacity to $79 million, the legislation does not expressly require this capacity to be used.

However, Commerce has relayed to the Fiscal Research Division that the impetus for JMAC program expansion ; the retention of Evergreen Packaging in Haywood County. If the PCS is enacted, Commerce plans to award ıe company a JMAC in FY 2014-15 and structure the contract for the company to receive a total of $12 million over six fiscal years, with payments of $2 million annually (FY 2015-16 through FY 2020-21). Committing this award would absorb the remaining available $12 million JMAC award capacity ($79 million permissible award capacity proposed in the PCS less $67 million utilized liability to-date for awards to Bridgestone, Goodyear and Domtar).

Existing JMAC statutes limit a grant period to up to 10 years and restrict the annual cost of any one award to no more than $6 million. Regardless of whether Commerce's plans for Evergreen Packaging become reality, if the PCS is enacted, then JMAC will have $12 million worth of unutilized award capacity. If fully utilized, cost implications range between $1.2 million a year for 10 years and $6 million a year for two years, which would require future General Fund appropriations.

PART III JOB CATALYST FUND

This section of the bill establishes the Fund, but has no fiscal impact since the PCS does not provide the Fund with 1) an appropriation or 2) a threshold under which awards are authorized to be committed.[1]

PART IV JDIG MODIFICATIONS

This section of the bill increases the 2013-15 fiscal biennium award capacity for the Job Development Investment Grant program by $14 million. Given that grant terms can be up to 12 years, the PCS generates an

[1] Other economic development grant programs are permitted a certain award capacity threshold under which to make grant commitments; examples include the Job Development Investment Grant program, One North Carolina Fund, and JMAC.

additional maximum liability for the program of $168 million (actual payments are based on company performance).

PART V CROWD FUNDING

This section of the bill levies a fee of $150 on the issuer of the securities to be paid to the Secretary of State's office. The funds collected shall remain in a non-reverting account and the Secretary of State shall use the funds to pay for the costs of enforcing this section. Fiscal Research does not have an estimate on the number of businesses that will utilize the crowd funding exemption and thus cannot estimate the additional revenue generated by this section.

SOURCES OF DATA: Commerce; North Carolina Department of Revenue

TECHNICAL CONSIDERATIONS: None

County	Current Levy		Current Maximum	Maximum Under H1224	Options Under H1224		Notes
Orange Durham	2.75%		2.75%	2.75%	None, absent repeal of currently levied taxes		
Wake	2.00%		2.75%	2.5%	Option #1: ½ transit with Orange & Durham, or any of the options listed below for counties @ 2%[1]		Wake is considering whether to approve ¼ general purpose for November ballot
Forsyth Guilford	2.00%		2.75%	2.5%	See options below for counties @ 2.00%		Guilford has ¼ general purpose on November ballot
Meck	2.5%		2.75%	2.5%	None, absent repeal of currently levied transit tax		Meck has ¼ general purpose on November ballot, but blocked under bill
94 other counties	**25 @ 2.25%** Alexander Buncombe Cabarrus Catawba Cumberland Davidson Duplin Edgecombe Greene Halifax Harnett Haywood Hertford Lee Martin Montgomery New Hanover Onslow Pitt Randolph Robeson Rowan Sampson Surry Wilkes	**69 @ 2.00%** Remaining 69 counties	2.5%	2.5%	**25 @ 2.25%**	**69 @ 2.00%**	Bladen & Richmond have approved ¼ general purpose for November ballot; Rockingham & Carteret considering whether to put ¼ on November ballot
					Option #1 ¼ education	**Option #1/#1A** ¼ or ½ education	
					Option #2 ¼ transit	**Option #2/#2A** ¼ or ½ transit	
					Option #3 ¼ general purpose[2]	**Option #3/#3A** ¼ or ½ gen purpose	
					Option #4 Repeal current ¼ and levy: ½ transit, ½ education, or ¼ transit + ¼ education	**Option #4** ¼ transit + ¼ education	
						Option #5 ¼ transit + ¼ gen purpose	
						Option #6 ¼ education + ¼ gen purpose	

[1] If Wake wants to participate in the transportati-- -ith Orange & Durham, then it may only do so at ⅛%. The ¼% option for transit, as applied to Wake, would apply only if Wake wants to levy a tax for public transportation on its own but not in conju n transportation authority created by Durham & Orange.

[2] General purpose tax would not be permitted tc d lic transit but could be used for other transportation purposes or a r public purpose.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H D

HOUSE BILL 27*
Committee Substitute Favorable 2/13/13
Committee Substitute #2 Favorable 5/14/13
PROPOSED SENATE COMMITTEE SUBSTITUTE H27-PCS10600-RB-68

Short Title: Escheat Savings Bond Trust Fund/Scholarships. (Public)

Sponsors:

Referred to:

January 31, 2013

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT UNCLAIMED UNITED STATES SAVINGS BONDS SHALL ESCHEAT TO THE STATE, TO DIRECT THE TREASURER TO REDEEM THOSE UNITED STATES SAVINGS BONDS ESCHEATED TO THE STATE, TO CREATE AN ESCHEAT SAVINGS BOND TRUST FUND WITHIN THE ESCHEAT FUND FOR DEPOSIT OF THE PROCEEDS OF THOSE REDEMPTIONS, AND TO PROVIDE THAT INTEREST AND INVESTMENT EARNINGS FROM THE ESCHEAT SAVINGS BOND TRUST FUND SHALL BE USED TO FUND SCHOLARSHIPS TO WORTHY AND NEEDY STUDENTS WHO ARE RESIDENTS OF NORTH CAROLINA AND ARE ENROLLED IN PUBLIC INSTITUTIONS OF HIGHER EDUCATION IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. Article 4 of Chapter 116B of the General Statutes is amended by adding a new section to read:

"**§ 116B-54A. Unclaimed United States savings bonds.**

(a) U.S. Savings Bonds. – Except as otherwise provided in this section, the provisions of this Article apply to United States savings bonds. A United States savings bond is unclaimed and presumed abandoned if the owner of the savings bond fails to redeem the savings bond within three years after the savings bond has fully matured. The Treasurer may bring a civil action under this section to take all property rights and legal title and ownership of the savings bond or proceeds from the savings bond, including all rights, powers, and privileges of survivorship of any owner, co-owner, or beneficiary. For purposes of this section, the term "savings bond" also includes United States savings notes, also known as Freedom Shares.

(b) Civil Action. – Within 365 days after a United States savings bond is unclaimed and presumed abandoned under subsection (a) of this section, the Treasurer may commence a civil action in the Superior Court of Wake County for a determination that the savings bond escheats to the State of North Carolina. The Treasurer must make sufficient efforts to locate the owner of the savings bond before bringing an action under this section. The Treasurer may not bring an action under this section until a sufficient amount of United States savings bonds have accumulated owing to persons with a last known address of North Carolina to justify the expense of a proceeding under this section. The Treasurer may not bring an action under this section as to a specific savings bond if a claim has been filed for that savings bond in accordance with the provisions of this Article.

(c) Title to the Savings Bond. – The court must enter a judgment that the United States savings bonds have escheated to the State of North Carolina and that all property rights and legal title to and ownership of the savings bonds or proceeds from the bonds, including all rights, powers, and privileges of survivorship of any owner, co-owner, or beneficiary, vest solely in the State of North Carolina if all of the following conditions are met:

(1) No person files a claim or appears at the hearing to substantiate a claim.

(2) The court determines that a person who has filed a claim or appears at the hearing to substantiate a claim is not entitled to the property claimed by the claimant.

(3) The court is satisfied by the evidence that the Treasurer has substantially complied with the laws of this State.

(d) Claim for Escheated Savings Bond. – A person claiming ownership for a United States savings bond that has escheated to the State of North Carolina, or for the proceeds from a savings bond that has been redeemed by the Treasurer, may file a claim in accordance with the provisions of this Article. Upon providing sufficient proof of the validity of a person's claim, the Treasurer may pay the claim.

(e) Redemption of Savings Bond. – The Treasurer must take steps necessary to redeem any United States savings bond that has escheated to the State of North Carolina under this section. The proceeds from the redemption of the savings bond must be deposited in the Escheat Savings Bond Trust Fund, as provided in subsection (f) of this section.

(f) Escheat Savings Bond Trust Fund. – The Escheat Savings Bond Trust Fund is established as a separately accounted fund within the Escheat Fund. The net proceeds from redemption of United States savings bonds must be credited to this Fund. The Escheat Savings Bond Trust Fund shall be treated as an endowment, and subject to the Treasurer withholding an amount necessary to accomplish the Treasurer's duties as set out in this Chapter, its corpus may only be spent for purposes of investment and to pay funds to potential claimants. The interest and investment earnings on the Escheat Savings Bond Trust Fund shall be used exclusively to provide scholarships to worthy and needy students who are residents of this State and are enrolled in public institutions of higher education in this State."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 27:
Escheat Savings Bond Trust Fund/Scholarships

2013-2014 General Assembly

Committee:	Senate Finance	**Date:**	July 22, 2014
Introduced by:	Reps. Howard, Hager, Torbett	**Prepared by:**	Cindy Avrette
Analysis of:	PCS to Third Edition H27-CSRB-68		Committee Counsel

SUMMARY: ***The proposed Senate committee substitute for House Bill 27 replaces the contents of the original bill. The PCS would enable the Treasurer to institute a judicial proceeding to claim title and ownership of unclaimed US savings bonds so that the Treasurer may redeem the bonds and credit the funds received into the Escheat Fund.***

CURRENT LAW: Article IX, Sec. 10 of the North Carolina Constitution provides that property from escheats, unclaimed dividends, or distributive shares of the estates of deceased persons may only be used to aid worthy and needy students who are residents of this State and are enrolled in public institutions of higher education in this State.

The North Carolina Unclaimed Property Act applies to money or tangible personal property that is held in a safe deposit box or other safekeeping depository held by a financial institution in this State and to a fixed and certain interest in intangible property that is held, issued, or owed in the course of a holder's business or by a governmental entity. U.S. savings bonds and notes are examples of the type of property to which the Unclaimed Property Act applies.

The Unclaimed Property Act creates statutory presumptions as to when property is unclaimed and presumed abandoned. Property that is presumed to be abandoned becomes subject to the custody of the State of North Carolina. A holder of unclaimed and presumed abandoned property must make a good faith effort to locate the apparent owner of the property. The holder of unclaimed and presumed abandoned property must make an annual report to the Treasurer concerning the property and, upon filing the report, release the property to the Treasurer. Upon payment or delivery of property to the Treasurer, the State assumes custody and responsibility for the safekeeping of the property. The Treasurer must send a list each year to the clerks of courts for each county of the escheated property received by the Treasurer during the preceding reporting period.

All escheated property must be paid into the Escheat Fund. If the property is other than money, the Treasurer may sell the property to the highest bidder within three years after the receipt of the property.[1] The Treasurer invests the monies in the Fund pursuant to the investment authority given under G.S. 147-69.2(b)(12). The income derived from the investment earnings of the Escheat Fund inures to the benefit of the Fund and is annually distributed to the State Education Assistance Authority for grants and loans to aid worthy and needy students who are residents of this State and are enrolled in public institutions of higher education in this State.

The Escheats Fund must maintain a reserve of at least $5,000,000 or a sum equal to the total value of escheated or abandoned property received in the preceding fiscal year. The purpose of the reserve is for the payment of refunds of escheated or abandoned property to persons entitled to the property. If at any

[1] A person who successfully makes a claim for property held in the Escheat Fund is entitled to receive any income or gain realized or accruing on the property at or before its liquidation or conversion of the property into money.

time the amount of the refund reserve is insufficient to make refunds required to be made, the Treasurer may use all current receipts derived from escheated or abandoned property, exclusive of the investment earnings from those funds. If those funds are inadequate, the Treasurer may apply to the Council of State for a no interest loan from the Contingency and Emergency Fund.

BILL ANALYSIS: Since the United States began issuing savings bonds after the First World War, many bonds have gone unclaimed for years after they have matured. The Treasurer has in its possession, under the North Carolina Unclaimed Property Act, approximately $450,000 of unclaimed and presumed abandoned U.S. savings bonds. Under current law, the Treasurer may not acquire the proceeds of these savings bonds by redeeming them because the U.S. Treasury requires a state to have full title to and ownership of the bonds. The custody-based nature of North Carolina's unclaimed property law is not enough. The U.S. Treasury will recognize a court order declaring a state the legal title and owner of unclaimed, matured bonds by escheat.

The Senate PCS for House Bill 27 provides that all abandoned U.S. savings bonds will escheat to the State of North Carolina three years after they have matured. It creates a judicial process whereby the Treasurer may obtain a court-order that an unclaimed and presumed abandoned U.S. savings bond has escheated to the State and that all property rights and legal title to and ownership of the savings bond or proceeds from the bonds vest solely in the State of North Carolina. To obtain this court order, a court must find that no one has filed a claim or substantiated a claim for the savings bond and that the Treasurer has substantially complied with the laws of this State to locate the apparent owner of the bond. The Treasurer may not bring an action in court for a savings bond until the savings bond has been in the possession of the Treasurer for at least 365 days and the Treasurer has made sufficient efforts to locate the owner of the savings bond.

The PCS also creates the Escheat Savings Bond Trust Fund as a separately accounted fund within the Escheat Fund. The proceeds from U.S. savings bonds must be credited to this fund. The interest and investment earnings on the fund may only be used to provide scholarships to worthy and needy students who are residents of this State and are enrolled in public institutions of higher education in this State.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: Most of the U.S. savings bonds the Treasurer has in its possession came from bonds found in abandoned safe deposit boxes. These are known as "bonds in possession". The federal government does not have an active program to reunite the owners of abandoned U.S. savings bonds with those bonds. In addition to the bonds that states have in their possession under the escheat laws, there are "absent bonds". The vast majority of unclaimed bonds are from absent bonds. The main obstacle to states' ability to redeem absent bonds is that only the U.S. Treasury has access to the registration records and those records are inefficiently contained on millions of rolls of microfiche. It is my understanding that multiple FOIA requests for these records have been denied. Currently, the state of Kansas has filed suit against the United States in the Court of Federal Claims to redeem the absent bonds registered to last known addresses in the State of Kansas. If this legislation is enacted, the Treasurer may choose to become a party to this legal action. The amount of absent bonds that could possibly be redeemed by North Carolina is very uncertain. The total amount of unredeemed savings bonds held by the U.S. Treasury, in both categories of "bonds in possession" and "absent bonds", is approximately $16.5 million.

SENATE SERGEANT-AT-ARMS

COMMITTEE: SENATE FINANCE

DATE: 7/22/2014 ROOM: 643

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2. ED KESLER
3. HAL ROACH
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Date: 7-22 10AM

Committee: FINANCE **Room:** 544

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Senate Rules Committee

07/22/2014

HB-1224

2:00 Minutes

1. Johanna Reese NCACC
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